

**PROPOSED HOUSEKEEPING AMENDMENTS TO
LEICHHARDT LOCAL ENVIRONMENTAL PLAN 2013**

PLANNING PROPOSAL

**Development measures for alterations and additions to residential
property in an ANEF contour at 20 or greater**

Part 1 – Objectives or Intended Outcomes

This planning proposal seeks to amend Clause 6.8 *Development in areas subject to aircraft noise* in Part 6 *Additional local provisions* of the Leichhardt LEP 2013 to include additional subclauses as shown in italics below.

Part 2 – Explanation of the Provisions

6.8 Development in areas subject to aircraft noise

- (2) This clause applies to development that:
- (a) is on land that:
 - (i) is near the Kingsford Smith Airport, and
 - (ii) is in an ANEF contour of 20 or greater, and
 - (b) the consent authority considers is likely to be adversely affected by aircraft noise; *and*
 - (c) *is:*
 - (i) *the erection of a new building; or*
 - (ii) *a substantial alteration or addition to an existing building; or*
 - (iii) *affects a building that is (or was required by a development consent to be) compliant with AS 2021-2000; or*
 - (iv) *involves a change of use to development for the purpose of:*
 - (a) *a child care centre, educational establishment, entertainment facility, health services facility, place of public worship, public administration building or residential accommodation on land that is in an ANEF contour of 20 or greater; or*
 - (b) *a business premises, hostel, office premises, retail premises or tourist and visitor accommodation on land that is in an ANEF contour of 25 or greater; or*
 - (c) *a light industry on land that is in an ANEF contour of 30 or greater.*
- (3) Before determining a development application for development to which this clause applies, the consent authority:
- (a) must consider whether the development will result in:
 - (i) *the creation of a new dwelling, or*
 - (ii) *an increase in the number of dwellings or people affected by aircraft noise, and*
 - (b) must consider the location of the development in relation to the criteria set out in Table 2.1 (Building Site Acceptability Based on ANEF Zones) in AS 2021-2000, and
 - (c) must be satisfied the development will meet the indoor sound levels shown in Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction) in AS 2021-2000.

This amendment to Clause 6.8 aims to allow Council to exercise discretion over noise insulation requirements, as it was not standard practice for Council to require noise attenuation for minor extensions or renovations to dwellings under the *Leichhardt Local Environmental Plan 2000*.

Clause 6.8 of the *Leichhardt Local Environmental Plan 2013* however requires the consent authority to be 'satisfied' that all residential development (including all extensions) will meet noise insulation standards. This makes noise insulation mandatory for all dwelling renovations and/or extensions within ANEF 20+, regardless of size. This places an

unreasonable onus on homeowners to provide a noise impact report with development applications and to install noise insulation, even for minor alterations and extensions.

Part 6 *Additional Local Provisions of the Leichhardt Local Environmental Plan 2013* includes local model provisions established by the Department of Planning and Environment in conjunction with the Parliamentary Counsel's Office. These 'model local provisions' were formulated to address common issues raised by councils in their standard instrument LEP preparation. *Development in areas subject to aircraft noise* was one of these model local clauses.

Clause 6.8 *Development in areas subject to aircraft noise* of the *Leichhardt Local Environmental Plan 2013* is a model clause for development in areas subject to aircraft noise. The model clause is applicable to all civil and military airports for which aircraft noise exposure forecast (ANEF) maps have been prepared.

The model clause was developed so that where residential development is proposed in areas of aircraft noise exposure forecast levels of greater than 20 ANEF, consent authorities must be satisfied that appropriate measures will be taken so that the interior noise levels in the development will meet Australian Standard AS 2021-2000, Acoustics- Aircraft noise intrusion- building siting and construction. AS 2021-2000 can also be applied to other land uses and considered by a consent authority in relation to other ANEF levels.

This planning proposal is similar to a recent Marrickville Council LEP amendment to the local model clause *Development in areas subject to aircraft noise* which received a Gateway Determination dated 14 March 2014. This LEP Amendment is known as Amendment No. 2 to the *Marrickville LEP 2011* and was exhibited from 31 July to 6 October 2014.

Council proposes to implement the same amendment to *Leichhardt Local Environmental Plan 2013* given the similar residential built environment in the two LGAs, and that the former *Leichhardt Local Environmental Plan 2000* allowed for discretion regarding noise insulation for minor development in residential areas within an ANEF contour of 20 or greater.

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 in response to onerous requirements for noise reports for minor residential development on land within an ANEF contour of 20 or greater. This amendment has been developed to be consistent with overriding strategic studies, including the Metropolitan Strategy, draft Inner West Sub-regional strategy, and 2050+ Leichhardt Community Strategic Plan. This planning proposal is considered to be consistent with these studies, and with the objectives of the Leichhardt LEP itself.

