

ATTACHMENT 5

LEICHHARDT MUNICIPAL COUNCIL

PROPOSED AMENDMENTS TO LEICHHARDT LOCAL ENVIRONMENTAL PLAN 2013

REVISED PLANNING PROPOSAL

Clause 4.3A – Landscaped areas for residential accommodation in Zone R1

Part 1 – Objectives or Intended Outcomes

On the 21 May 2013 Council resolved (C2012/13) to endorse changes required to the exhibited *Draft Leichhardt Local Environmental Plan 2012* (now *Leichhardt Local Environmental Plan 2013*) and initiate the plan making process (Planning Proposal) for proposed amendments to Clause 4.3A.

This planning proposal seeks to amend the landscaped area control – Clause 4.3A – Landscaped areas for residential accommodation in Zone R1, of the *Leichhardt Local Environmental Plan 2013*.

The intended outcomes of the amendments are to:

- ensure that the landscape area control is a more accurate translation of Council's former landscaped area control (Clause 19(3) and the definition of landscaped areas) in the *Leichhardt Local Environmental Plan 2000*,
- ensure that the municipality retains existing landscaped corridors, tree canopy and urban amenity, and
- encourage site responsive design.

Part 2 – Explanation of the Provisions

The published *Leichhardt Local Environmental Plan 2013*, Clause 4.3A is currently as follows:

Clause 4.3A - Landscaped areas for residential accommodation in Zone R1

- (1) The objectives of this clause are as follows:
 - (a) to provide landscaped areas that are suitable for substantial tree planting and for the use and enjoyment of residents,
 - (b) to maintain and encourage a landscaped corridor between adjoining properties,
 - (c) to ensure that development promotes the desired future character of the neighbourhood,
 - (d) to encourage ecologically sustainable development by maximising the retention and absorption of surface drainage water on site and by minimising obstruction to the underground flow of water,
 - (e) to control site density,
 - (f) to limit building footprints to ensure that adequate provision is made for landscaped areas and private open space.
- (2) This clause applies to development for the purpose of residential accommodation on land in Zone R1 General Residential.
- (3) Development consent must not be granted to development to which this clause applies unless:
 - (a) the development includes landscaped area that is at least 1 metre wide and comprises at least 10% of the site area, and
 - (b) the site coverage does not exceed 60% of the site area.

The planning proposal seeks to amend Clause 4.3A to read as follows:

Clause 4.3A - Landscaped Area for Residential Development in Zone R1

- (1) The objectives of this clause are as follows:
 - (a) to provide landscaped areas that are suitable for substantial tree planting and for the use and enjoyment of residents,
 - (b) to maintain and encourage a landscaped corridor between adjoining properties,
 - (c) to ensure that development promotes the desired future character of the neighbourhood,
 - (d) to encourage ecologically sustainable development by maximising the retention and absorption of surface drainage water on site and by minimising obstruction to the underground flow of water,
 - (e) to control site density,
 - (f) to limit building footprints to ensure that adequate provision is made for landscaped areas and private open space.
- (2) This clause applies to development for the purpose of residential accommodation on land in Zone R1 General Residential.
- (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 % of the site area—in the case of lots of not more than 235 square metres in area, or
 - (ii) at least 20 % 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.
- (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,
 - (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,
 - (c) any area greater than 500mm above ground level (existing) is not to be included in calculating the portion of the landscaped area, and
 - (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) it 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.

NOTE: See Part 4 - Table 1 which identifies the proposed changes to Clause 4.3A.

Part 3 – Justification

Section A – Need for planning proposal

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

This planning proposal is not a result of any strategic study or report. The planning proposal has been prepared in response to internal review of Council's new Standard Instrument Local Environmental Plan – *Leichhardt Local Environmental Plan 2013* and new comprehensive Development Control Plan – *Leichhardt Development Control Plan 2013*.

Leichhardt Local Environmental Plan 2013 is primarily a "translation" of the former *Leichhardt Local Environmental Plan 2000*. This means wherever practicable, existing zones and controls are matched with an equivalent provision under the Standard Instrument.

