

Amendments to draft Leichhardt LEP 2013 relating to LEP Aims and Objectives, Landscaped area clause, Exceptions to maximum FSR, Land Use Table, Complying Development controls.

Proposal Title : Amendments to draft Leichhardt LEP 2013 relating to LEP Aims and Objectives, Landscaped area clause, Exceptions to maximum FSR, Land Use Table, Complying Development controls.

Proposal Summary :

1. Changes to the Aims of the Plan and zone Objectives;
2. Amendments to draft clause 4.3A Landscaped Area for Residential Development in Zone R1;
3. Inclusion of new subclause 4.4B Exceptions to maximum floor space ratio for non-residential development in R1 General Residential zone and subsequent amendments to Floor Space Ratio maps;
4. Amendments and additions to Land Use Table;
5. Inclusion of Complying Development controls for the installation of photovoltaic cells.

This planning proposal relates to changes proposed to the draft Leichhardt LEP 2013 resulting from the public exhibition of the draft LEP.

PP Number : PP_2013_LEICH_002_00 **Dop File No :** xxxxx

Proposal Details

Date Planning Proposal Received :	06-Jun-2013	LGA covered :	Leichhardt
Region :	Sydney Region East	RPA :	Leichhardt Municipal Council
State Electorate :	BALMAIN	Section of the Act :	55 - Planning Proposal
LEP Type :	Housekeeping		

Location Details

Street :

Suburb : **City :** **Postcode :**

Land Parcel : whole local government area

**Amendments to draft Leichhardt LEP 2013 relating to LEP Aims and Objectives,
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Development controls.**

DoP Planning Officer Contact Details

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DoP Project Manager Contact Details

Contact Name : **Sandy Shewell**
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Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub Regional Strategy :	Metro Inner West subregion	Consistent with Strategy :	Yes
MDP Number :	0	Date of Release :	
Area of Release (Ha) :	0.00	Type of Release (eg Residential / Employment land) :	N/A
No. of Lots :	0	No. of Dwellings (where relevant) :	0
Gross Floor Area :	0	No of Jobs Created :	0

The NSW Government Lobbyists Code of
Conduct has been
complied with : **Yes**
If No, comment :

Have there been
meetings or
communications with
registered lobbyists? : **No**
If Yes, comment :

Supporting notes

Internal Supporting
Notes : **The Department supports this planning proposal because, as a whole:**
- it builds upon the mandatory Standard Instrument Aims and Zone objectives and reflects the feedback received during exhibition and Council's internal review of the draft LEP;
- it is consistent with Council's own strategic plans and the statutory planning framework;
- it provides a more accurate translation of Council's existing clauses;
- it provides for the inclusion of a clause that had not been translated into the Standard Instrument draft LEP;
- it makes some minor changes and corrects administrative errors;
- it is consistent with the NSW strategic planning framework.

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Council has provided an acceptable indicative project timeline, which anticipates its Standard Instrument LEP finalisation request to be submitted to the Department at the end of October 2013.

The Department of Planning and Infrastructure's Code of Practice in relation to communications and lobbyists has been complied with. Sydney Region East has not met with any lobbyists in relation to this proposal, nor has the Regional Director been advised of any meetings between other departmental officers and lobbyists concerning the proposal.

Delegation:

Whilst Council have not specifically requested delegation to finalise this draft LEP amendment, Council has confirmed in writing that it resolved to accept delegation of the Minister's plan making powers specified in the EP&A Act.

The planning proposal as a whole is considered to relate to relatively low impact, routine matters of local planning significance. Therefore, it is recommended that the finalisation of the planning proposal be delegated back to Council.

External Supporting
Notes :

Council supports this planning proposal for the following reasons:

- it builds upon the mandatory Standard Instrument Aims and Zone objectives and reflects the feedback received during exhibition and Council's internal review of the draft LEP;
- it is consistent with Council's own strategic plans and the statutory planning framework;
- it provides a more accurate translation of Council's existing clauses;
- it provides for the inclusion of a clause that had not been translated into the Standard Instrument draft LEP; and
- it makes some minor changes and corrects administrative errors.

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? **Yes**

Comment : **A separate statement has been made for the objectives of each element of this planning proposal. Each statement is considered to be adequate.**

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment : **Council has provided a separate explanation for each of the five proposed amendments requested as part of this planning proposal, which are considered adequate.**

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :

* May need the Director General's agreement

1.1 Business and Industrial Zones

2.3 Heritage Conservation

3.1 Residential Zones

3.3 Home Occupations

3.4 Integrating Land Use and Transport

4.1 Acid Sulfate Soils

4.3 Flood Prone Land

6.1 Approval and Referral Requirements

6.3 Site Specific Provisions

7.1 Implementation of the Metropolitan Plan for Sydney 2036

**Amendments to draft Leichhardt LEP 2013 relating to LEP Aims and Objectives,
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Is the Director General's agreement required? **Yes**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

