



## POLICY MEETING

09 February 2016

**Members of the public are encouraged to attend Council Meetings from 7pm.**

**Council will consider confidential reports from 6.30 to 7pm and then re-open the Meeting to the Public at approximately 7pm.**

Please note Council Meetings are recorded for the purpose of verifying the accuracy of the minutes. Appropriate language by speakers should be used at all times. Opinions expressed or statements made by members of the public during the meeting are the opinions or statements of those individual persons and are not opinions or statements of Leichhardt Council; and under no circumstances are meetings to be recorded by a member of the gallery without Council's consent.

**LEICHHARDT MUNICIPAL COUNCIL****POLICY MEETING OF COUNCIL**

NOTICE IS HEREBY GIVEN THAT A **POLICY MEETING** OF THE LEICHHARDT MUNICIPAL COUNCIL WILL BE HELD IN THE COUNCIL CHAMBERS, LEICHHARDT TOWN HALL, 107 NORTON STREET, LEICHHARDT, ON 09 FEBRUARY 2016 at 6:30 PM.

Peter Head  
GENERAL MANAGER

**2 FEBRUARY 2016**

**BUSINESS :****\*\* ACKNOWLEDGEMENT OF COUNTRY**

I acknowledge the Gadigal and Wangal people of the Eora nation on whose country we are meeting today, and their elders past and present.

**\*\* APOLOGIES AND APPLICATIONS FOR LEAVE OF ABSENCE AND/OR CONDOLENCES****\*\* DECLARATION OF PECUNIARY INTERESTS AND NON-PECUNIARY INTERESTS****\*\* CLOSED COUNCIL - CONSIDERATION OF CONFIDENTIAL REPORTS (MEETING CLOSED TO THE PUBLIC)****\*\* OPEN COUNCIL MEETING RESUMES****\*\* PUBLIC INVITED TO ADDRESS MEETING ON AGENDA ITEMS**

*The Mayor will remind the public to be respectful whilst speaking and that before speaking they must provide their full name and suburb of residence so that these details can be recorded in the minutes.*

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**SECTION 2 - HIGH PRIORITY ITEMS**

**ITEM 2.1                      MERGER PROPOSAL - ASHFIELD, LEICHHARDT AND MARRICKVILLE COUNCILS; DRAFT SUBMISSION TO THE DELEGATE**

<b>Division</b>	General Manager
<b>Author</b>	General Manager Director, Corporate and Information Services
<b>Meeting date</b>	9 February 2016 Policy Meeting
<b>Strategic Plan Key Service Area</b>	Community well-being Accessibility Place where we live and work A sustainable environment Business in the community Sustainable services and assets

**SUMMARY AND ORGANISATIONAL IMPLICATIONS**

<b>Purpose of Report</b>	To seek approval to exhibit Council's draft Submission to the Delegate investigating the merger proposal of Ashfield, Leichhardt and Marrickville Councils.
<b>Background</b>	<p>On 6 January 2016, the Minister for Local Government, the Hon. Paul Toole MP, under section 218E(1) of the <i>Local Government Act 1993</i>, proposed the merger of the Ashfield, Leichhardt and Marrickville Councils. On the same day, the Minister referred this merger proposal to the Chief Executive of the Office of Local Government (OLG) for examination and report under the <i>Local Government Act 1993</i> (the Act).</p> <p>The Chief Executive has delegated the function of examining and reporting on the proposal to a Delegate – in our case, the Delegate is Ms Cheryl Thomas. Ms Thomas has called for written submissions by 5pm on Sunday, 28 February 2016.</p>
<b>Current Status</b>	The attached draft submission has been written in accordance with the requirements outlined by the Delegate – that is, section 263(3) of the <i>Local Government Act 1993</i> . The draft submission concludes that the merger proposal should not proceed on the basis of the section 263(3) factors.
<b>Relationship to existing policy</b>	Consistent.
<b>Financial and Resources Implications</b>	NIL

<b>Recommendation</b>	<p>That Council:</p> <ol style="list-style-type: none"><li>1. Agree to publicly exhibit the draft "Submission to the Delegate on the Merger proposal for Ashfield, Leichhardt and Marrickville Councils" provided at Attachment 1.</li><li>2. Note that the exhibition period will conclude in late February and the final Submission to the Delegate (incorporating any community feedback) will be reported to the Ordinary meeting of Council in February 2016.</li><li>3. Note that Council's Submission to the Delegate is due by no later than 5pm on Sunday, 28 February 2016.</li></ol>
<b>Notifications</b>	Public notification in the media (print and social media) and a community workshop on 15 February 2016.
<b>Attachments</b>	Attachment 1 – Submission to the Delegate on the Merger Proposal for Ashfield, Leichhardt and Marrickville Councils.

## Purpose of Report

To seek approval to exhibit Council's draft Submission to the Delegate investigating the merger proposal of Ashfield, Leichhardt and Marrickville Councils.

## Recommendation

That Council:

1. Agree to publicly exhibit the draft "Submission to the Delegate on the Merger proposal for Ashfield, Leichhardt and Marrickville Councils" provided at Attachment 1.
2. Note that the exhibition period will conclude in late February and the final Submission to the Delegate (incorporating any community feedback) will be reported to the Ordinary meeting of Council in February 2016.
3. Note that Council's Submission to the Delegate is due by no later than 5pm on Sunday, 28 February 2016.

## Background

On 6 January 2016, the Minister for Local Government, the Hon. Paul Toole MP, under section 218E(1) of the *Local Government Act 1993*, proposed the merger of the Ashfield, Leichhardt and Marrickville local government areas. On the same day, the Minister referred this merger proposal to the Chief Executive of the Office of Local Government (OLG) for examination and report under the *Local Government Act 1993* (the Act).

The Chief Executive has delegated the function of examining and reporting on the proposal to a Delegate – in our case, the Delegate is Ms Cheryl Thomas. In examining and reporting on the merger proposal, the Delegate will conduct a public inquiry, call for written submissions, and prepare a report with due regard to the factors in section 263(3) of the Act. The factors in the Act include (but are not limited to) financial considerations, communities of interest, elected representation, employment of staff, provision of services and facilities, and the attitude of residents and ratepayers.

The report of the Delegate is presented to the Minister for Local Government as well as the independent Local Government Boundaries Commission for comment. Once the Minister has received the report prepared by the Delegate and the Boundary Commission's comments on this report, the Minister will make a decision on whether or not to recommend the implementation of the proposal to the Governor of NSW. The final decision on the merger proposal is not expected until the middle of 2016.

The Delegate, in accordance with section 263(3) of the *Local Government Act 1993*, in preparing their report must have regard to the following factors:

- the financial advantages or disadvantages of the proposal to the residents and ratepayers of the areas concerned;
- the community of interest and geographic cohesion in the existing areas and in any proposed new area;
- the existing historical and traditional values in the existing areas and the impact of change on them;
- the attitude of the residents and ratepayers of the areas concerned;
- the requirements of the area concerned in relation to elected representation for residents and ratepayers at the local level, the desirable and appropriate relationship between elected representatives and ratepayers and residents and such other matters as considered relevant in relation to the past and future patterns of elected representation for that area;
- the impact of the proposal on the ability of the council to provide adequate, equitable and appropriate services and facilities;
- the impact of the proposal on the employment of the staff by the council;
- the impact of the proposal on any rural communities in the resulting area;
- the desirability (or otherwise) of dividing the resulting area or areas into wards
- the need to ensure that the opinions of each of the diverse communities of the resulting area or areas are effectively represented; and
- any other factors relevant to the provision of efficient and effective local government in the existing and proposed new areas.

Members of the public, including Councils, have been encouraged by the Minister to make a formal written submission to the Delegate. Submissions close on Sunday, 28 February 2016.

Council at its Extraordinary Meeting on 19 January 2016, which was held in response to the Minister for Local Government's merger proposal announcement, resolved (inter alia) that Council:

- "1. Prepares a draft submission on the proposed merger proposal for the consideration of Council at its Policy meeting of the 9<sup>th</sup> February 2016 based on the proposed framework details as contained within this report. This framework responds to the factors in s263(3) of the Local Government Act; essentially sets out the case for Leichhardt standing alone; and provides options for council to make recommendations for interim and new council governance arrangements in the event that amalgamations proceed.
2. Publicly exhibit a Draft Submission once adopted at the 9<sup>th</sup> February Policy meeting and report back to the 23<sup>rd</sup> February Ordinary meeting with a final Draft Submission in order to meet the Inquiry deadline of Sunday 28<sup>th</sup> February 2016.
3. Endorses the proposed public information campaign, including a double sided brochure for distribution to all residents and businesses on the merger proposal and the examination process encouraging their full participation in that process, adverts in local papers, banners on all public buildings, placards for residents, an enhanced social media campaign and a public meeting.

4. Conduct a statistically valid phone survey to poll the opinion of local residents on whether or not the Government's merger proposal should proceed, their concerns and expectations for what the merger would mean for them and their priorities for their local council's future policy direction".

## Report

Leichhardt Council has carefully and diligently considered the Minister's proposed merger of Ashfield, Leichhardt and Marrickville Councils, including examining the impacts (positive and negative) of the merger proposal on the Leichhardt Municipality and surrounding councils. This work has unequivocally demonstrated that the merger proposal should not proceed on the basis of the criteria that the Delegate must consider in assessing the merger proposal that is outlined in section 263(3) of the *Local Government Act 1993*.

Council's draft submission to the Delegate is provided at **Attachment 1**.

## Attachments

1. Submission to the Delegate on the Merger Proposal for Ashfield, Leichhardt and Marrickville Councils.



## **Submission to the Delegate on the Merger Proposal for Ashfield, Leichhardt and Marrickville Councils**



Prepared by: Leichhardt Council

Date: 9 February 2016

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WORKING WITH THE COMMUNITY





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## Background

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The Chief Executive has delegated the function of examining and reporting on the proposal to a Delegate – in our case, the Delegate is Ms Cheryl Thomas. In examining and reporting on the merger proposal, the Delegate will conduct a public inquiry, call for written submissions, and prepare a report with due regard to the factors in section 263(3) of the Act. The factors in the Act include (but are not limited to) financial considerations, communities of interest, elected representation, employment of staff, provision of services and facilities, and the attitude of residents and ratepayers.

The report of the Delegate is presented to the Minister for Local Government as well as the independent Local Government Boundaries Commission for comment. Once the Minister has received the report prepared by the Delegate and the Boundary Commission's comments on this report, the Minister will make a decision on whether or not to recommend the implementation of the proposal to the Governor of NSW. The final decision on the merger proposal is not expected until the middle of 2016.

The Delegate, in accordance with section 263(3) of the *Local Government Act 1993*, in preparing their report must have regard to the following factors:

- the financial advantages or disadvantages of the proposal to the residents and ratepayers of the areas concerned;
- the community of interest and geographic cohesion in the existing areas and in any proposed new area;
- the existing historical and traditional values in the existing areas and the impact of change on them;
- the attitude of the residents and ratepayers of the areas concerned;
- the requirements of the area concerned in relation to elected representation for residents and ratepayers at the local level, the desirable and appropriate relationship between elected representatives and ratepayers and residents and such other matters as considered relevant in relation to the past and future patterns of elected representation for that area;
- the impact of the proposal on the ability of the council to provide adequate, equitable and appropriate services and facilities;
- the impact of the proposal on the employment of the staff by the council;
- the impact of the proposal on any rural communities in the resulting area;
- the desirability (or otherwise) of dividing the resulting area or areas into wards;
- the need to ensure that the opinions of each of the diverse communities of the resulting area or areas are effectively represented; and
- any other factors relevant to the provision of efficient and effective local government in the existing and proposed new areas.



Members of the public, including Councils, have been encouraged by the Minister to make a formal written submission to the Delegate. Submissions close on Sunday, 28 February 2016.

Council at its Extraordinary Meeting on 19 January 2016, which was held in response to the Minister for Local Government's merger proposal announcement, resolved (inter alia) that Council:

1. Prepares a draft submission on the proposed merger proposal for the consideration of Council at its Policy meeting of the 9<sup>th</sup> February 2016 based on the proposed framework details as contained within this report. This framework responds to the factors in s263(3) of the Local Government Act; essentially sets out the case for Leichhardt standing alone; and provides options for council to make recommendations for interim and new council governance arrangements in the event that amalgamations proceed.
2. Publicly exhibit a Draft Submission once adopted at the 9<sup>th</sup> February Policy meeting and report back to the 23<sup>rd</sup> February Ordinary meeting with a final Draft Submission in order to meet the Inquiry deadline of Sunday 28<sup>th</sup> February 2016.
3. Endorses the proposed public information campaign, including a double sided brochure for distribution to all residents and businesses on the merger proposal and the examination process encouraging their full participation in that process, adverts in local papers, banners on all public buildings, placards for residents, an enhanced social media campaign and a public meeting.
4. Conduct a statistically valid phone survey to poll the opinion of local residents on whether or not the Government's merger proposal should proceed, their concerns and expectations for what the merger would mean for them and their priorities for their local council's future policy direction.

The following submission was formally adopted by Council at the Policy Council Meeting on 9 February 2016 for public exhibition and comment. Following receipt of comments, Council will review the submission at its next meeting on 23 February 2016.





## Executive Summary

Leichhardt Council has carefully and diligently considered the Minister's proposed merger of Ashfield, Leichhardt and Marrickville Councils, including examining the impacts (positive and negative) of the merger proposal on the Leichhardt Municipality and surrounding councils.

This work has unequivocally demonstrated that the merger proposal should not proceed on the basis of the criteria that the Delegate must consider in assessing the merger proposal that is outlined in section 263(3) of the *Local Government Act 1993*. Specifically, the merger proposal fails on the following grounds:

### 1. Financial.

- The financial disadvantages of the merger proposal significantly outweigh the advantages. Specifically, the merger will result in increased rates for some Leichhardt residents (due to higher land values in Leichhardt than in Ashfield and Marrickville) and reduced services and service standards – in turn adversely impacting local businesses, the local economy, ratepayers and residents, and those most vulnerable in our community.
- The superior option for Leichhardt Council and its community is to remain a stand-alone council.
- The stand-alone option is more financially sustainable than the merger proposal (i.e. it meets all financial sustainability benchmarks earlier than the merged council) and is the best option to keep rates low and service standards high.
- The peer reviewed evidence indicates that the advantages of council mergers (both in Australian and internationally) are overstated and estimated savings have never materialised in a single jurisdiction. The literature also indicates that the new larger council will be met with significant diseconomies of scale.
- The KPMG analysis which underpins the Government's merger proposal is based on erroneous and over simplified assumptions, including minimising the costs associated with the merger (e.g. ICT costs and redundancies) in order to artificially inflate the calculation of expected benefits from any merger.
- The superior option for all three councils - Leichhardt, Ashfield and Marrickville Councils - is to remain stand-alone councils.

### 2. Community of interest and geographic cohesion.

- The merger will result in a loss of a sense of identity and place in Leichhardt as it is merged with neighbouring Councils that do not share a similar sense of community i.e. there is no shared community of interest.
- Leichhardt is unique. Its uniqueness is derived from the strong sense of identity and attachment to place of its residents. Such attachment to place is not an 'emotional' consideration that should be easily dismissed in any assessment of the merger proposal. Attachment to place (otherwise known as place identity) by residents is important as it is a component of self-identity and includes memories, ideas, feelings, attitudes, values, preferences, meanings and concepts of behaviour and experience which contribute to satisfaction of an individual's biological, physiological, social and cultural needs.
- Strong place attachment in Leichhardt has developed from its relative geographical self-containment, historical areas, scale of place and local focus. Leichhardt Council



has the appropriate governance structure and scale to support this strong local focus and attachment to place.

- Council contends that place attachment is an important consideration that is not based on 'emotive arguments' and that the local focus of Leichhardt Council is important to maintaining the biological, psychological, social and cultural health and wellbeing of our community and its individuals. Leichhardt's unique character and local focus supports an individual's and communities' sense that they live somewhere that is distinctive, where continuity is valued and the ability to influence social and environmental outcomes is achievable.
- Most strikingly, the three councils share no real community of interest in respect to local representation and active citizenship, built form, heritage and in their council planning instruments – Leichhardt for example has strong heritage controls and moderated development.
- There are also significant differences between the three areas in terms of population density, cultural and ethnic diversity, levels of socioeconomic disadvantage/advantage, household income and wealth.
- The stand-alone option remains the superior option for the Leichhardt community and the communities of Ashfield and Marrickville.

### 3. Existing historical and traditional values in the existing areas.

- Leichhardt's historical and traditional values remain at the very core of our community and its identity
- The current scale of our local government area and Councillor representation means that the particular character of this area, and the way people engage with local democracy and issues, is very effective.
- The merger proposal, which will increase the size of the local government area and reduce community representation, will undermine the fabric of this community and their very strong local links to place, each other and the decision-making process.
- Council and its communities have found that demand for redevelopment can be at odds with heritage objectives. Our local focus means that our cultural heritage is well understood and highly valued. This is a defining characteristic and a merger with other Councils may result in less emphasis on the retention of our places of cultural significance.
- The diversified service based economy is a core strength of Leichhardt and is derived from established businesses in our main streets and employment lands. Leichhardt Council and its communities seek to retain that mixed use character and our position is different from that being promoted in Marrickville where there has been support for large scale rezonings and loss of employment lands. This represents a fundamental, and very important, difference between the two council areas and the aspirations of our communities.
- The community has been instrumental in Leichhardt Council being an organisation that is held to account in its policy development and governance arrangements.
- Council's well established local focus, the character and history of our spaces and buildings, the participatory nature of governance and commitment to local and broader environmental sustainability matters are very important and may well be at risk in a new Council with differing priorities.





**4. The attitude of the residents and ratepayers of the areas concerned.**

- Leichhardt residents and ratepayers are overwhelmingly opposed to forced amalgamations and supportive of Leichhardt Council remaining a stand-alone council into the future.
- The community prefers the stand-alone option for the following reasons: they feared they would lose individual voice on local issues; thought smaller councils are easier to manage, and there was “no need to change.”
- Residents are currently being surveyed to ascertain their views on the proposed merger of Ashfield, Leichhardt and Marrickville Councils and the results will form part of Council’s final submission.

**5. The requirements of the area concerned in relation to elected representation for residents and ratepayers at the local level.**

- The merger proposal will result in a significant loss of local representation.
- Each new councillor will, because of the very large population, be representing the equivalent of almost 15,500 - compared to less than 5,000 currently for Leichhardt Councillors. This is the equivalent, under the merger proposal, to approximately 3.5 councillors (rather than the current 12 councillors) for the entire Leichhardt population of around 58,000 people.
- One of the most troubling aspects of the merger proposal is that local representation in the inner west is being eroded far more than in other areas of metropolitan Sydney and beyond.
- The Merger Proposal includes only 12 councillors in the new Council. This is counter to the NSW Government’s stated policy to have an uneven number of councillors.
- If the merger proposal is implemented, Leichhardt Council recommends to the Delegate that the new council comprise 15 councillors. This is consistent with other merger proposals across metropolitan Sydney, and responds to the increased workload expected of Councillors and the complexity and scale of issues before them. It also facilitates the creation of wards if so decided by the new Council.

**6. The impact of any relevant proposal on the ability of the councils of the areas concerned to provide adequate, equitable and appropriate services and facilities.**

- All three councils provide a range of services (some unique) to their local communities and the service standards between the three councils vary considerably.
- The merger proposal will, through a process of service harmonisation, result in either:
  - a reduction of services and standards across the new council to the detriment of the local community, or
  - increasing the service to the other areas which will impose significant costs on the new council and community.
- In Leichhardt’s case, the merger proposal will not provide for improved services contrary to the Merger Proposal without imposing new costs (i.e. user charges or taxes) on the local community. This is because Leichhardt already provides the highest level of service delivery in some areas in comparison to its neighbouring councils e.g. grass verge mowing.
- Faced with increasing service costs in a new merged council, this may well prevent the introduction of new services and instead, reduce service levels and standards to meet budget imperatives. In this regard, the new council’s financial prosperity (or



otherwise) is almost entirely dependent upon sacking many staff (many involved in direct service delivery) which, if the peer reviewed evidence is a guide, may never be realised. A case in point is the recent merger experience in Queensland where staffing costs grew by 8 per cent a year following mergers.

- If the new council is unable to shed staff, it will then need to reduce services accordingly or impose new charges and taxes (rate increases) on the local community to continue to provide services at their current levels.
- Stand-alone remains the superior option for the Leichhardt Community. This will ensure the continued high level of service delivery that the residents have become accustomed to and council is readily able to afford.

**7. The impact of any relevant proposal on the employment of the staff by the councils of the areas concerned.**

- The merger proposal will have a significant and overwhelmingly negative impact on the employment of staff in each of the three councils.
- The merger proposal states that more than 85 per cent (or \$84 million over 20 years) of gross savings arising from the merger are based on reductions in staffing levels in the new council.
- Redundancies will negatively impact service delivery and result in a loss of corporate/community knowledge and commitment to local values.
- Staff made redundant will find it difficult, if not impossible, to find suitable alternative employment. This is because mass redundancies will occur across the entire local sector at the same time as a result of the Government's forced amalgamations agenda. Employees will then have to compete with their colleagues and peers for employment.
- The NSW Government will have to put in place a structural adjustment package to provide for these staff.
- The KPMG Technical Paper (dated 19 January 2016) assumes that each of the three Councils lose 4 Directors per Council (i.e. twelve in total). This assumption is incorrect in our case as there are only 7 Directors on senior staff contracts currently in place. The result is that KPMG have overestimated gross financial benefits arising from the merger in the order of \$22 million over 20 years.
- The KPMG Technical Paper also assumes a General Manager and four Directors for the new Council, but ignores the additional support staff required so the new General Manager can address all the tasks of the current General Managers; and similarly for the new Directors.
- The stand-alone option remains superior to the merger proposal in terms of employment of staff.

**8. The impact of any proposal on rural communities in the areas concerned.** This factor is not relevant to the merger proposal relating to Ashfield, Leichhardt and Marrickville Councils.

**9. The desirability (or otherwise) of dividing the resulting area or areas into wards.**

- The Council in its final submission to the Delegate on the merger proposal for Ashfield, Leichhardt and Marrickville has the option to clearly outline its preference for the new Council to be divided into wards or to abolish all wards if it so chooses.
- When making any submission, Council needs to consider the following issues:





- If Council favours Wards, the Wards for the new, amalgamated area will need to have populations the same, with only a 10 per cent variation each.
- Any revised Council Ward system will need to consider how many Councillors the new Council will have (the Act allows between 5 and 15 under section 224) and how many Councillors each Ward will return (in accordance with the 10 per cent rule cited above). The draft amendments to the Local Government Act favour a system of Councils with odd numbers of Councillors ostensibly to prevent deadlock situations. Given that each Council currently has 12 Councillors and the new entity will be much larger than the current three, it is assumed that all the Councils may seek a membership of 15 Councillors
- The new Council can vary the proposed Wards at a later time via the mechanisms prescribed in the *Local Government Act 1993*.
- Wards, if favoured, need to ensure that the level of representation of the various diverse communities in the new Council will not result in one community or another being advantaged or disadvantaged.

**10. The need to ensure that the opinions of each of the diverse communities of the resulting area or areas are effectively represented.**

- Reducing access to Council and elected representatives negatively impacts the capacity of residents in the local government area to deliver the stated policy objectives of the Local Government Charter.
- The community's ability to have effective input in significant matters will suffer with a large council. By reducing the means to contribute via councillor representation and council committees, the communities ability to participate effectively in the big issues facing the new Council, including the scoping and master planning of major sites (e.g. Bays Precinct, Parramatta Road, WestConnex, etc.), will be limited leading to a reduced ability to have your say at the local level.

**11. Such other factors as it considers relevant to the provision of efficient and effective local government in the existing and proposed new areas.**

- Leichhardt Council meets the scale and capacity elements as defined by the Independent Local Government Review Panel and contrary to the Merger Proposal conclusions.
- Merging Ashfield, Leichhardt and Marrickville Councils will not improve the strategic capacity of local government in the combined new areas, either for the individual councils as they currently stand, or as a whole if the proposal is adopted.
- If the NSW Government proceeds with forced amalgamations, then it will need to give consideration to the organisation of the Interim Council and governance arrangements to ensure a smooth transition to the new council.
- Leichhardt Council proposes a number of recommendations with respect to the interim and new council governance arrangements if the merger proceeds, including:
  - All councillors and senior staff remain in place until the election of the new council in March 2017. This is consistent with the Minister's and the Premier's promises to Councillors and will allow the Councils themselves to undertake work on how the amalgamation should work in terms of management structure, finance, planning and the like, and present this to a new Council for adoption after it comes into being. The new Council can adopt, amend, or reject these proposals.





- Existing senior staff should also be retained after the new Council elections to ensure retention of corporate history and effective, on-going service delivery. The senior staff will also be invaluable in assisting with the development and establishment of a new organisational structure.
- The new council should comprise 15 councillors which is consistent with other merger proposals across metropolitan Sydney and would ameliorate in part the loss of local representation.
- Further, the Government should give due consideration to increasing the remuneration of councillors to reflect the complexity and increased workload of councillors in the new council
- Allow the election of the new Mayor to be determined by the new council.
- All of these recommendations are based on robust evidence and will enable the smooth transition to and effective operation of a new council.

**Accordingly, Leichhardt Council calls on the Delegate to reject the Minister's merger proposal for Ashfield, Leichhardt and Marrickville Councils and instead recommend that Leichhardt Council (and its neighbours) remain a stand-alone council. Importantly, this is also the position that is firmly supported by our community as well as by the communities of Ashfield and Marrickville councils.**



## Leichhardt Council: Current position

### 1. The Leichhardt Municipality

The Leichhardt Municipality stands on land that traditionally belonged to the Gadigal and Wangal people of the Eora nation. It is a unique area with a long cultural heritage and a special beauty that comes from its Sydney Harbour location and its old suburb origins.

Leichhardt is one of the oldest municipalities in New South Wales having been incorporated as a local government area in 1871. In 1949 the municipalities of Annandale and Balmain were amalgamated with Leichhardt. In 1967, the boundaries of our local government area were varied to include Glebe and parts of Camperdown. Further in 2003, the boundaries of our local government area were again varied, this time excluding Glebe and Forest Lodge which now fall under the City of Sydney.

The Leichhardt Local Government Area (LGA) includes the suburbs of Leichhardt, Lilyfield, Balmain (including Balmain East), Birchgrove, Rozelle and Annandale and has a population of approximately 58,131 people, situated within an area of 1,003 hectares (11km<sup>2</sup>).

### Map 1: The Leichhardt Municipality





The key characteristics of the LGA are:

- Leichhardt has a diverse age profile, with increasing numbers of families with children and older people.
- Over the last ten years the LGA has increasingly become an attractive place for young professionals seeking to raise their growing families. This has resulted in a baby boom in the LGA with the 0-4 age group over the last 5 years.
- Leichhardt is also becoming older, with both the proportion of residents aged over 60 years and the LGA's median age increasing, in line with broader national trends.
- Residents are well educated and affluent with a high proportion of professionals and managers, as well as a high average income.
- Leichhardt is known for its Italian residents and culture. Languages other than English spoken at home include Italian (3 per cent), Greek (1.4 per cent), Spanish (1.0 per cent), Cantonese (0.8 per cent) and Mandarin (0.7 per cent).
- Leichhardt residents have a significantly higher participation rate (40 per cent) in interest and/or action groups, compared to a national average of 18.5 per cent, affirming the high level of social capital in the area, and commitment to achieving the strategic vision of *Leichhardt 2025+*.

A brief snapshot of the Leichhardt LA is provided in Table 1.

**Table 1: Leichhardt Council – General Statistics**

General statistics as at the 2011 Census	
Five year population growth	6.2%
Population aged 0-4	8.2%
Population aged <19	11.2%
Population aged >20 <59	64.9%
Population aged >60	15.7%
Aboriginal and Torres Strait Islanders	1.0%
Language Other than English	15.1%
Median age	37
Population density (residents per km <sup>2</sup> )	5,250.09
Average Household Size	2.8
Median weekly household income	\$2,234
Access to Internet at Home	81.4%
Socio-Economic Index Rating (1 lowest)	142
Completion of Bachelor or Higher degree	44%

Council creates multidisciplinary teams, working with government, key stakeholder organisations and community members to achieve the community vision contained within *Leichhardt 2025+*. Priorities include:





- Connecting people to each other and to place; Enlivening arts and cultural life (including activating the live music industry, performance and visual arts); Improving health and wellbeing, including through social justice initiatives and Healthy Ageing initiatives; Strengthening community capabilities, including through programs and services for young children and families.
- Creating a liveable place, including integrated planning, reducing private car dependence for all travel, and addressing issues of affordable housing for key workers.
- Creating a sustainable environment by Council working to achieve carbon neutrality, and with community commitment to biodiversity, energy efficiencies and waste reduction.
- Supporting thriving businesses through business activation, marketing and promotion, and infrastructure initiatives on the high streets.

Council seeks information from the community, advises the community and involves the community in planning and advisory forums, guided by the Community Engagement Framework. Measured in 2010, over 20 per cent of residents had participated in a community consultation or attended a public or Council meeting, well above the state average of 7.6 per cent.

Council has demonstrated the proven capacity to effectively engage with its community on important matters – this is an area where Leichhardt Council excels as demonstrated by its award winning Reconciliation Action Plan and its positive engagement with the LGBTQI community. Council's ability to effectively connect with its community is demonstrated in the 2015 Community Satisfaction Survey that shows that 98 per cent of Leichhardt Residents are pleased with Council's overall performance, with 89 per cent happy with their quality of life in Leichhardt

Council is responsible for the management of a significant range of infrastructure assets. These assets represent an important public investment and are critical to community well-being and safety. These assets include public roads, footpaths, seawalls, bridges, wharves, stormwater drainage networks, parks, reserves, recreational facilities, property and buildings. The combined replacement cost is over \$750 million.

Council has a strong focus on asset management with a dedicated team to deal with asset planning. This team is underpinned by a leading practice Asset Management Plan, Policy and Strategy, with a robust governance framework through the Asset Management Committee. The Asset Management Plan, and in particular the asset renewal program, is based on community accepted service levels and actual condition assessments and is fully funded in the Long Term Financial Plan (<http://www.leichhardt.nsw.gov.au/Budget1516>).

With its focus on asset management (both immediate and longer-term), the Office of Local Government's Infrastructure Audit assessed Leichhardt Council's infrastructure management to be "Very Strong".



The Leichhardt Local Government Area is divided into four electoral wards (see Map below):

- Birrabirragal (Balmain)
- Eora (Leichhardt-Lilyfield )
- Gadigal (Annandale-Leichhardt)
- Wangel (Rozelle-Lilyfield).

Each ward is represented by three Councillors. One Councillor is elected each year to serve the role of Mayor.

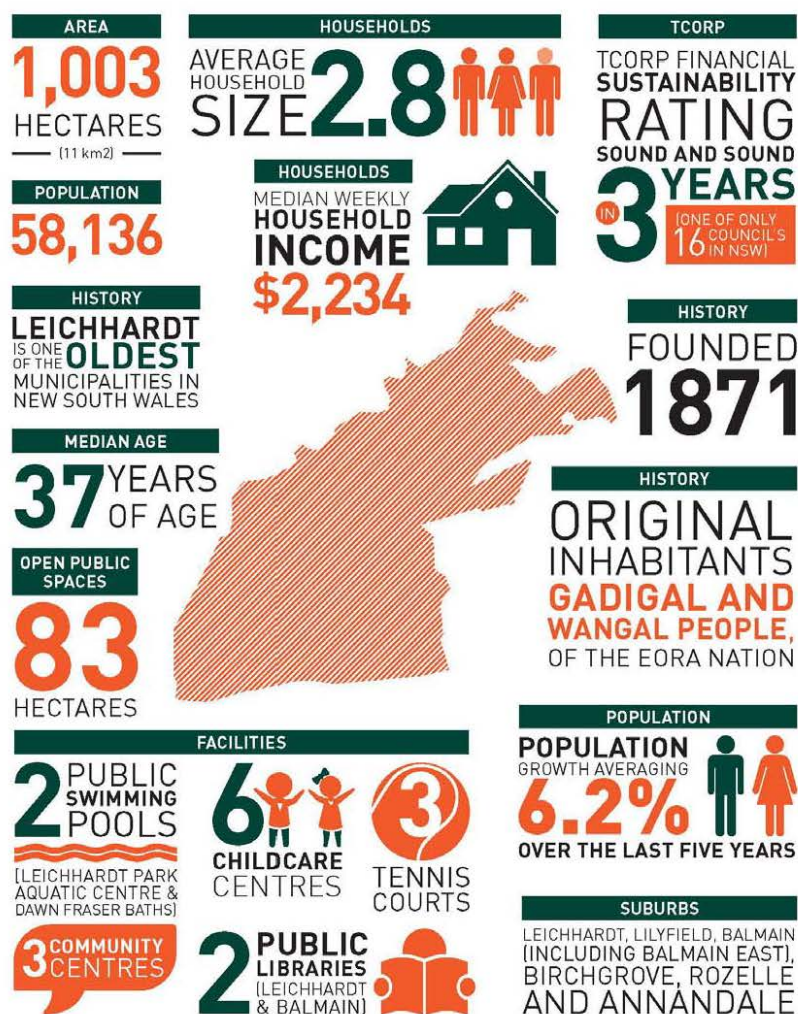
Council elections are held every four years. In 2004, Leichhardt Council, in consultation with the Metropolitan Local Aboriginal Land Council, adopted the names Birrabirragal (Balmain), Wangel (Rozelle-Lilyfield), Gadigal (Annandale-Leichhardt) and Eora (Leichhardt- Lilyfield) for its four ward structure in recognition of coastal Sydney's Aboriginal history.

**Map 2: The four electoral wards**





## Leichhardt at a glance



Source: Leichhardt Council 2015, *Annual Report 2014-15*.





## 2. Leichhardt Council – key challenges and opportunities

Leichhardt Council is well positioned to meet the key challenges and opportunities (Both internal and external) it confronts over the coming decade. These are summarised below:

Strengths	Weaknesses
<ul style="list-style-type: none"> <li>• Sound financial management (independently verified by TCorp and Morrison Low).</li> <li>• Very strong infrastructure management and delivery (supported by the Office of Local Government's Infrastructure Audit).</li> <li>• Continuous business improvement ("Living within our means" efficiency program).</li> <li>• Integrated planning and reporting (evidenced by the Office of Local Government's recent Better Practice Review).</li> <li>• The Long Term Financial Plan which enables Council to meet all 7 Fit for the Future financial benchmarks.</li> <li>• Back-office service delivery e.g. procurement, IT and finance.</li> <li>• Front-line service delivery e.g. library services and recreational facilities compare extremely favourably to similarly sized councils in terms of service offering and usage, and efficiency and effectiveness (Source: <i>Public Library Statistics 2012-13: Public Library Services in New South Wales</i>).</li> <li>• Community consultation and engagement. Council won the prestigious 2012 R.H. Doherty Award for Excellence in Community Consultation – Callan Park Master Plan.</li> <li>• Working collaboratively with other councils on a regional and sub-regional basis.</li> </ul>	<ul style="list-style-type: none"> <li>• Rate pegging which constrains Council's ability to match income against community supported spending needs and to meet the cost of inflation (NB: Rate peg decisions in 2014-15, 2015-16 and 2016-17 are well below the rate of inflation in the Sydney CBD).</li> <li>• State and Federal Government cost shifting continuing to impose ever increasing financial burdens on local councils. Cost shifting conservatively costs Leichhardt Council an additional \$6 million per annum and these costs are rising.</li> </ul>



Opportunities	Threats
<ul style="list-style-type: none"> <li>• Greater resource sharing through SSROC and the formation of a strong Joint Organisation.</li> <li>• Opportunity to undertake back-office functions for neighbouring councils e.g. payroll, finance, HR and procurement.</li> <li>• Opportunity to deliver cross council services e.g. library and recreational facilities.</li> <li>• Implementation of many of the Independent Review Panel's recommendations relating to revenue reform and governance.</li> <li>• Large infrastructure projects impacting the municipality including the Bays Precinct Urban Renewal Project and the Parramatta Road Urban Revitalisation.</li> </ul>	<ul style="list-style-type: none"> <li>• Competitors to local business units (e.g. recreation and aquatic centres).</li> <li>• Further cost shifting from state and federal governments – current cost \$6 million per annum and growing.</li> <li>• Rate peg leading to an inability to meet rising external costs and CPI.</li> <li>• The forced merger of councils with little shared community of interest or financial advantage.</li> <li>• Temporary inconvenience to the community with an expanded infrastructure renewals program from 2015/16 onwards.</li> <li>• Broader economic conditions.</li> <li>• Overdevelopment of urban renewal projects.</li> </ul>

### 3. Leichhardt Council – A financially sustainable and well managed Council

One of Leichhardt Council's key strengths is its superior financial health.

Leichhardt Council is recognised as one of NSW's top performing Councils and the NSW Treasury Corporation (TCorp) confirmed that Leichhardt Council is in the top 10 per cent of councils in NSW for financial performance (TCorp 2013). The NSW Government also recognised Leichhardt's strong asset management (Local Government Infrastructure Audit 2013) and strong performance in governance and organisational best practice (Promoting Better Practice Review 2015).

Leichhardt Council will meet all 7 Fit for the Future benchmarks outlined by the State Government by 2020 (and all but one benchmark in 2015-16). This will be achieved by Council using its own resources and is not reliant on increased borrowings, a special rate increase or any reduction in service levels/offers. Principally, the benchmarks will be achieved through a continued priority towards sustainable asset management along with a targeted internal efficiency program known as "Living within our means" initiated by Council in late 2013. This program is delivering over \$2 million per annum in Budget savings that have then been dedicated to infrastructure renewal over the 10 year life of the Long Term Financial Plan.





### **An Examination of the Section 263 Factors**

This section provides a detailed examination of the section 263 factors. In providing this analysis, Council will demonstrate that remaining a stand-alone entity remains the superior option for the Leichhardt community.



**1. The financial advantages or disadvantages (including the economies or diseconomies of scale) of any relevant proposal to the residents and ratepayers of the areas concerned**

Summary of the financial advantages and disadvantages

The key points from this section are as follows:

- The financial disadvantages of the merger proposal significantly outweigh the advantages. Specifically, the merger will result in increased rates for some Leichhardt residents (due to higher land values in Leichhardt than in Ashfield and Marrickville) and reduced services and service standards – in turn adversely impacting local businesses, the local economy, ratepayers and residents, and those most vulnerable in our community.
- The superior option for Leichhardt Council and its community is to remain a stand-alone council.
- The stand-alone option is more financially sustainable than the merger proposal (i.e. it meets all financial sustainability benchmarks earlier than the merged council) and is the best option to keep rates low and service standards high.
- The peer reviewed evidence indicates that the advantages of council mergers (both in Australian and internationally) are overstated and estimated savings have never materialised in a single jurisdiction. The literature also indicates that the new larger council will be met with significant diseconomies of scale.
- The KPMG analysis which underpins the Government's merger proposal is based on erroneous and over simplified assumptions, including minimising the costs associated with the merger (e.g. ICT costs and redundancies) in order to artificially inflate the calculation of expected benefits from any merger.
- The superior option for all three councils - Leichhardt, Ashfield and Marrickville Councils - is to remain stand-alone councils.

Introduction

There are a number of financial considerations to reflect upon in the proposed merger of Ashfield, Leichhardt and Marrickville Councils. These include the financial sustainability of the proposal; the financial benefits (or otherwise); the numerous risks that confront the new council and how these risks may impact the realisation of the estimated benefits of the merger; the economies of scale arising from the merger; and the impact on the local community, particularly on local businesses, ratepayers and those most vulnerable within our community. Each of these matters is explored in this submission.

Financial sustainability

The financial sustainability of the proposed merged council is a product of its individual constituent entities. Therefore, to determine the financial sustainability of the proposed merger it is important that we present the individual financial position of the 3 councils and then look at the proposed consolidated entity. In this regard, we have used the Fit for the Future benchmarks devised by the State Government as indicators of financial sustainability. These are the same indicators used by IPART in its Report titled *Assessment of Council's Fit for the*



*Future Proposals* (October 2015) and are used by Leichhardt Council itself in measuring its financial sustainability over the period of its Long term Financial Plan.

*a. Individual assessments*

The financial assessment of Ashfield, Leichhardt and Marrickville Council demonstrates that:

- All 3 councils are "Fit for the Future" as determined by the 7 Fit for the Future benchmarks. The only thing that varies is the timeframe in which each council achieves all 7 benchmarks. This information is presented in Table 2. It is noted that Ashfield Council was not deemed to have achieved the efficiency measure (i.e. Real Operating Performance) by IPART. However, updated modelling by Morrison Low to reflect the latest 14/15 annual financial statements show that Ashfield now meets this benchmark by 2020.
- Each Council is financially sustainable and therefore can justify its stand-alone position. In fact, the financial position of each of the three council is superior to several councils that have been allowed to remain stand-alone including (but not limited to) Blacktown and Camden Councils.
- Leichhardt Council is the most financially sustainable council in the Inner West in that it achieves all 7 benchmarks well before both the other councils individually and the proposed merged council.

**Table 2. The financial sustainability of the 3 Inner Councils**

Indicator	Leichhardt	Marrickville	Ashfield	All 3 Councils
Operating Performance	Yes (14/15)	Yes (16/17)	Yes (18/19)	Yes (17/18)
Own Source Revenue	Yes (14/15)	Yes (14/15)	Yes (14/15)	Yes (14/15)
Asset Renewal	Yes (14/15)	Yes (16/17)	Yes (15/16)	Yes (15/16)
Debt Service Cover	Yes (14/15)	Yes (14/15)	Yes (14/15)	Yes (14/15)
Asset Maintenance	Yes (14/15)	Yes (18/19)	Yes (18/19)	Yes (17/18)
Infrastructure Backlog	Yes (19/20)	Yes (19/20)	Yes (23/24)	Yes (19/20)
Real Operating Performance	Yes (14/15)	Yes (17/18)	Yes (19/20)	Yes (17/18)
Total	7	7	7	7
	Fit for the Future	Fit for the Future	Fit for the Future	Fit for the Future

Source: Source: Morrison Low 2015, *Updated Inner West Business Case Model*, Leichhardt Council, November, available at <http://www.leichhardt.nsw.gov.au/Community-Issues/Council-Amalgamation/Council-Amalgamation>, FFF Submissions by the 3 respective councils ([www.ipart.nsw.gov.au](http://www.ipart.nsw.gov.au)).

In the case of Leichhardt Council, the stand-alone option remains financially superior to any and all merger proposals recommended by the Independent Local Government Review Panel and the State Government (see Table 3). This is supported by independent consultants Morrison Low (see Attachments 1 & 2).





The principal reasons that the stand alone option remains the superior position for Leichhardt Council are as follows:

- The financial benchmark indicators for asset renewal, infrastructure backlog and asset maintenance ratio are all achieved much earlier than the 3 council merger proposal.
- Leichhardt's financial position is currently much sounder than Ashfield and Marrickville Councils who are both running deficit operating results for this year (predicted for surplus in subsequent years however).
- The healthy financial position of Leichhardt Council is based on sound financial management and underpinned by a well-developed and ongoing business improvement/efficiency program (i.e. internal resources). Whereas, the financial position of both Marrickville and Ashfield Councils in the future is supported by a Special Rate Variation.
- Leichhardt Council has a well-managed and fully funded infrastructure program and as such infrastructure backlog figure is much lower than both Ashfield and Marrickville Councils - \$5.4 million compared to Ashfield's \$23.6 million and Marrickville's \$9.2 million.


Leichhardt Council does not just excel financially in comparison to the other two Inner West Councils, but also in comparison to all other councils in NSW. As previously stated, Leichhardt is recognised as one of NSW's top performing Councils and the NSW Treasury Corporation (TCorp) confirmed that Leichhardt Council is in the top 10 per cent of councils in NSW for financial performance (TCorp 2013). The NSW Government also recognised Leichhardt's strong asset management (Local Government Infrastructure Audit 2013) and strong performance in governance and organisational best practice (Promoting Better Practice Review 2015).

It is important to highlight that Leichhardt Council will meet all 7 Fit for the Future benchmarks outlined by the State Government by 2020 (and all but one in 2015-16), that this will be achieved by Council using its own resources and is not reliant on increased borrowings, a special rate increase or any reduction in service levels/offers. Principally, the benchmarks will be achieved through a continued priority towards sustainable asset management along with a targeted internal efficiency program known as "Living within our means" initiated by Council in late 2013.



Table 3

LEICHHARDT COUNCIL - FIT FOR THE FUTURE CRITERIA RESULTS

		2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
<b>BENCHMARK</b>												
Operating Performance Ratio (greater or equal to break-even average over 3 years)	Must meet within 5 years	✓ 4.5%	✓ 3.4%	✓ 2.1%	✓ 1.8%	✓ 1.9%	✓ 2.0%	✓ 1.7%	✓ 1.7%	✓ 1.5%	✓ 1.6%	✓ 1.3%
Own Source Revenue Ratio (greater than 60% average over 3 years)	Must meet within 5 years	✓ 88.3%	✓ 87.5%	✓ 89.7%	✓ 90.3%	✓ 91.9%	✓ 91.9%	✓ 91.9%	✓ 91.9%	✓ 91.9%	✓ 91.9%	✓ 91.9%
Building and Infrastructure Asset Renewal Ratio (greater than 100% average over 3 years)	Meet or Improve within 5 years	✗ 93.8%	✓ 136.9%	✓ 160.8%	✓ 168.5%	✓ 154.2%	✓ 136.6%	✓ 119.3%	✓ 103.4%	✓ 103.8%	✓ 104.2%	✓ 104.4%
Infrastructure Backlog Ratio (less than 2%)	Meet or Improve/Inform within 5 years	✗ 6.7%	✗ 4.9%	✗ 3.8%	✓ 2.7%	✓ 1.7%	✓ 1.7%	✓ 1.6%	✓ 1.5%	✓ 1.5%	✓ 1.4%	✓ 1.3%
Asset Maintenance Ratio (greater than 100% average over 3 years)	Meet or Improve/Inform within 5 years	✓ 127.3%	✓ 108.6%	✓ 113.8%	✓ 118.5%	✓ 121.9%	✓ 122.6%	✓ 123.0%	✓ 121.9%	✓ 119.6%	✓ 117.5%	✓ 114.8%
Debt Service Ratio (greater than 0 and less than or equal to 20% average over 3 years)	Meet within 5 years	✓ 1.9%	✓ 2.1%	✓ 2.4%	✓ 2.3%	✓ 2.3%	✓ 1.8%	✓ 1.5%	✓ 1.1%	✓ 1.0%	✓ 1.0%	✓ 0.8%
A decrease in Real Operating Expenditure per capita over time	Decreasing	✓ 1.30	✓ 1.28	✓ 1.27	✓ 1.25	✓ 1.24	✓ 1.22	✓ 1.22	✓ 1.20	✓ 1.19	✓ 1.18	✓ 1.18



*b. The merged council proposal: The benefits and costs*

*1. Council's independent modelling*

Analysis by independent consultants Morrison Low indicates that the amalgamation proposition of Marrickville, Leichhardt and Ashfield Councils is financially "fit for the future" at a high level (modelling of each of the 7 financial benchmarks is provided in Morrison Low 2015, *Updated Inner West Business Case Model*, Leichhardt Council, November, available at <http://www.leichhardt.nsw.gov.au/Community-Issues/Council-Amalgamation/Council-Amalgamation>)

However, when compared to the stand-alone option for Leichhardt Council, the independent modelling undertaken by Morrison Low is unequivocal:

*In terms of financial sustainability, the stand-alone option remains the superior option for the Leichhardt community.*

This modelling (and international peer reviewed evidence) highlights a range of significant financial disadvantages arising from the merger proposal which will negatively impact on the new entity and the community, including:

- *Merger costs are significant.* The modelling assumes merger costs in the order of \$33.5 million during the first 4-5 years alone. These costs relate to (amongst other things) staff redundancies, the implementation of a single IT system across the new council, corporate branding and the like. These costs are significant and will not result in any benefit to the local community through increased services and service levels.  
  
The modelling also demonstrates that the costs associated with the merger may be more significant than set out in the business case. In this regard, merging back office systems in government and the private sector is notoriously difficult and there is no example across either the Commonwealth or State Governments in Australia (with perhaps the exception of the ACT) where back office consolidation has realised any significant ongoing saving. For example, the Western Australian Government invested more than \$1 billion in corporate and shared services reform and the WA Audit Office found that this program did not yield a single dollar in benefit. The program was subsequently disbanded at great cost to the taxpayer.
- *Staffing levels are reduced and services cut.* These savings, which will see our combined workforce fall by more than 10 per cent, will have a negative impact on the local community which will experience either reduced services or cuts to services in order to achieve the savings targets. Councils over past years have significantly reduced staffing levels whilst maintaining service levels. There is very little room left to move any without adversely impacting on services.
- *Cultural issues.* The cultural integration of the council organisations may not go well with the uncertainty of job continuation, change and the like. This will result in low morale and increased staff turnover rate. This would reduce business performance and prolong the time it takes for the predicted efficiencies to be achieved.





Furthermore, the new Council will not be able to attract staff if the image of the new Council is one of disarray and dysfunction.

- *Governance issues.* Perhaps the most immediate risk to the expected financial benefits arising from the merger proposal, and outlined by Morrison Low, arises from the fact that the future council who will make many of these key decisions is yet to be elected. Its political alignment, policy program and priorities will not be known for some time and may impact on the realisation of planned benefits. The Queensland mergers have provided an insight into organisational dynamics. Organisations through the transition were reluctant to commit the incoming council so decisions were often taken with a short term view or deferred if possible. The newly elected councils initially entered a learning phase taking time to become familiar with their new responsibilities and communities. While organisations continued to operate, it tended to be without a strategic framework or overall plan. There is a risk that a form of organisational inertia may occur, delaying the realisation of merger benefits.
- *Diseconomies of scale.* There is evidence to indicate that organisational and behaviour inefficiency rises with the size of the bureaucracy – a finding supported by the academic literature - refer to Abelson, P. and Joyeux, R, 2015, "Smoke and Mirrors: Fallacies in the NSW Government's Views on Local Government Financial Capacity," *Public Money & Management*, July, pp. 315-320). In fact, Professor Peter Dollery (in Dollery et al 2012, *Councils in Cooperation, Shared Services and Australian Local Government*, Federation Press, Sydney; Dollery et al 2013, 'An evaluation of amalgamation and financial viability in Australian local government', *Public Finance and Management*, 13, pp. 215-238) in an empirical analysis of the 2008 Queensland amalgamations has shown that most amalgamated councils now operate under diseconomies of scale.
- *Smaller is better.* International and national evidence about council amalgamations does not support the basic economic assumption underpinning the merger proposal that larger councils are more efficient and effective than smaller councils. In fact, the evidence reveals the exact opposite – smaller councils are more efficient, effective, financially sustainable and better represent their local communities (See references to Professor Dollery and Dr Abelson cited above).

The challenges associated with merging: service levels, organisational operating procedures, systems, processes, policies, plans and organisational behaviours pose significant risk to the realisation of the estimated benefits of any merger. In contrast, the stand-alone position is one of strength and through continuity will ensure the delivery of ongoing benefits to the local community.

## 2. The NSW Government's modelling of the financial benefits of the merger proposal

The NSW Government, in announcing the merger proposals in January 2016, released modelling by KPMG of the potential financial impacts of the merger. The merger report concluded that "the merger is expected to lead to around \$88 million in net financial savings over 20 years." (NSW Government 2016, *Merger Proposal: Ashfield Council, Leichhardt Municipal Council, Marrickville Council*, January, p. 3).



This report is fundamentally flawed and grossly overestimates the financial benefits of the merger proposal by not accurately capturing all costs associated with the merger. The most serious deficiencies are as follows:

- Senior staff savings are grossly overestimated as they are based on broad generalisations of staffing structures rather than on specific information. For example, there are seven senior officers in the three councils of Ashfield, Leichhardt and Marrickville (as well as three General Managers) whereas KPMG assumes each council has 4 senior officers (plus a General Manager). The result is that KPMG have overestimated gross financial benefits in the order of \$22 million over 20 years – considerably higher if CPI is applied.
- Redundancy payments have been calculated based on national employment awards, not Council contracts which are quite different. Specifically, KPMG appear to have used 16 weeks as their benchmark for redundancy payments whereas the Local Government Awards provides a maximum payout of 34 weeks. This is significant for Leichhardt Council which has more than 200 workers with in excess of 10 years services and would be eligible (if made redundant) to the maximum redundancy payments of 34 weeks.
- ICT costs are estimated at \$3.35 million (plus a 30% contingency) (to use KPMG's words - an "ICT veneer solution") whereas our modelling assumes ICT costs in the order of ten times that amount (\$35 million). Our costs are benchmarked against industry best practice, including the recent amalgamation of Auckland City Council. The KPMG numbers therefore grossly underestimated the ICT costs associated with the merger by a factor of ten.
- Reduction in costs of materials after amalgamation are excessive (3 per cent of total expenditure or \$11 million over 20 years) which assumes that Councils are not already achieving scale economies. Leichhardt Council currently uses the purchasing power of SSROC (16 councils) on all major procurement contracts. Bringing together the three councils (which are all part of SSROC) will not in and of itself produce additional procurement savings as all three Councils are already SSROC members.
- Staffing levels are presumed to fall over the modelling period – staff efficiencies in the order of 7.4 per cent (roughly 85 staff in the case of our merger proposal). However, this assumption is not supported by evidence and is in direct contrast to the experience in Queensland where staffing costs grew by 8 per cent a year following mergers.

If KPMG's model accurately captured the true costs of the merger, the financial benefits would be considerably less (in the order of just \$20 million over 20 years) and the key financial indicators (e.g. Operating Result and Operating Performance Ratio) would take many more years to return to a positive trajectory (well beyond 2020). Accounting for the true costs of the merger would raise serious questions about the financial sustainability of the new council for many years.

The KPMG model therefore compares unfavourably to the positive financial position of all three councils articulated in their Long Term Financial Plans. In each case, the stand alone option is the superior one for Ashfield, Leichhardt and Marrickville communities.





In summary, the KPMG analysis of the financial benefits arising from the merger proposal are grossly overstated – by more than \$65 million (ICT, procurement and senior staff savings alone). This is a fundamental error and one that undermines the very basis of the Government's claims on the financial benefits of that the merger proposal of Ashfield, Leichhardt and Marrickville Councils.

The financial impact on key stakeholders - local businesses, residents and ratepayers and the vulnerable

The financial impact of the merger proposal extends well beyond the three councils and their bureaucracies and elected representatives. It will also have a significant impact on local businesses, residents and ratepayers and the most vulnerable within our community. These impacts, which are overwhelmingly negative, are detailed below:

*a. Impact on local businesses*

The loss of local employment and the consolidation of Council administration centres across the Inner West will have significant negative externalities on local businesses. In this regard, in 2013-14 alone Leichhardt Council spent close to \$3 million with local suppliers – this excludes the many hundreds of thousands of dollars staff spent on goods and services from local businesses close to Council. The consolidation of Council employees in one building (more than likely in a central location to the new LGA) will have a profound impact on the local economy.

The withdrawal of significant funds from the local economy resulting from the merger will only add to the issues facing our main streets across all three council areas. In recent years our high streets have been struggling due to a variety of factors, including (but not limited to) global financial events and changes in customer behaviour towards online shopping. Recent independent research undertaken in our LGA has recorded high street vacancy rates averaging 13-15 per cent, with some areas as high as 22 per cent. This is not an issue that is unique to Leichhardt but many of our once bustling retail high streets have fallen into a state of decline.

Leichhardt Council has resourced and implemented a range of projects and initiatives aimed at enlivening, revitalising and restoring our main streets to their former glory and rightful place at the heart of our community. This work is ongoing. The merger proposal will not only undermine these efforts but could be the final blow to our main street businesses and many will simply close their doors.

*b. Impact on ratepayers*

Modelling the changes in rates in a merger is very difficult to do with any degree of accuracy. Presently there are a number of significant differences in the rating systems of the councils which impact on the rates charged to an individual property. The key examples are that one has base rates (Ashfield) and the other two (Leichhardt and Marrickville) a minimum rate as well as large variations in the proportion of rates borne by business and residential rate payers. For example in Ashfield businesses bear just 5 per cent of the rates whereas in Marrickville that proportion rises to 10 per cent. Currently, Leichhardt has



the highest average residential (\$1,199) and business rates (\$7,051). In comparison Marrickville has the lowest average residential rate (\$855) and Ashfield the lowest average business rate (\$4,641) (see Figures 1 & 2).

Figure 1 Average residential rate (2014)

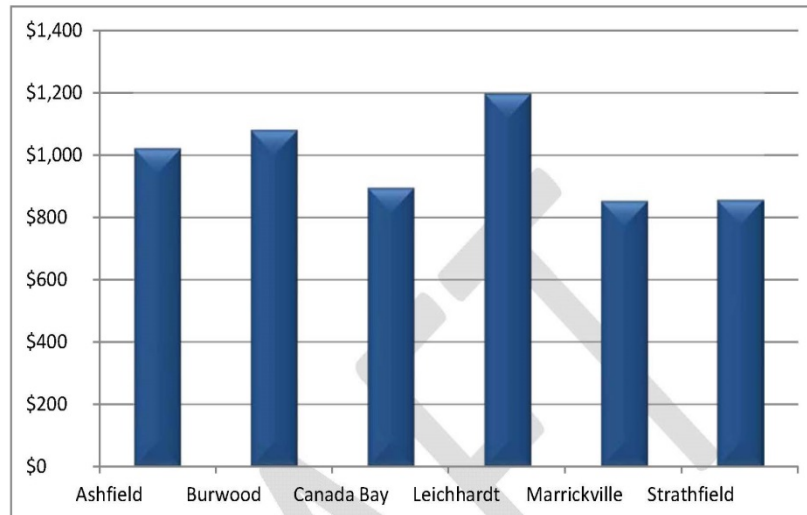
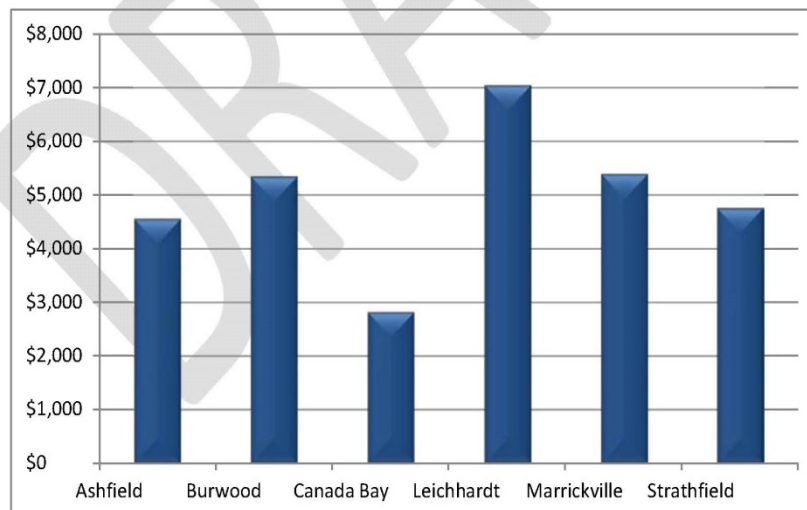


Figure 2 Average business rate (2014)



Source: OLG, *Your Council Report*, accessed on 20 January 2015 at <http://olg.nsw.gov.au/public/my-local-council/yourcouncil-website>



A merged council would ultimately set a single rating system across the inner west and regardless of the approach there would be some properties where rates would rise and others where rates would reduce. A key driver for this would be land value and residents with comparatively high value properties would bear a higher proportion of the rates.

Land values are much higher in the Leichhardt Municipality than in both Ashfield and Marrickville – this can be demonstrated by total average land values per property. As a result, residential rates may rise in Leichhardt under the merger proposal. The exact quantum is not known at this time but in previous modelling of the impact on Leichhardt residents of the six merger proposal (Independent Local Government's Review Panel's preferred option) residential rates were expected to rise by over 3 per cent in Leichhardt (under the ad valorem system).

*c. Impact on low income and/or disadvantaged residents*

The merger may negatively impact low income and/or disadvantage residents but the extent of this impact will be a matter of policy for any new entity. By way of an example, each of the three councils has a differing voluntary pensioner rates rebate with Leichhardt Council offering the most generous concession – in addition to the statutory concession, Council rebates 100 per cent of the domestic waste management charge and the storm water management service charge to pensioners who have been ratepayers/residents of the municipality for 10 years or longer. In 2015-16, the total pensioner concession is valued at \$1,350,000 (i.e. \$510,000 - statutory concession, and \$840,000 - Council voluntary concession).

Leichhardt Council is also unique within the inner west as it enables pensioners to accrue their rates debt. This policy directly benefits residents that are most vulnerable (i.e. income poor) and enables them to remain in their homes. This policy would have to be reviewed by the new council to ensure uniformity.

Should the new council seek to harmonise concessions across the new council area (i.e. either eliminate the council voluntary concession or make it uniform), it will either impose new costs on community (and those most vulnerable), and/or new costs on the merged entity. Either way, the impact will be felt in the local community either directly or by a reduction in services.

Also vulnerable under a new merged council are the application of subsidized fees and charges, and the suite of services and programs currently offered to support low income and disadvantaged residents in each council area.





## **2. The community of interest and geographic cohesion in the existing areas and in any proposed new area**

### Summary of communities of interest

The key points from this section are as follows:

- The merger will result in a loss of a sense of identity and place in Leichhardt as it is merged with neighbouring Councils that do not share a similar sense of community i.e. there is no shared community of interest.
- Leichhardt is unique. Its uniqueness is derived from the strong sense of identity and attachment to place of its residents. Such attachment to place is not an 'emotional' consideration that should be easily dismissed in any assessment of the merger proposal. Attachment to place (otherwise known as place identity) by residents is important as it is a component of self-identity and includes memories, ideas, feelings, attitudes, values, preferences, meanings and concepts of behaviour and experience which contribute to satisfaction of an individual's biological, physiological, social and cultural needs.
- Strong place attachment in Leichhardt has developed from its relative geographical self-containment, historical areas, scale of place and local focus. Leichhardt Council has the appropriate governance structure and scale to support this strong local focus and attachment to place.
- Council contends that place attachment is an important consideration that is not based on 'emotive arguments' and that the local focus of Leichhardt Council is important to maintaining the biological, psychological, social and cultural health and wellbeing of our community and its individuals. Leichhardt's unique character and local focus supports an individual's and communities' sense that they live somewhere that is distinctive, where continuity is valued and the ability to influence social and environmental outcomes is achievable.
- Most strikingly, the three councils share no real community of interest in respect to local representation and active citizenship, built form, heritage and in their council planning instruments – Leichhardt for example has strong heritage controls and moderated development.
- There are also significant differences between the three areas in terms of population density, cultural and ethnic diversity, levels of socioeconomic disadvantage/advantage, household income and wealth.
- The stand-alone option remains the superior option for the Leichhardt community and the communities of Ashfield and Marrickville.

### Introduction

The communities of Ashfield, Leichhardt and Marrickville have a number of demographic similarities but also a number of significant differences. It is these very material differences which will completely undermine the sense of community within Leichhardt (and in the two other council areas) where it to be merged with Ashfield and Marrickville Councils.

Communities of interest are more likely to have similar interests and needs from their council, whereas people who do not share a community of interest are more likely to have



different needs from their council. In this section we explore the communities of interests between the three councils covering a range of socio-economic indicators.

Leichhardt contends that the strongest community of interest is the community of Leichhardt itself and that the governance framework which Leichhardt Council represents is the best framework for this community. Leichhardt Council is financially viable and also reflects the unique characteristics of this place and people. The Merger Proposal states that the communities of Leichhardt, Marrickville and Ashfield are 'bound by their sense of place as part of Sydney's Inner West' (p.14). It also suggests that circulation of the Inner West Courier and the Leichhardt Marrickville Community Transport Group are examples of 'sense of place'. In fact they are examples of activities, not 'sense of place'. Leichhardt is a distinct area and community within the Inner west. The Inner West is not a homogenous place.

Sense of Place (also known as Place Identity, Place Attachment,) is a complex matter. Anton et al (2014)<sup>1</sup> notes that people with high levels of place attachment report greater social and political involvement in their communities are more likely to work together to achieve a desired outcome such as protecting the environment and social and physical features that characterise neighbourhoods (see also Raymond et al 2010)<sup>2</sup>. Leichhardt resident engagement with the planning and design process, commitment to community participation and high levels of representation are consistent with this definition of strong place attachment.

Another characteristic which contributes to its strong place attachment/identity is that Leichhardt is physically quite self-contained as it is bordered by the waterways of Hawthorne Canal, Sydney Harbour, and Johnsons Creek as well as the ridgetop of Parramatta Road which runs along the former tidal extent of our creeklines. Such physical characteristics have, from earliest times, contributed to a unique place identity and Lewicka (2010)<sup>3</sup> notes that people identify most strongly with distinguishable places rather than areas whose edges are not clearly defined. This is a cognitive function of individuals and relates to objective spatial considerations.

The historical character and scale of Leichhardt have also contributed to place attachment. The walkable nature of our neighbourhoods, our creeklines and the scale of its streets and buildings feel familiar and secure. Lewicka (2010) found that *"residents of historical areas were significantly more attached to districts than were residents filled with post-war apartment blocks."*

The differences between the three local government areas are pronounced. A few of the key differences are outlined below:

<sup>1</sup> Anton, C.E. & Lawrence, C., 2014. Home is where the heart is: The effect of place of residence on place attachment and community participation. *Journal of Environmental Psychology*, 40, 451–461.

<sup>2</sup> Raymond, C.M., Brown, G. & Weber, D., 2010. The measurement of place attachment: Personal, community, and environmental connections. *Journal of Environmental Psychology*, 30(4), 422–434.

<sup>3</sup> Lewicka, M., 2010. What makes neighbourhood different from home and city? Effects of place scale on place attachment. *Journal of Environmental Psychology*, 30(1), 35–51.





*a. Local representation and active citizenship*

The issues of local representation are discussed in detail later in this submission. In brief, the reduction in Councillor representation under the merger proposal will not benefit any of the three councils. Each council is unique and is a community of interest in its own right. Under the current merger proposal our highly valued communities of interest will be lost. This is demonstrated by Leichhardt residents' opposition to mergers.

The Leichhardt community is geographically well connected and physically quite self-contained (as mentioned above). Our very distinct landscape and self-containment contributes to a strong sense of place and separate identity which is expressed in strong community participation, civic activism, social justice, environmental values, creative expression, built forms and active recreation. These principles which Leichhardt holds dear are not necessarily replicated in either Ashfield or Marrickville.

The Leichhardt community has developed the vision that Council and Community will work together to form a sustainable and liveable community. Leichhardt local government area is characterised by a strong sense of belonging to each other, and to the places where people live, as documented in the Community Wellbeing Survey and Report (IRIS Research 2010).

Leichhardt has a very active structure of community advisory committees, involving residents in decision-making and planning for our local community. In this regard, Leichhardt has more such local community advisory groups than its neighbouring councils:

- Ashfield – 7 community committees
- Marrickville – 9 community committees
- Leichhardt – 16 community committees.

One outcome of any merged Council would be a reduction in Leichhardt residents' input to council decision-making via the community advisory committees. Council's community consultation processes have identified that this is an important issue for our community.

The ILGRP commissioned a report into community level governance options. It identified provisions that might be made within local government legislation to promote more active citizenship and enhance diversity on community voice. This included consideration of the creation of local boards, precinct committees, wards, strategies to improve diversity and participation particularly women and young people. These considerations have not, as yet, been incorporated by the State Government into the reform agenda but have featured as a critical area of discussion amongst the inner west Councils.

*b. Built form and heritage*

There is marked difference between the Ashfield, Marrickville and Leichhardt Councils approach to planning and development as indicated by the planning controls prescribed in our various Local Environment Plans (LEPs) (see Table 4).





**Table 4. Local Environmental Plans (LEP) Provisions**

	Ashfield	Leichhardt	Marrickville
<b>Max Building Heights</b>	29m	32m	32m
<b>Max Floor Space Ratios</b>	3:1	2.15:1	3.7:1
<b>Heritage Items</b>	668	811	308
<b>Heritage Conservation Areas</b>	50	19	36

Source: Morrison Low 2015, *Inner West Councils, Fit for the Future – Shared Modelling*, February, available at <http://www.leichhardt.nsw.gov.au/Community-Issues/Council-Amalgamation/Council-Amalgamation>

Maximum building heights and FSRs for each council vary considerably with FSRs much greater in Ashfield and Marrickville than in Leichhardt. This has a significant impact on the built environment which varies considerably between the three areas.

In terms of heritage controls, Ashfield has the highest number of conservation areas, and Leichhardt has the most individually listed heritage items. The largest heritage conservation areas across the region are Haberfield and the Balmain peninsula.

#### *c. Population Profile*

All three councils are forecast to experience much higher rates of growth between 2011 and 2031 than they did over the 2001 to 2011 period. The forecast growth rate for Ashfield (19 per cent) and Leichhardt (18 per cent) is slightly lower than for Marrickville (21 per cent) between 2011 and 2031 (Source: *New South Wales Local Government Areas: Similarities and Differences, A report for the Independent Local Government Review Panel*, NIER, March 2013).

However, while projected population growth is comparable to Ashfield and Marrickville, a significant impact (which is not accounted for in the data) is predicated by the planned development in the Bays Precinct. This will result in the provision of dwellings for a population of over 20,000 persons. This development will significantly increase the population projections for Leichhardt Council over the next few decades which are out of step with its two neighbouring councils.

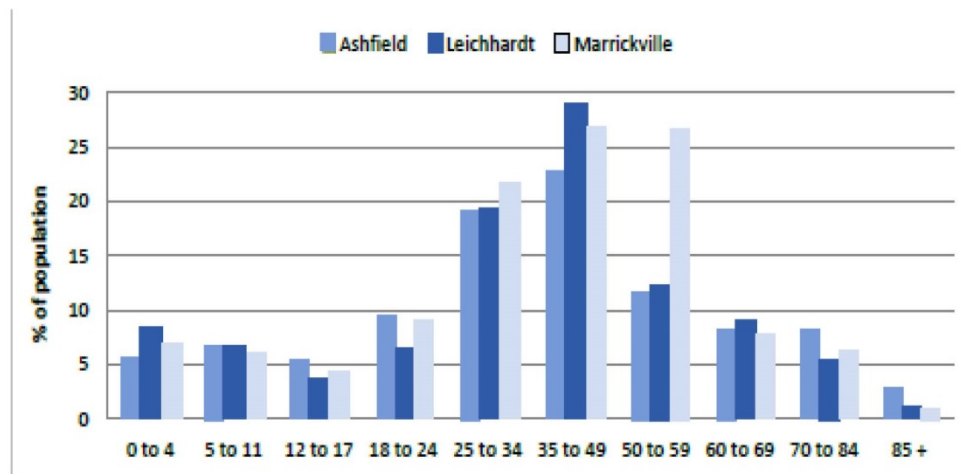
Different age groups have different service needs and preferences. The age structure of a community provides an insight into the level of demand for aged based services and facilities as well as the key issues on which local government will need to engage with other levels of government in representing their community.

Figure 3 provides the age structure of the population across the three local councils. What this data shows is that Leichhardt has a very high proportion of residents in the 35-49 age group. There has been an increase in the proportion of youth, largely resulting from the recent "Baby Boom". In the last ten years Leichhardt has experienced a growth in the 0-4 age group of 62 per cent - by 1,800 - compared to a state growth of 9 per cent, and the 5-14 age group has increased by 20 per cent - by nearly 900 - compared to a state decline of 2 per cent. Over the last decade the number of children aged 0-4 years has increased and the number of children aged 5-11 years has increased.



From 2006-2013 Leichhardt Municipality public primary school enrolments increased an average of 53 per cent, with some schools seeing an increase of more than 100 per cent.

**Figure 3 Age structure**



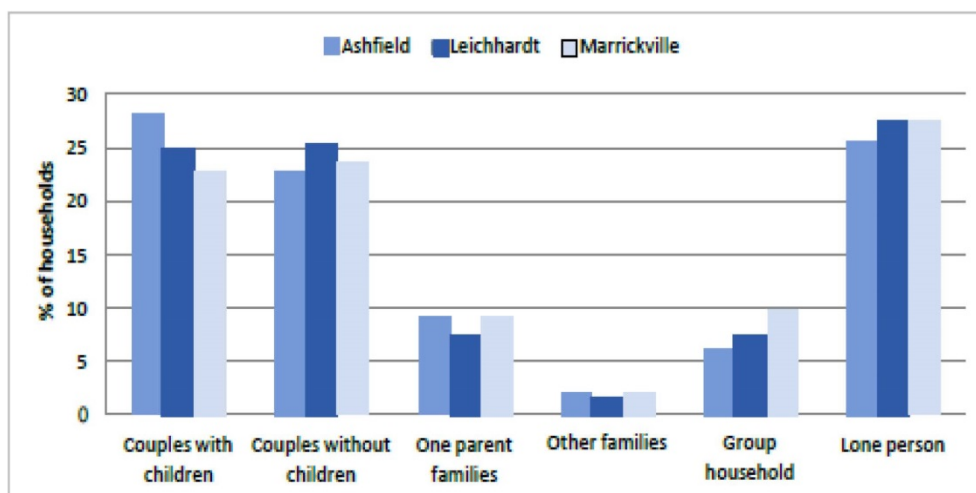
**Source:** Morrison Low 2015, *Communities of Interest Report: Marrickville, Leichhardt and Ashfield Councils*, November.

#### *d. Household structure*

Household structure as measured in the 2011 Census indicates that in 2011 family households dominated Leichhardt although it contained less family households than in Ashfield (Figure 4). However, Leichhardt had a higher proportion of lone person households. The traditional built forms in Leichhardt have, in the past meant that many families left the LGA as they grew. However, an increasing trend to renovate and enlarge homes has meant that many families are choosing to remain in the area. Leichhardt has recently been recognised as having the highest volume of home renovations per dwelling in Australia.



**Figure 4 Household types**



**Source:** Morrison Low 2015, *Communities of Interest Report: Marrickville, Leichhardt and Ashfield Councils*, November.

*e. Birthplace, religion and education*

Leichhardt has a higher proportion of Anglo-Celtic residents compared to Ashfield and Marrickville and lower proportion of multilingual residents. There is likewise a much higher proficiency in English and lower proficiency in other languages than neighbouring councils. Our residents nevertheless include members of a small but diverse range of non-English speaking countries, notably Italian post-war migrants and their families, and including increasing numbers of Chinese.

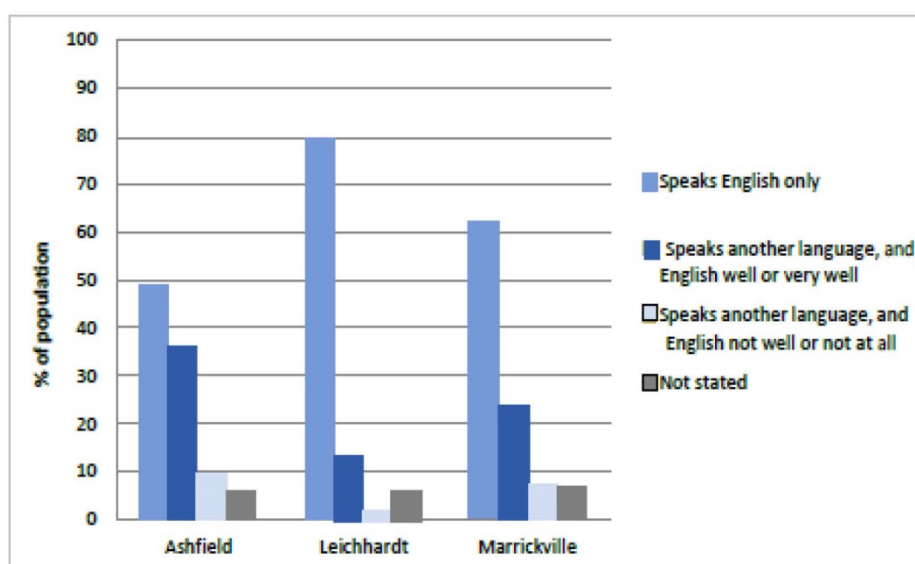
Leichhardt has the highest percentage of residents who speak English only (79 per cent), followed by Marrickville (62 per cent) and Ashfield (49 per cent). Ashfield has a much higher percentage of residents who speak another language and English well or very well (36 per cent) and a slightly higher percentage of residents who speak another language and English not well or not at all than Marrickville and Leichhardt (Figure 5).

While there is a lower proportion of declared religion affiliation in Leichhardt than other parts of NSW, a higher proportion of residents express participation in holistic wellbeing practices such as meditation and yoga (18 per cent) than religious practice (14 per cent).





**Figure 5 Language**



**Source:** Morrison Low 2015, *Communities of Interest Report: Marrickville, Leichhardt and Ashfield Councils*, November.

*f. Levels of education and income*

Leichhardt residents are well-educated, and in comparison to neighbouring Ashfield and Marrickville have comparatively higher Year 12 or equivalent qualifications, highest Bachelor or higher degrees. Leichhardt is home to University of Sydney with Sydney College of the Arts at Callan Park, University of Tasmania campus, Australian Institute of Music, TAFE, and Sydney Community College which offers certified Vocational Education and Training courses.

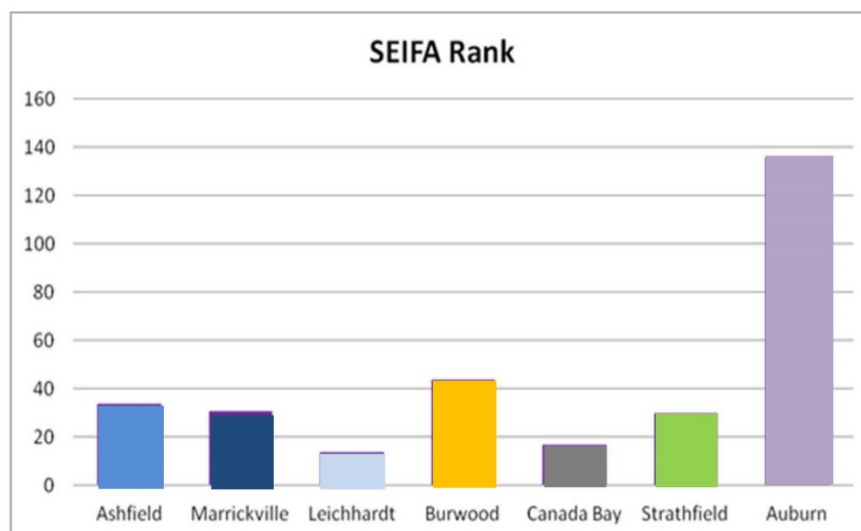
Overall, Leichhardt is an affluent community, and is significantly higher than Ashfield and Marrickville in terms of annual household income. It also experiences a much lower level of socio-economic disadvantage.

The SEIFA Index of Disadvantage measures the relative level of socio-economic disadvantage based on a range of census data. The SIEFA Index provides a ranking of all 152 NSW Councils, with 1 being the most advantaged area (Figure 6).





**Figure 6 SEIFA Ranking of the Inner West Councils**



Source: Morrison Low 2015, *Inner West Councils, Fit for the Future – Shared Modelling*, February, available at <http://www.leichhardt.nsw.gov.au/Community-Issues/Council-Amalgamation/Council-Amalgamation>

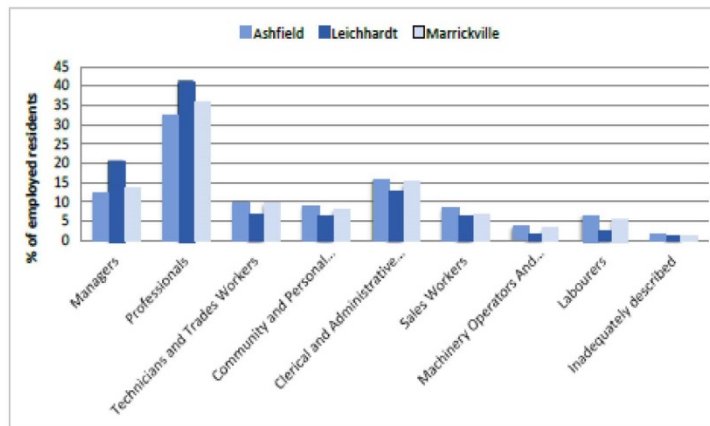
One of the most perverse outcomes from the merger proposal is that the new council will result in a lower SEIFA ranking for Leichhardt and a higher ranking for both Ashfield and Marrickville (Merger Proposal p. 14). This is important from a financial perspective for many Commonwealth and State Government grants are based on the SEIFA rankings, for example, childcare and pre-school funding.

Under the current merger proposal, the Leichhardt community (which is one of the wealthiest in NSW) will receive more grant funding for pre-schools and childcare as its SEIFA ranking is reduced in the new Council. At the same time, Ashfield and Marrickville will receive less grant funding as their SEIFA ranking are increased in the new Council. This will have a direct financial impact on parents who will have to pay more for existing services in Ashfield and Marrickville as Commonwealth and State Government grants are reduced.

Occupations vary considerably between the three areas. Leichhardt has the highest proportion of both Professionals and Managers relative to Ashfield and Marrickville. Ashfield and Marrickville have higher proportions of clerical and administrative workers, technicians and trades workers, and community and personal services (Figure 7).



**Figure 7 Occupations**



**Source:** Morrison Low 2015, *Communities of Interest Report: Marrickville, Leichhardt and Ashfield Councils*, November.

*g. Cost of housing and housing affordability.*

The cost of housing is high and affordability of housing an issue for all three communities. Affordable housing is any housing that costs moderate-to-low income earners less than 30% of their net weekly income and therefore conveys the notion of “reasonable” housing costs in relation to income. Expenditure above this may result in housing stress.

Weekly housing rental payment statistics indicate that Leichhardt residents who are renting pay significantly more in rent than Greater Sydney averages, including Ashfield and Marrickville. For example, 2011 census data indicates 16.1 per cent of Leichhardt residents who are renting paid \$550-\$649 per week compared to 7.1 per cent of Greater Sydney residents. The percentages for weekly rental costs higher than \$550 were all higher for Leichhardt residents than Greater Sydney averages. It is expected that these costs will have increased significantly since the last data collection, indicated by recent NSW Valuer General Report of increase in land values by 24 per cent in Leichhardt since last benchmarked in 2013.

[http://www.valuergeneral.nsw.gov.au/\\_data/assets/pdf\\_file/0006/207681/Ashfield\\_Final\\_Report\\_2015.pdf](http://www.valuergeneral.nsw.gov.au/_data/assets/pdf_file/0006/207681/Ashfield_Final_Report_2015.pdf)

Summary

A merged council will force together a diverse mix of communities with broadly varying socioeconomic characteristics. While diversity of the community is welcomed and valued, spreading this across an LGA of more than 185,000 residents compared to Leichhardt's 57,000 residents will inevitably mean a significant reduction or loss of sense of belonging and place. This will have impacts on community cohesion, individual and groups sense of place and identity. Council contends that place attachment is an important consideration that is not based on ‘emotive arguments’ and that the local focus of Leichhardt Council is important to maintaining the biological, psychological, social and cultural health and wellbeing of our



community and its individuals. Leichhardt's unique character and local focus supports an individual's and communities' sense that they live somewhere that is distinctive, where continuity is valued and the ability to influence social and environmental outcomes is achievable.

The rich and diverse history of the Leichhardt Council harbour fronted suburbs (Lilyfield, Rozelle, Birchgrove, Balmain and Balmain East accounting for well over half the entire LGA) share a natural affinity creating a cultural and social harmony that distinguishes them from their geographical neighbours. This 'peninsula' character distinguishes itself completely differently to the other precincts within a merged Inner West council.

Of most concern is that the significant reduction in Councillor representation under a new Inner West council will not be able to reasonably reflect the diversities of such a large and broad community mix.

The stand-alone option remains the superior option for the Leichhardt community.





### **3. The existing historical and traditional values in the existing areas and the impact of change on them.**

#### Summary of the impact on existing historical and traditional values

The key points from this section are as follows:

- Leichhardt's historical and traditional values remain at the very core of our community and its identity
- The current scale of our local government area and Councillor representation means that the particular character of this area, and the way people engage with local democracy and issues, is very effective.
- The merger proposal, which will increase the size of the local government area and reduce community representation, will undermine the fabric of this community and their very strong local links to place, each other and the decision-making process.
- Council and its communities have found that demand for redevelopment can be at odds with heritage objectives. Our local focus means that our cultural heritage is well understood and highly valued. This is a defining characteristic and a merger with other Councils may result in less emphasis on the retention of our places of cultural significance.
- The diversified service based economy is a core strength of Leichhardt and is derived from established businesses in our main streets and employment lands. Leichhardt Council and its communities seek to retain that mixed use character and our position is different from that being promoted in Marrickville where there has been support for large scale rezonings and loss of employment lands. This represents a fundamental, and very important, difference between the two council areas and the aspirations of our communities.
- The community has been instrumental in Leichhardt Council being an organisation that is held to account in its policy development and governance arrangements.
- Council's well established local focus, the character and history of our spaces and buildings, the participatory nature of governance and commitment to local and broader environmental sustainability matters are very important and may well be at risk in a new Council with differing priorities.

#### Introduction

Leichhardt's historical and traditional values remain at the very core of our community and its identity and are reflected in Councils contemporary strategic direction, as outlined in *Leichhardt 2025+*. These are fundamental to the identity, character and functioning of the community:

- Community Well-Being
- Accessibility
- Place Where we Live and Work
- A Sustainable Environment
- Business in the Environment
- Sustainable services and assets.





Council implements a comprehensive community Engagement Framework, open Council, Committees and resident based Precinct committees and the feedback is that Councils local focus, the character and history of our spaces and buildings, the participatory nature of governance and commitment to local and broader environmental sustainability matters are very important. The current scale of our local government area and Councillor representation means that the very particular character of this area and the way people engage with local democracy and issues works, for this community.

The merger proposal to increase the size of the local government area and reduce community representation will undermine the fabric of this community and their very strong local links to place, each other and the decision making process and on this basis is not in the best interests of our community.

In this section we outline the 6 key objectives of Council's community strategic plan – *Leichhardt 2025+* - that are the focus of Council's engagement with the local community. We argue that each of these are characteristics is threatened by the merger proposal as Ashfield and Marrickville Councils take a different approach to their advancing their own diverse communities.

#### Community well-being

The challenge for planners at all levels of government is to address inequality associated with differences in income, health, education, crime rates and employment<sup>1</sup> in Australian society. Understanding this, governments develop holistic plans to support the wellbeing of individuals and the community alike

For Leichhardt Council this means a commitment to ensuring:

- Fairness in the distribution of resources
- Rights are recognised and promoted
- People have fairer access to the economic resources and services essential to
- meet their basic needs and to improve their quality of life
- People's views are valued and listened to in Council deliberations
- People have better opportunities for genuine participation and consultation about decisions affecting their lives.

The Leichhardt community has directed Council to adopt a strengths-based approach to community capacity building while responding to current and future situations predicted by social research. According Council's Community Plans, to adopt a strengths-based approach to community capacity building while responding to current and future situations predicted by social research.

The Leichhardt community places emphasis on being a socially rich and diverse community where the needs of the entire community are considered and inform Council policy direction. Councils Community and Cultural Plan includes five strategic objectives which were informed by community participation:

#### *1. Connecting People to Each Other*

People living, studying and working in the Leichhardt LGA tend to be passionate about the area and active in key issues that affect them. This is demonstrated by the high number of



residents participating in interest and action groups as compared to National and State averages (Table 5).

**Table 5 Membership of interest groups – Leichhardt LGA**

Group/s (rank order)	per cent (%)		
	Leichhardt	Australia	NSW
Trade union, professional / technical association	14.7%	7.3%	7.1%
Body corporate or tenants' association	13.8%	3.5%	5.0%
Civic group or organisation	12.0%	3.1%	2.7%
Environmental or animal welfare group	9.4%	5.0%	4.8%
Human and civil rights group	6.9%	2.2%	2.2%
Consumer organisation	5.0%	1.0%	0.6%
Political party	3.3%	1.3%	1.1%
Other civic or political organisation	4.9%	-	-
None	59.9%	81.4%	81.7%

Source: Leichhardt Wellbeing Survey 2010 (IRIS Research available at [www.leichhardt.nsw.gov.au](http://www.leichhardt.nsw.gov.au)).

Community members have high agency – interacting, advocating and generating activities, as well as partaking in activities generated by others.

Local people respond strongly to local issues and broader societal issues that impact them. High levels of participation are aligned with a strong sense of participation within the community.

Merging into a much larger council with reduced local representation will negatively impact the agency, capability of local representation and priority given to local residents.

## 2. Connecting People to Place

Leichhardt LGA has beautiful local areas and unique neighbourhoods. Residents are proud of their local parks and waterways and the heritage and character of the local government area and want to retain this for future generations. Leichhardt LGA has a small, diverse Indigenous population (around 0.8 per cent) with a long-established Aboriginal community participating in community life across the inner west and eastern Sydney local government areas. The area has a strong heritage and some significant sites including middens on the foreshore of Iron Cove at Callan Point

As identified in the Community Wellbeing Survey and through community engagement process many neighbourhoods in the LGA have a strong identity that locals want to maintain. People are generally friendly to each other and many neighbours know each other, although not perhaps to the extent that they did in the past.

Part of this sense of belonging rests in being assured the community's values are known, respected, and applied by the local government area.





Merging into a larger organisation will diminish this sense of belonging to neighbourhoods while being witnessed, known and respected by the local government authority and the attention paid to local needs.

### *3. Developing Community Strengths and Capability*

The local government charter makes local government responsible for planning for and providing appropriate services to its community. People are looking to Council for leadership, advocacy and investment in building community strengths and capabilities.

Leichhardt residents have made significant contribution to Council planning and policy development, in particular the 1,200 plus residents engaged in developing the Community Strategic Plan *Leichhardt 2025+*, and additionally the thousands of residents involved in developing the Community and Cultural Plan Healthy Ageing, Reconciliation, Access Policy and Public Art.

Residents place a premium on the importance of addressing social indicators of health and wellbeing, and the need to build strong and capable local capacity in order to address larger societal issues (Leichhardt Community and Cultural Plan: 10 Year Strategic Service Plan). Residents volunteer in programs such as Linked In Mentoring which provides alternative learning environments for young people at risk of leaving the school environment; and volunteer in social inclusion programs in Council's community facilities.

Residents participate in strengths-based community development, seeking to build and foster capability, evidenced by the high level of participation in civic and social arenas. Half of the resident population in Leichhardt (49.6 per cent) had done unpaid voluntary work in the previous twelve months, compared to 27.3 per cent of all Australians.

A key component of volunteering is participation in Council's 16 Committees which provides active forums for residents to contribute to wellbeing outcomes in their local areas. 22 per cent of residents have participated in a community consultation or attended a public or council meeting compared to a NSW benchmark of 7.6 per cent.

Residents incorporated in a much larger council area will be impacted by the logistics of distance, and the lower level of proportional representation by their elected representatives in terms of opportunities for volunteering for Council committees.

### *4. Enlivening the Arts and Cultural Life*

Leichhardt has a strong history of being a leader in creative industries, with a higher proportion of residents engaged in arts and cultural life when benchmarked across the rest of Australia (Table 6).



**Table 6 Participation in groups – Leichhardt LGA**

Group/s (rank order)	Per cent (%)		
	Leichhardt	Australia	NSW
Sport or physical recreation group	34.2%	34.2%	31.8%
Social clubs providing restaurants or bars	31.8%	-	23.9%
Arts, music or drama	26.4%	9.0%	8.3%
Adult education, other recreation or special interest group	18.0%	12.9%	11.5%
Holistic i.e. meditation, yoga, astrology, tarot	17.2%	-	-
Spiritual practice, Religious group or organisation	13.7%	19.7%	20.7%
Craft or practical hobby group	8.8%	8.5%	7.9%
Other social groups (e.g. heritage group) (please specify)	6.9%	-	-
Ethnic / multicultural club	4.5%	4.0%	3.4%
None	28.5%	37.3%	37.2%

Source: Leichhardt Wellbeing Survey 2010 (IRIS Research available at [www.leichhardt.nsw.gov.au](http://www.leichhardt.nsw.gov.au)).

When Residents were also asked if they have been actively involved in community support groups or taken part in an activity organised by such groups, a quarter of the resident population (24.9 per cent) indicated involvement in Arts, music and drama. When you add in other groups such as performing arts (13.4 per cent), visual arts (17.9 per cent) and multimedia/film (14.8 per cent), this adds up to a very high involvement in the arts by Leichhardt residents

There is a strong grass roots arts community living alongside professionals from a wide range of creative industries including increasing numbers of media, film professionals and musicians and writers. The LGA is home to many art and cultural organisations and many support activities in the Sydney CBD. Legs on the Wall have their home in the Big Red Box in Lilyfield, and numerous small arts organisations have moved into the same precinct. Leichhardt Espresso Chorus is an outstanding locally-based non-audition choir which has reached national prominence. The Metropolitan Orchestra is an important recent development in the Sydney music scene, and along with the Leichhardt Celebrity Band, draws audiences to the heritage-listed town halls.

Leading training and cultural bodies have their home in the local government area, including The NSW Writers Centre, Sydney Community College, Sydney International Conservatorium of Music and Sydney College of the Arts. Commercial galleries are found throughout the area and a small number of artist studios for hire are dispersed in Leichhardt, Rozelle and Balmain.

The community recognises the significance of Council partnering with arts and cultural organisations and groups to build audiences, generate footfall to our high streets, and contribute to the vitality of parks, venues and our local neighbourhoods. Merging into a much larger organisation places at risk the level of interaction and support between local residents and these key organisations that has been facilitated by Council through grants, in kind support and partnerships customised to foster creative expression, build audiences, and particularly enhance access to arts experience by people on low incomes.





#### *5. Promoting Health and Well Being*

The Leichhardt community is a community that has a strong sense of connection to emerging ideas around sustainability, biodiversity, healthy environments and food production.

Residents actively engage in community gardens and micro plots growing vegetables and natives, and seek access to organic and fresh foods, healthy eating and cooking programs and urban forests with thriving flora and fauna, integrated with strong biodiversity policies and programs.

The Leichhardt community has initiated strategies in Council's Community Strategic Plan and The Healthy Ageing Plan to foster creative expression and wellbeing aligned with research indicating that participation in cultural activities has health and wellbeing benefits. Council is taking the leadership on initiatives supporting age-friendly precincts, dementia-friendly practices and

Not only are many Leichhardt residents involved in sports as spectators, but 36.4 per cent are or have been actively involved in sports/recreation groups and 33.9 per cent are or have been involved in fitness groups.

As well as supporting individual programs such as Healthy Older People Eating, Tai Chi, Gentle Exercise, Heart Moves and Learn to Swim programs, Council facilitates the LGA-wide Sporting Alliance which fosters skills development and participation in sports administration, decision-making and leadership.

The existing community seeks opportunities to participate in social inclusion programs that will bring diverse communities together, addressing issues around social disadvantage, and providing real opportunities for social enterprise, participation and wellbeing.

#### Accessibility

Leichhardt is characterised by walkable, mixed use neighbourhood and Council and its residents and visitors have long recognised that this is a sustainable urban form which promotes community connections, health and wellbeing and the economic vitality of its main street environments. Council does not support the construction of the WestConnex motorway and pursues policies which promote integrated land use and transport planning. To encourage increase in active transport and reduce private car dependency, Council is developing pedestrian and cycle networks and adopted the Integrated Transport Plan 2013-2023.

Council's objectives in reducing car dependency also reflect the traditional urban form of the LGA. Council's Integrated Transport Plan, which was the subject of much community engagement and discussion, reflects this position.

- a) **Integrated Transport Plan 2013-2023:** The Integrated Transport Plan was adopted in 2014. It is designed to increase the mode share for sustainable transport by increasing walking, cycling and public transport use; reducing private car dependency; integrating transport with land use and community activities; and providing equitable transport solutions for the whole community.
- b) **Carshare:** In 2012-13, 1,129 Leichhardt residents were members of a car share scheme in the LGA. Council has dedicated 21 publicly-available parking spaces to car share schemes to date.



- c) **Bicycle networks:** There have been 62.17km of bicycle-related works completed by Council from 2007-08 to 2012-13.
- d) **Bike Plan 2015:** Council is recently adopted a new Bike Plan and includes budget for its implementation each year.
- e) **Big Bike Day:** Leichhardt Council has been running Big Bike Day since 2000 to provide an opportunity for residents to cycle on Leichhardt's streets and find out more about cycling in Sydney. Participants meet in War Memorial Park to get a free bicycle check before joining in a group cycle around the LGA. Other activities in the park include unicycle lessons, bike races, a cycle track and face-painting. After the group ride, participants return to the park for a free lunch and to enjoy the activities.
- f) **Access Committee** Council's Access Committee consists of local community members who meet to discuss and inform Council policies. They were involved in the preparation and review of sections of Council's new DCP.

#### Place where we live and work

The Leichhardt LGA has a population density of 55.11 persons per hectare – the fourth densest local government area in NSW. As such, the urban form and its cultural significance are of paramount importance to our community.

Significantly, 44 per cent of the total LGA land area and 56 per cent of residential zoned land is located within a heritage conservation area reflecting the valuable legacy of built heritage, particularly from the first century of its development (1840-1940). Council and residents of the area place a high value on their cultural heritage and this is reflected in the fact that 748 built heritage items, 66 landscape heritage items, four archaeological heritage items, four Aboriginal sites and 24 other heritage items (this category includes fences, bridges, kerb and guttering and war memorials) are listed within Leichhardt's Local Environmental Plan (LEP).

Council and its communities have found that demand for redevelopment can be at odds with heritage objectives. In particular, rising property values have placed small houses, very much part of the Leichhardt landscape, under threat from redevelopment. Council's Heritage Committee is a vibrant, well attended Committee which is actively engaged in discussions and advocacy about heritage issues. Other Committees and the Resident Precinct Committees regularly engage with heritage related issues. Our local focus means that these values are well understood and are highly valued. This is a defining characteristic that is not as well represented in Marrickville or Ashfield and a merger with those Councils will result in less emphasis on the retention of places of cultural significance.

Aboriginal sites, places and objects are important to the rich heritage of the area. These sites and places are of great significance to Aboriginal communities, providing direct links to culture, knowledge and environment. On the publicly accessible foreshores of Iron Cove, the risk of disturbance, either deliberate or accidental, is considerable.

Council's policies, Local Environmental Plan and Development Control Plan plus our merit based assessment process are applied to accommodate current land-use patterns and styles, be responsive to economic factors whilst maintaining the historic and heritage values of the area. These policy settings have been developed and repeatedly tested by Council through the implementation of its comprehensive Community Engagement Framework to inform the preparation of key documents including *Leichhardt 2025+*, the Community and Cultural Plan,





Integrated Transport Plan, Environmental Sustainability Plan, Local Environmental Plan and Development Control Plan.

Council's *Leichhardt Local Environmental Plan (LEP) 2013* and the Development Control Plan (DCP) were adopted in 2013 and provide a mechanism for Council to pursue planning and design outcomes including:

- sustainable and contemporary building and place design
- transit-oriented development
- heritage conservation
- active streets and laneways, and
- a diversity of land use that supports economic, environmental and social sustainability.

The Leichhardt community has also placed significance on key areas of open space, many of which are located in foreshore areas and which also have historical and cultural significance to the community:

- Callan Park
- Ballast Point Park
- Mort Bay
- Whites Creek Valley Park.

Connection to its maritime history remains important to the Leichhardt community and is often expressed in its keen desire for improved public access to the harbour foreshore, most recently in its submission to UrbanGrowth NSW's Call for Big Ideas. Individuals and groups within our community have been active for many years to promote quality open space provision. Council most recently recognised this by resolving to name a portion of the foreshore trail after Tom Uren, a former local resident and Federal Member of Parliament.

#### A sustainable environment

Leichhardt Council and its community have been rigorous in its consideration of environmental sustainability issues and now have an extensive program of capital works and environmental education programs. In July 2015 Council adopted a new Environmental Sustainability Strategy which focuses on achieving the community aspirations for reducing its carbon footprint (Council is already a Carbon Neutral organisation), reducing climate changing activities and developing resilience to climate change and reducing waste to landfill. The communities' ongoing commitment to environmental sustainability is expressed in the many events, works and programs which Council implements including:

- SecondHand Saturday:** Leichhardt Council continues to run SecondHand Saturday each year, a giant neighbourhood garage sale held in individual households to encourage reuse and diversion of waste from landfill. There were 1,254 registered garage sales from 2010-2014.
- Food recycling in multi-unit dwellings:** Around 39 per cent of the waste from Leichhardt household garbage bins is food waste. Residents that live in a unit with shared garbage bins can swap one or more garbage bins for food bins. Council sends the food waste to EarthPower where food waste is converted to green electricity and a nutrient-rich by-





product fertiliser. This has resulted in an average of 100 tonnes of food waste diverted annually. Building on the success of the program, Leichhardt engaged a consultant to develop a Community Engagement and Participation Plan in 2014. The aim of the plan is to increase food collected in the food recycling service by 250 tonnes by 2016 (Herriman et al. 2014).

- c) **Swap events:** Regular Council swaps for adult clothing, kids' toys and clothing, and books and media items have been enormously popular in creating an opportunity for reuse rather than disposal of items. Up to 140 people have participated in each event. Participants have saved money and avoided consumption by picking up an item at these events in exchange for another.
- d) **Home composting:** Council sells Bokashi bins, compost bins and worm farms at the administration centre to help residents reduce organic waste to landfill. Council held several 'composting tea parties' with training and free giveaways of kitchen bench top bins and compost bins for 60 local residents. Regular composting and worm farming workshops have been delivered via the Treading Lightly workshop program. Council has also produced the 'Leichhardt is making compost - it's easy!' video that allows residents who are unable to attend workshops to access information about composting within their home or from Council libraries.
- e) **Office worm farming:** Council's main administration building has diverted an average of 1.2 tonnes of food annually via worm farms on-site. Worm farm education has taken place in Council's libraries, through staff Sustain-Ability eNews and for Leichhardt childcare centres as part of the Little Green Steps program.
- f) **Sustainable Shopping Guide:** Leichhardt has an online sustainable shopping guide focusing on food, as food consumption is responsible for 49 per cent of an average Australian's ecological footprint. It lists local businesses and markets that sell sustainable food including Fairtrade products. Included in the guide are helpful hints for environmentally responsible food choices and a map of participating business.
- g) **Treading Lightly:** The Treading Lightly series of workshops have included:
  - DIY upholstery at which participants were given the opportunity to repair and refurbish furniture rather than buying new
  - Composting, growing food, natural pest management and chemical-free cleaning workshops, reducing the need to purchase toxic cleaning products and chemical fertilisers and sprays, and enabling residents to supplement food purchases and reduce packaging by growing their own
  - Making old clothes new, upcycling jewellery and sustainable basketry to show residents the value of repair and how to extend the life of their pre-loved favourites
- h) **Love Your Lane:** The Love Your Lane program provided two new tile inlays made by local children and parents in an illegal dumping laneway hot spot, together with Love Your Lane street signs and brochures providing information to residents on reuse and appropriate disposal options for their unwanted goods. The Treading Lightly DIY Upholstery workshops also formed part of the program to show residents the value of 'dumped' items once restored.
- i) **Sustainable Schools:** Council continues to run environmental workshops within schools including composting, worm farming, growing your own kitchen garden, non-toxic personal care and avoid, reuse, recycle. Each year most schools within the Leichhardt LGA participate. On average, 15 workshops are held each year with participation from approximately 500 students each year.
- j) **Bower reuse and referral service:** Council provides funding to support The Bower reuse and referral service



- k) **Extended producer responsibility:** Leichhardt Council now has a permanent drop-off for TVs, computers and peripherals under the National TV / Computer Product Stewardship Scheme.

Biodiversity is also an important issue for Council and the local community.

Leichhardt LGA has been extensively developed since European settlement, with loss of natural habitat leading to local extinctions and declines in native plant and animal species. Regardless, Leichhardt still supports over 100 species of native bird and at least seven native reptile species, four frog species and three native mammal species. Areas in the LGA that contain sufficient vegetation to provide habitat for a relatively high diversity of native fauna include the Rozelle-Lilyfield rail corridor, foreshore land at the White Bay container terminal and a small patch of remnant bushland at Callan Park.

Threatened species recorded in the Leichhardt LGA include the Eastern Bentwing Bat, Pied Oyster Catcher and the Grey-headed Flying Fox (the only listed threatened species that is seen regularly). A bat survey on Goat Island identified the vulnerable East Coast Freetail Bat along with 4 other micro-bats (Leary 2007). These bats are likely to visit the LGA due to the proximity of Goat Island to the Balmain peninsula. A population of Long-nosed Bandicoots has been identified living in the light rail corridor in Marrickville and similar habitat is available in the same rail corridor found in the Leichhardt LGA.

Whites Creek Wetland is the most significant freshwater wetland in the LGA. Four species of frog, Eastern Snake-necked Turtles, aquatic birds, native and introduced fish species, and macro invertebrates have been recorded there. The harbour environment in Iron Cove, despite water and sediment pollution, contains beds of sea grass and estuarine salt marsh habitat. A range of visiting shore birds can be seen wading and feeding on Iron Cove's mudflats.

Large birds such as Australian Magpies and Noisy Miners dominate because they can aggressively defend and expand their territories in the open vegetation structure provided by parks, street trees and mown grass areas. Small insect-foraging bird species need shrub and mid-storey vegetation layers for security and are therefore less common. Some species of native fauna occur only in small, isolated populations in areas that have been fenced off and left unmanaged. The structural diversity of vegetation is just as important as floristic diversity; the presence of a dense middle and ground layer of shrubs is a very important factor in maintaining the presence of small birds and improving opportunities for them.

In 2014, the Institute for Sustainable Futures at the University of Technology Sydney assessed the land surface cover of 139 local governments across Australia including the Leichhardt LGA (Jacobs et al. 2014). They assessed percentage of cover across the four designated cover classes: (i) hard surfaces, (ii) trees, (iii) shrubs and (iv) grass and bare ground. The survey identified that the Leichhardt LGA has an estimated tree canopy cover of 20.3 per cent in comparison to the City of Botany Bay with 12.1 per cent canopy cover (the lowest in Sydney) and Pittwater with 59.3 per cent (the highest in Sydney). Leichhardt has similar tree canopy cover compared to that of Burwood, Canada Bay and North Sydney councils.





In addition, the study estimated that Leichhardt LGA has 59 per cent hard surface cover. This is the third highest hard-surface area of the urban areas included in the analysis behind City of Sydney (69 per cent) and Marrickville (63 per cent). The combination of relatively low vegetation and high hard-surface cover is a concern in terms of urban heat impacts. In 2015 council engaged UTS to undertake a 'Heat Island Study' to assist in the development of principles for reducing heat as this represents an ongoing issue in the LGA.

All rain that falls on the Leichhardt LGA drains to Sydney Harbour. Because stormwater runoff transports sediment, pollutants and litter, our practices anywhere in the LGA directly affect the harbour's ecology and its recreational and economic value. When rainfall exceeds the capacity of the stormwater system, flooding occurs in parts of the LGA. Rising sea level will reduce the capacity of the stormwater system over time as high tides and storm surges enter stormwater pipes at various times of year.

Some ways in which Council promotes improved biodiversity include:

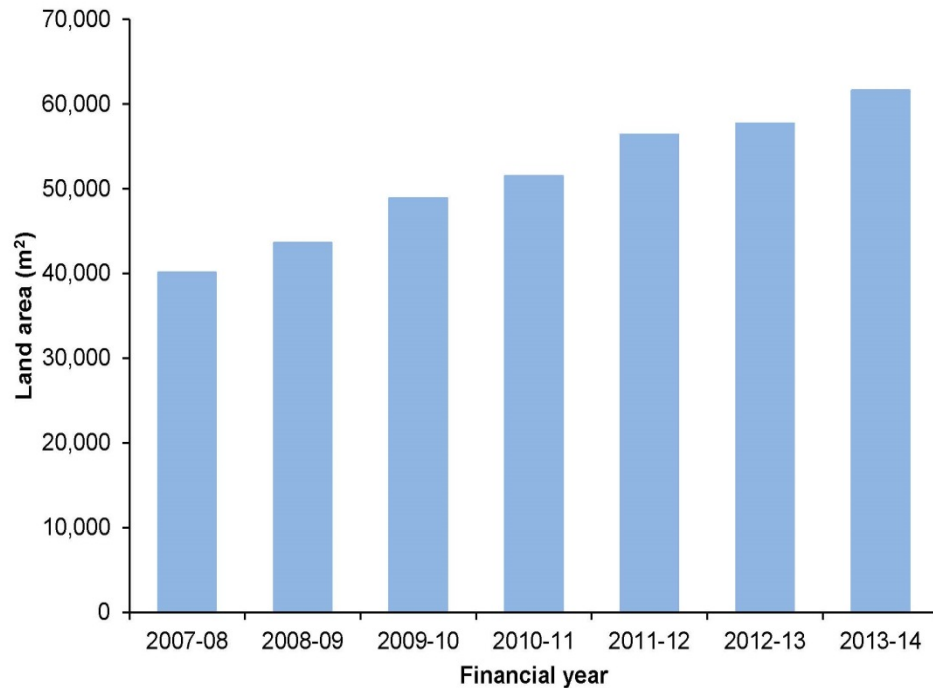
- a) **Leichhardt Native Revegetation and Biodiversity Management Plan:** Endorsed in 2013, this plan documents how Council will maintain and enhance biodiversity values in the LGA. The plan also outlines a number of areas where additional native revegetation will be established (Figure 8).
- b) **Rozelle Bay Community Native Nursery:** A brand new Community Native Nursery was built at Wisdom Street, Annandale. The facility provides opportunities for increased native revegetation in Council's parks.
- c) **Bushcare program:** Council supports bushcare groups which are well attended. Council and the community have continued to improve and expand areas of bushland revegetation over the years. The number of currently active volunteers remains steady at 35 with a total of 2,788 volunteer hours worked in 2013-14 (this figure does not include one-off planting days such as National Tree Day).

In 2013-14, the amount of native revegetation on public lands increased from 57,700m<sup>2</sup> to 61,600m<sup>2</sup>. This has been achieved by means of an additional 700m<sup>2</sup> of native revegetation at the Callan Park bushland remnant; 2,500m<sup>2</sup> of native revegetation behind the Glover Street Oval in Callan Park; and 700 m<sup>2</sup> of native revegetation at King George Park. In 2013-14, there were 9,375 native tubestock planted. All tubestock planted in 2013-14 were sourced from the Rozelle Bay Community Native Nursery.





**Figure 8** Total land (m<sup>2</sup>) in the Leichhardt LGA dedicated to native revegetation over seven years.



- d) **Local fauna monitoring:** A local fauna monitoring page has been included on Council's website so that residents can help Council monitor sightings of fauna within the LGA. Council has recently engaged consultants to undertake a fauna survey which will assist in development management practices.

#### Business in the community

Leichhardt has historically been a mixed use urban environment focused on main street retail and commercial strips along Darling Street, Norton Street, Booth Street and Parramatta Road. Most residents are within easy walking distance of those, or smaller, centres.

Commercial and industrial land uses accommodating many local service industries are also scattered throughout the LGA with concentrated pockets of industrial land remaining in Camperdown and Moore Street. Residents and councillors have, through the planning process sought for those industrial areas to be retained so that they are available to provide essential goods and services to the community, local employment, places for the creative industries to flourish and to retain our walkable, mixed use, sustainable neighbourhoods. The Industrial lands attract good rental returns and are highly sought after.

In developing its Employment and Economic Plan Council sought feedback from its community, including residents and businesses and found that people have:



- a strong sense of community – given the choice many residents prefer to support local businesses than go elsewhere
- a high level of interest and participation in the arts, cultural and creative sectors
- a high quality of life as a result of the cultural heritage of the area, access to good schools and medical services and our proximity to the CBD and harbour
- a high regard for the rich variety of cultural heritage

The diversified service based economy is a core strength of Leichhardt and is derived from established businesses. Our supply of employment lands, as well as our main street retail centres have historically, supported that diversity and is also seen as a good opportunity for our community who want to be able to continue to accommodate and access a diversity of local and business and employment uses including the creative industries, professional services, population serving industries, health, education and retail. Leichhardt Council and its communities seek to retain that mixed use character and our position is different to that being promoted in Marrickville where there has been support for large scale rezonings and loss of employment lands. This represents a fundamental, and very important, difference between the two council areas and the aspirations of our communities.

#### Sustainable services and assets - Accountable civic leadership

The Leichhardt community has been instrumental in Leichhardt Council being an organisation that is held to account in its policy development and governance arrangements. All Council meetings are open to all members of the community who are able to speak and make representation to Councillors. This is something that many community members avail themselves of. Council also has an extensive Committee structure and Resident Precinct Committee (discussed elsewhere in this report).



#### **4. The attitude of the residents and ratepayers of the areas concerned.**

##### Summary of the attitude of residents and ratepayers

The key points from this section are as follows:

- Leichhardt residents and ratepayers are overwhelmingly opposed to forced amalgamations and supportive of Leichhardt Council remaining a stand-alone council into the future.
- The community prefers the stand-alone option for the following reasons: they feared they would lose individual voice on local issues; thought smaller councils are easier to manage, and there was “no need to change.”
- Residents are currently being surveyed to ascertain their views on the proposed merger of Ashfield, Leichhardt and Marrickville Councils and the results will form part of Council’s final submission.

**NB: This section will be redrafted following the results of the telephone survey which is expected to be undertaken in the first week of February 2016.**

##### Introduction

Leichhardt Council highly values community input on all matters relating to the operational and strategic direction of the Council. In this regard, Council has undertaken a comprehensive community engagement program to ascertain the community’s views on all the proposals to amalgamate the Council that have advanced over the past year. This includes consultation on the Minister’s current merger proposal involving Ashfield, Leichhardt and Marrickville Councils and the Independent Local Government Review Panel’s preferred merger proposal involving the amalgamation of the 6 Inner West Councils (i.e. Ashfield, Burwood, Canada Bay, Leichhardt, Marrickville and Strathfield Councils). These key findings from these two separate programs are detailed below.

##### Consultation on the Ashfield, Leichhardt and Marrickville merger proposal

On 19 January 2016, Council resolved to commence a public information campaign to inform the community of the Minister’s merger proposal involving Ashfield, Leichhardt and Marrickville Councils. This included the distribution of a brochure to all residents and businesses in the municipality on the merger proposal and the examination process, and encouraging the community to participate in that process. Further, the Council resolved to conduct a statistically valid phone survey to poll the opinion of local residents and ratepayers on whether or not the Government’s merger proposal should proceed, their concerns and expectations for what the merger would mean for them and their priorities for their local council’s future policy direction.

Micromex Research, an independent (ISO 20252 quality certified) market and social research firm, has been engaged by Council to undertake this telephone survey. This survey will be statistically valid (with a 95% confidence level), and demographically representative. The results of the survey will provide Council with evidence based data on the attitude of residents and ratepayers to the merger proposal, including the reasons why they support/don’t support a





merger. The survey results will be presented to Council in the week of 15 February 2016. This section will be updated following the receipt of the survey data.

#### Consultation on the Independent Local Government Review Panel's merger proposal

On 24 February 2015, Council resolved to commence a community engagement program to inform residents and businesses about the NSW Government proposed amalgamation of Leichhardt Council with Ashfield, Burwood, Canada Bay, Marrickville and Strathfield Councils (the IGRP's preferred merger proposal for the inner west). This program was intended to educate the community on the costs/benefits of any proposed amalgamation, to determine the community's views on amalgamations and the future of Leichhardt Council.

Every household and business in the LGA was hand delivered detailed information in mid-March 2015 from Council on the reforms, including advice on the outcomes of the independent modelling of the impacts of the amalgamation and a survey for residents and businesses to complete on this matter.

Information booths were also held over March and April in prominent locations in Leichhardt, Annandale, Lilyfield, Rozelle and Balmain. Again, these booths were designed to inform the community and to gain their views on amalgamations. This was supplemented with 3 formal community workshops in March, April & May.

A summary of the engagement outcomes are presented below.

#### *The community's response to amalgamations*

Council undertook formal (statistically valid) surveys to gauge the community's views on amalgamations. The surveys and results are presented below:

##### **1. Random phone survey**

This survey was undertaken by Piazza Research, an independent (ISO 20252 quality certified) market and social research firm, in March 2015. A total of 304 responses were achieved: for a 95 per cent confidence interval, this sample size provides results accurate to within a +/- 5.6 per cent margin of error for overall results, which is considered reliable for this type of research.

To ensure that this random phone survey was unbiased and objective, Council first sought and gained assurance from Piazza Research who structured the questions for simple awareness raising and the amalgamation facts, therein providing options to answer positively or negatively with no attempt to sway or suggestion to respondents that a positive or negative answer is 'preferred' or 'correct' or 'better' etc.

The phone survey found:

- A high awareness of the State Government's Fit for the Future amalgamations plans for local councils:
  - 78 per cent of local residents were aware of the amalgamation plan proposed by the State Government.



- Little support for the proposed amalgamation of Leichhardt Councils with Ashfield, Burwood, Canada Bay, Marrickville and Strathfield Councils:
  - 61 per cent of local residents were not very/not at all supportive towards the new amalgamated council; 17 per cent were supportive or very supportive of amalgamation.
- Majority support for Leichhardt Council to remain a stand-alone (non-amalgamated) council:
  - 55 per cent of local residents stated that they preferred the Leichhardt Council to remain as a stand-alone council; 19% said they preferred an amalgamated council.
- The three most common reasons for preferring the stand-alone option were: they feared they would lose individual voice on local issues (42 per cent); thought smaller councils are easier to manage (26 per cent) and there was “no need to change” (17 per cent)

Source: Piazza Research Pty Ltd, *Leichhardt Municipal Council Community Survey 2014-15*, April 2015.

## 2. Online survey and reply paid/letters: Details

In December 2014, Council launched an online survey and in March 2015, every household and business in the LGA was provided detailed information on the reform program, including independent advice on the financial costs/benefits of the NSW Government proposed amalgamation of Leichhardt Council with its inner west neighbouring councils. This information pack also included a survey which residents could complete and return to council via a reply paid envelope – questions were similar to those employed by Piazza Research. A total of 1,378 survey responses were received (147 of which were reply paid mail responses, the balance on line and each with a unique ISP) by mid May 2015. The results follow:

- A high awareness of the State Government's Fit for the Future amalgamations plans for local councils:
  - 76 per cent of respondents were aware of the amalgamation plan proposed by the State Government.
- Little support for the proposed amalgamation of Leichhardt Councils with Ashfield, Burwood, Canada Bay, Marrickville and Strathfield Councils:
  - 76 per cent of respondents were not very/not at all supportive towards the new amalgamated council; 18 per cent were supportive or very supportive of amalgamation.
- Majority support for Leichhardt Council to remain a stand-alone (non-amalgamated) council:
  - 72 per cent of respondents stated that they preferred the Leichhardt Council to remain as a stand-alone council; 19 per cent said they preferred an amalgamated council.

*Summary: An overview of the survey findings*



The surveys reveal that the community is overwhelming opposed to the amalgamation of Leichhardt Council with Ashfield, Burwood, Canada Bay, Marrickville and Strathfield councils as proposed by the NSW Government. Further, the community is supportive of Leichhardt Council remaining a stand-alone council into the future.





**5. The requirements of the area concerned in relation to elected representation for residents and ratepayers at the local level, the desirable and appropriate relationship between elected representatives and ratepayers and residents and such other matters as it considers relevant in relation to the past and future patterns of elected representation for that area.**

Summary of the impact on local representation

The key points from this section are as follows:

- The merger proposal will result in a significant loss of local representation.
- Each new councillor will, because of the very large population, be representing the equivalent of almost 15,500 - compared to less than 5,000 currently for Leichhardt Councillors. This is the equivalent, under the merger proposal, to approximately 3.5 councillors (rather than the current 12 councillors) for the entire Leichhardt population of around 58,000 people.
- One of the most troubling aspects of the merger proposal is that local representation in the inner west is being eroded far more than in other areas of metropolitan Sydney and beyond.
- The Merger Proposal includes only 12 councillors in the new Council. This is counter to the NSW Government's stated policy to have an uneven number of councillors.
- If the merger proposal is implemented, Leichhardt Council recommends to the Delegate that the new council comprise 15 councillors. This is consistent with other merger proposals across metropolitan Sydney, and responds to the increased workload expected of Councillors and the complexity and scale of issues before them. It also facilitates the creation of wards if so decided by the new Council.

Introduction

The merger proposal will result in the loss of political governance and local representation. However, no evidence has been provided by the NSW Government or any of its investigating bodies that larger councils with fewer elected representatives are more efficient and effective than smaller councils. In fact, Dr Peter Abelson from Applied Economics Pty Ltd (and the current Mayor of Mosman) has provided evidence that suggests the opposite – that is, bigger councils provide poorer services at higher costs (“The Economics of Local Government,” July 2013, available at [www.mosman.nsw.gov.au](http://www.mosman.nsw.gov.au)).

The issues of the economics of local government reform have been dealt with elsewhere in this submission, the focus of this section is on the impact the merger proposal will have on elected representation. The question that remains unresolved here is why the Government is seeking to reduce representation in the first place when the peer-reviewed evidence suggests that smaller councils are more efficient and effective and better represent the interests of their communities than larger councils.

Local representation

The merger of the 3 inner west councils will have a significant and negative impact on local representation. The number of people represented by each councillor will increase



significantly under the merger proposal making it more difficult for residents to access their councillors and the council.

Table 7 outlines the ratio of residents to elected councillors in the merger proposal for Ashfield, Leichhardt and Marrickville Councils. This table clearly shows loss of local representation for residents. The ratio of residents to councillors will grow from 1 Councillor per 4,845 in Leichhardt to 1 in 15,499 in the merged council. This represents a significant loss to local representation as residents will experience less access to Councillors and the Council bureaucracy.

**Table 7 Loss of local representation in the proposed Ashfield, Leichhardt and Marrickville merger**

Council	No. of Councillors	Number of Residents (2014)	Residents per councillor
Ashfield	12	44,498	3,708
Leichhardt	12	58,136	4,845
Marrickville	12	83,356	6,946
<b>Merged council</b>	<b>12</b>	<b>185,990</b>	<b>15,499</b>

Source: NSW Government (2016), Merger proposal: Ashfield, Leichhardt and Marrickville Councils, January, accessed on 14 January 2016, available at the following weblink:  
<https://www.councilboundaryreview.nsw.gov.au/>

This loss of local representation is just a feature of the inner west merger proposal. In fact, all councils across Metropolitan Sydney subjected to a merger proposal will experience a loss of local democracy. In summary, under the Government's merger proposals (14 in all across metropolitan Sydney):

- The average no. of residents per councillor is 1:15,637.
- The highest no. of residents per councillor is 1:23,399 (Bankstown and Canterbury Councils).
- The lowest no. of residents per councillor is 1:10,188 (Botany Bay and Rockdale Councils).

Table 8 shows the ratio of residents to elected councillors in each of the merger proposals across Metropolitan Sydney. This information was sourced from the merger proposal documents issued by the Office of Local Government in January 2016. These documents are available at the following weblink: <https://www.councilboundaryreview.nsw.gov.au/>






**Table 8 Local Representation across metropolitan Sydney**

Council	No. of Councillors	Number of Residents (2014)	Residents per councillor
<b>Hunter's Hill, Lane Cove and City of Ryde Councils</b>			
City of Ryde	12	114,598	9,550
Hunter's Hill	7	14,689	2,098
Lane Cove	9	34,807	3,867
<b>Merged council</b>	<b>12</b>	<b>164,094</b>	<b>13,675</b>
<b>Manly, Mosman and Warringah (Part) Councils</b>			
Manly	9	44,786	4,976
Mosman	7	30,276	4,325
Warringah (part)	10	155,289	15,529
<b>Merged council</b>	<b>10</b>	<b>153,008</b>	<b>15,301</b>
<b>Ashfield, Leichhardt and Marrickville Councils</b>			
Ashfield	12	44,498	3,708
Leichhardt	12	58,136	4,845
Marrickville	12	83,356	6,946
<b>Merged council</b>	<b>12</b>	<b>185,990</b>	<b>15,499</b>
<b>Burwood, City of Canada Bay and Strathfield Councils</b>			
Burwood	7	36,053	5,150
Canada Bay	9	87,480	9,720
Strathfield	7	39,481	5,640
<b>Merged council</b>	<b>9</b>	<b>163,014</b>	<b>18,113</b>
<b>Hurstville and Kogarah Councils</b>			
Hurstville	12	85,886	7,157
Kogarah	12	61,030	5,086
<b>Merged council</b>	<b>12</b>	<b>146,916</b>	<b>12,243</b>
<b>Parramatta (part), Auburn (part), The Hills (part), Hornsby (part) and Holroyd (part) Councils</b>			
<b>Parramatta</b>			
Auburn	10	85,446	8,545
The Hills	12	187,703	15,642
Hornsby	10	168,614	16,861
Holroyd	12	111,100	9,258
<b>Merged council</b>	<b>15</b>	<b>211,503</b>	<b>14,100</b>
<b>Auburn (part), Holroyd (Part) and Parramatta (part) Councils</b>			
Auburn	10	85,446	8,545
Holroyd	12	111,100	9,258
Parramatta	15	189,932	12,662
<b>Merged council</b>	<b>15</b>	<b>223,369</b>	<b>14,891</b>
<b>Botany Bay and Rockdale Councils</b>			
Botany Bay	7	44,742	6,392
Rockdale	15	108,072	7,205
<b>Merged council</b>	<b>15</b>	<b>152,814</b>	<b>10,188</b>





WORKING WITH THE COMMUNITY

<b>Hawkesbury and The Hills (part) Councils</b>			
<b>Hawkesbury</b>	12	65,527	5,461
<b>The Hills</b>	12	158,842	13,237
<b>Merged council</b>	<b>12</b>	<b>224,369</b>	<b>18,697</b>
<b>Pittwater and Warringah (Part) Councils</b>			
<b>Pittwater</b>	9	63,338	7,038
<b>Warringah</b>	10	155,289	15,429
<b>Merged council</b>	<b>10</b>	<b>140,680</b>	<b>14,068</b>
<b>Bankstown and Canterbury Councils</b>			
<b>Bankstown</b>	12	200,357	16,696
<b>Canterbury</b>	10	150,626	15,063
<b>Merged council</b>	<b>15</b>	<b>350,983</b>	<b>23,399</b>
<b>Hornsby (part) and Ku-ring-gai Councils</b>			
<b>Hornsby</b>	10	168,614	16,861
<b>Ku-ring-gai</b>	10	120,978	12,098
<b>Merged council</b>	<b>15</b>	<b>289,592</b>	<b>19,306</b>
<b>North Sydney and Willoughby Councils</b>			
<b>North Sydney</b>	13	71,025	5,463
<b>Willoughby</b>	13	74,166	5,705
<b>Merged council</b>	<b>13</b>	<b>145,191</b>	<b>11,169</b>
<b>Randwick, Waverley and Woollahra Councils</b>			
<b>Randwick</b>	15	143,776	9,585
<b>Waverley</b>	12	71,769	5,981
<b>Woollahra</b>	15	58,619	3,908
<b>Merged council</b>	<b>15</b>	<b>274,164</b>	<b>18,278</b>

Source: NSW Government 2016, Merger Proposals, January, available at the following weblink:  
<https://www.councilboundaryreview.nsw.gov.au/>

One of the more troubling aspects of the merger proposal for inner west residents is that local representation is being eroded far more here than in other areas of metropolitan Sydney and beyond. For example:

- The no. of residents per councillor is higher in the Ashfield, Leichhardt and Marrickville merger proposal (1:15,499) than 8 other merger proposals (including Hunter's Hill, Lane Cove and Ryde; Manly, Mosman and Warringah; Hurstville and Kogarah; Parramatta, Auburn, The Hills, Hornsby and Holroyd; Auburn, Holroyd and Parramatta; Botany Bay and Rockdale; Pittwater and Warringah; North Sydney and Willoughby).
- The North Shore Councils (incl. Manly, Mosman and Warringah; Pittwater and Warringah; and North Sydney and Willoughby) (with the exclusion of Ku-ring-gai and Hornsby) have a lower average no. of residents per councillor than the Inner West Councils (i.e. Ashfield, Leichhardt and Marrickville; Burwood, Canada Bay and Strathfield). An average of 1:13,512 on the North Shore compared to an average of 1:16,806 in the inner west.

#### Number of councillors

Leichhardt Municipal Council

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The Merger Proposal states that the new council is to comprise of 12 councillors – the same numbers in each of the individual councils. Importantly, the Merger Proposal also states that:

“Ashfield, Leichhardt and Marrickville communities will have an opportunity to shape how a new merged council will be structured, including the appropriate number of elected councillors.” (p. 11)

Leichhardt Council recommends to the Delegate that if the merger proposal is to proceed then the new Council should consist of 15 councillors which is the maximum number currently permitted under the *Local Government Act 1993*. The reasons in support of this proposal are as follows:

- The significant increase in the number of residents represented by each Councillor and the corresponding workload.
- To compensate (in part) for the loss of local representation outlined in the Merger Proposal. The increase in representation to 15 councillors would improve the ratio of residents to councillors significantly – from 1 councillor to 15,499 residents (current proposal) to 1 councillor per 12,399 residents.
- To ensure consistency across metropolitan Sydney on the ratio of Councillors to residents.
- To reflect the increase in the complexity and geographic reach of the issues before council.
- To account for the increase in the size and complexity of the new bureaucracy – the new council will have operating revenue of \$264 million and an asset base of over \$1.3 billion.
- The current proposal of 12 councillors is contrary to the policy direction of the NSW Government i.e. to have an uneven number of councillors. 15 councillors would satisfy this policy requirement as allowing the option of Wards to proceed.
- 15 Councillors will not preclude the formation of wards if the new Council so chooses (13 Councillors will not allow for wards).