A review of the landscaped area and site coverage controls (Clause 4.3A) within *Leichhardt Local Environmental Plan 2013* revealed that in practice, they will not deliver the same outcome as Council's former landscaped area control Clause 19(3) and definition of landscaped area in *Leichhardt Local Environmental Plan 2000*.

The review has shown that:

- the current definition of "site coverage" permits significantly more building/structures (such as fully roofed decks, verandahs and terraces, carports, pergolas and the like) on a site, while technically still meeting the exhibited landscaped area control;
- This allows for increased numbers of structures on a site, and by default a potential reduction of open "landscaped area"; and
- The structures noted above are not included within the calculation of "site coverage" because the definition excludes them. Consequently they are not "site coverage" or "landscaped area", but can effectively cover what would otherwise be landscaped area.

In effect, under the current *Leichhardt Local Environmental Plan 2013* a site of 250sqm could have built and roofed structures over 90% of its area leaving only 25sqm of landscaped space, possibly in small separate pockets, and still achieve compliance.

Fundamentally the constraints imposed by the standard instrument definition of "site coverage" and "landscaped area" do not amount to a direct translation of Council's current landscaped area control. The 10% requirement would not be sufficient to achieve the underlying objectives of the control and could result in loss of landscaped corridors, tree canopy and urban amenity.

To offset this situation, the control in the current Clause 4.3A should be modified to incorporate two categories based on lot size. This will ensure that the objective and integrity of the former provision is maintained.

The proposed additional subclauses will more closely reflect the provisions of *Leichhardt Local Environmental Plan 2000* by:

- encouraging soft landscaping at or near natural ground level;
- maintaining and providing useful areas for outdoor recreation and landscaping;
- ensuring substantial deep rooted planting;
- minimising the amenity impacts of filled lands; and
- encouraging site responsive design.

Planning Proposal Item 2: Amendments to Clause 4.3A Landscaped areas for residential development in Zone R1 in the *Draft Leichhardt Local Environmental Plan 2013* was intended to address this (Note the name of the clause change when the draft was finalised). The planning proposal was exhibited for a period of a period of 38 days from 24 June 2013 to the 31 July 2013. No submissions were received in relation to Item 2 during the public exhibition period. This amendment to the *Leichhardt Local Environmental Plan 2013* has not yet been published.

Following the finalisation and commencement of *Leichhardt Local Environmental Plan 2013* and *Development Control Plan 2013* on the 3 February 2014 Council's Development Assessment Team have found, when applying the proposed draft Clause 4.3A that it is not a translation of Clause 19(3) of the former *Local Environmental Plan 2000*.

Section 58 (1) of the *Environmental Planning and Assessment Act 1979* allows Council to, at any time, vary its Planning Proposal as a consequence of its consideration of any submission or report during community consultation or for any other reason. Therefore Council has redrafted Clause 4.3A in the context of the published Local Environmental Plan and Development Control Plan.

The post exhibition modifications to Clause 4.3A proposed in this planning proposal will more closely reflect the provisions of *Local Environmental Plan 2000* and remain consistent with the provisions of the Standard Instrument.

For further information refer to **Appendix A – Landscaped Area Workings**.

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 *Leichhardt Local Environmental Plan 2013*. The proposed amendment is considered to be of significance and therefore requires exhibition and community consultation. The planning proposal is the best way of achieving the proposed changes to the plan and ensuring the community is consulted on this proposal.

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 and the Inner West Draft Subregional Strategy. The actions and objectives outlined in the tables below are of particular relevance.

Metropolitan Plan for Sydney to 2036 (current)	
Objective	
G6 – To protect Sydney's unique diversity of plants and animals	
G7 – To improve Sydney's air quality	

Draft Metropolitan Strategy for Sydney 2031	
Objective	
21 – Improve air quality	
20 – Minimise the impacts of climate change on local communities	
23 – Protect, enhance and rehabilitate our biodiversity	

Inner West Draft Subregional Strategy	
Action	
E2.2 – Protect Sydney's unique diversity of plants and animals	
E2.3 – Improve Sydney's air quality	
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 of Council's Community Strategic Plan Leichhardt 2025+¹.