SEPP No 19—Bushland in Urban Areas
SEPP No 55—Remediation of Land
SEPP (Building Sustainability Index: BASIX) 2004
SEPP (Exempt and Complying Development Codes) 2008
SEPP (Housing for Seniors or People with a Disability) 2004
SEPP (Infrastructure) 2007
SREP (Sydney Harbour Catchment) 2005
SEPP (Affordable Rental Housing) 2009

e) List any other
matters that need to
be considered :

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain :

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **Council expresses its preference for the consultation period to be for a minimum of 28 days.**

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

Proposal Assessment

Principal LEP:

Due Date : **September 2013**

Comments in relation
to Principal LEP :

Council's internal review and public exhibition of the draft Leichhardt LEP 2012 resulted in a number of post-exhibition changes that are significant enough to require re-exhibition. Discussions between Council staff and Department officers (including Regional Director) concluded that in order to avoid delaying the making of the LEP, and to ensure transparency, it is appropriate that these changes be dealt with by means of a planning proposal.

It is anticipated that this planning proposal will be completed alongside or after the draft comprehensive LEP is made.

Council's section 68 submission of the draft comprehensive LEP is expected by 19 June

**Amendments to draft Leichhardt LEP 2013 relating to LEP Aims and Objectives,
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2013.

Assessment Criteria

Need for planning
proposal :

The need for the planning proposal is considered for each element of the proposal as follows:

1. Aims of Plan and Zone objectives:

This element has been prepared in response to feedback arising from public exhibition and Council's internal review of the draft LEP 2012.

2. Amendments to draft clause 4.3A Landscaped Area for Residential Development in Zone R1:

This element has also been prepared in response to feedback arising from public exhibition and Council's internal review of the draft LEP 2012. In addition, following Council's internal review, it was revealed that the exhibited controls (primarily intended to be a translation of current controls) would not deliver the same outcome as the current landscaped area clause 19(3) of Leichhardt LEP 2000. The exhibited controls would permit significantly more building/structures and a reduction in the areas required for landscaping.

3. Inclusion of new subclause 4.4B Exceptions to maximum floor space ratio for non-residential development and subsequent amendments to Floor Space Ratio maps:
During exhibition, it was discovered that the translation of clause 23(1)(a) of LEP 2000 was not included.

4. Amendments and additions to Land Use Table:

This element has been prepared in response to feedback arising from public exhibition and Council's internal review of the draft LEP 2012, and is considered the most appropriate way of ensuring that the community is notified of the proposed changes.

The draft LEP 2013 is primarily a translation of the current LEP 2000. Council indicates that an exact translation of land use terms is not possible in every case, as the land use definitions are not all equivalent/comparable or specifically defined. The proposed amendments seek to remedy this.

5. Inclusion of Complying Development controls for the installation of photovoltaic cells:
This element of the planning proposal arises from a Council resolution to support the installation of photovoltaic (PV) panels on the primary street frontages of buildings located within heritage conservation areas and heritage items.

Furthermore, this element will enable greater opportunities for the installation of PV panels and thus working towards a reduction in use of non-renewable resources, whilst enabling the consideration of heritage areas and items before a Complying Development Certificate can be issued.

For each element, the planning proposal is the most appropriate way of ensuring that the community is notified of the proposed changes.

The need for the proposal as a whole is not the result of any strategic study or report.

Amendments to draft Leichhardt LEP 2013 relating to LEP Aims and Objectives, Landscaped area clause, Exceptions to maximum FSR, Land Use Table, Complying Development controls.

Consistency with strategic planning framework :

Consistency with the strategic planning framework is considered for each element of the proposal as follows (refer also to section B - Relationship to strategic planning framework for each element of the planning proposal):

1. Aims of Plan and Zone objectives:

Council proposes a significant number of overall Aims of the Plan, over and above those that were exhibited. Many of these are quite detailed and specific, but all of them are considered consistent with the relevant objectives and actions of the Metropolitan Plan for Sydney 2036, draft Metropolitan Strategy for Sydney 2031 and the draft Inner West Subregional Strategy (IWSS).

2. Amendments to draft clause 4.3A Landscaped Area for Residential Development in Zone R1:

This element is considered to be consistent with the relevant objectives and actions of the strategic planning framework documents referred to at 1. above.

3. 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 element is also considered to be consistent with the relevant objectives and actions of the strategic planning framework documents referred to at 1. above.

4. Amendments and additions to Land Use Table (LUT):

The proposed amendments relate to the inclusion or deletion of certain specified uses in or from the LUT and minor typing errors. As such there is no inconsistency with the strategic planning framework.

5. Inclusion of Complying Development controls for the installation of photovoltaic cells:

This element of the planning proposal is considered to be consistent with the relevant objectives and actions of the strategic planning framework documents referred to at 1. above.

State Environmental Planning Policies

Council has provided a brief assessment of the planning proposal's consistency with relevant SEPPs (see section B of each element of the planning proposal).

It is considered that each element of the planning proposal is consistent with the relevant SEPPs.

Section 117 Directions

In terms of consistency with s.117 Directions, each element is considered consistent with the relevant Directions, with the exception of the following:

Direction 2.3 Heritage Conservation:

This Direction requires provisions that facilitate the conservation of identified aboriginal areas, objects, places or landscapes of importance to aboriginal culture.