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

The proposal is considered the best way of achieving the objective to improve the operation of the Leichhardt LEP 2013 in regards to development in areas subject to aircraft noise and the only way to achieve the desired amendment to the relevant clause.

Q3. Is there a net community benefit?

Yes, currently all dwelling renovations and/or extensions on land within an ANEF contour of 20 or greater require noise attenuation measures, regardless of the scope of works. This is considered to be unduly expensive and onerous for smaller alterations and additions to existing dwelling houses. This amendment is intended to assist the community by reducing

the cost of undertaking home improvements. Council will retain the ability to request these works to be undertaken should noise attenuation be deemed necessary.

Section B – Relationship to strategic planning framework.

Q4. 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 *A Plan for Growing Sydney* and the Draft Inner West Subregional Strategy. The following actions and objectives outlined in the tables below are of particular relevance.

A Plan for Growing Sydney
Objective
Direction 1.5 Enhance capacities at Sydney's gateways and freight networks.
Direction 2.3 Improve housing choice to suit different needs and lifestyles.

Draft Inner West Subregional Strategy
Action
A 2.3 Support magnet infrastructure
C1.3 Ensure adequate supply of land and sites for residential development
C5.1 Improve the design quality of new development
G1.2 – Improve local planning and assessment

Q5. 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 2025+'.

Leichhardt 2025+
Place where we live and work
- 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.
Sustainable Service and Assets
Transparent, consistent, efficient and effective participative processes are delivered.

Q6. 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	Comments
1. Development Standards	No	Does not apply to this LGA.
14. Coastal Wetlands	No	This LGA does not contain any

SEPP Title	Applicable	Comments
		coastal wetlands.
15. Rural Landsharing Communities	No	This LGA does not contain any rural land.
19. Bushland in Urban Areas	No	N/A to proposal.
21. Caravan Parks	No	N/A to proposal.
26. Littoral Rainforests	No	This LGA does not include any littoral rainforests.
29. Western Sydney Recreation Area	No	Does not apply to this LGA.
30. Intensive Agriculture	No	Development covered by this SEPP does not occur in this LGA.
32. Urban Consolidation (Redevelopment of Urban Land)	No	N/A to proposal.
33. Hazardous and Offensive Development	No	N/A to proposal.
36. Manufactured Home Estates	No	Does not apply to this LGA.
39. Spit Island Bird Habitat	No	Does not apply to this LGA.
44. Koala Habitat Protection	No	Does not apply to this LGA.
47. Moore Park Showground	No	Does not apply to this LGA.
50. Canal Estate Development	No	Does not apply to this LGA.
52. Farm Dams and Other Works in Land at Water Management Plan Areas	No	Does not apply to this LGA.
55. Remediation of Land	No	N/A to proposal.
59. Central Western Sydney Regional Open Space and Residential	No	Does not apply to this LGA.
62. Sustainable Aquaculture	No	Development covered by this SEPP does not occur in this LGA.
64. Advertising and Signage	No	N/A to proposal.
65. Design Quality of Residential Flat Development	No	N/A to proposal.
70. Affordable Housing (Revised Schemes)	No	N/A to proposal.
71. Coastal Protection	No	Applies only to the coastal zone. LGA is not within the coastal zone.
SEPP (Affordable Rental Housing) 2009	No	N/A to proposal.
SEPP (Building Sustainability Index: BASIX) 2004	No	N/A to proposal.
SEPP (Exempt and Complying Development Codes) 2008	No	N/A to proposal.
SEPP (Housing for Seniors or People with a Disability) 2004	No	N/A to proposal.
SEPP (Infrastructure) 2007	No	N/A to proposal.
SEPP (Kosciuszko National Park – Alpine Resorts) 2007	No	Does not apply to this LGA.
SEPP (Kurnell Peninsula) 1989	No	Does not apply to this LGA.
SEPP Major Development 2005	No	N/A to proposal.
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	No	N/A to proposal.
SEPP (Penrith Lakes Scheme) 1989	No	Does not apply to this LGA.
SEPP (Port Botany and Port Kembla) 2013	No	Does not apply to this LGA.

SEPP Title	Applicable	Comments
SEPP (Rural Lands) 2008	No	Does not apply to this LGA.
SEPP (SEPP 53 Transitional Provisions) 2011	No	Does not apply to this LGA
SEPP (State and Regional Development) 2011	No	N/A to proposal.
SEPP (Sydney Drinking Water Catchment) 2011	No	Does not apply to this LGA.
SEPP (Sydney Region Growth Centres) 2006	No	Does not apply to this LGA.
SEPP (Three Ports) 2013		Does not apply to this LGA.
SEPP (Miscellaneous Consent Provisions) 2007	No	N/A to proposal.
SEPP (Urban Renewal) 2010	No	N/A to proposal.

