

## **PART A: INTRODUCTION**

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## **SECTION 1 – PREAMBLE**

### **A1.1 NAME OF THIS PLAN AND WHEN THIS PLAN CAME INTO FORCE**

This Development Control Plan is the *Leichhardt Development Control Plan 2013*. Council adopted this Plan on 24<sup>th</sup> September 2013 and it came into force on 3<sup>rd</sup> February 2014.

### **A1.2 PLANS REPEALED BY THIS PLAN**

The following Plans are repealed by this Development Control Plan, except to the extent that those Plans shall continue to apply to development applications saved under clause 1.8A of *Leichhardt Local Environmental Plan 2013*:

- a. Leichhardt Development Control Plan 2000, however this plan does not repeal Leichhardt Development Control Plan 2000 to the extent that it applies to land identified as a "Deferred matter" in the Land Application Map LAP\_001 under cl. 1.3 (1A) of the *Leichhardt Local Environmental Plan 2013*.
- b. Development Control Plan 21 – Wharf Road Birchgrove
- c. Development Control Plan 27 – Balmain Power Station
- d. Development Control Plan 31 – Ampol Site (White Bay)
- e. Development Control Plan 32 – Design for Equitable Access
- f. Development Control Plan 35 – Exempt and Complying Development
- g. Development Control Plan 36 – Notifications
- h. Development Control Plan 38 – Avoid, Reuse, Recycle
- i. Development Control Plan 42 – Contaminated Land Management
- j. Development Control Plan 47 – Jane Street Balmain
- k. Development Control Plan 48 – Approvals Policy Managing Activities on Footpaths and Verges
- l. Development Control Plan 51 – Telecommunications and Radiocommunications.

This Development Control Plan also replaces the Tree Preservation Order.

### **A1.3 LAND TO WHICH THIS PLAN APPLIES**

Subject to clause A1.2 (a), this Development Control Plan applies to the land identified in *Figure A5: Land covered by this Development Control Plan*.

### **A1.4 SAVINGS AND TRANSITIONAL PROVISIONS**

This Development Control Plan does not apply to an application under the *Environmental Planning and Assessment Act 1979* which was lodged with Council, but not determined before, the commencement of this Development Control Plan. Any application lodged before the commencement of this Development Control Plan, will be assessed in accordance with any relevant previous Development Control Plans, which applied at the time of application lodgement.

## **A1.5 AIMS OF THIS PLAN**

The principal aim of this Development Control Plan is to facilitate development that gives effect to the aims and objectives, including the objectives of the land zones under *Leichhardt Local Environmental Plan 2013*, and to provide for the matters set out in ~~s3.4374C~~ of the *Environmental Planning and Assessment Act 1979*.

Many of the performance measures against which an application is assessed relate to *amenity*, environmental performance or heritage issues. Planning and design outcomes that Council is pursuing include sustainable and contemporary building and place design, transit oriented development, heritage conservation, active streets and laneways and diversity of land use which supports economic, environmental and social sustainability.

## **A1.6 DEFINITIONS**

The glossary in Appendix A of this Plan defines words and expressions for the purposes of this Development Control Plan. Where this Development Control Plan uses a term that is defined in *Leichhardt Local Environmental Plan 2013* the meaning of that term is to be taken from *Leichhardt Local Environmental Plan 2013*.

A reference in this Development Control Plan to any Australian Standard or legislation includes a reference to any amendment or replacement as made.

## **A1.7 RELATIONSHIP OF THIS PLAN TO OTHER PLANS**

### **State policies**

State Environmental Planning Policies (SEPPs) may apply to land to which this Development Control Plan applies.

### **Codes SEPP**

*State Environment Planning Policy (Exempt and Complying Development Codes) 2008* (Codes SEPP) applies to certain land in Leichhardt. The *Codes SEPP* identifies a range of development of minor environmental impact that may be carried out as exempt development without the need for approval under the NSW planning system. The Codes SEPP also specifies certain types of development that may be carried out as complying development. Complying development does not require a development application to be lodged with Council; it may be carried out after obtaining a complying development certificate (CDC) from Council or an accredited certifier. Further information on the *Codes SEPP* is available at [www.planning.nsw.gov.au/housingcode](http://www.planning.nsw.gov.au/housingcode).

### **Leichhardt Local Environmental Plan 2013 (LEP 2013)**

*Leichhardt Local Environmental Plan 2013* applies to the land to which this Development Control Plan applies. *Leichhardt Local Environmental Plan 2013* is a statutory environmental planning instrument that sets out land use zones and development standards and controls for development in Leichhardt. This Plan supports and supplements the provisions of *Leichhardt Local Environmental Plan 2013*. The provisions of *Leichhardt Local Environmental Plan 2013* prevail over this Development Control Plan in the event of any inconsistency.

## A1.8 HOW COUNCIL ASSESSES PROPOSED DEVELOPMENT

### Preparing and lodging a development application

A development application is required to be submitted to Council for most land uses and development proposals, unless that development is identified as exempt development or complying development in *Leichhardt Local Environmental Plan 2013* or *SEPP (Exempt and Complying Development Codes) 2008* or other State Environmental Planning Policies (SEPP's).