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 in the table below.

Consideration of State Environmental Planning Policies (SEPPs)

SEPP Title	Applicable	Consistent
1. Development Standards	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
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
44. Koala Habitat Protection	No	N/A
47. Moore Park Showground	No	N/A

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SEPP Title	Applicable	Consistent
50. Canal Estate Development	No	N/A
52. Farm Dams and Other Works in Land and Water Management Plan Areas	No	N/A
55. Remediation of Land	No	N/A
59. Central Western Sydney Regional Open Space and Residential	No	N/A
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 Kurnell Peninsula 1989	No	N/A
SEPP Major Development 2005	No	N/A
SEPP Mining, Petroleum Production and Extractive Industries 2007	No	N/A
SEPP Miscellaneous Consent Provisions 2007	No	N/A
SEPP Penrith Lakes Scheme 1989	No	N/A
SEPP Port Botany and Port Kembla 2013	No	N/A
SEPP Rural Lands 2008	No	N/A
SEPP 53 Transitional Provisions 2011	No	N/A
SEPP State and Regional Development 2011	No	N/A
SEPP Sydney Drinking Water Catchment 2011	No	N/A
SEPP Sydney Region Growth Centres 2006	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.

s.117 Direction Title	Applicable	Consistent	Comments
1. Employment & Resources			
1.1 Business and Industrial Zones	No	N/A	
1.2 Rural Zones	No	N/A	
1.3 Mining, Petroleum Production and Extractive Industries	No	N/A	
1.4 Oyster Aquaculture	No	N/A	N/A to Leichhardt.
1.5. Rural Lands	No	N/A	
2. Environment & Heritage			
2.1 Environment Protection Zones	Yes	Yes	It is considered that there is no change to existing policy.
2.2 Coastal Protection	No	N/A	N/A to Leichhardt.
2.3 Heritage Conservation	Yes	Yes	It is considered that there is no change to existing policy.
2.4 Recreation Vehicle Areas	Yes	N/A	Does not apply to this particular proposal.
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	Yes	N/A	Does not apply to this particular proposal.
3.3 Home Occupations	Yes	N/A	Does not apply to this particular proposal.
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	Yes	Yes	It is considered that there is no change to existing policy.
3.6 Shooting Ranges	No	N/A	N/A to Leichhardt.
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	Yes	N/A	Does not apply to this particular proposal.
5. Regional Planning			
5.1 Implementation of Regional Strategies	Yes	N/A	Does not apply to this particular proposal.
5.2 Sydney Drinking Water Catchments	No	N/A	N/A to Leichhardt.
5.3 Farmland of State and Regional Significant on the NSW Far North Coast	No	N/A	N/A to Leichhardt.

s.117 Direction Title	Applicable	Consistent	Comments
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	No	N/A	N/A to Leichhardt.
5.8 Second Sydney Airport: Badgerys Creek	No	N/A	N/A to Leichhardt.
5.9 Northwest Rail Link Corridor Strategy	No	N/A	N/A to Leichhardt.
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	Yes	N/A	Does not apply to this particular proposal.
6.3 Site Specific Provisions	No	N/A	Does not apply to this particular proposal.
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 the former 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 to have any adverse social or economic effects.

Section D – State and Commonwealth interests

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

The administrative nature of the proposal means it has no public infrastructure implications.

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

This section of the planning proposal will be completed following the gateway determination which identifies which State and Commonwealth Public Authorities are to be consulted.