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

REP Title	Applicable	Consistent
REP No. 2 - Georges River Catchment	No	Does not apply to this LGA.
Hunter REP 1989 - Heritage	No	Does not apply to this LGA.
Illawarra REP No. 1	No	Does not apply to this LGA.
Illawarra REP No. 2 - Jamberoo Valley	No	Does not apply to this LGA.
Jervis Bay REP 1996	No	Does not apply to this LGA.
Lower South Coast REP No. 2	No	Does not apply to this LGA.
North Coast REP	No	Does not apply to this LGA.
Central Coast Plateau Areas	No	Does not apply to this LGA.
Riverina REP No. 1	No	Does not apply to this LGA.
Willandra Lakes REP No. 1 - World Heritage Property	No	Does not apply to this LGA.
Murray REP No. 2 - Riverine Land	No	Does not apply to this LGA.
Orana REP No.1 - Siding Spring	No	Does not apply to this LGA.
REP No.8 - Central Coast Plateau Areas	No	Does not apply to this LGA.
REP No.9 - Extractive Industry (No 2—1995)	No	Does not apply to this LGA.
REP No.16 - Walsh Bay	No	Does not apply to this LGA.
REP No.18 - Public Transport Corridors	No	Does not apply to this LGA.
REP No.19 - Rouse Hill Development Area	No	Does not apply to this LGA.
REP No.20 - Hawkesbury-Nepean River (No 2—1997)	No	Does not apply to this LGA.
REP No.24 - Homebush Bay Area	No	Does not apply to this LGA.
REP No.26 - City West	No	N/A to proposal.
REP No.30 - St Marys	No	Does not apply to this LGA.
REP No.33 - Cooks Cove	No	Does not apply to this LGA.
SREP (Sydney Harbour Catchment) 2005	No	Does not apply to this part of the LGA.

Q7. 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	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	
1.5. Rural lands	No	N/A	
2. Environment & Heritage			
2.1 Environment Protection Zones	No	N/A	
2.2 Coastal protection	No	N/A	
2.3 Heritage Conservation	No	N/A	
2.4 Recreation Vehicle Areas	No	N/A	
3. Housing Infrastructure & Urban Development			
3.1 Residential Zones	Yes	Yes	Consistent with the terms of this direction.
3.2 Caravan Parks and Manufactured Home Estates	No	N/A	
3.3 Home Occupations	No	N/A	
3.4 Integrating Land Use & Transport	Yes	Yes	Consistent with the terms of this direction.
3.5 Development near licensed aerodromes	Yes	No	The planning proposal is slightly inconsistent with this direction but the inconsistency is of minor significance as per 3.5(7)(d) and has already been accepted as a proposed amendment to the Marrickville LEP.
3.6 Shooting Ranges	No	N/A	
4. Hazard & Risk			
4.1 Acid Sulphate Soils	No	N/A	
4.2 Mine Subsidence and Unstable land	No	N/A	
4.3 Flood Prone Land	No	N/A	
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 Coast	No	N/A	
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	No	N/A	

s.117 Direction Title	Applicable	Consistent	Comments
5.5 Revoked	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	
5.9 North West Rail Link Corridor Strategy	No	N/A	
6. Local Plan Making			
6.1 Approval and Referral Requirements	Yes	Yes	
6.2 Reserving Land for Public Purposes	No	N/A	
6.3 Site Specific Provisions	No	N/A	
7. Metropolitan Planning			
Implementation of <i>A Plan for Growing Sydney</i>	Yes	Yes	

Section C – Environmental, social and economic impact

Q8. *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?*

No, the proposal will not have any adverse impacts on critical habitat or threatened species, populations or ecological communities, or their habitats.

Q9. *Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?*

There may be some noise impacts and environmental effects of minor significance. These will be managed through the development application merit assessment process.

Q10. *How has the planning proposal adequately addressed any social and economic effects?*

The planning proposal will have beneficial social and economic impacts by alleviating the costs for home owners of carrying out minor developments. Currently, homeowners are required to provide a noise report with a development application and to undertake noise insulation, even if works are minor. This amendment will allow the consent authority to exercise discretion over noise insulation requirements, and in some circumstances, relieve home owners from these additional costs.

Section D – State and Commonwealth interests

Q11. *Is there adequate public infrastructure for the planning proposal?*

Yes there is adequate infrastructure for the planning proposal, given the nature of the proposal (administrative changes to the requirement for noise attenuation measures for minor alterations and additions) and the proposal is not expected to have any impact on public infrastructure.

Q12. 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

There are no mapping changes associated with this planning proposal.

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. Given that there are other planning proposal items that are not considered to be low impact, it is Council's preference that the planning proposal be exhibited for a minimum of 28 days.

