

# **Reports of the Planning and Environment Committee Meeting held at 7.30pm on Tuesday, 23 February 2010.**

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## **APOLOGIES**

## **ACKNOWLEDGEMENT OF LAND**

## **DECLARATIONS OF INTEREST**

### **Pecuniary Interests**

### **Non Pecuniary – Significant Interests**

### **Non Pecuniary – Less than Significant Interests**

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**Minutes of the Planning and Environment Committee held on 23 February 2010**

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**Present** His Worship the Mayor, Councillor A Rule (for part of the meeting)  
Councillor R Matheson (Chairperson)  
Councillor J Bourke  
Councillor R Kolkman  
Councillor M Oates  
Councillor J Rowell  
Councillor R Thompson  
General Manager - Mr P Tosi  
Director Planning and Environment - Mr J Lawrence  
Manager Environmental Planning - Mr P Jemison  
Manager Development Services - Mr J Baldwin  
Manager Waste and Recycling Services - Mr P Macdonald  
Manager Community Resources and Development - Mr B McCausland  
Manager Compliance Services - Mr A Spooner  
Development Planner - Mr S Rickersey  
Corporate Support Coordinator - Mr T Rouen  
Executive Assistant - Mrs K Peters

**Apology (Kolkman/Rowell)**

That the apology from Councillor Greiss be received and accepted.

**CARRIED**

**Acknowledgement of Land**

An Acknowledgement of Land was presented by the Chairperson Councillor Matheson.

**DECLARATIONS OF INTEREST**

Declarations of Interest was made in respect of the following item:

**Pecuniary Interests**

Councillor Matheson - Item 4.2 - Bradbury Inn Hotel - Application to Amend Licence Conditions - Councillor Matheson advised that as a member of a Political Party he received a donation from the applicant and that he will leave the Chamber and not take part in debate nor vote on the matter.

**Non Pecuniary – Less than Significant Interests**

Councillor Bourke - Item 10.2 - 2010 Heritage Medallion - Councillor Bourke advised that she is related to one of the nominators and that she will leave the Chamber and not take part in debate nor vote on the matter.

Councillor Rowell - Item 4.2 - Bradbury Inn Hotel - Application to Amend Licence Conditions - Councillor Rowell advised that he resides in the vicinity of the site of the application.

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Councillor Rule - Item 3.2 - Ingleburn Town Centre - Shopping (Woolworths) - Construction of Shop Fitout and Use of Premises for the sale of Packaged Liquor - Councillor Rule advised that one of the applicants was known to him and that he would leave the Chamber and not take part in debate nor vote on the matter.

## **1. WASTE AND RECYCLING SERVICES**

**No reports this round**

## **2. ENVIRONMENTAL PLANNING**

### **2.1 Cycling Workshops for Council Staff**

#### **Reporting Officer**

Manager Environmental Planning

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#### **Attachments**

Nil

#### **Purpose**

To advise Council of a series of cycling workshops being held for Council staff.

#### **History**

The Department of Environment and Climate Change in conjunction with AustCycle are offering vouchers for free cycling proficiency classes to organisations such as Councils and community groups to encourage more people to cycle.

#### **Report**

The Department of Environment and Climate Change and AustCycle are sponsoring cycling proficiency classes, which are aimed at increasing cycling skills throughout NSW. The classes are being offered to organisations such as councils and the course is valued at \$360. This cost is being met by Department of Environment and Climate Change and AustCycle. The only cost to Council (\$310) relates to the hiring of the Bicycle Education Centre and an assessor, which will be funded through Council's Community and Environmental Education budget.

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The classes consist of 3 x 2 hour sessions and will be conducted by qualified instructors accredited by AustCycle. The class content is designed to improve skills in a measurable format and will be available for up to 12 people. The aim of the program is to encourage people to use their bicycles more as a sustainable form of transport, through improving their riding skills.

Council will be participating in the program and will offer the twelve positions to its staff. The classes will be held at the Council's Bicycle Education Centre on 25 February, 2 March and 4 March from 4.30pm to 6.30pm. Participating staff will be required to supply their own bicycle and helmet.

Council's participation in this program further illustrates it's commitment to sustainability and improving air quality.

### **Officer's Recommendation**

That this information be noted.

### **Committee's Recommendation: (Bourke/Thompson)**

That the Officer's Recommendation be adopted.

### **CARRIED**

### **Council Meeting 2 March 2010 (Matheson/Kolkman)**

That the Officer's Recommendation be adopted.

### **Council Minute Resolution Number 25**

That the Officer's Recommendation be adopted.

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## **2.2 Earth Hour**

### **Reporting Officer**

Director Planning and Environment

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### **Attachments**

Nil

### **Purpose**

To seek Councils endorsement for activities proposed with Earth Hour 2010.

### **History**

Earth Hour is an Australian initiative that began in 2007 in effort to highlight the need to reduce energy consumption and greenhouse gas emissions. People are invited to participate by switching of their lights for 1 hour, usually between 8.30pm and 9.30pm on the nominated day.

By 2009, the concept had developed into a global event, with Earth Hour encouraging people to “switch off” all over the world – from the Eiffel Tower in Paris to Times Square in New York. Millions of people in over 4,000 towns and municipalities in 88 countries participated.

In 2008 and 2009 many of Councils facilities including the Civic Centre the Libraries and Campbelltown Stadium supported the cause by turning off all non essential lighting which abated over ten tonnes of CO<sup>2</sup>. In addition to this the emission of over eight tonnes of CO<sup>2</sup> were also abated by participating staff.

In previous years Council has promoted the event to the Community through local media and encouraged staff participation.

Last year, Council elected to participate in Earth Hour - a global movement to reduce energy consumption and greenhouse gas emissions. This involved lights being turned off across Council buildings and facilities, where practicable, for one hour on Saturday 28 March.

### **Report**

Council has again elected to participate in the program this year on Saturday 27 March. The following initiatives are proposed:

1. Switch off non-essential lighting at the:

- Civic Centre
  - Campbelltown Arts Centre
  - Eaglevale Leisure Centre
  - HJ Daley Library
  - Glenquarie Library
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- Ingleburn Library
  - Minto Library
  - Animal Care Facility
  - Sanitary Depot
  - Campbelltown Stadium
2. Posters to be erected in local bus shelters promoting Earth Hour;
  3. A banner to be erected in the Ingleburn town centre promoting the event;
  4. Distribution of an appropriate media release;
  5. Inclusion of an article in Compass Community newsletter.
  6. Notices on Traffic Control signs across the LGA;
  7. Promotional message on local radio including Mayor's message;
  8. Computer wallpaper message;
  9. Brochures to be distributed to families utilising Council's child care facilities;
  10. Brochures to be distributed at the Ingleburn Alive Festival;
  11. Posters to be displayed at Council's libraries and leisure centres; and
  12. Earth Hour and display to be erected in the Civic Centre foyer.
  13. Still image to be projected on to the Arts Centre (as per Arts projects)

### **Officer's Recommendation**

That Council participate in this year's Earth Hour event by turning off lights across Council's buildings and facilities, whenever practicable, and undertaking the activities listed in the above report.

### **Committee's Recommendation: (Thompson/Bourke)**

That the Officer's Recommendation be adopted.

### **CARRIED**

### **Council Meeting 2 March 2010 (Matheson/Kolkman)**

That the Officer's Recommendation be adopted.

### **Council Minute Resolution Number 25**

That the Officer's Recommendation be adopted.

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## **2.3 Bushcare Stall at 2010 Sydney Royal Easter Show**

### **Reporting Officer**

Manager Environmental Planning

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### **Attachments**

Nil

### **Purpose**

To advise Council of a proposal to support the "Bushcare" stall at the Sydney Royal Easter Show.

### **History**

The Sydney Metropolitan Catchment Management Authority (SMCMA) each year assists in coordinating a "Bushcare" stall at the Sydney Royal Easter Show. The stall, which has been operational since 2005, aims to promote Bushcare and backyard biodiversity. It receives thousands of visitors, and has won numerous awards at the Show. In 2009, Council supported the stall financially and also provided a staff member for one day to assist with the stall's operation.

### **Report**

Council has received correspondence from the SMCMA advising that it is once again coordinating a combined "Bushcare" stall for the Sydney Royal Easter Show in 2010. The SMCMA are calling for support from Councils in a number of ways, be it financial support or in kind support such as providing staff, information materials or other items to be given away at the stall. Given the high profile of the stall and the large numbers of visitors it attracts, this presents an opportunity for Council to promote Bushcare within the Campbelltown LGA. With Council establishing new Streamcare groups at St Helens Park, Ingleburn and Kentlyn, this opportunity is also well timed.

Council will support the stall with a \$300 contribution, and the provision of a staff member for a day during the Royal Sydney Easter Show. Additionally, Council will also provide resources such as the popular Campbelltown Native Gardening Guide. These actions will result in further promoting Council's commitment to the environment and local biodiversity at a regional level.

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**Officer's Recommendation**

That this information be noted.

**Committee's Recommendation: (Bourke/Thompson)**

That the Officer's Recommendation be adopted.

**CARRIED**

**Council Meeting 2 March 2010 (Matheson/Kolkman)**

That the Officer's Recommendation be adopted.

**Council Minute Resolution Number 25**

That the Officer's Recommendation be adopted.

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## **2.4 Public Hearing into the Bulli Seam Project Application**

### **Reporting Officer**

Manager Environmental Planning

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### **Attachments**

Submission to the Planning Assessment Commission for the Bulli Seam Project (Distributed under separate cover).

### **Purpose**

The purpose of this report is to inform Council on aspects of its submission and presentation provided to the Planning Assessment Commission established by the NSW Government to review the Bulli Seam Project Application and accompanying Environmental Assessment.

### **History**

At its meeting on 16 December 2009, Council considered a report outlining the outcomes of a review of an Environmental Assessment (EA) and project application made to the Department of Planning under Part 3A of the Environmental Planning and Assessment Act, 1979, by BHP Billiton (BHP) associated with the expansion of the Bulli Seam Underground Mining Project. Following consideration of this report, Council resolved to object to the proposal based on a range of reasons associated mostly with environmental impacts.

As advised in a recent Planning and Environment Division Councillor Weekly Memo Item (CWM) (dated 5 February 2010), the NSW Government has established a Planning Assessment Commission (the Commission) to review the project application submitted to the Department of Planning, including the accompanying EA. The CWM item also advised that a Public Hearing by the Commission would be held as part of this process. Details of the Public Hearing were advertised in the Macarthur Chronicle (dated 3 February 2010).

### **Report**

#### **Details of the Planning and Assessment Commission**

The six (6) members of the Commission established by the NSW Government to review the project application, have specialist expertise in the fields of mining engineering, economics, groundwater and watercourses. The Terms of Reference for the Commission are as follows:

- *Review of the potential subsidence related impacts of the project on significant natural features, built infrastructure and the values of Sydney's drinking water catchment, taking into consideration the recommendation of the Southern Coalfields Inquiry;*
  - *Advise on the significance and acceptability of these potential impacts, and to recommend appropriate measures to avoid, minimise, remediate or offset these impacts; and*
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- 
- *Identify and comment on any other significant issues raised in submissions regarding the Bulli Seam operations project or during public hearings*

The announcement in the local newspaper regarding the establishment of the Commission also invited submissions from interested stakeholders. Consequently, Council has made a submission directly to the Commission (attached), which expresses concern regarding the Part 3A approval process and the EA. The submission also outlined key concerns in regard to potential subsidence impacts on the natural and built environment (Terms of Reference 1 and 2). The submission also raised other important matters including issues associated with the Brennans Creek Coal Wash Emplacement Area and potential land use conflicts of the proposed development in regard to future urban development in Menangle Park and parts of the Macarthur South Area.

### **Details of the Public Hearing and Council's attendance**

The Commission held a Public Hearing at Appin on Wednesday 17 February 2010 as part of its assessment of the Terms of Reference. A presentation at the Public Hearing was provided on behalf of Council by the Director of Planning and Environment. The presentation highlighted key issues contained in both Council's original submission to the project application as well as the submission to the Commission.

In addition, Council's Senior Environmental Officer was in attendance for the entire duration of the Public hearing and will provide a subsequent information report to Council on the proceedings.

### **Further consultation associated with the project application**

Council will hold a meeting with representatives of BHP to discuss in more detail issues contained in its submission to the project application as well as the submission and presentation to the Public Hearing.

### **Officer's Recommendation**

1. That the information be noted.
2. That Council endorse the submission to the Planning Assessment Commission, as shown in Attachment 1.

### **Committee's Recommendation: (Bourke/Kolkman)**

That the Officer's Recommendation be adopted.

### **CARRIED**

### **Council Meeting 2 March 2010 (Bourke/Thompson)**

That the Officer's Recommendation be adopted.

### **Council Minute Resolution Number 26**

That the Officer's Recommendation be adopted.

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### **3. DEVELOPMENT SERVICES**

#### **3.1 Development Services Section Application Statistics - January 2010**

##### **Reporting Officer**

Manager Development Services

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##### **Attachments**

Development Services Application Statistics for January 2010 (distributed under separate cover).

##### **Purpose**

To advise Council of the status of development applications and other key matters within the Development Services Section.

##### **Report**

In accordance with Council's resolution that Councillors be provided with regular information regarding the status of development applications, the attachment to this report provides details of key statistics for January 2010 as they affect the Development Services Section.

##### **Officer's Recommendation**

That the information be noted.

##### **Committee's Recommendation: (Oates/Rowell)**

That the Officer's Recommendation be adopted.

##### **CARRIED**

Having declared an interest in item 2.4, Councillor Chanthivong left the Chamber and did not take part in debate nor vote on the matter.

##### **Council Meeting 2 March 2010 (Matheson/Kolkman)**

That the Officer's Recommendation be adopted.

##### **Council Minute Resolution Number 25**

That the Officer's Recommendation be adopted.

Following discussion of this item, Councillor Chanthivong returned to the Chamber for the remainder of the meeting.

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### **3.2 Ingleburn Town Centre Shopping Centre (Woolworths) – Construction of Shop Fitout and Use of Premises for the Sale of Packaged Liquor**

#### **Reporting Officer**

Manager Development Services

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#### **Attachments**

1. Recommended Conditions of Consent
2. Locality Plan
3. Floor Plan
4. Elevations

#### **Purpose**

To assist Council in its determination of the subject development application in accordance with the provisions of the Environmental Planning and Assessment Act 1979.

<b>Property Description</b>	Shop Nos. 2,3 and 4 at Lot 101 DP 875135 Ingleburn Town Centre Shopping Centre (Woolworths), Cnr. Nardoo and Norfolk Streets, INGEBURN NSW 2565
<b>Application No</b>	894/2009/DA-C
<b>Applicant</b>	Inspire Planning
<b>Owner</b>	The Village Centre Ingleburn Pty Ltd
<b>Statutory Provisions</b>	Campbelltown (Urban Area) Local Environmental Plan 2002 Campbelltown (Sustainable City) Development Control Plan 2009
<b>Date Received</b>	6 May 2009

#### **Report**

##### **Introduction**

Council has received a development application for a shop fitout and the use of those premises for the sale of packaged liquor.

##### **The Site**

The subject site is located within the Ingleburn Town Centre Shopping Centre (Shop Nos. 2, 3 and 4) at the corner of Nardoo and Norfolk Streets Ingleburn. The site is located in a retail commercial environment within the Ingleburn Central Business District.

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## **The Proposal**

The proposed shop fitout involves:

- The removal of partition walls from 3 existing tenancies, to establish a single tenancy, with a floor area of 164 square metres.
- The erection of internal signage within the shopping centre.
- The installation of sales counters, display racks, a cool room and display fridges.

There is no proposed external signage as part of this application. There is no proposed consumption of alcohol on the premises.

## **Assessment**

The development has been assessed having regard to the matters for consideration under Section 79C of the *Environmental Planning and Assessment Act 1979* (EP&A Act). Section 79C(1)(a) requires that Council consider the provisions of environmental planning instruments, development control plans and other legislation when making its determination of an application. Assessment of the application includes consideration of the various impacts the development may have on the natural and built environments.

### **i. Campbelltown 2025 Looking Forward**

‘Campbelltown 2025 Looking Forward’ is a statement of broad town planning intent for the longer term future of the City of Campbelltown that:

- *Responds to what Council understands people want the City of Campbelltown to look, feel and function like;*
- *Recognises likely future government policies and social and economic trends; and*
- *Sets down the foundations for a new town plan that will help achieve that future.*

The document establishes a set of strategic directions to guide decision making and development outcomes. These directions are broad in nature and form a prelude to a new statutory town plan for the City.

The strategic direction relevant to this application is:

- *Creating Education, Employment and Entrepreneurial Opportunities.*

The proposed development is considered to be generally consistent with this direction.

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Relevant desired outcomes relating to the strategic directions included in Campbelltown 2025 include:

- *A diversified economic base with all (urban) sectors represented.*
- *A high degree of employment self-containment (50% of working people living in Campbelltown are employed at a location within the City).*
- *Employment opportunities distributed across the City area, but concentrated in the Regional City Centre precinct, nominated employment lands and in business centres.*
- *Development and land use matches environmental capacity and capability.*

The proposal is considered generally consistent with the relevant desired outcomes of 'Campbelltown 2025 Looking Forward' as the proposed development contributes to the aim of creating employment and entrepreneurial opportunities. It is considered that the development is to be located on land that is suitable for the proposed development.

## **ii. Campbelltown (Urban Area) Local Environmental Plan 2002**

The subject site is zoned 10 (b) District Comprehensive Centre Zone under the provisions of the Campbelltown (Urban Area) Local Environmental Plan 2002. The proposed development is defined as a "liquor store" and is permissible with Council's development consent within the zone.

The proposal is consistent with the following zone objective:

1. *To provide space for a wide range of retail, commercial and like needs to serve the districts within the City of Campbelltown.*

It is a requirement of the Campbelltown (Urban Area) Local Environmental Plan 2002 that the proposed development must be consistent with at least one of the zone objectives in order for Council to grant development consent. It is considered that the proposed development is consistent with at least one of the zone objectives and therefore, Council is able to approve the development should it deem it appropriate to do so.

## **iii. Campbelltown (Sustainable City) Development Control Plan 2009**

The application has been assessed having regard to Council's Campbelltown (Sustainable City) Development Control Plan 2009 (CSC DCP 2009). The aim of the plan is to identify objectives and design requirements for all aspects of development permissible under Council's LEPs and IDOs. The aims of the CSC DCP 2009 are to:

- *Ensure that the aims and objectives of any relevant EPI including Campbelltown's LEPs and IDOs are complemented by the Plan;*
  - *Ensure that the principles of ecological sustainability are incorporated into the design, construction and ongoing operation of development;*
  - *Facilitate innovative development of high quality design and construction in the City of Campbelltown;*
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- *Ensure that new development maintains or enhances the character and quality of the natural and built environment;*
- *Ensure that new development takes place on land that is capable of supporting development;*
- *Encourage the creation of safe, secure and liveable environments; and*
- *Ensure that new development minimises the consumption of energy and other finite resources, to conserve environmental assets and to reduce greenhouse gas emissions.*

It is considered that the proposal is compatible with the relevant aims of the plan.

Further to the above, other relevant provisions of the plan relate to car parking and access and commercial waste management. As the proposal does not result in an increase in floor space, it is considered that there is sufficient parking provided for the development through the utilisation of existing parking facilities to the east of the shopping centre. An existing loading bay at the rear of the shopping centre will be utilised by the development for the delivery of all goods in accordance with Part 5.4.2 of the CSC DCP 2009. Waste management and recycling facilities will be located in the rear of the centre and are in accordance with Part 5.9 of the CSC DCP 2009.

#### **iv. Impacts of the Development**

Section 79C(1)(b) of the EP&A Act requires Council to consider the “likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality.” The issues identified for consideration are:

##### **Suitability**

The site of the proposed liquor store is located in an established retail environment and within a shopping centre that includes a large Woolworths supermarket and a large car park located directly outside and adjacent to the centre. Access to the proposed liquor store is from within the shopping centre itself and the store would operate within the approved trading hours of the centre.

The proposed hours of operation would be consistent with those of the Woolworths supermarket and be:

Monday to Saturday:	7:30am to 10:00pm
Sunday:	10:00am to 10:00pm

The proposed hours of operation listed are the maximum sought by the applicant and are subject to restrictions imposed in accordance with a Packaged Liquor Licence issued pursuant to the Liquor Act 2007. The hours of operation may be varied by the tenant without further approval from Council as long as the revised hours of operation remain within the maximum hours approved.

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### **Economic Impact**

The proposal is likely to have a minor economic impact in the locality. The applicant proposes to reconfigure the existing floor space by way of consolidating three existing units into one tenancy. The new store would be staffed by two full time employees with additional casual staff during peak demand periods. There are two other liquor stores located in the Ingleburn CBD, one being a drive-through bottle-shop located at No. 14 Ingleburn Road, Ingleburn and a retail type store with street frontage located at No. 108 Macquarie Street, Ingleburn.

### **Social Impact**

The proposal was referred to both the Macquarie Fields Local Area Command (MFLAC) of the NSW Police Force and Council's Community Services Division for comment with regard to the possible social impacts of the proposed development.

The MFLAC provided comments in June 2009 and in response to these comments, in July 2009, Council requested that the applicant provide a more detailed analysis of the social impact of the development.

