

Leichhardt Municipal Council



AGENDA

ORDINARY MEETING

**24 SEPTEMBER 2013**

SUPPLEMENTARY REPORT  
ITEM E15

**LEICHHARDT MUNICIPAL COUNCIL**

**ORDINARY MEETING OF COUNCIL**

NOTICE IS HEREBY GIVEN OF THE FOLLOWING **SUPPLEMENTARY ITEMS** FOR THE **ORDINARY MEETING** OF THE LEICHHARDT MUNICIPAL COUNCIL TO BE HELD IN THE COUNCIL CHAMBERS, LEICHHARDT TOWN HALL, 107 NORTON STREET, LEICHHARDT, ON **TUESDAY 24 SEPTEMBER 2013**.

Peter Gainsford  
ACTING GENERAL MANAGER

**20 SEPTEMBER 2013**

**BUSINESS:**

ITEM E15	SUPPLEMENTARY REPORT TO ADDRESS LATE SUBMISSION IN RELATION TO DRAFT DEVELOPMENT CONTROL PLAN 2013 AND AMENDMENTS TO DRAFT LEICHHARDT LEP 2013	3
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**LEICHHARDT MUNICIPAL COUNCIL**

**SUPPLEMENTARY REPORT**

**DIVISION:** ENVIRONMENTAL AND COMMUNITY MANAGEMENT

**SUBJECT:** ITEM E15 - SUPPLEMENTARY REPORT TO ADDRESS LATE SUBMISSION IN RELATION TO DRAFT DEVELOPMENT CONTROL PLAN 2013 AND AMENDMENTS TO DRAFT LEICHHARDT LEP 2013

**AUTHOR:** KATE DEN TEULING

**DATE:** 18 SEPTEMBER 2013

**DIRECTOR'S SUMMARY - ORGANISATIONAL IMPLICATIONS**

**Financial Implications:** Nil

**Policy Implications:** Implements Council plans and policies

**Strategic Plan Objective:** Community Well Being  
Accessibility  
Place Where We Live & Work  
A Sustainable Environment  
Business in the Community  
Sustainable Services and Assets

**Staffing Implications:** Assessment staff and others who use the Development Control Plan

**Notifications:**

**Other Implications:**

## 1. **Purpose of Report**

The purpose of this report is to:

- (a) Inform Council of matters raised within a late submission received to the *Amendments to Draft Leichhardt Local Environmental Plan 2013* and the *Draft Development Control Plan 2013*; and
- (b) Outline proposed changes to *Amendments to Draft Leichhardt Local Environmental Plan 2013* and *Draft Development Control Plan 2013* as a consequence of point (a) above.

## 2. **Recommendations**

That Council:

- (a) Receive and note the late submission and responses.
- (b) Receive and note this supplementary report in conjunction with the reports titled:
  - a. '*Amendments to Draft Leichhardt LEP 2013 – Public Exhibition*'; and
  - b. '*Draft Development Control Plan 2013 – Post Exhibition Summary of Submissions and Proposed Amendments*'.

## 3. **Background**

### 3.1 **Late Submission**

Council received a late submission on Friday 13 September 2013, from the NSW Catchment Management Authority (Hawkesbury – Nepean) in relation to public exhibition of the *Amendments to Draft Leichhardt Local Environmental Plan 2013* and the *Draft Development Control Plan 2013*.

## 4. **Report**

A full transcript of the submission is provided in **Attachment 1** to this report.

### 4.1 **In relation to the *Amendments to Draft Leichhardt Local Environmental Plan 2013***

Council received a total of 21 submissions in response to the exhibition of amendments to the *Draft Local Environmental Plan 2013* including a submission made by Council. The submission by the Hawkesbury Nepean Catchment Management Authority will bring the total to 22.

Catchment Management Authority made comments in relation to the following planning proposal amendments to the *Draft Local Environmental Plan 2013*.

- Item 1 Aims of Plan and Zone Objectives
- Item 4 Amendments/additions Land Use Tables

An explanation of the proposal, submission and response is provided in **Attachment 1**. In summary, Item 1 and Item 4 were reviewed in light of the submission, however changes to these parts are not recommended in this report as a result of the submission.

#### **4.2 In relation to *Draft Development Control Plan 2013***

The submission by the Hawkesbury Nepean Catchment Management Authority brings the total number of submissions made to the Draft Development Control Plan 2013 to 28.

The Catchment Management Authority made comments in relation to Part E – Water (Sections E1.1.5, E1.2.3; and E1.2.4) and provided comments of support in relation to Part B - Connections of the *Draft Development Control Plan 2013*.

A transcript of the submissions and comments and corresponding responses are provided in **Attachment 1**. In summary, the abovementioned sections in Part E were reviewed, however changes to objectives or controls are not recommended in this report as a result of the submission.