Part 6 – Project Timeline

Anticipated Project Timeline	Proposed Date (s)
Anticipated commencement date (date of Gateway determination)	5 June 2015
Anticipated timeframe for the completion of required technical information	At this stage 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 – 18 June to 16 July 2015
Dates for public hearing (if required)	To be determined post exhibition
Timeframe for consideration of submissions	26 August 2015
Timeframe for the consideration of a proposal post exhibition	14 September 2015

Attachment 1- Delegation of Plan Making Functions to Council

Council is seeking an authorisation to make the plan for this planning proposal. The following response to the evaluation criteria is in support of this request;

(NOTE – where the matter is identified as relevant and the requirement has not been met, council is attach information to explain why the matter has not been addressed	Council Response		Department Assessment	
	Y/N	Not Relevant	Agree	Not Agree
Is the planning proposal consistent with the Standard Instrument Order 2006?	Y			
Does the planning proposal contain an adequate explanation of the intent, objectives, and intended outcome of the proposed amendment?	Y			
Are appropriate maps included to identify the location of the site and the intent of the amendment?		NA		
Does the planning proposal contain details related to proposed consultation?	Y			
Is the planning proposal compatible with an endorsed regional or sub-regional planning strategy endorsed by the Director-General?	Y			
Does the planning proposal adequately address any consistency with all relevant S117 Planning Direction?	Y			
Is the planning proposal consistent with all relevant State Environmental Planning Policies (SEPPs)?	Y			
Minor Mapping Error Amendments				
Does the planning proposal seek to address a minor mapping error and contain all appropriate maps that clearly identify the error and the manner in which the error will be addressed?		NA		
Heritage LEPs				
Does the planning proposal seek to add or remove a local heritage item and is it supported by a strategy/study endorsed by the Heritage Office?		NA		
Does the planning proposal include another form of endorsement or support from the Heritage Office if there is no supporting strategy/study?		NA		
Does the planning proposal potentially impact on an item of State Heritage Significance and if so, have the views of the Heritage Office been obtained?		NA		
Reclassifications				
Is there an associated spot rezoning with the reclassification?	N			
If yes to the above, is the rezoning consistent with an endorsed Plan of Management (POM) or strategy?		NA		
Is the planning proposal proposed to rectify an anomaly in a classification?		NA		
Will the planning proposal be consistent with an adopted POM or other strategy related to the site?		NA		
Will the draft LEP discharge any interests in public land under section 30 of the <i>Local Government Act, 1993</i> ?		NA		
If so, has council identified all interests; whether any rights or interests will be extinguished; any trusts and covenants relevant to the site; and, included a copy of the title with the planning proposal?		NA		
Has the council identified that it will exhibit the planning proposal in accordance with the department's Practice Note (PN 09-003) <i>Classification and reclassification of public land through a local environmental plan and Best Practice Guidelines for LEPs and Council Land</i> ?		NA		
Has council acknowledged in its planning proposal that a Public Hearing will be required and agreed to hold one as part of its documentation?		NA		

Spot Rezoning				
Will the planning proposal result in a loss of development potential for the site (ie reduced FSR or building height) that is not supported by an endorsed strategy?	N			
Is the rezoning intended to address an anomaly that has been identified following the conversion of a principal LEP into a Standard Instrument LEP Format?		NA		
Matter in an existing LEP and if so, does it provide enough information to explain how the issue that lead to the deferral has been addressed?		NA		
If yes, does the planning proposal contain sufficient documented justification to enable the matter to proceed?		NA		
Does the planning proposal create an exception to a mapped development standard?	N			
Section 73A Matters				
Does the proposed instrument- a) Correct an obvious error in the principal instrument consisting of a misdescription, the inconsistent numbering of provisions, a wrong cross-reference, a spelling error, a grammatical mistake, the insertion of obviously missing words, the removal of obviously unnecessary words or a formatting error?; b) Address matters in the principal instrument that are of a consequential, transitional machinery or other minor nature?; or c) Deal with matters that do not warrant compliance with the conditions precedent for the making of the instrument because they will not have any significant adverse impact on the environment or adjoining land?	N			

**PROPOSED HOUSEKEEPING AMENDMENTS TO
LEICHHARDT LOCAL ENVIRONMENTAL PLAN 2013**

PLANNING PROPOSAL

Changes to the RE1 Public Recreation Land Use Table to allow:

- **Recreation Area as permissible without consent; and**
- **Restaurant or Café as permissible with consent.**

Part 1 – Objectives or Intended Outcomes

This planning proposal seeks to amend the Land Use Table for RE1 Public Recreation zones to make *restaurant or café* permissible with consent, and to allow *recreation areas* as permissible without consent.

The objective of this amendment is to complete the translation of permissible development in the comparable Open Space zone in *Leichhardt Local Environmental Plan (LEP) 2000* to the new standard instrument RE1 Public Recreation zone in *Leichhardt Local Environmental Plan 2013*.

Part 2 – Explanation of the Provisions

To facilitate the completion of this translation, two (2) amendments to the Land Use Table of RE1 Public Recreation are sought:

1. Insert *recreation area* as permissible without consent; and
2. Insert *restaurant and café* as permissible with consent.