Generally, the comments provided by the MFLAC at that time were that the proposed development would lead to an increase in density of licensed premises in the Ingleburn CBD area. It was also noted within the response that the Escalated Licensing Operational Response Model (ELORM) indicated a low risk involving alcohol related incidents associated with licensed premises (ELORM is a relatively new policing tool that matches police response to the risk-rating of the premises), however despite this risk indication, it was stated that incidents of underage drinking and anti-social behaviour within the Ingleburn Town Centre were an ongoing concern and as such, the proposal was not supported.

In response to the comments from both the Police and Council's Community Services Division, in January 2010 the applicant submitted more detailed information relating to social impact. A letter addressing concerns raised by the MFLAC, and a document which summarises information contained in a Community Impact Statement was also included which will also form part of a future application to the Casino Liquor and Gaming Control Authority, was submitted to Council.

Council's Community Services Division (CSD) has reviewed this additional information and commented that the applicant has provided a well reasoned response to the concerns originally expressed by the MFLAC. It was also noted by the CSD that underage drinking and malicious damage are ongoing concerns in the Ingleburn area. As such, Council's CSD suggests that a review of any consent be made after two years to assess the impact of the development prior to an ongoing consent being issued.

This additional information submitted by the applicant was also referred to the MFLAC, however, no response has not been received to date.

Upon consideration of the likely social impacts of the development in the locality and of that mentioned above, it is recommended that any consent be issued for a period of two years. Prior to the expiration of the two year period, a new development application will be required to be lodged and approval obtained to enable the continuation of use of the site.

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### **Environmental Impact**

The proposed development will be operated wholly from within the shopping centre complex and it is considered that (except for the initial fitout works) the proposed development is unlikely to have an adverse impact on the natural and built environments.

### **Public Participation**

The application was not notified to nearby and adjoining neighbours in accordance with Council's Development Control Plan No.87 – Public Exhibition and Public Notification Policy.

### **Conclusion**

The development application seeks development consent for the construction of a shop fitout and use of premises for the sale of packaged liquor. The subject site is zoned 10 (b) District Comprehensive Centre Zone and is located within Ingleburn Town Centre, Nardoo Street and is development that is permissible with Council's consent.

The application was not required to be notified.

The proposal has been assessed against the relevant statutory instruments, plans and policies and has been found to generally comply with the relevant provisions of those documents.

The proposal has been assessed with regard to its suitability to the site, impact on the environment, social and economic impacts in the locality. Upon consideration of these issues it is recommended that consent be issued (on a trial basis) with a maximum period of two years.

### **Officer's Recommendation**

That development application 894/2009/DA-C for the construction of a shop fitout and use of premises for the sale of packaged liquors at Lot 101 DP 875135 Ingleburn Town Centre, Nardoo Street be approved subject to the conditions contained in Attachment 1.

**Committee Note:** Mr McMahon addressed the Committee in support of the application.

### **Committee's Recommendation: (Oates/Matheson)**

That development application 894/2009/DA-C for the construction of a shop fitout and use of premises for the sale of packaged liquors at Lot 101 DP 875135 Ingleburn Town Centre, Nardoo Street be approved subject to the conditions contained in Attachment 1 with the exception that general condition number 1 be deleted.

### **CARRIED**

Voting for the Committee's Recommendation were Councillors: Bourke, Kolkman, Oates, Matheson, Rowell and Thompson.

Voting against the Committee's Recommendation: nil.

His Worship the Mayor was not in the Chamber at the time of the debate and vote on this item.

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## **Council Meeting 2 March 2010 (Chanthivong/Glynn)**

That the Committee's Recommendation be adopted.

## **Council Minute Resolution Number 27**

That the Committee's Recommendation be adopted.

Voting for the Council Resolution were Councillors: Borg, Bourke, Chanthivong, Dobson, Glynn, Greiss, Hawker, Kolkman, Lake, Matheson, Oates, Rowell, Rule, Thomas and Thompson.

Voting against the Council Resolution: nil.

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## **ATTACHMENT 1**

### **Recommended Conditions of Consent**

#### **GENERAL CONDITIONS**

The following conditions have been applied to ensure that the use of the land and/or building is carried out in such a manner that is consistent with the aims and objectives of the planning instrument affecting the land.

For the purpose of these conditions, the term 'applicant' means any person who has the authority to act on or benefit of the development consent.

#### **1. Period of Consent**

The consent is valid for a period of twenty four months (two years) from the effective date of this determination. To enable the continuing use of the site, a new development application will be required to be lodged and approval obtained prior to the expiration of this twenty four month period.

#### **2. Approved Development**

The development shall take place in accordance with the approved development plans containing Council's approved development stamp and all associated documentation submitted with the application, except as modified in red by Council and/or any conditions of this consent.

#### **3. Building Code of Australia**

All building work must be carried out in accordance with the provisions of the *Building Code of Australia*. In this clause, a reference to the *Building Code of Australia* is a reference to that Code as in force on the date the application for the relevant construction certificate is made.

#### **4. External Finishes**

The external finishes shall be in accordance with the approved plans and the schedule of finishes submitted with this application. Any proposed alterations to these finishes are considered to be a modification to the development consent and require separate approval by Council.

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**5. Advertising Signs – Separate DA Required**

This consent does not permit the erection or display of any advertising signs.

Most advertising signs or structures require development consent. You should make separate enquiries with Council prior to erecting or displaying any advertising or signage.

**6. Storage of Goods**

All works, storage and display of goods, materials and any other item associated with the premises shall be contained wholly within the building.

**7. Operating Hours**

The use of the premises/business shall be limited to:

Monday to Saturday	7:30am – 10:00pm
Sunday	10:00am – 10:00pm

**PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE**

The following conditions of consent must be complied with prior to the issue of a construction certificate by either Campbelltown City Council or an accredited certifier. All necessary information to comply with the following conditions of consent must be submitted with the application for a construction certificate.

**8. Section 94A Developer Contribution - Community Facilities and Services**

Prior to Council or an accredited certifier issuing a construction certificate (or where a construction certificate is not required, a subdivision certificate), the applicant shall provide a receipt for the payment to Council of a community facilities and services contribution in accordance with the provisions of the *Campbelltown City Council Section 94A Development Contributions Plan*.

For the purposes of calculating the required S94A contribution, where the value of the proposed development exceeds \$100,000, the applicant is required to include a cost summary report with the construction certificate application setting out a cost estimate of the proposed development in accordance with the following:

- where the value of the proposed development is greater than \$100,000 but less than \$500,000 - a cost summary report by a person who, in the opinion of the Council, is suitably qualified to provide a cost summary report (Cost Summary Report Template 1), or
-

- where the value of the proposed development is \$500,000 or more - a detailed cost report by a quantity surveyor who is a registered member of the Australian Institute of Quantity Surveyors (Cost Summary Report Template 2).

Copies of the Cost Summary Report Templates 1 and 2 are located under "Developer Contributions" on Council's web site ([www.campbelltown.nsw.gov.au](http://www.campbelltown.nsw.gov.au)) or can be collected from Council's Planning and Environment Division during normal business hours.

All cost estimates will be subject to indexation on a quarterly basis relative to the *Consumer Price Index - All Groups* (Sydney) where the contribution amount will be based on the indexed value of the development applicable at the time of payment.

Payment of Section 94A Developer Contributions will only be accepted by way of Cash, Credit Card or Bank Cheque issued by an Australian bank. Payment by any other means will not be accepted unless otherwise approved in writing by Council.

**Note: This condition is only applicable where the total development value exceeds \$100,000.**

## **PRIOR TO THE COMMENCEMENT OF ANY WORKS**

The following conditions of consent have been imposed to ensure that the administration and amenities relating to the proposed development comply with all relevant requirements. These conditions are to be complied with prior to the commencement of any works on site.

### **9. Erection of Construction Sign**

Prior to the commencement of any works on the land, a sign/s must be erected in a prominent position on the site:

- a. Showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours;
  - b. Stating that unauthorised entry to the work site is prohibited; and
  - c. Pollution warning sign promoting the protection of waterways (issued by Council with the development consent);
  - d. Stating the approved construction hours in which all works can occur.
  - e. Showing the name, address and telephone number of the principal certifying authority for the work.
-

Any such sign/s is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

#### **10. Trade Waste**

Prior to the commencement of any works on the land, a trade waste facility shall be provided on-site to store all waste pending disposal. The facility shall be screened, regularly cleaned and accessible to collection vehicles.

#### **11. Public Property**

Prior to the commencement of any works on site, the applicant shall advise Council of any damage to property which is controlled by Council which adjoins the site, including kerbs, gutters, footpaths, and the like. Failure to identify existing damage may result in all damage detected after completion of the development being repaired at the applicant's expense.

#### **12. Hoarding / Fence**

Prior to the commencement of any works, a hoarding or fence must be erected between the work site and a public place if the work involved in the development is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or if the building involves the enclosure of a public place in accordance with *Work Cover* requirements.

The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

A separate land use application under Section 68 of the Local Government Act 1993 shall be submitted to and approved by Council prior to the erection of any hoarding on public land.

### **DEVELOPMENT REQUIREMENTS DURING CONSTRUCTION**

The following conditions of consent have been imposed to ensure that the administration and amenities relating to the proposed development comply with all relevant requirements. These conditions are to be complied with during the construction of the development on site.

#### **13. Construction Work Hours**

All work on site shall only occur between the following hours:

Monday to Friday	7.00am to 6.00pm
Saturday	8.00am to 1.00pm
Sunday and public holidays	No Work.

### **PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE**

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The following conditions of consent must be complied with prior to the issue of an occupation certificate by either Campbelltown City Council or an accredited principal certifying authority. All necessary information to comply with the following conditions of consent must be submitted with the application for an occupation certificate.

Note: For the purpose of this development consent, any reference to "occupation certificate" shall also be taken to mean "interim occupation certificate".

#### **14. Council Fees and Charges**

Prior to the principal certifying authority issuing an occupation certificate, the applicant shall obtain written confirmation from Council that all applicable Council fees and charges associated with the development have been paid in full. Written confirmation will be provided to the applicant following Council's final inspection.

#### **ADVISORY NOTES**

The following information is provided for your assistance to ensure compliance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, other relevant Council Policy/s and other relevant requirements. This information does not form part of the conditions of development consent pursuant to Section 80A of the Act.

##### **Advice 1. Environmental Planning and Assessment Act 1979 Requirements**

The Environmental Planning and Assessment Act 1979 requires you to:

- a. Obtain a construction certificate prior to the commencement of any works. Enquiries regarding the issue of a construction certificate can be made to Council's Customer Service Centre on 4645 4608.
  - b. Nominate a principal certifying authority and notify Council of that appointment prior to the commencement of any works.
  - c. Give Council at least two days notice prior to the commencement of any works.
-

- d. Have mandatory inspections of nominated stages of the construction inspected.
- e. Obtain an occupation certificate before occupying any building or commencing the use of the land.

**Advice 2. Disability Discrimination Act**

Nothing in this consent is to be taken to imply that the development meets the requirements of the *Disability Discrimination Act 1992* (DDA1992). Where a Construction Certificate is required for the approved works, due regard is to be given to the requirements of the *Building Code of Australia* (BCA). However, your attention is drawn to the existence of the DDA1992 and that compliance with the various requirements of the BCA does not provide automatic compliance with the DDA1992. In this regard it is the sole responsibility of the owner, builder and applicant to ensure compliance with the DDA1992.

**Advice 3. Covenants**

The land upon which the subject building is to be constructed may be affected by restrictive covenants. Council issues this approval without enquiry as to whether any restrictive covenant affecting the land would be breached by the construction of the building, the subject of this permit. Persons to whom this permit is issued must rely on their own enquiries as to whether or not the building breaches any such covenant.

**Advice 4. Smoke Free Environment Act**

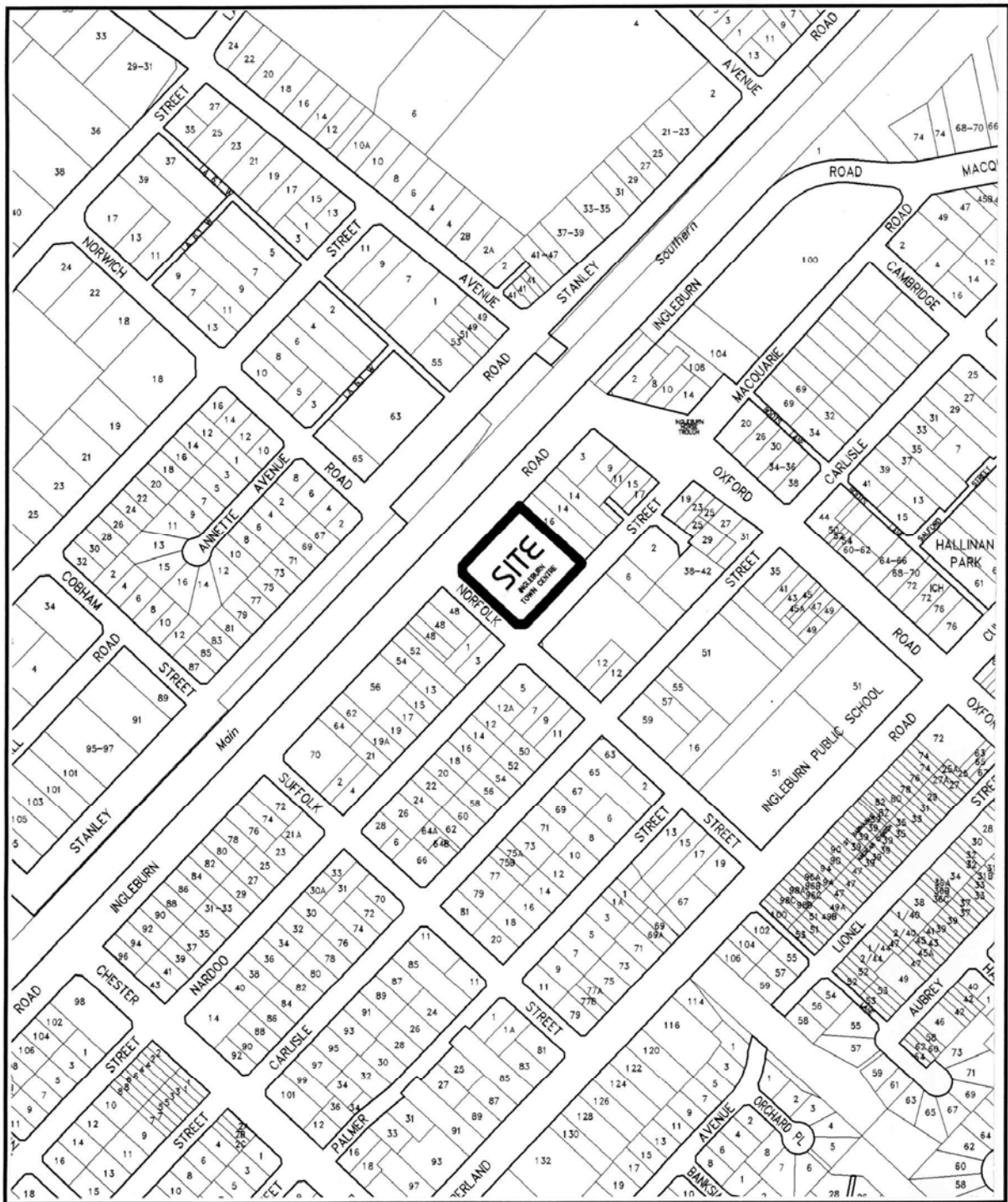
Nothing in this consent is to be taken to imply that the development meets the requirements of the *Smoke Free Environment Act 2000* (SFEA2000) or the *Smoke Free Environment Regulations 2007* (SFER2007). In the event that the occupier wishes to facilitate smoking within any enclosed public place of the premises (in accordance with clause 6 of the SFER2007), the occupier must first contact NSW Department of Health to ensure that the design and construction of the area proposed to facilitate smoking fully complies with the requirements of the SFEA2000 and the SFER2007.

**END OF CONDITIONS**

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## ATTACHMENT 2



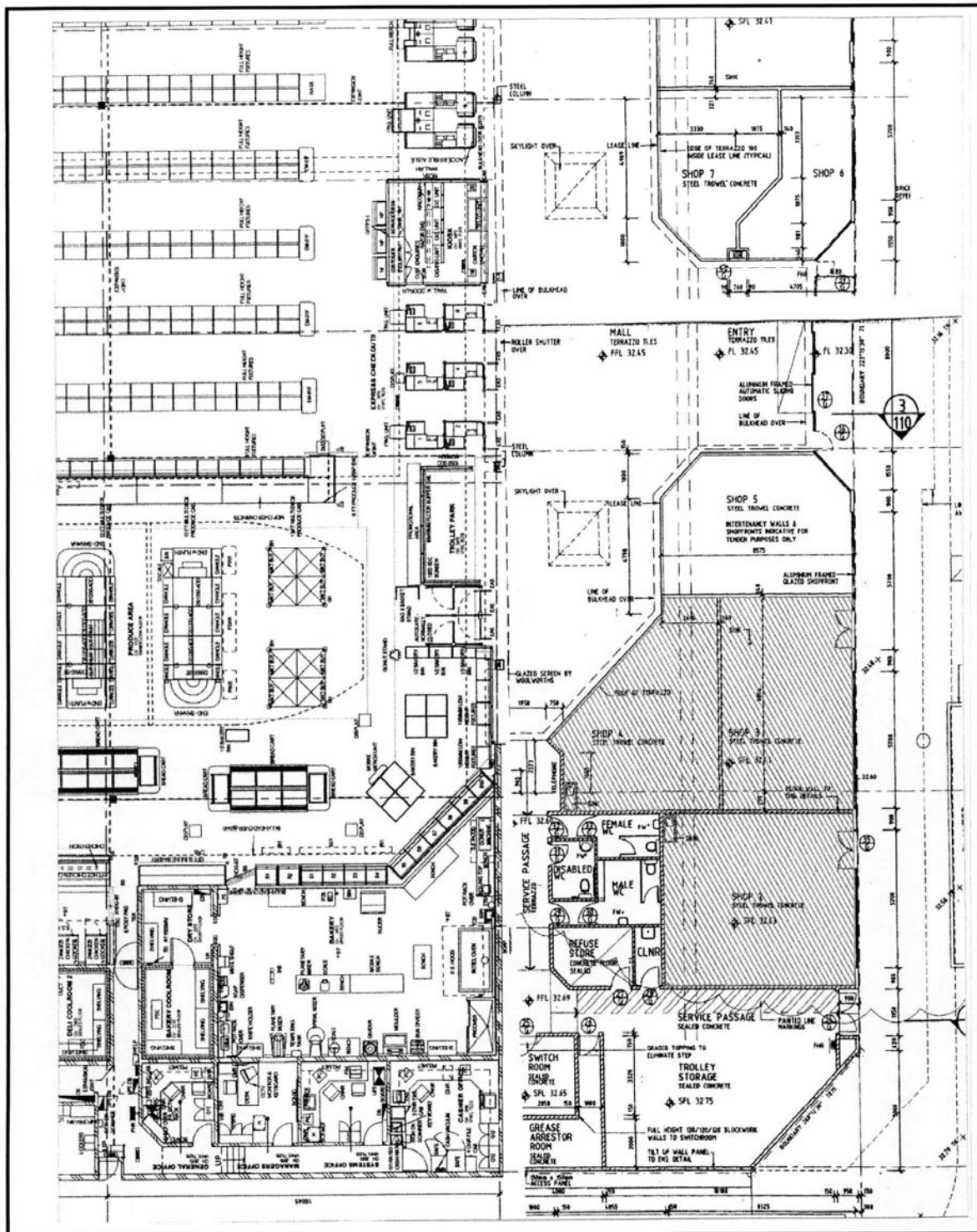
### LOCALITY PLAN



**SUBJECT:**

CONSTRUCTION OF A SHOP FITOUT AND USE OF  
PREMISES FOR THE SALE OF PACKAGED LIQUORS.  
LOT 101 DP 875135 -"INGLEBURN TOWN CENTRE" NARDOO STREET, INGLEBURN.