#### **5. Conclusions**

In conclusion, the submission from the Hawkesbury Nepean Catchment Management Authority is noted, but does not result in any recommended amendments to the *Draft Local Environmental Plan 2013 (Amendments)* or the *Draft Development Control Plan 2013*.

The recommendations outlined in the following Council Reports remain:

- a. '*Amendments to Draft Leichhardt LEP 2013 – Public Exhibition*'; and
- b. '*Draft Development Control Plan 2013 – Post Exhibition Summary of Submissions and Proposed Amendments*'.

## ATTACHMENT 1 – LATE SUBMISSION: HAWKESBURY NEPEAN CATCHMENT MANAGEMENT AUTHORITY (CMA)

ORGANISATION	CONTENT OF SUBMISSION	RECOMMENDED RESPONSE
<b>IN RESPONSE TO THE DRAFT DEVELOPMENT CONTROL PLAN 2013</b>		
Hawkesbury Nepean Catchment Management Authority (CMA)	<p><b>[ISSUE]</b> Part E WATER - E 1.1.5 Foreshore Risk Management Report</p> <p>While Section E 1.1.5 focuses on foreshore flood control lots, redevelopment in the Leichhardt LGA will involve the development of tidal lots on which the construction of seawalls is considered. The Appendix E - Part 5 contains instructions to assess the "stability of the existing seawall adjacent to the boundary of the site with the harbour. The report must include recommendations to ensure continued stability of the wall during the construction process and in the long term." In some circumstances, Council may require the replacement of aging, unstable seawalls.</p> <p>In such circumstances, the CMA encourages Sydney Harbour and Parramatta River Councils to adopt a sustainable approach in the design and installation of seawalls and other foreshore infrastructure. In its requirement for developers to complete a Foreshore Risk Management Report (Section E1.1.5), the CMA suggests that Council include the risk of habitat loss in foreshore areas. Council is referred to the DECCW publication "Environmentally Friendly Seawalls - A Guide to Improving the Environmental Value of Seawalls and Seawall lined foreshores in Estuaries" attached to this submission. This document provides those involved in designing, approving, building or upgrading seawalls in estuaries with a range of options to improve the environmental value of seawalls and seawall-lined foreshores.</p> <p><u>Recommendation 1:</u> That the Leichhardt Municipal Council draft OCP requires as a condition of approval that developers construct or restore seawalls in accordance with the principles contained in the publication "Environmentally Friendly Seawalls – A Guide to Improving the Environmental Value of Seawalls and Seawall lined foreshores in Estuaries"</p>	<p>Noted. Section E1.1.5 has been reviewed in light on the comments received.</p> <p>Development to seawalls would fall under Clause 91 of the <i>Environmental Planning and Assessment Act 1979</i> as integrated development, requiring one or more development consents under other Acts. The developments would also likely require concurrence under Sydney Harbour Catchment 2005.</p> <p>In such cases, development to sea walls would be referred to the relevant authorities for assessment, and, should they be in a position to support the development, the inclusion of appropriate conditions of development.</p>

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	<p><b>[ISSUE]</b> E 1.2.3 On site detention of stormwater</p> <p>The CMA supports councils in implementing Water Sensitive Urban Design through planning controls. 1Objective 01 To reduce the peak stormwater flows into the public drainage system and reduce the probability of downstream flooding.</p> <p>Controls such as on-site detention facilities are required except where: The site drains directly into Parramatta River or Sydney Harbour; Subdivision of existing or currently approved dwellings.</p> <p>The CMA requests that Council amends this section to require on site detention facilities on sites draining directly into the Parramatta River or Sydney Harbour and in the case of subdivisions of existing or currently approved dwellings. See Section E1.2.4 below for further explanation of this point.</p> <p><u>Recommendation 2:</u> That leichhardt Municipal Council requires that developers of foreshore sites connect properties to the relevant stormwater infrastructure or install Onsite Detention devices.</p>	<p>Section E1.2.3 has been reviewed in light on the comments received.</p> <p>Section E1.2.4 Stormwater Treatment requires that certain developments install water quality filtration baskets, or similar, with larger developments required to install more substantial Water Sensitive Urban Design measures.</p> <p>It is considered that the addition of on-site detention to these treatment trains would not provide a significant improvement to the water quality outcome for those developments draining to the harbour and therefore the requested amendment is not supported.</p> <p>In relation to the request for on-site detention to be applied to subdivision applications involving existing or currently approved dwellings, it is considered that this would be unreasonable given the cost it would entail. Currently, an exemption to on-site detention is given to developments when 'no works' are proposed, (i.e. to subdivision developments).</p>
	<p><b>[ISSUE]</b> E1.2.4 Stormwater Treatment</p> <p>Objective 01 To minimise the transport of pollutants into the harbour and other waterways.</p> <p>The CMA would like provisions based on the "Botany Bay Water Quality Improvement Plan" to be included in the controls. This plan describes Water Sensitive urban design techniques for the reduction of stormwater pollutant loads emanating from urban development. While the Plan has been developed for the</p>	<p>Section E1.2.4 has been reviewed in light on the comments received.</p> <p>Section E1.2.4 Stormwater Treatment already requires applicants to provide an Integrated Water Cycle Plan for major developments, which applies at least equivalent controls as those contained in the Botany Bay document.</p>