Element 5 of the planning proposal, the proposed inclusion of Complying Development controls for the installation of photovoltaic cells, does not contain such specific provision. However, the proposed new clause does otherwise provide comprehensive controls with regard to heritage items generally. Given the intended application of the clause to existing buildings within urban areas (which Leichhardt LGA is), it is considered unlikely that the planning proposal would have any impact upon aboriginal heritage. The inconsistency can therefore be justified as it is considered to be of only minor significance.

Environmental social economic impacts :

1. Environmental impacts:

None of the 5 elements of the planning proposal apply to land that has been identified as containing critical habitat or threatened species, populations or ecological communities,

**Amendments to draft Leichhardt LEP 2013 relating to LEP Aims and Objectives,
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Development controls.**

or their habitats.

However, the planning proposal also states that should such species, populations or ecological communities, or their habitats be adversely affected, the planning proposal will be modified if necessary.

2. Social and economic impacts:

Generally, each element of the planning proposal is consistent with the strategic planning framework as discussed above, as well as with Council's own strategic documents referred to in the planning proposal (namely: Council's Community Strategic Plan "Leichhardt 2020+" and draft "Leichhardt 2025+").

The nature of each element of the planning proposal is such that significant adverse impacts are considered unlikely.

Assessment Process

Proposal type :	Routine	Community Consultation Period :	28 Days
Timeframe to make LEP :	9 Month	Delegation :	RPA
Public Authority Consultation - 56(2)(d)	Office of Environment and Heritage		

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Signed Cover Letter_ DoP_PlanningProposal - Proposed changes to Exhibited Draft LEP 2012.pdf	Proposal Covering Letter	Yes
LMC_Planning Proposal_ Item 1_ Aims & Zone Objectives.pdf	Proposal	Yes

Amendments to draft Leichhardt LEP 2013 relating to LEP Aims and Objectives, Landscaped area clause, Exceptions to maximum FSR, Land Use Table, Complying Development controls.

LMC_Planning Proposal_Item 2_Clause 4.3A - Landscaped Area for Residential Development in Zone R1.pdf	Proposal	Yes
LMC_Planning Proposal_Item 3 FSR controls for non-residential development.pdf	Proposal	Yes
Item 3_Appendix A - Floor Space Ratio Maps.pdf	Map	Yes
LMC_Planning Proposal_Item 4 Land Use Tables (permitted and prohibited development).pdf	Proposal	Yes
LMC_Planning Proposal_Item 5 Complying development controls for the installation of photovoltaic panels.pdf	Proposal	Yes
Item 5_Appendix B Leichhardt DCP Discussion Paper - Photovoltaics on Residential Development.pdf	Study	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions:

- 1.1 Business and Industrial Zones
- 2.3 Heritage Conservation
- 3.1 Residential Zones
- 3.3 Home Occupations
- 3.4 Integrating Land Use and Transport
- 4.1 Acid Sulfate Soils
- 4.3 Flood Prone Land
- 6.1 Approval and Referral Requirements
- 6.3 Site Specific Provisions
- 7.1 Implementation of the Metropolitan Plan for Sydney 2036

Additional Information : Delegation of this planning proposal is permitted, but has not been requested by Council. However, given that Council has accepted the delegation of plan making powers, and the relatively minor nature of the planning proposal, it is recommended that the plan making function be delegated to Council.

The planning proposal should be supported and should proceed with the following conditions:

1. Council is to prepare the necessary proposed floor space ratio maps in accordance with the Standard Technical Requirements for LEP Maps (DP&I, November 2012). Council is to ensure that these maps are publicly exhibited with the planning proposal in accordance with the requirements below.

2. Community consultation is required under sections 56(2) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:

- (a) the planning proposal and all associated studies/assessments and reports must be made publicly available for 28 days; and
- (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for materials that must be made publicly available as identified in the current Guide to Preparing LEPs (DP&I).

3. Consultation is required with the following public authority under section 56(2)(d) of the EP&A Act:

- Office of Environment and Heritage

This public authority is to be provided with a copy of the planning proposal and any relevant supporting material. Each public authority is to be given at least 21 days to comment on the proposal, or to indicate that they will require additional time to comment on the proposal. Public authorities may request additional information or

**Amendments to draft Leichhardt LEP 2013 relating to LEP Aims and Objectives,
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additional matters to be addressed in the planning proposal.

4. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing.

5. The timeframe for completing the LEP is 9 months from the week following the date of the Gateway Determination.

Supporting Reasons :

The Department supports this planning proposal because, as a whole:

- it builds upon the mandatory Standard Instrument Aims and Zone objectives and reflects the feedback received during exhibition and Council's internal review of the draft LEP;
- it is consistent with Council's own strategic plans and the statutory planning framework;
- it provides a more accurate translation of Council's existing clauses;
- it provides for the inclusion of a clause that had not been translated into the Standard Instrument draft LEP;
- it makes some minor changes and corrects administrative errors;
- it is consistent with the NSW strategic planning framework.

Signature:



Printed Name:

Sandy Shewell

Date:

07-06-13