1. Recreation Areas as Permissible Without Consent

Under the Clause 25(2) Development Control Table: Open Space Zone of the *Leichhardt Local Environmental Plan 2000*, the following development could be undertaken without consent- ancillary sporting structures, open space embellishment, playgrounds and recreation areas.

In the translation to the *Leichhardt Local Environmental Plan (LEP) 2013*, the Open Space Zone became RE1 Public Recreation Zone. Although the majority of the land uses that were permissible without consent under Leichhardt LEP 2000 remained under clauses 64-66 of the *State Environmental Planning Policy (Infrastructure) 2007*, Leichhardt LEP 2013 requires development consent for new playgrounds.

Under the *Leichhardt Local Environmental Plan 2013* new playgrounds are required to obtain development consent as the land use is encapsulated under the land use term *Recreation Areas*. The definition of a recreation area under the *Leichhardt Local Environmental Plan 2013* is provided below.

Recreation area - means a place used for outdoor recreation that is normally open to the public, and includes:

- (a) a children's playground, or
 - (b) an area used for community sporting activities, or
 - (c) a public park, reserve or garden or the like,
- and any ancillary buildings, but does not include a recreation facility (indoor), recreation facility (major) or recreation facility (outdoor).

The purpose of this proposal is to facilitate the construction of new playgrounds as permissible without consent in the RE1 Public Recreation Zone. This would achieve consistency with the *Leichhardt Local Environmental Plan 2000* and save the additional costs associated with the preparation and assessment of development applications by Council.

It is proposed that *recreation areas* be inserted into the Land Use Table for Zone RE1 Public Recreation as permitted without consent. Any new playground will also have to be identified in the relevant park *Plan of Management* which requires public consultation under Division 2 of the *Local Government Act 1993*.

It is noted that Clause 66 of the *State Environmental Planning Policy (Infrastructure) 2007* dictates land uses which are exempt development within public reserves. Subclause 66(1)(a)(iv) states that the construction of play equipment (where adequate safety provisions are provided and it is at least 1.2m from a fence) is exempt development. It is

considered that *play equipment* does not encapsulate whole *new play grounds*, as playgrounds are included within the land use of *recreational areas* under the *Leichhardt LEP 2013*. Subclause 65(2)(d) of the *Infrastructure SEPP* allows development for any purpose to be carried out without consent on a Crown Reserve provided it is permitted by the Plan of Management, but this does not apply to council-owned land or other land under Council's care, control and/or management.

2. Restaurant or café in RE1 Public Recreation Zone

Under the *Leichhardt Local Environmental Plan 2000* restaurants or cafes were permissible with consent if the relevant Plan of Management allowed such uses. Under the *Leichhardt Local Environmental Plan 2013* restaurant or cafés became prohibited.

As discussed above, under Clause 65(2) of the *State Environmental Planning Policy (Infrastructure)* development may be undertaken without consent if it is for the purposes of implementing a Plan of Management (PoM). For other RE1 Public Recreation zoned land restaurants and cafes are prohibited by the *Leichhardt Local Environmental Plan 2013*. In order to create the mechanism that was previously available under clause 26(7) of the *Leichhardt Local Environmental Plan 2000*, Council is seeking to amend the *Leichhardt Local Environmental Plan 2013* Land Use Table for the RE1 Public Recreation zone to make restaurant or café permissible with consent.

Restaurants or cafés can (in appropriate locations) enhance the recreational amenity of public parks and increase patronage and tourism in the area. In order for a restaurant or café to gain consent the relevant Plan of Management must permit it. The process of making (or amending) Plans of Management requires significant community consultation and evaluation by Council as required by the *Local Government Act 1993*.

In addition to being consistent with a PoM, any such proposed use must be the subject of a development application. The assessment of the development application will include site specific evaluations, traffic and parking impact assessments, acoustic reports, social impact comments and public notification.

The purpose of this planning proposal is to make restaurants or cafes a permissible land use in Council-owned parks where appropriate. The processes involved with making or amending relevant Plans of Management and development assessment will ensure these types of developments occur in appropriate locations to benefit public recreation spaces.

Part 3 – Justification

Section A – Need for planning proposal

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

No this planning proposal is not a result of any strategic study or report. The rationale for the proposed amendments is to allow permissible land uses in the RE1 Public Recreation zone under the *Leichhardt Local Environmental Plan 2013* that were previously permissible under the *Leichhardt Local Environmental Plan 2000*.

This will enable Council to develop new playgrounds and cafes and restaurants where appropriate subject to the relevant park Plan of Management(s) as required by the *Local Government Act 1993*.

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

The planning proposal is the only way to amend the *Leichhardt Local Environmental Plan 2013* Land Table to enable new playgrounds (recreation areas) as a permissible without consent in the RE1 Public Recreation zone, and to allow restaurants or cafes in

appropriate areas with consent. The planning proposal is the best way of achieving the intended outcomes, although it is noted that relevant Plans of Management will need to be amended to allow the use prior to development proceeding.

