

**PROPOSED AMENDMENTS TO EXHIBITED
DRAFT LEICHHARDT LOCAL ENVIRONMENTAL PLAN 2012**

PLANNING PROPOSAL

ITEM 3

**FLOOR SPACE RATIO CONTROLS
FOR NON-RESIDENTIAL DEVELOPMENT**

Part 1 – Objectives or Intended Outcomes

On the 21st May 2013 Council resolved (C2012/13) to endorse the changes required to the exhibited *Draft Leichhardt Local Environmental Plan 2012* and initiate the plan making process (Planning Proposal) for inclusion of new subclause 4.4B Exceptions to maximum floor space ratio for non-residential development and subsequent amendments to Floor Space Ratio maps.

This amendment proposes to correct an error in the preparation of the *Draft Leichhardt Local Environmental Plan 2012* where Clause 23 1(a) of Council's existing *Leichhardt Local Environmental Plan 2000* was not translated.

Part 2 – Explanation of the Provisions

Amendments to the exhibited *Draft Leichhardt Local Environmental Plan 2012* are as follows:

(1) Insert the following new subclause (Refer to Table 1 in Part 4):

4.4B *Exceptions to maximum floor space ratio for non-residential development [local]*

- (1) *This clause applies to land in Zone R1 General Residential.*
- (2) *Despite clause 4.4, the floor space ratio for non-residential development on land to which this clause applies must not exceed 1:1.*
- (3) *In this clause, non-residential development means any development that does not include residential accommodation.*

(2) Amend the Floor Space Ratio Maps to:

Show a maximum floor space ratio 1:1 for land zoned:

- (a) SP1 Special Activities
- (b) SP2 Infrastructure
- (c) RE1 Public Recreation
- (d) RE2 Private Recreation

Refer to Part 4 below for Floor Space Ratio Maps.

Part 3 – Justification

Section A – Need for planning proposal

Q1. Is the planning proposal a result of any strategic study or report?

No. During the exhibition of the *Draft Leichhardt Local Environmental Plan 2012* it was discovered that the translation of Clause 23 1(a) of *Leichhardt LEP 2000* was not included.

The rationale for the Planning Proposal is discussed as follows:

The *Draft Leichhardt Local Environmental Plan 2012* is primarily a “translation” of the existing *Leichhardt Local Environmental Plan 2000*. This means wherever practicable, existing zones and controls are matched with an equivalent provision under the Standard

Instrument. As such, Clause 23 1 (a) of *Leichhardt Local Environmental Plan 2000* is required to be translated into the *Draft Leichhardt Local Environmental Plan 2012* before the final plan is made.

Clause 23 1 (a) of Leichhardt LEP 2000 provides for a maximum floor space ratio of 1:1 for all non-residential development on land within any zone as outlined below.

Clause 23 1 (a) of Leichhardt Local Environmental Plan 20000
23 General provisions for the development of land (1) Commercial floor space control (a) Consent must not be granted to the carrying out of non-residential development on land within any zone if it will result in the floor space ratio of a building on the land exceeding 1:1.

As outlined in Part 2 the following amendments are proposed to the *Draft Leichhardt Local Environmental Plan 2012*:

- New subclause needs to be inserted into the Local Environmental Plan that applies to R1 General Residential Zone, and
- The Floor Space Ratio Maps need to be amended to show a maximum floor space ratio of 1:1 for equivalent zones SP1 Special Activities, SP2 Infrastructure, RE1 Public Recreation and RE2 Private Recreation.

The following table provides a summary of how the provisions of Clause 23 1 (a) of *Local Environmental Plan 2000* are required to be translated into the format for the new Local Environmental Plan.

Translation Clause 23 1 (a) of Local Environmental Plan 2000 into Standard Instrument Local Environmental Plan format					
LEP 2000 Zone (Current)	Equivalent Zone under Draft LEP Zone	Use	LEP 2000 FSR (Current)	FSR Draft LEP 2012 Exhibited – as shown FSR Maps	Proposed Amendment
Residential	R1 General Residential	Non-residential development	1:1	Leichhardt 0.5:1	New subclause (4.4B) to be included to make provision for translation maximum of 1:1 for non-residential uses in the Residential Zone.
				Annandale 0.6:1	
				Balmain 0.7:1	
		Residential Development	Leichhardt 0.5:1	Leichhardt 0.5:1	No change.
			Annandale 0.6:1	Annandale 0.6:1	No change.
			Balmain 0.7:1	Balmain 0.7:1	No change.
Open Space	RE1 Public Recreation RE2 Private Recreation	Residential Development	Not permitted.	No control.	Amend FSR maps to make provision for translation of a maximum FSR of 1:1 for non-residential uses in the RE1 Public Recreation zone.
		Non-residential development	1:1	No control.	Amend FSR maps to make provision for translation of a maximum FSR of 1:1 for non-residential uses in the RE2 Private Recreation.
Public Purpose	SP1 Special Activities SP2 Infrastructure	Residential Development	Not permitted.	No control.	Amend FSR maps to make provision for translation of a maximum FSR of 1:1 for non-residential uses in the SP1 Special Activities zone.
		Non-residential development	1:1	No control.	Amend FSR maps to make provision for translation of a maximum FSR of 1:1 for non-residential uses in the SP2 Infrastructure zone.

