

Table 1 Harmonised Controls

Clause	Details					
2.8 Temporary use of land	<p>This clause allows a prohibited use to occur in any zone with development consent. The maximum time period that temporary uses can occur differs between 52 days in Ashfield LEP 2013 and Marrickville LEP 2011 and 106 days in Leichhardt LEP 2013.</p> <p>It is recommended that the maximum time period of 52 days in Ashfield LEP 2013/Marrickville LEP 2011 be used. It is considered that allowing prohibited uses to occur for longer than three months of the year is not desirable and that if consent is sought for a longer period than 52 days it should be obtained via a planning proposal.</p> <p>There are very few development applications that have been submitted that rely on this clause; current staff are not aware of an occurrence where the extra time permitted under the Leichhardt LEP has been used.</p>					
5.3 Development near zone boundaries	<p>This clause allows flexibility for certain zones to permit a use from an adjoining zone within a certain distance where the objectives of both zones are met. Ashfield LEP 2013 did not adopt this clause. The relevant distance near zone boundaries in Leichhardt LEP 2013 is 10m in Marrickville LEP 2011 it is 25m.</p> <p>It is proposed to use a 25m distance in the consolidated IWLEP to enhance flexibility, particularly on business sites adjoining residential areas. This reflects the approach taken in Marrickville LEP where residential flat buildings are prohibited in B2 – Local Centre to enable residential flat buildings to be developed at the rear of deep sites adjoining R1 – General residential zones.</p>					
5.4 Miscellaneous permissible uses – maximum floor area limits	Use	Ashfield	Leichhardt	Marrickville	Proposed	Reason
	Home businesses	50m ²	30m ²	50m ²	50m ²	Alignment
	Home industries	50m ²	30m ²	30m ²	50m ²	Objectives/strategic direction
	Kiosks	100m ²	20m ²	30m ²	30m ²	Objectives/strategic direction
	Neighbourhood shops	100m ²	80m ²	100m ²	100m ²	Objectives/strategic direction
	Roadside stalls	10m ²	8m ²	8m ²	10m ²	Objectives/strategic direction
	Secondary dwellings	The greater of 60m ² or 35% of the total floor area of the principal dwelling	The greater of 60m ² or 30% of the total floor area of the principal dwelling	The lesser of 60m ² or 35% of the total floor area of the principal dwelling	The greater of 60m ² or 35% of the total floor area of the principal dwelling	Objectives/strategic direction

	Industrial retail outlets	40% GFA of the industry or 400m ²	The lesser of 20% GFA of the industry or 100m ²	The lesser of 11% GFA of the industry or 400m ²	The lesser of 20% of GFA or 100m ²	Objectives/strategic direction
	Artisan food and drink industry (retail sales GFA (not including any cafe or restaurant area))	The lesser of 40% GFA of the industry or 400m ²	The lesser of 20% GFA of the industry or 100m ²	The lesser of 11% GFA of the industry or 400m ²	Retain existing controls, to be identified on the Key Sites Map.	Retain existing
6.10 Development on land in Haberfield Heritage Conservation Area	This clause is exclusive to Ashfield LEP 2013. It has been brought across with minor changes for clarification and consistency to ensure attic levels are only permitted within existing roof space.					
6.12 Adaptive reuse of existing buildings for dwellings in residential zones	Similar clauses are contained in Leichhardt LEP 2013 (Clause 6.11) and Marrickville LEP 2011 (Clause 6.9). This clause will allow existing non-residential buildings in residential zones to be converted to multi-dwelling housing or residential flat buildings in the R2 – Low Density and R3 – Medium density zones and for this conversion to be exempt from development standards relating to FSR and building height provided the form of the existing building is retained.					
6.13 Use of existing non-residential buildings in residential zones	<p>Similar clauses are contained in Leichhardt LEP 2013 (Clause 6.10) and Marrickville LEP 2011 (Clauses 6.19 and 6.10). The Marrickville clause only applies to industrial or warehouse buildings or buildings designed and constructed for shops and permits office premises, shops, restaurants or cafes or take away food and drink premises. The Leichhardt clause applies to buildings constructed for a purpose other than residential accommodation and also permits business premises in addition to the uses permitted by the Marrickville clause.</p> <p>In order to maximise retention of permissible uses it is recommended that the proposed IWLEP clause be used; amenity impacts will be assessed during the consideration of the associated development application.</p>					
6.14 Dwellings and residential flat buildings in Zone B7 Business Park	<p>Similar clauses are contained in Leichhardt LEP 2013 (Clause 6.12) and Marrickville LEP 2011 (Clause 6.13). There are only 15 sites zoned B7 in the area covered by Leichhardt LEP 2013, while approximately 190 properties are zoned B7 under Marrickville LEP 2011 .</p> <p>Much of the B7 zoned land in the St Peters triangle (former Marrickville) has already been developed as mixed use developments incorporating live/work units and residential flat buildings. Given that more sites would be affected by a change of approach in former Marrickville than former Leichhardt, it is recommended that the Marrickville clause be adopted as the basis for the IWLEP.</p> <p>Note: this clause requires that not less than 60% of the total gross floor area of the building be used for a non-residential purpose.</p>					
6.15 Business and office premises in certain zones Zone IN2 Light Industrial and Zone B7 Business Park	Similar clauses are contained in Leichhardt LEP 2013 (Clause 6.9) and Marrickville LEP 2011 (Clause 6.12) to restrict business and office uses to creative purposes in particular zones; the only difference being that while both clauses apply to the IN2 zone, the Marrickville clause also applies to the B7 – Business Park zone.					