Q3. Is there a net community benefit?

Yes, the community will benefit through a greater range of recreational activities being facilitated in appropriate locations across all public recreation space. It will facilitate local-scale business growth and jobs, plus the provision of community facilities that will increase amenity for local residents and visitors.

Section B – Relationship to strategic planning framework.

Q4. 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 and the Draft Inner West Subregional Strategy. The following actions and objectives outlined in the tables below are of particular relevance.

Metropolitan Plan - A Plan for Growing Sydney
Objective
Direction 3.2: Create a network of interlinked, multipurpose open and green spaces across Sydney.
Direction 3.3 Create healthy built environments.

Draft Inner West Subregional Strategy
Action
F1 Provide access to quality parks and public places.
F2 Provide a diverse mix of parks and public places.
F4 Enhance culture life and tourism precincts.
G1.2 – Improve local planning and assessment

Q5. 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 2025+'.

Leichhardt 2025+
1 Community Well-being
• People are connected to place.
3 Place Where We live and Work
• 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. • 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 A Sustainable Environment
• Develop our commitment & capacity to consistently support environmental sustainability. • Protect, restore and enhance our natural environment and native biodiversity within our urban context.

Leichhardt 2025+
5 Business in the Community
Places are created that attract and connect people
6 Sustainable Services & Assets
Apply our Values to deliver transparent, consistent, efficient and effective participative processes.

Q6. 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	Comments
1. Development Standards	No	Does not apply to this LGA.
14. Coastal Wetlands	No	This LGA does not contain any coastal wetlands.
15. Rural Landsharing Communities	No	This LGA does not contain any rural land.
19. Bushland in Urban Areas	No	N/A to proposal.
21. Caravan Parks	No	N/A to proposal.
26. Littoral Rainforests	No	This LGA does not include any littoral rainforests.
29. Western Sydney Recreation Area	No	Does not apply to this LGA.
30. Intensive Agriculture	No	Development covered by this SEPP does not occur in this LGA.
32. Urban Consolidation (Redevelopment of Urban Land)	No	N/A to proposal.
33. Hazardous and Offensive Development	No	N/A to proposal.
36. Manufactured Home Estates	No	Does not apply to this LGA.
39. Spit Island Bird Habitat	No	Does not apply to this LGA.
44. Koala Habitat Protection	No	Does not apply to this LGA.
47. Moore Park Showground	No	Does not apply to this LGA.
50. Canal Estate Development	No	Does not apply to this LGA.
52. Farm Dams and Other Works in Land and Water Management Plan Areas	No	Does not apply to this LGA.
55. Remediation of Land	No	N/A to proposal.
59. Central Western Sydney Regional Open Space and Residential	No	Does not apply to this LGA.
62. Sustainable Aquaculture	No	Development covered by this SEPP does not occur in this LGA.
64. Advertising and Signage	No	N/A to proposal.
65. Design Quality of Residential Flat Development	No	N/A to proposal.
70. Affordable Housing (Revised Schemes)	No	N/A to proposal.
71. Coastal Protection	No	Applies only to the coastal zone. LGA is not within the coastal zone.

SEPP Title	Applicable	Comments
SEPP (Affordable Rental Housing) 2009	No	N/A to proposal.
SEPP (Building Sustainability Index: BASIX) 2004	No	N/A to proposal.
SEPP (Exempt and Complying Development Codes) 2008	No	N/A to proposal.
SEPP (Housing for Seniors or People with a Disability) 2004	No	N/A to proposal.
SEPP (Infrastructure) 2007	No	N/A to proposal.
SEPP (Kosciuszko National Park – Alpine Resorts) 2007	No	Does not apply to this LGA.
SEPP (Kurnell Peninsula) 1989	No	Does not apply to this LGA.
SEPP Major Development 2005	No	N/A to proposal.
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	No	N/A to proposal.
SEPP (Penrith Lakes Scheme) 1989	No	Does not apply to this LGA.
SEPP (Port Botany and Port Kembla) 2013	No	Does not apply to this LGA.
SEPP (Rural Lands) 2008	No	Does not apply to this LGA.
SEPP (SEPP 53 Transitional Provisions) 2011	No	Does not apply to this LGA.
SEPP (State and Regional Development) 2011	No	N/A to proposal.
SEPP (Sydney Drinking Water Catchment) 2011	No	Does not apply to this LGA.
SEPP (Sydney Region Growth Centres) 2006	No	Does not apply to this LGA.
SEPP (Three Ports) 2013		Does not apply to this LGA.
SEPP (Miscellaneous Consent Provisions) 2007	No	N/A to proposal.
SEPP (Urban Renewal) 2010	No	N/A to proposal.