Acronyms Used

LEP = Local Environmental Plan

FSR = Floor Space Ratio

Note. This planning proposal does not propose any changes to the floor space ratio controls in relation to land within the Business Zones (B1 Neighbourhood Centre, B2 Local Centre or B7 Business Park) under the exhibited *Draft Leichhardt Local Environmental Plan 2012*.

Q2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The proposal involves an amendment to the exhibited *Draft Leichhardt Local Environmental Plan 2012*. The proposed amendment the *Draft Leichhardt Local Environmental Plan 2012* is considered to be of significance and therefore requires re-exhibition and community consultation. The planning proposal is the best way of achieving the proposed changes to the plan and ensuring the community is notified of these changes.

Section B – Relationship to strategic planning framework.

Q3. 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)?

The planning proposal is consistent with the State Government's current Metropolitan Plan for Sydney to 2036, the Draft Metropolitan Strategy for Sydney 2031 (currently on exhibition) and the Inner West Draft Subregional Strategy. The following actions outlined in the table below are of particular relevance. It is considered that there is no change to policy as the change is only to reflect current practices.

Inner West Draft Subregional Strategy
Action
G1.2 – Improve local planning and assessment

Q4. Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

The planning proposal is consistent with the following objectives within Council's Community Strategic Plan '*Leichhardt 2020+*' and '*Draft Leichhardt 2025+*'.

<i>Leichhardt 2020+</i>
• 1.1 – Develop and implement an integrated community planning framework; • 3.1 – Our town plan and place plans optimise the potential of our area through integrating the built and natural environment with a vision of how we want to live as a community and how areas should develop to meet future needs. • 3.2 – Develop a clear, consistent and equitable planning framework and process that enables people to develop our area according to a shared vision for the community. • 4.1 – Develop our commitment & capacity to consistently support environmental sustainability. • 4.2 – Minimise our impacts on the environment. • 4.3 – Protect, restore and enhance our natural environment and native biodiversity within our urban context. • 5.1 – Develop integrated planning to promote thriving and diverse businesses that build on the demands and characteristics of local communities. • 5.2 – Develop accessible and environmentally sustainable businesses that help to build local communities and reduce our dependence on private cars. • 5.4 – Plan for business & employment growth that allows greater opportunities for our residents to work locally. • 6.1 – Apply our values to deliver transparent, consistent, efficient and effective participative processes.

Draft Leichhardt 2025+
<i>Place where we live and work</i>
• Our town plan and place plans optimise the potential of our area through integrating the built and natural environment with a vision of how we want to live as a community and how areas should develop to meet future needs. • A clear, consistent and equitable planning framework and process is provided that enables people to develop our area according to a shared vision for the community. • An integrated planning process is promoted to make planning easier for the community and to establish a service that people want to use.
<i>A Sustainable Environment</i>
• Our commitment capacity to consistently support environmental sustainability is developed.
<i>Business in the Community</i>
• Places are created that attract and connect people. • The new economy is embraced. • Economic assets are protected and leveraged.
<i>Sustainable Service and Assets</i>
• Transparent, consistent, efficient and effective participative processes are delivered.

Q5. *Is the planning proposal consistent with applicable state environmental planning policies?*

The planning proposal is consistent with the applicable State Environmental Planning Policies see table below.