**6. The impact of any relevant proposal on the ability of the councils of the areas concerned to provide adequate, equitable and appropriate services and facilities.**

Summary of the impact on services and facilities

The key points from this section are as follows:

- All three councils provide a range of services (some unique) to their local communities and the service standards between the three councils vary considerably.
- The merger proposal will, through a process of service harmonisation, result in either:
  - a reduction of services and standards across the new council to the detriment of the local community, or
  - increasing the service to the other areas which will impose significant costs on the new council and community.
- In Leichhardt's case, the merger proposal will not provide for improved services contrary to the Merger Proposal without imposing new costs (i.e. user charges or taxes) on the local community. This is because Leichhardt already provides the highest level of service delivery in some service areas eg grass verge mowing comparison to its neighbouring councils.
- The tenuous financial position of a new merged council may also prevent the introduction of new services and instead call for a reduction in services and standards to meet budget imperatives. In this regard, the new council's financial prosperity (or otherwise) is almost entirely dependent upon sacking many staff (many involved in direct service delivery) which, if the peer reviewed evidence is a guide, may never be realised. A case in point is the recent merger experience in Queensland where staffing costs grew by 8 per cent a year following mergers.
- If the new council is unable to shed staff, it will then need to reduce services accordingly or impose new charges and taxes (rate increases) on the local community to continue to provide services at their current levels.
- Stand-alone remains the superior option for the Leichhardt Community. This will ensure the continued high level of service delivery that the residents have become accustomed to and council is readily able to afford.

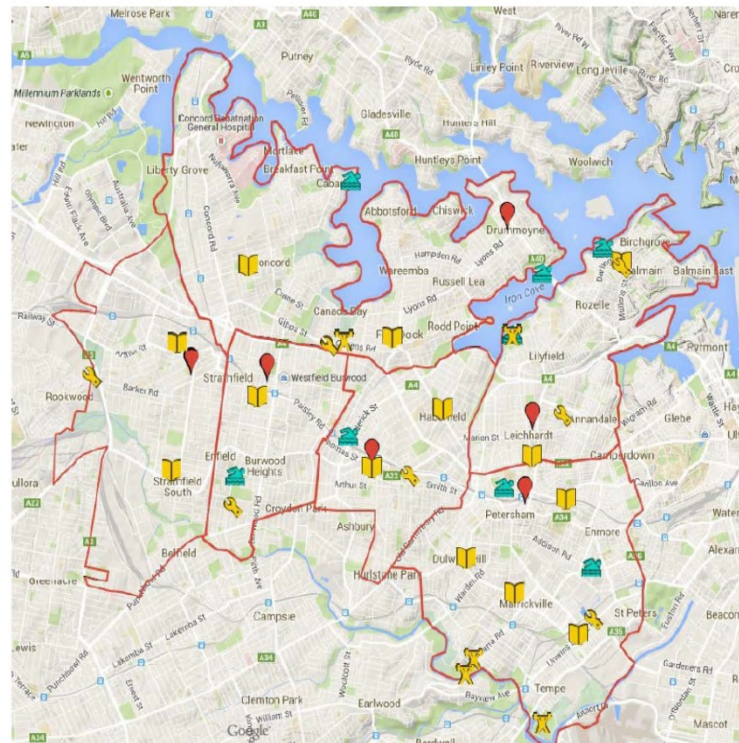
Introduction






The range of services and facilities provided by any council to its community varies significantly from place to place. Not only do the types of services vary, but the levels of service will often be quite different from council to council. Figure 9 highlights the locations of some key council services including council offices, libraries, depots, swimming pools and recreation centres in the Inner West.





**Figure 9 Key services and facilities of the inner west**



	Council Offices
	Public Libraries
	Swimming Pools
	Recreation Centres
	Council Depots

Source: Morrison Low 2015, *Inner West Councils, Fit for the Future – Shared Modelling*, February, available at <http://www.leichhardt.nsw.gov.au/Community-Issues/Council-Amalgamation/Council-Amalgamation>

The councils of Ashfield, Leichhardt and Marrickville are reflective of the broader local government industry and exhibit many variations on the types and levels of service that they offer to their communities despite their relative proximity. There are obviously cost implications for the councils providing different services and levels of service.

There are a range of examples where services vary across council borders within the inner west and those variations can be in the form of: providing a particular service or not doing so; differing methods of delivering services (in house, outsourced, collaborative); variety in the levels of service delivered (frequency, standard); and pricing.



The issue of the provision of children's services is an example. Ashfield Council does not directly provide centre based child care services while Leichhardt and Marrickville Councils each have a portfolio of council operated child care centres or preschools (four and six respectively) with more in the planning stages at Leichhardt (a new centre in Leichhardt is scheduled to open in late 2016).

The provision of aquatic facilities is another area that demonstrates a range of approaches across the councils involved. All of the 3 inner west councils provide at least one aquatic facility. However those facilities range across a spectrum from ocean baths to swimming centres to full aquatic and leisure centre developments. Each council undertakes the full management of their facilities including the operation of the centres by day labour however the user pricing of these facilities varies across the councils - from \$6.00 to \$7.50 (a range of up to 25 per cent) for a single casual adult entry, each of the three councils providing facilities charges a different fee.

Another example arises from the fact that most of the councils offer a verge mowing service of some description. Variation is demonstrated in the service standards, such as frequency of mowing, but most significantly in the eligibility of property owners to access the service. In most council areas eligibility revolves around age or infirmity except for residents in Leichhardt and Marrickville. In these council areas the service is a regular programmed services and is provided across the local government area to all areas with a grass verge.

Set out in Table 9 is a high level review of a range of council service and the variations in those among the councils of the inner west.

The integration of services with differing service levels often leads to standardising those service levels at the highest level of those services that are being integrated. This is quite often a response to a natural desire to deliver the best possible services to communities as well as the need to balance service levels to community expectations across the whole area. However it does pose the risk of increased delivery costs and/or lost savings opportunities. Similarly, introducing services that are not currently delivered in one or more of the former council areas to the whole of the new council area will incur additional costs.

In our case therefore, amalgamations won't provide for improved services largely because of the unsustainable financial position of the new merged council (compared with the stand alone position). In some cases, services might have to be reduced or a rate increase sought to maintain service standards.



**Table 9 High Level Comparison of Services and Service Levels across Ashfield, Leichhardt and Marrickville Councils**

	Ashfield	Leichhardt	Marrickville
<b>Governance</b>			
Number of Councillors	12	12	12
Population per Councillor	3,708	4,845	6,946
% Total Expenditure on Governance and Administration	33%	22%	27%
<b>Ratepayers</b>			
- residential	15,141 (95%)	22,347 (92%)	30,217 (90%)
- business	834 (5%)	1,833 ((8%)	3,238 (10%)
- total	15,975	24,180	33,455
<b>Administration</b>			
Number of Equivalent Full Time Employees	173	466	536
Population per staff member	254	120	156
<b>SERVICES</b>			
<b>Administration</b>			
Customer communication	Quarterly community newsletter (IH) Quarterly business newsletter (IH) Weekly Mayoral Column (IH)	Quarterly community newsletter (SS)	Quarterly community newsletter (IH) Monthly e-newsletter (IH)





	Ashfield	Leichhardt	Marrickville
Customer service calls (avg) answered per day	200 - 300	260	N/A
Response to customer requests	90% requests responded within 10 days	>70% enquiries resolved at first point of contact and < 3 minutes wait front counter and telephone	>70% enquiries resolved at first point of contact and < 5 minutes wait at front counter
Internal audits conducted	3 – 4 per annum	>5 per annum	>5 per annum
<b>Public Order and Safety</b>			
Animal Control			
- Number of companion animals identified	7,051	16,738	21,042
- Percentage companion animals identified and registered	59%	50%	51%
Complaints response standard	Investigate complaints within 24 hours	Investigations commenced within 48 hours	Investigations commenced within 48 hours
<b>Health</b>			
Inspections:	Food shops as per FA guidelines (1 – 3 per annum) Food safety seminars Monthly immunization Clinic	Food shops annually	Food shops annually
<b>Environment</b>			



	Ashfield	Leichhardt	Marrickville
Noxious Plants and Insect / Vermin Control	Respond to complaints within 24 hours	Investigate and resolve within 2 weeks	N/A
Solid Waste Management	Weekly garbage (OS) Fortnightly recycling (OS) Fortnightly greenwaste (OS) Monthly E-waste (IH) Christmas tree / mattress collection	Weekly garbage (IH) Fortnightly recycling (OS) Fortnightly greenwaste (IH) E-waste (OS)	Weekly garbage (IH) Fortnightly recycling (OS) Fortnightly greenwaste (IH) Quarterly E-waste (OS)
-Avge domestic waste charge	\$382	\$440	\$488
-Total domestic waste diversion rate	36%	43%	41%
-Clean-up household rubbish collections per year	2 per annum	2 per annum	On request
Street Cleaning/Graffiti removal	Graffiti 48 hours Street sweeping 6-8 week cycle Town Centre daily Verge mowing – by eligibility	Graffiti weekly Steam cleaning pavers 6 monthly Town Centre daily Street sweeping 20-40 day cycle Verge mowing 20 day cycle	Street sweeping and verge mowing 5 weekly cycle Town Centre Daily Graffiti in hot spots removed fortnightly, in parks – hierarchy basis 2 – 12 weeks
Drainage	GPTs emptied quarterly	Investigate and clean blocked drains within 2 working days	N/A
Stormwater Management	Stormwater management charge	Stormwater management charge	Stormwater management charge



	Ashfield	Leichhardt	Marrickville
Children's Services	Youth Centre Youth Theatre Mobile playgroup OSHC 3 Childcare Centres (leased to private providers)	4 child care centres (growing to 5). New Centre to Open in Leichhardt (Mary St) in late 2016 Family Day Care and Occasional Care. Plus one centre leased privately	6 child care centres 1 pre-school Vacation care Family Day Care 5 before & after care Mobile playgroup
Multicultural services	Development and facilitation	Development and facilitation	Development and facilitation
Other	Support other programs	Support other programs	Support other programs Meals on wheels provided to Marrickville and Leichhardt residents
Community transport	Own service	Own service	Own service
Animal control	Collection (IH) Pound (OS)	Collection (IH) Pound (OS)	Collection (IH) Pound (OS)
<b>Housing and Community Amenities</b>			
Public Cemeteries	None	None	None
Town Planning	s149 certificates within 5 days	s149 certificates within 4 days	s149 certificates within 5 days
Number of DAs determined	400	474	578
Mean gross days for DAs	39 days	91 days	72 days
DAs per existing dwellings	2.17%	2.09%	1.80%





	Ashfield	Leichhardt	Marrickville
<b>Recreation and Culture</b>			
Public Libraries	2 libraries Circulation per capita 9 Home Library delivery twice weekly	2 libraries Circulation per capita 10 Home library delivery weekly	4 libraries Circulation per capita 6 Home Library delivery
Art Galleries and art activities	Facilitate programs and activities	Facilitate programs and activities	Facilitate programs and activities 6 Galleries 4 sites
Community Centres and Halls	11 venues	7 venues	5 venues
Other Cultural Services	Facilitate programs and activities	Facilitate programs and activities	Facilitate programs and activities
Sports Grounds and Venues	5 sportsgrounds	11 sports grounds	10 sportsgrounds
Swimming Pools (number)	1 Aquatic Centre (IH)	1 Aquatic Centre (IH) 1 Swimming Centre (IH) – nationally heritage listed tidal pool (Dawn Fraser Baths)	2 Aquatic Centres (IH)
Parks and Gardens (Lakes)	48 ha open space 1.1 ha per 1,000 population Mow parks fortnightly in summer and monthly in winter (IH)	84 ha open space 1.5 ha per 1,000 population Mow parks monthly (IH)	117 ha open space 1.4 ha per 1,000 population Mow parks fortnightly in summer and monthly in winter



	Ashfield	Leichhardt	Marrickville
Other Sport and Recreation	2 off leash dog parks	Multiple off leash parks	10 off leash dog parks Debbie & Abbey Borgia Centre 3 Court multi-purpose indoor stadium Robyn Webster stadium
<b>Transport and Communication</b>			
Condition - % in 4 and 5 (Transport from ss7)	4%	4%	6%
- Road length (kms)	98	151	217
- Road length per capita (metres)	2.24	2.68	2.65
- Roads	Maintenance (IH/OS) Construction (OS)	Maintenance (IH/OS) Construction (OS)	Maintenance (IH/OS) Construction (IH/OS)
- Footpaths	Construction & maintenance (IH/OS)	Construction (IH/OS) Maintenance (IH)	Construction & maintenance (IH/OS)
- Marine facilities	None	Boat ramps, jetties, ocean baths, seawalls & dinghy storage sites	Jetty Seawall
Other Transport and Communication	Community bus	Community bus	Community bus



	Ashfield	Leichhardt	Marrickville
Fleet	Car fleet – (IH/OS) Heavy fleet – (IH/OS)	Car fleet – (OS) Heavy fleet – (IH/OS)	Car fleet – (IH) Heavy fleet – (IH)
Drainage - Delivery	Maintenance (IH) Construction (OS)	Maintenance (IH/OS) Construction (OS)	Maintenance (IH/OS) Construction (IH/OS)
<b>Economic Affairs</b>			
Legal advice	Outsourced	Outsourced & Internal	Outsourced
Security	Outsourced	Outsourced	Outsourced
Buildings	Maintenance (IH/OS) Construction (OS)	Maintenance (IH/OS) Construction (OS)	Maintenance (IH/OS)
Condition - % in 4 and 5 (buildings ss7)	21%	6%	15%

#### Notes

1. The purpose of this matrix is to provide a comparison of those services and activities which are different or only provided by some of the participating councils. Where the services and/or service levels are the same (or essentially the same) they have been excluded.

2. IH = In House; O/S = Outsourced (modes of service delivery)

Sources: Adapted from Morrison Low 2015, *Inner West Councils, Fit for the Future – Shared Modelling*, February, available at

<http://www.leichhardt.nsw.gov.au/Community-Issues/Council-Amalgamation/Council-Amalgamation> ; OLG 2015, *Your Council Report*, available at

<http://olg.nsw.gov.au/public/my-local-council/yourcouncil-website>; Ashfield, Leichhardt and Marrickville Councils websites.





## **7. The impact of any relevant proposal on the employment of the staff by the councils of the areas concerned.**

### Summary of the impact on staff

The key points from this section are as follows:

- The merger proposal will have a significant and overwhelmingly negative impact on the employment of staff in each of the three councils.
- The merger proposal states that more than 85 per cent (or \$84 million over 20 years) of gross savings arising from the merger are based on reductions in staffing levels in the new council.
- Redundancies will negatively impact service delivery and result in a loss of corporate/community knowledge and commitment to local values.
- Staff made redundant will find it difficult, if not impossible, to find suitable alternative employment. This is because mass redundancies will occur across the entire local sector at the same time as a result of the Government's forced amalgamations agenda. Employees will then have to compete with their colleagues and peers for employment.
- The NSW Government will have to put in place a structural adjustment package to provide for these staff.
- The KPMG Technical Paper (dated 19 January 2016) assumes that each of the three Councils lose 4 Directors per Council (i.e. twelve in total). This assumption is incorrect in our case as there are only 7 Directors on senior staff contracts currently in place. The result is that KPMG have overestimated gross financial benefits arising from the merger in the order of \$22 million over 20 years.
- The KPMG Technical Paper also assumes a General Manager and four Directors for the new Council, but ignores the additional support staff required so the new General Manager can address all the tasks of the current General Managers; and similarly for the new Directors.
- The stand-alone option remains superior to the merger proposal in terms of employment of staff.

### Introduction

The merger proposal will have a negative impact on the employment of staff in each of the three councils. This is because the savings quantified in the merger proposal issued by the NSW Government are almost entirely dependent upon the realisation of a significant reduction in staff across the three councils. The reduction in staff, which is estimated by the KPMG to generate gross savings in the order of \$84 million over 20 years, will be achieved through the reduction in the number of senior staff, through a the process of natural attrition and in the longer term reducing the overall staff numbers with a focus on removing the duplication of roles and creating greater efficiency in operations. This equates to approximately 50 staff across the three councils alone. Employment across the entire sector will contract due entirely the Government's forced amalgamations agenda – this will have significant multiplier impacts across the entire



NSW economy. Specifically, tax receipts will fall, unemployment will rise and Government support will be required.

The main areas in which staff will be reduced, according to our independent modelling undertaken by Morrison Low, are as follows: Governance and executive team; Corporate services; and Works and services. Details provided below.

#### Areas facing significant staff redundancies

##### **a. Governance and executive team**

The formation of a new entity will result in the rationalisation of the governance and executive management teams across all three councils. Table 10low summarises the expected staff reduction together with the associated timing for governance.

**Table 10 Rationalisation of governance and executive teams**

	Staff	Duplicated Services	Elected Members	On Costs
Transition Period	Nil	Nil	Nil	Nil
<b>Short Term (1 to 3 years)</b>	Streamlined management (General Managers and Directors) Sinking lid (voluntary)	General Managers, Directors, Mayoral/CEO support Council/Committee Secretarial Support	Reduced councillors and remuneration	Staff associated costs e.g. HR, accommodation, computers, vehicles
<b>Medium Term (3 to 5 years)</b>	Streamlined management (General Managers and Directors) Sinking lid (voluntary)			Staff associated costs e.g. HR, accommodation, computers, vehicles
<b>Long Term (5 years plus)</b>				

Source: Morrison Low 2015, *Updated Inner West Business Case Model*, Leichhardt Council, November, available at <http://www.leichhardt.nsw.gov.au/Community-Issues/Council-Amalgamation/Council-Amalgamation>

The new council is likely to result in staff reductions in the following areas of governance:

- **Executive management** - There will be a short term rationalisation in the total number of executive managers required at the Tier 1 (General Managers) and Tier 2 (Directors) levels that is 3 GMs to 1, and 7 Directors to 4. Note that the KPMG merger proposal report mistakenly models a reduction of 12 Directors for our 3 councils – immediately indicating that anticipated expenditure reductions are overstated



- **Rationalisation of governance services** - Under a single entity a number of the existing governance services would be duplicated and consequently staff will be reduced in these areas in the medium term. The expected efficiencies relative to this area are realised in the Corporate Services Section and will see a reduction in staffing in these areas in the order of between 30 and 40 per cent. The reduction in resources is only likely to occur in the medium term due to existing employment protection provisions ( 5 years for Leichhardt Council non senior staff)

#### ***b. Corporate Services***

Corporate services incorporates most of the organisational and corporate activities such as finance and accounting, human resources, communication, information technology, legal services, procurement, risk management, and records and archive management. Across the councils there is likely to be some element of duplication so there should be efficiency opportunities as it relates to administrative processes and staffing levels.

The potential reductions in staff within the corporate services category are summarised in Table 11 below along with the indicative timing of when the efficiency is likely to materialise.

**Table 11 Rationalisation of corporate services**

	Staff	Duplicated Services	Elected Members	On Costs
<b>Transition Period</b>	Nil	Nil	Nil	Nil
<b>Short Term (1 to 3 years)</b>	Streamlined Management (General Managers and Directors) Natural attrition (voluntary)	General Managers, Directors, Mayoral/GM support Council/Committee Secretarial Support	Reduced councillors and remuneration	Staff associated costs e.g. HR, accommodation, computers, vehicles
<b>Medium Term (3 to 5 years)</b>	Streamlined Management (General Managers and Directors) Natural attrition (voluntary)			Staff associated costs e.g. HR, accommodation, computers, vehicles
<b>Long Term (5 years plus)</b>				

Source: Morrison Low 2015, *Updated Inner West Business Case Model*, Leichhardt Council, November, available at <http://www.leichhardt.nsw.gov.au/Community-Issues/Council-Amalgamation/Council-Amalgamation>





Consistent with the dis-establishment of three councils and the creation of a single entity, there are a number of back office duplicated services that will likely be targeted including financial reporting, business systems, and administrative staff. Examples include: Finance & Corporate - including financial management, corporate planning, human resources, payroll, risk management & communications (phone, website and social media). Customer Service functions including local customer service centres and back office call centres will not likely reduce due to the already heavy demands across the 3 councils.

#### ***c. Works and services***

In reducing supposed duplication across the three councils there will likely be a targeted reduction in employees in works and services, including Waste and Work (maintenance) units:

- Waste - The three councils currently provide their waste collection services through different delivery models. Marrickville and Leichhardt are undertaking some or all of the waste collection services in-house whereas Ashfield outsources the collection of waste.
- Works units –including day labour road and footpath maintenance, street sweeping and parks maintenance.

#### ***d. Areas of further staff reductions***

Based on the experience from previous amalgamations in local government (In Australia and New Zealand) there are other areas where we would expect there to be opportunity to achieve efficiencies. These areas include management, staff turnover, procurement, business processes, and property/accommodation.

#### **Overall impact on employment**

The overall impact of the merger proposal on the employment of the staff by the councils of the areas concerned is significant. More than 50 staff will no longer have a job. While this may not appear to be substantial and that these jobs could be absorbed within the local economy (and nearby CBD), it is highly significant for local government employees for the following reasons:

- Local government, like government at all tiers, has a long serving workforce. For example, as at 20 January 2016, Leichhardt Council has over 200 employees with more than 10 years continuous service; 77 of which have more than 20 years' service.
- The redundancies will occur at a time as the industry across the board undergoes a significant downsizing as a result of the mergers. New employment will be difficult (if not impossible) to secure. A further complication may be that



the new councils may restrict new jobs to internal candidates only further limiting employment prospects across the industry.

- Given staff uncertainty surrounding the establishment of a new council it is logical to conclude that many existing staff members will simply leave the organisation, and possibly the local government industry.

It is for the above reasons that those employees made redundant may find it difficult to find alternate and suitable employment. Given this it may be appropriate for the NSW Government to provide structural assistance to the sector in the wake of these merger proposals. This should at a minimum provide retrenched staff with access to appropriate training and development.



**8. The impact of any proposal on rural communities in the areas concerned.**

This factor is not relevant to the merger proposal relating to Ashfield, Leichhardt and Marrickville Councils.





## 9. In the case of a proposal for the amalgamation of two or more areas, the desirability (or otherwise) of dividing the resulting area or areas into wards

### Summary of the impact of creating wards

The key points from this section are as follows:

- The Council in its final submission to the Delegate on the merger proposal for Ashfield, Leichhardt and Marrickville has the option to clearly outline its preference for the new Council to be divided into wards or to abolish all wards if it so chooses.
- When making any submission, Council needs to consider the following issues:
  - If Council favours Wards, the Wards for the new, amalgamated area will need to have populations the same, with only a 10 per cent variation each.
  - Any revised Council Ward system will need to consider how many Councillors the new Council will have (the Act allows between 5 and 15 under section 224) and how many Councillors each Ward will return (in accordance with the 10 per cent rule cited above). The draft amendments to the Local Government Act favour a system of Councils with odd numbers of Councillors ostensibly to prevent deadlock situations. Given that each Council currently has 12 Councillors and the new entity will be much larger than the current three, it is assumed that all the Councils may seek a membership of 15 Councillors
  - The new Council can vary the proposed Wards at a later time via the mechanisms prescribed in the *Local Government Act 1993*.
  - Wards, if favoured, need to ensure that the level of representation of the various diverse communities in the new Council will not result in one community or another being advantaged or disadvantaged.

**This section will be amended once Council has formally resolved a particular way forward.**

### The legislative framework

Chapter 9, Part 1, Division 1 of the *Local Government Act 1993* ("the Act") provides the legislative framework for Wards. The following legislative details are provided for information.

#### *a. Constitution of an area, division of the area into wards or abolition of wards*

The Act under section 218A provides that the Governor may *amalgamate two or more areas into one or more new areas*. This is the power the State is using to force the current amalgamation. Divisions 1 and 2 of the Act (sections 204 to 218) apply to the new area in the same way as they apply to an area constituted by a proclamation under section 204. However, section 212(2) (about public inquiries) does not apply. Once constituted, a Council (under s. 210 which applies to our situation) may divide its area into wards, abolish all wards, alter ward boundaries and name or rename a ward. Under section 213, the proclamation establishing the new Council may turn its mind to a



number of items, including whether the area has Wards, and if so, what the Ward boundaries will be.

On the mechanics of establishing wards, the Act stipulates that the division of a council's area into wards, or a change to the boundaries of a ward, must not result in a variation of more than 10 per cent between the number of electors in each ward in the area.

The following items b, c, and d apply to Councils which decide to create Wards or to vary Wards.

*b. Consultation, public notice and exhibition of proposals regarding ward boundaries*

Before dividing a council's area into wards or altering a council's ward boundaries, the council must (s. 210):

- (a) consult the Electoral Commissioner and the Australian Statistician to ensure that, as far as practicable, the proposed boundaries of its wards correspond to the boundaries of appropriate districts (within the meaning of the *Parliamentary Electorates and Elections Act 1912*) and census districts, and to ensure that the proposed boundaries comply with the 10 per cent variation noted previously, and
- (b) prepare and publicly exhibit a plan detailing the proposed division or alteration (the **ward boundary plan**).

Under section 210A, the council must give public notice of the following:

- (a) the place at which the ward boundary plan may be inspected,
- (b) the period for which the plan will be exhibited (being a period of not less than 28 days),
- (c) the period during which submissions regarding the ward boundary plan may be made to the council (being a period of not less than 42 days after the date on which the ward boundary plan is placed on public exhibition).

Further, the council must, in accordance with its notice, publicly exhibit the ward boundary plan together with any other matter that it considers appropriate or necessary to better enable the plan and its implications to be understood.

Any person may make a submission to the council regarding the ward boundary plan within the 42 day period and the council must consider submissions made in accordance with this section.

The *Local Government (General) Regulation 2005* (Part 11, Division 2, section 277) provides further details on the notice of changes to wards. This section of the Regulation states that if a council divides its area into wards, abolishes all its wards, alters its ward boundaries or names or renames a ward in its area, the general manager of the council must give notice of that fact and stipulates the notice to be given as follows:

- (a) by advertisement in a newspaper circulating generally in the council's area, and
- (b) in writing displayed at the office of the council, and





- (c) in writing delivered or sent to the Electoral Commission.
- (3) If, as a result of the changes referred to in this clause, there are any wards that are new or that have altered boundaries, the notice must include a written description of, and a map showing, the boundaries of the new wards or boundaries as so altered.

*c. Approval to abolish all wards in council's area*

Under section 210B of the Act, a council may resolve to make an application to the Minister to approve the abolition of all wards of the council's area. The council must give not less than 42 days' public notice of its proposed resolution.

After passing the resolution, the council must forward to the Minister a copy of the resolution, a summary of any submissions received by it and its comments concerning those submissions. The Minister may approve the application or may decline to approve it.

If the Minister approves the application, all the wards in the council's area are abolished with effect on and from the day appointed for the next ordinary election of councillors after the application is approved.

*d. Ward boundaries*

The Act (section 211) requires the council of an area divided into wards that they must keep the ward boundaries under review. If the following conditions (a and b below) are met the council must, as soon as practicable, alter the ward boundaries in a manner that will result in each ward containing a number of electors that does not differ by more than 10 per cent from the number of electors in each other ward in the area:

- (a) during a council's term of office, the council becomes aware that the number of electors in one ward in its area differs by more than 10 per cent from the number of electors in any other ward in its area, and
- (b) that difference remains at the end of the first year of the following term of office of the council, the council must, as soon as practicable, alter the ward boundaries in a manner that will result in each ward containing a number of electors that does not differ by more than 10 per cent from the number of electors in each other ward in the area.

If the new Council decided that Wards would be advantageous, the procedures set out above at b, c, and d would be invoked to create new Wards. Any revised Council Ward system will need to consider how many Councillors the new Council will have (the Act allows between 5 and 15 under section 224) and how many Councillors each Ward will return. The draft amendments to the Local Government Act favour a system of Councils with odd numbers of Councillors ostensibly to prevent deadlock situations. Given that each Council currently has 12 Councillors and the new entity will be much larger than the current three, it is assumed that all the Councils will seek a membership of 15 Councillors.





**10. In the case of a proposal for the amalgamation of two or more areas, the need to ensure that the opinions of each of the diverse communities of the resulting area or areas are effectively represented**

Summary of the need to ensure diverse communities are represented

The key points from this section are as follows:

- Reducing access to Council and elected representatives negatively impacts the capacity of residents in the local government area to deliver the stated policy objectives of the Local Government Charter.
- The community's ability to have effective input in significant matters will suffer with a large council. By reducing the means to contribute via councillor representation and council committees, the communities ability to participate effectively in the big issues facing the new Council, including the scoping and master planning of major sites (e.g. Bays Precinct, Parramatta Road, WestConnex, etc.), will be limited leading to a reduced ability to have your say at the local level.

Introduction

Leichhardt residents are actively involved in policy making and willingly give their time to make a contribution. The merger proposal will negatively impact residents contribution to the policy making process by reducing access to political representatives and through the inevitable reduction of council committees.

Impact on diverse communities

Leichhardt Council is about true community governance i.e. public engagement in all decision making at the highest level. Council ensures deliberative democracy by actively drawing on the community, after thought and debate, to make informed decisions. In this way it has established its social capital.

Leichhardt pursues an open council policy providing council papers and agendas to the public and media seven days in advance of Council and Committee meetings. It gives residents the right to participate & speak freely at Council and committee meeting.

Residents of Leichhardt have become accustomed to participating in decisions that affect them directly. The Leichhardt community has expressed a strong desire to be informed of, to provide information for, and be involved in Council's planning and decision-making processes. The community's vision in *Leichhardt 2025+* is that *Community and Council will work together to promote Leichhardt as a sustainable, liveable and connected community*. Council's *Community Engagement Framework* expresses Council's commitment to open, participatory and transparent governance that forms the foundation of democratic, responsible government.

Residents of Leichhardt are assured of consistent means of engaging with Council on all aspects of local council business, across site-specific matters, to program and policy



development, service planning and implementation and strategic planning and governance.

Residents have open access to participate in and contribute to Committees of Council attended by Councillors and supported by Council staff, including:

- Seven Specialist Advisory Committees (eg Planning and Urban Design, Community, Culture and Recreation Committee, Heritage Committee, Access Policy Committee,) ,
- Eight Partnership and Co-ordination Groups (eg Bicycle Advisory Committee, Aboriginal and Torres Strait Islander Committee, Youth Council, Seniors Committee)
- Seven Precinct-based Committees
- Specialist Task Forces.

The committees of council ensure that all sectors of the community including young people, older people, and people with lived experience or with expertise in specialist policy, planning and social environments actively contribute to shaping Council's strategic direction, and program implementation in the community.

The local government charter requires Councils to consult with, and plan for their communities, and this in turn builds community participation and volunteering to create liveable and sustainable social environments. The Leichhardt Wellbeing Survey further reported that half of the resident population (49.6 per cent) had undertaken unpaid voluntary work in the previous twelve months, compared to 27.3 per cent of all Australians. A quarter (25.2 per cent) had spent time in the previous four weeks providing unpaid care, help or assistance to someone with a disability, long-term illness or problem related to old age.

These patterns of high levels of public participation in Leichhardt and voluntary assistance to others when benchmarked against the rest of NSW indicate a highly engaged, capable and effective community. Reducing access to Council and elected representatives negatively impacts the capacity of residents in this local government area to deliver the stated policy objectives of the Local Government Charter.

The community's ability to have effective input in significant matters will suffer with a large council. By reducing the means to contribute via councillor representation and council committees, the community's ability to participate effectively in the big issues facing the new Council, including the scoping and master planning of major sites (e.g. Bays Precinct, Parramatta Road, WestConnex, etc), will be limited and potentially silence the community's opposition to these projects.

Leichhardt Council prides itself on community involvement on both major and local issues. A merged council will adversely impact on the ability for the community to effectively engage and be heard.





**11. Such other factors as it considers relevant to the provision of efficient and effective local government in the existing and proposed new areas.**

Summary of other factors

The key points from this section are as follows:

- Leichhardt Council meets the scale and capacity elements as defined by the Independent Local Government Review Panel and contrary to the Merger Proposal conclusions.
- Merging Ashfield, Leichhardt and Marrickville Councils will not improve the strategic capacity of local government in the combined new areas, either for the individual councils as they currently stand, or as a whole if the proposal is adopted.
- If the NSW Government proceeds with forced amalgamations, then it will need to give consideration to the organisation of the Interim Council and governance arrangements to ensure a smooth transition to the new council.
- Leichhardt Council proposes a number of recommendations with respect to the interim and new council governance arrangements if the merger proceeds, including:
  - All councillors and senior staff remain in place until the election of the new council in March 2017. This is consistent with the Minister's and the Premier's promises to Councillors and will allow the Councils themselves to undertake work on how the amalgamation should work in terms of management structure, finance, planning and the like, and present this to a new Council for adoption after it comes into being. The new Council can adopt, amend, or reject these proposals.
  - Existing senior staff should also be retained after the new Council elections to ensure retention of corporate history and effective, on-going service delivery. The senior staff will also be invaluable in assisting with the development and establishment of a new organisational structure.
  - The new council should comprise 15 councillors which is consistent with other merger proposals across metropolitan Sydney and would ameliorate in part the loss of local representation.
  - Further, the Government should give due consideration to increasing the remuneration of councillors to reflect the complexity and increased workload of councillors in the new council
  - Allow the election of the new Mayor to be determined by the new council.
- All of these recommendations are based on robust evidence and will enable the smooth transition to and effective operation of a new council.

Scale and strategic capacity

The merger proposal is premised on the assumption that a bigger council (measured solely in terms of population) is more efficient and strategic, a more effective partner with other tiers of government and a stronger advocate for local communities – this is the scale and strategic capacity argument advanced in the Fit for the Future program,





perpetuated by IPART and the basis of the Merger Proposal issued by the Minister in January 2016.

However, these arguments are not evidenced-based and no empirical evidence has been produced to support such arguments by the NSW Government, its investigative bodies (IPART and the Independent Local Government Review Panel) or in the peer-reviewed literature (see Abelson, P. and Joyeux, R, 2015, "Smoke and Mirrors: Fallacies in the NSW Government's Views on Local Government Financial Capacity," *Public Money & Management*, July, pp. 315-320; and Professor Dollery's recent submission to the Parliamentary Inquiry into Local Government, Submission No. 3 - <http://www.parliament.nsw.gov.au/prod/parlment/committee.nsf/V3ListSubmissions?open&ParentUNID=4418B0EDCF843FF9CA257E52001DC61A>).

Leichhardt Council argues that it has both scale (achieved through SSROC) and strategic capacity to be an efficient, effective and strategic player as a stand-alone entity.

Specifically, Leichhardt Council meets all ten (10) elements of strategic capacity as prescribed in the Independent Review Panel's Final Report. Council's detailed responses to how it meets the strategic capacity elements are provided in detail at Attachment 3. In summary, Leichhardt Council is able to demonstrate:

- A robust revenue base and discretionary spending capacity. Council's LTFP and Annual Budget (<http://www.leichhardt.nsw.gov.au/Budget1516>) demonstrates Council's sound financial position in the short, medium and long term; our satisfactory revenue generation and our ability to increase discretionary spending in the future (if required) whilst still meeting the 7 Fit for the Future benchmarks.
- Scope to undertake new functions and major projects. The LTFP retains flexibility for new projects in both the immediate and longer terms.
- Ability to employ a wider range of skilled staff. Council's adopted Workforce Plan continues to allow the employment of a broad range of skilled staff. In addition, attracting and retaining skilled staff has never been an issue for Council given the nature and importance of the work undertaken and positive workplace culture. In this regard, Leichhardt Council is widely known as a council or employer of choice for many staff. This will not be the case with a new unknown Council with low morale and a dysfunctional environment.
- Knowledge, creativity and innovation. This is evidenced by the Office of Local Government's recent Better Practice Review which indicated many areas in which Council is best practice, including strategic and corporate planning, the LTFP and Council's efficiency program.
- Advanced skills in strategic planning and policy. Council's continued focus on effective strategic planning and policy development through the recently restructured council and committee system, refocussing committees and key staff on policy development and review.



- Effective regional collaboration. Existing and continuing effective regional collaboration through the Southern Sydney Regional Organisation of Councils (SSROC) (e.g. resource sharing, aggregated procurement and advocacy) and the Sydney Metropolitan Mayors organisation. Further examples of effective regional collaboration include: Council working with 10 Central sub-regional councils to contribute to the NSW Department of Planning's Central Sub-Regional Plan; and Council working with the City of Sydney and Urban Growth NSW on the Bays Precinct Urban Renewal Project. Contrary to the State Government's paper which assumes savings from improved purchasing power from 1 to 3 Councils, Leichhardt already has the purchasing power of 17 councils through SSROC.
- Credibility for more effective advocacy. Through effective regional collaboration Council has been able to demonstrate effective and credible advocacy. Leichhardt Council is also a well-respected Council and one that leads on financial sustainability, infrastructure management and environmental sustainability.
- Capable partner for State and Federal agencies. This captures Council's proven ability to work with the other tiers of government to deliver essential infrastructure (renewals and expansion projects) and in addressing key emerging issues.
  - Resources to cope with complex and unexpected change. This is demonstrated by reference to the following activities: Council holds significant Reserves to manage contingencies as they arise
  - Council is continuously seeking to improve its use of resources, especially through shared services delivery improvements through the SSROC model.
  - Council's continuous improvement plan and financial strategies will continue to provide adequate resources (financial and non-financial) to meet and manage change.
- High quality political and managerial leadership. Council is well positioned with highly educated, experienced and professional managerial team. The Executive team has in excess of 70 years senior management experience at various tiers of Government.

Merging Leichhardt with Ashfield and Marrickville Councils will not improve the strategic capacity of local government in the combined new areas, either for the individual Councils as they currently stand, or as a whole if the proposal is adopted. In fact, recent evidence indicates (see Abelson and Dollery) that the merger will lead to diseconomies of scale and scope which will then impose significant new costs on the community. The stand-alone option is far superior in this regard and will ensure the delivery of efficient and effective services to the residents and ratepayers of Leichhardt.

In the event however that this scale and capacity argument falls upon deaf ears and the merger proposal therefore proceeds, the following recommendations are made in the best interests of our community for a smooth transition to a new council as well as for the most effective operations of the new council.





#### Interim Governance arrangements

Firstly, all existing Councillors and Senior Staff should remain in place until the new council elections.

On 18 December 2015, Minister for Local Government, the Hon. Paul Toole MP, wrote to the Mayor of Leichhardt and advised that:

“It is important to note that until such time as new councils are created, all councillors will remain in place and council matters will continue as usual.”

Some statements made by the Minister and the Premier since have appeared to cast doubt on this very clear statement that all the Councils and their representatives would remain in place until the new entity is created. However, the *Local Government Act 1993 (Act)* and the history of amalgamations made under Part 2A and 2B of Part 1, Chapter 9 of the Act demonstrates that the best way to proceed with an interim organisation is precisely as the Minister has already promised.

#### *How new areas come into being*

Once the procedure for amalgamation under Divisions 2A and 2B of Part 1 of Chapter 9 of the Act has occurred, the procedure for abolishing the previous areas and constituting the new area is set out in section 218A of the Act which reads:

- (1) The Governor may, by proclamation, amalgamate two or more areas into one or more new areas.
- (2) On the date specified in the proclamation as the date on which the areas are to be amalgamated:
  - (a) the areas are dissolved, and
  - (b) the new area or new areas are constituted, and
  - (c) subject to section 218C, the councillors of the former areas cease to hold office.
- (3) Divisions 1 and 2 apply to a new area constituted by a proclamation under this section in the same way as they apply to an area constituted by a proclamation under section 204.
- (4) Section 212 (2) does not apply to the dissolution of a former area by a proclamation under this section.

References to Divisions 1 and 2 are references to the parts of the Act dealing with constituting an entirely new Council area where there had previously not been one, and includes provisions for naming, the ward boundaries (if any) the number of Councillors and administrative provisions. The most significant section is probably section 213, ***Facilitating Provisions of Proclamations*** which states:





(1) A proclamation of the Governor for the purposes of this Division may include such provisions as are necessary or convenient for giving effect to the proclamation, including provisions for or with respect to:

- the transfer or apportionment of assets, rights and liabilities
- the transfer of staff
- the application of regulations
- the alteration of ward boundaries
- the holding of elections
- the delivery or retention of records
- the termination, cessation, dissolution or abolition of anything existing before the proclamation takes effect
- the preservation or continuance of anything existing before the proclamation takes effect
- the making of appointments
- the inclusion or exclusion, as a constituent council of any related county council, of the council of any area constituted or dissolved by the proclamation.

**Note.** If a proclamation for the purposes of this Division transfers staff members (other than senior staff) from the employment of one council to another council, the provisions of Part 6 of Chapter 11 apply in relation to the transferred staff members.

(2) Such a proclamation may:

- (a) apply generally or be limited in its application by reference to specified exceptions or factors, or
- (b) apply differently according to different factors of a specified kind, or
- (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body, or may do any combination of those things.

Section 213 is a non-exhaustive list of the issues a new Council may consider. While the Government may opt to appoint an administrator to take over and set about finalising all the section 213 factors, this is not how previous amalgamations have proceeded.

Section 218C goes on to specify the way in which the areas may be administered up until the new area comes into being:

(1) A proclamation of the Governor for the purposes of this Division may include provisions of the same kind as are referred to in section 213.

(2) Such a proclamation may also include provisions for or with respect to:

- (a) the appointment of administrators for any area constituted by the proclamation, and



(b) the continuation in office, as councillors of any area constituted by the proclamation, of any or all of the councillors of any area dissolved by the proclamation.

**Note.** If a proclamation for the purposes of this Division transfers staff members (other than senior staff) from the employment of one council to another council, the provisions of Part 6 of Chapter 11 apply in relation to the transferred staff members.

(3) *Section 224 (1) does not apply to any councillors who continue in office by virtue of such a proclamation.*

The Act allows all contingencies ranging from sacking all Councillors immediately and appointing one administrator; to keeping all Councillors and senior staff in one new Council.

However, the only option which has been used in this type of wholesale amalgamation of two or more areas is that adopted in the transition from Concord and Drummoyne Councils to the Council of Canada Bay: allow the constituent Council areas to remain in place and in working order until the election for the new area, and create the new Council area on election of the new Councillors.

#### *The experience of Canada Bay*

Canada Bay came into existence on 1 December 2000. Its original areas, Concord and Drummoyne, were dissolved on 1 December 2000. The election for Canada Bay took place the next day. The Proclamation was signed by the Governor on 27 September 2000 and published in the Gazette on 29 September 2000.

Drummoyne and Concord remained in place for two months with the same GM's and senior management right up to the day with no administrator. All the Councillors remained in place right up to that time, as Councillors of the old Councils, not of the proposed new entity.

The appointment of GM for the new Council was not to take place until the new Council was elected (Proclamation clause 7).

The organisation structure remained in place for the new Council (Proclamation clause 12) as did all the staff positions (Proclamation clause 13). The Proclamation assumed that all positions, pay grades and responsibilities would stay the same until the Council reviewed its structure, as all Councils must, within the first year of operation, under section 333 of the Act (Proclamation clause 12 and 13).

While there was a duplication of senior positions, the new Council had the opportunity to consider for itself how best to determine management structure and rolls.

The Proclamation gave the new Council its initial Code of Conduct, Code of Meeting Practice, Local Approvals Policy and some other documents (Proclamation clause 10). However, most of these were merely adoptions of the existing Model Provisions.





The new Council, in line with the Delegate's recommendation, had no wards, and the election was also the forum for a vote on popularly elected Mayor (which was passed, and the first popularly elected Mayor was elected four years later).

While Canada Bay was formed only two months after the Proclamation, there is no reason at law or practically why a Proclamation could not be made on, say, 1 July 2016, announcing the creation of the new amalgamated entity; and foreshadowing the commencement date of this new entity on 16 March 2017, the day before the election.

By the same token, nothing in law or practice prevents all three Councils operating as they currently do, but preparing for that start date, for the following eight months.

*Advantages of this interim structure*

- A Proclamation which allows all three Councils to remain in place until the new Council area is constituted and its election has taken place is consistent with the Minister's and the Premier's promises to the community and Councillors. In effect, this is nothing more than carrying out the mechanism the Minister promised at the time that he announced his proposal.
- It allows the Councils themselves to undertake work, through change committees, on how the amalgamation should work in terms of management structure, finance, planning and the like, and present this to a new Council for adoption after it comes into being.
- The new Council can then adopt, amend, or reject these proposals when it has been elected by the people.
- The electors of the three areas have already given a mandate to the serving Councillors to represent them. It is these Councillors who will remain in place overseeing the change process undertaken by the management of the constituent Councils.
- Likewise, it is the elected representatives of the new Council which will accept, reject or amend the proposals offered by the three constituent Councils. If the consideration of the attitude of the electors under section 263 (3) (d) is genuinely a matter of interest to the State Government under the proposal, this is the mechanism for a change structure which must be favoured.
- In the period between the dissolution of the old Councils and creation of the new Council this measure will lower anxiety amongst the public and staff about the change process. The existing Councils will continue to provide the existing service, and the change to the new entity will take place seamlessly.
- This Interim Structure has already been tried and found successful in the case of Canada Bay.

New Council governance arrangements

Secondly, Leichhardt Council requests that the Delegate (and NSW Government) gives due consideration to a range of governance issues if it decides to proceed with the forced amalgamation of Ashfield, Leichhardt and Marrickville Councils. These include the





number of councillors, remuneration of councillors and the Election of the Mayor. These issues are detailed below.

*a. Number of Councillors*

The Merger Proposal argues that the new council is to comprise of 12 councillors – this is the same number of councillors as the current councils. Importantly, the Merger Proposal also states that:

“Ashfield, Leichhardt and Marrickville communities will have an opportunity to shape how a new merged council will be structured, including the appropriate number of elected councillors.” (p. 11)

In this regard, Leichhardt Council proposes that the new Council comprise 15 councillors which is the maximum number currently permitted under the *Local Government Act 1993*. The reasons in support of this proposal are as follows:

- The significant increase in the number of residents represented by each Councillor and the corresponding workload.
- To compensate (in part) for the loss of local representation outlined in the Merger Proposal. The increase in representation to 15 councillors would improve the ratio of residents to councillors significantly – from 1 councillor to 15,499 residents (current proposal) to 1 councillor per 12,399 residents.
- To ensure consistency across metropolitan Sydney on the ratio of Councillors to residents.
- To enable the creation of Wards if so decided by the new council (13 Councillors will not allow for Wards).
- To reflect the increase in the complexity and geographic reach of the issues before council.
- To account for the increase in the size and complexity of the new bureaucracy – the new council will have operating revenue of \$264 million and an asset base of over \$1.3 billion.
- The current proposal of 12 councillors is contrary to the policy direction of the NSW Government i.e. to have an uneven number of councillors. 15 councillors would satisfy this policy requirement as allowing the option of Wards to proceed.

The new council requires adequate local representation. Leichhardt Council therefore recommends that the new council comprise of 15 councillors.

*b. Remuneration of Councillors*

The merger proposal includes a significant increase in the number of residents represented by each Councillor (detailed above) but with no discussion of a commensurate increase in Councillor Remuneration. This oversight should be addressed through this process not only for this particular council (if formed) but for all metropolitan councils. In this regard, we note that under the Government's merger proposals for metropolitan Sydney, councillors will represent (in total) more constituents than both State and Federal Members of Parliament.



As noted in the Independent Panel's Final Report:

"The Panel's view [on councillor remuneration] is that decisions of the Remuneration Tribunal do appear to under-value the decision-making responsibilities of councillors. This may reflect an inadequate description of that role in the Act, and a tendency in some sections of local government to promote an image of 'volunteer' councillors rather than professionalism " (emphasis added, Independent Local Government Review Panel 2013, *Revitalising Local Government*, October p. 65).

If the NSW Government is serious about increasing the professional development and skills of local councillors, then it should adopt Recommendation 27 of the Independent Local Government Review Panel's that "Councillors who satisfactorily complete professional development programs should receive additional remuneration." If the merger proposals are forced through by the NSW Government then the issue councillor remuneration should feature as part of this program.

In this regard, Leichhardt Council supports the harmonisation of remuneration of councillors across all metropolitan councils based on population and that this reform is included in the current review of the *Local Government Act 1993*. Current remuneration of councillors is provided at Attachment 4.

#### *c. Election of the Mayor*

The election of the Mayor is a matter for the new Council and its residents. Under the current *Local Government Act 1993*, the Mayor cannot be directly elected by the people from the formation of a new Council created by Division 2A and 2B of the *Local Government Act 1993 (Act)*. Although not stated explicitly in the Act, for the reasons set out below we are of the view that the Act **does not** allow the Governor, in the Proclamation establishing a new Council area under section 218A, to establish a popularly elected Mayor from the outset. You may have a constitutional referendum at the same time as the first election for the new area, but the Mayor elected by the people would only be elected at the next election.

The note to the Introduction to Chapter 10 of the Act (*How are people elected to civic office?*) states:

The Mayor may be popularly elected or elected by the councillors from among their number. The choice of method depends on a constitutional referendum as referred to in sections 228 and 229. A popularly-elected Mayor holds office for 4 years and is a councillor by virtue of being Mayor.

The implication is that a constitutional referendum must be held *before* a popularly elected Mayor can be voted upon. Section 35 of the *Interpretation Act 1987* says that notes of that nature are not part of the legislation, but they can be used to construe the meaning of legislation.



Therefore, it is our view that under the Act one cannot have a popularly elected Mayor unless there has first been a constitutional referendum under section 15 and following of the Act. It is not possible to have this referendum until the Proclamation establishing an area has been made.

It is possible to have the first election for the new Council under section 218A and the constitutional referendum at the same time. If this is the case, the popularly elected Mayor (if the referendum decides it) first stands for election four years later.

The Proclamation, in our view, cannot have the Mayor elected by the people from the outset. The Canada Bay Proclamation Gazetted 29 September 2000 followed this line (see Attachment 5).





## ATTACHMENTS

1. Morrison Low 2015, *Inner West Councils, Fit for the Future – Shared Modelling*, February, available at <http://www.leichhardt.nsw.gov.au/Community-Issues/Council-Amalgamation/Council-Amalgamation>
2. Morrison Low 2015, *Updated Inner West Business Case Model*, Leichhardt Council, November, available at <http://www.leichhardt.nsw.gov.au/Community-Issues/Council-Amalgamation/Council-Amalgamation>
3. Response to scale and strategic capacity
4. Local Government Remuneration Tribunal: Current determination, effective from 1 July 2015
5. Canada Bay Proclamation



### ATTACHMENT 3: Leichhardt Council – Scale and Strategic Capacity

Strategic Capacity Elements	Indicators	Responses
More robust revenue base and increased discretionary spending	A diversified revenue base	<p>Council has a diversified revenue base and is not reliant on grants or rates revenue alone to fund existing operations or new expansionary activities. For example, Council generates significant revenue from (amongst other things) parking meters, parking fines, and fees and charges (i.e. Pools, gyms, childcare) and investment income (see Financial Statements 2013-14).</p> <p>Leichhardt Council has a diversified revenue base with considerable investment income. For example, Council held financial assets (i.e. Cash and Cash Equivalents, and Term Investments) to the value of around \$70 million in 2014 (see Financial Statements 2013-14, Note 15).</p> <p>Council's diverse revenue base provides it with the capacity to undertake discretionary spending on expansionary projects. For example, in 2015-16 Council will provide a new childcare centre at a cost of \$4m, a new Learn to Swim Building and amenities at the Leichhardt Park Aquatic Centre at \$5m and \$900K for adaptive reuse of one of Council's prime heritage buildings. Council is also investigating opportunities to better utilise its current assets to achieve commercial rates of return.</p>
	Historical/projected Cost containment	<p>Council has a demonstrated record of historical and projected cost containment. This is outlined later in this proposal – see Improvement Action Plan. In summary, Council's efficiency program ("Living within its means") will deliver in excess of \$20 million over the next ten years in savings.</p>
	Community's capacity and willingness to pay rates to fund services now and into the future	<p>Council has balanced the service needs/expectations of the community and their capacity and willingness to pay rates in assembling the Resourcing Strategy (and LTFP). Council has also assessed its rating policy and analysed the community's median household income and socio-economic index to determine people's ability to pay rates into the future. Information provided below:</p> <ul style="list-style-type: none"> <li>Median weekly household income. In the 2011 Census, households in the Leichhardt Municipality had a median weekly household income of \$2,234. This was \$787 more than in Greater Sydney, and \$997 more than the NSW average. Further, 42% of households earned an income of \$2,500 or more per week in 2011 in the municipality.</li> <li>The socio-economic indexes for areas (SEIFA). The SEIFA is produced by the ABS using Census data and is useful in identifying geographic areas that are relatively disadvantaged. An area with SEIFA index of 1,000 is considered average while an index of 600 or below is considered to be experiencing high levels of disadvantage. In 2012, the Leichhardt LGA scored 1,078.9 on the SEIFA index of disadvantage (this is above the score for Greater Sydney of 1011 and NSW of 996). In the municipality the SEIFA index scores range from a high of 1124.3 in Birchgrove to a low of 1037.2 in Lilyfield North.</li> </ul> <p>With high median weekly household incomes and high SEIFA index score, Council is satisfied that the community can afford projected rates increases (rate peg increases) over the life of the LTFP.</p>




Strategic Capacity Elements	Indicators	Responses
		<p>In this regard, it is noted that there are no plans to increase rates above the rate peg across this period for either Business or Residential ratepayers. Council is fully able to fund its continuing operations and capital program over this period without the need to increase rates.</p> <p>To further alleviate the negative financial impact on households of any rate rise, the Council has a Pensioner Concession Policy and Financial Hardship Policy to assist those experiencing difficulties with paying rates. Further, the Council will continue to structure its rating policy on an ad valorem basis with a minimum rate applying into the future.</p>
Scope to undertake new functions and major projects	Delivering new community infrastructure (expansive projects) and services	<p>Council in its LTFP and 2015-16 Budget is delivering additional infrastructure (e.g. Child Care Centre; Public amenities). In addition, The LTFP provides for further expansive projects to meet community needs into the future. It is important for Council to not only achieve financial sustainability but must do so at the same time as delivering on social outcomes for the community.</p> <p>Recent examples of expenditure on new assets include:</p> <ul style="list-style-type: none"> <li>• 3 new playing fields at Callan Park (\$2m)</li> <li>• Refurbishment of the State Heritage listed Bell's Store, East Balmain (\$2m)</li> <li>• A new council operated childcare centre (\$4m)</li> <li>• Major asset renewal and expansion at the Leichhardt Park Aquatic Centre (\$5m).</li> </ul>
	Delivering on community satisfaction	<p>Leichhardt Council regularly monitors satisfaction among local residents with services provided. Between March and April 2015, the Council selected Piazza Research, an independent (ISO 20252 quality certified) market and social research firm, to conduct a community survey to measure resident satisfaction and to explore other issues within the local community. In April 2015, Piazza Research presented its report to Council (Attachment D) which found:</p> <p>Council's overall performance – overall 89% of residents rated Council's overall performance as satisfactory or better. Similar high satisfaction levels are demonstrated for our community events, libraries, aquatic centres, aged and youth services, arts and cultural services, childcare services and community centres. Roads maintenance has the highest of the infrastructure satisfaction ratings at a healthy 66% satisfaction level closely followed by footpath maintenance (61%) – confirming amongst other matters that the community is generally supportive of our asset maintenance levels.</p>





Strategic Capacity Elements	Indicators	Responses
<b>Ability to employ wide range of skilled staff</b>	Reduction real operating cost per capita	<p>Leichhardt Council will achieve a reduction in real operating cost per capita over the Long term Financial Plan. This is the result of Council having a well-defined and structured business improvement program to drive down the cost of service delivery while at the same time ensuring the highest level of service delivery to our residents and ratepayers.</p> <p>Council's adopted Workforce Plan continues to allow the employment of a broad range of skilled staff. In addition, attracting and retaining skilled staff has never been an issue for Council given the nature and importance of the work undertaken and positive workplace culture.</p>
	Access to a global talent pool	<p>Leichhardt Council draws its workforce from a global talent pool of skilled and capable staff. This is the product of its strategic position next to the Sydney CBD and its highly educated/professional population.</p>
<b>Knowledge, creativity and innovation</b>	Demonstration of innovative culture/outcomes	<p>This is evidenced most recently by the Office of Local Government's recent Better Practice Review Report (April 2015 copy following this table) which indicated many areas in which Council is best practice, including strategic and corporate planning, the LTFP and Council's efficiency program.</p> <p>Backing this up are the following awards/achievements attributable to a creative and innovative organisation :</p> <ul style="list-style-type: none"> <li>• 2<sup>nd</sup> NSW council (City of Sydney Council being the 1<sup>st</sup>) to become accredited carbon neutral</li> <li>• Winner of the 2012 Local Government &amp; Shires Associations' Excellence in the Environment Awards</li> <li>• Recognised as the most improved of all 152 NSW local councils for Development Assessment timeframes (2011/12 period)</li> <li>• Winner of the prestigious 2012 R H Doherty Award for Excellence in Community Consultation – Callan Park Master Plan</li> <li>• Rated as one of only 16 councils in NSW forecast by the NSW Treasury Corporation to remain financially 'sound or better' into the future.</li> <li>• Rated by the Local Government Infrastructure Audit (June 2013) for Infrastructure Management as very strong</li> <li>• Local Government Arts and Culture Award Winner 2012 (Public Art &amp; Placemaking – Hawthorne Canal Community Artwork)</li> <li>• 2012 Local Government Aboriginal Network (LGAN) Council of the Year Award with a</li> </ul>

 		
WORKING WITH THE COMMUNITY		
Strategic Capacity Elements	Indicators	Responses
		<p>Leichhardt Council employee receiving the 2012 LGAN Non Aboriginal Staff Member Award.</p> <ul style="list-style-type: none"> <li>The Reconciliation Action Plan received the Encouragement Award in the Excellence in Governance section for the RH Dougherty Awards from Local Government NSW in 2014</li> <li>Leichhardt Council and City Futures Research Centre, University of NSW have been jointly awarded (November 2014) the Planning Institute Australia Award (PIA) for a research report aimed at improving access for older residents and people with disability in their homes.</li> </ul>
	A thriving arts and cultural community	<p>Leichhardt Council recognises that arts and culture are an important aspect of any community, and welcomes the community's development, active engagement and involvement in cultural activities. The suburbs in Leichhardt are home to many creative industry workers and a range of outstanding public art pieces, such as the panoramic community mural at the Crescent in Annandale, the large number of Wall2Wall murals and the award winning mural mosaic located at the Hawthorne Canal Railway Underpass. The area is also home to several art and cultural organisations such as Legs on the Wall, the NSW Writers Centre, Sydney College of the Arts, the Italian Forum Cultural Centre, as well as many commercial galleries and artist studios.</p>
Advanced skills in strategic planning and policy development	Ability to plan for regional outcomes	<p>Demonstrated by Leichhardt Council's current regional/sub regional approach to working alongside its sub regional partners for:</p> <ul style="list-style-type: none"> <li>A Plan for Growing Sydney</li> <li>The Bays Precinct</li> <li>Westconnex</li> <li>Parramatta Rd Urban Renewal.</li> </ul>
	IPR Outcome Focused - Performance Achievements key performance indicators established and measured	<p>Council's Integrated Planning &amp; Reporting documents - Delivery Program and Operational Plan, Resourcing Strategy - guides Council's direction, allocation of resources, and outlines the priorities Council will undertake during its term. The IPR documents are outcomes-focused with clearly defined and measurable key performance indicators. A tracking report is presented to Council every 3 months on the status of the KPIs and Budget performance. In this regard, the Office of Local Government commented in its recent "Better Practice Review" stated that Leichhardt Council is a best practice council in its IPR documentation and reporting.</p>



Strategic Capacity Elements	Indicators	Responses
		<p>An extract from the OLG's draft outcomes report to Leichhardt Council's recent Better Practice Review states :</p> <p><i>"Local councils have an important role in undertaking strategic community planning. The Integrated Planning and Reporting framework guides councils to carry out efficient long-term planning and delivery of services in partnership with the community.</i></p> <p><i>The review team found that Leichhardt Council has excellent Integrated Planning and Reporting processes in place and produces high quality, well-integrated, planning and reporting documents. The effective implementation of the framework puts the Council in a strong position to meet the priorities articulated in the Community Strategic Plan, Leichhardt 2025+.</i></p> <p><i>The maturity of Leichhardt Council's long-term planning is demonstrated by the Strategic Service Plans which sit under the mandated Integrated Planning and Reporting plans. These include the Community and Cultural Plan, the Environmental Sustainability Strategy, the Employment and Economic Development Plan, and an Integrated Transport Plan which all have a ten-year planning horizon and four-year delivery program.</i></p> <p><i>Underpinning the Council's high-level performance in this area is a long-standing commitment to extensively involving its community in decision-making processes. This commitment was formalised through the Council's Community Engagement Framework which was developed in 2010.</i></p> <p><i>The Council continues to strengthen its strategic planning and reporting on an ongoing basis. Examples of this work include:</i></p> <ul style="list-style-type: none"> <li>• A 2013 review of the organisational structure to ensure alignment with the strategic goals and outcomes for Leichhardt 2025+, the various underlying Strategic Service Plans and the Delivery Program.</li> <li>• Establishing the new position of Manager Customer Service and Corporate Planning to help drive and embed Integrated Planning and Reporting processes sustainably into the organisation. Through this position, the Council aims to achieve more effective annual and four-yearly planning. A key focus is also to develop more succinct and meaningful reporting for councillors and the community.</li> </ul>





Strategic Capacity Elements	Indicators	Responses
		<ul style="list-style-type: none"> <li>Introducing a business planning process to clearly articulate how each business unit contributes to achieving the outcomes Leichhardt 2025+. This will involve mandatory progress reporting and monitoring at all levels to improve accountability and further integrate planning and reporting throughout the Council.</li> <li>Implementing specifically-designed software in the first quarter of 2014-15 to consolidate and streamline existing Integrated Planning and Reporting processes. The software will enable the Council to report across all aspects of Integrated Planning and Reporting as well as extend this reporting into its business planning processes.</li> </ul>
	Development of new policy to accommodate community interests	In 2013-14 alone, Leichhardt Council developed a range of new policies and programs (amongst others): Development and adoption of new Service Delivery Plans including the Public Art Policy, Site and Sound Grants Program, Like Art Beat Graffiti Program, Reconciliation Action Plan, Leichhardt Ageing Strategy, Busking Policy, Pedestrian Access Mobility Plan, Integrated Transport Plan, Laneway strategy, the Narrow streets (footpath parking) program, an updated Resident Parking Scheme Policy and a Flood Risk Management Plan. In addition, Council also adopted a new Local Environment Plan (LEP) and Development Control Plan (DCP).
Effective regional collaboration	Extent of involvement in regional activities	<p>Existing and continuing effective regional collaboration through the Southern Sydney Regional Organisation of Councils (SSROC) (e.g. resource sharing, aggregated procurement and advocacy) and the Sydney Metropolitan Mayors organisation.</p> <p>SSROC comprises 16 Councils from Sutherland in the south to Canada Bay in the north with a combined population of 1.5 million residents. To date through its regional procurement programs, contract savings for all councils amount to approximately \$23 million per annum with further gains through shared land fill tenders ( potential savings for one year alone of \$18m for the 7 participating councils - \$850,000 per annum in particular for Leichhardt Council ); electricity contracts ((\$1.3m for 2104/15) and street lighting improvements (34 councils).</p> <p>With a strong priority for shared services extending beyond procurement, SSROC in March 2014 submitted to the State Government its Council of Mayors proposal – a regional/sub regional model to achieve increased strategic capacity and improved financial sustainability through :</p> <ul style="list-style-type: none"> <li>A regional entity to oversee broad direction, advocacy and strategic planning</li> <li>A shared services group to oversee development of shared services, joint procurement and other operational activities – requiring councils to delegate a range of services to a regional entity.</li> </ul> <p>Leichhardt Council continues to support this approach and as part of our council improvement proposal will seek through SSROC to fully develop the business case so this Joint Organisation model can be implemented.</p>



Strategic Capacity Elements	Indicators	Responses
<b>Credibility for more effective advocacy</b>	Demonstration of effective advocacy	Through effective regional collaboration Council has been able to demonstrate effective and credible advocacy. Specific examples include : <ul style="list-style-type: none"> <li>• Bays Precinct to ensure meaningful and ongoing community consultation</li> <li>• Development of the Callan Park Draft Master Plan on behalf of the State Government</li> <li>• Strategic direction and assistance to the RMS in developing its Statewide Footpath Parking Policy.</li> </ul>
<b>Capable partner for the state and federal agencies</b>	Delivery of regional services and/or infrastructure	This captures Council's proven ability to work with the other tiers of government to deliver essential infrastructure (renewals and expansion projects) and in addressing key emerging issues. Examples here include : <ul style="list-style-type: none"> <li>• The Inner West Light Rail extension</li> <li>• The Greenway active transport link</li> <li>• The Callan park Master Plan along with 3 new playing fields and a proposed new regional skateboard facility (\$1m)</li> <li>• The progressive redevelopment of the Leichhardt Park Aquatic Centre as a regional recreational facility.</li> </ul>
<b>Resources to cope with complex and unexpected change</b>	Positive operating result excl Capital Grants/contributions	Council will deliver a positive operating result for every year of the Long Term Financial Plan and beyond. This is a product of sound financial management which has been recognised by TCorp and Morrison Low. This t enables Council to ensure that it has appropriate resources to meet complex and unexpected changes in its operating environment. <p>This is demonstrated by the following:</p> <ul style="list-style-type: none"> <li>• Council holds significant Reserves to manage contingencies as they arise.</li> <li>• Council is continuously seeking to improve its use of resources, especially through shared services delivery improvements through the SSROC model as covered above ;</li> <li>• Council's continuous improvement plan and financial strategies will continue to provide adequate resources (financial and non-financial) to meet and manage change.</li> </ul>
<b>High quality political and managerial leadership</b>	Strategic decision making and engagement	Council is well positioned with highly educated, experienced and professional managerial team. The Executive team has in excess of 70 years senior management experience at various tiers of Government. The most recent demonstration of high quality managerial leadership is through the recent OLG Better Practice Review.
	Independent recognition of managerial excellence	Recognised as one of NSW's top Councils, TCorp confirmed Leichhardt Council as in the top 10 per cent of councils in NSW for financial performance (TCorp 2013). The NSW Government also recognised Leichhardt's strong asset management (Local Government Infrastructure Audit 2013) and strong performance in governance and organisational best practice (Promoting Better Practice Review 2015).



**Attachment 4 Local Government Remuneration Tribunal: Current determination, effective from 1 July 2015**

Category (No. of Councils)	Council (and Population)	Cr Annual Fee		Mayor (additional Fee)	
		Minimum (\$)	Maximum (\$)	Minimum (\$)	Maximum (\$)
<b>Principal City (1)</b>	Sydney (207,250)	25,040	36,720	153,200	201,580
<b>Major City (3)</b>	Newcastle (160,021) Parramatta (189,932) Wollongong (206,794)	16,690	27,550	35,470	80,260
<b>Metropolitan Major (2)</b>	Blacktown (325,185) Penrith (203,950)	16,690	27,550	35,470	80,260
<b>Metropolitan Centre (16)</b>	Bankstown (200,357) Campbelltown (167,850) Fairfield (205,950) Gosford (171,992) The Hills (187,703) Hornsby (168,614) Hurstville (85,886) Liverpool (211,200) North Sydney (71,025) Randwick (143,776) Ryde (114,598) Sutherland (229,800) Warringah (155,289) Willoughby (74,166) Wyong (159,015)	12,520	23,370	26,600	62,090





Category (No. of Councils)	Council (and Population)	Cr Annual Fee		Mayor (additional Fee)	
	Lake Macquarie (201,500)				
<b>Metropolitan (21)</b>	Ashfield (44,498)	Lane Cove (34,807)	8,330	18,380	17,740
	Auburn (85,446)	Leichhardt (58,136)			40,090
	Botany (44,742)	Manly (44,786)			
	Burwood (36,053)	Marrickville (83,356)			
	Camden (84,400)	Mosman (30,276)			
	Canada Bay (87,480)	Pittwater (63,338)			
	Canterbury (150,626)	Rockdale (108,073)			
	Holroyd (111,100)	Strathfield (39,481)			
	Hunters Hill (14,689)	Waverley (71,769)			
	Kogarah (146,916)	Woollahra (58,619)			
	Ku-ring-gai (120,978)				

Note: The Tribunal's determination extends to Regional Rural (32) and Rural (77) Councils. These are not included in the table.

Source: <http://www.remtribunals.nsw.gov.au/local-government/current-lgrt-determinations>;  
Population data from OLG's Merger proposals, and Department of Planning, sourced 18/1/16, <http://www.planning.nsw.gov.au/Research-and-Demography/Demography/Population-Projections>



Strategic Capacity Elements	Indicators	Responses
		Leichhardt Council leads on community consultation and environmental sustainability. For example, in 2012, the Council won the prestigious R.H. Doherty Award for Excellence in Community Consultation for the Callan Park Master Plan. Council has a continued focus on environmental sustainability as is only the second council in NSW to receive carbon neutral accreditation and the first council in NSW to divest from investments in financial institutions that invest with the fossil fuels industry.
	Council recognised as a leader in the community	Perhaps the best indicator is Council's bi annual community perception survey which rates : <ul style="list-style-type: none"> <li>• Councils overall performance at 89% for satisfactory or better</li> <li>• The community's quality of life at 98% above satisfactory</li> <li>• 69% of the community agreeing that Council encourages community participation and open government.</li> </ul>
	Level of community engagement	Leichhardt Council has a high level of community engagement as evidence by its community committees and local residents groups (Precincts). These committees are actively involved in policy and influencing the future direction of Council. Council has a strong track record engaging local residents. Measured in 2010, over 20% of residents had participated in a community consultation or attended a public or Council meeting, well above the state average of 7.6%. Residents participate online, in person, attend meetings, write submissions, and respond to surveys, as well as turning up to site visits, and participating in specialist Council Committees. Consultation for Fit for the Future engaged residents through social media, street-side consultation, surveys, and public meetings.



## ATTACHMENT 5

29 September 2000

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Signed and sealed at Sydney, this 13th day of September 2000.

By His Excellency's Command.

BOB DEBUS, M.P.,  
Attorney General, Minister for the Environment,  
Minister for Emergency Services,  
Minister for Corrective Services,  
and Minister Assisting the Premier on the Arts

GOD SAVE THE QUEEN!

### GEOGRAPHICAL NAMES ACT 1966

PURSUANT to the provisions of section 10 of the Geographical Names Act 1966, the Geographical Names Board has this day assigned the geographical name listed hereunder.

Assigned Name:	Pambalong Nature Reserve
Designation:	Reserve
L.G.A.:	City of Newcastle
Parish:	Hexham
County:	Northumberland
Latitude:	32°51'30"
Longitude:	151°37'00"
C.M.A. Map:	Beresfield
1:1000,000 Map:	Newcastle 9232
Reference:	GNB 4701
Assigned Name:	Ehlefeldt Reserve
Designation:	Reserve
L.G.A.:	Shire of Great Lakes
Parish:	Forster
County:	Gloucester
Latitude:	32°10'50"
Longitude:	152°30'30"
C.M.A. Map:	Forster
1:1000,000 Map:	Forster 9433
Reference:	GNB 4737

P. R. HARCOMBE,  
A/Chairman

Geographical Names Board,  
PO Box 143, Bathurst NSW 2795

### HERITAGE ACT 1977

Direction Pursuant to Section 34 (1) (a)  
To List an Item on the State Heritage Register  
44 Barden Street, Tempe - SHR No. 1412

IN pursuance of section 34 (1) (a) of the Heritage Act 1977, I, the Minister for Urban Affairs and Planning, having considered a recommendation of the Heritage Council of New South Wales, direct the Council to list the item of the environmental heritage specified in Schedule "A" on the State Heritage Register. This listing shall apply to the curtilage or site of the item, being the land described in Schedule "B".

ANDREW REFSHAUGE, M.P.,  
Minister for Urban Affairs and Planning

Sydney, 30 August 2000.

### SCHEDULE "A"

The property known as 44 Barden Street, Tempe, situated on the land described in Schedule "B".

### SCHEDULE "B"

All those pieces or parcels of land known as Lot 1, D.P. 195769, and within a curtilage that is limited to include the front quarter of the property as shown on the plan catalogued HC 1897, in the office of the Heritage Council of New South Wales.

### LOCAL GOVERNMENT ACT 1993

#### PROCLAMATION

GORDON SAMUELS, Governor  
I, the Honourable Gordon Samuels AC, CVO, Governor of the State of New South Wales, with the advice of the Executive Council, and in pursuance of Part 1 of Chapter 9 of the Local Government Act 1993, do, by this my Proclamation:

- declare that, on 1 December 2000, the Areas of Concord and Drummoyne are to be amalgamated so as to constitute a new area having the name the Area of Canada Bay, and
- declare that, on 1 December 2000, the boundaries of the Area of Canada Bay are the same as the combined boundaries of the former Areas of Concord (as described by proclamation in Government Gazette No. 54 of 10 April 1981) and Drummoyne (as described by proclamation in Government Gazette No. 54 of 10 April 1981), disregarding the parts of those boundaries that are common to both Areas, and
- declare that the provisions set out in the Schedule to this Proclamation are to apply, on 1 December 2000 (unless another date is stated), to the amalgamation effected by this Proclamation.

Signed and sealed at Sydney, this twenty seventh day of September 2000.

By His Excellency's Command,

HARRY WOODS, M.P.,  
Minister for Local Government

GOD SAVE THE QUEEN!

### Schedule

#### 1 Definitions

In this Schedule:

*amalgamation date* means 1 December 2000.

*former Area* means the former Area of Concord or the former Area of Drummoyne.

*former Council* means the Council of a former Area (including Canada Bay Local Government Enterprise).

*new Area* means the new Area of Canada Bay.

*new Council* means the City of Canada Bay Council.

*the Act* means the Local Government Act 1993.

#### 2 First election

- The date of the first election of the Councillors of the new Council is 2 December 2000.

NEW SOUTH WALES GOVERNMENT GAZETTE No. 127





WORKING WITH THE COMMUNITY



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(2) The election is taken to be an ordinary election of the Councillors for the purposes of the Act and any Regulation under the Act.

(3) For the purposes of:

(a) the entitlements of persons to be enrolled as electors for the new Area and to vote at the election, and

(b) the entitlements of persons to be nominated for election as Councillors for the new Area at the election, and

(c) the conduct of the election by the State Electoral Commissioner, and

(d) any other matter relating to the election, the new Area is taken to have been constituted on the date of publication of this Proclamation and, for the same purposes, on that date;

(e) a reference in any Act, in any instrument made under any Act or in any document to any of the former Areas is taken to include a reference to the new Area and is to be read as a reference to the new Area, and

(f) a reference in any Act, in any instrument made under any Act or in any document to any of the former Councils is taken to include a reference to the new Council and is to be read as a reference to the new Council.

## 3 Continuation in office of Councillors of former Councils

Subject to section 234 of the Act, all persons who, immediately before the amalgamation date, were Councillors of a former Council are to continue in office, as Councillors of the new Council, until 2 December 2000.

## 4 Number of Councillors

(1) The number of Councillors to be elected to the new Council at its first election is nine.

(2) Subclause (1) does not limit the power of the new Council to redetermine, after the first election of its Councillors, the number of its Councillors under section 224 of the Act.

## 5 First meeting of new Council

The first meeting of the new Council is to be held following the first election of Councillors of the new Council.

## 6 Election of Mayor following first election

(1) The Mayor of the new Council is to be elected by the Councillors as referred to in section 227(a) of the Act.

(2) A constitutional referendum to determine the basis on which the Mayor attains office is to be held on 2 December 2000.

## 7 Appointment of General Manager and other senior staff

(1) The new Council is not to appoint a General Manager until after the first election of its Councillors.

(2) If a contract, in force immediately before the amalgamation date, between a former Council and a senior staff member (including the General Manager) of that Council includes a provision requiring an

appointment to be made during a period commencing on an amalgamation of areas, the period is taken to commence on 2 December 2000.

(3) The operation of this clause is not to be regarded as a breach of contract between a former Council or the new Council and a senior staff member (including a General Manager).

## 8 Activities of former Councils

(1) Anything that was done or omitted to be done by a former Council, and that had effect immediately before the amalgamation date, continues to have effect as if it had been done or omitted to be done by the new Council.

(2) Anything that was commenced by a former Council may be completed by the new Council as if it had been commenced by the new Council.

(3) Without limiting subclause (1), any approval, order or notice that was given or made by a former Council, and that had effect immediately before the amalgamation date, continues to have effect as if it had been given or made by the new Council.

## 9 Delegations

Any delegation from a former Council that was in force immediately before the amalgamation date is taken to be a delegation from the new Council, and may be amended or revoked accordingly.

## 10 Codes, policies and plans

(1) Each of the following codes, policies and plans of the new Council is, as far as practicable, to be a composite of the corresponding codes, policies and plans of each of the former Councils:

- code of conduct (section 440),
- code of meeting practice (Division 1 of Part 2 of Chapter 12),
- local policies for approvals and orders (Part 3 of Chapter 7),
- expenses and facilities policy (Division 5 of Part 2 of Chapter 9),
- EEO management plan (Part 4 of Chapter 11),
- management plan (Part 2 of Chapter 13).

(2) Subclause (1) ceases to have effect in relation to a code, policy or plan of the new Council when that Council adopts a new code, policy or plan under the relevant provision of the Act.

## 11 Fees

(1) The annual fee paid to each Councillor of the new Council and the annual fee paid to the Mayor of the new Council is to be equal to the higher of the corresponding fees paid by the former Councils.

(2) Subclause (1) ceases to have effect in relation to an annual fee when the new Council fixes the annual fee in accordance with the appropriate determination of the Local Government Remuneration Tribunal.

NEW SOUTH WALES GOVERNMENT GAZETTE No. 127

Leichhardt Council



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## 12 Organisation structure

- (1) The organisation structure of the new Council is, as far as practicable, to be a composite of the organisation structures of each of the former Councils.
- (2) In particular, any position that, immediately before the amalgamation date, was a senior staff position in relation to a former Council is taken to be a senior staff position in relation to the new Council.
- (3) This clause ceases to have effect when a new organisation structure is determined by the new Council under Part 1 of Chapter 11 of the Act.

## 13 Transfer of staff

- (1) Each member of staff of a former Council (a *transferred staff member*) is transferred to the new Council.
- (2) The terms and conditions of employment of a transferred staff member (including terms and conditions as to remuneration and allowances) are, on the staff member being transferred, to be the same as those on which the staff member was employed by the former Council from which he or she was transferred.
- (3) The senior staff of each former Council are taken to be senior staff of the new Council.
- (4) For the purposes of any law under which a transferred staff member is entitled to benefits in connection with his or her service as a staff member of the new Council, including benefits in the nature of leave and superannuation entitlements, service by the staff member with the former Council from which he or she was transferred is taken to be service with the new Council, but not so as to entitle the staff member to multiple benefits of the same kind in respect of the same period of service.
- (5) Any award or industrial agreement applying immediately before the amalgamation date to a staff member employed by a former Council is to continue to apply to the staff member on being transferred to the new Council until the award or agreement ceases to apply.
- (6) Subject to the terms of any award or industrial agreement, whether arising before or after the amalgamation date:
  - (a) a transferred staff member is not to be dismissed or retrenched by the new Council on the ground of redundancy, and
  - (b) the terms and conditions on which a transferred staff member is employed by the new Council are not to be varied so as to render them less advantageous to the staff member than the terms and conditions referred to in subclause (2), and
  - (c) a transferred staff member is not to be required by the new Council to work outside the general locality in which the staff member was required to work by the former Council immediately before the transfer if such a requirement would cause the staff member to suffer unreasonable hardship, except at the request, or with the consent, of the staff member concerned.

## (7) The provisions of subclause (6):

- (a) do not apply to senior staff of the new Council, and
- (b) cease to have effect in relation to any other staff of the new Council on the date occurring 3 years after the amalgamation date.

## 14 Transfer of assets, rights and liabilities

- (1) The assets, rights and liabilities of the former Councils are transferred to the new Council.
- (2) The following provisions have effect in relation to any assets, rights or liabilities that are transferred by operation of subclause (1):
  - (a) the assets of the former Councils vest in the new Council by virtue of this clause and without the need for any further conveyance, transfer, assignment or assurance,
  - (b) the rights or liabilities of the former Councils become, by virtue of this clause, the rights or liabilities of the new Council,
  - (c) all proceedings relating to the assets, rights or liabilities commenced before the transfer by or against the former Councils or a predecessor of any of the former Councils, and pending immediately before the transfer, are taken to be proceedings pending by or against the new Council,
  - (d) any act, matter or thing done or omitted to be done in relation to the assets, rights or liabilities before the transfer by, to or in respect of the former Councils or a predecessor of any of the former Councils is (to the extent to which that act, matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of the new Council.

## (3) In this clause:

*assets* means any legal or equitable estate or interest (whether present or future and whether vested or contingent) in real or personal property of any description (including money), and includes securities, choses in action and documents.

*liabilities* means any liabilities, debts or obligations (whether present or future and whether vested or contingent), and includes liabilities relating to criminal acts.

*rights* means any rights, powers, privileges or immunities (whether present or future and whether vested or contingent).

## 15 General provisions with respect to transfers

- (1) A transfer effected by this Schedule takes effect on the amalgamation date.
- (2) The Minister may, by notice in writing, confirm a transfer effected by this Schedule.
- (3) Such a notice is conclusive evidence of the transfer.

## 16 Effect of transfer on third party rights

- (1) The operation of clause 14 (Transfer of assets, rights and liabilities) is not to be regarded:
  - (a) as an event of default under any contract or other instrument, or

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- (b) as a breach of contract or confidence or otherwise as a civil wrong, or
- (c) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities, or
- (d) as giving rise to any remedy by a party to an instrument, or as causing or permitting the termination of any instrument, because of a change in the beneficial or legal ownership of any asset, right or liability.
- (2) No attornment to the new Council by a lessee from the former Council is required in relation to a transfer effected by clause 14.
- (3) No compensation is payable to any person or body in connection with a transfer effected by clause 14.
- (4) Subclause (3) does not affect the rights of any person or body in connection with the early termination of a contract between a former Council and that person or body.

17 Council records and reports

- (1) Until 30 June 2001:
  - (a) the new Council's records may be kept:
    - (i) as a single set of records, or
    - (ii) as a continuation of the records of each of the former Councils, and
  - (b) if the new Council's records are kept as a continuation of the records of each of the former Councils, the new Council's financial transactions are to be apportioned between the various accounting records in such manner as the Council determines.
- (2) The new Council's financial reports for the year ending 30 June 2001 are to be prepared:
  - (a) if the new Council's records are kept as a single set of records, in the form of a single report for the records for the whole of that year, or
  - (b) if the new Council's records are kept as a continuation of the records of each of the former Councils, in the form of separate reports for each set of records for the whole of that year.
- (3) In this clause, *records* includes accounting records.

18 Reports and reviews of new Council

A duty of the new Council under any Act, including a duty to report or review, which relates to a period before the amalgamation date, is to be performed by reference to the former Areas and the former Councils, as appropriate.

19 Statement of Intent

In proposing the amalgamation, the former Councils have asked that the new Council take account of their following views:

- The intention of the amalgamation is not to reduce staff numbers as a result of the amalgamation.
- The rating structures of the former Councils should be reviewed in the first term of the new Council.

MARITIME SERVICES ACT 1935

Notification

Limitation of Speed of Vessels within Certain Navigable Waters

THE Waterways Authority (the Authority), in pursuance of the provisions of Section 13SA of the Maritime Services Act 1935, does, from the date of publication of this notification in the Government Gazette REVOKE the notification appearing in Government Gazette No. 94 of 15 August 1969 which limits the speed of vessels in the area described as Lake Macquarie (Crouds Bay) Area.

Dated this 26th day of September 2000.

MATTHEW TAYLOR,  
Chief Executive  
Waterways Authority

MARITIME SERVICES ACT 1935

Limitation of Speed of Vessels Within Certain Navigable Waters

THE Waterways Authority (the Authority), in pursuance of the provisions of section 13SA of the Maritime Services Act 1935, does, from the date of publication of this notification in the Government Gazette:

- (a) Revoke the notification appearing in Government Gazette No. 134 of 22 November 1996 which limits the speed of vessels in the area described as Chaffey Dam (Northern) Area and Chaffey Dam (Southern) Area; and
- (b) Limit the speed of vessels of the Class set out hereunder in the area of navigable waters described in the First Column of the "Table of Area and Maximum Speed" set out hereunder, to a speed not exceeding that stated opposite that area in the Second Column of that "Table of Area and Maximum Speed"

Class: All vessels propelled by mechanical power, except vessels engaged in an activity authorised under an Aquatic Licence issued by the Waterways Authority pursuant to Clause 8 of the Water Traffic Regulations - NSW

TABLE OF AREA AND MAXIMUM SPEED

First Column	Second Column
<u>Chaffey Dam (Northern) Area:</u> The navigable waters of that part of Chaffey Dam enclosed between the dam wall and spillway and a line commencing from a point on the western shore approximately six hundred and fifty (650) metres from that dam wall and spillway in a generally south easterly direction to a point on the opposite eastern shore approximately two hundred (200) metres from that dam wall and spillway.	Eight Knots

NEW SOUTH WALES GOVERNMENT GAZETTE No. 127



**ITEM 2.2**                      **DRAFT AMENDMENTS TO THE CODES SEPP TO EXPAND  
COMPLYING DEVELOPMENT TO INCLUDE TWO STOREY  
MEDIUM DENSITY HOUSING TYPES**

<b>Division</b>	Environment and Community Management
<b>Author</b>	Team Leader Strategic Planning
<b>Meeting date</b>	9 February 2016 Policy Meeting
<b>Strategic Plan Key Service Area</b>	Community well-being Accessibility Place where we live and work A sustainable environment

**SUMMARY AND ORGANISATIONAL IMPLICATIONS**

<b>Purpose of Report</b>	<p>The Department of Planning and Environment is examining opportunities to provide greater housing choice and better design for medium density housing across NSW. They are seeking to achieve this by broadening the range of development types that can be carried out as complying development under the <i>State Environmental Planning Policy (Exempt and Complying Codes) 2008</i>.</p> <p>This report seeks endorsement of a submission to the Department on the proposed amendments to the policy to expand complying development to include two storey medium density housing types.</p>
<b>Background</b>	<p>The <i>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008</i> is a State-wide policy which sets out the specific forms of development that can be undertaken as either exempt or complying development. Currently the complying development policy provisions relate to dwelling houses, rural housing, commercial and industrial development, subdivision, demolition, fire safety, signage and some minor ancillary forms of development. They do not provide for many, if any, forms of multiple dwellings.</p> <p>The Department has released a Discussion Paper which identifies three medium density housing types which are proposed to be complying development. They include:</p> <ul style="list-style-type: none"> <li>• Development resulting in 2 dwellings (dual occupancies) on a single lot with a minimum lot size of 400sqm.</li> <li>• Development resulting in 3-4 dwellings (manor homes) on a single lot with a</li> </ul>

	<p>minimum lot size of 500sqm.</p> <ul style="list-style-type: none"> <li>Development resulting in 3-10 dwellings on a single lot with a minimum lot size of 600sqm.</li> </ul>
<b>Current Status</b>	The Discussion Paper and accompanying documentation was on exhibition from 27 November 2015 to 31 January 2016. Council has been granted an extension to 12 February 2016 for its submission
<b>Relationship to existing policy</b>	Amendments to Council's Development Control Plan may be appropriate if the proposed changes to the policy are implemented.
<b>Financial and Resources Implications</b>	NIL
<b>Recommendation</b>	<p>That Council:</p> <ol style="list-style-type: none"> <li>1. Receive and note the information provided in this report; and</li> <li>2. Endorse the submission, as outlined in <b>Attachment 1</b>, to the Department of Planning and Environment in relation to the Discussion Paper on Expanding Complying Development controls to include two storey medium density housing types.</li> </ol>
<b>Notifications</b>	NIL
<b>Attachments</b>	<ol style="list-style-type: none"> <li>1. Proposed Submission to the NSW Department of Planning and Environment, Options for Low Rise Medium Density Housing as Complying Development.</li> <li>2. Discussion Paper Volume 1</li> <li>3. Discussion Paper Volume 2</li> <li>4. Expanding Complying Development FAQs</li> </ol>

## Purpose of Report

The Department of Planning and Environment is examining opportunities to provide greater housing choice and better design for medium density housing across NSW. They are seeking to achieve this by broadening the range of development types that can be carried out as complying development under the *State Environmental Planning Policy (Exempt and Complying Codes) 2008*.

This report seeks endorsement of a submission to the Department of Planning and Environment on the proposed amendments to the policy. The submission raises concerns over the proposal to expand complying development to include two storey medium density housing types.

## Recommendation

That Council:

1. Receive and note the information provided in this report; and
2. Endorse the submission, as outlined in **Attachment 1**, to the Department of Planning and Environment in relation to the Discussion Paper on Expanding Complying Development to include two storey medium density housing types.

## Background

The *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* is a State-wide policy which sets out the specific forms of development that can be undertaken as either exempt or complying development. Currently the complying development policy provisions relate to dwelling houses, rural housing, commercial and industrial development, subdivision, demolition, fire safety, signage and some minor ancillary forms of development. They do not provide for many, if any, forms of multiple dwellings.

The Department of Planning and Environment has released a Discussion Paper which identifies three medium density housing types which are proposed to be complying. They include:

- development resulting in 2 dwellings (dual occupancies) on a single lot with a minimum lot size of 400sqm;
- development resulting in 3-4 dwellings (manor homes) on a single lot with a minimum lot size of 500sqm;
- development resulting in 3-10 dwellings on a single lot with a minimum lot size of 600sqm.

## Report

### Medium Density Housing as Complying Development

This section provides an outline of the proposed changes to the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*. The proposed changes respond to an identified gap in the current State Policy for medium density



housing. The proposed changes to medium density housing would cover town houses, manor homes, multi- unit housing and dual occupancies. The Discussion Paper (**Attachment 2 and 3**) is canvassing options for allowing some of these developments as “complying developments”.

The proposed forms of complying development are intended to maintain a manageable built form and ensure that any development undertaken will fit into an existing residential streetscape. Central to this is the focus on a maximum of 2 storey (8.5m) height limit across all forms of the development with the exclusion of attics. These are grouped into three categories of dwellings which are defined in the following section.

### **The Three Categories of Medium Density Development proposed as Complying Development**

The following categories of medium density development have been identified. Potential built form controls have been developed for each category in the form of primary standards, design standards and amenity standards. The most relevant controls for the purposes of this report have been summarised for each of the three categories of development as follows:

#### Category 1 | Development resulting in 2 dwellings on a single lot with a minimum lot size of 400sqm

Development in the form of the following is included:

- side by side ( semi-detached or attached dual occupancy);
- one behind the other (attached or detached dual occupancy); and
- one on top of the other (traditional duplex form or attached dual occupancy).

Key controls:

**Table 1 | Key Controls for Category 1 of the proposed Complying Development Form.**

Control	Standard
Minimum lot size	400sqm
Site frontage	12.5m if the second dwelling is behind a front dwelling or in a ground floor/first floor configuration. 15m where the dwellings are side by side.
Maximum building height	8.5m
Floor to ceiling height for habitable rooms	2.7m
Front setback	4.5m or the average of the adjoining properties.
Garage or Carport setback	1m behind the front building line.
Rear setback	6m or 25% of the average of the side boundary lengths.
Minimum side setback	<ul style="list-style-type: none"> <li>• 900mm and any building is to be wholly located within a plane projected at 45 degree at a height of 5.5m or</li> <li>• 1.2m to a wall height of up to 6.7m.</li> </ul>

Control	Standard
Minimum landscaped area	30% of the site area with a minimum width of 1.5m.
Minimum driveway setback	1m from side boundary.
Minimum private open space	<ul style="list-style-type: none"> <li>• 24sqm with minimum dimensions of 4m at ground level.</li> <li>• Above ground balconies have a minimum area of 12sqm with a minimum dimension of 2.4m.</li> </ul>
Minimum lot size for subdivision	200sqm for Torrens title subdivision after a dual occupancy has been constructed.

**Category 2 | Development resulting in 3-4 dwellings (manor homes) on a single lot with a minimum lot size of 500sqm**

There is currently no definition of “manor homes” in the standard instrument. The only definition currently available is in the State Environmental Planning Policy (Sydney Region Growth Centres) 2006:

*Manor home means a 2-storey building containing 4 dwellings, where:*

- (a) *each storey contains 2 dwellings, and*
- (b) *each dwelling is on its own lot (being a lot within a strata scheme or community title scheme), and*
- (c) *access to each dwelling is provided through a common or individual entry at ground level, but does not include a residential flat building or multi dwelling housing.*

*Note. Manor homes are a type of residential accommodation—see the definition of that term in this Dictionary.*

The *Leichhardt Local Environmental Plan 2013* does not currently define this specific land use. This definition would need to be amended and then included in the standard instrument so that it is incorporated in the *Leichhardt Local Environmental Plan 2013*.

Key controls:

**Table 2 | Key Controls for the Category 2 of the proposed Complying Development Form.**

Control	Standard
Minimum lot size	500sqm
Minimum frontage	15m
Maximum building height	8.5m
Floor to ceiling height for habitable rooms	2.7m

Control	Standard
Front setback	4.5m or the average of the adjoining properties.
Garage or Carport setback	1m behind the front building line.
Rear setback	6m or 25% of the average of the side boundary lengths.
Minimum side setback	1.5m and any building is to be wholly located within a plane projected at 45 degree at a height of 5.5m.
Minimum landscaped area	30% of the site area with a minimum width of 1.5m.
Minimum driveway setback	<ul style="list-style-type: none"> <li>1m from side boundary,</li> <li>No more than 1 driveway for each street frontage is permitted.</li> </ul>
Minimum private open space	<ul style="list-style-type: none"> <li>24sqm with minimum dimensions of 4m at ground level.</li> <li>Above ground balconies have a minimum area of 12sqm with a minimum dimension of 2.4m.</li> </ul>
Dwelling orientation	No dwellings can be orientated to the side boundaries, including living rooms and kitchens.
Car parking	The minimum car parking requirements set out in the Guide to Traffic Generating Development or the car parking requirement prescribed by the council development control plan, whichever is less.
Excavation	<p>Must comply with any setback requirements and for excavation &gt; 1m a design and methodology must be certified by a geotechnical engineer.</p> <p>At a minimum any basement would be setback 2m from side boundaries, 4.5m from the front boundary and 6m from the rear.</p>
Subdivision	Strata subdivision will be permitted after the building is constructed.

**Category 3 | Development resulting in 3-10 dwellings (a combination of development types such as a dual occupancy and a manor home) on a single lot with a minimum lot size of 600sqm**

This category includes multi-dwelling housing as defined in the Standard LEP as “3 or more dwellings (whether attached or detached) on one lot of land, each with access at ground level, but does not include a residential flat building”. This category includes a combination of development types resulting in 3-10 dwellings on a single lot. The example provided in the Discussion Paper is a dual occupancy and a manor home on the same lot.

Key controls:

**Table 3 | Key Controls for the Category 3 of the proposed Complying Development Form.**

Control	Standard
Minimum lot size	600sqm
Minimum frontage and depth	18m wide and 33.4m deep



Control	Standard
Maximum building height	8.5m
Floor to ceiling height for habitable rooms	2.7m
Front setback	4.5m
Garage or Carport setback	1m behind the front building line with no more than 1 driveway crossing per development.
Rear setback	6m or 25% of the average of the side boundary lengths.
Minimum side setback	2m and any building is to be wholly located within a plane projected at 45 degree at a height of 5.5m.
Minimum landscaped area	30% of the site area with a minimum width of 1.5m.
Minimum driveway setback	1m from side boundary.
Minimum private open space	24sqm with minimum dimensions of 4m at ground level.
Internal Separation	6m between dwellings.
Dwelling orientation	No dwelling can be orientated towards a side boundary.
Car parking	The minimum car parking requirements set out in the Guide to Traffic Generating Development or the car parking requirement prescribed by the council development control plan, whichever is less.
Excavation	<ul style="list-style-type: none"> <li>• Must comply with any setback requirements and for excavation greater than 1m a design and methodology must be certified by a geotechnical engineer.</li> <li>• The maximum depth of excavation is to be 4m.</li> <li>• At a minimum any basement would be setback 2m from side boundaries, 4.5m from the front boundary and 6m from the rear.</li> </ul>
Subdivision	Strata subdivision will be permitted after the building is constructed.

### Affected Lots in Leichhardt Local Government Area

There are a variety of land uses already permitted in the *Leichhardt Local Environmental Plan 2013* that mirror the development proposed in the Discussion Paper. The key change is that they will potentially be allowed as complying development instead of requiring development consent via a development application. They include the following land use definitions:

**Attached dwelling** means a building containing 3 or more dwellings, where:

- each dwelling is attached to another dwelling by a common wall, and
- each of the dwellings is on its own lot of land, and
- none of the dwellings is located above any part of another dwelling.

*Note. Attached dwellings are a type of residential accommodation—see the definition of that term in this Dictionary.*

**Dual occupancy** means a dual occupancy (attached) or a dual occupancy (detached).

*Note. Dual occupancies are a type of residential accommodation—see the definition of that term in this Dictionary.*

**Dual occupancy (attached)** means 2 dwellings on one lot of land that are attached to each other, but does not include a secondary dwelling.

*Note. Dual occupancies (attached) are a type of dual occupancy—see the definition of that term in this Dictionary.*

**Dual occupancy (detached)** means 2 detached dwellings on one lot of land, but does not include a secondary dwelling.

*Note. Dual occupancies (detached) are a type of dual occupancy—see the definition of that term in this Dictionary.*

**Multi dwelling housing** means 3 or more dwellings (whether attached or detached) on one lot of land, each with access at ground level, but does not include a residential flat building.

*Note. Multi dwelling housing is a type of residential accommodation—see the definition of that term in this Dictionary.*

**Secondary dwelling** means a self-contained dwelling that:

- (a) is established in conjunction with another dwelling (the principal dwelling), and
- (b) is on the same lot of land as the principal dwelling, and
- (c) is located within, or is attached to, or is separate from, the principal dwelling.

*Note. See clause 5.4 for controls relating to the total floor area of secondary dwellings.*

*Secondary dwellings are a type of residential accommodation—see the definition of that term in this Dictionary.*

**Semi-detached dwelling** means a dwelling that is on its own lot of land and is attached to only one other dwelling.

*Note. Semi-detached dwellings are a type of residential accommodation—see the definition of that term in this Dictionary.*

The existing exclusions where complying development cannot be carried out are proposed to be retained. These provisions are contained within the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* and relate to a range of provisions set out in Clause 1.17, 1.17A, 1.18 and 1.19. The general exclusions which are most relevant to Leichhardt include:

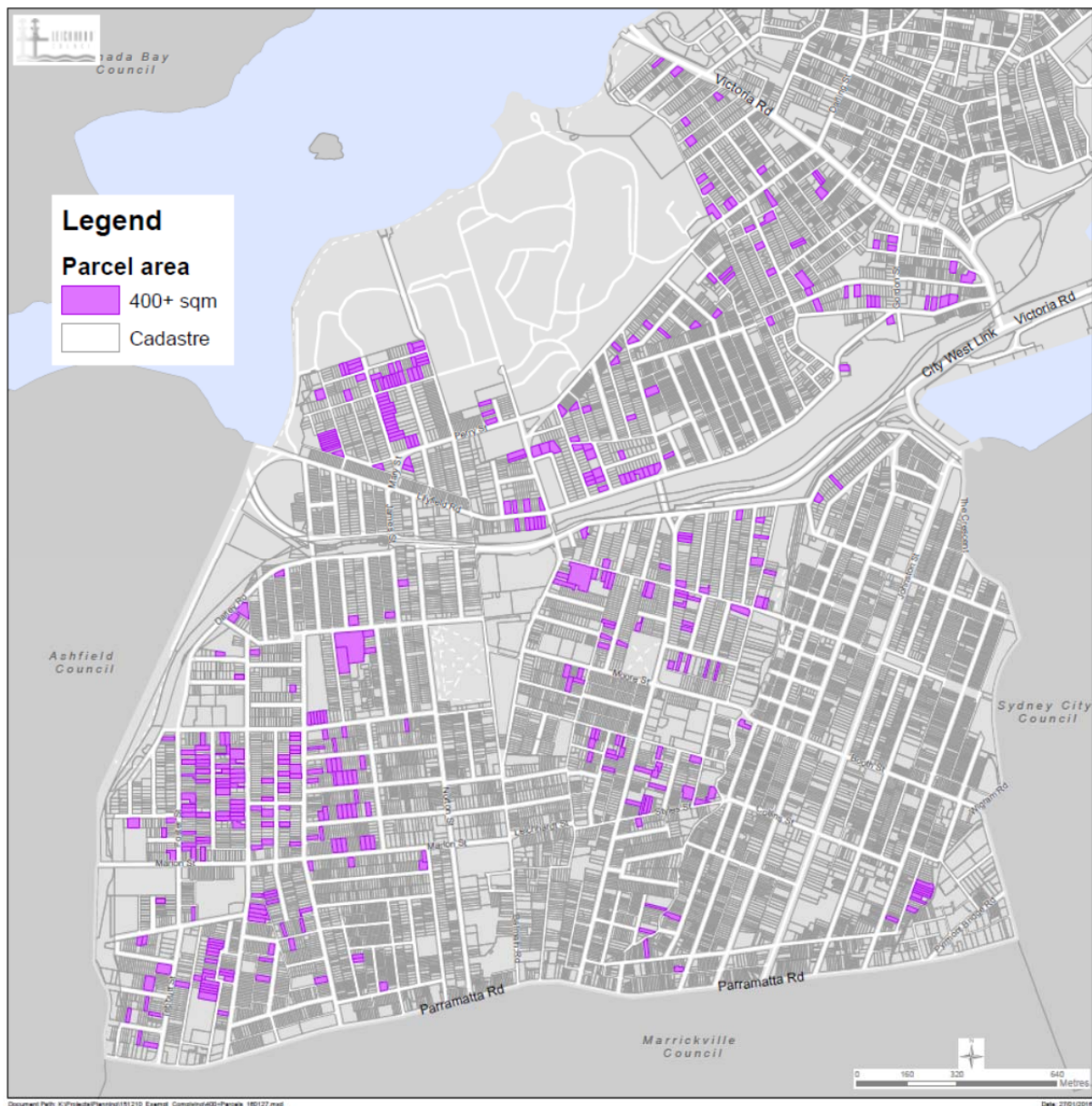
- all environmentally sensitive land;
- all heritage items, draft or interim heritage items and heritage conservation areas;
- Acid Sulfate Soils class1 or 2 soils;
- coastal hazard lands and foreshore lands; and
- 25 ANEF contour or higher.

The proposed controls will only apply to land zoned for residential purposes, in this instance zoned either R1 General Residential or R3 Medium Density Residential.

The following map provides an indicative illustration of the areas of Leichhardt Local Government Area which are likely to be affected by the proposed changes, based on the exclusions stated in the Discussion Paper. Figure 1 (below) shows the lots that would meet the proposed requirements by being 400sqm or more.

It should be noted that large 400+sqm lots that have already been developed or have development consent for medium or high density residential development are not shown on the map. These include the ANKA site at Terry Street, Rozelle and the 141 -159 Allen Street site in Leichhardt.

Lots which are less than 400sqm may be affected if amalgamated to form lots that are larger than 400sqm. Council may be able to resist this as amalgamations would require development consent. Consequently as is evident from the map, 3.1% of the Local Government Area could be directly affected should these draft proposals be implemented.





## Figure 1: Lots in Leichhardt LGA that meet the proposed requirements by being 400sqm or more

### Leichhardt Council Controls for Medium Density Housing

In order to arrive at the proposed controls for the three categories of medium density development, a review was undertaken of the current legislation and 12 councils were selected to provide a comparison of the development controls which applied to this form of development. Leichhardt was not included in the councils selected.

The following primary controls were considered to inform the Discussion Paper:

- minimum site area;
- maximum building height;
- maximum floor space ratio;
- site width;
- front setbacks;
- side setbacks;
- rear setbacks;
- wall heights and side boundary setbacks;
- landscaped area provision;
- car parking; and
- solar access.

These provisions have been considered in relation to Leichhardt Planning controls for the relevant forms of development. **Table 4** provides a comparison of the specific provisions contained within the *Leichhardt Local Environmental Plan 2013* and the *Leichhardt Development Control Plan 2013* and specific controls outlined in the Discussion Paper.

Please note the controls have only been included where a clear comparison is available.

**Table 4 | Comparison of Leichhardt Planning Controls and the proposed controls contained in the Discussion Paper.**

Control	Leichhardt	Discussion Paper
Minimum site area	The size of any lot resulting from a subdivision of land is not to be less than <b>200sqm</b> .	<b>400sqm</b> with suggested provisions to allow Torrens title subdivision after construction of 2 dwellings on a lot.
Maximum	Not adopted	8.5m

Control	Leichhardt	Discussion Paper
building height		
Maximum floor space ratio	0.5:1 – 0.7:1 generally.	Not included.
Site width	Not specified.	12.5m -18m
Front setbacks	The average of the two adjoining properties.	4.5m or the average of the adjoining properties.
Side setbacks	<p>0m up to 2.8m walls</p> <p>2.8m for 8.5m height (based on a sliding scale)</p> <p>With a roof pitch of between 30 and 45 degrees.</p>	<p>Category 1:</p> <ul style="list-style-type: none"> <li>• 900mm and any building is to be wholly located within a plane projected at 45 degree at a height of 5.5m; or</li> <li>• 1.2m to a wall height of up to 6.7m.</li> </ul> <p>Category 2:</p> <ul style="list-style-type: none"> <li>• 1.5m and any building is to be wholly located within a plane projected at 45 degree at a height of 5.5m.</li> </ul> <p>Category 3:</p> <ul style="list-style-type: none"> <li>• 2m and any building is to be wholly located within a plane projected at 45 degree at a height of 5.5m.</li> </ul>
Rear setbacks	Average of adjoining buildings.	6m or 25% of the average of the side boundary lengths.
Wall heights and side boundary setbacks	<p>2.4m for a single storey building.</p> <p>A maximum of 7.2m wall height for two storeys.</p>	Total height of 8.5m
Landscaped area provision	<p>Soft landscaping within the front and rear of the site.</p> <p>For private open space:</p> <p>16sqm with minimum dimensions of 3m and not in the front setback.</p>	<p>30% of the site area with a minimum width of 1.5m.</p> <p>For private open space:</p> <p>24sqm with minimum dimensions of 4m at ground level;</p> <p>above ground balconies have a minimum area of 12sqm with a minimum dimension of 2.4m.</p>
Car parking	<p>Single Dwelling- no minimum.</p> <p>1 bed units - 1 space per 3 dwellings.</p> <p>2 bed room unit – 1</p>	The minimum car parking requirements set out in the Guide to Traffic Generating Development or the car parking requirement prescribed by the council development control plan, whichever is

Control	Leichhardt	Discussion Paper
	space per 2 dwellings. 3+ bed units – 1 space per dwelling.	less.
Solar access	Between 2 to 3 hours for June 21 (dependent on the orientation of the site)	None are prescribed.

Generally, the approach identified in Councils controls is based on a site specific, merit based assessment for compatibility. As seen in **Table 4** above, the controls often relate to the adjoining buildings and the context of the site, in terms of orientation, dimensions and location. Although a degree of these context based controls are incorporated in the Discussion Paper controls provided (**Attachment 2 and 3**), this aspect has largely been lost.

### Summary/Conclusions

A Discussion Paper has been prepared to present potential amendments to the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2009*. The Discussion Paper (**Attachment 2 and 3**) identifies a perceived gap in the legislation for residential development in relation to particular forms of medium density to be complying development.

The Discussion Paper (**Attachment 2 and 3**) outlines specific controls for these forms of development, which are intended to maintain an appropriate character in low to medium density residential areas. It also poses a series of technical questions, which are addressed in the draft submission. A maximum of 8.5m height has been suggested for all applicable development. The Discussion Paper (**Attachment 2 and 3**) was on exhibition from 27 November 2015 to 31 January 2016.

The Discussion Paper (**Attachment 2 and 3**) has been reviewed in relation to the potentially affected areas of Leichhardt Local Government Area with reference to the current controls for these forms of development. A submission has been prepared and provided as **Attachment 1** to this report which sets out the main areas that raise concern for future development in Leichhardt.

The matters which have been raised include:

- Lands Affected in Leichhardt Council – the concern that areas of less than 400sqm may be consolidated and developed under complying development. This will increase pressure to demolish existing development and promote amalgamation of parcels. Amalgamated lots could potentially be out of character with nearby allotments of a finer grain.
- Consistency with the Existing Controls and Character – the existing Leichhardt built form controls allow for merit based assessments based on:
  - discretion and focus on the context of a site rather than numeric controls for development assessments; and



- the relationship between lot size and development scale.  
These key aspects of assessment would be removed from the assessment process for complying development.
- Basement Car parking – allowing basement car parking for the two categories of development with higher densities would have significant and negative impacts on streetscapes.
- General Character Impacts - there are significant concerns that the proposed provisions for the form of development outlined in the discussion paper will not adequately protect the established character of the areas in which this form of development will be allowed.
- Discussion Questions – each of the discussion questions were responded too in the same vain as the above points and the existing controls in Leichhardt. The concern that there would be significant implications of the proposed controls not protecting the character of an area is reinforced.

In general, the proposed amendments to *State Environmental Planning Policy (Exempt and Complying Development Codes) 2009* could present a viable means of facilitating development and providing additional housing in NSW, particularly in Sydney. The controls proposed are generally consistent with current controls in the *Leichhardt Development Control Plan 2013*, however, the proposed changes would remove the opportunity to undertake merit assessments based on the context of sites. Whilst this is an obvious outcome of shifting this form of development to “complying development”, it is the Council's position that not all aspects of development proposed in the Discussion Paper (**Attachment 2 and 3**) would be appropriate in Leichhardt Council area without a merit assessment.

The *Leichhardt Development Control Plan 2013* in particular is set up in such a way as to allow Council's assessment officers to approach assessment on a merit basis with a limited number of numeric controls. This promotes a focus on the adjoining properties and the surrounding character to inform new developments. The proposed changes do not allow scope for Council's current approach, nor any discretion on the appropriateness of a design based on its specific context. This has the potential to have an impact on the future character objectives for areas established by the *Leichhardt Development Control Plan 2013*.

The submission also raises a key concern that smaller lots could be amalgamated to create the required minimum lot size for medium density complying development. This could then result in changes to the character of the area. Leichhardt Council has a rich and considerable history in non-heritage listed areas which are nonetheless reflective of past times in terms of subdivision pattern, small streets, rear lanes and older buildings. This history means the context of the individual properties should inform the design process for particular developments. There is concern that this unique fabric may be eroded with Council having no ability to undertake merit assessments if blanket controls based on site area were to apply.

To address these matters some provision should be made to justify the appropriateness of the proposed development in terms of the established character. This character test would provide some level of security against inappropriate development, but should be clearly defined to remove the opportunity for generic statements which fail to properly justify a design. This approach is not one that is

easily facilitated as “complying” development. As a result, there would be forms of development in Leichhardt that would not be dealt with appropriately by the Codes SEPP.

Notwithstanding, this approach has been adopted in several existing infill style Planning Policies. These include the *State Environmental Planning Policy (Affordable Rental Housing) 2009* and *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*. These policies guide the character and context for future infill development. Accordingly, there may be more appropriate mechanisms via a State Policy with an accompanying document, such as the *Apartment Design Guide*, to allow the two categories of medium density that allow greater densities within area, but only if a contextual assessment is required.

Generally, the nature of the proposed complying development would be forms of development which are more minor in terms of environmental impacts than that of development requiring a development approval. Given the above discussion it is considered that the proposed categories would not all be implemented easily in Leichhardt and as a result the higher density outcomes in the Discussion Paper (**Attachment 2 and 3**) should not be considered as complying forms in Leichhardt.

## Attachments

1. Proposed Submission to the NSW Department of Planning and Environment, Options for Low Rise Medium Density Housing as Complying Development.
2. Discussion Paper Volume 1 (**this attachment will be circulated separately and available on Councillors ipads and on Council's website**)
3. Discussion Paper Volume 2 (**this attachment will be circulated separately and available on Councillors ipads and on Council's website**)
4. Expanding Complying Development FAQs

willana  
associates

Submission to the  
NSW Department of Planning and  
Environment

by  
Leichhardt Council



Options for Low Rise Medium  
Density Housing as Complying  
Development

urban planning  
project management



Submission to the  
NSW Department of Planning and  
Environment

Options for Low Rise Medium Density  
Housing as Complying Development

prepared for  
Leichhardt Council



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## appendix

**Appendix A | Map indicating the lands affected by the proposed changes to the Codes SEPP in the Leichhardt Local Government Area.**

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## 1 executive summary

Leichhardt Council (Council) commissioned Willana Associates Pty Ltd (Willana) to provide a high-level, appraisal of the Department of Planning and Environment's Discussion Paper titled *"One Part of the 'Missing Middle' – Volume 1 Discussion Paper November 2015 – Options for Low Rise Medium Density Housing as Complying Development"* (the Discussion Paper). Willana has prepared this submission to the Department of Planning and Environment on behalf of Council.

In order to inform this submission the proposed changes were reviewed in relation to:

- the potential area affected in Leichhardt Local Government area,
- the current controls in place for this form of development, and
- the assessment process and considerations for medium density development currently employed.

The key issues raised in this submission relate to the removal of any discretion in the assessment process for this form of development. Council has a rich history which is visually evident in the landscape and significantly defines the character of the area. The proposed controls fail to provide an assessment mechanism to ensure that this form of development maintains the significant character of a specific area. Leichhardt Council's current planning controls seek to protect, maintain and enhance this character through well considered planning controls.

Of particular concern is the possibility that these amendments may encourage small lot amalgamations. The resultant development on bigger lots would significantly alter the character of an area with no safe guards included within the proposed changes to protect against this outcome.

The objective to increase the scope of residential development included as complying development and free up Council assessments for proposal which require an additional level of consideration is broadly supported. Despite this, the suggested amendments and built form controls fail to adequately protect the character and context of the area within which the proposed complying development would be permitted.

This report has also provided a response to each of the *"What do you think?"* sections in the Discussion Paper.



## 2 introduction

The NSW Department of Planning and Environment (the Department) has published a Discussion Paper and Background Paper on expanding complying development to include two storey medium density housing types. Submissions can be made up to 31 January 2016 and Council has been permitted an extension to provide their submission by 12 February 2016.

Council has engaged Willana to review the published documentation and consider the implications of the proposed changes in relation to the Leichhardt Local Government Area. Accordingly, this submission has been prepared in response to the proposed changes outlined in the Discussion Paper.

The Discussion Paper has identified three categories of medium density development, consisting of the following:

- Development resulting in 2 dwellings on a single lot size of 400sqm;
- Development resulting in 3-4 dwellings on a single lot with a minimum lot size 500sqm; and
- Development resulting in 3-10 dwellings on a on a single lot with a minimum of 600sqm

For each of these forms of development specific controls have been proposed to be integrated in to the *State Environmental Planning Policy (Exempt and Complying Codes) 2009* (Codes SEPP). It is the potential impacts to the built form fabric and character of the Leichhardt area that forms the basis of this Submission.

## 3 the issues

This section outlines the areas which, based on the review of the available information, are of particular concern to Council. The main concerns, which relate to the lack of clarity around the affected lands and the potential implications on the character of the Leichhardt area, have been explained in some detail. In addition, the questions posed in the Discussion Paper under the heading of "*What do you think?*" have been individually addressed.

### 3.1.1 Lands Affected in Leichhardt Council

There is a degree of uncertainty on the extent of lands that will be affected in Leichhardt Local Government Area due to the preliminary nature of the Discussion Paper. Based on the information available the following exclusions were applied to determine the land likely to be affected:

- The range of provisions set out in Clause 1.17, 1.17A, 1.18 and 1.19. With particular note to those most relevant to Leichhardt being:
  - All environmentally sensitive land,
  - All heritage items, draft or interim heritage items and heritage conservation areas,
  - Acid Sulfate Soils class 1 or 2 soils,
  - Coastal hazard lands and foreshore lands, and
  - 25 ANEF contour or higher.
- All other zones except for land zoned either R1 General Residential or R3 Medium Density Residential.

Based on this information **Appendix A** was prepared to illustrate the affected areas. The map shows the lots greater than 400sqm to which the changes to the Code SEPP will apply. It should be noted that large 400+sqm lots that have already been developed or have development consent for medium or high density residential development are not shown on the map. These include the ANKA site at Terry Street, Rozelle and the 141 - 159 Allen Street site in Leichhardt.

### 3.1.2 Potentially Affected Land

Allotments less than 400sqm which could potentially be amalgamated and could also be affected by the changes. Although development consent is likely to be required for such amalgamations, there is concern that amalgamation could significantly impact on the character of an area. It is important to Council that safeguards be included in the Codes SEPP that ensure that the proposed controls protect against this outcome. A major contributor to the character of the area is the fine grain of development in various locations. The ability to consolidate allotments and then execute complying development

in the form of small scale medium density buildings may have major impacts on that character by encouraging larger buildings unsympathetic to that character.

### 3.1.3 Consistency with the Existing Controls and Character

#### Comparison of Controls

It was noted that 12 sample councils were used to inform the Discussion Paper. Leichhardt Council was not included as a case study. Hence a comparison of the planning outcomes was required to inform this submission. The Background Paper states that the following controls were primarily considered to inform the Discussion Paper and these controls have been the focus of the comparison with the Leichhardt controls:

- Minimum site area
- Maximum building height
- Maximum floor space ratio
- Site width
- Front setbacks
- Side setbacks
- Rear setbacks
- Wall heights and side boundary setbacks
- Landscaped area provision
- Car parking
- Solar access

**Table 3.1** provides a comparison of the specific provisions contained within the *Leichhardt Local Environmental Plan 2013* and the *Leichhardt Development Control Plan 2013* which affect these forms of development in Leichhardt Council.

**Table 3.1 | Comparison of Leichhardt Planning Controls and the proposed controls contained in the Discussion Paper.**

Control	Leichhardt	Discussion Paper
Minimum site area	The size of any lot resulting from a subdivision of land is not to be less than 200sqm	400sqm with suggested provisions to allow Torrens title subdivision after construction for 2 dwellings on a lot.
Maximum building height	Not adopted	8.5m
Maximum floor space ratio	0.5:1 – 0.7:1 generally	Not included
Site width	Not specified	12.5m -18m
Front setbacks	The average of the two	4.5m or the average of the adjoining properties.

Options for Low Rise Medium Density Housing as Complying Development | Leichhardt Council Submission



Control	Leichhardt	Discussion Paper
	adjoining properties.	
Side setbacks	0m up to 2.8m walls 2.8m for 8.5m height (based on a sliding scale) With a roof pitch of between 30 and 45 degrees.	Category 1: • 900mm and any building is to be wholly located within a plane projected at 45 degree at a height of 5.5m. or • 1.2m to a wall height of up to 6.7m. Category 2: • 1.5m and any building is to be wholly located within a plane projected at 45 degree at a height of 5.5m. Category 3: • 2m and any building is to be wholly located within a plane projected at 45 degree at a height of 5.5m.
Rear setbacks	Average of adjoining buildings.	6m or 25% of the average of the side boundary lengths.
Wall heights and side boundary setbacks	2.4m for a single storey dwelling. A maximum of 7.2m wall height for two storeys.	Total height of 8.5m
Landscaped area provision	Soft landscaping within the front and rear of the site. For private open space: 16sqm with minimum dimensions of 3m and not in the front setback.	30% of the site area with a minimum width of 1.5m. For private open space: 24sqm with minimum dimensions of 4m at ground level. Above ground balconies have a minimum area of 12sqm with a minimum dimension of 2.4m.
Car parking	Single Dwelling- no minimum 1 bed units - 1 space per 3 dwellings 2 bed room unit – 1 space per 2 dwellings 3+ bed units – 1 space per dwelling	The minimum car parking requirements set out in the Guide to traffic Generating Development or the car parking requirement prescribed by the council development control plan, whichever is less.
Solar access	Between 2 to 3 hours for June 21 (dependent on the orientation of the site)	None are prescribed.

*\*Please Note: Only where a clear comparison is available have the controls been included, the controls provided give a general idea of the statutory and non-statutory approach within Council across a range of development scenarios and do not necessarily apply to all affected sites within the Local Government Area.*

#### Implications for the Submission

Generally, the approach identified in Council's controls is based on a site specific, merit based assessment for compatibility. As seen in **Table 3.1**, the controls often relate to the adjoining buildings and the context of the site, in terms of orientation, dimensions and

location. There is a limited application of blanket numerical controls. The Codes SEPP makes no provisions for a merit based assessment to allow for the consideration and protection of character diversity and therefore not all forms of the proposed development in the Discussion Paper may be appropriate without a development assessment process. This would require excluding them from complying development.

Council is currently in the process of amending the Floor Space Ratios for the Local Government Area for land in the R1 zone, with the control being affected by the lot size in specific areas. This is a significant change which highlights Council's strategic direction in terms of density. Council acknowledges the important relationship between lot size and built form scale and it is this recognition that has fuelled concerns over some aspects of the Discussion Paper. The proposed changes are a result of a review of the determinations of development in the R1 zone which clearly indicated a relationship between lot size and floor space ratio, which was not previously reflected in the development standard.

The existing planning controls coupled with the proposed changes to the *Leichhardt Local Environmental Plan 2013* to change to the FSR control provide an important illustration of the context of the affected development in the Discussion Paper. Both elements are central to the current assessments for dwelling houses and medium density development. These would be lost in the proposed changes to the Codes SEPP. These two elements are:

- Discretion and focus on the context of a site rather than numeric controls for development assessments, and
- The relationship between lot size and development scale.

Both play an important role in protecting the built form character of Leichhardt and shaping the appropriateness of the built form outcome. The *Leichhardt Development Control Plan 2013* includes specific Locality Statements which are relied upon to inform the character of the areas. There is concern that by removing the ability to apply some degree of merit based assessment and consideration of the context will result in be adverse impacts on the character of the area.

#### 3.1.4 Basement Car parking

The suggestion has been made in the Discussion Paper that basement car parking should be allowed for in the two categories of development with higher densities. The allowance of large, Australian Standard compliant (6.0m) basement car park openings would be an inappropriate planning outcome in certain streetscapes typical of areas in Leichhardt. Many of the streets are narrow and lined by terrace housing of a low density. A sudden intrusion of a garage opening would significantly disrupt the character of the area. This would be particularly inappropriate where allotments in a street of fine grain subdivision could be amalgamated and then a large opening created for basement parking.

### 3.1.5 General Character Impacts

There are significant concerns that the proposed form of development will not adequately protect the established character of the areas in which this form of development will be allowed. It is understood that areas of Heritage Conservation will not be subject to these controls, however, the Leichhardt Local Government Area encompasses a range of old areas with a rich heritage fabric. These areas may not be considered significant enough to be included as Heritage Conservation Areas but are otherwise protected by the *Leichhardt Development Control Plan 2013* controls and in particular the Locality Statements have been prepared to ensure particular characteristics are retained.

The essential fabric of these areas, which includes consistent scales, building designs, subdivision patterns, setbacks and landscape elements have the potential to be significantly eroded should these proposed changes to the Codes SEPP proceed without amendment. The character of the areas is an important aspect of the amenity of the Leichhardt Local Government Area and is something that must be protected. As a result, a mechanism in the planning controls that requires an assessment to consider character is necessary. This is therefore likely to exclude some additional areas from the operation of this part of the Codes SEPP.

### 3.1.6 Discussion Questions

A response has been prepared to each of the questions posed in the Discussion Paper, under the "What do you think?" sections as follows:

Should the development of dual occupancies on a single lot as complying development be permitted in R1, R2 and R3 zones?

Yes. In the Leichhardt Council context, R2 has not been adopted in the *Leichhardt Local Environmental Plan 2013*. Dual Occupancies are currently permissible in the R1 and R3 zones with consent, both under the category of "any other development not specified in item 2 or 4". In the context of the current controls dual occupancies on a single lot could be a complying development outcome.

Should minimum frontage be reduced to 14m so that the construction of 2 dwellings on a single lot can be carried out as complying development on more existing lots?

In Leichhardt, the minimum frontage control should be informed by the character and context of the site rather than the numeric dimensions.

Should the height be limited to 8.5m?

Yes, this is consistent with a two storey development and would appropriately limit the scale of complying development.

Should attic rooms be permitted?

No, maintaining the scale at two storeys only is appropriate for this form of complying development. In addition any development approved under the proposed changes to the



Codes SEPP must remain as two storeys to avoid subsequent development applications to fit out and use roof spaces as attics.

Should 2.7m floor to ceiling heights be imposed?

Yes, to ensure a desirable amenity outcome for the future occupants.

Should eaves and roof overhangs be required to comply with the envelope control?

Eaves and roof overhangs provide a better design outcome for the dwellings and should be encouraged, hence a limited encroachment of up to 600mm for eaves would promote this outcome.

Would the application of a 1.2m setback and no building envelope be easier to implement?

Yes, however once again this fails to consider the context of the site, where a smaller side setback and application of the building envelope may be a more appropriate outcome. Perhaps some level of flexibility could be included in the controls to consider the context.

Should Torrens title subdivision of 2 dwellings on a single lot be permitted as complying development?

No. The subdivision of lots should require development assessment and consent due to the potential for significant amenity impacts.

Which zones would be appropriate for manor homes?

This form of development would be permissible, as a form of Multi dwelling housing in both the R1 and R3 zones in Leichhardt.

Should manor homes only be permitted on corner lots or lots with dual street access?

Not necessarily. There is no apparent reason why a two storey building which contains up to four dwellings would be inappropriate on a single frontage lot of 500sqm.

Should manor homes on lots that do not have rear lane access be required to have a basement car park?

No. Basement car parking is not a desirable outcome to be encouraged in many locations in Leichhardt. A more appropriate solution would be to limit the density, in the form of number of dwellings, size of dwellings and maximum provision of parking on constrained sites based on character and location.

Instead of council certification of On-site Stormwater Detention (OSD) and waste, this could be certified by appropriately qualified specialists.

*Waste*

Subject to merit assessment Council's waste controls have a preference for basement car parking where possible, but these controls are non-prescriptive, which is shown in the following Leichhardt Development Control section.

- C1 - Part D - Energy - Section 2 - 'Convenient access for all dwellings suitable manoeuvrability space and within easy access to the collection point'.

Therefore, Council certification should be required to ensure waste and recycling requirements, including bin enclosure areas and locations, are based on the site specific character / geographical nature of site

#### *OSD*

Council certification of OSD systems should be required at the initial approval stage. This certification should include approval of the connection to the Council's drainage system. The proposed changes to the Codes SEPP should also require a positive covenant on property titles to protect OSD systems after developments are complete and occupied.

How should the proposed car parking controls be designed to ensure that adverse impacts on the transport network (including on-street parking) are minimised and active transport options are encouraged?

Like the current *State Environmental Planning Policy (Affordable Rental Housing) 2009*, concessions should be given in the parking requirements, based on a site being located in an accessible location.

Should subdivision only be permitted after the building is completed?

No. Torrens title subdivision should be precluded from complying development. Strata Subdivision should only be allowed after the building is completed as is currently the case.

In which zones should the development of 3-10 dwellings be permitted?

R1, R2 and R3.

Instead of council certification of On-site Stormwater Detention (OSD) and waste, this could be certified by appropriately qualified specialists.

Council certification is required for waste and recycling collection and the nature of service provisions considering the geographical constraints of the Leichhardt area. The unique requirements are based on the character and location of the site.

As per the previous comments relating to Council certification of On-site Stormwater Detention (OSD) being certified by appropriately qualified specialists.

The proposed controls do not permit the use of attic rooms. Should rooms in the roof be permitted to be carried out as complying development?

No, maintaining the scale at two storeys only is appropriate for this form of complying development. Attic rooms should be excluded. In addition any development approved under the proposed changes to the Codes SEPP must remain as two storeys to avoid subsequent development applications to fit out and use roof spaces as attics.

Is the building envelope necessary in this instance? A minimum 2m setback already dictates a maximum height of 7.5m above ground level before the building envelope

would be breached. As development is limited to 8.5m (2 storeys) is it necessary to also have an envelope control? Is the building envelope control as proposed easy to apply?

It appears that the building envelope control would be unnecessary in this instance and perhaps should be abandoned to make the controls easier to interpret. However, as previously stated, the reliance on numeric controls fails to consider the context of a site.

Should the proposed car parking controls be consistent with the requirements of the Guide to Traffic Generating Development or should the relevant council controls for parking apply?

