

ATTACHMENT 4

Leichhardt LEP 2013 (Amendment 2) – Justification for proposed modifications to Planning Proposal Item 2: Amendments to Clause 4.3A Landscaped Area for residential accommodation in Zone R1

Amendments proposed to Clause 4.3A identified in blue	Justification
Omit clause 4.3A (3). Insert instead: (3) Development consent must not be granted to development to which this clause applies unless: (a) the development includes landscaped area that comprises: (i) at least 15 30 % of the site area—in the case of lots of not more than 235 square metres in area, or (ii) at least 20 40 % of the site area—in the case of lots of more than 235 square metres in area, and (b) the site coverage does not exceed 60% of the site area.	It has become apparent that the requirement for 30/40% soft landscaping will be difficult to achieve. Subclause 5 (outlined below) was intended to mitigate this increase but the assessment of DAs has demonstrated that it will not work as intended because it effectively changes the definition of landscaped area. This inadvertently would allow built structures such as above ground terraces to be defined as landscaped area. <i>“(5) Despite subclause (3), the minimum landscaped area may be reduced by not more than 50% for the purpose of accommodating pathways, patios, decks, pergolas, awnings, terrace, pools and the like but not for the purposes of carports or hard stand areas for the parking of motor vehicles”</i> It is proposed that the landscaped area figures are reduced by half and subclause (5) deleted which in effect achieves the same outcome without interfering with the definitions of landscaped area and site coverage.
(4) For the purposes of subclause (3): (a) subject to this subclause the site area is to be calculated in accordance with clause 4.5, and (b) any area that has a length or width of less than 1 metre is not to be included in calculating the portion of the landscaped area, and (c) any area greater than 500mm above ground level (existing) is not to be included in calculating the portion of the landscaped area. (d) a deck or balcony and the like (whether enclosed or unenclosed) is excluded from the calculation of site coverage if: (i) the finished floor level is 500mm or less above ground level (existing) or (ii) is a minimum of 2.4 metres above ground level (existing) (measured from the underside of the structure), with the space below able to be used separately for recreational and/or landscape purposes.	The aim of the amendment LEP 2013 was to translate as closely as possible the provisions of Clause 19(3) in conjunction with the definition of landscape area in the former LEP 2000 into the Standard Instrument format. See below. The assessment of DAs has demonstrated that the exhibited clause does not meet the intent of LEP 2000. LEP 2000 <i>19 (3) Except where the development is carried out in accordance with clause 23 (1):</i> <i>(a) the minimum landscaped area for residential development is 40% of the site area, and</i> <i>(b) 25% of the landscaped area required under paragraph (a):</i> <i>(i) is to be on natural or unpaved ground that is not overhung by or on top of any structure, and</i> <i>(ii) is to be permeable, and</i> <i>(iii) is to be appropriate for substantial deep planting.</i> <i>Landscaped area means the part of a site area at ground level:</i> <i>(a) not occupied by any building above or below ground, and</i> <i>(b) not overhung by part of a building with a clearance of less than 2.4 metres, and used for recreation, lawns, gardens and substantial planting. It does not include balconies, driveways and parking areas, but includes decks where they have a direct connection to ground level and are no higher than 500 millimetres above ground level.</i> These proposed additional subclauses (c) & (d) are required to more closely reflect the provisions of LEP 2000 and aim to: • encourage soft landscaping at or near natural ground level; • maintain and provide useful areas for outdoor recreation and landscaping • ensure substantial deep rooted planting; • minimise the amenity impacts of filled lands; and • encourage site responsive design.