Consideration of State Environmental Planning Policies (SEPPs)

SEPP Title	Applicable	Consistent
1. Development Standards	No	N/A
4. Development without Consent and Miscellaneous Complying Development	No	N/A
6. Number of Storeys in a Building	No	N/A
14. Coastal Wetlands	No	N/A
15. Rural Landsharing Communities	No	N/A
19. Bushland in Urban Areas	No	N/A
21. Caravan Parks	No	N/A
22. Shops and Commercial Premises	No	N/A
26. Littoral Rainforests	No	N/A
29. Western Sydney Recreation Area	No	N/A
30. Intensive Agriculture	No	N/A
32. Urban Consolidation (Redevelopment of Urban Land)	No	N/A
33. Hazardous and Offensive Development	No	N/A
36. Manufactured Home Estates	No	N/A
39. Spit Island Bird Habitat	No	N/A
41. Casino Entertainment Complex	No	N/A
44. Koala Habitat Protection	No	N/A
47. Moore Park Showground	No	N/A
50. Canal Estate Development	No	N/A
52. Farm Dams and Other Works in Land and Water Management Plan Areas	No	N/A
53. Metropolitan Residential Development	No	N/A
55. Remediation of Land	No	N/A
59. Central Western Sydney Regional Open Space and Residential	No	N/A
60. Exempt and Complying Development	No	N/A

SEPP Title	Applicable	Consistent
62. Sustainable Aquaculture	No	N/A
64. Advertising and Signage	No	N/A
65. Design Quality of Residential Flat Development	No	N/A
70. Affordable Housing (Revised Schemes)	No	N/A
71. Coastal Protection	No	N/A
SEPP Affordable Rental Housing 2009	No	N/A
SEPP Building Sustainability Index: BASIX 2004	No	N/A
Exempt and Complying Development Codes) 2008	No	N/A
Housing for Seniors or People with a Disability 2004	No	N/A
SEPP Infrastructure 2007	No	N/A
SEPP Kosciuszko National Park – Alpine Resorts 2007	No	N/A
SEPP Major Development 2005	No	N/A
SEPP Mining, Petroleum Production and Extractive Industries 2007	No	N/A
SEPP Penrith Lakes Scheme 1989	No	N/A
SEPP Rural Lands 2008	No	N/A
SEPP Sydney Region Growth Centres 2006	No	N/A
SEPP Temporary Structures 2007	No	N/A
SEPP Urban Renewal 2010	No	N/A
SEPP Western Sydney Employment Area 2009	No	N/A
SEPP Western Sydney Parklands 2009	No	N/A

Consideration of deemed State Environmental Planning Policies (SEPPs) (former Regional Environmental Plans (REPs))

REP Title	Applicable	Consistent
8. Central Coast Plateau Areas	No	N/A
9. Extractive Industry (No 2—1995)	No	N/A
16. Walsh Bay	No	N/A
18. Public Transport Corridors	No	N/A
19. Rouse Hill Development Area	No	N/A
20. Hawkesbury-Nepean River (No 2—1997)	No	N/A
24. Homebush Bay Area	No	N/A
25. Orchard Hills	No	N/A
26. City West	No	N/A
28. Parramatta	No	N/A
30. St Marys	No	N/A
33. Cooks Cove	No	N/A
SREP Sydney Harbour Catchment 2005	No	N/A

Q6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 Directions)?

The planning proposal is consistent with the applicable Ministerial Directions (s.117 Directions) see table below.

Consideration of Ministerial Directions

s.117 Direction Title	Applicable	Consistent	Comments
1. Employment & Resources			
1.1 Business and Industrial Zones	Yes	Yes	It is considered that there is no change to existing policy.
1.2 Rural Zones	No	NA	
1.3 Mining, Petroleum Production and Extractive Industries	No	NA	
1.4 Oyster Aquaculture	No	NA	
1.5. Rural lands	No	NA	
2. Environment & Heritage			
2.1 Environment Protection Zones	No	N/A	
2.2 Coastal protection	No	N/A	
2.3 Heritage Conservation	Yes	Yes	It is considered that there is no change to existing policy.
2.4 Recreation Vehicle Areas	No	N/A	
3. Housing Infrastructure & Urban Development			
3.1 Residential Zones	Yes	Yes	It is considered that there is no change to existing policy.
3.2 Caravan Parks and Manufactured Home Estates	No	N/A	
3.3 Home Occupations	Yes	Yes	It is considered that there is no change to existing policy.
3.4 Integrating Land Use & Transport	Yes	Yes	It is considered that there is no change to existing policy.
3.5 Development near licensed aerodromes	No	N/A	
3.6 Shooting Ranges	No	N/A	
4. Hazard & Risk			
4.1 Acid Sulphate Soils	Yes	Yes	It is considered that there is no change to existing policy.
4.2 Mine Subsidence and Unstable land	No	N/A	
4.3 Flood Prone Land	Yes	Yes	It is considered that there is no change to existing policy.
4.4 Planning for Bush Fire Protection	No	N/A	
5. Regional Planning			
5.1 Implementation of Regional Strategies	No	N/A	
5.2 Sydney Drinking Water Catchments	No	N/A	
5.3 Farmland of State and Regional Significant on the NSW Far North	No	N/A	