For consistency and in light of the above discussion about accessible concessions for parking, one solution is that the controls in the *Guide to Traffic Generating Development* should be adopted.

Is it appropriate to permit excavation for basement car parking as complying development? What provisions or controls should be in place and information required to accompany an application?

No. As described in **Section 3.1.3** basement car parking is not considered an appropriate element of complying development.

Is upfront certification by council for On-Site Stormwater Detention (OSD) appropriate?

Is it acceptable to have independent certification of OSD against council policies?

Should waste management facilities be certified by councils as part of the process?

Could independent certification of compliance with a council's waste management provisions in their DCP be the appropriate mechanism?

As per the previous comments relating to council certification of On-site Stormwater Detention (OSD) and waste being certified by appropriately qualified specialists.

What proportion of new housing should be adaptable housing?

The current rates in the *Leichhardt Development Control Plan 2013* is 1 per 10 dwellings. Given the ageing population and the fact that as complying development this form of development will be more common, it is considered that a minimum of 1 per 4 dwellings might be an appropriate rate. The provision of adaptable housing units should have a flexible design that complies with AS4299 Adaptable Housing. This assists in facilitating ageing in place and promoting "downsizing", providing access for residents to smaller dwellings in their local area.

How easy is the envelope control to understand? Is an envelope control necessary given the combination of controls proposed? For development involving 2 dwellings, should the side setback control simply be mandated at 1.2m for ease of implementation and assessment? Should the setback be 1.5m for easier BCA compliance?

The building envelope is a common method of controlling the side setbacks and they are not particularly difficult to interpret. A blanket control for the setbacks fails to consider the context of the site which better informs the appropriateness of a building design.



Does the suite of suggested controls provide sufficient certainty of the built form outcome and management of potential impacts? Are there further controls that may assist in delivering positive outcomes?

The controls, as proposed fail to adequately consider the context of the site. The previous discussion in this submission demonstrates that there are significant contextual issues in areas that are rich in built form typology. In particular, in Leichhardt, where that character is based on a fine grained subdivision, it is difficult to foreshadow that complying development policy could secure appropriate outcomes.

Solar Access controls should be included for both living areas and private open space, both for the proposed new dwellings and in the protection of adjoining sites.

Cross ventilation and natural heating and cooling design elements should also be included.

Street addressing and dwelling numbering should comply with local council procedures.

Should guidance on dwelling size be included?

Yes. The minimum dwelling sizes provided in the *Apartment Design Guide* (ADG) should be included. This could be done by expanding the role of the ADG or the creation of a similar guide for medium density development.

Are there other forms of supporting information that may be required?

- Some form of Statement of Environmental Effects which outlines the nature of the development, compliance with the controls and addresses the potential impacts.
- Solar Access Plans
- Floor Plans, Elevations and a Survey

Are there any other matters that should be addressed as conditions of consent?

No

## 4 conclusion

Leichhardt Council commissioned Willana Associates Pty Ltd to provide a high-level appraisal of the Department of Planning and Environment's Discussion Paper titled *"One Part of the 'Missing Middle' – Volume 1 Discussion Paper November 2015 – Options for Low Rise Medium density Housing as Complying Development"*. Having reviewed in detail both the Discussion Paper, the Background Paper and the relevant statutory and non-statutory controls of Leichhardt Council, a number of matters of concern have been raised in this Submission.

Leichhardt Council acknowledges there is merit in increasing the scope of complying development and reducing the demands on the Council assessment process for relatively straightforward developments. However the Discussion Paper and Background Paper fail to adequately address the potential impacts on the character of areas that the proposed changes to the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2009* would have in affected areas. Some additional consideration is also required to address the concerns raised with the proposed Torrens title subdivision and basement car parking. These matters are of particular concern for Leichhardt Council.

Generally, the nature of complying development would be loosely defined as forms of development which are more minor in terms of environmental impacts than those developments that require a development approval. It is considered that the general understanding of the nature of complying development is not achieved in the proposed categories and as a result should not be applicable to the Leichhardt Council area.

In particular it is submitted that the Category 3 form of development is inappropriate as complying development and there may be more appropriate mechanisms to encourage this form of development outside of Council policies. This approach has been adopted in several existing infill style Planning Policies. These include the *State Environmental Planning Policy (Affordable Rental Housing) 2009* and *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*. These policies guide the character and context for future infill development. In this instance an accompanying document such as the expansion of the *Apartment Design Guide* would provide a more considered response to assessment for this form of development and would require a contextual assessment.

Council is seeking the support of the NSW Department of Planning and Environment to consider and incorporate the matters raised in this Submission. Should you wish to discuss these matters, Leichhardt Council and Willana Associates would be pleased to meet and expand on the matters raised.

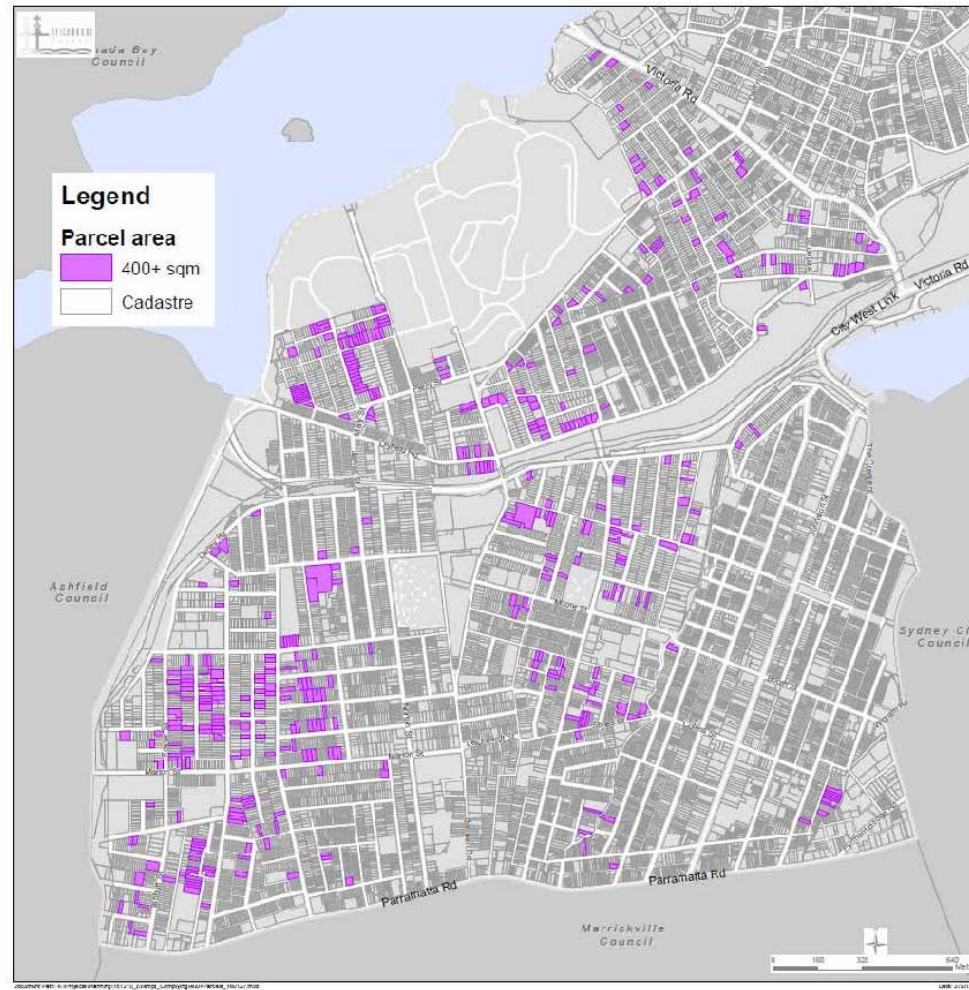
## appendix a

Map Indicating the Lands Affected by The Proposed Changes to The Codes SEPP in the Leichhardt Local Government Area.

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Options for Low Rise Medium Density Housing as Complying Development | Leichhardt Council Submission





## Expanding complying development to include low-rise medium density housing types

**Frequently Asked Questions**  
**November 2015**

### **Introduction**

- The NSW Government is seeking feedback on a proposal to expand the range of low-rise residential development that can be undertaken as complying development across NSW.

### **What is complying development?**

- The *State Environmental Planning Policy (Exempt and Complying Development) 2007* (the State Policy) sets the framework to allow:
- exempt development (minor development that does not require planning or building approval); and
- complying development (specified development that can be approved by an accredited certifier if it meets all of the development standards and other requirements in the State Policy).
- For one and two-storey freestanding homes, the State Policy currently enables routine developments that comply with all of the requirements to be assessed as complying development under a fast track approval.

### **What is the missing middle?**

- The NSW Planning system currently provides effective State policy guidance for single and two storey dwelling houses and higher density residential apartments. However the existing State policies do not provide planning controls or design guidance for medium density housing, known as the 'missing middle'.
- At the moment, construction of a dual occupancy, manor home, townhouse or terrace can only be done through a full development application to the local council.

### **Why has a Discussion Paper been prepared?**

- The NSW Government's aim, as set out in [A Plan for Growing Sydney](#), is to improve housing choice to suit different needs and lifestyles.
- The NSW Government is examining the potential to expand the range of one and two storey residential development that can be undertaken as complying development in NSW under the State Policy.

- The Discussion Paper explores the possibility of introducing a complying development framework for low rise (1 and 2 storey) medium density housing such as dual occupancies, manor homes, townhouses and terraces.

### **What housing types are being considered?**

- The Discussion Paper considers various one and two storey medium density housing options, including dual occupancies, manor homes, townhouses and terraces as complying development.

### **How does the complying development process work?**

- Complying development relies on managing the impact of a development through a set of development standards. As long as the proposal complies 100 per cent with these standards, it will be issued with a complying development certificate. These standards are conservative to ensure that potential impacts (such as overshadowing, privacy and visual amenity) are acceptable.
- A complying development certificate is issued by a council or an accredited private certifier.
- The Discussion Paper shows that the expansion of complying development to include development standards for medium density housing forms could provide better design guidance and a consistent, state-wide approach for these types of housing.
- The Discussion Paper provides recommended development standards and conditions that would apply to all complying development carried out under the State Policy. These development standards are designed to ensure that the development is of minimal impact on the streetscape and surrounding development.

#### **What are the benefits of the proposal?**

- The proposal would ensure that the assessment and delivery of medium density housing under complying development is guided by clear, effective, evidence-based planning requirements. This approach is consistent with other existing State policies that provide for the assessment of single and 2 storey dwellings and residential apartments.
- The proposed policy would provide certainty for all involved, including councils, industry and the community. It will also support better design outcomes, to provide more efficient delivery of a diverse range of housing types to meet the needs of home buyers.

#### **What issues does the Discussion Paper address?**

- The Paper raises a number of specific issues for community feedback. We value your feedback and you are welcome to only comment on the issues you are interested in.
- The Paper includes discussion around:
  - o basement car parking
  - o on-site stormwater detention systems
  - o waste and recycling storage facilities,
  - o the proposed suite of development standards for the new housing options.

#### **How do I comment on the Discussion Paper?**

- Your feedback on the proposed options will be used to help inform the development of a new policy.
- Submissions can be made up to 15 February 2016 online at [www.planning.nsw.gov.au/proposals](http://www.planning.nsw.gov.au/proposals) or by mail to: Codes and Approval Pathways, Department of Planning and Environment, GPO Box 39, Sydney NSW 2001
- Submissions will be made public in line with the Department of Planning and Environment's objective to promote an open and transparent planning system. If you do not want your name published, please state this clearly at the top of your submission. Before making a submission, please read our privacy policy at: [www.planning.nsw.gov.au/privacy](http://www.planning.nsw.gov.au/privacy)

#### **What are the next steps?**

- All feedback will be analysed and the results will be used to update the planning rules. The draft policy, once prepared, will be made available for public comment.

#### **Where can I find more information?**

- Visit our website at [www.planning.nsw.gov.au/proposals](http://www.planning.nsw.gov.au/proposals)
- Email us at [codes@planning.nsw.gov.au](mailto:codes@planning.nsw.gov.au)

#### **Further information**

For more information please:

Call our Information Centre on 1300 305 695.  
If English isn't your first language, please call 131 450.  
Ask for an interpreter in your language and then request to be connected to our Information Centre on 1300 305 695.

email: [information@planning.nsw.gov.au](mailto:information@planning.nsw.gov.au)

## ITEM 2.3 IPART REPORT - REDUCING THE REGULATORY BURDENS ON LOCAL GOVERNMENT

<b>Division</b>	Corporate and Information Services
<b>Author</b>	Manager Governance and Administration
<b>Meeting date</b>	9 February 2016 Policy Meeting
<b>Strategic Plan Key Service Area</b>	A sustainable environment Business in the community Sustainable services and assets

### **SUMMARY AND ORGANISATIONAL IMPLICATIONS**

<b>Purpose of Report</b>	To advise Council on the IPART report which provides information and recommendations about how regulatory burdens on local government can be reduced and to provide IPART feedback on their recommendations.
<b>Background</b>	<p>On 18 January 2016 IPART released its draft report <i>Reducing the Regulatory Burdens on Local Government</i>. The draft report makes 49 recommendations most of which are consistent with those sought by LGNSW and councils in their submissions.</p> <p>The IPART review started in April 2015 and has primarily focussed on the regulatory burdens imposed by the NSW Government on local government. It was conducted as part of the NSW Government's reform program and part of the response to the ILGRP recommendations. The report provides recommendations in relation to reducing regulatory burdens across a wide range of functions, but planning and water functions are a particular focus.</p> <p>IPART has requested feedback on the draft report including the recommendations and responses are due by 19th February. It is expected that their final report will be presented to the NSW Government in April 2016.</p>
<b>Current Status</b>	In August 2015 Council provided information to IPART in relation to officer identified regulatory burdens on the functions of Council and the draft report has been based on feedback received by all NSW councils.
<b>Relationship to existing policy</b>	NIL
<b>Financial and Resources</b>	NIL



<b>Implications</b>	
<b>Recommendation</b>	That Council provide feedback to IPART on the recommendations for its draft report <i>Reducing the Regulatory Burdens on Local Government</i> , as detailed in this report.
<b>Notifications</b>	NIL
<b>Attachments</b>	<b>Provided electronic only due to its size - will be circulated to Councillors on iPads and placed on Council's website</b>  1. Review of Reporting and Compliance Burdens on Local Government

## **Purpose of Report**

To advise Council on the IPART report which provides information and recommendations about how regulatory burdens on local government can be reduced and to provide IPART feedback on their recommendations.

## **Recommendation**

That Council provide feedback to IPART on the Draft recommendations as detailed in the report.

## **Background**

On 18 January 2016 IPART released its draft report *Reducing the Regulatory Burdens on Local Government*. The draft report makes 49 recommendations most of which are consistent with those sought by LGNSW and councils in their submissions.

The IPART review started in April 2015 and has primarily focussed on the regulatory burdens imposed by the NSW Government on local government. It was conducted as part of the NSW Government's reform program and part of the response to the ILGRP recommendations. The report provides recommendations in relation to reducing regulatory burdens across a wide range of functions, but planning and water functions are a particular focus.

IPART has requested feedback on the draft report including the recommendations and responses are due by 19th February. It is expected that their final report will be presented to the NSW Government in April 2016.

## **Report**

The IPART draft Report on *Reducing the Regulatory Burdens on Local Government* makes 49 recommendations. IPART are now seeking feedback from Councils on these recommendations prior to finalising their final report to the State Government in April 2016. The recommendations have been categorised by IPART and are listed below with suggested feedback from Council officers:-

## **Systemic Issues**

### *Draft Recommendations*

1 That the Department of Premier and Cabinet (DPC) revise the *NSW Guide to Better Regulation* to include requirements for State agencies developing regulations involving regulatory or other responsibilities for local government, as part of the regulation-making process, to:

- consider whether a regulatory proposal involves responsibilities for local Government
- clearly identify and delineate State and local government responsibilities
- consider the costs and benefits of regulatory options on local government
- assess the capacity and capability of local government to administer and

implement the proposed responsibilities, including consideration of adequate cost recovery mechanisms for local government

- take a coordinated, whole-of-government approach to developing the regulatory proposal
- collaborate with local government to inform development of the regulatory proposal
- if establishing a jointly provided service or function, reach agreement with local government as to the objectives, design, standards and shared funding arrangements, and
- develop an implementation and compliance plan.

#### Comment

Supported

2 That the NSW Government maintain a *Register of local government reporting, planning and compliance obligations* that should be used by State agencies in the regulation-making process to manage the volume of regulatory requirements imposed on councils and to avoid creating unnecessary or duplicative requirements.

#### Comment

Staff support this recommendation but believe that the NSW government should establish a one stop shop (web portal) where councils can input information. Additional aspects of the portal which would be useful are a calendar which details reporting periods and submission dates.

3 That the NSW Government remove restrictions on fees for statutory approvals and inspections to allow for the recovery of efficient costs, subject to monitoring and benchmarking.

#### Comment

Supported

4 Where fees continue to be set by statute, that the relevant NSW Government agency reviews the level of the fees every 3-5 years and amends the relevant legislation to allow these fees to increase annually in line with CPI or an index of fee-related costs.

#### Comment

Supported

5 That if statutory fees are capped below cost recovery to ensure affordability or for other policy reasons, then the NSW Government should reimburse councils for the shortfall in efficient costs.

#### Comment

Supported

6 That the Department of Premier and Cabinet amend the *Good Practice Guide to Grant Administration*, to:

- recognise Local Government as separate from non-government organisations
- remove acquittal requirements for untied grants
- explicitly address ongoing maintenance and renewal costs when funding new capital projects
- require Agencies to rely on existing council reporting to assess financial stability and management performance of councils
- lengthen acquittal periods for ongoing grant programs to four years, and use Memorandum of Understanding (MOU) arrangements, rather than requiring councils to reapply annually, and
- provide for a streamlined acquittal process for grants of less than \$20,000 in total, examples of streamlining include:
  - o not requiring further external financial audit
  - o using risk-based controls and requirements, and
  - o confining performance measurement to outcomes consistent with the purpose of the grant.

#### Comment

This recommendation is supported, however when ongoing maintenance and renewal costs when funding new capital projects is addressed this should be over the full life of the asset.

7 That the Department of Finance, Services and Innovation use the NSW ICT Strategy and Information Asset Registers to:

- provide a central website to consolidate Local Government reporting portals, searchable data sets, reports and publications
- facilitate council use of the central website, and
- facilitate sharing of Local Government data and information between State Government agencies.

#### Comment

Supported

8 That the Office of Local Government introduce a “gateway” framework, using a cost-benefit methodology, to assess new State agency proposals for reporting and data collection from Local Government.

#### Comment

Supported

9 That the Department of Planning and Environment, including through the Office of Local Government, review public notice print media requirements in the *Local Government Act 1993*, the *Local Government (General) Regulation 2005*, the *Environmental Planning and Assessment Act 1979*, and the *Environmental Planning and Assessment Regulation 2000* and, where the cost to councils of using print media



exceeds the benefit to the community, remove print media requirements and allow online advertising, mail-outs and other forms of communication as alternatives.

#### Comment

This recommendation is strongly supported given the up-take in technology by our community in recent years and the cost savings for councils this recommendation will enable.

### **Water and Sewerage**

#### *Draft Recommendations*

10 That the Department of Primary Industries Water (DPI Water) undertake central water planning for Local Water Utilities (LWUs) to ensure that water supply and demand options are considered in the context of catchments, replacing the water planning LWUs currently undertake individually through Integrated Water Cycle Management Strategies.

#### Comment

N/A

11 That the NSW Government enable LWUs with sufficient capacity to be regulated under the *Water Industry Competition Act 2006* as an alternative to their current regulation under the Best-Practice Management of Water Supply and Sewerage Framework and section 60 of the *Local Government Act 1993*.

#### Comment

N/A

12 That DPI Water amend the *Best-Practice Management of Water Supply and Sewerage Guidelines* to:

- streamline the NSW Performance Monitoring System to ensure each performance measure reported is:
  - o linked to a clear regulatory objective
  - o used by either most Local Water Utilities (LWUs) or DPI Water for compliance or meaningful comparative purposes
  - o not in excess of the performance measures required under the National Water Initiative, and
  - o not duplicating information reported to other State agencies.
- reduce the number of performance measures and/or the frequency of reporting for small LWUs with fewer than 10,000 connections
- align trade waste reporting with other performance reporting, on a financial year basis, subject to consultation with LWUs, LGNSW and the Water Directorate, and
- implement a risk-based auditing regime for LWU wanting to pay a dividend to their council's general fund.

Comment

N/A

13 That NSW Health determine a standardised service report template to be used by technicians undertaking quarterly servicing of aerated wastewater treatment systems, in consultation with councils.

Comment

Supported

14 That the *Local Government (General) Regulation 2005* be amended to require service reports to be provided to councils using the template determined by NSW Health as a standard condition of approval to operate an aerated wastewater treatment system.

Comment

Supported

**Planning***Draft Recommendations*

15 That the Department of Planning and Environment (DPE):

- Implement a data sharing model with the Australian Bureau of Statistics in relation to building approvals in NSW.
- Introduce a consolidated data request of councils for the purposes of the *Local Development Performance Monitoring (LDPM)*, *Housing Monitor*, *State Environmental Planning Policy (Affordable Rental Housing) 2009* (Affordable Rental Housing) and *State Environmental Planning Policy No 1 – Development Standards* (SEPP 1 variations).
- Fund an upgrade of councils' software systems to automate the collection of data from councils for the purposes of the LDPM, *Housing Monitor*, Affordable Rental Housing and SEPP 1 variations.
- Publish the data collected from councils on Affordable Rental Housing and SEPP 1 variations data.
- Seek agreement with the Land & Environment Court to obtain appeal data directly from the Court.
- Remove the administrative requirement for councils to report to DPE on political donations or gifts under section 147 of the *Environmental Planning & Assessment Act 1979*.

Comment

Supported

16 That the *Environmental Planning and Assessment Act 1979* be amended to enable zoning and development standards information under section 149(2) of the *Environmental Planning and Assessment Act 1979* to be provided through the NSW Planning Portal.

### Comment

Supported subject to s.149 certificates being issued by the NSW government.

17 That the *Environmental Planning and Assessment Regulation 2000* be amended to specify the information that can be provided by councils in accordance with section 149(5) of the *Environmental Planning & Assessment Act 1979*.

### Comment

Supported

18 That DPE amend the NSW Planning Portal to provide for online:

- payment of fees and charges by applicants and for the Planning Reform Fund fee to then be automatically directed to DPE
- zoning and development standards information under section 149(2) of the *Environmental Planning & Assessment Act 1979*
- joint applications for development approvals and construction certificates, and
- information under section 149(5) of the *Environmental Planning & Assessment Act 1979* to be accessible via a link to council websites.

### Comment

Supported

19 That DPE manage referrals to State agencies through a ‘one-stop shop’ in relation to:

- planning proposals (LEPs)
- development applications (DAs), and
- integrated development assessments (IDAs).

### Comment

Supported

20 That DPE develop suites of standardised development consent conditions and streamline conditions that require consultant reports or subsequent approvals, in consultation with councils, State government agencies and other key stakeholders.

### Comment

Supported

## **Administration and Governance**

### *Draft Recommendations*

21 That the NSW Government streamline the reporting requirements for the Integrated Planning and Reporting (IP&R) framework in the revised Local Government Act.

### Comment

Supported

22 Ahead of the next IP&R cycle (2016), that the Office of Local Government:

- provide councils with a common set of performance indicators to measure performance within the IP&R framework
- conduct state-wide community satisfaction surveys and release the results to allow comparisons between councils and benchmarking
- provide guidance to councils on the form and content of the End of Term Report and its relationship to local councils' Annual Reports
- clarify for councils the purpose, form and content of the State of the Environment report and clarify its relationship to the End of Term Report
- work with the Office of Environment and Heritage, the NSW Environment Protection Authority and other relevant agencies to develop performance indicators for councils to use, and
- where relevant, amend the IP&R Guidelines and Manual to incorporate this material.

### Comment

Supported, a common set of performance indicators to measure performance within the IP&R framework, coupled with an integrated and uniform software systems will enable Council's to benchmark against common indicators and should enable Councils to monitor community priorities. Council welcomes the opportunity to partake in any pilot program relating to the performance indicators.

23 That the Office of Local Government remove requirements for councils to report more in the General Purpose Financial Statements than is required by the Australian accounting standards, issued by the Australian Accounting Standards Board, except for requirements which are unique and high value to local government such as Note 21 and Special Schedule 7.

### Comment

Supported

24 That clause 163(2) of the *Local Government (General) Regulation 2005* be amended to allow the Office of Local Government to determine the councils for which the threshold for formal tendering would be increased to \$250,000, with this threshold to be reviewed every five years.

### Comment

Currently clause 163(2) of the *Local Government (General) Regulation 2005* merely provides a tender limit for all Councils – the need to have the OLG “determine” which Council's are increased to \$250,000 makes little sense and does nothing to reduce regulatory burden. The limit should be unilaterally increased to \$250,000 for all Council's, or if required, increased for Council's whose turnover is above a certain \$ threshold.



25 That section 377(1)(i) of the *Local Government Act 1993* be amended to allow the Council to delegate the acceptance of tenders.

Comment

Supported

26 That the Department of Planning and Environment, through the Office of Local Government, review the requirements in the *Local Government Act 1993* for ministerial approvals; those that are not justified on the basis of corruption prevention, probity or protecting the interests of the State be removed.

Comment

Supported

27 That the Office of Local Government introduce guidelines that specify maximum response times for different categories of approvals.

Comment

Supported

28 That the Department of Planning and Environment, through the Office of Local Government, review all approvals required under section 68 of the *Local Government Act 1993* in order to:

- determine the activities for which a separate local council approval under section 68 is necessary
- revise the regulatory frameworks within NSW legislation to remove duplication
- place as many approval requirements as possible in specialist legislation, and
- where appropriate, enable mutual recognition of approvals issued by another council.

Comment

Supported

29 That the *Local Government Act 1993* be amended to transfer current requirements relating to the length of time for temporary appointments under section 351(2) to the *Local Government (General) Regulation 2005* or the relevant awards.

Comment

Supported

30 Extend the maximum periods of temporary employment from 12 months to four years within any continuous period of five years, similar to Rule 10 of the *Government Sector Employment Rules 2014*.

Comment

Supported

31 That section 31 of the *Public Interest Disclosures Act 1994* be amended to require councils to report on public interest disclosures in their annual reports and remove the requirement for an annual public interest disclosures report to be provided to the Minister for Local Government.

Comment

Supported

32 That section 125 of the *Government Information (Public Access) Act 2009* be amended to allow councils to lodge annual reports of their obligations under the Act within five months after the end of each reporting year.

Comment

Supported

33 That the Office of Local Government assist the Information and Privacy Commission to circulate to councils information related to the *Government Information (Public Access) Act 2009*.

Comment

Supported

*Draft Findings*

1 That the principles and processes outlined in ICAC's Guidelines for managing risk in direct negotiations are best practice standards which can be applied where a lack of competition exists in a Local Government Area.

Comment

Supported

**Building and Construction**

*Draft Recommendations*

34 That the Building Professionals Board include information on travel charges for certification services in regional areas when developing an indicative fee schedule.

Comment

Supported

35 That the Building Professionals Board or the proposed Office of Building Regulation (in consultation with Department of Planning and Environment, Fire & Rescue NSW and local government) design the new online system for submitting annual fire safety statements (AFSS) to allow councils to identify buildings in their area that require an AFSS, and where follow up or enforcement action is required.

Comment

Supported

36 That the *Environmental Planning and Assessment Regulation 2000* be amended to clarify what constitutes a 'significant fire safety issue'.

Comment

Supported

37 That section 121ZD of the *Environmental Planning and Assessment Act 1979* be amended to allow councils to delegate authority to the General Manager to consider a report by the Fire Brigade, make a determination and issue an order, rather than having the report considered at the next council meeting.

Comment

Supported

*Draft Findings*

2 The draft recommendations of the *Independent Review of the Building Professionals Act 2005* (Lambert Building Review), if supported by the NSW Government, would:

- Substantially improve the funding and ability of councils to effectively undertake their compliance functions in relation to unauthorised building work and refer certifier complaints to the Building Professionals Board.
- Introduce more effective disincentives (for example, penalties) for unauthorised building work.
- Institute a system of electronic lodgement of certificates and documentation from private certifiers to councils in a standardised form. This should reduce current record management burdens on councils, which would allow the information to be used to inform building regulation policy development and better targeting of council and state resources in building regulation.
- Reduce the frequency of accreditation renewals from annually to every three to five years.
- Create a new category of regional certifier to reduce the accreditation burden on councils and increase the number of certifiers in the regions.

3 That under the *Local Government Act 1993* councils can set their fees for certification services to allow for full cost recovery. These fees can include travel costs.

4 That the online Building Manual, proposed in the e-building initiative draft recommendation of the Lambert Building Review, would remove the current burden on councils of collecting and maintaining records of annual fire safety statements.

### Comment

Supported

### **Public land and infrastructure**

#### *Draft Recommendations*

38 That the NSW Government transfer Crown reserves with local interests to councils, as recommended by the NSW Crown Lands Management Review and piloted through the Local Land Program Pilot.

### Comment

As outlined in Council's submission on the White Paper, this is generally agreed subject to: each Council having a choice on whether to accept each reserve; there being no cost-shifting; Council not being exposed to increased financial risks and burdens; the whole of the reserve being transferred and the State not being permitted to retain income-producing parts whilst transferring only the non-income producing parts to Council; the Minister not being able to grant leases and licences for any purpose (as now permitted by the Crown Lands Act) especially if it seeks to retain the rent; and community land restrictions applying.

39 Consistent with its response to the Crown Lands Legislation White Paper, that the NSW Government ensure that Crown reserves managed by councils are subject to *Local Government Act 1993* requirements in relation to:

- Ministerial approval of licences and leases, and
- reporting.

### Comment

Agreed. Ministerial approval of leases and licences should only be required in the same circumstances as for Council-owned community land (ie if over 5 years and there is an objection) without all leases and licences requiring approval. The reserve need to be subject to all other restrictions on "community land" including the prohibition on sale.

40 That the NSW Government streamline the statutory process for closing Crown roads, including the arrangements for advertising road closure applications.

### Comment

Supported

41 That the NSW Government reduce the backlog of Crown road closure applications to eliminate the current waiting period for applications to be processed.

### Comment

Supported, the time currently taken to formally close a road is excessive.



42 That the NSW Government streamline the provisions of the *Local Government Act 1993* relating to plans of management for community land to align public notice and consultation with councils' community engagement for Integrated Planning and Reporting purposes.

Comment

Supported

43 That Roads and Maritime Services provide greater support for councils to develop the competency to conduct route access assessments and process heavy vehicle applications. This support should be focused on developing the competency and skills within councils to perform these regulatory functions.

Comment

Supported

44 That the *Impounding Act 1993* be amended to treat caravans and advertising trailers in the same way as boat trailers when considering whether they are unattended for the purposes of the Act.

Comment

Supported

**Animal Control**

*Draft Recommendations*

45 That the Office of Local Government's redesign and modernisation of the central *Register of Companion Animals* includes the following functionality:

- online registration, accessible via mobile devices anywhere
- a one-step registration process, undertaken at the time of microchipping and identifying an animal
- the ability for owners to update change of ownership, change of address and other personal details online
- unique identification information in relation to the pet owner (ie, owner's date of birth, driver licence number or Medicare number)
- the ability to search by owner details
- the ability for data to be analysed by Local Government Area (not just by regions)
- the ability for data to be directly uploaded from pound systems, and
- centralised collection of registration fees so funding can be directly allocated to councils.

Comment

Supported

46 That the Companion Animals Act 1998 and Companion Animals Regulation 2008 be amended to require unique identification information in relation to the pet owner (ie,

owner's date of birth, drivers licence number or Medicare number), to be entered in the register at the time of entering animal identification information and when there is a change of ownership.

Comment

Supported

**Community order**

*Draft Recommendations*

47 That the NSW Government review how councils are currently applying Alcohol Free Zone (AFZ) and Alcohol Prohibited Area (APA) provisions in response to alcohol related anti-social behaviour and clarify the rationale and processes for declaring AFZs and APAs in the Local Government Act 1993 and Ministerial Guidelines on Alcohol-Free Zones.

Comment

Supported

48 That the NSW Government provide an efficient process for consultation and decision making on temporary and events-based alcohol restrictions.

Comment

Supported

49 That the Graffiti Control Act 2008 be amended to allow councils to prosecute individuals and organisations that commission or produce bill posters that are visible from a public place within their local government area.

Comment

Supported

**Attachments**

1. Review of Reporting and Compliance Burdens on Local Government **(provided electronic only due to its size - will be circulated to Councillors on iPads and placed on Council's website)**

## ITEM 2.4 WESTCONNEX STAGE 2 M5 - ENVIRONMENTAL IMPACT STATEMENT PUBLIC EXHIBITION

<b>Division</b>	Environment and Community Management
<b>Author</b>	Director Environmental and Community Management Strategic Transport Planner
<b>Meeting date</b>	9 February 2016 Policy Meeting
<b>Strategic Plan Key Service Area</b>	Community well-being Accessibility Place where we live and work A sustainable environment Business in the community Sustainable services and assets

### **SUMMARY AND ORGANISATIONAL IMPLICATIONS**

<b>Purpose of Report</b>	To provide Council with a draft submission on the New M5 (WestConnex Stage 2) Environmental Impact Statement (State Significant Development Application SSI 14 6788) , which is on public exhibition until 29 January 2016
<b>Background</b>	<p>The WestConnex Motorway Project was first proposed in the <i>NSW State Infrastructure Strategy 2012 – First Things First</i> and subsequently included in the <i>NSW Long Term Transport Master Plan</i>. The project comprises of three stages to connect the existing M4 motorway from Parramatta to the M5 motorway at Beverly Hills.</p> <p>On 27 November 2015, the Sydney Motorways Corporation (formerly WestConnex Delivery Authority) submitted a development application and supporting Environmental Impact Statement (EIS) to the Department of Planning and Environment for the New M5 (WestConnex Stage 2). This application proposes the extension of the M5 motorway with paired tunnels running for some 9 kilometres between Kingsgrove and St Peters.</p>
<b>Current Status</b>	The New M5 Environmental Impact Statement (EIS) is on public exhibition until 29 January 2016.
<b>Relationship to existing policy</b>	Relates to previous resolutions: <b>C480/12, C495/12, C85/13, C537/13, C11/14, C12/14, C99/14, C157/14, BDC164/14, C492/14 C13/19P and C522/15</b>
<b>Financial and Resources Implications</b>	NIL at this time

<b>Recommendation</b>	<p>That Council:</p> <ol style="list-style-type: none"> <li>1. Forward a submission to the Department of Planning and Environment (based on the submission points included in this report) and advise that Council is opposed to the State Significant Development Application (SSI 14 6788) for the New M5 (WestConnex Stage 2) as the proposed development, as outlined in the Environmental Impact Statement is inconsistent with the relevant aims of Leichhardt Council's strategies, most particularly its Integrated Transport Plan, and will not:             <ol style="list-style-type: none"> <li>i) create a legible, direct and safe pedestrian and cycling environment;</li> <li>ii) encourage public transport use;</li> <li>iii) provide a safe and efficient road network for all road users;</li> <li>iv) facilitate integration of land use, transport and community &amp; cultural activities;</li> <li>v) promote health and wellbeing;</li> <li>vi) improve environmental conditions; and</li> <li>vii) support Councils adopted 10 Year mode shift targets, including a reduction of private car use from 44% to 28%.</li> </ol> </li> <li>2. Advise the Department of Planning and Environment that Council requests additional information and data as outlined in Section 2 - Review of the New M5 Environmental Impact Statement, including:             <ol style="list-style-type: none"> <li>i) detailed information about Stage 3 of the WestConnex Motorway Project;</li> <li>ii) further information and consideration by the NSW State government is requested to ensure that the WestConnex project is considered in light of the extensive list of related urban projects which are currently in planning and development phases;</li> <li>iii) a fully co-ordinated, evidence based assessment of how the WestConnex project will contribute to the liveability and social, economic and environmental sustainability of the Sydney, particularly Sydney's Inner West;</li> </ol> </li> </ol>
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3. Based on the review of the EIS, the following points are recommended for inclusion in Council's submission:

- i) it is considered that the WestConnex Motorway Project, including the New M5, is not in keeping with world's best practice urban development, particularly in terms of its encouragement of private vehicle use over public transport. Consequently, it is requested that the proposed New M5 be benchmarked against other high quality international land use/transport solutions to deem its relevance and appropriateness, or otherwise;
- ii) the New M5 is a key component of the WestConnex Motorway Project and should be considered in relation to the total project including its proposed northern and southern extensions;
- iii) it is requested that an alternative which combines strategic, site specific road improvements with public transport improvements should be examined and compared to the tunnelled motorway option currently being pursued;
- iv) a broader base of environmental consideration should be used to assess the project. Such consideration should include a larger scale analysis of the implications of encouraging private car use ahead of public transport;
- v) It is essential that, as the motorway tunnels are being constructed to accommodate three-five lanes each direction, the EIS should assess the impacts of the project's ultimate capacity rather than:
  - o examining an artificially constrained capacity of two lanes in each direction, and
  - o addressing the project's ultimate capacity in subsequent assessments.

This is of particular concern as the,

	<p>currently proposed, incremental approach would diminish the rate of growth of traffic by comparing the ultimate volumes with increased traffic that will result from the two x two lane configuration rather than the existing baseline traffic volumes.</p> <p>It should be noted that such an approach is likely to have far reaching implications in relation to the surface road network (both parallel routes and feeder roads).</p> <p>vi) assessment of the project should consider the implications of leaching patrons from existing (or likely future) public transport services and how that reduction in patronage may impact on Sydney's public transport systems in the longer term;</p> <p>vii) concern is expressed that the analysis does not include any consideration of the overall environmental costs or benefits of the various project alternatives. Additionally, the alternatives considered did not include a hybrid version which included public transport and rail freight investment in combination with limited strategic road improvements.</p> <p>viii) the EIS generally focusses on a narrow corridor of influence with little consideration being given to the broader impacts of such a major shift in the approach to catering for travel demand across the Sydney Region. The impacts of a motorway project of this magnitude, particularly in terms of the overall WestConnex Motorway Project (including its potential northern and southern extensions) are far reaching and the assessment should include large scale impacts including broader environmental, sustainability, public health and wellbeing, and land use/transport integration issues</p> <p>ix) it is considered that the traffic modelling</p>
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	<p>included in the Environmental Impact Statement is limited and may significantly underestimate future traffic volumes and congestion that will be experienced both in the 2021 and 2031 scenarios. The significant investment of public and private funds which will be required to deliver the projects justify a fully co-ordinated, evidence based assessment of the how the WestConnex Motorway Project will contribute to the liveability and social, economic and environmental sustainability of the city.</p> <p>x) concern is expressed that the timing of the WestConnex Motorway Project (including Stages 1b, 2 and 3) is such that the traffic model could not effectively include the specific demographic information that is likely to result from numerous urban revitalisation projects currently proposed for the Sydney Region;</p> <p>xi) specifically in relation to the traffic and transport modelling conducted by the proponent concern is generally raised regarding:</p> <ul style="list-style-type: none"><li>o Insufficient detail provided to determine the accuracy of the various land use assumptions that have been made particularly in relation to:<ul style="list-style-type: none"><li>▪ the future demand of Sydney Airport once the Western Sydney Airport has become operational;</li><li>▪ implications of the Moorebank Intermodal Freight Terminal;</li><li>▪ major land use initiatives across the Sydney Region including those currently associated with the Parramatta Road Urban Transformation Project, Bays Precinct, Waterloo Rejuvenation, as well as Urban Growth NSW various Western Sydney portfolio,</li></ul></li></ul>
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- such as Oran Park Town, Newbrook and Macarthur Heights
- Insufficient detail provided to determine the accuracy of various social assumptions including:
    - The value of time to different classifications of traveller;
    - Toll sensitivity for freight vehicles in contrast to private drivers;
    - Whether potentially reduced travel times will encourage residents of western Sydney to remain in existing areas, or travel for the same amount of time and move further afield to more affordable areas (thus travelling greater distances in the same time as they currently travel);
  - Existing and likely future mix of heavy vehicles (particularly in relation to the proportion of dangerous goods vehicle, which are unlikely to be permitted to use the tunnels);

- xii) while the Secretary's Environmental Assessment Requirements specifically includes reference to consideration of the implications of induced traffic on both existing public transport and future public transport opportunities there does not appear to be any quantification of:
- The total amount of additional traffic induced by the creation of the motorway (ie car trips that would not have been made if the motorway was not constructed);
  - The total amount of public transport patrons who would move from public transport to private vehicles as a result of the increased road capacity (on both the motorway and the surface road network), and the impact this migration of patrons will have on the viability of public transport;



- xiii) a thorough investigation of public transport alternatives, including consideration of the greenhouse gas savings compared to the New M5 project and WestConnex, as a whole. This information should be placed on public exhibition for community consideration prior to decision making about the project.
- xiv) confirmation is required that the NSW EPA has approved the alternative assessment methodology used in the EIS, as the approach does not satisfy all of the requirements of the 'Approved Methods for the Modelling and Assessment of Air Pollutants in NSW'. If the approach adopted in the EIS is not consistent with the relevant EPA requirements for modelling and assessment further studies should be undertaken and publically exhibited to ensure that the assessment is undertaken in a manner consistent with the requirements of the EPA.
- xv) additional information regarding the 'worst case' assessment of air quality which considers the maximum emission rates (in g/s) and a peak congested scenario should be provided;
- xvi) there is a need for the completion of a quantitative construction air quality assessment, focusing on the risk of particulate impacts and including the potential for release of crystalline silica.
- xvii) in the event of approval of the project the following conditions should be applied:
  - o Portal emission monitoring
  - o Dampers should be provided in the western ventilation outlet to allow for varying outlet diameters.
- xviii) staff of relevant Councils and State bodies should be consulted with regards to local biodiversity plans, objectives, actions and data. Some species considered common through NSW and

	<p>not protected by threatened species legislation, such as the superb fairy wren, are locally vulnerable and Councils and the local community are working to preserve these species. By focusing on the minimum requirement to protect threatened species, populations and ecological community only, the importance of biodiversity within the local urban context is over-looked;</p> <p>xix) further detail needs to be provided regarding how the loss of established vegetation is to be mitigated;</p> <p>xx) further justification needs to be provided regarding the selection of the boundary study areas and exclusion of key biodiversity spaces;</p> <p>xxi) concern is expressed that the limited scope of the surveys and proposed mitigation measures may mean that the flora and fauna impacts are greater than those suggested by the EIS;</p> <p>xxii) as the EIS details that no like-for-like credits were available for purchase, in relation to its biodiversity off-set strategy it is considered that the biodiversity proposed to be cleared will not be adequately substituted.</p> <p>xxiii) the construction of motorways is not considered to be consistent with best practice greenhouse gas abatement projects related to transportation and the EIS itself acknowledges that greenhouse gas savings will decrease over time as traffic volumes increase;</p> <p>xxiv) It is necessary to carry out a comprehensive evaluation of a public transport alternative and compare this to the project in terms of greenhouse gas emissions in the EIS.</p> <p>xxv) The construction of motorways is not considered to be consistent with best practice greenhouse gas abatement</p>
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	<p>projects related to transportation and the EIS itself acknowledges that greenhouse gas savings will decrease over time as traffic volumes increase.</p> <p>xxvi) It is necessary to carry out a comprehensive evaluation of a public transport alternative and compare this to the project in terms of greenhouse gas emissions in the EIS</p> <p>xxvii) It is important to note that this assessment considers the impact of future climate change <u>on the project</u>, rather than <u>the impact of the project on future of climate change</u>. It would be beneficial to assess the impact of the project on climate change.</p> <p>xxviii) It is important that regular reporting is conducted on the sustainability objectives and targets throughout the construction and later phases of the project.</p>
<b>Notifications</b>	NIL
<b>Attachments</b>	NIL

## Purpose of Report

To provide Council with a draft submission on the New M5 (WestConnex Stage 2) Environmental Impact Statement (State Significant Development Application SSI 14 6788) , which is on public exhibition until 29 January 2016.

(In anticipation of Council's first 2016 meeting being held after the close of submissions Council Officers have requested an extension of the submission date and forwarded a preliminary submission noting that it was not, at that time, formally adopted by Council and that Council's formal submission would be forwarded subsequent to its meeting on 9 February 2016).

## Recommendation

That Council:

1. Forward a submission to the Department of Planning and Environment (based on the submission points included in this report) and advise that Council is opposed to the State Significant Development Application (SSI 14 6788) for the New M5 (WestConnex Stage 2) as the proposed development, as outlined in the Environmental Impact Statement is inconsistent with the relevant aims of Leichhardt Council's strategies, most particularly its Integrated Transport Plan, and will not:
  - i) create a legible, direct and safe pedestrian and cycling environment;
  - ii) encourage public transport use;
  - iii) provide a safe and efficient road network for all road users;
  - iv) facilitate integration of land use, transport and community & cultural activities;
  - v) promote health and wellbeing;
  - vi) improve environmental conditions; and
  - vii) support Councils adopted 10 Year mode shift targets, including a reduction of private car use from 44% to 28%.
2. Advise the Department of Planning and Environment that Council requests additional information and data as outlined in Section 2 - Review of the New M5 Environmental Impact Statement, including:
  - i) detailed information about Stage 3 of the WestConnex Motorway Project;
  - ii) further information and consideration by the NSW State government is requested to ensure that the WestConnex project is considered in light of the extensive list of related urban projects which are currently in planning and development phases;
  - iii) a fully co-ordinated, evidence based assessment of how the WestConnex project will contribute to the liveability and social, economic and environmental sustainability of the Sydney, particularly Sydney's Inner West;
3. Based on the review of the EIS, the following points are recommended for inclusion in Council's submission:



- i) it is considered that the WestConnex Motorway Project, including the New M5, is not in keeping with world's best practice urban development, particularly in terms of its encouragement of private vehicle use over public transport. Consequently, it is requested that the proposed New M5 be benchmarked against other high quality international land use/transport solutions to deem its relevance and appropriateness, or otherwise;
- ii) the New M5 is a key component of the WestConnex Motorway Project and should be considered in relation to the total project including its proposed northern and southern extensions;
- iii) it is requested that an alternative which combines strategic, site specific road improvements with public transport improvements should be examined and compared to the tunnelled motorway option currently being pursued;
- iv) a broader base of environmental consideration should be used to assess the project. Such consideration should include a larger scale analysis of the implications of encouraging private car use ahead of public transport;
- v) It is essential that, as the motorway tunnels are being constructed to accommodate three-five lanes each direction, the EIS should assess the impacts of the project's ultimate capacity rather than:
  - o examining an artificially constrained capacity of two lanes in each direction, and
  - o addressing the project's ultimate capacity in subsequent assessments.

This is of particular concern as the, currently proposed, incremental approach would diminish the rate of growth of traffic by comparing the ultimate volumes with increased traffic that will result from the two x two lane configuration rather than the existing baseline traffic volumes.

It should be noted that such an approach is likely to have far reaching implications in relation to the surface road network (both parallel routes and feeder roads).

- vi) assessment of the project should consider the implications of leaching patrons from existing (or likely future) public transport services and how that reduction in patronage may impact on Sydney's public transport systems in the longer term;
- vii) concern is expressed that the analysis does not include any consideration of the overall environmental costs or benefits of the various project alternatives. Additionally, the alternatives considered did not include a hybrid version which included public transport and rail freight investment in combination with limited strategic road improvements.
- viii) the EIS generally focusses on a narrow corridor of influence with little consideration being given to the broader impacts of such a major shift in the approach to catering for travel demand across the Sydney Region. The impacts of a motorway project of this magnitude, particularly in terms of the

overall WestConnex Motorway Project (including its potential northern and southern extensions) are far reaching and the assessment should include large scale impacts including broader environmental, sustainability, public health and wellbeing, and land use/transport integration issues

- ix) it is considered that the traffic modelling included in the Environmental Impact Statement is limited and may significantly underestimate future traffic volumes and congestion that will be experienced both in the 2021 and 2031 scenarios. The significant investment of public and private funds which will be required to deliver the projects justify a fully co-ordinated, evidence based assessment of the how the WestConnex Motorway Project will contribute to the liveability and social, economic and environmental sustainability of the city.
- x) concern is expressed that the timing of the WestConnex Motorway Project (including Stages 1b, 2 and 3) is such that the traffic model could not effectively include the specific demographic information that is likely to result from numerous urban revitalisation projects currently proposed for the Sydney Region;
- xi) specifically in relation to the traffic and transport modelling conducted by the proponent concern is generally raised regarding:
  - o Insufficient detail provided to determine the accuracy of the various land use assumptions that have been made particularly in relation to:
    - the future demand of Sydney Airport once the Western Sydney Airport has become operational;
    - implications of the Moorebank Intermodal Freight Terminal;
    - major land use initiatives across the Sydney Region including those currently associated with the Parramatta Road Urban Transformation Project, Bays Precinct, Waterloo Rejuvenation, as well as Urban Growth NSW various Western Sydney portfolio, such as Oran Park Town, Newbrook and Macarthur Heights
  - o Insufficient detail provided to determine the accuracy of various social assumptions including:
    - The value of time to different classifications of traveller;
    - Toll sensitivity for freight vehicles in contrast to private drivers;
    - Whether potentially reduced travel times will encourage residents of western Sydney to remain in existing areas, or travel for the same amount of time and move further afield to more affordable areas (thus travelling greater distances in the same time as they currently travel);
  - o Existing and likely future mix of heavy vehicles (particularly in relation to the proportion of dangerous goods vehicle , which are unlikely to be permitted to use the tunnels);
- xii) while the Secretary's Environmental Assessment Requirements specifically includes reference to consideration of the implications of induced traffic on both existing public transport and future public transport opportunities there does not appear to be any quantification of:

- The total amount of additional traffic induced by the creation of the motorway (ie car trips that would not have been made if the motorway was not constructed);
  - The total amount of public transport patrons who would move from public transport to private vehicles as a result of the increased road capacity (on both the motorway and the surface road network), and the impact this migration of patrons will have on the viability of public transport;
- xiii) a thorough investigation of public transport alternatives, including consideration of the greenhouse gas savings compared to the New M5 project and WestConnex, as a whole. This information should be placed on public exhibition for community consideration prior to decision making about the project.
- xiv) confirmation is required that the NSW EPA has approved the alternative assessment methodology used in the EIS, as the approach does not satisfy all of the requirements of the 'Approved Methods for the Modelling and Assessment of Air Pollutants in NSW'. If the approach adopted in the EIS is not consistent with the relevant EPA requirements for modelling and assessment further studies should be undertaken and publically exhibited to ensure that the assessment is undertaken in a manner consistent with the requirements of the EPA.
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- xvi) there is a need for the completion of a quantitative construction air quality assessment, focusing on the risk of particulate impacts and including the potential for release of crystalline silica.
- xvii) in the event of approval of the project the following conditions should be applied:
- Portal emission monitoring
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- xix) further detail needs to be provided regarding how the loss of established vegetation is to be mitigated;

- xx) further justification needs to be provided regarding the selection of the boundary study areas and exclusion of key biodiversity spaces;
- xxi) concern is expressed that the limited scope of the surveys and proposed mitigation measures may mean that the flora and fauna impacts are greater than those suggested by the EIS;
- xxii) as the EIS details that no like-for-like credits were available for purchase, in relation to its biodiversity off-set strategy it is considered that the biodiversity proposed to be cleared will not be adequately substituted.
- xxiii) the construction of motorways is not considered to be consistent with best practice greenhouse gas abatement projects related to transportation and the EIS itself acknowledges that greenhouse gas savings will decrease over time as traffic volumes increase;
- xxiv) It is necessary to carry out a comprehensive evaluation of a public transport alternative and compare this to the project in terms of greenhouse gas emissions in the EIS.
- xxv) The construction of motorways is not considered to be consistent with best practice greenhouse gas abatement projects related to transportation and the EIS itself acknowledges that greenhouse gas savings will decrease over time as traffic volumes increase.
- xxvi) It is necessary to carry out a comprehensive evaluation of a public transport alternative and compare this to the project in terms of greenhouse gas emissions in the EIS
- xxvii) It is important to note that this assessment considers the impact of future climate change on the project, rather than the impact of the project on future of climate change. It would be beneficial to assess the impact of the project on climate change.
- xxviii) It is important that regular reporting is conducted on the sustainability objectives and targets throughout the construction and later phases of the project.

## Executive Summary

Council has continually expressed its opposition to the WestConnex Motorway Project, since it was first proposed in 2012. Most recently in its submission on the M4 East Extension (November 2015). The NSW State Government has now released the Environmental Impact Statement (EIS) for the extension of the M5 motorway, referred to as the “New M5”. In essence this extension is in the form of two x two lane parallel tunnels.

While these tunnels are to be marked as two lanes in each direction; *Section 1.2 of Appendix G* notes that the tunnels are being constructed to accommodate three lanes (Western Portals to Arncliffe) and five lanes (Arncliffe to St Peters). Further,



the traffic assessment in Appendix G proposes that any change from the two lane marked configuration, to its capacity as constructed, would be subject to a future environmental assessment. It is considered that the assessment of the project's traffic impacts significantly underestimates the potential traffic volumes by artificially constraining the capacity of the tunnels and that it is essential that the project's traffic impacts be assessed in relation to its ultimate capacity.

In summary, while there is little direct impact on Leichhardt LGA, the submission is designed to express Council's concern regarding:

- The project's principle of encouraging private vehicle travel rather than public transport;
- The long term regional implications of extending Sydney's motorways rather than investing in public transport network enhancements;
- The need to analysis this proposal as part of the overall WestConnex Motorway Project (including its northern and southern extensions and the ultimate capacity of New M5 tunnels);
- The absence of significant environmental or sustainability-based objectives in the assessment process;
- Requests for further detail on various aspects of the proposal;
- The need for confirmation of various elements of the air quality analysis and on-going monitoring of air quality;
- The need for greater detail in its consideration of greenhouse gases and climate change.

This report provides Council with a draft submission on the New M5 EIS, generally covering the above issues.

## **Background**

The WestConnex Motorway Project was first proposed in the *NSW State Infrastructure Strategy 2012 – First Things First* and subsequently included in the *NSW Long Term Transport Master Plan*. The project comprises three stages to connect the existing M4 motorway from Parramatta to the M5 motorway at Beverly Hills.

On 27 November 2015, the Sydney Motorways Corporation (formerly WestConnex Delivery Authority) submitted a development application and supporting Environmental Impact Statement (EIS) to the Department of Planning and Environment for New M5 (WestConnex Stage 2). This application proposes the extension of the M5 motorway with twin tunnels from King Georges Road, Beverley Hills and Bexley Road, Arncliffe to Campbell Street, St Peters.

## **Report**

### **1 Strategic Context**

The WestConnex motorway project was first proposed in the *NSW State Infrastructure Strategy 2012 – First Things First*. Table 1 summarises the key

forward planning documents which have been prepared by the NSW State government and which make reference to the WestConnex Motorway Project.

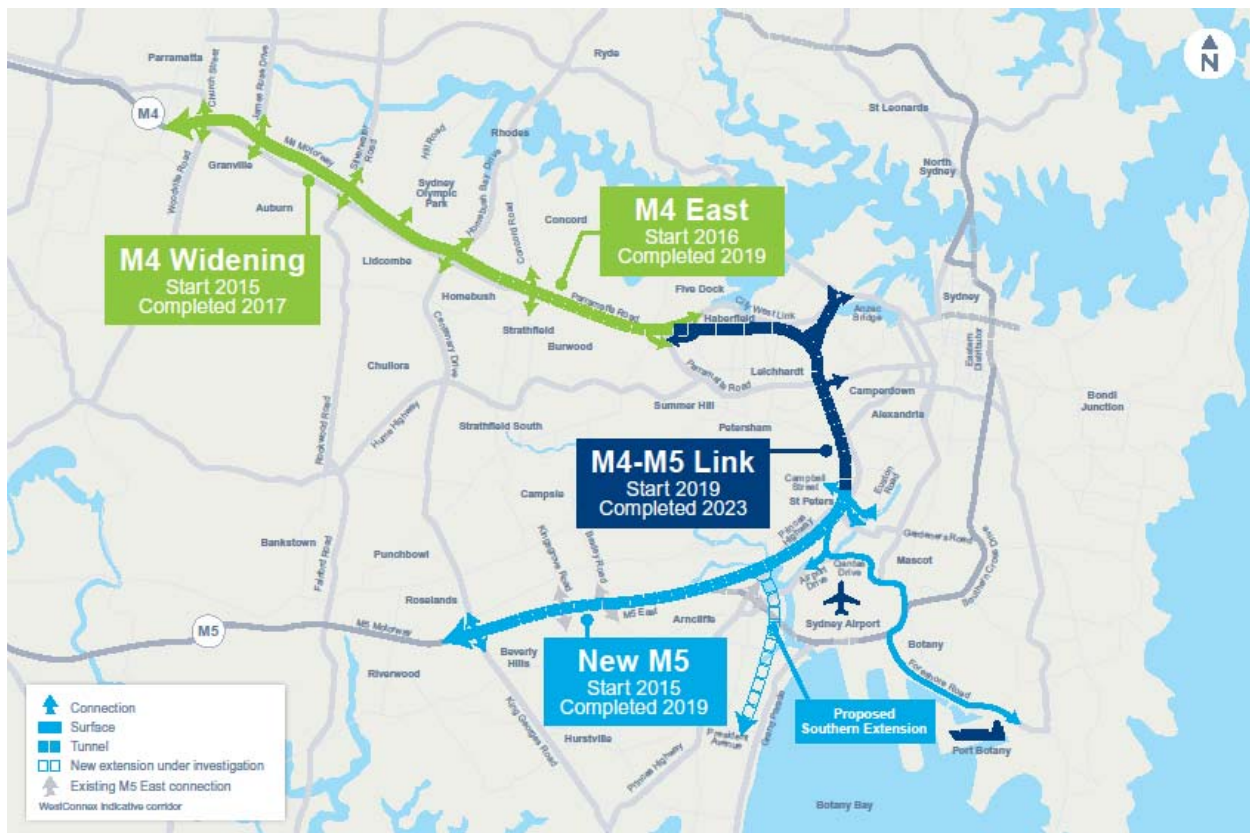
Date	Document	Details
October 2012	<i>NSW State Infrastructure Strategy 2012 – First things first</i>	Recommended that the NSW Government progress the development of the WestConnex motorway and that the urban renewal of Parramatta Road be placed at the heart of the WestConnex project. Key benefits included: <ul style="list-style-type: none"> <li>relieving congestion on the existing M4/Parramatta Road and M5 East;</li> <li>supporting freight movements between Sydney's Gateways and the logistic hubs in Western and South Western Sydney;</li> <li>supporting people movements to Sydney Airport;</li> <li>acting as a catalyst for urban regeneration along key corridors, particularly Parramatta Road;</li> <li>enhancing orbital road connectivity South and West of the CBD; and</li> <li>facilitating improvements in public transport, particularly on the Parramatta Road corridor.</li> </ul>
December 2012	<i>NSW Long Term Transport Master Plan</i>	WestConnex identified as an immediate priority to complete critical links in Sydney's motorway network. Also shown on plans are the following connections to WestConnex: <ul style="list-style-type: none"> <li>WestConnex Northern Extension – tunnel link enabling a connection to Victoria Road and Anzac Bridge from the WestConnex Motorway.</li> <li>WestConnex Southern Extension – tunnel link between the M5 and Presidents Avenue, Rockdale.</li> <li>Western Harbour Tunnel – proposed new harbour tunnel to provide a link between WestConnex and North Sydney, bypassing Sydney's CBD.</li> <li>Beaches Link – proposed tunnel from Seaforth to the Warringah Freeway.</li> </ul>
November 2014	<i>Rebuilding NSW – NSW Infrastructure Strategy Update 2014</i>	NSW Government released an update to the <i>NSW State Infrastructure Strategy 2012 – First things first</i> that outlined an amended, northern alignment route for Stage 3 M4-M5 link of the WestConnex motorway for further analysis. The Update also included the proposed motorway connections identified in the <i>NSW Long Term Transport Master Plan</i> .
December 2014	<i>A Plan for Growing Sydney 2014</i>	Plan identifies the need to set aside corridors for future road infrastructure, including: <ul style="list-style-type: none"> <li>WestConnex Motorway and its extensions;</li> <li>Beaches Link; and</li> <li>Western Harbour Tunnel.</li> </ul> Proposes that the WestConnex Motorway will be: <ul style="list-style-type: none"> <li>catalyst for major urban renewal and regeneration along the Parramatta Road corridor;</li> <li>support Sydney Airport and Port Botany;</li> <li>allow the transformation of centres and suburbs due to decreased traffic on the Parramatta Road corridor;</li> <li>improvements to local amenity by reducing through traffic on surface roads and allowing for enhanced north-south local connectivity; and</li> <li>Government will investigate the feasibility of light rail along Parramatta Road for the length of the corridor.</li> </ul>

**Table 1 - WestConnex Strategic Planning**

The WestConnex motorway project is being progressed by the WestConnex Delivery Authority and has three stages:

- **Stage 1: M4**
  - **Stage 1a:** M4 Widening – Parramatta to Homebush; and
  - **Stage 1b:** M4 East - the extension of the M4 between Homebush and Haberfield in the form of the twin tunnels, the subject of the current application and environmental impact statement;
- **Stage 2: New M5**
  - King Georges Road intersection upgrade; and
  - King Georges Road, Beverly Hills to St Peters; and
- **Stage 3: M4 – M5 link**
  - proposed twin tunnels between Haberfield to St Peters.

Figure 1 illustrates the three stages of the WestConnex motorway project, including the anticipated start and completion years of each stage.



**Figure 1: WestConnex motorway project map with stages identified** (Source - New M5 EIS)

## 1.1 Summary of Stage 2: The New M5

The generalised configuration of the proposed New M5 is shown in Figures 2 and 3.

Key components of the New M5 project include:

- Twin motorway tunnels between the existing M5 East Motorway (between King Georges Road and Bexley Road) and St Peters. Each tunnel would be approximately nine kilometres in length and would be configured as follows:
  - Between the western portals and Arncliffe, the tunnels would be built to be three lanes wide but marked for two lanes as part of the project. *(It is proposed that any change from two lanes to three lanes would be subject to future environmental assessment and approval);*
  - Between Arncliffe and St Peters, the tunnels would be built to be five lanes wide but marked for two lanes as part of the project. *(It is proposed that any change from two lanes to any of three, four or five lanes would be subject to future environmental assessment and approval);*
  - Tunnel stubs to allow for a potential future connection to Stage 3 of the WestConnex program of works (the M4-M5 Link) and a potential future connection to southern Sydney (known as the Southern extension);
  - Surface road widening works along the M5 East Motorway between east of King Georges Road and the new tunnel portal at Kingsgrove.
- A new road interchange at St Peters, which would initially provide road connections from the main tunnels to Campbell Road and Euston Road, St Peters and to a new bridge crossing Alexandra Canal and joining to Gardeners Road;
- Four new dedicated through lanes (two in each direction) to connect the M5 South West Motorway and King Georges Road to the New M5;
- Two new bypass lanes comprising an eastbound and a westbound ramp connecting the King Georges Road interchange and the M5 East Motorway, bypassing the New M5;
- Realignment of the four existing dedicated, surface, through lanes (two in each direction) along the M5 East Motorway between King Georges Road and the M5 East Motorway tunnel portals;
- Extension of the underpass within the Beverly Grove Park Infrastructure to introduce tolling on the existing M5 East Motorway Pavement and linemarking works along the carriageways of the M5 East Motorway to tie-in to the project;
- A second new road bridge across Alexandra Canal, linking Campbell Road, St Peters with Gardeners Road and Bourke Road, Mascot;
- Closure and remediation of the Alexandria Landfill site, to enable the construction and operation of the new St Peters interchange;
- Works to enhance and upgrade local streets and intersections near the St Peters interchange;
- Ancillary infrastructure and operational facilities for electronic tolling, signage (including electronic signage), ventilation structures and systems, fire and life safety systems, and emergency evacuation and smoke extraction infrastructure;
- A motorway control centre that would include operation and maintenance facilities;
- New service utilities and modifications to existing service utilities;



- Temporary construction facilities and temporary works to facilitate the construction of the project;
- Tolling infrastructure for electronic tolling on the existing M5 East Motorway;
- Surface road upgrade works within the corridor of the M5 South West Motorway and M5 East Motorway.

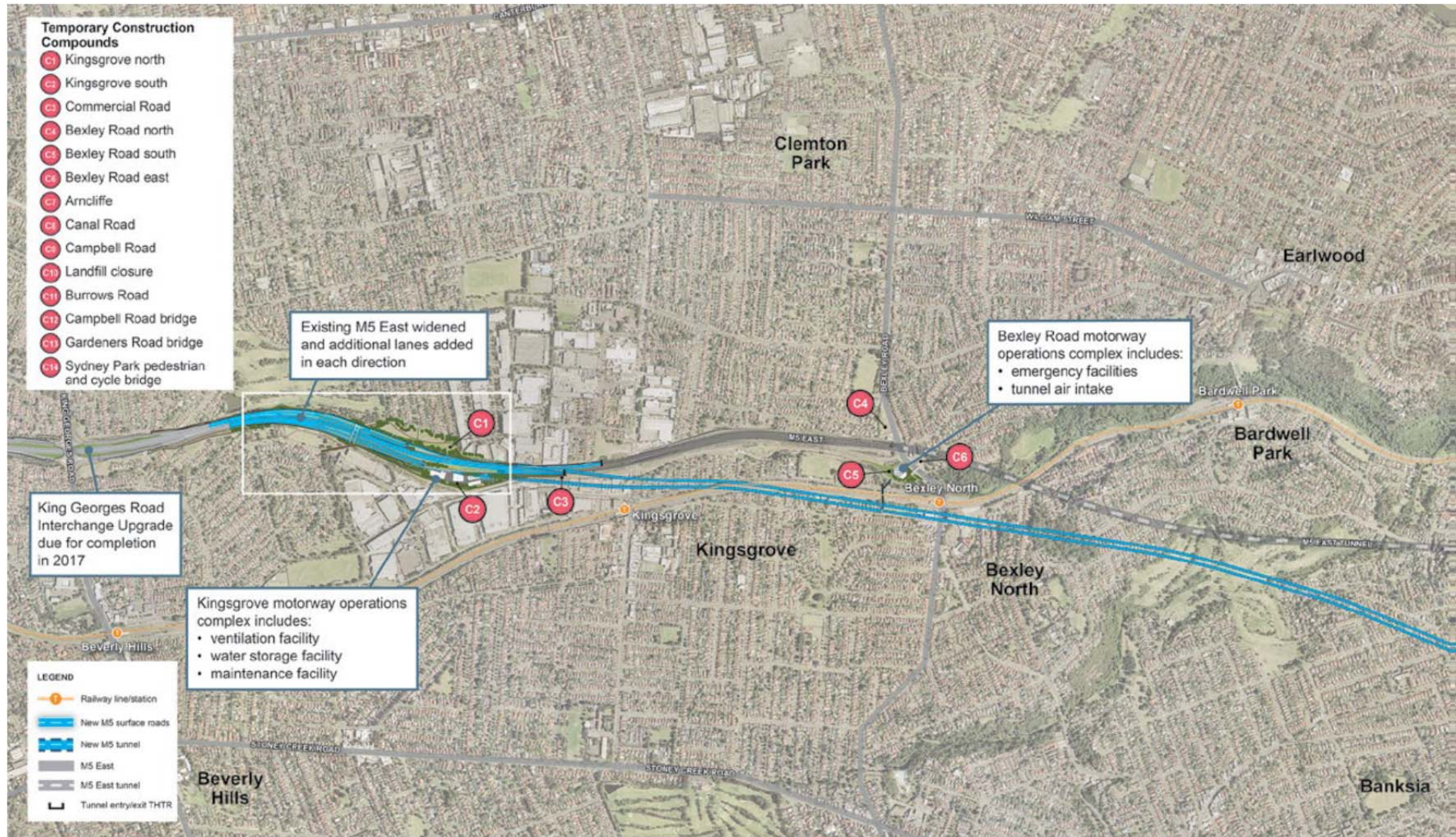


Figure 2 – Eastern Section of New M5 (Source - New M5 EIS)



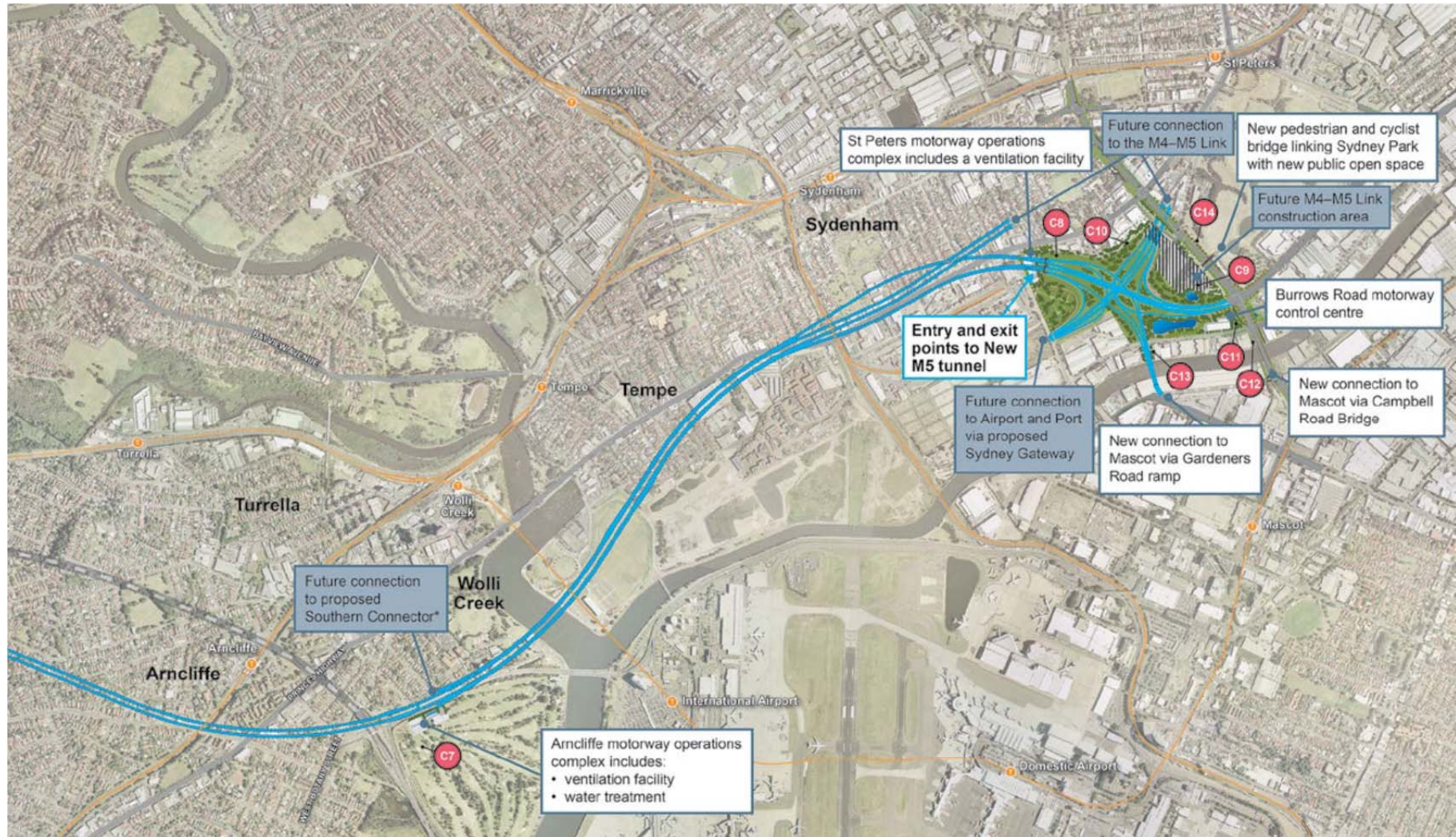


Figure 3 – Western Section of New M5 (Source - New M5 EIS)

## 1.2 Leichhardt's Local Context

Over the past ten years Leichhardt Council has established a specific strategic position regarding many environmental issues. This position includes a positive stance on the reduction of private car dependency and a conversion of private car travel to more sustainable transport modes (public transport and active transport). Additionally, Council's various strategic documents strongly support environmental improvements and contain numerous objectives relating to the achievement of practical sustainability within an enhanced urban environment.

Key to this is Council's concern regarding increased use of private vehicles, particularly at the expense of public and active transport. This position is clearly stated in many of Leichhardt's strategic documents including:

- Leichhardt 2025;
- Integrated Transport Plan;
- Environmental Sustainability Plan;
- Community and Cultural Plan;
- Employment and Economic Development Plan;
- Local Environment Plan; and
- Development Control Plan.

Prior to its inclusion in Council's strategies, this position was the subject of extensive research, benchmarking against world's best practice examples and extensive public consultation. In developing its objective to reduce private car dependency, in favour of sustainable transport, Council considered many issues, including:

- public health;
- community health and well-being;
- road safety;
- mode choice, travel desire-lines and community-wide travel characteristics;
- opportunities for environmental improvement including air quality and noise;
- place making and community building elements such as; opportunities to:
  - reduce area isolation associated with large traffic volumes which create barriers between communities;
  - improve visual amenity and streetscape;
- economic considerations relating to:
  - enhanced vitality of main street shopping areas; and



- road maintenance.

The Leichhardt 2025+ Strategic Plan provides direction for all other strategies prepared by Council. In summary, it highlights Council's desire to:

- reduce car dependency;
- encourage the use of public transport;
- achieve integration between land use, transport and community/cultural development;
- promote the health and well-being of its community; and
- develop a connected, sustainable, liveable environment.

Subsequently all of Council's strategic plans have incorporated Leichhardt 2025+'s various goals and objectives. Of particular note in relation to the M4 East are the principles contained in Leichhardt's Integrated Transport Plan (ITP).

Building on the direction provided by Leichhardt 2025+, and integrating with other strategies (including the Community and Cultural Plan and Environmental Sustainability Plan), Leichhardt's Integrated Transport Plan (ITP) was developed after two years of research and community consultation. The ITP was subsequently adopted in February 2014.

Through the ITP's community consultation, the following Guiding Principles were established:

- sustainable transport modes that meet user needs should be the priority for policy, investment and service provision decisions;
- the role of private motor vehicles for access to, and travel within, the City should be reduced to ease congestion and improve sustainable outcomes;
- transport modes and services must be integrated with other uses to create seamless and continuous access opportunities; and
- the development of a multi-layered, well-integrated transport system must consider and understand the needs of different users.

In particular, the ITP objectives aim to:

- improve accessibility within and throughout the LGA;
- create a legible, direct and safe pedestrian and cycling environment;
- encourage public transport use;
- provide appropriate levels of parking;
- provide a safe and efficient road network for all road users;
- facilitate integration of land use, transport and community & cultural activities;
- provide convenience for users of Leichhardt;

- promote health and wellbeing; and
- improve environmental conditions.

Intrinsic to the ITP is also a series of 10 Year Mode Shift Targets, as shown in Table 2. Of particular relevance to the M4 East Environmental Impact Statement, are the targets to reduce private car use from 44% to 28%.

Mode	Existing	Proposed	Change
Vehicle driver	32%	20%	-12%
Vehicle passenger	12%	8%	-4%
Train	2%	2%	-
Bus	12%	14%	+2%
Walk only	36%	40%	+4%
Other modes	6%	1%*	-
Cycling	-	10%	-
Light Rail	-	5%	-
Total	100%	100%	-

\* Excludes cycling and light rail

**Table 2 – Leichhardt Integrated Transport Plan 10 Year Mode Shift Targets**

### 1.2.1 Council Resolutions

Council has previously considered the WestConnex Motorway Project on a number of occasions. (Table 3.)

Date	Resolution	Summary of resolutions
October 2012	C480/12	<ul style="list-style-type: none"> <li>○ Write to the Minister for Planning and Infrastructure and Transport to request the creation of a WestConnex Taskforce that comprises of representatives of State Government agencies and affected Councils.</li> <li>○ Confirm that Council's priority is for increased and better public transport.</li> <li>○ Request information regarding the proposed alignment of the WestConnex motorway and ventilation stacks.</li> </ul>
October 2012	C495/12	<ul style="list-style-type: none"> <li>○ Request that the NSW Government amend the Draft NSW Long Term Transport Master Plan to incorporate information on the merits and impacts of transit-oriented development undertaken in the context of motorway development such as the WestConnex project relative to transit-oriented development in the context of heavy rail, light rail or 'metro rail' type transit corridors.</li> </ul>
March 2013	C82/13	<ul style="list-style-type: none"> <li>○ Write to the Minister for Roads and Maritime Services requesting that Council be represented through a decision making Taskforce to enable them to be informed about the implications of the project for the local community.</li> <li>○ Hold a public meeting to inform residents and businesses about details of the WestConnex project.</li> </ul>
November 2013	C573/13	<ul style="list-style-type: none"> <li>○ Write to the WestConnex Delivery Authority and Urban Growth and request that Council be provided with the following information specific to the WestConnex motorway:</li> </ul>

Date	Resolution	Summary of resolutions
		<ul style="list-style-type: none"> <li>• testing of various toll scenarios and their impact on surface traffic volumes;</li> <li>• mode share assumptions and measures proposed to achieve the proposed mode share;</li> <li>• density assumptions for the designated “investigation areas”;</li> <li>• additional traffic and public transport modelling and analysis of the WestConnex motorway that takes into account: <ul style="list-style-type: none"> <li>▪ the forecast population levels associated with the urban revitalisation project, including its geographic distribution;</li> <li>▪ a series of land use revitalisation scenarios that examine a variety of land use scenarios along the corridor (including a scenario that maintains existing densities in the eastern section of Parramatta Road);</li> <li>▪ reductions in width of Parramatta Road, to 1 through lane and 1 public transport lane in each direction, between Hawthorne Canal and Camperdown;</li> <li>▪ the ‘constrained case’ for Sydney’s Kingsford-Smith Airport (as discussed in the ‘Joint Study on Aviation Capacity of the Sydney Region’) in combination with a new major airport in Sydney’s western suburbs;</li> <li>▪ locations being considered for ‘Urban Activation Precincts’ in the local government area and inner west generally;</li> </ul> </li> <li>• any urban design/built form analysis completed in relation to the route, in particular within Leichhardt;</li> <li>• any urban economic modelling carried out in relation to the route, in particular within Leichhardt, covering matters such as FSR, value capture etc;</li> <li>• any traffic / transport modelling relating to vehicle numbers using the tunnel and vehicle numbers using the ground level route, especially in relation to Leichhardt;</li> <li>• a comprehensive community consultation programme be instigated to consult with the Leichhardt Community on the WestConnex motorway;</li> <li>• given the scarcity of the data and evidence about the benefits of the WestConnex motorway, that Council is unable to support it at this time;</li> <li>• that the NSW Government project public information on the WestConnex, including: <ul style="list-style-type: none"> <li>▪ the exact route;</li> <li>▪ the location of entry and exit ramps;</li> <li>▪ the location of the air pollution stacks;</li> <li>▪ the analyses done on travel times/vehicle volumes/peak hour traffic;</li> <li>▪ the analyses done on the routes of trucks/cars that don’t want to pay the toll;</li> <li>▪ location of additional parking for additional cars reaching the Inner West and CBD; and</li> <li>▪ the cost benefit ratio.</li> </ul> </li> <li>○ That Leichhardt Council convene a meeting with nearby councils (inviting all interested Councillors) that have already come out opposing the WestConnex (Marrickville, Ashfield) to discuss how best to collaborate moving forward.</li> </ul>
February 2014	C11/14	<ul style="list-style-type: none"> <li>○ Council agrees to participate in the Mayoral Governance Group in order to represent Council's views on the WestConnex.</li> </ul>

Date	Resolution	Summary of resolutions
		<ul style="list-style-type: none"> <li>Write to all members of the Legislative Council requesting that they urgently support the release of the business case for the WestConnex project.</li> </ul>
April 2014	C99/14	<ul style="list-style-type: none"> <li>Mayor write to all NSW MPs asking that they seek the appointment of a mediator to consider the release of the papers that have been restricted through parliamentary privilege with particular focus on the release of the information as has been requested by Leichhardt Council.</li> <li>Council reiterate its request for outstanding information on the WestConnex project.</li> </ul>
February 2015	C13/15P	<ul style="list-style-type: none"> <li>Note that in December 2014 the WestConnex Delivery Authority announced an amendment to the proposed alignment of Stage 3 of the WestConnex motorway.</li> <li>Note that the WestConnex motorway, including the M4-M5 link (between Haberfield and St Peters) and a potential harbour tunnel extension from Rozelle Goods Yard are illustrated in <i>A Plan for Growing Sydney</i>, the <i>NSW Infrastructure Strategy Update 2014</i> and the <i>NSW Long Term Transport Master Plan 2012</i>.</li> <li>Write to the WestConnex Delivery Authority and Minister for Roads and Maritime Services stating concern that the WestConnex motorway proposal in conjunction with other recent motorway announcements has the potential to: <ul style="list-style-type: none"> <li>Result in increased motorway catchment that may alter surface road travel times consequently both attracting additional traffic and potentially diminishing the attractiveness of adjacent public transport;</li> <li>Impact on the distribution of traffic desire lines along its length, and consequently increasing the number of vehicles at the various portals and on associated surface feeder roads;</li> <li>Attract additional cars that may impact on the capacity of the motorway to accommodate the additional truck movements that it was originally intended to capture;</li> <li>Experience higher than expected traffic levels discharging onto Parramatta Road, the City West Link and nearby streets, from Stage 1 prior to the completion of Stage 3;</li> <li>Result in increased filtration of surface traffic ("rat runs") through Leichhardt's streets endeavouring to access tunnel portals;</li> <li>Result in detrimental air quality issues associated with increased traffic, associated with the greater than previously planned motorway catchment, as well as the various tunnel vents that will be required.</li> </ul> </li> <li>Note the findings of the NSW Auditor General's report on the WestConnex of December 2014, that found serious flaws in the project's governance, and lack of independent monitoring of the project's concept, business case and monitoring.</li> </ul>
February 2015	C14/15P	<ul style="list-style-type: none"> <li>Council support the call for a Parliamentary inquiry into WestConnex.</li> </ul>
June 2015	C292/15	<ul style="list-style-type: none"> <li>Note that \$40,000 has been allocated in the 2015/16 budget for studies of the WestConnex project.</li> <li>Establish a taskforce, made up of 3 Councillors (elected by proportional representation) to oversee the expenditure of funds allocated to WestConnex planning studies. Members of the WestConnex Action Groups are to be invited to meet with the Taskforce to contribute to this planning.</li> </ul>
August	C354/15P	<ul style="list-style-type: none"> <li>Council write to the Premier and the Minister for Planning requesting</li> </ul>



Date	Resolution	Summary of resolutions
2015		<p>that the exhibition period for the WestConnex M4 East, New M5 and all future WestConnex Environmental Impact Statements be a minimum of 90 days.</p> <ul style="list-style-type: none"> <li>o Council write to the Premier and the Minister for Planning its concern at the piecemeal approach to consideration of the planning issues through the EIS process and the need to consider WestConnex as a whole project.</li> <li>o Council write to the Premier and the Minister for Roads, Maritime and Freight the need for the immediate release of the detailed WestConnex business case.</li> </ul>
October 2015	C522/15	<ul style="list-style-type: none"> <li>o Council Notes that critical matters in relation to the environmental and economic impact of the Sydney metropolitan area as a whole are not addressed in the released EIS for Stage 1 of WestConnex and forwards a submission to and therefore requests that these matters be addressed through the provision of further information ...</li> <li>o Due to the significant impacts and the shortage of information; <ul style="list-style-type: none"> <li>a. Council is opposed to the building of the WestConnex tollway.</li> <li>b. The time allowed for EIS submission for the M4 East has been inadequate for both Council and the community and that Council reiterates its request for 90 days.</li> <li>c. The finalisation of Council's submission be deferred until after the public meeting on the 29 October to allow any further issues raised by the public to be incorporated.</li> </ul> </li> </ul>
		<ul style="list-style-type: none"> <li>o Forward a submission to the Department of Planning and Environment and advise that Council is opposed to the State Significant Development Application (SSI-6307) for WestConnex Stage 1B: M4 East .....</li> <li>o Advise the Department of Planning and Environment that Council requests additional information and data as outlined in Section 2 - Review of Stage 1b: M4 East Environmental Impact Statement.</li> </ul>

**Table 3 - Council's previous resolutions of WestConnex**

### 1.3 Other Considerations

In December 2014, the City of Sydney engaged SGS Economics and Planning to undertake a strategic review of the WestConnex proposal. This was completed in February 2015. A review of that report indicates that the key findings were:

- increased clustering of jobs with good access to public transport has resulted in decreased value of recent motorway projects (Cross City Tunnel and Lane Cove Tunnel);
- there has been an increase in rail patronage and decrease in growth of kilometres travelled by car;
- Sydney has differing levels of public transport accessibility that can result in concentrations of social and economic disadvantage;
- construction of Sydney's second airport at Badgerys Creek and intermodal terminals around Sydney may mean the M5 extensions are not required;
- it is unlikely that there will be sufficient demand to ensure viability of the WestConnex toll roads;
- it is not guaranteed that WestConnex will remove traffic from local roads;
- stated travel time savings are a result of the construction of all the road sections;

- the need for large scale public works to stimulate additional economic activity is questionable;
- alternatives to support Sydney's population and economic growth are available.

The City of Sydney also engaged SGS Economics and Planning with Veitch Lister Consulting to undertake detailed transport modelling to assess the impacts of the WestConnex motorway using the Zenith transport model. Key findings of the modelling include:

- WestConnex will only make minor differences to Sydney's traffic;
- WestConnex will not improve access to the Sydney CBD;
- traffic flows on parts of Parramatta Road will increase by over 20 per cent as vehicles avoid paying the toll;
- there will be increased traffic volumes on the M5 East by up to 25 percent;
- there will be increased congestion on local road networks around St Peters; and
- the construction of the first two stages of the WestConnex project is likely to result in a need for the construction of the proposed northern extension and southern extension to support WestConnex.

## **2. Review of the New M5 Environmental Impact Statement**

Council officers have reviewed the Environmental Impact Statement for the 'New M5' (WestConnex Stage 2) and identified the following key issues as having relevance to the Leichhardt Council:

- Project Objectives
- Alternative Projects
- Transport and Traffic
- Configuration
- Air Quality
- Biodiversity
- Greenhouse Gases

### **2.1 Project Objectives**

The primary project objectives for the New M5 relate to improved traffic flow and give little consideration to environmental consequences. The only environmental objective listed for the project is to:

*Protect natural and cultural resources and enhance the environment through the following key approaches:*

- *Manage tunnel ventilation emissions to ensure local air quality meets NSW Environment Protection Authority (EPA) standards;*
- *Maintain regional air quality;*
- *Manage in-tunnel air quality to stringent air quality standards;*
- *Minimise energy use during construction and operation;*
- *Manage noise in accordance with the NSW Road Noise Policy and realise opportunities to reduce or mitigate noise;*
- *Provide for improvement of social and visual amenity;*
- *Minimise impacts on natural systems including biodiversity;*

- *Minimise impact on Aboriginal and non-Aboriginal cultural heritage;*
- *Protect surface and groundwater sources and water quality including management of contaminated areas;*
- *Reduce susceptibility to, and minimise impacts of, flooding;*
- *Integrate sustainability considerations throughout the design, construction and operation of the project, including consideration of the Infrastructure Sustainability Council of Australia (ISCA) Sustainability Rating tool scorecard.*

Based on this it appears that consideration has not been given to the overall environmental impact of increasing private car use and the possible leaching of patrons from public transport to private cars. Additionally, there is no evidence of consideration being given to the regional environmental and sustainability implications of increased car travel resulting from new car trips that would not occur if the project did not proceed (induced demand).

## **2.2 Alternative Projects Considered**

Strategic alternatives assessed as part of the project included:

- The base case or 'do minimum' (no project);
- Optimising the performance of existing infrastructure;
- Investing only in public transport and rail freight improvements;
- Managing demand;
- Constructing the New M5 as part of the WestConnex program of works.

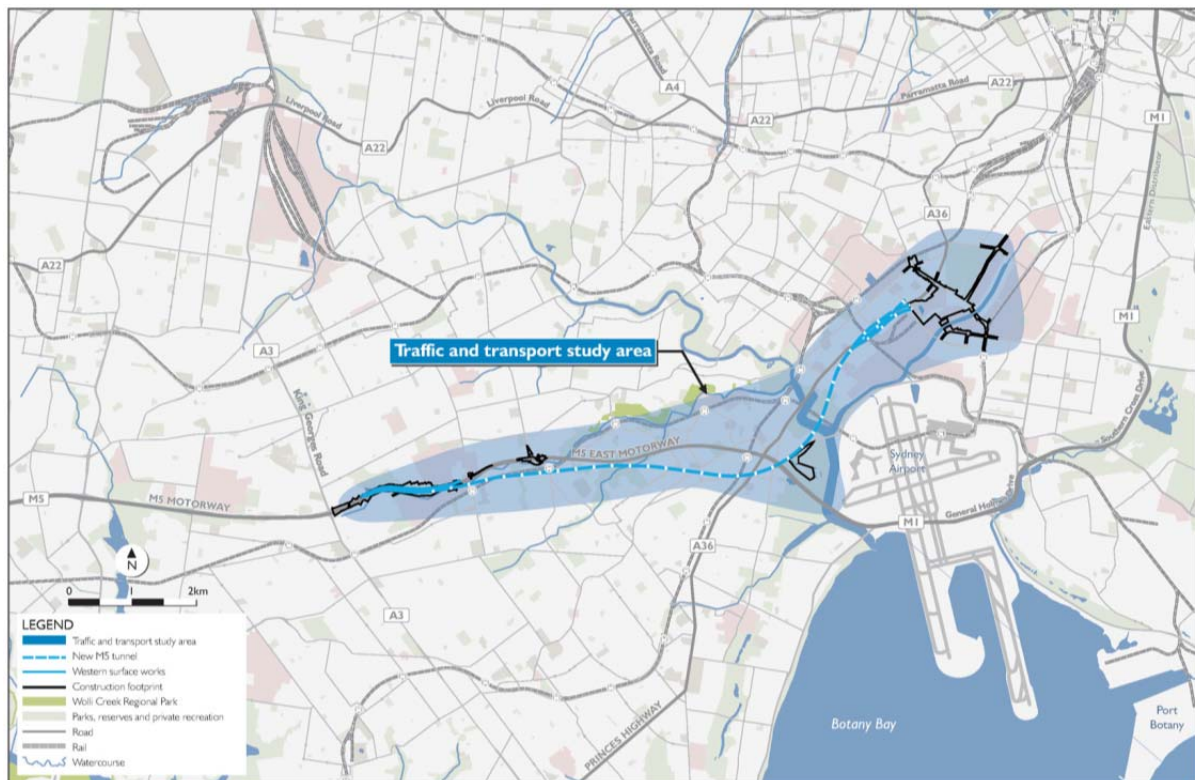
Subsequently, constructing the New M5 as part of the WestConnex program of works was identified by the proponent as the preferred option because it was considered to best satisfy the following project objectives:

- *Supports Sydney's long-term economic growth through improved motorway access and connections linking Sydney's international gateways, south-western Sydney and places of business across the city*
- *Relieves road congestion so as to improve the speed, reliability and safety of travel in the M4 and M5 corridors*
- *Caters for the diverse travel demands along these corridors that are best met by road infrastructure*
- *Enhances the productivity of commercial and freight generating land uses strategically located near transport infrastructure*
- *Fits within the financial capacity of the State and Federal governments, in partnership with the private sector*

Concern is expressed that this analysis does not include any consideration of the overall environmental costs or benefits of the various project alternatives. Additionally, the alternatives considered do not include any alternatives which combine network-wide public transport and rail freight enhancements with limited strategic road improvements.

The EIS generally focusses on a narrow corridor of influence with little consideration being given to the broader impacts of such a major policy shift in the approach to catering for travel demand across the Sydney Region. The impacts of a motorway project of this magnitude, particularly in terms of the overall WestConnex Motorway Project (including its potential northern and southern extensions and the ultimate capacity of the New M5 tunnels) are far reaching and clearly beyond the study area identified for the EIS's traffic and transport analysis (Figure 4 below).

This limited scope of the EIS is further reflected in the absence of any significant project objectives relating to environmental issues, sustainability, public health and well-being and land use/transport integration issues.



**Figure 4 – Traffic and Transport Study Area** (Source - New M5 EIS)

## 2.3 Traffic and Transport Impacts

### 2.3.1 Modelling

The traffic model examined a total of seven scenarios:

- Three scenarios without the project:
  - the existing road network (2012), which incorporates population and employment projections, based on the September 2014 Bureau of Transport Statistics data. (This data has been projected from 2011 Census data and incorporates known major urban renewal and developments);
  - the road network at the opening of the project (2021). While the NSW Government has committed to achieving completion of the New M5 Motorway by 2019, using 2021 allows for full ramp-up of traffic demand as travellers respond to the provision of the project;
  - the road network 10 years after opening the project (2031)



- A construction scenario (2016);
- Two scenarios which include the project:
  - the opening of the New M5 in 2021;
  - ten years after opening (2031);
- One cumulative scenario, 10 years after opening of the New M5 (2031), with all three stages of the WestConnex program of works and the future Southern extens

Additionally, a scenario combining the New M5 project with the M4 East was assessed, at a relatively high level, to determine the potential impacts on traffic volumes and patterns within the study area (inclusive of the King Georges Road Interchange Upgrade and the M4 Widening projects). A summary of the EIS's scenarios and key impacts considered is provided in Table 4, below.

Model year	Without project	With project	Modelling Scenario	Description	Impact measured
2012	✓		Existing case	The existing road network with no new projects or upgrades.	NA
2016	✓		Construction	The current road network with no new projects or upgrades, with construction traffic movements for the project. This considers the worst case construction traffic generating scenario and includes traffic movements associated with spoil removal.	Construction impacts on the existing road network.
2021	✓		Base case without the project	The base case 'without project' assumes the King Georges Road Interchange upgrade and future M4 Widening projects are complete, but the remainder of the WestConnex program of works has not been built. This scenario assumes that on-going improvements will be made to the broader transport network including some new infrastructure and intersection improvements to improve capacity	Consequence of not proceeding with the project on the existing network.
2021		✓	Base case with the project	The base case 'with project' assumes the New M5 is complete and open to traffic, without the future Sydney Gateway, M4 East (WestConnex Stage 1B) or the future M4-M5 Link (WestConnex Stage 3) components of the WestConnex program of works.	Operational impacts associated with the completion of the project as described in Chapter 5 (Project description).
2031	✓		Future case without the project	The future case 'without project' assumes the King Georges Road Interchange upgrade and M4 Widening projects are complete, but the remainder of the WestConnex program of works has not been built. This scenario assumes on-going improvements will be made to the broader transport network including some new infrastructure and intersection improvements to improve capacity and to cater for	Consequence of not proceeding with the project on the existing network
2031		✓	Future case with the project	The future case 'with project' assumes the New M5 is complete and open to traffic without the M4 East (WestConnex Stage 1) or the future M4-M5 Link components of the WestConnex program of works.	Operational impacts associated with the completion of the project as described in Chapter 5 (Project description).
2031		✓	Cumulative case (full WestConnex program of works and the future Southern extension)	All components of the WestConnex program of works and the future Southern extension completed. The full WestConnex program of works and the future Southern extension is considered to be a cumulative scenario.	Operational impacts associated with the operation of the three stages of the WestConnex program of works as well as the future Southern extension.

**Table 4 – Traffic Modelling Scenarios** (Source - New M5 EIS)

In relation to the traffic and transport modelling conducted by the proponent concern is generally raised regarding:

- Insufficient detail provided to determine the accuracy of the various land use assumptions that have been made particularly in relation to:
  - The future demand of Sydney Airport once the Western Sydney Airport has become operational;
  - Implications of Moorebank Intermodal Freight Terminal;
  - Major land use initiatives across the Sydney Region including those currently associated with the Parramatta Road Urban Transformation Project, Bays Precinct, Waterloo Rejuvenation, as well as Urban Growth NSW various Western Sydney portfolio, such as Oran Park Town, Newbrook and Macarthur Heights
- Insufficient detail provided to determine the accuracy of various social assumptions including:
  - The value of time to different classifications of traveller;
  - Toll sensitivity for freight vehicles in contrast to private drivers;
  - Whether potentially reduced travel times will encourage residents of western Sydney to remain in existing areas, or travel for the same amount of time and move further afield to more affordable areas (thus travelling greater distances in the same time as they currently travel);
- Existing and likely future mix of heavy vehicles (particularly in relation to the proportion of dangerous goods vehicle , which are unlikely to be permitted to use the tunnels);
- While the Secretary's Environmental Assessment Requirements specifically includes reference to consideration of the implications of induced traffic on both existing public transport and future public transport opportunities there does not appear to be any quantification of:
  - The total amount of additional traffic induced by the creation of the motorway (ie car trips that would not have been made if the motorway was not constructed);
  - The total amount of public transport patrons who would move from public transport to private vehicles as a result of the increased road capacity (on both the motorway and the surface road network), and the impact this migration of patrons will have on the viability of public transport;

### **2.3.2 Medium Term Projected Traffic Volumes (2021)**

For the Medium Term (2021) much of the traffic modelling conducted for the EIS examines operation of the M5 motorway itself, with only limited reference to the adjacent surface road network. The analysis provided generally indicates that the completion of the New M5 will improve traffic flow on the M5. The key locations examined are junctions of the M5 with :

- King Georges Road;
- Bexley Road; and
- Cooks River Road.

As shown in Figure 5, analysis of the adjacent surface road network generally indicates increased traffic volumes including:

- 86% northbound and 41% southbound on Euston Road during the AM Peak;
- 56% northbound and 45% southbound on Euston Road during the PM Peak;
- 42% eastbound and 30% westbound on Railway Road during the PM Peak

While King Street is anticipated to experience a mix of increased and decreased traffic volumes (by direction) during peak period:

- AM Peak - -10% northbound and 11% southbound;
- PM Peak – 10% northbound and -2% southbound.

It is considered that the vitality of King Street is such that any increases in traffic volume should be very carefully considered.

Location	Direction	AM peak hour			PM peak hour		
		2021 'without project'	2021 'with project'	Change in flow	2021 'without project'	2021 'with project'	Change in flow
		veh/hr	veh/hr	%	veh/hr	veh/hr	%
King Street, south of Alice Street	Northbound	880	800	-10%	830	910	10%
	Southbound	560	620	11%	1,030	1,010	-2%
Railway Road, west of Princes Highway	Eastbound	540	590	9%	640	910	42%
	Westbound	630	730	16%	1,150	1,490	30%
Princes Highway, south of Railway Road	Northbound	2,590	2,580	0%	1,710	1,760	3%
	Southbound	1,060	980	-8%	2,390	2,360	-1%
Euston Road, north of Sydney Park Road	Northbound	1,050	1,950	86%	820	1,280	56%
	Southbound	790	1,110	41%	1,340	1,940	45%
Edgeware Road, west of Edinburgh Road	Eastbound	720	780	8%	1,060	1,090	3%
	Westbound	770	910	18%	830	1,030	24%
Gardeners Road, west of O'Riordan Street	Eastbound	1,230	1,350	10%	1,410	1,570	11%
	Westbound	1,150	1,150	0%	1,060	1,270	20%

Source: AECOM (2015)

**Figure 5 – Comparison of 2021 Traffic Volumes with and without New M5**  
(Source - New M5 EIS)

### 2.3.3 Longer Term Projected Traffic Volumes (2031)

In the longer term (2031) the EIS considers a completed WestConnex Motorway and the proposed "Southern Extension".

As shown Figure 6 it is evident that the completed WestConnex Project (including the Southern Extension) will result in significantly increased traffic volumes on the adjacent surface road network., including:

- Northbound peak period increases on Euston Road of 114% and 96% for the AM and PM respectively;



- Southbound peak period increases on Euston Road of 63% and 44% for the AM and PM respectively
- Southbound peak period increases on King Street of 62% and 23% for the AM and PM respectively;
- Westbound peak period increases on Gardner's Road of 23% and 46% for the AM and PM respectively.

Location	Direction	2031 'without project'	AM Peak 2031 'full WestConnex and Southern extension'	Change in flow	2031 'without project'	PM Peak 2031 'full WestConnex and Southern extension'	Change in flow
		veh/hr	veh/hr	%	veh/hr	veh/hr	%
King Street, south of Alice Street	Northbound	1,100	870	-21%	890	940	6%
	Southbound	450	730	62%	980	1,210	23%
Railway Road, west of Princes Highway	Eastbound	490	650	33%	700	680	-3%
	Westbound	630	990	57%	1,280	1,910	49%
Princes Highway, south of Railway Road	Northbound	2,550	2,180	-15%	1,660	720	-57%
	Southbound	1,150	550	-52%	2,310	2,110	-9%
Euston Road, north of Sydney Park Road	Northbound	990	2,120	114%	780	1,530	96%
	Southbound	970	1,580	63%	1,500	2,160	44%
Edgeware Road, west of Edinburgh Road	Eastbound	760	820	8%	1,030	1,110	8%
	Westbound	830	920	11%	730	1,040	42%
Gardeners Road, west of O'Riordan Street	Eastbound	1,280	1,790	40%	1,560	1,650	6%
	Westbound	1,150	1,410	23%	1,140	1,660	46%

Source: AECOM (2015)

**Figure 6 – Comparison of 2031 Traffic Volumes with (including proposed Southern Extension) and without New M5 Parking** (Source - New M5 EIS)

In order to accommodate these increased flows the Project proposes to permanently remove approximately 400 kerbside car parking spaces (outlined in Figure 7 below).

Road section	Indicative impact
Campbell Street, between Princes Highway and Unwins Bridge Road	Addition of 34 on-street and 26 off-street spaces
Albert Street	Loss of 44 spaces along both sides
Campbell Road, between Barwon Park Road and Burrows Road	Loss of 111 spaces along both sides
Burrows Road, south-west of Campbell Road	Loss of 8 spaces along both sides
Burrows Road, north-east of Campbell Road	Loss of 15 spaces along both sides
Euston Road, north of Sydney Park Road intersection	Loss of 24 spaces along both sides
Huntley Street, east of Euston Road	Loss of 28 spaces along both sides
Princess Highway	Loss of 18 spaces along both sides
May Street	Loss of 38 spaces along both sides
Unwins Bridge Road	Loss of 33 spaces along both sides
Brown Street	Possible loss of up to 6 spaces during integration / tie-in works
Florence Street	Possible loss of up to 6 spaces during integration / tie-in works
St Peters Street	Possible loss of up to 6 spaces during integration / tie-in works
Gardeners Road, between Kent Road and cul-de-sac of Gardeners Road	Loss of 47 on-street spaces
Bourke Road, north of Bourke Street / Gardeners Road intersection	Loss of 16 off-street spaces

**Figure 7 – Indicative Permanent Removal of Kerbside Parking** (Source - New M5 EIS)

Ultimately this indicates that the project will encourage increased private car travel, reduced on-street parking and increased on-site parking provision in new developments (or the provision of public off-street parking areas), all of which are contrary to currently accepted good planning practice.

### 2.3.4 Submission Points

Based on the review of the Traffic and Transport sections of the EIS, the following points are recommended for inclusion in Council's submission:

- It is considered that the WestConnex Motorway Project, including the New M5, is not in keeping with world's best practice urban development, particularly in terms of its encouragement of private vehicle use over public transport. Consequently it is requested that the proposed New M5 be benchmarked against other high quality international land use/transport solutions to deem its relevance and appropriateness, or otherwise;
- The New M5 is a key component of the WestConnex and should be considered in relation to the total project including its proposed northern and southern extensions;
- It is requested that an alternative which combines strategic, site specific road improvements with public transport improvements should be examined and compared to the tunnelled motorway option currently being pursued;

- A broader base of environmental consideration should be used to assess the project. Such consideration should include a larger scale analysis of the implications of encouraging private car use ahead of public transport;
- Assessment of the project should consider the implications of leaching patrons from existing (or likely future) public transport services and how that reduction in patronage may impact on Sydney's public transport systems in the longer term;
- Detailed information about the overall WestConnex Motorway Project including its proposed northern and southern extensions;
- Further information and consideration by the NSW State government is requested to ensure that the WestConnex Project is considered in light of the numerous urban revitalisation projects currently proposed for the Sydney Region;
- Concern is expressed that the analysis does not include any consideration of the overall environmental costs or benefits of the various project alternatives. Additionally, the alternatives considered did not include a hybrid version which included public transport and rail freight investment in combination with limited strategic road improvements.
- The EIS generally focusses on a narrow corridor of influence with little consideration being given to the broader impacts of such a major shift the approach to catering for travel demand across the Sydney Region. The impacts of a motorway project of this magnitude, particularly in terms of the overall WestConnex Project including its potential northern and southern extensions) are far reaching and should include large scale impacts including broader environmental, sustainability, public health and wellbeing, and land use/transport integration issues
- It is considered that the traffic modelling included in the Environmental Impact Statement is limited and may significantly underestimate future traffic volumes and congestion that will be experienced both in the 2021 and 2031 scenarios. The significant investment of public and private funds which will be required to deliver the projects should justify a fully co-ordinated, evidence based assessment of the how the WestConnex project will contribute to the liveability and social, economic and environmental sustainability of the city.
- Concern is expressed that the timing of the WestConnex Motorway Project (including Stages 1b, 2 and 3) is such that the traffic model could not effectively include the specific demographic information that is likely to result from numerous urban revitalisation projects currently proposed for the Sydney Region;
- Specifically in relation to the traffic and transport modelling conducted by the proponent concern is generally raised regarding:

- Insufficient detail is provided to determine the accuracy of the various land use assumptions that have been made particularly in relation to:
  - the future demand of Sydney Airport once the Western Sydney Airport has become operational;
  - Implication of Moorebank Intermodal Freight Terminal;
  - major land use initiatives across the Sydney Region including those currently associated with the Parramatta Road Urban Transformation Project, Bays Precinct, Waterloo Rejuvenation, as well as Urban Growth NSW various Western Sydney portfolio, such as Oran Park Town, Newbrook and Macarthur Heights
- Insufficient detail is provided to determine the accuracy of various social assumptions including:
  - The value of time to different classifications of traveller;
  - Toll sensitivity for freight vehicles in contrast to private drivers;
  - Whether potentially reduced travel times will encourage residents of western Sydney to remain in existing areas, or travel for the same amount of time and move further afield to more affordable areas (thus travelling greater distances in the same time as they currently travel);
- Existing and likely future mix of heavy vehicles (particularly in relation to the proportion of dangerous goods vehicle , which are unlikely to be permitted to use the tunnels);
- While the Secretary's Environmental Assessment Requirements specifically includes reference to consideration of the implications of induced traffic on both existing public transport and future public transport opportunities there does not appear to be any quantification of:
  - The total amount of additional traffic induced by the creation of the motorway (ie car trips that would not have been made if the motorway was not constructed);
  - The total amount of public transport patrons who would move from public transport to private vehicles as a result of the increased road capacity (on both the motorway and the surface road network), and the impact this migration of patrons will have on the viability of public transport.

## 2.4 Proposed Configuration

While the current EIS addresses a tunnel configuration of 2 lanes in each direction, the project description states that:

- between the western portals and Arncliffe, the tunnels would be built to be three lanes wide but marked for two lanes as part of the project. Any change from two lanes to three lanes would be subject to future environmental assessment and approval; and
- between Arncliffe and St Peters, the tunnels would be built to be five lanes wide but marked for two lanes as part of the project. Any change from two lanes to any of three, four or five lanes would be subject to future environmental assessment and approval;



It is considered that this raises two key concerns:

- the current EIS, and its associated traffic projections significantly under estimate the ultimate capacity of the proposal;
- in constructing tunnels capable of accommodating, up to, 5 lanes it is likely to prove difficult to physically manage the reduction of such a space to two lanes.

While some merit can be seen in planning for future growth it is considered that any environmental (and/or economic) analysis should include the ultimate configuration of up to 5 lanes in either direction. Unless such analysis is undertaken at this time the true impacts of the project will not be known and any future assessment would consider the traffic volumes accommodated and induced travel demand created by this configuration of the proposal to be the “existing situation”. Therefore it would only assess an incremental increase over “future” volumes rather than the true increase over today’s baseline volumes.

#### **2.4.4 Submission Points**

It is essential that, as the motorway tunnels are being constructed to accommodate three-five lanes each direction, the EIS should assess the impacts of the project’s ultimate capacity rather than:

- examining an artificially constrained capacity of two lanes in each direction, and
- addressing the project’s ultimate capacity in subsequent assessments.

This is of particular concern as the, currently proposed, incremental approach would diminish the rate of growth of traffic by comparing the ultimate volumes with increased traffic that will result from the two x two lane configuration rather than the existing baseline traffic volumes.

It should be noted that such an approach is likely to have far reaching implications in relation to the surface road network (both parallel routes and feeder roads).

## **2.5 Air quality**

### **2.5.1 Submission Points**

The following general points require either clarification or inclusion in the project’s environmental assessment

- Confirmation is required that the NSW EPA has approved the alternative assessment methodology used in the EIS, as the approach does not satisfy all of the requirements of the ‘Approved Methods for the Modelling and Assessment of Air Pollutants in NSW’. If the approach adopted in the EIS is not consistent with the relevant EPA requirements for modelling and assessment further studies

should be undertaken and publically exhibited to ensure that the assessment is undertaken in a manner consistent with the requirements of the EPA.

- additional information regarding the 'worst case' assessment of air quality which considers the maximum emission rates (in g/s) and a peak congested scenario.
- there is a need for the completion of a quantitative construction air quality assessment, focusing on the risk of particulate impacts and including the potential for release of crystalline silica.
- In the event of approval of the project the following conditions should be applied:
  - Portal emission monitoring
  - Dampers in the western ventilation outlet should be provided to allow for varying outlet diameters.

## 2.6 Biodiversity

The biodiversity impacts of WestConnex Stage 2 M5 have been considered in relation to the following categories:

- Impacts on flora and fauna
- Ecological assessment methodology
- Mitigation of impacts

### 2.6.1 Impacts of flora and fauna

There are five groundwater dependent ecosystems (GDE) that have the potential to be impacted as a result of groundwater drawdown due as a result of the construction works. The maximum amount of groundwater drawdown is expected to be five to ten metres which would have a low-moderate impact on the GDEs including:

- Lowering water table which is likely to place this vegetation under stress
- Signs of stress in prolonged dry periods

The EIS determined that the Green and Golden Bell Frog (*Litoria aurea*) is the only threatened species known to occur in the study area. No other threatened fauna are likely to occur in the study area due to the limited and degraded nature of suitable habitat present. The EIS considers the RMS ponds to be the key source of adult frogs for the local population, which disperse across the Kogarah Golf Course. The ponds and course contains a range of habitats for the Green and Golden Bell Frog, which are both outside the construction compound boundary.

The project would remove up to 7.82 hectares of foraging, dispersal and sheltering habitat for the Arncliffe key population at Kogarah Golf Course. This is equivalent to about 20% of the currently available habitat). The breeding habitat provided by the RMS Ponds would not be directly disturbed by the project, and a buffer/ exclusion zone of around 32 metres would be provided between the RMS Ponds and the Arncliffe construction compound.

The EIS considers that impacts to the frog population would be temporary for the duration of the construction however admits that removal of foraging, dispersal and sheltering habitat would decrease the viability of the population at this location.

There are no Grey-headed Flying-fox (*Pteropus poliocephalus*) breeding or roosting habitats located within the construction and operational footprint. However there would be direct impacts to potential foraging habitat for this species.

Construction of the project would result in the clearance of around 10.76 hectares of vegetation, including 3.31 hectares of native vegetation and 7.45 hectares of urban native and exotic vegetation. The loss of 10.76 hectares of vegetation is not insignificant within the context of Southern Sydney.

The project is anticipated to require clearing 1.4 hectares of Cooks River Castlereagh Ironbark Forest, which is equivalent to less than 0.1 per cent of the estimated remaining remnant area of this community within the Sydney Basin Bioregion.

The EIS determined that despite the provision of mitigation measures, there is likely to be a significant impact on this threatened ecological community. This reflects the limited remaining areas of this community within the Sydney Basin bioregion and its status as a critically endangered ecological community.

Based on the above, concern is expressed that the proposed mitigation measures may not satisfactorily compensate for the impacts of the proposal.

### **2.6.2 Flora and fauna assessment methodology**

The methodologies for the biodiversity assessment within the EIS were:

- A desktop assessment to describe the existing environment and landscape features of a study area and to identify threatened biota potentially affected by the project
- Field surveys to verify the results of the desktop review
- Assessment of potential impacts of the project on threatened biota and biodiversity values

A field survey program was developed and implemented over a period of 12 days between November 2014 and May 2015. In some cases, the survey periods for this assessment did not align with the preferred seasonality requirements for certain threatened species. Some areas could not be accessed during the field surveys because they are located on private property.

Due to the limited scope of the survey, not all species present (including threatened species) will have been recorded. Vegetation on private property has not been verified and could contain native vegetation communities that have not been accounted for in the EIS.

Although the various NSW databases are accessed to identify threatened species that may occur, other local biodiversity plans and data held by local councils have not been considered, or their local biodiversity objectives.

Additionally, it is unclear how the biodiversity study areas have been selected. There are a number of key biodiversity areas that have been excluded from the study area including groundwater dependent ecosystems which are within the extent of land impacted by groundwater drawdown. These include:

- Bardwell Valley Parkland and Broadford Street Reserve
- Stotts Reserve, Bexley North
- Forest between the southern bank of Wolli Creek and the rail line behind Wolli Creek Station

Consequently, it is considered that the assessment may not have adequately identified all of the species present and the project's total impact on local flora and fauna.

### **2.6.3 Mitigation of Impacts**

There are a number of measures identified in the EIS to avoid, minimise and offset potential impacts to biodiversity and the preparation of an offset strategy where impacts could not be fully mitigated. Mitigation measures include:

- Noise and vibration management measures
- Lighting mitigation
- Erosion and sediment control measures

A Green and Golden Bell Frog Plan of Management has been developed which outlines several mitigation and management measures. This includes a program to create an additional breeding habitat at Marsh Street and the establishment of a captive breeding program.

There is a biodiversity offset strategy proposed in relation to residual impacts to threatened ecological communities and threatened fauna which includes securing like for like offsets to retire credits. The items that will be offset include:

- Cooks River Castlereagh Ironbark Forest
- Paperbark swap forest
- Green and Golden Bell Frog (*Litoria aurea*)

The EIS details that no like-for-like credits were available for purchase. This indicates that the project should not be undertaken since the biodiversity that is proposed to be cleared will not be adequately substituted through offsets. Every effort should be made to find like-for-like biodiversity offsets so that the biodiversity cleared has been sufficiently compensated for through offsetting.



#### **2.6.4 Submission Points**

- Staff of relevant Councils and State bodies should be consulted with regards to local biodiversity plans, objectives, actions and data. Some species considered common through NSW and not protected by threatened species legislation, such as the superb fairy wren, are locally vulnerable and Councils and the local community are working to preserve these species. By focusing on the minimum requirement to protect threatened species, populations and ecological community only, the importance of biodiversity within the local urban context is over-looked.
- Further detail needs to be provided regarding how the loss of established vegetation is to be mitigated.
- Further justification needs to be provided regarding the selection of the boundary study areas and exclusion of key biodiversity spaces.
- Concern is expressed that the limited scope of the surveys and proposed mitigation measures may mean that the flora and fauna impacts are greater than those suggested by the EIS;
- As the EIS details that no like-for-like credits were available for purchase, in relation to its biodiversity off-set strategy it is considered that the biodiversity proposed to be cleared will not be adequately substituted.

#### **2.7 Greenhouse Gas**

The greenhouse gas (GHG) impacts of the WestConnex Stage 2 M5 have been considered in relation to the following categories:

- Methodology and assumptions
- Projected operational greenhouse gas emissions impact and savings

##### **2.7.1 Methodology and assumptions**

To assess the emissions associated with the fuel consumed by vehicles using the project, and to evaluate any potential GHG emissions savings as a result of this project, five specific road use scenarios were considered by the EIS:

- Base case (2021) without the project
- Base case (2021) with the project
- Future case (2031) without the project
- Future case (2031) with the project
- Future case (2031) cumulative case

There is no evaluation of an “existing case” for GHG emissions include in the EIS and consequently no existing baseline for comparison. Further, the model appears to

consider the currently proposed road network, with no new projects or upgrades, meaning that the ultimate assessment (2031) does not include the impact of additional works such as the northern and southern extensions.

### **Projected operational greenhouse gas emissions impact and savings**

The results for 2021 indicate that the project would generate an additional 109,600 tCO<sub>2</sub>-e of Scope 3 emissions from fuel use of light and heavy vehicles using roads within the study area, compared with the '2021 without project' scenario.

However, the results for the 2031 future case indicate that the project would **reduce** greenhouse gas emissions due to the benefits of road tunnel usage in urban areas, where travel along a more direct route at higher average speeds results in decreased vehicle emissions. The EIS acknowledges that as drivers realise the full benefits of the WestConnex network, it is anticipated that the traffic volumes will increase and greenhouse gas savings will decrease.

It is estimated that the project would generate about 473,000 tCO<sub>2</sub>-e during construction of the project. The breakdown of emissions by scope is summarised as:

- Scope 1: 83,700 tCO<sub>2</sub>-e
- Scope 2: 109,200 tCO<sub>2</sub>-e
- Scope 3: 280,300 tCO<sub>2</sub>-e

The majority of GHG emissions associated with the construction of the project are attributed to indirect Scope 3 emissions (59%). Direct Scope 1 and indirect Scope 2 emissions account for 18% and 23% of total construction emissions respectively.

The additional greenhouse gas emissions represent around 0.02% of the Australian national inventory, and 0.07% for the NSW inventory which is not insignificant. The greenhouse gas emissions savings represent around 0.04% of the Australian national inventory and 0.16% of the NSW inventory for 2013.

This seems to 'offset' the additional emissions generated by the construction of the project. However it is important to realise that there will be continuous additional greenhouse gas emissions generated during operation and maintenance of the project including:

- Road infrastructure operation
- Road infrastructure maintenance
- Vehicles using the New M5 during operation

The emissions related to the operation and maintenance of the project have not been estimated past 2031.

### **2.7.2 Submission Points**

- The construction of motorways is not considered to be consistent with best practice greenhouse gas abatement projects related to transportation and the EIS itself acknowledges that greenhouse gas savings will decrease over time as traffic volumes increase.
- It is necessary to carry out a comprehensive evaluation of a public transport alternative and compare this to the project in terms of greenhouse gas emissions in the EIS.

## **2.8 Climate Change Risk and Adaptation**

The climate change risk and adaptation aspects of the New M5 has been considered in relation to the following categories:

- Assessment methodology
- Assessment of potential impacts
- Environmental management measures

Road networks and infrastructure assets are exposed and vulnerable to climate change because of their long design life, during which many impacts of climate change may become more significant.

Roads and Maritime determined that the assessment of the potential impact of climate change on the project is warranted due to the significant investment required for the project, the long design life and its potential exposure to flooding impacts.

### **2.8.1 Assessment methodology**

It is important to note that this assessment considers the impact of future climate change on the project, rather than the impact of the project on the future of climate change. It would be beneficial to assess the impact of the project on climate change.

The focus of the EIS is on operational impacts, not the impacts of the construction phase. The EIS has assumed that impacts of construction would be negligible due to the relatively short timeframe.

### **2.8.2 Assessment of potential impacts**

The EIS undertook a full risk analysis for climate change risk and adaptation and determined that high and extreme risks should be mitigated for. The risk assessment did not identify any risks rated as high or extreme. Of the 28 risks that were analysed for the project, 13 were identified as having a medium risk. These risks rated as medium included measures such as:

- Increase in the intensity and frequency of extreme rainfall combined with sea level rise

- Increase in atmospheric CO<sub>2</sub> and the frequency and intensity of extreme heat events
- Increased frequency and intensity of bushfire events

It is important to note that these effects, while classified as 'medium' risk, may still pose a significant impact on the project.

### **2.8.3 Environmental management measures**

During the detailed design phase a Climate Change Risk Assessment will be undertaken. The assessment will identify and implement adaptation measures to comprehensively address high and extreme risks. The decision to implement adaptation measures for medium risks will also be considered during detailed design.

### **2.8.4 Submission points**

It is important to note that this assessment considers the impact of future climate change *on the project*, rather than the impact of the project on the future of climate change. It would be beneficial to assess the impact of the project on climate change.

## **2.9 Sustainability**

The EIS details how sustainability aims and principles have been applied to the design, construction and operation of the project. The EIS has applied the principles from a number of plans including:

- Long Term Transport Master Plan
- NSW Government Resource Efficiency Policy
- NSW Waste and Avoidance and Resource Recovery Strategy 2014-21
- WestConnex Sustainability Strategy

The EIS details sustainability objectives and targets for the project across a number of key areas such as:

- Road congestion and travel times
- Resource efficiency and waste management
- Energy and carbon
- Water
- Land
- Waste and soil
- Climate change
- Transport design



- Sustainable procurement
- Equitable training and employment opportunities

The overarching sustainability objectives for the project would be met through the implementation of a sustainability management plan and project-specific sustainability initiatives. The implementation of these initiatives would contribute to the project achieving an Infrastructure Sustainability (IS) rating of “Excellent”.

The EIS details that principles of ecologically sustainable development (ESD), the precautionary principle and inter-generational equity have been considered and applied during the design and development of the project.

#### **2.9.1 Submission points**

- It is important that regular reporting is conducted on the sustainability objectives and targets throughout the construction and later phases of the project.

**ITEM 2.5 RMS PROPOSED CHANGES TO BUS STOPS IN ANNANDALE, CAMPERDOWN, LEICHHARDT, LILYFIELD AND ROZELLE**

<b>Division</b>	Infrastructure and Service Delivery
<b>Author</b>	Traffic Manager and Strategic Transport Planner
<b>Meeting date</b>	9 February 2016
<b>Strategic Plan Key Service Area</b>	Accessibility Place Where We Live And Work

**SUMMARY AND ORGANISATIONAL IMPLICATIONS**

<b>Purpose of Report</b>	To report on the impacts of the RMS proposal to remove and relocate bus stops in the LGA and provide a submission to RMS as part of the community consultation.
<b>Background</b>	<p>In December 2015, Council became aware of a proposal by Transport for NSW and RMS to either remove or relocate a number of bus stops within the Leichhardt LGA. A copy of the RMS Community update December 2015 is attached in <b>Attachment 1</b>.</p> <p>The affected bus stops are located in the following roads:</p> <ul style="list-style-type: none"> <li>○ Norton Street (Parramatta Road - Marion Street), Leichhardt - Council</li> <li>○ Norton Street (Carlisle Street - Macauley Street), Leichhardt - Council</li> <li>○ Perry Street near Glover Street, Lilyfield - RMS</li> <li>○ Darling Street (Victoria Road - Denison Street), Rozelle - RMS</li> <li>○ Balmain Road near The Boulevarde (adjacent NSW Ambulance carpark in Callan Park), Lilyfield - RMS</li> </ul> <p>Following concerns raised by Council with RMS, the consultation period was extended from 18th December 2015 to 29th January 2016.</p> <p>RMS has advised that they will consider submissions after the deadline date and to inform them if this was to occur.</p>
<b>Current Status</b>	RMS will now consider all comments and provide a response in a community consultation report, including undertaking further engagement and consultation if that is required. RMS has

	committed to meet with Council staff to review the feedback and consider the way forward for the proposal prior to any decisions being made.
<b>Relationship to existing policy</b>	Nil
<b>Financial and Resources Implications</b>	<ul style="list-style-type: none"> <li>Estimated cost to remove four JC Decaux bus shelters is approximately \$140,000,</li> <li>Estimated cost to remove four street trees in Norton Street and replace road pavement is \$7,000.</li> </ul>
<b>Recommendation</b>	<ol style="list-style-type: none"> <li>That Council forwards a submission as detailed in <b>Attachment 2</b> to RMS with its concerns on the proposed alterations to bus stops as indicated in the RMS Community update December 2015.</li> <li>That RMS be requested to consult with Council on the community feedback prior to any further action being taken in this project and RMS then arrange a public meeting on the outcomes, inviting Council officers, affected businesses and residents within Leichhardt LGA.</li> <li>That the cost of the following and any associated works be met by RMS, subject to the RMS proposal proceeding:             <ol style="list-style-type: none"> <li>removal of bus shelters and RMS agree to fund the on-going financial impacts with the existing street furniture contract;</li> <li>removal of street trees and associated installation of road pavement;</li> <li>construct new facilities to meet DDA requirements;</li> <li>reprogramming of parking meters and changes to signposting and</li> <li>provision and installation of new bus shelters without advertising.</li> </ol> </li> </ol>
<b>Notifications</b>	Nil
<b>Attachments</b>	<ol style="list-style-type: none"> <li>Copy of RMS Community update December 2015.</li> <li>Council's submission to RMS.</li> </ol>

## Purpose of Report

To report on the impacts of the RMS proposal to remove and relocate bus stops in the LGA and provide a submission to RMS as part of the community consultation.

## Recommendation

1. That Council forwards a submission as detailed in **Attachment 2** to RMS with its concerns on the proposed alterations to bus stops as indicated in the RMS Community update December 2015.
2. That RMS be requested to consult with Council on the community feedback prior to any further action being taken in this project and RMS then arrange a public meeting on the outcomes, inviting Council officers, affected businesses and residents within Leichhardt LGA.
3. That the cost of the following and any associated works be met by RMS, subject to the RMS proposal proceeding:
  - (i) removal of bus shelters and RMS agree to fund the on-going financial impacts with the existing street furniture contract;
  - (ii) removal of street trees and associated installation of road pavement;
  - (iii) construct new facilities to meet DDA requirements;
  - (iv) reprogramming of parking meters and changes to signposting and
  - (v) provision and installation of new bus shelters without advertising.

## Background

In December 2015, Council became aware of a proposal by Transport for NSW and RMS to either remove or relocate a number of bus stops within the Leichhardt LGA. A copy of the RMS Community update December 2015 is attached in **Attachment 1**.

The affected bus stops are located in the following roads:

- Norton Street (Parramatta Road - Marion Street), Leichhardt - Council
- Norton Street (Carlisle Street - Macauley Street), Leichhardt - Council
- Perry Street near Glover Street, Lilyfield - RMS
- Darling Street (Victoria Road - Denison Street), Rozelle - RMS
- Balmain Road near The Boulevarde (adjacent Ambulance carpark in Callan Park), Lilyfield - RMS

Council officers informed RMS of Council's concerns about the consultation process which was to close on the 18th December 2015 and strongly requested that the matter be deferred until after the Christmas school holiday period so that a proper community engagement strategy could be prepared and forwarded to Council for discussion.

RMS replied and advised that based on Council's concerns, the consultation period would be extended until Friday, 29th January 2016. Despite Council raising further concerns, RMS advised that all issues would be considered, including further engagement and consultation if required. A consultation report would be prepared and RMS committed to meet with Council staff to review the feedback and consider the way forward for the proposal prior to any decisions being made.



RMS has advised that they will consider submissions after the deadline date and to inform them if this was to occur. An e-mail was forwarded to RMS prior to the deadline advising that the matter was being reported to this meeting and a formal response from Council would be forwarded to RMS on 10th February 2016.

## **Report**

The proposal and impacts on the affected bus stops are detailed below, commencing with Norton Street as the proposed changes are considered to have the greatest impact.

### ***Norton Street (Parramatta Road - Marion Street), Leichhardt (Stops 7-10)***

#### Proposal

There would be a loss of two existing bus stops in this high pedestrian area of Norton with the rationalisation of two bus stops on both the eastern and western sides of Norton Street.

- On the eastern side (inbound to the City), the existing bus stops (D) adjacent to Leichhardt Public School and Nos.63-67 (F) just north of Norton Plaza are proposed to be removed and replaced with eight parking spaces. A new bus stop (E) is proposed (loss of three parking spaces) outside No.99 (Palace Cinema).
- On the western side (outbound from the City), the existing bus stops adjacent to Nos.78-84 (C) just north of NAB bank and Nos.108-122 (A) just south of Marion Street are proposed to be removed and replaced with three parking spaces and a "NO STOPPING" zone respectively. A new bus stop (B) is proposed (loss of three parking spaces) outside Nos.92-94 (commercial offices/retail).

#### Impacts

The rationalisation of the existing bus stops and proposed new bus stop will have a detrimental safety effect on bus patrons' access by moving them away from existing pedestrian crossing facilities to relocated bus stops midblock between Norton Plaza and Marion Street. The existing bus stops are served by a raised zebra crossing (at Norton Plaza / Westpac/ NAB businesses) and four signalised pedestrian crossings at Norton Street/Marion Street.

The high pedestrian demand in this section of Norton Street has already been recognised by RMS with the installation of the "40km/h High Pedestrian Activity Area" zone that Council previously requested.

The highest possible level of service connectivity should be preserved and enhanced e.g. the bus stop near Leichhardt Public School on Norton Street offers seamless interchange with Marion Street services.