Part 4 – Mapping

Table 1: The proposed changes to Clause 4.3A Landscaped areas for residential accommodation in Zone R1

Leichhardt Local Environmental Plan 2013	Proposed Change
(1) The objectives of this clause are as follows: (a) to provide landscaped areas that are suitable for substantial tree planting and for the use and enjoyment of residents, (b) to maintain and encourage a landscaped corridor between adjoining properties, (c) to ensure that development promotes the desired future character of the neighbourhood, (d) to encourage ecologically sustainable development by maximising the retention and absorption of surface drainage water on site and by minimising obstruction to the underground flow of water, (e) to control site density, (f) to limit building footprints to ensure that adequate provision is made for landscaped areas and private open space. (2) This clause applies to development for the purpose of residential accommodation on land in Zone R1 General Residential. (3) Development consent must not be granted to development to which this clause applies unless: (a) the development includes landscaped area that is at least 1 metre wide and comprises at least 10% of the site area, and (b) the site coverage does not exceed 60% of the site area.	(1) The objectives of this clause are as follows: (a) to provide landscaped areas that are suitable for substantial tree planting and for the use and enjoyment of residents, (b) to maintain and encourage a landscaped corridor between adjoining properties, (c) to ensure that development promotes the desired future character of the neighbourhood, (d) to encourage ecologically sustainable development by maximising the retention and absorption of surface drainage water on site and by minimising obstruction to the underground flow of water, (e) to control site density, (f) to limit building footprints to ensure that adequate provision is made for landscaped areas and private open space. (2) This clause applies to development for the purpose of residential accommodation on land in Zone R1 General Residential. (3) Development consent must not be granted to development to which this clause applies unless: (a) the development includes landscaped area that is at least 1 metre wide and comprises at least 10% of the site area, the development includes landscaped area that comprises: (i) at least 15 % of the site area—in the case of lots of not more than 235 square metres in area, or (ii) at least 20 % 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. (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, (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, (c) any area greater than 500mm above ground level (existing) is not to be included in calculating the portion of the landscaped area, and (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.

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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 principal 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)	23 April 2014
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 - May 2014
Dates for public hearing (if required)	To be determined post exhibition.
Timeframe for consideration of submissions	May 2013
Timeframe for the consideration of a proposal post exhibition	June 2013
Drafting of instrument with Parliamentary Counsels Office in consultation with Council. Parliamentary Counsels issued Legal Opinion that plan can be made.	July 2013
Date of submission to Planning and Infrastructure to notify plan on legislation website	August 2013

APPENDIX A

Landscaped Area Workings

Landscaped Area Workings

1. Local Environmental Plan 2000 – Former Landscaped Area Controls

Landscaped Area Objectives (Cl. 17 (a) & (b))

- to provide development standards to ensure that the density and landscaped areas of new housing are complimentary to and compatible with the style, orientation and pattern of surrounding buildings, works and landscaping and to take into account the suite of controls in Leichhardt Development Control Plan 2000 to achieve the desired future character,
- to provide landscaped areas that are suitable for substantial tree planting and of a size and location suitable for the use and enjoyment of residents,

Landscaped Area Controls (Cl.19(3))

- (3) Except where the development is carried out in accordance with clause 23 (1):
- (a) the minimum landscaped area for residential development is 40% of the site area, and
 - (b) 25% of the landscaped area required under paragraph (a):
 - (i) is to be on natural or unpaved ground that is not overhung by or on top of any structure, and
 - (ii) is to be permeable, and
 - (iii) is to be appropriate for substantial deep planting.

Landscaped Area Definition

Landscaped area means the part of a site area at ground level:

- (a) not occupied by any building above or below ground, and
- (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.

2. Landscaped Area and Site Coverage Controls *Leichhardt Local Environmental Plan 2013*

Clause 4.3A – Landscaped areas for residential accommodation in Zone R1

- (1) The objectives of this clause are as follows:
 - (a) to provide landscaped areas that are suitable for substantial tree planting and for the use and enjoyment of residents,
 - (b) to maintain and encourage a landscaped corridor between adjoining properties,
 - (c) to ensure that development promotes the desired future character of the neighbourhood,
 - (d) to encourage ecologically sustainable development by maximising the retention and absorption of surface drainage water on site and by minimising obstruction to the underground flow of water,
 - (e) to control site density,
 - (f) to limit building footprints to ensure that adequate provision is made for landscaped areas and private open space.
- (2) This clause applies to development for the purpose of residential accommodation on land in Zone R1 General Residential.
- (3) Development consent must not be granted to development to which this clause applies unless:
 - (a) the development includes landscaped area that is at least 1 metre wide and comprises at least 10% of the site area, and
 - (b) the site coverage does not exceed 60% of the site area.