	<p>Given that there are only 15 properties of B7 zoning in Leichhardt LEP 2013 it is considered that restricting business and office uses to creative purposes on those properties will not significantly restrict development and is consistent with the draft LSPS.</p>
<p>6.16 Residential accommodation in certain business zones</p>	<p>Similar clauses are contained in Leichhardt LEP 2013 (Clause 6.11A) and Marrickville LEP 2011 (Clause 6.15) and it is proposed these clauses be replaced with a combined clause in IWLEP. The Leichhardt clause only applies to land zoned B1 – Neighbourhood Centre and B2 – Local Centre while the Marrickville clause also applies to land zoned B4 – Mixed Use. Given that active street frontages are necessary for these business zones to meet their objectives it is proposed that the clause include the three business centre zones and apply to all types of residential accommodation permitted in the zone. It is recommended that the clause be merged to prevent residential accommodation on the ground floor of buildings in zone B1, B2 and B4.</p>
<p>6.11 (Marrickville LEP 2011) Use of dwelling houses in business and industrial zones</p>	<p>This clause is exclusive to the Marrickville LEP 2013. A clause restricting development of dwelling houses in business and industrial zones is redundant as dwelling houses are prohibited in business and industrial zones (other than B1 – Neighbourhood Centre) in the proposed land use table for IWLEP.</p>
<p>6.4 Ashfield LEP 2013) Converting service apartments to residential flat buildings</p>	<p>This clause is exclusive to the Ashfield LEP 2013 and requires SEPP 65 – Design Quality of Residential Apartment Development and the Apartment Design Guide to be considered in any development application for the conversion of serviced apartments to a residential flat building. This clause is redundant as these matters are already required to be considered for this type of development.</p>
<p>Schedule 2 – Exempt development</p>	<p>Schedule 2 – Exempt development lists exempt development that can occur in the LGA in addition to the exempt development listed in SEPP (Exempt and Complying Development Codes) 2008 which applies to the state.</p> <p>It is proposed to retain and combine the existing sections relating to: types of advertisements not covered by the SEPP; the installation of letter boxes on heritage items; external lighting; minor routine maintenance of heritage items or land in a heritage conservation area and public art on footpaths.</p> <p>A number of sections (e.g. in relation to advertisements) will be removed, as they are now addressed in the SEPP, and are therefore redundant. The changes sought by amendment 8 of Ashfield LEP 2013 have been incorporated into IWLEP ensuring external works to heritage items (other than maintenance) are no longer exempt development.</p>

Table 2 Retained Controls that Differ in the Former Council Areas

Clause	Details
5.4(10) – maximum GFA for artisan food and drink premises	Maximum floor areas that can be used for artisan food and drink premises varies from 11 – 40% of the gross floor area of the premises or 100 sqm or 400 sqm whichever is the lesser. Existing controls retained with applicability limited to an identified area on the Key Sites Map. Note: Area 2 – former Leichhardt; Area 3 – former Ashfield and Area 4 – former Marrickville.
5.6 – architectural roof features	This clause allows buildings to exceed the maximum height of buildings development standard in certain circumstances and is only adopted by Ashfield LEP 2013. It is thus proposed to apply to Area 3 on the Key Sites Map. The need for this clause will be re-evaluated in a future planning proposal with all controls and development standards related to the height of buildings.
6.11 – diverse housing	This clause restricts the number of studio or one bedroom dwellings and limits the number of dwellings with three or more dwellings for development of four or more dwellings within former Leichhardt. Housing diversity controls are contained within the DCPs for former Ashfield and Marrickville. The most appropriate methods of regulating housing diversity will be considered as part of a future planning proposal.
6.17 – location of restricted premises and sex service premises	Ashfield LEP 2013 contains minimum separation distances for the siting of restricted premises and sex service premises while Marrickville LEP 2011 contains separation distances for sex service premises only. Leichhardt LEP 2013 contains no minimum separation distances. The subclauses relating to separation distances have had their application limited to the applicable area on the Key Sites Map.
6.18 – Development Control Plan for certain development	This clause requires a development control plan to be developed before development applications can be determined for certain types of development on sites of more than 3,000 sqm in size or with a water frontage of at least 20m. This clause is specific to Leichhardt LEP 2013 and its application will be limited to Area 2 on the Key Sites Map. Further work as part of a future planning proposal is required to modify this clause for the entire LGA as requiring a site specific DCP to be provided for all lots over 3,000 sqm is likely to adversely impact on the orderly development of industrial sites in former Marrickville which tend to be larger.