By maintaining a larger number of bus stops (rather than single large centralised stops as proposed for Norton Street) there could be an opportunity to spread the loading at each stop by splitting routes between stops. This would then reduce the overall demand at any one location and as such reduce the likelihood of excessive pedestrian queuing/storage blocking Council's footpaths. In the long term, having split stops could also improve the speed of loading buses by having single groups of

patrons at each stop (i.e. patrons for one bus wouldn't block patrons for the other bus).

The retention of the existing stops also retains the four street trees listed for removal. Also, there are two existing JC Decaux bus shelters in Norton Street near Marion Street adjacent to Leichhardt Public School that would need to be removed. It is unlikely that the bus shelters could be relocated as the Palace Cinema has an awning and there is a main staircase out the front of Nos.92-94.

The proposed bus stop outside the Palace Cinema may impact and cause delays on the safe exit of cinema patrons should a fire occur. The existing fire doors access is located on the northern boundary of the property adjacent to the proposed bus stop. There can be no impediment on the Exit at these fire doors.

Both the removal and loss of on-going advertising revenue on the bus shelters would incur a significant cost to Council.

As part of the government's various revitalisation projects it is likely that Leichhardt's population will increase significantly over the next decade with increased patronage and demand for bus services. Single larger stops would result in excessive queuing/storage on Council's footpaths.

Both the Palace Cinema and a family business at Nos.92-94 have raised their objections with Council.

The rationalisation of two bus stops on the eastern side and western sides of Norton Street is not supported.

### ***Norton Street (Carlisle Street - Macauley Street), Leichhardt (Stop 6)***

#### Proposal

The proposed extension of the existing outbound bus stop (A) to accommodate long buses on the western side of Norton Street adjacent to No.168 (Harold Hawkins Court) in this high pedestrian area will require the loss of three vehicle parking spaces and a motorbike parking space.

#### Impacts

The proposed extension will eliminate most of, if not all of the on-street parking spaces (up to 5 carspaces), on the western side of Norton Street between Carlisle Street and Macauley Street. This loss of vehicle and motorbike parking will significantly impact on local businesses, especially a number of restaurants on the opposite side of Norton Street. Metro 10 buses (long bendy buses) currently don't use this stop.

### ***Perry Street near Glover Street, Lilyfield (Stop 5)***

#### Proposal

The removal of the existing outbound bus stop (A) would be replaced with a single parking space.

### Impacts

The removal of this bus stop would require patrons to walk 288m to the next stop to the east or 166m to the west crossing a number of side streets. This outbound bus stop also supplements the inbound bus stop opposite and adjacent to Orange Grove Public School. Council recently extended the kerb return in Glover Street at Lilyfield Road to facilitate pedestrian access and to the zebra crossing in Lilyfield Road just east of Glover Street-Emmerick Street.

The loss of this bus stop would also affect access for senior users of the nearby Uniting Centre for Healthy Ageing in Glover Street who has contacted Council with its concerns.

### ***Darling Street (Victoria Road - Denison Street), Rozelle (Stops 1-2)***

#### Proposal

The relocation of the existing bus stop (1) from between Victoria Road and Hancock Lane to between Hancock Lane and Belmore Street; and the removal of an existing bus stop (2A), just east of Denison Street on the southern sides of Darling Street.

- On the southern side (inbound), the existing bus stop (1A) outside No.686 is proposed to be relocated about 40 metres towards Belmore Street and the existing "NO STOPPING" zone would be extended up to Hancock Lane. The relocated bus stop (1B) is proposed (loss of four parking spaces) outside Nos.692-704 retail shops.
- On the southern side (inbound), the removal of the existing bus stop adjacent to No.754 (just east of Denison Street) is proposed to be removed and replaced with two parking spaces.

### Impacts

The relocation of the bus stop in Darling Street moves it further away for bus patrons (from Victoria Road) and would require bus patrons to cross Hancock Lane. Also, local businesses and shoppers lose 4 on-street parking spaces on the mainstreet of the shopping centre.

The removal of the bus stop in Darling Street, east of Denison Street would require patrons to walk another 220m (uphill) to the stop near Victoria Road or 195m to the stop west of Matilda Street. Also, patrons would need to cross a number of side streets. There is an existing JC Decaux bus shelter at this location that would need to be removed with a loss of advertising revenue to Council and associated removal costs.

### ***Balmain Road near The Boulevarde (adjacent NSW Ambulance state headquarters carpark in Callan Park), Lilyfield (Stops 3-4)***

#### Proposal

The removal of the existing inbound bus stop (3A) on the southern side of Balmain Road just east of The Boulevarde would be replaced with two parking spaces. Similarly, the removal of the existing outbound bus stop (4B) on the northern side of

Balmain Road just west of the driveway to the Ambulance carpark would be replaced with three parking spaces.

#### Impacts

The removal of the inbound and outbound bus stops in Balmain Road near The Boulevarde would require patrons (inbound stop 3A) to walk another 135m to the east crossing two roads or 260m to the west crossing three roads. The removal of the outbound stop (4B) would require patrons to walk a further 250m to the east or 180m to the west. There is an existing JC Decaux bus shelter at this location that would need to be removed with a loss of advertising revenue to Council and associated removal costs.

Council previously constructed a pedestrian refuge in Balmain Road just west of the Boulevarde to facilitate pedestrian movements between the bus stops and various landuses. Also, these bus stops are adjacent to Callan Park and Council is awaiting a decision from the State Government on the future of this site and the Callan Park Masterplan. There are a number of existing government agencies and non-government organisations operating within Callan Park employing a large number of people and some of these employees rely on public transport to and from Callan Park.

Council is aware that the Sydney South West Area Health Service is concerned with the proposal and has made a submission.

#### Submission

A submission has been prepared and is attached as **Attachment 2**. Subject to Council's resolution, the submission will then be e-mailed to RMS for consideration as part of the community consultation.

#### Financial impacts to Council

Should the RMS proposal proceed and the four bus shelters removed with their advertising panels, Council will be in breach of the current street furniture contract with JC Decaux as the number of advertising structures are less than what is required under the contract.

Under the current Infrastructure SEPP, the installation of new replacement advertising panels would be prohibited in Norton Street as it is in a Residential and in a Heritage Conservation Area. Similarly, new replacement advertising panels would be prohibited were the shelter to be removed in Darling Street near Denison Street and the other shelter in Balmain Road adjacent to the NSW Ambulance headquarters driveway are located in a Residential area.

Council could retain the redundant bus shelters so as to maintain the contract requirements; however, this could impact on adjoining property owners and be confusing for bus patrons. Should new bus shelters be required without advertising, RMS should meet the cost.



Apart from the above advertising costs, the estimated cost for the removal of the four bus shelters would be approximately \$140,000.

Additionally, on Norton Street there are four street trees that would need to be removed and road pavement installed at an estimated cost of \$7,000. There will also be a requirement to include pavement shoulder reconstruction to withstand frequent bus loading at the two relocated bus stops and reprogramming of parking meters and amendments to signposting with these costs met by RMS at each new bus stop.

Should RMS pursue the changes, Council would need to seek legal advice on the bus shelter contract and would require RMS to fund all costs associated with the removal of bus shelters and loss of advertising revenue.

#### Approval process

Any proposed changes to bus stops on local and regional roads i.e. Norton Street will require referral to the Local Traffic Committee for consideration and support prior to Council's consideration.

As the other bus stops are on classified roads i.e. Balmain Road, Darling Street and Perry Street; RMS is the determining authority.

Council officers requested RMS to advise whether RMS has undertaken a Part V assessment for this project under the EP&A Act. RMS recently advised that "*Once we have determined if we will proceed with this proposal, we will then undertake the appropriate environmental assessment. The consultation will form part of this work.*"

Council's submission requests RMS to keep Council fully informed of the approval process, including any need to reconsult the community and stakeholders; and the process for determining the Part V environmental review and by which authority approval is granted.

#### Consultation

RMS should be requested to consult with Council on the community feedback prior to any further action being taken in this project and RMS then arrange a community consultation meeting on the outcomes, inviting Council officers, affected businesses and residents within Leichhardt LGA.

#### **Summary/Conclusions**

On the basis of the above comments, it is considered that Council should forward a submission to RMS with its concerns and suggestions on the proposed alterations to bus stops as indicated in the RMS Community update December 2015.

Also, any proposed new bus stop and bus shelter must comply with current DDA requirements and RMS needs to demonstrate that this criteria has been considered and met.

## **Attachments**

1. Copy of RMS Community update Dec 2015.
2. Council's submission to RMS.



Transport  
for NSW

Community update  
December 2015

# Improving bus services in Rozelle, Lilyfield, Leichhardt, Annandale and Camperdown

**Transport for NSW has identified some ways to  
improve the reliability of buses in Sydney's inner west.**

The NSW Government has fully funded the Bus Priority Program. The program aims to improve the reliability of bus services on Sydney's main bus corridors.

As part of this program, Transport for NSW, in conjunction with Roads and Maritime Services, is seeking feedback by **Friday 18 December** on a proposal to make changes to some bus stops on:

- ▶ Darling Street, Rozelle
- ▶ Balmain Road and Perry Street, Lilyfield
- ▶ Norton Street, Leichhardt
- ▶ Parramatta Road, Leichhardt to Camperdown.

There would also be some changes to on-street parking. We have included detailed maps to help explain our proposal.

## HOW WILL WE IMPROVE THE RELIABILITY OF BUS SERVICES?

We plan to improve bus journey times by:

- ▶ Reducing the number of locations at which buses need to stop by combining or removing some bus stops
- ▶ Lengthening some bus stops to accommodate longer buses
- ▶ Making it easier for buses to move in and out of bus stops by removing or relocating on-street parking
- ▶ Reducing delays for buses at traffic lights.

We have carefully considered bus stops near schools, aged care facilities and shops to ensure access to key bus stops is maintained, while still improving bus journey times.

## BACKGROUND

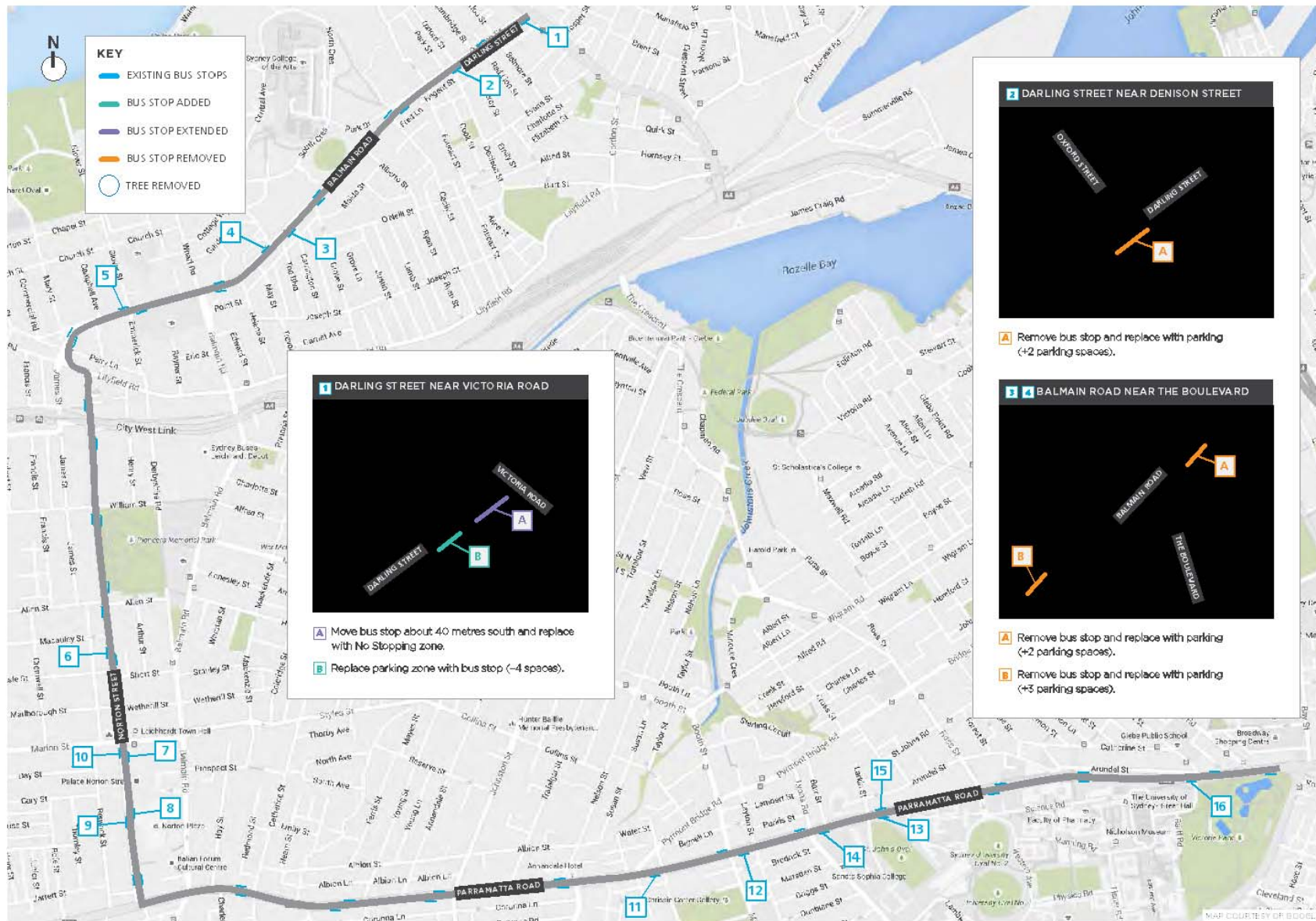
These changes are part of 'Sydney's Bus Future', the NSW Government's plan to redesign Sydney's bus network to meet customer needs now and into the future. Transport for NSW, Roads and Maritime, Sydney Buses and local councils have worked closely to develop this proposal.

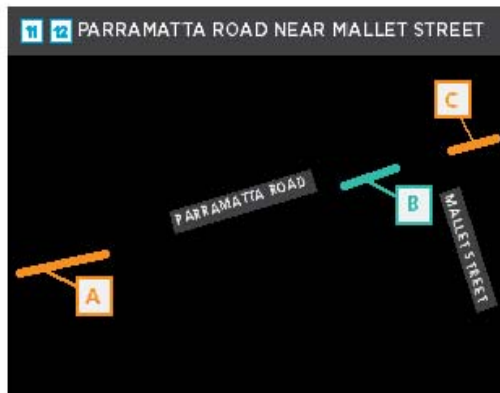
Additionally, the proposed changes will be continually assessed when other major transport initiatives outlined in the NSW Government's Sydney CBD to Parramatta Strategic Transport Plan are implemented.

For more information about this plan, visit [www.transport.nsw.gov.au/sydney-cbd-to-parramatta](http://www.transport.nsw.gov.au/sydney-cbd-to-parramatta)

## KEY OUTCOMES OF THE PROPOSAL

- ▶ More reliable travel times
- ▶ Achieving 95 per cent reliability of bus services
- ▶ Improving traffic flows and reducing traffic congestion for all road users
- ▶ On time running improvements.

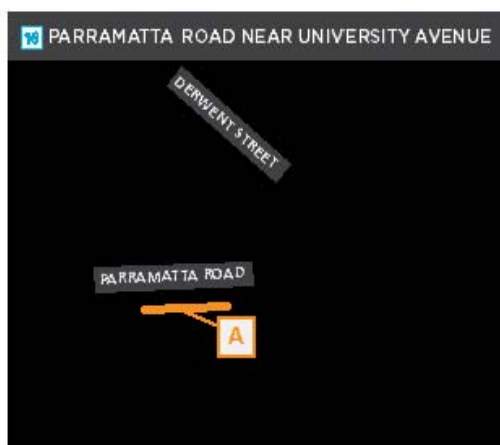




- A** Remove bus stop and replace with parking (+5 parking spaces).
- B** New bus stop replaces parking (-7 parking spaces).
- C** Remove bus stop and replace with No Stopping Zone.



- A** Remove bus stop and replace with No Stopping Zone.
- B** New bus stop replaces parking (-6 parking spaces).
- C** Remove bus stop and replace with parking (+3 parking spaces).
- D** Move bus stop about 10 metres east and replace with No Stopping Zone, and extend bus stop by about 24 metres east. Tree to be removed.



- A** Remove bus stop and replace with parking (+1 parking space)

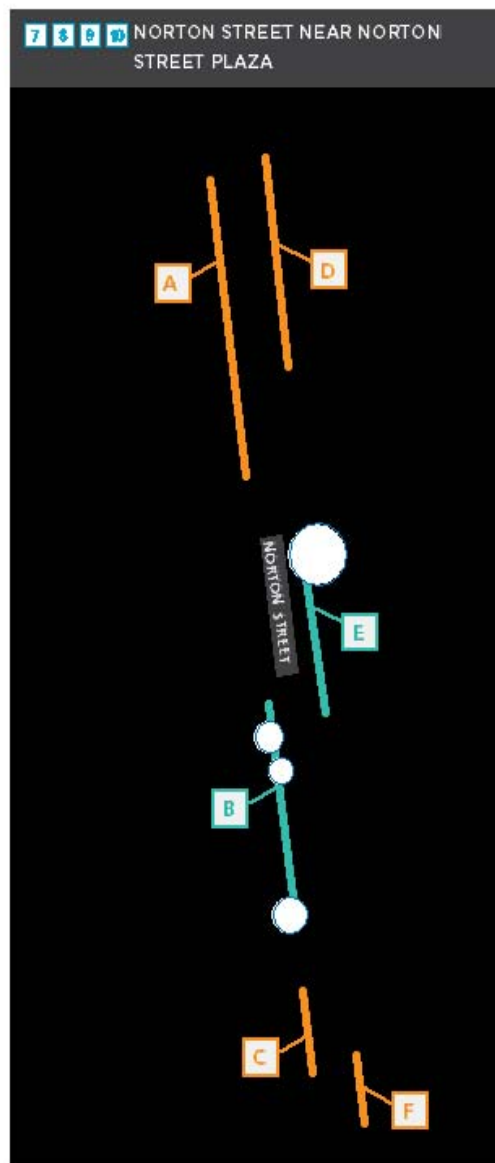




- A** Remove bus stop and replace with parking (+1 space).



- A** Extend bus zone by about 18 metres to allow for long buses. Remove parking (-3 car parking spaces and -1 motorbike parking space).



- A** Remove bus stop and replace with No Stopping Zone
- B** New bus stop replaces parking (-3 parking spaces). Three trees to be removed.
- C** Remove bus stop and replace with parking (+3 parking spaces).
- D** Remove bus stop and replace with parking (+5 parking spaces).
- E** New bus stop replaces parking (-3 parking spaces). Tree to be removed.
- F** Remove bus stop and replace with parking (+3 parking spaces).

### HAVE YOUR SAY

We welcome your written comments by Friday 18 December.

Please send your comments to:

Email: [rozellebuspriority@rms.nsw.gov.au](mailto:rozellebuspriority@rms.nsw.gov.au)  
Mail: PO Box 973, Parramatta CBD NSW 2124

### WHAT HAPPENS NEXT?

We will consider all comments and respond to them in a community consultation report, which will be available early next year.

Depending on the outcomes of community consultation, implementation is expected to proceed in 2016.

We will continue to liaise with the community throughout the project.

### CONTACT US

If you have any questions, please contact our Project Manager Brenton Chalice:

 1800 575 250  
 [rozellebuspriority@rms.nsw.gov.au](mailto:rozellebuspriority@rms.nsw.gov.au)

For more information visit:

 [www.rms.nsw.gov.au/bpp](http://www.rms.nsw.gov.au/bpp)



## Translating and Interpreting Service

If you need an interpreter, please call the Translating and Interpreting Service (TIS National) on **131 450** and ask them to telephone Roads and Maritime Services on 1800 575 250.

### Arabic

إذا كنتم بحاجة إلى مترجم، الرجاء الاتصال بخدمة الترجمة الخطية والشفوية (TIS National) على الرقم **131 450**.  
والطلب منهم الاتصال بوكالتكم Roads and Maritime Services على الرقم 1800 575 250.

### Cantonese

若你需要口譯員，請致電 **131 450** 聯絡翻譯和口譯服務署 (TIS National)，要求他們致電 1800 575 250 聯絡 Roads and Maritime Services。

### Mandarin

如果你需要口译员，请致电 **131 450** 联系翻译和口译服务署 (TIS National)，要求他们致电 1800 575 250 联系 Roads and Maritime Services。

### Greek

Αν χρειάζεστε διερμηνέα, παρακαλείστε να τηλεφωνήσετε στην Υπηρεσία Μετάφρασης και Διερμηνείας (Εθνική Υπηρεσία TIS) στο **131 450** και ζητήστε να τηλεφωνήσουν Roads and Maritime Services στο 1800 575 250.

### Italian

Se desiderate l'assistenza di un interprete, prego telefonare al Servizio Interpreti e Traduttori (TIS National) al **131 450** chiedendo di contattare Roads and Maritime Services al 1800 575 250.

### Korean

통역사가 필요하시면 번역통역서비스 (TIS National)에 **131 450** 으로 연락하여 이들에게 1800 575 250 번으로 Roads and Maritime Services 에 전화하도록 요청하십시오.

### Vietnamese

Nếu cần thông ngôn viên, xin quý vị gọi cho Dịch Vụ Thông Phiên Dịch (TIS Toàn Quốc) qua số **131 450** và nhờ họ gọi cho Roads and Maritime Services qua số 1800 575 250.

## ATTACHMENT 2

Leichhardt Council has reviewed the RMS proposal and submits the following concerns regarding the impacts on both STA and Council assets:

### STA Bus Stops

#### **Norton Street, Leichhardt (7-10)**

The rationalisation of two bus stops on the eastern side and western sides of Norton Street is not supported.

The rationalisation of the existing bus stops and proposed new bus stop will have a detrimental safety effect on bus patrons' access by moving them away from existing pedestrian crossing facilities to relocated bus stops midblock between Norton Plaza and Marion Street. The existing bus stops are served by a raised zebra crossing (at Norton Plaza / Westpac/ NAB businesses) and four signalised pedestrian crossings at Norton Street/Marion Street.

The high pedestrian demand in this section of Norton Street has already been recognised by RMS with the installation of the "40km/h High Pedestrian Activity Area" zone that Council previously requested.

The highest possible level of service connectivity should be preserved and enhanced e.g. the bus stop near Leichhardt Public School on Norton Street offers seamless interchange with Marion Street services.

By maintaining a larger number of bus stops (rather than single large centralised stops as proposed for Norton Street) there could be an opportunity to spread the loading at each stop by splitting routes between stops. This would then reduce the overall demand at any one location and as such reduce the likelihood of excessive pedestrian queuing/storage blocking Council's footpaths. In the long term, having split stops could also improve the speed of loading buses by having single groups of patrons at each stop (i.e. patrons for one bus wouldn't block patrons for the other bus).

The retention of the existing stops also retains the four street trees listed for removal. Also, there are two existing JC Decaux bus shelters in Norton Street near Marion Street adjacent to Leichhardt Public School that would need to be removed. It is unlikely that the bus shelters could be relocated as the Palace Cinema has an awning and there is a main staircase out the front of Nos.92-94.

The proposed bus stop outside the Palace Cinema may impact and cause delays on the safe exit of cinema patrons should a fire occur. The existing fire doors access is located on the northern boundary of the property adjacent to the proposed bus stop. There can be no impediment on the Exit at these fire doors.

Both the removal and loss of on-going advertising revenue on the bus shelters would incur a significant cost to Council.

As part of the government's various revitalisation projects it is likely that Leichhardt's population will increase significantly over the next decade with increased patronage and demand for bus services. Single larger stops would result in excessive queuing/storage on Council's footpaths.

Both the Palace Cinema and a family business at Nos.92-94 have raised their objections with Council.

### **Norton Street near Carlisle Street (6)**

- The proposed extension will eliminate most of if not all of the on-street parking spaces (up to 5 carspaces) on the western side of Norton Street between Carlisle Street and Macauley Street. This loss of vehicle and motorbike parking will significantly impact on local businesses, especially a number of restaurants on the opposite side of Norton Street.

### **Perry Street near Glover Street, Lilyfield (5)**

- The removal of this stop would require patrons to walk 288m to the next stop to the east or 166m to the west crossing a number of side streets. This outbound stop also supplements the inbound stop opposite and adjacent to Orange Grove Public School. Council recently extended the kerb return in Glover Street at Lilyfield Road to facilitate pedestrian access and to the zebra crossing in Lilyfield Road just east of Glover Street-Emmerick Street.

The loss of this bus stop would also affect access for senior users of the nearby Uniting Centre for Healthy Ageing in Glover Street who has contacted Council with its concerns.

### **Darling Street and Balmain Road, Rozelle (1-4)**

- The relocation of the bus stop (1) in Darling Street moves it further away for bus patrons (from Victoria Road) and would require bus patrons to cross Hancock Lane. Also, local businesses and shoppers lose 4 on-street parking spaces in the shopping centre.
- The removal of the bus stop (2) in Darling Street, east of Denison Street would require patrons to walk another 220m (uphill) to the stop near Victoria Road or 195m to the stop west of Matilda Street. Also, patrons would need to cross a number of side streets. There is an existing JC Decaux bus shelter at this location that would require removal and the impact of this is further detailed below.

The removal of the inbound and outbound bus stops (3-4) in Balmain Road near The Boulevarde would require patrons (inbound stop 3A) to walk another 135m to the east crossing two roads or 260m to the west crossing three roads. The removal of the outbound stop (4B) would require patrons to walk a further 250m to the east or 180m to the west. There is an existing JC Decaux bus shelter at this location. Council previously constructed a pedestrian refuge in Balmain Road just west of the Boulevarde to facilitate pedestrian movements between the bus stops. Also, these bus stops are adjacent to Callan Park and Council is awaiting a decision from the State Government on the future of this site and the

Callan Park Masterplan. There are a number of existing government agencies and non-government organisations operating within Callan Park employing a large number of people and some of these employees rely on public transport to and from Callan Park. Council is aware that the Sydney South West Area Health Service is concerned with the proposal and has made a submission.

### **Parramatta Road, Camperdown (11-16)**

The proposal for these bus stops is within the Marrickville Council and City of Sydney LGAs.

#### Council Bus Shelters, Street Trees, Parking Meters & signage

Should the RMS proposal proceed, Council would need to arrange the removal of the four bus shelters and four street trees with the installation of road pavement where the trees occupied the road shoulder.

The four bus shelters include advertising panels and Council would incur a significant loss of revenue with the removal of the bus shelters. Under the current Infrastructure SEPP, the installation of new replacement advertising panels is prohibited.

There will also be a requirement to include pavement shoulder reconstruction to withstand frequent bus loading at the two relocated bus stops and reprogramming of parking meters and amendments to signposting with these costs to be met by RMS at each new bus stop. All the costs associated with these works and loss of advertising revenue would need to be met by Transport for NSW and RMS with no financial impact on Council.

#### Accessibility

Any proposed new bus stop and bus shelter must comply with current DDA requirements and RMS needs to demonstrate that this criteria has been considered and met.

#### Approval process

Council needs to be fully informed of the approval process, including any need to reconsult the community and stakeholders; and the process for determining the Part V environmental review and by which authority approval is granted.

Council requests RMS to consult with Council on the community feedback prior to any further action being taken in this project and RMS then arrange a public meeting on the outcomes, inviting Council officers, affected businesses and residents within Leichhardt LGA.

#### Community concerns forwarded to Council

Council has received a number of objections to the proposal from businesses and residents, including copies sent to RMS.



## ITEM 2.6 DRAFT TRANSPORT CORRIDOR OUTDOOR ADVERTISING AND SIGNAGE GUIDELINES

<b>Division</b>	Environment and Community Management
<b>Author</b>	Strategic Planner
<b>Meeting date</b>	9 February 2016 Policy Meeting
<b>Strategic Plan Key Service Area</b>	Community well-being Accessibility Place where we live and work

### **SUMMARY AND ORGANISATIONAL IMPLICATIONS**

<b>Purpose of Report</b>	The purpose of this report is to inform Council of recent proposed changes to the <i>Transport Corridor Outdoor Advertising and Signage Guidelines</i> , highlight potential impacts on transport corridors in the Leichhardt LGA and seek endorsement of the attached submission.
<b>Background</b>	<p>The Transport Corridor Outdoor Advertising and Signage Guidelines complement the provisions of State Environmental Planning Policy No. 64 - Advertising and Signage (SEPP 64) under the Environmental Planning and Assessment Act 1979. The proposed changes include:</p> <ul style="list-style-type: none"> <li>• specifying the amount of time an image can be displayed depending on the speed limit in certain areas</li> <li>• the brightness of the image</li> <li>• the use of colour, shapes and patterns</li> <li>• the content, font, size and amount of text</li> <li>• requiring a road safety check for all electronic signs over 20m<sup>2</sup> after a 12-month period and within the first 18months of installation.</li> </ul>
<b>Current Status</b>	Public Exhibition period 11 December 2015 to 31 January 2016. Council has been granted an extension until 11 February 2016 to make a submission.
<b>Relationship to existing policy</b>	Leichhardt Development Control Plan 2013 and Merit Assessment of Public Benefit from Outdoor Advertising and Structure in Transport Corridors Policy
<b>Financial and Resources Implications</b>	NIL
<b>Recommendation</b>	<p>That Council:</p> <ol style="list-style-type: none"> <li>1. Receives and notes this report;</li> <li>2. Make a submission to the Department of Planning and Environment in relation to maximum luminance levels and prohibiting</li> </ol>

	or restricting the use of mobile electronic displays for advertising along road corridors.
<b>Notifications</b>	NIL
<b>Attachments</b>	<ol style="list-style-type: none"><li>1. Draft Transport Corridor Outdoor Advertising and Signage Guidelines along Transport Corridors (full document)</li><li>2. Draft Transport Corridor Outdoor Advertising and Signage Guidelines Frequently Asked Questions</li></ol>

## Purpose of Report

The purpose of this report is to inform Council of recent proposed changes to the *Transport Corridor Outdoor Advertising and Signage Guidelines* and highlight any possible impacts on the Leichhardt LGA.

## Recommendation

That Council:

1. Receives and notes this report;
2. Make a submission to the Department of Planning and Environment in relation to maximum luminance levels and prohibiting or restricting the use of mobile electronic displays for advertising along road corridors.

## Background

The Transport Corridor Outdoor Advertising and Signage Guidelines complement the provisions of State Environmental Planning Policy No. 64 - Advertising and Signage (SEPP 64) under the Environmental Planning and Assessment Act 1979.

The proposed changes include:

- specifying the amount of time an image can be displayed depending on the speed limit in certain areas
- the brightness of the image
- the use of colour, shapes and patterns
- the content, font, size and amount of text
- requiring a road safety check for all electronic signs over 20m<sup>2</sup> after a 12-month period and within the first 18months of installation.

## Report

The Transport Corridor Outdoor Advertising and Signage Guidelines provide an assessment framework for minimising road safety risks from driver distraction posed by electronic advertising and signage.

Over the last few years the technology for signage, particularly along transport corridors, has changed. Electronic signage technologies are increasingly being used in transport corridors. The Department of Planning and Environment, Transport for NSW and the Outdoor Media Association have worked together to update the Guidelines. The proposed changes take into account emerging technologies and provide a consistent approach to assessing road safety risks for the design, location and operation of electronic signs in transport corridors across the State.

The draft guidelines prohibit:

- videos and animation
- message sequencing
- television, internet and satellite broadcast
- the use of flickering or flashing content.

The draft Guidelines would be used to assess proposals for digital advertising and signage along Leichhardt's Light Rail Corridor and all classified roads.

Having reviewed the draft guidelines, two issues are raised, one relating to the proposed luminance levels and the other to mobile electronic displays.

### *Proposed Luminance Levels*

Luminance means the objective brightness of a surface as measured by a photometer (cd/m<sup>2</sup>), which in practice, is the extent to which a light source radiates light or the degree to which it shines. Luminance levels should comply with Australian Standard AS4282 *Control of the Obtrusive Effects of Outdoor Lighting* which recommends the following levels for different types of urban and rural environment:

<b>Lighting Condition</b>	<b>Zone 1</b>	<b>Zone 2 &amp; 3</b>	<b>Zone 4</b>
Full Sun on face of Signage	No limit	Maximum Output	Maximum Output
Day Time Luminance		6000cd/m <sup>2</sup>	6000cd/m <sup>2</sup>
Morning and Evening Twilight and Inclement Weather		700cd/m <sup>2</sup>	500cd/m <sup>2</sup>
Night Time		350cd/m <sup>2</sup>	
Night Time		350cd/m <sup>2</sup>	

**Zone 1** covers areas with generally very high existing levels of off-street ambient lighting e.g. display centres similar to Kings Cross, central city locations.

**Zone 2** covers areas with generally high existing levels of off-street ambient lighting e.g. some major shopping/commercial centres with a significant number of off-street illuminated advertising devices and lights.

**Zone 3** covers areas with generally medium existing levels of off-street ambient lighting e.g. small to medium shopping/commercial centres.

**Zone 4** covers areas with generally low levels of off-street ambient lighting e.g. most rural areas, many residential areas.

### Council Officer Comments

Given the light emitted from high ground is more prominent when viewed from surrounding areas and the mix of land uses that surround the ridgeline transport corridors in the Leichhardt local government area, Councils Traffic and Assets officers have provided advice on the possible implications of the proposed changes to the Guidelines. Overall officers have no particular concerns about the proposed luminance levels but they do have some road safety concerns.

The critical factor for road safety is the field of vision of the driver, and not background luminance. This means that in a retail street the luminance from the

direction of the shop frontages does not equate to the luminance from the longitudinal direction of the carriageway. Pedestrian crossings are specifically illuminated with angled lighting to illuminate the elevation of the crossing user to ensure that a pedestrian is evident against the background. Angled lighting for an advertising sign would result in an excessive distraction against a lower illumination background and should be prohibited.

So as not to be a hazard, the luminance emitting from any advertising sign should be at the same level as the light energy from the roadway scene a driver is approaching and assuming that the scene is devoid of transitory light sources such as other traffic. That scene therefore represents the luminance without vehicles in the driver's forward vision, which is the critical vision requirement for safely perceiving the roadway.

Consequently, luminance from a large sign should not be assessed as an average light energy output, but should be measured as the brightest part of the illuminated image. That is because a white zone within an otherwise dark image can be dazzling to a driver, similar to an oncoming vehicle's high beam.

Also the switching between images should fade in so as not to cause sudden changes in the vision field luminance.

#### *Mobile Electronic Displays*

The consultation on these draft Guidelines also provides an opportunity for Council to express its opposition to the use of mobile electronic displays for advertising within the road carriageways along transport corridors. Mobile electronic displays are highly visible and disrupt drivers' field of vision, especially where a cluster of parked trailers with mobile electronic displays occur. The Department should consider including provisions in the Guidelines which either prohibit or restrict the use of mobile electronic displays for advertising along road corridors.

#### ***Impact on the Leichhardt Local Environmental Plan (LEP) 2013***

The proposed draft guidelines have no implications for the *Leichhardt LEP 2013* as both the *State Environment Planning Policy No. 64 - Advertising and Signage* (SEPP 64) and the *State Environmental Planning Policy (Exempt and Complying Development Codes)* prevail over the LEP.

#### ***Impact on the Leichhardt Development Control Plan (DCP) 2013***

Section C1.15 of the Leichhardt Development Control Plan 2013 makes provisions for new technologies and allows for merit based assessment of illuminated signs:

- *New Technologies:*
  - *C5 Innovative proposals for signs not envisaged by these controls will be considered on their merits taking into account the location, characteristics of adjoining and nearby land uses and the objectives of this section.*



- *Illumination:*
  - *C6 Illuminated signs will be considered taking into account potential impacts on amenity. Timing limitations for illuminated signs may be considered appropriate.*
  - *C7 Light spill from illumination is not to affect nearby residential properties.*

### **Other Council Policies : Merit Assessment of Public Benefit from Outdoor Advertising and Structures in Transport Corridors**

In August 2015 Council adopted a policy in relation to the merit assessment of public benefit for development applications for new outdoor advertising and signage. The draft guidelines have no impact on this policy.

### **Summary/Conclusions**

The draft Transport Corridor Outdoor Advertising and Signage Guidelines provide an assessment framework for minimising road safety risks from driver distraction posed by electronic advertising and signage.

The submission points are:

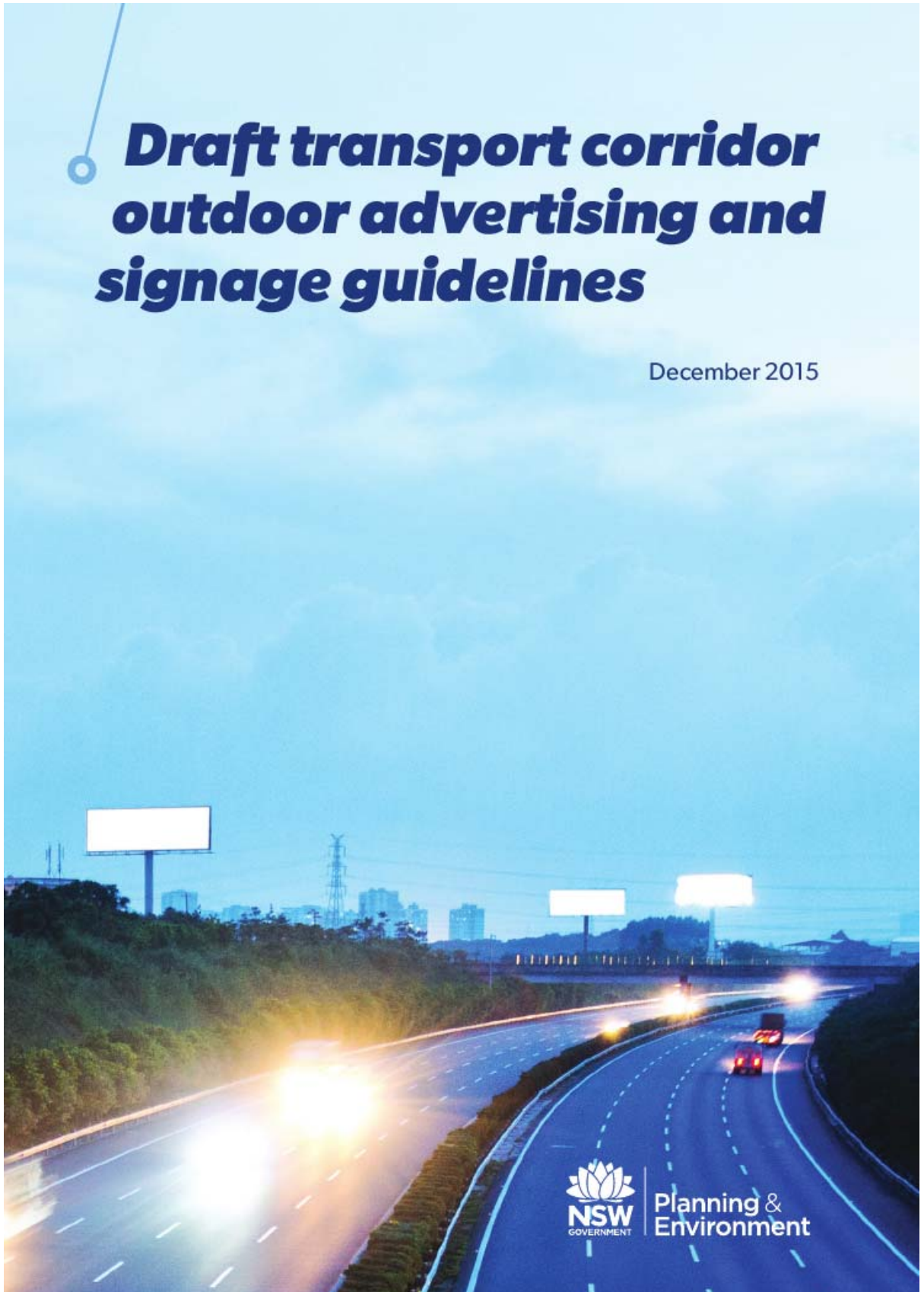
- from a road safety perspective it is considered that luminance from a large sign should not be assessed as an average light energy output, but should be measured as the brightest part of the illuminated image; and
- the Department of Planning and Environment should consider including provisions in the Guidelines which either prohibit or restrict the use of mobile electronic displays for advertising along road corridors.

### **Attachments**

1. Draft Transport Corridor Outdoor Advertising and Signage Guidelines along Transport Corridors (full document)
2. Draft Transport Corridor Outdoor Advertising and Signage Guidelines Frequently Asked Questions

# **Draft transport corridor outdoor advertising and signage guidelines**

December 2015



#### FURTHER INFORMATION

NSW Department of Planning and Environment  
Information Centre

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GPO Box 39, Sydney NSW 2001

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F 02 9228 6455  
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W [www.planning.nsw.gov.au](http://www.planning.nsw.gov.au)

TRANSPORT CORRIDOR OUTDOOR ADVERTISING AND SIGNAGE GUIDELINES  
ASSESSING DEVELOPMENT APPLICATIONS UNDER SEPP 64

© State of New South Wales through the Department of Planning and Environment November 2015  
23-33 Bridge Street Sydney NSW Australia  
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# 1. Introduction

The *Transport Corridor Outdoor Advertising and Signage Guidelines* outline best practice for the planning and design of outdoor advertisements in transport corridors such as along or adjacent to classified roads, freeways, tollways, transitways, railway corridors or on bridges or road and rail overpasses.

The Guidelines complement the provisions of *State Environmental Planning Policy No. 64 – Advertising and Signage* (SEPP 64) under the *Environmental Planning and Assessment Act 1979* (the Act).

SEPP 64 sets out certain rules in relation to outdoor advertising and signage including:

- (a) advertising which is prohibited in certain locations
- (b) advertising which requires consent under Part 4 of the Act and lodgement of a development application
- (c) advertising which is exempt development.

Note: There are also additional types of advertising that are exempt development in other environmental planning instruments (e.g. real estate signs).

This document outlines detailed information in relation to SEPP 64 advertising within transport corridors, including design criteria and road safety considerations.

In the event of any inconsistency between SEPP 64 and this document, SEPP 64 prevails to the extent of the inconsistency.

## Summary of information in the Guidelines

**Section 1** outlines the main provisions of SEPP 64 and how they relate to these Guidelines.

**Section 2** outlines:

- (a) General assessment criteria for all advertisement proposals under SEPP 64, and
- (b) Specific design criteria for advertising structures within transport corridors.

**Section 3** outlines Roads and Maritime Services' (RMS) road safety guidelines in relation to all signage within road corridors.

**Section 4** outlines Public Benefit Test requirements for advertisements within transport corridors.

**Section 5** outlines the various roles of RMS in approving or giving concurrence to certain types of advertising structures.



## 1.1 OUTDOOR ADVERTISING AND SIGNAGE

Outdoor advertising and signage covered by these Guidelines relates to the promotion of a product, service, event or any other activity for a charity or business that would derive a benefit from the display of the advertising. It may be composed of various forms which includes the following characteristics:

### 1.1.1 Format:

- (i) **printed signs** – advertising signs with messages that incorporate words, symbols or pictorial displays that are printed on paper or alternative materials such as computer generated woven polyester panels or 'skins'. The messages may be illuminated through external power sources.
- (ii) **moving signs** – allow the presentation of two or more static messages that are rotated mechanically (i.e. by a motor) through a pre-determined sequence at regular intervals, while the supporting structure remains stationary. There are motionless periods in between the presentation of different messages and the number of messages that can be displayed is restricted. This type of advertising format includes:
  - Trivision: messages are printed onto a series of adjacent vertical prisms (usually 3 sided) which when aligned display a single advertising image. The prisms are rotated in unison, typically every 4 to 10 seconds to show one of three messages.
  - Multi-advertising scrolling: these devices have multiple advertisements printed onto a looped canvas or connected to form a single scroll. These are often smaller signs installed at street level or incorporated into public transport infrastructure such as bus stops. They also often illuminated or backlit.

(iii) **digital signs** – these devices use digital technology to display bright, high quality electronic images which are uploaded and changed using a computer and modem via a secure network. A central feature of these devices is the use Light Emitting Diode (LED) technology allowing luminance to be controlled and adjusted automatically. They can utilise:

- **Static electronic displays** – these display static images only, which are presented successively at set intervals. They do not contain or imply motion such as vertical or horizontal scrolling, fade, dissolve or animation within the message itself; and do not have any movement of any part of the advertising structure or surrounds. These signs are also known as Electronic Static Displays or ESDs.

Display dwell times, transition times and luminance can all be controlled and changed electronically. Digital signs can be installed on a range of permanent and portable structures similar to those for printed formats.

Variable message signs (VMS) that are used for advertising purposes are included in this definition. They usually display electronic text messages but have the capacity for graphical displays and can be used in permanent or portable structures.

- VMS are increasingly being utilised for advertising purposes in a broader range of environments including commercial, community and schools.

VMS that are erected by RMS for road safety or traffic management purposes are excluded.

Reference to digital signs in the remainder of the Guidelines includes ESDs, VMSs or both as the context permits or requires.

- **Non-static (dynamic) electronic displays** – these display animations, videos, flashing, and have active display changes. These signs either permanent or portable, including any signs which contain any portion of video and/or animated content, that face the road reserve and are visible to road users are prohibited.

**1.1.2 Size:** While there are accepted industry standards for common forms of advertising formats the following size parameters reflect the principal consent and regulatory responsibilities for advertising that are within 250 metres of and visible from a classified road. The relevant Local Council is the consent authority except for cases as defined in Section 1.3.3 of the Guidelines:

- (iv) signs less than 20 square metres – local councils assess and regulate these development applications (DAs) using Development Control Plans (DCPs), the provisions in these Guidelines and the RMS Risk Assessment Matrix.
- (v) signs greater than or equal to 20 square metres; or higher than 8 metres above the ground – local councils must obtain concurrence from RMS prior to issuing consent. The referral process for DAs requiring concurrence is outlined in Section 5 of these Guidelines.

RMS following receipt of the application from the consent authority will within 21 days grant or decline its concurrence. If RMS has not informed the consent authority within 21 days it is taken to have granted its concurrence.

**1.1.3 Mode** is defined as:

- (i) Fixed displays including structures mounted on the ground, affixed to a building, bridges, street furniture, bus shelters, displays mounted on any registered vehicle that is parked eg trailer.
- (ii) Mobile displays are any advertisements that are displayed on moving vehicles including a vehicle that is stationary but not parked.

## 1.2 COMMON TYPES OF OUTDOOR ADVERTISING

Common types of outdoor advertising include:

### 1.2.1 Freestanding and wall advertisements

Freestanding advertisements are mainly displayed on structures mounted on the ground by supports (e.g. pole, gantry, frame) while wall advertisements are generally fixed to a wall by a frame structure. Billboards and posters are the most commonly used format that includes a range of sizes:

- Spectacular (18.99m x 4.5m) – frame, gantry or pole mounted
- Supersite (12.33 x 3.35m) – most common large format sign and often sold in 'packs'.
- Super6 (6x3m) – commonly known as poster sites and seen in local areas attached to buildings, poles or frame mounted.
- Super8 (8.3m x 2.2m) – same proportion as Supersites to enable consistency of content for advertisers
- Billboard – 24 Sheet Poster: Measure 6 x 3 metres in size and tend to be located mainly on building walls in commercial and industrial areas, along roads and in railway corridors.
- Small format – 6 Sheet Poster: Posters 3 metres x 1.5 metre in size with the same proportions as a 24 sheet poster. Mounted mainly on walls and often located in suburban areas.
- Landmark – dimensions are unique to each site and are not a specific size.
- Portrait – portrait signs are large format signs and not specific in size. Often large format portrait signs are attached to the side of multi storey buildings.
- Portrait 50s (3m x 4.5m) – have a magazine cover look

### 1.2.2 Roof or sky advertisements

Roof or sky advertisements are advertisements that are displayed on, or erected on or above the parapet or eaves of a building. They may be freestanding structures or wall advertisements and range from billboard size up to spectacular size (over 50 square metres). In addition to the requirements for freestanding and wall advertisements, special rules under SEPP 64 apply if the advertisements are considered to be roof or sky advertisements.

### 1.2.3 Building wrap and hoarding advertisements

Building wraps are materials such as vinyl mesh used to cover or wrap buildings or land that may be under construction, renovation or demolition. *Hoardings* are a type of building wrap generally made of wood that are often placed as temporary walls around construction sites. Building wrap advertisements use the wrap material (e.g. mesh or wood) as the mounting surface for the advertisements. Under SEPP 64, these types of advertisements are not considered to be wall advertisements and special rules apply to the use of the advertisements.

### 1.2.4 Special promotional advertisements

A special promotional advertisement is an advertisement for an activity or event of a civic or community nature (e.g. public exhibitions and festivals, sports or charity events etc). Events may be advertised on different media including walls, building wraps or bridges, and may vary in size from small posters to spectacular size. As with building wraps, specific rules apply to special promotional advertisements, including limits on how long the advertisements can be displayed for and also controls on signage content.

### 1.2.5 Advertisements on bridges

Advertising structures may be permitted on railway, road and pedestrian bridges or overpass structures where they meet the criteria in these Guidelines. Special rules apply to the type of advertisements allowed on bridges and overpasses to ensure that the architectural qualities of the bridge and safety along the transport corridor are not compromised. RMS requires that signs developed above roads or upgraded since 2011 include a 'fall arrest' system from the sign to the bridge/overpass to prevent the sign structure falling on traffic should it be impacted by high vehicles.

### 1.2.6 Advertisements on bus shelters or street furniture

Bus shelter poster displays are often positioned as an integral part of a freestanding covered structure at a bus stop. Often the poster displays are internally illuminated.

Street furniture displays commonly are 1.8 metres x 1.2 metres or 1.5 metres x 1 metre in size and are often backlit. They are generally located within urban centres, entertainment areas and railway platforms.

### 1.2.7 Advertisements within navigable waters

Under SEPP 64, advertising is prohibited within navigable waters (waters capable of navigation and open to or used by the public for navigation) unless it is ancillary to the dominant purpose of the vessel.

### 1.2.8 Static electronic displays

These display static images only, which are presented successively at set intervals. They do not contain or imply motion such as vertical or horizontal scrolling, fade, dissolve or animation within the message itself; and do not have any movement of any part of the advertising structure or surrounds. These signs are also known as Electronic Static Displays or ESDs.

Display dwell times, transition times and luminance can all be controlled and changed electronically. Digital signs can be installed on a range of permanent and portable structures similar to those for printed formats.

VMS that are used for advertising purposes are included in this definition. They usually display electronic text messages but have the capacity for graphical displays and can be used in permanent or portable structures.

VMS are increasingly being utilised for advertising purposes in a broader range of environments including commercial, community and schools.

VMS that are erected by RMS for road safety or traffic management purposes are excluded.

Reference to digital signs in the remainder of the Guidelines includes ESDs, VMSs or both as the context permits or requires.

### 1.2.9 Projection on to buildings

This involves the projection of both still and video images directly on to buildings. It is usually used for special events e.g. the Vivid Festival and New Year Eve celebrations. However there is increasing interest in using this technique more broadly in advertising because of the reduced infrastructure and installation costs.

### 1.3 PROVISIONS UNDER SEPP 64

The aims of SEPP 64 are:

- (a) to ensure that signage (including advertising):
  - (i) is compatible with the desired amenity and visual character of an area
  - (ii) provides effective communication in suitable locations
  - (iii) is of high quality design and finish
- (b) to regulate signage (but not content) under Part 4 of the Act
- (c) to provide time-limited consents for the display of certain advertisements
- (d) to regulate the display of advertisements in transport corridors
- (e) to ensure that public benefits may be derived from advertising in and adjacent to transport corridors.

SEPP 64 applies to all signage that can be seen from a public place or public reserve except signage that is exempt development. As a general rule, the consent authority must not grant development consent for an advertising structure that the consent authority does not consider is compatible with the desired amenity and visual character of the area, addresses public safety considerations, provides acceptable communication in suitable locations and is of a high quality design and finish. The consent authority also must be satisfied that all the relevant requirements of SEPP 64 are met.

#### 1.3.1 Prohibited development

The display of advertisements other than business or building identification signs is prohibited under SEPP 64 in the following land use zones or descriptions (with the exception of the Mount Panorama Precinct):

- environmentally sensitive area
- heritage item (except railway stations)
- Environmental Zones E1 – E4
- Recreation Zones – RE1 and RE2 (except sponsorship advertising at sporting facilities)
- residential (but not a mixed residential and business zone, or similar zones).
- Waterway W1 – W3
- scenic protection area
- heritage conservation area

#### 1.3.2 Sponsorship advertising in open space zones

Under SEPP 64, the display of an advertisement is prohibited on land zoned "open space" unless the signage is exempt development, a business identification sign, a building identification sign or signage on a vehicle. This prohibition does not apply however to sponsorship advertising at public sporting facilities in public recreation zones.

Sponsorship advertising is an advertisement that provides information about the sponsors of the teams or organisations using the public sporting facility or about the products of those sponsors.

The permissibility and development controls for such sponsorship advertising are generally outlined under the relevant environmental planning instrument (LEP or DCP). The council may decide whether or not such advertising is prohibited or permissible and whether or not consent is required for the signage. If consent is required, a development application must be submitted to the council for the signage.

For local government areas where there are no development controls in place (e.g. in an LEP or DCP) for sponsorship advertising, the following interim guidelines are provided to regulate sponsorship advertising in public recreation zones:

- Advertisements must be consistent with all relevant provisions of SEPP 64 including those relating to roof, wall and free-standing advertisements.
- Sponsorship advertising requires consent, unless it is identified as exempt development under a relevant environmental planning instrument.
- Third party advertising (other than the sponsor's advertisement) is not permitted on a sponsorship advertising structure. Signage content is restricted to information about the sponsors of the teams or organisations using the sporting facility or about the products of those sponsors.
- Signage must be viewed primarily from the sporting facility and should not face outward from the facility.

**FIGURE 1: OUTDOOR ADVERTISING AND SIGNAGE APPLICATIONS UNDER SEPP 64**

**LOCATION OF SIGNAGE**

Advertising on tollways; RMS advertising on freeways, RMS constructed bridges or RMS owned, occupied or managed land; Sydney Trains and NSW Trains advertising in rail corridors

Exempt development

Complying development

Development requiring consent

Advertising on other land where advertising is permissible

Advertising on land where advertising is prohibited

Prohibited development under SEPP 64 or under a local environmental plan will not be processed unless advertising meets criteria under clause 16 of SEPP 64.

**CONSENT AUTHORITY AND CONSULTATION**

**Minister for Planning**

Review by Design Panel if required

Consultation with Council

Consultation with RMS

**Local Council**

Signs that do not require RMS concurrence

Signs that require RMS concurrence

Signs on bridges

Other signs

**DEVELOPMENT CONTROL AND GUIDELINES**

- SEPP 64 Assessment Criteria (Section 2 of Guidelines)
- Design Criteria for Transport Corridors (Section 2 of Guidelines)
- Road Safety (Section 3 of Guidelines)
- Public Benefit Test (Section 4 of Guidelines)

Council DCP and SEPP 64

Council DCP and SEPP 64 and RMS requirements

RMS assessment process (Section 5 of Guidelines)  
Road safety (Section 3 of Guidelines)  
Public Benefit Test (Section 4 of Guidelines)



### 1.3.3 Part 4 development applications – consent required

Consent is required to display an advertisement unless the advertisement is exempt development under an Environmental Planning Instrument such as a relevant LEP or SEPP.

The relevant local council is the consent authority except in the following cases:

- (a) Roads and Maritime Services in the case of an advertisement displayed on a vessel, or
- (b) the Minister for Planning in the case of an application to display an advertisement on railway corridor land made by or on behalf of Sydney Trains and NSW Trains, or
- (c) the Minister for Planning in the case of an application to display an advertisement made by or on behalf of RMS:
  - (i) on a freeway or tollway or associated road use land adjacent to such a road, or
  - (ii) on bridges constructed by or on behalf of RMS in any road corridor, or
  - (iii) on RMS owned, occupied or managed land.
- (d) the Minister for Planning in the case of an application to display an advertisement on transport corridor land comprising a road known as the Sydney Harbour Tunnel, the Eastern Distributor, the M2 Motorway, the M5 Motorway, the M7 Motorway, the Cross City Tunnel or the Lane Cove Tunnel or associated road use land adjacent to the road.

**Figure 1** illustrates the relationship between the location of signage, the consent authority and the process for assessing SEPP 64 development applications. As shown in the diagram, most proposed advertisements in transport corridors are assessed in accordance with these Guidelines. In particular, advertisements on bridges and tollways, as well as advertisements by Sydney Trains and NSW Trains and RMS in railway corridors and along freeways, must be consistent with the design, road safety and public benefit requirements of the Guidelines.

### 1.4 MATTERS FOR CONSIDERATION IN DETERMINING A SEPP 64 DEVELOPMENT APPLICATION

In determining whether to grant consent to a development application under SEPP 64 the consent authority must address:

- The aims and objectives of SEPP 64 as listed above in **Section 1.3** of the Guidelines.
- General assessment criteria as per SEPP 64 Schedule 1 contained in **Section 2** of the Guidelines.
- Specific design criteria as set out in **Section 2** of the Guidelines
- Road safety assessment criteria as set out in **Section 3** of the Guidelines.
- Public Benefit Test requirements for certain proposals as set out in **Section 4** of the Guidelines.
- Any RMS assessment or concurrence provisions as set out in **Section 5** of the Guidelines.
- All other relevant requirements of SEPP 64 and these Guidelines.

If the Minister for Planning is the consent authority, all relevant design and road safety matters in these Guidelines must be addressed, in addition to public benefit testing and the objectives and requirements of SEPP 64.

#### 1.4.1 Duration of consents

A consent for a SEPP 64 advertisement is limited to a maximum of 15 years. This is to be specified in the conditions of consent. The consent authority may specify a period of less than 15 years only if:

- (a) before the commencement of SEPP 64, the consent authority had adopted a policy of granting consents in relation to applications to display advertisements for a lesser period and the duration of the consent specified by the consent authority is consistent with that policy, or
- (b) the area in which the advertisement is to be displayed is undergoing change in accordance with an environmental planning instrument that aims to change the nature and character of development and, in the opinion of the consent authority, the proposed advertisement would be inconsistent with that change, or

- (c) the specification of a lesser period is required by another provision of SEPP 64.

**Note:** For roof or sky advertisements the duration of consent is a maximum of 10 years. For building wrap advertisements, the period of display is limited to a maximum of 12 months. For special promotional advertisements the period of display is limited to a maximum of 3 months in any 12 month period.

#### 1.4.2 Exempt development

Under SEPP 64 the following development on transport corridor land is exempt development when carried out by or on behalf of RMS or Sydney Trains and NSW Trains:

- (a) display of an advertisement in an underground railway station or railway tunnel,
- (b) display of an advertisement at a railway station or bus station if the advertisement is visible primarily from within the railway corridor or bus station,
- (c) removal of existing signage,
- (d) modifications to existing signage to meet occupational health and safety requirements and that do not increase the advertising display area of the signage.

**Note:** Modifications for WH&S compliance may include removal and replacement of signs in the same format, as well as minor modification to existing signs. In both cases, the surface area of the advertising display area must not be increased.

Under SEPP 64, the display of a poster depicting electoral matter is also exempt development, if such a poster is:

- (a) no larger than 8,000 square centimetres, and
- (b) displayed by or on behalf of a candidate at the election or the party (if any) of any such candidate, and
- (c) displayed in accordance with any requirements of the Act under which the election is held, and
- (d) displayed only during the period from five weeks immediately preceding the day on which the election is held, up to the election day and then up to one week immediately following the election day.

**Note:** The above provision applies to election posters relating only to elections in NSW held under the *Commonwealth Electoral Act 1918* of the *Commonwealth*, the *Parliamentary Electorates and Elections Act 1912* and the *Local Government Act 1993*.

#### 1.5 PERMISSIBLE DEVELOPMENT IN TRANSPORT CORRIDORS

Under Clause 16 of SEPP 64, the display of an advertisement on transport corridor land is permissible with development consent in the following cases:

- (a) the display of an advertisement by or on behalf of Sydney Trains and NSW Trains on a railway corridor,
- (b) the display of an advertisement by or on behalf of RMS on:
  - (i) a road that is a transitway, freeway or tollway (under the *Roads Act 1993*) or associated road use land that is adjacent to such a road, or
  - (ii) a bridge constructed by or on behalf of RMS on any road corridor, or
  - (iii) land that is owned, occupied or managed by RMS,
- (c) the display of an advertisement on transport corridor land comprising a road known as the Sydney Harbour Tunnel, the Eastern Distributor, the M2 Motorway, the M4 Motorway, the M5 Motorway, the M7 Motorway, the Cross City Tunnel or the Lane Cove Tunnel, or associated road use land that is adjacent to such a road.

The Minister may not accept a development application if he/she determines that the display of the advertisement is not compatible with surrounding land use, taking into consideration the relevant provisions of these Guidelines.

The land use compatibility criteria in Table 1 will assist in determining whether proposed advertisements are incompatible with surrounding land use.

## 1.6 SEPP 64 DEVELOPMENT APPLICATIONS IN TRANSPORT CORRIDORS

### 1.6.1 RMS, Sydney Trains and NSW Trains and Tollway proposals

SEPP 64 development applications (DAs) for the following advertising proposals are to be lodged with the Department of Planning and Environment to be determined by the Minister for Planning:

- advertisements by or on behalf of Sydney Trains and NSW Trains in railway corridors,
- advertisements by or on behalf of RMS on:
  - (a) transitways, freeways or tollways (or associated road use land adjacent to such a road), or
  - (b) bridges constructed by or on behalf of RMS on any road corridor, or
  - (c) land that is owned, occupied or managed by RMS.
- advertisements displayed along tollways including the Sydney Harbour Tunnel, the Eastern Distributor, M2 Motorway, M5 Motorway, M7 Motorway, Cross City Tunnel or the Lane Cove Tunnel.

Please contact the Department of Planning and Environment to obtain a DA form or visit the website: [www.planning.nsw.gov.au](http://www.planning.nsw.gov.au).

The DA must be referred to the relevant local council for comment, and the Minister for Planning must consider any comments received within 28 days from the council when making a determination.

For applications to display advertisements along tollways, the Minister for Planning must also consult with RMS and consider any comments received within 28 days from RMS when making a determination.

The Minister may also appoint a design review panel to provide advice concerning the design quality of any proposed advertisements along transport corridors. The panel may include representatives from the local community, the outdoor advertising industry, and independent consultants with expertise in urban design and/or road safety.

### 1.6.2 Other SEPP 64 development applications

For other advertising proposals, consent is required from local councils. Please contact the relevant local council to find out how to lodge a DA.

Public benefits may need to be provided in connection with some DAs (see Section 4 for details).

Where an advertising structure is within 250 metres of, and visible from, a classified road and is greater than 20 square metres or higher than 8 metres above the ground, the local council must obtain concurrence from RMS prior to issuing consent. The referral process for DAs requiring concurrence is outlined in Section 5 of these Guidelines.

**TABLE 1: LAND USE COMPATIBILITY CRITERIA – TRANSPORT CORRIDOR ADVERTISING**

- (i) The use of outdoor advertising in a given locality should not be inconsistent with the land use objectives for the area outlined in the relevant local environmental plan.
- (ii) Advertisements must not be placed on land where the signage is visible from the following areas if it is likely to significantly impact on the amenity of those areas:
  - environmentally sensitive area
  - heritage area (excluding railway stations)
  - natural or other conservation area
  - open space (excluding sponsorship advertising at sporting facilities in public recreation zones)
  - waterway
  - residential (but not including a mixed residential and business zone, or similar zones)
  - scenic protection area
  - national park or nature reserve.
- (iii) Advertising structures should not be located so as to dominate or protrude significantly above the skyline or to obscure or compromise significant scenic views or views that add to the character of the area.
- (iv) Advertising structures should not be located so as to diminish the heritage values of items or areas of local, regional or state heritage significance.
- (v) Where possible, advertising structures should be placed within the context of other built structures in preference to non-built areas. Where possible, signage should be used to enhance the visual landscape. For example, signs may be positioned adjacent to or screening unsightly aspects of a landscape, industrial sites or infrastructure such as railway lines or power lines.

### 1.6.3 Information to be included in SEPP 64 DAs

When submitting a SEPP 64 DA, the following information and requirements must be provided:

- completed Development Application Form from Council or Department of Planning and Environment
- *Statement of Environmental Effects* detailing the proposal and its impacts
- fees – DA fee
- land owners consent if the applicant is not the land owner.

The **Statement of Environmental Effects** (SEE) should provide the consent authority with adequate detailed information to determine whether consent should be granted, including:

- *Summary Statement* – an overview of the outdoor advertising proposal.
- *Details of proposed sign location* – Local Government Area (LGA); zone in the relevant Local Environmental Plan (LEP); permissibility and planning controls related to the specific site; location of existing buildings, structures and vegetation in proximity to the sign; surrounding land use including any trends in changing land uses.

- *Description of the proposed sign* – information on the size of the sign, whether it is static, illuminated or non-illuminated, a variable message sign, contains moving parts or other details including:
  - (a) *Site details* – plans showing: site location; setbacks from affected boundaries; proximity to easements, powerlines or mains; proposed modifications to existing structures, buildings or vegetation. (note: Detailed drawings and surveys, with elevations showing height above ground level, will be required before obtaining a construction certificate.)
  - (b) *Colour photographs and photo-montages* – current panoramic colour photographs of the location of the proposed site are required including when viewed from ground level within a visual catchment of 1 kilometre of the site and all critical viewpoints. Photographs should show any traffic control devices located within 100m of approaches to the proposed site, and any traffic control devices that would be visible **beyond** the proposed site. Accurate perspective photo-montages of the proposed sign, at human eye level from the driver's perspective, taken from critical viewing points in advance of the sign in each approach direction are required. Where view corridors or vistas are impacted by the proposed sign a photo-montage should be included clearly demonstrating the sign's impact.

- (c) *Proposed management and maintenance regime* – including regime for ongoing access to the sign to change the display, graffiti management and landscape management. Where landscaping is proposed, a *landscape management plan* should include plant species selection including finished height relative to the sign, any proposed lopping or removal of existing trees, ongoing vegetation maintenance and any other landscaping components
- *Assessment of the advertising proposal in or adjacent to a transport corridor when the Minister for Planning is the consent authority.*  
The SEE must outline how the proposal meets the following:
  - (a) any relevant provisions in SEPP 64
  - (b) general land-use compatibility (Section 1.5)
  - (c) design criteria for transport corridors outlined in the Guidelines including an assessment of the context of advertising with in the site identifying the character, quality and features of an area (Section 2)
  - (d) road safety considerations in the Guidelines (Section 3)
  - (e) a Public Benefit Test for advertising in the Guidelines (Section 4)
- *Assessment of other advertising proposals in or adjacent to a transport corridor when the local council is the consent authority.*  
The SEE must outline how the proposal meets the following:
  - (a) any relevant provisions in SEPP 64
  - (b) any relevant development control plan that has been prepared in accordance with SEPP 64
  - (c) road safety considerations in the Guidelines (Section 3)
  - (d) a Public Benefit Test, if it is a proposal for an advertisement on a bridge or along a tollway.
  - (e) Where an advertising structure is within 250 metres of, and visible from, a classified road and is greater than 20 square metres or higher than 8 metres above the ground, the local council must obtain concurrence from RMS prior to issuing consent. The referral process for DAs requiring concurrence is outlined in Section 5 of these Guidelines.
- *Justification of the proposal* – the SEE must provide a justification for erecting the advertisement in the proposed location. The justification must take into consideration the assessment criteria in Schedule 1 of the SEPP and any mitigation or management measures to be employed by the proponent in minimising the potential impacts of the proposed advertisement. When the Minister for Planning is the consent authority or for signs on bridges, the justification of the proposal should also consider public benefits.



## 2. Design issues

This section of the Guidelines provides information in relation to design and assessment criteria for development applications for outdoor advertising in transport corridors.

### 2.1 GENERAL ASSESSMENT CRITERIA UNDER SEPP 64

SEPP 64 sets out matters for consideration that must be addressed before a consent authority can approve any development application under SEPP 64. These matters include criteria in Schedule 1 of SEPP 64, and listed in Table 2 of these Guidelines.

### 2.2 SPECIFIC DESIGN CRITERIA FOR TRANSPORT CORRIDORS

The design of a sign and where it is placed affects the character of the environment. Advertising that is well designed, appropriate in scale and suitably located can add interest, character and vitality to the built environment. Poorly designed or placed advertisements or too many signs in one location can degrade streetscapes and rural environments, and detract from heritage buildings. The desired character of an area is a key criterion for the assessment of the appropriateness of an advertising sign.

This section of the Guidelines expands on the design criteria in Schedule 1 of SEPP 64 (Table 2) as they relate to advertising in transport corridors. Section 3 expands upon assessment criteria related to road safety issues while Section 4 expands on the public benefit test criteria.

There are three levels of design assessment criteria for advertising in transport corridors:

- (1) Macro-scale planning principles
- (2) Sign clutter controls
- (3) Site-specific and structural criteria.

#### WHO SHOULD APPLY THESE DESIGN CRITERIA?

These Guidelines apply to all outdoor advertising and signage in transport corridors except signage that is exempt development.

Under SEPP 64, any development application to be approved by the Minister for Planning, or any proposal to display an advertisement on a bridge, must be consistent with the relevant design criteria in this section of the Guidelines, as well as the road safety criteria (Section 3) and public benefit test criteria (Section 4).

Where an advertising structure is within 250 metres of, and visible from, a classified road and is greater than 20 square metres or higher than 8 metres above the ground, the local council must obtain concurrence from RMS prior to issuing consent. The referral process for DAs requiring concurrence is outlined in Section 5 of these Guidelines.

All other advertisements requiring consent from councils must still demonstrate consistency with the design requirements of the Guidelines and the relevant development control plan for the local area.

**TABLE 2: DESIGN ASSESSMENT CRITERIA – SCHEDULE 1 SEPP 64**

**(1) Character of the area**

- Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?
- Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?

**(2) Special areas**

- Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?

**(3) Views and vistas**

- Does the proposal obscure or compromise important views?
- Does the proposal dominate the skyline and reduce the quality of vistas?
- Does the proposal respect the viewing rights of other advertisers?

**(4) Streetscape, setting or landscape**

- Is the scale, proportion and form appropriate for the streetscape, setting or landscape?
- Does the proposal contribute to the visual interest of the streetscape, setting or landscape?
- Does the proposal reduce clutter by rationalising and simplifying existing advertising?
- Does the proposal screen unsightliness?
- Does the proposal protrude above buildings, structures or tree canopies in the area or locality?
- Does the proposal require ongoing vegetation management?

**(5) Site and building**

- Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?
- Does the proposal respect important features of the site or building, or both?
- Does the proposal show innovation and imagination in its relationship to the site or building?

**(6) Associated devices and logos with advertisements and advertising structures**

- Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?

**(7) Illumination**

- Would illumination result in unacceptable glare?
- Would illumination affect safety for pedestrians, vehicles or aircraft?
- Would illumination detract from the amenity of any residence or other form of accommodation?
- Can the intensity of the illumination be adjusted, if necessary?
- Is the illumination subject to a curfew?

**(8) Road Safety**

- Does the proposal meet criteria relating to road safety under sections 2 and 3?

**Note:** Safety criteria under Schedule 1 – SEPP 64 are listed in Table 4.

## 2.3 MACRO-SCALE PLANNING PRINCIPLES

Macro-scale planning principles take into consideration the regional or district context. Transport corridors by their very nature have a clearly defined regional purpose. However, they may traverse all types of land uses zones with varying planning objectives and distinct local and scenic qualities. The installation of advertisements within these corridors must be

strategically planned so that their placement is not unsympathetic to the character and land uses of the area.

Consideration must be given to the nature and quality of the landscape, streetscape or corridor including immediate views, vistas, adjacent infrastructure, buildings and whether surrounding land-use is compatible with the type (e.g. its form, scale etc) of advertising being proposed.

### 2.3.1 Sign placement in non-urban areas

Proposals to display advertisements within a rural or non-urban zone must be consistent with the general assessment criteria in Table 2 as well as any relevant requirements of SEPP 64, including Clause 15.

**Where council is the consent authority,** any proposed sign in a non-urban area must:

- (a) be consistent with a DCP (prepared by the council following an advertising design analysis for the relevant area or precinct in consultation with representatives of local businesses and the advertising industry and in consultation with RMS if within 250 metres of a classified road); or
- b) if no such DCP is in place, relate to the land on which the advertisement is to be displayed, or to premises situated on that land or adjacent land, and specifies one or more of the following particulars:
  - (i) the purpose for which the land or premises is or are used
  - (ii) the identification of a person residing or carrying on an occupation or business on the land or premises

- (iii) a description of an occupation or business referred to in sub-subparagraph (ii)
- (iv) particulars of the goods or services dealt with or provided on the land or premises
- (v) a notice directing the travelling public to tourist facilities or activities or to places of scientific historical or scenic interest.

**Where the Minister is the consent authority,** any proposed sign in a non-urban area must:

- (a) not be inconsistent with local planning objectives and
- (b) only be considered in the following locations:
  - (i) within 5km of a freeway exit, or
  - (ii) within 5km of a town or urban centre or within a greater distance (from a town) if nominated in the council's LEP, DCP or a relevant council policy or strategy, or
  - (iii) along enterprise corridors or within or adjacent to an industrial zone leading into a town or regional centre.



IF IN RURAL AREA, MAY BE ACCEPTABLE NEAR FREEWAY EXITS TO TOWNSHIPS; IF METROPOLITAN AREA, MUST BE IN STRATEGIC CORRIDORS



DOES NOT DETRACT FROM THE RURAL LANDSCAPE OR VISTA. LOCATED ADJACENT TO, AND SCREENS, BUILT ENVIRONMENT (E.G. FACTORY)



SIGNS SHOULD NOT BE PLACED IN LOCATIONS THAT BLOCK SCENIC VIEWS



SIGNS IN RURAL AREAS SHOULD NOT BE TOO PROMINENT OR DETRACT FROM RURAL VIEWS



### 2.3.2 Sign placement in transport corridors in urban areas

Advertising structures within urban areas must be consistent with the general assessment criteria in Table 2 as well as any relevant requirements of SEPP 64. In particular, consideration must be given to the compatibility of the advertising proposal with the character of the urban area. As a guideline, advertising in urban areas should be restricted to rail corridors, freeways, tollways or classified roads:

- within or adjacent to strategic transport corridors passing through enterprise zones, business development zones, commercial core zones, mixed use zones or industrial zones, or
- within or adjacent to strategic transport corridors passing through entertainment districts or other urban locations identified by the local council in a relevant strategy as being appropriate for such advertising.



IN KEEPING WITH ENTERPRISE CORRIDOR OR INDUSTRIAL ZONE; WHOLLY WITHIN BUILDING STRUCTURE



IN KEEPING WITH ENTERPRISE CORRIDOR AREA; WHOLLY WITHIN BUILDING STRUCTURE

Consideration must be given to the compatibility of advertising development with surrounding land uses and whether such advertising will impact on sensitive locations. For instance, placement of advertising along transport corridors should not result in increased visibility of signage in adjacent or surrounding residential areas.

### 2.4 SIGN CLUTTER CONTROLS

Advertising structures should not be placed in a location that will result in visual clutter. Clutter can be a distraction to drivers particularly where other signage such as directional or road safety signs are located. Clutter can make a streetscape or landscape visually unattractive. The viewing rights of adjacent advertisers must also be considered when placing advertisements near existing signage.


What constitutes "clutter" will differ depending on the location. For instance, in urban enterprise corridors and within entertainment districts, it is not uncommon to have multiple signs visible along a given sightline. When strategically placed, these signs can contribute to the urban fabric and promote city life in key areas. Clutter in this context may result however if there are too many signs or multiple messages placed on a single advertising site or location.

Multiple advertisement signs in rural or natural areas or along freeways or tollways adversely impacts on visual amenity and road safety. The overall number of signs placed along a transport corridor should be minimised preferably with only one advertising sign visible in a given view.


In assessing advertising proposals, the consent authority is to have regard to clutter:

- Multiple advertisements on a single block of land, structure or building should be discouraged as they contribute to visual clutter.
- Where there is advertising clutter, consideration should be given to reducing the overall number of individual advertisements on a site. Replacement of many small signs with a larger single sign is encouraged if the overall advertising display area is not increased.
- In rural areas, and along freeways and tollways, no more than one advertising structure should be visible along a given sightline.




 TOO MANY BILLBOARDS ON A SINGLE SITE. OPTION TO CONSOLIDATE SIGNS INTO SINGLE SUPERSITE




 CLUTTER – TOO MANY SIGNS IN A VISIBLE SEQUENCE ALONG A ROAD



 CLUTTER – TOO MANY SIGNS IN A VISIBLE SEQUENCE ALONG A ROAD



 IN RURAL AREAS NO MORE THAN ONE ADVERTISING STRUCTURE SHOULD BE VISIBLE ALONG A GIVEN SIGHTLINE



 EXAMPLE OF ADVERTISING CLUTTER SEEN OVERSEAS



## 2.5 SITE-SPECIFIC AND STRUCTURAL CRITERIA

The broad macro-scale criteria and clutter controls outlined in Section 2.3 and 2.4 dictate where advertising may or may not be appropriate at the local and regional scale. The site-specific and structural criteria below guide the design and location of advertisement on specific sites to reduce unintended impacts from the signage.

In all circumstances, design innovation and excellence is to be encouraged. Advertising structures as well as their placement within the landscape context can contribute positively or adversely to the visual amenity of the area.

The general criteria as well as site specific criteria related to the particular type of site should be considered so that the sign will positively contribute to the qualities of associated buildings, bridges and other structures. Factors to consider include form (shape and size) of signs, lighting, as well as structural and placement considerations.

### 2.5.1 General criteria

Advertising structures should meet the following site-specific criteria:

- (a) The advertising structure should demonstrate design excellence and show innovation in its relationship to the site, building or bridge structure.
- (b) The advertising structure should be compatible with the scale, proportion and other characteristics of the site, building or structure on which the proposed signage is to be located.
- (c) The advertising structure should be in keeping with important features of the site, building or bridge structure.
- (d) The placement of the advertising structure should not require the removal of significant trees or other native vegetation.
- (e) The advertisement proposal should incorporate landscaping that complements the advertising structure and is in keeping with the landscape and character of the transport corridor.
  - The development of a landscape management plan may be required as a condition of consent.
  - Landscaping outlined within the plan should require minimal maintenance.
- (f) Any safety devices, platforms, lighting devices or logos should be designed as an integral part of the signage or structure on which it is to be displayed.
- (g) Illumination of advertisements must comply with the requirements in Section 2.5.8 and 2.5.9 for digital and moving signs and the road safety criteria in Section 3.2 for other advertising and signage.

- (h) Illumination of advertisements must not cause light spillage into nearby residential properties, national parks or nature reserves.

### 2.5.2 Wall advertisements criteria

- (a) When the consent authority is the local council, consent must not be granted for a wall advertisement unless:
  - (i) the proposal meets all relevant criteria of Clause 22 in SEPP 64
  - (ii) for a wall advertisement greater than 45 square metres, a development control plan must be in force that has been prepared on the basis of an advertising design analysis for the relevant area or precinct (SEPP 64 Clause 19).
- (b) When the consent authority is the Minister for Planning, consent must not be granted for a wall advertisement unless the following criteria are met:
  - (i) Only one wall advertisement may be displayed per building elevation.
  - (ii) The architectural design quality of the building must not be diminished.
  - (iii) The advertising structure must be contained completely within the solid boundaries of the building walls (i.e. the sign must not be wider or higher than the building itself).
  - (iv) The advertising structure must not extend outward more than 300 millimetres from the building wall unless occupational health and safety standards require greater protrusion.
  - (v) The advertisement must not extend over or block windows or other openings in the building.
  - (vi) The advertisement must not be placed on heritage buildings or other heritage items, excluding railway stations.



INTEGRATION WITH BUILDING; WITHIN THE BOUNDARIES OF THE BUILDING

**Note:** Proposals for advertising in transport corridors near railway buildings or other structures of heritage value must address Sydney Trains and NSW Trains' heritage requirements and be prepared in accordance with Sydney Trains and NSW Trains' heritage guidelines and plans.



APPROVAL DEPENDENT ON SPECIFIC LOCATION DETAILS, SITE HERITAGE VALUES AND WHETHER IT IS IN KEEPING WITH LOCAL DEVELOPMENT CONTROL RULES



NOT LIKELY TO BE APPROVED UNLESS REPLACING AN EXISTING SIGN - DOMINATES SKYLINE; NOT IN KEEPING WITH DESIGN OR HERITAGE VALUES OF THE BUILDING

### 2.5.3 Roof or sky advertisements

Roof or sky advertisements must comply with the requirements of SEPP 64 Clause 21 including:

- (a) The consent authority must be satisfied that:
  - (i) the advertisement replaces one or more existing roof or sky advertisements and that the advertisement improves the visual amenity of the locality in which it is displayed, or
  - (ii) that the advertisement improves the finish and appearance of the building and the streetscape, and
- (b) The advertisement must be:
  - (i) no higher than the highest point of any part of the building that is above the building parapet (including that part of the building (if any) that houses any plant but excluding flag poles, aerials, masts and the like), and
  - (ii) no wider than any such part, and
- (c) A development control plan must be in force that has been prepared on the basis of an advertising design analysis for the relevant area or precinct and the display of the advertisement must be consistent with the development control plan.

Consent for a roof or sky advertisement is limited to a maximum of 10 years.

### 2.5.4 Freestanding advertisements criteria

Freestanding advertisements must comply with the requirements of SEPP 64 Clause 23 and Clause 19 including:

- (a) The advertising structure must not protrude above the dominant skyline, including any buildings, infrastructure or tree canopies, when viewed from ground level within a visual catchment of one kilometre. Note: This impact should be measured from the vehicle approach location and any other critical viewpoints.
- (b) For a freestanding advertisement greater than 45 square metres that requires consent from local council, a development control plan must be in force that has been prepared on the basis of an advertising design analysis for the relevant area or precinct.
- (c) Where the sign is in a transport corridor a landscape management plan may be required as part of the DA approval for a freestanding advertisement. This may include requirements to provide appropriate vegetation behind and adjacent to the advertising structure to minimise unintended visual impacts. Landscaping should include trees, shrubs and ground covers to provide adequate screening, softening, colour, soil stabilisation and weed reduction.





DOES NOT EXTEND ABOVE THE SKYLINE;  
SURROUNDING VEGETATION REDUCES UNINTENDED  
VISUAL IMPACTS



SIGN DOMINATES SKYLINE

### 2.5.5 Bridge signage criteria

Advertisements on bridges must be consistent with the requirements of SEPP 64 Clause 24 and:

- (a) The architecture of the bridge must not be diminished.

**Note:** Consideration should be given to whether the advertising structure is compatible with the form and scale of the bridge and sympathetic to the bridge style and design. Consideration should be given to whether the advertisement significantly detracts from the principle structural qualities of the bridge or any important decorative inclusions.

It is preferable that the sign be directly integrated into the structural design of the bridge. The sign should not compromise the architectural and visual quality of the bridge structure.

- (b) The advertisement must not extend laterally outside the structural boundaries of the bridge.

**Note:** The structural boundaries of the bridge include the solid part of the structure, road deck, handrail and safety guard fencing, but does not include additional devices attached to the structure such as lighting and power poles.

- (c) The advertisement must not extend below the soffit of the superstructure of the bridge to which it is attached, unless the vertical clearance to the base of the advertisement from the roadway is at least 5.8 metres.
- (d) On a road or pedestrian bridge, the advertisement must:
- (i) not protrude above the top of the structural boundaries of the bridge, and
  - (ii) not block significant views for pedestrians or other bridge users (e.g. cyclists), and
  - (iii) not create a tunnel effect, impede passive surveillance, or in any other way reduce safety for drivers, pedestrians or other bridge users.

**Note:** Signs that extend above bridge handrail height (approx. 1 metre above the walking surface level) have the potential to block views, create a tunnel effect or impede passive surveillance by blocking clear sightlines to and from the bridge. These viewing and safety impacts may be avoided by:

- ensuring that signs are below handrail height, or
- for signs more than 1 metre above the walking surface level, ensuring that signs are:
  - not longer than half the length of the bridge, or
  - not longer than 14 metres
  - (whichever length is shorter), or
- only having a sign on one side of the bridge.



✓ DOES NOT DETRACT FROM ARCHITECTURAL ELEMENTS OF BRIDGE; DOES NOT BLOCK VIEWS; ADVERTISING FORM COMPATIBLE WITH BRIDGE FORM



✗ PROTRUDES ABOVE THE TOP OF THE ROAD BRIDGE; NOT IN KEEPING WITH BRIDGE ARCHITECTURE



✓ MEETS CRITERIA FOR RAIL BRIDGES; IN KEEPING WITH BRIDGE ARCHITECTURE



✓ ADVERTISEMENT WITHIN STRUCTURAL BOUNDARIES OF RAIL BRIDGE

- (e) Paragraphs (a) to (d) above do not apply to the continuation of the display of any existing advertising on bridges approved prior to the gazettal of State Environmental Planning Policy No 64 (Advertising and Signage) (Amendment No 2) in 2007 for only one additional period under SEPP 64 Clause 14 if there is no increase in the advertising display area of the signage.
- (f) A development application to display an advertisement on a bridge must be accompanied by a statement demonstrating how the advertisement will contribute to a public benefit.

Section 4 of these Guidelines outlines the public benefit test requirements.

- (g) Any advertising sign proposed for development on a bridge over a classified road requires the construction drawings to be submitted for review and approval by RMS bridge engineers, prior to construction, to ensure all road safety requirements are met.
- (h) Any advertising sign proposed for development on a bridge over a road requires provision of a fall arrest system (sign and sign support structure to bridge) to ensure the sign will not detach in case of impact by an over-high vehicle.

### 2.5.6 Building wraps and hoardings criteria

During construction, building wrap advertisements must be consistent with the requirements of SEPP 64 Clause 26 including:

- (a) A person may, with the consent of the consent authority, display a building wrap advertisement on land zoned for business, commercial or industrial purposes.
- (b) The display of any building wrap advertisement is limited in time to a maximum of 12 months.
- (c) A building wrap advertisement may cover the entire facade or hoarding of a building or site if it is consistent with the requirements of SEPP 64.

(d) Proposals for building wrap advertisements will be assessed on their merits, with consideration of:

- (i) The quality of the design and finish of the proposed building wrap advertisement, and
- (ii) The nature of the surrounding area, including the visual character and desired amenity, and
- (iii) The compatibility between the building wrap design and the finish and visual character and desired amenity of the area.



☒ EXAMPLE OF HOARDINGS WITHIN A PUBLIC SPACE UNDER CONSTRUCTION



☒ EXAMPLE OF OUTDOOR HOARDINGS AROUND A BUILDING CONSTRUCTION SITE

### 2.5.7 Special promotional advertisements

Special promotional advertisements must comply with the following requirements of SEPP 64 Clause 25:

- (a) A person may, with the consent of the consent authority, display a special promotional advertisement on land zoned for business, commercial or industrial purposes.
- (b) The consent authority may grant consent only if:
  - (i) a development control plan applies to the land on which the special promotional advertisement is to be displayed that has been made having regard to a public art policy of the consent authority and the display of the advertisement is consistent with the development control plan, and

(ii) the display of the advertisement is limited in time to a total of 3 months in any 12-month period, and

(iii) any product image or corporate branding does not occupy more than 5 per cent of the advertising display area and accords with the public art policy of the consent authority.

(c) A special promotional advertisement may cover the entire facade or hoarding of a building or site, if it meets the above criteria.



### 2.5.8 Digital signs

In addition to meeting the relevant SEPP 64 assessment criteria, design, road safety and any public benefit test requirements under the Guidelines, the consent authority must be satisfied that the digital sign meets the following criteria:

Criteria	Applies to signs less than 20sq metres	Applies to signs greater than or equal to 20sq metres
(a) Each advertisement must be displayed in a completely static manner, without any motion, for the approved dwell time as per criterion (d) below.	✓	✓
(b) Message sequencing designed to make a driver anticipate the next message is prohibited across images presented on a single sign and across a series of signs.	✓	✓
(c) The image must not be capable of being mistaken: <ul style="list-style-type: none"> <li>(i) For a prescribed traffic control device because it has, for example, red, amber or green circles, octagons, crosses or triangles or shapes or patterns that may result in the advertisement being mistaken for a prescribed traffic control device, or</li> <li>(ii) as text providing driving instructions to drivers.</li> </ul>	✓	✓
(d) Dwell times for image display are: <ul style="list-style-type: none"> <li>(i) 10 seconds for areas where the speed limit is below 80km/h.</li> <li>(ii) 25 seconds for areas where the speed limit is 80km/h and over.</li> </ul>	✓	✓
(e) The transition time between messages must be no longer than 0.1 seconds.	✓	✓
(f) Luminance levels must comply with the requirements in Table 3 below.	✓	✓
(g) The images displayed on the sign must not otherwise unreasonably dazzle or distract drivers without limitation to their colouring or contain flickering or flashing content.	✓	✓
(h) The amount of text and information supplied on a sign should be kept to a minimum (for example no more than a driver can read at a short glance). Text should preferably be displayed in the same font and size. Table 6 in Section 3 of these Guidelines provides further guidance.	✓	✓
(i) Any sign that is within 250 metres of a classified road and is visible from a school zone must be switched to a fixed display during school zone hours.	✓	✓
(j) Each sign proposal must be assessed on a case by case basis including replacement of an existing fixed, scrolling or tri-vision sign with a digital sign and in the instance of a sign being visible from each direction, both directions for each location must be assessed on their own merits.	✓	✓

Criteria	Applies to signs less than 20sq metres	Applies to signs greater than or equal to 20sq metres
(k) At any time, including where the speed limit in the area of the sign is changed, if detrimental effect is identified on road safety post installation of a digital sign, RMS reserves the right to re-assess the site which may result in a change to the dwell time or removal of the sign.	✓	✓
(l) Sign spacing should limit drivers view to a single sign at any given time with a distance of no less than 150 metres between signs in any one corridor. Exemptions for low speed, high pedestrian zones or CBD zones will be assessed by RMS as part of their concurrence role.		✓
<p>(m) Signs greater than or equal to 20sq metres must obtain RMS concurrence AND must ensure the following minimum vertical clearances;</p> <ul style="list-style-type: none"> <li>• 2.5m from lowest point of the sign above the road surface if located outside the clear zone.</li> <li>• 5.5m from lowest point of the sign above the road surface if located within the clear zone (including shoulders and traffic lanes) or the deflection zone of a safety barrier if a safety barrier is installed.</li> </ul> <p>If attached to Road Infrastructure (e.g. Overpass), the sign must be located so that no portion of the advertising sign is lower than the minimum vertical clearance under the overpass or supporting structure at the corresponding location.</p>		✓
(n) An electronic log of a signs activity must be maintained by the operator for the duration of the development consent and be available to the consent authority and/or RMS to allow a review of the signs activity in case of a complaint.		✓
(o) A road safety check which focuses on the effects of the placement and operation of all signs over 20sq metres must be carried out in accordance with Part 3 of the RMS Guidelines for Road Safety Audit Practices after a 12 month period of operation but within 18 months of the signs installation. The road safety check must be carried out by an independent RMS accredited road safety auditor. A copy of the report is to be provided to RMS and any safety concerns identified by the auditor relating to the operation or installation of the sign must be rectified by the applicant.		✓

**Table 3: LUMINANCE LEVELS FOR DIGITAL ADVERTISEMENTS**

**LUMINANCE LEVELS – Luminance** means the objective brightness of a surface as measured by a photometer, expressed in candelas per square meter (cd/m<sup>2</sup>). Levels differ as digital signs will appear brighter when light levels in the area are low. Luminance levels should comply with Australian Standard AS4282 Control of the Obtrusive Effects of Outdoor Lighting which recommends the following levels:

Lighting Condition	Zone 1	Zones 2 and 3	Zone 4
Full Sun on face of Signage	No limit	Maximum Output	Maximum Output
Day Time Luminance		6000 cd/m <sup>2</sup>	6000 cd/m <sup>2</sup>
Morning and Evening		700 cd/m <sup>2</sup>	500 cd/m <sup>2</sup>
Twilight and Inclement Weather			
Night Time		350 cd/m <sup>2</sup>	
Night Time		350 cd/m <sup>2</sup>	

**Zone 1** covers areas with generally very high off-street ambient lighting e.g. display centres similar to Kings Cross, central city locations

**Zone 2** covers areas with generally high off-street ambient lighting e.g. some major shopping/commercial centres with a significant number of off-street illuminated advertising devices and lights.

**Zone 3** covers areas with generally medium off-street ambient lighting e.g. small to medium shopping/commercial centres.

**Zone 4** covers areas with generally low levels of off-street ambient lighting e.g. most rural areas, many residential areas.

#### 2.5.9 Moving Signs

Moving or mechanical signs display images which change through movement of the sign structure only, for example, scrolling or trivision signs.

In addition to meeting the relevant SEPP 64 assessment criteria, design, road safety and public benefit test requirements under these Guidelines, moving signs that face the road reserve and are visible to drivers will also be required to meet the following criteria:

- The display must be completely static from its first appearance to the commencement of a change to another display;
- Dwell times for image display are to be a total of 10 seconds which includes 3 seconds to scroll.
- The image must not be capable of being mistaken:
  - for a rail or traffic sign or signal because it has, for example, red, amber or green circles, octagons, crosses or triangles or shapes or patterns that may result in the advertisement being mistaken for a traffic signal, or
  - as text providing driving instructions to drivers.
- Light levels are to be consistent with Section 3.2.5 and Table 5 of these Guidelines.

#### 2.5.10 Video and animated electronic signs

Video and animated electronic signs containing animated or video/movie style advertising or messages including; live television, satellite, internet or similar broadcast; either permanent or portable; that face the road reserve and are visible to drivers are prohibited.

## 3. Advertisements and road safety

### 3.1 ROAD SAFETY OBJECTIVES

Advertising displays within the visual catchments of roads are designed to attract driver's and passenger's attention. A reduction in driver attention away from the road however has the potential to create a road safety hazard. It is the aim of RMS to minimise these hazards and improve road safety for all drivers where possible.

The purpose of this section is to outline RMS advertisement policy in relation to road safety. The policy is designed to ensure that roadside advertising does not create a road safety hazard or confuse or distract drivers in any road environment, or compromise bicycle and pedestrian safety.

Schedule 1 of SEPP 64 (Table 4) outlines safety considerations that must be addressed for any advertisement proposal under SEPP 64. Advertisements have the potential to create a safety hazard if designed and placed contrary to RMS' *Road Design Guide* and the principles and rules outlined below. The following traffic, bicycle, and pedestrian safety assessment criteria must be applied (as a minimum) in the design and assessment of all advertisement proposals on or within the vicinity of a classified road.

**Table 4: ROAD SAFETY ASSESSMENT CRITERIA- SCHEDULE 1 SEPP 64**

#### Safety

- 1) Would the proposal reduce the safety for any public road?
- 2) Would the proposal reduce the safety for pedestrians or bicyclists?
- 3) Would the proposal reduce the safety for pedestrians, by obscuring sightlines from public areas?

### 3.2 ROAD SAFETY ASSESSMENT CRITERIA

#### 3.2.1 Sign location and design

- (a) An advertisement must not obstruct the driver's view of the road particularly of other vehicles, bicycle riders or pedestrians at crossings.
- (b) An advertisement must not obstruct a pedestrian or cyclist's view of the road.
- (c) The placement of a sign should not distract a driver at a critical time. In particular, signs should not obstruct a driver's view:
  - (i) to a road hazard
  - (ii) to an intersection
  - (iii) to a traffic control device (such as traffic signals, stop or give way signs or warning signs)
  - (iv) to an emergency vehicle access point or Type 2 driveways (wider than 6-9 metres) or higher.
- (d) The advertisement must not distract a driver from or reduce the visibility and effectiveness of directional signs, traffic signals, other traffic control devices, regulatory signs or advisory signs or to obscure information about the road alignment.
- (e) The advertisement must not incorporate technology which interacts with in-vehicle electronic devices or mobile devices.
- (f) The advertisement should not be located in a position that has the potential to give incorrect information on the alignment of the road. In this context, the location and arrangement of sign structures should not give visual clues to the driver suggesting that the road alignment is different to the actual alignment. An accurate photo-montage should be used to assess this issue.
- (g) A sign should not be located:
  - (i) less than the safe sight distance from an intersection, merge point, exit ramp, traffic control signal or sharp curves
  - (ii) less than the safe stopping sight distance from a marked foot crossing, pedestrian crossing, pedestrian refuge, cycle crossing, cycleway facility or hazard within the road environment
  - (iii) so that it is visible from the stem of a T-intersection.

**Note:** The minimum sight distance requirements for the design speed of the road must be met for road hazards (stopping sight distance), emergency vehicle access points and driveways (approach sight distance) and intersections (safe intersection sight distance). Refer to RMS *Road Design Guide* for minimum stopping sight distances, minimum approach and safe intersection sight distances.

**Design speed** means a nominal speed fixed to determine the geometric features of a road. In the context of sight distances, the design speed is taken as the higher of the posted speed limit or the 85th percentile speed.

(h) The advertisement must not interfere with stopping sight distance for the road's design speed or the effectiveness of a traffic control device. For example:

- (i) Could the advertisement be construed as giving instructions to traffic such as 'Stop' or imitate a traffic control device?
- (ii) If the sign is in the vicinity of traffic lights, does the advertisement use red, amber or green circles, octagons, crosses or triangles or shapes or patterns that may result in the advertisement being mistaken for a traffic signal.

(i) The advertisement should not distract a driver's attention away from the road environment for an extended length of time. For example:

- (i) The sign should not be located in such a way that the driver's head is required to turn away from the road and the components of the traffic stream in order to view its display and/or message. All drivers should still be able to see the road when viewing the sign, as well as the main components of the traffic stream in peripheral view.
- (ii) The sign should be oriented in a manner that does not create headlight reflections in the driver's line of sight. As a guideline, angling a sign five degrees away from right angles to the driver's line of sight can minimise headlight reflections. On a curved road alignment, this should be checked for the distance measured back from the sign that a car would travel in 2.5 seconds at the design speed.

(j) The advertisement must not create a physical obstruction or hazard. For example:

- (i) Does the sign obstruct the movement of pedestrians or bicycle riders? (e.g. telephone kiosks and other street furniture along roads and footpath areas).
- (ii) Does the sign protrude below a bridge or other structure so it could be hit by trucks or other tall vehicles? Will the clearance between the road surface and the bottom of the sign meet appropriate road standards for that particular road?
- (iii) Does the sign protrude laterally into the transport corridor so it could be hit by trucks or wide vehicles?

**Note:** Where advertising structures hang over the road, the minimum vertical clearance should be the same as other structures in that road environment. Generally, the sign should have a vertical clearance equal or greater than the overpass, tunnel portal or pedestrian bridge. However, in cases where these structures exceed the minimum vertical clearance specified for the particular type of road, the sign may protrude below the bridge or other structure.

If the minimum vertical clearance for other surrounding structures is not known then a minimum vertical clearance of 5.8 metres is to be used for the sign structure. However, on high performance motorways, the minimum clearance may be more than 5.8 metres.

See also **Section 2.5.5 Bridge signage criteria** for minimum road clearance criteria.

- (k) Where the sign supports are not frangible (breakable), the sign must be placed outside the clear zone as defined in Section 3.7 of RMS' *Road Design Guide* or behind an RMS-approved crash barrier.
- (l) Where a sign is proposed within the clear zone but behind an existing RMS-approved crash barrier, all its structures up to 5.8m in height (relative to the road level) are to comply with lateral clearances as specified by Section 6 of RMS' *Road Design Guide* with respects to dynamic deflection and working width.

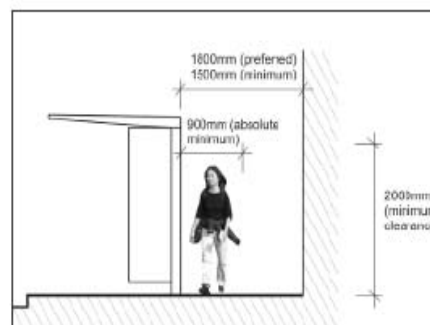


**Note: Clear zone** means the total roadside border area, starting at the edge of the travelled way, available for safe use by errant vehicles and the display of traffic control signs. This area may consist of a shoulder, a recoverable slope, a non-recoverable slope and/or a clear run-out area. The minimum clear zone width is dependent upon the speed environment and roadside geometry.

- (m) All signs that are permitted to hang over roads or footpaths should meet wind loading requirements as specified in AS 1170.1 and AS1170.2. All vertical clearances as specified above are regarded as being the height of the sign when under maximum vertical deflection.
- (n) The location of a sign on footpaths or nature strips must meet the following criteria to ensure adequate clearance for pedestrian and wheel chair access:
  - (i) A sign must be positioned so that an absolute minimum envelope of 900 millimetres x 2000 millimetres of unobstructed clear path of travel is maintained for the entire length of the advertising structure (see figure below).


Further advice is also available from RMS in relation to sign posting in certain locations such as hospitals, regional shopping centres and tourist areas.

**Note:** Where applicable, these safety assessment criteria must be applied where signs are proposed along or adjacent to operational rail corridors in consideration of the potential impact on train drivers carrying out their duties.



MINIMUM UNOBSTRUCTED CLEAR PATH OF TRAVEL ON FOOTPATHS AND NATURE STRIPS.



 SIGNS WILL BE ASSESSED AGAINST SAFETY CRITERIA TO ENSURE THAT THEY DO NOT OBSCURE OR OTHERWISE ALTER THE EFFECTIVENESS OF ANY ADJACENT TRAFFIC CONTROL DEVICE.

### 3.2.5 Illumination and reflectance for static billboards

An illuminated sign refers to any sign illuminated by an artificial source. Illuminated signs include conventional billboard illuminated by fluorescent and/or incandescent bulbs (Table 5).

In addition to design guidelines in relation to illumination and its effects (Section 2), the following assessment criteria are used to ensure that illumination and reflectance qualities of signs do not cause a road safety hazard.

- (a) Advertisements must comply with the following luminance rules shown below.
- (b) The maximum night-time luminance of the aforementioned signs in this section must be one-quarter of the above prescribed values.
- (c) For night time use, the sign (whether internally illuminated or lit from its exterior) must not cast a shadow on areas that were previously lit and that have a special lighting requirement e.g. pedestrian crossings.

(d) The light sources for illuminated signs must focus solely on the sign and:

- (i) be shielded so that glare does not extend beyond the sign; and,
- (ii) with the exception of back-lit neon signs, have no light source visible to passing motorists with a light output greater than that of a 65W incandescent bulb.

(e) The level of reflectance of an advertisement, and its content, is not to exceed the 'Minimum coefficients of Luminous intensity per unit area for Class 2A Material', as set out in Australian Standard AS/NZS 1906.1:2007. Flashing illuminated advertisements will not be approved.

Information in relation to street name signs that are illuminated is also available in RMS document *Management of Illuminated Street Name and Advertising Sign proposals – January 2000* (Ref TM P99/3).

**TABLE 5: MAXIMUM ALLOWABLE DAYTIME LUMINANCE OF ILLUMINATED ADVERTISEMENTS ( NOTE NOT DIGITAL SIGNS)**

<i>Illuminated Area (sq m)</i>	<i>Zone 1</i>	<i>Zone 2 (cd/sq m)</i>	<i>Zone 3 (cd/sq m)</i>	<i>Zone 4 (cd/sq m)</i>	<i>Zone 5</i>
up to 0.5	no limit	2900	2000	1000	no limit
0.5 to 2.0		2300	1600	800	
2.0 to 5.0		2000	1200	600	
5.0 to 10.0		1500	1000	600	
over 10.0		1200	800	400	

**Luminance** means the objective brightness of a surface as measured by a photometer, expressed in candelas per square meter.

**Zone 1** covers areas with generally very high off-street ambient lighting, e.g. display centres similar to Kings Cross, central city locations

**Zone 2** covers areas with generally high off-street ambient lighting e.g. some major shopping/commercial centres with a significant number of off-street illuminated advertising devices and lights.

**Zone 3** covers areas with generally medium off-street ambient lighting e.g. small to medium shopping/commercial centres.

**Zone 4** covers areas with generally low levels of off-street ambient lighting e.g. most rural areas, many residential areas.

**Zone 5** covers areas within underground railway stations and areas fully contained within station buildings which are visible only from within the Rail Corridor.

### 3.3 REVIEW OF NEW SIGNS

RMS may review the crash history of any new or modified advertising signs after a three year period to determine whether the sign has had an adverse effect on road safety. If RMS is of the opinion that a sign is a traffic hazard, RMS may direct the owner or occupier of the land on which the sign is situated or the person who erected the sign to screen, modify or remove the sign, regardless of whether or not the sign is the subject of a development consent under the Act or a consent under the *Roads Act 1993*.

**Note: Traffic hazard** is defined under the *Roads Act 1993* to mean a structure or thing that is likely:

- (a) to obscure or limit the view of the driver of a motor vehicle on a public road, or
- (b) to be mistaken for a traffic control device, or
- (c) to cause inconvenience or danger in the use of a public road, or
- (d) to be otherwise hazardous to traffic.

### 3.4 ROAD SAFETY GUIDELINES FOR SIGN CONTENT

SEPP 64 does not regulate the content of advertisements and signs and does not require consent for a change in content. It is recommended that advertisers follow RMS advisory guidelines with respect to sign content of advertisements to be displayed along road corridors. Note: applicants should keep in mind that under Section 104 of the *Roads Act 1993* RMS has the power to direct the owner or occupier of land on which any work or structure is situated, or the person by whom any work or structure was carried out or erected to screen, modify or remove the work or structure if, in the opinion of RMS the work or structure is a traffic hazard.

It is recommended that advertisers have regard to the following advisory guidelines (Table 6) with respect to the content of advertisements to be displayed along road corridors.

**TABLE 6: RMS ROAD SAFETY ADVISORY GUIDELINES FOR SIGN CONTENT**

1. Advertisements must not imitate a traffic control device such as traffic lights
2. Advertisements must not instruct drivers to perform an action such as 'Stop', 'Halt' or 'Give Way'
3. Advertisements must not invite traffic to move contrary to any traffic control device, or turn where there is fast moving traffic
4. Advertisements must not contain reflectors, which at night could be mistaken for a traffic control device
5. The permissible level of reflectance of an advertisement also applies to the content of the sign. That is, the level of reflectance is not to exceed the 'Minimum coefficients of luminous intensity per unit area for Class 2A', as set out in Australian Standard AS/NZS 1906.1:2007
6. Advertisements should not contain messages that are distracting or otherwise inconsistent with road safety
7. Advertisements should be legible. A clear font at least 150 millimetres high is advisable
8. Advertisements should not contain large areas of red display if it is to be illuminated. In wet night-time conditions it may cause confusion with traffic control signals or 'stop' or 'tail lights' of moving vehicles
9. The amount of information supplied on a sign should be minimised so that the time required to read and understand the sign's message is minimised. As a guide, each sign should be restricted to 6 units of information. The summation of units is to be calculated as follows:
  - Words of up to 8 letters, inclusive = 1 unit
  - Numbers up to 4 digits, inclusive = 0.5 unit
  - Numbers of 5-8 digits = 1 unit
  - Symbol, picture, logo or abbreviation = 0.5 unit;
10. The proposed advertising message should not spread the message across more than one adjoining sign.

## 4. Public Benefit Test for advertisement proposals

This section outlines how proposals for certain outdoor advertisements along railway corridors, classified roads and on bridges must meet a public benefit test to ensure that the advertising will result in a positive gain or benefit for the community.

### 4.1 WHAT IS THE PUBLIC BENEFIT TEST?

The public benefit test is an assessment of how the local community will benefit as a result of the display of the advertisement, and must be applied to an advertising proposal if:

- (a) the display of the advertisement is by or on behalf of RMS or Sydney Trains and NSW Trains, or
- (b) the advertisement is to be displayed along a tollway,
- (c) the advertisement is to be displayed on a bridge, or
- (d) the advertisement requires RMS concurrence under SEPP 64

The proponent must outline in the Statement of Environmental Effects (SEE) accompanying the development application what arrangements they will make to provide an appropriate public benefit (see also section 1.6.3).

The consent authority (either the Minister for Planning or the council) will determine whether the applicant has sufficiently demonstrated that the proposed advertisement will contribute an appropriate public benefit. Public benefits, along with other matters identified in the SEPP (Clause 13), must be considered by a consent authority before approval can be given for the advertising development.

### 4.2 WHAT IS AN APPROPRIATE PUBLIC BENEFIT?

The level of public benefit for a given SEPP 64 advertisement is to be negotiated and agreed upon between the consent authority and the applicant. The public benefit can be provided as a monetary contribution or as an 'in-kind' contribution. Both monetary and in-kind contributions must be linked to improvements in local community services and facilities including benefits such as:

- improved traffic safety (road, rail, bicycle and pedestrian)
- improved public transport services
- improved public amenity within or adjacent to the transport corridor

- support school safety infrastructure and programs, or
- other appropriate community benefits.

#### 4.2.1 RMS and Sydney Trains and NSW Trains advertising

As proponents of outdoor advertising, RMS and Sydney Trains and NSW Trains must demonstrate that revenue raised from outdoor advertising is directly linked to a public benefit.

RMS and Sydney Trains and NSW Trains must record the total amount of outdoor advertising revenue received each year in their financial accounts and their Annual Reports. The Annual Reports must also outline RMS or Sydney Trains and NSW Trains investments made in the year on transport safety, amenity improvements or other public works listing specific works to which the funds have been or are to be applied.

RMS should give priority to works in areas where the advertising signage is to be positioned. Improvements to traffic safety for drivers, pedestrians and cyclists should be the focus of the expenditure of advertising revenue. This may include works such as installation of flashing lights or other safety infrastructure in school zones, provision of cycle ways, provision of pedestrian refuge areas, or installation of pedestrian bridges to improve safety and traffic flow.

For Sydney Trains and NSW Trains, railway station upgrades (e.g. providing wheelchair access) and rail crossings (e.g. installation of lights or gates) or other rail safety measures may be considered priority works. Amenity improvements along rail corridors including landscaping, litter removal, or vandalism and graffiti management may also be considered appropriate public benefits.

#### 4.2.2 Advertising along tollways

Under SEPP 64, proponents of advertising along tollways are required to provide for public benefits in association with any approved signage along tollways. Tollways include the Sydney Harbour Tunnel, the Eastern Distributor, the M2, M4, M5, M7, Cross City Tunnel and Lane Cove Tunnel.

The tollway operator must enter into satisfactory arrangements with RMS to meet the public benefit requirements. The requirements may include payment of an annual or upfront fee negotiated with RMS.

RMS is responsible for the collection, distribution and expenditure of public benefit monies from tollway



operators. Public benefit monies received by RMS must be recorded in their financial accounts and Annual Reports as set out in Section 4.2.1

RMS must consult with the relevant council to identify and prioritise activities to be included in the public benefit works program to be delivered through the program.

#### **4.2.3 Advertising approved by Councils**

In instances where a local council is the consent authority, public benefit contributions may also be required as part of the approval to display an outdoor advertisement. This includes advertising on bridge structures and advertising that requires RMS concurrence (see Section 5.2).

The applicant should liaise with the Council prior to lodging a DA to determine what public benefit requirements are likely to be required.

#### **Fees and Council revenue**

In addition to the standard development application fees, the applicant may be required to provide an upfront fee or an annual fee (payable to the Council) for the duration of consent of the advertisement (generally 15 years). In this instance, no other additional fee is to be charged against the development under the Local Government Act.

The council may not require the proponent to pay a fee if it is satisfied that adequate public benefits will otherwise be provided for (see right 'In-kind contributions').

Council is responsible for the collection, distribution and expenditure of the revenue from the fees. The monies are to fund a public benefit works program developed in partnership with RMS and/or Transport for NSW in relation to public transport matters. Both council and RMS and/or Transport for NSW will identify and prioritise projects in the LGA that require investment in transport safety, public transport or amenity improvements that are in addition to the core activities and services provided by the council.

When the Council is the advertising proponent, an annual fee need not be paid. However, as with RMS and Sydney Trains and NSW Trains, the Council must set aside revenue raised from outdoor advertising to fund a public benefit works program. The Council must record the total amount of outdoor advertising revenue received each year in their financial accounts and their Annual Reports. This includes fees collected from proponents as well as revenue raised directly from signage where Council is the proponent. The Annual Reports must also report on the amount of outdoor advertising revenue invested by the Council in transport safety, amenity improvements or other public works including a list of specific projects.

Improvements to traffic safety for drivers, pedestrians and cyclists are a priority for expenditure of advertising revenue. This may include works such as installation of flashing lights or other safety infrastructure in school

zones, provision of cycle ways, provision of pedestrian refuges or installation of pedestrian bridges to improve safety and traffic flow.

#### **In-kind contributions**

In some instances, the proponent may negotiate with Council to provide in-kind contributions rather than a fee. In-kind contributions may include on-ground works to improve local amenity such as pedestrian bridges, pedestrian refuges, landscaping, graffiti management, safety lighting or other works provided as part of the installation of the advertising structure.

Other types of in-kind contributions may also be negotiated with councils including the use from time to time of the advertising structure for promotion of community programs, events, public safety programs or other appropriate public purposes.

Advertising on pedestrian bridges are a special case and may not require any additional provision of public benefit (financial or in-kind). Public benefits associated with the bridge advertisement are usually linked to the cost of the bridge construction and its ongoing maintenance, particularly if the bridge is available for general public use and the bridge design and placement is considered suitable by both RMS and council.

#### **Dispute resolution**

If the council and the applicant cannot agree to an appropriate upfront or annual fee or in-kind contribution for the provision of public benefits, the matter should be referred by either party to the Secretary. The party who refers the application to the Secretary must notify the other party in writing that the application has been referred.

Following such a referral, the council must provide the Secretary with a copy of the development application, details of its proposed determination of the development application and details of the dispute in relation to public benefits associated with the proposed advertisement.

The Secretary may convene a meeting between the council and the applicant for the purpose of negotiating, as far as possible, an appropriate public benefit as an annual fee or in-kind contribution.

If agreement is reached between the consent authority and the applicant the Secretary must prepare a report of the agreement. If agreement is not reached, the Secretary may determine an appropriate fee or in-kind contribution on behalf of the parties and prepare a report of the agreement.

In either case, the Secretary must give a copy of the report to the consent authority and the applicant. After receiving the Secretary's report, the consent authority must proceed with the assessment and determination of the application and incorporate the Secretary's report recommendations into any conditions of consent relating to the provision of public benefits under SEPP 64.



## 5. RMS assessment of advertisement proposals

RMS has several responsibilities for the control and management of advertisements:

- as the roads authority for freeways and as regulator of classified roads generally under the *Roads Act 1993*;
- as the owner of land on which tollways and freeways are located (Refer sections 52 and 52A respectively of the *Roads Act 1993*);
- in accordance with the administration of the provisions of the *Roads Act 1993*.
- in accordance with RMS' functions relating to traffic management and safety under section 52A of the *Transport Administration Act 1988*.

In a development application for consent for an advertising structure, the applicant must demonstrate that the proposed sign will not result in a road hazard or create traffic safety problems and will not detract from the existing or intended environmental quality or character of the road corridor. The following guidelines issued by RMS should also be considered:

- *Beyond the Pavement: RMS Urban and Regional Design Practice Notes*, 1999 (and any subsequent revisions)
- *RMS Bridge Aesthetics Design Guidelines* (as updated)
- *RMS Road Design Guidelines* (as updated)
- *RMS Road Safety Assessment Matrix*

### 5.1 RMS ROLES UNDER THE *ROADS ACT 1993*

RMS may have an approval role or a concurrence role under section 138 of the *Roads Act 1993*. An approval under section 138 of the *Roads Act* is required from RMS as the appropriate road authority for the erection of any advertising structure in, on or over a freeway. For other roads, where the local council is the appropriate road authority, RMS may need to concur with the council's approval under section 138.

If the applicant for the advertising proposal is a public authority and the application is for the erection of an advertising structure in, on or over a classified road, RMS must consult with the public authority before deciding whether or not to grant concurrence. If however the applicant is Sydney Trains and NSW Trains and the Minister for Planning is the consent authority, consultation only on safety issues is required.

If the advertising applicant is RMS and the relevant roads authority is the local council, the council must consult with RMS before deciding whether or not to grant consent.

Whether or not the erection and display of an advertisement has been approved under the EP&A Act or the *Roads Act 1993*, RMS may direct:

- (a) the owner or occupier of land on which the advertisement is situated; or
- (b) the person who erected the advertisement, to screen, modify or remove the advertisement if, in the opinion of RMS, the advertisement is a traffic hazard.

## 5.2 RMS CONCURRENCE UNDER SEPP 64

Under clause 17 and 18 of SEPP 64, local councils must seek RMS concurrence for development applications for advertising structures that are within 250 metres of a classified road if:

- (a) the display area of the sign is:
  - (i) greater than 20 square metres, or
  - (ii) higher than 8 metres above the ground, and
- (b) any part of the sign is visible from a classified road.

This provision does not apply to signage that is exempt development under a relevant environmental planning instrument or where the Minister for Planning is the consent authority or approval authority under the EP&A Act.

Classified roads are defined in the *Roads Act 1993* as main roads, highways, freeways, controlled access roads, secondary roads, tourist roads, tollway, transitways, and State works. To determine if a particular road is a "classified road", the applicant should consult with the local council or RMS.

In a development application for consent for an advertising structure, the applicant must demonstrate that the proposed sign will not result in a road hazard or create traffic safety problems and will not detract from the existing or intended environmental quality or character of the road corridor.

If the road is a classified road, RMS should be consulted to determine if a corridor plan of management or corridor urban design strategy or equivalent exists for the particular road corridor. Such a plan or strategy (or their equivalent) should be taken into consideration when developing the proposal. In addition, the following guidelines issued by RMS should also be considered:

- *Beyond the Pavement: RMS Urban and Regional Design Practice Notes*, 1999 (and any subsequent revisions)
- *RMS Bridge Aesthetics Design Guidelines* (as updated)
- *RMS Road Design Guidelines* (as updated)
- *RMS Risk Assessment Matrix*

The development application should be lodged with council. The council must forward the development application to RMS to provide concurrence along with a \$250 concurrence fee (payable to RMS).

In deciding whether or not concurrence should be granted under SEPP 64, RMS will take into consideration relevant factors including:

- the impact of the display of the advertisement on road safety (Section 3 of these Guidelines)
- any other relevant provisions of these Guidelines or other relevant RMS guidelines such as *Beyond the Pavement* or RMS road or bridge design guidelines.

Once RMS has considered the development application, it will give written notice to the consent authority of its decision whether to concur. It will be assumed that RMS has given its concurrence if RMS has not advised the consent authority of its decision within 21 days after it receives the development application.

RMS may request additional information if the detail provided in the development application is not adequate. The 21-day concurrence period will be suspended until the applicant has provided sufficient information for RMS to assess the development application.

## 5.3 RMS CONSULTATION FOR LEPS AND DCPS

Under SEPP 64 it is also a requirement that RMS be consulted in the preparation of the following policies and controls:

- LEPS for signage or advertising to which SEPP 64 applies and where the signage or advertisement is within 250 metres of classified roads (SEPP 64, Clause 31); and,
- DCPs for advertising in rural or non-urban zones on land within 250 metres of a classified road (SEPP 64, Clause 15(2)).

## 6. Terms and acronyms

Advertising and signage expressions used in these Guidelines have the same meaning as the definitions in SEPP 64.

The following references, terms and acronyms are used in these Guidelines.

**AS 1170.1** – Australian Standard: Structural Design Actions: Permanent, Imposed & other Actions.

**AS 1170.2** – Australian Standard: Structural Design Actions: Wind Actions.

**AS/NZS 1906.1:2007** – Retroreflective Materials & Devices for Road Traffic Control Purposes.

**associated road use land** in relation to a road, means:

- (a) land on which road infrastructure associated with the road is located, or
- (b) land that is owned, occupied or managed by the roads authority for the road and that is used for road purposes or associated purposes (such as administration, workshop and maintenance facilities, bus interchanges and roadside landscaping).

**classified road** means any of the following: a main road, a highway, a freeway, a controlled access road, a secondary road, a tourist road, a tollway, a transitway or a State work.

**DCP** – Development Control Plan

**EPI** – Environmental Planning Instrument

**enterprise corridor** means an area with generally low amenity along a busy road (>40,000 vehicles per day) in existing built up areas in the Greater Metropolitan Region.

**Guidelines** means this publication titled *Transport Corridor Outdoor Advertising and Signage Guidelines* approved by the Minister for the purposes of SEPP 64, as amended from time to time and published by the Department of Planning and Environment.

**heritage item** – means a building, work, tree, archaeological site, Aboriginal object or place (which may or may not be situated on or within land that is a heritage conservation area) described as a heritage item in another environmental planning instrument.

**LEP** – Local Environmental Plan

**the Act** – *Environmental Planning and Assessment Act 1979*

**the Secretary** – the Secretary of the NSW Department of Planning and Environment

**the Minister** – the NSW Minister for Planning (unless otherwise stated)

**railway corridor** means the following land:

- (a) land on which railway track and associated railway infrastructure is located (including stations and platforms),
- (b) land that is adjacent to land referred to in paragraph (a) and that is owned, occupied or managed by Sydney Trains and NSW Trains and used for railway purposes or associated purposes (such as administration, workshop and maintenance facilities and bus interchanges),
- (c) land zoned for railway (including railway corridor) purposes under an environmental planning instrument,
- (d) land identified as a railway corridor in an approval of a project by the Minister for Planning under Part 3A of the Act.

**Sydney Trains and NSW Trains** – Rail Corporation New South Wales constituted under the *Transport Administration Act 1988*.

**road corridor** means the following land:

- (a) land comprising a classified road or a road known as the Sydney Harbour Tunnel, the Eastern Distributor, the M2 Motorway, the M4 Motorway, the M5 Motorway, the M7 Motorway, the Cross City Tunnel or the Lane Cove Tunnel, and associated road use land that is adjacent to such a road,
- (b) land zoned for road purposes under an environmental planning instrument,
- (c) land identified as a road corridor in an approval of a project by the Minister for Planning under Part 3A of the Act.

**RMS** – Roads and Maritime Services constituted under the *Transport Administration Act 1988*.

**SEPP 64** – *State Environmental Planning Policy No. 64 – Advertising and Signage* and includes the amendment to the Policy as of the date of gazettal of *State Environmental Planning Policy No. 64 (Advertising and Signage) (Amendment No. 2)*.

**transport corridor land** means the following land:

- (a) land comprising a railway corridor
- (b) land comprising a road corridor
- (c) land zoned industrial under an environmental planning instrument and owned, occupied or managed by RMS or Sydney Trains and NSW Trains.



### What is the Government doing about advertising and signage?

- The NSW Government is asking for feedback on changes to the planning rules for outdoor advertising and signage in transport corridors across the state.
- The changes relate to State Environmental Planning Policy No. 64 – Advertising and Signage (SEPP 64), under the Environmental Planning and Assessment Act 1979.
- Transport corridors include major roads or railway corridors, and land that is owned, occupied or managed by Roads and Maritime Services or Sydney Trains / NSW TrainLink.
- The changes update the Transport Corridor Outdoor Advertising and Signage Guidelines to introduce specific criteria for new electronic signs.
- The changes being proposed are on exhibition at: [www.planning.nsw.gov.au/proposals](http://www.planning.nsw.gov.au/proposals)
- Feedback on the proposed changes can be made up to 31 January 2016.

### Why is the Government proposing these changes?

- Over the last few years the technology for signage, particularly along transport corridors, has changed. There are now electronic signage technologies that are increasingly being used in transport corridors.
- As a result, the *Transport Corridor Outdoor Advertising and Signage Guidelines* have been updated to include criteria for the use of new technology in electronic signs.
- Certain digital and non-digital signs on the roadside can be a distraction to road users.
- The proposed changes take into account emerging technologies and provide a consistent approach to assessing road safety risks for the design, location and operation of electronic signs in transport corridors across the state.

### What do the transport corridor outdoor advertising and signage guidelines aim to do?

- The Guidelines provide a best practice framework for minimising road safety risks from driver distraction posed by electronic advertising and signage.
- Provide detailed advice on the assessment process for advertising and signage proposals across the state.
- Include general assessment criteria that all advertisement proposals have to meet under SEPP 64 and specific design criteria for advertising structures within transport corridors.

### What changes have been made to the Guidelines?

- The Department of Planning and Environment, Transport for NSW and the Outdoor Media Association have worked together to update the Guidelines to include requirements for the design, location and operation of electronic signage.



The changes aim to limit the distractive potential of digital signs in transport corridors, including:

- o sign size. The design criteria apply to signs that are both less than and greater than 20m<sup>2</sup> and cover Variable Message Signs that are used for advertising purposes;
  - o sign design. This includes the length of time an image can be displayed, and factors in the speed limits in certain areas. Other factors include the brightness of a sign's image and its use of colour, shapes, patterns and style and size of its wording;
  - o sign location in relation to the road and the traffic environment.
- The Guidelines also allow for the road safety impacts of signs to be reassessed after their installation. Road safety checks would be carried out for all electronic signs more than 20m<sup>2</sup> in size after a 12-month period and within the first 18 months of installation.
  - The updated Guidelines do not permit videos and animation; message sequencing; television, internet and satellite broadcasts; and the use of flickering or flashing content.

### What does SEPP 64 do?

- The SEPP 64 is the primary planning tool for regulating the design and location of advertising and signage that can be seen from a public place or reserve.
- The policy contains strict criteria that advertising and signage proposals must satisfy, including specific criteria for these uses in transport corridors.
- The criteria relate to location, termination, safety, character, views, vistas and streetscape.

### How can I give feedback?

- The proposed amendment to the advertising and signage Guidelines can be viewed:
  - o on the Department's website at: [www.planning.nsw.gov.au/proposals](http://www.planning.nsw.gov.au/proposals)
  - o in hard copy at the Department's Information Centre at 23-33 Bridge St, Sydney.
- Submissions can be made until **31 January 2016**:
  - o online at: [www.planning.nsw.gov.au/proposals](http://www.planning.nsw.gov.au/proposals)
  - o by mail to Metropolitan Delivery CSD, Department of Planning & Environment, GPO Box 39, Sydney NSW 2001.
- Submissions will be made public in line with the Department of Planning & Environment's objective to promote an open and transparent planning system. If you do not want your name published, please state this clearly at the top of your submission.
- Before making a submission, please read our privacy policy at: [www.planning.nsw.gov.au/privacy](http://www.planning.nsw.gov.au/privacy)

### Where can I find out more?

- Call our Information Centre on 1300 305 695.
- If English isn't your first language, please call 131 450.
- Ask for an interpreter in your language and then request to be connected to our Information Centre on 1300 305 695.
- Email [information@planning.nsw.gov.au](mailto:information@planning.nsw.gov.au)

## ITEM 2.7 PLANNING PROPOSAL FOR 100-102 ELLIOTT STREET, BALMAIN

<b>Division</b>	Environment and Community Management
<b>Author</b>	Senior Strategic Planner
<b>Meeting date</b>	9 February 2016 Policy Meeting
<b>Strategic Plan Key Service Area</b>	Community well-being Accessibility Place where we live and work A sustainable environment Business in the community Sustainable services and assets

### **SUMMARY AND ORGANISATIONAL IMPLICATIONS**

<b>Purpose of Report</b>	<p>The purpose of this report is to inform Council of a Planning Proposal to amend Leichhardt Local Environmental Plan (LEP) 2013 to rezone 100-102 Elliott Street, Balmain from Local Centre (B2) to General Residential (R1). Whilst the applicants preferred option is not supported, an alternative option that will in the longer term retain employment uses on the site is supported. Endorsement of this alternative option is sought and for a revised planning proposal to be submitted to the Minister for Planning for a Gateway determination to rezone appropriate parts of the site to Business Park (B7), General Residential (R1) and Public Recreation (RE1).</p>
<b>Background</b>	<p>The site was previously used by Nutri-Metics, a cosmetics company, with a mix of commercial, warehouse and convention centre buildings which were left unused after the site was vacated. The site was zoned Business under Leichhardt LEP 2000, translated into Local Centre (B2) zone as part of Leichhardt LEP 2013.</p> <p>A Planning Proposal was lodged with Council on 5 November 2015 to facilitate the preparation of an amendment to Leichhardt Local Environmental Plan 2013 to enable the rezoning of 100-102 Elliott Street, Balmain from Local Centre (B2) to General Residential (R1). The stated objective of the Proposal is to allow residential uses on the ground floor across the site without the need for a mix of uses within a building or an active street frontage. The desired outcome is that the proposed LEP amendment will allow for a future development application modification to convert</p>

	the approved nineteen (19) serviced apartments under D/2013/406 to residential dwellings.
<b>Current Status</b>	The owner of 100-102 Elliott Street, Balmain has requested that Council prepare a Planning Proposal for an amendment to Leichhardt Local Environmental Plan 2013, which would rezone the site from Local Centre (B2) to General Residential (R1).
<b>Relationship to existing policy</b>	This report assesses the merits of the Planning Proposal against relevant Council and State policies. Leichhardt LEP 2013 Leichhardt 2025+ Leichhardt Community & Cultural Plan 2011-2021 Leichhardt Employment Lands Study (Jan 2011) Leichhardt Employment & Economic Development Plan 2013-2023 A Plan for Growing Sydney (Dec 2014) Draft Inner West Subregional Strategy (July 2008)
<b>Financial and Resources Implications</b>	The proponent has paid the fee to Council for the preparation of a Minor Amending Local Environmental Plan as required by Council's Fees & Charges Policy to cover the costs of processing the Planning Proposal.
<b>Recommendation</b>	That Council: 1. Receive and note this report and attachments; 2. Resolve not to support the request the subject of the Proponent's Planning Proposal to rezone 100-102 Elliott Street, Balmain from Local Centre (B2) to General Residential (R1) for the following reasons: a) the rezoning would further reduce the supply of commercially zoned, employment generating lands in Leichhardt Municipality limiting potential employment opportunities and the ability to meet job targets. b) the Planning Proposal is inconsistent with s.117 Directions 1.1 Business and Industrial Zones and 7 Metropolitan Planning as the loss of commercially zoned land would be of significance to the local government area's employment generating land supply and ability to meet job targets and locate jobs closer to home.