Landscaped Area Definition (Standard Instrument)

landscaped area means a part of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area.

Site Coverage Definition (Standard Instrument)

site coverage means the proportion of a site area covered by buildings.

However, the following are not included for the purpose of calculating site coverage:

- (a) any basement,
- (b) any part of an awning that is outside the outer walls of a building and that adjoins the street frontage or other site boundary,
- (c) any eaves,
- (d) unenclosed balconies, decks, pergolas and the like.

3. Impact of new definitions for landscaped area in Standard Instrument

Leichhardt Local Environmental Plan 2013 is primarily a “translation” of the former *Leichhardt Local Environmental Plan 2000*. This means wherever practicable, existing zones and controls are matched with an equivalent provision under the Standard Instrument.

A review of the landscaped area and site coverage controls (Clause 4.3A) within *Leichhardt Local Environmental Plan 2013* revealed that in practice, they will not deliver the same outcome as Council’s former landscaped area control Clause 19(3) and definition of landscaped area in *Leichhardt Local Environmental Plan 2000*.

The review has shown that:

- the current definition of “site coverage” permits significantly more building/structures (such as fully roofed decks, verandahs and terraces, carports, pergolas and the like) on a site, while technically still meeting the exhibited landscaped area control;
- This allows for increased numbers of structures on a site, and by default a potential reduction of open “landscaped area”; and
- The structures noted above are not included within the calculation of “site coverage” because the definition excludes them. Consequently they are not “site coverage” or “landscaped area”, but can effectively cover what would otherwise be landscaped area.

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Fundamentally the constraints imposed by the standard instrument definition of “site coverage” and “landscaped area” do not amount to a direct translation of Council’s current landscaped area control. The 10% requirement would not be sufficient to achieve the underlying objectives of the control and could result in loss of landscaped corridors, tree canopy and urban amenity.

To offset this situation, the control in the current Clause 4.3A should be modified to incorporate two categories based on lot size. This will ensure that the objective and integrity of the former provision is maintained.

The proposed additional subclauses will more closely reflect the provisions of *Leichhardt Local Environmental Plan 2000* by:

- encouraging soft landscaping at or near natural ground level;
- maintaining and providing useful areas for outdoor recreation and landscaping;
- ensuring substantial deep rooted planting;
- minimising the amenity impacts of filled lands; and
- encouraging site responsive design.

4. Proposed Landscaped Area Control for Draft Local Environmental Plan 2013 (via Planning Proposal)

Clause 4.3A - Landscaped Area for Residential Development in Zone R1

- (1) The objectives of this clause are as follows:
 - (a) to provide landscaped areas that are suitable for substantial tree planting and for the use and enjoyment of residents,
 - (b) to maintain and encourage a landscaped corridor between adjoining properties,
 - (c) to ensure that development promotes the desired future character of the neighbourhood,
 - (d) to encourage ecologically sustainable development by maximising the retention and absorption of surface drainage water on site and by minimising obstruction to the underground flow of water,
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- (2) This clause applies to development for the purpose of residential accommodation on land in Zone R1 General Residential.
- (3) Development consent must not be granted to development to which this clause applies unless:
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 - (i) at least 15 % of the site area—in the case of lots of not more than 235 square metres in area, or
 - (ii) at least 20 % 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.
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 - (a) subject to this subclause the site area is to be calculated in accordance with clause 4.5,
 - (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,
 - (c) any area greater than 500mm above ground level (existing) is not to be included in calculating the portion of the landscaped area, and
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