A development application submitted must contain all necessary information referred to in Council's documentation entitled "*DA Lodgement Checklist*" and "*Specifications for Development Application Documentation*" along with the required fees.

### Assessing the application

Council assesses each application according to:

- ~~S4.1579C~~ of the *Environmental Planning and Assessment Act 1979*;
- the statutory provisions of *Leichhardt Local Environmental Plan 2013* and any relevant SEPPs;
- the objectives and planning controls set out in this Development Control Plan;
- the provisions of any other policies or guidelines adopted by Council and referred to within this Plan or identified as relevant to the development proposal; and
- Section 7.11 and 7.12 (formerly 94 or 94A) contributions plan or plans that apply.

Council expects that applicants will satisfy the objectives and comply with the corresponding planning controls set out in this Plan. Every application will be dealt with on its merits. A proposal must address each relevant planning control and respond to the context of the site, streetscape and the desired character of the area.

Council is required by section 4.1579C (3A) of the Act to apply the controls of this Development Control Plan flexibly and to consider alternative design solutions. Where a planning control cannot be satisfied because of conflict with another control in this Development Control Plan, Council will consider a flexible application of the controls only where it can be demonstrated that the objectives of all relevant controls are nonetheless satisfied.

## A1.9 THE STRUCTURE OF THIS DEVELOPMENT CONTROL PLAN

This Development Control Plan complements and provides further detail to support the *Leichhardt Local Environmental Plan 2013*.

This Development Control Plan is structured as follows:

- Part A includes the *Introduction*, outlines how this Development Control Plan works, Council's approach to the notifications, and statutory information about the implementation of this Development Control Plan;
- Part B is called *Connections* and includes objectives and controls which support health and well-being, social inclusion, creativity, employment and economic opportunity;
- Part C is called *Place* and includes Suburb Profiles, Distinctive Neighbourhood Character Statements, objectives and controls, General Provisions including controls for both residential and non-residential development; Residential Provisions for all types of residential development,

irrespective of the zone; and Non-residential Provisions which provides for types of non-residential development, irrespective of the zone;

- Part D is called *Energy* and relates to Energy and Waste Management;
- Part E relates to *Water Management*;
- Part F is called *Food* and relates to food production;
- Part G relates to *Site Specific Controls*;
- Appendix A includes the *Glossary*;
- Appendix B includes the *Building Typologies*;
- Appendix C includes the *Urban Framework Maps*;
- Appendix D includes *Energy and Waste Templates*;
- Appendix E includes *Water Management Templates*; and
- Appendix F includes *Late Night Trading Maps*.

Development is assessed against all relevant parts of this Development Control Plan including general provisions and use specific provisions. A use that has specific provisions in this Development Control Plan must still comply with the general provisions of the relevant part. Where there is an inconsistency between the general provisions and the use provisions, the use provisions apply.

This Development Control Plan is a performance-based instrument that facilitates merit based assessment. Merit-based assessment is appropriate in Leichhardt due to the variety of development contexts where a planning and design solution, that is appropriate for one location, may not be appropriate for another location.

In this context, through the development application process, development must demonstrate to Council's satisfaction that it complies with the provisions of the relevant parts of the Development Control Plan. The provisions contain two parts:

1. Objectives; and
2. Controls.

Development must achieve the objectives of the relevant sections within the Development Control Plan. The controls represent one solution that may demonstrate compliance with the objectives; however every application will be dealt with on its merits. Development may propose an alternative solution to the controls. In such cases, the applicant is required to clearly demonstrate to Council how this alternative solution meets the objectives.

### **A1.10 MONITORING AND REVIEW**

Council is required to keep Local Environmental Plans and Development Control Plans under regular and periodic review under s.~~3.21~~<sup>73</sup> of the *Environmental Planning and Assessment Act 1979*. The Council is committed to this process to ensure that the Plans continue to be useful and relevant planning instruments.

## INTRODUCTION

The Council aims to review the *Leichhardt Local Environmental Plan 2013* and this Development Control Plan at least at five yearly intervals in order to:

- a. assess the continued relevance and responsiveness of the Plan's provisions and objectives;
- b. measure the achievement of the objectives of the Plan;
- c. identify the need for changes to the provisions to better achieve the objectives of the Plan; and
- d. ensure the availability of adequate development capacity under the Plan's provisions.

Council may update this Development Control Plan on a more frequent basis to ensure that the objectives and controls contained in the document reflect the desired future character of the municipality.



## SECTION 2 – DEVELOPMENT APPLICATION REQUIREMENTS

### A2.1 DEVELOPMENT APPLICATION GUIDELINES

~~Leichhardt~~ Council has outlined a step-by-step development assessment process on the Council website ~~and in the “User Guide to Development in Leichhardt Local Government Area” to lodge a development application.~~ Reference should also be made to “Development application A Lodgement Checklist” and “Specifications for Development Application Documentation Requirements” forms.

This is amended from time to time to take account of legislative amendments and best practice.