	<p>c) the Planning Proposal is inconsistent with A Plan for Growing Sydney and the Draft Inner West Subregional Strategy as the loss of commercially zoned land would be of significance to the local government area's employment generating land supply and ability to meet job targets and locate jobs closer to home.</p> <p>d) The Planning Proposal does not have merit when assessed against the economic and employment criteria included within Leichhardt 2025+, the Leichhardt Employment Lands Study and the Leichhardt Employment and Economic Development Plan 2013-2023.</p> <p>3. Resolve to forward Council's Planning Proposal (<b>Attachment 2</b>), an alternate option, to the Minister for Planning for a Gateway determination to rezone appropriate parts of the site to General Residential (R1), Business Park (B7), Public Recreation (RE1) while retaining Local Centre (B2) for the rest of the site to achieve the intended outcome of the proponent's Planning Proposal that is the subject of this report and protect employment generating lands in Leichhardt Municipality.</p>
<b>Notifications</b>	NIL
<b>Attachments</b>	<p>1. Planning Proposal prepared by RPS for 100-102 Elliott Street, Balmain.</p> <p>2. Council Planning Proposal for 100-102 Elliott Street, Balmain</p>

## Purpose of Report

The purpose of this report is to inform Council of a Planning Proposal to amend Leichhardt Local Environmental Plan (LEP) 2013 to rezone 100-102 Elliott Street, Balmain from Local Centre (B2) to General Residential (R1). Whilst the applicants preferred option is not supported, an alternative option that will in the longer term retain employment uses on the site is supported. Endorsement of this alternative option is sought and for a revised planning proposal be submitted to the Minister for Planning for a Gateway determination to rezone appropriate parts of the site to Business Park (B7), General Residential (R1) and Public Recreation (RE1).

## Recommendation

That Council:

1. Receive and note this report and attachments;
2. Resolve not to support the request the subject of the Proponent's Planning Proposal to rezone 100-102 Elliott Street, Balmain from Local Centre (B2) to General Residential (R1) for the following reasons:
  - a) the rezoning would further reduce the supply of commercially zoned, employment generating lands in Leichhardt Municipality limiting potential employment opportunities and the ability to meet job targets.
  - b) the Planning Proposal is inconsistent with s.117 Directions 1.1 Business and Industrial Zones and 7 Metropolitan Planning as the loss of commercially zoned land would be of significance to the local government area's employment generating land supply and ability to meet job targets and locate jobs closer to home.
  - c) the Planning Proposal is inconsistent with A Plan for Growing Sydney and the Draft Inner West Subregional Strategy as the loss of commercially zoned land would be of significance to the local government area's employment generating land supply and ability to meet job targets and locate jobs closer to home.
  - d) The Planning Proposal does not have merit when assessed against the economic and employment criteria included within Leichhardt 2025+, the Leichhardt Employment Lands Study and the Leichhardt Employment and Economic Development Plan 2013-2023.
3. Resolve to forward Council's Planning Proposal (**Attachment 2**), an alternate option, to the Minister for Planning for a Gateway determination to rezone appropriate parts of the site to General Residential (R1), Business Park (B7), Public Recreation (RE1) while retaining Local Centre (B2) for the rest of the site to achieve the intended outcome of the proponent's Planning Proposal that is the subject of this report and protect employment generating lands in Leichhardt Municipality.



## Background

The site was previously used by Nutri-Metics, a cosmetics company, with a mix of commercial, warehouse and convention centre buildings which were left unused after the site was vacated. The site was zoned Business under Leichhardt LEP 2000, translated into Local Centre (B2) zone as part of Leichhardt LEP 2013.

A Planning Proposal was lodged with Council on 5 November 2015 to facilitate the preparation of an amendment to Leichhardt Local Environmental Plan 2013 to enable the rezoning of 100-102 Elliott Street, Balmain from Local Centre (B2) to General Residential (R1). The stated objective of the Proposal is to allow residential uses on the ground floor across the site without the need for a mix of uses within a building or an active street frontage. The desired outcome is that the proposed LEP amendment will allow for a future development application modification to convert the approved nineteen (19) serviced apartments under D/2013/406 to residential dwellings.

## Report

### 1.0 History

The site's previous use was by Nutri-Metics, primarily a cosmetics company. Existing on the site at the time was a mix of commercial, warehouse and convention centre buildings which were left unused after the site was vacated.

The subject site is zoned B2 Local Centre under Leichhardt Local Environmental Plan 2013 (LLEP2013) and surrounded principally by residential zoned land under LLEP 2013 (R1 General Residential). There is a small connection to land zoned for open space under LLEP 2013 (RE1 Public Recreation) which adjoins the ferry wharf and the open space between Parramatta River and the Housing NSW flat buildings on the northern side of Elliott Street.

A development application (D/2011/529) was lodged in October 2011 proposing demolition of existing structures, construction of a mixed use development including 6 buildings with commercial / retail uses and gym, 112 residential units above and basement parking for 217 vehicles. The application was reported to the Joint Regional Planning Panel (JRPP) in March 2012, and refused. An appeal to the Land and Environment Court of NSW was filed which was dismissed by the Court on 19 December 2012.

Development Application D/2013/406 was lodged in September 2013. A public information evening was held in November 2013 to outline the Proposal, which includes demolition of existing commercial and warehouse buildings and construction of a mixed use development including eight (8) new buildings ranging between 3-5 storeys consisting of 102 dwellings, 2,763sqm of non-residential floor space comprising 749sqm of commercial floor space, 160sqm of retail space, a 65sqm gym for use of residents of the development, 1,789sqm of serviced apartments and basement car parking. On-site landscaping and foreshore works include an additional 2,160sqm of dedicated foreshore public open space. The

application was reported to the JRPP on 15 May 2014 and was approved subject to a revised set of conditions.

A meeting was held at Leichhardt Council in July 2015 between the new owners of the site and Council officers to discuss potential land use changes and/or rezonings of the site to support the conversion of serviced apartments to residential apartments.

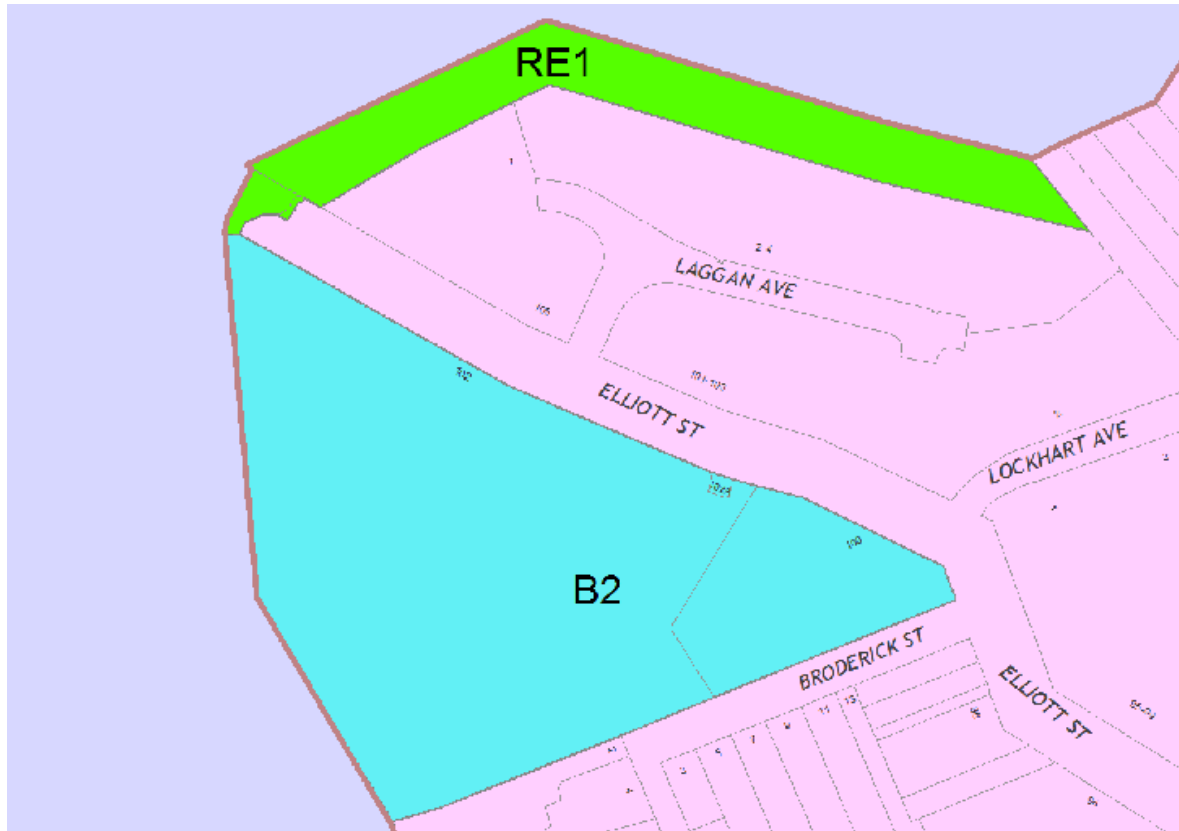
## **2.0 Site Description**

The site is located at 100-102 Elliott Street, Balmain and comprises two lots, Lot 6, DP 617944 and Lot 1, DP 619996. It has frontages of 151 metres to Iron Cove (west), 199 metres to Elliott Street (north) and 62 metres to Broderick Street (south), with an extension of this boundary along an adjoining property down to the foreshore of a further 84m. The site is 12,375m<sup>2</sup> in area and has a moderate slope from 17m above mean sea level in the eastern corner of the site to approximately 2m above mean sea level at the sandstone retaining wall at the edge of the Parramatta River.

Figure 1: Land that is subject of the Planning Proposal with an aerial photo of the site



Figure 2: Current zoning of site under existing development consent.



The site is located within the Iron Cove Heritage Conservation Area (C6) listed in Schedule 5 of Leichhardt LEP 2013 and is located in the Birchgrove / Elkington Park Distinctive Neighbourhood as prescribed under the Leichhardt Development Control Plan 2013. In August 2014, Toga Developments Pty Ltd purchased the site from Roche Group.

The site is currently undergoing construction according to the conditions of development consent D/2013/406.

### **3.0 Development Applications**

#### **3.1 Development application D/2011/529**

Development application D/2011/529 was lodged on 4 October 2011, proposing demolition of existing structures, construction of a mixed use development including 6 buildings with commercial / retail uses and gym, 112 residential units above, basement parking for 217 vehicles, and associated works, including landscaping and removal of trees, bulk earthworks and remediation.

The application was reported to the Joint Regional Planning Panel (JRRP) on 21 March 2012, and was refused.

A Class 1 appeal to the Land and Environment Court of NSW was filed on 4 May 2012, Case Number 10430 of 2012. The appeal was dismissed by the Land and Environment Court NSW on 19 December 2012.

### 3.2 Development Application D/2013/406

The application was lodged on 18 September 2013. Council officers held a public information evening on 6 November 2013 to outline the Proposal.

Development consent was sought for the following works:

- demolition of existing commercial and warehouse buildings and associated structures;
- bulk earthworks / excavation / remediation of the site;
- mixed use development consisting of eight (8) new buildings ranging between 3-5 storeys comprising the following gross floor areas (as defined by Leichhardt Local Environment Plan 2000):
  - 2,763sqm of non-residential floor space comprising 749sqm of commercial floor space, 160sqm of retail space, a 65sqm gym for use of residents of the development and 1,789sqm of serviced apartments.
  - Approximately 8,635sqm of residential floor space comprising 102 dwellings.
- basement car parking; and
- on-site landscaping, open space and foreshore works including additional 2,160sqm of dedicated foreshore public open space.

The eight buildings were identified on the plans as buildings A1, A2, B1, B2, C1, C2, C3 and C4 (see Figure 3 below) and the nominated proposed uses of these buildings are as follows as per the submitted floor plans:

- Building A1 – 4 storeys – retail use at lowest level with residential dwellings above;
- Building A2 – 3 storeys – commercial use at lowest level with residential dwellings above;
- Building B1 – 4 storeys – serviced apartments at lowest level with residential dwellings above;
- Building B2 – 4 storeys – commercial use at lowest level with residential dwellings above;
- Building C1 – 5 storeys – serviced apartments at lowest level with residential dwellings above;
- Building C2 – 5 storeys – serviced apartments at lowest level with residential dwellings above;
- Building C3 – 4 storeys – serviced apartments at lowest level with residential dwellings above;
- Building C4 – part 3, part 4 storeys – serviced apartments at lowest level with residential dwellings above.

Figure 3: Current site and building plan for D/2013/406



Council corresponded with the applicant highlighting issues to be addressed during the assessment of the application. The applicant responded by lodging legal advice to Council on 20 November 2013. Council subsequently had the legal advice reviewed and separate legal advice was provided on 10 December 2013. The conclusion was that the serviced apartments and ground floor uses were permissible in the zone.

The applicant lodged amended plans and documentation addressing the issues raised above and the amended plans and documentation were re-notified from 25 February 2014 to 26 March 2014. The application was reported to the Joint Regional Planning Panel on 15 May 2014, and was approved subject to a revised set of conditions. The final approval was for a mixed use development comprising eight buildings ranging between 3-5 storeys with ground floor commercial / retail uses (including 19 serviced apartments and gymnasium) and 102 residential units above.

The development application was supported by an Economic Report, prepared by SGS Economics & Planning, as part of the application. The report provided a market assessment for the proposed residential, retail, commercial and serviced apartment uses and justification for the financial viability of the proposed development.

With regard to economic activity and employment it was noted that the previous business on-site, Nutri-Metics, was not operating at full capacity, not utilising all the buildings to their full extent and that their current layout was very business specific and unsuitable for many other business purposes.



The Economic Report anticipated that the proposed development would create 49 jobs in the retail and commercial space as well as in maintenance and cleaning of the serviced apartments.

The Assessment report to the JRRP stated that the site was not in close proximity to the existing commercial centres on Darling Street in Balmain and Rozelle and that the proposed commercial uses were not expected to compete with these centres as likely businesses were not expected to rely on passing trade.

Potential amenity conflicts from the proposed ground floor live/work commercial uses on Broderick Street were assessed as part of the application. It was not considered that there would be any significant amenity impacts on existing dwellings in Broderick Street given that the retail and commercial uses in buildings A1 and A2 would be accessed through the development rather than from Broderick Street. The sizes of the proposed tenancies are also small so they are not considered to result in any significant impacts.

Given that the site was zoned Business and surrounded by sites zoned Residential the proposal was considered satisfactory with regard to economic impacts.

#### **4.0 Proponent's Planning Proposal**

##### **4.1 Pre-Planning Proposal meeting**

Prior to the preparation and lodging of this Proposal a meeting was held at Leichhardt Council on 15 July 2015 at the request of Toga. Present at the meeting were Toga representatives, their consultants RPS and Council officers, who discussed potential land use changes or rezoning of the site to support the conversion of serviced apartments to residential apartments.

Council officers followed up on the discussions at the meeting with Toga / RPS on 6 August with a list of issues and relevant background and supporting studies that would be required for any potential planning proposal advocating land use changes or rezoning of the subject site to enable Council to determine any socio-economic, built form, car-parking and traffic impacts. These included the following:

- details of any changes which would affect the D/2013/406 consent and any subsequent modifications;
- any changes which differ from the recommendations and actions included in supporting documentation/studies/reports provided to Council as part of the D/2013/406 application;
- justification for any changes not in keeping with the recommendations and intent of the Leichhardt Employment Lands Study (2011);
- justification for the loss of any commercial/employment land and floor space, both on-site and for Leichhardt LGA;
- any changes to car parking provision and resulting traffic movements; and
- compliance with SEPP 65 (Design Quality of Residential Flat Development) and all Council policies and controls relating to residential dwelling amenity.

#### 4.2 Planning Proposal and related issues

The Planning Proposal (**Attachment 1**) was lodged with Council on 5 November 2015. It has been prepared by RPS on behalf of Toga to facilitate the preparation of an amendment to Leichhardt Local Environmental Plan 2013 to enable the rezoning of 100-102 Elliott Street, Balmain from Local Centre (B2) to General Residential (R1).

The stated objective of the Proposal is to allow residential uses on the ground floor across the site without the need for a mix of uses within a building or an active street frontage. The desired outcome is that the proposed LEP amendment will allow for a future development application modification to convert the approved nineteen (19) serviced apartments under D/2013/406 to residential dwellings.

Planning Proposal (PP) options to achieve objectives and intended outcome

- Option 1: Change zoning of the site to B4 Mixed Use to allow residential uses at the ground floor.
- Option 2: Change zoning of the site to R3 Medium Density Residential to allow residential uses at the ground floor of all buildings across the site.
- Option 3: Change zoning of the site to R1 General Residential to allow residential uses at the ground floor of all buildings across the site.
- Option 3 considered by the proponent to be the most suitable approach. It would be consistent with the surrounding R1 zoning and achieve the desired objectives and intended outcome of the Planning Proposal, allowing the serviced apartments land use to be converted to residential dwellings as part of a future modification to the existing DA approval.
- Option 4: Amend Schedule 1 of the LEP.
- Options 5: Amend the boundary of the R1 General Residential zone to include Buildings A2, B1 and C1-C4 on the site.

The Planning Proposal claims it is consistent with the NSW Planning Framework including the following:

- a Plan for Growing Sydney
- Draft Inner West Subregional Strategy
- applicable State Environmental Planning Policies (SEPPs)
- S117 Ministerial Directions (s117)

The Planning Proposal claims it is consistent with Leichhardt Council's Strategic policies including the following:

- Leichhardt 2025+
- Leichhardt Community and Cultural Plan 2011-2021
- Leichhardt Employment Lands Study (LELS) (January 2011)
- Leichhardt Employment and Economic Development Plan (EEDP) 2013-2023

### Key elements of Proponent's Supporting Case

#### *Serviced apartments*

Nineteen (19) serviced apartments were approved on the site as part of D/2013/406 and are the major component analysed

The Proposal argues that operating serviced apartments dispersed through multiple buildings on the site is not a commercial use but rather a short term residential use. It states that for serviced apartments to be considered a viable commercial use 50-70 apartments are required, this site falling very significantly short of that threshold to allow the business to run with the required financial return.

Estimated employment impacts of removing the serviced apartments land use are considered negligible as at this scale the operation would use a commercial model to run the serviced apartments component of the development which requires no full time employees.

#### *Commercial zoning on the site*

The Proposal highlights previous economic studies into the commercial zoning of the site and current development approval, including the report prepared by SGS lodged with D/2013/406 and Leichhardt's Employment Lands Study (LELS) 2011. The findings were that the residential markets was performing strongly in Leichhardt LGA and the Inner West subregion, the commercial market was stable and that while noted a broad undersupply of serviced apartments in the market, the focus of demand was Sydney CBD and larger local centres. The economic impact of the development on Balmain Town Centre was judged to have minimal impact due to its small scale and out of centre location. The LELS recommended the site be retained for employment uses.

The report refers to considerable market changes since the LELS was completed, such as broader supply in the market, potential development of The Bays Precinct, vacancy in Darling Street and an understanding of thresholds in the serviced apartment market. Broader commercial market dynamics are stated as playing a large role in the conversion of scattered and isolated commercial areas to residential uses, with reference made to the consolidation of floor space in large employment precincts and the potential influence of Barangaroo commercial space being made available to the market.

The Proposal identifies that the site falls within the Inner West (Metropolitan) Office sub-market, based on Knight Frank's Sydney Suburban Office Market Review (February 2015). The key market conditions outlined in the report for the inner west included that the market had steadily absorbed commercial floor space available,

there was a reduction in vacancy for commercial space, there had been an increase in rents payable to landlords and that there had been a reduction in floor space available for medium sized sites and an increase for smaller sites such as the subject site.

Summary of the site suitability for non-residential uses finds that the site is currently zoned as an isolated centre away from existing commercial and retail areas on Darling Street, is unlikely to attract attention due to its location and that local retail tenancies along Darling Street would suffer due to provision of additional space competing with and attracting potential demand away from the local centre.

### *Social Impacts*

The Proposal emphasises that the serviced apartments, when operational, would have a potentially negative impact upon community cohesion, safety and security and the sense of place felt by both existing local residents and future residents of the development.

The transient nature of the 'guests' staying in the nineteen serviced apartments are noted as a major concern by those residents who have been involved and made a submission in response to Toga's community consultation.

### *Traffic and Parking Impacts*

The traffic and parking assessment provided in support of the Planning Proposal considers that any traffic impacts of the proposed rezoning are likely to be similar to the approved development. It notes that any future development application on the site would require traffic impacts to be considered in accordance with Council's requirements.

### *Visual Impacts*

The Proposal emphasise that any future DA would not require reconfiguration of the approved serviced apartments and would not require a change to the building envelopes, 'the look' or height of the approved mixed use development. A future 'change of use' DA would be required to facilitate the conversion to residential apartments.

Visual impacts are expected to be negligible or minor in nature and the development will appear the same as currently approved.

### *Community Consultation*

A consultation workshop was held by Toga with local residents on 21 August 2015. Twelve (12) properties were issued with invites to the workshop, representatives of eight (8) attended. Council staff were not involved in the preparation of the workshop, had no involvement in conducting the workshop and were not present.

Thirteen (13) submissions were received by the sites owner, all supporting the conversion of the nineteen (19) serviced apartments to residential dwellings. Ten

(10) submissions supported the rezoning of the site to General Residential (R1) to achieve this objective, two (2) submissions supported the rezoning of the site to Mixed Use (B4) to achieve this objective and one (1) submission supported the conversion without any zoning preference being provided.

Ten (10) of the submissions received contain appear to be a standardised template with the same content. This content includes the following statement regarding floor space ratio on the site:

*'I also understand that Toga will be seeking to permit of a maximum floor space ratio (FSR) of 1.05:1 on the site. This is consistent with the approved floor space ratio (FSR) for the site.'*

One (1) of the other submissions states that support for the proposal is conditional on there being no increases to the approved built form and no increase in the FSR beyond that currently approved.

The Proposal does not propose to reconfigure the approved serviced apartments if they are rezoned for a residential use and states that there will be no changes to the existing built form or height of the approved development as part of any future development application. The Proposal does not seek the imposition of a site specific floor space ratio for the site.

There is a clear concern evident amongst local residents that serviced apartments are not in keeping with the residential nature of the adjoining streets.

None of the submissions raise specific concerns with regard to the other commercial tenancies on-site.

#### *4.3 Assessment of Planning Proposal and related issues*

The Planning Proposal Justification section as submitted by the Proponent sets out five (5) possible options to achieve the proponent's objective. However, the actual Proposal is to rezone the entire site from B2 to R1 (Option 3). Council assessment has been of that Proposal.

##### *Planning Proposal (PP) options to achieve objectives and intended outcome*

Rezoning the entire site to General Residential (R1), in accordance with the Proponents Planning Proposal would allow the serviced apartments approved under D/2013/406 to be converted to a residential use. However, re-zoning the entire site to R1 it could also have an unintended consequence in relation to the long term retention of employment lands on the site. While the R1 zone does not prohibit all commercial premises, the zone objectives focus on housing needs and provision. If imposed across the entire site a development application could be lodged to convert some or all of the commercial space approved as part of the current development consent to residential uses. With an R1 zoning Council would have no planning mechanism to protect business floorspace. It is also noted that the land along the foreshore which is to be dedicated to Council for public recreation and pedestrian



access is likely to be rezoned to RE1 (Public Recreation) in a future LEP amendment so re-zoning to R1 now is inappropriate.

*Relationship with NSW Planning Framework & Council's Planning policies*

A Plan for Growing Sydney

The Proponent's Planning Proposal is consistent with the housing provisions of the Plan, however, it would compromise the employment provisions.

An unintended consequence of rezoning the entire site would be to create uncertainty regarding the long term retention of all employment lands on the site and all associated jobs. While the R1 zone does not prohibit all commercial premises the zone objectives focus is housing needs and provision. If the R1 zoning was imposed across the entire site there is a possibility that a future owner/applicant could lodge a development application to convert some or all of the commercial space approved as part of the current development consent to residential uses. With an R1 zoning Council would have no planning mechanism to argue the retention of those commercial spaces potentially leading to the further loss of employment generating lands and reducing job prospects locally, inconsistent with all objectives of the Plan. Land zoned R1 is not designated commercial and employment land and the objectives of the zone do not focus on business uses and jobs provision. There is no requirement that R1 zoned land be used for employment purposes.

Draft Inner West Subregional Strategy

The Proponent's Proposal is consistent with the housing provision, transport and parks and open space directions and actions but fails to address the key direction on Economy and Employment Lands. The Strategy requires Council to restrict the rezoning of employment lands to residential zoning as much as possible and provide for an additional 500 jobs before 2031.

The economic impacts report prepared by SGS Economics & Planning in August 2013 for the proposed development on the site found that the Nutri-Metics operation had provided 103 jobs and the proposed development would result in a net loss of 54 jobs. The on-site job yield estimated for the current development consent was 49 jobs. If the Proposal's favoured option of rezoning the entire site to General Residential (R1) was implemented an unintended consequence of rezoning the entire site would be to create uncertainty regarding the long term retention of any employment on the site and potential loss of all jobs.

If approved a development application to convert the business floorspace left in the proposed R1 zone could lead to the loss of the potential to create these 49 jobs.

Applicable State Environmental Planning Policies (SEPPs)

The Proposal is considered acceptable with regard to SEPP requirements. Any non-compliance with SEPP 65 will need to be dealt with as part of the future development consent modification defined by the Proposal.

Ministerial Directions (s117)

*1. Employment and Resources (Business and Industrial zones)*

The Proposal's objective and intended outcome is inconsistent with the Direction's objectives and how it is applied. Rezoning the entire site from Local Centre (B2) to General Residential (R1) will not encourage employment growth or protect employment land. The proposal will not retain areas of existing business zoning and will see a reduction in the total potential floor space for employment uses locally and in the wider Leichhardt Municipality. Land zoned R1 is not designated commercial and employment land and the objectives of the zone do not focus on business uses and jobs provision. There is no requirement that R1 zoned land be used for employment purposes.

*2. Environment and Heritage*

The Proposal is consistent with the Direction.

*3. Housing, Infrastructure and Urban Development*

The Proposal is consistent with the Direction.

*4. Hazard and Risk*

The Proposal is consistent with the Directions.

*6. Local Plan Making*

The Proposal is consistent with the Direction.

*7. Metropolitan Planning (A Plan for Growing Sydney)*

The Proponent's Planning Proposal is consistent with the housing provisions of the Plan however it would compromise the employment provisions.

Leichhardt 2025+

The Proposal satisfies the social, environment and civic leadership key service area goals and objectives. The Proposal does not adequately address the Economic key service area, 'Business in the Community'. Rezoning the entire site to General Residential R1 would have the unintended consequence of creating uncertainty regarding the long term retention of all employment lands on the site and all associated jobs.

Leichhardt Community and Cultural Plan 2011-2021

The Proposal's stated objective and intended outcome of rezoning the site to General Residential (R1) would address the issues contained within the Community and Cultural Plan.

The Plan's objectives would also be addressed by a split rezoning for the site, achieving many of the goals contained in Council's strategic plans such as reducing journey to work distance and commutes, creation of local creative industries which contribute to a more sustainable, more cohesive local community.

Leichhardt Employment Lands Study (LELS) (January 2011)

The Proponent's Proposal does not comply with the study, which requires it to remain as commercially zoned, employment generating land. The Proposal's recommendation to rezone the entire site from Local Centre (B2) to R1 does not

retain land for employment use and the objectives of the zone do not focus on business uses and jobs provision. Home based employment is permitted within the General Residential zone provision of live-work space cannot be enforced. The potential loss of 49 jobs on the site would have a negative impact on Leichhardt's ability to meet job targets set by the State government and compound the loss of 50+ jobs already generated through the current development consent.

#### Leichhardt Employment and Economic Development Plan (EEDP) 2013-2023

Rezoning the entire site from Local Centre (B2) to General Residential (R1) means that all the employment land on site could be lost. There is no requirement that R1 zoned land be retained or used for employment purposes. The loss of business zoned employment land would make it more difficult for Council to implement the objectives of the EEDP, particularly Objective 3 'Embracing the New Economy' with regard to small businesses and start-ups, potential growth and clustering of creative industries and limiting further loss of employment generating lands in Leichhardt Municipality.

#### Issues raised by the Planning Proposal's Economic and Market Assessment

##### Serviced apartments

It is noted that although the land use 'serviced apartments' approved for parts of the site is a commercial use practical day-to-day operations of serviced apartment facilities may resemble a short term residential use, rather than a traditional commercial use. The Proponent's analysis indicates that 19 serviced apartments will not meet the commercial viability threshold of 50-70 serviced apartments.

The concerns raised by local residents as part of the Toga community consultation workshop on this Planning Proposal are consistent with those raised as part of the public notification process for D/2013/406. There is a concern that the serviced apartment land use and its operation will have a negative impact upon the local community. The resident's letters and their content are noted.

Conversion of the serviced apartments to residential dwellings will provide additional housing in the Balmain area. A rezoning to facilitate the land use change for the serviced apartments will comply with the relevant housing provision sections of 'A Plan for Growing Sydney', 'Draft Inner West Subregional Strategy', S117 Ministerial Direction 3, 'Leichhardt 2025+' and Leichhardt's Community & Cultural Plan 2011-2021'.

The change of land use to be facilitated by an amendment to Leichhardt LEP 2013 to allow the nineteen (19) serviced apartments to be converted to residential dwellings is supported. It is recommended that Building B1 and Buildings C1-C4 be rezoned to General Residential (R1) to allow the conversion.

##### Commercial zoning on the site

The Proponent's Planning Proposal concludes that the suitability of the site for non-residential uses as an isolated centre away from existing commercial and retail areas on Darling Street, is unlikely to attract commercial intent due to its location and that local retail tenancies along Darling Street could suffer due to provision of additional space competing with and attracting potential demand away from the local centre.

This conclusion conflicts with the economic assessment undertaken by SGS for the previous owner of the site and submitted as part of DA/2013/406. The site is zoned Local Centre (B2) with applicable commercial objectives and various business land uses permitted. The SGS Economic report found that the proposed development would create 49 jobs for the retail and commercial space provided. The recommended conversion of the 19 serviced apartments to residential dwellings with new local residents is likely to provide additional patronage and clients for those businesses as well as the Darling Street businesses only 200 metres away.

The Business zoned site was the subject of a significantly more intensive business use for many years and any adverse impacts upon the surrounding residential dwellings attributed to the commercial spaces approved on-site is likely to be minor by comparison. The economic impact analysis found that there would not be significant amenity impacts on existing dwellings in Broderick Street since Buildings A1 and A2 have been designed to be accessed from within the development rather than from the public street. This includes separate entrances for retail and commercial uses, separate waste storage and separate parking as required by development consent conditions. The relatively small size of the tenancies were also considered to ensure that there would be no significant impacts upon existing local residents.

The SGS Economic report found the small size of the commercial tenancies would not detract from the function of business centres along Darling Street in Balmain and Rozelle and the scale of floorspace of proposed business would be appropriate for premises surrounded by residential dwellings. The proposed objective of the live-work tenancies in Building A2 is specifically to provide a transition between adjoining land uses and assist in the revitalisation of employment areas aimed at limiting amenity impacts.

The small scale offering of the commercial tenancies also means they are not offering a local product that wouldn't compete with large, flexible commercial floor templates in the Barangaroo development or any likely development of the Bays Precinct as claimed by the proponent.

The D/2013/406 reports conclusions and contributing studies were accepted by the Joint Regional Planning Panel (JRRP) as grounds for approval of the current development consent for the site.

From a provision of employment lands and job provision perspective the Proposal fails to comply with the relevant elements of 'A Plan for Growing Sydney', 'Draft Inner West Subregional Strategy', various s117 Ministerial

Directions, 'Leichhardt 2025+', 'Leichhardt Employment Lands Study' and 'Leichhardt Employment and Economic Development Plan 2013-2023'.

The commercial space approved on-site continues to comply with the current Local Centre (B2) zoning objectives and land uses contained in Leichhardt LEP 2013.

Through the development approval D/2013/406 the site has already seen a reduction in 53 jobs. If the Planning Proposal's was to be implemented Leichhardt LGA could possibly see a further reduction of up to 49 potential jobs at a time when employment generating lands are under significant development pressures across the Municipality.

It is recommended that all commercial space in Buildings A1, A2 and B2 be retained, with Buildings A1 and B2 to continuing to be zoned B2 (Local Centre), Building A2 proposed to be rezoned Business Park (B7) to best reflect the land use endorsed by Council and be consistent with Council's strategic plans including the long term retention of employment lands.

#### Social Impacts

The Proponent's Planning Proposal states that day-to-day operation of the serviced apartments would have a negative impact upon community cohesion, safety and security and the sense of place felt by both existing local residents and future residents of the development. This statement is supported by thirteen submissions submitted with the Proposal supporting the conversion of the serviced apartments to residential dwellings.

It is acknowledged that the likelihood of nineteen (19) serviced apartments on-site operating potentially every day of the year will create a greater amenity impact upon existing and new local residents than if those serviced apartments were private dwellings.

Conversion of the serviced apartments to residential dwellings will provide much needed housing in the Balmain area. A rezoning to facilitate the land use change for the serviced apartments will comply with the relevant housing provision sections of 'A Plan for Growing Sydney', 'Draft Inner West Subregional Strategy', S117 Ministerial Direction 3, 'Leichhardt 2025+' and Leichhardt's Community & Cultural Plan 2011-2021', and is supported. It is recommended that Building B1 and Buildings C1-C4 be rezoned to General Residential (R1) to allow the conversion.

#### Traffic and Parking Impacts

The current Proposal states that the traffic impacts of the proposed rezoning are likely to be similar to the approved development. This has been examined by Council's Traffic team and no concerns were raised.

Any future modification to an existing development consent or new development application would be required to comply with Council policy and relevant controls.



### Visual Impacts

The Proposal does not propose any changes to built form, building envelopes or building height. Any such changes would require a future modification to a development consent or new development application subject to Council policies and controls.

### Section 94/VPA

The planning proposal would facilitate the conversion of the nineteen (19) serviced apartments under D/2013/406 to residential dwellings subject to DA consent. Section 94 contributions would then be payable for each apartment converted from commercial to residential use. It is noted that the applicant will rehabilitate approximately 2160sqm of foreshore land and dedicate to Council under Section 94 of the Environmental Planning and Assessment Act 1979 and the Leichhardt Open Space Recreation Contributions Plan under D/2013/406.

It is considered that the planning proposal will result in considerable property uplift value, with the 19 serviced apartments being converted to residential dwellings. The Director Corporate and Information Services has advised the applicant has not offered to enter into a Voluntary Planning Agreement in relation to the proposed zone change.

### **Land use specific rezoning justification**

Rather than a simple rezoning of the entire site to R1, rezoning various parts of the current site to a number of different zones would better reflect the land uses already endorsed by Council and be consistent with Council's long term strategic plans. It would also allow for the conversion of the nineteen (19) serviced apartments under D/2013/406 to residential dwellings while providing for the long term retention of employment lands.

A more site specific rezoning of existing land uses would also better integrate the site into the surrounding area, providing greater certainty for both existing and future landowners and tenants.

### Service apartments conversion to residential dwellings

As detailed in the report it is recommended that Council support allowing the change of land use from serviced apartments to residential dwellings.

To best facilitate this change it recommended that the zone objectives and permitted land uses in Leichhardt Local Environmental Plan 2013 which best reflect the future use of residential dwellings for Building B1 and Buildings C1-C4 is General Residential (R1). It is recommended that Council support the rezoning of this land as part of a Planning Proposal to be forwarded to the Minister for Planning for a Gateway Determination.



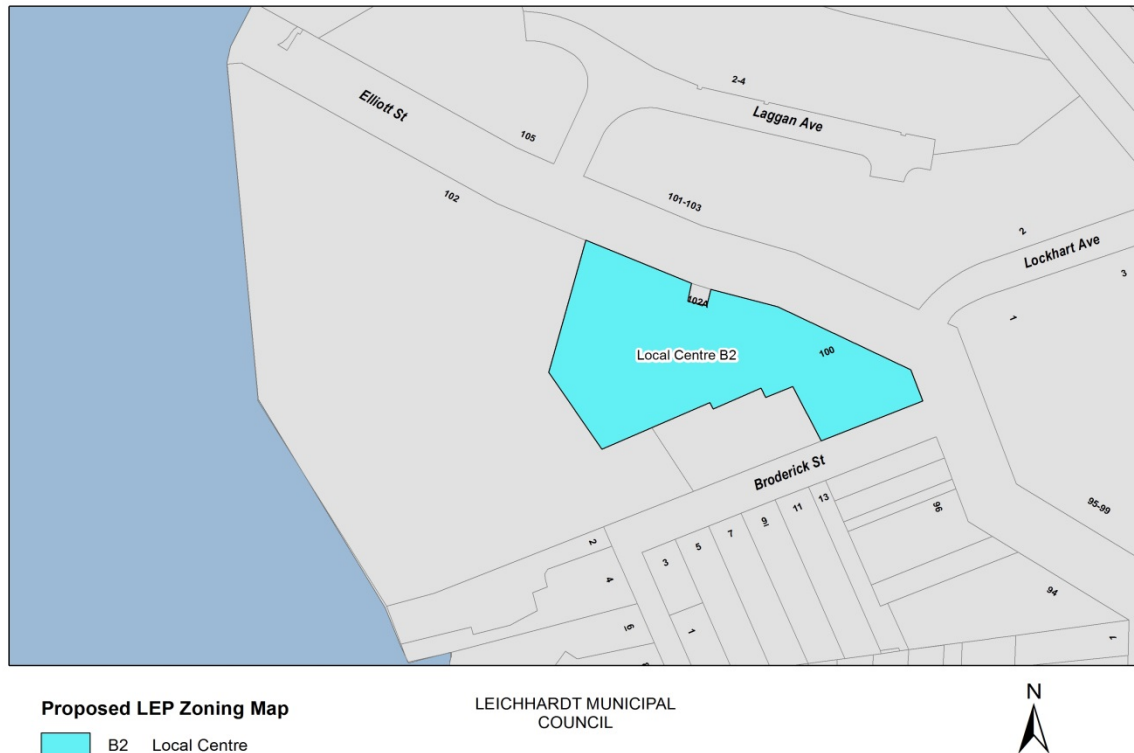


The zone objectives and permitted land uses in Leichhardt Local Environmental Plan 2013 which best reflect the future use of the nine (9) live-work terraces in Building A2 is Zone B7 Business Park. Clause 6.12 (Residential accommodation in Zone B7) aims to facilitate exactly this type of development. It is recommended that Council support the rezoning of this land (see proposed mapping above) as part of a Planning Proposal to be forwarded to the Minister for Planning for a Gateway Determination.

Mixed use (commercial space with residential dwellings above)

As part of the development approval D/2013/406 Buildings A1 and B2 are to provide a mix of commercial space and residential dwellings with an active street frontage as required by Clause 6.11A (Residential accommodation in Zone B1 and Zone B2) in Leichhardt LEP 2013.

As detailed in the report it is recommended that Council retain all employment generating land approved on-site. It is recommended that these parts of the site remain as approved for mixed use development.



The zone objectives and permitted land uses in Leichhardt Local Environmental Plan 2013 which best reflects the future use of the mixed use development in Buildings A1 and B2 is Zone B2 Local Centre. It is recommended that as part of a Planning Proposal to be forwarded to the Minister for Planning for a Gateway Determination these parts of the site retain their existing zoning.

### Foreshore land dedication

As part of development application D/2013/406 approximately 2160sqm of foreshore land will be rehabilitated and dedicated to Council for use as public open space. This dedication has been imposed using Section 94 of the Environmental Planning and Assessment Act 1979 and the Leichhardt Open Space Recreation Contributions Plan after Council identified that the development will increase the demand for local and district open space within the area.

Currently this land, like the entire site, is zoned Local Centre (B2) for commercial purposes. The Planning Proposal seeks to rezone this land to General Residential (R1). The objectives and permitted land uses of these two zones do not best reflect the future land use of public open space.

A more site specific rezoning of future land use would better integrate the site into the surrounding area, providing greater certainty for both existing and future landowners, tenants, local business owners and workers.



The zone objectives and permitted land uses in Leichhardt Local Environmental Plan 2013 which best reflect the future use of public open space for the foreshore land to be dedicated to Council is Zone RE1 Public Recreation. It is recommended that Council support the rezoning of this land as part of a Planning Proposal to be forwarded to the Minister for Planning for a Gateway Determination.

### Summary/Conclusions

The Proponent's Planning Proposal to rezone the entire site from Local Centre (B2) zone to General Residential (R1) is not supported. While achieving the objective and intended outcome of the Proposal, allowing for a future modification to a DA consent to convert all nineteen (19) serviced apartments to residential dwellings, it could also result in all land specifically zoned for commercial purposes being lost. The unintended outcome could be the potential loss of some or all employment generating lands on site and the further loss of 49 potential jobs on a site currently zoned for business purposes with a development consent permitting business uses.

To both preserve the employment generating land and achieve the intended outcome of the Proponent's Planning Proposal it is recommended that various parts of the current site be rezoned to better reflect the land uses endorsed by Council as part of D/2013/406 and to be consistent with Council's long term strategic plans.

To achieve this it is recommended that Council submit the attached Council Planning Proposal to the Minister for Planning and Infrastructure for a Gateway Determination that will provide housing and protect local employment generating land. It is proposed to rezone parts of the site General Residential (R1), Business Park (B7),



Public Recreation (RE1) with the Local Centre (B2) zoning retained on the rest of the site.

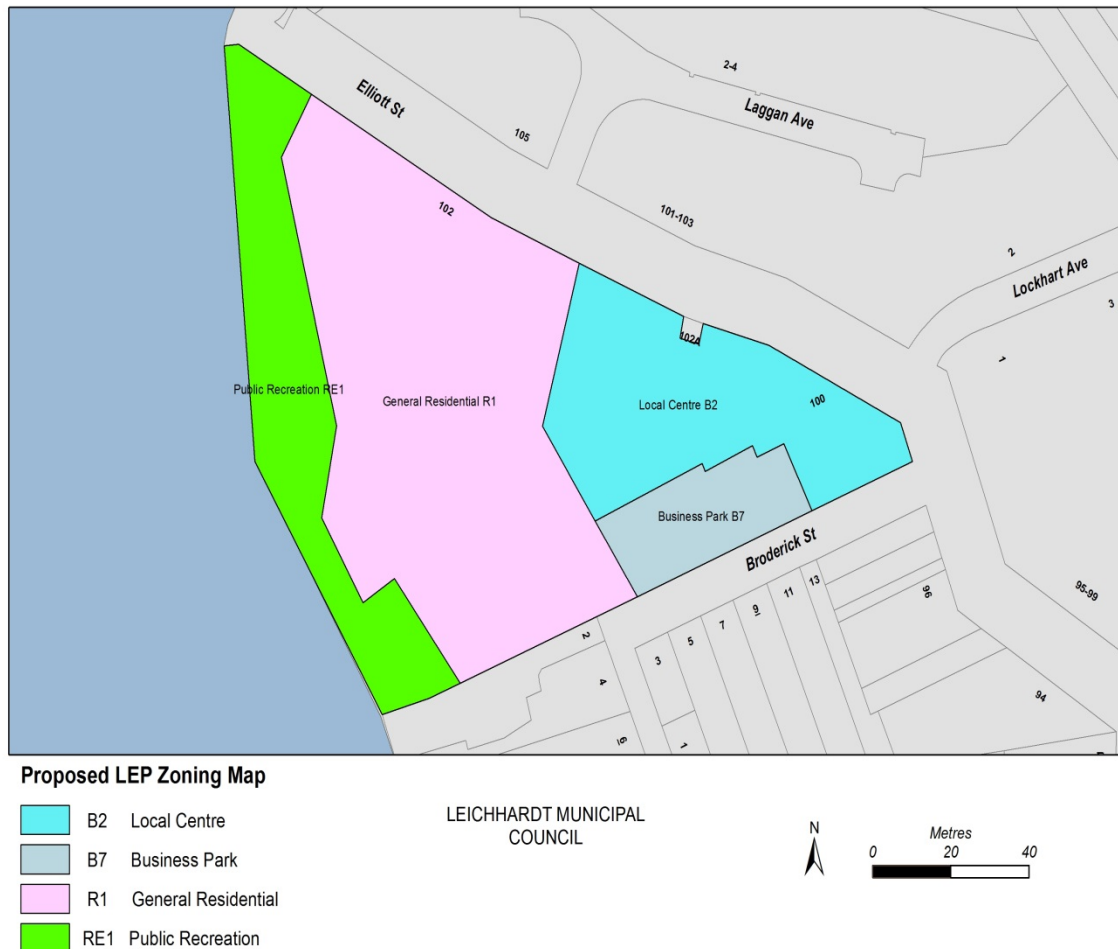


Figure 4: Proposed rezoning of the subject site to reflect land uses approved as part of D/2013/406

Building A1 and B2 - To remain zoned Local Centre (B2)

Building A2 - To be rezoned Business Park (B7)

Buildings B1 and C1-C4 - To be rezoned General Residential (R1)

Foreshore land to be dedicated to Council - To be rezoned Public Recreation (RE1)

### Attachments

1. Proponent Planning Proposal for 100-102 Elliott Street, Balmain
2. Council Planning Proposal for 100-102 Elliott Street, Balmain



Development & Construction  
Apartments | Commercial | Retail  
Investments  
TFE Hotels

5 November 2015

Leichhardt Municipal Council  
7-15 Wetherill Street  
Leichhardt  
NSW 2040

To The General Manager of Leichhardt Municipal Council

**Re: Planning Proposal Lodgement Form – Request to Amend the Leichhardt Local Environmental Plan 2013**

**1. What is proposed to be amended?**

The Planning Proposal seeks to rezone the site at 100-102 Elliott Street, Balmain from B2 Local Centre to R1 General Residential.

**2. Pre lodgement meeting?**

A meeting was held at Leichhardt Council on 15 July 2015 with Clare Harley present.

**3. Information included with this request:**

- Completed request form (being this form)
- 2x hard copies of the draft planning proposal prepared in accordance with Department of Planning and Infrastructure's "A guide to preparing planning proposals"
- 1x electronic copy of the above draft planning proposal
- LEP Amendment fees (as confirmed by Clare Harley via email)

**4. Location and title description of the property associated with the proposed amendment**

Street No: 100-102  
Street: Elliott Street  
Suburb: Balmain  
Postcode: 2041  
Lots & Deposited Plans: Lot 6 DP 617944 and Lot 1 DP 619996

**5. Applicant details**

Mr Michael Calvi (Development Manager)  
Level 5, 45 Jones Street, Ultimo NSW 2012  
(02) 9356 1021 or 0410 661 230  
[mcalvi@toga.com.au](mailto:mcalvi@toga.com.au)



**6. Is a political donations and gifts disclosure statement required? (Sect 147 (4) of EP&A Act)**

NO

**7. List of additional studies attached to Planning Proposal:**

- Economic and Social Assessment Report (by RPS)
- Traffic Impact Assessment (by CBHK)
- SEPP 65 and ADG Assessment (by Bates Smart)

**8. Who owns the land?**

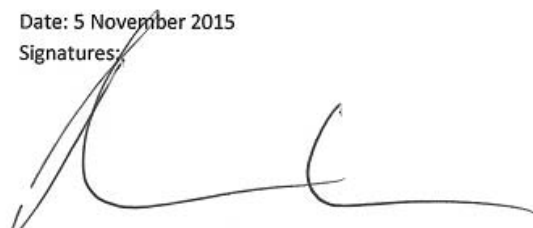
Toga Developments Sydney Pty Ltd  
Level 5, 45 Jones Street, Ultimo NSW 2012  
ABN: 87 126 126 707  
ACN: 126 126 707

**9. Owner's consent**

As the owner of the land to which this application relates, we consent to this application. I give consent for authorised Council officers to enter the land to carry out inspections.

Date: 5 November 2015

Signatures:



Allan Boyd Vidor  
Director  
Toga Developments Sydney Pty Ltd



Adrian Paul Whiting  
Company Secretary  
Toga Developments Sydney Pty Ltd

**10. Applicant's declaration**

I declare that all the information given in this request is true and correct. I also understand that, if incomplete, the request may be delayed or rejected. I understand that payment of fees may not result in the desired outcome. I understand that timeframes cannot be guaranteed and may vary.

Date: 5 November 2015

Signature:



Michael Calvi  
Development Manager  
Toga Development Sydney Pty Ltd

#### Disclaimer

I hereby apply for the proposal described in the Section 1 and I consent to Council copying this application, and any supporting material, for the purpose of obtaining public comment which includes publishing this information electronically on Council's website. I also understand that if the information is incomplete the application may be delayed or rejected, or more information may be requested. I acknowledge that if the information provided is misleading any approval granted may be void.

I accept that Council cannot be held liable for delays in processing arising out of inadequacies in the material submitted in support of this application.

Signing this form acknowledges that any additional study required by Council and/or the Department of Planning and Infrastructure will be at no cost to Council and/or the Department of Planning and Infrastructure

#### Planning Proposal Lodgement Checklist Documents Required

This checklist must be completed by you prior to planning proposal lodgement

Have you provided the following?	Y/N or N/A
1. Completed and signed Application Form	Y
2. Written and signed consent of the owner/s of the property	Y
3. Completed Political Donations and Gifts Disclosure Statement	N/A
4. Minutes from Pre-Planning Proposal Meeting (if attended)	Y
5. Confirmation of compliance with Department of Planning and Infrastructure's 'A Guide to Preparing Planning Proposals'	Y
6. Planning Proposal and supporting information	Y
7. Drawings to scale	Y
8. Two hard copies of all documents submitted with the application <i>Note: Additional copies will need to be provided for exhibition and referral to government authorities (these will be requested upon Gateway Determination approval)</i>	Y
9. CD with a copy of all the above documents (including WORD and PDF version of the Planning Proposal)	Y
10. Council Planning Proposal Fee	Y

Toga Pty Ltd ACN 000 926 947

Level 5, 45 Jones Street, Ultimo NSW 2007 Australia | PO Box 1745, Strawberry Hills NSW 2012 Australia

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RPS

## Planning Proposal

**100-102 Elliott Street, Balmain**

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Version / Date: Rev 0 / November 2015

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## RPS

Planning Proposal  
100-102 Elliott Street, Balmain

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### Document Status

Version	Purpose of Document	Orig	Review	Review Date
Rev A	Draft to client	ET	LB/PM	15/09/2015
Rev B	Draft to client	LB	PM	28/09/2015
Rev C	Draft to client	PM		01/11/2015
Rev D	Final for submission	PM		05/11/2015

### Approval for Issue

Name	Signature	Date
Peter Mangels		05/11/2015

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## 1.0 Introduction

This Planning Proposal (The Proposal) has been prepared by RPS on behalf of Toga Developments Sydney Pty Ltd (Toga) to facilitate the preparation of an amendment to *Leichhardt Local Environmental Plan 2013* (*Leichhardt LEP 2013*) to enable the rezoning of 100-102 Elliott Street, Balmain.

The site is currently zoned B2 Local Centre, which permits a range of uses including residential flat buildings; however, Clause 6.11A of *Leichhardt LEP 2013* does not permit residential accommodation unless the building comprises mixed use development and an active street frontage.

The site has an approval for a mixed use development comprising eight buildings ranging between 3-5 storeys with ground floor commercial/retail uses (including 19 serviced apartments and gymnasium) and 102 residential units above (D/2013/406). In August 2014, Toga purchased the site from Roche Group.

The operation of serviced apartments at this scale and format is not considered to be commercially viable and would likely to be leased out through a third party operator with no on-site management such as AirBnB or Stayz. Various Councils throughout NSW and beyond have voiced their concerns about this form of short-term tourist letting offering (**Appendix 1**). Their concerns are primarily with safety, security and amenity of permanent residents. This form of accommodation can also create compliance issues for Council that are often difficult to address.

Toga has 52 years' experience as a serviced apartment developer and operator. It is Toga's view that the approved serviced apartments create a risk of generating undesirable impacts on residential amenity, such as noise, safety and security, on both residents on-site and within the surrounding area. This is largely due to:

- The apartments are being spread across four separate buildings, making it difficult to appropriately service the apartments and manage associated impacts such as anti-social behaviour.
- The incompatible nature of serviced apartments and residential uses being co-located within the same building is seen as creating a potential safety and security risk for occupants of the residential apartments.
- The serviced apartments sharing a lobby/lift with residential apartments.

It has also been made apparent from submissions received by Council during the assessment of D/2013/406 and subsequent consultation, that the serviced apartments are largely not supported by existing neighbours of the development who would prefer residential uses on the subject site again due to the safety, security and amenity issues associated with short term accommodation. If the proposed rezoning of the site was to be supported, serviced apartments would be a prohibited use under the R1 General Residential zone.

Alternative uses that are currently permitted such as business or office premises have been considered but would either not be suitable in this location and/or unviable (**Appendix 2**). Given that serviced apartments and alternative commercial/retail uses are not viable at this scale and/or location, the subject serviced apartments are likely to remain empty for large periods of time contributing to a lack of activation, passive surveillance and general safety and security in the locality.

The purpose of this Proposal is therefore to amend *Leichhardt LEP 2013* to enable the rezoning of 100-102 Elliott Street, Balmain from B2 Local Centre to R1 General Residential. This would allow Toga to seek development consent in the future through the lodgement of a development application (DA) to convert the 19 approved serviced apartments to residential apartments.



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Any future DA would not require reconfiguration of the approved serviced apartments and will not change the building envelopes, 'the look' or the height of the approved development. A future 'change of use' DA would be required to facilitate the conversion to residential apartments.

The approved gross floor area (GFA) and floor space ratio (FSR) for the site under D/2013/406 will remain unchanged as a result of this Proposal.

The proposed rezoning is justified for the following reasons:

- It is consistent with the recent *A Plan for Growing Sydney*, the strategic plan for the Sydney metropolitan area for the next 20 years.
- It will assist Leichhardt Council in meeting housing targets set by the Draft Inner West Subregional Strategy.
- There is a lack of market suitability for commercial uses at the scale and type required to occupy the ground floor of buildings across the site necessary to satisfy clause 6.11A of LEP 2013.
- The R1 General Residential zoning is consistent with all land surrounding the site and within the surrounding area.
- It would enable Toga to convert the approved serviced apartments to residential apartments at a future development application stage. This residential use is reflective of the surrounding residential uses.

The Proposal has been prepared in accordance with the (then) Department of Planning and Infrastructure's (DP&I) *A Guide to Preparing Planning Proposals* and *A Guide to Preparing Local Environmental Plans*. It is supported by the following technical reports and supporting information:

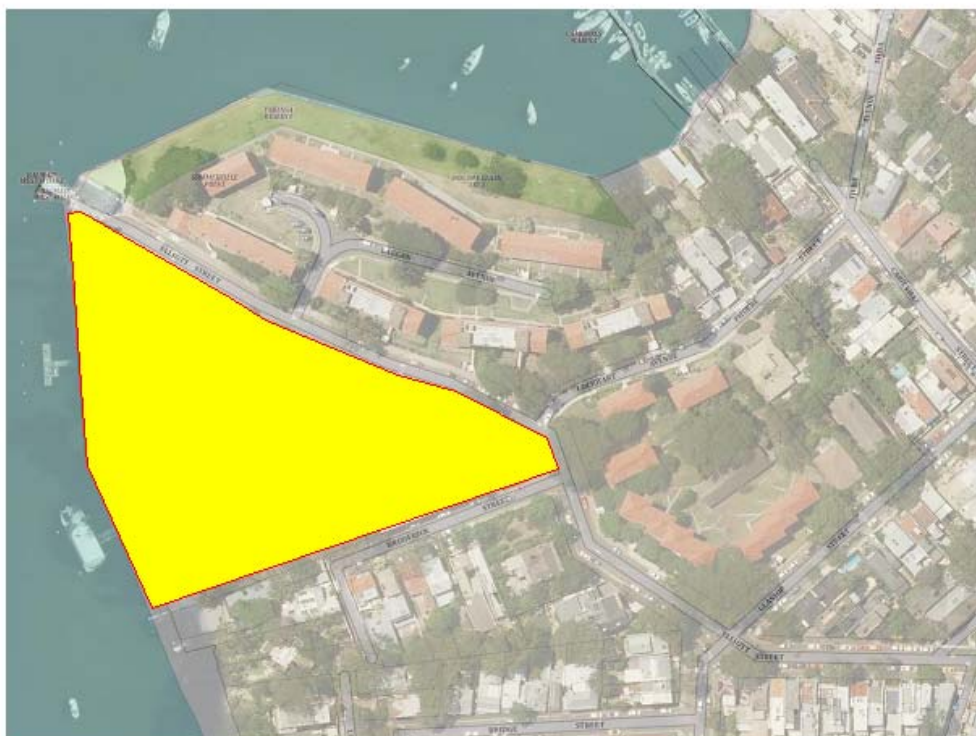
- Sydney Morning Herald (Domain) article *NSW government investigating Airbnb rentals* dated 4 July 2015 (**Appendix 1**).
- Economic and Social Assessment Report prepared by RPS (**Appendix 2**).
- Assessment of Traffic and Parking Implications Update prepared by CBHK (**Appendix 3**).
- SEPP 65 and Apartment Design Guide (ADG) Assessment prepared by Bates Smart (**Appendix 4**).
- Resident letters of support (**Appendix 5**).
- Location of subject apartments (**Appendix 6**).
- Letter from TFE Hotels (**Appendix 7**).

It is therefore recommended that this Proposal be favourably considered by Council and resolve to forward it to the Department of Planning and Environment (DP&E) for LEP Gateway determination in accordance with the *Environmental Planning and Assessment Act 1979* (EP & A Act) to prepare the necessary LEP amendment.

## 2.0 The Site

### 2.1 Description

The subject site is located at 100-102 Elliott Street, Balmain (see Figure 1) within the Leichhardt local government area (LGA) and comprises two lots, legally referred to as Lot 6 in DP 617944 and Lot 1 in DP 619996.



**Figure 1: Site Location** (Source: SixMaps)

It is essentially triangular in shape and has frontages of approximately 151m to Iron Cove, 199m to Elliott Street and 62m to Broderick Street, with an extension of this boundary along an adjoining property (2 Broderick Street) down to the foreshore of a further 84m.

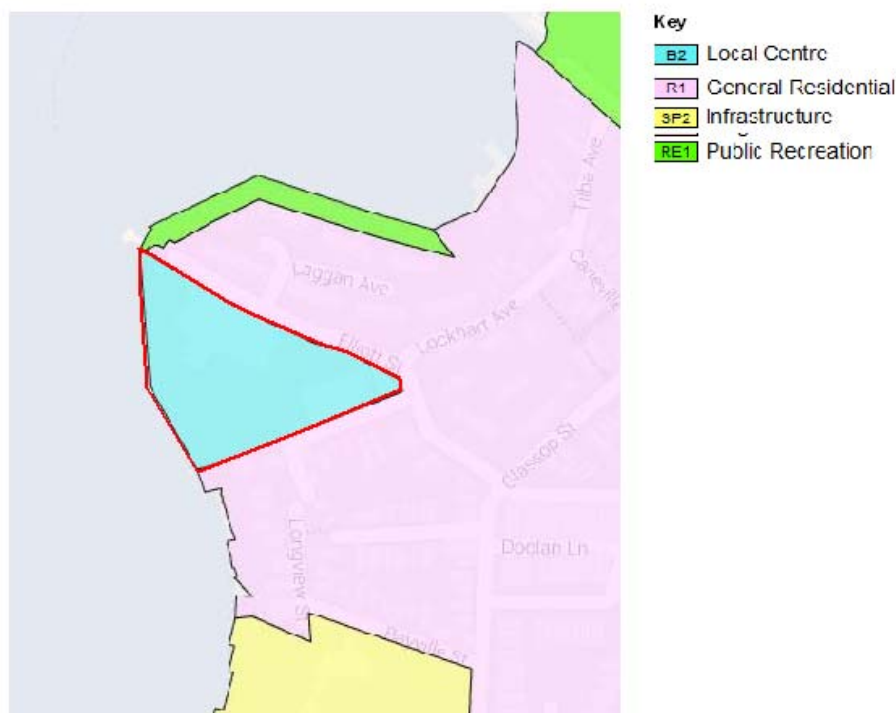
The area of the site is approximately 12,375sqm and it has a moderate slope from 17m AHD in the eastern corner of the site to approximately 2m AHD at the sandstone retaining wall at the edge of the Parramatta River. The waterfront location and topography means the site benefits from views across Iron Cove to the Iron Cove Bridge, Birkenhead Point and Drummoyne.

The site comprises an isolated B2 Local Centre zoning under *Leichhardt LEP 2013* with the remainder of the land to the north, south and east zoned R1 General Residential (see Figure 2) except for a strip of foreshore land to the north that is zoned RE1 Public Recreation. The zoning is a reflection of the historical uses of the site for industrial, warehousing and commercial uses which discontinued when Nutrimetics relocated from

## RPS

Planning Proposal  
100-102 Elliott Street, Balmain

the site in June 2015. This zoning was also established prior to the approval of a mixed use development on the site which included ground floor commercial/serviced apartment uses with residential uses above (refer to Section 3.1).



**Figure 2: Site Zoning** (Source: Leichhardt LEP 2013)

The site is highly accessible to public transport with bus stops located within 400m of the site on Darling Street, providing frequent services to Balmain Town Centre and Sydney's Central Business District (CBD).

The site is currently undergoing the demolition and basement excavation phases of the approved development D/2013/406. Construction is anticipated to be complete in October 2016.

## 2.2 Surrounding Context

The subject site is surrounded by predominately low to medium density residential land uses.

Broderick Street is characterised by 1-3 storey single residential dwellings that vary significantly in form, scale, style and age (Figure 3).

Elliott Street is characterised by a series of 3-5 storey brick buildings that form part of a large public housing development (Figure 4).

The foreshore area is moderately vegetated with small and large trees, garden beds, hedges and grass which provide a green space along the waterfront. The approved development includes 6,750sqm of communal open space and public open space along the foreshore area. This features a network of



## RPS

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100-102 Elliott Street, Balmain

pedestrian links that provide access to the site and the harbour foreshore and the dedication and embellishment of foreshore land for public use.

As noted in section 2.1, the land surrounding the site is predominantly comprised of R1 General Residential Zone. There is an area of land zoned B2 Local Centre at the junction of Elliott Street and Darling Street about 250 metres to the east of the site which is small and also isolated from the main commercial strips (see Figure 2). This B2 zoned centre is located along the main thoroughfare (Darling Street) approximately 150m west of Balmain commercial area and approximately 200m east of Rozelle commercial area and contains many long established retail/entertainment establishments including the Cat & Fiddle Hotel.



**Figure 3: Residential developments at 5, 7 and 9 Broderick Street opposite the site**



**Figure 4: Residential buildings located opposite the site on Elliott Street**

## 2.3 Local Planning Controls

### 2.3.1 Leichhardt Local Environmental Plan 2013

The environmental planning instrument applying to the site is the *Leichhardt LEP 2013*. It is important for any future development within the LGA to be cognisant of and give consideration to the general aims of *Leichhardt LEP 2013* and the relevant zone.

The relevant aims of the *Leichhardt LEP 2013* to this Proposal are as follows:

- (b) to minimise land use conflict and the negative impact of urban development on the natural, social, economic, physical and historical environment*
- e) to protect and enhance the amenity, vitality and viability of Leichhardt for existing and future residents, and people who work in and visit Leichhardt*
- (j) to ensure an adequate supply of land and housing to facilitate:*
  - (i) employment and economic opportunities, and*
  - (ii) the provision of goods and services that meet the needs of the local and subregional population*

The proposed LEP amendment is consistent in addressing the aims of the *Leichhardt LEP 2013* as follows:

- It aims to minimise land use conflict between future residential uses within the site and serviced apartments within the same development.

## RPS

Planning Proposal  
100-102 Elliott Street, Balmain

- It proposes to enhance the amenity of the existing residents of the locality by maintaining a predominately residential land use on the subject site.
- It will increase housing supply in the Leichhardt LGA to meet targets indicated within the Draft Inner West Subregional Strategy.

Under *Leichhardt LEP 2013*, the site is zoned B2 Local Centre. The objectives of the zone are:

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To ensure that development is appropriately designed to minimise amenity impacts.*
- *To allow appropriate residential uses to support the vitality of local centres.*
- *To provide a mixture of compatible land uses.*
- *To reinforce and enhance the role, function and identity of local centres by encouraging appropriate development to ensure that surrounding development does not detract from the function of local centres.*
- *To integrate suitable business, office, residential and other development in accessible locations.*

Being an isolated business zone with a large frontage to Iron Cove, the site is in a difficult location to properly function as a B2 Local Centre zone as it envisages that all buildings would have an active street frontage. This zone typically operates best as a strip of shops with through traffic, such as the Rozelle or Balmain town centres. The B2 zone also envisages ground floor employment-generating uses that would increase traffic within the already constrained network.

Development permitted with consent in the B2 Local Centre zone includes:

*Attached dwellings; Boarding houses; Child care centres; Commercial premises; Community facilities; Dual occupancies; Dwelling houses; Educational establishments; Entertainment facilities; Function centres; Information and education facilities; Medical centres; Multi dwelling housing; Passenger transport facilities; Recreation facilities (indoor); Registered clubs; **Residential flat buildings**; Respite day care centres; Restricted premises; Roads; Rural workers' dwellings; Semi-detached dwellings; Service stations; Shop top housing; Tourist and visitor accommodation; Any other development not specified in item 2 or 4.*

The current B2 zone does not permit residential accommodation unless the buildings comprise mixed use development and have an active street frontage. Accordingly, a rezoning of the site to R1 General Residential would permit the intended ground floor residential uses without the need for a mix of uses or an active street frontage. Nevertheless, a retail tenancy /café would provide an active street frontage at the north east corner of the site at the fronting the public courtyard. This use would provide the conveniences of a neighbourhood shop and opportunities for social interaction in a location that is highly suitable for these uses.

As discussed within the Economic and Social Assessment (**Appendix 2**), changing the zone to R1 General Residential would have economic and social benefits, as well as be a more appropriate use on the site given the character of the surrounding area and the prevailing market conditions.



## 3.0 Background

### 3.1 Development Approval

Development consent for development application (D/2013/406) was granted by the Joint Regional Planning Panel (JRPP) on 6 June 2014. The consent permitted the construction of a mixed use development on the subject site comprising eight buildings with ground floor commercial/retail uses, 19 serviced apartments, 102 residential apartments and terraces, above and basement parking and associated works including bulk earthworks, tree removal, landscaping, signage and remediation.

The 19 serviced apartments are located at the ground floor of five buildings as identified in **Appendix 6**.

A number of s96 modification applications have been submitted, including:

- Minor changes to wording of the consent conditions relating to staging, timing of construction and construction traffic (M/2014/223) approved 26 May 2015.
- The deletion of the requirement for the basement level to be tanked (M/2014/224), approved 1 May 2015.
- M/2015/26 was submitted to Council on 13 March 2015. Modifications approved by Council on 27 October 2015 included a change to the roof material and design and the addition of air conditioning.
- M/2015/45 was submitted to Council on 2 April 2015 and involves a reduction in the footprint of the basement and car parking numbers. This application was withdrawn on 2 October 2015.
- An application (M/2015/215) seeking approval for minor internal and external alterations modifications including changes to the layout of the 3 bed apartments, and the addition of five skylights was submitted to Council on 16 October 2015. This application is currently with Council for consideration.

### 3.2 Issues with Current Approval and Zoning

There is a general concern amongst various Councils, the community, and residents of apartment buildings alike about amenity, safety and security impacts associated with short term accommodation. At this scale, it is not viable to have on-site management for the serviced apartments and as such they would likely to be leased out through a third party operator such as AirBnB or Stayz. Councils across NSW have raised concerns regarding the short term leasing of apartments by third party operators (**Appendix 1**). This type of short term leasing also creates compliance issues for local Councils' and is becoming increasingly difficult to manage.

It has also been made apparent from submissions received by Council during the assessment of D/2013/406 and subsequent consultation, that the serviced apartments are largely not supported by neighbours who would prefer residential uses on the subject site. If the proposed rezoning of the site was to be supported, serviced apartments would be a prohibited use under the R1 General Residential zone.

Alternative uses that are currently permitted such as business or office premises have been considered but would either not be suitable in this location and/or viable.

This form of short term leasing creates compliance issues for Councils and is becoming increasingly difficult to address. This issue has received significant recent media attention due to the increase in the popularity of short term accommodation websites such as AirBnB and Stayz.

It has also been made apparent from submissions received by Council from neighbours during the assessment of D/2013/406 and an earlier DA (D/2011/529) for a similar scheme, that commercial uses (except those at the north eastern corner of the site) and serviced apartments are a concern for the

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community and residential uses across the site are preferred. If the proposed rezoning of the site was to be supported, serviced apartments would be a prohibited use under the R1 General Residential zone.

Toga has over five decades of experience as a serviced apartment developer and operator. It is Toga's view that the approved serviced apartments create a risk of generating undesirable impacts on residential amenity, such as noise, safety and security, on both residents on-site and within the surrounding area. This is largely due to:

- The apartments are being spread across five separate buildings, making it difficult and commercially inefficient to appropriately service and manage.
- The incompatible nature of serviced apartments and residential uses being co-located within the same building is seen as creating a potential safety and security risk for occupants of the residential apartments.
- The serviced apartments sharing a lobby/lift with residential apartments.

The operation of the serviced apartments at the scale, format and location (spread across five buildings) approved is not commercially viable. A study prepared by HillPDAs Consultants and published for the North Sydney Council Meeting of 20 July 2015 on the commercial feasibility of serviced apartments in Sydney considers that in the current market 50-70 apartments is the minimum threshold<sup>1</sup>. The majority of commercial operations run generally with between 50 and 150 serviced apartments (refer to **Appendix 2**).

The current B2 Local Centre permits a range of uses including residential flat buildings; however, Clause 6.11A of *Leichhardt LEP 2013* does not permit residential accommodation unless the building comprises mixed use development and an active street frontage.

Alternative uses that are currently permitted such as business or office premises have been considered but would either not be suitable in this location and/or viable.

As detailed at Section 6.1, the rezoning of the site to R1 General Residential is the best means of resolving this issue.

### 3.3 Council Meeting

Prior to the preparation of this Proposal, a meeting was held at Leichhardt Council on 15 July 2015. Council officers, Toga and RPS representatives discussed potential land use changes or rezonings of the site to support the conversion of serviced apartments to residential apartments. Council generally agreed that a Planning Proposal to change the zoning of the site from its B2 Local Centre zone to R1 General Residential was the most appropriate option.

### 3.4 Resident Consultation

A consultation workshop was held by Toga with residents from the surrounding area on 21 August 2015. These comprised residents from the properties within Broderick Street and Broderick Lane who have been active during all forms of notification and exhibition relating to the approved development. Of the 12 properties invited to the workshop, 8 attended the meeting.

At the workshop, various matters were discussed including:

- Recent and current modification applications.
- An upcoming modification application involving minor external and internal alterations.

<sup>1</sup> North Sydney Council Meeting 20 July 2015 [http://www.northsydney.nsw.gov.au/Council\\_Meetings/Meetings/Council\\_Meetings](http://www.northsydney.nsw.gov.au/Council_Meetings/Meetings/Council_Meetings)

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- Construction program.
- Conversion of serviced apartments to residential apartments.

Feedback received from residents indicated that they were opposed to the approved serviced apartments and that they strongly support the conversion of the serviced apartments to residential uses. Thirteen residents have provided letters of support for the Proposal which are provided at **Appendix 5**.

Based on the submissions received during assessment of the approved development (D/2013/406), it is clear that many of the objectors were residents within the surrounding area. A particular concern was that the proposed serviced apartments were not in keeping with the residential nature of the surrounding area.

These concerns about non-residential uses are generally consistent with responses from residents to an earlier DA that was refused (D/2011/529). This DA, for a similar scheme as that approved, included commercial office and retail uses at the ground floor across the site. During assessment, residents were concerned with the impact from traffic, noise and safety with no active use of the ground floor after standard business hours.

## 4.0 Part I – Objectives or Intended Outcome

The objective of this Proposal is to amend *Leichhardt LEP 2013* to rezone land at 100-102 Elliott Street, Balmain from B2 Local Centre to R1 General Residential to allow residential uses on the ground floor across the site without the need for a mix of uses within a building or an active street frontage.

The intended outcome of the proposed LEP amendment is to convert the approved 19 serviced apartments under D/2013/406 to residential apartments at a future DA stage.

The future conversion would not require reconfiguration of the approved serviced apartments and will not change the building envelopes, 'the look', or the height of the approved development. The number of car parking spaces attributed to serviced apartments would now be attributed to the residential apartments. The approved gross floor area (GFA) and floor space ratio (FSR) of the site under D/2013/406 will remain unchanged as a result of this Proposal. A 'change of use' DA would be required to facilitate the intended outcomes of this amendment.

Condition 85 of consent D/2013/406 which required a restrictive covenant to be registered on title to prevent use of the approved serviced apartments for other uses would need to be deleted. To facilitate the deletion of Condition 85, a future s96 modification would need to be submitted and considered by Council.

## 5.0 Part 2 – Explanation of Provisions

The provisions to be included in the proposed LEP are outlined below, in accordance with Section 55(2) of the *Environmental Planning and Assessment Act 1979* (EP & A Act).

### 5.1 Leichhardt Local Environmental Plan 2013

#### **Name of Plan**

This Plan is *Leichhardt Local Environmental Plan 2013 (Amendment No.TBC)*.

#### **Aims of the Plan**

This Plan aims to amend the *Leichhardt Local Environmental Plan 2013* as follows:

- Amend *Leichhardt LEP 2013* Land Zoning Map Sheet LZN\_006 in accordance with the proposed zoning map shown at Section 7.2 of this Proposal.

#### **Land to which Plan applies**

This Plan applies to 100-102 Elliott Street, Balmain being Lot 6, DP 617944 and Lot 1, DP 619996.



## 6.0 Part 3 - Justification

### 6.1 Section A – Need for Planning Proposal

#### 6.1.1 Is the Planning Proposal a result of a study or report?

The Proposal is not the result of a strategic study or report.

Strategic plans relevant to the subject site are discussed in detail at Sections 6.1.4 and 6.1.5.

#### 6.1.2 Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The current B2 Local Centre zone does not permit residential accommodation unless the buildings comprise mixed use development and have an active street frontage. It is considered that a Planning Proposal to amend the zoning of the site under *Leichhardt LEP 2013* is the best means of achieving the objectives and intended outcomes set forth in Section 4.0 above.

The following table outlines five options in achieving the desired outcome. Option 3 is considered the preferred option.

**Table 1: Options to achieve the objectives or intended outcome**

Option	Response
1 Amend the zoning of the site to B4 Mixed Use which would allow residential uses at the ground floor.	Options 1 and 2 are not preferable given these zones are unlikely to be appropriate for this site or location for the following reasons: <ul style="list-style-type: none"> <li>The surrounding area is mainly zoned R1 General Residential.</li> </ul>
2 Amend the zoning of the site to R3 Medium Density Residential which would allow residential uses at the ground floor of all buildings across the site.	<ul style="list-style-type: none"> <li>The R3 Medium Density Residential zone would prohibit the remaining approved commercial uses on the site.</li> <li>The site is in a difficult location to properly operate as a traditional B4 Mixed Use zone.</li> <li>The approved development on the site does not reflect a mix of uses viable to properly function as a B4 zone.</li> <li>The B4 Mixed Use zone would allow tourist and visitor accommodation which surrounding residents are not in favour of.</li> </ul>
3 Amend the zoning of the site to R1 General Residential which would allow residential uses at the ground floor of all buildings across the site.	Option 3 is considered the most suitable approach. It would address the current land use issues on the site and the concerns of residents by prohibiting serviced apartments. It would also not result in an inconsistency between the approved and permitted uses on the site (except for <i>serviced apartments</i> , which are to be replaced with <i>residential apartments</i> ).  The surrounding sites are predominantly zoned R1

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Option	Response
	General Residential; therefore resulting in a rezoning that is consistent with the surrounding area and the objectives of the Proposal.
4	Amend Schedule 1 of the LEP to include an "Additional Permitted Use" of <i>residential flat buildings</i> without the Clause 6.11A requirement for an <i>active street frontage</i> in Zone B2 for the site. Option 4 is not favoured given serviced apartments and other tourist and visitor accommodation would remain a permissible use. Schedule 1 amendments are also not favoured by the DP&E where they can be avoided.
5	Amend the boundary of the R1 General Residential zone to include Buildings A2, B1 and C1- C4 on the site. Option 5 would result in a split zoning of the site, which is not favoured by Council and does not address the concerns of the residents on the remaining B2 Local Centre land.

### 6.1.3 Is there a net community benefit?

The Proposal will facilitate the maintenance of the subject site as a valuable and active site, which will in turn provide a range of community benefits.

The approved development has been designed to maximise opportunities for the surrounding neighbourhood to gain public access through the site and to the dedicated public foreshore area. The ability of the surrounding neighbourhood to gain access to the foreshore and surrounding streets were addressed through:

- Approximately 2160m<sup>2</sup> of foreshore land is being embellished and dedicated to Council for use by the public, and
- The provision of public through-site links that were approved under D/2013/406.

There are a wide range of community benefits that would be associated with the rezoning of the site, including:

- Increased housing supply in a sought-after area and consistency with state and regional strategies.
- Social cohesion in keeping with the surrounding residential area, and
- Enhanced safety and security for future residents of the development.

## Section B – Relationship to Strategic Planning Framework

### 6.1.4 Is the Planning Proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

#### A Plan for Growing Sydney

In December 2014, the NSW Government released 'A Plan for Growing Sydney' (the Plan), the overarching strategic plan for the Sydney metropolitan area for the next 20 years. The Plan identifies key challenges facing Sydney including a population increase of 1.6 million by 2035 and an additional 689,000 new jobs and 664,000 new homes by 2031.

In accordance with the Plan, Balmain is located within the Central Subregion. The key priorities to be considered for the subregion are:

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- A competitive economy.
- Accelerate housing supply, choice and affordability and build great places to live.
- Protect the natural environment and promote its sustainability and resilience.

Table 2 demonstrates that the Proposal is supportive of the relevant objectives of the Plan.

**Table 2: A Plan for Growing Sydney**

Direction	Applicable	Comment
<b>Goal 1 – A competitive economy</b>		
1.1 Grow a more internationally competitive Sydney CBD	N/A	The site is not part of the Sydney CBD.
1.2 Grow Greater Parramatta – Sydney's second CBD	N/A	The site is not part of the Parramatta CBD.
1.3 Establish a new Priority Growth Area	N/A	The site is not part of the new Priority Growth Area between Olympic Park and Parramatta.
1.4 Transform the productivity of Western Sydney	N/A	The site is not within Western Sydney.
1.5 Enhance capacity at Sydney's gateways and freight networks	N/A	The site is not a gateway site or part of a freight network.
1.6 Expand the Global Economic Corridor	N/A	The site is not part of the Global Economic Corridor.
1.7 Grow strategic centres	N/A	The site is not near a strategic centre.
1.8 Enhance linkages to regional NSW	N/A	The site is not located on existing or proposed regional connection corridors.
1.9 Support priority economic sectors	N/A	The site is not located in the knowledge hubs identified in the Plan, nor does the Proposal intend to rezone the site for industrial purposes.
1.10 Plan for education and health services	N/A	The Proposal does not facilitate the development of educational or health facilities.
1.11 Deliver infrastructure	N/A	The site is well serviced by existing infrastructure. The Proposal does not seek to deliver more infrastructure.
<b>Goal 2 - A city of housing choice</b>		
2.1 Accelerate housing supply across Sydney	Yes	The Proposal is consistent with this direction. It will increase the number of residential apartments on the land which it is located.
2.2 Accelerate urban renewal across Sydney	Yes	The Proposal will facilitate urban renewal on a site within an established urban area. The land is in close proximity to Balmain and Rozelle Town Centres. It is also well connected to frequent public transport services.
2.3 Improve housing choice	Yes	The Proposal is consistent with this direction. The rezoning to R1 General Residential will support increased housing choice by allowing ground floor residential uses.
2.4 Deliver timely and well planned greenfield precincts and housing	N/A	The site is not located within the North West and South West Growth Centres.
<b>Goal 3 - A great place to live</b>		
3.1 Revitalise existing suburbs	Yes	The Proposal will assist in the revitalisation of Balmain through allowing additional residential apartments on site which are compatible with the surrounding residential uses.
3.2 Create a network of open and green spaces across Sydney	Yes	Waterfront land on the subject site is to be dedicated to Leichhardt Council for public open space under D/2013/406. The Proposal will not impact on open and green spaces.
3.3 Create healthy built environments	Yes	The Proposal will result in consistent zoning along foreshore



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Direction	Applicable	Comment
		sites and other land within the vicinity of the site.
3.4 Promote Sydney's heritage, arts and culture	N/A	The Proposal will not impact on the heritage value of the surrounding area.
<b>Goal 4 - A sustainable and resilient city</b>		
4.1 Protect our natural environment	N/A	The Proposal aims to rezone land that is currently approved for development and does not propose any additional works. All necessary environmental considerations have been adequately addressed at the development application stage for D/2013/406.
4.2 Build Sydney's resilience to natural hazards	N/A	
4.3 Manage the impacts of development on the environment	N/A	
<b>Sydney's Subregions</b>		
Priorities for Central Subregion	Yes	<p>This subregion contains the Global Economic Corridor which will continue to grow and strengthen Sydney globally. Increased housing on the site will result in a more liveable suburb to support the economic growth of the area.</p> <p>This section of the Plan does not contain any specific priorities not already dealt with in the above assessment.</p> <p>The Economic and Social Assessment considers that there would likely be negligible employment impact from rezoning of the subject site.</p>

### Draft Inner West Subregional Strategy

In December 2010, the NSW Government launched the Metropolitan Plan for Sydney 2036 which provides a framework for sustainable growth and development across Sydney to 2036. The subregional strategies for the Metropolitan Plan for Sydney 2036 have since been maintained by the Department of Planning & Environment in draft form until the new draft subregional plans supporting *A Plan for Growing Sydney* are finalised. Balmain is located in the Inner West Subregion.

The Draft Inner West Subregional Strategy includes seven strategic directions and associated actions including:

1. Support and differentiate the role of strategic centres.
2. Protect employment lands and the working harbour.
3. Promote Parramatta Road as an enterprise corridor.
4. Improve housing choice and create liveable and sustainable communities.
5. Manage traffic growth and local travel demand.
6. Protect and promote recreational pursuits and environmental assets.
7. Celebrate cultural diversity.

This Proposal for a R1 General Residential zone on the site is consistent with the strategic directions outlined in the subregional strategy as described in Table 3 below.

**Table 3: Draft Inner West Subregional Strategy**

Direction	Action	Comment
<b>B. Centres and Corridors</b>		
B2. Increase densities in centres whilst improving liveability.	B2.1 Plan for housing in centres consistent with their employment role.	The Proposal is consistent with providing increased densities close to Balmain and Rozelle town centres, increasing the vibrancy and housing choice for the changing population.

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Direction	Action	Comment
B4. Concentrate activities near public transport.	B4.2 Support centres with transport infrastructure and services.	The site has good access to public transport infrastructure and services and is considered acceptable for this development.
	B4.2.1 NSW Government and Inner West Councils to undertake land use and transport planning studies to ensure that opportunities to benefit from transport infrastructure investment are realised.	The Proposal supports patronage on public transport given its proximity to existing services.
<b>C. Housing</b>		
C1. Ensure adequate supply of land and sites for residential development.	C1.3 Plan for increased housing capacity targets in existing areas.	The Draft Strategy sets a target for an additional 30,000 dwellings within the Inner West Subregion, including 2,000 extra dwellings within the Leichhardt LGA.
	C1.3.1 Inner West Councils to plan for sufficient zoned land to accommodate their local government area housing targets through their Principal LEPs.	The Proposal will assist Leichhardt Council in meeting these targets by increasing dwelling numbers.
C2. Plan for a housing mix near jobs, transport and services.	C2.1 Focus residential development around Centres, Town Centres, Villages and Neighbourhood Centres.	The Proposal will allow for an additional 19 residential apartments (subject to Council approval at a later development application stage) around the Balmain and Rozelle town centres. This will assist in achieving State Government priorities.
	C2.1.1 Inner West councils to ensure the location of new dwellings maintain the subregion's performance against the target for the State Plan Priority E5. Priority E5 of the State Plan aims to increase the proportion of people living within 30 minutes by public transport of a Strategic Centre.	The site supports commute times of less than 30 minutes. Bus services to the Sydney CBD are less than half an hour (average 27 minutes).
	C2.3 Provide a mix of housing.	The Proposal is consistent with the goal of increasing residential density in a location which is highly accessible.
C4. Improve the affordability of housing.	C4.3 Use planning mechanisms to provide affordable housing.	The Proposal seeks to rezone the site to R1 General Residential. The approved development is consistent with the objectives of this zone. The Proposal will result in increased housing choice in an area where housing is in demand.
C5. Improve the quality of new development and urban renewal.	C5.1 Improve the design quality of new development.	The proposal will provide social and economic benefits to the site and surrounding area as outlined in detail at Section 6.2.3.

The Proposal will assist in achieving the aims and targets of the Draft Inner West Subregional Strategy as it will support new housing in an existing urban area, which is highly accessible by public transport and is within close proximity to essential services.



### 6.1.5 Is the Planning Proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

The following local strategic planning documents are relevant to this Proposal.

#### Leichhardt 2025+

Leichhardt 2025+ is the community strategic plan for the Leichhardt LGA to guide the delivery of Council services over the next ten years. The Proposal is consistent with the goals, objectives and progress indicators of the six key service areas in the Plan as summarised in Table 4 below.

**Table 4: Leichhardt 2025+**

Key Service Area	Applicable	Comment
<b>Social</b>		
Community well-being	Yes	The Proposal will contribute to community wellbeing by enhancing community cohesion whilst ensuring increased safety and security for future residents of the development.
Accessibility	Yes	The approved development will improve public accessibility to the Iron Cove foreshore through providing increased housing and public through site links. The site is located in an area well serviced by public transport and within close proximity to essential services.
<b>Environment</b>		
Place where we live and work	Yes	The Proposal will allow for the provision of new housing choices and an appropriate level of employment uses within the site and in close proximity to Balmain Town Centre and Sydney CBD.
A sustainable environment	N/A	The Proposal does not seek to change the building envelopes, 'the look', or the height of the approved development, rather, allow for a future reclassification of use.
<b>Economic</b>		
Business in the community	Yes	The Proposal seeks to retain commercial and retail strata tenancies on the subject site. The scale of the proposal would be unlikely to directly compete with Darling Street.
<b>Civic Leadership</b>		
Sustainable services and assets	N/A	The site is located in close proximity to existing services and infrastructure. The Proposal will not result in additional demand for services on the site.

#### Leichhardt Community and Cultural Plan 2011-2021

The Leichhardt 10-year Community and Cultural Strategic Service Plan is Council's long-term community strategic plan. The Plan identifies five strategic objectives for social inclusion, equity, access, creative expression, cultural engagement and community wellbeing:

1. Connecting people to each other.
2. Connecting people to place.
3. Developing community strengths and capabilities.
4. Enlivening the arts and cultural life.
5. Promoting health and wellbeing.

This Proposal will contribute to community wellbeing and the achievement of the above strategic objectives through rezoning the site to a zone that reflects the surrounding residential land uses. The Proposal would

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enhance the existing community cohesion and ensure greater safety and security for existing and future residents.

**Leichhardt Employment and Economic Development Plan 2013-2023**

The Leichhardt Employment and Economic Development Plan is a 10-year strategy for the future of Leichhardt's economic development. The Plan comprises seven key objectives to improve the vitality and viability of the local economy:

1. Make place matter.
2. Meet people's needs.
3. Embrace the new economy.
4. Protect and leverage economic assets.
5. Make business and employment easier.
6. Communicate and connect with partners.
7. Tell the world.

The site is not identified as a strategic site within the Plan and the Proposal is considered acceptable in utilising the site in an appropriate zone. The Plan outlines that a key objective is to 'Protect and leverage economic asset'. The proposal would deliver additional residential dwellings which would help drive demand for local retail and business services. Further, as it is located in an isolated position, rather than compete with Darling Street, it would be helping to consolidate business and retail activity there, potentially reducing the existing vacancy.

**Leichhardt Employment Lands Study January 2011**

The Leichhardt Employment Lands Study (LELS) 2011 identifies existing and potential employment areas within the Leichhardt LGA. Balmain is noted as one of four Town Centres within the LGA and the subject site is considered a commercially fragmented site, referred to as 'Balmain West'. At the time of the Study, the subject site was occupied by a cosmetics company (Nutrimetics) and comprised office, warehouse and convention centre land uses.

LELS outlines that out-of-centre commercial activities are not ideal and retail uses should be ancillary only. As discussed at Section 2.3.1 above, the site configuration and location makes it difficult to function in a zone that envisages active street frontages for commercial uses.

The proposed rezoning from B2 Local Centre to R1 General Residential will remove the commercial aspect associated with the approved 19 serviced apartments. Although the aim of LELS is to retain the site as an employment zone, the study identifies an action plan to support home based employment and outlines strategies to increase creative industry activity. Home occupations are permitted without consent within the R1 General Residential zone. The proposed LEP amendment will encourage a higher level of home based employment with a variety of occupations; therefore maintaining consistency with LELS and the objectives of the current B2 zone.

**6.1.6 Is the Planning Proposal consistent with applicable state environmental planning policies?**

The proposal is consistent with the applicable State Environmental Planning Policies as summarised in Table 5 below.

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Table 5: Application of SEPPs

SEPP Title	Applicable	Comment
SEPP No 32 Urban Consolidation (Redevelopment of Urban Land)	Yes	The Proposal to rezone the site to permit residential uses at the ground floor of the approved development would be consistent with the aims of the SEPP. The site is located within an established urban area, supported by public transport services and infrastructure.
SEPP No 55 Remediation of Land	Yes	The provisions of this SEPP have been considered in the preparation of this Proposal. The site is currently being developed as a mixed use development including residential land uses under D/2013/406 which involved remediation of the site. The Proposal will not include any new use or development to the site. Therefore, it is considered the Proposal is suitable for the site and a Stage 1 Preliminary Site Contamination Investigation is not considered necessary.
SEPP No 65 Design Quality of Residential Apartment Development	Yes	<p>This Proposal seeks to permit residential uses at the ground floor of the approved development and is deemed appropriate with regard to the intent and provisions of the SEPP and the Apartment Design Guide (ADG).</p> <p>An updated assessment of the entire development in accordance with SEPP 65 and the <i>Apartment Design Guide</i> (ADG) is provided at <b>Appendix 4</b>. The assessment identifies one non-compliance (ground floor ceiling heights 2.7m to habitable rooms instead of 3.3m) and two design changes (addition of five skylights and increase the area of five of the ground floor terrace areas).</p> <p>The non-compliance with ground floor ceiling height guideline is considered justified as follows:</p> <ul style="list-style-type: none"> <li>Habitable rooms all achieve 2.7m clear,</li> <li>The floor to ceiling heights were approved under the original consent (D/2013/406), and</li> <li>The likelihood of change from a residential use is very low given: <ul style="list-style-type: none"> <li>Strata title subdivision will occur, and</li> <li>There is a lack of market suitability for commercial uses at the scale and type required to occupy the ground floor of buildings across the site (<b>Appendix 2</b>).</li> </ul> </li> </ul> <p>An application (M/2015/215) seeking approval for the addition of five skylights and enlargement of five ground floor terraces is currently with Council for consideration. This will ensure that the future development achieves compliance with the ADG's desired solar rating and requirement for ground floor terrace areas.</p>
SEPP (Building Sustainability Index: BASIX) 2004	Yes	The future development will continue to meet BASIX requirements.
SEPP (Infrastructure) 2007	Yes	<p>Relevant clauses of the SEPP have been considered in the preparation of this Proposal, namely traffic-generating development and development likely to affect electricity transmission or distribution network. These matters are to be managed in accordance with the conditions of consent D/2013/406 and any future development consent.</p> <p>The Proposal will not introduce new uses or development to the site and is considered consistent with the SEPP.</p>
<b>Deemed SEPPs</b>		
SREP (Sydney Harbour Catchment) 2005	Yes	The approved development is considered acceptable with regard to the provisions and matters for consideration of the SREP. The Proposal will not impact on the heritage significance of the Elliott Street Wharf structure. The Proposal will not result in a change to the building envelopes, heights or the



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SEPP Title	Applicable	Comment
		appearance of the development therefore its appearance from Iron Cove will not change.

#### 6.1.7 Is the Planning Proposal consistent with applicable Ministerial Directions (s 117 directions)?

The relevant Section 117 Directions are considered in the table below.

**Table 6: Application of s117 Ministerial Directions**

Direction	Requirement	Applicable	Comment
<b>1. Employment and Resources</b>			
1.1 Business and Industrial Zones	<p>The objectives of this direction are to:</p> <p>(a) encourage employment growth in suitable locations,</p> <p>(b) protect employment land in business and industrial zones, and</p> <p>(c) support the viability of identified strategic centres.</p>	Yes	<p>The Proposal is consistent with Direction 1.1 for the following reasons:</p> <ul style="list-style-type: none"> <li>It will permit residential uses within an established urban area within close proximity to existing services and strategic centres.</li> <li>The R1 General Residential zone continues to permit <i>home occupations</i> without consent, and <i>commercial premises, business premises, shops, cafes and restaurants</i>, with consent, encouraging employment within walking catchment from the Rozelle and Balmain Town Centres.</li> </ul> <p>The Proposal will allow competing employment and residential land uses however the site is considered suitable for only a small amount of non-residential/commercial at the north eastern corner of the site.</p> <p>The site's out of centre location as well as the broader market conditions, mean any significant retail or commercial development is not considered to be viable.</p>
	<p>A planning proposal must:</p> <p>(a) give effect to the objectives of this direction,</p> <p>(b) retain the areas and locations of existing business and industrial zones,</p> <p>(c) not reduce the total potential floor space area for employment uses and related public services in business zones,</p> <p>(d) not reduce the total potential floor space area for industrial uses in industrial zones, and</p> <p>(e) ensure that proposed new employment areas are in accordance with a strategy that is approved by the Director-General of the Department of Planning.</p>	Yes	<p>As described above, the Proposal will give effect to the objectives of this direction.</p> <p>The proposed zoning maintains employment opportunities across the site with permissible uses including office premises, shop top housing, restaurants or cafes, takeaway food and drink premises and shops. Thus, the change in zoning would not reduce the potential floor space area for these uses. Additionally, the Economic and Social Assessment at <b>Appendix 2</b> identifies that it is unlikely that there will be any significant commercial employment on the site given its isolation from normal trading routes and a typical local centre. It identifies that that one convenience store and potentially one additional shop could be supported. The bulk of the "non-residential component" on the site is approved for 19 serviced apartments which typically would run a third party ownership and leasing model potentially requiring no FTE employees for this component.</p>

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Direction	Requirement	Applicable	Comment
			<p>Subclause (d) is not relevant in this instance as the site is zoned B2 Local Centre.</p> <p>Subclause (e) is not relevant as new employment areas are not proposed nor would the Proposal impact on such areas.</p> <p>In regards to part (c) the majority of approved non-residential uses are for serviced apartments. At the scale approved, the serviced apartments are not considered to be a genuine commercial use and rather a short term residential use.</p>
<b>2. Environment and Heritage</b>			
2.3 Heritage Conservation	The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	Yes	<p>The site is not a heritage item but is located adjacent to locally listed heritage dwellings along Broderick Street, whilst on Elliott Street, there is a landscape heritage item (tree) adjacent to the site. The site is also located within a heritage conservation area under <i>Leichhardt LEP 2013</i>.</p> <p>Elliott Street Wharf is listed as a heritage item as outlined in <i>SREP (Sydney Harbour Catchment) 2005</i>. The Proposal will not change the design, bulk or scale of the approved development and as such there would be no impact on the significance of nearby heritage items or the conservation area.</p>
<b>3. Housing, Infrastructure and Urban Development</b>			
3.1 Residential Zones	<p>The objectives of this direction are to:</p> <p>(a) encourage a variety and choice of housing types to provide for existing and future housing needs,</p> <p>(b) make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and,</p> <p>(c) minimise the impact of residential development on the environment and resource lands</p>	Yes	<p>The Proposal seeks to rezone the site to R1 General Residential to allow for residential uses at the ground floor of the approved development. This would permit the conversion of the 19 approved serviced apartments to residential apartments at a later DA stage.</p> <p>The Proposal responds to concerns from surrounding residents and various Councils throughout NSW and beyond (<b>Appendix 1</b>) about the increasingly popular form of short-term tourist letting offered by companies such as Airbnb and Stayz. Their concerns are primarily with safety, security and amenity of permanent residents. This form of accommodation can also create compliance issues for Council that are often difficult to address.</p> <p>The amenity of residential developments in the vicinity of the site will be preserved and enhanced. Surrounding residents have been consulted during the preparation of this Proposal and have provided support (<b>Appendix 5</b>).</p>
3.4 Integrating Land Use and Transport	The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:	Yes	The site is highly accessible to public transport with bus stops located within 400m of the site on Darling Street, providing frequent services to Balmain town centre, Central railway station, Sydney CBD and other areas.



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Direction	Requirement	Applicable	Comment
	(a) improving access to housing, jobs and services by walking, cycling and public transport, and (b) increasing the choice of available transport and reducing dependence on cars, and (c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and (d) supporting the efficient and viable operation of public transport services, and (e) providing for the efficient movement of freight.		Further information is provided in the traffic assessment prepared by CBHK (Appendix 3).
<b>4. Hazard and Risk</b>			
4.1 Acid Sulfate Soils	The objective of this direction is to avoid significant adverse environmental impacts from the use of the land that has a probability of containing acid sulfate soils.	Yes	The Proposal will not result in the disturbance of any soils.
4.3 Flood Prone Land	The objectives of this direction are to: (a) ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the <i>Floodplain Development Manual 2005</i> , and (b) ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.	Yes	A portion of the site is identified as a Flood Control Lot within <i>Leichhardt DCP 2013</i> . Storm water issues throughout the site were resolved at the DA stage of D/2013/406.
<b>6. Local Plan Making</b>			
6.3 Site Specific Provisions	The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.	Yes	Site specific controls are not proposed.
<b>7. Metropolitan Planning</b>			
7.1 Implementation of A Plan for Growing Sydney	The objective of this direction is to give legal effect to the planning principles, directions, and priorities for subregions, strategic centres and transport gateways contained in A Plan for Growing Sydney.	Yes	<i>A Plan for Growing Sydney</i> is applicable across the State and therefore applicable to the site. The Proposal will strive to achieve the vision and desired outcomes of the Plan, as well as adhere to land use strategies and policies applicable.  The Proposal is particularly consistent with the Plan's aim to create a city of housing choice. The Proposal will make use of existing infrastructure and amenities within the vicinity and increase housing supply close to employment.

**RPS**Planning Proposal  
100-102 Elliott Street, Balmain**6.2 Section C – Environmental, Social & Economic Impact****6.2.1 Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?**

There are no known critical habitats or threatened species, populations or ecological communities, or their habitats located on the subject site.

**6.2.2 Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?**

The Proposal does not seek to increase or intensify the currently approved uses on the site or the amount of floor space that was approved. The approved development is considered acceptable in mitigating any potential environmental effects.

The Traffic Impact Assessment at **Appendix 3** has concluded that:

- Appropriate parking provision will be made for the residential apartments.
- Traffic generation will be low and similar to the approved serviced apartments.
- Traffic effects will not be noticeable.
- The site is well serviced by public transport services.

Therefore traffic impacts would be likely to be negligible and the existing amenity of the surrounding area would not be affected by the Proposal.

There is likely to be a beneficial impact due to the prohibition of serviced apartments which can be difficult to manage, particularly where they are spread across the site and mixed with residential uses on site. The Proposal also responds to concerns from surrounding residents and various Councils throughout NSW and beyond about the increasingly popular form of short-term tourist letting within a service offered by companies such as Airbnb (**Appendix 1**). This form of accommodation can also create compliance issues for Council that are often difficult to address.

The dispersed nature of the approved serviced apartments means that there is likely to be minimal surveillance of activity and this carries social and safety implications for existing and new residents.

**6.2.3 How has the Planning Proposal adequately addressed any social and economic effects?**

An Economic and Social Assessment Report has been prepared to justify the following:

- Any changes which differ from the recommendations and actions included in supporting documentation/ studies/ reports provided to Council as part of the D/2013/406 application.
- Any changes not in keeping with the recommendations and intent of the Leichhardt Employment Lands Study (2011).
- The loss of any commercial/ employment land and floor space, both on-site and for Leichhardt LGA.

The findings of the report are provided at **Appendix 2** and summarised below.

Effects of the Proposal on employment opportunities would be negligible as it recognises that it is unlikely that there will be any significant commercial employment on the site given its isolation from normal trading

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routes and a typical local centre. It identifies that one convenience store and potentially one additional shop could be supported.

The bulk of the "non-residential component" on the site is approved for 19 serviced apartments. At this scale, it offers very low employment (if any) and is not considered a commercial uses, but rather a short term use. At this scale, the serviced apartments would typically be run by third party ownership or by an individual owner using a leasing model potentially requiring no full time employees for this component.

The operation of the serviced apartments is also not considered to be commercially viable at this scale in the format it is approved in. A recent study on the commercial feasibility of serviced apartments in Sydney considers that in the current market 50-70 apartments is the minimum threshold. The majority of commercial operations run generally with between 50 and 150 serviced apartments. This view is further supported by TFE Hotels, an operator of hotels and serviced apartments, who advise that it is not commercially viable to operate 19 serviced apartments in a dispersed/segregated configuration (**Appendix 7**).

In light of these findings and the fact that one retail premise and two commercial premises within the development would be retained, it is not expected that it would result in a loss of commercial jobs on-site, or within the Leichhardt LGA.

Notwithstanding, there would be a range of employment uses that would remain permissible within the zone including office premises, shop top housing, restaurants or cafes, takeaway food and drink premises and shops.

Positive economic effects of the Proposal include increasing demand for local retail and commercial services due to increased residents and allowing commercial operations to concentrate in the existing centres of Balmain and Rozelle which are currently experiencing challenging economic conditions.

As such, the Proposal would not result in detrimental economic effects.

The rezoning would allow residential flat buildings without the need for active street frontages. Serviced apartments would also be a prohibited use under the R1 General Residential zone. The approved serviced apartments would be converted to residential apartments. This would have a positive social impact for the reasons outlined below and detailed at **Appendix 2**:

- Additional housing stock would be provided in a suburb of high demand and limited supply,
- It would ensure the integration of the immediate character of the development which is located in a predominantly residential neighbourhood,
- Passive surveillance would be enhanced as a direct result of having additional permanent residents in the buildings,
- It would result in a greater 'sense of place' for the existing neighbourhood along with enhanced community cohesion, and
- Improved safety and security for future residents of the development and the local neighbourhood.

### 6.3 Section D – State & Commonwealth Interests

#### 6.3.1 Is there adequate public infrastructure for the Planning Proposal?

The site is located in an area currently serviced by all necessary services and infrastructure facilities, including bus services to Balmain Town Centre and the Sydney CBD.

The Proposal does not seek to create additional demand on existing infrastructure.

**RPS**Planning Proposal  
100-102 Elliott Street, Balmain**6.3.2 What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?**

If necessary, both State and Commonwealth public authorities would be consulted by the Department of Planning and Environment at Gateway Determination. Any issues raised would be summarised and addressed as appropriate.



## 7.0 Part 4 – Mapping

This section contains the mapping for this Proposal in accordance with the DP & E's guidelines on preparing LEPs and Planning Proposals.

### 7.1 Existing Controls

Figure 5 below illustrates the current B2 Local Centre zone applying to the site.



Figure 5: Land Zoning Map (site outlined in red)



## 7.2 Proposed Controls

Figure 6 below illustrates the proposed R1 General Residential zoning for the site sought by this Proposal.



Figure 6: Proposed Land Zoning Map (site outlined in red)

## 8.0 Part 5 – Community Consultation

Community consultation remains an important element of the Plan making process. The DP&E's companion document *A Guide to Preparing Local Environmental Plans* provides time frames for the exhibition of 'low impact proposals' and 'all other planning proposals' of 14 days and 28 days respectively. The subject provisions, in respect of notification and the exhibition materials to support the consultation, will be observed.

In accordance with Section 57(2) of the *EP&A Act 1979*, the Director-General of Planning must approve the form of the planning proposal, as revised, to comply with the gateway determination before community consultation is undertaken.

Community consultation will, at a minimum, include:

- Advertising in local newspapers;
- Exhibition material provided at Leichhardt Council administration buildings and libraries; and
- Leichhardt Council's and/or the Department of Planning and Environment's website.

In addition, adjoining landowners will be notified in writing.

A consultation workshop was held by Toga with residents from the surrounding area on 21 August 2015. These comprised residents from properties within Broderick Street and Broderick Lane who have been active during all forms of notification and exhibition relating to the approved development. Of the 12 properties invited to the workshop, 8 representatives attended the meeting.

During this meeting residents noted that they were opposed to the approved serviced apartments and that they strongly support the conversion of the serviced apartments to residential uses. Thirteen residents have provided letters of support for the Proposal (**Appendix 5**).

This is consistent with submissions received during assessment of the approved development (D/2013/406) where objectors were concerned that the proposed serviced apartments were not in keeping with the residential nature of the surrounding area.

## 9.0 Part 6 – Project Timeline

Table 7 below outlines an indicative timeline for completion of the Proposal if approved for public exhibition at Gateway Determination. This is subject to change if a review of the Gateway Determination or the imposed requirements is requested.

**Table 7: Anticipated Project Timeline**

Anticipated Project Timeline	Proposed Number of Days from Gateway Determination
Anticipated commencement date (date of Gateway Determination)	February 2016
Anticipated time frame for the completion of required technical information	No studies are anticipated to be required.
Timeframe for government agency consultation (pre and post exhibition as required by Gateway Determination)	14 days as it is considered that the Proposal is 'low impact'.
Commencement and completion dates for public exhibition period	March 2016
Dates for public hearing (if required)	N/A
Consideration of submissions	March - April 2016
Consideration of Proposal post-exhibition and reporting to Council	April - May 2016
Date of submission to DP&E to finalise amended LEP	May 2016
Anticipated date Relevant Planning Authority (RPA) will make the Plan (if delegated)	June 2016
Anticipated date RPA will forward Plan to DP&E for notification	June 2016

## 10.0 Conclusion

This Proposal has been prepared to enable the rezoning of 100-102 Elliott Street, Balmain from B2 Local Centre to R1 General Residential. The proposed LEP amendment does not seek to amend the building envelopes, 'the look', or the height of the development as approved under D/2013/406. The main objective of the Proposal is to enable a future DA to be lodged; enabling the conversion of the 19 approved serviced apartments to residential apartments.

There is a general concern amongst various Councils, the community, and residents of apartment buildings alike about amenity, safety and security impacts associated with short term accommodation. At this scale, it is not viable to have on-site management for the serviced apartments and as such they would likely to be leased out through a third party operator such as AirBnB or Stayz. Councils across NSW have raised concerns regarding the short term tourist leasing of apartments by third party operators (**Appendix 1**). This type of short term leasing creates compliance issues for local Councils' and is becoming increasingly difficult to manage.

The supporting documentation provided demonstrates that there will be no detrimental economic or traffic impacts as a result of the proposed rezoning and there would be positive social benefits.

Positive economic effects of the Proposal include increasing demand for local retail and commercial services, allowing commercial operations to concentrate in the existing centres of Balmain and Rozelle which are currently experiencing challenging economic conditions. There would not be any detrimental impacts on employment opportunities or local centres.

Positive social benefits of the proposal include the provision of additional housing stock in a suburb of high demand and limited supply; improved integration of the development with the immediate character of the area and greater social cohesion; and better passive surveillance thus increasing safety and security of the area.

The supporting Assessment of Traffic and Parking Implications Update (**Appendix 3**) concludes that there would be no increase in traffic activity as a result of the Proposal and adequate parking provision for residential apartments will be achieved.

The SEPP and Apartment Design Guide Assessment prepared by Bates Smart (**Appendix 4**) concludes the approved development is unaffected by the Proposal. It recommends the installation of five additional skylights to achieve the desired solar rating and increasing the ground floor terrace area to comply with the ADG. These minor changes can be incorporated with no visual impact on the approved development.

The proposed rezoning has strategic merit and is further justified for the following reasons:

- The Proposal would not result in any land use conflicts either internal or external to the subject site.
- It is consistent with the recent *A Plan for Growing Sydney*, the strategic plan for the Sydney metropolitan area for the next 20 years.
- It would assist Leichhardt Council in meeting housing targets set by the Draft Inner West Subregional Strategy.
- There is a lack of market suitability for commercial uses at the scale and type required to occupy the ground floor of buildings across the site necessary to satisfy clause 6.11A of LEP 2013 (**Appendix 2**).
- The R1 General Residential zoning is consistent with all land surrounding the site and within the surrounding area.
- Toga has received strong support for this Proposal from surrounding residents, as detailed in the letters

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at **Appendix 5.**

It is therefore recommended that this Proposal be favourably considered by Council and that they resolve to forward it to the DP&E for a Gateway Determination in accordance with the *Environmental Planning and Assessment Act 1979*.



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## Appendix I

Sydney Morning Herald (Domain) Article *NSW government investigating  
AirBnB rentals*

PR127995; Rev 0 November 2015

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## Appendix 2

### Economic and Social Assessment Report

PR127995; Rev 0 November 2015

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100-102 Elliott Street, Balmain

## Appendix 3

Traffic Impact Assessment prepared by CBHK

PR127995; Rev 0 / November 2015

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## Appendix 4

SEPP 65 and ADG Assessment prepared by Bates Smart

PR127995; Rev 0 / November 2015

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## Appendix 5

### Resident Letters

PR127995; Rev 0 / November 2015



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## Appendix 6

### Location of subject apartments

PR127995; Rev 0 / November 2015

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## Appendix 7

### Letter from TFE Hotels

PR127995, Rev 0, November 2015





Do not submit drawings - refer to figure dimensions only. Any discrepancies in dimensions will be referred to the architect for clarification.

LEGEND

☐ Commercial serviced apartment to be converted into residential apartment

A	02.11.15	Planning Proposal Submission	SK	GH
	Revision Date	Description	Initial	Check

 TOGA GROUP

Harbourfront  
100-102 Elliott St Balmain  
Basement Plan

Status	1:250@A1, 1:500@A3
Drawn	SG Checked
Project No.	S11597
Status	Planning
Plot Date	2/11/2015 5:02 PM
Plot File	C:\11590-1\060\107_rmbn_dlm\dwg\sheet01.dwg --XCPLOTNAME.Plotname\PP121504.dwg

PP2.01[A]

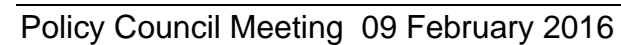
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## Economic and Social Assessment

### 100-102 Elliott Street, Balmain

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## RPS

Economic and Social Assessment  
100-102 Elliott Street, Balmain

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### Document Status

Version	Purpose of Document	Orig	Review	Review Date
Rev A	Draft to client	LB/LW	PM	07/09/2015
Rev B	Draft to client	LW	LB	28/09/2015
Rev C	Final to client	LW	LB	05/11/2015

### Approval for Issue

Name	Signature	Date
Louise Bochner		05/11/2015

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## Executive Summary

RPS has been commissioned by Toga Developments Sydney Pty Ltd (Toga) to undertake an economic and social assessment to accompany a Planning Proposal to facilitate the rezoning of the subject site at 100-102 Elliott Street, Balmain.

The Planning Proposal seeks an amendment to *Leichhardt Local Environmental Plan 2013* (LLEP 2013) to facilitate the rezoning of the subject site from B2 Local Centre to R1 General Residential.

In June 2014, consent was granted by the Joint Regional Planning Panel (JRPP) to enable the development of a mixed use development on the subject site. The development comprised eight (8) buildings with ground floor commercial/retail uses, 19 serviced apartments, 104 residential apartments and terraces and basement parking (D/2013/406). In addition, a number of minor s.96 modifications have been submitted to Leichhardt Council for consideration.

It is considered that the current B2 Local Centre zoning on the site is not consistent with the social character or prevailing market conditions of the area. The inclusion of the serviced apartments within the mixed use development is not seen favourably by Toga as they are not considered to be commercially viable (see Appendix 6). Therefore, the submission of a Planning Proposal to rezone the subject site to R1 General Residential zoning would provide opportunity for the approved serviced apartments to be converted to residential dwellings through a future development application.

## Key Economic and Social Considerations

The key economic and social considerations regarding the rezoning of the subject site to R1 General Residential can be summarised as follows:

### Economic Implications

- The proposed development is located in an area which is isolated from general local centre activity. The subject site sits outside of the primary trading routes in the suburb, has no existing characteristics to define it as a local centre and is unlikely to draw trade away from the main thoroughfare of Darling Street, Balmain;
- The broader commercial market conditions are not favourable to small, fragmented out-of-centre retail and commercial uses. At present the market is experiencing a strong increase in macro-level supply of office space while smaller scattered sites are being increasingly converted to residential. This is helping to maintain balance in the market and leading to stable vacancy rates and growth in net face rents;
- The commercial market in the Inner West is consolidating around major employment centres of Pyrmont and Rhodes and could potentially deliver a major new hub of employment space at The Bays Precinct;
- The local retail market has been struggling along Darling Street with lower analysed foot traffic, a drop in revenue and increased vacancy of storefronts. The subject site is considered to be able to support a convenience store and maybe one additional retail business. Further retail on the subject site would likely be competing with Darling Street. Therefore, it would likely need to offer very low rents and high incentives to attract demand away from the main town centre. This could potentially impact its viability;
- The development of 19 serviced apartments is not considered to be a 'commercial operation' as defined in the LEP. At this scale it is likely to be leased out through a third party operator such as AirBnB or Stayz and unlikely to employ staff in a 'commercial capacity'. At this scale it is considered to be a short term residential use, rather than a commercial use;
- The operation of 19 serviced apartments is also not considered to be commercially viable at this scale in





the format it is approved in. A recent study on the commercial feasibility of serviced apartments in Sydney considers that in the current market 50-70 apartments is the minimum threshold. The majority of commercial operations run generally with between 50 and 150 serviced apartments; and

- Rezoning of the subject site to R1 General Residential is likely to have a negligible impact on employment. Retail uses will be maintained on the site and it is considered that there would be little employment generated from the commercial or serviced apartment components of the approved development.

#### Social Benefits

- Once the serviced apartments are converted to residential apartments, the development would contribute an additional 19 residential apartments to the locality. This would create additional housing stock in a range of sizes, styles and price points in a suburb of high demand and limited supply;
- The additional residential apartments within the development would contribute to the housing targets prescribed in the *Draft Inner West Subregional Strategy*. The target of an additional 30,000 dwellings by 2031 is outlined in the Strategy of which 2,000 additional dwellings are required within Leichhardt LGA;
- The conversion of the serviced apartments to residential apartments would ensure the integration of the immediate character of the development which is located in a predominantly residential neighbourhood;
- Passive surveillance would be enhanced as a direct result of having additional permanent residents in the buildings;
- A greater 'sense of place' for the existing neighbourhood along with enhanced community cohesion; and
- Increased safety and security for future residents of the development and the local neighbourhood.

Based on the aforementioned points, from an economic and social perspective it is considered suitable that the subject site be rezoned to R1 General Residential.



## 1.0 Introduction

### 1.1 Background

This economic and social assessment has been prepared to accompany a Planning Proposal to be submitted to Leichhardt Council to facilitate the rezoning of the subject site at 100-102 Elliott Street, Balmain.

The subject site is bound by Elliott Street to the north, Broderick Street to the south and the western boundary runs along the foreshore of Iron Cove. The site has a total land area of approximately 12,375sqm. The waterfront location and gentle slope towards the water means the site benefits from views across Parramatta River to the Iron Cove Bridge, Birkenhead Point and Drummoyne.

The Planning Proposal seeks to amend Leichhardt Local Environmental Plan 2013 (LLEP 2013) to enable the rezoning of the subject site from B2 Local Centre to R1 General Residential.

In June 2014, the JRPP granted consent for a mixed use development which comprised eight (8) buildings with ground floor commercial/retail uses, 19 serviced apartments, 104 residential apartments and terraces and basement parking (D/2013/406). In addition, a number of minor s.96 modifications have been submitted to Leichhardt Council for consideration.

The inclusion of the serviced apartments within the mixed use development (at ground level to activate the street frontage) is not seen favourably by the landowner as being commercially viable or facilitating social cohesion for the local community. Therefore, the submission of a Planning Proposal to rezone the subject site to R1 General Residential zoning would provide opportunity for the approved serviced apartments to be converted to residential dwellings in the future via a DA.

### 1.2 Purpose of this Assessment

This assessment considers the economic and social matters in relation to the proposed rezoning of the subject site from its existing B2 Local Centre zone to R1 General Residential zone.

This economic and social assessment will accompany a Planning Proposal along with other professional assessments to enable assessment by Leichhardt Council and future consideration by the Department of Planning and Environment once submitted for Gateway Determination.

### 1.3 Methodology

This assessment has been prepared on the basis of the following information:

- Social Impact Statement, prepared by Elton Consulting (September 2013);
- Economic Report for 100-102 Elliot Street, prepared by SGS Economics & Planning (June 2013);
- Leichhardt Employment Lands Study, prepared by SGS Economics & Planning (January 2011);
- HIIPDA Letter to North Sydney Council on Minimum Threshold for Serviced Apartments (June 2015);
- IBISWorld Report H4404: Serviced Apartments in Australia (May 2015);
- Notes from Meeting held with RPS, Leichhardt Council & Toga on 15 July 2015;
- Development consent (D/2013/406); and
- Development consent (D/2011/529).



## 2.0 Site Context

### 2.1 Site Description

The subject site is located at 100-102 Elliott Street, Balmain and is legally known as Lot 6 DP 617944 and Lot 1 DP 619996. The site is located within the Leichhardt local government area (LGA) approximately 1.2km from Balmain Town Centre and 5.7km from Sydney's Central Business District (CBD).

The site is approximately 12,375sqm and has a moderate slope from 17m AHD in the eastern corner of the site to approximately 2m AHD at the sandstone retaining wall at the edge of the Parramatta River. The waterfront location and topography means the site benefits from views across Iron Cove to the Iron Cove Bridge, Birkenhead Point and Drummoyne.



Figure 1 Site Location (Source: SixMaps)

### 2.2 Development Approval

Development consent for development application (D/2013/406) was granted by the JRPP on 6 June 2014. The consent permitted the construction of a mixed use development on the subject site comprising eight buildings with ground floor commercial/retail uses, 19 serviced apartments, 102 residential apartments and terraces, above and basement parking and associated works including bulk earthworks, tree removal, landscaping, signage and remediation.

The 19 serviced apartments are located at the ground floor of five buildings as identified in Appendix 5.

A number of s96 modification applications have been submitted, including:

- Minor changes to wording of the consent conditions relating to staging, timing of construction and



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construction traffic (M/2014/223) approved 26 May 2015.

- The deletion of the requirement for the basement level to be tanked (M/2014/224), approved 1 May 2015.
- M/2015/26 was submitted to Council on 13 March 2015. Modifications approved by Council on 27 October 2015 included a change to the roof material and design and the addition of air conditioning.
- M/2015/45 was submitted to Council on 2 April 2015 and involves a reduction in the footprint of the basement and car parking numbers. This application was withdrawn on 2 October 2015.
- An application (M/2015/215) seeking approval for minor internal and external alterations modifications including changes to the layout of the 3 bed apartments, the addition of five skylights was submitted to Council on 16 October 2015. This application is currently with Council for consideration.



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### 3.0 Economic & Market Assessment

This chapter assesses the economic considerations of the proponents request to change the zoning on the site to R1 General Residential. This includes an assessment of relevant market dynamics in the local area, the commercial viability of commercial uses as defined in the B2 Local Business Zone including serviced apartments, and the employment and economic implications of changing the land use on the site.

#### **Economic Rationale for Planning Proposal**

The rationale for the Planning Proposal to change Zones from B2 Local Business to R1 General Residential is the lack of market suitability for commercial uses at the scale and type that are approved on the subject site. This includes for commercial uses and serviced apartments, which in their approved format on this site are not considered viable based on current market conditions. Rezoning the site to R1 General Residential would be more appropriate in terms of market conditions and the surrounding commercial context.





## 4.0 Assessment of Economic Impacts

### 4.1 Background Information – Update of Previous Information

The first part of this chapter reviews relevant background reports which require addressing as part of the Planning Proposal. The reports include:

- Economic Report for 100-102 Elliott Street Balmain; and
- Leichhardt Employment Lands Study 2011.

#### 4.1.1 Review of Economic Report for 100- 102 Elliot Street Balmain for Planning Proposal

The current approved development on the subject site was approved by Council through (D/2013/406) in June 2013. Lodgement of D/2013/406 included a supporting economic and market assessment; 'Economic Report for 100-102 Elliot Street Balmain' prepared by SGS.

The SGS Economic Report was divided into four parts which incorporated:

- (1) An assessment of the residential market conditions;
- (2) An assessment of the commercial market conditions;
- (3) An assessment of the serviced apartment conditions; and
- (4) An assessment of the economic impacts.

The key findings of the report could be summarised as follows:

- **The residential market** was performing very strongly with fast absorption of new properties as they entered the market as well as exceptionally low vacancy rates. Further the housing propensity model, suggested that the site would be able to help meet some of the long term demand for residential strata units in Balmain and Leichhardt LGA more broadly;
- **The commercial market** was stable across the Inner West submarket, however the proposed commercial uses were potentially going to appeal to small local commercial operators due to the small size of the potential strata lots and the out of centre location, making it unlikely larger institutional investors or tenants would show interest;
- **The serviced apartment market** was discussed in regards to a broader undersupply in the market. The report noted that the majority of demand for serviced apartments was in Sydney CBD and major centre areas, although out of centre locations could be a potential market. The report did not include serviced apartments into the job yield analysis in section 5.2 of the report. The very small nature of the operation (19 apartments) means that Full Time Equivalent (FTE) could be lower than 1 employee; and
- **The economic impact** of the development was likely to have a minimal impact on the trading in Balmain Town Centre, due to its small scale and out of centre location.

There has been a number of market factors both in a broader context and in the local market which have changed since the publication of the economic report. These are discussed below in sections 4.2 and 4.3 and discussed in relation to the findings of the SGS Economic Report.

#### 4.1.2 Review of Leichhardt Employment Lands Study (2011)

SGS Economics and Planning (SGS) was commissioned by Leichhardt Council to prepare an Employment Lands Study (ELS) which was published in January 2011. The ELS was prepared to assist and direct Council in regards to the below points among others:

- Identifying strategically important employment lands to be protected;



- Ensure sufficient land is zoned to accommodate future employment growth;
- Inform of opportunities to regenerate underutilised or redundant employment lands; and
- Identify an appropriate suite of zones for employment lands.

The report dealt specifically with the subject site which was grouped into chapter 5.7 Fragmented Commercial Sites. In discussing potential uses for the subject site the report noted that *"While existing out-of-centre commercial activities are not ideal, they should be considered against attribute criteria so as to retain high quality and accessible sites"*<sup>1</sup>.

The criteria used to assess the future use of the site as an out-of-centre use was:

- **Proximity to public transport** – the site is 200 metres from Balmain Road and buses that service this area and in very close proximity to Balmain West Ferry Wharf;
- **Scale of use will not add significant additional traffic and other impacts to surrounding residential** – the office development contains ample on-site parking and the office land uses do not cause significant environmental impacts.
- **Any retail associated with these sites is ancillary only** – the site is comprised of office land uses only.

As such the subject site was recommended to be retained for employment uses.

There have been considerable market changes as well as local site changes since the ELS (January 2011). The criteria for the recommendation at the time would likely need to incorporate additional factors now such as broader supply in the market, potential development of The Bays Precinct, vacancy in Darling Street and an understanding of thresholds in the serviced apartment market. These factors are all discussed in the sections below.

The statement that *"while out-of-centre commercial activities are not ideal"* is now especially pertinent given the difficulties that these types of sites are facing in terms of vacancy and longer term commercial viability as commercial uses. These issues are explored in greater detail in sections 4.2 and 4.3 of this report.

#### 4.2 Economic Assessment of Commercial Zoning on the Subject site

This section of chapter 4 identifies some of the key issues with the current zoning on the subject site and considerations for a change to a more appropriate zoning that reflects both the market and the surrounding context of Balmain.

This part of the chapter identifies key issues for non residential retail uses on the site including:

- The location of the subject site as a B2 local centre;
- The impact broader market dynamics are having on the non-residential zoning for the subject site;
- The impact of local commercial market dynamics;
- The impact of local retail market conditions; and
- The overall suitability for residential uses on the subject site.

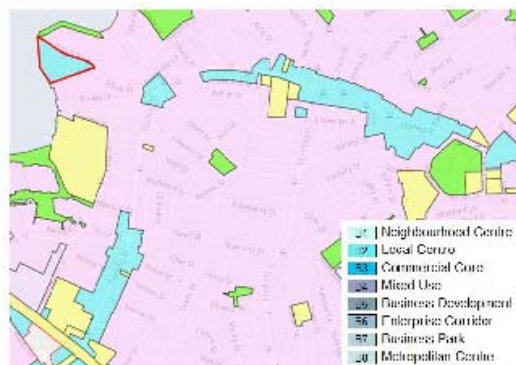
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<sup>1</sup> SGS (2011) *Leichhardt Employment Lands Study*, p.100.



#### 4.2.1 Trading Routes and Location

At present the subject site is zoned B2 Local Centre. The image below shows the location of the subject site in regards to its zoning in context to other areas zoned B2 Local Centre. The image shows that the subject site is located remotely from the main commercial areas along Darling Street and is a small isolated pocket of zoned commercial activity.



**Figure 2 - Zoning Map of the Subject Site (in red) in context to the surrounding areas zoned B2 Local Centre (Source: Leichhardt LEP, 2013)**

There is one other area zoned B2 Local Centre which is comparably small and away from the main commercial strips, however it contains very different dynamics. The image below shows the other isolated B2 Local Centre at the junction of Elliott Street and Darling Street looking east and west. This B2 zoned centre is located along the main thoroughfare (Darling Street) approximately 150m west of Balmain commercial area and approximately 200m east of Rozelle commercial area. Furthermore, this centre contains many long established retail/entertainment establishments including the Cat & Fiddle Hotel. It is therefore much more suitable for this type of zoning than the subject site which contains very little in the way of establishments or features that would characterise a local centre.



**Figure 3 Intersection of Elliott Street and Darling Street looking West (top) and East (bottom) (Source: Google, 2015)**





To highlight the isolation of the subject site as a B2 Local Centre area, the image below shows the other three areas in the Balmain Peninsula zoned B2 Local Centre in the context of the main thoroughfare and commercial strip of Darling Street. The subject site is surrounded entirely by R2 Low Density Residential Zone (excepting Iron Cove) and shows that from an economic planning context it is likely to be an inappropriate location for this type of zoning.



**Figure 4 : Context of B2 Local Centre Zoning along Darling Street and the Subject site to the west (Source: Leichhardt LEP 2013)**

#### 4.2.2 Broader Commercial Market Factors

At present the broader commercial market dynamics are playing a large role in the conversion of scattered and isolated commercial areas to residential uses. This is due to macro level commercial market factors which are making smaller scattered commercial locations less viable and more suited to residential uses.

The commercial market in Sydney over the past 12-18 months has been characterised by a consolidation of floorspace in larger employment precincts, with a small but gradual upward trend in demand for new office space in metropolitan office markets. The market has been fairly tough on commercial holdings which are located in fragmented spaces, isolated from major centres. This has especially been the case for some increasingly isolated commercial markets including St Leonards/ Crows Nest and Gordon which have seen a net contraction of commercial office space, mainly due to low demand and withdrawals from the market to residential uses<sup>2</sup>.