**ATTACHMENT 1 – LATE SUBMISSION: HAWKESBURY NEPEAN CATCHMENT MANAGEMENT AUTHORITY (CMA)**

	<p>Botany Bay Catchment, it contains useful information relating to a range of WSUD devices that can be applied to any Local Government Area. A copy of the Botany Bay Water Quality Improvement Plan is attached to this submission. Also attached is a copy of the model WSUD/Stormwater IEP Clause. 2 In order to support the minimisation of the transport of pollutants into the harbour and other waterways in heavy rainfall events, a requirement for onsite detention of stormwater through underground or above ground rainwater tanks needs to be included.</p> <p>The CMA supports the requirement for water quality treatment devices in the case of major or significant development. While the reduction of sediment and gross pollutants such as litter and large items is important in improving the quality of stormwater, onsite detention would also reduce the rate at which pollutants in the form of sediment is released to Sydney Harbour and the Parramatta River in heavy rainfall events. Properties adjacent to Sydney Harbour and the Parramatta River should be connected to the stormwater infrastructure in the same manner as other properties referred to in the amendments to the draft DCP. This would allow Control C2 (water quality treatment techniques) to be used to greater effect.</p> <p><u>Recommendation 3:</u> That Leichhardt Municipal Council requires the proponents of major developments to included Water Sensitive Urban Design elements (according to the principles contained in the model WSUD/Stormwater LEP Clause) as a condition of approval.</p>	
	<p><b>[COMMENT]</b> The CMA supports the intention of Part 8 in which Council's objectives include improving the connectivity of the community to places. A major strategy of the CMA's Catchment Action Plan 2013-2023 is to raise the capacity of the community to become engaged in natural resource management.</p> <p>The draft DCP's strategic objectives –</p> <ol style="list-style-type: none"> <li>2. Connecting People to Place;</li> <li>3. Develop Community Strengths and Capability are supported by the CMA's Community Goal in its CAP;</li> </ol>	<p>Noted. Thank you.</p>



**ATTACHMENT 1 – LATE SUBMISSION: HAWKESBURY NEPEAN CATCHMENT MANAGEMENT AUTHORITY (CMA)**

	<p>"Communities that relate to and care for their landscapes in many ways." The CMA's strategies to achieve this include:</p> <p>Support people to work together to maintain and improve environments that are significant to them;</p> <p>Promote appreciation of natural environments for people from diverse cultural backgrounds;</p> <p>In areas of high population, enhance, maintain and provide access to local places with scenic and natural qualities.</p> <p>In implementing the five strategic objectives from the Leichhardt Community and Cultural Plan 2011-2021 Council seeks to:</p> <p>05 develop and sustain the well being of a vibrant community by encouraging healthy and environmentally sustainable lifestyle practices;</p> <p>06 encourage and support activities and development which promote sustainability, biodiversity, healthy environments and food production.</p> <p>The CMA supports Council's intention to encourage environmentally sustainable lifestyle practices. Through its Catchment Action Plan, the CMA intends to partner with Local Government to raise the capacity of councils and their communities to support biodiverse, sustainable and healthy environments. The CMA looks forward to assisting Council in achieving these objectives in the future.</p>	
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Submitter Name	Key Matter	Summary of Issue	Recommended Response
<b>Submission in response to Item 1 of the Amendments to Draft Leichhardt Local Environmental Plan 2013</b>			
<b>ITEM 1 related to Amendments to Aims of Plan and Zone Objectives</b>			
Item 1 related to an amendment to make minor changes and administrative corrections to certain zones in the land use tables of the <i>Draft Leichhardt Local Environmental Plan 2013</i>			
Hawkesbury Nepean Catchment	Section 117 Direction 2.2	The table records that section 117 Direction 2.2 Coastal Protection is not applicable and does not apply to the proposed	Direction 2.2 Coastal Protection is not applicable. Leichhardt Local Government Area