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

REP Title	Applicable	Consistent
REP No. 2 - Georges River Catchment	No	Does not apply to this LGA.
Hunter REP 1989 - Heritage	No	Does not apply to this LGA.
Illawarra REP No. 1	No	Does not apply to this LGA.
Illawarra REP No. 2 - Jamberoo Valley	No	Does not apply to this LGA.
Jervis Bay REP 1996	No	Does not apply to this LGA.
Lower South Coast REP No. 2	No	Does not apply to this LGA.
North Coast REP	No	Does not apply to this LGA.
Central Coast Plateau Areas	No	Does not apply to this LGA.
Riverina REP No. 1	No	Does not apply to this LGA.
Willandra Lakes REP No. 1 - World Heritage Property	No	Does not apply to this LGA.
Murray REP No. 2 - Riverine Land	No	Does not apply to this LGA.
Orana REP No.1 - Siding Spring	No	Does not apply to this LGA.
REP No.8 - Central Coast Plateau Areas	No	Does not apply to this LGA.
REP No.9 - Extractive Industry (No 2—1995)	No	Does not apply to this LGA.

REP Title	Applicable	Consistent
REP No.16 - Walsh Bay	No	Does not apply to this LGA.
REP No.18 - Public Transport Corridors	No	Does not apply to this LGA.
REP No.19 - Rouse Hill Development Area	No	Does not apply to this LGA.
REP No.20 - Hawkesbury-Nepean River (No 2—1997)	No	Does not apply to this LGA.
REP No.24 - Homebush Bay Area	No	Does not apply to this LGA.
REP No.26 - City West	No	N/A to proposal.
REP No.30 - St Marys	No	Does not apply to this LGA.
REP No.33 - Cooks Cove	No	Does not apply to this LGA.
SREP (Sydney Harbour Catchment) 2005	No	Does not apply to this part of the LGA.

Q7. 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	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	
1.5. Rural lands	No	N/A	
2. Environment & Heritage			
2.1 Environment Protection Zones	No	N/A	
2.2 Coastal protection	No	N/A	
2.3 Heritage Conservation	Yes	Yes	
2.4 Recreation Vehicle Areas	No	N/A	
3. Housing Infrastructure & Urban Development			
3.1 Residential Zones	No	N/A	
3.2 Caravan Parks and Manufactured Home Estates	No	N/A	
3.3 Home Occupations	No	N/A	
3.4 Integrating Land Use & Transport	Yes	Yes	
3.5 Development near licensed aerodromes	Yes	Yes	
3.6 Shooting Ranges	No	N/A	
4. Hazard & Risk			
4.1 Acid Sulphate Soils	Yes	Yes	
4.2 Mine Subsidence and Unstable land	No	N/A	
4.3 Flood Prone Land	Yes	Yes	Any development must coincide with the relevant park Plan of Management which considers

s.117 Direction Title	Applicable	Consistent	Comments
			Council's flood policies.
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 Coast	No	N/A	
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	No	N/A	
5.5 Revoked	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	
5.9 North West Rail Link Corridor Strategy	No	N/A	
6. Local Plan Making			
6.1 Approval and Referral Requirements	Yes	Yes	
6.2 Reserving Land for Public Purposes	No	N/A	
6.3 Site Specific Provisions	No	N/A	
7. Metropolitan Planning			
Implementation of the Metropolitan Strategy	Yes	Yes	

Section C – Environmental, social and economic impact

Q8. *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 will allow new playgrounds to be built without consent and enable restaurants or cafes to be permissible with consent in the RE1 zone. Proposals of both types will need to address *Leichhardt Council Environmental Sustainability Strategy 2010* and comply with the *Leichhardt Native Revegetation and Biodiversity Management Plan*, which has been incorporated into each Council park Plan of Management.

This 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, ecological communities or habitats may be adversely affected by individual development proposals, these factors would be taken into consideration and any development consent modified as necessary.

Q9. *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 achieve consistency with the previous *Leichhardt Local Environmental Plan 2000*) it is not anticipated that there will be any adverse environmental effects.

Q10. How has the planning proposal adequately addressed any social and economic effects?

This planning proposal is of a minor scale and its social and economic effects will be minor and positive. They will also be assessed during community consultation for the planning proposal, again for relevant Plan of Management amendments, and finally through the notification of development applications for proposed restaurants or cafes.

The planning proposal will enable small scale business opportunities, enhance recreational areas, strengthen the sense of place, and improve amenity for residents and visitors.

Section D – State and Commonwealth interests

Q11. Is there adequate public infrastructure for the planning proposal?

In regards to including recreation areas as permissible without consent, new playgrounds will be able to be built where deemed appropriate by Council. Playgrounds are a type of community infrastructure which is ancillary to the recreational use and are not expected to have an impact on surrounding public infrastructure.