A major factor influencing supply of commercial office space in Sydney is Barangaroo entering the market. Barangaroo is forecast to deliver 256,000sqm of additional floorspace over the next four years to 2018. A further additional 90,000sqm of projected new premium commercial office space in the Sydney CBD over the concurrent period means the supply entering the CBD market per annum is considerably higher than the long term average<sup>3</sup>. The result of this is that it would likely place pressure on metropolitan office markets (non-CBD markets). Major suburban office markets at North Sydney, Parramatta, Norwest and Macquarie Park are likely to fare better due to high amenity, strong transport connectivity, major retail convenience and

<sup>2</sup> CBRE (2014) *Residential Conversions: Keeping Sydney's Office Markets Balanced*

<sup>3</sup> Cordell Connect (2015) *Likely project completions in Sydney CBD by 2018*



clustering of industries<sup>4</sup>. Landowners of smaller fragmented commercial spaces are increasingly looking to residential conversions as a means of getting better value out of sluggish commercial assets.

#### 4.2.3 Local Market Considerations

In the context of suburban or metropolitan commercial markets in Sydney (non-CBD markets) the subject site falls within the Inner West Suburban (Metropolitan) Office sub-market. The image below shows the breakdown of the suburban office markets across Sydney based on KnightFrank's 'Sydney Suburban Office Market Overview: February 2015'. Other real estate commentators including Colliers, CBRE and Savills have similar commercial office submarket boundaries.



Figure 5 Sydney Suburban Office Markets (Source: KnightFrank 2015)

Knight Frank have reported that the Sydney metropolitan office market has been performing solidly, however the overall market stability, was being underlined by considerable conversion of commercial office space in older buildings and less desirable commercial areas. This level of residential conversion was helping keep vacancy rates stable and maintain positive growth in net face rents. Key market conditions outlined in the report included:

- Sydney recorded small positive net absorption in 2014. This totalled to 5,411sqm of absorption or 0.2% of total stock. Key market indicators:

<sup>4</sup> CBRE (2014) Residential Conversions: Keeping Sydney's Office Markets Balanced





- The market has been experiencing steady absorption of commercial floorspace (0.2%) which has been aided by a net decline in supply of new commercial floorspace;
- There has been a slight decline in vacancy across the market from 8.8% to 8.1% in the 12 months to January 2015. This has primarily been driven by consistent demand, a lack of investment in new supply and active withdrawal of stock from the market for residential conversion;
- Gross rents have increased by 3.5%, however net effective rent increases have only been 2.5% when calculating increased incentives. This means it has stayed near level with the rate of inflation (CPI);
- There has been a reduction of floorplate options 3,000sqm+ (24 to 20) and medium sized floorplate options 1000-2,999sqm (66 to 51) on the market as a result of a positive absorption;
- There has been an increase in small floorplates (such as those offered at the Subject site) from 142 to 158.

#### 4.2.3.2 Inner West Market Movement

The current commercial market conditions in the Inner West reflect many other inner submarkets including the City Fringe and North Shore. Conditions have been stable with slight decreases in vacancy and positive net absorption. The underlying driver of this however is constrained supply of floorspace in the market. This has been caused by a lack of new investment and a negative net supply due to withdrawals of commercial office space to residential uses.

CBRE's 2014 research report 'Residential Office Market Conversions: Keeping Sydney's Markets Balanced' indicates that this trend is keeping suburban office markets competitive and the withdrawal of some commercial space to residential is actually assisting stability in the office market. In the Inner West and neighbouring City Fringe submarket, Balmain is a very small commercial market compared with Pyrmont, Sydney Olympic Park, Rhodes and Burwood; all much larger employment centres. While there is demand for larger sites and increased competition for strategic acquisitions, demand for small commercial titles <1,000sqm has actually dropped off and supply has increased in the market.

#### 4.2.3.3 The Bays Precinct

Another key consideration in the zoning of the subject site is the anticipation of a major new allocation of commercial and retail space at Balmain East around White Bay as part of the Bays Precinct. There is a strong likelihood that at least part of the Bays Precinct will deliver significant new commercial space to the market. In an even more competitive market it is likely commercial uses at the subject site would face very difficult competition in securing leases against large and flexible floor plates offering prime A-Grade office space.

#### 4.2.4 **Local Retail Factors**

The SGS Economic Report states that *"The Study Site is likely to be able to attract a convenience store and a small cafe or deli; although given its proximity to Balmain centre, incentives may be required in order to attract or retain tenants<sup>5</sup>".* Based on the number of residential apartments and the lack of any shops in the surrounding catchment it is considered that a convenience store could be supported by the development. In addition, a cafe may possibly be supported, however there are issues which may make this challenging including a drop in trade along Darling Street, Balmain.

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<sup>5</sup> SGS (2013) Economic Report for 100-102 Elliot Street Balmain



Of note, local retail businesses along the main retail strip of Darling Street, Balmain, have reportedly been impacted by a decline in foot traffic and increased vacancy. A Sydney Morning Herald Article from 20 August 2015 titled 'How Darling Street in Balmain Plans to Rise from the Ashes' notes that a site investigation and consultation with local property owners found that businesses were facing lower revenue and many long term businesses, including Ralph's Deli and Bloomsbury Florist, had closed<sup>6</sup>. Further the article noted 15 closed/vacant stores of the 155 premises located along the primary retail strip from Montague Street to Colgate Avenue.

A lack of trade along Darling Street is likely to drive incentives for retail in order to attract tenants by offering a discounted leasing rate. This is likely to place the retail offer of the Subject site at a disadvantage and perhaps require even greater incentives, which may impact its financial viability and suitability for the site. Furthermore, offering additional retail (beyond a convenience store) into an already struggling market could further impact on the retail health of Darling Street.

#### 4.2.5 Summary of Site Suitability for Non-Residential Use s

Given the above there are several factors which require due consideration for assessing a change in zoning on the site from B2 Local Centre to R1 General Residential. Key issues include:

- The site is currently zoned as an isolated local centre away from the existing commercial and retail areas of Darling Street. It is unlikely to get significant through trade due to its location as a dead-end facing the foreshore of Iron Cove and is not supported by any existing established commercial or retail businesses;
- The Sydney metropolitan commercial market including the Inner West and City Fringe Submarkets are currently characterised by withdrawal of fragmented commercial office stock for conversion to residential. This is keeping the market, as a whole stable by maintaining consistent vacancy and net face rents and funnelling demand and absorption of office stock into consolidated centres such as Rhodes and Pyrmont which are better equipped for commercial uses;
- The site is likely to struggle with commercial development as it can only offer a very limited product isolated from existing businesses and is considered to be in an uncompetitive position against nearby existing and potential future employment centres including Pyrmont and The Bays Precinct;
- Local retail vacancy and a reduction in trade along Darling Street mean further retail on the Subject site is likely to have to offer considerable incentives to gain traction in the market. This firstly could have an impact on the viability of maintaining additional retail as a use and secondly, could actively harm the retail strips along Darling Street in Balmain and Rozelle by attracting potential demand away from the town centres;

Based on the above factors it is considered that the commercial and retail market dynamics make it unlikely that the subject site going forward is suitable for a B2 Zoning.

#### 4.3 Assessment of Serviced Apartments

In accordance with the approved DA (D/2013/406) the majority of non-residential floorspace on the subject site is approved for use as serviced apartments. The Proponent is seeking to rezone the land through a planning proposal as it serviced apartments are not considered to be a viable commercial use on the site.

<sup>6</sup> Sydney Morning Herald (2015) How Darling Street in Balmain plans to Rise from the Ashes, August 20.



In accordance with Leichhardt LEP 2013, serviced apartments are defined as "a building (or part of a building) providing self-contained accommodation to tourists or visitors on a **commercial basis** and that is regularly serviced or cleaned by the owner or manager of the building or part of the building or the owner's or manager's agents".

This part of the assessment will analyse firstly, consideration of serviced apartments as a commercial operation/use and secondly, the viability of serviced apartments on the subject site.

#### 4.3.1 Serviced Apartments as a Commercial Use

A major component of this economic & market assessment analyses serviced apartments as a commercial operation. Serviced apartments are defined as a commercial operation in the LLEP 2013 and form the basis for much of the non-residential "mixed" uses on the site being zoned B2 Local Centre.

It is argued that operating 19 serviced apartments dispersed through multiple buildings on the site is not a commercial use but rather a short term residential use.

##### 4.3.1.1 Commercial Use vs Short Term Residential Uses

The issue of separating serviced apartments between viable commercial uses and short term residential uses has been impacting several local government areas (LGAs) across Sydney. A letter published for a North Sydney Council Meeting on the subject by HillPDA Consultants in June 2015 argues that the minimum threshold for serviced apartments being considered a viable commercial use was 50-70 apartments. The letter states that the majority of commercial serviced apartment operations run with 50 apartments as the minimum number. The HillPDA letter was based on market research into the market conditions, a review of recent DA's for serviced apartment in North Sydney Council as well as high level feasibility analysis of where operating serviced apartment becomes a commercial operation and running above a viable threshold.

Key points from that letter related to defining serviced apartments as a commercial use include:

- Minimum of 50-70 serviced apartments in a singular establishment is considered to be a viable commercial use;
- To be considered to be operating as a commercial use would normally entail staff employed in kitchen, front of house, cleaning, security and potentially other commercial service such as a bar and leisure facilities;
- An establishment operating below the threshold (50-70 apartments) is generally operating the leasing of the apartments through a third party operator such as AirBnB and Stayz with very little direct employment (sometimes none is required) and therefore is difficult to argue that it is indeed a commercial use; and
- A review of recent development applications where serviced apartments had been approved under the threshold limit in North Sydney Council. Since Approval, nearly all applications sought either modifications to lower the number of serviced apartments and convert some to residential or secondly a planning proposal to change the entire use to residential.

The issue of a short term residential use in a commercial zoning is further highlighted in an article published in July 2015 titled "NSW government investigating Airbnb rentals"<sup>7</sup>. The article maintains that there is complexity around current application of laws for leasing holiday lettings in residential zones.

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<sup>7</sup> Duke, J and Nicholls, S (2015) NSW Government Investigates Airbnb Rentals, Sydney Morning Herald.





#### 4.3.1.2 Safety and Social Issues

Consultation with serviced apartment operators including Toga, through their subsidiary TFE Hotels, indicate that a commercial serviced apartment operator would be unlikely to run and manage serviced apartments at this scale and format as it would not be viable to do so. In this scenario, an owner is likely to on-sell the serviced apartments to private owners who can then lease out those premises through a third party operator such as Airbnb or Stayz.

This further consolidates the fact that this level of operation is indeed likely to be a short term residential use operating under the guise of commercial uses. In addition to this, there are social impacts related to a lack of security, front of house and transient nature of residential guests staying at the serviced apartments, where it is not a fully fledged commercial operation.

It is therefore not considered that the approved 19 serviced apartment constitutes a legitimate commercial use and a change in zone to R1 General Residential would be more appropriate on the subject site.

#### 4.3.2 **Viability of Serviced Apartments on the Site**

As outlined in section 4.3.1.1 the considered threshold for serviced apartments to be deemed a viable commercial use as outlined in the HillPDA report is 50-70 apartments. In this regard, it is also referring to this threshold as the level where an operation can be run with requisite financial return.

'IBISWorld Industry Report H4404: Serviced Apartments in Australia' published in May 2015, identifies the key metrics and economic performance of the Serviced Apartment Market. The report outlines that the top four players in the industry account for 40% of the revenue and the top six players control 30.6% of the market share. The table below shows the six largest operators and their estimate market share.

**Table 1 - Major Operators in the Serviced Apartment Market and Market Share (Source: IBISWorld 2015)**

Company	Market Share
QSA Group (Quest Apartments)	10.3%
Mantra Group	8.3%
Oaks Hotels & Resorts Limited	4.0%
Toga Pty Ltd	3.5%
Meriton Serviced Apartments	2.0%
Accor Asia Pacific Corporation	2.0%

Consultation undertaken by HillPDA indicated that the majority of large players, own and manage their properties, with most establishments accommodating 50 to 150 apartments. They regularly provide services including front of house, cleaning and security as well as additional services in some operations including food/beverage services and leisure facilities.

Toga, through their subsidiary TFE Hotels, is a privately owned provider of serviced apartments in the Australian market, including across Sydney. Ibis World Industry Report 'Serviced Apartments in Australia' (Report H4404) released in May 2015, outlines that Toga holds 3.5% of the total market share of serviced apartments in Australia, through ownership of 56 serviced apartment properties.

The operation of such a small and dispersed set of serviced apartments is unlikely to be viable for the company to run as a commercial service and more suitable as a residential land use.



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#### 4.4 Estimated Employment Impact

This assessment considers that changing the zoning for the subject site is likely to have a negligible impact on employment.

Firstly this assessment considers that one convenience store and potentially one additional shop could be supported on the site. It is unlikely that there will be any significant commercial employment on the site.

Secondly, the bulk of the "non-residential component" on the site is approved for 19 serviced apartments. As discussed in the assessment - at this scale it is not considered to be a viable commercial operation. As noted in chapter four, serviced apartments at this scale normally run a third party owner and leasing model which could potentially require no FTE Employees for this component.

As a result of the aforementioned points, the employment impacts are likely to be negligible.





## 5.0 Assessment of Social Impacts

The following chapter considers the likely social impacts (negative and positive) in relation to the rezoning of the subject site. To provide context for this assessment a review of relevant background information was undertaken, which included:

- Social Impact Assessment (SIS) prepared by Elton Consulting for D/2013/406; and
- Development Application D/2011/529.

### 5.1 Brief Overview

Toga and RPS met with Council Officers on 15 July 2015 to discuss the proposed rezoning of the subject site. Leichhardt Council Officers advised the preparation of a new or addendum to the SIS (Elton Consulting) was unnecessary. This assessment, therefore, does not constitute a full SIS rather a high level assessment of the likely social implications and/or social benefits of the rezoning of the subject site.

### 5.2 Background Information Review

#### 5.2.1 Social Impact Assessment (SIS)

The Social Impact Statement (SIS) prepared by Elton Consulting in September 2013, formed part of the technical reports and relevant information submitted for Development Application D/2013/406. The SIS identified a number of potential social impacts, mitigation and management measures to minimise adverse impacts that may occur from the development of the subject site.

The SIS was comprehensive in nature and prepared in accordance with Leichhardt Council Social Impact Assessment Policy and Guidelines 2009. The SIS assessed the proposed development against the State government's Metropolitan Strategy, local planning instruments and other relevant policies and strategies. A comprehensive demographic analysis was undertaken to describe the characteristics of the local community in the vicinity of the proposed development. In addition, insight into the consultation with stakeholders and the community was provided.

#### 5.2.2 Development Application D/2011/529 – Refused Development

Prior to the approval of Development Application D/2013/406, an earlier development application D/2011/529 was refused<sup>8</sup>. Council recommended a "deferred commencement" consent, however, the Joint Regional Planning Panel (JRPP) refused. The JRPP outlined the reasons for refusal and highlighted potential social impact of the proposed development which included:

- The developments bulky appearance from the water;
- An inadequate transition from the small-scale residential character of development on adjoining streets; and
- A 'catastrophic' view impact on 1 Broderick Street property.

An appeal in the NSW Land & Environment Court was also refused due to the following reasons:

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<sup>8</sup> The DA lodged by Roche Group (previous landowner)



- Inadequate provision of commercial parking;
- Design issues relating to height, bulk, scale and setbacks; and
- Landscaping and removal of significant trees.

#### **5.2.3 Development Application D/2013/406 – Approved Development**

The previous landowner Roche Group worked closely with Leichhardt Council and the design team to address the reasons for refusal of D/2011/529. The revised plans addressed a number of the social issues raised in public submissions and earlier consultations and identified ways in which the project had been adapted to successfully minimise the social concerns and provide social benefit for the local community.

Nevertheless, a number of social impacts were identified as follows:

- Traffic and parking impacts for the local neighbourhood;
- Visual impacts;
- Community integration and community cohesion; and
- Construction impacts.

The above social impacts were adequately addressed and a number of specific mitigation and management actions were identified and implemented accordingly.

#### **5.3 Community Consultation - Planning Proposal**

The proposed development of the subject site has undergone extensive consultations with numerous stakeholders including the local community over many years. Toga was keen to consult the local community on the proposed rezoning of the subject site to enable the future conversion of the serviced apartments to residential apartments.

A consultation workshop was organised by Toga and held on 21 August 2015. Residents from 12 properties within Broderick Street and Broderick Lane were invited and eight representatives were in attendance. A number of matters were discussed at the meeting including:

- Recent / current modification applications
- Construction timing
- The proposed conversion of the approved serviced apartment to residential apartments.

The feedback from the workshop identified that residents were generally opposed to the approved serviced apartments, hence, strongly supportive of the conversion to residential dwellings. A number of letters of support (18 residents with 13 letters) for the Planning Proposal are enclosed (refer Appendix 4).



---

## 5.4 Review of Social Impacts

In considering the above referenced SIS along with discussions with Council's Officers on 15 July 2015, the social impacts most likely to occur as a direct result of the rezoning of the subject site are identified as follows:

- Traffic and parking;
- Visual impacts;
- Safety and Security; and
- Community cohesion.

### 5.4.1 Traffic and Parking Impacts

#### 5.4.1.1 Traffic and Parking Impacts

In reviewing the traffic assessment prepared by Colston Budd Hunt & Kafes P/L dated 11 September 2015, it is evident the traffic effects of the proposed rezoning is likely to be similar to the approved development (please refer to Appendix 3).

Any future development application would require traffic impacts to be considered where there is potential for traffic impacts for the local and broader community.

With respect to parking, there are currently sufficient parking spaces allocated to the serviced apartments in the approved development to meet the requirement of 19 spaces for the conversion to residential apartments. Therefore, there would be no additional parking impacts due to the rezoning of the subject site.

### 5.4.2 Visual Impacts

In support of the Planning Proposal, Bates Smart considered the suitability of the serviced apartments to be converted to future residential apartments against the key objectives of the Apartment Design Guidelines (ADG).

Ground floor terrace areas for five apartments (B1.001, B1.005, C1.002, C3.002 & C3.003) require an enlarged ground floor terrace area to comply with the ADG. The increased terrace areas would not significantly impact the publicly accessible landscaped area. Furthermore, apartments C1.002 & C3.003 are buffered from the public domain by proposed planting and are provided with privacy screening. These minor changes can be incorporated without visually impacting the landscaping of the approved development.

The conversion of the serviced apartments to residential apartments would require five (5) additional skylights to be included to comply with SEPP 65. The five (5) additional skylights would be located on the roof areas of apartments B1.302, C2.401, C3.301, C3.302 and C4.203. These are currently the subject of a Section 96 Modification Application currently being considered by Council. The visual impacts would be negligible.

Any future DA would not require reconfiguration of the approved serviced apartments and would not require a change to the building envelopes, 'the look' or height of the approved mixed use development. A future 'change of use' DA would be required to facilitate the conversion to residential apartments.

In summary, the overall development complies with SEPP 65 and ADG. Visual impacts would be negligible or minor in nature. While there are minor changes required to the ground floor terrace areas, essentially the development will appear the same as currently approved.



#### 5.4.3 Safety and Security

The approved development has been designed to minimise potential safety and security issues and is in accordance with Crime Prevention Through Environmental Design (CPTED). The core CPTED design features for the development clearly defined public spaces, passive surveillance of the public domain, secure and separate access points. These design features would be maintained as part of the rezoning of the subject site to enable the conversion of the serviced apartments to residential apartments.

The approved development was designed to enable residents to share lifts, lobbies and common open spaces with 'guests' of the serviced apartments. While the development was designed to minimise safety and security issues, as discussed in Chapter 4, the approved serviced apartments could be leased out to third party operators such as AirBnB or Stayz. Hence, a number of social impacts could arise due to a lack of security, front of house concierge and transient nature of residential guests staying at the serviced apartments.

The aforementioned Sydney Morning Herald Article 'NSW Government Investigating Airbnb Rentals' further emphasised that safety concerns are a major cause of concern for residents in the current format of Airbnb. The article also notes that Leichhardt Council is currently seeking legal advice on how to manage the letting through these third party operators.

If the subject site was rezoned to enable the future conversion of the serviced apartments to residential apartments, passive surveillance would be enhanced as a direct result of having more permanent residents in the buildings.

In summary, if the rezoning of the subject site is supported, and a future DA lodged to convert the approved serviced apartments to residential dwellings, the safety and security of the overall development would be further enhanced as a direct result of an increase in passive surveillance. In addition, residents would no longer be sharing lifts, lobbies and common open spaces with 'guests' of the service apartments, giving the perception of increased safety and security for residents of the development along with the local community.

#### 5.4.4 Community cohesion

A cohesive community is one where 'there is a common vision' and a common 'sense of place'. During the community consultation period of both the refused and approved development schemes, the inclusion of serviced apartments within the development were raised as concerns by the community. Many submissions received during the consultation workshops and exhibition period identified that residential uses across the site were the preferred use.

In addition, Councils across NSW have raised concerns regarding the short term tourist leasing of apartments by third party operators such as Airbnb<sup>9</sup>. This type of short term leasing creates compliance issues for local Councils<sup>10</sup> and is becoming increasingly difficult to manage. This matter is a concern to residents in the Leichhardt LGA and Council is seeking further legal advice on how to manage this increasingly popular form of leasing of premises<sup>10</sup>.

---

<sup>9</sup> NSW Government investigating Airbnb rentals (Source: SMH Domain 4 July 2015)

<sup>10</sup> *ibid*





In summary, community cohesion would be enhanced as a result of the rezoning and future conversion of the serviced apartments to residential apartments. The transient nature of the 'guests' staying at the serviced apartments would be replaced with permanent residents that are more likely to actively contribute to enhancing the cohesive nature of the community.

#### 5.5 Social benefits – Rezoning (Planning Proposal)

The rezoning of the subject site is likely to have a number of positive social benefits:

- Once the serviced apartments are converted to residential apartments, the development would contribute an additional 19 residential apartments (an additional 18% of the overall development). This would create additional housing stock in a range of sizes, styles and price points in a suburb of high demand and limited supply;
- The additional residential apartments within the development would contribute to the housing targets prescribed in the *Draft Inner West Subregional Strategy*. The target of an additional 30,000 dwellings by 2031 is outlined in the Strategy of which 2,000 additional dwellings are required within Leichhardt LGA;
- The conversion of the serviced apartments to residential apartments would ensure the integration of the immediate character of the development which is located in a predominantly residential neighbourhood;
- Passive surveillance would be enhanced as a direct result of having additional permanent residents in the buildings;
- A greater 'sense of place' for the existing neighbourhood along with enhanced community cohesion; and
- Increased safety and security for future residents of the development and the local neighbourhood.



NSW government investigating Airbnb rentals

[http://www.domain.com.au/news/nsw-government-investigating-airbnb...](http://www.domain.com.au/news/nsw-government-investigating-airbnb-...)



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# NSW government investigating Airbnb rentals



5/11/2015

Jennifer Duke, Stephen Nicholls

## Million-dollar Airbnb threat

When the letter arrived in his mailbox, Wally couldn't believe what he was reading.

The NSW government is under pressure to clarify rules governing popular home sharing websites like Airbnb as local councils threaten residents with million-dollar fines.

NSW government investigating Airbnb rentals

<http://www.domain.com.au/news/nsw-government-investigating-airbnb...>


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allowed to do in your own home," he told Domain.

He is just one of 800 Leichhardt home owners advertising on the site.



Wally Salinger is facing a \$1.1 million fine for renting his house on Airbnb. Photo: Fiona Morris

Greens MP Jamie Parker is on the parliamentary committee that Planning Minister Rob Stokes has asked to "examine the issues and come back with advice, which the NSW government will then consider".

"There's different regulation in different council areas and there needs to be a clear framework for the whole state," Mr Parker said.

Mr Parker believes a full government inquiry is on the cards.

When contacted by Domain, a spokesperson for the Department of Planning and Environment confirmed that the government was looking to "test if the planning rules are right".

Founded in 2008, Airbnb now has one million listings in 34,000 cities and 190





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**But no one body governs the rules around short-term letting in NSW.**

**The uncertainty surrounding the current rules was confirmed by a Domain survey of 34 councils.**

Despite 10,000 homes listed across the harbour city, just six of the councils said they allowed short-term rentals, which most consider the service offered by Airbnb. Only Canterbury, Hornsby, Pittwater, Randwick, Manly and Ryde allow short-term tourist rentals and, even then, it's only in some areas, with consent from the council also required.

The specific regulations used to make Airbnb technically illegal vary between councils. Some say offering breakfast might help, like a bed-and-breakfast, however, this isn't always possible. Others say you must be in a holiday home-zoned area.

Confirmation of the NSW government's move to look into Airbnb rentals comes as the Victorian Civil and Administrative Tribunal ruled that an owner's corporation at Watergate Apartments at the Docklands did not have the power to make a rule prohibiting stays of less than 30 days.

"The decision impacts on all owners' corporations throughout Victoria," Strata Title Lawyers CEO and Watergate OC solicitor Tom Bacon told the Docklands News last week.

The rules governing short-term rentals in apartments depend on the building's bylaws, but strata expert and Domain Flat Chat columnist Jimmy Thomson said the decision could prompt someone to test the law in NSW and "you can never guarantee what a judge is going to decide on any given day".

<b>Bankstown</b>	X
Does not allow tourist and visitor accommodation in residential areas.	
<b>Woollahra</b>	X ✓
No tourist/visitor accommodation in residential zones. With consent, bed and breakfast may be allowed.	
<b>Leichhardt</b>	X
Council is seeking further legal advice on how to manage this increasingly popular form of letting.	
<b>City of Sydney</b>	X
Tourist or visitor accommodation not allowed in residential zones or residential apartment buildings.	
<b>Ryde</b>	✓
Airbnb subject to compliance with planning, therefore permitted in majority of areas. Bed and breakfast allowed in homes with a maximum of three bedrooms with consent.	
<b>Warringah</b>	✓
Allowed as bed and breakfast with consent in homes where meals are provided.	

\*A sample of responses from Domain's survey of 34 Sydney councils.



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of Shauna, who didn't want her surname used. She had been notified by Randwick Council that it had evidence she was running an "unauthorised" bed and breakfast.



"It was quite a shocking letter to get," said Shauna. "I immediately saw \$1.1 million and thought, 'What am I going to do?'" After getting some legal advice, Shauna successfully argued that she was not operating on a commercial basis, she was simply renting out a room.



Mr Salinger, too, is hoping for a similarly successful outcome, having taken his protest all the way to the Leichhardt council steps, pleading the benefits "urban tourism" brings.

The regulation that got him was the local government plan stipulating that home owners are not allowed to operate "Tourist and visitor accommodation".

"Council is seeking further legal advice as to how to manage this increasingly popular form of holiday letting," a council spokeswoman said.

Sydney City Council is investigating some complaints relating to Airbnb and a home owner last week sold his Millers Point terrace because the council had said he **couldn't put it on Airbnb and use it as tourist accommodation**.

Despite all the threats though, Thomson isn't aware of a single successful prosecution.

A spokesman for Airbnb Australia and New Zealand, Dylan Smith, said he welcomed news that the government was looking into the situation.

"Many local laws are outdated and difficult to interpret," Mr Smith said.

"That's why we've been talking with policymakers about the need for clear, progressive and fair laws that allow for home sharing.

"We warmly welcome this announcement [of a possible inquiry] and look forward to working with all parties toward fair and progressive rules that allow for home sharing right across NSW."

**Do you know more? Contact [Jennifer.duke@fairfaxmedia.com.au](mailto:Jennifer.duke@fairfaxmedia.com.au)**

NSW government investigating Airbnb rentals

<http://www.domain.com.au/news/nsw-government-investigating-airbnb...>



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From: Peter Donnelly peter.donnelly@y7mail.com  
Subject:  
Date: 26 August 2015 3:36 pm  
To: Marty D mjdonnelly@tpg.com.au

PD

Date: 21<sup>st</sup> August 2015

Mr Michael Calvi  
Development Manager, Development & Construction  
TOGA Developments Sydney Pty Ltd  
Level 5, 45 Jones Street  
ULTIMO NSW 2007

Dear Mr Calvi,

**RE: PROPOSED REZONING – 100-102 ELLIOTT STREET, BALMAIN**

I understand that Toga is seeking to submit a Planning Proposal to Leichhardt Municipal Council to rezone the land at 100-102 Elliott Street, Balmain.


The current B2 Local Centre zone within the Leichhardt Local Environmental Plan 2013 (LEP 2013) does not permit the development of a residential flat building without a mixed use component. Accordingly, Toga are seeking an amendment to LEP to rezone the site to R1 General Residential so that residential flat buildings are permissible without the need for an individual building to have a mix of uses. The proposed zoning will be consistent with the R1 General Residential zoning of the surrounding area.


Toga have advised that the proposal would not result in any changes to the approved built form. We support the rezoning of the site to R1 as this would allow Toga to seek development consent to convert the nineteen (19) approved serviced apartments to residential apartments. We are concerned about the changing transient population that will access these serviced apartments on a daily and weekly basis and the effect it will have on the local neighbourhood. While the current zone allows other non-residential uses within these spaces, given their location at the end of Elliott Street and Broderick Lane, our preference is for the serviced apartments to be solely residential in use.

I also understand that Toga will be seeking to permit of a maximum floor space ratio (FSR) of 1.05:1 on the site. This is consistent with the current approved floor space ratio (FSR) for the site.

I support the above amendments to the LEP and raise no objection to this proposal.

Yours sincerely,

  
Name: Peter Donnelly  
Address: 1 Broderick St  
Balmain 2041

  
Martin Donnelly

26 August 2015

Mr Michael Calvi  
Development Manager, Development & Construction  
TOGA Developments Sydney Pty Ltd  
Level 5, 45 Jones Street  
ULTIMO NSW 2007

Dear Mr Calvi

**RE: PROPOSED REZONING – 100-102 ELLIOTT STREET, BALMAIN**

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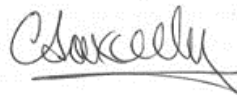
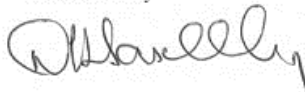
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We support the above amendments to the LEP and raise no objection to this proposal.

Yours sincerely



David Saxelby  
Catherine Saxelby  
2 Broderick St Balmain 2041  
T 9818 7770

Date: 21<sup>st</sup> August 2015

Mr Michael Calvi  
Development Manager, Development & Construction  
TOGA Developments Sydney Pty Ltd  
Level 5, 45 Jones Street  
ULTIMO NSW 2007

Dear Mr Calvi,

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I support the above amendments to the LEP and raise no objection to this proposal.

Yours sincerely,



Name: JACQUELINE KATE FREEMAN

Address: 3 BRODERICK STREET BALMAIN NSW 2041

Ashlea Mortimer  
5 Broderick Street,  
Balmain 2041

Date: 25<sup>th</sup> August 2015

Mr Michael Calvi  
Development Manager, Development & Construction  
TOGA Developments Sydney Pty Ltd  
Level 5, 45 Jones Street  
ULTIMO NSW 2007

Dear Mr Calvi,

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Toga have advised that the proposal would not result in any changes to the approved built form. I support the rezoning of the site to R1 as this would allow Toga to seek development consent to convert the nineteen (19) approved serviced apartments to residential apartments. I am concerned about the changing transient population that will access these serviced apartments on a daily and weekly basis and the effect it will have on the local neighbourhood. While the current zone allows other non-residential uses within these spaces, given their location at the end of Elliott Street and Broderick Lane, our preference is for the serviced apartments to be solely residential in use.

I also understand that Toga will be seeking to permit a maximum floor space ratio (FSR) of 1.05:1 on the site. This is consistent with the current approved floor space ratio (FSR) for the site.

As a resident of Broderick Street, Balmain and a member of the Mortimer family who own 5 Broderick Street, I support the above amendments to the LEP and raise no objection to this proposal.

Yours sincerely,

  
Ashlea Mortimer

Jenny & Wayne Mortimer  
5 Broderick Street,  
Balmain 2041

Date: 25<sup>th</sup> August 2015

Mr Michael Calvi  
Development Manager, Development & Construction  
TOGA Developments Sydney Pty Ltd  
Level 5, 45 Jones Street  
ULTIMO NSW 2007

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We support the above amendments to the LEP and raise no objection to this proposal.

Yours sincerely,

  
Jennifer Mortimer

  
Wayne Mortimer



Lachlan Sweet  
5 Broderick Street,  
Balmain 2041

Date: 25<sup>th</sup> August 2015

Mr Michael Calvi  
Development Manager, Development & Construction  
TOGA Developments Sydney Pty Ltd  
Level 5, 45 Jones Street  
ULTIMO NSW 2007

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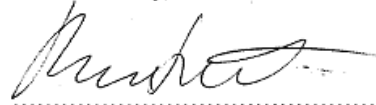
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Toga have advised that the proposal would not result in any changes to the approved built form. I support the rezoning of the site to R1 as this would allow Toga to seek development consent to convert the nineteen (19) approved serviced apartments to residential apartments. I am concerned about the changing transient population that will access these serviced apartments on a daily and weekly basis and the effect it will have on the local neighbourhood. While the current zone allows other non-residential uses within these spaces, given their location at the end of Elliott Street and Broderick Lane, our preference is for the serviced apartments to be solely residential in use.

I also understand that Toga will be seeking to permit a maximum floor space ratio (FSR) of 1.05:1 on the site. This is consistent with the current approved floor space ratio (FSR) for the site.

As a resident of Broderick Street, Balmain and a member of the Mortimer family who own 5 Broderick Street, I support the above amendments to the LEP and raise no objection to this proposal.

Yours sincerely,



Lachlan Sweet

Date: 21<sup>st</sup> August 2015

Mr Michael Calvi  
Development Manager, Development & Construction  
TOGA Developments Sydney Pty Ltd  
Level 5, 45 Jones Street  
ULTIMO NSW 2007

Dear Mr Calvi,

**RE: PROPOSED REZONING – 100-102 ELLIOTT STREET, BALMAIN**

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Toga have advised that the proposal would not result in any changes to the approved built form. We support the rezoning of the site to R1 as this would allow Toga to seek development consent to convert the nineteen (19) approved serviced apartments to residential apartments. We are concerned about the changing transient population that will access these serviced apartments on a daily and weekly basis and the effect it will have on the local neighbourhood. While the current zone allows other non-residential uses within these spaces, given their location at the end of Elliott Street and Broderick Lane, our preference is for the serviced apartments to be solely residential in use.

I also understand that Toga will be seeking to permit of a maximum floor space ratio (FSR) of 1.05:1 on the site. This is consistent with the current approved floor space ratio (FSR) for the site.

I support the above amendments to the LEP and raise no objection to this proposal.

Yours sincerely,

  
Name: Debby Ross  
Address: 4 Broderick St  
Balmain 2041

Date: 24/6/15.

Mr Michael Calvi  
Development Manager, Development & Construction  
TOGA Developments Sydney Pty Ltd  
Level 5, 45 Jones Street  
ULTIMO NSW 2007

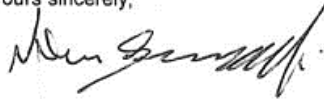
Dear Mr Calvi,

**RE: PROPOSED REZONING – 100-102 ELLIOTT STREET, BALMAIN**

I, the owner of 7 Bridge Street, Balmain NSW 2041, understand that Toga is seeking to submit a Planning Proposal to Leichhardt Municipal Council to rezone the land at 100-102 Elliott Street, Balmain from B2 Local Centre to B4 Mixed Use.

We strongly support the rezoning of the site to B4 Mixed Use as this would allow Toga to seek development consent to convert the nineteen (19) approved serviced apartments to residential apartments. We are concerned about the changing transient population that will access these serviced apartments on a daily and weekly basis and the effect it will have on the local neighbourhood from a noise, security, safety and disruption perspective. While the current zone allows other non-residential uses within these spaces, given their location at the end of Elliott Street and Broderick Lane, our preference is for these buildings to be solely residential in use.

Yours sincerely,



Ninian Gemmell

J Fiona Brown

Dacapo Pty Ltd  
c/- Coopers Agency  
P.O. Box 197  
Rozelle. 2039

Date: 25<sup>th</sup> August 2015

Mr Michael Calvi  
Development Manager, Development & Construction  
TOGA Developments Sydney Pty Ltd  
Level 5, 45 Jones Street  
ULTIMO NSW 2007

Dear Mr Calvi,

**RE: PROPOSED REZONING – 100-102 ELLIOTT STREET, BALMAIN**

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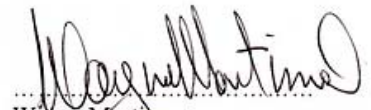
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Toga have advised that the proposal would not result in any changes to the approved built form. We support the rezoning of the site to R1 as this would allow Toga to seek development consent to convert the nineteen (19) approved serviced apartments to residential apartments. We are concerned about the changing transient population that will access these serviced apartments on a daily and weekly basis and the effect it will have on the local neighbourhood. While the current zone allows other non-residential uses within these spaces, given their location at the end of Elliott Street and Broderick Lane, our preference is for the serviced apartments to be solely residential in use.

We also understand that Toga will be seeking to permit a maximum floor space ratio (FSR) of 1.05:1 on the site. This is consistent with the current approved floor space ratio (FSR) for the site.

As directors of Dacapo Pty Ltd, the company which owns 7 Broderick Street, we support the above amendments to the LEP and raise no objection to this proposal.

Yours sincerely,

  
.....  
Jennifer Mortimer  
Director  
.....  
Wayne Mortimer  
Director

Date: 21<sup>st</sup> August 2015

Mr Michael Calvi  
Development Manager, Development & Construction  
TOGA Developments Sydney Pty Ltd  
Level 5, 45 Jones Street  
ULTIMO NSW 2007

Dear Mr Calvi,

**RE: PROPOSED REZONING – 100-102 ELLIOTT STREET, BALMAIN**

I understand that Toga is seeking to submit a Planning Proposal to Leichhardt Municipal Council to rezone the land at 100-102 Elliott Street, Balmain.


The current B2 Local Centre zone within the Leichhardt Local Environmental Plan 2013 (LEP 2013) does not permit the development of a residential flat building without a mixed use component. Accordingly, Toga are seeking an amendment to LEP to rezone the site to R1 General Residential so that residential flat buildings are permissible without the need for an individual building to have a mix of uses. The proposed zoning will be consistent with the R1 General Residential zoning of the surrounding area.

Toga have advised that the proposal would not result in any changes to the approved built form. We support the rezoning of the site to R1 as this would allow Toga to seek development consent to convert the nineteen (19) approved serviced apartments to residential apartments. We are concerned about the changing transient population that will access these serviced apartments on a daily and weekly basis and the effect it will have on the local neighbourhood. While the current zone allows other non-residential uses within these spaces, given their location at the end of Elliott Street and Broderick Lane, our preference is for the serviced apartments to be solely residential in use.

I also understand that Toga will be seeking to permit of a maximum floor space ratio (FSR) of 1.05:1 on the site. This is consistent with the current approved floor space ratio (FSR) for the site.

I support the above amendments to the LEP and raise no objection to this proposal.

Yours sincerely,

  
Name: PAMELIA HESTER  
Address: 8 BRODERICK ST  
BALMAIN 2041



9 Broderick St  
Balmain  
NSW 2041  
28 August 2015

Mr Michael Calvi  
Development Manager, Development & Construction  
TOGA Developments Sydney Pty Ltd  
Level 5, 45 Jones Street  
ULTIMO NSW 2007

Dear Mr Calvi,

**RE: PROPOSED REZONING – 100-102 ELLIOTT STREET, BALMAIN**

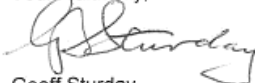
I understand that Toga is seeking to submit a Planning Proposal to Leichhardt Municipal Council to rezone the land at 100-102 Elliott Street, Balmain.

I am in support of the TOGA proposal to change the 19 approved serviced apartments into residential apartments. This support is conditional on there being no increases to the approved built form and no increase in the FSR beyond that currently approved.

On 25/11/13 I wrote to Council concerning D/2013/406. In that letter I outlined problems I saw with the proposal for the serviced apartments and also suggested reasons why the site would be better rezoned as residential with a reduced FSR. I believe the reasons and issues I stated then are still relevant but understand the FSR is now unlikely to be reduced below that currently approved.

LEP 2013 appears to require a rezoning to achieve the desired outcome. I believe the LEP contains some conflicts in the various references to "Active Street Frontage" that need clarifying or rectifying.

Yours faithfully,



Geoff Sturday

Ph 02 98108414  
Mob 0408 170987

Date: 21<sup>st</sup> August 2015

Mr Michael Calvi  
Development Manager, Development & Construction  
TOGA Developments Sydney Pty Ltd  
Level 5, 45 Jones Street  
ULTIMO NSW 2007

Dear Mr Calvi,

**RE: PROPOSED REZONING – 100-102 ELLIOTT STREET, BALMAIN**

I understand that Toga is seeking to submit a Planning Proposal to Leichhardt Municipal Council to rezone the land at 100-102 Elliott Street, Balmain.

The current B2 Local Centre zone within the Leichhardt Local Environmental Plan 2013 (LEP 2013) does not permit the development of a residential flat building without a mixed use component. Accordingly, Toga are seeking an amendment to LEP to rezone the site to R1 General Residential so that residential flat buildings are permissible without the need for an individual building to have a mix of uses. The proposed zoning will be consistent with the R1 General Residential zoning of the surrounding area.

Toga have advised that the proposal would not result in any changes to the approved built form. We support the rezoning of the site to R1 as this would allow Toga to seek development consent to convert the nineteen (19) approved serviced apartments to residential apartments. We are concerned about the changing transient population that will access these serviced apartments on a daily and weekly basis and the effect it will have on the local neighbourhood. While the current zone allows other non-residential uses within these spaces, given their location at the end of Elliott Street and Broderick Lane, our preference is for the serviced apartments to be solely residential in use.

I also understand that Toga will be seeking to permit a maximum floor space ratio (FSR) of 1.05:1 on the site. This is consistent with the current approved floor space ratio (FSR) for the site.

I support the above amendments to the LEP and raise no objection to this proposal.

Yours sincerely,



Name:

Julie Tuketoka

Address:

11A Broderick St  
Balmain NSW 2041  
Ph. 0410933658

Date:

7/7/2015

Mr Michael Calvi  
Development Manager, Development & Construction  
TOGA Developments Sydney Pty Ltd  
Level 5, 45 Jones Street  
ULTIMO NSW 2007

Dear Mr Calvi,

**RE: PROPOSED REZONING – 100-102 ELLIOTT STREET, BALMAIN**

I, the owner of 94 Elliot Street, Balmain NSW 2041, understand that Toga is seeking to submit a Planning Proposal to Leichhardt Municipal Council to rezone the land at 100-102 Elliott Street, Balmain from B2 Local Centre to B4 Mixed Use.

We strongly support the rezoning of the site to B4 Mixed Use as this would allow Toga to seek development consent to convert the nineteen (19) approved serviced apartments to residential apartments. We are concerned about the changing transient population that will access these serviced apartments on a daily and weekly basis and the effect it will have on the local neighbourhood from a noise, security, safety and disruption perspective. While the current zone allows other non-residential uses within these spaces, given their location at the end of Elliott Street and Broderick Lane, our preference is for these buildings to be solely residential in use.

Yours sincerely,



Valiria Jollie

94 Elliot Street, Balmain NSW 2041

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Architects Pty Ltd  
+61 8 9 094 740 999

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Mark Di Bartolo  
Hayden Crawford

02 November 2015

Leichhardt Municipal Council  
7 - 15 Wetherill Street  
Leichhardt NSW 2040

**BATESSMART™**

To whom it may concern,

### 100-102 Elliott Street Balmain – Planning Proposal

We write on behalf of our client Toga Group in relation to the above property. A Development Consent was issued on 18 June 2014 for the above property (ref D/2013/406). In summary the development included

Demolition of existing structures and construction of a mixed use development including:

- / 8 buildings
- / Ground floor commercial (including 19 serviced apartments and gymnasium) / retail uses,
- / 102 residential units above,
- / Basement parking
- / Associated works including bulk earthworks, tree removal, landscaping, signage and remediation.

Toga Group seeks to rezone the subject site from B2 Local Centre to R1 General Residential. Once the rezoning of the subject site is supported, the 19 serviced apartments could be converted to residential apartments. As part of the Planning Proposal please find enclosed the documentation as scheduled below which describes the proposed amendments in full.

Enclosed drawings:

- / PP1.01 Rev.A – Site Plan
- / PP2.01 Rev.A – Basement Plan
- / PP2.02 Rev.A – Lower Ground Floor Plan

In support of the Planning Proposal, Bates Smart have considered the suitability of the serviced apartments conversion to future residential apartments against the key objectives and design criteria of the Apartment Design Guidelines (ADG). We note as part of this advice that the Residential Flat Design Code (RFDC) applied to the development at the time of lodgement of the previous application and that this has now been superseded by the Apartment Design Guide (ADG).

What follows is our outline assessment of the proposal. Further clarification and justification are provided to demonstrate how Objectives are met in cases where design criteria are not achieved.

### SEPP 65 Assessment

#### Principal 1- Context and neighbourhood character

A detailed assessment of the character of the neighbourhood context was undertaken as part of the previous approval process to ensure the development responded to and integrated with the context. The proposed amendment will further integrate into the immediate character of the development being a residential use within a predominantly residential development.

#### Principal 2- Built form and scale

The proposal is of no impact in terms of built form and scale, being simply a change of use.

Nominated NSW Registered Architects: Philip Vivian Reg. 6696 / Simon Swaney Reg. 7305 / Guy Lake Reg. 7119  
S:\11500-11599\11597\_roche\_elliottsbalmmain00\_main\trans\03\_milestone\PP1\_Planin Page 1 of 1  
Proposal\_150925\151102\_Elliottsb Planning Proposal.docx

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### Principal 3 – Density

The proposal does not increase the density by comparison to the existing consent.

### Principal 4 – Sustainability

The approved design focused on reducing the demand on resources via the use of simple passive strategies, which also offer excellent amenity to future residents. Such strategies included high levels of cross ventilation and passive cooling, good levels of daylight access provided by the high levels of dual aspect apartments, rainwater reuse, high efficiency appliances and indigenous planting all of which will continue to be delivered as part of this proposal.

### Principal 5 – Landscape

A key feature of the approved development is the central public open space, a landscaped park, connected by a permeable network of pedestrian links and plazas providing access to building entry lobbies and ground floor commercial tenancies. Whilst the five apartments B1.001, B1.005, C1.002, C3.002 & C3.003 require an enlarged ground floor terrace area to comply with the ADG, there will be no impact on the publicly accessible landscaping. These minor changes can be incorporated with no visual impact to the landscaping of the approved development.

### Principal 6 – Amenity

The proposal achieves the amenity objectives of the ADG, separate discussion relating to this can be found below.

### Principal 7 – Safety

Core CP TED design features of providing clearly defined public spaces, passive surveillance of the public domain, secure and separate access points were demonstrated as part of the current development approval. These design features are maintained as part of this proposal.

### Principal 8- Housing diversity and social interaction

A mix of 1,2 and 3 bedroom apartments are being converted to a dedicated residential use as part of this application to provide further choice for different demographics, living needs and household budgets.

### Principal 9 Aesthetics

As outlined in Principal 5, the additional ground floor terrace areas will have no visual impact on the aesthetic appearance of the approved development. The facades which are carefully composed, ordered vertically and horizontally and use a variety of material and tones will be retained unaltered.

## ADG Assessment

ADG Ref.	Item Description	Notes	Compliance
3D-1	COMMUNAL & PUBLIC OPEN SPACE Objective: An adequate area of communal open space is provided to enhance residential amenity & to provide opportunities for landscaping.		✓
	Design Criteria		
	1 Communal open space has a minimum area equal to 25% of the site		✓
	2 Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid winter)	Refer to "Further Clarification" 3D-1 Objective on Page 7	x



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ADG  
Ref.

Item Description

Notes

Compliance

3E	DEEP SOIL ZONES																	
3E-1	Objective: Deep soil zones are suitable for healthy plant & tree growth, improve residential amenity and promote management of water and air quality.		✓															
	Design Criteria																	
1	Deep soil zones are to meet the following minimum requirements:																	
	<table><tr><th>Site Area (sqm)</th><th>Minimum Dim. (m)</th><th>Deep Soil Zone (% of site area)</th></tr><tr><td>less than 650</td><td>0</td><td></td></tr><tr><td>650-1500</td><td>3</td><td></td></tr><tr><td>greater than 1500</td><td>3</td><td>7</td></tr><tr><td>greater than 1500 with significant existing tree cover</td><td>3</td><td></td></tr></table>	Site Area (sqm)	Minimum Dim. (m)	Deep Soil Zone (% of site area)	less than 650	0		650-1500	3		greater than 1500	3	7	greater than 1500 with significant existing tree cover	3			✓
Site Area (sqm)	Minimum Dim. (m)	Deep Soil Zone (% of site area)																
less than 650	0																	
650-1500	3																	
greater than 1500	3	7																
greater than 1500 with significant existing tree cover	3																	
3F	VISUAL PRIVACY																	
3F-1	Objective: Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external & internal visual privacy.		✓															
	Design Criteria																	
1	Separation between windows & balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side & rear boundaries are as follows:																	
	<table><tr><th>Building Height (m)</th><th>Habitable Rooms &amp; Balconies (m)</th><th>Non-Habitable Rooms (m)</th></tr><tr><td>up to 12.4 storeys)</td><td>6</td><td>3</td></tr><tr><td>up to 25 (5-8 storeys)</td><td>9</td><td>4.5</td></tr><tr><td>over 25 (9+ storeys)</td><td>12</td><td>6</td></tr></table>	Building Height (m)	Habitable Rooms & Balconies (m)	Non-Habitable Rooms (m)	up to 12.4 storeys)	6	3	up to 25 (5-8 storeys)	9	4.5	over 25 (9+ storeys)	12	6		✓			
Building Height (m)	Habitable Rooms & Balconies (m)	Non-Habitable Rooms (m)																
up to 12.4 storeys)	6	3																
up to 25 (5-8 storeys)	9	4.5																
over 25 (9+ storeys)	12	6																
	Note: Separation distances between buildings on the same site should combine required building separations depending on the type of room. Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties.																	

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ADG Ref.	Item Description	Notes	Compliance
3J	BICYCLE & CAR PARKING		
3J-1	Objective: Car parking is provided based on proximity to public transport in metropolitan Sydney & centres in regional areas.		✓
	Design Criteria		
1	For development in the following locations: <ul style="list-style-type: none"> <li>on sites that are within 800m of a railway station or light rail stop in the Sydney Metropolitan Area; or</li> <li>on land zoned, and sites within 400m of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre</li> </ul> the minimum car parking requirement for residents & visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less. The car parking needs for a development must be provided off street.	Off street parking is provided in accordance with Council requirements. Also, refer to the Traffic Report in Appendix 3 of the Planning Proposal.	✓
PART4	DESIGNING THE BUILDING		
4A	SOLAR & DAYLIGHT ACCESS		
4A-1	Objective: To optimise number of apartments receiving sunlight to habitable rooms, primary windows & private open space.		✓
	Design Criteria		
1	Living rooms & private open spaces of at least 70% of apartments in a building receive a minimum of 2 hrs direct sunlight between 9am - 3pm at mid winter in Sydney Metropolitan Area and in Newcastle and Wollongong local government areas	Additional skylights are proposed such that the development is capable of achieving this requirement	✓
2	In all other areas, living rooms & private open spaces of at least 70% of apartments in a building receive a minimum of 3 hrs direct sunlight between 9 am - 3 pm at mid winter		N/A
3	A maximum of 15% of apartments in a building receive no direct sunlight between 9 am - 3 pm at mid winter		✓
4B-3	Objective: Number of apartments with natural cross vent is maximised to create comfortable indoor environments for residents.		✓
	Design Criteria		
1	At least 80% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if an enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed		✓
2	Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line		✓

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ADG Ref.	Item Description	Notes	Compliance												
4C	CEILING HEIGHTS														
4C-1	Objective: Ceiling height achieves sufficient natural ventilation & daylight access.		✓												
	Design Criteria														
1	Measure d from finished floor level to finished ceiling level, minimum ceiling heights are:	Habitable rooms all achieve 2.7m clear. Ground floor uses do not achieve 3.3m clear, however given that:													
	<table><tr><th colspan="2">Minimum Ceiling Height for apt and mixed-used buildings (m)</th></tr><tr><td>Habitable rooms</td><td>2.7</td></tr><tr><td>Non-habitable rooms</td><td>2.4</td></tr><tr><td>For 2 storey apts</td><td>2.7 for main living area floor 2.4 for second floor, where its area does not exceed 50 % of the apt area</td></tr><tr><td>Attic spaces</td><td>1.8 at edge of room with 30deg minimum ceiling slope</td></tr><tr><td>If located in mixed-used areas</td><td>3.3 for ground and first floor to promote future flexibility of use</td></tr></table>	Minimum Ceiling Height for apt and mixed-used buildings (m)		Habitable rooms	2.7	Non-habitable rooms	2.4	For 2 storey apts	2.7 for main living area floor 2.4 for second floor, where its area does not exceed 50 % of the apt area	Attic spaces	1.8 at edge of room with 30deg minimum ceiling slope	If located in mixed-used areas	3.3 for ground and first floor to promote future flexibility of use	<ul style="list-style-type: none"><li>/ the ground floor heights were approved as part of a previous consent at 2.7m for habitable &amp; 2.4m for non habitable spaces,</li><li>/ the approved use was serviced apartments,</li><li>/ the proposed use is apartments and</li><li>/ the likelihood of change from a residential use is very low given strata title subdivision will occur,</li></ul>	Partial
Minimum Ceiling Height for apt and mixed-used buildings (m)															
Habitable rooms	2.7														
Non-habitable rooms	2.4														
For 2 storey apts	2.7 for main living area floor 2.4 for second floor, where its area does not exceed 50 % of the apt area														
Attic spaces	1.8 at edge of room with 30deg minimum ceiling slope														
If located in mixed-used areas	3.3 for ground and first floor to promote future flexibility of use														
	These minimums do not preclude higher ceilings if desired	we consider the amenity is acceptable and that no greater than 2.7m ceiling height is warranted.													
4D	APARTMENT SIZE & LAYOUT														
4D-1	Objective: The layout of rooms within apartment is functional, well organised & provides a high standard of amenity.		✓												
	Design Criteria														
1	Apartments have the following minimum internal areas:														
	<table><tr><th>Apartment Type</th><th>Minimum Internal Area (sqm)</th></tr><tr><td>Studio</td><td>35</td></tr><tr><td>1 Bedroom</td><td>50</td></tr><tr><td>2 Bedroom</td><td>70</td></tr><tr><td>3 Bedroom</td><td>90</td></tr></table>	Apartment Type	Minimum Internal Area (sqm)	Studio	35	1 Bedroom	50	2 Bedroom	70	3 Bedroom	90		✓		
Apartment Type	Minimum Internal Area (sqm)														
Studio	35														
1 Bedroom	50														
2 Bedroom	70														
3 Bedroom	90														
	The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5sqm each. A fourth bedroom & further additional bedrooms increase the minimum internal area by 12sqm each														
2	Every habitable room has a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight & air is not borrowed from other rooms		✓												
4D-2	Objective: Environmental performance of the apartment is maximised.														
	Design Criteria		✓												
1	Habitable room depths are limited to a maximum of 2.5 x the ceiling height														
2	In open plan layouts (living, dining & kitchen are combined) maximum habitable room depth is 8m from a window	Refer to "Further Clarification" 4D-2 Objective on Page 7	Partial												

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Architects Pty Ltd

ADG Ref.	Item Description	Notes	Compliance															
4D-3	Objective: Apartment layouts are designed to accommodate a variety of household activities & needs.		✓															
	Design Criteria																	
1	Master bedrooms have a minimum area of 10sqm & other bedrooms 9sqm (excluding wardrobe space)		✓															
2	Bedrooms have a minimum dimension of 3m (excluding wardrobe space)		✓															
3	Living rooms or combined living/dining rooms have a minimum width of: <ul style="list-style-type: none"><li>3.6m for studio &amp; 1 bedroom apartments</li><li>4m for 2 &amp; 3 bedroom apartments</li></ul>		✓															
4	The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts		✓															
4E	PRIVATE OPEN SPACE & BALCONIES																	
4E-1	Objective: Apartments provide appropriately sized private open space & balconies to enhance residential amenity.		✓															
	Design Criteria																	
1	All apartments are required to have primary balconies as follows: <table><tr><th>Apartment Type</th><th>Minimum Area (sqm)</th><th>Minimum Depth (m)</th></tr><tr><td>Studio</td><td>4</td><td>1</td></tr><tr><td>1 Bedroom</td><td>8</td><td>2</td></tr><tr><td>2 Bedroom</td><td>10</td><td>2</td></tr><tr><td>3+ Bedroom</td><td>12</td><td>2.4</td></tr></table>	Apartment Type	Minimum Area (sqm)	Minimum Depth (m)	Studio	4	1	1 Bedroom	8	2	2 Bedroom	10	2	3+ Bedroom	12	2.4		✓
Apartment Type	Minimum Area (sqm)	Minimum Depth (m)																
Studio	4	1																
1 Bedroom	8	2																
2 Bedroom	10	2																
3+ Bedroom	12	2.4																
	The minimum balcony depth to be counted as contributing to the balcony area is 1m																	
2	For apartments at ground level or on podium or similar, a private open space is provided instead of a balcony. It must have minimum area of 15sqm & minimum depth of 3m	With minor changes most ground floor apartments can achieve 15m2 with a minimum depth of 2.4m. The required changes to the ground floor terraces of B1.0.01, B1.0.05, C1.0.02, C3.0.02 & C3.0.03 will have no visual impact on the approved development. Whilst below the required 15m2, apartments B1.0.02 + B1.0.03 are buffered from the public domain by planting and are provided with privacy screening. Given this plus the relatively isolated nature of the site and the fact that the site abuts foreshore parkland, we consider the private open space provisions to be appropriate	x															
4F	COMMON CIRCULATION & SPACES																	
4F-1	Objective: Common circulation spaces achieve good amenity & properly service the number of apartments		✓															
	Design Criteria																	
1	The maximum number of apartments off a circulation core on a single level is eight		✓															
2	For buildings of 10 storeys & over, the maximum number of apartments sharing a single lift is 40		✓															



Bates Smart  
Architects Pty Ltd

ADG Ref. Item Description Notes Compliance

4G	STORAGE												
4G-1	Objective: Adequate, well designed storage is provided in each apartment		✓										
	Design Criteria												
1	In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:	All apartments achieve the required storage volume. Apartments C1.001, C1.002, C2.002, C3.005, C4.001, C4.002 do so via more than 50% basement storage provision	Partial										
	<table><tr><th>Apartment Type</th><th>Storage Size (volume cubic m)</th></tr><tr><td>Studio</td><td>4</td></tr><tr><td>1 Bedroom</td><td>6</td></tr><tr><td>2 Bedroom</td><td>8</td></tr><tr><td>3+ Bedroom</td><td>10</td></tr></table>	Apartment Type	Storage Size (volume cubic m)	Studio	4	1 Bedroom	6	2 Bedroom	8	3+ Bedroom	10		
Apartment Type	Storage Size (volume cubic m)												
Studio	4												
1 Bedroom	6												
2 Bedroom	8												
3+ Bedroom	10												
	At least 50 % of the required storage is to be located within the apartment												

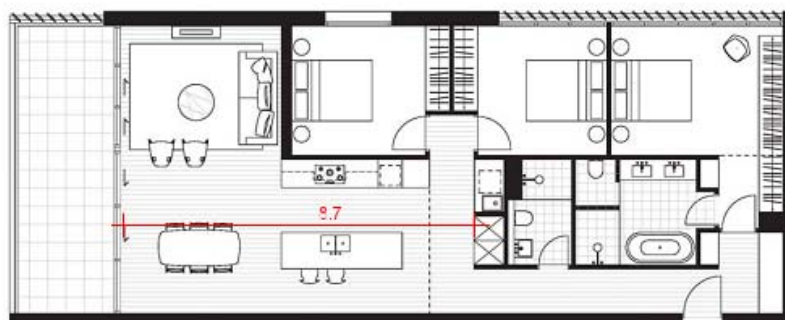
#### Further clarification

**3D-1 Objective:** An adequate area of communal open space is provided to enhance residential amenity & to provide opportunities for landscaping.  
2. Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid winter)

The area specifically defined as the principal part of the communal open space would not achieve the new requirement for solar access to the public open space, however the communal open space location and extent is unaffected by this proposal and was approved as part of the original development consent. Moreover significant parts of foreshore land that are currently part of the site are being converted to public park as part of this application. Whilst the land will be a waterfront public reserve, it will also significantly add to the amenity of the residents of this site being directly adjacent to them. The waterfront public reserve will achieve excellent solar access and provides high levels of amenity, as such we submit that adequate communal open space is provided and the objective of this clause is met.

**4D-2 Objective:** Environmental performance of the apartment is maximised.  
2. In open plan layouts (living, dining & kitchen are combined) maximum habitable room depth is 8m from a window.

15 out of 19 apartments comply with this requirement. A minor non-compliance occurs in a total of four apartments as indicated below. However given that the apartment is double fronted and cross ventilated, the dual aspect provides additional light and air and excellent levels of amenity and environmental performance. We therefore consider it to achieve the objectives of this clause.



Page 7



Bates Smart  
Architects Pty Ltd

Given the above we confirm that in our professional opinion the design is capable of achieving the design principals as set out in State Environmental Planning Policy 65 - Design Quality of Residential Flat Development and that it is also capable of addressing the requirements of the Apartment Design Guide.

Please do not hesitate to contact us should further information or clarification be required in relation to this matter.

Yours sincerely  
Bates Smart Pty Ltd



Guy Lake  
Director



TFEhotels.com

**Toga Hotel Management  
Holdings Pty Ltd**  
ABN: 62 162 986 352

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4 November 2015

**Leichhardt Municipal Council**  
**7-15 Wetherill Street**  
**Leichhardt**  
**NSW 2040**

To Whom it May Concern Or The Responsible Planning Officer,

**Re: Planning Proposal for 100-102 Elliott Street, Balmain**

TFE Hotels ('TFE'), with over 52 years' experience as owner and operator of hotels and serviced apartments, would like to provide their support for the Planning Proposal being lodged by Toga Developments Sydney Pty Ltd ('Proponent') which seeks to rezone 100-102 Elliott Street, Balmain ('site') from B2 Local Centre to R1 General Residential. It is noted that TFE Hotels is 50% owned by Toga Group who is also the owner of the Proponent.

TFE operate 34 serviced apartment properties in Australia, Denmark and Germany and has a strong understanding of the serviced apartment business model.

TFE has been advised of the current B2 Local Centre zoning which requires 19 serviced apartments ('Serviced Apartments') to be provided on the site. Further, TFE has been advised that the Serviced Apartments are spread across various buildings in the site precinct. Notwithstanding TFE's relationship with the Proponent and the strong potential for TFE to secure the management of the Serviced Apartments, TFE would not consider this an attractive management opportunity given:

- The location does not have strong demand from either leisure or corporate travellers;
- The number of apartments lacks the critical mass to ensure an economically viable operation given the associated operating costs. As a rule of thumb TFE would typically require a minimum of 80 serviced apartments before considering a particular management opportunity; and





**Toga Hotel Management  
Holdings Pty Ltd**  
ABN: 82 162 986 352  
Level 5, 45 Jones Street  
Ultimo, NSW 2007 Australia

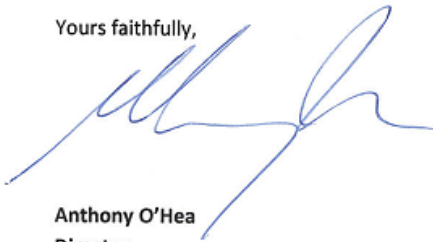
PO Box 1745, Strawberry Hills  
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T +61 2 9356 1000  
F +61 9356 1070  
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- The fact that the Serviced Apartments are not consolidated within a single building envelope which creates issues in terms of administration, servicing and also compatibility with the standards of our serviced apartment brands.

It is possible that individual owners of a Serviced Apartment may seek to operate them themselves through a listing on websites such as Airbnb or Stayz in which case consideration should be given to the compatibility of the Serviced Apartment users and the permanent residents of the site. In particular, as this model is unlikely to involve an onsite manager, it should also be considered how potential issues between Serviced Apartment users and residents – noise, damage, use of residential common areas and facilities etc -will be able to be effectively managed in a practical sense.

Should you have any questions, please contact the undersigned on 02 9356 5079.

Yours faithfully,



**Anthony O'Hea**  
Director  
TFE Hotels

**Chief Investment Officer**  
Toga Group



## Colston Budd Hunt & Kafes Pty Ltd

as Trustee for C & B Unit Trust  
ABN 27 623 91 8 759

Our Ref: TR/9924/jj

Transport Planning  
Traffic Studies  
Parking Studies

5 November, 2015

Toga  
Level 5  
45 Jones Street  
ULTIMO NSW 2007

**Attention: Michael Calvi & Michel Boon**

**Email:** [mcalvi@toga.com.au](mailto:mcalvi@toga.com.au); [mboon@toga.com.au](mailto:mboon@toga.com.au)

Dear Sirs,

### **RE: ELLIOTT STREET PLANNING PROPOSAL**

1. As requested, we have reviewed the traffic and parking aspects of the planning proposal. Our findings are set down through the following sections:

- planning proposal;
- intended future use;
- parking provision;
- access and servicing arrangements;
- traffic effects;
- public transport;
- summary.

#### Planning Proposal

2. The Planning Proposal seeks an amendment to Leichhardt Local Environmental Plan 2013 (LLEP 2013) to rezone the site from B2 Local Centre to R1 General Residential. The current approved development on the site is a mixed use development with a floor space ratio (FSR) of 1.05:1 under the LLEP 2013 definitions. LLEP 2013's maximum FSR control for the site of 1:1 is proposed to remain unchanged.
3. The main change in permissible land uses is that residential flat buildings are now permissible with development consent and some forms of retail premises (other than café, shops and food and drink premises) are now prohibited.

Suite 1801/Tower A, Zenith Centre, 821 Pacific Highway, Chatswood NSW 2067

P.O. Box 5186 West Chatswood NSW 1515 Tel: (02) 9411 2411 Fax: (02) 9411 2422

Directors - Geoff Budd - Stan Kafes - Tim Rogers - Joshua Hollis ACN002 334 296  
EMAIL: [cbhk@cbhk.com.au](mailto:cbhk@cbhk.com.au)

- 1 -

### Colston Budd Hunt & Kafes Pty Ltd

4. The traffic effects are likely to be similar to the approved development. Nevertheless, any future use of the land would require development consent and traffic impacts would need to be considered where there is potential for impacts on traffic.

#### Intended Future Use

5. It is proposed to convert the approved 19 serviced apartments into 19 residential apartments comprising 8 one bedroom, 5 two bedroom and 6 three bedroom apartments.

#### Parking Provision

6. The Council Code requirements for residential are as follows:

Land Use	Residents		Visitors	
	Minimum	Maximum	Minimum	Maximum
Residential				
Single dwelling house	Nil	2 spaces per dwelling house	Nil	Nil
Bed-sit/Studio	Nil	0.5 space per dwelling	1 space per 11 dwellings	0.125 spaces per dwelling
1 bedroom unit	1 space per 3 dwellings	0.5 space per dwelling	1 space per 11 dwellings	0.125 spaces per dwelling
2 bedroom unit	1 space per 2 dwellings	1 space per dwelling	1 space per 11 dwellings	0.125 spaces per dwelling
3+ bedrooms unit	1 space per dwelling	1.2 spaces per dwelling	1 space per 11 dwellings	0.125 spaces per dwelling

7. Local residents have concerns with regards to parking conditions in the area (lack of on street parking). The parking provision for the 19 residential apartments would therefore be the maximum code requirement (19 spaces).
8. By comparison, the Council code does not have a specific requirement for serviced apartments, but for hotel or motel accommodation (similar use to serviced apartments), the code requirements are as follows:

Land Use	Staff		Visitors	
	Minimum	Maximum	Minimum	Maximum
Hotel or motel accommodation	1 space per 5 staff	1 space per 4 staff	1 space per 5 bedrooms	1 space per 4 bedrooms

9. The maximum code requirement, based on these requirements, for the 19 serviced apartments is 13 spaces. This compares to the 19 spaces required by the proposed 19 residential apartments.



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10. There are currently sufficient spaces allocated to the serviced apartments in the approved development to meet the requirement of 19 spaces for the conversion to residential apartments. Thus sufficient off street parking will be provided for the converted residential apartments.

#### Access and Servicing Arrangements

11. The approved access and servicing arrangements will be retained and remain appropriate for the proposed development.

#### Traffic Effects

12. The traffic assessment for the approved development used the same generation rates for the serviced apartments and residential apartments of 0.15 and 0.19 vehicles per apartment per hour. The 19 residential apartments would therefore have the same generation as the 19 serviced apartments, some 5 vehicles per hour in peak periods. This is a low traffic generation, which would not have noticeable effects on the surrounding road network.

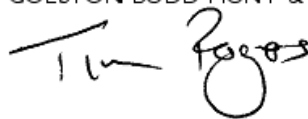
#### Public Transport

13. The development site is well served by public transport services. Sydney Buses have a number of routes operating along Darling Street. The site is therefore very accessible to public transport, with bus stops located within 400 metres on Darling Street.

#### Summary

14. In summary, the main points relating to the planning proposal are:
- i) appropriate parking provision will be made;
  - ii) traffic effects will be satisfactory;
  - iii) the site is very accessible to public transport services.
15. We trust this information is of assistance. Finally, if you should have any queries, please do not hesitate to contact us.

Yours faithfully,  
COLSTON BUDD HUNT & KAFES PTY LTD



T. Rogers  
Director

ATTACHMENT 2

**PLANNING PROPOSAL FOR 100-102 ELLIOTT STREET, BALMAIN**

## INTRODUCTION

This Planning Proposal (The Proposal) has been prepared by Council to facilitate the preparation of an amendment to Leichhardt Local Environmental Plan (LEP) 2013 to enable the rezoning of 100-102 Elliott Street, Balmain.

The site is currently zoned Local Centre (B2) which permits a range of uses focussed on providing commercial/business space and includes provisions for mixed use developments incorporating residential dwellings in accordance with Clause 6.11A of Leichhardt LEP 2013. This clause does not permit residential accommodation unless the building comprises mixed use development and an active street frontage.

The site has an existing approval for a mixed use development comprising eight buildings ranging between 3-5 storeys with ground floor commercial/retail uses (including 19 serviced apartments and gymnasium) and 102 residential units above (D/2013/406).

Council held discussions with the new owner of the site, Toga Group, in July 2015 regarding the operation of serviced apartments at the site and that their scale and format was not considered to be commercially viable. Toga indicated to Council that it would be lodging a Planning Proposal to request a rezoning of the site to allow the nineteen (19) serviced apartments approved to be converted to residential dwellings.

A Planning Proposal was received by Council in November 2015 requesting Council support the rezoning of the whole site from Local Centre (B2) to General Residential (R1).

An assessment of the Proponent's Planning Proposal resulted in Council supporting the proposed conversion of serviced apartments to residential dwellings to provide additional housing within Leichhardt Council area. A re-zoning of the entire site to R1 was not supported due to the potential unintended consequence of loss of employment lands and job opportunities on the site.

To both preserve the employment generating land on site and achieve the intended outcome of the Proponent's Planning Proposal Council endorsed a revised Planning Proposal recommending that various parts of the current site be rezoned to better reflect the land uses endorsed by Council as part of D/2013/406 and to be consistent with Council's long term strategic plans.

The purpose of this Proposal is therefore to amend Leichhardt LEP 2013 to enable the rezoning of parts of 100-102 Elliott Street, Balmain to General Residential (R1), Business Park (B7), Public Recreation (RE1) with the Local Centre (B2) zoning retained on the rest of the site.

The approved gross floor area (GFA) and floor space ratio (FSR) for the site under D/2013/406 will remain unchanged as a result of this Proposal.

The proposed rezoning is justified for the following reasons:

- It is consistent with housing provision on site and the greater Council area by complying with relevant local plans including Leichhardt LEP 2013, Leichhardt 2025+, Leichhardt Employment and Economic Development Plan (EEDP) 2013-2023 and Leichhardt Employment Lands Study January 2011 and relevant State plans and s117 Ministerial Directions including A Plan for Growing Sydney, Draft Inner West Subregional Strategy and applicable SEPPs.
- It is consistent with the retention of commercial uses/employment generating land uses on site and the greater Council area by complying with relevant local plans including Leichhardt LEP 2013, Leichhardt 2025+, Leichhardt Employment and Economic Development Plan (EEDP) 2013-2023, Leichhardt Employment Lands Study January 2011 and relevant State plans and s117 Ministerial Directions including A Plan for Growing Sydney, Draft Inner West Subregional Strategy and applicable SEPPs.
- It will enable the various parts of 100-102 Elliott Street, Balmain to be rezoned to best reflect the land uses approved on site and ensure consistency with the aims, objectives and planning controls applicable to those zones.
- The proposed zoning will not have any detrimental amenity impacts upon the surrounding residential area.
- It would enable Toga Group to convert the approved serviced apartments to residential apartments at a future development application stage.

Council resolved to forward this Planning Proposal to the Department of Planning and Environment (DP&E) for an LEP Gateway Determination in accordance with the Environmental Planning and Assessment Act 1979 (EP&A Act) to prepare the necessary LEP amendment.

## Background

### Site Description

The site is located at 100-102 Elliott Street, Balmain and comprises two lots, Lot 6, DP 617944 and Lot 1, DP 619996. It has frontages of 151 metres to Iron Cove (west), 199 metres to Elliott Street (north) and 62 metres to Broderick Street (south), with an extension of this boundary along an adjoining property down to the foreshore of a further 84m. The site is 12,375m<sup>2</sup> in area and has a moderate slope from 17m above mean sea level in the eastern corner of the site to approximately 2m above mean sea level at the sandstone retaining wall at the edge of the Parramatta River.

Figure 1: Land that is subject of the Planning Proposal with an aerial photo of the site



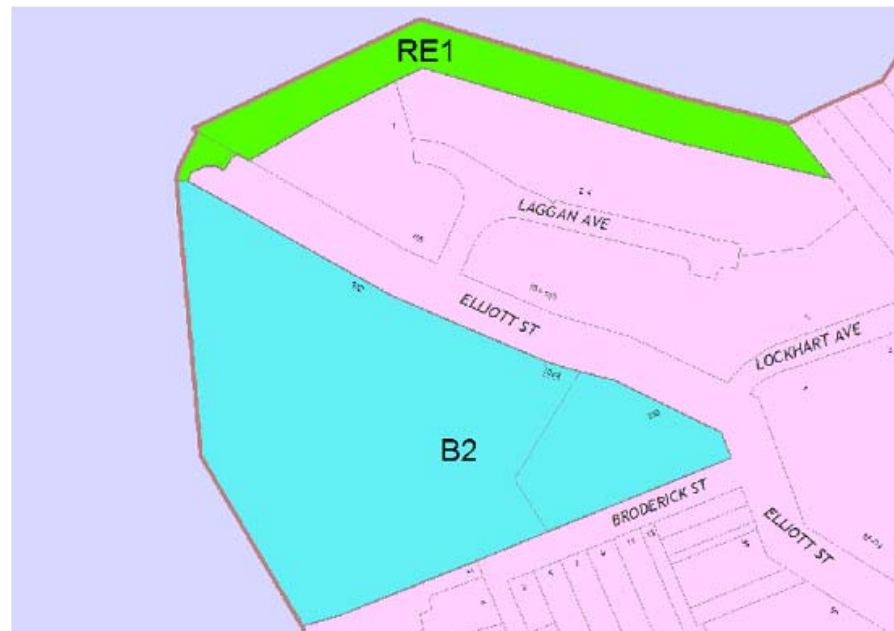
### History

The site's previous use was by Nutri-Metics, a cosmetics company. Existing on the site at the time was a mix of commercial, warehouse and convention centre buildings which were left unused after the site was vacated.

The subject site is zoned B2 Local Centre under Leichhardt Local Environmental Plan 2013 (LLEP2013) and surrounded principally by residential zoned land under LLEP 2013 (R1 General Residential). There is a small connection to land zoned for open space under LLEP 2013 (RE1 Public Recreation) which adjoins the ferry wharf and the open space between Parramatta River and the Housing NSW flat buildings on the northern side of Elliott Street.



Figure 2: Current zoning of site under existing development consent.



The site is located within the Iron Cove Heritage Conservation Area (C6) listed in Schedule 5 of Leichhardt LEP 2013.

The site is located in the Birchgrove / Elkington Park Distinctive Neighbourhood as prescribed under the Leichhardt Development Control Plan 2013.

In August 2014, Toga Developments Pty Ltd purchased the site from Roche Group.

The site is currently undergoing construction according to the conditions of development consent D/2013/406.

#### Development Application D/2011/529

Development application D/2011/529 was lodged on 4 October 2011, proposing demolition of existing structures, construction of a mixed use development including 6 buildings with commercial / retail uses and gym, 112 residential units above, basement parking for 217 vehicles, and associated works, including landscaping and removal of trees, bulk earthworks and remediation.

The application was reported to the Joint Regional Planning Panel (JRRP) on 21 March 2012, and was refused.

A Class 1 appeal to the Land and Environment Court of NSW was filed on 4 May 2012, Case Number 10430 of 2012. The appeal was dismissed by the Land and Environment Court NSW on 19 December 2012.

#### Development Application D/2013/406

The application was lodged on 18 September 2013. Council officers held a public information evening on 6 November 2013 to outline the Proposal.

Development consent was sought for the following works:

- demolition of existing commercial and warehouse buildings and associated structures;
- bulk earthworks / excavation / remediation of the site;
- mixed use development consisting of eight (8) new buildings ranging between 3-5 storeys comprising the following gross floor areas (as defined by Leichhardt Local Environment Plan 2000):
  - 2,763sqm of non-residential floor space comprising 749sqm of commercial floor space, 180sqm of retail space, a 65sqm gym for use of residents of the development and 1,789sqm of serviced apartments.
  - Approximately 8,635sqm of residential floor space comprising 102 dwellings.
- basement car parking; and
- on-site landscaping, open space and foreshore works including additional 2,160sqm of dedicated foreshore public open space.

The eight buildings were identified on the plans as buildings A1, A2, B1, B2, C1, C2, C3 and C4 (see Figure 3 below) and the nominated proposed uses of these buildings are as follows as per the submitted floor plans:

- Building A1 – 4 storeys – retail use at lowest level with residential dwellings above;
- Building A2 – 3 storeys – commercial use at lowest level with residential dwellings above;
- Building B1 – 4 storeys – serviced apartments at lowest level with residential dwellings above;
- Building B2 – 4 storeys – commercial use at lowest level with residential dwellings above;
- Building C1 – 5 storeys – serviced apartments at lowest level with residential dwellings above;
- Building C2 – 5 storeys – serviced apartments at lowest level with residential dwellings above;
- Building C3 – 4 storeys – serviced apartments at lowest level with residential dwellings above;
- Building C4 – part 3, part 4 storeys – serviced apartments at lowest level with residential dwellings above.

Figure 3: Current site and building plan for D/2013/406



Council corresponded with the applicant highlighting issues to be addressed during the assessment of the application. The applicant responded by lodging legal advice to Council on 20 November 2013. Council subsequently had the legal advice reviewed and separate legal advice was provided on 10 December 2013. The conclusion was that the serviced apartments and ground floor uses were permissible in the zone.

The applicant lodged amended plans and documentation addressing the issues raised above and the amended plans and documentation were re-notified from 25 February 2014 to 26 March 2014.

The application was reported to the Joint Regional Planning Panel on 15 May 2014, and was approved subject to a revised set of conditions.

The final approval was for a mixed use development comprising eight buildings ranging between 3-5 storeys with ground floor commercial / retail uses (including 19 serviced apartments and gymnasium) and 102 residential units above.

#### Economic / Employment uses on-site

The development application was supported by an Economic Report, prepared by SGS Economics & Planning, as part of the application. The report provided a market

assessment for the proposed residential, retail, commercial and serviced apartment uses and justification for the financial viability of the proposed development.

With regard to economic activity and employment it was noted that the previous business on-site, Nutri-Metics, was not operating at full capacity, not utilising all the buildings to their full extent and that their current layout was very business specific and unsuitable for many other business purposes.

The Economic Report anticipated that the proposed development would create 49 jobs in the retail and commercial space as well as in maintenance and cleaning of the serviced apartments.

The Assessment report to the JRRP stated that the site was not in close proximity to the existing commercial centres on Darling Street in Balmain and Rozelle and that the proposed commercial uses were not expected to compete with these centres as likely businesses were not expected to rely on passing trade.

Potential amenity conflicts from the proposed ground floor live/work commercial uses on Broderick Street were assessed as part of the application. It was not considered that there would be any significant amenity impacts on existing dwellings in Broderick Street given that the retail and commercial uses in buildings A1 and A2 would be accessed through the development rather than from Broderick Street. The sizes of the proposed tenancies are also small so they are not considered to result in any significant impacts.

Given that the site was zoned Business and surrounded by sites zoned Residential the proposal was considered satisfactory with regard to economic impacts.

#### Proponent's Planning Proposal

A meeting was held at Leichhardt Council on 15 July 2015 at the request of the owners of the site Toga Group. The meeting was to discuss potential land use changes or rezoning of the site to support the conversion of serviced apartments to residential apartments, with the expectation that the preparation and lodging of a future Planning Proposal would occur to allow for the land use change to take place.

Council officers followed up on the discussions at the meeting with Toga / RPS on 6 August with a list of issues and relevant background and supporting studies that would be required for any potential planning proposal advocating land use changes or rezoning of the subject site to enable Council to determine any socio-economic, built form, car-parking and traffic impacts. These included the following:

- details of any changes which would affect the D/2013/406 consent and any subsequent modifications;
- any changes which differ from the recommendations and actions included in supporting documentation/studies/reports provided to Council as part of the D/2013/406 application;
- justification for any changes not in keeping with the recommendations and intent of the Leichhardt Employment Lands Study (2011);

- justification for the loss of any commercial/employment land and floor space, both on-site and for Leichhardt LGA;
- any changes to car parking provision and resulting traffic movements; and
- compliance with SEPP 65 (Design Quality of Residential Flat Development) and all Council policies and controls relating to residential dwelling amenity.

The Proponent's Planning Proposal was lodged with Council on 5 November 2015. It has been prepared by RPS on behalf of Toga to facilitate the preparation of an amendment to Leichhardt Local Environmental Plan 2013 to enable the rezoning of 100-102 Elliott Street, Balmain from Local Centre (B2) to General Residential (R1).

The stated objective of the Proposal was to allow residential uses on the ground floor across the site without the need for a mix of uses within a building or an active street frontage. The desired outcome is that the proposed LEP amendment will allow for a future development application modification to convert the approved nineteen (19) serviced apartments under D/2013/406 to residential dwellings.

#### Council Assessment

Council supports the proposed conversion of serviced apartments to residential dwellings to provide additional housing within Leichhardt Council area.

Re-zoning the entire site to R1 as preferred by the applicant however could have an unintended consequence in relation to the long term retention of employment lands on the site. While the R1 zone does not prohibit all commercial premises, the zone objectives focus on housing needs and provision. If imposed across the entire site a development application could be lodged to convert some or all of the commercial space approved as part of the current development consent to residential uses. With an R1 zoning Council would have no planning mechanism to protect business floorspace.

Therefore the applicant's preferred option is not supported and Council has endorsed an alternative option that will in the longer term retain employment uses on the site.

To both preserve the employment generating land and achieve the intended outcome of the Proponent's Planning Proposal it is recommended that various parts of the current site be rezoned to reflect the land uses endorsed by Council as part of D/2013/406 and to be consistent with Council's long term strategic plans.

To achieve this it is recommended that a revised Planning Proposal be forwarded to the Minister for Planning and Infrastructure for a Gateway Determination that will



provide housing and protect local employment generating land. It is proposed to rezone parts of the site General Residential (R1), Business Park (B7), Public Recreation (RE1) and with the Local Centre (B2) zoning retained on the rest of the site.

**Part 1 – Objective or Intended Outcome**

The objective of this Proposal is to amend Leichhardt LEP 2013 to rezone parts of the land at 100-102 Elliott Street, Balmain from Local Centre (B2) to General Residential (R1), Business Park (B7), Public Recreation (RE1) with Local Centre (B2) zoning retained on the rest of the site.

The intended outcome of the proposed LEP amendment is to allow the conversion of the approved serviced apartments to provide additional residential dwellings and preserve the employment generating land endorsed by Council as part of D/2013/406 to be consistent with Council's long term strategic plans.

The future conversion would not require reconfiguration of the approved serviced apartments and will not change the building envelopes or height of the approved development. The number of car parking spaces attributed to serviced apartments would now be attributed to the residential apartments. The approved gross floor area (GFA) and floor space ratio (FSR) of the site under D/2013/406 will remain unchanged as a result of this Proposal.

A 'change of use' development application will be required to facilitate the conversion of the serviced apartments land use to residential dwellings.

## **Part 2 – Explanation of Provisions**

The provisions to be included in the proposed LEP are outlined below, in accordance with Section 55(2) of the Environmental Planning and Assessment Act 1979 (EP&A Act).

### ***Leichhardt Local Environmental Plan 2013***

#### ***Name of Plan***

*This Plan is Leichhardt Local Environmental Plan 2013 (Amendment No.TBC).*

#### ***Aims of the Plan***

*This Plan aims to amend the Leichhardt Local Environmental Plan 2013 as follows:*

- Amend Leichhardt LEP 2013 Land Zoning Map Sheet LZN\_006 in accordance with the proposed zoning map shown in Part 4 of this Proposal.*

#### ***Land to which Plan applies***

*This Plan applies to 100-102 Elliott Street, Balmain being Lot 6, DP 617944 and Lot 1, DP 619996.*

### Part 3 – Justification

#### Section A – Need for the planning proposal

**Q1. *Is the planning proposal a result of any strategic study or report?***

Previous studies/strategies conducted by Council are relevant to the subject site and the commercial zoning/land use of the site, such as the Employment and Economic Development Plan 2013-2023 and Employment Lands Study 2011 and are discussed under question 4 (Q4).

**Q2. *Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?***

The current Local Centre (B2) zoning for the site does not permit residential accommodation unless the buildings comprise a mixed use development and have an active street frontage. To allow the conversion of the serviced apartments approved as part of the D/2013/406 development consent to residential dwellings amending the zoning of the site under Leichhardt LEP 2013 is considered the best means of achieving the objectives and intended outcome set out in Part 1 above.

To ensure the commercial uses approved as part of the D/2013/406 consent are retained and employment generating lands in Leichhardt Municipality are not further reduced an amendment of the zoning of the site under Leichhardt LEP 2013 is required.

#### Section B – Relationship to strategic planning framework

**Q3. *Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?***

##### A Plan for Growing Sydney

The Planning Proposal is consistent with A Plan for Growing Sydney as it facilitates the provision of additional homes and jobs within the Sydney Metropolitan area. The key priorities are addressed in the table below.

Direction	Applicable	Comment
Goal 1 – A competitive economy		

1.1 Grow a more internationally competitive Sydney CBD	N/A	The site is not part of the Sydney CBD.
1.2 Grow Greater Parramatta – Sydney's second CBD	N/A	The site is not part of the Parramatta CBD.
1.3 Establish a new Priority Growth Area	N/A	The site is not part of the new Priority Growth Area between Olympic Park and Parramatta.
1.4 Transform the productivity of Western Sydney	N/A	The site is not within Western Sydney.
1.5 Enhance capacity at Sydney's gateways and freight networks	N/A	The site is not a gateway site or part of a freight network.
1.6 Expand the Global Economic Corridor	N/A	The site is not part of the Global Economic Corridor.
1.7 Grow strategic centres	N/A	The site is not defined as a strategic centre.
1.8 Enhance linkages to regional NSW	N/A	The site is not located on existing or proposed regional connection corridors.
1.9 Support priority economic sectors	N/A	The site is not identified as a key precinct and not zoned or recommended to be zoned for industrial purposes.
1.10 Plan for education and health services	N/A	The site is not proposed to include educational or health facilities.
1.11 Deliver infrastructure	N/A	The Proposal does not include infrastructure provision.
<b>Goal 2 - A city of housing choice</b>		
2.1 Accelerate housing supply across Sydney	Yes	The Proposal is consistent with this direction. It will increase the number of residential apartments on the land which it is located.
2.2 Accelerate urban renewal across Sydney	Yes	The Proposal will facilitate urban renewal on a site within an established urban area incorporating a number of uses on the site.
2.3 Improve housing choice	Yes	The Proposal is consistent with this direction. The part rezoning to R1 General Residential will provide increased housing choice.
2.4 Deliver timely and well planned greenfield precincts and housing	N/A	The site is not located within the North West and South West Growth Centres.
<b>Goal 3 - A great place to live</b>		
3.1 Revitalise existing suburbs	Yes	The Proposal will assist in the



		revitalisation of Balmain through allowing additional residential dwellings and commercial uses on site which are compatible with the surrounding residential uses and current zoning.
3.2 Create a network of open and green spaces across Sydney	Yes	Waterfront land on the subject site is to be dedicated to Leichhardt Council for public open space under D/2013/406. This will increase the open space available to local residents and Leichhardt Municipality.
3.3 Create healthy built environments	Yes	The Proposed rezoning will create a mixed use site and the foreshore land to be dedicated to Council will provide additional open spaces for both passive and active recreational uses.
3.4 Promote Sydney's heritage, arts and culture	N/A	The Proposal will not impact on the heritage value of the surrounding area. There is no proposed change to the existing approved built form on the site.
<b>Goal 4 - A sustainable and resilient city</b>		
4.1 Protect our natural environment	N/A	The Proposal aims to rezone land to reflect development already approved on site. The assessment of D/2013/406 by both Council and the JRPP took into consideration relevant environmental considerations.
4.2 Build Sydney's resilience to natural hazards	N/A	
4.3 Manage the impacts of development on the environment	N/A	
<b>Sydney's Subregions</b>		
Priorities for Central Subregion	Yes	This subregion includes the Global Economic Corridor, additional housing and flexible commercial uses on the site will result in positive liveability outcomes for the suburb of Balmain. Council's economic and employment generating lands studies show that retaining commercial uses and job provision on site is important not only for the local area but the wider Council area.

### Draft Inner West Subregional Strategy

The Planning Proposal is consistent with the Draft Inner West Subregional Strategy as it facilitates the provision of additional homes and jobs within the Sydney Metropolitan area. The key priorities are addressed in the table below.

Direction	Action	Comment
<b>B. Centres and Corridors</b>		
B2. Increase densities in centres whilst improving liveability	B2.1 Plan for housing in centres consistent with their employment role.	The Proposal is consistent with providing increased housing density while not undermining the identified employment needs of Leichhardt local government area.
B4. Concentrate activities near public transport	B4.2 Support centres with transport infrastructure and services.	The site has good access to public transport infrastructure and services and is considered acceptable for this development.
	B4.2.1 NSW Government and Inner West Councils to undertake land use and transport planning studies to ensure that opportunities to benefit from transport infrastructure investment are realised.	The Proposal supports patronage on public transport given its proximity to existing services.
<b>C. Housing</b>		
C1. Ensure adequate supply of land and sites for residential development	C1.3 Plan for increased housing capacity targets in existing areas.	The Draft Strategy sets a target for an additional 30,000 dwellings within the Inner West Subregion, including 2,000 extra dwellings within the Leichhardt LGA. The Proposal will assist Leichhardt Council in meeting these targets by increasing dwelling numbers.
	C1.3.1 Inner West Councils to plan for sufficient zoned land to accommodate their local government area housing targets through their Principal LEPs.	
C2. Plan for a housing mix near jobs, transport and services	C2.1 Focus residential development around Centres, Town Centres, Villages and Neighbourhood Centres.	The Proposal will allow for an additional 19 residential apartments close to Balmain town centre. This will assist in achieving State Government priorities.
	C2.1.1 Inner West councils to ensure the location of new dwellings maintain the subregion's performance against the target for the State	The site supports commute times of less than 30 minutes. Bus services to the Sydney CBD are less than half an hour.

	Plan Priority E5. Priority E5 of the State Plan aims to increase the proportion of people living within 30 minutes by public transport of a Strategic Centre.	
	C2.3 Provide a mix of housing.	The Proposal aims to increase housing density in an accessible location.
C3. Renew Local Centres	C3.1 Renew local centres to improve economic viability and amenity	The Proposal aims to renew existing business zoned land with a mix of residential and commercial uses consistent with the character of the local area while maintaining employment generating lands in the local area.
C4. Improve the affordability of Housing	C4.3 Use planning mechanisms to provide affordable housing.	The Proposal will increase residential dwelling provision in the local area where demand is high.
C5. Improve the quality of new development and urban renewal	C5.1 Improve the design quality of new development.	The Proposal will facilitate a mixed use development that provides additional residential dwellings and protects employment generating land and local job opportunities.

***Q4. Is the planning proposal consistent with a council's local strategy or other local strategic plan?***

The Proposal is consistent with Council strategies and studies as summarised below.

**Leichhardt Local Environmental Plan 2013**

The environmental planning instrument applying to the site is the *Leichhardt LEP 2013*.

Any future development within Leichhardt LGA is to be consistent with and give consideration to the aims and objectives of the Plan and the relevant zone.

The most relevant aims of Leichhardt LEP 2013 that apply to this Proposal are as follows:

- (b) *to minimise land use conflict and the negative impact of urban development on the natural, social, economic, physical and historical environment,*

- (e) *to protect and enhance the amenity, vitality and viability of Leichhardt for existing and future residents, and people who work in and visit Leichhardt,*
- (f) *to maintain and enhance Leichhardt's urban environment,*
- (g) *to ensure that land use zones are appropriately located to maximise access to sustainable transport, community services, employment and economic opportunities, public open space, recreation facilities and the waterfront,*
- (i) *to provide for development that promotes road safety for all users, walkable neighbourhoods and accessibility, reduces car dependency and increases the use of active transport through walking, cycling and the use of public transport,*
- (j) *to ensure an adequate supply of land and housing to facilitate:*
  - (i) *employment and economic opportunities, and*
  - (ii) *the provision of goods and services that meet the needs of the local and subregional population,*
- (r) *to promote the health and well-being of residents, business operators, workers and visitors,*

The proposed LEP amendment is consistent in addressing the aims of the Leichhardt LEP 2013 as follows:

- It aims to preserve the commercially zoned, employment generating land consistent with Council's long term strategic plans.
- It aims to provide additional housing in Leichhardt LGA to meet market demand and comply with dwelling target obligations imposed by the State Government.
- It aims to provide additional public open space and recreational land within Leichhardt Municipality.

Under *Leichhardt LEP 2013*, the site is zoned B2 Local Centre. The objectives of the zone are:

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To ensure that development is appropriately designed to minimise amenity impacts.*
- *To allow appropriate residential uses to support the vitality of local centres.*
- *To provide a mixture of compatible land uses.*
- *To reinforce and enhance the role, function and identity of local centres by encouraging appropriate development to ensure that surrounding development does not detract from the function of local centres.*
- *To integrate suitable business, office, residential and other development in accessible locations.*

Retention of commercial uses/employment generating land uses on site is required by various Council strategies including Leichhardt 2025+, Leichhardt Employment and Economic Development Plan (EEDP) 2013-2023 and Leichhardt Employment Lands Study January 2011.

In formulating the Proposal with regard to retention of employment lands the intention is to zone the relevant parts of the site to best ensure the most appropriate land uses approved as part of D/2013/406 are protected. As part of that development approval Building A2 (**see Figure 3**) provides nine (9) live-work terraces. Each live-work terrace contains a ground floor commercial space internally linked to residential uses above. This built form and land use is specifically designed to assist in the revitalisation of employment areas and to provide a transition between adjoining land use zones. The zone objectives and permitted land uses in Leichhardt Local Environmental Plan 2013 which best reflect the future use of the nine (9) live-work terraces in Building A2 is Zone B7 Business Park.

As part of the development approval D/2013/406 Buildings A1 and B2 (**see Figure 3**) are to provide a mix of commercial space and residential dwellings with an active street frontage as required by Clause 6.11A (Residential accommodation in Zone B1 and Zone B2) in Leichhardt LEP 2013. The zone objectives and permitted land uses in Leichhardt Local Environmental Plan 2013 which best reflects the future use of the mixed use development in Buildings A1 and B2 is Zone B2 Local Centre.

Other land uses on site are to be facilitated and protected by allocating them the most appropriate zoning available under LEP 2013.

Conversion of the nineteen serviced apartments to residential dwellings will provide additional housing in the Balmain area. The zone objectives and permitted land uses in Leichhardt Local Environmental Plan 2013 which best reflect the future use of residential dwellings for Building B1 and Buildings C1-C4 (**see Figure 3**) is General Residential (R1).

As part of development application D/2013/406 approximately 2160sqm of foreshore land (**see Figure 3**) will be rehabilitated and dedicated to Council for use as public open space. This dedication has been imposed using Section 94 of the Environmental Planning and Assessment Act 1979 and the Leichhardt Open Space Recreation Contributions Plan after Council identified that the development will increase the demand for local and district open space within the area. Currently this land, like the entire site, is zoned Local Centre (B2) for commercial purposes. This zoning is inconsistent with the proposed land use for that portion of the site. The zone objectives and permitted land uses in Leichhardt Local Environmental Plan 2013 which best reflect the future use of public open space for the foreshore land to be dedicated to Council is Zone RE1 Public Recreation. This zoning would better



integrate the site into the surrounding area, providing greater certainty for both existing and future landowners, tenants, local business owners and workers.

It is proposed to rezone parts of the site General Residential (R1), Business Park (B7), Public Recreation (RE1) with the Local Centre (B2) zoning retained on the rest of the site to ensure Council's aims, objectives and strategies for the site are best implemented.

#### Leichhardt 2025+

The Proposal is consistent with the goals and objectives of the key six service areas with the Plan.

Key Service Area	Applicable	Comment
<b>Social</b>		
Community well-being	Yes	The Proposal will contribute to community well-being by enhancing community cohesion whilst ensuring increased safety and security for future residents of the development.
Accessibility	Yes	The approved development will improve public accessibility to the Iron Cove foreshore through providing increased housing and public through site links. The site is located in an area well serviced by public transport and within close proximity to essential services.
<b>Environment</b>		
Place where we live and work	Yes	The Proposal will allow for the provision of new housing choices and an appropriate level of employment uses within the site and in close proximity to Balmain Town Centre and Sydney CBD.
A sustainable environment	Yes	The Proposal does not seek to change the building envelopes or the height of the approved development. The owner of the site has not requested any changes to the built form approved as part of D/2013/406 and given

		and stated to both Council and local landowners that this will not be pursued.
<b>Economic</b>		
Business in the community	Yes	The Proposal seeks to retain commercial and retail strata tenancies on the subject site. The scale of the proposal would be unlikely to directly compete with Darling Street.
<b>Civic Leadership</b>		
Sustainable services and assets	Yes	The site is located in close proximity to existing services and infrastructure. The Proposal will not result in additional demand for services on the site.

#### Leichhardt Community and Cultural Plan 2011-2021

The Proposal's stated objective and intended outcome will address the issues contained within the Community and Cultural Plan.

The Plan's objectives would be addressed by a split rezoning for the site, achieving many of the goals contained in Council's strategic plans such as reducing journey to work distance and commutes, potential creation of local creative industries which contribute to a more sustainable and a more cohesive local community.

#### Leichhardt Employment and Economic Development Plan (EEDP) 2013-2023

The rezoning of part of the site to Business Park (B7) and retaining Local Centre (B2) zoning in appropriate locations means that all the employment generating land on site will be protected and retained.

The retention of business zoned employment land will make it possible for Council to implement the objectives of the EEDP, particularly Objective 3 'Embracing the New Economy' with regard to small businesses and start-ups, potential growth and clustering of creative industries and limiting further loss of employment generating lands in Leichhardt Municipality.

### Leichhardt Employment Lands Study January 2011

The rezoning of part of the site to Business Park (B7) and retaining Local Centre (B2) zoning in appropriate locations means that all the employment land on site will be protected and retained.

The study recommends the site remain as commercially zoned, employment generating land. The Proposal's recommendation to retain land for employment use and satisfy the objectives of the zones to focus on business uses and jobs provision will comply with the study.

Any change to the business zoning of parts of the site could lead to the potential loss of 49 jobs on the site, having a negative impact on Leichhardt's ability to meet job targets set by the State government and compound the loss of 50+ jobs on the site through the current development consent (D/2013/406).

### ***Q5. Is the planning proposal consistent with applicable State Environmental Planning Policies?***

The Proposal is consistent with the applicable State Environmental Planning Policies as summarised below.

SEPP Title	Applicable	Comment
<b>SEPP No 32 Urban Consolidation (Redevelopment of Urban Land)</b>	Yes	The Proposal to rezone the site to provide for additional residential dwellings would be consistent with the aims of the SEPP. The site is located within an established urban area, supported by public transport services and infrastructure.
<b>SEPP No 55 Remediation of Land</b>	Yes	The provisions of this SEPP have been considered in the preparation of this Proposal. The site is currently being developed as a mixed use development including residential land uses under D/2013/406 which involved remediation of the site.
<b>SEPP No 65 Design Quality of Residential Apartment Development</b>	Yes	The Proposal seeks to allow for additional residential dwellings on site. The current approved development consent D/2013/406 included an

		<p>assessment of the development to ensure compliance with SEPP 65. Any future modification to an existing development consent or new development application will also be required to comply with the SEPP and Apartment Design Guide.</p> <p>An application (M/2015/215) seeking approval for the addition of five skylights and enlargement of five ground floor terraces is currently with Council for consideration. This will ensure that the future development achieves compliance with the ADG's desired solar rating and requirement for ground floor terrace areas.</p>
<b>SEPP (Building Sustainability Index: BASIX) 2004</b>	Yes	The future development will be required to meet BASIX requirements.
<b>SEPP (Infrastructure) 2007</b>	Yes	<p>Relevant clauses of the SEPP have been considered in the preparation of this Proposal, namely traffic-generating development and development likely to affect electricity transmission or distribution network. These matters are to be managed in accordance with the conditions of consent D/2013/406 and any future development consent.</p> <p>The Proposal will not introduce new uses or development to the site and is considered consistent with the SEPP.</p>
<b>Deemed SEPPs</b>		
<b>SREP (Sydney Harbour Catchment) 2005</b>	Yes	The approved development is considered acceptable with regard to the provisions and matters for consideration of the SREP. The Proposal will not impact on the heritage significance of the Elliott Street Wharf structure. The Proposal will not result in a change to the building

		envelopes, heights or the appearance of the development therefore its appearance from Iron Cove will not change.
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**Q6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?**

The Proposal is consistent with the relevant Section 117 Directions as summarised in the table below.

Direction	Requirement	Applicable	Comment
1. Employment and Resources			
1.1 Business and Industrial Zones	The objectives of this direction are to: (a) encourage employment growth in suitable locations, (b) protect employment land in business and industrial zones, and (c) support the viability of identified strategic centres.	Yes	The Proposal's objective and intended outcome is consistent with the Direction's objectives and how it is applied. Rezoning the appropriate parts of the site Business Park (B7) and retaining Local Centre (E2) on appropriate parts will encourage employment growth and protect employment generating land. The proposal will retain business zoning on those parts with a commercial use to ensure employment generating lands are protected locally and in the wider Leichhardt Municipality.
	A planning proposal must: (a) give effect to the objectives of this direction, (b) retain the areas and locations of existing business and industrial zones, (c) not reduce the total potential floor space area for employment uses and related public services in business zones, (d) not reduce the total potential floor space area for industrial uses in industrial zones, and (e) ensure that proposed new employment areas are in accordance with a strategy that is approved by the Director-General of the Department of Planning.	Yes	
2. Environment and Heritage			
2.3 Heritage Conservation	The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous	Yes	The site is not a heritage item but is located adjacent to locally listed heritage dwellings along Broderick Street whilst on Elliott



	heritage significance.		<p>Street, there is a landscape heritage item (tree) adjacent to the site. The site is also located within a heritage conservation area under <i>Leichhardt LEP 2013</i>.</p> <p>Elliott Street Wharf is listed as a heritage item as outlined in <i>SREP (Sydney Harbour Catchment) 2006</i>. The Proposal will not change the design, bulk or scale of the approved development and as such there would be no impact on the significance of nearby heritage items or the conservation area.</p>
<b>3. Housing, Infrastructure and Urban Development</b>			
3.1 Residential Zones	<p>The objectives of this direction are to:</p> <p>(a) encourage a variety and choice of housing types to provide for existing and future housing needs,</p> <p>(b) make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and,</p> <p>(c) minimise the impact of residential development on the environment and resource lands.</p>	Yes	<p>The Proposal seeks to rezone part of the site to R1 General Residential to allow for additional residential dwellings. This would permit the conversion of the 19 approved serviced apartments to residential apartments at a later DA stage. The approved development D/2013/406 will not have a negative impact upon the amenity of the residential areas in the vicinity of the site.</p>
3.4 Integrating Land Use and Transport	<p>The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:</p> <p>(a) improving access to housing, jobs and services by walking, cycling and public transport, and</p> <p>(b) increasing the choice of available transport and reducing dependence on cars, and</p> <p>(c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and</p> <p>(d) supporting the efficient and</p>	Yes	<p>The Proposal aims to provide for a mixed use development and integrate various land uses across the site approved as part of D/2013/406. This shall include jobs within close proximity of housing choice further reducing journey to work times, travel demand and car dependency.</p> <p>The site is highly accessible to public transport with bus stops located within 400m of the site on Darling Street, providing frequent services to Balmain town centre, Central railway station, Sydney CBD and other areas.</p>

	viable operation of public transport services, and (e) providing for the efficient movement of freight.		
<b>4. Hazard and Risk</b>			
4.1 Acid Sulfate Soils	The objective of this direction is to avoid significant adverse environmental impacts from the use of the land that has a probability of containing acid sulphate soils.	Yes	The Proposal will not result in the disturbance of any soils.
4.3 Flood Prone Land	The objectives of this direction are to: (a) ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the <i>Floodplain Development Manual 2005</i> , and (b) ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.	Yes	A portion of the site is identified as a Flood Control Lot within <i>Leichhardt DCP 2013</i> .  Stormwater issues throughout the site were resolved at the DA stage of D/2013/406.
<b>6. Local Plan Making</b>			
6.3 Site Specific Provisions	The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.	Yes	Site specific controls are not proposed.
<b>7. Metropolitan Planning</b>			
7.1 Implementation of A Plan for Growing Sydney	The objective of this direction is to give legal effect to the planning principles; directions; and priorities for subregions, strategic centres and transport gateways contained in A Plan for Growing Sydney.	Yes	<i>A Plan for Growing Sydney</i> is applicable across the State and therefore applicable to the site. The Proposal will strive to achieve the vision and desired outcomes of the Plan by increasing housing supply, increasing job opportunities and ensuring the differing land uses are within close proximity while preserving the amenity of the local area.

**Section C – Environmental, social and economic impact****Q7. Is there any likelihood that *critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?***

There is no known critical habitat, threatened species, populations or ecological communities or their habitats located on the subject site.

**Q8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?**

The Proposal does not seek to increase or intensify the currently approved uses on the site or the amount of floor space that was approved. The approved development is considered acceptable by Council and the JRPP in mitigating any potential environmental effects.

Any future modification to the existing consent or new development application will be required to address any environmental effects proposed by the works.

**Q9. Has the planning proposal adequately addressed any social and economic effects?**

The Proposal does not seek to increase or intensify the currently approved uses on the site or the amount of floor space that was approved. The approved development is considered acceptable by Council and the JRPP in mitigating any potential environmental effects.

The current development consent was found not to have significant amenity impacts upon the surrounding residential area.

The current Proposal aims to protect employment generating uses on the relevant parts of the site. This is considered to be an important element of the mixed use development given that the site is zoned Local Centre (B2) and has already seen 50+ jobs lost on the site through the current DA consent (D/2013/406).

Retention of commercial uses/employment generating land uses on site complies with relevant local plans including Leichhardt LEP 2013, Leichhardt 2025+, Leichhardt Employment and Economic Development Plan (EEDP) 2013-2023 and Leichhardt Employment Lands Study January 2011.

Retention of commercial uses/employment generating land uses on site complies with relevant State plans and s117 Ministerial Directions including A Plan for Growing Sydney, Draft Inner West Subregional Strategy and applicable SEPPs.

#### **Section D – State and Commonwealth interests**

##### ***Q10. Is there adequate public infrastructure for the planning proposal?***

The site is located in an area currently serviced by all necessary services and infrastructure facilities, including bus services to Balmain Town Centre and the Sydney CBD.

The Proposal does not seek to create additional demand on existing infrastructure. The Proposal will increase the open space available for public recreation through the foreshore land to be dedicated to Council through D/2013/406 to be rezoned to Public Recreation (RE1).

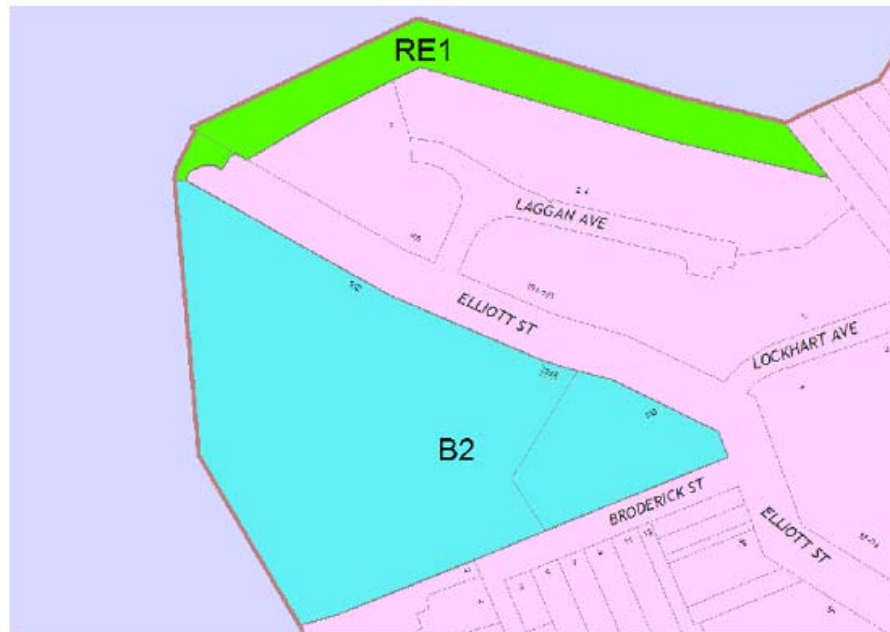
##### ***Q11. What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?***

If necessary, both State and Commonwealth public authorities would be consulted by the Department of Planning and Environment at Gateway Determination. Any issues raised would be summarised and addressed as appropriate.

#### Part 4 – Mapping

##### Existing Controls

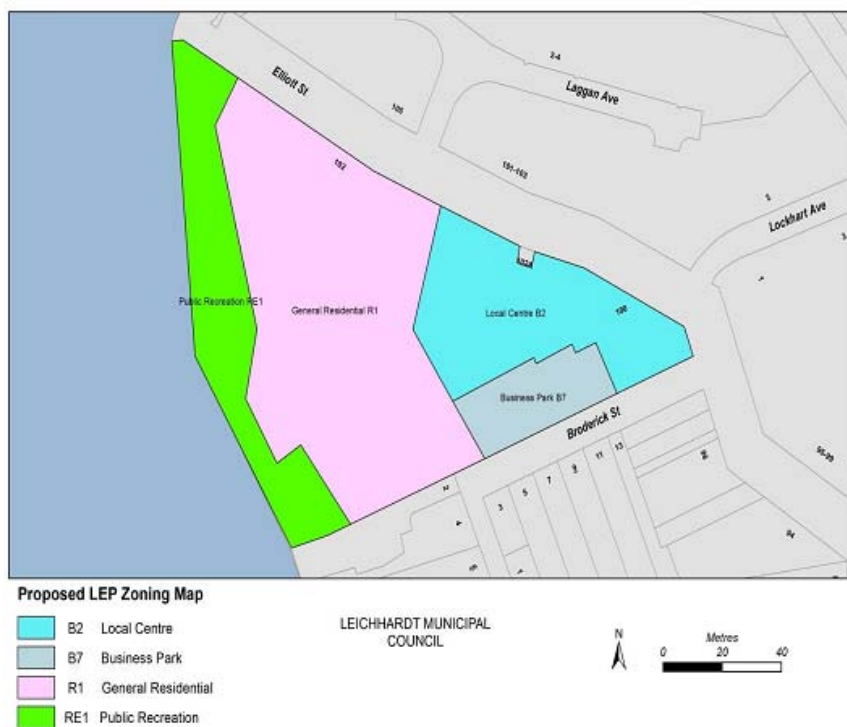
Figure 4 below illustrates the current Local Centre (B2) zoning of the subject site.





### Proposed Controls

Figure 5 illustrates the proposed General Residential (R1), Business Park (B7), Public Recreation (RE1) of the subject site and the parts of the site to retain their Local Centre (B2) zoning.



**Consultation**

Community consultation will be undertaken in accordance with the Department of Planning's '*A Guide to Preparing Local Environmental Plans*' and Council's Community Engagement Framework.

The Department's guide provides time frames for the exhibition of 'low impact proposals' and 'all other planning proposals' of 14 days and 28 days respectively.

The Director-General of Planning must approve the form of the planning proposal in accordance with Section 57(2) of the EP&A Act 1979. This is to ensure the proposal complies with the Gateway Determination before community consultation is undertaken.

Community consultation will include:

- Notification placed in local newspapers;
- Exhibition material provided at Leichhardt Council facilities; and
- The Planning Proposal made available on Council's and the Department of Planning's websites.

All landowners within close proximity of the site will be notified in writing by Council of the Proposal.

### Project Timeline

Table below outlines a timeline for completion of the Proposal if approved for public exhibition at Gateway Determination, subject to Gateway requirements.

Project Timeline	Estimated Timeline
Estimated commencement date (date of Gateway Determination)	March 2016
Timeframe for government agency consultation (pre and post exhibition as required by Gateway Determination)	28 days
Commencement and completion dates for public exhibition period	April 2016
Consideration of submissions	May 2016
Consideration of Proposal post-exhibition and reporting to Council	May-June 2016
Date of submission to DP&E to finalise amended LEP	June 2016
Anticipated date Relevant Planning Authority (RPA) will make the Plan (if delegated)	July 2016
Anticipated date RPA will forward Plan to DP&E for notification	July 2016

### **Conclusion**

The Proponent's Planning Proposal to rezone the entire site from Local Centre (B2) zone to General Residential (R1) was not supported. While achieving the objective and intended outcome of the Proposal, allowing for a future modification to a DA consent to convert all nineteen (19) serviced apartments to residential dwellings, it could also result in all land specifically zoned for commercial purposes being lost. The unintended outcome could be the potential loss of some or all employment generating lands on site and the further loss of 49 potential jobs on a site currently zoned for business purposes with a development consent permitting business uses.

To both preserve the employment generating land and achieve the intended outcome of the Proponent's Planning Proposal it is recommended that various parts of the current site be rezoned to better reflect the land uses endorsed by Council as part of D/2013/406 and to be consistent with Council's long term strategic plans.

To achieve this Council submit this Planning Proposal to the Minister for Planning and Infrastructure for a Gateway Determination that will provide housing and protect local employment generating land. It is proposed to rezone parts of the site General Residential (R1), Business Park (B7), Public Recreation (RE1) and with the Local Centre (B2) zoning retained on the rest of the site.

### **SECTION 3 – OTHER REPORTS**



## ITEM 3.1 SUMMARY OF RESOLUTIONS

<b>Division</b>	Corporate and Information Services
<b>Author</b>	Manager Governance and Administration
<b>Meeting date</b>	9 February 2016 Policy Meeting
<b>Strategic Plan Key Service Area</b>	Sustainable services and assets

### **SUMMARY AND ORGANISATIONAL IMPLICATIONS**

<b>Purpose of Report</b>	To advise of the status of resolutions until such time as they have been fully actioned.
<b>Background</b>	At the 25 August 2015 Ordinary Meeting Council resolved to include the status of all resolutions until such time as they have been fully actioned.
<b>Current Status</b>	NIL
<b>Relationship to existing policy</b>	NIL
<b>Financial and Resources Implications</b>	NIL
<b>Recommendation</b>	That the information be received and noted.
<b>Notifications</b>	NIL
<b>Attachments</b>	1. Summary of resolutions

**Purpose of Report**

To advise of the status of resolutions until such time as they have been fully actioned.

**Recommendation**

That the information be received and noted.

**Background**

At the 25 August Ordinary Meeting council resolved;

*That the business papers of ordinary meetings include the status of Mayoral minutes, motions of which due notice has been given and motions arising from reports where further action is required until such time as the Mayoral minute or motion has been fully actioned.*

A resolution has been actioned if:

- A requested letter has been written and sent.
- A requested report has been tabled at a Council Meeting.
- Where Council has resolved that capital works or maintenance works be undertaken, that the works are completed.
- Where Council has resolved that a public meeting be held, that the meeting has been held and any resolutions of the meeting be reported back to Council.
- Where Council has required that material be circulated to residents, that the material has been dispatched.