## ATTACHMENT 1 – LATE SUBMISSION: HAWKESBURY NEPEAN CATCHMENT MANAGEMENT AUTHORITY (CMA)

Submitter Name	Key Matter	Summary of Issue	Recommended Response
Management Authority (CMA)	Coastal Protection	amendments. It is not clear whether this means that there are no amendments in the proposal that affect s117 directions for coastal protection or whether the LGA is not regarded as a coastal zone. Considers that section 117 Direction 2.2 Coastal Protection would be applicable to the Development Control Plan as Sydney Harbour is estuarine in nature and considering the opportunity for impacts to Sydney Harbour.	is not within the Coastal Zone as defined in the <i>Coastal Protection Act 1979</i> .
	Coastal protection	To assist in providing coastal protection in the Draft LEP, the Catchment Management Authority commends the Office of the Environment and Heritage document "Guidelines for Preparing Coastal Zone Management Plans". The guidelines refer to estuarine development conditions in Section 4. Coastal ecosystem health and in particular Section 4.2 Estuary Health Management.	See above. Not applicable.
<p><b>Submission in relation to Item 4 of the Amendments to Draft Leichhardt Local Environmental Plan 2013</b></p> <p><b>ITEM 4 related to amendments/additions to Land Use Tables</b></p> <p>ITEM 4 relating to amendments to alter the Aims of the Plan and Zone Objectives of the R1 Residential, B1 Neighbourhood Centre, B2 Local Centre and RE1 Public Recreation within the Draft Leichhardt Local Environmental Plan 2013 by incorporating additional objectives and/or amending existing objectives.</p>			
Hawkesbury Nepean Catchment Management Authority (CMA)	Intent of amendment B7 Business Park is unclear; inconsistent Draft DCP	Considers that the intent of the proposed changes to B7 Business Park to prohibit water storage facilities and water reticulation systems is unclear and not aligned with control C1b contained in section E1.2.3 On Site Detention of Stormwater in the Draft DCP.	The exhibited Draft LEP 2013 listed water storage facilities and water treatment facilities as prohibited development in the B7 Business Park Zone. Upon review of the land use tables it was noted that water reticulation systems were intended to be listed as prohibited and not prohibited as such systems could be erected by or on behalf of a public authority under State Environmental Planning Policy Infrastructure. As such the amendment proposed to prohibit

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			<p>the group term Water Supply Systems within the B7 Business Park zone.</p> <p>A use is ancillary to another use if it is incidental or subservient. If a use is ancillary, then it is to be characterised as being for the primary purpose. Ancillary uses don't need to be separately included in the Land Use Table.</p> <p>Water supply system is a group term which includes a water reticulation system, a water storage facility and a water treatment facility. These uses are not proposed to be included in the land use table as permitted with consent in Zone B7 Business Park as such development as a primary use, function or construction on a site within the LGA is not considered appropriate.</p> <p><i>Note. Water storage facilities such as rainwater tanks and water recycling systems such as grey water systems can be constructed if it is ancillary to a use permitted within the B7 Zone.</i></p> <p>As such Council maintains that water supply systems should be prohibited within the B7 Business Park Zone.</p>
	Requests that water storage facilities and water treatment plants	Considers that if water storage facilities are not listed as a permitted use in Zone B7 Business Park on-site detention storage for stormwater will not be included in business park developments. Given that the usual extent of impervious	As above.

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Submitter Name	Key Matter	Summary of Issue	Recommended Response
	be permissible with consent	surfaces in business parks (including roofs, car parks and paving) encourages Council to make the installation of on-site detention mandatory for these developments.  Requests that water storage facilities and water treatment plants be listed as permissible with consent in the B7 Business Park Zone.	
	Reference materials	Refers Council to the following reference materials: <ul style="list-style-type: none"> <li>• Botany Bay's Water Quality Improvement Plan (copy provided in submission)</li> <li>• Model Standard Instrument LEP Clause Water Sensitive Urban Design/Stormwater Management.</li> <li>• Water by Design Website <a href="http://waterbydesign.com.au">http://waterbydesign.com.au</a> – contains useful information for industrial sites.</li> </ul>	Noted. Council has included the Standard Instrument model clause Stormwater Management into the Draft Leichhardt LEP 2013.
	Developing Sydney Harbour Water Quality Improvement Plan	Notes that the Sydney Metropolitan CMA is leading a project to develop a Sydney Harbour Water Quality Improvement Plan over the next 3 years which will require partnership support from local councils and government agencies which manage land draining into Sydney Harbour.	Noted. Council looks forward to working with CMA to develop Sydney Harbour Water Quality Improvement Plan.
	Water Sensitive Urban Design	Notes that the creation of a more liveable and water sensitive city by implementing Water Sensitive Urban Design is a major strategy in the Hawkesbury Nepean Catchment Management Authority draft Catchment Management Plan. Considers that most effective ways of achieving this are through planning instruments and development approval conditions and building capacity in council staff.	Noted.