Development applications for restaurants or cafes will need to outline the impacts of the proposed development on the local infrastructure in relation to specific locations and proposed capacity levels. These applications will be subject to merit based assessment against all relevant planning provisions provided within the *Leichhardt Local Environmental Plan 2013* and *Leichhardt Development Control Plan 2013*, as well as the relevant Plan of Management. This assessment will determine appropriate levels of development with consideration given to existing infrastructure and its capacity levels.

This process is considered a strong tool for addressing potential development impacts on public infrastructure at the local level.

Q12. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway Determination?

This section of the planning proposal is completed following the Gateway Determination which identifies which State and Commonwealth Public Authorities are to be consulted.

Part 4 – Mapping

There are no associated mapping amendments with this planning proposal.

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,
- it 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. Given that there are other planning proposal items that are not considered to be low impact, it is Council's preference that the planning proposal be exhibited for a minimum of 28 days.

Part 6 – Project Timeline

Anticipated Project Timeline	Proposed Date (s)
Anticipated commencement date (date of Gateway determination)	5 June 2015
Anticipated timeframe for the completion of required technical information	At this stage 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 – 18 June to 16 July 2015
Dates for public hearing (if required)	To be determined post exhibition
Timeframe for consideration of submissions	26 August 2015
Timeframe for the consideration of a proposal post exhibition	14 September 2015
Date of submission to the department to finalise the LEP	Late October 2015

Attachment 1- Delegation of Plan Making Functions to Council

Council is seeking an authorisation to make the plan for this planning proposal. The following response to the evaluation criteria is in support of this request;

(NOTE – where the matter is identified as relevant and the requirement has not been met, council is attach information to explain why the matter has not been addressed)	Council Response		Department Assessment	
	Y/N	Not Relevant	Agree	Not Agree
Is the planning proposal consistent with the Standard Instrument Order 2006?	Y			
Does the planning proposal contain an adequate explanation of the intent, objectives, and intended outcome of the proposed amendment?	Y			
Are appropriate maps included to identify the location of the site and the intent of the amendment?	Y			
Does the planning proposal contain details related to proposed consultation?	Y			
Is the planning proposal compatible with an endorsed regional or sub-regional planning strategy endorsed by the Director-General?	Y			
Does the planning proposal adequately address any consistency with all relevant S117 Planning Direction?	Y			
Is the planning proposal consistent with all relevant State Environmental Planning Policies (SEPPs)?	Y			
Minor Mapping Error Amendments				
Does the planning proposal seek to address a minor mapping error and contain all appropriate maps that clearly identify the error and the manner in which the error will be addressed?		NA		
Heritage LEPs				
Does the planning proposal seek to add or remove a local heritage item and is it supported by a strategy/study endorsed by the Heritage Office?		NA		
Does the planning proposal include another form of endorsement or support from the Heritage Office if there is no supporting strategy/study?		NA		
Does the planning proposal potentially impact on an item of State Heritage Significance and if so, have the views of the Heritage Office been obtained?		NA		
Reclassifications				
Is there an associated spot rezoning with the reclassification?		NA		
If yes to the above, is the rezoning consistent with an endorsed Plan of Management (POM) or strategy?		NA		
Is the planning proposal proposed to rectify an anomaly in a classification?		NA		
Will the planning proposal be consistent with an adopted POM or other strategy related to the site?	Y			
Will the draft LEP discharge any interests in public land under section 30 of the <i>Local Government Act, 1993</i> ?	N			
If so, has council identified all interests; whether any rights or interests will be extinguished; any trusts and covenants relevant to the site; and, included a copy of the title with the planning proposal?		NA		
Has the council identified that it will exhibit the planning proposal in accordance with the department's Practice Note (PN 09-003) <i>Classification and reclassification of public land through a local environmental plan and Best Practice Guidelines for LEPs and Council Land</i> ?		NA		
Has council acknowledged in its planning proposal that a Public Hearing will be required and agreed to hold one as part of its documentation?		NA		
Spot Rezonings				

Will the planning proposal result in a loss of development potential for the site (ie reduced FSR or building height) that is not supported by an endorsed strategy?	N			
Is the rezoning intended to address an anomaly that has been identified following the conversion of a principal LEP into a Standard Instrument LEP Format?	Y			
Matter in an existing LEP and if so, does it provide enough information to explain how the issue that lead to the deferral has been addressed?	N			
If yes, does the planning proposal contain sufficient documented justification to enable the matter to proceed?		NA		
Does the planning proposal create an exception to a mapped development standard?	N			
Section 73A Matters				
Does the proposed instrument- a) Correct an obvious error in the principal instrument consisting of a misdescription, the inconsistent numbering of provisions, a wrong cross-reference, a spelling error, a grammatical mistake, the insertion of obviously missing words, the removal of obviously unnecessary words or a formatting error?; b) Address matters in the principal instrument that are of a consequential, transitional machinery or other minor nature?; or c) Deal with matters that do not warrant compliance with the conditions precedent for the making of the instrument because they will not have any significant adverse impact on the environment or adjoining land?		NA		