**Attachments**

1. Summary of resolutions

MAYORAL MINUTES

MEETING DATE & TITLE OF REPORT	SUMMARY OF RESOLUTIONS	ACTION/TAKEN	TIMEFRAME	OFFICER
<b>8 September 2015</b>  <b>C419/15P</b> NAMING OF THE NEW SOUTH ANNANDALE NEIGHBOURHOOD PARK DOUGLAS GRANT MEMORIAL PARK	That Council:  1. Adopt the recommendations of the Leichhardt Aboriginal & Torres Strait Islander Consultative Committee and the naming of the new South Annandale Park in honour of Douglas Grant with the name of the new park being known as the "Douglas Grant Memorial Park".  2. Recommend the naming of the new park to the Geographical Names Board  3. Develop an interpretation strategy as part of the development of the new park to acknowledge and educate the community on the life and times of Douglas Grant and that funding for such works be identified in 2016/17 budget.	1. Park opened 19 September 2015  2. Geographical Names Board has agreed to the naming subject to consultation which is currently being undertaken.  3. In progress	1. Completed  2. April 2016  3. 2016/17	Senior Parks and Open Space Planner  GIS/Property Systems Coordinator
<b>6 October 2015</b>  <b>C474/15P</b> <b>C475/15P</b> <b>C476/15P</b> <b>C477/15P</b> REVITALISING OUR MAIN STREETS	That Council:  1. Investigate methods for encouraging landlords of commercial properties to maintain their building, including street frontages, regardless of whether they are tenanted.  2. Investigate processes for expediting the approval of short term uses of commercial properties, pending the arrival of longer term tenants.  3. Investigate possible rating formulas and amendments to state and federal taxation legislation that would encourage full occupancy of commercial premises. This should include examination of,	1. Follows on from Shopfront Audit completed in 2014. Investigation will be incorporated into Shopfront Improvement Project to be commenced early 2015  2. This investigation will be incorporated into streamlining approvals for events, short term uses and live entertainment reporting back to Council by March 2016	1-2. March 2016	Pt 1, 2 and 4 Economic Development Officer  Pt 3 Director Corporate Information Services

MAYORAL MINUTES

	<p>a. Allowable rating systems under the NSW Local Government Act</p> <p>b. The Land Tax Act</p> <p>c. Existing Commonwealth tax arrangements relating to commercial property.</p> <p>4. Council Officers investigate the perceived financial incentives for keeping shops untenanted while owners pursue redevelopment opportunities</p>	<p>3. Reported to November 2015 Ordinary Meeting.</p> <p>4. Reported to November 2015 Ordinary Meeting.</p>	<p>3. Completed</p> <p>4. Completed</p>	
<p><b>10 November 2015</b></p> <p><b>C541/15P</b></p> <p>NEW LEGISLATION GOVERNING ABANDONED AND UNATTENDED TRAILERS AND CARAVAN</p>	<p>That Council</p> <p>1. Write to Minister for Roads, Maritime and Freight Duncan Gay requesting that the Impounding Amendment (Unattended Boat Trailers) Act 2015 No 27 be gazetted at the earliest possible opportunity.</p> <p>2. Write to the Chief Executive, Roads and Maritime Services requesting that Council's request to implement "No Parking, Motor Vehicles Excepted" provisions be reviewed.</p>	<p>Mayoral letters forwarded to Minister Gay &amp; Chief Executive RMS on 2 December 2015.</p>	<p>Completed</p>	<p>1. Manager Compliance &amp; Enforcement.</p> <p>2. Manager Traffic</p>
<p><b>10 November 2015</b></p> <p><b>C542/15P</b></p> <p>BAYS PRECINCT TRANSFORMATION PLAN AND THE GLEBE ISLAND BRIDGE</p>	<p>That Council write to Premier Mike Baird, Minister for Planning Rob Stokes and Minister for Roads and Maritime Services Duncan Gay calling on them to reopen the Glebe Island Bridge to pedestrian and cycle traffic as a priority and to rule out the option of demolishing the Bridge.</p>	<p>Correspondence sent.</p>	<p>Completed</p>	<p>Manager Environment and Urban Planning</p>

# MA YORAL MINUTES

<p><b>10 November 2015</b></p> <p><b>C543/15P</b></p> <p>INVESTIGATION OF PUBLIC WIFI PROVISION IN THE LGA</p>	<p>That Council:</p> <ol style="list-style-type: none"> <li>1. Undertake an assessment of the feasibility of installing free public WiFi on four main streets of the municipality including Darling Street (Balmain and Rozelle), Norton Street (Leichhardt), Booth Street and Johnson Street (Annandale).</li> <li>2. That this report be presented to Council at its meeting in December 2015.</li> <li>3. Review the provision of internet access at existing locations to see if capacity and speed can be improved.</li> </ol>	<p>Completed</p>	<p>Completed</p>	<p>Manager Information Technology</p>
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### OTHER POLICY COUNCIL RESOLUTIONS

MEETING DATE & TITLE OF REPORT	SUMMARY OF RESOLUTIONS	ACTION/TAKEN	TIMEFRAME	OFFICER
<b>11 August 2015</b> <b>C369/15P</b> PIONEERS MEMORIAL PARK REVISED PARK PLAN OF MANAGEMENT	<ol style="list-style-type: none"> <li>1. That Council defer exhibition of the revised Pioneer Memorial Park Plan of Management pending a report on appropriate core objectives and relevant performance indicators for inclusion in the Plan of Management and in particular those concerning the conservation of biodiversity.</li> <li>2. In recognition of the historical significance of Pioneers Memorial Park, Council develop appropriate heritage interpretation panels which can be displayed within the park to educate and inform the community on the park and its history.</li> </ol>	<ol style="list-style-type: none"> <li>1. In progress subject to carry forward of 2014/15 project funds</li> <li>2. In progress</li> </ol>	Mid 2016	Senior Parks and Open Space Planner
<b>11 August 2015</b> <b>C370/15P</b> REVIEW OF OCCASIONAL CARE UTILISATION	<ol style="list-style-type: none"> <li>1. That Council note the preferred option to close Annandale Occasional Care and combine the Occasional Care service with Long Day Care at the Balmain premises.</li> <li>2. That Council undertake consultation regarding Option 2 for Council's Occasional Care services and report the outcome back to Council for consideration.</li> </ol>	Initial scope of consultation being developed. Consultation complete. Results to be reported to March Policy Council.	March 2016	Manager Community Operations

### OTHER POLICY COUNCIL RESOLUTIONS

<p><b>8 September 2015</b></p> <p><b>C426/15P</b> DISCUSSION PAPER - HOUSING ISSUES AND OPTIONS</p>	<p>That:</p> <ol style="list-style-type: none"> <li>1. The report be received and noted</li> <li>2. The discussion paper be amended to note that Aged Housing Information such as information regarding the number of "low care" and "high care" beds is 2014 data and no longer published on Commonwealth Government websites.</li> <li>3. The discussion paper be deferred from public exhibition, and reviewed in regards to the following sections: <ol style="list-style-type: none"> <li>a. Key worker definition - that Council approach and convene a meeting with representatives from Unions NSW and neighbouring Councils, and develop an agreed definition of key worker.</li> <li>b. Officers revise discussion paper strategies to reflect that Council supports a range of affordable housing options for each identified category</li> <li>c. Options be included in the discussion paper in respect of value capture from all developments within the municipality for the purpose of funding affordable housing.</li> </ol> </li> <li>4. The reviewed paper to be reported back to Council prior to public exhibition.</li> <li>5. Copies of the revised final discussion paper be forwarded to key stakeholders – including Council's Committees, SSROC and Unions NSW, for their review and comments.</li> </ol>	<p>Meeting held on 2 November with SSROC, Unions NSW and neighbouring Councils. Council Officers &amp; Consultants preparing a Briefing to Council on 16 February 2016, and a report to March Policy Council.</p>	<p>3rd Quarter 2015/16</p>	<p>Group Manager Community and Cultural Services</p>
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### OTHER POLICY COUNCIL RESOLUTIONS

	<p>6. Council Officers work with SSROC and LGNSW to confirm and progress a common set of definitions to assist both discussions between Councils and with other levels of Government</p> <p>7. The amended report provide information on the methods and processes used by community housing providers and local government to influence the nature of tenants groups accommodated through affordable and social housing projects developed with assistance from local government</p> <p>8. The amended report discuss how allocation is best made in relation to the full range of housing interventions available to local government (eg. boarding house, micro apartments, NRAS funded, negotiated contributed housing);</p> <p>9. The report present a housing allocation policy option that is consistent with Council's current policy approach.</p> <p>10. The report further highlight processes or action s that may be taken to expand the stock and availability of social housing within the municipality.</p> <p>11. Council also strongly advocate to the State Government on the need for public, affordable and supported housing in the Bays Precinct.</p> <p>12. Council source any information on the provision of affordable and social housing in high income areas and areas of very high house prices and summarise this for Councillors and in particular how these areas provide housing for key workers.</p>			
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**OTHER POLICY COUNCIL RESOLUTIONS**

<p><b>8 September 2015</b></p> <p><b>C430/15P</b> STREAMLINING AND SIMPLIFYING LEICHHARDT LGA EVENT APPROVAL PROCESSES</p>	<p>That:</p> <ol style="list-style-type: none"> <li>1. The report be received and noted</li> <li>2. Council Officers develop a draft Local Approvals Policy whereby a range of pre-determined activities, promotions and related events could be licenced to occur on Public Land in certain locations within the Leichhardt Local Government Area on a maximum number of occasions per annum</li> <li>3. Council Officers develop a draft Planning Proposal to expand the Exempt and Complying Development Provisions of Leichhardt Local Environment Plan 2013 pursuant to the Environmental Planning and Assessment Act 1979.</li> </ol>	<p>Manager of Legal Services is developing the Local Approvals Policy as set out in the report. The Local Approvals Policy will be prepared in consultation with Council's Assessments and Enforcement departments and the Complying Development element will be prepared in concert with Council's Planning staff.</p>	<p>Report to 3rd Quarter 2015/16</p>	<p>Manager Legal Services</p>
<p><b>8 September 2015</b></p> <p><b>C434/15P</b> OFF BROADWAY LIVE MUSIC AND CULTURAL PRECINCT</p>	<p>That:</p> <ol style="list-style-type: none"> <li>1. The report be received and noted.</li> <li>2. The draft "Implementation Program" be endorsed and implemented</li> <li>3. Council Officers prepare quarterly reports to Council regarding the ongoing implementation of the program.</li> <li>4. A further report be brought back to Council on how this program could be better resourced to enable the delivery of the action items within a shorter time frame and identification of any additional funding required in the budget.</li> </ol>	<ol style="list-style-type: none"> <li>1. Noted</li> <li>2. Implementation underway with Small Bar forum planned for late February. Report on implementation to be presented to March 2016 Policy Meeting.</li> </ol>	<p>2-4. March 2016</p>	<p>Group Manager Community and Cultural Services</p>

### OTHER POLICY COUNCIL RESOLUTIONS

<p><b>8 September 2015</b></p> <p><b>C437/15P</b> PROPOSED MEN'S SHED LOCATION AT BLACKMORE OVAL</p>	<ol style="list-style-type: none"> <li>1. That Council approve use of the Storage room at Blackmore Oval for a Leichhardt Men's Shed.</li> <li>2. That promotional activities be undertaken to seek community interest in the group.</li> <li>3. That the group, independently established via the Men's Shed organisation, be provided with an initial three year licence with option of a one year extension.</li> <li>4. That provision be made for operating hours of the Men's Shed to be up to four days between Monday to Friday, between the hours of 9am and 3pm.</li> <li>5. That opportunities to expand community shed programs at Blackmore Oval and other venues in the LGA be investigated, should interest from other community groups arise. This review to occur one year from the establishment of the Leichhardt Men's Shed.</li> </ol>	<ol style="list-style-type: none"> <li>2. Completed. Promotional activities discussed by Seniors Council and community consultation/BBQ held on 5 November 2015.</li> <li>3. Finalisation of operating hours and licence agreement will occur once the independent Men's Shed organisation is established</li> <li>4. Noted</li> <li>5. Review to be undertaken September 2016.</li> </ol>	<ol style="list-style-type: none"> <li>3. February 2016.</li> <li>5. September 2016</li> </ol>	<p>Community Development Officer - Aging and Disability</p>
<p><b>6 October 2015</b></p> <p><b>C472/15P</b> POST EXHIBITION REPORT DRAFT LEP 2013 RECLASSIFICATION AMENDMENT</p>	<p>That Council :-</p> <ol style="list-style-type: none"> <li>1. Resolves to adopt the following proposed amendment to <i>Leichhardt Local Environmental Plan 2013</i> to reclassify land at Lot B DP 159831 and part of Lot 2 DP 599686 near Church Street, Lilyfield from 'Community' to 'Operational' land.</li> <li>2. Delegates the making of the LEP amendment to the General Manager and that, following receipt of an opinion from Parliamentary Counsel's Office, the General Manager sign the front page of the LEP.</li> <li>3. Requests Parliamentary Counsel to draft and</li> </ol>	<p>1-4 Completed.</p>	<p>1-4. Completed</p>	<p>Manager Environment and Urban Planning</p>



OTHER POLICY COUNCIL RESOLUTIONS

	<p>finalise the amendment to LEP 2013 as a result of the reclassification.</p> <p>4. Following the completion of above (Point 3), the Department of Planning and Environment be advised that the LEP has been made and be requested to notify the Plan.</p> <p>5. Register on the titles of the land a restriction to the effect that it cannot be built on other than for car parking or open space, with the restriction able to be released only by agreement of both Council and the owner of 67 Church Street, Lilyfield.</p>	5. To be actioned after finalisation of Amendment.	5. 3 <sup>RD</sup> Quarter 2015/16	
<p><b>6 October 2015</b></p> <p><b>C484/15P</b></p> <p>SMALL BARS PLANNING PROPOSAL</p>	<p>That Council:</p> <p>1. Endorse the attached planning proposal and forward to the Minister for Planning for Gateway Determination in accordance with section 56 of the <i>Environmental Planning and Assessment Act 1979</i>;</p> <p>2. Endorse the attached draft amendments to the Development Control Plan 2013, and place on public exhibition at the same time as the planning proposal.</p> <p>3. Request the Department of Planning and Environment to delegate the plan making functions, in relation to the subject Planning Proposal, to Council;</p> <p>4. Place the Planning Proposal (Attachment 6) and supporting documentation on public exhibition for a minimum of 28 days and public authorities be</p>	<p>1. Noted</p> <p>2. Noted</p> <p>3. Request for Gateway Determination has been submitted.</p> <p>4. Awaiting Gateway Determination</p>	<p>2. February 2016</p> <p>3. Completed</p> <p>4. February 2016</p>	<p>Manager Environment and Urban Planning</p>

**OTHER POLICY COUNCIL RESOLUTIONS**

	<p>consulted on the Planning Proposal in accordance with the Gateway Determination, when issued;</p> <p>5. Consider a report at the completion of the public exhibition period detailing submissions received and the outcome of consultation with public authorities.</p>	5. Noted.	5. Mid 2016	
<p><b>10 November 2015</b></p> <p><b>C535/15P</b> FIT FOR THE FUTURE</p>	<p>That Council:</p> <ol style="list-style-type: none"> <li>1. Reaffirms its unambiguous position that Leichhardt Council can and should stand alone - the recently updated evidence based business case clearly shows this remains the best option for our community.</li> <li>2. Provides feedback to the State Government on IPART's assessment of our Fit for the Future Standalone submission in line with the details contained within this report</li> <li>3. Responds immediately to the State Government's invitation for merger preferences by advising that               <ol style="list-style-type: none"> <li>a. Leichhardt Council's 3 way merger preference with Ashfield and Marrickville Councils is offered strictly on the basis that the Government proceeds with compulsory mergers.</li> <li>b. The 3 way merger preference does not constitute an amalgamation proposal under the Local Government Act</li> <li>c. Leichhardt Council reiterates its strong stand alone position, categorically rejects the State Government's 6 council Inner West merger, or any merger involving Auburn Council, and will</li> </ol> </li> </ol>	Completed	Completed	General Manager

### OTHER POLICY COUNCIL RESOLUTIONS

	<p>withdraw from this 3 way merger preference if the State Government does not proceed with forced amalgamations.</p> <p>4. Immediately make all expert internal and external legal advice Councillors have received on this matter publicly available.</p> <p>5. That Leichhardt Council support the "Rally for Local Democracy" on 18 November organised by Unions NSW and Save Our Council's Coalition.</p>			
<p><b>10 November 2015</b></p> <p><b>C537/15P</b> LCAMP REVIEW WHITES CREEK VALLEY PARK</p>	<p>That Council:-</p> <p>1. Adopt the proposed new Companion Animal Regulations for Whites Creek Valley park as recommended in <b>Attachment 3</b>.</p> <p>2. Undertake the installation of new Companion Animal Access signage within Cohen and Whites Creek Valley Parks noting the expected time line for the completion of new signage installation will be mid-December 2015.</p> <p>3. Consider funding the installation of a new BBQ area in the community Orchard (on leash area) in the 2016/17 budget process and removing the existing BBQ facility in the south eastern area of the park (off leash area).</p>	<p>1. Completed</p> <p>2. Completed</p> <p>3. To be actioned as part of a budget bid for the 2016/17 financial year.</p>	<p>1 - 2 Completed.</p> <p>3. June 2016</p>	<p>Senior Parks and Open Space Planner</p>
<p><b>10 November 2015</b></p> <p><b>C538/15P</b> SKATE PARK CALLAN PARK</p>	<p>That Council approves the lodging of the DA for the construction of a new Regional Skate Park, lighting to the required standard for safe use and associated landscape works as well as the demolition of the existing three dwellings in the footprint of the proposed Regional Skate Park at Callan Park Rozelle, as per the plans produced by Enlocus Landscape Architects dated 26/10/2015.</p>	<p>DA lodged on 30 November 2015.</p>	<p>Completed</p>	<p>Manager Urban Design and Project Management</p>

### OTHER POLICY COUNCIL RESOLUTIONS

<p><b>10 November 2015</b></p> <p><b>C539/15P</b> GLOVER ST SPORTING GROUND</p>	<p>That Council:-</p> <p>1. Consents to the lodging of the Development Application for improvements at Glover Street Sporting Ground, Callan Park Rozelle:</p> <ul style="list-style-type: none"> <li>a) Seating and roofing works to the senior and junior baseball cages.</li> <li>b) Extension of senior baseball cage</li> <li>c) Install 1 x 25m floodlight to the north of the Glovers Community Garden Site to achieve compliance with Australian Lighting Standards for outdoor sports and provide a more uniform level of lighting spread on the outfield area.</li> <li>d) Install a 1.2m fence to the northern boundary of the field between the junior and senior baseball diamonds to address the issue of wayward soccer balls ending up on the Iron Cove Bay Run.</li> <li>e) Replace existing Glovers Community Garden Group Boundary Fencing with a fence to a height of 6m.</li> </ul> <p>2. Allocate \$35,000 for preparation of the Development Application in the first quarterly review of the 2015/16 budget.</p>	<p>Awaiting owner's consent to submit DA.</p>	<p>1. 3rd Quarter 2016/17</p> <p>2. Completed.</p>	<p>Part 1 Manager Urban Design and Project Management</p> <p>Part 2 Manager Financial Services</p>
<p><b>10 November 2015</b></p> <p><b>C544/15P</b> FUTURE MANAGEMENT OF SHORT TERM ACCOMMODATION IN THE LEICHHARDT LGA</p>	<p>1. That a report be brought back to the March 2016 Council meeting which provides an update in relation to:</p> <ul style="list-style-type: none"> <li>a. the response from the Department of Planning and Environment</li> <li>b. Council's next steps based on this advice</li> </ul> <p>2. That the attached submission be forwarded to the Parliamentary Inquiry into Short Term Accommodation</p>	<p>1. Noted</p> <p>2. Submission lodged</p>	<p>1. March 2016</p> <p>2. Completed</p>	<p>Manager Environment and Urban Planning</p>

### OTHER POLICY COUNCIL RESOLUTIONS

<p><b>10 November 2015</b></p> <p><b>C545/15P</b> BALMAIN EAST TRANSPORT INTERCHANGE UPGRADE</p>	<p>1. That Council make a submission to Transport for NSW reiterating its support of the integrated upgrade of Balmain East Wharf and the Darling Street bus/ferry interchange, and further requests that the matters listed in this report "Submission on the Proposed Upgrade of Balmain East Wharf Bus Interchange" be subject to further detailed consideration.</p> <p>2. The Submission on the proposed upgrade of Balmain East Wharf Bus Interchange be amended to include the following under the heading 'Landscape Plants' ; <i>Council requests that in line with Council's Urban Forest Policy, suitable Australian native species be planted where offsets and/or landscaping is undertaken.</i></p> <p>3. That Council Officers meet with staff from the Office of Environment and Heritage to discuss the impact of the proposed retaining wall on the heritage of the area.</p> <p>4. That native plants of increased height but below the height of the retaining wall be planted in front of the sandstone retaining wall so as to mask or reduce the visibility of the wall.</p>	<p>1. Submission lodged.</p> <p>2. Included in submission.</p> <p>3. Included in submission. Project modified &amp; approved under Infrastructure SEPP</p> <p>4. Included in submission.</p>	<p>Completed</p>	<p>Manager Parks and Assets</p>
<p><b>10 November 2015</b></p> <p><b>C546/15P</b> DRAFT CONCEPT DESIGN-DARLEY ROAD NETBALL COURTS</p>	<p>That Council:-</p> <p>1. Exhibit the draft concept plans for the Darley Road Netball Courts for a period of 28 days and seek community feedback on the proposed design.</p> <p>2. Hold a public meeting to present the draft plans</p>	<p>1. Exhibition completed. Subject to the outcomes of traffic modelling a report will be presented to the March Ordinary Council Meeting.</p>	<p>1. March 2016.</p>	<p>Senior Parks and Open Space Planner</p>



### OTHER POLICY COUNCIL RESOLUTIONS

	<p>to local residents and key stakeholders during the exhibition period.</p> <p>3. Noting the estimated costs in delivering this project, Council allocates funding shortfall from lighting budget for the Hawthorne Canal Shared Path Upgrade</p> <p>4. Receive a further report to the February 2016 Policy Meeting of Council on the outcomes of community consultation</p>	<p>2. Public Meeting was held in early December.</p> <p>3. Completed</p> <p>4. Has been deferred to March 2016 due to traffic modelling works which are required.</p>	<p>2. Completed</p> <p>3. Completed</p> <p>4. March 2016.</p>	<p>Part 3 Manager Financial Services</p>
<p><b>10 November 2015</b></p> <p><b>C548/15P</b></p> <p>DRAFT MEMORIAL PLANTINGS AND PLAQUES POLICY</p>	<p>That Council:</p> <p>1. Exhibit the Draft Memorial Plantings and Plaques Policy for a period of 28 days and a further report be submitted to Council containing feedback received, and a policy for adoption.</p> <p>2. Consider an annual program of historical markers and interpretative signage in the forthcoming budget process. The budget proposal is to contain cost and resourcing implications, and broad assessment guidelines.</p>	<p>1. Draft policy exhibition November – January. Report to March Policy Council</p> <p>2. Budget Proposal in preparation</p>	<p>March 2016</p>	<p>Group Manager Cultural and Community Services</p>
<p><b>10 November 2015</b></p> <p><b>C549/15P</b></p> <p>LEICHHARDT LOCAL ENVIRONMENTAL PLAN 2013 HOUSEKEEPING AMENDMENT - POST EXHIBITION REPORT</p>	<p>That Council:</p> <p>1. Adopts the proposed amendments to <i>Leichhardt Local Environmental Plan 2013</i> as attached to the report.</p> <p>2. Delegates the making of the LEP amendment to the General Manager and that, following receipt of an opinion from the Parliamentary Counsel's Office, the General Manager sign the relevant pages of the LEP.</p>	<p>Forwarded to Parliamentary Counsel. Draft instrument received. Discussions are ongoing.</p>	<p>April 2016.</p>	<p>Manager Environment and Urban Planning</p>

**OTHER POLICY COUNCIL RESOLUTIONS**

	<p>3. Requests Parliamentary Counsel to draft and finalise the amendment to LEP 2013.</p> <p>4. Following the completion of above (Point 3), the Department of Planning and Environment be advised that the LEP has been made and be requested to notify the Plan.</p>			
<p><b>10 November 2015</b></p> <p><b>C550/15P</b></p> <p>LEICHHARDT BIKE PLAN 2016</p>	That Council adopt the Leichhardt Bike Plan (2016) as attached to the report.	Completed	Completed	Manager Environment and Urban Planning
<p><b>10 November 2015</b></p> <p><b>C551/15P</b></p> <p>DISTRICT PLANNING PROCESS AND SSROC INPUTS UPDATE NOVEMBER 2015</p>	<p>That Council:</p> <p>1. Receive and note the update, as at November 2015, regarding the District Planning Process, SSROC actions to date and a Draft Memorandum of Understanding between SSROC and the Department of Planning and Environment.</p> <p>2. Write to the NSW Minister for Planning to clarify where the proposed change to the planning laws change Council's current decision making role in respect of Local Environmental Plans and to request discussion concerning this matter.</p>	Completed	Completed	Manager Environment and Urban Planning
<p><b>10 November 2015</b></p> <p><b>C552/15P</b></p> <p>HAWTHORNE CANAL SHARED PATH UPGRADE</p>	<p>1. That Council approve the Hawthorne Canal Shared Path Upgrade Plans dated 6<sup>th</sup> October 2015.</p> <p>2. That the budget for lighting for this upgrade be considered in the 2016/17 budget process.</p>	Tender in late February & report to Council in April.	August 2016.	Manager Urban Design and Project Management

OTHER POLICY COUNCIL RESOLUTIONS

<p><b>10 November 2015</b></p> <p><b>C553/15P</b></p> <p>ASSESSMENT OF APPLICATIONS TO LICENCE COUNCIL FACILITIES FOR AFTER SCHOOL CARE</p>	That Council:-			
	1. Allocate three Council facilities, Leichhardt Town Hall (main hall and supporting spaces), Annandale Community Centre (back hall and supporting spaces) and Jimmy Little Community Centre (entire centre) for After School Care five days per week during school terms (40 weeks per year), from 2:15pm or 2:30pm to 6pm; for a three year period, commencing in January 2016.	1- 3. Licence agreements executed in November 2015	1- 3. Completed	Team Leader Community Planning and Development
	2. Endorse Whoosh Care to licence three Council facilities, Leichhardt Town Hall, Annandale Community Centre and Jimmy Little Community Centre for After School Care, for a three year period, commencing in January 2016 (until 31 December 2018); with annual licence fees of \$6,000 for each facility and a maximum fee to be paid by parents of \$23.00 per child per session.			
	3. Delegate to General Manager to enter into the Licence Agreements for the provision of After School Care at Leichhardt Town Hall, Annandale Community Centre and Jimmy Little Community Centre.			
	4. Defer the licence of Balmain Town Hall to 2017 (pending further assessment of unmet demand in this area).	4. Noted.		
	5. Make available free of charge the small community bus with a driver for the transportation of children to After School Care Services in Council facilities (up to 1 hour per afternoon, five days per week during school	5. To be implemented when service approval is provided.	5. February 2016	

**OTHER POLICY COUNCIL RESOLUTIONS**

	<p>terms).</p> <p>6. That a further report be brought to Council following the application from the provider to the Department of Education and Communities providing details of that application.</p> <p>7. Develops a fee waiver policy for Council's community bus.</p> <p>8. That the licence is amended to prevent transfer to a new owner of the business without Council consent.</p>	<p>6. Report being prepared for February Council Meeting 2016</p> <p>7. Noted.</p> <p>8. Clause added to licence agreements</p>	<p>6. February 2016</p> <p>7. Policy will be developed 4th Quarter 2015/16</p> <p>8. Completed</p>	
<p><b>10 November 2015</b></p> <p><b>C554/15P</b> LEGAL SERVICES REPORT</p>	<p>1. That the Report be received and noted and the actions taken by the Manager of Legal Services be endorsed.</p> <p>2. That Council proceed with Option 2 in regards to the enforcement action referred to in the report.</p>	<p>1. Noted</p> <p>2. Currently Reviewing payments received and preparing brief of evidence for court.</p>	<p>1. Noted</p> <p>2. April 2016</p>	<p>Point 1 Manager Legal Services</p> <p>Point 2 Manager Compliance and Enforcements</p>

**ITEM 3.2 LEICHHARDT DEVELOPMENT CONTROL PLAN 2013  
HOUSEKEEPING AMENDMENT (DCP REVIEW STAGE 1A)**

<b>Division</b>	Environment and Community Management
<b>Author</b>	Strategic Planner
<b>Meeting date</b>	9 February 2016 Policy Meeting
<b>Strategic Plan Key Service Area</b>	Community well-being Accessibility Place where we live and work A sustainable environment Business in the community Sustainable services and assets

**SUMMARY AND ORGANISATIONAL IMPLICATIONS**

<b>Purpose of Report</b>	<p>The purpose of this report is to:</p> <ol style="list-style-type: none"> <li>1. outline the background work, stages and timeline for the review of <i>Leichhardt Development Control Plan (DCP) 2013</i>.</li> <li>2. inform Council of the structure and content of the first stage (1A) of the draft amendments to <i>Leichhardt Development Control Plan 2013</i>.</li> <li>3. outline the community engagement plan to be implemented should Council endorse the recommendation that the proposed first stage (1A) amendments to <i>Leichhardt Development Control Plan 2013</i> be placed on public exhibition.</li> </ol>
<b>Background</b>	<p><i>Leichhardt Development Control Plan 2013</i> was adopted on the 3<sup>rd</sup> of February 2014. Since its adoption, minor spelling, formatting and mapping errors have become apparent. Inconsistencies and inaccuracies in relation to terms, definitions, referencing and figures have also been identified.</p> <p>Council's strategic planning team have initiated a process of review and identified that some sections of the <i>Leichhardt Development Control Plan 2013</i> need to be updated because more than two years have passed since DCP 2013 was drafted. A number of Council resolutions and actions in Council's strategic plans also require amendments to <i>Leichhardt Development Control Plan 2013</i>.</p>
<b>Current Status</b>	<p>The first stage of draft amendments is outlined in this report which also seeks a Council resolution to exhibit the proposed changes.</p>



	The second stage of the <i>Leichhardt Development Control Plan 2013</i> review is underway.
<b>Relationship to existing policy</b>	<p>The performance of the <i>Leichhardt Development Control Plan 2013</i> is reliant upon regular review and amendment to ensure that its relevance and accuracy is maintained.</p> <p>A key objective of the <i>Leichhardt Development Control Plan 2013</i> review is to address outstanding Council resolutions involving amendments to <i>Leichhardt Development Control Plan 2013</i>.</p>
<b>Financial and Resources Implications</b>	<p>Costs associated with the first stage of the review of <i>Leichhardt Development Control Plan 2013</i> will involve a newspaper advertisement (approximately \$1200).</p> <p>The financial and resource implications of subsequent stages of the review will be outlined in future reports to Council.</p>
<b>Recommendation</b>	<p>That Council:</p> <ol style="list-style-type: none"> <li>1. Endorse the draft amendments to Leichhardt Development Control Plan 2013 shown in <b>Attachments 1 and 2</b> of this report for public exhibition;</li> <li>2. Delegate authority to the General Manager to make changes to the draft amendments to Leichhardt Development Control Plan 2013 prior to the public exhibition as a result of consideration by Council or are minor changes that do not affect the substance of its provisions; and</li> <li>3. Endorse the Community Engagement Plan for the draft amendments to Leichhardt Development Control Plan 2013 as outlined in this report.</li> </ol>
<b>Notifications</b>	The first stage of draft DCP amendments will be placed on public exhibition in accordance with <i>Environmental Planning and Assessment Regulations 2000</i>
<b>Attachments</b>	<p>Attachment 1 – Leichhardt Development Control Plan Amendment 5 (as proposed)</p> <p>Attachment 2 – Leichhardt Development Control Plan 2013 Amendment 5 (as proposed) with track changes</p> <p><b>Provided electronic only due to its size - will be circulated to Councillors on iPads and placed on Council's website</b></p>

## Purpose of Report

The purpose of this report is to:

1. outline the background work, stages and timeline for the review of *Leichhardt Development Control Plan (DCP) 2013*;
2. inform Council of the structure and content of the first stage (1A) of the draft amendments to *Leichhardt Development Control Plan 2013*;
3. outline the community engagement plan to be implemented should Council endorse the recommendation that the proposed first stage (1A) amendments to *Leichhardt Development Control Plan 2013* be placed on public exhibition.

## Recommendation

That Council:

1. Endorse the draft amendments to Leichhardt Development Control Plan 2013 shown in **Attachments 1 and 2** of this report for public exhibition;
2. Delegate authority to the General Manager to make changes to the draft amendments to Leichhardt Development Control Plan 2013 prior to the public exhibition as a result of consideration by Council or are minor changes that do not affect the substance of its provisions; and
3. Endorse the Community Engagement Plan for the draft amendments to Leichhardt Development Control Plan 2013 as outlined in this report.

## Background

*Leichhardt Development Control Plan 2013* was adopted on the 3<sup>rd</sup> of February 2014. Since its adoption, minor spelling, formatting and mapping errors have become apparent. Inconsistencies and inaccuracies in relation to terms, definitions, referencing and figures have also been identified.

Council's strategic planning team have initiated a process of review and identified that some sections of the *Leichhardt Development Control Plan 2013* need to be updated because more than two years have passed since DCP 2013 was drafted. A number of Council resolutions and actions in Council's strategic plans also require amendments to *Leichhardt Development Control Plan 2013*.

## Report

### 1.0 Overview of DCP Review

The objectives of the DCP Review are to:

- maintain the relevance of the DCP controls for the Leichhardt LGA;
- address outstanding Council resolutions which require amendments to the DCP;
- address issues raised by the joint Strategic Planning and Assessment Officer working group since adoption of DCP 2013;
- correct minor editorial errors;
- establish a procedure for processing, exhibiting, implementing and documenting amendments to the DCP.

The DCP Review will involve three stages:

Stage 1A –amendments to address minor errors and anomalies that do not alter the intent of the provisions and controls;

Stage 1B – amendments that will adjust the intent of provision/controls and that will require analysis, research and internal/external consultation;

Stage 2 – amendments that require more extensive background studies/research in a longer time frame and/or items that are relatively less urgent than items placed in Stage 1A or 1B.

Stage 1B commenced at the same time as Stage 1A, but will require more in depth research and stakeholder engagement. Stage 2 will involve longer term research.

## 2.0 Summary of the proposed amendments to Leichhardt DCP 2013

Stage 1A of the review will ensure that minor errors and inaccuracies identified in the DCP are addressed. Refer to **Attachment 1** to see *Leichhardt Development Control Plan 2013 Amendment 5 (as proposed)*. Refer to **Attachment 2** for a full record of the track changes completed for *Leichhardt Development Control Plan 2013 Amendment 5 (as proposed)*. A summary of the proposed amendments and rationale are listed in the following table.

Section	Amendments and Rationale
All Sections	Minor changes – de-italicisation of key words, text alignment, lists, bullets, numbering, referencing, formatting.
Cover Document (New)	A schedule of amendments page has been added to the title page as well as a detailed Table of Contents.
Part A – Introduction	A3.2 Complying Development amended to ensure that the notification requirements are consistent with other legislation.
Part B – Connections	Minor changes to wording (to improve readability).
Part C – Place	Minor changes to wording (to improve readability).
	Amendments to diagrams to address spelling errors.
	Improvements to layout.
	Introduction of new maps for Part C Section 2 to replace all existing maps. New maps provide new levels of detail (City West Link and Light Rail Line) and are clearer and easier to read. All technical errors in the existing maps have been corrected.
	Controls in Part C Section 2 that prescribe maximum building wall heights (in metres) have been amended so that in all instances, reference is made to “wall height” rather than “building envelope.”
	Building Envelopes determine a range of features to a house including the height of the wall as well as the pitch of the roof. The words “building envelope” are therefore not the most appropriate words to use when specifically referring to a wall height.
	Change to the way time periods are referred to. This is to ensure

Section	Amendments and Rationale
	that the DCP is easy to read.
	Subheadings in Part C Section 2 shortened.
	C2.2.1.6(a) Nelson Street Laneways Sub Area Control 1 and Control 4 amended to accurately define the laneways in this sub area.
	C2.2.1.8 Camperdown Distinctive Neighbourhood duplicate control deleted
	New Figure C118 Side boundary setbacks graph.
Part D – Energy	Amendments to Part D2.3 Control 15, 21, 22 and 24 to improve clarity of waste capacities and storage room dimension requirements for multi-unit dwellings.
Appendix A – Glossary	Deletion of a number of terms (to remove conflicts with SI LEP).
Appendix C – Urban Framework Plans	Higher resolution version.
Appendix D – Energy and Waste Templates	Deletion of a row from 2.4 <i>Waste and Recycling Generation Rates</i> to eliminate inconsistency with Part D of DCP 2013. Replaced figure with higher resolution version of <i>Section 7 – Example of a Waste and Recycling Storage Room</i> .

Note - No changes have been made to Appendix F – Late Night Trading Maps.

Document	Proposed Amendments and Rationale
Tree Management Technical Manual	Minor changes to wording (to improve readability).

### 3.0 Policy Direction in relation to the use of the Public Domain

On the 2<sup>nd</sup> of December 2015, Council officers from a range of departments met to discuss the current policy position of Council in relation to key activities in the public domain. The specific activities discussed included the use of footpaths for a-frames and street stalls as well as the placement of furniture on the footpath for outdoor dining.

The Access Committee has expressed concerns in relation to a-frame signs both during consultation on the draft DCP 2013 and in meetings on 13 August 2014 and 1 July 2015. They have requested that Strategic Planning provide them with an update on Council's stance on this issue. Customer Service and Assessments have reported that there have been a number of complaints in recent months in relation to the conduct of those operating street stalls in the LGA and have indicated that the Council policy needs review.

Given a number of these activities are currently subject to a trial fee waiver (until 30 June 2016), it was agreed that a review of these activities will be initiated following the conclusion of this trial period. It has been foreshadowed that a future review may

not involve amendment to the DCP and instead may require the introduction of a policy document.

Council will continue to assess applications relating to the use of the public domain on a case by case basis having regard to policy documents such as the current footpath dining controls and the former DCP 48. Council's stance will be considered at the conclusion of the trial period.

#### **4.0 Public Exhibition of Stage 1A draft changes to Leichhardt Development Control Plan 2013**

Council is required to meet the legislative requirements of the Environmental Planning and Assessment Regulation 2000 – Part 3, Division 2 Public Participation as follows:

- inclusion of a public notice in the local newspaper indicating the places, dates and times for inspection of Stage 1A draft changes to Leichhardt Development Control Plan 2013;
- exhibition of Stage 1A draft changes to Leichhardt Development Control Plan 2013 for a minimum period of 28 days.

It is proposed that the Stage 1A draft changes to *Leichhardt Development Control Plan 2013* be placed on public exhibition from 24 February 2016 to 23 March 2016, a period of 29 days.

The following activities will be undertaken in response to the Community Engagement Framework:

- website notice;
- advertisement in the Inner West Courier;
- report to Policy Meeting;
- public exhibition and submissions;
- briefing Planning and Urban Design Committee.

The Stage 1A amendments will not change the meaning of the plan and therefore public meetings and workshops and an LGA wide letter box drop will be unnecessary.

After completion of the public exhibition of the Stage 1A draft changes to Leichhardt Development Control Plan 2013 the Council's Strategic Planning team will:

- review and consider any submissions made to Council;
- prepare DCP Review Stage 1A exhibition outcomes report for the Policy Meeting on 12 April 2016 which will:
  - consider comments/ submissions relevant to Stage 1A
  - amend draft document as appropriate
  - identify new changes
  - comments/submissions that are more relevant to Stage 1B/2 will be noted in the post-exhibition report



**Summary/Conclusions**

A DCP Review Stage 1A exhibition outcomes report will be reported to the 12 April 2016 Policy Meeting. This report will also incorporate the pre-exhibition report for the Stage 1B amendments to the *Leichhardt Development Control Plan 2013*.

**Attachments**

Attachment 1 – Leichhardt Development Control Plan Amendment 5 (as proposed)  
Attachment 2 – Leichhardt Development Control Plan 2013 Amendment 5 (as proposed) with track changes

**Provided electronic only due to its size - will be circulated to Councillors on**

### ITEM 3.3

### REVIEW OF WESTCONNEX BUSINESS CASE

<b>Division</b>	Environment and Community Management
<b>Author</b>	Strategic Transport Planner
<b>Meeting date</b>	9 February 2016 Policy Meeting
<b>Strategic Plan Key Service Area</b>	Community well-being Accessibility Place where we live and work A sustainable environment Business in the community Sustainable services and assets

#### **SUMMARY AND ORGANISATIONAL IMPLICATIONS**

<b>Purpose of Report</b>	To provide Council with a summary of the SGS Economics and Planning, independent consultant review of the WestConnex Updated Strategic Business Case
<b>Background</b>	<p>The WestConnex Motorway Project was first proposed in the <i>NSW State Infrastructure Strategy 2012 – First Things First</i> and subsequently included in the <i>NSW Long Term Transport Master Plan</i>. The project comprises three stages to connect the existing M4 motorway from Parramatta to the M5 motorway at Beverly Hills.</p> <p>In September 2013 the NSW State Government released the WestConnex Business Case Executive Summary. Subsequently, in response to requests for the complete business case the Sydney Motorways Corporation (formerly WestConnex Delivery Authority) released the project's Updated Strategic Business Case. Additionally the "New M5" (WestConnex Stage 2) Environmental Impact Statement (EIS) was also released in November 2015.</p> <p>A separate report which outlines a draft submission on the "New M5" EIS is also included in the agenda for the February 2016 Policy meeting.</p>
<b>Current Status</b>	Subsequent to the release of the <i>Updated Strategic Business Case</i> Council commissioned SGS Economics and Planning to review the document.
<b>Relationship to existing policy</b>	Relates to previous resolutions: <b>C480/12, C495/12, C85/13, C537/13, C11/14, C12/14, C99/14, C157/14, BDC164/14, C492/14</b>

	<b>C13/19P and C522/15</b>
<b>Financial and Resources Implications</b>	NIL at this time
<b>Recommendation</b>	<p>That Council:</p> <ol style="list-style-type: none"> <li>1. Forward the findings of the attached review of the WestConnex <i>Updated Strategic Business Case</i> to the Department of Planning as part of Council's submission on the "New M5" Environmental Impact Statement;</li> <li>2. Forward the findings of the attached review of the WestConnex <i>Updated Strategic Business Case</i> to the Minister for Planning, Minister for Roads and the NSW Premier as part of a separate submission supporting Council's opposition to the WestConnex Motorway Project.</li> </ol>
<b>Notifications</b>	NIL
<b>Attachments</b>	1. WestConnex Business Case Review

## Purpose of Report

To provide Council with a summary of the SGS Economics and Planning, independent consultant review of the WestConnex Updated Strategic Business Case.

## Recommendation

That Council:

1. Forward the findings of the attached review of the WestConnex Updated Strategic Business Case to the Department of Planning as part of Council's Submission on the 'New M5' Environmental Impact Statement;
2. Forward the findings of the attached review of the WestConnex Updated Strategic Business Case to the Minister for Planning, Minister for Roads and the NSW Premier as part of a separate submission supporting Council's opposition to the WestConnex Motorway Project.

## Background

The WestConnex Motorway Project was first proposed in the *NSW State Infrastructure Strategy 2012 – First Things First* and subsequently included in the *NSW Long Term Transport Master Plan*. The project comprises three stages to connect the existing M4 motorway from Parramatta to the M5 motorway at Beverly Hills.

In September 2013 the NSW State Government released the WestConnex Business Case Executive Summary. Subsequently, in response to requests for the complete business case the Sydney Motorways Corporation (formerly WestConnex Delivery Authority) released the project's Updated Strategic Business Case. Additionally the "New M5" (WestConnex Stage 2) Environmental Impact Statement (EIS) was also released in November 2015.

A separate report which outlines a draft submission on the "New M5" EIS is also included in the agenda for the February 2016 Policy meeting.

## Report

Subsequent to the release of the WestConnex *Updated Strategic Business Case* Leichhardt Council commissioned SGS Economics and Planning to review the document.

The findings of this review are summarised below.

### **1. No Realistic Alternatives to WestConnex considered**

The SGS review suggests that the *Updated Strategic Business Case* for WestConnex does not consider realistic strategic alternatives to the WestConnex Motorway Project.

Further, the review states that this approach contrasts with the Transport for New South Wales *Principles and Guidelines for Economic Appraisal of Transport Initiatives* (2013) which recommends the identification and analysis of solutions on the basis of physical circumstances and available technologies.

Concern is therefore expressed, that for a project of this magnitude (\$16.8 billion) other solutions should have been considered including demand management, realistic public transport solutions or a combination of enhanced public transport and site-specific strategic road network improvements.

**2. Other global cities are focusing on integrated transport solutions** The *Updated Strategic Business Case* highlights Sydney's rating as the 21st most congested city in the world as justification for developing the WestConnex Motorway. However, significant literature exists relating to the manner in which new road projects induce/create additional traffic; pointing out that as cities grow, larger roads become a less viable transport solution.

Almost universally global cities recognise this issue and have re-focused their efforts to enhance their public transport networks rather than attempting to solve traffic congestion by creating additional motorways. Of particular relevance to this is the work of cities like:

- Los Angeles (10th most congested city) - investing in new subway lines, light rail lines and rapid bus transit;
- Rome (13 most congested city) - creation of the restricted traffic zones, altered parking restrictions, enhanced cycling infrastructure and improved public transport network;
- London (16 most congested city) - restricted traffic zones, use of congestion charging to improve public transport and active transport, leading to a reduction in traffic volumes of 10% in 10 years; and
- Vancouver (20th most congested city in the world) - enhanced public transport patronage through revised fare structures, introduction of a smartcard system, demand management of the surface road network and introduction of congestion charging.

### **3. The longevity of the project is unclear**

The *Updated Strategic Business Case* suggests that, once the Western Harbour Tunnel and Northern Beaches Link are in operation (2031), WestConnex will be approaching capacity. If wholly completed by 2021, this would result in \$16.8 billion being spent for a project which will only be fully operationally efficient for approximately ten years.

### **4. Impact of WestConnex on the Bays Precinct**

There appears to be little consideration of the impacts of WestConnex on the future Bays Precinct. Most notably it is considered that the potential proximity of the WestConnex portal to the Rozelle rail yards is likely to:

- result in significant levels of congestion on the surface road network in and around the Bays Precinct (caused by vehicles accessing and egressing the portal);



- proximity of Bays Precinct residential properties to the WestConnex portal is likely to encourage private vehicle use by these residents. Given that virtually all of the Bays Precinct's residents will be new to the area this development provides a unique opportunity for the development of a public and active transport orientated travel culture from its very onset.

It is well recognised that it is much easier to encourage lower levels of private car dependency in new populations than it is to retrofit such a cultural change. Consequently, the Review states that establishing a motorway through the Bays Precinct appears counterintuitive to the aims of the urban renewal project.

## **5. The traffic modelling has a range of issues**

The Review considers that the description of the transport modelling applied to WestConnex is opaque and confusing, and that the toll regime used in the traffic forecasting is not fully explained.

Additionally, it considers that the forecasts of induced demand are of concern. While it is suggested that a high level of new trips will be induced/created by WestConnex, calculations relating to transport benefits do not appear to have been reduced. This is of significant concern as there is little or no reference to the possibility of the conversion of public transport trips to private car trips, or the impact of this conversion on Sydney's public transport system.

The modelling is also questioned on:

- the absence of modelling for a more distant future year (e.g. 2046);
- contradictions in the projected volumes at some locations;
- its inability to accurately reflect future trends – by its nature the model has been developed based on historical analysis and current surveys; it is unable to take into account possible technological or political changes that may occur during the life of the project (e.g. autonomous vehicles, petrol pricing)

## **6. Benefit Cost Analysis**

The Review expresses concern regarding the benefit cost analysis conducted in the business case, particularly noting:

- a variation in the manner of calculating the 1.71 ratio in relation to the difference between business case costs and “present” costs;
- the inclusion of travel time savings that are less than 5 min (if these benefits are excluded the benefit cost ratio could potentially be recalculated to approximately 1.12). This is of particular relevance because travel time savings of 5 min, or less, are considered marginal (at best) in economic terms;
- that the rationale for the large number of business trips appears unclear;
- land acquisition costs appear to have been excluded from the “cost” side of the analysis.

## **7. High cost of the project**

The *Updated Strategic Business Case* estimates WestConnex to cost \$16.8 billion. This cost estimate is provided at a P50 level (meaning, there is a 50 per cent chance that the actual project cost will vary). For a project of this scale, it is considered best practice to produce a P90 cost.

Further, at \$16.8 billion, WestConnex would be considerably more expensive than other major infrastructure projects on a per kilometre basis. At 33 kilometres in length, WestConnex would be approximately \$510 million per kilometre. In contrast the Channel Tunnel (UK) cost \$426 per kilometre and the Eastern Distributor was \$223 per kilometre (in 2015 dollars).

## 8. Additional Points

In addition to the above, the review also expresses concern over the:

- calculation of savings in relation to the cost of crashes;
- real costs of the total project, and the potential for cost “blowouts” to occur;
- true value of travel time savings presented in the business case; noting that a large proportion of the anticipated travel time savings are of 5 minutes or less and that such a minor saving when weighted against the payment of a toll may prove irrelevant to the average user;
- health impacts, local amenity impacts and related land use implications are not discussed by the *Updated Strategic Business Case*.
- absence of any reference to the West Metro rail project as a possible solution to the travel needs of Western Sydney.

## Summary/Conclusions

In summary the SGS review of the WestConnex *Updated Strategic Business Case* indicates that the construction of a major set of toll roads, as proposed by WestConnex, does not align well with the needs of Sydney during the 21st century.

Internationally cities are recognising that congestion cannot be solved by building more roads. Consequently these cities are focusing their efforts on public and active transport in combination with demand management and strategic land-use planning. This consultant review considers that the *Updated Strategic Business Case* fails to address many of the key requirements of a business case, with the following being of particular concern:

- The *Updated Strategic Business Case* does not consider any strategic alternatives to WestConnex.
- The description of the transport modelling applied to WestConnex is opaque and confusing, and the toll regime that is used in traffic forecasts is not fully explained.
- Once the Western Harbour Tunnel and Northern Beaches Link are in operation (by 2031), the *Updated Strategic Business Case* suggests that WestConnex will be close to capacity. If wholly completed by 2021, this would result in \$16.8 billion being spent for around ten years of marginally improved travel times.

- Establishing a motorway through The Bays Precinct appears counterintuitive to the aims of the urban renewal project.
- The costs of WestConnex are high and have the potential to increase.
- The traffic modelling has a range of issues which are concerning for a project of this scale. These issues include the treatment of induced demand and its impact on the project benefits, a lack of sensitivity testing and the lack of modelling for a more distant future year (e.g.2046).
- The benefit cost ratio (BCR) of 1.71 seems questionable based on information provided in the document. Dividing the present value of benefits against the present value of costs results in a benefit cost ratio of 1.64.
- If travel time savings of less than five minutes are excluded, the travel time benefits are reduced from \$12.9 billion to \$5.9 billion, consequently reducing the BCR from the recalculated 1.64 to 1.12.
- The rationale for the large proportion of business trips is unclear. 33 per cent of travel time benefits are attributed to cars – privately registered for business use. However, justification on why there are so many business car users is not provided in the *Updated Strategic Business Case*.
- Land acquisition costs or the opportunity cost of land being used for the project do not appear to be included in the WestConnex project costs or in the broader benefit cost analysis.
- The health impacts, local amenity impacts and related land use implications are not discussed by the *Updated Strategic Business Case*.

## Attachments

1. WestConnex Business Case Review

## WestConnex Business Case Review

### Final Report

Leichhardt City Council  
January 2016



Independent insight.



Independent  
insight.



Veatch Lister Consulting

This report has been prepared for Leichhardt City Council. SGS Economics and Planning has taken all due care in the preparation of this report. However, SGS and its associated consultants are not liable to any person or entity for any damage or loss that has occurred, or may occur, in relation to that person or entity taking or not taking action in respect of any representation, statement, opinion or advice referred to herein.

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20160016 Leichhardt WestConnex Business Case Review Final Report 160128



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## EXECUTIVE SUMMARY

WestConnex is a series of road projects including the M4 Widening, the M4 East, a M4-M5 Link and a New M5 from Beverly Hills to St Peters. WestConnex also sets the stage for other road projects including a link to the port and Sydney airport, a Western Harbour Tunnel running under Rozelle to the Northern Beaches Link and a Southern Gateway to the Illawarra. When all stages of WestConnex are completed it will be the largest continuous motorway in Australia and will be one of the most expensive transport infrastructure projects undertaken anywhere in the world. The project will influence land use and transport patterns over half of Sydney.

In November 2015, the WestConnex *Updated Strategic Business Case* was released to describe the need for the project, build the case that the project was the best solution, measure the benefits and identify project costs. However, the *Updated Strategic Business Case* fails to address many of the key requirements of a business case. The purpose of WestConnex and who will benefit from the project remains unclear. Issues with the *Updated Strategic Business Case* include:

### **Alternatives to WestConnex have not been considered**

The *Updated Strategic Business Case* does not consider any strategic alternatives to WestConnex. This approach contrasts with Transport for New South Wales guidance which recommends the identification and analysis of solutions on the basis of physical circumstances and available technologies. For example, the proposed West Metro from Westmead to the Sydney CBD could have been considered as an alternative to the M4 sections of WestConnex.

### **Project objectives prevent a non-road based solution from being considered**

The project objectives for WestConnex are inherently road-based – preventing an integrated transport solution which considers public transport and / or demand management alongside a road. In addition, none of the stated objectives aim to deliver an environmentally sustainable outcome.

### **Other global cities are focusing on integrated transport solutions**

Other global cities have recognised that congestion cannot be solved by building more roads and in turn, have refocused efforts in transport infrastructure onto public transport and demand management.

### **The longevity of the project is unclear**

Once the Western Harbour Tunnel and Northern Beaches Link are in operation, the *Updated Strategic Business Case* suggests that WestConnex will be close to capacity by 2031. If wholly completed by 2021, this would result in \$16.8 billion being spent for around ten years of marginally improved travel times.

### **The impact of WestConnex on the Bays Precinct will be significant**

The Bays Precinct may benefit from road access provided by WestConnex, but the proposed realignment of WestConnex Stage 3 to include an interchange at Rozelle connecting to the Anzac Bridge and future Western Harbour connection has significant implications for traffic flow and congestion in and around The Bays Precinct. Establishing a motorway through The Bays Precinct appears counterintuitive to the aims of the urban renewal project to create

### **Costs are high and are likely to be even higher**

WestConnex is estimated to cost \$16.8 billion in the *Updated Strategic Business Case*. However, this cost estimate is provided at a P50 level, meaning, there is a 50 per cent chance that the actual project cost will vary. For a project of this scale, it is best practice to produce a P90 cost.

Since 2013 it appears that the cost for comparable sections of WestConnex has not changed. Whilst additional road links and supporting costs have been added to the total, the cost of the remainder of the project remains at \$14.8 billion – an outcome which suggests that over two years, no additional analysis has been undertaken on project costs and inflation has not been accounted for either.

At \$16.8 billion, WestConnex would be considerably more expensive than other international and national projects on a per kilometre basis. At 33 kilometres in length, WestConnex would be approximately \$510 million per kilometre. In contrast the Channel Tunnel (UK) cost \$426 per kilometre and the Eastern Distributor was \$223 per kilometre, in 2015 dollars.

#### The traffic modelling has a range of issues

The description of the transport modelling applied to the WestConnex project is opaque and confusing and the toll regime that is used in traffic forecasts is not fully explained.

The treatment of induced demand is questionable. The forecasts of induced demand are concerning, as they suggest a very high level of new trips will be induced by WestConnex, but the transport benefits do not appear to have been reduced with this increase in traffic. This result is hard to comprehend.

All results in the *Updated Strategic Business Case* are presented as absolute numbers rather than in ranges. The sensitivity of the modelling should have been tested against reasonable variations to input parameters to provide credibility to the estimates. The absence of modelling for more distance future year (e.g. 2046) is concerning.

As a result of increased congestion and the introduction of tolls, transport modelling suggests that a very small percentage of Leichhardt residents will use public transport more when WestConnex is complete.

#### The cost benefit analysis is littered with issues

The *Updated Strategic Business Case* has costs of \$13,547 million and benefits of \$22,204.9 million and a benefit cost ratio of 1.71. However, dividing the present value of benefits against the present value of costs results in a benefit cost ratio of 1.64. This difference is too large to be the result of a rounding error.

If travel time savings of less than five minutes is excluded, the travel time benefits are reduced from the benefits would fall from \$12.9 billion to \$5.9 billion – reducing the BCR from the recalculated 1.64 to 1.12. These small travel time savings were one of the issues with the Lane Cove and Cross City Tunnels, where Roads and Maritime Services described that “the majority of travel time savings were less than five minutes (which are often not realised and can be considered inframarginal in economic terms)”.

The rationale for the large proportion of business trips is unclear. 33 per cent of travel time benefits are attributed to cars – privately registered, business use. However, it is unclear why so many business car users have been included in the analysis – justification is not provided in the *Updated Strategic Business Case*.

Land acquisition costs or the opportunity cost of land being used for the project do not appear to be included in the WestConnex project costs or in the broader cost benefit analysis. The health impacts, local amenity impacts and related land use implications are not discussed by the *Updated Strategic Business Case*.

In summary, the *Updated Strategic Business Case* fails to establish WestConnex as the best transport solution for Sydney.

# 1 INTRODUCTION

## 1.1 Project context

WestConnex will have an impact on the Leichhardt LGA. A number of these implications have been identified by SGS and in a recent submission by Leichhardt Council regarding the M4 East Environmental Impact Statement. The submission was produced in response to the release of the WestConnex Stage 1B Environmental Impact Statement. Key implications associated with WestConnex intersecting with the LGA include:

- WestConnex Stage 1B is inconsistent with the aims of Leichhardt Council's adopted Integrated Transport Plan. The plan seeks to improve accessibility within and throughout the Local Government Area (LGA), create a legible, direct and safe pedestrian and cycling environment and encourage public transport use.
- The EIS does not consider the future relationship the road corridor may have with major planning projects currently underway within the subregional context of Leichhardt such as the Bays Precinct and Sydney Metro.
- Traffic around Leichhardt's local road network is likely to increase with the completion of Stage 1B M4 East as traffic is likely to be diverted from the congested Parramatta Road and Dobroyd Parade. This may influence Leichhardt's precincts by reducing accessibility and amenity within the local street network.
- Potential Increased traffic generation due to the flow on effect from the Anzac Bridge and Parramatta Road extension and congestion of Victoria Road and Anzac Bridge.
- An exit tunnel at Victoria Road near the Anzac Bridge could increase traffic along the already congested Victoria Road and increase local traffic along Johnson Street and other streets with more cars entering the local road network.
- If WestConnex does relieve pressure on Parramatta Road, it could create a better urban environment along the southern boundary of the Leichhardt LGA. However, if as expected, traffic along Parramatta Road increases, this will exacerbate the urban quality irrespective of the urban renewal vision of UrbanGrowth NSW.

## 1.2 Project brief

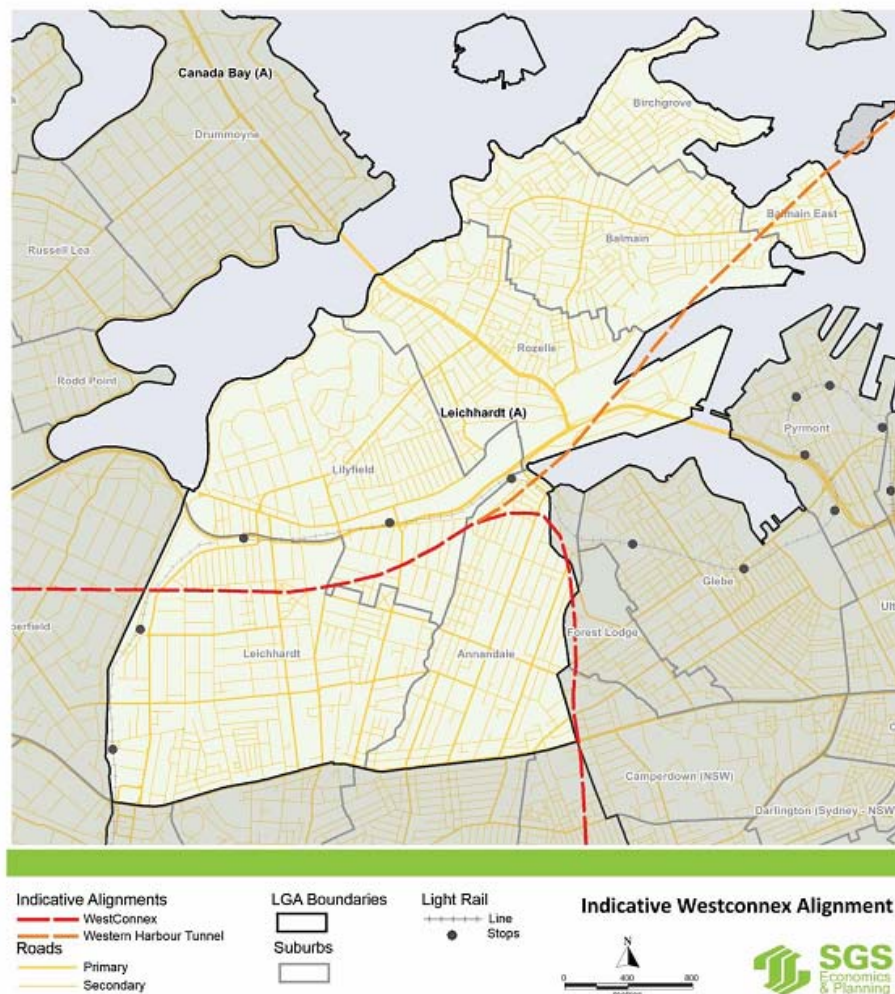
SGS Economics and Planning (SGS) was commissioned by Leichhardt City Council to review the *Updated Strategic Business Case* for WestConnex. The focus of this review is:

- The sustainability and environmental objectives and performance of the project
- The economic analysis of WestConnex and the underlying assumptions, including project costs and how health and wellbeing have been accounted for, and
- The transport implications of the project, including induced demand and possible loss of public transport patronage.

These three foci form the structure of this report.



FIGURE 1. PROPOSED WESTCONNEX ALIGNMENT



### 1.3 History of WestConnex

The NSW Government announced WestConnex in 2012 as part of NSW's *State Infrastructure Strategy* (SIS). Under the SIS, Infrastructure NSW identified WestConnex as a "catalyst to renew and transform the parts of Sydney through which it passes. WestConnex is intended to develop as an integrated land use and transport scheme delivering on road transport, urban renewal and public transport outcomes" (Infrastructure NSW, p88).

As outlined in the SIS, WestConnex was designed to integrate the M4 extension from Parramatta towards the Airport with an expansion of the M5 East. Figure 1 details the key opportunities and benefits envisaged for WestConnex.

FIGURE 1. WESTCONNEX ALIGNMENT 2012



Source: Infrastructure NSW, 2012

The SIS also promoted WestConnex as supporting freight and people movements to Sydney Airport, relieving congestion and facilitating improvements in public transport. The strategic benefits of the project were justified under the SIS and included:

- relieving congestion on the existing M4/Parramatta Road and M5 East
- supporting freight movements between Sydney's Gateways and the logistics hubs in Western and South Western Sydney
- supporting people movements to Sydney Airport
- acting as a catalyst for urban regeneration along key corridors, particularly Parramatta Road
- enhancing orbital road connectivity South and West of the CBD
- facilitating improvements in public transport, particularly on the Parramatta Road corridor

However, the SIS outlined that existing assets should be maximised before investing in new projects.

*"NSW should also maximise the use of existing assets wherever possible before investing in new projects because it is both cost effective and it is capable of delivering quick improvements for the community that are sacrificed when there is too great a focus on big projects with long lead times" (Infrastructure NSW, p24).*

This statement reflects that rather than embarking on major construction projects, the existing M4 and M5 motorways should be tolled in order to manage demand.

In October 2012, the NSW Government announced it would proceed with the recommendation put forward by Infrastructure NSW, to develop a business case for WestConnex. The recommendation formed part of the future Sydney motorway network identified in the SIS and the NSW Government's Draft Long Term Transport Master Plan. In August 2013, the business case was approved by the NSW

Government and the WestConnex Delivery Authority (WDA) was established to manage the project in October 2013.

The text box below details the concern raised by the NSW Auditor General around the development of the business case process. The Auditor General noted that "the preliminary business case submitted for Gateway review had many deficiencies and fell well short of the standard required for such a document. Further, on our analysis, the business case put to the Government still included some deficiencies that independent Gateway reviews and external assurance arrangements, if they had occurred, should have identified" (NSW Auditor-General 2014, p3).

#### WestConnex Assurance to the Government

In December 2014 the NSW Auditor-General issued a report into assurance processes associated with WestConnex. This highlighted that the process undertaken to date is not considered satisfactory. The focus of the audit was to determine whether WestConnex assurance processes are consistent with key principles underlying NSW Government major projects assurance frameworks and have been effectively implemented to provide sound, independent assurance to Government and project sponsors.

The audit did not examine the merit of the project or whether it represented value-for-money. The report found that additional independent gateway reviews should have been conducted. Only one review was conducted which found that the preliminary business case was deficient and fell well short of the standard required for such a document. Four additional gateway reviews should have been conducted.

A number of other conflicts of interest were raised in relation to governance arrangements and the board members of WDA. The final conclusion of the report was that "There were a number of deficiencies in governance and independent assurance over the early stages of the WestConnex project. Going forward, these need to be rectified to ensure that WestConnex achieves the expected benefits at a reasonable cost". Further to this, the report notes that "The preliminary business cases submitted raise deficiencies in business cases on which decisions have been made".

#### **Updated WestConnex Route (2014)**

The NSW Government announced in June 2014 that the WestConnex Delivery Authority (WDA) would prepare a business case for two extensions to WestConnex. As part of the business case, northern and southern extensions were proposed, with the WDA to assess the feasibility and affordability of the change.

The northern and southern extensions were both identified under the NSW *Long Term Master Plan* as corridors for investigation. The northern extension will link the former Rozelle Goods Yard to Victoria Road to the north and the Anzac Bridge and Western Distributor to the east. The southern extension will connect the new M5 to President Avenue in Rockdale. However, it is not stated how this alignment is superior to the original (for example, in terms of cost benefit analysis).

With reference to the SIS Update 2014, these extensions aim to provide a western bypass of Sydney's CBD to alleviate existing pressure on the existing north-south corridor of Sydney's orbital network. Infrastructure NSW also focused on reducing journey times from the south. Stage 3 of WestConnex was rerouted towards the northern extension and away from Parramatta Road.

Figure 2 illustrated the updated alignment from December 2014 with Stage 3 linking the M4 and M5. As an outcome from the realignment, Parramatta Road is no longer duplicated from Haberfield to Petersham and there has been a connection introduced onto Parramatta Road at Camperdown. Hence the opportunity for urban renewal along Parramatta Road was lost.



FIGURE 2. WESTCONNEX ALIGNMENT (NOVEMBER 2015)



### 2015 Updated Strategic Business Case

In November 2015, the NSW Government released the *Updated Strategic Business Case*. It consolidates the work undertaken in the original business case, with additional modelling, analysis and changes to the reference design enhancements. This report will examine the WestConnex *Updated Strategic Business Case* in more detail.

Key implications of the current project compared to the original project include:

- The various stages of WestConnex will be constructed more quickly allowing benefits to be unlocked more quickly.
- The Stage 1 section is closer to the CBD and will generate increased congestion for those travelling to and from the CBD and Eastern suburbs. The ANZAC Bridge will be particularly adversely impacted.
- Urban amenity and local traffic conditions will not be improved along Parramatta Road by WestConnex, and the opportunities for urban renewal will not be improved by the project. Hence one of the key strategic reasons for the project has been lost.
- The route which will allow access to Sydney Airport and Port Botany is not fully explained and will be delivered four years after the opening of Stage 2 of WestConnex. The *Updated Strategic Business Case* is also silent on the potential impact of the Western Sydney Airport on future traffic demand. It is unclear if the access to Sydney's global gateways will be improved with the new airport, hence bringing into question one of the key strategic reasons for the project.

## 2 THE SUSTAINABILITY OF WESTCONNEX

### 2.1 Introduction

The strategic merit of WestConnex is not fully established by the *Updated Strategic Business Case* or in supporting Environmental Impact Statements (EIS) released to date. This has generated considerable uncertainty around whether WestConnex is a sustainable and superior solution for Sydney's transport issues. The following section draws on numerous parts of the *Updated Strategic Business Case* to examine the sustainability of WestConnex and what its potential impact may be on Leichhardt Council.

### 2.2 Is WestConnex the only solution?

#### Alternatives to WestConnex have not been considered

The *Updated Strategic Business Case* does not consider any strategic alternatives to WestConnex. Analysis of options appears to be limited to minor variations in route alignments, and this analysis is primarily incorporated into the M4 East and Stage 2 Environmental Impact Statements.

Section 3 of the *Updated Strategic Business Case* focuses on 'Solutions in a Strategic Context'. This section actually establishes the policy alignment of the WestConnex proposal, rather than considering solutions to identified problems. The strategic alignment of WestConnex to a range of policies is considered, including *NSW State Priorities, NSW 2021, 2012 State Infrastructure Strategy, NSW Long Term Transport Master Plan, 2014 State Infrastructure Strategy, NSW freight and Ports Strategy, A plan for Growing Sydney* and the *2014-15 NSW Budget*. The outcome of this analysis is qualitative reasoning supporting the strategic merit of WestConnex. However, this section does not consider broader potential solutions.

This approach contrasts with Transport for New South Wales (TfNSW) *Principles and Guidelines for Economic Appraisal of Transport Initiatives (2013)* which recommends the identification and analysis of solutions on the basis of physical circumstances and available technologies.

The *Guidelines* note that:

*'The main risk of distorting the evaluation is the risk of neglecting relevant alternatives, in particular, low cost solutions such as managing and pricing solutions.'*

TfNSW (2013, p. 27).

For a project as significant as the \$16.8 billion WestConnex, it is concerning that other solutions and in particular, demand management (electronic road pricing) or public transport solutions, have not been assessed. A strategic alternative or option analysis may have identified the need for an integrated transport solution which could have included guided (or unguided) bus ways connecting between rail lines, intelligent transport systems, better integration of land use and transport strategies, and demand responsive systems. Failure to consider these options is a missed opportunity.

An example of consideration of strategic alternatives is the *East West Link Needs Assessment* undertaken by Sir Rod Eddington for the Victoria Government. This assessment developed four options which



integrated a range of road and public transport investment with the aim of improving east-west connectivity in Melbourne.

### Project objectives prevent a non-road based solution from being considered

The objectives of WestConnex are primarily road-based. Shown in Section 4 of the *Updated Strategic Business Case*, these objectives centre on improving motorway access, relieving road congestion, catering to travel demands that are best met by road and improving productivity. For the most part, these objectives can only be fulfilled by *WestConnex*.

Whilst the *Updated Strategic Business Plan* does not identify strategic alternatives or assess these against these objectives, this assessment is presented in the Stage 2 EIS. Here, a range of high level strategic alternatives are dismissed on the basis of non-performance against stated criteria.

Whilst the failure to consider projects other than WestConnex, particularly integrated projects, is concerning, it is also of concern that sustainability objectives are not identified. The sustainability of the project in terms of longevity and environmental performance is not identified as an objective of WestConnex.

### Other global cities are focusing on integrated transport solutions

Road congestion is a significant problem for Sydney. TomTom data suggests Sydney is the 21<sup>st</sup> most congested city in the world – a point that is used in the *Updated Strategic Business Case* as a key justification for developing WestConnex.

Table 1 contains an overview of selected cities from the TomTom data.

TABLE 1. CONGESTION RANKINGS

World rank	Filter rank	City	Country	Congestion Level	Morning peak	Evening peak	Highways	Non-highways
10	10	Los Angeles	United States	39%	60%	80%	36%	42%
13	13	Rome	Italy	38%	71%	65%	24%	43%
16	16	London	United Kingdom	37%	65%	67%	22%	43%
20	20	Vancouver	Canada	35%	53%	66%	13%	41%
21	21	Sydney	Australia	35%	66%	64%	31%	37%
22	22	Paris	France	35%	64%	64%	35%	35%
26	26	San Francisco	United States	34%	53%	68%	29%	39%

SOURCE: TOMTOM, 2014

However, significant literature exists around the traffic inducement effect of new roads and as cities grow larger roads become a less viable transport solution. Many cities in Europe, North America and East Asia are also removing motorways from their inner city to improve livability, improve transport sustainability, and effectively manage traffic congestion (Lavanchy 2014, Napolitan and Zegras 2008, Kang and Cervero 2009, Cervero 2006).

Other global cities recognise this issue and in turn, have refocused efforts in transport infrastructure onto public transport.

- Los Angeles, the 10<sup>th</sup> most congested city in the world, long known for its sprawling development pattern and reliance on cars, has seen significant investment in mass transit since the early 1990s. Over the last two decades, a number of new subway lines have been constructed, along with light rail lines and rapid bus lines. 'Measure R' was implemented in 2008 to enable taxes to create a dedicated funding stream for new transit.
- Rome, the 13<sup>th</sup> most congested city in the world, launched an *Urban Mobility Plan* in 2010 which places restrictions on traffic within specific zones in the city. Emissions reduction mechanisms, altered parking restrictions and expanded cycling and public transport form part of the plan to improve mobility while reducing reliance on cars.
- London, the 16<sup>th</sup> most congested city in the world, introduced a congestion charge in 2003. Almost half of the revenue has been reinvested into public transport, roads and active transport schemes and traffic volumes have been reduced by 10 per cent (Transport for London, 2014).
- In Vancouver, the 20<sup>th</sup> most congested city in the world, the *Transportation 2040 Plan* looks to improve public transport patronage by revising fare structures and introducing a smartcard system, optimising the road network through improved signalling and peak hour parking regulation, and through investigating a congestion charge policy in more detail.

Congestion is a common issue for global cities and Sydney is no exception. The potential investment of at least \$16.8 billion into a toll road in Sydney is not consistent with the path taken by other international cities and is not supported by a rigorous assessment of alternatives.

#### The longevity of the project is unclear

It would be expected that a high cost project would generate benefits for decades to come. This does not appear to be the case for WestConnex.

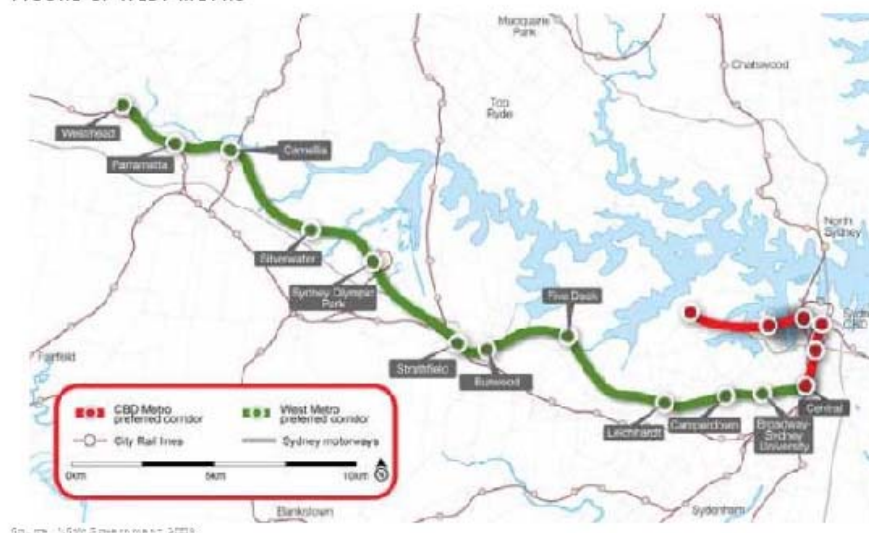
On-ramps at Rozelle will provide westbound access from Anzac Bridge to WestConnex. However, once the Western Harbour Tunnel and Northern Beaches Link are in operation, the *Updated Strategic Business Case* suggests that WestConnex will be close to capacity by 2031. If wholly completed by 2021, this would result in \$16.8 billion being spent for around ten years of marginally improved travel times.

#### The West Metro project is not identified or compared against

The WestConnex Stage 2 EIS addresses public transport alternatives in very broad terms, with no specific proposals considered. The EIS concluded that as no one public transport project can provide for all passenger needs (private and freight), WestConnex is supported.

This report uses the shelved West Metro proposal as a comparison with WestConnex. West Metro was proposed in the mid-2000s to connect Westmead and Parramatta to the Sydney CBD via a high frequency metro line. West Metro was proposed as an extension of the CBD Metro line, proposed to run from Central Station to Rozelle. The proposed route for West Metro, shown in [Figure 3](#) is very similar to the route of Stage 2 of WestConnex. West Metro was proposed to have trains operating every 2-3 minutes during peak hours and a maximum daytime wait of 5 minutes (NSW Government 2009, 4). Transport modelling prepared for the West Metro EIS found that by 2031, between 45,000 and 60,000 passengers would utilise West Metro in the AM peak (NSW Government 2009, 4).

FIGURE 3. WEST METRO



As with WestConnex, the West Metro was found to reduce travel times for commuters during the AM peak at all proposed stations, however the travel time savings were more significant for West Metro. Travel time savings were noted for commuters at Westmead and Parramatta as the stations benefit from faster and more frequent rail services (NSW Government 2009, 21). The most pronounced travel time savings noted at Camellia, Silverwater, Five Dock and Leichhardt, with over 20 minutes saved (NSW Government 2009, 21). The West Metro EIS found that the introduction of a high speed rail line would provide significant relief to the Western rail line, diverting approximately 40 percent of passenger trips from the existing rail network to the West Metro during the AM peak (NSW Government 2009, 23).

West Metro provides a reliable service, with peak services proposed every 2-3 minutes. The rail network is separate from the road network and unlike buses are not subject to significant delays from road congestion. Current bus frequency and timetables are significantly impacted by traffic congestion and while there is potential for a dedicated bus lane along Parramatta Road with WestConnex, no indication has been made in the Stage 1 b EIS regarding improved reliability of services.

In addition to faster travel times, the West Metro proposal provides benefits to residents and businesses in the Leichhardt LGA that simply cannot be achieved through the WestConnex project. West Metro has the potential to significantly reduce travel times for residents of Leichhardt LGA and surrounds into the CBD, providing a travel time saving of over 20 minutes (NSW Government 2009, 21). No travel time savings for areas east of Burwood have been provided in the Stage 1 b EIS for WestConnex. It is therefore unclear whether any travel time saving is forecast for the majority of Sydney's Inner West.

Introducing a high speed rail network through the Inner West and the Leichhardt LGA has the potential to encourage greater public transport patronage, reducing car usage and car dependency and therefore relieving road congestion. The WestConnex proposal does the exact opposite, reinforcing car dependency across Sydney and providing to incentivise a modal shift away from private vehicles to public transport. Improving public transport and reducing congestion are recognised as vital actions to improve the liveability of Sydney in the *NSW Long Term Transport Master Plan* (2012, 176). While the proposed West Metro would have helped achieve this objective, WestConnex is unlikely to reduced private vehicle use.



The impacts of WestConnex project and the West Metro project are summarised in Table 2 below. It is evident from the comparison between the two projects that WestConnex is an inferior transport solution for the residents and businesses of the Leichhardt LGA, providing fewer benefits and more negative impacts than the previous West Metro proposal.

TABLE 2. IMPACTS OF PROJECTS ON LEICHHARDT LGA

	Benefits to Leichhardt LGA	Costs to Leichhardt LGA
WestConnex	<ul style="list-style-type: none"> <li>Potential travel time savings by bus, however this is not clearly articulated in planning documents</li> <li>Improved road connections to Parramatta</li> <li>Improved motorway access</li> </ul>	<ul style="list-style-type: none"> <li>Increased local traffic as motorists avoid tolls on WestConnex</li> <li>Increased local traffic as staging of the project does not see the M4-M5 connection complete when Stage 1b is complete, depositing motorists in Haberfield. Local roads used to drive into the city.</li> <li>Increased local traffic as Stage 3 deposits motorists at the Anzac Bridge or Victoria Road, adding additional vehicles to a already congested road network.</li> <li>Potential air quality impacts however this is not clearly articulated in planning documents</li> </ul>
West Metro	<ul style="list-style-type: none"> <li>Reduced travel times by over 20 minutes from Leichhardt LGA into the CBD</li> <li>Reliable public transport unaffected by road congestion</li> <li>Improved development potential around a proposed Leichhardt station and adjacent areas of Parramatta Road</li> <li>Improved connections to Sydney and Parramatta CBDs</li> <li>Improved public transport interchange, with bus interchange proposed at a proposed Leichhardt station</li> <li>Encouraging less car dependency through improved public transport network</li> </ul>	<ul style="list-style-type: none"> <li>Potential increase to local traffic and parking demand for metro station</li> <li>Lack of benefit for northern areas of Leichhardt LGA (Rozelle, Balmain, Lilyfield) without CBD Metro or light network</li> </ul>

### 2.3 How WestConnex will affect Leichhardt

#### Issues identified in the previous EIS remain unaddressed

At its meeting on 27 October 2015, Leichhardt Council endorsed a submission in response to the Environmental Impact Statement (EIS) prepared for Stage 1b of the WestConnex proposal. In its submission, Leichhardt Council indicated it opposed the WestConnex development due to the significant impacts and lack of key information surrounding the proposal. The impact of the proposal on Sydney's road network (including road capacity, usage and travel times) and full costs and benefits were not provided as part of the EIS. Leichhardt Council also notes in their submission that the EIS also lacks a comparison of the cost and benefits of the WestConnex project to a public transport project of a similar scale. Several concerns raised by Leichhardt Council in previous submissions provided to the NSW Government prior to the release of the EIS for Stage 1b, such as concerns around air quality and impact on identified urban renewal precincts, have not been addressed and in some cases, no information has been provided.

In their submission, Leichhardt Council notes that the WestConnex project is inconsistent with the aims of Council's Integrated Transport Plan as the proposal does not:

- improve accessibility within and throughout the Leichhardt LGA;
- create a legible, direct and safe pedestrian and cycling environment;
- encourage public transport use;
- provide a safe and efficient road network for all road users;

- facilitate integration of land use, transport and community & cultural activities;
- provide convenience for users of Leichhardt;
- promote health and wellbeing;
- improve environmental conditions; and
- support Council's adopted 10 Year mode shift targets, including a reduction of private car use from 44% to 28%.

Leichhardt Council raised concerns about the traffic modelling produced for the EIS as the EIS does not give clear consideration of major projects planned for the surrounding area, such as the Bays Precinct, Central to Eveleigh urban renewal, and the Sydney Metro. Leichhardt Council's submission called for further information regarding how local street networks in Leichhardt LGA and surrounds from additional through traffic, including transportation of hazardous goods.

### **The impact of WestConnex on the Bays Precinct will be significant**

As noted in Leichhardt Council's submission, the impacts of the WestConnex project on The Bays Precinct urban renewal project have not been explained in the Stage 1b EIS or in any detail in the *Updated Strategic Business Case*.

It is noted that while the government has outlined its intent for The Bays Precinct, no detailed information regarding resident or worker populations has yet been provided. The *Transformation Plan: The Bays Precinct Sydney* was released in October 2015 and present the high level vision for the urban renewal project. The Bays Precinct is separated into eight localities, each with its own vision, opportunities and challenges.

The Rozelle Rail Yards is the western-most locality of The Bays Precinct. Future uses of Rozelle Rail Yard identified in the *Transformation Plan: The Bays Precinct Sydney* includes a mix of different housing, including affordable housing, as well as public spaces and employment uses. The Rozelle Rail Yards is of particular importance to the WestConnex proposal as this is the proposed location for the Rozelle Interchange, providing connections to the Anzac Bridge, Victoria Road and, subject to planning and approval, a second Harbour Crossing and a Northern Beaches motorway. While this stage of WestConnex is currently marked as a tunnel, the detailed planning for Stage 3 has not yet commenced and it is uncertain how WestConnex may impact on the planned renewal of The Bays Precinct, including potential development yields, commercial and residential uses, and urban design outcomes.

Reference to the Bays Precinct in the *Updated Strategic Business Case* is limited to Section 7.2. Here, WestConnex's impact on the Bays Precinct is explained as:

- The Rozelle Interchange 'transforming' the former Rozelle Rail Yard
- The interchange having the potential to reconnect areas to the north and south of the Rail Yard and improving connectivity from Lilyfield to the harbour and Bays Precinct.

While residents and workers of The Bays Precinct may benefit from arterial road access, the proposed realignment of WestConnex Stage 3 to include an interchange at Rozelle connecting to the Anzac Bridge and future Western Harbour has significant implications for traffic flow and congestion in and around The Bays Precinct.

While no population, dwelling or employment numbers have been released, The Bays Precinct encompasses 95 hectares of land planned for 'transformation' and offers potential for significantly higher numbers of people living and working in the Precinct (UrbanGrowth NSW 2015). Traffic in and around The Bays Precinct along the City West Link, Victoria Road and the Anzac Bridge is already considerably congested. Congestion on Victoria Road has a significant negative impact on Sydney's productivity and economic output, with a delay cost per lane kilometre of \$1.73 million (Infrastructure Australia 2015, 143). This is forecast to increase to a delay cost per lane kilometre of \$4.69 million by 2031 (Infrastructure Australia 2015, 144). The *Updated Strategic Business Case* found that an additional 20,000 vehicles are forecast to use the Anzac Bridge on an average weekday (NSW Government 2015, 39) and Victoria Road will experience increased traffic volumes due to an introduced toll on the M4.



(NSW Government 2015, 39). Introducing an interchange at Rozelle before the construction of the Western Harbour Tunnel is complete is a significant risk to the project and has the potential to exacerbate adverse traffic impacts for these main arterial routes and local streets as these main roads struggle to accommodate additional traffic demands.

The vision for The Bays Precinct is to be a hub for knowledge economy jobs. To ensure the maximum economic output and benefit from the knowledge economy, an efficient, effective mass public transit and active transport network is required to support and attract highly skilled workers (Lakshmanan 2011, Committee for Sydney 2015a, Committee for Sydney 2015b, Newman 2014, Newman et al 2013, Dirks et al 2010). These types of land uses that centre on knowledge economy workers largely do not require large motorway projects to support their operations as limited goods and freight are produced. Instead, a high quality urban environment with efficient public and active transport connections are more highly sought after for knowledge economy firms (Newman 2014, Newman et al 2013, Dirks et al 2010). Furthermore, the introduction of motorways has been found to lead to economic dispersal, limiting the clustering of knowledge economy enterprises and preventing additional jobs, ideas and innovation associated with agglomeration economies (Yu et al 2015).

By facilitating additional traffic movements into the Bays Precinct, WestConnex may in fact reduce development yield through increased car parking requirements. WestConnex may also hamper efforts to encourage sustainable transport use in the Bays Precinct through provision of car parking and access to the motorway.

Cities around the world are actively planning to remove cars from their CBDs and areas with concentration of economic activity, such as London, Singapore and Stockholm (Committee for Sydney 2015b, Newman et al 2013, Dirks et al 2010). Many cities in Europe, North America and East Asia are also removing motorways from their inner city to improve liveability, improve transport sustainability, and effectively manage traffic congestion (Lavanchy 2014, Napolitan and Zegras 2008, Kang and Cervero 2009, Cervero 2006). Establishing a motorway through The Bays Precinct appears counterintuitive to prevailing global trends and the aims of the urban renewal project to "drive an internationally competitive economy." The proposal also fundamentally acts against international best practice for urban renewal in inner city areas (UrbanGrowth NSW 2015, iii).

## 3 REVIEW OF ECONOMIC APPRAISAL

### 3.1 Introduction

Overestimates of toll road patronage and the benefits stemming from this have plagued projects such as the Lane Cove Tunnel and Cross City Tunnel in NSW to the point where these roads have been financial disasters. This section considers the economic appraisal of WestConnex, which reflect sections 12, 13 and 14 of the *Updated Strategic Business Case* and the *Economic Appraisal* (KPMG 2015).

### 3.2 Project costs

**Costs are high and are likely to be even higher**

WestConnex is estimated to cost \$16.8 billion in the *Updated Strategic Business Case*. However, this cost estimate is provided at a P50 level, meaning, there is a 50 per cent chance that the actual project cost will vary. For a project of this scale, it is common to produce a P90 cost – leading to a 10 per cent change that the actual project cost will be different.

It is also of concern that the \$16.8 billion price of WestConnex does some exclusions. The *Updated Strategic Business Case* notes that:

*“capital costs exclude land acquisition, network enhancements and development costs”*

Source: *Updated Strategic Business Case*, p. 240.

These excluded costs have the potential to be significant.

In moving from the 2013 Business Case to the 2015 *Updated Strategic Business Case*, it appears that the cost for comparable sections of WestConnex has not changed (see Table 13.6 on page 240). Whilst additional road links and supporting costs have been added to the total, the cost of the remainder of the project remains at \$14.8 billion – an outcome which suggests that over two years, no additional analysis has been undertaken on project costs and inflation has not been accounted for either.

At \$16.8 billion, WestConnex would be considerably more expensive than other international and national projects on a per kilometre basis. At 33 kilometres in length, WestConnex would be approximately \$510 million per kilometre. In contrast the Channel Tunnel (UK) cost \$426 per kilometre and the Eastern Distributor was \$223 per kilometre, in 2015 dollars.

**Use of a Strategic Business Case alone is not appropriate**

A further layer of complexity is created by the unclear intention of the *Updated Strategic Business Case* overall. A Strategic Business Case is not mandated by Treasury NSW – only a preliminary and full business case are. To this end, it is difficult to assess the adequacy of the document as it partially meets the requirements of a Preliminary and a Final Business Case. It is of concern that a Final Business Case has not been yet been released to the public and is unclear whether one has been prepared or is being prepared, particularly in light of the fact that some works for WestConnex have begun.

### 3.3 Cost benefit analysis

The cost benefit analysis provided in the *Updated Strategic Business Case* and the supporting economic appraisal attachment (KPMG 2015) generally meet requirements set out in TfNSW *Principles and Guidelines for Economic Appraisal of Transport Investment and Initiatives*. However, the manner in which crash cost savings and more broadly, health and wellbeing have been included is insufficient.

The benefit cost ratio provided is incorrect based on the information shown in the *Updated Strategic Business Case*. Table 7 of the document outlines sensitivity analysis results, including the project case (Central Scenario). Here, a present value of costs of \$13,547 million and a present value of benefits of \$22,204.9 million is shown, with a net present value of \$8,657.9 and a benefit cost ratio of 1.71. However, dividing the present value of benefits against the present value of costs results in a benefit cost ratio of 1.64. This difference is too large to be the result of a rounding error.

The other results shown in Table 7 of the *Updated Strategic Business Case* show further inconsistencies, with discrepancies ranging from 0.05 to 0.31. This casts doubt over the accuracy of the calculations presented in the document and adds further uncertainty around the merit of WestConnex.

Crash cost savings – that is, reduced accidents resulting from improved traffic flow and reduced congestion, are calculated using a change in Vehicle Kilometres Travelled (VKT) and applying rates provided from Austroads and willingness to pay values from TfNSW. It could be argued that this approach is not sophisticated enough for a project as large as WestConnex. This approach does not appear to account for higher speeds resulting in more accident risk, possibly higher severity of crashes, reduced amenity of pedestrian amenity on existing roads, and increased flow of traffic as a result of on ramps to WestConnex. At the same time, this approach does not take into account potentially higher pedestrian and active transport flows resulting from urban renewal efforts along the WestConnex route.

The proposed Bays Precinct redevelopment will see significant population growth in Leichhardt City Council and in turn, a higher level of street and business activity in the area. This may increase the risk of traffic accidents resulting from WestConnex, including pedestrian-related incidents due to increased vehicular exposure, and it is possible that the positive economic impacts associated with increased foot traffic could be constrained due to the negative impact WestConnex will have the local environment.

Land acquisition costs do not appear to be included in the WestConnex project costs or in the broader cost benefit analysis. Page 240 of the *Updated Strategic Business Case* states “For the purpose of this analysis capital costs exclude land acquisition, network enhancements and development costs”. The cost of these excluded elements is likely to be high. At a 2015 Budget Estimates Committee, the CEO of the Sydney Motorway Corporation, Mr Dennis Cliche, indicated that \$140 to \$150 million had been designated for land acquisition to facilitate the St Peters Interchange (General Purpose Standing Committee No. 2, 2015). This is in contrast to TfNSW *Guidelines* which states:

*“Buildings or houses that have to be demolished to make way for the project should be valued at market prices (net of selling costs), plus demolition costs minus scrap or residual value. Labour costs should generally reflect market rates with an allowance for labour on-costs (generally around 30 per cent)” (TfNSW 2015, p.30).*

The opportunity cost of using land for WestConnex is not recognised. TfNSW *Guidelines* recognise the need to consider opportunity cost of proposals. The methodology provided (Section 9.4.1 of the *Guidelines*) state:

*Underlying the valuation of inputs to a project or activity is the principle of opportunity cost. The use of resources (manpower, finance or land) in one particular area will preclude their use in any other. Hence the basis for valuing the resources used is the “opportunity cost” of committing resources; i.e. the value those resources would have in the most attractive alternative use. The adoption of this principle reflects the fact that the economic evaluation of public sector projects*

*should be conducted from the perspective of society as a whole and not from the point of view of a single agency.*

*Commonly, the price paid for new capital, labour or other inputs will reflect the opportunity cost of the resources. The position may be less clear in the case of the use of existing land owned by the agency. In general it is considered that a cost equivalent to its maximum market value under current or likely realistic land-use zoning should be placed on such land.*

*The general principle applies even where the public sector may have access to an input at a cost different from its market value. In certain cases, where a resource has a market price, that price may not reflect the marginal social cost of using the resource.*

Whilst the cost of land acquisition is not included in the *Updated Strategic Business Case*, the M4 East EIS notes that full and partial acquisition of 182 properties and 10 road reserves would be required, in addition, 98 properties owned by Roads and Maritime would be acquired (M4 East EIS 2015, p. ix). The cost of the land acquisition is not identified in the EIS. It is unclear what the market value of these properties is and what their 'highest and best use' might have been if not acquired for WestConnex's construction and operation.

High expansion factors are used. A key assumption in the cost benefit analysis is the use of an expansion factor which converts daily calculated benefits into an annual one. The *Updated Strategic Business Case* uses an expansion factor of 345. This suggests that vehicle movements on an 'average' day on WestConnex would be replicated 345 days per year. This is likely to overstate benefits, as there are 260 weekdays in a calendar year and school holidays and public holidays take up a further 68 days per year. This effectively leaves only 192 days where peak periods on WestConnex would be replicated by the transport model.

A more realistic expansion factor would be a weighted 320. This would use the following assumptions:

- 192 normal weekdays at 100% of traffic calculated
- 104 weekend days at 70%
- 11 public holidays at 65%, and
- 57 school holidays at 85%.

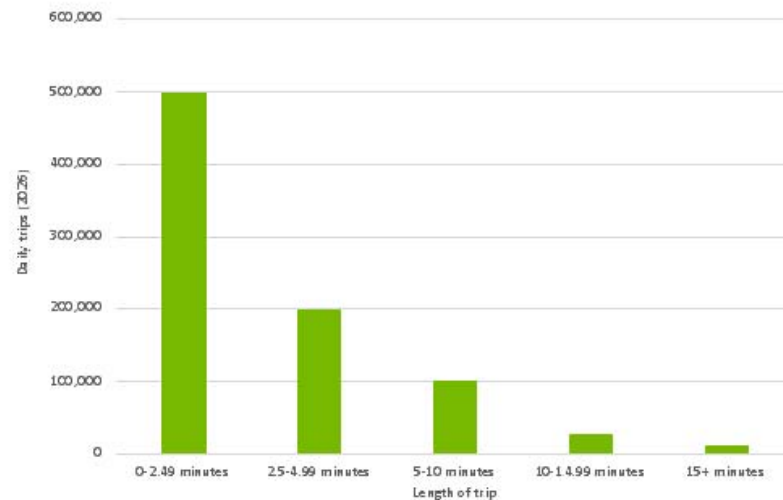
If a lower expansion factor of 320 is used, the BCR would fall from the recalculated 1.64 to 1.54. This is considered through the sensitivity analysis in the KPMG 2015 (table 1.1) through using an expansion factor of 300.

Travel time savings are likely to be overestimated. Travel time savings form the majority of user benefits generated by WestConnex. According to Table 12.6 of the *Updated Strategic Business Case*, the discounted value of travel time savings is \$12,902.9 million in benefits (discounted) – 58 per cent of the present value of benefits.

Using transport modelling results from the Zenith Model (which produces similar results to the WestConnex Transport Model), the distribution of travel time savings are estimated. The data for 2026 generated by the Zenith model shows that a total of 832,000 trips will gain a travel time saving from WestConnex, but that the majority (60 per cent) will have a saving of up to 2.49 minutes. The following chart displays average travel time savings by number of trips in 2026 for users of WestConnex.



FIGURE 4. TRAVEL TIME SAVINGS BY NUMBER OF TRIPS WITH WESTCONNEX (2026)<sup>3</sup>



The low level of time saved by a majority of motorists is concerning as there is a risk that this time saving will not be discernible to WestConnex users. Small travel time savings or 'inframarginal' travel time savings were one of the issues with the Lane Cove and Cross City Tunnels, where Roads and Maritime Services (RMS) described that "the majority of travel time savings were less than five minutes (which are often not realised and can be considered inframarginal in economic terms)" (RTA 2010). Inframarginal means that they are within the margin of error of the modelling or/and cannot be observed by road users. In the case of the Lane Cove Tunnel, when travel time savings of less than five minutes were removed from the analysis, this BCR decreased by approximately 50 per cent.

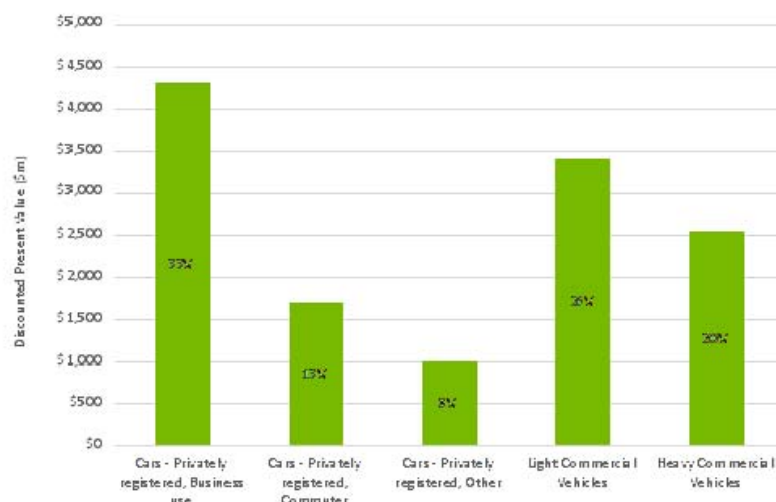
The change to the net present value of benefits by excluding any benefits based on a travel time saving of five minutes or less is a fall from \$12.9 billion to \$5.9 billion – reducing the BCR from the recalculated 1.64 to 1.12.

The rationale for the large proportion of business trips is unclear. WestConnex benefits are primarily driven by travel time savings (58 per cent of total benefits). Section 12.5.1 of the *Updated Strategic Business Case* shows that WestConnex generates \$22.4 billion in total benefits, \$20.5 billion in user benefits and \$12.9 billion in travel time savings. These are shown, by vehicle type, in the following chart.

<sup>3</sup> Daily Average



FIGURE 5. PRESENT VALUE TRAVEL TIME BENEFITS BY VEHICLE TYPE



Source: Adapted from TfNSW's 2014 Strategic Business Case

As shown, 33 per cent of travel time benefits are attributed to cars – privately registered, business use. This comprises 19.4 per cent of total benefits for WestConnex. Part of this high benefit value is driven by the cost of time applied to business travellers (\$53.60 per hour compared to commuters at \$21.32 per hour) which is in line with Austroads advice. However, it is unclear why so many business car users have been included in the analysis – justification is not provided in the *Updated Strategic Business Case*. If these users were instead converted into commuters, then benefits would fall by \$2.6 billion reducing the BCR from the recalculated 1.64 to 1.45.

Linked to the issue of business trips is how Wider Economic Impacts are estimated. The agglomeration component of Wider Economic Impacts is on the basis of firms interacting with each other more due to improved accessibility. The high value of travel time benefits for business motorists suggests that a sizeable agglomeration benefit would be calculated – a typical estimate would be 20 to 30 per cent of transport benefits overall. However, agglomeration benefits in the *Updated Strategic Business Case* are seven per cent of transport benefits – a misalignment with the very large time travel benefits for business travellers.

### 3.4 Consideration of health, wellbeing and land use impacts

The economic appraisal of WestConnex in the *Updated Strategic Business Case* uses a traditional cost benefit analysis framework which focuses on travel time improvements and vehicle kilometres travelled to estimate user benefits (value of time) and externalities such as increased/decreased accidents, carbon emissions and noise pollution. This approach to assessing the impact of a proposed road is well established and accordingly, guidelines and values are provided for in *TfNSW Guidelines*.

However, for a road as significant as WestConnex in terms of scale and cost, it could reasonably be expected that more extensive analysis would be prepared. This analysis, whilst not specifically required by the *Guidelines*, would reduce uncertainty generated by documents released to date, and would help to establish the strategic merit of WestConnex – something has not been achieved to date.

The manner in which crash cost savings (see Section 3.1 of this review) have been treated in the economic analysis does not appear to consider the broader ramifications of how WestConnex will affect non-users of the road. Further to this, analysis of health and wellbeing impacts does not form part of the *Updated Strategic Business Case*. It is noted that the M4 East and Stage 2 EIS do assess *localised* impacts, but there is a significant gap in material released to date around the impact of WestConnex on how residents and workers will interact with the road as pedestrians or cyclists, and whether the negative impacts of the road (due to perceived safety, noise, visual pollution and so on) will affect their travel patterns. This may have impacts on local businesses (examined in the EIS documents), but more broadly, could reduce the appeal, and thus rates of active transport.

A 2008 (Medibank, 2008) study into the cost of physical inactivity showed that across Australia:

- \$719 million per annum in direct net costs were attributable to physical inactivity
- Direct mortality costs of physical inactivity reached \$3,812 million, and
- The total economic cost of physical inactivity in 2008 was \$13,830 million.

It is possible to suggest that WestConnex will reduce rates of physical activity or at the very least, hamper continued improvements in rates of physical activity due to creating unpleasant local environments and through further entrenching car dependency.

## 4 TRANSPORT IMPACTS

### 4.1 Introduction

The comments in this section are based on the *Updated Strategic Business Case* and the supporting *Traffic Technical Paper* (Appendix 1) with a particular emphasis on the approach and assumptions that have been applied. The renewal of Parramatta Road is also considered here, as is the relationship between WestConnex and public transport patronage.

### 4.2 Issues in the analysis

The traffic modelling methodology is inconsistent. The description of the modelling applied is opaque and confusing. It is understood that in summary, the methodology applied followed these steps:

1. Road travel trip matrices for 2012 (base year) were extracted from the Sydney Transport Model (STM);
2. The 2012 trip matrices were then modified using matrix estimation;
3. Trip matrices for future years were estimated using the base year matrices and "future year traffic growth assumptions sourced from the STM (that takes account of data like demographics and transport networks)" (Technical Paper 1, Appendix A, page 2, dot point 4);
4. Induced trips were added to the project case trip matrices using travel time elasticity;
5. Matrices were assigned to the road network using the toll choice model to separate trips into various categories of vehicle class and toll/non-toll use using the toll road choice assignment model.

There are several areas of concern with this approach which are noted below:

- Base and future population and employment data was based on a September 2014 release by the Bureau of Transport Statistics, but the base year for matrix estimation is 2012. This inconsistency is not identified anywhere in text.
- Description of the development of the WRTM project model repeatedly makes reference to driver behaviour (see Appendix A, page 2) which is not a valid representation of the model – they represent statistical characteristics of a transport network, not driver behaviour.
- Reference to the "WestConnex Scheme Study Area" is unclear as it is not defined anywhere in the *Updated Strategic Business Case*.
- The reason for not using STM matrices more fully is not explained and not obtaining forecast matrices for 2021 and 2031 is questionable. STM matrices would have accounted for induced trips more adequately (negating the need to use elasticity-based calculations), and
- The absence of a 2041 or 2046 model year is concerning.

The treatment of induced demand is questionable. Infrastructure Australia highlighted that the original WestConnex Business Case had failed to account for induced demand. The *Updated Strategic Business Case* documents (Section 10.5 and Section 5.3.1 of the Technical Paper) state that induced trips make up only 0.4 per cent of the total WRTM network. However, this statement is not correct. The Auditor-General review of the initial WestConnex Business Case in fact noted that the road would generate significant additional traffic particular where congestion already exists in peak periods and further growth is expected.

Using '0.4 per cent of the total WRTM network' downplays the overall number of induced trips generated by WestConnex, as total network trips pertain to Sydney as a whole, rather than the study area specifically.

Examining Screenlines provided in Appendix A shows that induced trips make up nearly 80 per cent of traffic crossing Screenline 2 (morning peak), and 53 to 65 per cent of traffic crossing Screenlines 2 and 3 in terms of daily traffic volumes. 94 to 125 per cent of heavy vehicle traffic (daily) crossing Screenlines 2 and 3 are induced trips. These forecasts are concerning, as they suggest a very high level of new trips will be induced by WestConnex. Complicating this analysis is a lack of evidence of the source of the increased volumes and unclear presentation of charts.

In contrast, daily volumes crossing Screenline 8 (which includes the M5 East) are forecast to reduce total volumes by 5 per cent and heavy vehicle volumes by 22 per cent. As a result, the M5 East and new M5 motorways together will lose around 25,000 vehicles per day but this counterintuitive result is not explained. Projected volumes on surface roads do not increase substantially and do not account for the reduction in vehicles across the Screenline. This suggests that the M5 East motorways will have reduced traffic as a result of Stages 1 and 2 of WestConnex and Sydney Gateway, raising the question of whether the new M5 is in fact needed.

Many of the presented results are inconsistent. Counterintuitive results are presented for changes in average speed and vehicle capacity (V/C) ratios resulting from WestConnex (Table 5.4 of Technical Paper 1). These results may be caused by complex speed-flow calculations, but are not explained. They include:

- At Screenline 1, the M4 Motorway v/c ratio drops from 1.1 to 0.9 but the average travel speed increases to 82km/hour. At Screenline 8, the v/c ratio for the existing M5 East falls by a larger margin from 1.1 to 0.7, but average speed on the road increases to only 51 km/hour, despite the two roads being reasonably similar.
- At Screenline 1, Parramatta Road has a relatively low v/c ratio of 0.5 increasing to 0.6, but the average speed of travel in both cases is less than 10 km/hour, even though the road is well under capacity. By comparison, at Screenline 6, Iron Cove Bridge is well above capacity at v/c = 1.4 to 1.3, with speeds of less than 10km/hour.
- At Screenline 7, the v/c ratio on Fairford Road/Joseph Street, it appears that the introduction of WestConnex will double travel speeds, from 24 to 50km/hour without any decrease in the v/c ratio, which would remain at 1.0.
- Similarly, the travel speed on Southern Cross Drive is forecast to increase substantially from 40 to 68 km/hour without any change in the v/c ratio.

Traffic forecasts are not adequately tested. Appendix A of Technical Paper 1 notes the complexity of traffic forecast modelling. However, all results in the *Updated Strategic Business Case* are presented as absolute numbers rather than in ranges. The sensitivity of the modelling should have been tested against reasonable variations to input parameters to provide credibility to the estimates.

Impact of tolls is not fully explored. The toll regime that is used in traffic forecasts is not fully explained. Some description in Section 9 of the *Updated Strategic Business Case* is provided, but it is not clear whether:

- toll capping will apply to WestConnex only
- the tolling regime for Western Harbour Tunnel will include tolling in both direction – given that demand for northbound and southbound travel will vary due to the presence of alternatives

### 4.3 The renewal of Parramatta Road

The renewal of Parramatta Road is identified in the *Updated Strategic Business Case* (Section 2.6). However, the description of renewal efforts appears to support WestConnex as being an 'enabling' project for Parramatta Road's renewal – this is not supported by data. The WestConnex M4 Widening



Environmental Impact Statement (EIS) showed that under WestConnex, Parramatta Road will take more traffic in the future, not less (M4 Widening EIS, Appendix D, p. 144).

The EIS also found that tolls on the newly widened M4 would result in a 35 per cent increase in the number of weekday vehicles. When tolls were removed on the M4 in 2010, traffic on Parramatta Road fell by 24 per cent in the morning peak. If tolls are reinstated on the M4, it is reasonable to assume traffic will avoid the tolled M4 and use the free Parramatta Road.

Average weekday traffic volumes on Parramatta Road will increase under WestConnex for five of the 14 sections (refer to Figures 5-5, 5-6 and 5-11 of the *Updated Strategic Business Case*). Daily traffic, morning peak traffic and daily truck volumes are all projected to increase under WestConnex east of Glebe Point Road. The impact of these increases and more broadly, changes in traffic movements across Sydney, are not analysed in conjunction with urban renewal proposals. For example, it is not understood whether development potential of the Bays Precinct and Green Square will be hampered due to WestConnex. The link between WestConnex and how it may affect future supply of employment lands and housing is critically absent.

It is recognised that the *Updated Strategic Business Case* notes the *Urban Amenity Improvement Program* will be funded as part of WestConnex, delivering a \$200 million package to improving the corridor (page 174) along its key growth precincts (see Figure 7.2 on page 173 of the *Updated Strategic Business Case*). However, the details of these improvements is not provided.

#### 4.4 The impact on public transport patronage is low

Analysis of mode shift from public transport to roads as a result of WestConnex was undertaken for 2026. It showed that in total, around 3,500 trips would be converted from public transport to roads per day.

The following table lists changes in the number of public transport trips under a base case (no project) and a WestConnex scenario in 2026. Only LGAs with a change in public transport trips under WestConnex are shown. This table demonstrates that overall, WestConnex will not have a significant impact on public transport patronage. The Leichhardt LGA will see a small increase (2 per cent) in daily public transport trips as increased local congestion and the introduction of tolls see 800 trips a day move from road to public transport.



TABLE 3. DAILY TRIPS PUBLIC TRANSPORT – BASE CASE AND WITH WESTCONNEX, 2026

LGA - Origin	Base Case	WestConnex	Change in PT trips	% change
Leichhardt (A)	40,500	41,300	800	2.0%
Botany Bay (C)	37,800	38,300	500	1.3%
Waverley (A)	52,500	52,800	300	0.6%
Hunter's Hill (A)	6,300	6,500	200	3.2%
North Sydney (A)	103,700	103,900	200	0.2%
Warringah (A)	55,400	55,600	200	0.4%
Bankstown (C)	74,300	74,400	100	0.1%
Baulkham Hills (A)	73,900	74,000	100	0.1%
Hornsby (A)	75,100	75,200	100	0.1%
Lane Cove (A)	21,700	21,800	100	0.5%
Maitland (C)	13,200	13,300	100	0.8%
Marrickville (A)	63,000	63,100	100	0.2%
Mosman (A)	17,300	17,400	100	0.6%
Ryde (C)	71,100	71,200	100	0.1%
Willoughby (C)	79,000	79,100	100	0.1%
Woollahra (A)	45,600	45,700	100	0.2%
Blacktown (C)	119,200	119,100	-100	-0.1%
Burwood (A)	37,200	37,100	-100	-0.3%
Camden (A)	20,700	20,600	-100	-0.5%
Campbelltown (C)	49,000	48,900	-100	-0.2%
Canada Bay (A)	38,800	38,700	-100	-0.3%
Kogarah (A)	28,900	28,800	-100	-0.3%
Parramatta (C)	134,500	134,400	-100	-0.1%
Wollondilly (A)	4,100	4,000	-100	-2.4%
Ashfield (A)	27,500	27,300	-200	-0.7%
Hurstville (C)	51,500	51,300	-200	-0.4%
Penrith (C)	63,600	63,400	-200	-0.3%
Sutherland Shire (A)	67,000	66,800	-200	-0.3%
Auburn (A)	44,600	44,300	-300	-0.7%
Fairfield (C)	62,300	62,000	-300	-0.5%
Holroyd (C)	32,700	32,400	-300	-0.9%
Liverpool (C)	63,100	62,800	-300	-0.5%
Strathfield (A)	23,400	23,100	-300	-1.3%
Sydney (C)	853,600	850,000	-3600	-0.4%
Total	3,070,500	3,067,000	-3500	-0.1%

The logic behind these shifts in mode share is that the public transport network is CBD oriented, and that WestConnex does not get close enough to the city to provide an alternative to public transport. The smaller change at a CBD level appear to demonstrate that WestConnex only provides an alternative to local roads east of Stage 3, while its impact disappears west of Stage 3. Appendix A of this report provides further detail on the Zenith model which was used to develop these forecasts.

## 5 CONCLUSION

The construction of a major set of toll roads as proposed by WestConnex does not align with the needs of Sydney during the 21<sup>st</sup> Century. Other global cities have recognised that congestion cannot be solved by simply building more roads and in turn, these cities have focused on public transport and demand management to deal with congestion.

The WestConnex *Updated Strategic Business Case* should describe the need for the project, build the case that the project is the best solution for Sydney, measure the project's benefits and identify project costs. However, the *Updated Strategic Business Case* fails to address many of the key requirements of a business case. The purpose of WestConnex and who will benefit from the project remains unclear.

Aspects of the *Updated Strategic Business Case* which are of most concern are:

- The *Updated Strategic Business Case* does not consider any strategic alternatives to WestConnex.
- The description of the transport modelling applied to the WestConnex project is opaque and confusing and the toll regime that is used in traffic forecasts is not fully explained.
- Once the Western Harbour Tunnel and Northern Beaches Link are in operation, the *Updated Strategic Business Case* suggests that WestConnex will be close to capacity by 2031. If wholly completed by 2021, this would result in \$16.8 billion being spent for around ten years of marginally improved travel times.
- Establishing a motorway through The Bays Precinct appears counterintuitive to the aims of the urban renewal project to create.
- The costs of WestConnex are high and are likely to be even higher.
- The traffic modelling has a range of issues which are concerning for a project of this scale. These include the treatment of induced demand and its impact on the project benefits, a lack of sensitivity testing and the lack of modelling for more distant future year (e.g. 2046).
- The benefit cost ratio of 1.71 does not add up based on information provided in the document. Dividing the present value of benefits against the present value of costs results in a benefit cost ratio of 1.64. This difference is too large to be the result of a rounding error.
- If travel time savings of less than five minutes is excluded, the travel time benefits are reduced from \$12.9 billion to \$5.9 billion – reducing the BCR from the recalculated 1.64 to 1.12.
- The rationale for the large proportion of business trips is unclear. 33 per cent of travel time benefits are attributed to cars – privately registered for business use. However, justification on why there are so many business car users is not provided in the *Updated Strategic Business Case*.
- Land acquisition costs or the opportunity cost of land being used for the project do not appear to be included in the WestConnex project costs or in the broader cost benefit analysis.
- The health impacts, local amenity impacts and related land use implications are not discussed by the *Updated Strategic Business Case*.

## APPENDIX A

### About the Zenith Model

The Zenith Model is a transport model that is based on employment and population projections compiled by the Bureau of Statistics and Analysis at Transport for New South Wales. First established in 1988, the Zenith model is a mature travel demand model that is often applied to major projects across Australia, including:

- Cross-City Tunnel (provision of expert services in legal proceedings),
- M5 Motorway (for a toll road operator),
- Lane Cove Tunnel (forecasting demand post opening for ABN Amro),
- Sydney Metro (as part of submission to Infrastructure Australia).

Other major projects include:

- East West Link Toll Road (for Victorian Government),
- Melbourne Metro Project (for submission to Infrastructure Australia),
- CityLink Toll Road (for Victorian Government),
- EastLink Toll Road (for Victorian Government).

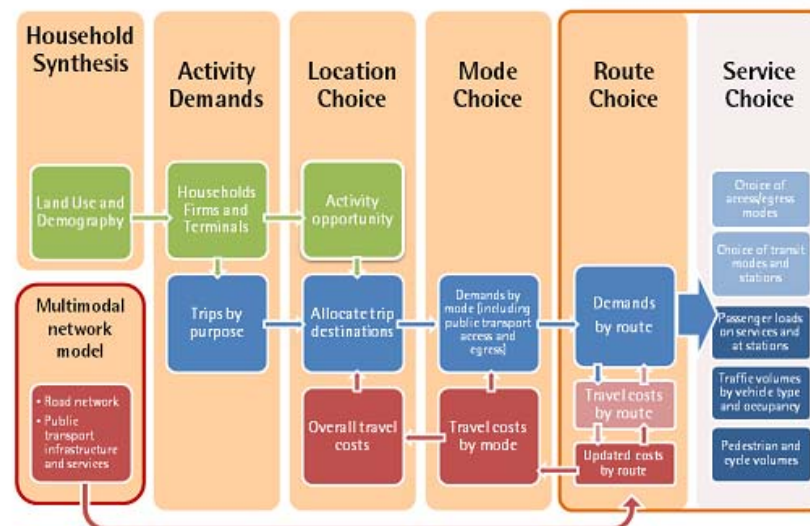
The following subsection provides an overview of Zenith. More information can be obtained from:

<http://www.leichhardt.com.au/zenith/overview>

### How the Zenith Model works

Zenith attempts to replicate demand for travel by residents and visitors in the Sydney region, which is derived from the demand for participation in activities. Travel choices can vary based on frequency, timing and duration of participation, location of activity, mode of travel and the route that is chosen. Zenith simulates travel behaviour of households, businesses and visitors using statistics such as employment by industry, enrolments at education facilities and demographic variables such as population and number of households. The overall process of the Zenith model is shown in the following figure.

FIGURE 6 KEY STAGES OF THE ZENITH MODELS



Source: The Zenith Modelling

Each region is divided into several thousand travel zones to enable a high degree of resolution of forecast movements between locations. It simulates travel considering:

- When the travel is made
- Why it is made (purpose)
- Where the travel is made to and
- The mode of travel that is used.

Travel demand forecasting is not a precise science and outside factors tend to complicate outcomes. For example, changes in government policy and fuel costs can affect travel decisions.

Zenith is based on an integrated multimodal transport network. Thus frequencies and schedule of public transport services and the speed or capacity available for certain vehicles may be defined separately for each period. Buses or goods vehicles may travel on the same section of road as cars, but with different average speeds and, where separate right-of-way is provided, can be assigned separate capacities. Walking and cycling is also possible on links which do not preclude access. In general, rail infrastructure and specific public transport right-of-way is only available to public transport services.

Services may be defined by operator, line group, or any other characteristic of interest in the model. Travel times for public transport services may be derived from the speed attributed to the underlying infrastructure or by definition of timetables, and can be subject to delays due to congestion or crowding. The current version of the Zenith model defines service times from the average operating speed on each link.

With that said, whilst strategic travel models are useful tools to forecast vehicle and people movements across the transport network through freeways, arterial and sub-arterial roads and major public transport infrastructure, traffic volumes forecast on collectors, local roads and access streets, should be treated with caution. Traffic volumes on local roads heavily depend on the adopted zone system and where centroids are connected to the network. Until transport modelling is able to simulate each household and business individually, forecast volumes on these lower order roads should be treated with caution.

Further technical detail is available in the *WestConnex Transport Modelling Summary Report*<sup>2</sup>.

<sup>2</sup> [http://www.cityofsydney.nsw.gov.au/\\_data/assets/pdf\\_file/0011/232697/150427\\_COUNCIL\\_ITEM35\\_ATTACHMENTS.PDF](http://www.cityofsydney.nsw.gov.au/_data/assets/pdf_file/0011/232697/150427_COUNCIL_ITEM35_ATTACHMENTS.PDF)



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# ITEM 3.4 DEVELOPMENT APPLICATION - BIRCHGROVE TENNIS COURTS CLUBHOUSE

<b>Division</b>	Corporate and Information Services
<b>Author</b>	Senior Property Officer
<b>Meeting date</b>	9 February 2016 Policy Meeting
<b>Strategic Plan Key Service Area</b>	Community well-being Place where we live and work Business in the community

## SUMMARY AND ORGANISATIONAL IMPLICATIONS

<b>Purpose of Report</b>	To seek Council approval to lodge a new Development Application (DA) for alterations to the Club House at Birchgrove Park Tennis Court.
<b>Background</b>	Birchgrove Tennis Courts are leased to North Western Suburbs Tennis Association. It has appointed Terry and Kay Rocavert as managers and they run a coaching business at the courts. The 5+5 year lease commencing in 2009 specified capital work to be done by Council. Most has been done at a cost of about \$500,000. Mr and Mrs Rocavert requested additional work be done to the clubhouse and this was agreed by Council. Concept plans were prepared and developed in consultation with the lessee, managers and users of the courts.
<b>Current Status</b>	DA package has been prepared by Tony McLain Architects. Following Council consent to lodge the DA, a copy will be sent to Crown Lands prior to being lodged one week later subject to any submissions received from Crown Lands in the interim.
<b>Relationship to existing policy</b>	Leasing Policy. The work is in addition to the capital work specified in the lease.
<b>Financial and Resources Implications</b>	\$100,000 has been allocated in the 2015/16 Budget for this project. It complies with the s.23A Guidelines.
<b>Recommendation</b>	That Council consents to the lodging of the Development Application for alterations to the Club House at Birchgrove Park Tennis Court as outlined in the Report.
<b>Notifications</b>	Lessee and Managers of Birchgrove Tennis Courts.
<b>Attachments</b>	DA Floor Plan

## **Purpose of Report**

To seek Council approval to lodge a new Development Application (DA) for alterations to the Club House at Birchgrove Park Tennis Court.

## **Recommendation**

That Council consents to the lodging of the Development Application for alterations to the Club House at Birchgrove Park Tennis Court as outlined in the Report.

## **Background**

Birchgrove Park is a Reserve for Public Recreation of which Council is the Reserve Trust Manager and is governed by the Crown Lands Act, 1989.

The Rose Street Tennis Courts, being part of Birchgrove Park, are leased by Council as reserve trust manager to North Western Suburbs Tennis Association Incorporated ("Association"). Terry and Kay Rocavert manage Birchgrove Tennis Courts on behalf of the Association which includes an agreement with the Association to run coaching classes. The Rocaverts run the whole operation as a commercial business.

A lease was granted for a 5 year term from 1 February 2009 to 31 January 2013 with an option to renew for another 5 years. The option was exercised by the Association. Their current lease is for another 5 years from 1 February 2013 to 31 January 2018

Capital works stipulated in the lease were:

- a) replace the lights of the 6 Tennis Courts; and
- b) resurface the 6 tennis courts; and
- c) line mark the car parking area outside the upper courts; and
- d) replace the fencing to the 3 courts on the upper level. (The Lessor may, but is not obliged to, replace the fencing to the 3 courts on the lower level; and
- e) renovate the toilets/shower rooms by retiling and installing new basins and toilet fixtures; and
- f) undertake repairs to spectator sheds (constructed by lessee during the term of a previous lease) to reduce drainage problems.

In the first 5 year lease Council undertook substantial capital works (a) to (d) in regard to the resurfacing of the courts, lighting and fencing in the amount of \$500,000 which were required to be done in the first 5 years. Rental payments of approximately \$395,000.00 were received as a part of this previous lease. The other works were required to be done in the renewed, current, lease term. The rent set out in the lease, calculated on a 5+5 year basis is reflective of capital works, including the current lease term.



The Rocaverts contacted Council requesting additional capital works to the clubhouse. In October 2013 a report was prepared for Council from the Director Infrastructure and Service Delivery recommending that Council engage an architect to develop a concept plan for the upgrade of the Birchgrove Tennis Courts clubhouse facilities.

A concept plan was developed by Tony McClain Architects with consultation with the Lessee and Management of the Tennis Courts.

At its Ordinary Council meeting on 24 February 2015, Council resolved:

*“Council notes the architect’s report in respect of proposed improvements to the Birchgrove tennis courts and resolves to complete the works during the current lease and to discuss with the lessee further options, priorities and time lines for implementing the improvements and conduct consultation with users of the court to obtain their feedback on these matters.”*

Consultation took place with the lessee and users of the courts, who expressed their support for the proposed improvements. A further report was presented to Council at the May 2015 Ordinary Council at which Council resolved, amongst other things:

*to prepare: detailed plans ... to enable the work on the improvements proceed.*

## **Report**

Tony McLain Architects were engaged by Council to prepare further detailed designs, based on the previously prepared concept plans and the consultation with the lessee, managers and users of the courts, for alterations to the Club House at Birchgrove Tennis Courts.

The Architect was briefed with the following requirements:

- Ascertain and advise the approvals required to start and complete work ie if DA consent is required.
- Prepare the plans and supporting documents for Council to lodge the application for any approval required.
- Appoint or make recommendations to Council to appoint any required sub-consultants and oversee preparation of their plans for the lodgement of any required application.

Following initial investigation into the planning controls it was deemed necessary to lodge a Development Application for the proposed work. In preparing the Application for Council to lodge, the architect has liaised with the Rocaverts throughout the process. The Rocaverts are satisfied with the proposal prepared for Council.

## **The Proposal**

A floor plan is attached to this report. The proposal is for –

### **DEMOLITION**

Remove central brick panel to South wall and sliding doors

Remove 3 brick piers to South walkway

Remove sliding door to North wall

### **NEW EXTERNAL WORK**

New external door to Southern wall opening

Raise verandah path

Add external storage cabinet to North

Brick up opening to North where door has been removed

### **NEW INTERNAL WORK**

Desk and Storage to Office area

Render and Paint internal face brickwork

Replace lights

Add Ceiling fan

Benches and Cupboards to kitchen area

Polish Concrete floor

### **NEW WORK TO BATHROOMS**

Render and Paint

Wall Tiling

Replace Fixtures

Seats to showers

Screen to Urinal

## **Assessment**

Relevant matters dealt with in the DA, are as follows –

### **Heritage**

The site is subject to the provisions of Clause (2) in Section 5.10 of LEP 2013, which requires that an assessment be made of the effect that the proposed work may have as the clubhouse is within a Landscape Item of Heritage.

The proposed works are largely internal. The Clubhouse will remain essentially in its existing form. No changes to the site cover or external finishes are proposed.

Due to the minor nature of the proposed work the charm and character of the oval and its settings will not be interfered with as part of the proposal

### **Building Works**

The height, form, scale and external materials of the clubhouse are not altered.

**Surrounding Amenity**

No view loss, overshadowing or loss of privacy will result from the proposed works,

**Energy**

New windows and doors will have improved insulation values  
New kitchen fittings will be 3 star rated

**Site Drainage and stormwater**

No additional roofed areas or paved areas proposed.

**Contamination**

The past history of the site suggests that no contamination is present and that no remediation works are required. No excavation works are proposed,

**Summary/Conclusion**

The DA reflects the concepts previously approved by Council and have been developed in consultation with the lessee and with the managers of the courts, Terry and Kay Rocavert. It is recommended that Council consent to the DA being lodged.

**Attachments**

- 1 DA Floor Plan



**ITEM 3.5 LEICHHARDT PARK - AMENDMENT OF PLAN OF MANAGEMENT - FUNCTION CENTRE AT LEICHHARDT OVAL NO. 1**

<b>Division</b>	Corporate and Information Services
<b>Author</b>	Manager Property and Commercial Services
<b>Meeting date</b>	9 February 2016 Policy Meeting
<b>Strategic Plan Key Service Area</b>	Sustainable services and assets

**SUMMARY AND ORGANISATIONAL IMPLICATIONS**

<b>Purpose of Report</b>	To report to Council on the exhibition of the draft second amendment to the Plan of Management for Leichhardt Park and the gazettal of an additional use, and to recommend that Council adopt the second amendment to the Plan of Management.
<b>Background</b>	<p>Under the current development consent, the function room in the grandstand at Leichhardt Oval No 1 may only be used in connection with Tigers sporting matches at the oval and sporting and community events. Private and commercial use is not permitted.</p> <p>Balmain Tigers Football Club Limited, when it was the lessee of the oval, sought Council's assistance to allow commercial use of the function room. Council resolved to prepare a Planning Proposal to amend the LEP to include a site specific provision allowing the commercial and private use of the existing function room at Leichhardt Oval. It also resolved to seek an amendment to the Plan of Management for Leichhardt Oval to ensure it permitted the commercial use of the function centre. The Crown Lands section of the Department of Lands was approached and recommended the gazettal of an additional purpose of "Community and Sporting Club Facilities" for the reserve. The draft amendment to the Plan of Management (in the form of Attachment 1 to this Report, noting that the dates of the amendment of the LEP and gazettal of the additional use would be inserted) was exhibited with the Planning Proposal.</p> <p>When Balmain Tigers surrendered the lease and</p>



	<p>Council resumed control of the Oval, Council continued with the various processes to enable private and commercial hire and use of the function room at times other than when there was a sporting match at the Oval.</p>
<b>Current Status</b>	<p>One submission was received on the proposed amendment of the PoM. It was about parking and traffic. These will be dealt with as part of any DA. (Impact Assessments have been commissioned.)</p> <p>The additional purpose for the Leichhardt Park crown reserve was gazetted on 27 November 2015. This date has been inserted in the proposed Second Amendment to the Plan of Management which is now recommended for adoption.</p>
<b>Relationship to existing policy</b>	<p>Nil</p>
<b>Financial and Resources Implications</b>	<p>Nil for this report. Council has incurred and will incur costs of the preparation and lodgement of the development application with supporting reports.</p> <p>Fees will be received from hire of the function room.</p>
<b>Recommendation</b>	<p>That Council adopt the Second Amendment to the Plan of Management for Leichhardt Park (D500207) Reserve in the form of Attachment 2 to the Report with the date of adoption to be inserted on the cover page.</p>
<b>Notifications</b>	<p>Person who made a submission. Rozelle-Lilyfield Precinct Committee.</p>
<b>Attachments</b>	<ol style="list-style-type: none"> <li>1. Draft Second Amendment to the Plan of Management for Leichhardt Park as exhibited.</li> <li>2. Second Amendment to the Plan of Management for Leichhardt Park recommended for adoption.</li> </ol>

## Purpose of Report

To report to Council on the exhibition of the draft second amendment to the plan of Management for Leichhardt Park and the gazettal of an additional use, and to recommend that Council adopt the second amendment to the Plan of Management.

## Recommendation

That Council adopt the Second Amendment to the Plan of Management for Leichhardt Park (D500207) Reserve in the form of Attachment 2 to the Report with the date of adoption to be inserted on the cover page.

## Background

Leichhardt Park is a crown reserve. It is owned by the NSW Government / Reserve Trust. Council is the reserve trust manager.

Conditions of consent to development application D/2009/60 for work to Leichhardt Oval grandstand and the Legends' Room (function room) include:

46. *The function centre shall be used in conjunction with Wests Tigers and Balmain Tigers football matches and for community and sporting group functions only. The use of the function centre for commercial purposes will require lodgement of a separate development application.*

Balmain Tigers Football Club was the lessee of Leichhardt Oval No.1, was experiencing difficulties and requested Council's assistance including allowing commercial and private use of the function room to increase revenue. Planning advice was that this was prohibited under the LEP 2013 in the RE1 Public Recreation zone. At its Ordinary Council Meeting on 27 May 2014, Council resolved (C169/14):

*That in recognition of the opportunity for the premises to generate additional funds to cover ongoing maintenance and refurbishment of Leichhardt Oval, Council arrange the preparation of a Planning Proposal and supporting documents to seek a site specific variation to the zone restrictions so as to allow for the use of the existing function facilities for independent, private and commercial use (subject to subsequent DA). In preparing the documentation Council Officers give due consideration to: the number of attendees at any one time, traffic and parking, noise attenuation and hours of operation.*

The proposal was not inconsistent with the existing Plan of Management for Leichhardt Park. Whilst amendment of the Plan of Management was not considered strictly necessary, it was considered better to amend it to expressly permit the commercial use and to allow for future leasing of the function room. There was initial consultation with the Crown Lands section of the Department of Lands which recommended that Council request an additional purpose for the crown reserve.

This advice was reported to Council. At its Ordinary Council Meeting on October 2014, Council resolved (C379/14),

*That Council request Crown Land, NSW Trade and Investment to notify the additional purpose of "Community and Sporting Club Facilities" for Leichhardt Park (D500207) Reserve.*

The request was made to Crown Lands.

At its Ordinary Council on 16 December 2014, Council resolved (C473/14):

1. *That Council give Public Notice of, and exhibit for at least 28 days with submissions invited for at least 42 days, the draft Second Amendment to the Plan of Management for Leichhardt Park in the form attached to the Report subject to the following:*
  - (a) *Changes (if any) required by the Crown Lands division of the Department of Lands will be made, and*
  - (b) *If the additional purpose of "Community and Sporting Facilities" is gazetted prior to exhibition, the date of gazettal is to be inserted in section 2 and the "note" omitted from section 2.*
2. *That Council notes that the draft Second Amendment to the Plan of Management for Leichhardt Park will be exhibited at the same time and for at least the same period as the Planning Proposal for Leichhardt Oval No 1 in accordance with the Gateway Determination.*
3. *That a Report be brought to Council on the submissions received on the draft Second Amendment to the Plan of Management for Leichhardt Park.*

Balmain Tigers Football Club surrendered its lease of Leichhardt Oval No 1 as at 31 March 2015 and Council resumed control and management of the Oval from 1 April 2015. Council is seeking additional revenue from the Oval.

## **Report**

The draft second Amendment to the Plan of Management in the form of Attachment 1 to this report was exhibited with the Planning Proposal. It was also exhibited for the additional period when submissions were invited required by the December 2014 resolution reflecting the statutory requirements.

One submission was received. It expressed concern about traffic and parking impacts if there was increased and commercial use of the function room. These matters will be dealt with as part of any development application for the commercial use of the function room. The amendment to the Plan of Management refers to the need to obtain DA consent.

The amendment to Leichhardt LEP 2013, with the site specific provision for a commercial function centre at Leichhardt Oval No 1 provided it was within an existing

building, came into effect on 29 May 2015. Section 3 of the proposed amendment to the Plan of Management was completed accordingly.

Although Crown Lands had recommended that Council request notification of the additional purpose of Community and Sporting Club Facilities and had indicated it was likely to be gazetted shortly after the request was made, there were then some difficulties requiring follow ups and eventually a meeting with a more senior officer at Crown Lands.

The notification of the additional use was gazetted on 27 November 2015. Section 2 of the proposed amendment to the Plan of Management was completed accordingly.

The completed proposed Second Amendment to the Plan of Management for Leichhardt Park is attached to this Report as Attachment 2. It is recommended that Council adopt the second Amendment to the Plan of Management for Leichhardt Park in the form of Attachment 2. It will then be sent to Crown Lands for endorsement.

### **Development Application and Impact Assessments**

The amendment to the Plan of Management refers to the need to obtain development consent. Council's resolution of 27 May 2014 requires that officers give due consideration to the number of attendees at any one time, traffic and parking, noise attenuation and hours of operation for which development consent should be sought.

Council has commissioned from independent external consultants and is awaiting:

- a traffic and parking impact assessment, and
- a noise impact assessment and recommendations.

These will assist in determining the number of attendees and hours of operation (which may be the same or different from the numbers and hours approved under D/2009/60 for use of the function room when there is a sporting match) for which the development will be sought.

This will be brought to Council for its consent to lodge, prior to being lodged.

### **Summary/Conclusions**

Council resolved to seek the ability to allow commercial use of the function room at Leichhardt Oval to generate more income from the oval.

Council resolved to prepare a Planning Proposal to amend LEP 2013 to include a site specific provision. Whilst it was considered not strictly necessary to amend the Plan of Management, it was thought better to do so to make the provision express and allow future leasing and licensing. Crown Lands recommended gazettal of an additional purpose and so this was requested. The Gateway Determination for the Planning Proposal required that it be submitted first to Crown Lands and for any proposed amendment to the Plan of Management to be exhibited at the same time as the Planning Proposal. The draft Second Amendment to the Plan of Management

was prepared with provisions and notes for completion once the dates of amendment to the LEP and gazettal of the additional use were known.

The draft second Amendment to the Plan of Management for Leichhardt Park in the form of Attachment 1 was exhibited and submissions invited. One submission was received expressing concern about parking demand and traffic impacts. These will be dealt with at the DA stage.

Following gazettal of the additional purpose of “Community and Sporting Club Facilities” for the crown reserve, the form of the Second Amendment to the Plan of Management was completed. It is recommended that Council adopt the Second Amendment to the Plan of Management in the form of Attachment 2. It will then be sent to Crown Lands for endorsement.

Council has commissioned and is awaiting traffic and parking impact and noise impact assessments. The draft development application will be report to Council prior to being lodged.

### **Attachments**

1. Draft Second Amendment to the Plan of Management for Leichhardt Park as exhibited.
2. Second Amendment to the Plan of Management for Leichhardt Park recommended for adoption.





## Leichhardt Park

### ***(Draft)* Second Amendment to 2004 Plan of Management**

Leichhardt Council  
ABN 92 379 942 845  
7-15 Wetherill Street  
Leichhardt NSW 2040  
9367 9222  
[www.leichhardt.nsw.gov.au](http://www.leichhardt.nsw.gov.au)

Adopted:

***(Draft)* Second Amendment to 2004 Plan of Management for Leichhardt Park**

## 1. Background

Leichhardt Park (D500207) Reserve is a crown reserve. Leichhardt Council is the reserve trust manager.

In 2004, a Plan of Management for Leichhardt Park was adopted. On 22 October 2013, an Amendment to that Plan of Management was adopted.

On the last page of this second Amendment is a copy of the Plan which is Figure 12 in section 4 “Managing Leichhardt Park” of the 2004 Plan of Management. It shows the “Proposed Management Zones” of Leichhardt Park.

Leichhardt Oval No 1 is in management Zone 1a as shown in that Plan. It is currently leased to Balmain Tigers Rugby League Football Club Limited.

The 2004 Plan of Management states that the Recommended Management Direction for Zone 1a is *“To be a major sporting venue (oval #1) that meets the needs of the community, Reserve Trust, Reserve owner and the major lessee whilst maintaining complementary uses with zone 1b where practical.”* [Zone 1b is the Leichhardt Park Aquatic Centre.]

## 2. Purpose of Reserve

On 201 , the Minister, pursuant to s.121A of the Crown Lands Act, 1989 by notice published in the NSW Government Gazette, authorised the additional use of “Community and Sporting Club Facilities” for Leichhardt Park (D500207) Reserve.

*[Note: Once known, the date of gazettal is to be inserted into the preceding paragraph and this note will be omitted from the adopted Second Amendment.]*

This is in addition to the uses of Public Recreation and Community Purposes.

## 3. Commercial Function Centre

On 201 , Leichhardt Local Environmental Plan 2013 (“LEP”) was amended by amending Schedule 1 Additional Permitted Uses to enable ‘function centre’ as a permitted use for an existing building on Leichhardt Oval No 1.

*[Note: This draft second Amendment is being exhibited with the proposed amendment to the LEP and is subject to the LEP being so amended. If and when the LEP is amended, the date it comes into effect will be inserted into the preceding paragraph and this note will be omitted from the adopted Second Amendment.]*

This is a site specific zoning amendment and means that the LEP will permit (with consent) the existing function centre in Leichhardt Oval No 1 to be used for private, commercial functions unconnected with a match being played at the oval or community groups. Development consent is still required in addition to the amendment of the LEP and this second Amendment to the Plan of Management.

#### **4. Amendment of Plan of Management**

The Plan of Management for Leichhardt Park is amended as set out in this document.

#### **5. Function Centre in Zone 1a**

The existing function centre in the buildings within the fenced area known as Leichhardt Oval No 1 may be used as a for-profit or commercial function centre, allowing functions and uses that may be on different days from and unconnected with matches or uses on the playing field and are not limited to community groups.

#### **6. Leases and Licences**

Subject to the Crown Lands Act, 1989, at the end of the existing lease, the Reserve Trust through the Reserve Trust Manager may lease or grant licences of or catering contracts or concessions for Leichhardt Oval or any part or parts of it. Council may grant a lease or licence of or catering agreement for the function centre separate from and to a different party from the lessee or licensee of any other part of the fenced area known as Leichhardt Oval No.1.







## Leichhardt Park

### ***(Draft)* Second Amendment to 2004 Plan of Management**

Leichhardt Council  
ABN 92 379 942 845  
7-15 Wetherill Street  
Leichhardt NSW 2040  
9367 9222  
[www.leichhardt.nsw.gov.au](http://www.leichhardt.nsw.gov.au)

Adopted:

**Second Amendment to 2004 Plan of Management for Leichhardt Park**



## **7. Background**

Leichhardt Park (D500207) Reserve is a crown reserve. Leichhardt Council is the reserve trust manager.

In 2004, a Plan of Management for Leichhardt Park was adopted. On 22 October 2013, an Amendment to that Plan of Management was adopted.

On the last page of this second Amendment is a copy of the Plan which is Figure 12 in section 4 “Managing Leichhardt Park” of the 2004 Plan of Management. It shows the “Proposed Management Zones” of Leichhardt Park.

Leichhardt Oval No 1 is in management Zone 1a as shown in that Plan.

The 2004 Plan of Management states that the Recommended Management Direction for Zone 1a is *“To be a major sporting venue (oval #1) that meets the needs of the community, Reserve Trust, Reserve owner and the major lessee whilst maintaining complementary uses with zone 1b where practical.”* [Zone 1b is the Leichhardt Park Aquatic Centre.]