s.117 Direction Title	Applicable	Consistent	Comments
Coast			
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	No	N/A	
5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	No	N/A	
5.6 Sydney to Canberra Corridor (Revoked 10 July 2008. See amended Direction 5.1)	No	N/A	
5.7 Central Coast (Revoked 10 July 2008. See amended Direction 5.1)	No	N/A	
5.8 Second Sydney Airport: Badgerys Creek	No	N/A	
6. Local Plan Making			
6.1 Approval and Referral Requirements	Yes	Yes	Consistent with the terms of this direction.
6.2 Reserving Land for Public Purposes	No	N/A	
6.3 Site Specific Provisions	Yes	Yes	It is considered that there is no change to existing policy.
7. Metropolitan Planning			
Implementation of the Metropolitan Strategy	Yes	Yes	Consistent with the terms of this direction see Q3.

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?

The proposal does not apply to land that has been identified as containing critical habitat or threatened species, populations or ecological communities, or their habitats. Should it be discovered through community consultation, or by another means, that species, populations, communities or habitats may be adversely affected, this will be taken into consideration and the planning proposal will be modified if necessary.

Q8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

Given the nature of the proposal (administrative changes to ensure the controls contained within the new Standard Instrument Local Environmental Plan reflect existing controls within the Leichhardt Local Environmental Plan 2000) it is not anticipated that there will be any adverse environmental effects.

Q9. How has the planning proposal adequately addressed any social and economic effects?

Given the nature of the proposal it is not expected that the proposal will have any social or economic effects.

Section D – State and Commonwealth interests

Q10. Is there adequate public infrastructure for the planning proposal?

Given the nature of the proposal (administrative changes to ensure the controls contained within the new Standard Instrument Local Environmental Plan reflect existing controls within the *Leichhardt Local Environmental Plan 2000*) the above question is not considered relevant.

Q11. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway Determination?

Consultation was carried as part of the exhibition of the *Draft Leichhardt Local Environmental Plan 2012*. This section of the planning proposal is completed following the gateway determination which identifies which State and Commonwealth Public Authorities are to be consulted.

It is likely that the Department of Education and Communities will be consulted following the gateway determination given their submission made during the public exhibition of the *Draft Leichhardt Local Environmental Plan 2012* related to floor space ratio controls.

Part 4 – Mapping/ Figures

Legend relating to Table 1	
Black = Standard Instrument	
Blue = Standard instrument direction	
Red = Council included (local clauses)	
Light Blue & Strikethrough = deleted wording	
Green = New Wording	

Table 1: The proposed changes to Part 1.2 – Aims of Plan within the exhibited Leichhardt Local Environmental Plan 2012

Clause	Draft LEP 2012 (Exhibited)	Proposed Change
	Standard Instrument, Standard instrument direction and Council included	Deleted wording New wording
4.4B		Exceptions to maximum floor space ratio for non-residential development [local]
		(1) This clause applies to land in Zone R1 General Residential. (2) Despite clause 4.4, the floor space ratio for non-residential development on land to which this clause applies must not exceed 1:1. (3) In this clause, non-residential development means any development that does not include residential accommodation.

Part 5 – Community Consultation

This component of the planning proposal is considered to be low impact, in that:

- it is consistent with the pattern of surrounding land uses,
- it is consistent with the strategic planning framework,
- presents no issues with regards to infrastructure servicing,
- is not a principle Local Environmental Plan, and
- does not reclassify public land.

It is outlined in “*A guide to preparing local environmental plans*” that community consultation for a low impact planning proposal is usually 14 days. However, it is Councils preference that the planning proposal be exhibited for a minimum of 28 days.

Part 6 – Project Timeline

Anticipated Project Timeline	Proposed Date (s)
Commencement date (date of Gateway determination)	21 June 2013
Timeframe for the completion of required technical information	Not required
Timeframe for government agency consultation (pre and post exhibition as required by Gateway determination)	To be determined
Commencement and completion dates for public exhibition period	Minimum 28 Days
Dates for public hearing (if required)	To be determined post exhibition.
Timeframe for consideration of submissions	August 2013
Timeframe for the consideration of a proposal post exhibition	September 2013
Date of submission to the department to finalise the Local Environmental Plan	October 2013

APPENDIX A

Leichhardt Local Environmental Plan 2013 – Floor Space Ratio Maps (Proposed Change)