## ATTACHMENT 3

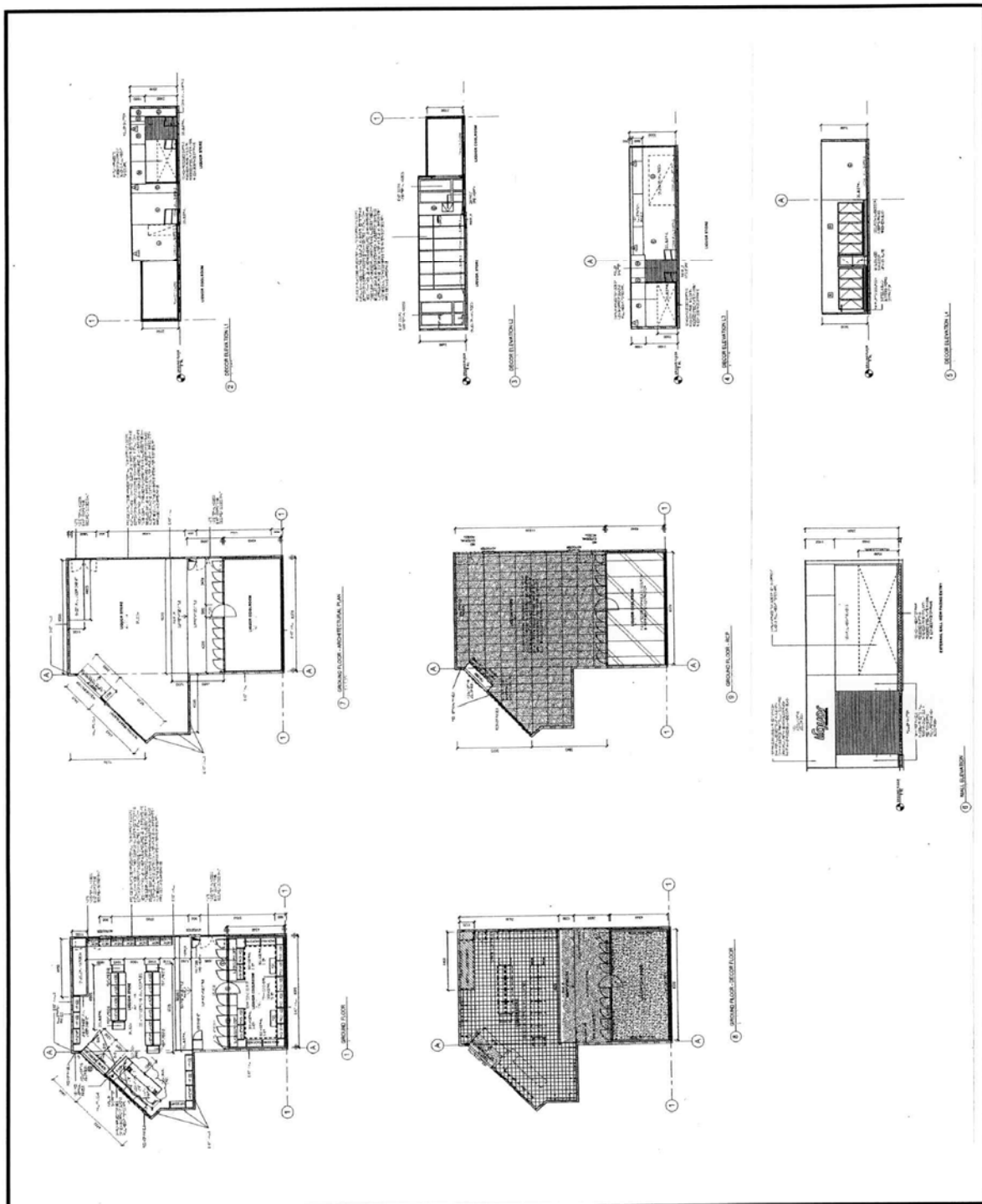


## FLOOR PLAN

**SUBJECT:**

CONSTRUCTION OF A SHOP FITOUT AND USE OF  
PREMISES FOR THE SALE OF PACKAGED LIQUORS.  
LOT 101 DP 875135 - "INGLEBURN TOWN CENTRE" NARDOO STREET, INGLEBURN.

## ATTACHMENT 4



## ELEVATIONS

**SUBJECT:**

CONSTRUCTION OF A SHOP FITOUT AND USE OF  
 PREMISES FOR THE SALE OF PACKAGED LIQUORS.  
 LOT 101 DP 875135 - "INGLEBURN TOWN CENTRE" NARDOO STREET, INGLEBURN.

### **3.3 Bolger Street, Campbelltown - Construction of additions to existing licensed premises**

#### **Reporting Officer**

Manager Development Services

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#### **Attachments**

1. Recommended conditions of development consent
2. Locality plan
3. Site layout plan
4. Floor plans
5. Elevation plans
6. Landscaping plan

#### **Purpose**

The purpose of this report is to assist Council in its determination of the subject development application in accordance with the provisions of the *Environmental Planning and Assessment Act 1979*.

<b>Property Description</b>	Lot 500 DP 817216 and Lot 3 DP 1071804, Bolger Street, Campbelltown
<b>Application No</b>	2305/2009/DA-C
<b>Applicant</b>	Projects TT
<b>Owner</b>	De Angelis Investments Pty Ltd
<b>Statutory Provisions</b>	Campbelltown (Urban Area) Local Environmental Plan 2002 Campbelltown (Sustainable City) Development Control Plan Development Control Plan No. 87 - Notification Policy
<b>Other Provisions</b>	Campbelltown 2025 – 'Looking Forward'
<b>Date Received</b>	30 October 2009

#### **Director's Note:**

At its meeting on 9 February 2010 Council resolved:

*'That a decision in this matter be deferred to the next round of Committees to allow the Director of Planning and Environment to obtain legal advice and examine the broader implications of options relating to the provision of carparking spaces in association with the development, as presented by the applicant at the Committee meeting.'*

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Pursuant to Council's resolution, a meeting was held with Council's solicitors to consider the applicant's request. The request being that Council approve the application without specifying the required number of car parking spaces but instead, include a condition that requires the applicant undertake a patronage and parking survey once the hotel is fully operational and that the result of that survey is to be the determinant of how many parking spaces are required.

Council's solicitor offered comments that indicated the applicant's suggested condition was not sufficiently specific and supported the Council officer's view that such a condition may lead to uncertainty in terms of Council being able to achieve a satisfactory outcome with respect to the provisioning of car parking for the approved development.

Council's solicitor suggested that an alternative option available to the applicant would be to lodge (after the hotel had commenced trading for a reasonable period of time) a Section 96 Modification Application seeking to vary any condition of consent that required a specific number of parking spaces be provided as part of the approved development. It was further suggested that in support of any modification, evidence obtained by way of a patronage and parking survey could be lodged by the applicant so as to provide Council with a clearer indication of the actual parking demand arising from the ongoing use of the hotel premises once it had been operating for a period of 6-12 months. However, despite the options available to the applicant including the opportunity to provide Council with a comprehensive patronage and parking survey, Council would still be required to consider any application based on the merits of the proposal.

Further to the above and pursuant to Council's resolution of 9 February 2010, a review of a number of other Council's car parking standards have been undertaken. The review has shown that the car parking standards for hotels as specified in the Sustainable City Development Control Plan 2009 is generally consistent with a number of other Councils as shown in the Table below:

**PLEASE NOTE - for the sake of consistency, as some Council's do not identify car parking generation rates for bottle-shops, the Campbelltown's rate for bottle-shops has been used.**

Council:	Car Parking Standard for Hotels/Licensed Premises
Campbelltown	<ul style="list-style-type: none"> <li>1.5 spaces per 10m<sup>2</sup> of leasable floor area for hotel component (leasable floor area includes all parts of the building aside from loading docks, amenities, vents and lift shafts); plus</li> <li>1 space per 25m<sup>2</sup> for the bottle shop (retail) component.</li> <li><b>Total spaces required = 268</b></li> </ul>
Penrith	<ul style="list-style-type: none"> <li>1 space per 3.5m<sup>2</sup> bar floor area; plus</li> <li>1 space per 5.5m<sup>2</sup> of lounge and dining room area.</li> <li><b>In the order of 350 spaces required.</b></li> </ul>

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Camden

- 1 space per 2m<sup>2</sup> gross floor area of public bar area; plus
- 1 space per 5m<sup>2</sup> of lounge, beer garden, auditorium, billiard room, restaurant floor area.
- Generally 25 spaces per 100m<sup>2</sup> of public floor area will be required.
- **In the order of 465 spaces required.**

Fairfield

- 1 space per 5m<sup>2</sup> of gross leaseable floor area for bar, lounge, dining area, restaurant, function room; plus
- 1 space per 40m<sup>2</sup> of gross leaseable area for office and administration area.
- **In the order of 340 spaces required.**

Sutherland

- 1 space per 5m<sup>2</sup> of gross floor area for bar and lounge area; plus
- 1 space per 7m<sup>2</sup> of gross floor area for restaurant and function room area or provision for 1 space per 3 seats whatever is the greater; plus
- 1 space for the manager and 1 space per employee.
- **In the order of 270 spaces required.**

The review noted that Blacktown Council requires that for premises in the Blacktown Business Centre makes provision as follows:

*"The onus will be on the applicant to provide sufficient information to satisfy Council that the applicant's proposed parking supply is adequate."*

In light of discussions between Council officers and Council's solicitor and the review of the car parking standards of a number of other Councils, it is concluded that the proposal put by the applicant that Council not include a condition specifying the number of required parking spaces but instead, rely upon a post consent parking survey to determine the number of required parking spaces, should not be supported.

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End of Director's note.

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***The following information is a copy of the report tabled at the previous round of Council and is included for reference and information.***

## **Background**

The subject development site is located within a key strategic area of the Macarthur town centre, having particular regard to its location and size. The land comprises three allotments, with two allotments under joint ownership and the third owned separately. The land has a combined area of approximately 2.52 hectares and effectively has four street frontages - Gilchrist Drive, Kellicar Road, Bolger Street and Menangle Road.

The land presently contains a sealed car park containing 260 spaces that are utilised by commuters accessing trains at Macarthur Station and a multi-storey commercial office building that was constructed during the mid 1980s. The multi-storey commercial building is contained on the allotment under separate ownership which has an area of approximately 5,714 square metres. The commuter car park and remaining land, which has an area of approximately 19,486 square metres is held in two separate titles, although jointly owned by the one party.

In October 2008, Council granted development consent for the construction and operation of a licensed premises at the site (via consent 1435/2008/DA-C as amended). The development includes a building that would have a total floor area of 1,373 square metres including the undercroft storage and unloading area. Of that total, 746 square metres of the floor space would be available for licensed floor space. The development also includes a 108 space two-storey car park.

Construction of the licensed premises (known as the 'Macarthur Tavern') has commenced and is progressing on the site.

As part of Council's assessment of the abovementioned proposal, a six-stage (non-statutory) master plan for the site's long-term development was prepared. A brief synopsis of the stages within the master plan is detailed below:

### **Stage 1**

- Construction and establishment of licensed premises (tavern) and 108 space car parking area;
- Upgrading of shared access/egress driveway to Bolger Street;
- Retention of existing commuter car park egress to Menangle Road; and
- Retention of existing commuter car park.

This stage is presently under construction

### **Stage 2**

Stage 2 contains two options. Common to both are:

- Extension of the tavern building to include additional lounge, dining and outdoor areas;
-

- 108 space on grade car park retained in addition to a share arrangement with commuter car parking to accommodate additional car parking requirements following an increase in the floor area of the hotel;
- Shared access/egress to Bolger Street remains; and
- Retention of commuter car park egress to Menangle Road.

This stage forms the subject development application.

### **Stage 3**

- Retention of extended tavern building and car parking;
- New mixed-use residential/commercial development located in the north west portion of the site - the new development would contain 6-8 storey high residential towers, lower level commercial uses. The residential component would accommodate approximately 165 units. A basement car parking area for 225 spaces would be included;
- Construction of intersection treatments to the Bolger Street access/egress point for the site; and
- Retention of the proposed entry/exit road to Menangle Road.

### **Stage 4**

- Retention of extended tavern building and car parking;
- Retention of mixed-use residential/commercial development and basement car parking in north west corner of site;
- New commercial/retail building constructed to the corner of Bolger Street and Kellicar Road (subject to owner's consent), which would feature a mix of one and two storey elements and would 'link' the commercial strip to the hotel premises; and
- Additional car parking for the new commercial building.

### **Stage 5**

- Retention of extended tavern building and car parking;
- Retention of mixed-use residential/commercial development and basement car parking in the north west corner of site;
- Retention of commercial building on the corner of Kellicar Road and Bolger Street; and
- Construction of a new commercial and office building in the north eastern portion of the site, above the multi-deck commuter car park. Additional car parking for the office/commercial building would be provided within an extended multi-deck car parking structure.

### **Stage 6**

- Retention of mixed-use residential/commercial development and basement car parking in the north west corner of site;
  - Retention of commercial building on the corner of Kellicar Road and Bolger Street;
  - Retention of new commercial and office building and associated car parking in the north eastern portion of the site;
  - Demolition of the tavern building;
-



- Construction of a multi-storey building in the south eastern portion of the site that would contain a licensed premises, a mix of 6-8 storey towers containing residential and student accommodation units and basement car parking.

Ultimately, it is envisaged that the draft master planning work carried out to date, will lead to the creation of a more formal planning document, being a site-specific development control (master) plan for the subject land, which would be prepared and exhibited in accordance with the provisions of the *Environmental Planning and Assessment Act, 1979*. The master plan is subject to further ongoing discussions with the land owner and it is intended to incorporate building envelopes and controls for the site within a development control plan that covers the Macarthur and Campbelltown town centres.

The draft master planning to date does not detail the timing of developments across the site, indeed this would be quite difficult as several external forces to the property would be an influence on the overall development. These include the market conditions for commercial and residential floor space, changes in urban design, traffic and parking management protocols over time and discussions between the owner and the Ministry of Transport to secure a means of continuing to provide commuter car parking at the site should it be required.

The draft master planning undertaken to date has been provided for Council's information and 'sets the scene' for the current application, which is for the construction of works described in Stage 2, being an extension of the licensed hotel, car parking and associated site works that was approved by Council in October 2008.

## **Report**

### **Introduction**

A development application has been received for the construction of additions to a recently approved licensed premises building. The proposed tavern business would be a relocation of the existing 'Macarthur Tavern', which is presently operating within a tenancy of nearby Macarthur Square shopping centre.

Council granted development consent for the construction and operation of the licensed premises via consent 1435/2008/DA-C in October 2008. The building approved under that consent is presently under construction and includes dining, gaming, kitchen and outdoor seating areas, as well as amenities and servicing areas. A 108 space car park is also under construction adjacent to the building for use by tavern patrons.

The subject application is for an extension to that building, incorporating additional outdoor eating space, additional dining room area, a function room and a bottle shop.

The application was notified to a nearby owner that lodged an objection to the original application.

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## **The Site**

The site comprises two allotments, being Lot 500 DP 817216 and Lot 3 DP 1071804 and is known as Lot 500 Bolger Street, Campbelltown. The allotments have a combined area of approximately 19,486 square metres. It has a varying topography and falls approximately 10 metres in height to the north, towards Menangle Road. An earthen embankment, created as part of the road works to build the Gilchrist Drive overpass of the Main Southern Railway, is located in the south east portion of the site.

The site is bounded by four roads, being Menangle Road to the north, Gilchrist Drive to the east, Kellicar Road to the south and Bolger Street to the west. Attachment 2 to this report comprises a locality plan.

As mentioned previously, the tavern building and its two-storey car parking structure approved by Council in 2008 is presently under construction in the south-east corner of the site. The remainder of the site is vacant although does contain a sealed car park containing 260 spaces that is predominantly used by rail commuters accessing Macarthur Station. The car parking area was created following a planning agreement reached with Council, the former owners of the site (Landcom) and the developers/operators of Macarthur Square shopping centre. Some established trees are located along the Gilchrist Drive and Kellicar Road frontages of the site.

The aforementioned car parking area is accessed via an existing driveway to Bolger Street that also serves as an access/egress point for the adjoining property, which contains a multi-storey office building and associated car parking.

Surrounding development includes the Macarthur Square regional shopping centre, the multi-storey office building, Macarthur Station, large bulky goods style outlet buildings and a portion of the 'Park Central' residential subdivision, which is located to the south east of the site across Gilchrist Drive.

As mentioned in the background section of this report, the site is located within a key area of the Macarthur town centre and has been the subject of preliminary investigations into its future development as a high density commercial, residential and commuter car parking site.

## **The Development**

The application proposes the construction of additions to the previously approved 'Macarthur Tavern' building. The additions would add to the existing approved 1,373 square metre building in the following manner:

- A bottle shop to the south west of the site with an area of 224 square metres;
  - A function area and bar adjacent to the approved kitchen with an area of 124 square metres;
  - An increase in lounge area adjacent to the proposed function area of 196 square metres; and
  - A terrace area around the proposed lounge and function space with an area of 596 square metres.
-

The additions would be finished in complementary materials to that which are being used presently to undertake the building's construction. The building's facade contains a variety of material features, such as stone faced cladding, rendered masonry walling, feature masonry columns, glazing and hardwood treatment to balconies. Landscaping around the building and car parking area would include native shrubs and tall trees that have trunks clear of vegetation.

The additions would increase the building's floor area from 1,373 square metres to approximately 2,513 square metres, of which 1,637 square metres would be considered as 'licensed' floor area.

The building is provided with two public entry doors, with one opening to Kellicar Road and the other to the north western elevation, adjacent to the proposed car parking area. The additions would not require the provision of additional entries to the building from either car parking areas or streets, except for the bottle shop, which would have its own separate entry from the upper level of the car park presently under construction.

The application does not include an extension of the existing approved car parking area and does not include changes to the previously approved trading hours for the site, which are:

Monday:	10.00am to midnight
Tuesday:	10.00am to midnight
Wednesday:	10.00am to midnight
Thursday:	10.00am to 3.00am (the next day)
Friday:	10.00am to 3.00am (the next day)
Saturday:	10.00am to 3.00am (the next day)
Sunday:	10.00am to midnight

Licensing of the tavern and its proposed extension would be undertaken pursuant to the terms of the NSW Licensing Police and the Department of Gaming and Racing.

Further, a plan of management, addressing matters such as security, service of patrons and other management practices to mitigate potential adverse impacts on the locality has been prepared as part of the application. The plan of management builds upon the previous plan that was approved as part of the tavern's first stage.

### **Assessment**

The development has been assessed having regard to the matters for consideration prescribed under Section 79C(1) of the *Environmental Planning and Assessment Act 1979*. Subsequently, the following matters have been identified for further consideration and discussion.

### **Campbelltown 2025 Looking Forward**

'Campbelltown 2025 Looking Forward' is a statement of broad town planning intent for the longer term future of the City of Campbelltown that:

- *Responds to what Council understands people want the City of Campbelltown to look, feel and function like;*
  - *Recognises likely future government policies and social and economic trends; and*
  - *Sets down the foundations for a new town plan that will help achieve that future.*
-

The document establishes a set of strategic directions to guide decision making and development outcomes. These directions are broad in nature and form a prelude to a new statutory town plan for the City.

The strategic directions relevant to this application are:

- *Growing the Regional City,*
- *Creating employment and entrepreneurial opportunities.*

The proposed development is considered to be generally consistent with these directions.

Relevant desired outcomes of the strategic directions included in Campbelltown 2025 include:

- *Urban environments that are safe, healthy, exhibit a high standard of design, and are environmental sustainable; and*
- *Development and land use that matches environmental capacity and capability.*

The development is considered to be generally consistent with the relevant desired outcomes within Campbelltown 2025 as the proposed development and land use matches the environmental capacity of the site and the mixed-use intent of the general area. Accordingly, it is considered that the development would not have an adverse impact on the surrounding locality and is located in a site that is suitable for the proposed use.

## **1. Statutory Controls**

Section 79C(1)(a) of the Act requires Council to consider any relevant environmental planning instrument, draft environmental planning instrument or development control plan.

### **1.1 Campbelltown (Urban Area) Local Environmental Plan 2002**

The site is zoned 10(a) - Regional Comprehensive Centre Zone under the provisions of Campbelltown (Urban Area) Local Environmental Plan 2002 (CLEP).

Relevant objectives for that zone are reproduced below:

*The objectives of this zone are:*

- (a) *to provide land for the City of Campbelltown and the Macarthur region's largest centre of commerce, and*
  - (b) *to encourage employment and economic growth, and*
  - (d) *to accommodate a wide range of cultural, entertainment and like facilities, and*
  - (f) *to encourage a variety of forms of higher density housing, including accommodation for older people and people with disabilities in locations which are accessible to public transport, employment, retail, commercial and service facilities.*
-

*A further objective of this zone is to encourage a high quality standard of development which is aesthetically pleasing, functional and relates sympathetically to nearby and adjoining development.*

The proposal is considered to be consistent with the relevant objectives of the zone, having particular regard to the following comments:

- The proposal is likely to encourage employment and economic growth;
- The proposal allows for the accommodation of an entertainment and like facility, being a tavern containing dining and function facilities;
- The proposal respects the future development potential of the site as discussed in the background to this report; and
- The tavern extension's built form and location is considered to be aesthetically pleasing, functional and sympathetic to nearby and adjoining development.

Under the CLEP, the development is defined as a 'hotel', which means "*any premises specified in a hotelier's licence granted under the Liquor Act 1982 and includes a tavern.*" A hotel is permissible in the zone with Council's development consent.

The proposal is considered to be complementary to Council's relevant Local Environmental Plan and is a permissible development at the site with consent. The application demonstrates compliance with the Plan's relevant development objectives and standards.

## **1.2 Campbelltown (Sustainable City) Development Control Plan**

Campbelltown (Sustainable City) Development Control Plan (SC DCP) applies to the site and the subject development. An assessment of the application in accordance with relevant requirements within the SC DCP is undertaken in this section of the report. Numbers used in the section headings correspond to the relevant section in the SC DCP.

### **Section 2 – Requirements Applying to All Types of Development**

#### *Section 2.3 – Views and Vistas*

Section 2.3 of the Plan requires that Council and applicants consider important views to and from public spaces when designing and siting buildings.

Section 2.3(b) and (c) relate to the protection and enhancement of existing significant view corridors from public spaces. The subject building and its proposed extensions is located within a very significant and high exposure view corridor, being the Kellicar Road/Gilchrist Drive link between the Macarthur and Campbelltown centre precincts. Council has aimed in the recent past to increase the architectural merit of buildings that may be viewed along this corridor.

The subject building and its extensions provide for an interesting and varied façade to the important intersection of the two major roads. The façade features an array of materials, colours and finishes that would provide visual interest and street presence for the building.

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### *Section 2.4 – Sustainable Building Design*

Section 2.4 of the Plan relates to sustainable building design and requires Council to consider matters such as water and energy saving design initiatives that are incorporated into buildings. Section 2.4.1(b) requires that buildings with a roof area greater than 100 square metres are completed with a rainwater tank, the size of which is dictated by a table accompanying the section.

The subject building requires a rainwater tank of at least 10,000 litres in volume. The application approved by Council in October 2008 provided for the inclusion of a 10,000 litre rain water tank that would be constructed underground. The water would be used on site for irrigation of plants and also be plumbed for use throughout the building.

Section 2.4.3 requires that buildings are designed to maximise opportunities for cross ventilation in order to minimise the use of air conditioning and therefore electricity consumption.

The building's internal spaces allow for cross ventilation, as the floor plan of the building is relatively open. Further, the terraced outdoor areas and the doors leading to those areas provide for crossed ventilation of the building. The building's construction would need to comply with Section 'J' of the *Building Code of Australia*.

### *Section 2.5 – Landscaping*

The proposed additions to the building do not alter the previously approved landscape planning for the site. Section 2.5 of the Plan requires that applicants consider the suitability of landscaping works and tree plantings in order to achieve an increased aesthetic quality for streetscapes, maintaining and rehabilitating the natural environment where possible and providing landscaping that complements the scale of the development.

A landscaping plan indicating plant types and their location has been submitted with the application. The landscaping plan is included as Attachment 6 to this report. The landscaping plan allows for the placement of low density shrubs and turf throughout non-sealed portions of the site and the placement of 'clear trunk' trees, such as the 'Spotted Gum' which would provide some shade and screening, although would also allow for passive surveillance of the building and car parking area from within the tavern and nearby roads. A range of native low water demand trees and shrubs are proposed to be used at the site.

### *Section 2.13 – Security*

Section 2.13 of the SC DCP relates to making buildings and their environment more safe for persons visiting and working at the sites. The Plan requires that a Crime Prevention Plan be submitted to Council for all commercial development applications involving the construction of a new building. The Plan is required in order to assess the building's design against the principles of 'Crime Prevention Through Environmental Design' (CPTED), which is endorsed by the NSW Police as a means of increasing safety in areas available to public access.

The application was forwarded to the Crime Prevention Officer at the NSW Police's Campbelltown Local Area Command for comment. The building and car park design are considered to be generally compliant with CPTED principles, which include minimal instances of 'entrapment areas' throughout the floor area of the building and car park and good levels of passive surveillance afforded by views to and from the site.

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A plan of management for the venue has been prepared as part of the application, which discusses matters such as amenity of the neighbourhood, noise generation, security, fire safety and responsible service of alcohol. The plan details that a minimum of two security personnel would be available to patrol the car parking area and public footpath areas in the vicinity of the site to ensure patrons leave the premises and surrounds in an orderly manner so as to reduce the incidence of any potential anti-social behaviour in the area.

Further detailed discussions relating to the installation and monitoring of closed circuit television cameras throughout the building and car parking area, as well as the augmentation of car park and footpath area lighting are subject to further assessment as part of the licensing of the venue.

The security provisions inherently designed and constructed into the building and surrounds, in combination with the management plan are considered to provide for an adequate control of potential anti-social behaviour and noise from the site, although would be subject to further detailed discussion with Council and the NSW Licensing Police as part of any future liquor licence application.

#### *Section 2.15 – Waste Management*

Section 2.15 of the SC DCP contains Council's objectives and controls with regard to waste collection and minimisation during the demolition, construction and operation of new residential, commercial and industrial buildings.

A waste management plan was submitted with the development application and details the methods by which waste would be collected and removed from the site during construction. The plan provides for the separation of recyclable waste and garbage on site, for collection by separate vehicles. The proposal is considered to be compliant with Council's objectives and controls for waste management.

#### *Section 5 – Commercial Development*

##### *Section 5.3 – Building Form and Character*

Section 5.3.1 of the Plan relates to the design requirements for commercial building form and character. A discussion on the relevant parts as they relate to the proposal follows.

Section 5.3.1(a) states that the maximum height for commercial buildings shall be two storeys, except where higher storey limits apply. The storey limit at the subject site under the Plan is 10 storeys and as such, the development complies.

Section 5.3.1(b) requires that all commercial building facades visible from a public place (including rear and side elevations) be architecturally treated to enhance the quality of the streetscape.

The proposed additions to the existing building contain varying degrees of articulation and varied openings and use a visually interesting palette of materials, finishes and colours. The previously approved building has been architecturally treated and is considered to be complementary to Council's objectives and controls for the presentation of buildings in the precinct.

Section 5.3.1(c) relates to the architectural elements that are required to be incorporated into a building's appearance. Each is detailed below:

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Section 5.3.1(c)(i) requires that a building be provided with vertical or horizontal offsets in walls, changes in height and other variations in exterior walls to create the impression of the building being divided into massing elements.

The extensions to the building include a continuation of the vertical and horizontal façade elements included in the original building currently under construction. Features include masonry columns, decorative balustrading to terraced areas and feature glazing, which together provide the effect of breaking up the building's mass, providing for an interesting and varied streetscape at the site.

Section 5.3.1(c)(ii) requires that articulation be provided to the external walls of new commercial buildings by way of using different façade elements, colours and textures.

The use of different materials including stone, timber, metal and rendered masonry along the frontages of the building and its extension, in conjunction with the articulation provided through recessed terraces and feature awnings provide for suitable articulation.

Section 5.3.1(c)(iii) requires that buildings maximise the interior and exterior interactions at ground level.

The application continues the relationship of the building at pedestrian level, particularly along Gilchrist Drive, where a portion of open terrace adjacent to the proposed function room would be constructed.

Section 5.3.1(d) requires that a building's main entry is easily identifiable from a street and accessible through the front of the building.

The application does not alter the building's existing main entry, which is visible from Kellicar Road and Gilchrist Drive.

Section 5.3.1(e) states that 'large expansive blank walls on ground floor levels or side and rear boundaries shall not be permitted unless abutting a building on an adjoining allotment'.

The building does not propose large or blank walls to boundaries, as a variety of fenestration features (window height and shapes), changes to materials and colours and articulation provides for an interesting building appearance. A wall on the western boundary that does not presently contain windows in order to comply with the Building Code of Australia would ultimately have a building constructed next to it under the proposed master plan for the site. In the mean time, the wall would be finished in colours to match the existing building.

Section 5.3.1(f) requires that roof mounted plant (such as air conditioners et. al.) be obscured from public view via the use of architectural elements.

Roof mounted plant would be obscured by the building's elevated façade and parapet.

Section 5.3.1(g) requires that solid or opaque roller doors are not fitted over windows or entry doors on any building that has frontage to a public place.

There are no solid coverings of windows or doors to the premises proposed with the application.

Section 5.3.1(h) requires that buildings do not incorporate highly reflective glass.

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The building would not contain reflective glass. Views to and from the building, particularly at night would be available in order to increase the perception of activity at the site and increase passive surveillance in the vicinity.

Section 5.3.1(h) requires that a schedule of proposed colours, materials and finishes accompany development applications for new buildings.

As mentioned throughout the report, an array of colours, materials and finishes would be applied to the building's exterior to enhance its streetscape contribution and appeal. The additions would complement the building presently under construction.

Section 5.3.1(j) requires that development on corner sites shall incorporate splays, curves, building entries and other architectural elements to reinforce the corner as a landmark feature of a street.

The extensions would not be located adjacent to the corner.

Section 5.3.1(k) states that outdoor storage and display of goods is not permitted.

The application does not propose the storage or display of goods outside the building envelope.

Section 5.3.1(l) requires that 'commercial development shall be designed to address both primary and secondary street setbacks'.

The proposal considers primary and secondary street setbacks, as well as the setback to the proposed car parking area at the rear, with views to and from Menangle Road and Bolger Street possible.

Section 5.3.3 of the Plan provides Council's requirements for building setbacks. Pursuant to the Plan, there are no stipulated building setbacks within a Comprehensive Centre zone and as such, the application has inherent compliance with the Plan.

Section 5.4 of the Plan relates to the car parking and access requirements for commercial buildings. A discussion on the relevant parts as they relate to the proposal follows.

Section 5.4.1 contains general requirements for car parking and access design.

Section 5.4.1(a) requires that car parking and loading areas be designed in accordance with *Australian Standard 2890.1* and *2890.2 (as amended)*. A traffic study report submitted with the development application states that the car parking area complies with the standards.

5.4.1(b) requires that car parking be provided at the rate specified by the Plan. In this instance, the car parking calculations required by the building is determined as follows:

- Plan requires 1.5 spaces per 10 square metres of leasable floor area for hotel component (leasable floor area includes all parts of the building aside from loading docks, amenities, vents and lift shafts).
  - Plan requires one space per 25 square metres for bottle shop (retail) component
  - Existing building and proposed additions would have a leasable floor area of approximately 1,725 square metres.
  - Proposed bottle shop has leasable area of approximately 225 square metres.
  - $1725/10 \times 1.5 = 258.75$ , say 259 spaces.
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- 225/25 = 9 spaces
- Total required = 268 spaces

108 car parking spaces are being constructed as part of the existing approved development.

There is a technical shortfall in the car parking spaces that would be provided as part of the development.

The car parking impacts of the development are discussed in further detail within section 2.2 of this report.

Section 5.4.1(c)(i) requires that all vehicles enter and leave the site in a forward direction.

This can be achieved and the proposal complies with the Plan in this regard.

Section 5.4.1(c)(ii) states that 'the area for manoeuvring of delivery and service vehicles is separate from vehicle parking areas, and preferably accessed via a rear lane'.

A separate access road past the main car park entry to the new development, would be constructed for the servicing of the site by trucks. A manoeuvring area would also be located near the undercroft unloading dock, which is separate to the patron car parking area. The proposal complies with the Plan.

Section 5.4.1(c)(iii) requires that commercial development cause minimal interference to the flow of traffic within the surrounding road network.

The use as proposed is not considered likely to significantly and detrimentally impact on the existing high level of traffic amenity that is currently provided to the area. Traffic generated by the tavern's relocation and continued use is likely to be generated outside hours that are normally associated with the vehicle influx and gradual dispersal occurring within the commuter car park. The report concludes that the external traffic implications of the proposal are satisfactory.

Section 5.4.1(c)(iv) requires that safe and convenient access is provided for pedestrians.

The proposal to extend the existing building would not impact upon the previously approved pedestrian entry points along Kellicar Road and the car parking area.

Section 5.4.1(e) requires that each site shall have a maximum of one ingress and egress point for heavy vehicles.

The additions to the tavern would not impact upon the previously approved unloading area and access provisions for the hotel at the northern end of the previously approved building.

Section 5.4.1(f) states that no required car parking spaces shall be provided in a stacked configuration.

The proposal does not provide for stacked car parking and therefore complies with the Plan in this regard.

Section 5.4.1(g) requires that no car parking area be subdivided from the property to which it relates.

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No subdivision is proposed as part of this application.

Section 5.4.3 relates to the design of buildings for the access of people with disabilities.

Section 5.4.3(a) requires that buildings are designed to comply with the minimum access requirements contained within the *Building Code of Australia* and *Australian Standard 1428 - Design for Access and Mobility (as amended)*. The applicant's statement of environmental effects states that the building complies with those requirements.

Section 5.5 of the Plan relates to a building's interaction with the public domain. A discussion of the relevant portion of that section is below:

Section 5.5(c) requires that any private outdoor areas fronting the street shall form part of the overall public domain.

The proposed additions to the tavern include outdoor terrace space that would be visible from the adjoining streets. In a similar manner to terraces already approved at the site, the additions are considered likely to activate the street front of the tavern and induce an interaction between the public and private domains within the immediate vicinity.

Section 5.6 of the Plan relates to Council's objectives and controls for the provision of landscaping.

A landscaping plan has been provided with the application. The landscaping plan illustrates the proposed planting regime across the site and includes low water demand native shrubs and trees.

The landscaping provided throughout the site is also be complementary to the Licensing Police's security standards that were provided as part of their assessment of the original application for the tavern's construction. The landscaping would provide for effective surveillance of the tavern's surrounds whilst maintaining a 'softening' of the site and enhancing the streetscape.

Section 5.7 of the Plan relates to the interface of commercial developments with residential zones.

The development site does not directly adjoin a residential zone, however is located approximately 90 metres from residentially zoned land, contained within the 'Park Central' estate. The nearest residences are located diagonally opposite to the development site, across the Kellicar Road and Gilchrist Drive intersection. It should be noted that the residential premises referred to in this section do not present to Gilchrist Drive or Kellicar Road and are in fact located behind a relatively dense screen planting strip and timber fencing, which would provide for some acoustic buffering of the busy intersection nearby.

The additions proposed in this application are not considered likely to affect the abovementioned residents. An acoustic assessment of the proposal was undertaken and is discussed in Section 2.1 of this report.

Section 5.7(b) requires that loading and storage areas, driveways and rooftop equipment shall not be located adjacent to residential zones.

The application provides for concealment of roof mounted plant and loading and storage areas. The development would not impact on residential premises in this regard.

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Section 5.7(e) states that an acoustic report may be required in order to assess a development's potential impact on the amenity of nearby sensitive uses.

A noise assessment report has been prepared and submitted with the application and is discussed in Section 2.1 of this report.

Overall, the proposal demonstrates a high level of compliance with the Sustainable City Development Control Plan's objectives and controls for commercial developments and its built form is considered to be an asset to the Macarthur town centre. The car parking provided on-site is considered to be adequate for the proposed use, having regard to the findings of the applicant's traffic impact assessment report and officer assessment.

## **2. Environmental Impacts**

Section 79C(1)(b) of the Act requires Council to consider the likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality.

The development of the tavern's extension is likely to have minimal detrimental impacts on the natural environment. Some excavation of the site would be required in order to allow for the construction raised floor area that would be occupied by the bottle shop.

The proposal's impact on the built environment is considered to be minimal. The additions complement the existing building's design and appearance and continue to demonstrate building's design is complementary to the location of the site and its importance, being on a major intersection and the owner has demonstrated that the building and its subsequent additions are complementary to the long-term development of the site as a key residential and commercial centre within the City.

Previous discussions throughout the report illustrate that the proposal is not likely to detrimentally impact the existing traffic and car parking situation and have illustrated the addition's compliance with controls relating to building appearance, size and location. One matter that should be further discussed in this section is the proposal's potential noise impact on the locality, with special regard to residential premises that are located approximately 90 metres (150 metres from the proposed new terrace) from the site, diagonally opposite the Kellicar Road and Gilchrist Drive intersection.

### **2.1 Noise**

Acoustic Studio Pty Ltd carried out a noise impact assessment on the applicant's behalf. The assessment was commissioned to detail and comment on likely noise generation and potential impacts of such noise on adjoining and nearby properties. The noise assessment particularly considered:

- Patron noise from outdoor terraces;
- Amplified internal music; and
- Roof mounted air conditioning plant noise.

The noise assessment assumes that the terrace facing the north east accommodating diners would contain a maximum of 150 patrons and that a 'DJ' using pre-recorded and amplified music would be working at the same time to present a 'worst case' scenario.

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The noise assessment report details finite calculations that have been undertaken to assess the tavern's potential noise impact on surrounding properties. The assessment uses various measurements for determining the effect of noise generated from the tavern and its impact on neighbours, particularly the residential premises approximately 90 metres to the south east of the site. Further, the assessment takes into consideration the background noise level, primarily generated by traffic using Kellicar Road and Gilchrist Drive. The report notes that the outdoor terrace is shielded by the building itself from the subject residences.

Noise criteria for licensed premises are determined by the Liquor Administration Board (LAB) and follow the general principle of comparing intrusive noise from the licensed premises against the pre-existing background noise level.

The LAB criteria apply to all noises that emanate from a licensed premises and in this instance would relate to noise generated by patrons, noise generated by music and noise generated by roof mounted air conditioning plant.

The noise assessment report notes that certain noise filters, location of barriers and selection of plant with a low noise level emission would ensure that the air conditioning system mounted on the roof would also comply with the LAB criteria. Further, the assessment notes the plan of management for the tavern, which would provide for patron awareness of remaining relatively quiet via signage and staff instruction.

The report concludes with:

*"As both the LAB criteria and sleep arousal criterion will be met, it is anticipated that the operations of the proposed Stage 2 of the hotel will have no adverse noise impact at the nearest residential receivers".*

## **2.2 Car Parking**

A traffic and car parking assessment report, prepared by Christopher Hallam and Associates P/L was submitted with the application. The report discusses car parking rates and take-up at the existing Macarthur Tavern site in Macarthur Square shopping centre and compares that scenario to other suburban tavern/hotel businesses in order to justify the substantial deficit of car parking provided for the tavern as proposed, when compared to the numerical standard supplied by the SC DCP.

The applicant argues that the 108 car parking spaces would be sufficient to cater for the needs of the extended tavern. Surveys were undertaken to test the occupancy of the existing 'Macarthur Tavern' at its present location, approximately 150 metres to the west. The surveys revealed that over Thursday and Friday nights, the peak population of patrons was one person per 16.67 square metres of licensed floor area.

It should be noted that the traffic and car parking assessment report uses 'licensed floor area' throughout as a means to calculate the car parking generation. Council's development control plan is more onerous and requires car parking to be determined on the rate of 'leasable floor area' in the building, which is all spaces except loading areas, amenities, plant rooms and lift wells.

The report also includes an extract from the RTA's '*Guide to Traffic Generating Developments*', which does not provide for a set rate of car parking for such uses. Instead it provides the following advice, which reads in part as follows:

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The RTA's research on parking has found no strong relationship between peak car parking accumulation and floor area at ten hotel sites surveyed.

*"The range in parking demand rates resulting from early research was broad, making it difficult to generalise..... Since the early surveys were undertaken, behavioural changes have occurred in the use of hotels, due to factors such as the introduction of random breath testing. These changes have generally served to reduce parking demand rates. It is recommended that proposed hotel developments be compared to similar existing developments, noting the existing supply of, and demand for parking in the area, and of the peak parking periods of individual facilities within the hotel".*

The proposal contains a significant variation to Council's minimum car parking control, which has been set at, or about the level required by the SC DCP for several years (by way of a similar control contained in Development Control Plan No. 52 - Off-street Car Parking, repealed in June 2009).

Although the numerical control contained within Council's development control plan differs to the more generalised method of the RTA's 'Guide to Traffic Generation' document with regard to determining likely car parking generation, in this instance, it is reasonable to consider the evidential change in demographic that the new tavern would be aiming to attract as patrons during peak times.

In its assessment of the car parking provided with the first stage of the tavern's construction, Council considered the 'target demographic' of the business. The original development was proposed to be constructed with 54 on-grade car parking spaces. The assessment report recommended that the number be increased to 100 in order that the application better comply with Council's controls at the time. An extract from the previous assessment report is provided below:

*"The proposed tavern contains a significant portion of dining area, within both indoor and outdoor spaces when compared to developments of a similar nature that have previously been undertaken throughout the City. The provision of additional dining facilities and the creation of a more family-oriented establishment is consistent with a shift in operations for licensed premises in the recent past, primarily resulting from changes to smoking laws and a restriction on gaming licences. Embellishment of dining facilities is seen as a way to attract patrons to a premise and generate additional income, whereas previously, meals were provided in order to complement the predominant uses of taverns and hotels, being drinking and gambling.*

*With this in mind, it is considered appropriate that the applicant be requested to construct additional car parking at the site....."*

The development was approved by Council with a condition requiring the construction of a minimum 100 car parking spaces for use by the tavern. A 108 space two storey car park is presently being constructed adjacent to the tavern building for use by patrons in accordance with Council's previous consent.

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As mentioned previously, the applicant's car parking assessment uses licensed floor area as the determinant of car parking demand, in contrast to Council's DCP that uses leasable floor area. The report details that using the 16.67 square metres of licensed floor area per person figure, the tavern and its extension would require 107 car parking spaces (including 9 spaces for the bottle shop). 108 car parking spaces are provided within the two-storey car parking presently under construction.

Council must consider that the proposed tavern contains a significant portion of dining area, within both indoor and outdoor spaces when compared to developments of a similar nature that have previously been undertaken throughout the City. The provision of additional dining facilities and the creation of a more family-oriented establishment is consistent with a shift in operations for licensed premises in the recent past, primarily resulting from changes to smoking laws and a restriction on gaming licences. Embellishment of dining facilities is seen as a way to attract patrons to a premise and generate additional income, whereas previously, meals were provided in order to complement the predominant uses of taverns and hotels, being drinking and gambling.

It is acknowledged that an existing car parking area containing over two hundred spaces is contained within the same land as the proposed tavern development. The applicant's traffic and car parking report refers to the commuter car parking area nearby as being suitable for 'overflow car parking' should the need arise when the tavern's car parking area is full.

The report further justifies the variation to Council's car parking standard (contained in the SCDCP) with the following reasons:

- A high percentage of the bottle shop area is storage, not accessible to customers, reducing its effective floor area;
- The bottle shop in its own right would not be an attractor to the site, but would provide a service for people already visiting the tavern;
- On a Friday evening, which is typically a peak time for taverns, a reasonable proportion of customers would be drawn from commuters on their way home from work, who are either using public transport or who have parked in the adjacent commuter parking area; and
- On weekend lunchtimes and evenings, the commuter parking area has substantially vacant parking area available.

The report details that on Friday night, 14 August 2009, the commuter car parking area had 125 spaces available at 6.00pm. The report continues:

*"This is not to say that the proposed Stage 2 would rely on use of the commuter parking, but that it nevertheless does provide an overflow capacity should patronage patterns at the tavern be higher on special occasions."*

There is a technical shortfall in the car parking spaces that would be provided as part of the development. Bearing in mind the applicant's traffic and car parking assessment report and the availability of the commuter car parking area, it is not unreasonable for Council to consider a variation to the development control plan's control.

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It is recommended that a condition of consent be imposed that requires the availability of the shortfall of parking, ie. 160 spaces are to be supplied at the commuter car park or via alternative car parking arrangements at the land in the future to ensure that adequate vehicles can be accommodated.

Having regard to the number of spaces being provided at the site, its proximity to public transport (both rail and bus) and the 'over flow' parking that would be provided in the existing commuter car parking area, the 108 space two-storey car parking area is considered to be adequate for the development. A recommended condition of development consent secures the number of car parking spaces at the site throughout its future development.

### **2.3 Social Impacts**

As detailed in Council's assessment of the application to construct the original building, it is the owner's intention to transfer an existing hotelier's licence within the immediate vicinity to the site, should development consent be granted. The proposal would not result in an increase in the number of licensed premises within the surrounding area.

The removal of a hotelier's licence from a shopping centre is considered to be a positive step and will allow for closer monitoring of patrons by tavern staff and Police. A plan of management for the tavern has previously been developed and would be further embellished following comment by NSW Licensing Police as part of an application to transfer the licence to the new building.

Council's Community Resources and Development Section have reviewed the proposal and do not object to the development's approval. The Section notes that the tavern is the transfer of an existing licence and that the new bottle shop is submissive to the tavern's use. The bottle shop's presence in the area is not considered likely to promote under age drinking or anti-social behaviour, having regard to its size and the fact that there is no entry point visible from the public realm. The only entry point is located from the tavern's existing car park.

### **2.4 Economic Impacts**

The applicant asserts that the tavern's construction and relocation of the licence would have a positive economic impact for the locality. The new hotel building and its extensions that are the subject of this application would provide for greater amenity and is intended to create a more family-friendly and dining oriented establishment that would serve to attract a wider demographic of visitors to the tavern.

Stages 1 and 2 of the new tavern building are likely to complement the existing entertainment and dining 'precinct' established at the nearby shopping centre and would provide for additional employment in the locality.

## **3. Suitability of the Site**

Section 79C(1)(c) of the Act requires Council to consider the suitability of the site to accommodate the development.

The site is considered to be suitable for the proposed development for several reasons, being:

- The application is for the extension of a previously approved licensed premises building at the site;
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- Its proximity to public transport, existing entertainment and dining facilities and provision of adequate car parking and servicing facilities;
- The development proposal demonstrates that it would have minimal detrimental impact on nearby and adjoining properties by way of noise intrusion;
- The building addresses the important Kellicar Road and Gilchrist Drive intersection and provides for an interesting and engaging street presence;
- The location of the building and car parking area in the south eastern portion of the larger allotment does not result in a sterilisation of the land and allows for further development of the site into the future for higher density commercial and residential purposes as well as retention of commuter car parking on the property;
- The proposal would remove an existing licensed premises from within the bounds of a shopping centre, to a stand alone building where surveillance and monitoring of patron behaviour could be better undertaken; and
- The development complies with Council's zoning and other objectives for development within the key strategic portion of the City.

Having regard to the matters raised above, the site is considered to be suitable for the proposed development.

#### **4. Submissions**

Section 79C(1)(d) of the Act requires Council to consider submissions made on the proposal.

The application was notified for a period of 14 days between 10 and 24 December 2009. The notification plans were sent to a nearby owner that lodged an objection to the original tavern proposal in 2008. During the notification period, no submissions were received.

Council also forwarded the application to the Department of Gaming and Racing for its comment, however, no response was received.

#### **5. The Public Interest**

Section 79C(1)(e) of the Act requires Council to consider the public's interest when determining an application.

The Act's obligation for Council to consider the public's interest when determining an application is an over arching requirement that ensures that appropriate and measured consideration of the application's likely impact on its surroundings is made.

In this instance, the proposal is generally considered to be in the public's interest for several reasons, being:

- The proposal complements an existing approved development at the site;
  - The proposal has demonstrated an ability to complement future desired development density and type at the key site;
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- The proposal does not increase the number of licensed premises in the area and relocates a licensed premises from within a shopping centre;
- The proposed extensions would continue to allow for good levels of surveillance and monitoring of patrons;
- The proposal is not likely to significantly or detrimentally affect nearby residences in terms of noise generation;
- The development of the site is not considered likely to create additional traffic problems within its vicinity; and
- The proposal demonstrates general compliance with Council's relevant controls and objectives for development at the site, other than for car parking.
- The proposal can be sustained in terms of car parking in light of the provision of 108 car parking spaces to serve the needs of the development, and the availability of additional commuter car parking supply.

## Conclusion

A development application has been received for the construction of additions to an existing, recently approved building for use as a licensed premises at Lot 500 DP 817216 and Lot 3 DP 1071804 and is known as Lot 500 Bolger Street, Campbelltown.

The development site is located within a larger, relatively undeveloped portion of the Macarthur town centre, where initial preparation for a future development master plan scheme has been undertaken by Council's staff, the owner and appointed consultants. The additions would form Stage 2 of the site's overall planned future development.

The tavern building extensions include outdoor dining area, a bottle shop a function room. An existing 108 space car park would be available for patrons of the tavern at all times. A noise assessment and traffic impact study were submitted with the application.

A detailed assessment made pursuant to the heads of consideration contained in Section 79C(1) of the *Environmental Planning and Assessment Act 1979* has been undertaken in this report, with the proposal generally being compliant with Council's relative controls and objectives for development at the site.

The development of the site for the proposed additions is considered to have minimal detrimental effects on the natural and built environment and provided that appropriate management of patrons is undertaken in accordance with licensing conditions that were imposed on the original application for the building, the proposal is not likely to create a significant and detrimental social impact on the locality.

Car parking provided for the development exhibits a technical non-compliance with Council's relevant development control plan. However, there is an availability of car parking located on the site that is normally used for commuter car parking during the day and would be available for use by the tavern's patrons at night if required. A recommended condition of development consent secures the number of car parking spaces at the site throughout its future development.

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The site is considered to be suitable for the development having regard to its existing approvals, location, size and likely future development as detailed in preliminary master planning that has been undertaken for the precinct.

The application was notified to a nearby landowner that objected to the tavern's original application in 2008. No submissions were received. Having regard to the application's compliance with Council's relevant controls and objectives, its place within the future development of the site and its likely minimal impact on the natural and built environment, the proposal is considered to be in the public's interest.

### **Officer's Recommendation**

That development application 2305/2009/DA-C at Lot 500 DP 817216 and Lot 3 DP 1071804, known as Lot 500 Bolger Street, Campbelltown for the construction of additions to an existing licensed premises be approved, subject to the conditions detailed in Attachment 1.

**Committee Note:** Mr Theol addressed the Committee in support of the application.

### **Committee's Recommendation: (Rowell/Kolkman)**

That the Officer's Recommendation be adopted.

### **CARRIED**

Voting for the Committee's Recommendation were Councillors: Bourke, Kolkman, Oates, Matheson, Rowell and Thompson.

Voting against the Committee's Recommendation: nil.

His Worship the Mayor was not in the Chamber at the time of the debate and vote on this item.

### **Council Meeting 2 March 2010 (Chanthivong/Glynn)**

That the Officer's Recommendation be adopted.

### **Council Minute Resolution Number 28**

That the Officer's Recommendation be adopted.

Voting for the Council Resolution were Councillors: Borg, Bourke, Chanthivong, Dobson, Glynn, Greiss, Hawker, Kolkman, Lake, Matheson, Oates, Rowell, Rule, Thomas and Thompson.

Voting against the Council Resolution: nil.

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## **ATTACHMENT 1**

### **Recommended Conditions of Consent**

#### **GENERAL CONDITIONS**

The following conditions have been applied to ensure that the use of the land and/or building is carried out in such a manner that is consistent with the aims and objectives of the planning instrument affecting the land.

For the purpose of these conditions, the term 'applicant' means any person who has the authority to act on or benefit of the development consent.

#### **1. Approved Development**

The development shall take place in accordance with the approved development plans containing Council's approved development stamp and all associated documentation submitted with the application, except as modified in red by Council and/or any conditions of this consent.

#### **2. Building Code of Australia**

All building work must be carried out in accordance with the provisions of the *Building Code of Australia*. In this clause, a reference to the *Building Code of Australia* is a reference to that Code as in force on the date the application for the relevant construction certificate is made.

#### **3. External Finishes**

The external finishes shall be in accordance with the approved plans and the schedule of finishes submitted with this application. Any proposed alterations to these finishes are considered to be a modification to the development consent and require separate approval by Council.

#### **4. Advertising Signs – Separate DA Required**

This consent does not permit the erection or display of any advertising signs.

Most advertising signs or structures require development consent. You should make separate enquiries with Council prior to erecting or displaying any advertising or signage.

#### **5. Storage of Goods**

All works, storage and display of goods, materials and any other item associated with the premises shall be contained wholly within the building.

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## **6. Graffiti Removal**

In accordance with the environmental maintenance objectives of 'Crime Prevention Through Environmental Design', the owner/lessee of the building shall be responsible for the removal of any graffiti which appears on the buildings, fences, signs and other surfaces of the property within 48 hours of its application.

## **7. Engineering Design Works**

The design of all engineering works shall be carried out in accordance with the requirements set out in the *Campbelltown (Sustainable City) DCP 2009 - Volumes 1 and 2*.

## **8. Car Parking Spaces**

108 car parking spaces shall be designed, sealed, line marked and made available to all users of the site in accordance with Australian Standards 2890.1 and 2 (as amended) in the two-storey car parking structure located on the land.

A minimum of 160 additional car parking spaces shall be provided at the site in the existing commuter car parking area of the site for use during peak usage periods for the tavern. Should the commuter car parking spaces be removed or redeveloped, alternate arrangements for the provision of the additional car parking spaces required at the site shall be made by the applicant following consultation with Council.

## **9. Rubbish/Recycling Bin Storage**

The rubbish and recycling bins shall not be stored within vehicle parking, vehicle manoeuvring areas or landscaped areas.

## **10. Shoring and Adequacy of Adjoining Property**

If the development referred to in this development consent involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must at the person's own expense:

- (a) Protect and support the adjoining premises from possible damage from the excavation, and
- (b) Where necessary, underpin the adjoining premises to prevent any such damage.

This condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

## **11. Management of the Premises**

The premises shall be managed and operated in accordance with Conditions 9, 10, 11 and 12 of development consent 1435/2008/DA-C (as amended). The conditions relate to deliveries, lighting, management of the hotel and noise control.

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## **12. Food Preparation Areas**

Food preparation areas shall be designed, constructed, maintained and cleaned in accordance with relevant Australian Standards (including AS4674) and relevant food safety guidelines at all times.

## **PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE**

The following conditions of consent must be complied with prior to the issue of a construction certificate by either Campbelltown City Council or an accredited certifier. All necessary information to comply with the following conditions of consent must be submitted with the application for a construction certificate.

## **13. Waste Management Plan**

Prior to Council or an accredited certifier issuing a construction certificate, the relevant provisions of Council's *Waste Management Plan* is to be completed to the satisfaction of Council.

## **14. Stormwater Management Plan (Development)**

Prior to Council or an accredited certifier issuing a construction certificate, a plan indicating all engineering details and calculations relevant to site regrading and the collection and disposal of stormwater from the site, building/s and adjacent catchment, shall be submitted for approval. Floor levels of all buildings shall be a minimum of 150mm above the adjacent finished site levels and stormwater shall be conveyed from the site in accordance with the approved plans. All proposals shall comply with the *Campbelltown (Sustainable City) DCP 2009 - Volumes 1 and 2*.

## **15. Section 94A Developer Contribution - Community Facilities and Services**

Prior to Council or an accredited certifier issuing a construction certificate (or where a construction certificate is not required, a subdivision certificate), the applicant shall provide a receipt for the payment to Council of a community facilities and services contribution in accordance with the provisions of the *Campbelltown City Council Section 94A Development Contributions Plan*.

For the purposes of calculating the required S94A contribution, where the value of the proposed development exceeds \$100,000, the applicant is required to include a cost summary report with the construction certificate application setting out a cost estimate of the proposed development in accordance with the following:

- where the value of the proposed development is greater than \$100,000 but less than \$500,000 - a cost summary report by a person who, in the opinion of the Council, is suitably qualified to provide a cost summary report (Cost Summary Report Template 1), or
-

- where the value of the proposed development is \$500,000 or more - a detailed cost report by a quantity surveyor who is a registered member of the Australian Institute of Quantity Surveyors (Cost Summary Report Template 2).

Copies of the Cost Summary Report Templates 1 and 2 are located under "Developer Contributions" on Council's web site ([www.campbelltown.nsw.gov.au](http://www.campbelltown.nsw.gov.au)) or can be collected from Council's Planning and Environment Division during normal business hours.

All cost estimates will be subject to indexation on a quarterly basis relative to the *Consumer Price Index - All Groups* (Sydney) where the contribution amount will be based on the indexed value of the development applicable at the time of payment.

Payment of Section 94A Developer Contributions will only be accepted by way of Cash, Credit Card or Bank Cheque issued by an Australian bank. Payment by any other means will not be accepted unless otherwise approved in writing by Council.

**Note: This condition is only applicable where the total development value exceeds \$100,000.**

#### **16. Existing Easement for Support**

Prior to issue of a construction certificate the applicant shall apply to Council for permission to undertake construction in the easement for support adjacent to Gilchrist Drive if any further work is proposed there. The application shall be accompanied by details of the proposed works and certification from a practising structural engineer that the works proposed will not in any way reduce the structural stability of the Gilchrist Drive road reserve.

#### **PRIOR TO THE COMMENCEMENT OF ANY WORKS**

The following conditions of consent have been imposed to ensure that the administration and amenities relating to the proposed development comply with all relevant requirements. These conditions are to be complied with prior to the commencement of any works on site.

#### **17. Erosion and Sediment Control**

Prior to the commencement of any works on the land, adequate/approved erosion and sediment control measures shall be fully installed/implemented.

#### **18. Vehicular Access During Construction**

Prior to the commencement of any works on the land, a single vehicle/plant access to the site shall be provided, to minimise ground disturbance and prevent the transportation of soil onto any public road system. Single sized aggregate, 40mm or larger placed 150mm deep, extending from the kerb and gutter to the property boundary, shall be provided as a minimum requirement.

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## **19. Public Property**

Prior to the commencement of any works on site, the applicant shall advise Council of any damage to property which is controlled by Council which adjoins the site, including kerbs, gutters, footpaths, and the like. Failure to identify existing damage may result in all damage detected after completion of the development being repaired at the applicant's expense.

## **20. Erection of Construction Sign**

Prior to the commencement of any works on the land, a sign/s must be erected in a prominent position on the site:

- a. Showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours;
- b. Stating that unauthorised entry to the work site is prohibited; and
- c. Pollution warning sign promoting the protection of waterways (issued by Council with the development consent);
- d. Stating the approved construction hours in which all works can occur.
- e. Showing the name, address and telephone number of the principal certifying authority for the work.

Any such sign/s is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

## **21. Toilet on Construction Site**

Prior to the commencement of any works on the land, toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part thereof. Each toilet provided must be a standard flushing toilet and be connected to:

- a. A public sewer, or
- b. If connection to a public sewer is not practicable, to an accredited sewage management facility approved by Council, or
- c. If connection to a public sewer or an accredited sewage management facility is not practicable, to some other management facility approved by Council.

## **22. Trade Waste**

Prior to the commencement of any works on the land, a trade waste facility shall be provided on-site to store all waste pending disposal. The facility shall be screened, regularly cleaned and accessible to collection vehicles.

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### **23. Vehicular Access During Construction**

Prior to the commencement of any works on the land, a single vehicle/plant access to the site shall be provided, to minimise ground disturbance and prevent the transportation of soil onto any public road system. Single sized aggregate, 40mm or larger placed 150mm deep, extending from the kerb and gutter to the property boundary, shall be provided as a minimum requirement.

### **24. Public Property**

Prior to the commencement of any works on site, the applicant shall advise Council of any damage to property which is controlled by Council which adjoins the site, including kerbs, gutters, footpaths, and the like. Failure to identify existing damage may result in all damage detected after completion of the development being repaired at the applicant's expense.

### **25. Footpath and Vehicular Crossing Levels**

Prior to the commencement of any work, footpath and vehicular crossing levels are to be obtained from Council by lodging an application on the prescribed form.

### **26. Hoarding / Fence**

Prior to the commencement of any works, a hoarding or fence must be erected between the work site and a public place if the work involved in the development is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or if the building involves the enclosure of a public place in accordance with *Work Cover* requirements.

The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

A separate land use application under Section 68 of the Local Government Act 1993 shall be submitted to and approved by Council prior to the erection of any hoarding on public land.

## **DEVELOPMENT REQUIREMENTS DURING CONSTRUCTION**

The following conditions of consent have been imposed to ensure that the administration and amenities relating to the proposed development comply with all relevant requirements. These conditions are to be complied with during the construction of the development on site.

### **27. Construction Work Hours**

All work on site shall only occur between the following hours:

Monday to Friday	7.00am to 6.00pm
Saturday	8.00am to 1.00pm
Sunday and public holidays	No Work.

### **28. Erosion and Sediment Control**

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Erosion and sediment control measures shall be provided and maintained throughout the construction period, in accordance with the requirements of the manual – *Soils and Construction (2004) (Bluebook)*, the approved plans, Council specifications and to the satisfaction of the principal certifying authority. The erosion and sedimentation control devices shall remain in place until the site has been stabilised and revegetated.

**Note: On the spot penalties up to \$1,500 will be issued for any non-compliance with this requirement without any further notification or warning.**

## **29. Work Zones**

All loading, unloading and other activities undertaken during construction shall be accommodated on the development site.

Where it is not practical to load, unload or undertake specific activities on the site during construction, the provision of a 'Work Zone' external to the site may be approved by Council following an application being submitted to Council's Traffic Unit outlining the proposal for the work zone. The application is required to be made prior to the commencement of any works and is to include a suitable 'Traffic / Pedestrian Management and Control Plan' for the area of the work zone that will be affected. All costs of approved traffic / pedestrian control measures, including relevant fees, shall be borne by the applicant.

## **30. Dust Nuisance**

Measures shall be implemented to minimise wind erosion and dust nuisance in accordance with the requirements of the manual – *'Soils and Construction (2004) (Bluebook)*. Construction areas shall be treated/ regularly watered to the satisfaction of the principal certifying authority.

## **31. Public Safety**

Any works undertaken in a public place are to be maintained in a safe condition at all times in accordance with AS 1742.3. Council may at any time and without prior notification make safe any such works Council considers to be unsafe, and recover all reasonable costs incurred from the applicant.

## **32. Compliance with Council Specification**

All design and construction work, shall be in accordance with:

- a. Council's specification for Construction of Subdivisional Road and Drainage Works (as amended);
  - b. *Campbelltown (Sustainable City) DCP 2009 - Volumes 1 and 2,*
  - c. *'Soils and Construction (2004) (Bluebook);* and
  - d. Relevant Australian standards and State Government publications.
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**33. Footpath Kerb and Gutter**

The applicant shall re-construct all damaged bays of concrete path paving and kerb & gutter, adjacent to the site. Areas not concreted shall be re-graded, topsoiled and turfed. All works shall be in accordance with Council's *Specification for Construction of Subdivisional Road and Drainage Works (as amended)* and with the design requirements of the *Campbelltown (Sustainable City) DCP 2009 - Volumes 1 and 2*.

**34. Associated Works**

If directed by Council the applicant shall undertake any additional minor works external to the development required to make a smooth junction with existing work, including additional road and drainage works, line marking, signposting or other civil works.

**35. Completion of Construction Works**

Unless otherwise specified in this consent, all construction works associated with the approved development shall be completed within twelve (12) months of the date of the notice of the intention to commence construction works under Section 81A of the Act.

In the event that construction works are not continually ongoing, the applicant shall appropriately screen the construction site from public view with architectural devices and landscaping to Council's written satisfaction.

**PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE**

The following conditions of consent must be complied with prior to the issue of an occupation certificate by either Campbelltown City Council or an accredited principal certifying authority. All necessary information to comply with the following conditions of consent must be submitted with the application for an occupation certificate.

Note: For the purpose of this development consent, any reference to "occupation certificate" shall also be taken to mean "interim occupation certificate".

**36. Completion of External Works**

Prior to the principal certifying authority issuing an occupation certificate, all external works, repairs and renovations detailed in the schedule of treatment/finishes, landscaping, driveways, fencing and retaining walls are to be completed to the satisfaction of the authority.

**37. Council Fees and Charges**

Prior to the principal certifying authority issuing an occupation certificate, the applicant shall obtain written confirmation from Council that all applicable Council fees and charges associated with the development have been paid in full. Written confirmation will be provided to the applicant following Council's final inspection and satisfactory clearance of the public area adjacent the site.

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**ADVISORY NOTES**

The following information is provided for your assistance to ensure compliance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, other relevant Council Policy/s and other relevant requirements. This information does not form part of the conditions of development consent pursuant to Section 80A of the Act.

**Advice 1. Environmental Planning and Assessment Act 1979 Requirements**

The Environmental Planning and Assessment Act 1979 requires you to:

- a. Obtain a construction certificate prior to the commencement of any works. Enquiries regarding the issue of a construction certificate can be made to Council's Customer Service Centre on 4645 4608.
- b. Nominate a principal certifying authority and notify Council of that appointment prior to the commencement of any works.
- c. Give Council at least two days notice prior to the commencement of any works.
- d. Have mandatory inspections of nominated stages of the construction inspected.
- e. Obtain an occupation certificate before occupying any building or commencing the use of the land.

**Advice 2. Tree Preservation Order**

To ensure the maintenance and protection of the existing natural environment, you are not permitted to ringbark, cut down, top, lop, remove, wilfully injure or destroy a tree outside 3 metres of the building envelope unless you have obtained prior written consent from Council. Fines may be imposed if you choose to contravene Council's Tree Preservation Order.

A tree is defined as a perennial plant with self supporting stems that are more than 3 metres or has a trunk diameter more than 150mm measured 1 metre above ground level, and excludes any tree declared under the Noxious Weeds Act (NSW).

**Advice 3. Disability Discrimination Act**

Nothing in this consent is to be taken to imply that the development meets the requirements of the *Disability Discrimination Act 1992* (DDA1992). Where a Construction Certificate is required for the approved works, due regard is to be given to the requirements of the *Building Code of Australia* (BCA). However, your attention is drawn to the existence of the DDA1992 and that compliance with the various requirements of the BCA does not provide automatic compliance with the DDA1992. In this regard it is the sole responsibility of the owner, builder and applicant to ensure compliance with the DDA1992.

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**Advice 4. Covenants**

The land upon which the subject building is to be constructed may be affected by restrictive covenants. Council issues this approval without enquiry as to whether any restrictive covenant affecting the land would be breached by the construction of the building, the subject of this permit. Persons to whom this permit is issued must rely on their own enquiries as to whether or not the building breaches any such covenant.

**Advice 5. Salinity**

Please note that Campbelltown is an area of known salinity potential. As such any salinity issues should be addressed as part of the construction certificate application. Further information regarding salinity management is available within *Campbelltown (Sustainable City) DCP 2009 - Volumes 1 and 2*.

**Advice 6. Smoke Free Environment Act**

Nothing in this consent is to be taken to imply that the development meets the requirements of the *Smoke Free Environment Act 2000* (SFEA2000) or the *Smoke Free Environment Regulations 2007* (SFER2007). In the event that the occupier wishes to facilitate smoking within any enclosed public place of the premises (in accordance with clause 6 of the SFER2007), the occupier must first contact NSW Department of Health to ensure that the design and construction of the area proposed to facilitate smoking fully complies with the requirements of the SFEA2000 and the SFER2007.

**Advice 7. Dial 1100 Before you Dig**

Underground cable and pipes may exist in the area. In your own interest and for safety, telephone 1100 before excavation or erection of structures. Information on the location of underground pipes and cables can also be obtained by fax on 1300 652 077 or through the following website - [www.dialbeforeyoudig.com.au](http://www.dialbeforeyoudig.com.au)

**END OF CONDITIONS**

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## ATTACHMENT 2

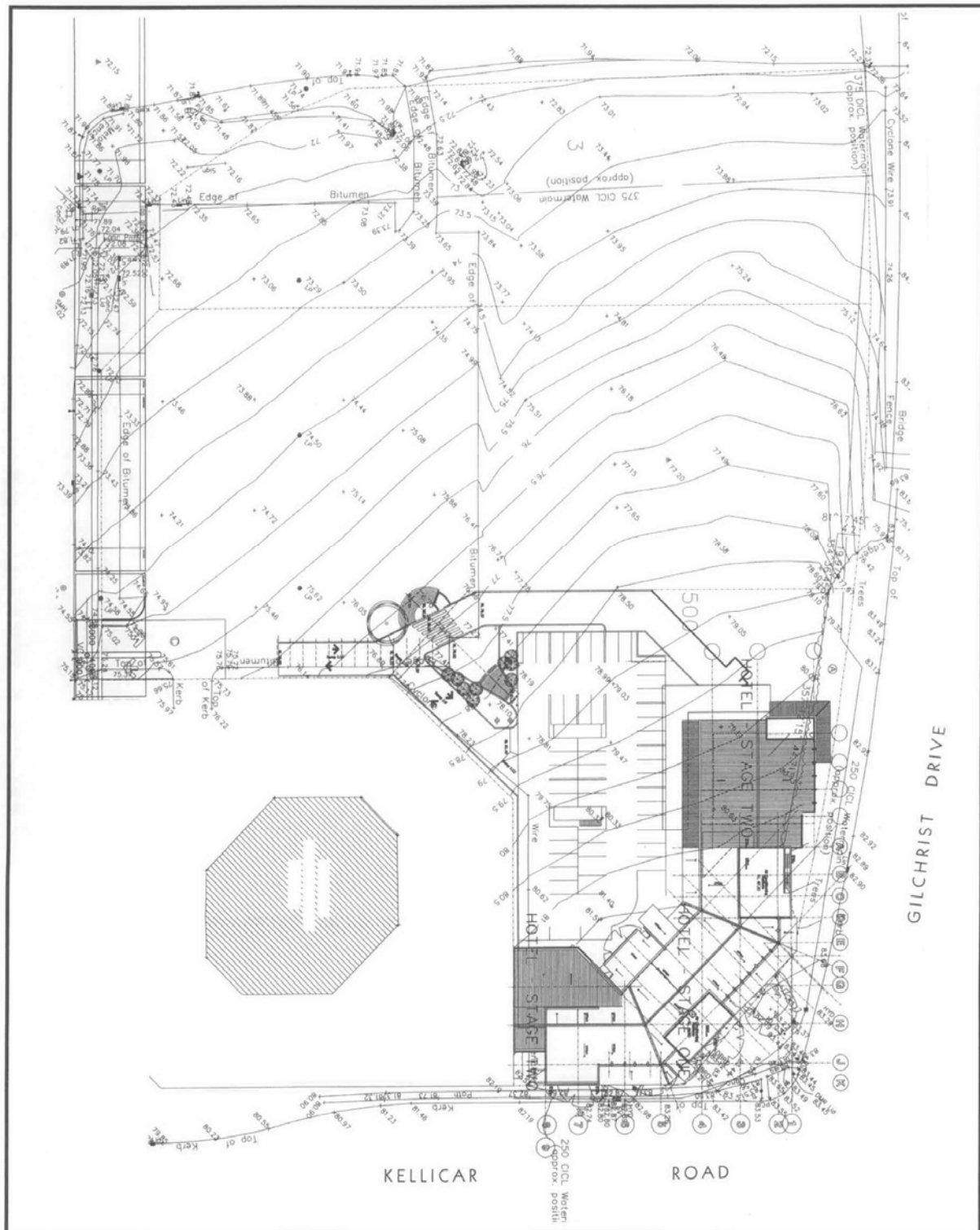


### LOCALITY PLAN



**SUBJECT:** CONSTRUCTION OF ADDITIONS TO EXISTING LICENSED PREMISES.

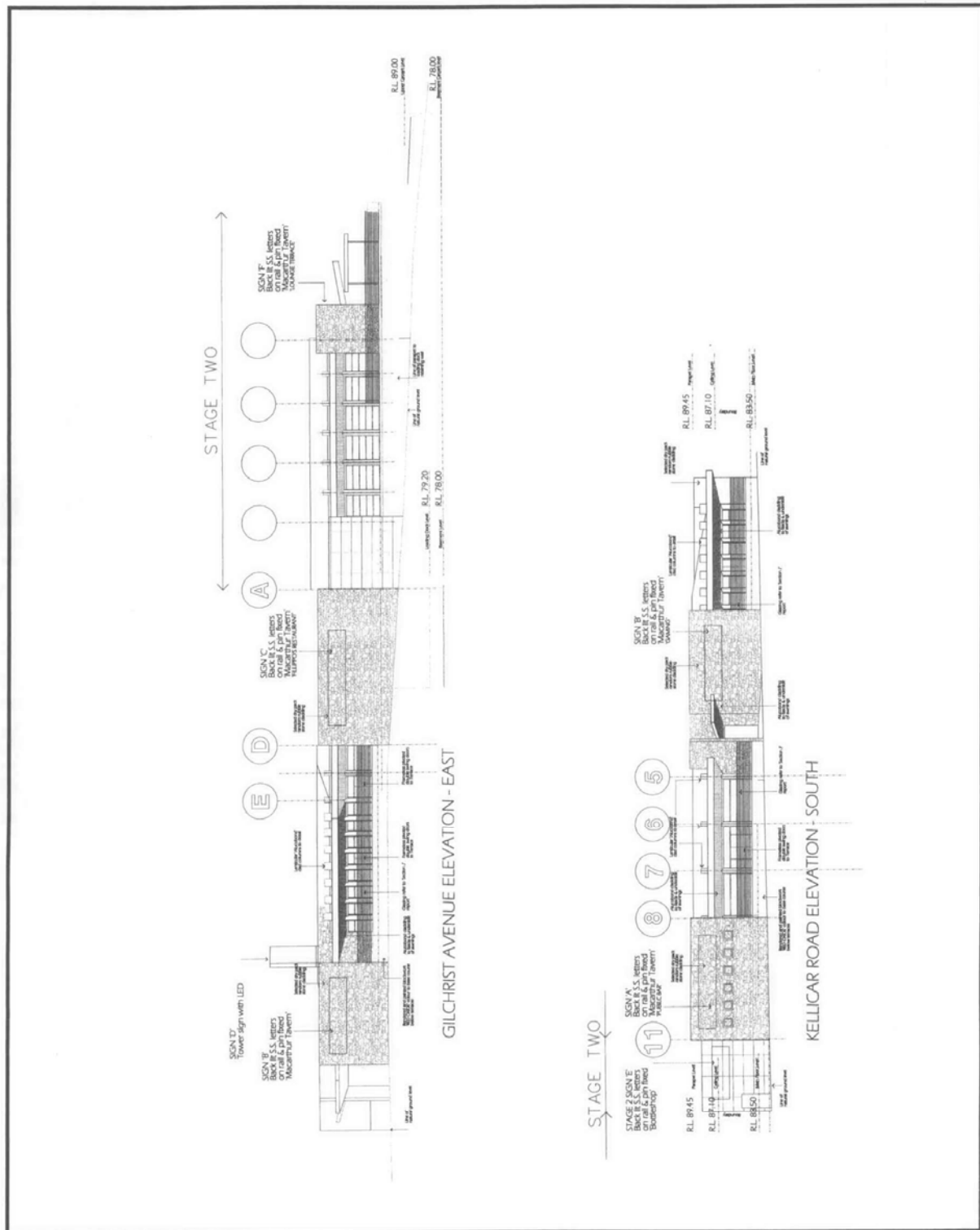
LOT 500 DP 817216 & LOT 3 DP 1071804 - BOLGER STREET, CAMPBELLTOWN.



**SUBJECT:**

CONSTRUCTION OF ADDITIONS TO EXISTING LICENSED PREMISES.

LOT 500 DP 817216 & LOT 3 DP 1071804 - BOLGER STREET, CAMPBELLTOWN.

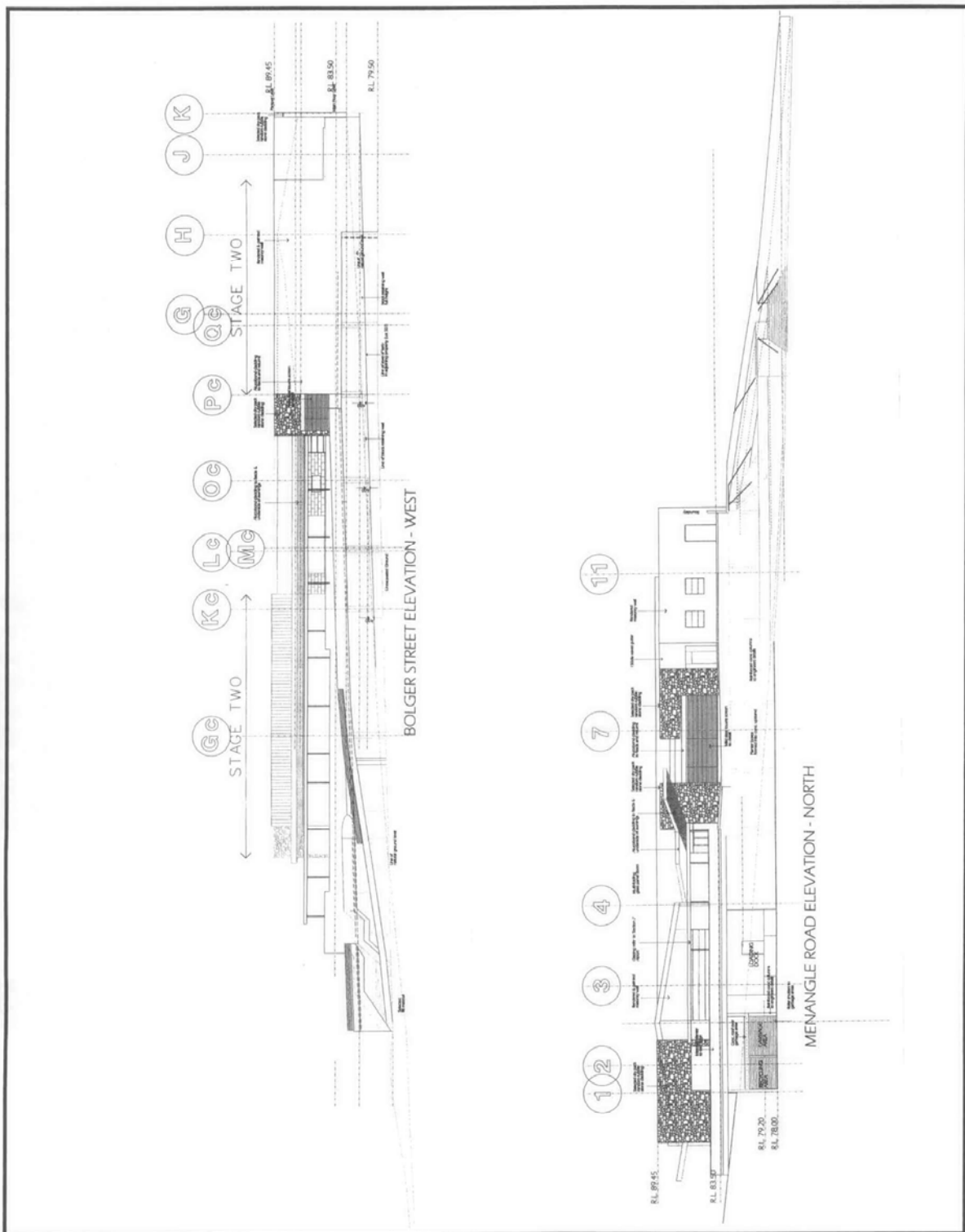


## ELEVATIONS

**SUBJECT:** CONSTRUCTION OF ADDITIONS TO EXISTING LICENSED PREMISES.

LOT 500 DP 817216 & LOT 3 DP 1071804 - BOLGER STREET, CAMPBELLTOWN.

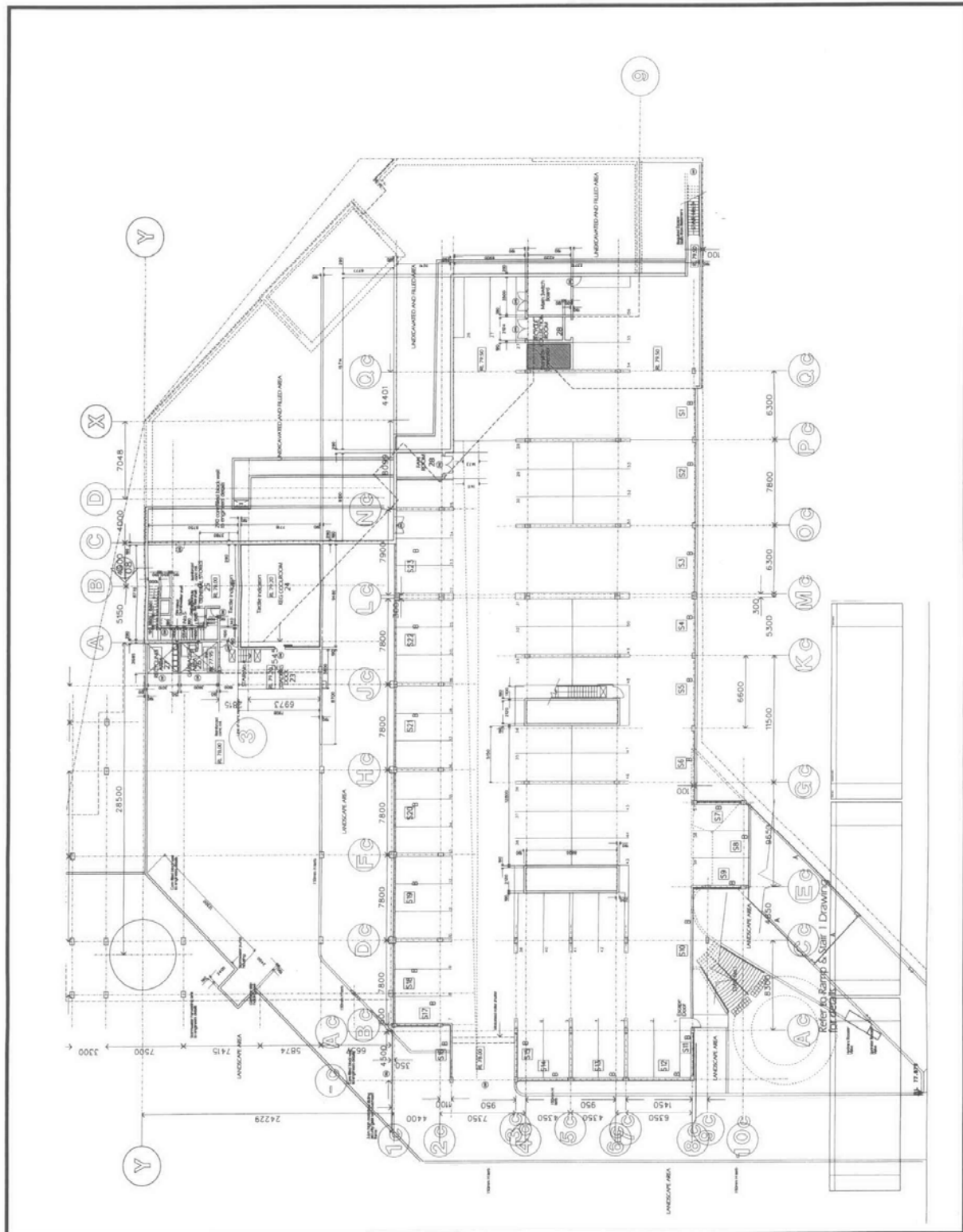




## ELEVATIONS

**SUBJECT:** CONSTRUCTION OF ADDITIONS TO EXISTING LICENSED PREMISES.

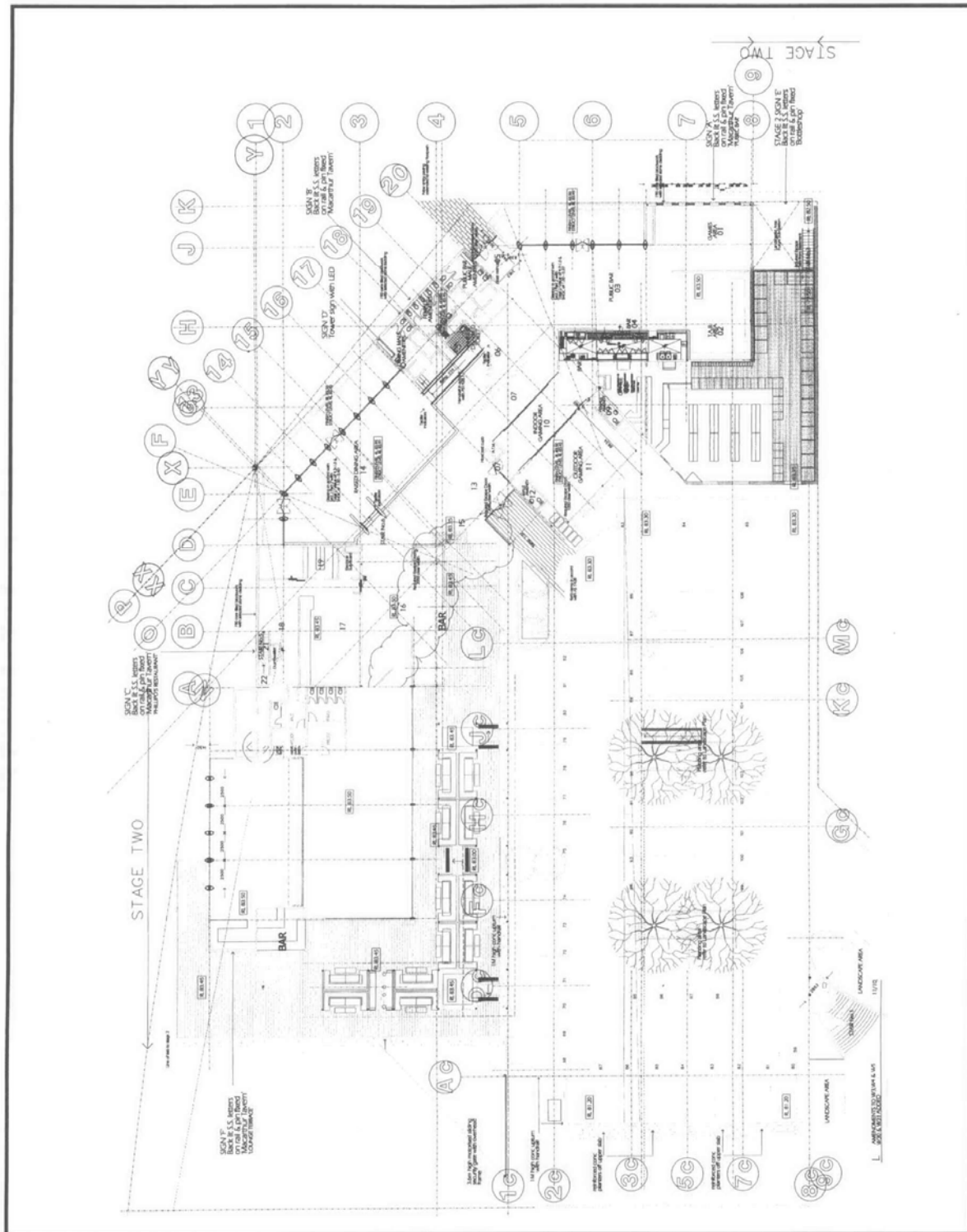
LOT 500 DP 817216 & LOT 3 DP 1071804 - BOLGER STREET, CAMPBELLTOWN.



**SUBJECT:**

CONSTRUCTION OF ADDITIONS TO EXISTING LICENSED PREMISES.

LOT 500 DP 817216 & LOT 3 DP 1071804 - BOLGER STREET, CAMPBELLTOWN.

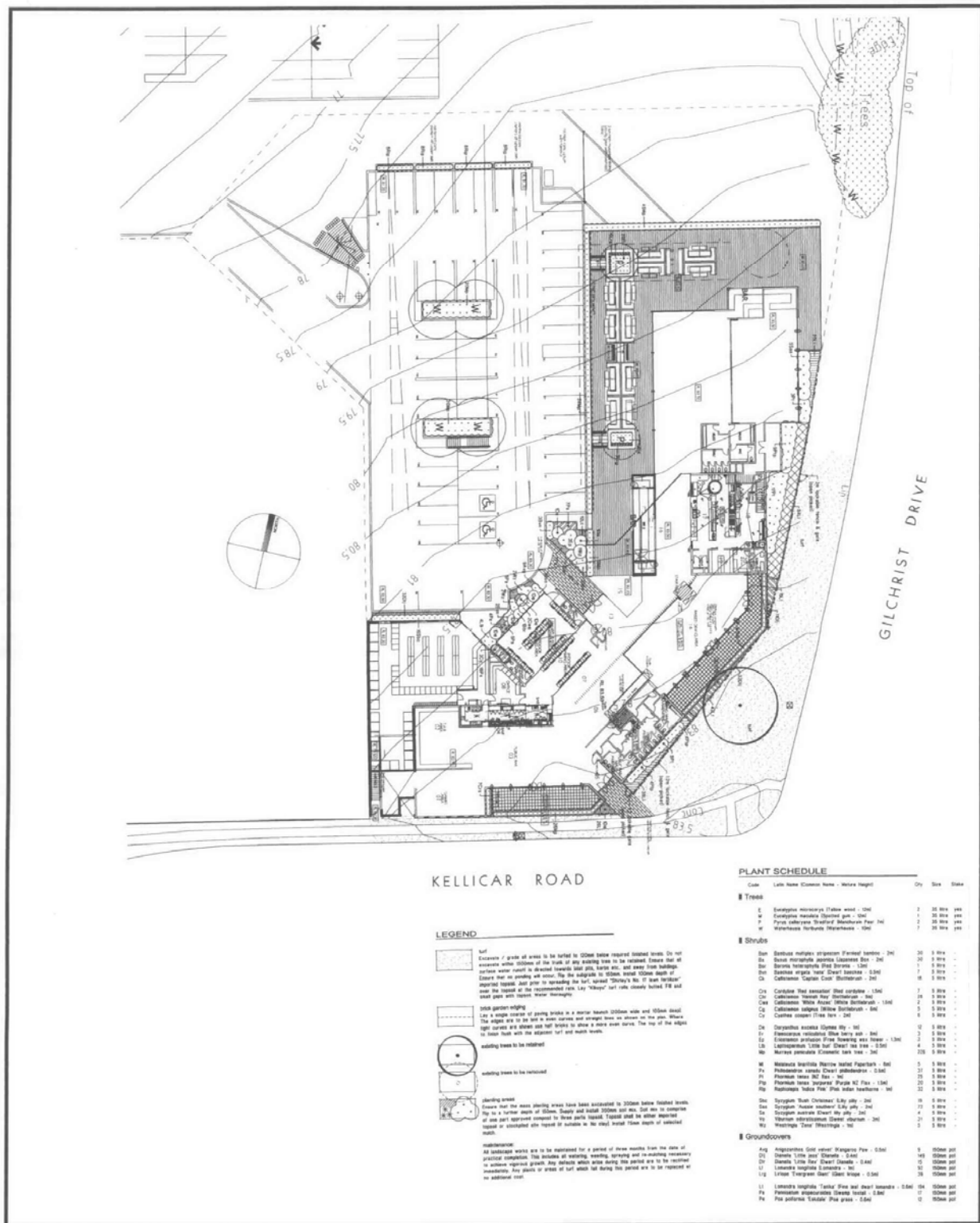


## FLOOR PLAN

**SUBJECT:**

CONSTRUCTION OF ADDITIONS TO EXISTING LICENSED PREMISES.

LOT 500 DP 817216 & LOT 3 DP 1071804 - BOLGER STREET, CAMPBELLTOWN.



## LANDSCAPE PLAN

**SUBJECT:** CONSTRUCTION OF ADDITIONS TO EXISTING LICENSED PREMISES.

LOT 500 DP 817216 & LOT 3 DP 1071804 - BOLGER STREET, CAMPBELLTOWN.



**SUBJECT:**

LOT 500 DP 817216 & LOT 3 DP 1071804 - BOLGER STREET, CAMPBELLTOWN.

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## 4. COMPLIANCE SERVICES

### 4.1 Legal Status Report

#### Reporting Officer

Manager Compliance Services

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#### Attachments

Nil

#### Purpose

To update Council on the current status of the Planning and Environment Division's legal matters.

#### Report

This report contains a summary of the current status of the Division's legal matters relating to:

- The Land and Environment Court;
- The District Court;
- The Local Court; and
- Matters referred to Council's Solicitor for advice.

A summary of year-to-date costs and the total number of actions are also included.

<b>1. <i>Land and Environment Court Class 1 Matters – Appeals Against Council's Determination of Development Applications</i></b>
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<b>Total ongoing Class 1 DA Appeal Matters (as at 12/02/2010)</b>	<b>2</b>
<b>Total completed Class 1 DA Appeal Matters (as at 12/02/2010)</b>	<b>3</b>
<b>Costs from 1 July 2009 for Class 1 DA Appeal Matters:</b>	<b>\$134,879.10</b>

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<b>1 (a)</b>	<b>Pope Shenouda III Coptic Christian Centre</b>
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<b>Issue:</b>	Refusal of Development Application 3263/2005/DA-C for the demolition of existing buildings, alterations to church and construction of stadium, two residences, dormitory hall, playing field and carparking
<b>Property:</b>	Lots 315 - 318 DP 260797 No 2 Wills Road, Long Point.
<b>Property owner:</b>	Coptic Orthodox Church Property
<b>File No:</b>	3263/2005/DA-C (Court File 10700 of 2008)

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<b>Court Application filed:</b>	21 July 2008
<b>Applicant:</b>	Pope Shenouda III Coptic Christian Centre
<b>Judgement date:</b>	To be notified
<b>Costs Estimate:</b>	\$25,000.00 (exclusive of Barristers, Court Appointed Experts or disbursements fees)
<b>Costs to date:</b>	\$60,830.34
<b>Status:</b>	Ongoing – Judgement reserved.

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<b>Action Since Last Meeting</b>	Hearing from 23 to 25 November 2009 completed; Judgement has been reserved.
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<b>1 (b)</b>	<b>John Galluzzo</b>
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<b>Issue:</b>	Refusal of Development Application 1972/2007/DA-C for the extensions to childcare centre.
<b>Property:</b>	Pt Lot 101 DP 602622 No.1 Bloomfield Road, Denham Court.
<b>Property Owner:</b>	John Galluzzo
<b>File No:</b>	1972/2007/DA-C (Court File 11218 of 2008)
<b>Court Application Filed:</b>	1 December 2008
<b>Applicant:</b>	John Galluzzo
<b>Costs Estimate:</b>	\$20,000.00 (exclusive of Barristers, Court Appointed Experts or disbursement fees)
<b>Costs to date:</b>	\$35,188.99
<b>Status:</b>	Ongoing – appeal dismissed and proceedings completed, awaiting solicitors final costs.

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<b>Action Since Last Meeting</b>	The Court handed down its Judgement on 18 December 2009 dismissing the appeal and refusing Development Application 1972/2007/DA-C.
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<b>2. Land and Environment Court Class 1 Matters – Appeals Against Council's Issued Orders/Notices</b>
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<b>Total ongoing Class 1 Order/Notice Appeal Matters (as at 12/02/2010)</b>	<b>0</b>
<b>Total completed Class 1 Order/Notice Appeal Matters (as at 12/02/2010)</b>	<b>0</b>
<b>Costs from 1 July 2009 for Class 1 Order/Notices Appeal Matters:</b>	<b>\$0.00</b>

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**3. Land and Environment Court Class 4 Matters – Non-Compliance with Council Orders / Notices or Prosecutions**

<b>Total ongoing Class 4 Matters (as at 12/02/2010)</b>	<b>4</b>
<b>Total completed Class 4 Matters (as at 12/02/2010)</b>	<b>0</b>
<b>Costs from 1 July 2009 for Class 4 Matters</b>	<b>\$3,529.71</b>

**3 (a) Khaled Alameddine**

<b>Issue:</b>	Non-compliance with Orders to rectify structurally inadequate outbuildings.
<b>Property:</b>	Lot 14 DP 740774 No. 329 Wedderburn Road, Wedderburn
<b>Property owner:</b>	Ms Susanna Rossi
<b>File No:</b>	Court File No. 40778 of 2007
<b>Applicant:</b>	Khaled Alameddine
<b>Costs Estimate:</b>	\$20,000 (exclusive of Barristers, Court Appointed Experts or disbursements fees)
<b>Costs to Date:</b>	\$9,859.71
<b>Status:</b>	Ongoing – Council's Orders upheld and proceedings completed, cost recovery being pursued.

<b>Action Since Last Meeting</b>	Resolution of costs in this matter has not been settled. Council is consulting with its solicitors as to the options for recovery of those costs.
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**3 (b) George Habna Habra, Renee Habra and Elia Habra**

<b>Issue:</b>	Non-compliance with Orders to rectify excavated and subsiding earth embankment located on either side of the common boundary of adjoining residential premises.
<b>Property:</b>	Lot 1451 DP 703487 No. 2 Brownlow Place, Ambarvale
<b>Property owner:</b>	George Habna Habra, Renee Habra and Elia Habra
<b>File No:</b>	Court File No. 40024 of 2008
<b>Respondent:</b>	George Habna Habra, Renee Habra and Elia Habra
<b>Costs Estimate:</b>	\$20,000 (exclusive of Barristers, Court Appointed Experts or disbursements fees)
<b>Costs to Date:</b>	\$8,395.13
<b>Status:</b>	Ongoing – Amended Orders made by the Court. Awaiting Solicitor's final costs.

<b>Action Since Last Meeting</b>	Notice of Motion to amend the previous Orders of the Court to confirm the proposed remediation works that incorporate a retaining wall was made by the Court on 8 February 2009.
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**3 (c) Simon Simo and Emilia Simo**

**Issue:** Non-compliance with Orders to rectify excavated and subsiding earth embankment located on either side of the common boundary of adjoining residential premises.

**Property:** Lot 1450 DP 703487 No. 4 Brownlow Place, Ambarvale

**Property owner:** Simon Simo and Emilia Simo

**File No:** Court File No. 40025 of 2008

**Respondent:** Simon Simo and Emilia Simo

**Costs Estimate:** \$20,000 (exclusive of Barristers, Court Appointed Experts or disbursements fees)

**Costs to Date:** \$6,475.68

**Status:** Ongoing – Amended Orders made by the Court. Awaiting Solicitor's final costs.

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**Action Since Last Meeting** Notice of Motion to amend the previous Orders of the Court to confirm the proposed remediation works that incorporate a retaining wall was made by the Court on 8 February 2009.

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**3 (d) Inderjit Singh T/as Multi Furniture**

**Issue:** Non-compliance with Orders to cease use of premises for furniture manufacture and vacate the premises.

**Property:** Lot 2 DP739179, Unit 2 Erica Lane, Minto and Pt Lot 6 DP 703617 Unit 1 Erica Lane, Minto

**Property owner:** GLP Developments Pty Ltd and A and M Stavros respectively

**File No:** Court File No. 49166 of 2008

**Respondent:** Inderjit Singh T/as Multi Furniture

**Costs Estimate:** \$20,000 (exclusive of Barristers, Court Appointed Experts or disbursements fees)

**Costs to Date:** \$12,751.21

**Status:** Ongoing – Council's Orders upheld and proceedings completed, cost recovery being pursued.

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**Action Since Last Meeting** Resolution of costs in this matter has not been settled. Council is consulting with its solicitors as to the options for recovery of those costs.

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**4. Land and Environment Court Class 5 - Criminal enforcement of alleged pollution offences and various breaches of environmental and planning laws.**

<b>Total ongoing Class 5 Matters (as at 12/02/2010)</b>	<b>3</b>
<b>Total completed Class 5 Matters (as at 12/02/2010)</b>	<b>0</b>
<b>Costs from 1 July 2009 for Class 5 Matters</b>	<b>\$20,761.78</b>

**4 (a) Cvetko Josevski**

<b>Issue:</b>	Development carried out (wilfully poison 6 mature eucalyptus trees) in contravention of the planning instruments that applied in respect of the property.
<b>Property:</b>	Lot 4 DP 238982 No.74 Hansens Road, Minto Heights.
<b>Property owner:</b>	Cvetko Josevski and Snezana Josevski
<b>File No:</b>	Court File No. 50076 of 2008
<b>Court Application Filed:</b>	9 October 2008
<b>Defendant:</b>	Cvetko Josevski
<b>Costs Estimate:</b>	\$20,000 (exclusive of Barristers, Court Appointed Experts or disbursements fees)
<b>Costs to Date:</b>	\$24,163.37
<b>Status:</b>	Ongoing – Prosecution successful and Court proceedings completed; cost recovery being pursued.

<b>Action Since Last Meeting</b>	Negotiations with the Defendant regarding costs settlement are ongoing.
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**4 (b) John Mhanna**

<b>Issue:</b>	Development carried out without the issue of a construction certificate and contrary to the conditions of development consent No. 2340/2005/DA-M comprising the demolition of three dwellings and the construction of fifteen dwellings and strata subdivision.
<b>Property:</b>	Lot 2 DP 520114, Lot 9 DP 233072 and Lot 8 DP 2233072, No's 18 to 20 Myee Road, Macquarie Fields.
<b>Property owner:</b>	Westcity Developments Pty Ltd
<b>File No:</b>	2340/2005/DA-M (Court File No's. 50050 of 2009 and 50051 of 2009)
<b>Court Application Filed:</b>	10 September 2009
<b>Defendant:</b>	John Mhanna
<b>Mention date:</b>	19 February 2010
<b>Costs Estimate:</b>	\$25,000 (exclusive of Barristers, Court Appointed Experts or disbursements fees)
<b>Costs to Date:</b>	\$9,835.67
<b>Status:</b>	Ongoing – confirmation of plea pending.

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<b>Action Since Last Meeting</b>	The matter was before the Court on 5 February 2010 for further mention. Counsel for the defendant appeared and requested a further adjournment to allow time to properly consider the matter with his client. The Court directed that the matter be adjourned to 19 February for further mention and confirmation of plea.
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<b>5.    <i>Land and Environment Court Class 6 - Appeals from convictions relating to environmental matters</i></b>
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Total ongoing Class 6 Matters (as at 12/02/2010)	0
Total completed Class 6 Matters (as at 12/02/2010)	0
Costs from 1 July 2009 for Class 6 Matters	\$0.00

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<b>6.    <i>Land and Environment Court Tree Dispute Matters – Applications filed under the Trees (Disputes Between Neighbours) Act 2006</i></b>
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Total ongoing Tree Dispute Matters (as at 12/02/2010)	0
Total completed Tree Dispute Matters (as at 12/02/2010)	0
Costs from 1 July 2009 for Tree Dispute Matters	\$0.00

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<b>7.    <i>District Court – Matters on Appeal from lower Courts or Tribunals not being environmental offences.</i></b>
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Total ongoing Appeal Matters (as at 12/02/2010)	1
Total completed Appeal Matters (as at 12/02/2010)	0
Costs from 1 July 2009 for District Court Matters	\$0.00

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<b>7 (a)</b>	<b>Michael Bruce Hall</b>
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<b>Issue:</b>	Appeal against decision in Consumer, Trader and Tenancy Tribunal Case No GEN:08/45487 of BUILDINGPLANS.COM.AU (Michael Bruce Hall) v Ameedul Nisha Hussein.
<b>File No:</b>	2593/2007/DA-DW (Court File No. 08/10/2008)
<b>Court Application filed:</b>	9 October 2008
<b>Appellant:</b>	Michael Bruce Hall
<b>Costs Estimate:</b>	\$5,000 (exclusive of Barristers, Court Appointed Experts or disbursements fees)
<b>Costs to date:</b>	\$5,031.63
<b>Status:</b>	Ongoing – appeal dismissed and proceedings completed, cost recovery being pursued.

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**Action Since Last Meeting**      Awaiting determination of costs assessment.

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**8. Local Court Prosecution Matters**

The following summary lists the current status of the Division's legal matters before the Campbelltown Local Court.

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<b>Total ongoing Local Court Matters (as at 12/02/2010)</b>	<b>19</b>
<b>Total completed Local Court Matters (as at 12/02/2010)</b>	<b>72</b>
<b>Costs from 1 July 2009 for Local Court Matters</b>	<b>\$11,367.73</b>

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<b>File No:</b>	LP 62/09 - Penalty Notice Court Election
<b>Offence:</b>	Not comply with Order (demolish unauthorised building)
<b>Act:</b>	Environmental Planning and Assessment Act
<b>Final Costs:</b>	\$0.00
<b>Status – Completed:</b>	The matter was before the Court for sentence on 2 February 2010, where after hearing submissions the Court found the offence against the accused, Sarantos Karras, proved and imposed a fine of \$150 and made an order for Court Costs of \$76.

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<b>File No:</b>	LP 63/09 - Penalty Notice Court Election
<b>Offence:</b>	Not comply with Order (comply with development consent)
<b>Act:</b>	Environmental Planning and Assessment Act
<b>Final Costs:</b>	\$0.00
<b>Status – Completed:</b>	The matter was before the Court for sentence on 2 February 2010, where after hearing submissions the Court found the offence against the accused, Sarantos Karras, proved and imposed a fine of \$150.

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<b>File No:</b>	LP 64/09 - Penalty Notice Court Election
<b>Offence:</b>	Not comply with Order (demolish unauthorised building)
<b>Act:</b>	Environmental Planning and Assessment Act
<b>Final Costs:</b>	\$0.00
<b>Status – Completed:</b>	The matter was before the Court for sentence on 2 February 2010, where after hearing submissions the Court found the offence against the accused, Efthimios Karras, proved and imposed a fine of \$150.

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<b>File No:</b>	LP 65/09 - Penalty Notice Court Election
<b>Offence:</b>	Not comply with Order (comply with development consent)
<b>Act:</b>	Environmental Planning and Assessment Act
<b>Final Costs:</b>	\$0.00
<b>Status – Completed:</b>	The matter was before the Court for sentence on 2

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February 2010, where after hearing submissions the Court found the offence against the accused, Efthimios Karras, proved and imposed a fine of \$150.

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**File No:** LP 80/09 - Penalty Notice Court Election  
**Offence:** Fail to return authority after ceasing to be a disabled person  
**Act:** Local Government Act  
**Final Costs:** \$0.00  
**Status – Completed:** The matter was before the Court for hearing on 11 December 2009 where Council withdrew the matter as a prior review of the evidence showed that the penalty notice had been issued in error to the owner of the vehicle who was not the holder of the authority.

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**File No:** LP 82/09 - Penalty Notice Court Election  
**Offence:** Stop heavy/long vehicle for longer than 1 hour  
**Act:** Road Rules 2008  
**Final Costs:** \$0.00  
**Status – Completed:** The matter was before the Court for hearing on 18 December 2009 where Council made application to adjourn the proceedings as Council's witness was unavailable due to a wrist fracture sustained prior to the hearing day. The Court considered the Doctor's certificate submitted and refused the application citing that it considered the injury did not prevent the witness from attending Court to give evidence. As Council was unable to present any evidence the Magistrate dismissed the matter.

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**File No:** LP 95/09 - Penalty Notice Court Election  
**Offence:** Stop in parking area for disabled without current permit displayed on the vehicle  
**Act:** Road Rules 2008  
**Final Costs:** \$0.00  
**Status – Completed:** The matter was before the Court on 5 January 2010 where the accused, Matthew Tahier, changed his plea to guilty. After considering the evidence and submissions the Magistrate found the offence proved and imposed a fine of \$300 and an Order for \$76 Court Costs.

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**File No:** LP 101/09 - Penalty Notice Court Election  
**Offence:** Unregistered Dog - not dangerous dog  
**Act:** Companion Animals Act  
**Costs to date:** \$0.00  
**Status – Ongoing:** The matter was before the Court for first mention on 8 December 2009 where the accused entered a not guilty plea. The Court adjourned the proceedings to 9 February 2010 for hearing where due to the priority of other matters at the end of the day, the matter was not commenced. The Court re-listed the proceedings for hearing on 19 April 2010.

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<b>File No:</b>	LP 102/09 - Penalty Notice Court Election
<b>Offence:</b>	Uncontrolled Dog in a public place - not dangerous dog
<b>Act:</b>	Companion Animals Act
<b>Costs to date:</b>	\$0.00
<b>Status – Ongoing:</b>	Re-listed for first mention on 23 February 2010.

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<b>File No:</b>	LP 103/09 - Penalty Notice Court Election
<b>Offence:</b>	Uncontrolled Dog in a prohibited place - not dangerous dog
<b>Act:</b>	Companion Animals Act
<b>Final Costs:</b>	\$0.00
<b>Status – Completed:</b>	The matter was before the Court for first mention on 14 January 2010 where the accused, Steve Neill, made no appearance. An application to hear the matter in the accused absence was granted and after considering the evidence and submissions the Magistrate found the offence proved and imposed a \$300 fine and an Order for \$76 Court costs.

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<b>File No:</b>	LP 105/09 - Penalty Notice Court Election
<b>Offence:</b>	Uncontrolled Dog in a public place - not dangerous dog
<b>Act:</b>	Companion Animals Act
<b>Costs to date:</b>	\$0.00
<b>Status – Ongoing:</b>	The matter was before the Court for first mention on 14 January 2009 where the accused entered a not guilty plea. The matter has been adjourned to 19 March 2010 for hearing

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<b>File No:</b>	LP 106/09 - Penalty Notice Court Election
<b>Offence:</b>	Stop on/across driveway or other access to/from land.
<b>Act:</b>	Road Rules 2008
<b>Final Costs:</b>	\$0.00
<b>Status – Completed:</b>	The matter was before the Court for first mention on 14 January 2010, where the accused entered a guilty plea with explanation. After considering the evidence and submissions the Court found the offence proved and directed that under Section 10 of the Crimes (Sentencing) Procedure Act no conviction is recorded, an Order for \$76 Court Costs was made.

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<b>File No:</b>	LP 01/10 - Penalty Notice Court Election
<b>Offence:</b>	Not register 6-month old companion animal (dog)
<b>Act:</b>	Companion Animals Act
<b>Final Costs:</b>	\$0.00
<b>Status – Completed:</b>	The matter was before the Court for first mention on 2 February 2010 where the accused, Eugene Salvador entered a guilty plea with explanation. After considering the facts and submission the Magistrate found the offence proven and imposed a \$50 fine and an Order for \$76 Court Costs.

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<b>File No:</b>	LP 03/10 - Penalty Notice Court Election
<b>Offence:</b>	Uncontrolled Dog in a public place - not dangerous dog
<b>Act:</b>	Companion Animals Act
<b>Final Costs:</b>	\$0.00
<b>Status – Completed:</b>	The matter was before the Court for first mention on 15 January 2010, where the accused entered a guilty plea with explanation. After considering the evidence and submissions the Court found the offence proved and directed that under Section 10 of the Crimes (Sentencing) Procedure Act no conviction is recorded, an Order for \$76 Court Costs was made.

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<b>File No:</b>	LP 04/10 - Penalty Notice Court Election
<b>Offence:</b>	Not register 6-month old companion animal (dog)
<b>Act:</b>	Companion Animals Act
<b>Final Costs:</b>	\$0.00
<b>Status – Completed:</b>	The matter was before the Court for first mention on 2 February 2010 where the accused, Jasminka Kondie made no appearance. The Court granted an application to have the matter proceed in the absence of the accused and after considering the facts the Magistrate found the offence proven and imposed a \$220 fine and an Order for \$76 Court Costs.

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<b>File No:</b>	LP 05/10 - Penalty Notice Court Election
<b>Offence:</b>	Stop in bus zone – school zone.
<b>Act:</b>	Road Rules 2008
<b>Final Costs:</b>	\$0.00
<b>Status – Completed:</b>	The matter was before the Court for first mention on 2 February 2010 where the accused, Dianne Lee Buxton entered a guilty plea with explanation. After considering the facts and submission the Magistrate found the offence proven and imposed a \$76 fine and an Order for \$76 Court Costs.

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<b>File No:</b>	LP 07/10 - Penalty Notice Court Election
<b>Offence:</b>	Fail to comply with Food Standards Code (Cleanliness) - Individual
<b>Act:</b>	Food Act 2003
<b>Final Costs:</b>	\$0.00
<b>Status – Completed:</b>	The matter was before the Court for first mention on 9 February 2010 where the accused entered a not guilty plea with explanation. After considering the evidence and submissions the Magistrate found the offence proved and directed that under Section 10 of the Crimes (Sentencing Procedure) Act no conviction be recorded.

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<b>File No:</b>	LP 08/10 - Penalty Notice Court Election
<b>Offence:</b>	Disobey no stopping sign – school zone
<b>Act:</b>	Road Rules 2008
<b>Final Costs:</b>	\$0.00
<b>Status – Completed:</b>	The matter was before the Court for first mention on 9 February 2010 where the accused entered a not guilty plea with explanation. After considering the evidence and submissions the Magistrate found the offence proved and directed that under Section 10 of the Crimes (Sentencing Procedure) Act no conviction be recorded.

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<b>File No:</b>	LP 09/10 - Penalty Notice Court Election
<b>Offence:</b>	Stand vehicle in disabled persons parking space without authority displayed on vehicle.
<b>Act:</b>	Local Government Act
<b>Final Costs:</b>	\$0.00
<b>Status – Completed:</b>	The matter was before the Court for first mention on 9 February 2010 where the accused entered a not guilty plea with explanation. After considering the evidence and submissions the Magistrate found the offence proved and directed that under Section 10 of the Crimes (Sentencing Procedure) Act no conviction be recorded.

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#### **9. Matters Referred to Council's Solicitor for Advice**

The following summary lists the status of matters referred to Council's Solicitors for advice on questions of law, the likelihood of appeal or prosecution proceedings being initiated, and/or Council liability.

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<b>Total Advice Matters (as at 12/02/2010)</b>	<b>6</b>
<b>Costs from 1 July 2009 for Advice Matters</b>	<b>\$25,080.06</b>

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## 10. Legal Costs Summary

The following summary lists the Planning and Environment Division's net Legal Costs for the 2009/2010 period.

Relevant Attachments or Tables	Costs Debit	Costs Credit
Class 1 Land and Environment Court - appeals against Council's determination of Development Applications	\$134,879.10	\$0.00
Class 1 Land and Environment Court - appeals against Orders or Notices issued by Council	\$0.00	\$0.00
Class 4 Land and Environment Court matters - non-compliance with Council Orders, Notices or Prosecutions	\$3,529.71	\$0.00
Class 5 Land and Environment Court - Pollution and Planning prosecution matters	\$20,761.78	\$0.00
Class 6 Land and Environment Court - appeals from convictions relating to environmental matters	\$0.00	\$0.00
Land and Environment Court tree dispute between neighbours matters	\$0.00	\$0.00
District Court Appeal matters	\$0.00	\$0.00
Local Court Prosecution matters	\$11,367.73	\$1,650.00
Matters referred to Council's Solicitor for Legal Advice	\$25,080.06	\$0.00
Miscellaneous costs not shown elsewhere in this table	\$0.00	\$0.00
Costs Sub-Total	\$195,618.38	\$1,650.00
<b>Overall Net Costs Total (GST exclusive)</b>	<b>\$193,968.38</b>	

### Officer's Recommendation

That the information be noted.

### Committee's Recommendation: (Oates/Thompson)

That the Officer's Recommendation be adopted.

**CARRIED**

**Council Meeting 2 March 2010 (Matheson/Kolkman)**

That the Officer's Recommendation be adopted.

**Council Minute Resolution Number 25**

That the Officer's Recommendation be adopted.

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## **4.2 Bradbury Inn Hotel - Application to Amend Licence Conditions**

### **Reporting Officer**

Manager Compliance Services

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### **Attachments**

1. Application and Supporting Documentation to the Casino, Liquor and Gaming Control Authority to Amend Licence Conditions (under separate cover).
2. Submission by Council to the Casino, Liquor and Gaming Control Authority (under separate cover).

### **Purpose**

To advise Council of an application by Bradbury Inn Hotel to the Casino, Liquor and Gaming Control Authority to amend its licence conditions and to seek Council's endorsement of a submission lodged with the Authority.

### **History**

Councillors received a briefing on this matter at the briefing session held on 16 February 2010, where the issues raised in this report were discussed prior to Council receiving a report to confirm its direction on this matter.

On 13 November 2009 the Bradbury Inn Hotel was granted a conditional 24 hour (7 days per week) licence to trade, following a 12 month trial period. The trial period included a consultation group with representatives of the local community, Police and Council staff. Notwithstanding the 24 hour trading licence, Council understands that the Hotel currently closes at 4am and as required by its licence has a 'lock-out' (the time after which persons are not permitted to enter the hotel) commencing at 1am.

The Hotel lodged an application to the Casino, Liquor and Gaming Control Authority on 27 January 2010 to amend a number of its licence conditions. The application proposes to; move the 1am lock-out back to 3am lock-out on a 6 month trial basis, to assess the impact on this variation and to remove conditions relating to the Bradbury Shopping Centre once the boundary fencing approved by the Land and Environment Court on 29 May 2009 is erected.

Council has until 26 February 2010 to make a submission to the Authority should it wish to do so.

### **Report**

A copy of an application lodged with the Authority on 27 January 2010 by the licensee of the Bradbury Inn Hotel to amend a number of its licence conditions has been received by Council.

The significant proposal included in the application is a request to vary the existing lock-out from 1 am to 3 am on a six month trial basis, to assess the impact of this variation.

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The other conditions forming part of the application are conditions involving the adjoining Bradbury Shopping Centre. Once the dividing fence, approved by the Land and Environment Court, is erected between the two premises, it will not be technically possible to comply with a number of conditions on the current hotel licence, which requires the hotel to conduct certain activities on the shopping centre land. The application seeks to vary these conditions effective from the construction of the fence.

The request to vary the conditions that will not be technically possible to comply with once the dividing fence is installed are logical and it is suggested that Council not raise objection to these. Consequently they will not be discussed in further detail in this report. However, the request to vary the existing lock-out from 1 to 3 am on a six month trial basis requires further discussion to address the likely impacts, should this variation be approved.

The supporting documentation attached to the application indicates that the licensee previously held discussions with the Acting Local Area Commander of Police and the Licensing Coordinator who have expressed some concerns about altering the lock-out time for the hotel, due to perceived problems with what is termed "Patron Migration".

In defence of the perceived problems with patron migration the application makes the following comments:

- There is already occurring (with the 1.00 am lock-out) "patron migration" to the Bradbury Hotel from other venues with the LGA.
  - Patron migration is being successfully managed by hotel staff and security.
  - No disturbances have occurred in the turning away of patrons after 1.00 am.
  - The Hotel has not been informed by the Police or Council of any disturbances.
  - The Hotel conducts a courtesy bus for patrons living in the local area which is also available for people who have been turned away from the hotel.
  - The extent of the migration is minimal as the approximate population counts for the hotel on Thursday, Friday and Saturday evenings suggests that the patrons in the hotel at 1.00 am on each of these evening is only 60 people.
  - Migration would mainly be by car due to limited public transport available at this time of night and also as the venues that patrons may migrate from are considered not to be within walking distance.
  - The existing closing times of the venues that the patrons may migrate from also restrict the number of persons that may migrate as these venues primarily close at the same time as the Bradbury Hotel as detailed below:
    - Campbelltown City Tavern - 3 am
    - Court Tavern - 3 am
    - Leumeah Club Hotel - 3 am
    - Campbelltown Club Hotel - 24 hours
    - Campbelltown Catholic Club - 4 am
    - Campbelltown RSL - 3 am
    - Club 209 - 3 am
-

The application suggests that the Community Consultation Group used to monitor the previous trial of the extended trading hours be re-established to consider and discuss the application.

As part of the assessment of the application, Council officers contacted Campbelltown Licensing Police to determine the closing and lock out times for a number of venues within proximity to the Bradbury Inn Hotel including those on the above list provided by the licensee. This information is summarised in the table below:

Premises	Closing Time as Per Licence	Actual Closing time	Lock Out Time
City Hotel	3 am	1 or 1.30am	1.30am (1am voluntary lock out)
Court Tavern,	3 am	Mon - Wed 12 am Thu - Sat 1 am Sun 8 pm	1 am
Leumeah Club Hotel	5 am	Thu - Sat 4 am Sun - Wed 3 am	3 am
Campbelltown Club Hotel	5 am	Sun - Thu 3 am Fri - Sat 6 am	No lockout
Campbelltown Catholic Club	Not specified	Mon - Thu 4 am Fri - Sat 6 am Bar closes 3 am	2 am (non members only)
Campbelltown RSL Club	3 am	3 am	1 am (non members only)
Club 209	3 am	3 am (last drinks 2.30 am)	1.30am
Wests	3 am	6 am	11.30pm (non-members only)

By comparing the information in the above table to the current 1 am lock-out time at the Bradbury Inn Hotel, the only premises with either a consistent closing or lock-out time prior to the 1am lock-out at the Bradbury Inn Hotel where patron migration could occur would be Wests. As Wests would be the furthest premises (on the list) from Bradbury Inn Hotel, the level of patron migration would be minimal. Also as there are other closer venues with later lock-out times it is expected that patrons would migrate to these closer premises.

However comparing the information to the proposed 3am lock-out shows that 2 premises (City Hotel and Court Tavern) currently close before the 3 am lock-out and a further 3 premises (Campbelltown Catholic Club, Campbelltown RSL and Club 209) have a lock-out time prior to the proposed 3am lock-out.

Therefore the proposed 3 am lock-out provides the potential for future patron migration that currently does not exist from these premises to the Bradbury Inn Hotel. Given the suburban setting of the Bradbury Inn Hotel this may cause disturbance to the peace and good order of the neighbourhood by way of noise or antisocial behaviour.

It should also be noted that at the time of the original application for 24 hour trading the Bradbury Inn Hotel made a commitment to 3 key points in support of their application which were; the 1 am lock-out, the staggered departure of patrons and the provision of a courtesy bus for patrols. While

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the last two issues are not to be altered by the amended application the 1 am lock-out approved on 13 November 2009 is now requested to be amended.

A review of Council's records indicates that Council has not received any complaint from members of the public in relation to the operation of the Bradbury Inn Hotel since the 24 hour trading licence was issued on 13 November 2009. Also the Bradbury Inn Hotel is currently not listed on the Authority's Declared Premises Schedule.

Council staff met with members of the Licensing Unit of Campbelltown Local Area Command on 17 February 2010 to discuss the application. Police at the meeting raised concerns over potential patron migration to the Bradbury Inn Hotel should the 3am lock-out be approved. Police were also concerned that this impact may be exacerbated as many of the premises were currently closing earlier than their maximum permitted closing time which appears on their licence. It was the intention of the Police at the meeting, to make a submission to the Casino, Liquor and Gaming Control Authority opposing the application.

It is acknowledged that the application seeks to alter the time of the lock-out from 1am to 3am is for a 6 month trial only and at present the operation of the premises is not causing a disturbance to the peace and good order of the neighbourhood. However, there is potential for increased patron migration from other licensed venues within proximity to the Bradbury Inn Hotel which may impact on the peace and good order of the neighbourhood by way of noise and possible anti social behaviour.

As the timeframe for comment on the application meant that it was not possible for Council to consider a report on this matter prior to the deadline for submissions closing, the matter was discussed at a briefing on 16 February 2010. Council's officers review of the amendments to the Licence has indicated that a 3am lockout proposal is not in the public interest and therefore should not be supported. A submission (Attachment 2) expressing the above concerns and objecting to the proposed extension of the lock out provision to 3am will be referred to the Casino, Liquor and Gaming Control Authority prior to the closing date for submissions date on behalf of Council. A copy of that submission is attached to this report and it is recommended that it be endorsed by the Council.

### **Officer's Recommendation**

That Council endorse the submission to the Casino, Liquor and Gaming Control Authority contained in Attachment 2.

### **Committee Meeting**

Having declared an interest in this item, Councillor Matheson left the Chamber and did not take part in debate nor vote on the matter.

In the absence of the Chairperson, Councillor Kolkman assumed the Chair.

**Committee Note:** Mr Lidis addressed the Committee in support of the application and Mr Nellies was present to answer questions.

### **Committee's Recommendation: (Rowell/Thompson)**

That a decision in this matter be deferred to allow further community consultation.

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**Amendment: (Oates/Bourke)**

That the Officer's Recommendation be adopted.

**WON** and became the Motion

**CARRIED**

Voting for the Motion were Councillors: Bourke, Kolkman and Oates.

Voting against the Motion were Councillors: Rowell and Thompson.

Following discussion of this item Councillor Matheson returned to the Chamber and reassumed the Chair.

His Worship the Mayor was not in the Chamber at the time the vote on this item was taken.

**Council Meeting 2 March 2010**

Having declared an interest in item 4.2, Councillors Lake and Matheson left the Chamber and did not take part in debate nor vote on the matter.

**Council Meeting 2 March 2010 (Hawker/Rowell)**

That a decision in this matter be deferred pending the receipt of further legal advice and further Community Consultation.

**Amendment: (Chanthivong/Thomas)**

That a decision in this matter be deferred pending the receipt of further legal advice.

**WON** and became the Motion.

The Motion on being Put was **CARRIED**.

**Council Minute Resolution Number 29**

That the above amendment be adopted.

**Note 1:** The General Manager noted that at the Planning and Environment Committee Meeting held 23 February 2010 a record of voting was taken for this item. Following the meeting the General Manager sought legal advice as to whether a register of voting on this item was required. The advice received indicated that a record of voting was not required.

**Note 2:** During the discussion of Item 4.2, Councillor Hawker tabled a petition from local residents requesting that Council engage them by way of Community Consultation when making submissions on their behalf in relation to patron lock out times at the Bradbury Inn Hotel.

Following discussion of this item Councillors Lake and Matheson returned to the Chamber for the remainder of the meeting.

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## **5. GENERAL BUSINESS**

### **5.1 Employment Generating Land - South West Sydney**

#### **Committee's Recommendation: (Rowell/Matheson)**

1. That Council write to the Planning Minister seeking further information regarding the release of employment generating land in South West Sydney and asking what land is being considered.

#### **Addendum: (Oates/Kolkman)**

2. That Council be briefed on any discussions or suggestions on this issue to date.

**WON** and became part of the Motion

**CARRIED**

#### **Council Meeting 2 March 2010 (Matheson/Kolkman)**

That the Committee's Recommendation be adopted.

#### **Council Minute Resolution Number 25**

That the Committee's Recommendation be adopted.

#### **Confidentiality Motion: (Kolkman/Thompson)**

Due to the confidential nature of the business and the Committee's opinion that the public proceedings of the Committee would be prejudicial to the public interest, the Committee in accordance with Section 10 of the Local Government Act 1993 resolves to exclude the public from the meeting during discussions on this item.

**CARRIED**

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## **10. CONFIDENTIAL ITEMS**

### **10.1 Confidential Information for Various Items on the Planning and Environment Agenda - 23 February 2010**

#### **Reason for Confidentiality**

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(c) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business

### **10.2 2010 Heritage Medallion**

#### **Reason for Confidentiality**

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(d) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (d) commercial information of a confidential nature that would if disclosed:
  - (iii) reveal a trade secret

R Matheson  
CHAIRPERSON

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