## **8. Purpose of Reserve**

On 27 November 2015, the Minister, pursuant to s.121A of the Crown Lands Act, 1989 by notice published in the NSW Government Gazette, authorised the additional use of “Community and Sporting Club Facilities” for Leichhardt Park (D500207) Reserve.

This is in addition to the uses of Public Recreation and Community Purposes.

## **9. Commercial Function Centre**

On 29 May 2015, Leichhardt Local Environmental Plan 2013 (“LEP”) was amended by amending Schedule 1 Additional Permitted Uses to enable ‘function centre’ as a permitted use for an existing building on Leichhardt Oval No 1.

This is a site specific zoning amendment and means that the LEP will permit (with consent) the existing function centre in Leichhardt Oval No 1 to be used for private, commercial functions unconnected with a match being played at the oval or community groups. Development consent is still required in addition to the amendment of the LEP and this second Amendment to the Plan of Management.

## **10. Amendment of Plan of Management**

The Plan of Management for Leichhardt Park is amended as set out in this document.

## **11. Function Centre in Zone 1a**

The existing function centre in the buildings within the fenced area known as Leichhardt Oval No 1 may be used as a for-profit or commercial function centre, allowing functions and uses that may be on different days from and unconnected with matches or uses on the playing field and are not limited to community groups.

## **12. Leases and Licences**

Subject to the Crown Lands Act, 1989, the Reserve Trust through the Reserve Trust Manager may lease or grant licences of or catering contracts or concessions for Leichhardt Oval or any part or parts of it. Council may grant a lease or licence of or catering agreement for the function centre separate from and to a different party from the lessee or licensee of any other part of the fenced area known as Leichhardt Oval No.1.



**ITEM 3.6**

**LOCAL GOVERNMENT AMENDMENT (COUNCILLOR MISCONDUCT AND POOR PERFORMANCE) ACT 2015**

<b>Division</b>	Corporate and Information Services
<b>Author</b>	Manager Governance and Administration
<b>Meeting date</b>	9 February 2016 Policy Meeting
<b>Strategic Plan Key Service Area</b>	Sustainable services and assets

**SUMMARY AND ORGANISATIONAL IMPLICATIONS**

<b>Purpose of Report</b>	To advise Council of amendments to the Local Government Act 1993 made by the Local Government Amendment (Councillor Misconduct and Poor Performance) Act 2015.
<b>Background</b>	The Office of Local Government sent a circular to all NSW councils on 17 December 2015 advising of amendments to the Local Government Act 1993. These amendments relate to the definition of misconduct, suspension of Councillors and pecuniary interests.
<b>Current Status</b>	NIL
<b>Relationship to existing policy</b>	NIL
<b>Financial and Resources Implications</b>	NIL
<b>Recommendation</b>	That the amended Code of Conduct shown attached as Attachment 1 be adopted.
<b>Notifications</b>	NIL
<b>Attachments</b>	1. Code of Conduct



## **Purpose of Report**

To advise Council of amendments to the Local Government Act 1993 made by the Local Government Amendment (Councillor Misconduct and Poor Performance) Act 2015.

## **Recommendation**

That the amended Code of Conduct shown attached as Attachment 1 be adopted.

## **Background**

The Office of Local Government sent a circular to all NSW councils on 17 December 2015 advising of amendments to the Local Government Act 1993. These amendments relate to the definition of misconduct, suspension of Councillors and pecuniary interests.

## **Report**

Local Government Amendment (Councillor Misconduct and Poor Performance) Act 2015 commenced on 17 November and has made the following amendments to the Local Government Act 1993:

- Councillors who have previously been suspended on two or more occasions will be automatically disqualified from holding office in a Council for 5 years if they are suspended on a further occasion.
- The definition of “misconduct” has been expanded to include acts or omissions by Councillors that are intended to prevent the proper or effective functioning of a council or a committee of a Council (e.g. by disrupting decision making). Penalties for Councillor misconduct include suspension and disqualification from holding office.
- Councillors will no longer be permitted to participate in the consideration of the making, amendment, alteration or repeal of an environmental planning instrument applying to the whole or a significant part of their local government area they have pecuniary interests in unless:
  - the only interests affected by the changes are the interests they or their relatives have in their principal places of residence; and
  - they have made a special disclosure of the affected interests.



To effect the amendment to pecuniary interest provisions an amendment has been made to clause 4.29 of the Model Code of Conduct for Local Councils in NSW which also commenced on 13 November 2015. Councils are required to amend their Code of Conduct to reflect the amendment to clause 4.29.

Notice is no longer required of a motion to censure a Councillor for misconduct under section 440G of the Act. Under the Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW, Councils can only formally censure a Councillor for misconduct where this is recommended in a report by an independent investigator. This will be reported to the Council under cover of a staff report by a Council's complaints coordinator.

The amendment to clause 4.29 of the Council's Code of Conduct is shown marked in red in Attachment 1.

### **Attachments**

1. Code of Conduct



## CODE OF CONDUCT AND PROCEDURES FOR THE ADMINISTRATION OF THE CODE OF CONDUCT

<b>Date Adopted:</b>	26 February 2013
<b>Council or Corporate Policy</b>	Council Policy
<b>Responsible Division:</b>	Corporate and Information Services
<b>Supporting documents, procedures &amp; forms of this policy:</b>	Nil
<b>References &amp; Legislation:</b>	<a href="#">Local Government Act 1993</a> <a href="#">Local Government General Regulation 2005</a>

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## PART 1 INTRODUCTION

This Model Code of Conduct for Local Councils in NSW ("the Model Code of Conduct") is made for the purposes of section 440 of the *Local Government Act 1993* ("the Act"). Section 440 of the Act requires every council to adopt a code of conduct that incorporates the provisions of the Model Code. For the purposes of section 440 of the Act, the Model Code of Conduct comprises all parts of this document.

Councillors, administrators, members of staff of council, independent conduct reviewers, members of council committees including the conduct review committee, resident precinct committees and delegates of the council must comply with the applicable provisions of council's code of conduct in carrying out their functions as council officials. It is the personal responsibility of council officials to comply with the standards in the code and regularly review their personal circumstances with this in mind.

Failure by a councillor to comply with the standards of conduct prescribed under this code constitutes misconduct for the purposes of the Act. The Act provides for a range of penalties that may be imposed on councillors for misconduct, including suspension or disqualification from civic office.

Failure by a member of staff to comply with council's code of conduct may give rise to disciplinary action.

A better conduct guide has also been developed to assist councils to review and enhance their codes of conduct. This guide supports this code and provides further information on the provisions in this code.

## PART 2 PURPOSE OF THE CODE OF CONDUCT

The Model Code of Conduct sets the minimum requirements of conduct for council officials in carrying out their functions. The Model Code is prescribed by regulation. The Model Code of Conduct has been developed to assist council officials to:

- understand the standards of conduct that are expected of them
- enable them to fulfil their statutory duty to act honestly and exercise a reasonable degree of care and diligence (section 439)
- act in a way that enhances public confidence in the integrity of local government.

### PART 3 GENERAL CONDUCT OBLIGATIONS

#### General conduct

3.1 You must not conduct yourself in carrying out your functions in a manner that is likely to bring the council or holders of civic office into disrepute. Specifically, you must not act in a way that:

- a) contravenes the Act, associated regulations, council's relevant administrative requirements and policies
- b) is detrimental to the pursuit of the charter of a council
- c) is improper or unethical
- d) is an abuse of power or otherwise amounts to misconduct
- e) causes, comprises or involves intimidation, harassment or verbal abuse
- f) causes, comprises or involves discrimination, disadvantage or adverse treatment in relation to employment
- g) causes, comprises or involves prejudice in the provision of a service to the community. (*Schedule 6A*)

3.2 You must act lawfully, honestly and exercise a reasonable degree of care and diligence in carrying out your functions under the Act or any other Act. (*section 439*)

3.3 You must treat others with respect at all times including Council Meetings, Council events, Council convened Community events and Council public meetings

#### Council's Adopted Values

3.4 Our Values shape what we do and provide a picture of, what we want for both community and Council and how we want to work together to transform our systems, processes and practices:-

1. Our Local Community – making it the place where we want to live, work, play and visit. Provides a picture of what we want for the community to guide our thinking, and strengthens the way council focuses its work on service to the community.
2. Democratic Responsible Government – open, participative and proactive Council leading the community. Defines how councillors and staff work with the community - the roles, practices and processes that improve council's open, participatory and transparent governance to form the foundations for Democratic Responsible Government.
3. Sustainability – shared passion and commitment to consistently do all the things required to enhance and preserve the social, environmental, economic and civic leadership factors that are important to the lives of future generations and life on our planet. Develops the commitment, systems and practices for Leichhardt to be a role model in social, environmental, economic and governance (civic leadership) sustainability.



#### Fairness and equity

3.5 You must consider issues consistently, promptly and fairly. You must deal with matters in accordance with established procedures, in a non-discriminatory manner.

3.6 You must take all relevant facts known to you, or that you should be reasonably aware of, into consideration and have regard to the particular merits of each case. You must not take irrelevant matters or circumstances into consideration when making decisions.

#### Harassment and discrimination

3.7 You must not harass, discriminate against, or support others who harass and discriminate against colleagues or members of the public. This includes, but is not limited to harassment and discrimination on the grounds of sex, pregnancy, age, race, responsibilities as a carer, marital status, disability, homosexuality, transgender grounds or if a person has an infectious disease.

#### Development decisions

3.8 You must ensure that development decisions are properly made and that parties involved in the development process are dealt with fairly. You must avoid any occasion for suspicion of improper conduct in the development assessment process.

3.9 In determining development applications, you must ensure that no action, statement or communication between yourself and applicants or objectors conveys any suggestion of willingness to provide improper concessions or preferential treatment.

#### Binding caucus votes

3.10 You must not participate in binding caucus votes in relation to matters to be considered at a council or committee meeting.

3.11 For the purposes of clause 3.10, a binding caucus vote is a process whereby a group of councillors are compelled by a threat of disciplinary or other adverse action to comply with a predetermined position on a matter before the council or committee irrespective of the personal views of individual members of the group on the merits of the matter before the council or committee.

3.12 Clause 3.10 does not prohibit councillors from discussing a matter before the council or committee prior to considering the matter in question at a council or committee meeting or from voluntarily holding a shared view with other councillors on the merits of a matter.

3.13 Clause 3.10 does not apply to a decision to elect the Mayor or Deputy Mayor or to nominate a person to be a member of a council committee.

## PART 4 CONFLICT OF INTERESTS

4.1 A conflict of interests exists where a reasonable and informed person would perceive that you could be influenced by a private interest when carrying out your public duty. This includes participation in Councillor workshops and briefings. For more details refer to Council's Code of Meeting Practice.

4.2 You must avoid or appropriately manage any conflict of interests. The onus is on you to identify a conflict of interests and take the appropriate action to manage the conflict in favour of your public duty.

4.3 Any conflict of interests must be managed to uphold the probity of council decision-making. When considering whether or not you have a conflict of interests, it is always important to think about how others would view your situation.

4.4 Private interests can be of two types: pecuniary or non-pecuniary.

### What is a pecuniary interest?

4.5 A pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person. (*section 442*)

4.6 A person will also be taken to have a pecuniary interest in a matter if that person's spouse or de facto partner or a relative of the person or a partner or employer of the person, or a company or other body of which the person, or a nominee, partner or employer of the person is a member, has a pecuniary interest in the matter. (*section 443*)

4.7 Pecuniary interests are regulated by Chapter 14, Part 2 of the Act. The Act requires that:

- a) councillors and designated persons lodge an initial and an annual written disclosure of interests that could potentially be in conflict with their public or professional duties (*section 449*)
- b) councillors and members of council committees disclose an interest and the nature of that interest at a meeting, leave the meeting and be out of sight of the meeting and not participate in discussions or voting on the matter (*section 451*)
- c) designated persons immediately declare, in writing, any pecuniary interest. (*section 459*)

4.8 Designated persons are defined at section 441 of the Act, and include, but are not limited to, the general manager and other senior staff of the council.

4.9 Where you are a member of staff of council, other than a designated person (as defined by section 441), you must disclose in writing to your supervisor or the general manager, the nature of any pecuniary interest you have in a matter you are dealing with as soon as practicable.

#### What are non-pecuniary interests?

4.10 Non-pecuniary interests are private or personal interests the council official has that do not amount to a pecuniary interest as defined in the Act. These commonly arise out of family, or personal relationships, or involvement in sporting, social or other cultural groups and associations and may include an interest of a financial nature.

4.11 The political views of a councillor do not constitute a private interest.

#### Managing non-pecuniary conflict of interests

4.12 Where you have a non-pecuniary interest that conflicts with your public duty, you must disclose the interest fully and in writing, even if the conflict is not significant. You must do this as soon as practicable.

4.13 If a disclosure is made at a council or committee meeting, both the disclosure and the nature of the interest must be recorded in the minutes. This disclosure constitutes disclosure in writing for the purposes of clause 4.12.

4.14 How you manage a non-pecuniary conflict of interests will depend on whether or not it is significant.

4.15 As a general rule, a non-pecuniary conflict of interests will be significant where a matter does not raise a pecuniary interest but it involves:

- a) a relationship between a council official and another person that is particularly close, for example, parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of the person or of the person's spouse, current or former spouse or partner, de facto or other person living in the same household
- b) other relationships that are particularly close, such as friendships and business relationships. Closeness is defined by the nature of the friendship or business relationship, the frequency of contact and the duration of the friendship or relationship
- c) an affiliation between the council official and an organisation, sporting body, club, corporation or association that is particularly strong.

4.16 If you are a council official, other than a member of staff of council, and you have disclosed that a significant non-pecuniary conflict of interests exists, you must manage it in one of two ways:

- a) remove the source of the conflict, by relinquishing or divesting the interest that creates the conflict, or reallocating the conflicting duties to another council official

b) have no involvement in the matter, by absenting yourself from and not taking part in any debate or voting on the issue as if the provisions in section 451(2) of the Act apply

4.17 If you determine that a non-pecuniary conflict of interests is less than significant and does not require further action, you must provide an explanation of why you consider that the conflict does not require further action in the circumstances.

4.18 If you are a member of staff of council, the decision on which option should be taken to manage a non-pecuniary conflict of interests must be made in consultation with your manager.

4.19 Despite clause 4.16(b), a councillor who has disclosed that a significant non pecuniary conflict of interests exists may participate in a decision to delegate council's decision-making role to council staff through the general manager, or appoint another person or body to make the decision in accordance with the law. This applies whether or not council would be deprived of a quorum if one or more councillors were to manage their conflict of interests by not voting on a matter in accordance with clause 4.16(b) above.

#### Reportable political donations

4.20 Councillors should note that matters before council involving political or campaign donors may give rise to a non-pecuniary conflict of interests.

4.21 Where a councillor has received or knowingly benefitted from a reportable political donation:

- a) made by a major political donor in the previous four years, and
- b) where the major political donor has a matter before council,

then the councillor must declare a non-pecuniary conflict of interests, disclose the nature of the interest, and manage the conflict of interests in accordance with clause 4.16(b).

4.22 For the purposes of this Part:

- a) a "reportable political donation" is a "reportable political donation" for the purposes of section 86 of the *Election Funding, Expenditure and Disclosures Act 1981*,
- b) a "major political donor" is a "major political donor" for the purposes of section 84 of the *Election Funding, Expenditure and Disclosures Act 1981*.

4.23 Councillors should note that political donations below \$1,000, or political donations to a registered political party or group by which a councillor is endorsed, may still give rise to a non-pecuniary conflict of interests. Councillors should determine whether or not such conflicts are significant and take the appropriate action to manage them.

4.24 If a councillor has received or knowingly benefitted from a reportable political donation of the kind referred to in clause 4.21, that councillor is not prevented from participating in a decision to delegate council's decision-making role to

council staff through the general manager or appointing another person or body to make the decision in accordance with the law (see clause 4.19 above).

Loss of quorum as a result of compliance with this Part

4.25 Where a majority of councillors are precluded under this Part from consideration of a matter the council or committee must resolve to delegate consideration of the matter in question to another person.

4.26 Where a majority of councillors are precluded under this Part from consideration of a matter and the matter in question concerns the exercise of a function that may not be delegated under section 377 of the Act, the councillors may apply in writing to the Chief Executive to be exempted from complying with a requirement under this Part relating to the management of a non-pecuniary conflict of interests.

4.27 The Chief Executive will only exempt a councillor from complying with a requirement under this Part where:

- a) compliance by councillors with a requirement under the Part in relation to a matter will result in the loss of a quorum, and
- b) the matter relates to the exercise of a function of the council that may not be delegated under section 377 of the Act.

4.28 Where the Chief Executive exempts a councillor from complying with a requirement under this Part, the councillor must still disclose any interests they have in the matter the exemption applies to in accordance with the requirements of this Part.

4.29 A councillor, who would otherwise be precluded from participating in the consideration of a matter under this Part because they have a non-pecuniary conflict of interests in the matter, is permitted to participate in consideration of the matter, if:

a) the matter is a proposal relating to:

- i) the making of a principal environmental planning instrument applying to the whole or a significant part of the council's area, or
- ii) the amendment, alteration or repeal of an environmental planning instrument where the amendment, alteration or repeal applies to the whole or a significant part of the council's area, and

b) the non-pecuniary conflict of interests arises only because of an interest that a person has in that person's principal place of residence, and

c) the councillor declares the interest they have in the matter that would otherwise have precluded their participation in consideration of the matter

Other business or employment

4.30 If you are a member of staff of council considering outside employment or contract work that relates to the business of the council or that might conflict



with your council duties, you must notify and seek the approval of the general manager in writing. (*section 353*)

4.31 As a member of staff, you must ensure that any outside employment or business you engage in will not:

- a) conflict with your official duties
- b) involve using confidential information or council resources obtained through your work with the council
- c) require you to work while on council duty
- d) discredit or disadvantage the council.

#### Personal dealings with council

4.32 You may have reason to deal with your council in your personal capacity (for example, as a ratepayer, recipient of a council service or applicant for a consent granted by council). You must not expect or request preferential treatment in relation to any matter in which you have a private interest because of your position. You must avoid any action that could lead members of the public to believe that you are seeking preferential treatment.

### **PART 5 PERSONAL BENEFIT**

For the purposes of this section, a reference to a gift or benefit does not include a political donation or contribution to an election fund that is subject to the provisions of the relevant election funding legislation.

#### Gifts and benefits

5.1 You must avoid situations giving rise to the appearance that a person or body, through the provision of gifts, benefits or hospitality of any kind, is attempting to secure favourable treatment from you or from the council.

5.2 You must take all reasonable steps to ensure that your immediate family members do not receive gifts or benefits that give rise to the appearance of being an attempt to secure favourable treatment. Immediate family members ordinarily include parents, spouses, children and siblings.

#### Token gifts and benefits

- 5.3 Generally speaking, token gifts and benefits include:
- a) free or subsidised meals, beverages or refreshments provided in conjunction with:
    - i) the discussion of official business
    - ii) council work related events such as training, education sessions, workshops
    - iii) conferences
    - iv) council functions or events
    - v) social functions organised by groups, such as council committees and community organisations
  - b) invitations to and attendance at local social, cultural or sporting events

- c) gifts of single bottles of reasonably priced alcohol to individual council officials at end of year functions, public occasions or in recognition of work done (such as providing a lecture/training session/address)
- d) ties, scarves, coasters, tie pins, diaries, chocolates or flowers
- e) prizes of token value.

#### Gifts and benefits of value

5.4 Notwithstanding clause 5.3, gifts and benefits that have more than a token value include, but are not limited to, tickets to major sporting events (such as state or international cricket matches or matches in other national sporting codes (including the NRL, AFL, FFA, NBL)), corporate hospitality at a corporate facility at major sporting events, discounted products for personal use, the frequent use of facilities such as gyms, use of holiday homes, free or discounted travel.

#### How are offers of gifts and benefits to be dealt with?

- 5.5 You must not:
- a) seek or accept a bribe or other improper inducement
  - b) seek gifts or benefits of any kind
  - c) accept any gift or benefit that may create a sense of obligation on your part or may be perceived to be intended or likely to influence you in carrying out your public duty
  - d) accept any gift or benefit of more than token value
  - e) accept an offer of cash or a cash-like gift, regardless of the amount.

5.6 For the purposes of clause 5.5(e), a "cash-like gift" includes but is not limited to gift vouchers, credit cards, debit cards with credit on them, prepayments such as phone or internal credit, memberships or entitlements to discounts.

5.7 You must disclose all gifts and benefits to your Director, Mayor or General Manager. The Director, Mayor or General Manager will ensure all gifts and benefits are recorded in a Gifts Register and will have the discretion with token gifts and benefits to either allow the Council official to keep it or either have it returned to the sender or sent to a local charity.

All gifts and benefits of more than token value must be surrendered to Council and the Director, Mayor or General Manager will decide whether to return it to the sender or send it to a local charity.

#### Improper and undue influence

5.8 You must not use your position to influence other council officials in the performance of their public or professional duties to obtain a private benefit for yourself or for somebody else. A councillor will not be in breach of this clause where they seek to influence other council officials through the appropriate exercise of their representative functions.

- 5.9 You must not take advantage (or seek to take advantage) of your status or position with or of functions you perform for council in order to obtain a private benefit for yourself or for any other person or body.

## **PART 6 RELATIONSHIP BETWEEN COUNCIL OFFICIALS**

### Obligations of councillors and administrators

6.1 Each council is a body politic. The councillors or administrator/s are the governing body of the council. The governing body has the responsibility of directing and controlling the affairs of the council in accordance with the Act and is responsible for policy determinations, for example, those relating to workforce policy.

6.2 Councillors or administrators must not:

- a) direct council staff other than by giving appropriate direction to the general manager in the performance of council's functions by way of council or committee resolution, or by the Mayor or administrator exercising their power under section 226 of the Act (*section 352*)
- b) in any public or private forum, direct or influence or attempt to direct or influence, any other member of the staff of the council or a delegate of the council in the exercise of the functions of the member or delegate (*Schedule 6A of the Act*).
- c) contact a member of the staff of the council on council related business unless in accordance with the policy and procedures governing the interaction of councillors and council staff that have been authorised by the council and the general manager.

To enable Council to offer a consistent level of service, Councillors are asked to restrict contact on specific issues with Council staff to the General Manager, Directors or Managers – as outlined in the table attached to this Code (see Annexure B on pages 22 - 24).

- d) contact or issue instructions to any of council's contractors or tenderers, including council's legal advisers, unless by the Mayor or administrator exercising their power under section 226 of the Act. This does not apply to council's external auditors or the Chair of council's audit committee who may be provided with any information by individual councillors reasonably necessary for the external auditor or audit committee to effectively perform their functions.

### Obligations of staff

6.3 The general manager is responsible for the efficient and effective operation of the council's organisation and for ensuring the implementation of the decisions of the council without delay.

6.4 Members of staff of council must:

- a) give their attention to the business of council while on duty
- b) ensure that their work is carried out efficiently, economically and effectively

- c) carry out lawful directions given by any person having authority to give such directions
- d) give effect to the lawful decisions, policies, and procedures of the council, whether or not the staff member agrees with or approves of them
- e) ensure that any participation in political activities outside the service of the council does not conflict with the performance of their official duties.

#### Obligations during meetings

6.5 You must act in accordance with council's Code of Meeting Practice, if council has adopted one, and the *Local Government (General) Regulation 2005* during council and committee meetings.

6.6 You must show respect to the chair, other council officials and any members of the public present during council and committee meetings or other formal proceedings of the council.

#### Inappropriate interactions

- 6.7 You must not engage in any of the following inappropriate interactions:
- a) Councillors and administrators approaching staff and staff organisations to discuss individual or operational staff matters other than broader workforce policy issues.
  - b) Council staff approaching councillors and administrators to discuss individual or operational staff matters other than broader workforce policy issues.
  - c) Council staff refusing to give information that is available to other councillors to a particular councillor.
  - d) Councillors and administrators who have lodged a development application with council, discussing the matter with council staff in staff only areas of the council.
  - e) Councillors and administrators being overbearing or threatening to council staff.
  - f) Councillors and administrators making personal attacks on council staff in a public forum.
  - g) Councillors and administrators directing or pressuring council staff in the performance of their work, or recommendations they should make.
  - h) Council staff providing ad hoc advice to councillors and administrators without recording or documenting the interaction as they would if the advice was provided to a member of the community.
  - i) Council staff meeting with applicants or objectors alone AND outside office hours to discuss applications or proposals.
  - j) Councillors attending on-site inspection meetings with lawyers and/or consultants engaged by council associated with current or proposed legal proceedings unless permitted to do so by council's general manager or, in the case of the Mayor or administrator, exercising their power under section 226 of the Act.

### **PART 7 ACCESS TO INFORMATION AND COUNCIL RESOURCES**

#### Councillor and administrator access to information

7.1 The general manager and public officer are responsible for ensuring that members of the public, councillors and administrators can gain access to the documents available under the *Government Information (Public Access) Act 2009*.

7.2 The general manager must provide councillors and administrators with information sufficient to enable them to carry out their civic office functions.

7.3 Members of staff of council must provide full and timely information to councillors and administrators sufficient to enable them to carry out their civic office functions and in accordance with council procedures.

7.4 Members of staff of council who provide any information to a particular councillor in the performance of their civic duties must also make it available to any other councillor who requests it and in accordance with council procedures.

7.5 Councillors and administrators who have a private (as distinct from civic) interest in a document of council have the same rights of access as any member of the public.

#### Councillors and administrators to properly examine and consider information

7.6 Councillors and administrators must properly examine and consider all the information provided to them relating to matters that they are dealing with to enable them to make a decision on the matter in accordance with council's charter.

#### Refusal of access to documents

7.7 Where the general manager and public officer determine to refuse access to a document sought by a councillor or administrator they must act reasonably. In reaching this decision they must take into account whether or not the document sought is required for the councillor or administrator to perform their civic duty (see clause 7.2). The general manager or public officer must state the reasons for the decision if access is refused.

#### Use of certain council information

7.8 In regard to information obtained in your capacity as a council official, you must:

- a) only access council information needed for council business
- b) not use that council information for private purposes
- c) not seek or obtain, either directly or indirectly, any financial benefit or other improper advantage for yourself, or any other person or body, from any information to which you have by virtue of your office or position with council
- d) only release council information in accordance with established council policies and procedures and in compliance with relevant legislation.

#### Use and security of confidential information



7.9 You must maintain the integrity and security of confidential documents or information in your possession, or for which you are responsible.

7.10 In addition to your general obligations relating to the use of council information, you must:

- a) protect confidential information
- b) only release confidential information if you have authority to do so
- c) only use confidential information for the purpose it is intended to be used
- d) not use confidential information gained through your official position for the purpose of securing a private benefit for yourself or for any other person
- e) not use confidential information with the intention to cause harm or detriment to your council or any other person or body
- f) not disclose any information discussed during a confidential session of a council meeting.

#### Personal information

7.11 When dealing with personal information you must comply with:

- a) *the Privacy and Personal Information Protection Act 1998*
- b) *the Health Records and Information Privacy Act 2002*
- c) the Information Protection Principles and Health Privacy Principles
- d) council's privacy management plan
- e) the Privacy Code of Practice for Local Government

#### Use of council resources

7.12 You must use council resources ethically, effectively, efficiently and carefully in the course of your official duties, and must not use them for private purposes (except when supplied as part of a contract of employment) unless this use is lawfully authorised and proper payment is made where appropriate.

7.13 Union delegates and consultative committee members may have reasonable access to council resources for the purposes of carrying out their industrial responsibilities, including but not limited to:

- a) the representation of members with respect to disciplinary matters
- b) the representation of employees with respect to grievances and disputes
- c) functions associated with the role of the local consultative committee.

7.14 You must be scrupulous in your use of council property, including intellectual property, official services and facilities, and must not permit their misuse by any other person or body.

7.15 You must avoid any action or situation that could create the appearance that council property, official services or public facilities are being improperly used for your benefit or the benefit of any other person or body.

7.16 You must not use council resources, property or facilities for the purpose of assisting your election campaign or the election campaign of others unless the resources, property or facilities are otherwise available for use or hire by the public and any publicly advertised fee is paid for use of the resources, property or facility.

7.17 You must not use council letterhead, council crests and other information that could give the appearance it is official council material for:

- a) the purpose of assisting your election campaign or the election campaign of others, or
- b) for other non-official purposes.

7.18 You must not convert any property of the council to your own use unless properly authorised.

7.19 You must not use council's computer resources to search for, access, download or communicate any material of an offensive, obscene, pornographic, threatening, abusive or defamatory nature.

#### Councillor access to council buildings

7.20 Councillors and administrators are entitled to have access to the council chamber, committee room, mayor's office (subject to availability), councillors' rooms, and public areas of council's buildings during normal business hours and for meetings. Councillors and administrators needing access to these facilities at other times must obtain authority from the general manager.

7.21 Councillors and administrators must not enter staff-only areas of council buildings without the approval of the general manager (or delegate) or as provided in the procedures governing the interaction of councillors and council staff.

7.22 Councillors and administrators must ensure that when they are within a staff area they avoid giving rise to the appearance that they may improperly influence council staff decisions.

### **PART 8 MAINTAINING THE INTEGRITY OF THIS CODE**

8.1 You must not conduct yourself in a manner that is likely to undermine confidence in the integrity of this code or its administration.

#### Complaints made for an improper purpose

8.2 You must not make a complaint or cause a complaint to be made under this code for an improper purpose.

8.3 For the purposes of clause 8.2, a complaint is made for an improper purpose where it is trivial, frivolous, vexatious or not made in good faith, or where it otherwise lacks merit and has been made substantially for one or more of the following purposes:

- a) to intimidate or harass another council official

- b) to damage another council official's reputation
- c) to obtain a political advantage
- d) to influence a council official in the exercise of their official functions or to prevent or disrupt the exercise of those functions
- e) to influence the council in the exercise of its functions or to prevent or disrupt the exercise of those functions
- f) to avoid disciplinary action under this code
- g) to take reprisal action against a person for making a complaint under this code except as may be otherwise specifically permitted under this code
- h) to take reprisal action against a person for exercising a function prescribed under the procedures for the administration of this code except as may be otherwise specifically permitted under this code
- i) to prevent or disrupt the effective administration of this code.

#### Detrimental action

8.4 You must not take detrimental action or cause detrimental action to be taken against a person substantially in reprisal for a complaint they have made under this code except as may be otherwise specifically permitted under this code.

8.5 You must not take detrimental action or cause detrimental action to be taken against a person substantially in reprisal for any function they have exercised under this code except as may be otherwise specifically permitted under this code.

8.6 For the purposes of clauses 8.4 and 8.5 detrimental action is an action causing, comprising or involving any of the following:

- a) injury, damage or loss
- b) intimidation or harassment
- c) discrimination, disadvantage or adverse treatment in relation to employment
- d) dismissal from, or prejudice in, employment
- e) disciplinary proceedings.

#### Compliance with requirements under this code

8.7 You must not engage in conduct that is calculated to impede or disrupt the consideration of a matter under this code.

8.8 You must comply with a reasonable and lawful request made by a person exercising a function under this code.

8.9 You must comply with a practice ruling made by the Division of Local Government.

8.10 Where you are a councillor or the general manager, you must comply with any council resolution requiring you to take action as a result of a breach of this code.

#### Disclosure of information about the consideration of a matter under this code

8.11 You must report breaches of this code in accordance with the reporting

requirements under this code.

8.12 You must not make allegations of suspected breaches of this code at council meetings or in other public forums.

8.13 You must not disclose information about the consideration of a matter under this code except for the purposes of seeking legal advice unless the disclosure is otherwise permitted under this code.

Complaints alleging a breach of this part

8.14 Complaints alleging a breach of this Part (Part 8) by a councillor, the general manager or an administrator are to be made to the Division of Local Government.

8.15 Complaints alleging a breach of this Part by other council officials are to be made to the general manager.

## PART 9 DEFINITIONS

In the Model Code of Conduct the following definitions apply:

the Act	the <i>Local Government Act 1993</i>
act of disorder	see the definition in clause 256 of the Local Government (General) Regulation 2005
Administrator	an administrator of a council appointed under the Act other than an administrator appointed under section 66
Chief Executive	Chief Executive of the Division of Local Government, Department of Premier and Cabinet
Committee	a council committee
conflict of interests	a conflict of interests exists where a reasonable and informed person would perceive that you could be influenced by a private interest when carrying out your public duty
council committee	a committee established by resolution of council
"council committee member"	a person other than a councillor or member of staff of a council who is a member of a council committee
council official	includes councillors, members of staff of council, administrators, council committee members, conduct reviewers and delegates of council
councillor	a person elected or appointed to civic office and includes a Mayor
delegate of council	a person (other than a councillor or member of staff of a council) or body, and the individual members of that body, to whom a function of the council is delegated
designated person	see the definition in section 441 of the Act
election campaign	includes council, State and Federal election campaigns
personal information	information or an opinion about a person whose identity is apparent, or can be ascertained from the information or opinion
the Regulation	the Local Government (General) Regulation 2005

The term "you" used in the Model Code of Conduct refers to council officials. The phrase "this code" used in the Model Code of Conduct refers also to the procedures for the administration of the Model Code of Conduct prescribed under the Local Government (General) Regulation 2005.



### Version Control and Change History

Version Control	Date Effective	Approved By	Amendment
1	26/02/2013	Council	To adopt the Model Code of Conduct
2	23/07/2013	Council	To list the members of the Conduct Review Panel
3	24/11/2015	Council	To amend Conflicts of Interest, include that the Code applies to Precinct Committee members, amend the Media/Public Comment Appendix and add Council's Adopted Values
4	09/02/2016		To amend clause 4.29 in line with the Local Government Amendment (Councillor Misconduct and Poor Performance) Act 2015.

## ANNEXURE A

### PUBLIC COMMENT / MEDIA CONTACT

The purpose of this section is to provide guidelines for Councillors, Directors, Managers, Staff and Contractors of Leichhardt Council for communications with the media. Any public comment made by a Councillor or Staff must not breach Council's Code of Conduct.

#### Media Releases

1. That the Mayoral Column and Council Newsletters must represent the Council adopted position.
2. That where the Mayor has voted against an agenda item or instances where the Mayor does not support the adopted position of Council, and where requested by two or more Councillors the General Manager issue a statement representing the adopted position of Council.

#### Councillors

- The Mayor will be the spokesperson on Council business or matters before Council. Therefore, all media inquiries should be directed to the Mayor at first instance.
- If the Mayor is not available, media enquiries should be directed to the Deputy Mayor. In the event that the Mayor or Deputy Mayor are not available for comment, media enquiries should be directed to the Media and Communications Unit who will liaise with the General Manager to develop an appropriate response.
- The Mayor and Councillors may, out of courtesy, inform the Media and Communications Unit of any contact with the media relating to Council business including providing copies of media releases or other forms of communication

forwarded to the media. Councillors who wish to issue media releases on issues directly related to the business of council, will upon request, be provided with personalised letterhead with words printed on the Letterhead that these are the personal views of the Councillor and not a statement from Leichhardt Council. Letterhead provided for this purpose must not be used for issues not related to the business of council ie. political campaigns.

- If a Councillor wishes to comment publicly on any matters which do not relate to Leichhardt Council or the Leichhardt LGA, they should not give the impression that the comments are made on behalf of Leichhardt Council and must not use Council Letterhead.
- If a Councillor wishes to comment publicly on a council matter in opposition to an adopted council position or if there is no adopted council position, they must ensure their comments are clarified as a personal opinion and not a statement from Leichhardt Council.

#### **Staff (Includes Directors, Managers, General Staff & Contractors)**

- Members of staff are not permitted to speak with the media unless prior permission from the Media and Communications Unit has been received.
- If the media contacts a staff member, the staff member should inform the Media and Communications Unit immediately and forward the details of the query to the Media and Communications Unit for action.
- If the General Manager and Media and Communications Unit decide it is appropriate or preferable for that staff member to brief the media, that staff member should be mindful of the policy of the organisation and confine their comments to the subject area of the inquiry.

This code does not prevent staff entering into public debate as an ordinary member of the community in a private capacity. However, staff should avoid any perception of a conflict of interest and be mindful that their employment or role at Council is not compromised by giving an impression publicly that they have access to information, Councillors or senior staff that is not in the public domain. It should also be clear staff should take care not to give the impression that the comments are made on behalf of Leichhardt Council.

#### **Social Media**

In using Social Media to make public comments Staff and Councillors must ensure their comments are clarified as a personal opinion. If Council receives a complaint regarding a public comment made by a Staff or Councillor, Council will monitor the complaint/s for level of severity and will deal with the matter as appropriate in accordance with Council's policies and procedures.

## **ANNEXURE B**

### **Protocol for Communication with Council Officers**

To enable Council to offer a consistent level of service, Councillors are asked to restrict contact on specific issues with Council staff to the GM, Directors or Managers – contact details are outlined in the attached table. If Councillors need to discuss matters in detail or at length, they are asked to make an appointment with the appropriate person. This will ensure that timing is convenient for all parties and that the most appropriate Council officers are present and well briefed on the issues.

For day to day type queries referred to you from residents, such as rubbish to be collected, reporting a pot hole, these can be made direct to Council's Citizen Service Centre where the call centre staff will log the details, put it into the corporate system for the matter to be sent to the relevant officer to action. The phone number for the Citizen Service Centre is 9367 9222.

ANNEXURE C

## **Procedures for the Administration of the Code of Conduct**

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## PART 1 INTRODUCTION

These procedures ("the Model Code Procedures") are prescribed for the purposes of the administration of the Model Code of Conduct for Local Councils in NSW ("the Model Code"). The Model Code and Model Code Procedures are made under sections 440 and 440AA respectively of the *Local Government Act 1993* ("the Act") and the *Local Government (General) Regulation 2005* ("the Regulation").

Sections 440 and 440AA of the Act require every council to adopt a code of conduct and procedures for the administration of the code of conduct that incorporate the provisions of the Model Code and Model Code Procedures respectively.

In adopting procedures for the administration of their adopted codes of conduct, councils may supplement the Model Code Procedures. However provisions of a council's adopted procedures that are not consistent with those prescribed under the Model Code Procedures will have no effect.

## PART 2 DEFINITIONS

For the purposes of the procedures, the following definitions apply:

"the Act"	the <i>Local Government Act 1993</i>
"administrator"	an administrator of a council appointed under the Act other than an administrator appointed under section 66
"code of conduct"	a code of conduct adopted under section 440 of the Act
"code of conduct complaint"	a complaint that alleges conduct on the part of a council official acting in their official capacity that on its face, if proven, would constitute a breach of the standards of conduct prescribed under the council's code of conduct
"complainant"	a person who makes a code of conduct complaint
"complainant councillor"	a councillor who makes a code of conduct complaint
"complaints coordinator"	a person appointed by the general manager under these procedures as a complaints coordinator
"conduct reviewer"	a person appointed under these procedures to review allegations of breaches of the code of conduct by councillors or the general manager
"council committee"	a committee established by resolution of Council
"council committee member"	a person other than a councillor or member of staff of a council who is a member of a council committee

"councillor"	a person elected or appointed to civic office and includes a Mayor
"council official"	includes councillors, members of staff of council, administrators, council committee members, conduct reviewers and delegates of council
"delegate of council"	a person (other than a councillor or member of staff of a council) or body and the individual members of that body to whom a function of the council is delegated
"the Division"	the Division of Local Government, Department of Premier and Cabinet
"investigator"	a conduct reviewer or conduct review Committee
"the Regulation"	the <i>Local Government (General) Regulation 2005</i>
"subject person"	a person whose conduct is the subject of investigation by a conduct reviewer or conduct review committee under these procedures

### PART 3 ADMINISTRATIVE FRAMEWORK

#### The establishment of a panel of conduct reviewers

- 3.1 The council must by resolution establish a panel of conduct reviewers.
- 3.2 The council may by resolution enter into an arrangement with one or more other councils to share a panel of conduct reviewers.
- 3.3 The panel of conduct reviewers is to be established following a public expression of interest process.
- 3.4 An expression of interest for members of the council's panel of conduct reviewers must, at a minimum, be advertised locally and in the Sydney metropolitan area.
- 3.5 To be eligible to be a member of a panel of conduct reviewers, a person must, at a minimum, meet the following requirements:
  - a) an understanding of local government, and
  - b) knowledge of investigative processes including but not limited to procedural fairness requirements and the requirements of the *Public Interest Disclosures Act 1994*, and
  - c) knowledge and experience of one or more of the following:
    - i) investigations, or
    - ii) law, or
    - iii) public administration, or
    - iv) public sector ethics, or
    - v) alternative dispute resolution, and

d) meet the eligibility requirements for membership of a panel of conduct reviewers under clause 3.6.

3.6 A person is not be eligible to be a member of the panel of conduct reviewers if they are:

- a) a councillor, or
- b) a nominee for election as a councillor, or
- c) an administrator, or
- d) an employee of a council, or
- e) a member of the Commonwealth Parliament or any State Parliament or Territory Assembly, or
- f) a nominee for election as a member of the Commonwealth Parliament or any State Parliament or Territory Assembly, or
- g) a person who has a conviction for an indictable offence that is not an expired conviction.

3.7 A person is not precluded from being a member of the council's panel of conduct reviewers if they are a member of another council's panel of conduct reviewers.

3.8 A panel of conduct reviewers established under this Part is to have a term of up to four years.

3.9 The council may terminate the panel of conduct reviewers at any time by resolution.

3.10 When the term of the conduct reviewers concludes or is terminated, the council must establish a new panel of conduct reviewers in accordance with the requirements of this Part.

3.11 A person who was a member of a previous panel of conduct reviewers established by the council may be a member of subsequent panels of conduct reviewers established by the council.

#### The appointment of complaints coordinators

3.12 The general manager must appoint a member of staff of the council to act as a complaints coordinator. Where practicable, the complaints coordinator should be a senior and suitably qualified member of staff.

*NOTE: At the Ordinary Meeting of Council on 26 February 2013, Council resolved that Graham Carnegie, Manager Employee Services, be appointed as Council's Complaints Coordinator, with George Georgakis, Manager Administration Services, appointed as the alternate.*

3.13 The general manager may appoint other members of staff to act as alternates to the complaints coordinator.

3.14 The general manager must not undertake the role of complaints coordinator.

3.15 The person appointed as complaints coordinator or alternate complaints coordinator must also be a nominated disclosures coordinator appointed for the purpose of receiving and managing reports of wrongdoing under the *Public Interest Disclosures Act 1994*.

3.16 The role of the complaints coordinator is to:

- a) coordinate the management of complaints made under the council's code of conduct,
- b) liaise with and provide administrative support to a conduct reviewer or conduct review committee,
- c) liaise with the Division of Local Government, and
- d) arrange the annual reporting of code of conduct complaints statistics.

### 3.17 Panel of Conduct Reviewers

The process for establishing a panel of conduct reviewers is outlined in Clauses 3.2-3.11 above. The Council must by resolution establish a panel of conduct reviewers and may enter into an arrangement with one or more other councils to share a panel of conduct reviewers. The panel of conduct reviewers is to be established following a public expression of interest process.

Council at its Ordinary Meeting on 23 July 2013 appointed panel members for Council's Code of Reviewer's Panel as recommended by the Southern Sydney Regional Organisation of Councils (SSROC) with the addition of Gerry Holmes.

The names of the SSROC Regional Panel Members (referred to above are):

<b>Name</b>	<b>Organisation</b>
Barbara Armitage	Sole Trader
John Raymond Boland	Sole Trader
Shane Boyd	Internal Audit Bureau of New South Wales
Graham Evans	O'Connell Workplace Relations
Robert Hogan	Sole Trader
Kelvin Kenney	O'Connor Marsden & Associates
Peter Andrew Mulhall/Lee Downes	P A Mulhall Pty Ltd
Sean Pascoe	BDO
Kathleen Roach	Sinc Solutions
Kathy Thane	Train Reaction Pty Ltd
Jodie Wauchope	Gaden Lawyers
Robert Ryan	Strategic Risk Solutions

Gerry Holmes - Sole Trader, is also added to the above Panel.

## PART 4 HOW MAY CODE OF CONDUCT COMPLAINTS BE MADE?

### What is a "code of conduct complaint"?

4.1 For the purpose of these procedures, a code of conduct complaint is a complaint that alleges conduct on the part of a council official acting in their official capacity that on its face, if proven, would constitute a breach of the standards of conduct prescribed under the council's code of conduct.

4.2 Only code of conduct complaints are to be dealt with under these procedures. Complaints that do not satisfy the definition of a "code of conduct complaint" are to be dealt with under council's routine complaints management processes.

### When must a code of conduct complaint be made?

4.3 A code of conduct complaint must be made within three months of the alleged conduct occurring or within three months of the complainant becoming aware of the alleged conduct.

4.4 A complaint made after 3 months may only be accepted if the general manager, or, in the case of a complaint about the general manager, the Mayor, is satisfied that there are compelling grounds for the matter to be dealt with under the code of conduct.

### How may a code of conduct complaint about a council official other than the general manager be made?

4.5 All code of conduct complaints other than those relating to the general manager are to be made to the general manager in writing.

4.6 Where a code of conduct complaint about a council official other than the general manager cannot be made in writing, the complaint must be confirmed with the complainant in writing as soon as possible after the receipt of the complaint.

4.7 In making a code of conduct complaint about a council official other than the general manager, the complainant may nominate whether they want the complaint to be resolved by mediation or by other alternative means.

4.8 The general manager or, where the complaint is referred to a conduct reviewer, the conduct reviewer, must consider the complainant's preferences in deciding how to deal with the complaint.

4.9 Notwithstanding clauses 4.5 and 4.6, where the general manager becomes aware of a possible breach of the council's code of conduct, he or she may initiate the process for the consideration of the matter under these procedures without a written complaint.



How may a code of conduct complaint about the general manager be made?

4.10 Code of conduct complaints about the general manager are to be made to the Mayor in writing.

4.11 Where a code of conduct complaint about the general manager cannot be made in writing, the complaint must be confirmed with the complainant in writing as soon as possible after the receipt of the complaint.

4.12 In making a code of conduct complaint about the general manager, the complainant may nominate whether they want the complaint to be resolved by mediation or by other alternative means.

4.13 The Mayor or, where the complaint is referred to a conduct reviewer, the conduct reviewer, must consider the complainant's preferences in deciding how to deal with the complaint.

4.14 Notwithstanding clauses 4.10 and 4.11, where the Mayor becomes aware of a possible breach of the council's code of conduct by the general manager, he or she may initiate the process for the consideration of the matter under these procedures without a written complaint.

**PART 5 HOW ARE CODE OF CONDUCT COMPLAINTS TO BE  
MANAGED?**

How are code of conduct complaints about staff (other than the general manager) to be dealt with?

5.1 The general manager is responsible for making enquiries or causing enquiries to be made into code of conduct complaints about members of staff of council and for determining the outcome of such complaints.

5.2 Where the general manager decides not to make enquiries into a code of conduct complaint about a member of staff, the general manager must give the complainant reasons in writing for their decision.

5.3 Without limiting clause 5.2, the general manager may decide not to enquire into the matter on grounds that the complaint is trivial, frivolous, vexatious or not made in good faith.

5.4 Enquiries made into staff conduct that might give rise to disciplinary action must occur in accordance with the relevant industrial instrument or employment contract and make provision for procedural fairness including the right of an employee to be represented by their union.

5.5 Sanctions for staff depend on the severity, scale and importance of the

breach and must be determined in accordance with any relevant industrial instruments or contracts.

How are code of conduct complaints about delegates of council and council committee members to be dealt with?

5.6 The general manager is responsible for making enquiries or causing enquiries to be made into code of conduct complaints about delegates of council and council committee members and for determining the outcome of such complaints.

5.7 Where the general manager decides not to make enquiries into a code of conduct complaint about a delegate of council or a council committee member, the general manager must give the complainant reasons in writing for their decision.

5.8 Without limiting clause 5.7, the general manager may decide not to enquire into the matter on grounds that the complaint is trivial, frivolous, vexatious or not made in good faith.

5.9 Sanctions for delegates of council and/or members of council committees depend on the severity, scale and importance of the breach and may include one or more of the following:

- a) censure,
- b) requiring the person to apologise to any person or organisation adversely affected by the breach,
- c) prosecution for any breach of the law,
- d) removing or restricting the person's delegation, or
- e) removing the person from membership of the relevant council committee.

5.10 Prior to imposing a sanction against a delegate of council or a council committee member under clause 5.9, the general manager or any person making enquiries on behalf of the general manager must comply with the requirements of procedural fairness. In particular:

- a) the substance of the allegation (including the relevant provision/s of council's code of conduct that the alleged conduct is in breach of) must be put to the person the subject of the allegation, and
- b) the person must be given an opportunity to respond to the allegation, and
- c) the general manager must consider the person's response in deciding whether to impose a sanction under clause 5.9.

How are code of conduct complaints about conduct reviewers to be dealt with?

5.11 The general manager must refer all code of conduct complaints about conduct reviewers to the Division for its consideration.

5.12 The general manager must notify the complainant of the referral of their complaint in writing.

5.13 The general manager must implement any recommendation made by the Division as a result of its consideration of a code of conduct complaint about a conduct reviewer.

How are code of conduct complaints about administrators to be dealt with?

5.14 The general manager must refer all code of conduct complaints about administrators to the Division for its consideration.

5.15 The general manager must notify the complainant of the referral of their complaint in writing.

How are code of conduct complaints about councillors to be dealt with?

5.16 The general manager must refer the following code of conduct complaints about councillors to the Division:

- a) complaints alleging a breach of the pecuniary interest provisions of the Act,
- b) complaints alleging a failure to comply with a requirement under the code of conduct to disclose and appropriately manage conflicts of interests arising from reportable political donations (see section 328B),
- c) complaints alleging a breach of Part 8 of the code of conduct relating to the maintenance of the integrity of the code, and
- d) complaints the subject of a special complaints management arrangement with the Division under clause 5.40.

5.17 Where the general manager refers a complaint to the Division under clause 5.16, the general manager must notify the complainant of the referral in writing.

5.18 Where the general manager considers it to be practicable and appropriate to do so, the general manager may seek to resolve code of conduct complaints about councillors, other than those requiring referral to the Division under clause 5.16, by alternative means such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation or apology instead of referring them to the complaints coordinator under clause 5.20.

5.19 Where the general manager resolves a code of conduct complaint under clause 5.18 to the general manager's satisfaction, the general manager must notify the complainant in writing of the steps taken to resolve the complaint and this shall finalise the consideration of the matter under these procedures.

5.20 The general manager must refer all code of conduct complaints about councillors other than those referred to the Division under clause 5.16 or resolved under clause 5.18 to the complaints coordinator.

How are code of conduct complaints about the general manager to be dealt with?

5.21 The Mayor must refer the following code of conduct complaints about the general manager to the Division:

- a) complaints alleging a breach of the pecuniary interest provisions of the Act,

- b) complaints alleging a breach of Part 8 of the code of conduct relating to the maintenance of the integrity of the code, and
- c) complaints the subject of a special complaints management arrangement with the Division under clause 5.40.

5.22 Where the Mayor refers a complaint to the Division under clause 5.21, the Mayor must notify the complainant of the referral in writing.

5.23 Where the Mayor considers it to be practicable and appropriate to do so, he or she may seek to resolve code of conduct complaints about the general manager, other than those requiring referral to the Division under clause 5.21, by alternative means such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation or apology instead of referring them to the complaints coordinator under clause 5.25.

5.24 Where the Mayor resolves a code of conduct complaint under clause 5.23 to the Mayor's satisfaction, the Mayor must notify the complainant in writing of the steps taken to resolve the complaint and this shall finalise the consideration of the matter under these procedures.

5.25 The Mayor must refer all code of conduct complaints about the general manager other than those referred to the Division under clause 5.21 or resolved under clause 5.23 to the complaints coordinator.

#### Referral of code of conduct complaints to external agencies

5.26 The general manager, Mayor or a conduct reviewer or conduct review committee may, at any time, refer a code of conduct complaint to an external agency or body such as, but not limited to, the Division, the Independent Commission Against Corruption, the NSW Ombudsman or the Police for its consideration, where they consider such a referral is warranted.

5.27 Where the general manager, Mayor, conduct reviewer or conduct review committee refers a complaint to an external agency or body under clause 5.26, they must notify the complainant of the referral in writing where it is appropriate for them to do so.

5.28 Referral of a matter to an external agency or body shall finalise consideration of the matter under the code of conduct unless the council is subsequently advised otherwise by the referral agency or body.

#### Disclosure of the identity of complainants

5.29 In dealing with matters under these procedures, information that identifies or tends to identify complainants is not to be disclosed unless:

- a) the complainant consents in writing to the disclosure, or
- b) it is generally known that the complainant has made the complaint as a result of the complainant having voluntarily identified themselves as the person who made the complaint, or
- c) it is essential, having regard to procedural fairness requirements, that the identifying information be disclosed, or

- d) a conduct reviewer or conduct review committee is of the opinion that disclosure of the information is necessary to investigate the matter effectively, or
- e) it is otherwise in the public interest to do so.

5.30 Clause 5.29 does not apply to code of conduct complaints made by councillors about other councillors or the general manager.

5.31 Where a councillor makes a code of conduct complaint about another councillor or the general manager and the complainant councillor considers that compelling grounds exist that would warrant information that identifies or tends to identify them as the complainant not to be disclosed, they may request in writing that such information not be disclosed.

5.32 A request made by a complainant councillor under clause 5.31 must be made at the time they make a code of conduct complaint and must state the grounds upon which the request is made.

5.33 The general manager or Mayor or, where the matter is referred, a conduct reviewer or conduct review committee must consider a request made under clause 5.31 before disclosing information that identifies or tends to identify the complainant councillor but are not obliged to comply with the request.

5.34 Where a complainant councillor makes a request under clause 5.31, the general manager or Mayor or, where the matter is referred, a conduct reviewer or conduct review committee shall notify the councillor in writing of their intention to disclose information that identifies or tends to identify them prior to disclosing the information.

#### Code of conduct complaints made as public interest disclosures

5.35 Code of conduct complaints that are made as public interest disclosures under the *Public Interest Disclosures Act 1994* are to be managed in accordance with the requirements of that Act, the council's internal reporting policy and any guidelines issued by the NSW Ombudsman that relate to the management of public interest disclosures.

5.36 For a code of conduct complaint to be dealt with as a public interest disclosure, the complainant must state at the outset and in writing at the time of making the complaint that it is made as a public interest disclosure.

5.37 Where a councillor makes a code of conduct complaint about another councillor or the general manager as a public interest disclosure, before the matter may be dealt with under these procedures, the complainant councillor must consent in writing to the disclosure of their identity as the complainant.

5.38 Where a complainant councillor declines to consent to the disclosure of their identity as the complainant under clause 5.37, the general manager or the Mayor must refer the complaint to the Division for consideration. Such a referral must be made under section 26 of the *Public Interest Disclosures Act 1994*.



#### Special complaints management arrangements

5.39 The general manager may request in writing that the Division enter into a special complaints management arrangement with the council in relation to code of conduct complaints made by or about a person or persons.

5.40 Where the Division receives a request under clause 5.39, it may agree to enter into a special complaints management arrangement where it is satisfied that the number or nature of code of conduct complaints made by or about a person or persons has:

- a) imposed an undue and disproportionate cost burden on the council's administration of its code of conduct, or
- b) impeded or disrupted the effective administration by the council of its code of conduct, or
- c) impeded or disrupted the effective functioning of the council.

5.41 A special complaints management arrangement must be in writing and must specify the following:

- a) the code of conduct complaints the arrangement relates to, and
- b) the period that the arrangement will be in force.

5.42 The Division may by notice in writing, amend or terminate a special complaints management arrangement at any time.

5.43 While a special complaints management arrangement is in force, an officer of the Division (the assessing Divisional officer) must undertake the preliminary assessment of the code of conduct complaints specified in the arrangement in accordance with the requirements of these procedures except as provided by clause 5.44 below.

5.44 Where, following a preliminary assessment, the assessing Divisional officer determines that a code of conduct complaint warrants investigation by a conduct reviewer or a conduct review committee, the assessing Divisional officer shall notify the complaints coordinator in writing of their determination and the reasons for their determination. The complaints coordinator must comply with the recommendation of the assessing Divisional officer.

5.45 Prior to the expiry of a special complaints management arrangement, the Division shall, in consultation with the general manager, review the arrangement to determine whether it should be renewed or amended.

5.46 A special complaints management arrangement shall expire on the date specified in the arrangement unless renewed under clause 5.45.

### **PART 6 PRELIMINARY ASSESSMENT**

#### Referral of code of conduct complaints to conduct reviewers

6.1 The complaints coordinator must refer all code of conduct complaints about councillors or the general manager submitted to the complaints coordinator within 21 days of receipt of a complaint by the general manager or the Mayor.

6.2 For the purposes of clause 6.1, the complaints coordinator will refer a

complaint to a conduct reviewer selected from:

- a) a panel of conduct reviewers established by the council, or
- b) a panel of conduct reviewers established by an organisation approved by the Chief Executive of the Division.

6.3 In selecting a suitable conduct reviewer, the complaints coordinator may have regard to the qualifications and experience of members of the panel of conduct reviewers.

6.4 A conduct reviewer must not accept the referral of a code of conduct complaint where:

- a) they have a conflict of interests in relation to the matter referred to them, or
- b) a reasonable apprehension of bias arises in relation to their consideration of the matter, or
- c) they or their employer has entered into one or more contracts with the council in the 2 years preceding the referral and they or their employer have received or expect to receive payments under the contract or contracts of a cumulative value that exceeds \$100K, or
- d) at the time of the referral, they or their employer are the council's legal service providers or are a member of a panel of legal service providers appointed by the council.

6.5 For the purposes of clause 6.4(a), a conduct reviewer will have a conflict of interests in a matter where a reasonable and informed person would perceive that they could be influenced by a private interest when carrying out their public duty (see clause 4.1 of the Model Code of Conduct).

6.6 For the purposes of clause 6.4(b), a reasonable apprehension of bias arises where a fair-minded observer might reasonably apprehend that the conduct reviewer might not bring an impartial and unprejudiced mind to the matter referred to the conduct reviewer.

6.7 Where the complaints coordinator refers a matter to a conduct reviewer, they will provide the conduct reviewer with a copy of the code of conduct complaint and any other information relevant to the matter held by the council.

6.8 The complaints coordinator must notify the complainant in writing that the matter has been referred to a conduct reviewer and advise which conduct reviewer the matter has been referred to.

#### Preliminary assessment by a conduct reviewer

6.9 The conduct reviewer is to undertake a preliminary assessment of a complaint referred to them by the complaints coordinator for the purposes of determining how the complaint is to be managed.

6.10 The conduct reviewer may determine to do one or more of the following in relation to a complaint referred to them by the complaints coordinator:

- a) to take no action, or
- b) to resolve the complaint by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation or apology, or
- c) to refer the matter back to the general manager or, in the case of a complaint about the general manager, the Mayor, for resolution by alternative and appropriate strategies such

as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, or apology, or  
d) to refer the matter to another agency or body such as, but not limited to, the ICAC, the NSW Ombudsman, the Division or the Police, or  
e) to investigate the matter, or  
f) to recommend that the complaints coordinator convene a conduct review committee to investigate the matter.

6.11 In determining how to deal with a matter under clause 6.10, the conduct reviewer must have regard to the complaint assessment criteria prescribed under clause 6.27.

6.12 The conduct reviewer may make such enquiries the conduct reviewer considers to be reasonably necessary to determine what option to exercise under clause 6.10.

6.13 The conduct reviewer may request the complaints coordinator to provide such additional information the conduct reviewer considers to be reasonably necessary to determine what option to exercise in relation to the matter under clause 6.10. The complaints coordinator will, as far as is reasonably practicable, supply any information requested by the conduct reviewer.

6.14 The conduct reviewer must refer to the Division any complaints referred to him or her that should have been referred to the Division under clauses 5.18 and 5.21.

6.15 The conduct reviewer must determine to take no action on a complaint that is not a code of conduct complaint for the purposes of these procedures.

6.16 Where the conduct reviewer completes their preliminary assessment of a complaint by determining to exercise an option under clause 6.10, paragraphs (a), (b) or (c), they must provide the complainant with written notice of their determination and provide reasons for it and this will finalise consideration of the matter under these procedures.

6.17 Where the conduct reviewer refers a complaint to another agency or body, they must notify the complainant of the referral in writing where it is appropriate for them to do so.

6.18 The conduct reviewer may only determine to investigate a matter or to recommend that a conduct review committee be convened to investigate a matter where they are satisfied as to the following:

- a) that the complaint is a "code of conduct complaint" for the purposes of these procedures, and
- b) that the alleged conduct, on its face, is sufficiently serious to warrant investigation, and
- c) that the matter is one that could not or should not be resolved by alternative means.

6.19 The conduct reviewer may only determine to recommend that a conduct review committee be convened to investigate a matter after consulting with the complaints coordinator and where they are satisfied that it would not be practicable or appropriate for the matter to be investigated by a sole conduct reviewer.

6.20 The conduct reviewer must complete their preliminary assessment of the complaint within 28 days of referral of the matter to them by the complaints coordinator.

6.21 The conduct reviewer is not obliged to give prior notice to or to consult with any person before making a determination in relation to their preliminary assessment of a complaint except as may be specifically required under these procedures.

Referral back to the general manager or Mayor for resolution

6.22 Where the conduct reviewer determines to refer a matter back to the general manager or to the Mayor to be resolved by alternative and appropriate means, they must write to the general manager or, in the case of a complaint about the general manager, to the Mayor, recommending the means by which the complaint may be resolved.

6.23 The conduct reviewer must consult with the general manager or Mayor prior to referring a matter back to them under clause 6.22.

6.24 The general manager or Mayor may decline to accept the conduct reviewer's recommendation. Where the general manager or Mayor declines to do so, the conduct reviewer may determine to deal with the complaint by other means under clause 6.10.

6.25 Where the conduct reviewer refers a matter back to the general manager or Mayor under clause 6.22, the general manager or, in the case of a complaint about the general manager, the Mayor, is responsible for implementing or overseeing the implementation of the conduct reviewer's recommendation.

6.26 Where the conduct reviewer refers a matter back to the general manager or Mayor under clause 6.22, the general manager, or, in the case of a complaint about the general manager, the Mayor, must advise the complainant in writing of the steps taken to implement the conduct reviewer's recommendation once these steps have been completed.

Complaints assessment criteria

6.27 In undertaking the preliminary assessment of a complaint, the conduct reviewer may have regard to the following considerations:

- a) whether the complaint is a "code of conduct complaint",
- b) whether the complaint is trivial, frivolous, vexatious or not made in good faith,
- c) whether the complaint discloses prima facie evidence of a breach of the code,
- d) whether the complaint raises issues that would be more appropriately dealt with by another agency or body,
- e) whether there is or was an alternative and satisfactory means of redress available to the complainant in relation to the conduct complained of,
- f) whether the complaint is one that can be resolved by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, informal discussion, negotiation or apology,
- g) whether the issue/s giving rise to the complaint have previously been addressed or resolved,
- h) whether the conduct complained of forms part of a pattern of conduct,
- i) whether there were mitigating circumstances giving rise to the conduct complained of,
- j) the seriousness of the alleged conduct,
- k) the significance of the conduct or the impact of the conduct for the council,
- l) how much time has passed since the alleged conduct occurred, or

m) such other considerations that the conduct reviewer considers may be relevant to the assessment of the complaint.

#### **PART 7 OPERATIONS OF CONDUCT REVIEW COMMITTEES**

7.1 Where a conduct reviewer recommends that the complaints coordinator convene a conduct review committee to investigate a matter, the conduct reviewer must notify the complaints coordinator of their recommendation and the reasons for their recommendation in writing.

7.2 The complaints coordinator must convene a conduct review committee comprising three conduct reviewers selected from:

- a) a panel of conduct reviewers established by the council, or
- b) a panel of conduct reviewers established by an organisation approved by the Chief Executive of the Division.

7.3 In selecting suitable conduct reviewers for membership of a conduct review committee convened under clause 7.2, the complaints coordinator may have regard to the following:

- a) the qualifications and experience of members of the panel of conduct reviewers, and
- b) any recommendation made by the conduct reviewer about the membership of the committee.

7.4 The conduct reviewer who made the preliminary assessment of the complaint must not be a member of a conduct review committee convened under clause 7.2.

7.5 A member of a panel of conduct reviewers may not be appointed to a conduct review committee where they would otherwise be precluded from accepting a referral of the matter to be considered by the committee under clause 6.4.

7.6 Where the complaints coordinator convenes a conduct review committee, they will advise the complainant in writing that the committee has been convened and the membership of the committee.

7.7 Where, after a conduct review committee has been convened, a member of the committee becomes unavailable to participate in further consideration of the matter, the complaints coordinator may appoint another person from a panel of conduct reviewers to replace them.

7.8 Meetings of a conduct review committee may be conducted in person or by teleconference.

7.9 The members of the conduct review committee must elect a chairperson of the committee.

7.10 A quorum for a meeting of the conduct review committee is two members.

7.11 Business is not to be conducted at any meeting of the conduct review committee unless a quorum is present.



7.12 If a quorum is not present at a meeting of the conduct review committee, it must be adjourned to a time and date that is specified.

7.13 Each member of the conduct review committee is entitled to one vote in relation to a matter. In the event of an equality of votes being cast, the chairperson will have a casting vote.

7.14 If the vote on a matter is not unanimous, then this should be noted in the report of the conduct review committee in which it makes its determination in relation to the matter.

7.15 The chairperson may make a ruling on questions of procedure and the chairperson's ruling is to be final.

7.16 The conduct review committee may only conduct business in the absence of the public.

7.17 The conduct review committee must maintain proper records of its proceedings.

7.18 The complaints coordinator shall undertake the following functions in support of a conduct review committee:

- a) provide procedural advice where required,
- b) ensure adequate resources are provided including secretarial support,
- c) attend meetings of the conduct review committee in an advisory capacity, and
- d) provide advice about council's processes where requested.

7.19 The complaints coordinator must not be present at, or in sight of a meeting of, the conduct review committee where it makes its final determination in relation to the matter.

7.20 The conduct review committee may adopt procedures governing the conduct of its meetings that supplement these procedures. However any procedures adopted by the committee must not be inconsistent with these procedures.

## **PART 8 INVESTIGATIONS**

### What matters may a conduct reviewer or conduct review committee investigate?

8.1 A conduct reviewer or conduct review committee (hereafter referred to as an "investigator") may investigate a code of conduct complaint that has been referred to them by the complaints coordinator and any matters related to or arising from that complaint.

8.2 Where an investigator identifies further separate possible breaches of the code of conduct that are not related to or arise from the code of conduct complaint that has been referred to them, they are to report the matters separately in writing to the general manager, or, in the case of alleged conduct on the part of the general manager, to the Mayor.

8.3 The general manager or the Mayor is to deal with a matter reported to

them by an investigator under clause 8.2 as if it were a new code of conduct complaint in accordance with these procedures.

How are investigations to be commenced?

8.4 The investigator must at the outset of their investigation provide a written notice of investigation to the subject person. The notice of investigation must:

- a) disclose the substance of the allegations against the subject person, and
- b) advise of the relevant provisions of the code of conduct that apply to the alleged conduct, and
- c) advise of the process to be followed in investigating the matter, and
- d) invite the subject person to make a written submission in relation to the matter within 28 days or such other reasonable period specified by the investigator in the notice, and
- e) provide the subject person the opportunity to address the investigator on the matter within such reasonable time specified in the notice.

8.5 The subject person may within 14 days of receipt of the notice of investigation, request in writing that the investigator provide them with such further information they consider necessary to assist them to identify the substance of the allegation against them. An investigator will only be obliged to provide such information that the investigator considers reasonably necessary for the subject person to identify the substance of the allegation against them.

8.6 An investigator may at any time prior to issuing a draft report, issue an amended notice of investigation to the subject person in relation to the matter referred to them.

8.7 Where an investigator issues an amended notice of investigation, they will provide the subject person with a further opportunity to make a written submission in response to the amended notice of investigation within 28 days or such other reasonable period specified by the investigator in the amended notice.

8.8 The investigator must also, at the outset of their investigation, provide written notice of the investigation to the complainant, the complaints coordinator and the general manager, or in the case of a complaint about the general manager, to the Mayor. The notice must:

- a) advise them of the matter the investigator is investigating, and
- b) in the case of the notice to the complainant, invite them to make a written submission in relation to the matter within 28 days or such other reasonable period specified by the investigator in the notice.

Written and oral submissions

8.9 Where the subject person or the complainant fails to make a written submission in relation to the matter within the period specified by the investigator in their notice of investigation or amended notice of investigation, the investigator may proceed to prepare their draft report without receiving such submissions.

8.10 The investigator may accept written submissions received outside the period specified in the notice of investigation or amended notice of investigation.

8.11 Prior to preparing a draft report, the investigator must give the subject person an opportunity to address the investigator on the matter being investigated. The subject person may do so in person or by telephone.

8.12 Where the subject person fails to accept the opportunity to address the investigator within the period specified by the investigator in the notice of investigation, the investigator may proceed to prepare a draft report without hearing from the subject person.

8.13 Where the subject person accepts the opportunity to address the investigator in person, they may have a support person or legal advisor in attendance. The support person or legal advisor will act in an advisory or support role to the subject person only. They must not speak on behalf of the subject person or otherwise interfere with or disrupt proceedings.

8.14 The investigator must consider all written and oral submissions made to them in relation to the matter.

#### How are investigations to be conducted?

8.15 Investigations are to be undertaken without undue delay.

8.16 Investigations are to be undertaken in the absence of the public and in confidence.

8.17 Investigators must make any such enquiries that may be reasonably necessary to establish the facts of the matter.

8.18 Investigators may seek such advice or expert guidance that may be reasonably necessary to assist them with their investigation or the conduct of their investigation.

8.19 An investigator may request that the complaints coordinator provide such further information that the investigator considers may be reasonably necessary for them to establish the facts of the matter. The complaints coordinator will, as far as is reasonably practicable, provide the information requested by the investigator.

#### Referral or resolution of a matter after the commencement of an investigation

8.20 At any time after an investigator has issued a notice of investigation and before they have issued a draft report, an investigator may determine to:

- a) resolve the matter by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation or apology, or
- b) refer the matter to the general manager, or, in the case of a complaint about the general manager, to the Mayor, for resolution by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation or apology, or
- c) refer the matter to another agency or body such as, but not limited to, the ICAC, the NSW Ombudsman, the Division or the Police.

8.21 Where an investigator determines to exercise any of the options under clause 8.20 after the commencement of an investigation, they must do so in accordance with the requirements of Part 6 of these procedures relating to the exercise of these options at the preliminary assessment stage.

8.22 Where an investigator determines to exercise any of the options under clause 8.20 after the commencement of an investigation, they may by written notice to the subject person, the complainant, the complaints coordinator and the general manager, or in the case of a complaint about the general manager, the Mayor, discontinue their investigation of the matter.

8.23 Where the investigator discontinues their investigation of a matter under clause 8.22, this shall finalise the consideration of the matter under these procedures.

8.24 An investigator is not obliged to give prior notice to or to consult with any person before making a determination to exercise any of the options under clause 8.20 or to discontinue their investigation except as may be specifically required under these procedures.

#### Draft investigation reports

8.25 When an investigator has completed their enquiries and considered any written or oral submissions made to them in relation to a matter, they must prepare a draft of their proposed report.

8.26 The investigator must provide their draft report to the subject person and invite them to make a written submission in relation to it within 28 days or such other reasonable period specified by the investigator.

8.27 Where the investigator proposes to make adverse comment about any other person (an affected person) in their report, they must also provide the affected person with relevant extracts of their draft report containing such comment and invite the affected person to make a written submission in relation to it within 28 days or such other reasonable period specified by the investigator.

8.28 The investigator must consider written submissions received in relation to the draft report prior to finalising their report in relation to the matter.

8.29 The investigator may, after consideration of all written submissions received in relation to their draft report, make further enquiries into the matter. Where as a result of making further enquiries, the investigator makes any material change to their proposed report that makes new adverse comment about the subject person or an affected person, they must provide the subject person or affected person as the case may be with a further opportunity to make a written submission in relation to the new adverse comment.

8.30 Where the subject person or an affected person fails to make a written submission in relation to the draft report within the period specified by the investigator, the investigator may proceed to prepare and issue their final report without receiving such submissions.

8.31 The investigator may accept written submissions in relation to the draft report received outside the period specified by the investigator at any time prior to issuing their final report.

#### Final investigation reports

8.32 Where an investigator issues a notice of investigation they must prepare a final report in relation to the matter unless the investigation is discontinued under clause 8.22.

8.33 An investigator must not prepare a final report in relation to the matter at any time before they have finalised their consideration of the matter in accordance with the requirements of these procedures.

8.34 The investigator's final report must:

- a) make findings of fact in relation to the matter investigated, and,
- b) make a determination that the conduct investigated either,
  - i. constitutes a breach of the code of conduct, or
  - ii. does not constitute a breach of the code of conduct, and
- c) provide reasons for the determination.

8.35 Where the investigator determines that the conduct investigated constitutes a breach of the code of conduct, the investigator may make one or more of the following recommendations:

- a) that the council revise any of its policies or procedures,
- b) that the subject person undertake any training or other education relevant to the conduct giving rise to the breach,
- c) that the subject person be counselled for their conduct,
- d) that the subject person apologise to any person or organisation affected by the breach in such a time and form specified by the recommendation,
- e) that findings of inappropriate conduct be made public,
- f) in the case of a breach by the general manager, that action be taken under the general manager's contract for the breach,
- g) in the case of a breach by a councillor, that the councillor be formally censured for the breach under section 440G of the Act,
- h) in the case of a breach by a councillor, that the council resolves as follows:
  - i. that the councillor be formally censured for the breach under section 440G of the Act, and
  - ii. that the matter be referred to the Division for further action under the misconduct provisions of the Act.

8.36 Where the investigator determines that the conduct investigated does not constitute a breach of the code of conduct, the investigator may make one or more of the following recommendations:

- a) that the council revise any of its policies or procedures,
- b) that a person or persons undertake any training or other education.

8.37 In making a recommendation under clause 8.35, the investigator may have regard to the following:

- a) the seriousness of the breach,
- b) whether the breach can be easily remedied or rectified,
- c) whether the subject person has remedied or rectified their conduct,

- d) whether the subject person has expressed contrition,
- e) whether there were any mitigating circumstances,
- f) the age, physical or mental health or special infirmity of the subject person,
- g) whether the breach is technical or trivial only,
- h) any previous breaches,
- i) whether the breach forms part of a pattern of conduct,
- j) the degree of reckless intention or negligence of the subject person,
- k) the extent to which the breach has affected other parties or the council as a whole,
- l) the harm or potential harm to the reputation of the council or local government arising from the conduct,
- m) whether the findings and recommendations can be justified in terms of the public interest and would withstand public scrutiny,
- n) whether an educative approach would be more appropriate than a punitive one,
- o) the relative costs and benefits of taking formal enforcement action as opposed to taking no action or taking informal action,
- p) what action or remedy would be in the public interest.

8.38 At a minimum, the investigator's final report must contain the following information:

- a) a description of the allegations against the subject person,
- b) the relevant provisions of the code of conduct that apply to the alleged conduct investigated,
- c) a statement of reasons as to why the conduct reviewer considered that the matter warranted investigation,
- d) a statement of reasons as to why the conduct reviewer considered that the matter was one that could not or should not be resolved by alternative means,
- e) where the matter is investigated by a conduct review committee, a statement as to why the matter was one that warranted investigation by a conduct review committee instead of a sole conduct reviewer,
- f) a description of any attempts made to resolve the matter by use of alternative means,
- g) the steps taken to investigate the matter,
- h) the facts of the matter,
- i) the investigator's findings in relation to the facts of the matter and the reasons for those findings,
- j) the investigator's determination and the reasons for that determination,
- k) any recommendations.

8.39 The investigator must provide a copy of their report to the complaints coordinator, the subject person and the complainant.

8.40 Where the investigator has determined that there has not been a breach of the code of conduct, the complaints coordinator must provide a copy of the investigator's report to the general manager or, where the report relates to the general manager's conduct, to the Mayor and this will finalise consideration of the matter under these procedures.

8.41 Where the investigator has determined that there has been a breach of the code of conduct and makes a recommendation or recommendations under clause 8.35, paragraph (a), the complaints coordinator must provide a copy of the investigator's report to the general manager. Where the general manager agrees with the recommendation/s, the general manager is responsible for implementing the recommendation/s.



8.42 Where the investigator has determined that there has been a breach of the code of conduct and makes a recommendation or recommendations under clause 8.35, paragraphs (b) or (c), the complaints coordinator must provide a copy of the investigator's report to the general manager or, where the report relates to the general manager's conduct, to the Mayor. The general manager is responsible for arranging the implementation of the recommendation/s where the report relates to a councillor's conduct. The Mayor is responsible for arranging the implementation of the recommendation/s where the report relates to the general manager's conduct.

8.43 Where the investigator has determined that there has been a breach of the code of conduct and makes a recommendation or recommendations under clause 8.35, paragraphs (d) to (h), the complaints coordinator must, where practicable, arrange for the investigator's report to be reported to the next ordinary council meeting for the council's consideration unless the meeting is to be held within the 4 weeks prior to an ordinary local government election, in which case the report must be reported to the first ordinary council meeting following the election.

#### Consideration of the final investigation report by council

8.44 The role of the council in relation to a final investigation report is to impose a sanction where an investigator determines that there has been a breach of the code of conduct and makes a recommendation in their final report under clause 8.35, paragraphs (d) to (h).

8.45 The council is to close its meeting to the public to consider the final investigation report where it is permitted to do so under section 10A of the Act.

8.46 Where the complainant is a councillor, they must absent themselves from the meeting and take no part in any discussion or voting on the matter. The complainant councillor may absent themselves without making any disclosure of interests in relation to the matter unless otherwise required to do so under the Act or the Model Code.

8.47 Prior to imposing a sanction, the council must provide the subject person with an opportunity to make an oral submission to the council. The subject person is to confine their submission to addressing the investigator's recommendation/s.

8.48 Once the subject person has completed their oral submission they must absent themselves from the meeting and, where they are a councillor, take no part in any discussion or voting on the matter.

8.49 The council must not invite oral submissions from other persons for the purpose of seeking to rehear evidence previously considered by the investigator.

8.50 Prior to imposing a sanction, the council may by resolution:

- a) request that the investigator make additional enquiries and/or provide additional information to it in a supplementary report, or
- b) seek an opinion by the Division in relation to the report.

8.51 The council may, by resolution, defer further consideration of the matter pending the receipt of a supplementary report from the investigator or an opinion from the Division.

8.52 The investigator may make additional enquiries for the purpose of preparing a supplementary report.

8.53 Where the investigator prepares a supplementary report, they must provide copies to the complaints coordinator who shall provide a copy each to the council, the subject person and the complainant.

8.54 The investigator is not obliged to notify or consult with any person prior to submitting the supplementary report to the complaints coordinator.

8.55 The council is only required to provide the subject person a further opportunity to address it on a supplementary report where the supplementary report contains new information that is adverse to them.

8.56 A council may by resolution impose one or more of the following sanctions on a subject person:

- a) that the subject person apologise to any person or organisation affected by the breach in such a time and form specified by the resolution,
- b) that findings of inappropriate conduct be made public,
- c) in the case of a breach by the general manager, that action be taken under the general manager's contract for the breach,
- d) in the case of a breach by a councillor, that the councillor be formally censured for the breach under section 440G of the Act,
- e) in the case of a breach by a councillor:
  - i. that the councillor be formally censured for the breach under section 440G of the Act, and
  - ii. that the matter be referred to the Division for further action under the misconduct provisions of the Act.

8.57 The council is not obliged to adopt the investigator's recommendation/s. Where the council does not adopt the investigator's recommendation/s, the council must resolve not to adopt the recommendation and state in its resolution the reasons for its decision.

8.58 The council may, by resolution, impose a sanction on the subject person under clause 8.56 different to the sanction recommended by the investigator in their final report.

8.59 Where the council resolves not to adopt the investigator's recommendation/s, the complaints coordinator must notify the Division of the council's decision and the reasons for it.

## **PART 9 RIGHTS OF REVIEW**

### Failure to comply with a requirement under these procedures

9.1 Where any person believes that a person has failed to comply with a requirement prescribed under these procedures, they may, at any time prior to the council's consideration of an investigator's final report, raise their concerns in writing with the Division.

#### Practice rulings

9.2 Where a subject person and an investigator are in dispute over a requirement under these procedures, either person may make a request in writing to the Division to make a ruling on a question of procedure (a practice ruling).

9.3 Where the Division receives a request in writing for a practice ruling, the Division may provide notice in writing of its ruling and the reasons for it to the person who requested it and to the investigator, where that person is different.

9.4 Where the Division makes a practice ruling, all parties are to comply with it.

9.5 The Division may decline to make a practice ruling. Where the Division declines to make a practice ruling, it will provide notice in writing of its decision and the reasons for it to the person who requested it and to the investigator, where that person is different.

#### Requests for review

9.6 A person the subject of a sanction imposed under Part 8 of these procedures other than one imposed under clause 8.56, paragraph (e), may, within 28 days of the sanction being imposed, seek a review of the investigator's determination and recommendation by the Division.

9.7 A review under clause 9.6 may be sought on the following grounds:

- a) that the investigator has failed to comply with a requirement under these procedures, or
- b) that the investigator has misinterpreted or misapplied the standards of conduct prescribed under the code of conduct, or
- c) that the council has failed to comply with a requirement under these procedures in imposing a sanction.

9.8 A request for a review made under clause 9.6 must be made in writing and must specify the grounds upon which the person believes the investigator or the council has erred.

9.9 The Division may decline to conduct a review, where the grounds upon which the review is sought are not sufficiently specified.

9.10 The Division may undertake a review of a matter without receiving a request under clause 9.6.

9.11 The Division will undertake a review of the matter on the papers. However, the Division may request that the complaints coordinator provide such further information that the Division considers reasonably necessary for it to review the matter. The complaints coordinator must, as far as is reasonably practicable, provide the information requested by the Division.

9.12 Where a person requests a review under clause 9.6, the Division may direct the council to defer any action to implement a sanction. The council must comply with a direction to defer action by the Division.

9.13 The Division must notify the person who requested the review and the complaints coordinator of the outcome of the Division's review in writing and the reasons for its decision. In doing so, the Division may comment on any other matters the Division considers to be relevant.

9.14 Where the Division considers that the investigator or the council has erred, the Division may recommend that a decision to impose a sanction under these procedures be reviewed.

9.15 In the case of a sanction implemented by the general manager or Mayor under clause 8.42, where the Division recommends that the decision to impose a sanction be reviewed:

- a) the complaints coordinator must provide a copy of the Division's determination in relation to the matter to the general manager or the Mayor, and
- b) the general manager or Mayor must review any action taken by them to implement the sanction, and
- c) the general manager or Mayor must consider the Division's recommendation in doing so.

9.16 In the case of a sanction imposed by the council by resolution under clause 8.56, where the Division recommends that the decision to impose a sanction be reviewed:

- a) the complaints coordinator must, where practicable, arrange for the Division's determination to be tabled at the next ordinary council meeting unless the meeting is to be held within the 4 weeks prior to an ordinary local government election, in which case it must be tabled at the first ordinary council meeting following the election, and
- b) the council must:
  - i. review its decision to impose the sanction, and
  - ii. consider the Division's recommendation in doing so, and
  - iii. resolve to either rescind or reaffirm its previous resolution in relation to the matter.

9.17 Where having reviewed its previous decision in relation to a matter under clause 9.16 the council resolves to reaffirm its previous decision, the council must state in its resolution its reasons for doing so.

## **PART 10 PROCEDURAL IRREGULARITIES**

10.1 A failure to comply with these procedures does not, on its own, constitute a breach of the code of conduct except as may be otherwise specifically provided under the code of conduct.

10.2 A failure to comply with these procedures will not render a decision made in relation to a matter invalid where:

- a) the non-compliance is isolated and/or minor in nature, or
- b) reasonable steps are taken to correct the non-compliance, or
- c) reasonable steps are taken to address the consequences of the non-compliance.

## **PART 11 PRACTICE DIRECTIONS**

11.1 The Division may at any time issue a practice direction in relation to the application of these procedures.

11.2 The Division will issue practice directions in writing, by circular to all councils.

11.3 All persons performing a function prescribed under these procedures must consider the Division's practice directions when performing the function.

## **PART 12 REPORTING ON COMPLAINTS STATISTICS**

12.1 The complaints coordinator must arrange for the following statistics to be reported to the council within 3 months of the end of September of each year:

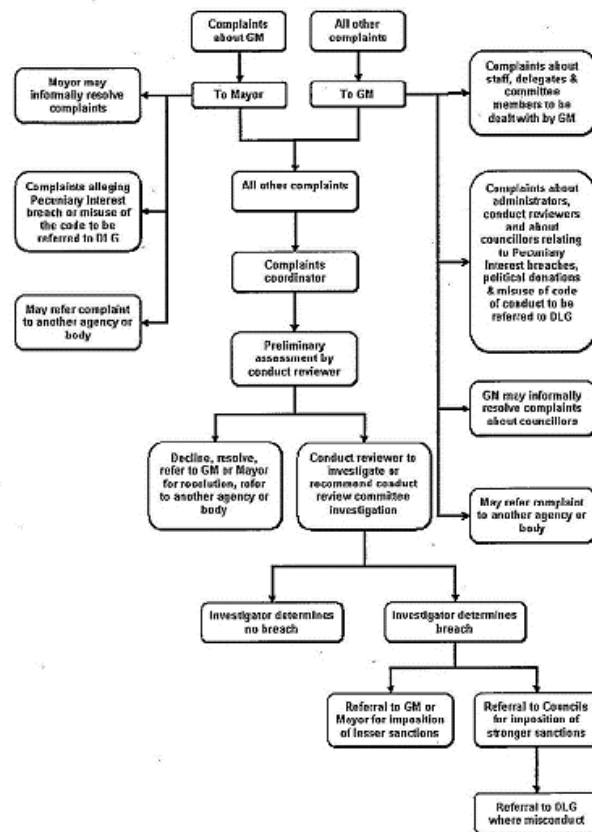
- a) the total number of code of conduct complaints made about councillors and the general manager under the code of conduct in the year to September,
- b) the number of code of conduct complaints referred to a conduct reviewer,
- c) the number of code of conduct complaints finalised by a conduct reviewer at the preliminary assessment stage and the outcome of those complaints,
- d) the number of code of conduct complaints investigated by a conduct reviewer,
- e) the number of code of conduct complaints investigated by a conduct review committee,
- f) without identifying particular matters, the outcome of code of conduct complaints investigated by a conduct reviewer or conduct review committee under these procedures,
- g) the number of matter reviewed by the Division and, without identifying particular matters, the outcome of the reviews, and
- h) The total cost of dealing with code of conduct complaints made about councillors and the general manager in the year to September, including staff costs.

12.2 The council is to provide the Division with a report containing the statistics referred to in clause 12.1 within 3 months of the end of September of each year.

## **PART 13 CONFIDENTIALITY**

13.1 Information about code of conduct complaints and the management and investigation of code of conduct complaints is to be treated as confidential and is not to be publicly disclosed except as may be otherwise specifically required or permitted under these procedures.

### Model Code Procedure Flowchart





## ITEM 3.7

## REQUEST BY COUNCILLORS TO ATTEND CONFERENCES

<b>Division</b>	Corporate and Information Services
<b>Author</b>	Manager Governance and Administration
<b>Meeting date</b>	9 February 2016 Policy Meeting
<b>Strategic Plan Key Service Area</b>	Sustainable services and assets

### **SUMMARY AND ORGANISATIONAL IMPLICATIONS**

<b>Purpose of Report</b>	To report to Council requests from Councillors Emsley and Kelly to attend Conferences in March 2016.
<b>Background</b>	NIL
<b>Current Status</b>	NIL
<b>Relationship to existing policy</b>	Aligns
<b>Financial and Resources Implications</b>	NIL
<b>Recommendation</b>	That Council endorse the requests from Councillor Emsley to attend the Sustainable Refugee Settlement Conference from 8-9 March 2016 and Councillor Kelly to attend the Australian Local Government Womens Conference from 10-12 March 2016.
<b>Notifications</b>	NIL
<b>Attachments</b>	1. Sustainable Refugee Settlement Conference Program 2. Australian Local Government Women's Conference Program

**Purpose of Report**

To report to Council requests from Councillors Emsley and Kelly to attend Conferences in March 2016.

**Recommendation**

That Council endorse the requests from Councillor Emsley to attend the Sustainable Refugee Settlement Conference from 8-9 March 2016 and Councillor Kelly to attend the Australian Local Government Womens Conference from 10-12 March 2016.

**Report**

Councillor Emsley has requested approval to attend the Sustainable Refugee Settlement Conference from 8-9 March 2016 to be held in Parramatta. A copy of the program is shown attached. The cost for registration is \$2300.

Councillor Kelly has requested approval to attend the Australian Local Government Womens Conference from 10-12 March 2016 to be held in Gunnedah. A copy of the program is shown attached. The cost for registration, accommodation and travel is approximately \$2000.

Other Councillors may also wish to consider attending these Conferences.

Funds are available in the Councillors Conference budget to meet these costs.

**Attachments**

1. Sustainable Refugee Settlement Conference Program
2. Australian Local Government Women's Conference Program

# Sustainable Refugee Settlement

Promoting a coordinated & collaborative approach for long-term settlement

8th & 9th March 2016, Mantra Parramatta, Sydney

## Key Speakers



Paul Power  
Chief Executive Officer  
**REFUGEE COUNCIL OF  
AUSTRALIA**



Melissa Monteiro  
Executive Director  
**COMMUNITY MIGRANT  
RESOURCE CENTRE, NSW**



Paris Aristotle  
Chief Executive Officer  
**FOUNDATION HOUSE  
&  
Chairperson  
REFUGEE RESETTLEMENT  
ADVISORY COUNCIL**



Belinda McLennan  
Chief Operating Officer  
**AMES AUSTRALIA**

## Benefits of attending

- ▶ Examine **effective wrap-around** services
- ▶ Enhance pathways to **education & employment**
- ▶ Promote **community development** & engagement
- ▶ Drive improved **coordination & collaboration**

**Hear progressive case studies from refugee advocates, local councils and specialist settlement providers!**

**Specialist Settlement Organisations  
pay \$999\***

Supported by:



Refugee Council  
of Australia

## Pre Conference Workshops

- A** Enhancing cultural competence to improve settlement outcomes
- B** How to measure social capital in refugee communities settling in Australia

**Spaces are limited, book early to avoid missing out!**

**> see inside for more**



phone 1300 316 882 fax 1300 918 334 [registration@criterionconferences.com](mailto:registration@criterionconferences.com) [www.criterionconferences.com/event/srs/](http://www.criterionconferences.com/event/srs/)

## Promoting progressive strategies to improve settlement outcomes

Over the next 12 months approximately 25,000 displaced individuals including 12,000 Syrians will seek refuge in Australia. Settlement services must drive improved service delivery and connectivity to build sustainable and responsive communities.

This national event aims to promote innovative and progressive strategies to improve the settlement of refugees.

### This conference will focus on:

- Examining effective wrap-around services
- Enhancing pathways to education & employment
- Promoting community development & engagement
- Driving improved coordination & collaboration

Register 3 delegates at the 'standard price' & bring a 4th delegate FREE!\*

### Who will attend?

All levels of government, settlement services & community service providers with responsibilities for:

- Refugee Settlement
- Community Development
- Multicultural Services
- Employment & Education Pathways
- Family Support

### Free Pass Application

We have a select number of free passes available for small organisations and community members who may not be able to afford to attend.

Contact [customercare@critterionconferences.com](mailto:customercare@critterionconferences.com)

**SAVE \$400** when  
you register & pay by  
4th December 2015\*

### Plus key contributions from:

Advocates

**Refugee Communities**

Jorge Aroche

**STARTTS, NSW**

Darryl Bates

**Toowoomba Regional Council, QLD**

Tim Davies

**Bright Hospitality**

Carmel Guerra

**Centre for Multicultural Youth, VIC**

Dr Mitchell Smith

**NSW Refugee Health Service**

Cheryl Nolan

**St Vincent de Paul Society, NSW**

Justin Han

**Auburn Diversity Services Inc. NSW**

Biljana Komnenovic

**City of Greater Dandenong, VIC**

Rebecca Nicholls

**Global Skills**

Meg Davis

**Townsville Multicultural Support Group, QLD**

Maha Abdo

**United Muslim Women Association Inc**

Maureen O'Keeffe

**Diversitat Settlement, VIC**

Hayley Mansfield

**Brotherhood of St Laurence, VIC**

### To register

phone 1300 31 6 882

fax 1300 918 334

[registration@critterionconferences.com](mailto:registration@critterionconferences.com)

[www.critterionconferences.com/event/srs/](http://www.critterionconferences.com/event/srs/)

## Day 1

Tuesday 8th March 2016

8:00 Registration, coffee & networking

8:30 Opening remarks from the Chair

Representative from refugee community

### Analysing the current landscape

8:40 Understanding the bigger picture of refugee resettlement

- Examining global experience
- How this impacts local settlement
- Utilising skills, experience and aspirations

Paul Power, Chief Executive Officer  
Refugee Council of Australia

9:20 Examining current policy & how it impacts settlement

- What have we learnt from the current Syrian displacement?
- Building a framework for sustainable growth

Paris Aristotle, Chief Executive Officer, Foundation House &  
Chairperson  
Refugee Resettlement Advisory Council



### 10:00 SPEED NETWORKING

10:20 Morning tea & networking

### Enhancing pathways to education & employment

10:50 Implementing a framework for improved language training

- Developing a pathways diagram
- Creating opportunities for employment

Belinda McLennan, Chief Operating Officer  
AMES Australia

11:30 Achieving success in education – what is needed?

- The importance of out-of-school-hours learning support programs
- School engagement with families and communities
- Transitions and mentoring

Carmel Guerra, Chief Executive Officer  
Centre for Multicultural Youth, VIC

12:10 Insights & experience from refugee communities

12:20 Networking lunch

1:00 Providing pathways to employment

- Delivering the relevant skills and training
- Promoting a tailored employer and industry program

Rebecca Nicholls, Chief Executive Officer  
Global Skills

1:40 Promoting stronger partnerships with industry to secure long term employment

- Securing employment opportunities through targeted training
- Promoting and supporting integration

Timothy Davies, Chief Executive Officer  
Bright Employment

2:20 Insights & experience from refugee communities



### PANEL DISCUSSION

2:30 How do we drive catalytic change for improved employment outcomes?

Carmel Guerra, Centre for Multicultural Youth  
Belinda McLennan, AMES Australia  
Timothy Davies, Bright Employment

2:50 Afternoon tea & networking

### Driving improved coordination & collaboration



### CASE STUDY

3:10 Coordinating services in one of the most culturally diverse communities in Australia

- Promoting strong leadership and collaboration
- How councils can leverage available resources
- Building an empowered and diverse community

Biljana Komnenovic, Cultural Diversity Planner  
City of Greater Dandenong, VIC

3:50 Promoting a coordinated approach for improved health outcomes

- Building stronger health networks
- Assisting complex and chronic cases

Dr Mitchell Smith, Director  
NSW Refugee Health Service



### CASE STUDY

4:30 Driving improved settlement coordination in regional Queensland

- Providing intensive case support
- Improving navigation within the sector
- Leveraging available services

Meg Davis, Manager Settlement Services  
Townsville Multicultural Support Group, QLD

5:10 Closing remarks from the Chair & close of day one



## Day 2

Wednesday 9th March 2016

8:00 Welcome, coffee & networking

8:30 Opening remarks from the Chair

Representative from refugee community

### Examining effective wrap-around services



#### 8:40 SPOTLIGHT

In this interactive session you will gain a better understanding of all the organisations present within the room and the different challenges they face.

9:10 Psychological interventions to improve outcomes

- Understanding complex cases
- Examining psychotherapeutic models of care
- Building organisational capacity

Jorge Aroche, Chief Executive Officer

STARTTS



#### CASE STUDY

9:50 Linking Hearts – supporting families through domestic violence

- Providing holistic and culturally sensitive support options
- Supporting refugees with crisis accommodation

Maha Abdo, Chief Executive Officer  
United Muslim Women Association Inc

10:30 Insights & experience from refugee communities

10:40 Morning tea & networking

11:00 Creating a one stop shop for settlement services

- Developing a community hub
- Examining the impact of the settlement planning committee
- Promoting community development

Maureen O'Keeffe, Manager Settlement & Community Programs  
Diversitat Settlement, VIC

### Promoting community development & engagement

11:40 Building community capacity to support settlements

- Linking refugees with relevant cultural groups for improved wellbeing
- Enhancing cultural diversity
- Examining effective programs

Melissa Monteiro, Executive Director  
Community Migrant Resource Centre, NSW

**SAVE \$200** when you register  
& pay by 22nd January 2016\*

12:20 Networking Lunch

1:10 Connecting communities – Refugee Action Program (RAP)

- Identifying goals and supporters for a particular group
- Empowering communities to be independent
- Delivering ongoing training and mentoring

Hayley Mansfield, Senior Manager, Refugees, Immigration & Multiculturalism  
Brotherhood of St Laurence



#### CASE STUDY

1:50 Bankstown City Council - Promoting a progressive & empowered community

- Creating a community for collective development
- Ensuring a responsive and proactive service delivery model
- Examining the Youth StepUP app

Turkan Aksay, Community Development Officer  
Bankstown City Council



#### PANEL DISCUSSION

2:30 How can we innovate the way we engage with communities to support sustainable settlements?

Justin Han, Auburn Diversity Services

Darryl Bates, Toowoomba Regional Council, QLD

Cheryl Nolan, St Vincent de Paul Society

2:50 Afternoon tea & networking

3:20 The role of the volunteer in supporting community growth

- Leveraging available resources
- Promoting empowerment and independence
- Building diverse communities

Advocates from Refugee Community



#### ROUNDTABLE

4:00 Where to from here?

- Discussing key findings and recommendations

Facilitated by Paul Power, Chief Executive Officer  
Refugee Council of Australia

4:30 Closing remarks from the Chair & close of conference



## Workshops

Gain one on one time with  
settlement experts!

### Enhancing cultural competence to improve settlement outcomes

Pre Conference Workshop A

Monday 7th March 2016, 1:00pm-4:00pm

Price: \$499 + GST

It is important for organisations to better understand the importance of culturally appropriate service delivery.

This interactive workshop will help you and your team build a culturally diverse delivery model to support sustainable settlements.

Why attend this workshop?

- Improve your understanding of the settlement journey
- Develop a framework for culturally appropriate delivery
- Enhance your understanding of diverse communities

What you will take away by attending:

- A better understanding of cultural barriers
- A practical framework to implement within your organisation
- A tailored tool to enhance diversity

Your workshop leader:



Maureen O'Keeffe  
Manager Settlement & Community Programs  
Diversitat Settlement, VIC

Maureen O'Keeffe is an experienced manager, trainer and broadcaster with more than 15 years' experience working with multilingual and multicultural communities.

She worked as the Training Manager for SBS radio in Melbourne before joining AMES to manage the establishment and ongoing operation of the Multicultural Hub, located opposite the iconic Victoria Market.

She is now manager of Community and Settlement programs at Diversitat, with a team of 40 providing a diverse range of services to migrant and refugee communities.

*\* Refreshments provided*

For a full bio visit [www.criterionconferences.com/event/srs/](http://www.criterionconferences.com/event/srs/)

**SAVE \$100** when you register  
& pay by 5th February 2016\*

### How to measure social capital in refugee communities settling in Australia

Pre Conference Workshop B

Monday 7th March 2016, 4:30pm-7:30pm

Price: \$499 + GST

Social capital of refugee communities is impacted by both pre-arrival and settlement experiences. The initial framework for exploring social capital in refugee communities came from a general understanding of social capital as the 'glue' that binds communities.

This introductory workshop will build your theoretical understanding of social capital and how it impacts the successful settlement of refugees.

Why attend this workshop?

- Enable refugee communities to build on existing social capital
- Develop a tool to evaluate existing or future projects
- How to create a positive settlement environment

What you will take away by attending:

- A guide for designing and evaluating projects to increase social capital
- Further knowledge to enable workforce development
- A tool to create social capital enablers

Your workshop leader:



Jasmina Bajraktarevic-Hayward  
Community Services Coordinator  
STARTTS

Jasmina came to Australia in 1993 as a refugee from Bosnia-Herzegovina. She is a social worker (Hon 1, University Medal) and the Community Services Coordinator at STARTTS.

Jasmina's involvement in the refugee field dates back to 1991, when she became involved in work with Bosnian refugees in Croatia through "Suncokret-Centre for Grassroots Relief Work", an implementing partner of United Nations High Commissioner for Refugees (UNHCR).

Her knowledge and expertise range from individual trauma counselling, through group work and community development to management and staff supervision.

*\* Refreshments & dinner provided*

For a full bio visit [www.criterionconferences.com/event/srs/](http://www.criterionconferences.com/event/srs/)

To register, call us on  
**1300 316 882** or book online  
[www.criterionconferences.com/event/srs/](http://www.criterionconferences.com/event/srs/)

## Registration Page

CC \*WEB

### Delegate Details

Please complete: (Please photocopy for additional delegates)

DELEGATE ONE

Delegate Title/First Name/Surname: \_\_\_\_\_

Job Title: \_\_\_\_\_

Department/Branch: \_\_\_\_\_

Organisation: \_\_\_\_\_

Email: \_\_\_\_\_

Postal Address: \_\_\_\_\_

Telephone: \_\_\_\_\_ Mobile: \_\_\_\_\_

### Event Prices

Tick relevant box	Book & pay by 4 December 2015*	Book & pay by 22 January 2016*	Book & pay by 5 February 2016*	Standard price after 5 February 2016*
<b>Specialist Settlement Organisation Rate</b>				
<input type="checkbox"/> 2 Day Conference	\$999 + GST = \$1098.90	SAY E \$1199 + GST = \$1318.90	SAY E \$1299 + GST = \$1428.90	SAY E \$1399 + GST = \$1538.90
<b>Local Government &amp; Mainstream NGO Rate</b>				
<input type="checkbox"/> 2 Day Conference	\$1699 + GST = \$1868.90	SAY E \$1899 + GST = \$2088.90	SAY E \$1999 + GST = \$2198.90	SAY E \$2099 + GST = \$2308.90
<b>State &amp; Federal Government Rate</b>				
<input type="checkbox"/> 2 Day Conference	\$1999 + GST = \$2198.90	SAY E \$2199 + GST = \$2418.90	SAY E \$2299 + GST = \$2528.90	SAY E \$2399 + GST = \$2638.90
<b>Upgrade your package with our Pre Conference Workshops</b>				
<input type="checkbox"/> Pre Conference Workshop A				\$499 + GST = \$548.90
<input type="checkbox"/> Pre Conference Workshop B				\$499 + GST = \$548.90
Calculate your ticket price		\$ _____		
<input type="checkbox"/> Audio Presentation	Please send me _____ set(s)			\$999 + GST = \$1098.90
<input type="checkbox"/> Commercial Solution Providers	\$3799 + GST = \$4178.90			

### How To Pay

Number of delegates: \_\_\_\_\_ Total amount \$ \_\_\_\_\_

Credit card: Call us on 1300 3 16 88 2 to register and pay with your ☐ Visa ☐ Mastercard ☐ American Express

Card No.: \_\_\_\_\_ Expiry: \_\_\_\_\_

Cardholder's name: \_\_\_\_\_ Signature: \_\_\_\_\_

☐ Please invoice me: Bank transfer details will be provided with your invoice. Ref 4990 Purchase Order No: \_\_\_\_\_

Specialist Settlement Organisation: A non-governmental organisation (NGO) that only delivers settlement services

## Sustainable Refugee Settlement 8th & 9th March, 2016, Sydney

### How To Register

Online: [www.criterionconferences.com/event/srs/](http://www.criterionconferences.com/event/srs/)  
Phone: 1300 3 16 882

From outside Aust +61 2 9239 5700

Email: [registration@criterionconferences.com](mailto:registration@criterionconferences.com)  
Fax: 1300 9 18 334

From outside Aust +61 2 8188 1760

Mail: Criterion Conferences Pty Ltd  
PO Box R1 478  
Royal Exchange, NSW 1225

### Venue &

Mantra Parramatta  
Cnr Parkes St & Valentine Ave  
Parramatta NSW 2150  
Ph: 02 9685 1600

### Accommodation

Please call the Mantra Parramatta on 02 9685 1600 and quote Criterion Conferences to receive your discounted accommodation rate! Subject to availability.

### Team Discounts

Register 3 delegates at the 'standard price' & bring a 4th delegate FREE

Early bird prices are not available with this group discount.

All group delegates must be registered at the same time from the same organisation. For larger groups please call us on 1300 3 16 882.

Registration fee includes lunch and refreshments. Please contact us for any special dietary requirements. Full payment must be received prior to the conference to ensure admission. Delegates may not 'share' a pass between multiple attendees.

Workshop attendees must also register for the conference.

\* Early bird prices subject to availability.

### Terms & Conditions

#### Cancellations:

No cancellations will be refunded, however a substitute delegate is welcome at no extra charge. A credit voucher will be issued for cancellations received in writing more than two weeks before the event date and valid for 12 months. For an event cancelled by Criterion Conferences registration fees are fully refundable.

#### Privacy Policy:

Information collected on this registration will be added to our secure database. This information may be used for the purpose of contacting you regarding ongoing research, product development and services offered. If you do not wish to be contacted for these purposes, please tick here ☐.

We may also share this information with other professional organisations (including our event sponsors) to promote relevant services. Please tick here ☐ if you do not want your details to be passed on.

For our full privacy policy please visit

[www.criterionconferences.com/privacy-policy](http://www.criterionconferences.com/privacy-policy)

#### Changes to Conference and Agenda:

Criterion Conferences reserves the right to alter the programme without notice and is not responsible for any loss or damage or costs incurred as a result of substitution, alteration, postponement or cancellation of any event.

  
Criterion Conferences ABN: 50 878 562 414





## THURSDAY 10 MARCH 2016 - DAY ONE

### 2.00PM - 4.00PM

Registration opens in the Smithurst Theatre, 158 Conadilly Street.

### 5.00PM - 6.30PM

Event: Mayoral Reception at CHATTERChinos, 362 Conadilly Street.  
Welcome from Mayor Owen Hasler  
Your Hosts: SANTOS

### 6.30PM - 8.00PM

Gunnedah's retail community welcomes you to a night of shopping in Gunnedah's Downtown Precinct.

### 8.00PM

DAY ONE OF CONFERENCE CONCLUDES

## FRIDAY 11 MARCH 2016 - DAY TWO

### 6.30AM - 7.30AM

Yoga in the Park at Woolshed Reserve Picnic Area, Maitland Street.

### 8.00AM - 4.00PM

Registrations open at the Smithurst Theatre Foyer & Trade exhibitions open in Smithurst Theatre.

### 8.30AM

Opening of the Day 2, 2016 ALGWA NSW Conference in the Gunnedah Town Hall and Welcome to Country.  
Master of Ceremonies **Kate Ramien**

### 8.45AM - 9.00AM

Welcome from **Sarah Mitchell MLC & Kevin Anderson MP.**

### 9.00AM - 9.15AM

Official welcome and address from **Clr Vicki Scott**, ALGWA NSW President.

*Clr Vicki Scott was elected as President of ALGWA NSW at the 2015 Wollongong ALGWA NSW Conference. Clr Scott has been a Councillor of Gosford City Council since 2004 and a member of the ALGWA Executive for 7 years, serving as Vice President in 2013 and 2014.*

### 9.15AM - 10.15AM

*"Surviving Life - what are the attributes we need to live the best, most rewarding and fulfilling life possible?"*

Keynote address from **Dr Gill Hicks**, survivor of the London Terrorist Bombings and founder of M.A.D (Making a Difference) for Peace.

### 10.15AM - 10.45AM

MORNING TEA IN THE SMITHURST THEATRE

### 10.45AM - 11.30AM

*"Managing the unmanageable - ways working women can have their cake and eat it too!"*

Address from **Jo Scard**, Founder & Managing Director at Fifty Acres, The Communications Agency.

*Mum and co-author of 'The Working Mother's Survival Guide', along with Melissa Doyle, Jo provides a practical, down to earth and entertaining guide for working women who want to have babies but keep their career on track too!*





## DAY TWO CONTINUED

### 11.30AM - 12.15PM

"Tricks of the trade - building self-confidence and making your mark in business and life".

Address from **Glenise Anderson**, Director of Self Confident Women.

*Glenise is an enthusiastic Entrepreneur, Coach, Trainer and Speaker. She is the Director of Self Confident Women, empowering women one at a time and the Director of SR Group, offering Solutions and Results to businesses looking to build teams that communicate.*

### 12.15PM - 1.00PM

"Compelling change through our own actions".

Address from **Glenn Learmont**, Manager Human Resources, Gunnedah Shire Council.

*Glenn has been engaged in senior management level as an embedded Human Resources generalist for 17 years. This has been predominately within the export industry with the last 6 years in local government. Responsibilities have covered lead positions for nationwide engagement processes for a US based multinational, various aspects of employee and industrial relations, recruitment, WHS and regional wide responsibilities concerning corporate citizenship. Glenn enjoys presenting on topics including leadership, developing self-brand and best practice.*

### 1.00PM - 2.00PM

LUNCH IN THE SMITHURST THEATRE SPONSORED BY WALKER BEER SOLICITORS & CONVEYANCERS.

### 2.00PM - 2.55PM

Workshops

Session 1: "Communication strategies and modern politics: the good, the bad and the selfie".

Facilitated by **Melinda McDonald**, Manager | Marketing and Business Relationships | TAFE New England

Session 2: "What makes you tick and how that affects your leadership style - Extended Disc Personality Model".

Facilitated by **Glenise Anderson**, Director of Self Confident Women.

### 3.00PM - 3.20PM

The UTS Centre for Local Government and the NSW Australian Local Government Women's Association (ALGWA NSW) launch an exciting new program, "Empowering Women in Local Government".

Address from **Nicole Campbell**, UTS Centre for Local Government Program Manager.

*Nicole has over 20 years' experience at a senior level in the NSW State Government working as a strategic policy analyst in environmental management, sustainable design, urban renewal and Aboriginal Affairs.*

### 3.20PM - 4.20PM

Q&A Session facilitated by Master of Ceremonies **Kate Ramien**.

### 4.20PM - 4.30PM

Nominations for ALGWA NSW Executive Committee declared open.

- Secretary
- Country Vice President
- Treasurer
- Executive Members

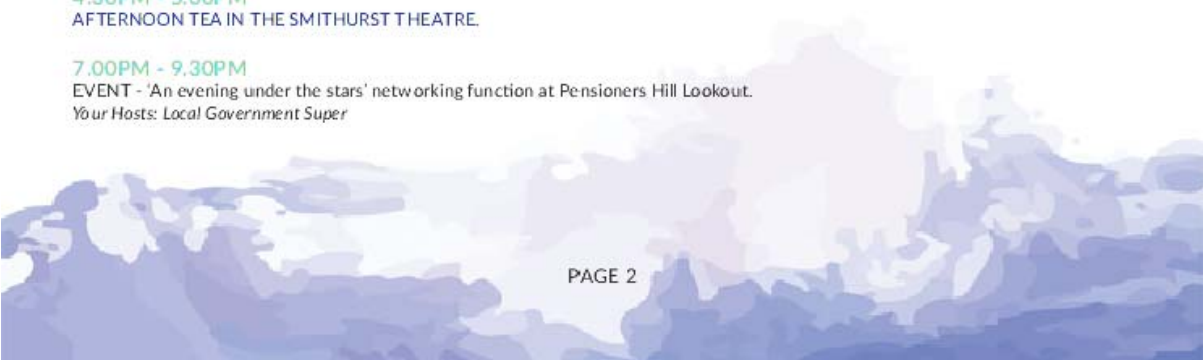
### 4.30PM - 5.00PM

AFTERNOON TEA IN THE SMITHURST THEATRE.

### 7.00PM - 9.30PM

EVENT - 'An evening under the stars' networking function at Pensioners Hill Lookout.

Your Hosts: Local Government Super



## SATURDAY 12 MARCH 2016 - DAY THREE

### 8.30 AM

Opening of Day 3 of the 2016 ALGWA NSW Conference in the Gunnedah Town Hall.  
Master of Ceremonies **Fiona Ferguson**

### 8.35AM - 9.05AM

Address from the **Clr Coral Ross**, ALGWA National President.

### 9.05AM - 9.15AM

Brief presentation from major sponsor, "United Services Union".

### 9.15AM - 10.00AM

"The secret to a happy life – health self-advocacy, happiness and wellbeing".

Address from **Dr Simone Ryan**, CEO & Founder of One Life, Live It!

Founder and head physician of 'One Life Live It', Dr Ryan and her team are industry leaders in educating employees about preventive medicine and provides tools for total wellbeing and best-performance.

### 10.00AM - 10.30AM

MORNING TEA IN THE SMITHURST THEATRE.

### 10.30AM - 11.15AM

"Diversity is the spice of life".

Address from **Clr Dai Le**, CEO & Founder of DAWN and Fairfield City Councillor.

Dai Le is the founder of DAWN, a social enterprise whose mission is to unlock and promote the talent from Australia's culturally diverse population, through the organisation's tailored emerging leadership programs which aim to provide mentorship, connections and encouragement for individuals aspiring to be tomorrow's leaders.

### 11.15AM - 11.30AM

2018 Conference Bids for Regional and Rural Councils.

### 11.30AM - 12.30PM

"Hot Spots Session"

Facilitated by **Clr Vicki Scott**, ALGWA NSW President.

### 12.30PM

LUNCH IN THE SMITHURST THEATRE SPONSORED BY "SANTOS".

### 1.15PM - 3.15PM

ALGWA Annual General Meeting – to be held in The Civic.

### 7.30PM - 12.00AM

EVENT - Gunnedah's Great Gatsby Gala Dinner.  
Your Hosts: United Services Union

DAY THREE OF CONFERENCE CONCLUDES





GUNNEDAH SHIRE COUNCIL  
ABN: 80 185 655 795  
TAX INVOICE

## REGISTRATION FORM

### Introduction

**WOW!** This is going to be so much fun!

We really look forward to welcoming you to Gunnedah and having the opportunity to show you around our neck of the woods!

Registering for our conference couldn't be easier.

Simply print out and complete this form with all your details and return it to Gunnedah Shire Council using one of the methods listed on page 3 of this form.

Please submit your registration forms by 10 February 2016.

#### **Want to save some dough?**

Take advantage of our Early Bird Discount and register before 10 February 2016.

See you very soon!

### Delegate Details

First Name .....

Surname .....

Organisation .....

Position .....

Postal Address .....

.....

Suburb/Town/City .....

State ..... Postcode .....

Phone ..... Mobile .....

Email .....

### Additional Information

Please notify of any special requirements you have in the following areas:

Dietary Requirements .....

Access Requirements .....

Other Requirements .....

Please indicate your attendance at the following social functions by ticking the appropriate box:

CIVIC WELCOME - Thu 10 March: ☐

NETWORKING EVENING - Fri 11 March: ☐

CONFERENCE DINNER - Sat 12 March: ☐

Do you consent to details shown on this registration form (contact details only) being included in a delegate database to be distributed to conference sponsors?

Please tick: YES ☐ NO ☐

### Workshops

Please indicate your preferences for the workshops held on Friday 11 March:

1. Communication Strategies and Modern Politics: the good, the bad and the selfie. ☐

2. What makes you tick and how that affects your leadership style - Extended Personality Model. ☐

### Travel Details

#### Arrival and Departure Information

Arrival Date .....

Departure Date .....

#### Method of Travel

Air ☐

Arrival Flight Number .....

Arrival Time .....

Car ☐

Train (Countrylink) ☐

### Airport Shuttle Service

Please indicate if you wish to use the shuttle service on the following dates:

#### Thursday 10 March 2016

Departs Tamworth Regional Airport at 3.15pm to the Gunnedah accommodation. ☐

#### Sunday 13 March 2016

Departs Gunnedah Mackellar Motel at 8.15am for Tamworth Regional Airport. ☐

*\*Please note a minimum of 12 delegates are required for this service to operate.*

*Delegates will be informed by Monday 29 February if the Shuttle Bus does not run.*

### Accommodation Details

Accommodation Name .....

Check In .....

Check Out .....

### Accompanying Person

Title .....

First Name .....

Surname .....

Dietary Requirements .....

### Registration Fees

#### Early Bird Registration (up to 10 February 2016)

Includes: Welcome Reception, all conference sessions and meals, Networking Evening and Conference Gala Dinner.

ALGWA Member	Non Member	QTY	Total
\$870.00	\$970.00	<input type="checkbox"/>	\$ .....

#### Standard Registration

Includes: Welcome Reception, all conference sessions and meals, Networking Evening and Conference Gala Dinner.

\$970.00	\$1070.00	<input type="checkbox"/>	\$ .....
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#### Day Registration and Social Functions

Fri 11 March 2016. The day's conference session and meals.

\$570.00	\$570.00	<input type="checkbox"/>	\$ .....
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#### Networking Evening

\$70.00	\$70.00	<input type="checkbox"/>	\$ .....
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#### Conference Dinner

\$120.00	\$120.00	<input type="checkbox"/>	\$ .....
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#### Partner's Program - Friday only

\$60.00	\$60.00	<input type="checkbox"/>	\$ .....
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#### Guest/Partner Added Options

##### Networking Evening - Friday (included in Full Registration)

\$70.00	\$70.00	<input type="checkbox"/>	\$ .....
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##### Conference Dinner - Saturday (included in Full Registration)

\$120.00	\$120.00	<input type="checkbox"/>	\$ .....
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Note: All packages include an ALGWA Conference Satchel.

Total Amount Payable \$ .....

CONTACT GUNNEDAH SHIRE COUNCIL  
Laurieann Boag  
PH: 02 6740 2100

### Payment Options

Gunnedah Shire Council will issue an invoice to all registering delegates for payment. All payment options will be listed on the invoice provided.

This document will be a Tax Invoice for GST purposes when payment is made in full. Please keep a copy of the completed Registration Form for GST purposes. All prices are inclusive of GST and in Australian Dollars.

Return your completed registration form to us by **10 February 2016**:

Email: [council@infogunnedah.com.au](mailto:council@infogunnedah.com.au)

Post: Gunnedah Shire Council  
PO Box 63  
GUNNEDAH NSW 2380

In Person: Gunnedah Shire Council Administration Building  
63 Elgin Street  
GUNNEDAH NSW 2380

**Important Info:** Attendance will be confirmed on receipt of full payment. Please note that the program and speakers list are subject to change without notice. Information collected on this form, will be used for conference purposes only and will not be provided to third parties without your consent.

**Cancellation Policy:** Should you not be able to attend the conference, you are welcome to send an alternate delegate in your place. Cancellations will be accepted until 'end of play', Friday, 5 February 2016 without fee. Cancellations after this date will incur the full registration fee. All cancellations or change of delegate must be provided in writing to [council@infogunnedah.com.au](mailto:council@infogunnedah.com.au).

**Please Note:** ALGWA Members must be financial by 31 December 2015 for voting purposes.





**AUSTRALIAN LOCAL GOVERNMENT  
WOMEN'S ASSOCIATION  
2016 NSW CONFERENCE**  
— GUNNEDAH —

## ITEM 3.8

## NSW CONTAINER DEPOSIT SCHEME DISCUSSION PAPER

<b>Division</b>	Infrastructure and Service Delivery
<b>Author</b>	Cheryl Walker - Resource Recovery & Waste Management Officer Allan Willding - Manager Works & Waste
<b>Meeting date</b>	9 February 2016 Policy meeting
<b>Strategic Plan Key Service Area</b>	A sustainable environment Sustainable services and assets

### **SUMMARY AND ORGANISATIONAL IMPLICATIONS**

<b>Purpose of Report</b>	To inform Council of the LGNSW position relating to the NSW CDS Discussion Paper and the work of the Southern Sydney Regional Organisation of Council's (SSROC's) CDS Working Group on a submission to the NSW government discussion paper on a CDS.
<b>Background</b>	<p>For many years, Leichhardt Council has advocated for a Container Deposit Scheme (CDS) supporting campaigns of the LGNSW and the Boomerang Alliance comprised of LGNSW and thirty major environmental groups from across Australia, including Clean up Australia and the Total Environment Centre.</p> <p>Council has recently received correspondence from the LGNSW advising of the NSW Minister for Environment's release of the <i>CDS Discussion Paper for public consultation</i> for the design of the scheme, which the Premier has committed to introduce by July 2017.</p> <p>This report outlines background information on container deposits, the LGNSW's advocacy position and the work of the Southern Sydney Regional Organisation of Council's (SSROC's) CDS Working Group on a submission to the NSW government discussion paper on a CDS.</p>
<b>Current Status</b>	There is no current Container Deposit Scheme in NSW.
<b>Relationship to existing policy</b>	In line with the SSROC Regional Waste Avoidance & Resource Recovery Strategy & Action Plan (2014-17); & the Leichhardt Environmental Sustainability Plan 2014-2018.
<b>Financial and Resources Implications</b>	N/A

<b>Recommendation</b>	<p>That Council:</p> <ol style="list-style-type: none"><li>1. Endorses the broad elements proposed by the LGNSW for a CDS as outlined in this report.</li><li>2. Works with the Southern Sydney Regional Organisation of Council's (SSROC's) CDS Working Group on a submission to the NSW government.</li><li>3. Notes the opportunity made available for the community to comment on the CDS Discussion Paper via its existing website portal on Container Deposit Schemes.</li></ol>
<b>Notifications</b>	Broader community via Council's website link to the EPA's website.
<b>Attachments</b>	NIL



## **Purpose of Report**

To inform Council of the LGNSW position relating to the NSW CDS Discussion Paper and the work of the Southern Sydney Regional Organisation of Council's (SSROC's) CDS Working Group on a submission to the NSW government discussion paper on a CDS.

## **Recommendation**

That Council:

1. Endorses the broad elements proposed by the LGNSW for a CDS as outlined in this report.
2. Works with the Southern Sydney Regional Organisation of Council's (SSROC's) CDS Working Group on a submission to the NSW government.
3. Notes the opportunity made available for the community to comment on the CDS Discussion Paper via its existing website portal on Container Deposit Schemes.

## **Background**

For many years, Leichhardt Council has advocated for a Container Deposit Scheme (CDS) supporting campaigns of the LGNSW and the Boomerang Alliance comprised of LGNSW and thirty major environmental groups from across Australia, including Clean up Australia, and the Total Environment Centre.

A Container Deposit Scheme (CDS) functions so that a customer who purchases a beverage pays a small deposit (around 10c) at the time of purchase which is then refunded once the empty beverage container is returned.

This type of system is based on the principle of Extended Producer Responsibility whereby the producer becomes responsible for managing their product throughout its lifecycle.

The rationale behind support for a CDS is:

- Current kerbside recycling is extremely costly. CDS represents a significant cost saving for councils and their communities.
- Despite the success of kerbside recycling, return rates for beverage containers in NSW are still low, in the order of 40 per cent for some plastics. CDS has demonstrated return rates for the same containers in the order of 85 per cent, representing a much better environmental outcome.

- CDS address away-from-home consumption, thereby reducing litter and associated clean-up costs. Recycling in public place bins including in streets and parks and at events results in highly contaminated bins with the recycling ending up in landfill as the recycling processor will not accept high levels of contamination.
- A CDS shifts the responsibility (both financial and physical) onto the producer and the consumer, rather than spreading that cost across all ratepayers.
- CDS also imparts social benefits to community groups such as the Scouts, who can raise valuable income from the collection and redemption of containers.

In 2012 LGNSW commissioned a study into the impacts of CDS on kerbside recycling and councils in NSW. The study found that, despite many long-standing assertions from other stakeholders, CDS would financially, socially and environmentally benefit local councils and their communities.

The study which was prepared by Mike Ritchie and Associates (MRA) found that:

- Council kerbside recycling service costs would be reduced by 19-47% under a CDS
- NSW councils could save \$23 to \$62 million annually on recycling costs
- Kerbside recycling is likely to result in a payment received as opposed to a charge to councils at the Materials Recovery Facility (MRF) gate
- There would be significant benefits to recycling in regional/rural/remote locations, where kerbside systems are not practicable or efficient
- Councils would experience significantly reduced litter clean-up costs, and reduced environmental education costs
- There are also clear environmental and social benefits to the introduction of CDS, largely resulting from the high return rates and opportunities for community groups to become involved in the recycling of containers.

Any specific service cost reductions could only be ascertained once the design of the final Scheme has been determined.

There is overwhelming community support for the introduction of a Container Deposit Scheme in NSW. A Newspann carried out by the Total Environment Centre in 2015 reveal that 90% of NSW residents support a Container Deposit Scheme.

LGNSW is advocating for a CDS scheme for NSW that includes the following broad elements:

- Containers presented through kerbside systems and depots are eligible for redemption.
- A monetary incentive for return of containers e.g. 10 cent (as opposed to a donation or entry into a prize draw)
- Adequate access to the scheme across NSW including a variety of redemption mechanisms
- Scope of containers eligible for redemption should be as broad in container size and material as possible and compatible with existing CDS in South Australia and Northern Territory

## Report

Council has recently received correspondence from the LGNSW advising of the NSW Minister for Environment's release of the *CDS Discussion Paper for public consultation* for the design of the scheme, which the Premier has committed to introduce by July 2017.

The NSW EPA is seeking feedback on the discussion paper by **Friday 26 February 2016**.

The LGNSW correspondence urged Councils to promote the opportunity to comment on the CDS discussion paper to their communities.

Formal consultation with relevant community Committees' was not possible due to the timeframe of the EPA's consultation period which closed prior to the scheduled 2016 Committee Meeting dates e.g. Environment and Climate Change Committee meetings commence in March 2016. However, the Environment and Climate Change Committee received a briefing at the 9 September 2015 meeting from Jeff Angel, Convenor of the Boomerang Alliance outlining the Alliance's proposal for a CDS Scheme.

Council has a dedicated website page for Container Deposits that links to the Boomerang Alliance's webpage on CDS that includes a *Submission Guide to the NSW Container Deposit Discussion Paper*. Council's website also provides a link to the NSW CDS Discussion Paper and submission page, enabling any member of the community to make a submission. Council's Environment Team has emailed members of the Environment and Climate Change Committee regarding the

opportunities outlined above (i.e. 19 January 2016) with the same information contained within the 2<sup>nd</sup> February 2016 Sustainability e-News.

### **Summary/Conclusions**

Council has recently received correspondence from the LGNSW advising of the NSW Minister for Environment's release of the *CDS Discussion Paper for public consultation* for the design of the scheme, which the Premier has committed to introduce by July 2017.

The NSW EPA is seeking feedback on the discussion paper by **Friday 26 February 2016**.

A CDS Working Group has been established by SSROC to work on a joint submission to the CDS Discussion Paper including Officer representation from SSROC; City of Sydney Council; LGNSW and Leichhardt Council with several of the above representatives involved in the EPA Working Groups that were established to support the Container Deposit Scheme Advisory Committee meaning they have relevant expertise to inform on key issues proposed in the design scheme that may impact on local government. A process has been developed for the SSROC CDSWG working group to meet the tight submission deadline to the EPA by the 26 February 2016.

Whilst formal consultation with relevant community Committees' was not possible due to the timeframe of the EPA's consultation period Council has a dedicated website page for Container Deposits linking to several information sites and the NSW CDS Discussion Paper and submission page, enabling any member of the community to make a submission.

## ITEM 3.9 SYDNEY INTERNATIONAL WOMEN'S DAY 2016 BREAKFAST

Division	Precis of Correspondence
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Correspondence has been received from the Australian National Committee for UN Women, which partners with organisations on a national and local level during their International Women's Day campaign.

The committee has provided information on International Women's Day event on 8 March 2016, which Council may like to sponsor and attend. Council purchased a corporate table for the Sydney International Women's Day Event in 2014 and 2015.

### Recommendation

That Council purchase a corporate table for ten persons valued at \$1850 for the Sydney International Women's Day Breakfast in March 2016 (to be held at the Australian Technology Park) and to be funded from Council's Miscellaneous Priorities budget.

### Attachments

#### 1. Notification of Sydney International Women's Day Breakfast

8 MARCH 2016

7:00am

#### IWD Breakfast Sydney

UN Women National Committee (NC) Australia hosts Australia's largest International Women's Day (IWD) celebrations in March each year. IWD is a global day celebrating the economic, political and social achievements of women. It is also a day to review how far women have come in their struggle for equality, peace and development.

IWD also provides an opportunity to unite, network and mobilise funds to foster meaningful change into the future.

#### Venue:

Australian Technology Park, Locomotive St, Eveleigh. Please [click here](#) for further information.

For registration enquiries, please contact the event contractors at the Centre for Social Impact on 02 8936 0904

**SECTION 4 – CLOSED COUNCIL**



**ITEM 4.1                    AFTER SCHOOL CARE SERVICE APPROVAL  
APPLICATIONS**

**Reason for Confidentiality**

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(d) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (d) commercial information of a confidential nature that would if disclosed:
  - (i) prejudice the commercial position of the person who supplied it

## ITEM 4.2                      LEGAL SERVICES REPORT

### Reason for Confidentiality

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(g) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege