

# **Reports of the Planning and Environment Committee Meeting held at 7.30pm on Tuesday, 3 December 2013.**

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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 3 December 2013**

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**Present**

His Worship the Mayor, Councillor C Mead  
Councillor G Greiss (Chairperson)  
Councillor D Lound  
Councillor A Matheson  
Councillor M Oates  
Councillor T Rowell  
Councillor R Thompson  
General Manager - Mr P Tosi  
Director Planning and Environment - Mr J Lawrence  
Manager Community Resources and Development - Mr B McCausland  
Manager Cultural Services - Mr M Dagostino  
Acting Manager Customer Service - Mr P Macdonald  
Manager Development Services - Mr J Baldwin  
Manager Sustainable City and Environment - Mr A Spooner  
Corporate Support Coordinator - Mr T Rouen  
Executive Assistant - Mrs D Taylor

**Apology**

**(Lound/Matheson)**

That the apology from Councillor Kolkman be received and accepted.

**CARRIED**

**Also in Attendance**

Councillor Dobson

Following the conclusion of the City Works Committee meeting, Councillor Borg attended the remainder of the Planning and Environment Committee meeting.

**Acknowledgement of Land**

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

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## **DECLARATIONS OF INTEREST**

Declarations of Interest were made in respect of the following items:

### **Pecuniary Interests**

Nil

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

Nil

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

Councillor Matheson – Item 3.3 – Lot 5324 DP 118/9779, cnr Appin Road and Kellerman Drive, St Helens Park - Construction and operation of a 24 hour service station and convenience store - Councillor Matheson advised that a family member of one of the Directors is known to her family.

Councillor Matheson - Item 3.7 - Lot 2 DP 1187569, No. 250 Menangle Road, Menangle Park - Construction and operation of a horse stabling and training complex, including ancillary site and civil works - Councillor Matheson advised that members of her family are members of the NSW Harness Racing Club.

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

**No reports this round**

## **2. SUSTAINABLE CITY AND ENVIRONMENT**

### **2.1 2013 Macarthur Nature Photography Competition**

#### **Reporting Officer**

Manager Sustainable City and Environment

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#### **Attachments**

Nil

#### **Purpose**

To update Council on the outcomes of the 2013 Macarthur Nature Photography Competition.

#### **History**

The Macarthur Nature Photography Competition is a high profile regional environmental education initiative, generating significant interest from residents of the Macarthur region.

The competition has been held annually since 2006 and aims to engage residents with their local environment, raise awareness and enhance appreciation of Macarthur's unique natural surrounds, and in turn foster residents' increased stewardship of their natural heritage.

The competition is held in partnership with Camden and Wollondilly Councils. Campbelltown City Council is the main sponsor and coordinator of the competition, while Camden and Wollondilly Councils continue to provide in-kind and financial contributions in support.

#### **Report**

The 2013 Macarthur Nature Photography Competition was launched on 31 August 2013, at Council's annual Riverfest event, in recognition of Riverfest's complementary theme and objectives.

While participation was open to residents living within and outside of the Macarthur region, images were required to be captured from within the Macarthur region, whether from Council reserves, public bushland, or entrants' own backyards.

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During September, expert guided nature bushwalks were held free of charge for interested photographers at several locations throughout Macarthur. The walks were led by outdoor photography expert, Maggie Destefanis, with Council staff providing insight into the local flora and fauna.

Entrants were given the option to submit their photographs online through Council's website or over the counter at any of the three participating councils. Although entry into the competition is free, a fee of \$10 was required for online entries to cover the cost of printing and mounting of the electronic images.

For the first time, this year's entrants were given the opportunity to submit their smart phone images into the competition via email. Smart phone images are typically too small to meet the ordinary entry requirements of the competition. The images were not printed and mounted, however were still displayed at the awards night. This category was open to all ages with one overall winner.

Each image was entered under one of the following competition themes:

- Waterways
- Flora and Fauna
- Environmental Impact
- Nature Up Close
- Nature Snap (new smart phone theme).

A total of 240 entries were received for this year's competition, which is reasonably typical for the competition. Images reflected the diverse natural and environmental heritage of the Macarthur region, depicting a range of subject matter including misty waterfalls, picturesque woodland expanses and detailed macro shots of spiders.

The judging panel consisted of Brett Atkins, local photographer and founder of Capture Camden and Jenn Blake, Production Coordinator at Campbelltown Arts Centre. Judging took place on Wednesday 16 October 2013, determining the first and second place winners from each category in both adult and young people's main categories, and one overall winner in the new Nature Snap category.

The awards night was held at the Greg Percival Community Centre, Ingleburn on Friday 18 October 2013, with approximately 120 guests in attendance. Mayor of Campbelltown, Councillor Clinton Mead officially opened the ceremony. Mr Andy Best, Environmental Educator with the Department of Education and Training and School Principal at Harrington Park Public School, acted as MC and awarded prizes to the winners. Environmental and photography themed prizes were awarded to winning guests.

The People's Choice votes were cast and counted at the awards night, with the winner, Anne Hatt receiving a compact digital camera donated by sponsors, Macarthur Camera House and Canon Australia for her photo 'Nature pops'. The full list of the winning photographs from all the competition categories are available on Council's website.

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The photos were subject of a travelling exhibition from 21 October to 15 November 2013, with the details of the exhibition dates below:

- Greg Percival Library, Ingleburn from 11 – 18 October
- Narellan Library, Narellan from 21 October – 1 November
- Wollondilly Council Administration Building, Picton from 4 - 15 November.

Following the exhibition, photographs will be available to participants to collect.

Overall, the feedback from the community regarding the competition and awards night has been positive. Comments were sought from participants and attendees through an evaluation form which was distributed at the awards night. Feedback reflected appreciation for the calibre of the photography on display, the environmental themes of the competition, as well as the general organisation of the event.

The budget allocation for the 2013 Macarthur Nature Photography Competition was \$12,200, including a cash contribution of \$2,000 from both Wollondilly and Camden Councils. The total expenditure was \$11,023.

Given the increased community interest and broad ranging environmental benefits gained from the competition, it is recommended that Council continue to hold the competition on an annual basis subject to continued funding and support from Camden and Wollondilly Councils.

### **Officer's Recommendation**

That the information be noted.

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

That the Officer's Recommendation be adopted.

### **CARRIED**

### **Council Meeting 10 December 2013 (Greiss/Rowell)**

That the Officer's Recommendation be adopted.

### **Council Resolution Minute Number 265**

That the Officer's Recommendation be adopted.

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## **2.2 Minutes of the Camden Gas Community Consultation Committee**

### **Reporting Officer**

Manager Sustainable City and Environment

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### **Attachments**

Minutes of the Camden Gas Community Consultation Committee Meeting, held on 27 June 2013 (contained within this report)

### **Purpose**

To inform Council on the outcomes of the Camden Gas Community Consultation Committee held on 27 June 2013.

### **History**

Stage 1 of the Camden Gas Project is located to the south of the Campbelltown Local Government Area (LGA) and was approved by the NSW Government in July 2002. Stage 2 of this Project includes sections of the southern portion of the Campbelltown LGA and is comprised of a series of applications that were approved by the NSW Government between June 2004 and September 2008. The NSW Department of Planning and Infrastructure accepted a request from AGL Upstream Investment (AGL) on 11 February 2013 to indefinitely suspend its assessment of the Stage 3 Application for this Project (the northern extension).

The Camden Gas Project Community Consultation Committee (the Committee) was established in 2001 as a condition of consent for the Camden Gas Project, to provide a forum for discussion between AGL and the community. The General Manager was appointed as Council's representative to the Committee on 31 May 2011 with the Director of Planning and Environment as his formal delegate.

### **Report**

A meeting of the Committee was held at the Rosalind Park Gas Processing Plant (Rosalind Park Plant) on 27 June 2013. Council was represented by the Manager for Sustainable City and Environment and Senior Environmental Officer (Environment Protection and Management). A representative from the Environment Protection Authority (EPA) attended in an observer capacity.

This report provides a broad summary of the outcomes of the Committee meeting and highlights issues of relevance to Council. The minutes were formally endorsed at the Committee meeting held on 26 September 2013 and are provided as an attachment to this report. Copies of presentations referred to in the minutes are available from the Manager Sustainable City and Environment on request.

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### **Minutes of the meeting held on 27 June 2013**

#### **1) Business arising from the minutes of the previous meeting**

The Flood Management Procedure document for the CGP was discussed at the previous meeting. This document outlines procedures to be followed by AGL in the event of potential flooding of gas extraction well sites being identified. A representative of the Scenic Hills Association (SHA representative) requested that the document be supplied to all Committee members. A copy of this document can be obtained from Council's Manager Sustainable City and Environment.

#### **2) Presentations from AGL**

##### **i) Operations summary**

There were no drilling activities at gas extraction well sites within the Camden Gas Project Area between April and June 2013. Maintenance work was carried out at a number of well sites within the Mt Taurus gas field near Menangle Park. Rehabilitation work to restore areas disturbed as part of drilling operations at the MP 25 gas extraction well site also continued during the period.

Quarterly monitoring of air emissions and noise levels at the Rosalind Park Processing Plant was undertaken between April 2013 and June 2013. All collected data complied with the permitted levels specified in the EPA licence for the facility.

##### **ii) Update on the Camden Gas Project Stage 3 application**

AGL advised that any decision regarding the future of this application was pending the release and review of the finalised details of the NSW Government's proposed coal seam Gas Exclusion Zones (CSG exclusion zones).

##### **iii) Update on the AGL groundwater and fugitive emissions monitoring program**

###### **a) Expanded groundwater monitoring program**

AGL advised that an additional bore had been installed at an existing monitoring site at Denham Court within the Stage 3 Project Application Area. The SHA representative questioned the installation of this bore given the significant implications of the recently introduced CSG exclusion zones to this Application.

In response to this question, AGL advised that the additional bore had been installed at a greater depth than the three existing bores to obtain an understanding of the lateral extent and behaviour of groundwater within the Stage 2 Project Area. This AGL response is consistent with Council's resolution at its meeting on 21 May 2013 that requested AGL 'restrict any monitoring within the Stage 3 Project Area to assist in assessing the performance of wells within the Stage 2 Project Area.'

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**b) Fugitive methane emissions monitoring program**

AGL advised that the fugitive methane emissions monitoring program had commenced in early May 2013 and would extend over a twelve week period until August 2013. AGL further advised that once completed the report on this monitoring program would be provided to the Commonwealth Scientific and Industrial Research Organisation for peer review.

Note: AGL has subsequently advised that the outcomes of both programs will be provided to a stakeholder (including Council) consultation session prior to the monitoring data being made publicly available.

**iv) Public availability of emission monitoring data from the Rosalind Park Gas Processing Plant**

Amendments to the *Protection of the Environment Operations Act 1997* introduced in March 2012 requires that all emission monitoring data collected by industries be made publicly available within fourteen days of receipt. An AGL representative advised that continuous emission monitoring data from the Rosalind Park Plant during February and March 2013 had not been placed on its website within this timeframe due primarily to delays in the receipt of compiled data from the company carrying out the monitoring. The EPA representative advised that a Penalty Notice (comprised of a \$1,000 fine) had been issued in relation to this matter.

**v) Update on the Environmental Health Impact Assessment- Camden Northern Expansion Project**

The SHA representative questioned the reasons for the undertaking of this Assessment given the significant implications of the recently introduced CSG exclusion zones to the Stage 3 Application. In response, AGL's Group General Manager (GGM) advised that the purpose of the Assessment was to provide to the community a scientific assessment of potential health impacts from coal seam gas projects. The GGM further advised that the Assessment could be replicated to other coal seam gas projects (such as the CGP Stage 2) given this overall purpose and was not a baseline study for the Stage 3 Application.

Note, Council officers are currently in the process of reviewing the report on the Environmental Health Impact Assessment that was publicly released by AGL on Monday 28 October 2013.

**3) Next meeting**

The next meeting of the Committee will be held on 21 November 2013, where the minutes for the meeting held on 26 September 2013 are scheduled to be endorsed. A report providing a summary of the minutes of the 26 September 2013 meeting will be presented to the next available Council meeting following their endorsement.

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**Officer's Recommendation**

That the information be noted.

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

That the Officer's Recommendation be adopted.

**CARRIED**

**Council Meeting 10 December 2013 (Greiss/Rowell)**

That the Officer's Recommendation be adopted.

**Council Resolution Minute Number 265**

That the Officer's Recommendation be adopted.

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## ATTACHMENT 1

### COMMUNITY CONSULTATIVE COMMITTEE AGL – CAMDEN GAS PROJECT

#### MEETING NO.36

Held in the RGP Conference Room, Menangle on 27 June 2013 at 5.30pm

#### MINUTES

Member / Guest	Attendance Type
Mrs Margaret MacDonald-Hill (MM) <b>Chair</b>	Present
Mr Brad Staggs (BS)	Apologies
Mrs Diane Gordon (DG)	Apologies
Mr Fred Anderson (FA)	Apologies
Ms Jacqui Kirkby (JK)	Present
Mr Michael Hingley (MH)	Present
Mr Peter Bloem (PB)	Present
Mr Simon Hennings (SH)	Present
Mr Troy Platten (TP)	Present
Mr Paul Reynolds (PR)	Apologies
Cr Lou Amato (LA)	Apologies
Cr Lara Symkowiak (LS)	Apologies
Ms N Magurren	Present (Arrived 6.30pm)
Mr Aaron Clifton (AC)	Present
Ms Jenny O'Brien (JO)	Present
Mr Adam Lollback (AL)	Present
Mr Mike Moraza (MZ)	Present (via video con)
Ms Michala Lander (ML)	Present
Mr Andrew Spooner (AS)	Present
Ms Lisa Andrews	Observer

#### Meeting Opened at:5:30 pm

ITEM	ACTION
<b>1.0 Welcome</b>  Welcome and Introductions by Chair – MM.  Margaret advised committee members that she is engaged by AGL as an independent chair, approved by the Director of General Planning and Infrastructure. She is also a Member of the Mine Subsidence Board and the Minister's Arbitration Panel.	
<b>2.0 Apologies</b> As above.	
<b>3.0 Confirmation of Previous Minutes</b>  Corrections Pg 3 – after MZ the following comment from AS should be inserted <i>"We first need to obtain a more detailed understanding of the regulatory</i>	

<p><i>action by the EPA including the monetary value of the enforceable action prior to the Committee considering proposals. It is also unlikely that agreement will be reached between the three councils."</i></p> <p>Pg 3 – Insert after PB, JK objected to EU as an appropriate regulated response and queried why the EPA was not prosecuting AGL for its breach.</p> <p>Pg 3 – JK agreed with the Chair that the selection of the proposals was not the role of the CCC.</p> <p>Pg 7 – comments attributed from PB not correct. Name not to be attributed. Use the words 'committee' in place of name attribution.</p> <p>Pg 7 – JK corrected the attributed comment. It should state <i>"the issue is that there is <b>no</b> evidence to substantiate the claims made by AGL at Camden. Any accountability has to be through the science and not the perceptions."</i> Reference should be made to Gavin Mudd at Monash Uni</p> <p><b>Moved: Jacqui Kirkby</b>  <b>Seconded: Andrew Spooner</b></p>	
<p><b>4.0 Business Arising</b></p> <p><b>JK – Clarification on status of both production and exploration wells</b></p> <p>Map issued on 17 April 2013 did not include the exploration wells. JK queried whether pipelines should be included. A breakdown of the public vs private land was also requested.</p> <p>AL – confirmed that pipelines on the same land as the wells.</p> <p>JK – requested an email confirming this to clarify that this would include the pipelines.</p> <p><b>PB – update on Enforceable Undertaking.</b>  EPA has received a proposal from AGL regarding the final EU to address the conduct that EPA were concerned about. EPA yet to provide a response. No agreement has been made on the EU and any agreement would have to be approved by the Chief Regulator.</p> <p><b>AS – AGL to verify that MP25 recently flooded</b></p> <p>AC – confirmed that MP 25 well did flood this week due to recent high rainfall. The location of the well is subject to flooding during periods of high rainfall. There is no evidence of damage to the well. Camden project staff were present throughout the day to monitor the well site. There was an officer from the EPA present today to view the well site. Following previous floods when land was rehabilitated the water tanks were moved to higher ground to reduce the impact of flood. The well has been rehabilitated to fit in with the surrounding landform.</p>	<p>AL to issue an email clarifying that pipelines located on the same land as the wells.</p>



<p><b>TP - Queried the aesthetic of raised tanks</b></p> <p>AC – Photos of raised tanks can be provided. The objective is to minimise the number and size of tanks on site. The majority are 10,000 litres and green or grey in colour to blend in with surrounding environment. There is a fleet of 15 mobile tanks which each have capacity of 75,000 litres. Tanks at the MP 25 site are raised on an earth pad, not on stilts.</p> <p><b>PB – Queried the status on Tree Planting.</b></p> <p>AC –Tree planting has been postponed due to inclement weather.</p> <p><b>MM – Question raised by BS in previous meeting about Flood response team.</b></p> <p>AC – copy of Flood Management Procedure was issued to BS.</p> <p>JK – Requested that Flood Management Procedure be issued to CCC.</p> <p>AC – A copy will be distributed once personal phone numbers have been removed.</p> <p><b>MM – email address of JL distributed in last minutes.</b></p>	<p>JO to provide a photo of a typical agricultural tank at a well site</p>       <p>AC to issue Flood Management Procedure to CCC.</p>
<p><b>5.0 Correspondence</b></p> <p><u><b>OUT</b></u> None</p> <p><u><b>IN</b></u></p> <p>In - all members email 25/3/13 - AGL - EPA March media release and contact details for Jock Laurie emails 4 &amp; 5/4/13 - AGL on EU email 17/4/13 - AGL - status of production wells &amp; private/public land, Camden Open Day &amp; Wollondilly forum email 23/4/13 - AGL update on air &amp; water monitoring programs email 6/6/13 - AGL media statement on air monitoring at Camden email 24/6/13 - AGL advising of Camden Open day for 18/7/13</p>	
<p><b>6.0 AGL Update</b></p> <p><u><b>AL – Recent Developments</b></u> <b>AL gave a powerpoint presentation on recent developments in relation to land and approvals and a well summary.</b></p> <p><b>Review of legislation waiting for release of Mining SEPP.</b></p> <p>JK – anv ETA on when Mining SEPP will be released?</p>	

MM – contacted DPI was told it is imminent but has been delayed. All dates suggested have passed.

AL – EPBC amendment for new water trigger. This is now required for any CSG developments.

#### **Water monitoring**

JK – Why are there four monitors at Denham Court? Where is the extra one located and what role do these monitoring bores play in stage 2 now that Stage 3 is not going ahead?

AL – Located at the back of the site, they are installed at varying depths in the Hawksbury Sandstone which includes a shallow monitor. Installed to reflect the shallow water in regards to the Cumberland Plain.

JK – The four monitors at Harness Racing, are they for Stage 2? And when were they installed? Are they all in a similar location?

AL – Confirmed they are at Menangle Park 25. Installed 2 weeks ago.

JK – Has any data been collected?

JO – No data as yet, however as part of the consultation for the continuous emissions monitoring and expanded ground water monitoring program we will bring the group back to share the results..

#### **JO – Community update**

**JO gave a powerpoint presentation containing the Community Update.**

#### **Energy for life program**

TP – Mental health is a significant issue in the community. Will AGL do anything about mental health in the area?

JO – AGL is currently investigating social issues in the community, there are lots of areas in the community where we could contribute.

#### **AC – Operations and HSE Update**

AC gave a powerpoint presentation containing the Operations and HSE Update.

JK – Queried which were the exploration wells?

AC– 3 wells that were drilled in Badgerys Creek, Cecil Park and Elderslie. They fall outside of the Camden North project.

TB – Queried how often suspended wells are monitored.

AC- The AGL Production team monitors suspended wells every month to measure well pressure. If they reveal a build up of pressure then further investigations are undertaken. Sometimes as a result suspended wells are brought back into production.



TP – Queried if wells could get suspended as a result of pressure from the community.

AC – There has been no community pressure to suspend a well.

JK – Queried if refracking is required to bring a well back into production.

AC – Refracking is not required. It would be a case of removing blockages and clearing out the well. They could be dewatered.

#### **AC - HSE Update**

AC – Revised Environment Protection License issued by EPA in May and this is on Camden Microsite. [www.agk.com.au/camden](http://www.agk.com.au/camden) Site has a lot of information including quarterly ground water monitoring. New license condition required quarterly ground water monitoring at designated wells (8 additional monitoring points) these report will be put on website.

AC - Fugitive emissions monitoring – now commenced program across 25 locations for 3 months, currently in week 8, the report once completed will be given to CSIRO for review. The results will be shared with the CCC and the consultation group that has been formed.

AC - 2011-2012 Annual Environment Performance Report has been uploaded onto microsite. Independent Environmental Audit to be released in July. There has been a slight delay due to information obtained from Sydney Gas. This afternoon received confirmation from the auditor that a draft report will be provided in next 24 hours.

JK - Queried if the Environment Audit Report is for 2012?

AC – Confirmed that it is a 2 year audit report 2010 – 2012, the next 2 year period would be 2012 - 2014.

#### **Field Operations**

AC – Results for Quarterly air monitoring reports for March 2013 have been uploaded to the AGL Website [www.agl.com.au](http://www.agl.com.au).

#### **Continuous Emissions Monitoring**

AC - New CEM equipment was commissioned in March and is now functional. February and March CEMs reports were delayed due to the complexities in analysing data. Also in March there was a swap over period from the former CEMs unit to the new Ecotech unit. This caused reports to be delayed. They have now been uploaded.

JK–Expressed concern that the quarterly and monthly CEM weren't on the website. As at June the only data went back to January. Under the new legislation AGL should have all data uploaded.



AC – Monitoring was undertaken in March but data was not received from the consultants until May. The reports were uploaded within 14 days of being obtained. For February and March AGL did not meet requirements of the Act. The April report was uploaded the day after AGL received the data.

JK – Queried when monitoring was undertaken.

AC – Monitoring was undertaken in March but data was not received from the consultants until June. The April report was uploaded the day after AGL received the data. For February and March AGL did not meet requirements of the Act.

JK – Queried why AGL had not put up the monthly report?

AC – Confirmed that monthly monitoring is contained in the one report.

TP– Queried why AGL did not meet the February and March time requirements.

AC – Clarified that in March two datasets had to be aligned and this took time and resources. The February report also had to be aligned. An issue with the CEMS units especially with Compressors 2 and 3 is that the data is raw and there are approximately 40,000 data points for each Compressor. For the data to be useful it has to be analysed and processed.

TP – Queried why AGL can't provide the raw data on their website. Stated that this would enable AGL to adhere to the legislation and only a couple of people would understand it.

JK – Stated that AGL is obligated to make the data meaningful.

AC – Confirmed that AGL converts thousands of data points into a two page summary. The EPA has contacted AGL on the matter of overdue reporting. AGL has now developed a number of internal procedures to ensure that the monitoring issue does not happen again.

TP– Queried why raw data is not issued before it is interpreted.

AC –AGL have considered the option of providing raw data, particularly if there is a delay in obtaining the report.

MM – Queried PB as to why there is a 14 day difference in reporting requirements between the mining and gas industries.

PB – Confirmed that the issue is in relation to obtaining data. The results of quarterly monitoring takes time to analyse and is reliant on an external consultant. The EPA has attempted to find a balance between timely access to information and appropriate validation of data.

JK – Queried why the legislation provides AGL with some leeway

<p>because third party consultants are utilised, technically absolving them of responsibility for meeting the time requirements.</p> <p>PB – EPA directed the company to show cause. Confirmed that six proposals were discussed and one has been put forward and this was not up for discussion as it is subject to approval from the Chief Environmental Regulator. Stated that it is important to recognise that the EU is not just about community benefit but about addressing poor conduct.</p> <p>TP – Confirmed whether the excuse was that the third party consultant did not provide data for two months and why did this occur.</p> <p>AC – the consultants are a new company which is local to the region. They did communicate with AGL that the reports had been held up as they developed their analysis process.</p> <p>TP – Suggested that this information be made available on the website to keep the public informed.</p>	
<p><b>7.0 General Business</b></p> <p><b>Enforceable Undertaking</b></p> <p>TP – Queried AGL’s proposal to the EPA with regards to the EU.</p> <p>PB– Confirmed that six proposals were discussed and one has been proposed. The issue is not open for general discussion as it is subject to approval from the Chief Environmental Regulator. Stated that it is important to recognise that the EU is not just about community benefit but about penalising the conduct associated with it.</p> <p><b>Health Impact Assessment</b></p> <p>AS – Queried if AGL are progressing with Stage 3 in terms of Health Impact Assessment (HIA), or are is this pending the release of the SEPP.</p> <p>AL – The HIA has been discussed with NSW Health. The document is currently being worked on. Regardless of whether Stage Three continues, AGL believes the HIA to be an important study.</p> <p>MZ – HIA has been done by an external consultant, it was tabled with the Department of Health 3 months ago and AGL discussed it with them three weeks ago to obtain their feedback. AGL considers the Department to be providing a peer review of the document. It is planned for the report to be made available on the public domain.</p> <p>AL – The HIA was initially raised as a submission and there is no formal process of response.</p> <p>JK – Queried if the HIA is a baseline assessment and why if it is for the Northern Expansion is it still necessary. Also questioned what NSW</p>	



<p>Health would consider to be acceptable, particularly when according to JK, Gavin Mudd from Monash University has stated that AGL has not been collecting data.</p> <p>MZ – Confirmed that the Department of Health is undertaking a peer review and stated that Gavin Mudd is just one opinion.</p> <p>AS – Queried what the timeframe is for the report.</p> <p>AL - A final report from consultant is anticipated in the next 1 -2 weeks. This will then be resubmitted to NSW Health.</p> <p>AS - Campbelltown Council currently assessing a rezoning application in Menangle Park. The HIA would help with the assessment of the proposal.</p> <p>MZ – In reference to SMH Article on 18 January 2013 by Ben Cubby, who stated that a full CSG health check was essential. There is the perception that projects like Camden North create health risks. The question however is not in regards to baseline data, the question is do projects pose health risks in terms of emissions, noise and other health risks. Therefore it is the pathways for exposure that should be assessed. The HIA report being undertaken by AGL will be peer reviewed by NSW Health. The purpose of the report is to demonstrate to the community what the health risks are. It is relevant because AGL will build on these health assessments to address the concerns of the community. The work done for Camden North will be replicated for other studies. It is not a baseline assessment.</p>	
<p><b>8.0 Next Meeting Date</b></p> <p>26 September 2013.</p>	

**Meeting Closed at: 6:45pm**

Acronym Index

AEPR	Annual Environmental Performance Report
CCC	Community Consultative Committee
PAC	Planning Assessment Commission
SRLUP	Strategic Regional Land Use Policy
EU	Enforceable Undertaking
HIA	Health Impact Assessment
SEPP	State Environmental Planning Policy
SMH	Sydney Morning Herald

## **2.3 Proposed Road Names for East Leppington Precinct Stages 1 and 2**

### **Reporting Officer**

Manager Sustainable City and Environment

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### **Attachments**

List of proposed road names for the East Leppington Precinct (Stages 1 and 2) (contained within this report)

### **Purpose**

To propose new road names for use in the East Leppington Precinct of the South West Growth Centre, for Council's consideration.

### **History**

On 27 August 2013, Council issued development consent for the subdivision of Lots 1 and 2 DP 1185269, Camden Valley Way, Denham Court into 48 allotments, 14 part allotments and residue allotments with associated civil construction including roads and drainage. Council has now received a request from the developer (Stockland Development Pty Ltd) for approved road names for use in this development.

### **Report**

A list of proposed road names for use in the first stages of the residential development of the East Leppington Precinct is included as Attachment 1 to this report.

It has been Council's protocol for some time to select a specific theme for road names within a suburb or development in an effort to unify road names and provide some assistance to the travelling public. However, as this development is situated within both the Campbelltown and Camden Local Government Areas (LGAs) and adjacent to the Liverpool LGA, the requirement to avoid duplication of existing road names within these three council areas means that it has not been possible to select a single theme that would provide sufficient names for all of the roads within this Growth Centre precinct. It is therefore proposed to select names based on a number of separate themes and allocate them to the roads within discrete areas of this residential development.

### **Selection of names**

The themes and road names proposed for this development have been selected in consultation with both the developer and the relevant staff of Camden Council. All of the proposed road names comply with the requirements of the Geographical Names Board's NSW Road Naming Policy which was formally adopted by the Board on 24 October 2013.

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The following themes have been selected for use in the naming of the roads within the first stages of this development:

### **1. The Australian Scout Movement**

The majority of this residential development is located on what was formerly the Leppington Estate, which was the location of the 9th Australian Scout Jamboree in 1970/71. Given the connection of this significant event to the area, this theme is considered to be appropriate and the proposed road names within this theme have been compiled with the assistance of the local NSW Scouts Hume District.

### **2. The Upper Canal**

The site of this residential development is bisected by the Upper Canal, part of the Upper Nepean Scheme supplying water to Sydney. A precise piece of engineering built in the 1880s, it has served Sydney for more than 125 years and is now listed on the State Heritage Register. The proposed road names within this theme reflect the names of people involved in the construction of the canal and also terms used for its various constituent parts.

### **3. Australian butterflies**

The design of this residential development aims to retain many areas of vegetation which provide habitat for a number of species of butterflies. The proposed road names within this theme have therefore been derived from the names of various species of butterflies found in Australia.

It is proposed that further appropriate themes will be selected as this development progresses. In addition, the developers have selected the name "Willowdale" as the overall marketing name for this development. To aid the travelling public and to provide a link to the name of this development, it is also proposed to name the main entry road to the estate Willowdale Drive.

### **The road naming process**

Division 2 of Part 2 of the *Roads Regulation 2008* outlines the procedure that Council must follow when naming public roads under its control. In accordance with these procedures, it is recommended that Council advertise the proposed road names in local newspapers and notify Australia Post, the Registrar General, the Surveyor General and the various emergency services of its intention to name the roads within this development. Should no objections be received from the authorities prescribed in this Regulation in the period of one month following advertisement and notification of this proposal, it is also recommended that Council then complete the road naming process by publishing a notice of these new road names in the NSW Government Gazette.

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### **Officer's Recommendation**

1. That Council approves the proposed road names in Attachment 1 to this report and the proposed road name Willowdale Drive for use in the East Leppington Precinct of the South West Growth Centre.
2. That Council advertise its proposal to use these road names in local newspapers and notify the authorities prescribed by the *Roads Regulation 2008*.
3. That, should no objections to the proposal to use these road names be received from the authorities prescribed by the *Roads Regulation 2008* within one month, Council publish notice of these new road names in the NSW Government Gazette.

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

That the Officer's Recommendation be adopted.

### **CARRIED**

### **Council Meeting 10 December 2013 (Greiss/Rowell)**

That the Officer's Recommendation be adopted.

### **Council Resolution Minute Number 265**

That the Officer's Recommendation be adopted.

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## ATTACHMENT 1

### List of proposed road names

Road Name	Origin
	Theme: The Australian Scout Movement
Jamboree Avenue	The Leppington Estate was the site of the 9 <sup>th</sup> Australian Scout Jamboree between 29 December 1970 and 9 January 1971. This event was the final event of the Captain Cook Bicentenary celebrations in NSW and was called "The Jamboree of New Endeavour". It was attended by more than 10,000 scouts and 2,000 leaders from 25 countries.
Resolution Avenue	"Resolution" was the name given to one of the streets within the city of more than 500 tents erected for the Jamboree.
Navigator Street	"Navigator" was the name given to the daily newspaper published during the Jamboree.
Joey Crescent	Joey Scouts is the first section of Scouts, for boys and girls aged 6 to 8 years.
Cub Street	Cub Scouts is the section of Scouts for boys and girls aged 8 to 11 years.
Scout Street	Scouts is the section of Scouts for boys and girls aged 11 to 15 years.
Venturer Parade	Venturer Scouts is the section of Scouts for young men and women aged 15 to 18 years.
Rover Street	Rover Scouts is the section of Scouts for men and women aged 17 to 26 years.
Mindari Street	"Mindari" is the name given to a meeting of District Scout Leaders.
Konara Street	"Konara" is the name given to a gathering of Joey Scout Leaders.
Palaver Street	"Palaver" is the name given to a gathering of Cub Scout Leaders.
Patrol Street	A group of between five and seven Scouts is called a Patrol.
Troop Street	A unit of Scouts is called a Troop.
Arrowhead Avenue	The Silver Arrowhead is an award presented to Scout Leaders in recognition of at least seven years excellent service.
Emu Street	The Silver Emu is an award presented to Scout Leaders in recognition of at least 20 years sustained and exceptional service.
Promise Avenue	The Scout promise is made by all members of the Scout movement. At the official opening of the Jamboree, the Governor General Sir Paul Hasluck urged all citizens to live by the values contained within the Scout promise.
Baden Powell Avenue	Robert Baden-Powell (1857-1941) was the founder of the Scout Movement and the first Chief Scout of the Boy Scout Association.
Mondon Street	Raoul Mondon (1922-2008) was Vice Chairman of Hume District Scouts for many years.

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Road Name	Origin
	Theme: The Upper Canal
Moriarty Avenue	Edward Orpen Moriarty (1825-1896) was head of the Harbours and Rivers Branch of the Public Works Department and responsible for both the design and execution of the works associated with the Upper Nepean Scheme.
Keele Street	Thomas Keele was the supervising engineer for contracts 1 and 2 of the Upper Canal. Later advocated the construction of dams to increase the capacity of the Upper Nepean Scheme.
McKinney Street	Hugh McKinney was the supervising engineer for contracts 3 and 4 of the Upper Canal.
	<i>Terms used for the constituent parts of the Upper Canal</i>
Flume Street	
Penstock Street	
Canal Parade	
Aqueduct Street	
Conduit Street	
Weir Street	
Culvert Street	
Tunnel Street	
Offtake Street	

Road Name	Origin
	Theme: Australian Butterflies
	<i>Species of butterflies found in Australia</i>
Butterfly Drive	
Argus Street	
Azure Street	
Birdwing Avenue	
Darter Street	
Fritillary Street	
Hairstreak Avenue	
Lacewing Avenue	
Metalmark Street	
Monarch Avenue	
Skipper Street	
Swordtail Avenue	
Tiger Street	
Triangle Street	
Ulysses Avenue	
Xenica Street	



## **2.4 Minutes of the Heritage Protection Sub Committee meeting held on 17 October 2013**

### **Reporting Officer**

Manager Sustainable City and Environment

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### **Attachments**

Minutes of the Heritage Protection Sub Committee meeting held on 17 October 2013  
(contained within this report)

### **Purpose**

To seek Council's endorsement of the recommendations of the Heritage Protection Sub Committee meeting held on 17 October 2013.

### **Report**

Detailed below are the recommendations of the Heritage Protection Sub Committee.

Council officers have reviewed the recommendations and they are now presented for the consideration of Council. The recommendations that require an individual resolution of Council are detailed in the officer's recommendation.

### **Recommendations of the Heritage Protection Sub Committee**

#### **Reports listed for consideration**

##### **7.1 Local Heritage Fund**

That the information be noted.

##### **7.2 Update on Local Heritage Listed Item 'Raith'**

1. That the information be noted.
  2. That Council officers be requested to undertake an inspection of the local heritage listed item 'Raith' to confirm its current condition.
-

**8.1 Local Heritage Fund Application - restoration of Baptismal Font, St Peter's Anglican Church, Cordeaux Street Campbelltown**

1. That the Heritage Protection Sub Committee requests that Council not support the Local Heritage Fund (2013-2014) application for \$1356.85 from The Church Wardens, St Peter's Anglican Church Campbelltown, for the repair and restoration of the original baptismal font.
2. That the applicant be advised in writing of Council's decision with respect to this matter, including an explanation of the application's inconsistencies with Council's Local Heritage Fund Guidelines.

**Officer's Recommendation**

1. That the minutes be noted.
2. That in regard to item 8.1 - Local Heritage Fund Application:
  - a) Restoration of Baptismal Font, St Peter's Anglican Church, Cordeaux Street Campbelltown, Council not support the Local Heritage Fund (2013-2014) application for \$1356.85.
  - b) That the applicant be advised in writing of Council's decision with respect to this matter, including an explanation of the applications inconsistencies with Council's Local Heritage Fund Guidelines.

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

That the Officer's Recommendation be adopted.

**CARRIED**

**Council Meeting 10 December 2013 (Greiss/Rowell)**

That the Officer's Recommendation be adopted.

**Council Resolution Minute Number 265**

That the Officer's Recommendation be adopted.

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## **ATTACHMENT 1**

### **Minutes of the Heritage Protection Sub Committee**

**Held Thursday 17 October 2013 in Committee Room 3**

Meeting Commenced: 6:04pm

#### **1. Acknowledgement of Land**

An Acknowledgement of Land was presented by the Chairperson, Councillor Rowell.

#### **2. Attendance and Apologies**

Councillor Ted Rowell (Chairperson) - Campbelltown City Council  
Kay Hayes - Campbelltown Airds Historical Society  
Robert Wheeler - National Parks Association  
Learna Coupe - Campbelltown Airds Historical Society  
Sue Kijurina - Campbelltown Airds Historical Society

**Also in Attendance:** Jan Tripodi - St Peter's Anglican Church  
Stella Vernon - St Peter's Anglican Church  
Julie Crowley - Observer  
Clarice Stretch - Observer  
Andrew Spooner - Manager Sustainable City and Environment  
Jeff Burton - Strategic Planner  
Jane Worden - Executive Support

**Apologies:** Councillor Bob Thompson - Deputy Chair  
James Gardner - Qualified Person  
Mario Majarich - National Parks Association Alternate Delegate

#### **Sub Committee's Recommendation: (Hayes/Coupe)**

That the above apologies be accepted.

#### **CARRIED**

#### **3. Declarations of Interest**

There were no Declarations of Interest made at this meeting.

#### **4. Minutes of the Previous Meeting**

##### **Reporting Officer**

Manager Sustainable City and Environment

##### **Report**

The Minutes of the Heritage Protection Sub Committee Meeting held on 15 August 2013, copies of which were circulated to each Sub Committee Member, were presented to Council for adoption at its meeting held on 15 October 2013.

Council considered the following recommendations:

##### **5.1 Heritage Protection Advisory Sub Committee Guidelines**

That the information be noted.

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**5.2 Local Heritage Fund Request 2012-2013 – Street Fence, St David's Presbyterian Church**

1. That the Heritage Protection Sub Committee requests that Council approve the Local Heritage Fund application 2012-2013 for \$2000 from St David's Presbyterian Church for new fencing constructed along the Lithgow Street boundary of the subject property.
2. That the applicant be advised in writing of Council's decision with respect to this matter.

**5.3 Local Heritage Fund Request 2013-2014 – Replacement Guttering, St David's Presbyterian (Former) Manse**

1. That the Heritage Protection Sub Committee request that Council approve the Local Heritage Fund 2013-2014 application for \$2000 from Macarthur Diversity Services Initiative for replacement guttering on the heritage listed St David's Presbyterian (Former) Manse, with payment being subject to works being completed in accordance with the approved application.
2. That the applicant be advised in writing of Council's decision with respect to this matter.

**5.4 Local Heritage Fund Request 2013-2014 - Gravesite Restoration (John Warby) at St Peters Anglican Church Cemetery**

1. That the Heritage Protection Sub Committee request that Council approve the Local Heritage Fund 2013-2014 application for \$2000 from Michelle Vale for the restoration of the John Warby Gravesite within the St Peters Anglican Church Cemetery, with payment being subject to works being completed in accordance with the approved application.
2. That the applicant be advised in writing of Council's decision with respect to this matter.

**5.5 Local Heritage Fund Request (2012 / 2013) – Garden Fencing, Denfield House**

1. That the Heritage Protection Sub Committee request that Council approve the Local Heritage Fund (2012-2013) application for \$2000 from Steve Laws for the restoration of garden fencing for Denfield House.
2. That the applicant be advised in writing of Council's decision with respect to this matter.

**6.1 The Condition of 'Raith' Local Heritage Item**

That Council be requested to monitor the condition of the local heritage item called 'Raith' and continue to liaise with NSW Department of Community Services requesting that necessary action be undertaken by the Department to fulfil its obligations as the owner of this heritage item.

Due to the timing of the Council meeting and the deadline for the agenda for this meeting to be finalised and distributed, a verbal update on Council's resolution in respect of the above minutes will be provided at the Sub Committee meeting on 17 October 2013.

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**Officer's Recommendation**

That the information be noted.

**Sub Committee's Recommendation: (Hayes/Wheeler)**

That the information be noted.

**CARRIED****5. Business Arising from Previous Minutes****Reporting Officer**

Manager Sustainable City and Environment

**Purpose**

To report on business arising from the Minutes of the Heritage Protection Sub Committee Meeting held on 15 August 2013.

**Report**

A report on the Minutes of the Heritage Protection Sub Committee meeting (held on 15 August 2013) was presented to Council on 15 October 2013. The report recommended that the Minutes be noted.

The following update is provided on matters of business arising from the Heritage protection Sub Committee Minutes of that meeting:

**5.2 Local Heritage Fund Request 2012-2013 – Street Fence, St David's Presbyterian Church**

1. That the Heritage Protection Sub Committee requests that Council approve the Local Heritage Fund application 2012-2013 for \$2000 from St David's Presbyterian Church for new fencing constructed along the Lithgow Street boundary of the subject property.
2. That the applicant be advised in writing of Council's decision with respect to this matter.

**Officer's Comment:** Council has advised the applicant in writing of the outcome and the approved funds are being forwarded.

**5.3 Local Heritage Fund Request 2013-2014 – Replacement Guttering, St David's Presbyterian (Former) Manse**

1. That the Heritage Protection Sub Committee request that Council approve the Local Heritage Fund 2013-2014 application for \$2000 from Macarthur Diversity Services Initiative for replacement guttering on the heritage listed St David's Presbyterian (Former) Manse, with payment being subject to works being completed in accordance with the approved application.
2. That the applicant be advised in writing of Council's decision with respect to this matter.

**Officer's Comment:** Council has advised the applicant in writing of the outcome and the approved funds will be forwarded once the work has been completed.

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**5.4 Local Heritage Fund Request 2013-2014 - Gravesite Restoration (John Warby) at St Peters Anglican Church Cemetery**

1. That the Heritage Protection Sub Committee request that Council approve the Local Heritage Fund 2013-2014 application for \$2000 from Michelle Vale for the restoration of the John Warby Gravesite within the St Peters Anglican Church Cemetery, with payment being subject to works being completed in accordance with the approved application.
2. That the applicant be advised in writing of Council's decision with respect to this matter.

**Officer's Comment:** Council has advised the applicant in writing of the outcome and the approved funds will be forwarded once the work has been completed.

**5.5 Local Heritage Fund Request (2012 / 2013) – Garden Fencing, Denfield House**

1. That the Heritage Protection Sub Committee request that Council approve the Local Heritage Fund (2012-2013) application for \$2000 from Steve Laws for the restoration of garden fencing for Denfield House.
2. That the applicant be advised in writing of Council's decision with respect to this matter.

**Officer's Comment:** Council has advised the applicant in writing of the outcome and the approved funds are being forwarded.

**6.1 The Condition of 'Raith' Local Heritage Item**

That Council be requested to monitor the condition of the local heritage item called 'Raith' and continue to liaise with NSW Department of Community Services requesting that necessary action be undertaken by the Department to fulfil its obligations as the owner of this heritage item.

**Officer's Comment:** A separate report on this matter is presented in the current agenda for the consideration of the Heritage Protection Sub Committee at its meeting on 17 October 2013.

**Officer's Recommendation**

That the information be noted.

**Sub Committee's Recommendation: (Hayes/Wheeler)**

That the information be noted.

**CARRIED****6. Correspondence**

Nil

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## **7. Reports**

### **7.1 Local Heritage Fund**

#### **Reporting Officer**

Manager Sustainable City and Environment

#### **Purpose**

The purpose of this report is to update the Heritage Protection Sub Committee on the Local Heritage Fund Guidelines, and to provide background details of funding delivered under the scheme to owners of listed heritage items in the Campbelltown Local Government Area.

#### **Report**

Council's Local Heritage Fund has been in place since 2003, to encourage appropriate conservation works on privately owned heritage items in the Campbelltown Local Government Area. Council promotes the Local Heritage Fund on a financial year basis to all private owners of listed heritage items, and also provides information on Council's website. A copy of the current guidelines for the Local Heritage Fund is provided in attachment 1.

The operation of the Local Heritage Fund is regularly reviewed by Council staff to ensure that it remains as effective as possible in promoting appropriate conservation works on privately owned heritage items in the Campbelltown LGA. Where possible, it is intended to fully allocate the annual budget in order to provide maximum assistance to private owners undertaking these works. In this respect, details of the distribution of funds to private owners over the past five financial years are provided in attachment 2.

The \$5000 annual budget assigned under the fund was fully allocated in 2009/2010, and on the recommendation of the Heritage Protection Sub Committee, amendments were made to the 2011/2012 guidelines to improve the equitable distribution of available funds. This included a restriction on repetitive funding to the same owner within the same or successive financial years and a reduction in the maximum allocation from \$1500 to \$1250 for each successful application (thereby allowing for four full grants in any one year).

A further review of the operation of the heritage fund was undertaken in 2012 which suggested that the reduced contribution of \$1250 was not providing sufficient incentive for owners to undertake works. Whilst it was concluded that the competing priorities on Council's overall budget restricted any increase to the \$5000 yearly allocation for the Local Heritage Fund, some scope for additional funding was identified from a separate Heritage Account reserved for general heritage related projects. It should be noted that unallocated funds for the annual Local Heritage Fund are transferred at the end of each financial year into the general heritage fund. Council subsequently resolved to allow (when required) an additional yearly funding allocation of up to \$3000 from the general heritage account to supplement from the Local Heritage Fund.

As such, the current Local Heritage Fund Guidelines reflect the increase in annual total funding of up to \$8000, allowing for an increase in maximum funding of \$2000 per successful application (or four full grants in any financial year). This arrangement has allowed for a more meaningful co-contribution by Council for local heritage projects, without adversely impacting upon the opportunity for general heritage projects to be separately funded.

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**Conclusion**

Council has regularly reviewed the operation of the Local Heritage Fund to ensure its effectiveness in promoting conservation works for privately owned heritage items within the Local Government Area. Amendments to the Guidelines have previously been made to ensure a more equitable distribution of funding of a reasonable value to eligible owners, which is considered to have been successful. No further amendments to the current Guidelines are considered necessary at this time.

**Officer's Recommendation**

That the information be noted.

**Sub Committee's Recommendation: (Wheeler/Coupe)**

That the information be noted.

**CARRIED****7.2 Update on Local Heritage Listed Item 'Raith'****Reporting Officer**

Manager Sustainable City and Environment

**Purpose**

The purpose of this report is to update the Heritage Protection Sub Committee on the condition of the heritage listed building 'Raith', in response to a request for information on the condition of the building made by Councillor Oates at the Heritage Protection Sub Committee meeting on 15 August 2013.

**Report**

'Raith' is listed as an item of local heritage significance under Campbelltown (Urban Area) Local Environmental Plan 2002, and is owned by the NSW Department of Family and Community Services (FACS).

The subject building is located in Fern Avenue, Bradbury and has been vacant for a number of years. The property has been the subject of continued vandalism attacks, notwithstanding the construction by FACS of a full perimeter steel mesh and razor wire topped fence.

On 21 June 2012, Council staff advised the Heritage Protection Sub Committee that the subject property had been put to auction on 24 May 2012, however was subsequently passed in. As previously outlined to the Heritage Protection Sub Committee, FACS had identified the item as a surplus asset and the sale process was being administered by the NSW State Property Authority (SPA).

As the *Heritage Act 1977* (the Act) provides an obligation for Government Agencies, which includes FACS, to appropriately manage the use and maintenance of heritage assets under its control, concerns were raised at this time that the sale of the property to a private owner would extinguish these legal obligations for property maintenance.

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In order to resolve this matter, Council made contact with FACS, the State Property Authority, and the Heritage Office as the responsible authority for the implementation of the Act. The Heritage Office advised that for FACS to fulfil its obligations under the Act, an asset management plan and transfer strategy may be required to ensure that any sale of the property does not compromise its heritage values.

Council subsequently received advice from the SPA that it intended to fulfil the Authority's legal obligations for asset maintenance under the Act by including a Conservation Management Plan (CMP) in any contract for sale. In this respect it is confirmed that a CMP was prepared in 2010, which provided an outline of the heritage significance of the property, conservation guidelines for the building, and an examination of subdivision opportunities.

In early 2013, 'Raith' suffered fire damage and a site visit was undertaken by Council staff on 28 February 2013 to ascertain the level of damage to the building (see attached photo). The inspection showed fire damage had occurred to the roof structure of the building and a significant portion of the first floor. Council staff were advised by FACS that the sale process was now deferred pending insurance issues being resolved with respect to the fire damage. In the meantime the building would be secured and weatherproofed.

In June 2013, it became apparent that no arrangements were in place to prevent rain water entering the damaged roof structure, and Council staff subsequently contacted NSW Business Link (NSWBL) which is the government agency appointed by FACS to oversee building maintenance issues for the site. In response to Council's enquiries, NSWBL has put into place tarping and sandbagging over the damaged roof as an interim weatherproofing measure.

A site inspection by Council staff on 29 August 2013 (see attached photo) has confirmed that the building remains in a fire damaged state, and that weatherproofing of the damaged roof structure remains in place and that the perimeter security fence is secure.

### **Conclusion**

'Raith' has been identified as a surplus Government Asset by FACS, and remains in a state of disrepair resulting from fire damage in early 2013. The site remains secured and interim measures have been put into place to provide temporary weatherproofing to the damaged roof structure.

Council staff have contacted FACS in order to confirm its intentions for the maintenance and use of the property, however no clear information has been received. At this time, it appears that insurance issues arising from the fire incident are still being considered, and FACS will not make a decision on the future status of the building until this matter is resolved.

Council staff will continue to monitor the situation and provide further updates to the Heritage Protection Sub Committee when further information becomes available.

### **Officer's Recommendation**

That the information be noted.

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**Sub Committee Note:**

Council's Strategic Planner advised the Heritage Protection Sub Committee of the recommendation adopted by Council at its meeting held on 15 October 2013 in relation to the 'Minutes of the Heritage Protection Sub Committee Meeting held on 15 August 2013' report, specifically as it relates to the local heritage listed item 'Raith'. The Heritage Protection Sub Committee noted the following resolutions adopted by Council:

- That in regard to item 6.1 - the condition of 'Raith' Local Heritage Item - Council monitor the condition of the local heritage item called 'Raith' and continue to liaise with the NSW Department of Community Services requesting that necessary action be undertaken by the department to fulfill its obligations as the owner of this heritage item.
- That Council contacts the Office of Environment and Heritage and the Department of Community Services requesting a timetable for the restoration and preservation of the historic property known as 'Raith'.

Further to the above resolution, Council officers gave an undertaking to carry out an inspection of the subject property to confirm its current condition with respect to the adequacy of weather-proof tarping over the fire damaged roof, the integrity of security fencing, and building security measures to restrict unauthorised access.

**Sub Committee's Recommendation: (Wheeler/Hayes)**

1. That the information be noted.
2. That Council Officers be requested to undertake an inspection of the local heritage listed item 'Raith' to confirm its current condition.

**CARRIED****8. General Business****8.1 Local Heritage Fund Application – Restoration of Baptismal Font, St Peters Anglican Church, Cordeaux Street, Campbelltown****Reporting Officer**

Manager Sustainable City and Environment

**Purpose**

To seek the endorsement of the Heritage Protection Sub Committee for a recommendation to Council to refuse the subject application for funding under the Local Heritage Fund 2013/2014.

**Report**

Council has received a Local Heritage Fund application (2013/2014) seeking financial assistance for repair and restoration works on a baptismal font, described by the applicant as the original font for St Peters Anglican Church, Campbelltown.

Given that the application was lodged following the completion of the current Heritage Protection Sub Committee Meeting agenda, the matter has been reported as a late item of General Business in order to be considered by Council in a timely manner.

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St Peters Anglican Church, located in Cordeaux Street, Campbelltown, is listed as a local heritage item within the 'St Peters Anglican Church group' in Campbelltown (Urban Area) Local Environmental Plan 2002. It is noted that 'St Peters Anglican Church group' comprises St Peters Anglican Church (built c. 1821) and the associated Cemetery (established c. 1822) and Rectory (built c. 1887).

The applicant has advised that the subject font was removed from St Peters Anglican Church around 1875, and relocated to a number of sites until finally acquired and stored by the Campbelltown and Airds Historical Society. Council's heritage records are not detailed enough to confirm this information provided by the applicant, except for photographic evidence which confirms that there has been another font installed within the Church (attachment 2).

The proposed restoration works are to be undertaken by a qualified stonemason, and include removal of paint, re-mortaring and mounting the font on a new concrete footing. The cost of the restoration works has been quoted at \$2713.70, meaning that the applicant is seeking a grant of \$1,356.85 from Council's Local Heritage Fund.

The applicant has advised that no decision has been made on where the font may be placed when works are completed, except that it will not replace the existing font located within the church. By the applicant's own advice, the existing font within St Peters Church has been in place since 1875 and therefore possibly has heritage significance in its own right.

All applications for local heritage funding assistance are considered by Council in accordance with the Local Heritage Fund Guidelines. The Guidelines provide a number of eligibility and assessment criteria to ensure all funds allocated by Council generate the best heritage conservation outcomes possible for listed heritage items within the Campbelltown Local Government Area.

Applications that may be approved under the Local Heritage Fund are generally limited to restoration projects that promote the conservation of heritage listed buildings, with particular emphasis on exterior works that are visible from the public domain. In this respect, it is noted that the Guidelines specifically exclude internal works.

Whilst the subject application proposes works that would result in a unique heritage outcome, it is considered that the proposal does not fall within the scope of works usually covered by the Local Heritage Fund. The application does not satisfy the eligibility criteria given that the subject font does not form part of the Church building, is not visible from the exterior, and being a moveable item there is no certainty over its final placement within the building or site.

Having regard to the above matters, it is considered that the subject application is not consistent with the Local Heritage Fund Guidelines.

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

1. That the Heritage Protection Sub Committee request that Council not support the Local Heritage Fund (2013-2014) application for \$1356.85 from The Church Wardens, St Peters Anglican Church Campbelltown, for the repair and restoration of the original baptismal font.
2. That the applicant be advised in writing of Council's decision with respect to this matter, including an explanation of the applications inconsistencies with Council's Local Heritage Fund Guidelines.

#### **Sub Committee Note:**

St Peter's Anglican Church representatives Jan Tripodi and Stella Vernon addressed members of the Heritage Protection Sub Committee in support of the Local Heritage Fund Application – Restoration of Baptismal Font, St Peters Anglican Church, Cordeaux Street, Campbelltown.

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**Sub Committee's Recommendation: (Hayes/Wheeler)**

1. The Heritage Protection Sub Committee requests that Council not support the Local Heritage Fund (2013-2014) application for \$1356.85 from The Church Wardens, St Peters Anglican Church Campbelltown, for the repair and restoration of the original baptismal font.
2. That the applicant be advised in writing of Council's decision with respect to this matter, including an explanation of the applications inconsistencies with Council's Local Heritage Fund Guidelines.

**CARRIED**

Councillor Ted Rowell

**Chairperson**

Meeting Concluded: 6.40pm

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## **2.5 Appointment of Inspectors under the Noxious Weeds Act 1993**

### **Reporting Officer**

Manager Sustainable City and Environment

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### **Attachments**

Nil

### **Purpose**

This report seeks to amend the authorisations of Council officers to enable lawful enforcement under the provisions of the *Noxious Weeds Act 1993*.

### **History**

The *Noxious Weeds Act 1993* (the Act) grants a range of powers and functions to local control authorities (councils).

Unlike many other Acts regulated by Council, this Act does not permit the sub-delegation of powers and functions by the General Manager to other staff. In essence, section 68 of the Act requires that all delegations must be a resolution of Council to a specific officer.

### **Report**

Section 68 of the Act states 'A local control authority (Council) may delegate to a person any of the local control authority's functions under this Act (other than this power of delegation) but only under this power of delegation.'

Therefore, it is necessary for Council to delegate its powers and functions under the Act to specified employees who, by resolution of Council, will be appointed inspectors for the purposes of the Act.

Persons appointed as inspectors by Council are conferred all noxious weed control functions under section 39 of the Act, namely:

- to inspect land and any other premises for the presence of noxious weed material
  - to advise as to the presence of noxious weed material and the means of controlling those weeds
  - to report to the local control authority on noxious weeds and noxious weed control
  - any other functions that are conferred or imposed on inspectors by or under the Act or by the local control authority.
-

Persons appointed as inspectors by Council are also conferred the following noxious weed control powers and authority under the Act to:

- issue Weed Control Notices (section 18)
- issue Prior Notice of Weed Control Notice (section 18A)
- carry out noxious weed control on behalf of Council after a Weed Control Notice is not complied with (section 20)
- impose temporary restrictions during weed control (section 36A)
- require treatment of machinery or equipment where the presence of notifiable weed material is suspected of being present (section 40)
- enter onto premises (section 43)
- conduct inspection and investigation of premises (section 44)
- give occupiers of premises Notice of Entry for the purposes of undertaking noxious weeds inspections (section 45)
- serve penalty notices for certain offences (section 63).

It is proposed that Council appoint specified employees (as outlined in Recommendation 1 below) as inspectors under section 41 and delegate to them the necessary inspectorial functions under section 39 and powers under section 18, 18A, 20, 36A, 40, 43, 44, 45 and 63 of the Act.

### Officer's Recommendation

1. That Council resolve to revoke all previous delegations made by Council or the General Manager under the *Noxious Weeds Act 1993*.
2. That Council resolve to appoint the following employees as inspectors under section 41 and delegate to them the noxious weed control functions of an inspector under section 39 of the *Noxious Weeds Act 1993*:

Jeff Lawrence	Director Planning and Environment
Andrew Spooner	Manager Sustainable City and Environment
Paul Curley	Acting Manager Compliance Services
Renee Windsor	Environmental Planning Coordinator
David Henry	Senior Environmental Officer (Environmental Protection and Management)
Angela Taylor	Senior Environmental Officer (Policy and Special Projects)
Alana Keane	Environmental Officer (Natural Resource Management)
Mitchell Johnson	Environmental Project Officer (Ecological Protection)

3. That Council resolve that the employees nominated in Recommendation 2 above, be delegated with Council's powers and authority under the following sections of the *Noxious Weeds Act 1993*:
- section 18 – issue Weed Control Notices
  - section 18A – issue Notice of Weed Control Notice
  - section 20 – carry out Noxious Weed Control by Local Control Authority after a Weed Control Notice is not complied with
  - section 36A – impose temporary restrictions during weed control
  - section 40 – require treatment of machinery and equipment where the presence of notifiable weed material is suspected of being present
  - section 43 – entry onto premises
  - section 44 – conduct inspections and investigations
  - section 45 – give occupiers of premises Notice of Entry for the purposes of undertaking noxious weeds inspections
  - section 63 – serve penalty notices for certain offences.

**Committee's Recommendation: (Lound/Rowell)**

That the Officer's Recommendation be adopted.

**CARRIED**

**Council Meeting 10 December 2013 (Greiss/Rowell)**

That the Officer's Recommendation be adopted.

**Council Resolution Minute Number 265**

That the Officer's Recommendation be adopted.

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## **2.6 No. 194 Campbelltown Road, Denham Court - A Proposed Amendment to LEP 2002**

### **Reporting Officer**

Manager Sustainable City and Environment

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### **Attachments**

1. Copy of the of the applicant's submission requesting an amendment to LEP 2002 (distributed under separate cover)
2. Copy of the amended site plan (distributed under separate cover)
3. An aerial photo of the subject site (distributed under separate cover)
4. A map illustrating the traffic movement to and from the site to the South Western Freeway (F5) (distributed under separate cover)

To view copies of the attachments distributed under separate cover, contact Council's Corporate Support Coordinator on 4645 4405.

### **Purpose**

The purpose of this report is to seek Council's endorsement in principle of a proposed amendment to Campbelltown (Urban Area) Local Environmental Plan 2002 (LEP 2002) for Lot 100 in DP 1176622 (No. 194 Campbelltown Road), Denham Court to enable the use of the site as a 'typical service station'.

### **History**

A planning proposal request for No. 194 Campbelltown Road, Denham Court was submitted to Council on 11 July 2013 and is provided as attachment 1 to this report. The request was accompanied by an Arboricultural Impact Assessment Report which provided a detailed assessment of the conditions of the vegetation on site. The proposal was to enable the subject site to be used as a service station, which the current environmental planning instrument prohibits.

A close examination of the drawings submitted to Council as part of the original proposal showed that the proposed service station would be servicing trucks and would provide for a number of on-site truck parking spaces, including facilities for B-double trucks.

Council officers were of the opinion that the site would not be suitable for a 'truck oriented service station', given its close proximity to rural-residential properties and potential noise and visual impacts on the environmental and scenic values of the locality.

A report was submitted to Council's Planning and Environment Committee on 3 September 2013, including a recommendation that the proposal for a 'truck oriented service station' not be supported by Council. The report noted that there may be some merit for the site to accommodate a 'typical service station' that would not provide any on-site heavy vehicle parking nor servicing.

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In response to the Officer's Recommendation in the report, the architect working on behalf of the owners contacted Council on the day the report was scheduled to be considered by Council's Planning and Environment Committee (3 September 2013) and provided a covering letter and amended plans for the proposed service station. The amended site plan removed any reference to the parking of trucks on-site. Notably, a diesel pump for truck refueling was retained on the amended plans. A copy of the amended site plan is shown as attachment 2 of this report.

Councillors were advised of the receipt of the amended plans and the insufficient time provided to staff to reconsider in detail the implications of the amended site plan. Accordingly, Council's Planning and Environment Committee resolved to defer this matter pending further information. This recommendation was supported by Council at its meeting on 10 September 2013.

Legal advice was sought from Marsdens Law Group in relation to wording and legal mechanisms to ensure that any future service station on this site would not provide services and on-site parking for trucks/heavy vehicles. This report provides further assessment of the proposal in light of this legal advice, and the additional information submitted by the applicant.

## **Report**

Property Description: Lot 100 DP 1176622 (known as No. 194 Campbelltown Rd, Denham Court)

Owner: Press Australia Pty Ltd

Applicant: Smyth Planning

## **Site Description**

The subject site is located within the suburb of Denham Court and is bounded by major roads on all sides. Campbelltown Road lies to the west, the South Western Freeway (F5) to the east and south and the Ingleburn F5 exit off-ramp to the north. An aerial photo of the site is shown as attachment 3 of this report.

The site is irregular in shape and has a frontage of approximately 240 metres to Campbelltown Road, 192 metres to the F5 and 116 metres to the F5 off-ramp and has an area of 1.241 hectares. The site is relatively flat with a slight slope to the north.

There is a single dwelling house on the site that is currently occupied.

The southern part of the site was recently used by the former Roads and Traffic Authority (RTA) as a storage area for road works material and equipment associated with the F5 upgrade.

## **Current Zoning of the Site**

The site is currently zoned Zone 7 (d5) - Environmental Protection 1 hectare Minimum Zone under Campbelltown (Urban Area) CLEP 2002 and is proposed to be rezoned to E4 Environmental Living under draft Campbelltown Local Environmental Plan 2013 (draft CLEP 2013).

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Under the provisions of CLEP 2002, service stations are not permissible on land within Zone 7 (d5) - Environmental Protection 1 hectare Minimum Zone. The same provisions apply in draft CLEP 2013 as service stations are not permissible under the proposed E4 Environmental Living Zone.

### **The proposal**

The initial planning proposal sought to amend Campbelltown LEP 2002 by creating a 'scheduled use' for the subject site that allows the site to be used for the additional purposes of a service station.

The proposed development, as described by the applicant, would be a typical service station with a cashier for the fuel bowsers located within a building. The building is also proposed to include a convenience store and a small food area, with a small cafeteria and seating to service customers driving cars and trucks.

It is proposed that the service station would service traffic travelling on the Campbelltown Road in both directions and would be screened so as not to be visible from the F5 Freeway.

Given the close proximity of the site to the Ingleburn industrial precinct, it is anticipated by the applicant that the service station would be providing services to trucks entering the Ingleburn industrial precinct. This is reflected in the design of the proposed service station, as a special fuelling bay for heavy vehicles is planned as part of the proposed development. A copy of the original planning proposal request is shown as attachment 1 of this report.

As mentioned earlier, the applicant has recently submitted to Council a covering letter and an amended site plan for the proposed service station, as shown in attachment 2 of this report. The amended site plan removed any reference to the parking of trucks on-site. Notably, a diesel pump for truck refueling was retained on the proposed amended plans.

The removal of the truck parking bays from the proposed site plan is considered a major alteration to the proposal and the following observations are made:

- the footprint of the proposed car park is now smaller compared to that originally proposed, which included on-site truck parking
- the area for landscaping has increased, thus providing enhanced outcomes for the screening of the proposal from the F5 and Campbelltown Road
- the prevention of parking of trucks on the site would also likely alter the noise impacts on neighboring rural residential properties.

### **Site suitability and traffic movement**

Based on the information provided, the site is considered suitable for a service station type development, as it is an isolated parcel of land that is bounded by major roads on all sides carrying significant traffic volumes. In addition, it is located within proximity to the Ingleburn industrial precinct.

The site has a number of mature trees. The applicant has submitted a detailed Arboriculture Impact Assessment, the findings of which will be later discussed as part of this report.

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Although the intention of the proposed service station is to provide services to vehicles travelling on Campbelltown Road, there is still a potential that some vehicles travelling north on the F5 would utilise the service station. In this regard, a map showing the anticipated traffic movement to and from the site for those vehicles is shown in attachment 4. Such vehicles would enter the site via the Ingleburn F5 exit ramp. To re-enter the F5 and continue travelling in the same direction, vehicles would have to loop back through Williamson Road, then turn left to Brooks Road. In doing so, the vehicles would traverse through the industrial area of Ingleburn. Given that the traffic would not navigate through any residential suburbs, such traffic movement in itself is not considered unreasonable.

The extent of vehicular traffic generated by the proposed development as opposed to that travelling past the subject site to access the Ingleburn industrial area would need to be investigated.

### **Legislative framework**

#### **LEP 2002**

Under the provisions of LEP 2002 a 'service station' is defined as:

**'Service station'** means a building or place used for the fuelling of motor vehicles, the sale by retail of petrol, oil and other petroleum products, the ancillary sale of a limited range of food items for the convenience of patrons, and also used for any one or more of the following:

- (a) the sale by retail of spare parts and accessories for motor vehicles
- (b) the washing and greasing of motor vehicles
- (c) the installation of accessories for motor vehicles
- (d) the repairing and servicing of motor vehicles involving the use of hand tools (other than repairing and servicing which involves top overhaul of motors, body building, panel beating, spray painting, or suspension, transmission or chassis restoration).'

The term 'truck depot' is not separately defined under LEP 2002. In addition, the term 'motor vehicles' is not defined. As such, it could be argued that a 'heavy vehicle/truck' is a type of a 'motor vehicle'. Consequently, allowing a 'service station' on the site would not provide certainty for Council that a future service station would not include the parking, refuelling and servicing of trucks, thus potentially creating a 'truck depot' on the subject site.

In this regard, legal advice was sought from Council's solicitors, Marsdens Law Group, which will be discussed in detail later in this report.

#### **Draft CLEP 2013**

Under the provisions of the forthcoming draft CLEP 2013, a service station is defined as:

**'Service station'** means a building or place used for the sale by retail of fuels and lubricants for motor vehicles, whether or not the building or place is also used for any one or more of the following:

- (a) the ancillary sale by retail of spare parts and accessories for motor vehicles
  - (b) the cleaning of motor vehicles
  - (c) installation of accessories
  - (d) inspecting, repairing and servicing of motor vehicles (other than body building, panel beating, spray painting, or chassis restoration)
  - (e) the ancillary retail selling or hiring of general merchandise or services or both.'
-

Notably, a truck depot is separately defined under draft CLEP 2013 as:

**‘Truck depot** means a building or place used for the servicing and parking of trucks, earthmoving machinery and the like.’

The above definition more clearly distinguishes between a ‘service station’; and a ‘truck depot’, unlike the provisions under LEP 2002, where there is no definition for a ‘truck depot’.

Accordingly, if Council was of a mind to grant a consideration of support for an amendment to CLEP 2002 to permit a service station on the land, staff would strongly recommend the inclusion of a special clause in the LEP that would prevent the fuelling, servicing and parking of any heavy motor vehicles on the land.

Notwithstanding, if Council chooses to support the proposal to enable a ‘service station’ to be developed on the subject site, then additional prohibitions on the fuelling, servicing and parking of heavy motor vehicles would need to be included in any future amendment to LEP 2002 or draft CLEP 2013. The inclusion of such additional provisions would ensure that the site would be developed for a ‘typical service station’ only, and not for truck related purposes.

### **Legal advice**

As discussed above, there is a need to provide additional prohibition clauses to any future amendments to LEP 2002 or draft CLEP 2013 to ensure that the subject site would be developed for a ‘typical service station’ and not a ‘truck depot’. In this regard, Council sought legal advice in relation to two main questions as follows:

1. If Council permits a ‘service station’ use on the site, what options would it have to ensure that any future service station on the site would not provide services and on-site parking for trucks/heavy vehicles?
2. Are there any legal mechanisms that Council may be able to implement/utilise under the draft CLEP 2013 to ensure that the site would not provide services and on-site parking for trucks/heavy vehicles?

In response to Question 1 above, Marsdens advised:

‘If the Council wanted to exclude trucks and trailers from the kinds of vehicles that could be accommodated by the service station on the subject land, it would be necessary for Schedule 2 of LEP 2002 to be amended to include a provision to the following effect in respect of the land:

Development for the purpose of a service station that is not used and is not so constructed or adapted as to be capable of being occupied or used for refuelling, parking, washing, greasing, storing, repairing, installing accessories or servicing of motor vehicles or trailers that have a maximum loaded mass of more than 4.5 tonnes (as specified by the manufacturer or by the Roads and Maritime Services constituted under the *Transport Administration Act 1988*).’

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In response to Question 2 Marsdens advised that for Council to achieve the same outcome under its draft CLEP 2013, the following is recommended:

1. 'the Land Use Table for the Zone in which the land is situated should specifically prohibit 'service stations' and
2. Schedule 1 of draft CLEP 2013 should include the same recommended clause suggested for Question 1 one above.'

The above legal advice indicates that Council would be able legally, by means of a specific provision under its LEP 2002 or draft CLEP 2013, to restrict the subject site from being developed for a service station that would provide services to heavy vehicles.

### **Arboriculture Impact Assessment**

The applicant has submitted to Council an Arboriculture Impact Assessment for the site. The report has examined all trees located on the land and of the 136 trees assessed, 91 are proposed to be retained and protected.

The majority of trees on the site are highly fragmented and modified bushland which have been impacted by past land use activities. Some of the trees are identified as being remnant trees of Cumberland Plain Woodland. In this regard, further investigation is required to ascertain whether the vegetation on site is representative of Cumberland Plain Woodland. If this is the case, the applicant would need to undertake a flora and fauna assessment.

### **Required studies**

A number of matters have been identified by Council staff for further investigation and the preparation of detailed studies/reports should Council support in principle the proposed amendment as follows:

#### **1. Traffic study**

A detailed traffic study is required to be prepared as part of this proposal. The traffic study should as a minimum investigate the extent of traffic generated by the proposed service station as well as the following:

- the appropriateness of the proposed right turn to and from Campbelltown Road, including road design
- the impacts of vehicle movements to and from the site, including access to and from the F5
- impacts on traffic movements in the wider locality as a result of the proposed development.

#### **2. Landscaping and visual impact assessment**

The proposal should provide information on landscaping and the anticipated visual impacts from the F5 and Campbelltown Road. It is considered important that should Council decide to support the proposal, that the landscaping of the site be undertaken in a manner that enhances the visual presentation of the site and reflects the site's environmental setting and values.

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In addition, the Landscape and Visual Impact Assessment should assess the potential impact of any light spillage and include recommendations on the species of vegetation to be used on the site for screening purposes and to help minimise the impacts.

### **3. Noise levels and mitigation measures**

The site is within close proximity to large-lot rural residential properties. It is recommended that should Council decide to support the proposal, that the applicant undertake an acoustic impact assessment to determine whether the proposed development would generate acceptable noise levels from vehicle movements to, from and within the site. Noise mitigation measures should also be investigated to address any impacts on nearby residences.

### **4. Preliminary contamination assessment**

The history of the land uses of the site is not known, however, in recent times parts of the site were used by the RTA as a storage area for road works. The applicant to prepare a preliminary land contamination report should Council wish to progress the matter. The outcome of the preliminary contamination report would inform whether a more detailed contamination investigation is required and whether any remediation is necessary.

### **Where to from here**

Should Council resolve to support the request to create a 'scheduled use' to allow the site to be used as a 'typical service station', the next step would be for the applicant to prepare further studies in relation to visual impact, traffic management, land contamination, and noise.

Council officers would then prepare a draft planning proposal based on the findings of the studies prepared by the applicant. A report would subsequently be submitted to Council seeking its endorsement of the draft planning proposal, prior to submitting it to the Department of Planning and Infrastructure for gateway determination and future public exhibition.

If Council chooses not to support the request to prepare an LEP amendment, the applicant would be entitled to, within 40 days of Council's notification of its decision, make a written application and pay a fee to the Department of Planning and Infrastructure for a pre-gateway review. An applicant may also request a pre-gateway review if Council has not made a determination after 90 days from the date of submission of the LEP amendment request. The pre-gateway review is informed by advice from the relevant Joint Regional Planning Panel.

Notably, Council or a proponent may also request a review of a gateway determination within 40 days of being notified by the Department.

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**Conclusion**

It is considered that the proposal to add an additional permitted use to allow a 'typical service station' at No. 194 Campbelltown Road, Denham Court has sufficient merit to progress the matter further. The site is considered suitable for the proposed type of development subject to future development consent. In this regard, additional clauses, as recommended by the advice sought from Marsdens, would need to be included as part of any future amendment to LEP 2002 or draft CLEP 2013 to ensure that the site would not accommodate truck fuelling, parking nor servicing/repairing.

Should Council resolve to support the proposal at this stage, the applicant would need to be requested to undertake a number of additional studies to further investigate issues relating to visual impact, traffic management, land contamination, and noise impact. The outcome of these studies would be further reported to Council together, with a recommendation as to whether Council should prepare a formal planning proposal.

**Officer's Recommendation**

1. That Council support in principle a proposed amendment to Campbelltown (Urban Areas) Local Environmental Plan 2002 for Lot 100 DP1176622 (No. 194 Campbelltown Road) Denham Court, to include an additional use (service station) to Schedule 2 – Additional Development subject to its consideration of the outcomes of further required investigations as detailed in the above report.
2. That additional requirements, as recommended by the legal advice sought by Council be included as part of any proposed amendment to Campbelltown (Urban Area) Local Environmental Plan 2002 to ensure that the service station would not be allowed to provide onsite truck parking and servicing.
3. That the applicant be requested to prepare additional studies, as identified by this report, in support of a possible amendment to Campbelltown (Urban Area) Local Environmental Plan 2002.
4. That this matter be reported back to Council following an assessment of the additional required investigations.

**Committee's Recommendation: (Rowell/Lound)**

That the Officer's Recommendation be adopted.

**CARRIED****Council Meeting 10 December 2013 (Greiss/Rowell)**

That the Officer's Recommendation be adopted.

**Council Resolution Minute Number 265**

That the Officer's Recommendation be adopted.

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### **3. DEVELOPMENT SERVICES**

#### **3.1 Development Services Section Statistics - October 2013**

##### **Reporting Officer**

Manager Development Services

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##### **Attachments**

Development Services application statistics for October 2013 (contained within this report)

##### **Purpose**

To advise Council of the status of development and other applications within the Development Services section.

##### **Report**

In accordance with Council's resolution of 23 August 2005, that Councillors be provided with regular information regarding the status of development applications, the attachment to this report provides details of key statistics for October 2013 as they affect the Development Services section.

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

That the information be noted.

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

That the Officer's Recommendation be adopted.

##### **CARRIED**

##### **Council Meeting 10 December 2013 (Greiss/Rowell)**

That the Officer's Recommendation be adopted.

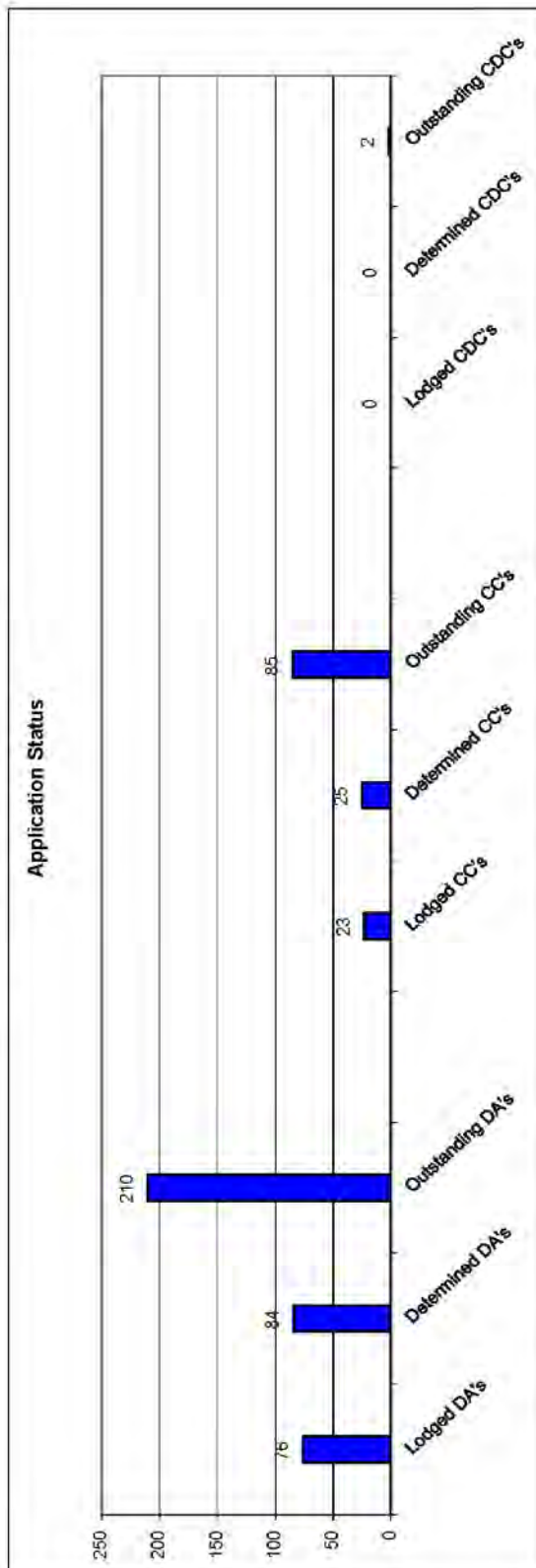
##### **Council Resolution Minute Number 265**

That the Officer's Recommendation be adopted.

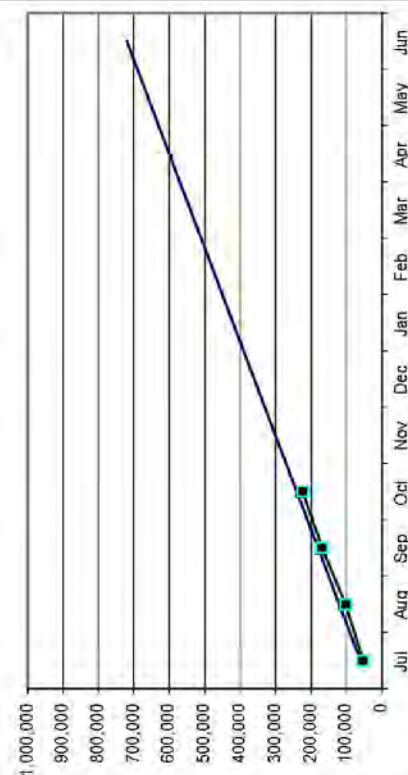
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## ATTACHMENT 1

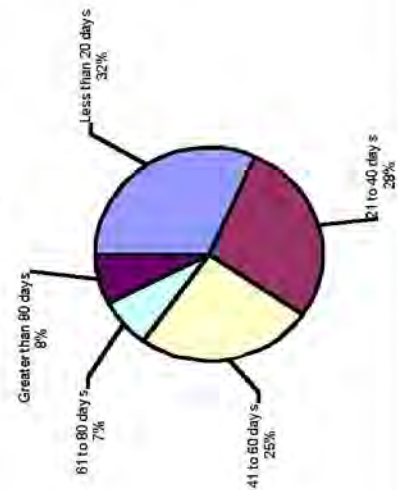
### DEVELOPMENT SERVICES SECTION MONTH AT A GLANCE – October 2013



### Development Application Income



### Development Application Monthly Processing Times



## **3.2 Procedures for Demolishing Houses within the Local Government Area**

### **Reporting Officer**

Manager Development Services

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### **Attachments**

Nil

### **Purpose**

The purpose of this report is to inform the Council of the main rules and regulations surrounding the approval process for the demolition of buildings/structures (works) and in particular, the demolition of works that may consist of asbestos or asbestos containing materials.

### **History**

At its meeting on 15 October 2013, the Council resolved (Resolution 216) that a report be presented to the Council outlining the step by step procedures and appropriate methods for house demolition within the Local Government Area. The following report is provided in response to the Council's resolution.

### **Report**

#### **Introduction**

The following report aims to clarify the circumstances in which prior approval for demolition works is required. It also aims to clarify what a demolisher's responsibilities are and what action an authority can take in the case of unauthorised demolition works or works that are not being carried out in accordance with the relevant standards.

In most cases, demolition works require some form of prior approval and this would usually be obtained by way of a Complying Development Certificate or a Development Application. However, in certain circumstances, demolition works can be identified as 'exempt development' and as such, those works are exempt from requiring prior development consent from the Council or other relevant authority.

#### **Exempt Development**

Development works do not require any planning or construction approval if the particular works satisfy the exempt development requirements of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP) or the exempt provisions of any other relevant Environmental Planning Instrument.

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With regard to demolition works, development consent is not required to demolish a structure that was built as exempt development, nor is development consent required to maintain an existing structure. For example, the replacement of windows, doors and ceilings do not constitute 'development' under the *Environmental Planning and Assessment Act 1979* (the Act) and therefore, those works are normally deemed exempt development.

Further to this, regardless of whether the exempt demolition or repair works involve the handling of asbestos or Asbestos Containing Materials (ACM), the works continue to be classified as exempt development for the purposes of the Act. However, where the 'exempt development' works involve the demolition, handling and disposal of more than 10sqm of asbestos or ACM, a licenced contractor is required to be engaged to demolish, remove, and dispose of the asbestos prior to the exempt works commencing or continuing.

In this regard, it is up to the owner or person who is undertaking the exempt works to declare whether there is asbestos present and it remains the responsibility of the owner or person undertaking the exempt works to ensure that the works are undertaken in a way that complies with the allowances provided under the Codes SEPP, which includes compliance with the requirements of Australian Standard AS 2601 – 2001: The demolition of structures.

With respect to the above, unless there is a complaint or the council becomes aware of the activity through other means, there is limited ability for the council to control small works being undertaken by the owner that contain asbestos or ACM.

### **Complying Development**

A wide range of development works (including demolition works) that are not considered exempt development (including certain residential, industrial and commercial development), can be approved by way of issuing a Complying Development Certificate (CDC) under the relevant provisions of the Codes SEPP. A CDC can be issued by the council or a private certifier and is issued with mandatory conditions.

Clause 136E of the Environmental Planning and Assessment Regulation 2000 (the Regs) outlines additional conditions under which a CDC can be issued for development/demolition works that contain friable and/or non-friable asbestos or ACM.

Applications for a CDC must include details of the estimated area in square metres (if any) of friable and/or non-friable asbestos or ACM that will be disturbed, repaired or removed in carrying out the development.

Where more than 10sqm of asbestos or ACM is to be removed, a contract evidencing the engagement of a suitably licensed asbestos removal contractor is to be provided to the Principle Certifying Authority (PCA). The contract must specify a landfill site that is able to lawfully accept asbestos to which the removed asbestos will be delivered.

If the contract indicates that asbestos will be removed to a specified landfill site, the person having the benefit of the CDC must give the PCA a copy of a receipt from the operator of the nominated landfill site stating that all the asbestos material referred to in the contract has been received at the nominated landfill site by the receiving operator.

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If the work involves 10sqm or less of non-friable asbestos or ACM and is not undertaken by a licensed contractor, the works should be undertaken in a manner that minimises risk, as detailed in the Safe Work Australia's Model Code of Practice - How To Safely Remove Asbestos.

The Codes SEPP requires that the CDC applicant provide at least two days' notice to neighbours living within 20m of the subject works, that the approved building or demolition works may include asbestos removal.

Where a private certifier is engaged to assess a CDC, the private certifier is responsible for ensuring that the proposed development activities include adequate plans for the safe removal and disposal of asbestos and ACM.

When a private certifier issues a CDC and is appointed as the PCA for the development works, it is the PCA's responsibility to follow up to ensure that works that include asbestos handling, removal and disposal, are carried out appropriately and in accordance with the relevant provisions of the Regulations.

#### **Development Applications (development not strictly complying with the Codes SEPP)**

Where proposed development works do not meet the relevant exempt or complying development criteria, a further method of gaining conditional approval for development/demolition works is via the lodgement of a full Development Application (DA) with the Council. Unlike with a CDC, a DA cannot be determined by a private certifier.

A DA needs to be logically prepared and submitted by the applicant with all relevant information provided at the time of lodgement of the DA. When a DA is lodged, a DA is notified in accordance with Council's Notification Policy and is assessed against the relevant controls and standards based on the information provided by the applicant. In the case of a DA for demolition work, the assessment would include consideration of the potential for asbestos or ACM and the handling of the same during the project.

Council's pre-DA service may enable applicants to discuss asbestos related issues with council prior to lodging a DA. Generally this may be most relevant to structures erected or modified before the 1980s and any other structure that may be suspected to contain asbestos or ACM including those works that contain building materials manufactured prior to 2004.

The local council is the consent authority for the majority of DAs it receives however, other bodies such as the respective Joint Regional Planning Panel (JRPP) can also be deemed the consent authority for larger types of development. It is important to note that regardless of whom the consent authority for the particular development is, the method of assessment and responsibilities surrounding the final determination remain unchanged.

In the case that asbestos or ACM has been identified, or may be reasonably assumed to be present, Council or the JRPP would require the submission of a waste management plan and subsequently impose conditions of development consent to ensure the safe handling, removal and disposal of the asbestos or ACM.

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### Licencing requirements

Where development works are undertaken by employed contractors (as is the case with most home renovations), the work is considered to be carried out within a workplace, and as such, those works are regulated by Work Cover under the NSW Work Health and Safety Regulation 2011.

This Regulation requires that a person conducting a business who is carrying out refurbishment or demolition works within a residential premises, must ensure that all asbestos that is likely to be disturbed by the refurbishment or demolition works is identified and, so far as reasonably practicable, is removed before the refurbishment or demolition is commenced.

Depending on the nature and quantity of asbestos to be removed, a licence may be required to remove the asbestos.

The requirements for asbestos removal licenses are as follows:

- **friable** asbestos or ACM must only be removed by a licensed removalist with a friable (Class A) asbestos removal licence
- the removal of more than 10sqm of **non-friable** asbestos or ACM must be carried out by a licensed non-friable (Class B) or a friable (Class A) asbestos removalist
- the removal of asbestos containing dust (ACD) associated with the removal of more than 10sqm of **non-friable** asbestos or ACM requires a non-friable (Class B) asbestos removal licence or a friable (Class A) asbestos removal licence
- removal of 10sqm or less of **non-friable** asbestos or ACM may be undertaken without a licence. However, given the risks involved, council encourages residents to consider engaging a licensed asbestos removal contractor for all asbestos removal. The cost of asbestos removal by a licensed professional is comparable in price to most licensed tradespeople including electricians, plumbers and tilers.

As stated previously in this report, regardless of who undertakes the work and for what quantity, all asbestos removal must be carried out in accordance with Safe Work Australia's Model Code of Practice - How To Safely Remove Asbestos.

As for notification of neighbours or people in the vicinity of the works, if a residential premise is deemed a workplace, the licensed asbestos removalist must inform the following persons before the licensed asbestos removal work is carried out:

- the person who commissioned the work
- a person conducting a business or other undertaking at the workplace
- the owner and occupier of the residential premises
- anyone occupying premises in the immediate vicinity of the workplace (as described in section 467 of the NSW Work Health and Safety Regulation 2011).

In certain circumstances, a premise may be used for both residential and commercial purposes and by default, the premise is classified as a workplace.

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Further to the above, all licensed asbestos removal must be:

- supervised by a supervisor named to Work Cover
- notified to Work Cover at least five days prior to the work commencing.

### **Receipt of complaints and methods of response**

Complaints and enquiries about asbestos related incidents in public places and on private property (ie not deemed to be a workplace) may be directed to council. Complaints and enquiries regarding a workplace (including contractors at private properties) are directed to Work Cover NSW. Complaints and inquiries regarding licensed premises under the *Protection of the Environment Operations Act 1997* should be directed to the EPA.

In view of the potential hazard of removing or handling asbestos or ACM unsafely, Council may receive complaints relating to asbestos removal across a range of residential, commercial and industrial situations.

Where the asbestos or ACM is in a bonded form, undisturbed and painted or otherwise sealed (non-friable), it may safely remain in place. However, where the asbestos or ACM is broken, damaged or mishandled, fibro can become loose and airborne (friable) posing a risk to human health.

- **Minor residential renovations (involving the removal of 10sqm or less of non-friable asbestos or ACM)**

Council is the appropriate regulatory authority for residential development work where licensed contractors are not involved. If the work involves the removal of 10sqm or less of non-friable asbestos (eg minor renovations of a bathroom, laundry or outbuilding), it is not necessary for the work to be undertaken by a licensed contractor. Irrespective of this however, Council's Building and Compliance Officers will investigate complaints relating to such works to ensure that asbestos is being safely handled (in accordance with the Model Code of Practice on How To Safely Remove Asbestos) and disposed of lawfully. Suitable tipping receipts are required to be produced as evidence of lawful disposal.

- **Major residential works (involving removal of more than 10sqm of asbestos or ACM e.g. demolition of residential buildings).**

This involves removal work by suitably licensed contractors, and as such, the site is considered to be a workplace and is regulated by WorkCover under the NSW Work Health and Safety Regulation 2011.

Where Council becomes aware of illegal works involving asbestos, Council will notify WorkCover if the site is a workplace. Irrespective of this, when Council receives complaints concerning major residential demolition work, the Council is generally involved as the initial point of response.

Council's Building Compliance Officers will investigate such complaints in the first instance in order to determine whether the development work is authorised or not, and if so, the identity of the PCA. The PCA has the responsibility for ensuring the work, including the safe handling of asbestos, is being carried out in accordance with the requirements of the *EP&A Act* and that of WorkCover.

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In the event the work is unauthorised or Council is the PCA, Council Officers will inspect the site to ensure site access is secure, asbestos materials are being properly handled and disposed of by an appropriately licenced person and all relevant conditions of consent are being complied with.

Further to the above, Council may audit asbestos related demolition works and require developers to produce documentation such as a copy of the asbestos removalist's license, WorkCover Authority, neighbour notification and Asbestos Removal Control Plan (a copy of which is to be retained on site).

Council officers may initiate a range of regulatory actions to ensure the work is authorised (in the case of unauthorised works) and conducted in accordance with the relevant requirements for the safe handling of asbestos, which requires among other things, that any asbestos be safely removed before other demolition works proceed. Such regulatory actions may include the service of a Notice of Proposed Order under the Act to require unauthorised works to cease (Order 19) or to require works to comply with consent (Order 15).

In addition, Council may need to issue an Order under the *Local Government Act 1993* (LG Act) (section 124) to direct a person to 'do or refrain from doing such things as are specified in the Order to ensure that land is, or premises are, placed or kept in a safe healthy condition.'

Council may also issue a clean-up notice or prevention notice under the *Protection of the Environment Operations Act 1997* (POEO Act) where Council reasonably suspects that a pollution incident has occurred, or is occurring, requiring asbestos waste to be handled or removed in a satisfactory manner.

Council may also take action on any development for which Council has issued the development consent, even when not appointed as the PCA, to ensure enforcement. Where Council receives a complaint about a development for which Council is not the PCA, Council needs to consider whether it is the most appropriate authority to resolve the matter.

Complaints that warrant action by Council because of Council's higher level enforcement powers include:

- urgent matters, for example, a danger to the public or a significant breach of the development consent or legislation
- matters that are not preconditions to the issue of the occupation/subdivision certificate.

Council occasionally receives customer requests that relate to fire damaged buildings that contain asbestos. If bonded (non-friable) asbestos material is significantly damaged by fire it can be considered friable and require a specially licensed friable asbestos contractor (Class A) to clean the site under the supervision of an Occupational Hygienist, who may also be required to issue a clearance certificate to validate the site clean-up.

In cases of a fire or where land has been found to be contaminated with asbestos, Council will require access to the site to be restricted and determine if it is appropriate to seek the advice of, or require the owner of land (through the issue of an Order under the *Local Government Act*) to seek the advice of an Occupational Hygienist. The advice sought from the Occupational Hygienist would be on the likely level of risk to human health and the most appropriate action to be taken to remove the site of asbestos or the risk it poses.

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### **Commercial and industrial buildings**

Where Council receives complaints regarding asbestos removal from commercial and industrial buildings, Council officers audit the site works to ensure the work is authorised and being conducted in accordance with the *EPA Act* and any related consent requirements.

Council's regulatory response to complaints about works in commercial/industrial areas is similar to that indicated above for major residential works, in so far as unauthorised development is concerned. However, the matter of asbestos management is generally referred to WorkCover as the appropriate regulatory authority for action. Council compliance staff may have a support role in monitoring ongoing site compliance. The NSW EPA may also become involved in regulating site clean-up where large amounts of asbestos are being handled and stored on the site above EPA licensing thresholds.

### **Asbestos dumping**

Council regularly receives complaints of asbestos materials being dumped on public (Council) or private land. In such cases, Council's Rangers will initially investigate the complaint in an attempt to identify an offending polluter. Council will then issue a Clean-up Notice under the POEO Act requiring either the offender (if identified) or the land owner (this could be the Council) to remove and lawfully dispose of the subject waste. Where the waste has been identified as containing more than 10sqm of asbestos or ACM, a suitably licensed asbestos removal contractor will be required to removed and dispose of the waste material.

If a polluter is identified, then appropriate enforcement action (including issue of penalties or court action), will be initiated in consideration of the seriousness of the offence.

### **Officer's Recommendation**

That the information be noted.

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

That the Officer's Recommendation be adopted.

### **CARRIED**

### **Council Meeting 10 December 2013 (Greiss/Rowell)**

That the Officer's Recommendation be adopted.

### **Council Resolution Minute Number 265**

That the Officer's Recommendation be adopted.

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3.3 Lot 5324 DP 118/9779, Cnr Appin Road And Kellerman Drive, St Helens Park -  
Construction And Operation Of A 24 Hour Service Station And Convenience Store

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**3.3 Lot 5324 DP 118/9779, cnr Appin Road and Kellerman Drive, St Helens Park - Construction and operation of a 24 hour service station and convenience store**

**Reporting Officer**

Manager Development Services

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**Attachments**

1. Recommended conditions of consent (contained within this report)
2. Locality plan (contained within this report)
3. Site plan (contained within this report)
4. Floor plans (contained within this report)
5. Elevation plans (contained within this report)
6. Landscaping plans (contained within this report)
7. Concept stormwater plans (contained within this report)

**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>	Lot 5324 DP 1189779, cnr Appin Road and Kellerman Drive, St Helens Park
<b>Application No</b>	39/2013/DA-C
<b>Applicant</b>	Michael Brown Planning Strategies
<b>Owner</b>	GM Amalgamated Investments Dulwich Hill Pty Ltd and JM Associated Investments Pty Ltd
<b>Provisions</b>	Campbelltown 2025 – Looking Forward State Environmental Planning Policy (Infrastructure) 2007 Hazardous and Offensive Development State Environmental Planning Policy No. 64 – Advertising and Signage Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2008 Campbelltown (Urban Area) Local Environmental Plan 2002 Campbelltown (Sustainable City) Development Control Plan
<b>Date Received</b>	14 January 2013 (amended proposal received 10 October 2013)

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## **History**

### **Site History**

Council granted development consent for the construction and operation of a 24 hour service station and convenience store at the subject site in April 2003 via development consent 886/2002.

The application was substantially modified in February 2006 to incorporate staging of the development (with the first stage being earth works and the second stage being construction of the retail facility and associated petrol dispensing facilities).

Works to physically commence the service station's construction have been undertaken and as such, the consent (despite its age) is considered to have been activated.

More recently (in 2011) that consent was modified again to incorporate a different entry to/from design for both Kellerman Drive and Appin Roads. These access arrangements were approved by the Roads and Maritime Services (RMS) The amended entry works have not as yet been commenced.

### **Application History**

The subject application was initially received by Council in January 2013. The application included the construction and operation of a service station/convenience store and a separate building that would have been used as a fast-food restaurant.

Upon receipt of legal advice which detailed that a fast-food restaurant was not permissible at the site, owing to its zoning under the relevant local environmental plan, the applicant was requested to amend the application.

The amendments were made and received by Council in October 2013 and the application was subsequently notified to nearby land owners.

## **Report**

A development application has been received to construct and operate a service station and convenience store at the subject site in St Helens Park. The site is located on the corner of Kellerman Drive and Appin Road and is presently vacant, although physical works in relation to a previously-issued consent have taken place.

The application has been notified to nearby owners and several submissions in objection to the proposal have been received.

### **The Site**

The site is legally described as Lot 5324 DP 1189779 and is located at the corner of Appin Road and Kellerman Drive in St Helens Park. The subject allotment has an area of approximately 34,660 square metres, although the development site located within that allotment has an area of 7,686 square metres. Attachment 1 to this report illustrates the site and its relationship to surrounding development.

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### 3.3 Lot 5324 DP 118/9779, Cnr Appin Road And Kellerman Drive, St Helens Park - Construction And Operation Of A 24 Hour Service Station And Convenience Store

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The site is bounded by Kellerman Drive to the north, Appin Road to the west and existing and future residential development to the south and east. The land is disturbed and does not contain any significant vegetation.

As mentioned previously, the site has been physically adjusted to cater for the development of the service station/convenience store approved by Council in 2003. The physical works undertaken to date include the importation and grading of fill to create a building platform.

The site slopes down to the north east and east and falls approximately 8 metres diagonally across its extent, although this fall is not regular as the land has been filled and shaped under the previously-issued consent. A pad has been constructed for the previously-approved service station/convenience store.

#### **The Proposal**

The application proposes the following works and operations:

- construction of a service station/convenience store building and weather protection canopy
- construction of a concreted refuelling and vehicle parking/manoeuvring areas
- installation of three vehicle refuelling bowzers
- installation of five underground fuel storage tanks with a total capacity of 180,000 litres
- installation of signage across the building and site in relation to its use as a service station/convenience store
- construction of previously-approved entry/exit points to both Appin Road and Kellerman Drive
- construction of an internal access driveway
- establishment of landscaped gardens.

The service station/convenience store building would have a floor area of approximately 213 square metres and would include food and beverage service areas, sale of dry groceries and other items such as cigarettes, newspapers and so on. A floor plan of the building is included in Attachment 4 of this report.

Various petrol grades and diesel fuels would be retailed from the service station. The application does not propose installation of liquefied petroleum gas (LPG) storage and refuelling facilities.

Site works that would be constructed as part of the development include (but are not limited to):

- drainage lines and pits
- retaining walls
- an acoustic protection fence along the site's southern and eastern boundaries.

The application proposes 24-hour operation of the service station/convenience store, which is consistent with the previous consent issued by Council at the property.

The subject building and the refuelling area would be located in the south western-most portion of the development site, which is the furthest point from existing residences or vacant residential allotments.

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## Assessment

The development has been assessed in accordance with the matters for consideration under Section 79C of the *Environmental Planning and Assessment Act 1979* (the *EP&A Act*) and having regard to those matters, the following issues have been identified for further consideration.

### 1. Vision

‘Campbelltown 2025 - Looking Forward’ is a vision 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
- 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
- building a distinctive Campbelltown sense of place
- creating employment and entrepreneurial opportunities.

The proposed development is consistent with these directions.

The relevant desired outcomes associated with Council’s vision, included in ‘Campbelltown 2025 – Looking Forward’ include:

- urban environments that are safe, healthy, exhibit a high standard of design, and are environmentally sustainable
- an impression of architecture that engages its environmental context in a sustainable way
- development and land use that matches environmental capacity and capability.

It is considered that the proposed development is consistent with the Vision’s desired outcomes having regard to the proposed scale, function and design of the proposed development.

### 2. Planning Provisions

Section 79C(1)(a) of the *EP&A Act* requires Council to consider environmental planning instruments and development control plans that apply to the site.

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The following environmental planning instruments and development control plans are considered in assessing the application:

## **2.1 State Environmental Planning Policy (Infrastructure) 2007**

State Environmental Planning Policy (Infrastructure) 2007 (the SEPP) applies to the development as a result of its location adjacent to (and requiring access to) a classified road. In this instance, the classified road is Appin Road; a main road, pursuant to the *Roads Act 1993*.

Clauses 101 and 104 of the SEPP require Council to assess the proposal's impact on the classified road in terms of its safety and efficiency. Further, the SEPP also requires Council to forward the application to Roads and Maritime Services (the RMS) for its comment.

In this instance, Council (and the RMS) have previously granted development consent for the construction of the service station/convenience store, which included an entry/exit at the classified road (Appin Road). The concept design of the entry/exit to and from Appin Road has previously been approved by the RMS, subject to further detailed design and auditing being undertaken immediately prior to construction commencing.

The current application does not alter the previously approved design, which caters for semi-trailers entering and leaving the site for deliveries, as well as cars accessing the service station/convenience store.

The SEPP also requires Council to consider whether or not a viable access to the development can be provided to a non-classified road nearby. In this case, the application proposes use of a previously-approved entry/exit point for the site from Kellerman Drive, which would be likely to serve local traffic and reduce the number of vehicles entering and leaving the site from the classified road (Appin Road).

The proposal would be subject to further detailed design and construction certification prior to any works commencing to ensure that the proposal complies with relevant Austroads road design guidelines. This may result in the widening of Kellerman Drive, which would need to be undertaken at the applicant's expense.

The certification would be undertaken by Council in consultation with the RMS. Recommended conditions of consent incorporate these requirements for road design and construction as requested by the RMS and Council's City Works Division, should Council decide to support the proposal.

With respect to the above, the development is therefore considered not to be inconsistent with the requirements of the Infrastructure SEPP.

## **2.2 State Environmental Planning Policy No. 33 – Potentially Hazardous and Offensive Development (SEPP 33)**

Due to the nature of materials stored and distributed from the site, SEPP 33 applies to the extent that direction is provided with regards to the hazard assessment requirements for the design and operation of the development.

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In accordance with the requirements of SEPP 33, the applicant engaged a specialist dangerous goods consultant to undertake a 'multi-level risk assessment', which incorporates a preliminary hazard analysis. The submitted report finds that the use and operation of the site would require a 'level one qualitative risk analysis'. Using the flow chart provided in the SEPP 33 guidelines, the applicant reaches the conclusion that a Preliminary Hazard Analysis (PHA) is required.

The PHA details the most likely sources of hazard at the site, details measures to ameliorate risk and certification of the site during its construction and operation.

A recommended condition of consent requires that the development be constructed, maintained and inspected in accordance with the recommendations of the consultant's report.

Having regard to the consultant's PHA, the development is not considered to be a potentially hazardous storage establishment or industry as appropriate exclusion zones (particularly around fuel tank fill and pump dispensers) have been incorporated into the development's design. The proposal exceeds the separation distance of bowsters and fill points which are stipulated in Australian Standard 1940-2004.

The consultant's report concludes:

"Plotting the frequency (of accidents per year) against consequence, it can clearly be seen that the societal risk is negligible"

The application is considered to be in compliance with the relevant requirements of SEPP 33, subject to the applicant conforming with the recommended conditions of consent in relation to hazard reduction.

### **2.3 State Environmental Planning Policy No. 64 – Advertising & Signage (SEPP 64)**

SEPP 64 applies to all advertising sign development throughout the State, except where a sign type is deemed 'exempt development' by an environmental planning instrument (pursuant to Clause 9(c))

In this instance, Clause 31(2)(a) of Council's Urban Area LEP 2002 does provide an exemption for business identification signs. A business identification sign is defined as:

**business identification sign** means an advertisement which in respect of any place or premises to which it is fixed contains all or any of the following:

- (a) a reference to the identity or description of the place or premises,
  - (b) a reference to the identity or description of any person residing or carrying on an occupation at the place or premises,
  - (c) particulars of any occupation carried on at the place or premises,
  - (d) particulars or notifications required or permitted to be displayed by or under any Commonwealth or State Act,
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- (e) particulars relating to the goods, commodities or services dealt with or provided at the place or premises,
- (f) such directions or cautions as are usual or necessary relating to the place or premises or any occupation carried on there.

The advertising signs proposed at the site, including a blade style pylon sign and fascia signage, are considered to be 'business identification signs' as they contain information as to the identity of the proprietor of the business and provide information regarding direction of travel, legislation requirements (safety signage) and particulars (in this instance, pricing) of the goods provided at the premises.

Considering the above, the signage contained within the application is considered to be complementary to relevant planning instruments. It does not detract from the built environment and is not considered to be a distraction to motorists and is considered to be acceptable in the circumstances.

#### **2.4 Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2008**

This legislation covers the credentials of Underground Petroleum Storage Systems (UPSS) manufacturer's and installers, sets out pre-operation testing regimes and ongoing monitoring protocols for the UPSS once it is in service. The controls are designed to ensure that the underground storage systems do not pose an environmental risk as a result of petroleum products entering soil and groundwater.

Recommended conditions have been added to ensure that the UPSS is installed, maintained and operated in accordance with the Protection of the Environment (Underground Petroleum Storage System) Regulation 2008.

#### **2.5 Campbelltown (Urban Area) Local Environmental Plan 2002 (CLEP 2002)**

The subject site is zoned 2(b) – Residential B Zone under the provisions of Campbelltown (Urban Area) Local Environmental Plan 2002. Objectives of the zone are reproduced below:

- (a) to make general provision for land to be used for housing and associated purposes, and
  - (b) to permit the development of a range of housing types, and
  - (c) to encourage a variety of forms of housing that are higher in density than traditional dwelling houses, including accommodation for older people and people with disabilities, in locations which are accessible to public transport, employment, retail, commercial and service facilities, and
  - (d) to allow the carrying out of a reasonable range of activities from dwellings, where such activities are not likely to adversely affect the amenity of the locality, and
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(e) to allow development which:

- (i) is compatible with residential use, and
- (ii) is capable of visual integration with the surrounding buildings, and
- (iii) serves the needs of the surrounding population without conflicting with the residential intent of the zone, and
- (iv) does not place demands on services beyond the level reasonably required for residential use.

The proposed development is defined as a service station and convenience store, which are not ordinarily permissible development types in the Residential B Zone.

A service station is defined in the Plan as:

"service station" means a building or place used for the fuelling of motor vehicles, the sale by retail of petrol, oil and other petroleum products and the ancillary sale of a limited range of food items for the convenience of patrons....

A convenience store is defined in the Plan as:

"convenience store" means a building or place, with a floor space not exceeding 250 square metres, that is used for the sale of groceries and other small items and that is ancillary to and operated in conjunction with a service station.

Clause 59 and Schedule 2(2) of the Plan apply to the subject site. The Clause and its accompanying Schedule provide for certain uses to be undertaken in residential zones at specific locations. The subject site is permitted to contain a service station/convenience store by way of Clause 59. This means that the proposal is permissible at the site, with Council's development consent.

Clause 42 of the Plan requires Council to consider the impacts of connecting a development adjoining land zoned 5(b) – Arterial Road to that road. In this case, Appin Road is zoned 5(b) – Arterial Road under the LEP.

Similar to the requirements of State Environmental Planning Policy (Infrastructure) 2007, Council is required to consider the feasibility of alternate access to the site in lieu of utilising direct access to the arterial road.

Noting that the current application is identical to that previously approved by Council in terms of its public road access points, the development is considered to be complementary to the requirements of Clause 42. The main road access has been approved by the RMS, subject to detailed designs being prepared and an audit of those designs being undertaken prior to works commencing.

Having regard to the above discussion, the development is considered to be complementary to the controls within Campbelltown (Urban Area) Local Environmental Plan 2002 and is therefore permissible with Council's consent.

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

Campbelltown (Sustainable City) DCP (SCDCP) applies to the site and development type.

Relevant aims of the SCDCP are to:

- ensure that the aims and objectives of any relevant Environmental Planning Instruments 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
- 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
- ensure that new development minimises the consumption of energy and other finite resources, to conserve environmental assets and to reduce greenhouse gas emissions.

The development is consistent with these aims.

Part 2 of the SCDCP applies to all development. Relevant portions of that Part are detailed as follows:

### **Part 2.4 – Sustainable Building Design**

Part 2.4 requires that new buildings be constructed with rain water collection tanks. No tank appears to be proposed with this application. As such, a recommended condition of consent requires the installation and connection of a 5,000 litre rain water collection tank. The volume of the tank is determined by the new service station's roof area.

### **Part 2.5 - Landscaping**

Part 2.5 sets out Council's requirements for site landscaping and landscaping plans and works with other Parts of the SCDCP. The application complies with that Part's requirements.

### **Part 2.7 – Erosion and Sediment Control**

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Part 2.7 requires that erosion and sediment control be considered as part of a new development, particularly during its construction. The proposal is complementary to the SCDCP's requirements. These requirements are further reinforced by recommended conditions of consent.

#### Part 2.10 – Water Cycle Management

Part 2.10 contains Council's requirements for water management. The Part requires the submission of plans and designs for engineered control of stormwater emanating from new developments. The proposal includes a concept design, which is discussed in further detail later in the report and is also referenced in relevant recommended conditions of development consent.

#### Part 2.13 – Security

Part 2.13 encourages building and site design to consider the safety and security of visitors to the site. The development is complementary to the SCDCP's controls, in that it provides for open views of the site, clearly identifies building and site entry/exit points and maximises the potential for casual surveillance.

#### 2.14 – Risk Management

The site is located within a mine subsidence area. The applicant gained approval from the Mines Subsidence Board for the development's construction on 23 January 2013.

#### Part 2.15 – Waste Management

Part 2.15 contains Council's controls for managing waste generated from developments during their demolition, construction and operational phases. A waste management plan was submitted with the application and is referenced in the recommended conditions of consent in Attachment 1.

Part 6 of the Plan relates to commercial development.

#### 6.3.1 – Building form and character

The building is relatively utilitarian in nature, with its use dictating its design and appearance. Notwithstanding, the building would be finished in attractive colours and materials and provides for an interesting streetscape through the use of lighting and glazing. Landscaping has been provided throughout the site to 'soften' the development's appearance when viewed from Appin Road and Kellerman Drive.

#### 6.4 – Car parking and access

The development would be provided with 9 car parking spaces. A dedicated service vehicle delivery area is also provided adjacent to the convenience store building. Significant area is also provided for cars to queue within the site whilst waiting for access to fuel dispensers.

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The DCP requires the provision of one car parking space per 25 square metre of leasable floor area. In this instance, car parking would be calculated by the following:

$$171.2/25 = 6.85 - \text{say } 7.0 \text{ spaces}$$

The development requires seven car parking spaces and provides nine (including one disabled space). The development is therefore compliant with the Plan.

The access provided to the site is considered to be compliant with the DCP. Entry/exit points are well defined, forward entry and exit is provided for both small and heavy vehicles and adequate manoeuvring area is provided for the maximum sized trucks that would access the site. The underground tank refilling point is located along the site's frontage to Appin Road, meaning that articulated tankers do not have to traverse far into the site to unload.

#### 6.6 – Landscaping

The site is proposed to be landscaped, predominantly on its boundaries with a variety of shrubs and ground cover plants. Having regard to driver safety (sight lines and the like) as well as the security of staff working at the site, the level of landscaping provided is considered to be satisfactory.

#### 6.7 – Residential interface

The SCDGP requires certain considerations be met when commercial development takes place near existing residential development. Several residences are within a relatively short distance to the site. It is likely that in the future, additional dwellings would also be constructed in its vicinity as the land surrounding the service station/convenience store is developed for urban purposes. Thus, it is appropriate to consider the possible impacts that the development may have on existing residents.

The main impacts to be considered in this instance are noise and lighting. Separate discussions on each matter are found later in this report (sections 2.1 and 2.2). The application does comply with the setback requirements detailed in Part 6.7(a).

Having regard to the above discussion, the application is considered to be consistent with the DCP.

### 3. Planning Assessment

#### 3.1 Impacts on the Natural and Built Environment

Section 79C(1)(b) of the *EP&A Act* requires Council to assess the development's potential impacts on the natural and built environment.

The primary areas in which the development may potentially have some impacts on the environment are detailed as follows:

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There are considered to be four main potential impacts of the proposed development, being:

- noise
- lighting
- flooding/stormwater
- fire hazard.

Each potential impact is discussed in detail below.

**a. Noise**

Having regard to the proximity of existing residences and the proposed hours of operation for the development, noise is considered to be a possible impact of the development on the environment. Consequently, the application was submitted with a noise impact assessment, which is discussed below.

Background noise monitoring was undertaken in order to assess existing noise conditions. The report found that noise is likely to be generated from two main sources throughout operation of the service station – firstly cars accessing the site for refuelling and secondly, tankers accessing the site to service the development.

The noise impact assessment report considered the impact of each type of noise source, with the main noise being generated by tanker trucks accessing the site outside busy hours for the petrol station. The report found that tanker deliveries are not likely to cause sleep disturbance to nearby residents, on the basis that:

- Reversing alarms are not used at the site – and it should be noted that reversing of tankers will not be required as they would enter and leave the site in a forward direction heading south on Appin Road
- An acoustic barrier, constructed of masonry, timber or clear 10mm thick lexan will need to be constructed along the site's southern and eastern boundaries to 3 metres high relative to the ground height of surrounding residential receivers.

The lexan sheeting may be used along boundaries where the acoustic barrier would cause a shadow over residential back yards. A recommended condition of consent requires the applicant to liaise with affected neighbours to determine their preference where the acoustic barrier may restrict sunlight.

Notwithstanding the report's recommendations and comments, particularly those relating to tanker deliveries, it is not unreasonable to restrict deliveries to the site, noting its proximity to residential dwellings. To this end, a recommended condition of consent restricts the hours in which trucks (such as fuel and food deliveries, garbage removal and the like) can visit the site, so as to minimise disturbance nearby residents. The condition prohibits heavy vehicle access to the site between 10pm and 7am.

Having regard to the findings of the noise impact assessment report and the recommended conditions regarding truck movements and provision of an opaque noise barrier where requested, the noise impact of the development is not considered likely to adversely impact on the locality.

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**b. Lighting**

Having regard to the proximity of existing residences and the proposed hours of operation for the development, lighting of the site is considered to be a possible impact of the development on the environment.

The site would be well lit during night time operations for the safety of drivers using the area and security of staff and visitors. The application proposes the use of leading LED lighting technology, which features a particularly focussed beam and low diffusion rate for lighting within the main awning.

Signage lighting is not considered likely to be of a strength that would detrimentally affect motorists or nearby residents.

A recommended condition of consent requires that lighting not impact on residences. Having regard to the submitted information, the impact of the development is not considered likely to adversely impact on the locality.

**c. Flooding and Stormwater**

Council has been made aware that the site as it is at present, sometimes leads to water flowing directly into neighbouring residential premises. Uncontrolled surface water follows the land's slope towards neighbouring properties along the site's eastern boundary.

Construction of the subject development is anticipated to correct this issue permanently, as stormwater collection pits and a grass swale would be constructed along the eastern boundary to catch water before it would otherwise enter neighbouring yards.

Recommended conditions of consent in relation to the stormwater capture system have been included in Attachment 1.

**d. Hazard Assessment**

As detailed earlier in the report, the application has been subjected to a Preliminary Hazard Analysis (PHA) pursuant to the requirements of SEPP 33.

The hazard analysis discussed the potential hazard of the development, in light of its surroundings and the volatility of fuels being deposited/removed from the site.

Having regard to the consultant's PHA, the development is not considered to be a potentially hazardous storage establishment or industry as appropriate exclusion zones (particularly around fuel tank fill and pump dispensers) have been incorporated into the development's design. The application is considered to be in compliance with the relevant requirements of SEPP 33.

Recommended conditions of development consent detail compliance with the safety management requirements of the Department of Planning's Major Hazards publications, as well as SEPP 33 and other industry standards.

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### 3.2 Site Suitability

Section 79C(1)(c) of the *Environmental Planning and Assessment Act 1979* requires Council to consider the development's suitability for the site at which it is proposed.

Important considerations in this instance are the development's potential impact on existing nearby residences by way of noise, hazard and light intrusion and the impact upon the locality of traffic and the character of the development.

With regard to the first considerations, following assessment of submitted information and review of addendums received following requests for further information, the application is considered unlikely to have a detrimental impact upon the natural and built environment.

The secondary issues, traffic and character are addressed below.

**Character** – the site is located on the fringe of an existing residential area, adjacent to one of the City's busiest roads. The building and site design is considered to be 'utilitarian' in nature – where the design of the site and building reflect their use. The development of the site presents an open style of development, where attractive colours and signage would be placed throughout the site. The landscaping treatment at the corner of Kellerman Drive and Appin Road serves as a focus point. The scale of the development and its siting on the lot, as far as possible away from existing residents, is considered to be not incompatible to the existing development in the locality.

**Traffic** – the development application was accompanied by a traffic impact report, which discussed the development's potential traffic impact in the area. The report contained information regarding peak usage times, predicted in this instance to be Friday evening, as the largest amount of southbound traffic uses Appin Road at this time. The report concludes that the existing intersection at Appin Road and Kellerman Drive (as well as Fitzgibbon Lane) operates efficiently during evening and morning peaks, as well as during weekends.

The assessment concludes that the majority of visitors to the service station/convenience store are likely to be "passing trade movements, ie. vehicles already in the traffic flow", meaning that the development of the site is not likely to significantly increase traffic flows in the vicinity.

The issues regarding the use of Kellerman Drive as an entry and exit point to the site as a result of the proposed opening of the median strip remain unresolved (in terms of detailed design) and will need to be addressed by the applicant prior to any work commencing for the subject development.

An extract from the officer's report prepared in 2011 in relation to that opening and its potential implications for Kellerman Drive follows:

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### 3.3 Lot 5324 DP 118/9779, Cnr Appin Road And Kellerman Drive, St Helens Park - Construction And Operation Of A 24 Hour Service Station And Convenience Store

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Two main factors are considered in the current assessment of the proposal. They are:

- the ability of Kellerman Drive to accommodate the proposed turning and acceleration lane(s) as illustrated on the proposed plan (at Attachment 4 to this report)
- the impact of the proposal on nearby traffic flows, traffic safety and residential amenity.

Council's Technical Services (Traffic and Road Design) Unit has reviewed the proposal, along with the submitted traffic data received from the applicant's traffic consultant and data from the RMS's vehicle logs generated at the nearby signalised intersection.

Staff from the Technical Services (Traffic and Road Design) Unit have not raised a general objection to the proposal, however have expressed concern with regard to the following technical matters:

- the resultant width of the median island should it be reduced in size as proposed and its ability to comply (or otherwise) with minimum standards for separating traffic
  - the resultant width of Kellerman Drive and its ability to safely accommodate two separate lanes of traffic (on its northern side), noting the position of the existing northern kerb and gutter and the minimum lane width requirements as detailed in the Austroads road design publications
  - the distance of the proposed median island break from the signalised intersection is relatively short (approximately 40 metres). Due to downward slope, the median island break/point of access may not be immediately evident to the drivers of vehicles leaving Fitzgibbon Lane in an eastbound direction and heading through onto Kellerman Drive
  - the ability for tankers accessing the site to make a left turn from Appin Road into Kellerman Drive should they wish to access the site in that manner rather than via Appin Road
  - the length of the proposed turning lane into the site from Kellerman Drive and its ability to accommodate vehicles waiting to turn in peak times when the other side of Kellerman Drive (westbound) is blocked by vehicles queuing at the signalised intersection. At approximately 25 metres in length, the lane would provide queuing for approximately four cars or one 19 metre b-double fuel tanker and one car (allowing for stopping gaps between vehicles)
  - the safety and traffic flow impacts of this turning lane being full of vehicles waiting to turn into the service station/convenience store queuing through the intersection at Appin Road.
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Further detailed design and study work will need to be undertaken to ensure that the proposal complies with relevant Austroads road design guidelines. This may result in the widening of Kellerman Drive, which would be undertaken at the applicant's expense in order to adequately accommodate turning.

Final approval of any works in the public road area would be subject to thorough assessment by Council's City Works Division, Council's Local Traffic Committee and where applicable, the RMS. This would be undertaken prior to the issue of a construction certificate in relation to the service station/convenience store's ongoing development.

Having regard to the above discussion and the development's likely minimal adverse impact on the environment subject to compliance with relevant road safety and design standards, the development is considered to be suitable for the site.

#### **4. Public Participation**

The application was notified to 33 adjoining and nearby owners for a period of two weeks during October 2013. Council received five objections as a result of the notification. Issues raised are detailed and discussed below:

- **Plans mention a "food and drink premises"**

Submissions noted that the plans detailed a "food and drink premises" and associated car parking in a note to the side of the site plan.

**Comment:** It is correct that the plans forwarded to nearby land owners mentioned a "food and drink premises". This was in error and the note should have been taken off the plans following Council officer's request that the applicant remove a proposed fast food restaurant from the development as it does not comply with relevant zoning restrictions.

The development as presented and assessed by this report does not include a "food and drink premises" and only relates to the construction and operation of a service station/convenience store (as illustrated in Attachment 3 to this report).

- **The proposal's layout provides for future development**

Some submissions noted that vacant areas on the site and the alignment/location of the proposed driveway from Kellerman Drive to the service station would provide for future development of the site.

**Comment:** The layout of the development proposal does indeed leave certain areas of the allotment vacant. The service station/convenience store operator has sought to lease only a certain portion of the land from its owners.

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### 3.3 Lot 5324 DP 118/9779, Cnr Appin Road And Kellerman Drive, St Helens Park - Construction And Operation Of A 24 Hour Service Station And Convenience Store

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Any development proposals (other than for the purpose of a service station/convenience store) that are not for use of the land in accordance with the range of uses permissible in the Residential 2(b) zone, would require an amendment to the environmental planning instrument applying to the land. Nearby residents and the community in general would be afforded an opportunity to make submissions on any such proposed amendment (and potential subsequent development applications) at the site should they be lodged at the time. The owner would also be required to submit a planning proposal to Council, at which time matters raised in submissions, such as increased traffic and noise at the site, would be considered.

Notwithstanding the above, the current proposal is considered to be compliant with the permissible land use provided for the site via Clause 59 and Schedule 2(2) of the currently applicable environmental planning instrument Campbelltown (Urban Area) Local Environmental Plan 2002.

- **Noise, light, privacy and other amenity impacts**

Submissions raised issue with the development's potential to impact residential amenity by way of being a source of noise, light intrusion, loitering persons, vermin, increased litter and privacy impacts.

**Comment:** Expert reports submitted with the application and Council's previous assessment of development at the site in relation to the proposal's traffic and noise impacts detail that subject to ameliorative measures being implemented, the development is not likely to have significant detrimental impacts on the local environment. The ameliorative measures include:

- construction of a noise abatement barrier, with neighbour consultation regarding the material to be selected adjacent to their boundary
- installation of directional LED lighting under the service station canopy to reduce light spread
- road intersection and design work in relation to the site's access/egress points (including potential widening of Kellerman Drive and with the RMS's concurrence, changes to the signals at the nearby intersection to provide for a 'right-turn' phase)
- restrictions on truck access times.

Further, a recommended condition of development consent requires the applicant to prepare and implement a 'Plan of Management' for the site, which addresses matters such as litter control, noise abatement (including requesting that customers leave the site immediately after completing their purchases) and truck delivery times.

- **An additional service station is not required in the area**

Submissions noted that there are three other service stations within reasonable proximity of the subject site. The service stations are on Appin Road, south of the site, Fitzgibbon Lane in Rosemeadow and Woodland Road in St Helens Park. The submission questions the need for another service station.

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**Comment:** The proposal is a permissible development at the site. Council is not able to determine the financial viability (or otherwise) of a particular business and how it would perform upon consideration of nearby similar businesses.

The site is considered to be suitable for the proposed development.

- **Traffic safety**

Submissions expressed concern with the proposal's two access/egress points and potential impacts to traffic safety in the vicinity, particularly in regard to the slow speed of trucks leaving the site on Appin Road after making a delivery.

**Comment:** As mentioned earlier in the report, the access/egress points are identical to those previously approved at the site. The final design and construction of these access/egress points would be subject to further detailed assessment by Council and the RMS, including the completion of a road safety auditing process. There would be an allowance for an acceleration area in Appin Road prior to vehicles leaving the service station merging into traffic lane(s). The intersection would need to be designed in accordance with the RMS's requirements.

- **The setback of the development to Appin Road does not comply with Council's controls**

A submission stated that the development does not meet Council's setback requirement to Appin Road.

**Comment:** The proposal meets Council's DCP requirement, which in this case is 5.5 metres and the development at its closest point to Appin Road would be approximately 9.3 metres.

- **Devaluation of residential properties**

Submissions raised concern that nearby residential properties would be 'devalued' if the service station/convenience store was developed at the site.

**Comment:** The value of a residential property before and after a development is constructed is very difficult to quantify and no evidence supporting the claims made in submissions was presented. The development as proposed is permissible according to the Council's relevant environmental planning instrument.

## **5. Conclusion**

A development application to construct and operate a service station/convenience store at the corner of Appin Road and Kellerman Drive, St Helens Park has been received. The application is similar in nature to that of an application that was approved by Council at the site in 2003.

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### 3.3 Lot 5324 DP 118/9779, Cnr Appin Road And Kellerman Drive, St Helens Park - Construction And Operation Of A 24 Hour Service Station And Convenience Store

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The service station/convenience store is proposed to operate for 24 hours each day and would dispense a range of petroleum fuels and provide a small range of groceries and food/beverages to customers. The development includes the construction of dedicated car parking areas, as well as access /egress points to both Kellerman Drive and Appin Road, which are identical to those previously approved by both Council and RMS. Final design and approval of these intersection would be subject to further input from the RMS and Council.

The proposal is complementary to existing environmental planning instrument requirements and objectives.

The proposal was notified to adjoining and nearby owners and as a result, five submissions were received in objection to the proposal. The submissions raised issues such as traffic safety, impacts on local amenity and potential future development at the site.

Recommended conditions of consent have been formulated to (amongst other things) attempt to ameliorate the impacts of the development on neighbours in terms of lighting, noise, drainage and the site's commercial operation.

With due reference to the matters for consideration under Section 79C of the *Environmental Planning and Assessment Act 1979* and the issues raised throughout the report, it is considered that the proposed development is satisfactory and should be approved subject to the recommended conditions contained in Attachment 1.

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

That development consent is granted for the construction and operation of a service station/convenience store at Lot 5324 DP 1189779, on the corner of Appin Road and Kellerman Drive, St Helens Park, subject to the conditions detailed in Attachment 1 of this report.

**Committee Note:** Mr Ellis, Mr Greaves and Mr Luhr addressed the Committee in opposition to the development.

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

That the Officer's Recommendation be adopted.

#### **CARRIED**

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

Voting against the Committee's Recommendation was Councillor Lound.

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### **Council Meeting 10 December 2013 (Greiss/Rowell)**

That the Officer's Recommendation be adopted.

### **Council Resolution Minute Number 266**

That the Officer's Recommendation be adopted.

Voting for the Council Resolution were Councillors: Borg, Glynn, Greiss, Hawker, Kolkman, Lake, Mead, Oates, Rowell and Thompson.

Voting against the Council Resolution were Councillors: Brticevic, Dobson and Lound.

**Note:** Councillor Matheson had not arrived at the meeting at this stage and did not take part in debate nor vote on Item 3.3.

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### 3.4 No. 10 Phiney Place, Ingleburn - Construction Of A Two Unit Warehouse Type Building With Associated Office Areas, Car Parking, Retaining Walls And Fencing

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## 3.4 No. 10 Phiney Place, Ingleburn - Construction of a two unit warehouse type building with associated office areas, car parking, retaining walls and fencing

### Reporting Officer

Manager Development Services

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### Attachments

1. Recommended conditions of consent (contained within this report)
2. Locality plan (contained within this report)
3. Site plan (contained within this report)
4. Elevations (contained within this report)
5. Landscape plan (contained within this report)
6. State Environmental Planning Policy No. 1 – Objection (contained within this report)

### 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>	Lot 1 DP 182766, Lot 13 DP 1071594 & Lot 14 DP 1071594 – No. 10 Phiney Place, Ingleburn
<b>Application No</b>	993/2013/DA-I
<b>Applicant</b>	Deemco Pty. Ltd
<b>Owner</b>	Deemco Pty. Ltd
<b>Provisions</b>	<p>Campbelltown 2025 Looking Forward</p> <p>State Environmental Planning Policy (Infrastructure) 2007</p> <p>Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment</p> <p>Campbelltown (Urban Area) Local Environmental Plan 2002</p> <p>State Environmental Planning Policy No. 1 – Development Standards</p> <p><i>Water Management Act 2000</i></p> <p>Campbelltown (Sustainable City) Development Control Plan 2009</p> <p>Campbelltown Development Control Plan No. 99 – Advertising Signs</p> <p>Development Control Plan No. 87 – Public Notification and Public Exhibition Policy</p> <p>Campbelltown City Council Section 94A Development Contributions Plan</p>
<b>Date Received</b>	10 May 2013

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## History

The subject site was created as part of the original 'Austool' development, which was a joint initiative between Council and Landcom. The land release aimed to encourage the location of specialised tooling and other manufacturing industries within Campbelltown. A restriction on the property's title and in Council's relevant local environmental plan, which required that such tooling or manufacturing industries are constructed on the land has since lapsed.

The site was previously subject to a development application to construct and operate a gas manufacturing, warehousing and distribution facility.

This application was refused by Council in April 2008. The applicant subsequently appealed to the Land and Environment Court and the proposal was granted approval in November 2008, subject to several conditions.

However, the approved gas manufacturing, warehousing and distribution facility was never physically commenced at the site and the Court's consent has since expired.

## Report

Development Consent is sought for the construction of a two unit warehouse type building (with gross floor areas of approximately 4,480m<sup>2</sup> and 5,450m<sup>2</sup>), with associated office areas, car parking, retaining walls and fencing.

The site consists of three separate allotments, is irregular in shape and has a total site area of approximately 2.1 hectares. The site adjoins the Main Southern Railway Line, a watercourse and other industrial lots.

The application has been made as an Nominated Integrated Development pursuant to the provisions of Section 91A of the *Environmental Planning and Assessment Act 1979*, as the proposal requires an Activity Approval from the NSW Office of Water under the *Water Management Act 2000*.

### 1. Vision

#### Campbelltown 2025 Looking Forward

'Campbelltown 2025 Looking Forward' is a vision 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
- 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.

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### 3.4 No. 10 Phiney Place, Ingleburn - Construction Of A Two Unit Warehouse Type Building With Associated Office Areas, Car Parking, Retaining Walls And Fencing

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The strategic directions relevant to this application are:

- growing the Regional City
- building a distinctive Campbelltown sense of place
- creating employment and entrepreneurial opportunities.

The proposed development is generally consistent with these directions.

Some of the 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 environmentally sustainable
- an impression of architecture that engages its environmental context in a sustainable way
- development and land use that matches environmental capacity and capability.

The proposed development has been assessed giving regard to Campbelltown 2025 Looking Forward. It is considered that the Development Application is generally consistent with the Vision's desired outcomes when giving regard to the design and level of impact on adjoining development and the locality.

## **2. Planning Provisions**

The development has been assessed in accordance with the heads of consideration under Section 79C of the *Environmental Planning and Assessment Act 1979*, and having regard to those matters the following issues have been identified for further consideration.

### **2.1 State Environmental Planning Policy (Infrastructure) 2007**

Given that the site is located immediately adjacent to a rail corridor (The Main Southern Railway) that is used by electric trains and that the proposal involves the placing of a metal finish on a structure, pursuant to the requirements of Clause 85 and 86 of State Environmental Planning Policy (Infrastructure) 2007, written notice was sent to Railcorp notifying it of the development proposed adjacent to its corridor.

Railcorp has since responded to the notice, and subject to the inclusion of specific conditions, raised no objection to the proposal. As requested, the conditions specified by Railcorp have been included within the draft recommended conditions of consent at Attachment No. 1.

### **2.2 Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment**

The proposal does not conflict with any of the relevant provisions of Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment, and is therefore considered acceptable in this regard.

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### 3.4 No. 10 Phiney Place, Ingleburn - Construction Of A Two Unit Warehouse Type Building With Associated Office Areas, Car Parking, Retaining Walls And Fencing

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## 2.3 Campbelltown (Urban Area) Local Environmental Plan 2002

The subject site is zoned 4 (a) General Industry under the provisions of Campbelltown (Urban Area) Local Environmental Plan 2002 (LEP 2002). The proposed warehouse type development is permissible within the zone and is considered to be consistent with the following objectives of the zone:

- (a) to encourage activities that will contribute to the economic and employment growth of the City of Campbelltown, and
- (b) to allow a range of industrial, storage and allied activities, together with ancillary uses, the opportunity to locate within the City of Campbelltown, and
- (c) to encourage a high quality standard of development which is aesthetically pleasing, functional and relates sympathetically to nearby and adjoining development.

Consequently the proposal satisfies the provisions of Clause 12 of LEP 2002 and Council can grant development consent should it deem appropriate to do so.

Sub-clause 37 (a) of LEP 2002, states that Development Consent must not be granted, other than in relation to the use of land for landscaping, for access roads and for off street parking, on any land within Zone 4 (a) or 4 (b) which is within 30m of the Main Southern Railway Line. The proposed building is setback a minimum of 1m and variable, from the Main Southern Railway Corridor, and as such, is not considered to comply with the 30m setback standard found within Sub-clause 37 (a) of LEP 2002.

The applicant acknowledges this non-compliance and has lodged an objection to the standard under the provisions of State Environmental Planning Policy No. 1 – Development Standards (SEPP 1). The applicant seeks Council's approval to vary the development standard on the grounds that being forced to strictly comply with the standard, would be unreasonable in the circumstances of the case. The SEPP 1 variation is discussed in more detail below.

Sub-clause 37 (d) of LEP 2002, requires that Development Consent must not be granted, other than in relation to the use of land for landscaping, for access roads and for off street parking, on any land within Zone 4 (a) or 4 (b) which is within 10m of Phiney Place (i.e. any other road). The proposed building is setback 10m from Phiney Place, thereby complying with the provisions of Sub-clause 37 (d) of LEP 2002.

## 2.4 State Environmental Planning Policy No. 1 – Development Standards

State Environmental Planning Policy No. 1 – Development Standards (SEPP 1) aims to provide flexibility in the application of planning controls operating by virtue of development standards, in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary.

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3.4 No. 10 Phiney Place, Ingleburn - Construction Of A Two Unit Warehouse Type Building With Associated Office Areas, Car Parking, Retaining Walls And Fencing

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SEPP 1 provides for objections to development standards, which in this instance, is the minimum setback to the Main Southern Railway Line requirement, specified by Sub-clause 37 (a) of LEP 2002. Accordingly, the application has been accompanied by an objection (attached) under the provisions of SEPP 1, seeking a variation to such.

The objectives of SEPP 1 are to provide flexibility in the application of development standards, in circumstances where strict compliance, would be unreasonable or unnecessary, or would hinder the attainment of the objectives specified in Section 5 (a) (i) and (ii) of the *Environmental Planning and Assessment Act 1979*.

The relevant objectives of Section 5 of the *Environmental Planning and Assessment Act 1979*, are:

“(a) to encourage:

- (i) the proper management development and conservation of natural and man-made resources, including agricultural land, natural areas, forest, minerals, water cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment;
- (ii) the promotion and co-ordination of the orderly and economic use and development of land;”

It is considered that the proposal is not inconsistent with these objectives.

The subject application seeks to vary the provisions of Sub-clause 37 (a) of LEP 2002, by locating the proposed building within the 30m Main Southern Railway Line setback.

The proposed building is setback a minimum of 1m from the Main Southern Railway Corridor, which equates to a variation to the relevant standard of over 95%.

It is noted that as the adjacent Main Southern Railway corridor passes through the Campbelltown Local Government Area, it generally does so at a constant width and boundary alignment. Similarly, the railway tracks also run generally parallel to the boundaries of the railway corridor as they pass through the Campbelltown LGA.

However, inconsistent to that of the normal railway alignment, although the railway tracks do not change alignment, for a large part of the eastern side of the subject site (and only for the extent of the subject site), the boundary of the adjacent rail corridor diverges from its normal alignment and widens significantly to the west and towards the subject land. This divergence occurs in response to drainage infrastructure associated with the railway line.

Having regard to the above, whilst the proposed building is located a minimum of 1m from the locally divergent rail corridor boundary, the proposed building is located at a similar setback from the actual railway tracks to that of other existing buildings in the local area. As designed, the proposed building is located a minimum of 31m from the closest railway track within the adjacent rail corridor.

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### 3.4 No. 10 Phiney Place, Ingleburn - Construction Of A Two Unit Warehouse Type Building With Associated Office Areas, Car Parking, Retaining Walls And Fencing

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The accompanying objection to the development standard, lodged under the provisions of SEPP 1, seeks to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.

The objection provided the following reasons:

- i. The main southern railway as it passes through the Campbelltown Local Government Area has a predominant uniform width being sufficient to accommodate the rail tracks, associated infrastructure and maintenance. In the case of the subject land the adjoining zoned corridor widens by the addition of Lot 1 DP 1062256 having a width of 20m and variable as the land returns to the northwest.
- ii. Compliance with the standard is unnecessary as the proposed development observes the required setback of 30m to the actual railway line.
- iii. Application of the standard measured from the boundary of what is effectively intervening land (provided as additional to actual rail corridor general operational needs) would unreasonably and unnecessarily affect the proper economic development of the subject land.
- iv. Application of the standard measured from the zoned corridor in its varying cadastral boundaries is unreasonable when the clear intent of the standard is to provide setbacks to the actual railway line and not to additional land attached to the corridor by zoning only.

Given the proposed building is setback a minimum of 31m from the closest railway track and on an alignment (when viewed from the rail corridor) similar to other buildings adjacent to the rail corridor, it is considered that the technical encroachment will not be visually perceivable to rail commuters. In fact, it could be argued that to strictly comply with the setback standard would cause an undesirable visual outcome in that it may result in an inconsistent rhythm to the current and desired future built alignment along the railway corridor.

In addition to the above, it is considered that any approval for the variation of the development standard would not result in a precedent allowing for significant variations of a similar quantum, as the subject circumstances are unique in nature and the boundary divergence at this location is uncharacteristic when considering the whole of the rail corridor and its generally consistent width as it passes through the Campbelltown LGA.

In providing further support for the SEPP 1 objection, the applicant has upgraded the building façade along the railway corridor, including the addition of vertical and horizontal architectural devices along the face of the building. The applicant has also introduced substantial landscape planting along the boundary interface to screen vehicles that may be parked along the boundary; screen areas so as to prevent graffiti attack on the walls presenting to the railway corridor; as well as to reduce the visual scale and massing of the proposed building.

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### 3.4 No. 10 Phiney Place, Ingleburn - Construction Of A Two Unit Warehouse Type Building With Associated Office Areas, Car Parking, Retaining Walls And Fencing

Accordingly, the objection to the development standard is considered to be reasonably well founded and it is recommended that the Council allow the variation to the development standard in this instance.

Pursuant to the Department of Planning and Infrastructure Circular B1, Council or its delegate, may assume the concurrence of the Director General of the Department of Planning, in varying the Standard. However, where the variation is greater than 10%, the concurrence provision is only extended to that of the full Council. Given the extent of the variation sought, this application cannot be dealt with under delegated authority and must be dealt with by the full Council.

## 2.5 Campbelltown (Sustainable City) Development Control Plan 2009

The following compliance table details the assessment of the proposal in accordance with the relevant requirements of the Campbelltown (Sustainable City) Development Control Plan 2009.

Section	Control	Requirement	Proposed	Compliance
2.4 (b)	Rain Water Tanks	A 50,000L rain water tank shall be provided for all new buildings containing a roof area of between 10,001m <sup>2</sup> and 20,000m <sup>2</sup> .	The proposal includes two 25,000L underground rain water tanks.	Yes
2.5	Landscaping	Provision of a detailed landscape plan, which shall enhance the visual character of the development and complement the site, and enhance the existing indigenous flora and fauna characteristics of a site wherever possible.	The application has been accompanied by a detailed landscaped plan, which includes various indigenous plantings.	Yes
2.12 (1) (c)	Fencing	Commercial and industrial fencing shall be a maximum 2.4m in height.	The proposal includes 2.1m high front fencing and 2m high side fencing.	Yes
2.12 (1) (e)	Fencing	Fencing on corner allotments shall not obstruct the sight distance of traffic entering or within an intersection or roundabout.		NA
2.15	Waste Management	Provision of a detailed Waste Management Plan.	The proposal has been accompanied by a detailed Waste Management Plan.	Yes
6.3.1 (a) (i)	Building Design	Provision of vertical and / or horizontal offsets in the wall surfaces at regular intervals, including columns, projections, and recesses.	The front facade and the facade addressing the railway line, both contain vertical and horizontal variations.	Yes
6.3.1 (a) (ii)	Building Design	Articulate architectural details around doors, windows front facades, roofs and	The design is of a high quality / contemporary	Yes

3.4 No. 10 Phiney Place, Ingleburn - Construction Of A Two Unit Warehouse Type Building With Associated Office Areas, Car Parking, Retaining Walls And Fencing

Section	Control	Requirement	Proposed	Compliance
		entrances.	architectural design incorporating various elements of architectural interest.	
6.3.1 (a) (iii)	Building Design	Articulate walls through the use of texture, colour, material changes, shadow lines and other facade treatments, at least every 15m.	The front facade and the facade addressing the railway line, are both treated / varied at least every 15m.	Yes
6.3.1 (a) (iv)	Building Design	At least 50% of the total surface area of the front elevation to be constructed of masonry material.	Approximately 35%	No. However, given that the front elevation provides for a high level of visual interest (with glazing and vertical articulation), and when considering the extent of landscaping proposed at the front, it is considered that the proposal is satisfactory.
6.3.1 (b)	Building Design	Buildings on corner allotments shall be designed to address both street frontages.		NA
6.3.1 (c)	Building Design	Buildings shall be predominantly single storey in height (excluding basements, mezzanines and offices).	The proposal is single storey in height.	Yes
6.3.1 (d)	Building Design	Mezzanines and / or offices shall not comprise more than 30% (combined) of the gross floor area of the building (or each unit in a complex).	Approximately 13%	Yes
6.3.1 (e)	Building Design	No building shall rely upon a required path of egress (as defined within the BCA) over adjoining private land.	Egress is provided directly to the adjacent Road Reserve.	Yes
6.3.1 (f)	Building Design	No building or structure shall be erected within a right of carriage way or easement.		NA
6.3.1 (g)	Building Design	A schedule of proposed colours, materials and finishes shall accompany all development applications for new industrial buildings.	The proposed finishes are of an earthy tone and include elements of varied texture.	Yes
6.3.1 (h)	Building Design	The main entry to the building shall be easily identifiable from the street and directly accessible from	The main entry to the front warehouse is easily identifiable when approached	Yes

3.4 No. 10 Phiney Place, Ingleburn - Construction Of A Two Unit Warehouse Type Building With Associated Office Areas, Car Parking, Retaining Walls And Fencing

Section	Control	Requirement	Proposed	Compliance
		the front of the building.	from the street and is directly accessible from the front of the building.	
6.3.2 (a) (i)	Building Setbacks	30m from the Main Southern Railway Corridor.	1m minimum and variable	No. However, and despite the technical non-compliance with the 30m rail corridor setback, given that the building is to be situated 31m from the nearest railway track (similar setbacks to all other buildings in this area), and the rail corridor at this location is of an uncharacteristic width, it is considered that variation sought is not unreasonable and as such, this subclause is considered to have been satisfied.
6.3.2 (a) (iii)	Building Setbacks	10m from Phiney Place.	10m	Yes
6.3.2 (b)	Building Setbacks	Buildings adjoining residential zones, shall be setback a minimum of 10m.		NA
6.3.3 (a)	Fences	Fencing in industrial developments shall be of recessive colours, palisade design, or plastic coated and framed chain wire with a maximum height of 2.4m, unless required as part of an acoustic solution.	The proposal includes 2.1m high, black powder coated, palisade style fencing, along the front boundary and 2m high, black powder coated, palisade style fencing, along the side boundary.	Yes
6.4.1 (a)	Car Parking and Access	Off street parking and loading shall be designed in accordance with Australian Standard AS 2890.1 and 2 (as amended).	Parking and loading facilities have been designed in accordance with Australian Standard AS 2890.	Yes. Furthermore a condition has been included within the recommendation requiring compliance with such.
6.4.1 (c)	Car Parking and Access	<ul style="list-style-type: none"> <li>a minimum of two spaces (per unit), plus</li> <li>one space for every 100m<sup>2</sup> of leasable floor</li> </ul>	110 spaces	Yes

3.4 No. 10 Phiney Place, Ingleburn - Construction Of A Two Unit Warehouse Type Building With Associated Office Areas, Car Parking, Retaining Walls And Fencing

Section	Control	Requirement	Proposed	Compliance
		<p>area for buildings up to 2,000m<sup>2</sup>,</p> <ul style="list-style-type: none"> <li>one space per 250m<sup>2</sup> for that part of the building exceeding 2,000m<sup>2</sup>, and</li> <li>one space per 35m<sup>2</sup> for any office area.</li> </ul> <p>Equating to 109 spaces</p>		
6.4.1 (e)	Car Parking and Access	Sufficient space shall be provided on site so that no vehicle shall be required to make more than a three-point movement to enter and exit the site in a forward direction.	The proposal provides for adequate onsite manoeuvring.	Yes
6.4.1 (f)	Car Parking and Access	No car parking spaces or manoeuvring areas shall occupy more than 50% of the required front setback area.	Car parking and manoeuvring areas occupy approximately 49% of the required front setback area.	Yes
6.4.1 (g)	Car Parking and Access	No car parking spaces shall be designed in a stacked configuration.	None of the car parking spaces are of a stacked configuration.	Yes
6.4.1 (i)	Car Parking and Access	Each site shall have a maximum of one ingress and one egress for heavy vehicles (combined or separated). Though each site may have an additional ingress / egress for cars (and other light vehicles).	<p>The proposal includes two driveways.</p> <p>A driveway servicing the loading bay area for Unit 1 and a car parking area, and a driveway servicing the loading bay area for Unit 2 and the remaining car parking areas (both driveways are for both heavy vehicles and cars).</p>	No. However given that the site includes two allotments that each have access to Phiney Place and that the driveways are separated by approximately 30m, it is considered that the proposal is satisfactory in this regard.
6.4.1 (j)	Car Parking and Access	A minimum of 10% of the required car parking spaces, including disabled spaces, shall be located within close proximity to the main pedestrian entry to the building.	Approximately 35% of the car parking spaces, including both disabled spaces, are located adjacent to an entry point of either unit.	Yes. Furthermore, a condition has been included within the recommendation requiring the disabled spaces to be appropriately marked and maintained, at all times.
6.4.2 (a)	Loading and Unloading	Each industrial factory / unit shall be provided with a loading bay.	Both units include five loading bay areas.	Yes

3.4 No. 10 Phiney Place, Ingleburn - Construction Of A Two Unit Warehouse Type Building With Associated Office Areas, Car Parking, Retaining Walls And Fencing

Section	Control	Requirement	Proposed	Compliance
6.4.2 (b)	Loading and Unloading	Provision shall be made for all loading and unloading to take place wholly within the site.	The proposal provides for adequate loading and unloading areas on the site.	Yes
6.4.2 (c)	Loading and Unloading	No loading or unloading shall be carried out across parking spaces, landscaped areas, pedestrian aisles or on roadways.	The loading bays do not conflict with car parking or landscaped areas.	Yes
6.4.2 (d) (ii)	Loading and Unloading	Each industrial building having a leasable floor area of more than 1,500m <sup>2</sup> shall provide a loading area to allow for a heavy rigid vehicle to manoeuvre on site.	Manoeuvring areas are provided for articulated vehicles.	Yes
6.4.3 (a)	Access for People with Disabilities	Industrial developments shall comply with the minimum access requirements contained within the BCA and Australian Standard 1428 – Design for Access and Mobility (as amended).	Consideration of the proposal indicates that the proposal has the potential to satisfy such requirements.	Yes. Furthermore a condition has been included within the recommendation requiring the provision of details (prior to the issuing of a Construction Certificate) demonstrating compliance with the relevant requirements of the BCA and AS 1428 – Design for Access and Mobility.
6.5 (a)	Landscaping	A detailed landscape plan and report shall be prepared by a suitably qualified person and submitted with all development applications for the construction of industrial buildings.	The application was accompanied by a detailed landscape plan.	Yes
6.5 (b) (i)	Landscaping	Landscaping shall be provided to a minimum of 50% of each required setback area located along the full width of each street frontage (other than vehicle driveways).	Landscaping has been dedicated to approximately 51% of the required front setback area.	Yes
6.5 (b) (ii)	Landscaping	Landscaping shall be provided to a minimum of 50% of each required setback area located along the full width of setbacks of sites adjoining open space, residential and / or commercial areas.		NA

### 3.4 No. 10 Phiney Place, Ingleburn - Construction Of A Two Unit Warehouse Type Building With Associated Office Areas, Car Parking, Retaining Walls And Fencing

Section	Control	Requirement	Proposed	Compliance
6.7 (a)	Industrial Waste Management	Industrial developments shall make provision for an enclosed on site waste and recycling facility that has adequate storage area to accommodate the waste generated from the development.	The proposed layout makes suitable provision for the storage of waste within the building.	Yes
6.10 (a)	Multi Unit Complexes	Each industrial unit proposed on land zoned 4(a) General Industry under Campbelltown (Urban Area) LEP 2002, shall have a minimum LFA of 400m <sup>2</sup> .	The units have leasable floor areas of approximately 4,480m <sup>2</sup> and 5,450m <sup>2</sup> .	Yes

### 3. Planning Assessment

The proposed development is considered to be of a high quality design, in terms of its architectural form, and the type of materials and finishes used. Moreover, the overall design provides sufficient on-site manoeuvring and car parking facilities for future occupants.

The vertical and horizontal architectural elements incorporated into the façade design will provide for a high standard finish and will help reduce the 'singular bulkiness' of the building. When viewed from the rail corridor, the added architectural elements will provide visual relief and interest.

The landscaping proposed for the street frontage and along the railway corridor interface will result in a softening of the hard edges of the building, as it will also help reduce the visual bulk/mass of the building. The added vegetation along the railway interface will also help protect against graffiti attack.

Having regard to the building setback issue and to whether the requested setback variation should be allowed, it must be noted that where the 30m setback measurement was taken from a standard corridor alignment, and not the divergent alignment, the resultant building line measured from a standard corridor, would be in a similar position to that of the proposed building line.

It is also worth noting that it is only for the technicality of non-compliance with the legal boundaries of the rail corridor, that the setback issue has been raised. If consideration was given only to the physical components of the application (ie the built form, proximity to railway track, visual/amenity) and not the legal boundary components (the unseen), the location of the proposed building, its proximity to the railway tracks and how it responds to the objective behind the 30m setback standard, can only be described as consistent with the intent of the objective and consistent with the setback of other buildings in proximity to this site.



### 3.4 No. 10 Phiney Place, Ingleburn - Construction Of A Two Unit Warehouse Type Building With Associated Office Areas, Car Parking, Retaining Walls And Fencing

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#### 3.1 Nominated Integrated Development

Given the site's proximity to a natural watercourse, the proposal requires a Controlled Activity Approval from the Office of Water under the *Water Management Act 2000*. Accordingly, the application has been made as a Nominated Integrated Development, pursuant to the provisions of Section 91A of the *Environmental Planning and Assessment Act 1979*.

Following referral of the application to the Office of Water, General Terms of Approval were issued for the proposal, pursuant to Section 91A of the *Environmental Planning and Assessment Act 1979*. A condition has been included within the recommended draft conditions of consent at Attachment No. 1, requiring compliance with these General Terms of Approval.

#### 3.2 Campbelltown City Council Section 94A Development Contributions Plan

Development contributions are applicable pursuant to the provisions of the Campbelltown City Council Section 94A Development Contributions Plan and accordingly a condition has been included within the recommended draft conditions of consent at Attachment No. 1.

#### 3.3 Consultation

The application was referred to Council's Development Engineer, Council's Building Certification Unit and Council's Technical Services Section, for comment. No objections were raised, subject to the inclusion of conditions, which have been included within the recommendation.

#### 4. Public Participation

The application was advertised and notified, in accordance with the 'Nominated Integrated Development' provisions of the Environmental Planning and Assessment Regulation 2000 and Campbelltown Development Control Plan No. 87. The exhibition period extended from 6 August 2013 until 6 September 2013. No submissions were received.

#### 5. Conclusion

The proposal generally complies with the relevant planning provisions and overall, is considered to be a satisfactory development response for the subject land.

When having regard to the position of the building and its physical proximity to the railway line, it is considered that the building is well placed and will not overbear the railway tracks. Despite the building being only 1m away from the railway corridor, the building will be situated approximately 31m from the nearest railway track. From a commuter point of view, the proposed building would be in the expected location, which is on an alignment of approximately 30m from the actual railway tracks similar to other existing buildings along the rail corridor.

Landscaping to the retaining wall along the railway corridor interface would provide some benefit in that it would act as a graffiti deterrent, it would provide for a softening of the building and it would also break the 'singular massing' of the building when viewed from the rail corridor.

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### 3.4 No. 10 Phiney Place, Ingleburn - Construction Of A Two Unit Warehouse Type Building With Associated Office Areas, Car Parking, Retaining Walls And Fencing

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With respect to the above setback matter, the applicant has lodged a SEPP 1 objection requesting the Council to vary the relevant standard. The variation is considered to be reasonable given the circumstances.

In this regard, it is recommended that the Council allow the SEPP 1 objection utilising the 'Assumed Concurrence' of the Director General of the Department of Planning, as per Circular B1, and approve the development application subject to the draft conditions at Attachment No.1 of this report.

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

1. That the Council allow the SEPP 1 objection to the 30m railway corridor setback standard.
2. That the Council approve Development Application No. 993/2013/DA-I, comprising the construction of a two unit warehouse type building, with associated office areas, car parking, retaining walls and fencing, at No. 10 Phiney Place, Ingleburn, subject to the draft conditions within Attachment No. 1.
3. That subject to Council approving the application, the Director General of the Department of Planning and Infrastructure be advised of Council's decision and its decision to allow the variation to the 30m setback development standard.

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

That the Officer's Recommendation be adopted.

#### **CARRIED**

Voting for the Committee's Recommendation were Councillors: Greiss, Lound, Matheson, Mead, Oates, Rowell and Thompson.

Voting against the Committee's Recommendation: Nil.

#### **Council Meeting 10 December 2013 (Greiss/Rowell)**

That the Officer's Recommendation be adopted.

#### **Council Resolution Minute Number 267**

That the Officer's Recommendation be adopted.

Voting for the Council Resolution were Councillors: Borg, Brticevic, Dobson, Glynn, Greiss, Hawker, Kolkman, Lake, Lound, Mead, Oates, Rowell and Thompson.

Voting against the Council Resolution: Nil.

**Note:** Councillor Matheson had not arrived at the meeting at this stage and did not take part in debate nor vote on Item 3.4.

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3.5 Lot 3005 Stowe Avenue, Campbelltown - Construction Of A Mixed Use Commercial And Residential Flat Building Of Three To Six Storeys Containing Three Commercial Tenancies And 44 Apartments And Two Levels Of Basement Car Parking

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**3.5 Lot 3005 Stowe Avenue, Campbelltown - Construction of a mixed use commercial and residential flat building of three to six storeys containing three commercial tenancies and 44 apartments and two levels of basement car parking**

**Reporting Officer**

Manager Development Services

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**Attachments**

1. Recommended conditions of consent (contained within this report)
2. Locality plan (contained within this report)
3. Floor plans (confidential for privacy)
4. Elevation plans (contained within this report)
5. Landscaping plan (contained within this report)
6. Shadow diagrams (contained within this report)
7. External finishes schedule (contained within this report)

**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* (the Act).

<b>Property Description</b>	Lot 3005 DP 1152287, Lot 3005 Stowe Avenue, Campbelltown
<b>Application No</b>	1547/2013/DA-RA
<b>Applicant</b>	Stowe 3005 P/L
<b>Owner</b>	Stowe 3005 P/L
<b>Provisions</b>	Campbelltown 2025 – Looking Forward State Environmental Planning Policy No.65 – Design Quality of Residential Flat Development State Environmental Planning Policy (Infrastructure) 2007 Campbelltown (Urban Area) Local Environmental Plan 2002
<b>Date Received</b>	22 July 2013

**Report**

Council has received a development application for the construction of a mixed use development comprising three commercial tenancies, 44 residential apartments and two levels of basement car parking containing 70 car parking spaces at Lot 3005 Stowe Avenue, Campbelltown.

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### 3.5 Lot 3005 Stowe Avenue, Campbelltown - Construction Of A Mixed Use Commercial And Residential Flat Building Of Three To Six Storeys Containing Three Commercial Tenancies And 44 Apartments And Two Levels Of Basement Car Parking

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The proposed development comprises of a building that varies between heights of three to six storeys, with commercial floor space located at ground level and 44 residential apartments situated at ground level and upper floors.

The land is zoned 10(a) Regional Comprehensive Centre Zone under the provisions of Campbelltown (Urban Area) Local Environmental Plan 2002 (CLEP 2002). An assessment of the proposed development against CLEP 2002 is contained later within this report.

#### **The Site and Surrounds**

The site is located at the intersection of Stowe Avenue and Tailby Street, Campbelltown. The land is irregular in shape and has an area of 2,282 square metres and is currently undeveloped. There is no vegetation located on the site.

The length of the street frontages is as follows:

- 46.42 metres to Stowe Avenue
- 33.66 metres to Tailby Street
- 5.575 metre splay corner (Stowe/Tailby).

The land to the north and north-east of the subject site on both sides of Tailby Street has been developed by NSW Transport Infrastructure Development Corporation (TIDIC) for the purpose of commuter car parking comprising of two 'at grade' car parking facilities. Land adjoining the subject site to the east comprises of vacant land that current has development consent for the construction of mixed use, 75 residential apartments plus commercial tenancies in a three building development comprising of six, seven and eight storeys. That development was previously approved by the Sydney West Joint Regional Planning Panel.

Land to the south is currently undeveloped and will be converted to public open space in due course. The land to east forms part of an existing creek/open space corridor.

The subject land is located 390 metres to the west of the Macarthur Square shopping centre and 620 metres (by road) from Macarthur Rail Station.

#### **The proposal**

Development consent is sought for the construction of a three to six storey mixed use commercial and residential development including two levels of basement car parking. The development would contain three commercial tenancies, 44 residential apartments and 70 basement car parking spaces.

A description of the proposed building and works proposed is as follows:

- Excavation of the site and site works
  - Construction of a three to six storey mixed-use building
  - Three commercial tenancies containing:
    - Shop 1 – GFA of 83.2 square metres
    - Shop 2 – GFA of 53.4 square metres
    - Shop 3 – GFA of 63.3 square metres
    - Total GFA of 199.9 square metres
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### 3.5 Lot 3005 Stowe Avenue, Campbelltown - Construction Of A Mixed Use Commercial And Residential Flat Building Of Three To Six Storeys Containing Three Commercial Tenancies And 44 Apartments And Two Levels Of Basement Car Parking

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- 44 residential apartments comprising of:
  - 3 x 1 bedroom units
  - 37 x 2 bedroom units
  - 4 x 3 bedroom units
- Car parking for 70 car parking spaces over two basement levels comprising of:
  - 56 residential spaces
  - Nine commercial spaces
  - Five visitor spaces
- Common area/terrace of 203 square metres containing bbq and outdoor furniture at level 3
- Landscaping works
- Vehicular access from Tailby Street.

The proposed residential apartment component of the building provides a mix of unit types with each apartment being provided with private open space areas through balconies and/or ground level courtyards.

Each apartment typically contains bedrooms, bathroom/ensuite, kitchen, built-in wardrobes, linen closet and combined living/dining areas as well as an internal laundry.

Vehicular access to the residential apartment building is provided via a 5.5 metre wide combined entry/exit driveway along Tailby Street located in the north eastern corner of the site. Access into and out of the basement levels for residents and visitors would be through a secured automatic roller door. Visitors' cars and commercial parking can be parked in 14 spaces that are located in front of a secure roller door. Other parking would be accessed via remote electronic means.

The proposed design of the building includes contemporary articulation and façade treatments with a flat roof with exhaust and lift overruns extending above the flat roof line, to add visual interest. The building would be constructed of cladding materials of various colours, stacked stone features, rendered and painted masonry to break up the scale and massing of the building.

The stepping of the roof and two tower appearance creates a disaggregated building design with independent modules that are terraced into a variety of levels which provide a vertical and horizontal separation of the building. The modulation of the facades provides a variation in both height and roof profile and adds considerable architectural and visual interest. These characteristics also assist in reducing the potential appearance of bulk and over shadowing of properties.

Landscaping is provided to the perimeter of the building as well as on the street frontages and side and rear boundaries, through the use of trees, shrubs and groundcovers, as well as providing planter beds and turf where required.

Strata subdivision has not been requested at this stage and as such could be the subject of a separate development application to Council.

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3.5 Lot 3005 Stowe Avenue, Campbelltown - Construction Of A Mixed Use Commercial And Residential Flat Building Of Three To Six Storeys Containing Three Commercial Tenancies And 44 Apartments And Two Levels Of Basement Car Parking

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## 1. Vision

### 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
- 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 education, employment and entrepreneurial opportunities.

The application is consistent with the above strategic directions as the proposal would provide a housing product that would enable the city to grow by providing housing opportunities as well as providing employment opportunities within the construction industry.

Some of the 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 environmentally sustainable
- development and land use that matches environmental capacity and capability.

The proposed development is consistent with the relevant desired outcomes within Campbelltown 2025 specifically in relation to providing a development that is functional and of a high quality design, and one that matches the environmental capacity and capability of the site.

## 2. Planning Provisions

The development has been assessed in accordance with the matters for consideration under Section 79C of the *Environmental Planning and Assessment Act 1979*, and having regard to those matters, the following issues have been identified for further consideration.

Section 79C(1)(a) requires Council to consider environmental planning instruments and development control plans that apply to the site.

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3.5 Lot 3005 Stowe Avenue, Campbelltown - Construction Of A Mixed Use Commercial And Residential Flat Building Of Three To Six Storeys Containing Three Commercial Tenancies And 44 Apartments And Two Levels Of Basement Car Parking

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

The subject land is zoned 10(a) Regional Comprehensive Centre Zone under the provisions of Campbelltown (Urban Area) Local Environmental Plan 2002 (CLEP 2002). The proposed development is defined as 'residential flat building' and is permissible with Council's development consent. A residential flat building is defined as:

'A building containing two or more dwellings which achieve access from shared foyers, halls or stairways.'

The objectives of the 10(a) Regional Comprehensive Centre, of relevance to the proposed development are:

- a) 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.

It is a requirement of the CLEP 2002, that development must be consistent with at least one of the objectives in order that Council can grant development consent.

The development would provide a variety of higher density housing and small retail/commercial tenancies in a location that is accessible to public transport, employment, retail, commercial and service facilities. In this regard, the application is for a permissible residential flat development, including three retail/commercial tenancies, located in a locality undergoing transition within the regional centre.

Accordingly, it is considered that the development is consistent with the relevant zone objective and Council can grant consent to the proposed development should it deem appropriate to do so.

## **2.2 State Environmental Planning Policy No.65 - Design Quality of Residential Flat Development**

State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP 65) was gazetted on 26 July 2002 and applies to the construction of new residential flat buildings as well as substantial redevelopment of existing residential flat buildings. A residential flat building is defined under the provisions of SEPP 65 as:

'a building that comprises or includes:

- (a) three or more storeys (not including levels below ground level provided for car parking or storage, or both, that protrude less than 1.2 metres above ground level)
- (b) four or more self-contained dwellings (whether or not the building includes uses for other purposes, such as shops)

but does not include a Class 1a building or a Class 1b building under the Building Code of Australia.'

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### 3.5 Lot 3005 Stowe Avenue, Campbelltown - Construction Of A Mixed Use Commercial And Residential Flat Building Of Three To Six Storeys Containing Three Commercial Tenancies And 44 Apartments And Two Levels Of Basement Car Parking

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The aims and objectives of improving the design quality of residential flat development under the provisions of SEPP 65 are as follows:

- a) to ensure that it contributes to the sustainable development of NSW:
  - i. by providing sustainable housing in social and environmental terms
  - ii. by being a long-term asset to its neighbourhood
  - iii. by achieving the urban planning policies for its regional and local contexts
- b) to achieve better built form and aesthetics of buildings and of streetscapes and the public spaces they define
- c) to better satisfy the increasing demand, the changing social and demographic profile of the community, and the needs of the widest range of people from childhood to old age, including those with disabilities
- d) to maximise amenity, safety and security for the benefit of its occupants and the wider community
- e) to minimise the consumption of energy from non-renewable resources, to conserve the environment and to reduce greenhouse gas emissions.

Clause 30(2) of SEPP 65 requires a consent authority, in determining a development application for a new residential flat building, to take into consideration:

- a) the advice of a Design Review Panel constituted under Part 3 of the Policy
- b) the design quality of the development when evaluated in accordance with the design quality principles (Part 2 of the Policy)
- c) the publication 'Residential Flat Design Code'.

As Council has not established a Design Review Panel, for the purpose of this application Council is required to consider only the design quality principles and the Residential Flat Design Code.

The design quality principles provide a guide to achieving good design for residential flat buildings and have been assessed against the proposed development.

Clauses 9 to 18 contain the design quality principles of the Policy. The following discussion sets out an assessment of the development proposal in terms of these principles and an assessment against the 'Residential Flat Design Code'.

#### **Principle 1 – Context**

Good design responds and contributes to its context. Context can be defined as the key natural and built features of an area.

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### 3.5 Lot 3005 Stowe Avenue, Campbelltown - Construction Of A Mixed Use Commercial And Residential Flat Building Of Three To Six Storeys Containing Three Commercial Tenancies And 44 Apartments And Two Levels Of Basement Car Parking

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Responding to context involves identifying the desirable elements of a location's current character or, in the case of precincts undergoing a transition, the desired future character as stated in planning and design policies. New buildings will thereby contribute to the quality and identity of the area.

**Comment** - As detailed in this report, the existing development context comprises of land forming part of the Macarthur Gardens precinct. Some of that land is yet to be developed for urban purposes with the remainder being used for commuter car parking or preserved for future open space.

The proposal before the Council is a design response to the desired future density within the area given the site's close proximity to public transport, regional level retail facilities and urban services. Currently a development control plan does not apply to the land notwithstanding that a draft development control plan was previously exhibited. The Macarthur Regional Centre Master Plan is discussed in detail later in this report.

#### **Principle 2 – Scale**

Good design provides an appropriate scale in terms of the bulk and height that suits the scale of the street and the surrounding buildings.

Establishing an appropriate scale requires a considered response to the scale of existing development. In precincts undergoing a transition, proposed bulk and height needs to achieve the scale identified for the desired future character of the area.

**Comment** - The scale of the proposed development is higher (in part) than the height and density originally envisaged by the Macarthur Regional Centre Master Plan in 2003. The Master Plan recommended a maximum height level of three storeys for the land.

The building mass and scale has been designed in a manner to reduce its perceived bulk and scale by design incorporating setbacks and transitional building heights and considering development approvals on adjoining land.

#### **Principle 3 – Built Form**

Good design achieves an appropriate built form for a site and the building's purpose, in terms of building alignments, proportions, building type and the manipulation of building elements.

Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.

**Comment** - Despite the inconsistency with the building height criteria set out in the Macarthur Regional Centre Master Plan it is considered that the built form of the proposal is generally satisfactory given the context and scale of the building, the location of the subject site and its relationship with nearby approved and likely future development. The façade of the building has significant landmark architectural merit and would provide an interesting architectural addition and visual interest to the precinct especially given the close proximity of the existing at grade commuter car park facilities.

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### 3.5 Lot 3005 Stowe Avenue, Campbelltown - Construction Of A Mixed Use Commercial And Residential Flat Building Of Three To Six Storeys Containing Three Commercial Tenancies And 44 Apartments And Two Levels Of Basement Car Parking

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#### **Principle 4 – Density**

Good design has a density appropriate for a site and its context, in terms of floor space yields (or number of units or residents).

Appropriate densities are sustainable and consistent with the existing density in an area or, in precincts undergoing a transition, are consistent with the stated desired future density. Sustainable densities respond to the regional context, availability of infrastructure, public transport, community facilities and environmental quality.

**Comment** - Noting that the site does not have any specific development control plan currently applying to it, the development is generally consistent with the principles of the land's zoning being 10(a) Regional Comprehensive Centre Zone and the planning convention of higher residential densities within close proximity of commercial centres and major transport nodes.

#### **Principle 5 – Resource, Energy and Water Efficiency**

Good design makes efficient use of natural resources, energy and water throughout its full life cycle, including construction.

Sustainability is integral to the design process. Aspects include demolition of existing structures, recycling of materials, selection of appropriate and sustainable materials, adaptability and reuse of buildings, layouts and built form, passive solar design principles, efficient appliances and mechanical services, soil zones for vegetation and reuse of water.

**Comment** - The proposed building achieves an acceptable level of energy efficiency. The apartments provide for natural cross-ventilation and offer good heat insulation to minimise energy use thereby reducing dependence on energy resources. Energy efficient appliances and water saving devices are also to be fitted. The application was accompanied by a BASIX certificate, which demonstrates that the building reached the required water and energy usage savings. The waste management plan detailed for the site facilitates the collection and storage of recyclables as per Council's policy.

#### **Principle 6 – Landscape**

Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in greater aesthetic quality and amenity for both occupants and the adjoining public domain.

Landscape design builds on the existing site's natural and cultural features in responsible and creative ways. It enhances the development's natural environmental performance by co-ordinating water and soil management, solar access, micro-climate, tree canopy and habitat values. It contributes to the positive image and 'contextual fit' of development through respect for streetscape and neighbourhood character, or desired future character.

Landscape design should optimise useability, privacy and social opportunity, equitable access and respect for neighbours' amenity, and provide for practical establishment and long term management.

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### 3.5 Lot 3005 Stowe Avenue, Campbelltown - Construction Of A Mixed Use Commercial And Residential Flat Building Of Three To Six Storeys Containing Three Commercial Tenancies And 44 Apartments And Two Levels Of Basement Car Parking

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**Comment** - A range of deep soil plantings have been catered for across the site, utilising trees with mature heights of up to 20 metres. Planting zones vary across the site based on soil depth dictated by the location of the basement.

Communal and pedestrian areas are provided with an aesthetic mixture of all-weather hard surfaces, communal lawn, ground covers, shrubs and trees. The development is considered to relate well to the adjoining landscaped public open space (creek) corridor.

#### **Principle 7: Amenity**

Good design provides amenity through the physical, spatial and environmental quality of a development.

Optimising amenity requires appropriate room dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, outlook and ease of access for all age groups and degrees of mobility.

**Comment** - The subject site is in close proximity to public transport, schools, medical facilities and shopping centres and offers a high level of amenity for future occupants. The design of each unit provides for good room sizes, efficient planning and adequate solar access. SEPP 65 also requires a minimum floor to ceiling height of 2.7m, which is standard in all apartments. Each unit is proposed to be provided with a private open space area in the form of balconies or ground floor courtyards consistent with Council's Sustainable City Development Control (SCDCP) 2012 and SEPP 65 (it is to be noted that SCDCP is not applicable to this development but has been considered here given its use as a guideline/benchmark).

In addition, the design of the apartments protects the future occupant's ability to carry out private functions in all rooms and private open space areas without compromising views, ventilation and solar access.

Each apartment is proposed to be provided with internal storage areas with additional storage located within the basement levels. All of the apartments are naturally cross-ventilated adding to amenity and liveability.

#### **Principle 8: Safety and security**

Good design optimises safety and security, both internal to the development and for the public domain.

This is achieved by maximising overlooking of public and communal spaces while maintaining internal privacy, avoiding dark and non-visible areas, maximising activity on streets, providing clear, safe access points, providing quality public spaces that cater for desired recreational uses, providing lighting appropriate to the location and desired activities, and clear definition between public and private spaces.

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**Comment** - The orientation of the proposed building, floor layouts and the locations of balconies provide natural surveillance of the public areas and pathways. Security and safety would be optimised by the inclusion of private security measures within the building, for occupants and visitors.

The basement car park is proposed to be serviced directly through a security controlled gate. An intercom system to control security access is to be provided for all residents to gain entry to and from the basement.

Stairwells as well as lifts from the basement levels provide direct access to all units. The units that front Stowe Avenue and Tailby Street provide balconies and living areas that offer passive surveillance over the public street.

#### **Principle 9: Social dimensions**

Good design responds to the social context and needs of the local community in terms of lifestyles, affordability, and access to social facilities.

New developments should optimise the provision of housing to suit the social mix and needs in the neighbourhood or, in the case of precincts undergoing transition, provide for the desired future community.

**Comment** - The proposed development provides for a mix of design and layouts for varying household sizes and would complement and extend the range and diversity of residential accommodation in the area. The development would address the needs of the community in terms of lifestyle, choice and given the close proximity to the Campbelltown/Macarthur CBD would enable easy access to major transport nodes, commercial and business uses as well as shopping facilities and employment opportunities.

Adaptable units are to be provided in the building and are accessible by lift from the basement. All units within the proposed development would be accessible as per the requirements of the relevant Australian Standards.

#### **Principle 10: Aesthetics**

Quality aesthetics require the appropriate composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the development. Aesthetics should respond to the environment and context, particularly to desirable elements of the existing streetscape or, in precincts undergoing transition, contribute to the desired future character of the area.

**Comment** - The design provides a combination of architectural elements, such as varying wall setbacks, feature walls and colours, balconies, roof height variations and contrasting materials which make the building visually interesting and contribute positively to the streetscape.

A detailed design statement, prepared by the architect, has been submitted with the application and further reinforces the building's compatibility with the SEPP's visual amenity and 'liveability' objectives and standards. The design statement is considered to be satisfactory.

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#### Residential Flat Design Code

The proposed development has been evaluated against the various provisions of the Residential Flat Design Code (RFDC) in accordance with Clause 30(2)(c) of SEPP 65.

The RFDC is an additional resource to help guide the design of residential flat buildings across NSW. It sets out a number of guidelines that provide benchmarks for residential apartment buildings. The RFDC supports the design quality principles set out under SEPP 65 and as such, operates in conjunction with SEPP 65 to achieve the objective of providing high quality residential apartment buildings.

It is noted that due to the absence of a specific Development Control Plan for the subject land, it is considered that the use of Campbelltown (Sustainable City) Development Control Plan 2012 (SCDCP 2012) best serves to provide a relevant framework for a merit assessment of the development.

An assessment summary of relevant portions of the Code is contained below:

#### Primary Development Controls

Requirement	Objectives	Comment
Building height  No numeric requirement stipulated. Design practice notes provided.	To ensure development responds to the desired scale of the area.  To allow daylight access to development and the public domain.	Height is considered appropriate for the site and surrounds.  Solar access to public domain would be acceptable.
Building depth  Generally 18 metres although buildings may be deeper if adequate light and ventilation is supplied to units.	To ensure the bulk of development is compatible with desired future development. To allow for solar access and natural ventilation.  To provide for dual aspect apartments.	Apartment depth is 8 - 18 metres. Apartments are provided with adequate light and ventilation, with various orientations provided throughout the building.
Building separation  Rises with building height – 12 metres up to four storeys and 18 metres for up to eight storeys.	To provide for deep soil zones and stormwater management  To control overshadowing of adjacent properties.  To provide visual and acoustic privacy.	Given the orientation, building's location and design of the units, particularly the placement of balconies, it is considered acceptable having regard to visual and acoustic privacy for dwellings within the subject building.  Given the development's context, it is considered acceptable having regard to adjoining land uses being a car park and an open space corridor.

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Requirement	Objectives	Comment
Side and rear setbacks  No numeric requirement stipulated. Design practice notes provided.	To provide for deep soil planting areas.  To minimise the impact of the development on light, air, sun, privacy, views and outlook for neighbouring properties, including future buildings.  To maximise building separation to provide visual and acoustic privacy.	The development provides varied setbacks to enhance the articulation and visual interest of the building. Given the land's location being a corner allotment, next to an open space corridor and beside a public car park, the setbacks are considered appropriate and acceptable.
Street setback  No numeric requirement stipulated. Design practice notes provided.	To create a clear transition between public and private space.  To allow an outlook and surveillance of the street. To allow for streetscape character.	The development has a zero street setback to Tailby Street and Stowe Avenue. The development provides a hard edge and clear definition between public and private space.  The development is setback between a minimum of 1.74 metres and up to 6.00 metres from the boundary adjoining the creek corridor.  Outlook onto public areas is achieved by the development to maximise surveillance of the street.

### Site Design

Requirement	Objectives	Comment
Deep soil zones  No requirement stipulated. Design practice notes provided.	To assist in the management of the water table.  To improve the amenity of developments through the retention and/or planting of large and medium size trees.	The proposal provides suitable areas available for deep soil planting. The proposed landscaping is considered satisfactory.
Fences and walls  No numeric requirements stipulated. Design practice notes provided.	To define the boundaries between areas having different functions or owners.  To provide privacy and security. To contribute positively to the public domain.	The buildings contain several landscaping planter walls along the front, rear and side boundaries. The walls help to distinguish public and private open spaces, detail the building entries and private open space areas.



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Requirement	Objectives	Comment
Landscape design  No numeric requirements stipulated. Design practice notes provided.	To improve stormwater quality.  To improve urban air quality.  To add value to residents' quality of life within the development.  To improve the solar performance of the development.	A comprehensive landscaping plan has been prepared for the development. The plan maximises areas provided for deep soil planting and would introduce several large trees at the site, which will ultimately assist in improving solar conditions and provide habitat for various fauna and assist in the building's transition from the open space corridor and views from lower density areas.
Orientation  No numeric requirements stipulated. Design practice notes provided.	To optimise solar access to residential apartments and adjacent buildings.  To improve the thermal efficiency of new buildings.  To contribute positively to the desired streetscape.	The building is orientated as best as possible having regard to the existing street pattern. A BASIX certificate has been submitted with the application which demonstrates satisfactory energy and thermal comfort savings have been made. Apartments have been provided with balconies and windows to gain access to natural light.
Stormwater management  No numeric requirements stipulated. Design practice notes provided.	To minimise the impact of residential flat development and associated infrastructure on the health and amenity of natural waterways.	Stormwater capture and management is consistent with Council's SCDP 2012 Vol. 3.
Safety  No numeric requirement stipulated. Design practice notes provided.	To ensure that residential flat developments are safe and secure for residents and visitors.  To contribute to the safety of the public domain.	Crime Prevention Through Environmental Design (CPTED) principles used throughout the development, including lighting, territorial reinforcement of entry and street areas, safe basement car parking area.  The orientation of the building responds to its locational context with the units' orientation as well as windows and balconies being appropriately positioned.
Visual privacy  No numeric requirement stipulated. Design practice notes provided.	To provide reasonable levels of visual privacy.  To maximise views and outlook from principal rooms and private open space, without compromising visual privacy.	Balconies have been aligned to reduce overlooking.  The subject land's location is considered to have an acceptable impact on visual privacy to and from the site.

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Requirement	Objectives	Comment
Building entry  No numeric requirement stipulated. Design practice notes provided.	To create entrances that provide a desirable residential identity for the development.  To orient visitors.  To contribute positively to the streetscape.	Separate entries provided for vehicles and pedestrians to increase safety.  Visitor and entry from street clearly defined and easily accessible.
Car parking  No numeric requirement stipulated. Design practice notes provided.	To minimise car dependency for commuting and to promote alternative means of transport.  To provide adequate car parking.  To integrate the location and design of car parking with the building and its location.	Car parking would be provided in a two level basement, with minimal impact on the street.  Under SCDP 2012 a development of this nature would be required to provide 68 car parking spaces. 70 spaces have been provided.

### Building Design

Requirement	Objectives	Comment
Apartment layout  'Rules of thumb' provided for depth, width and area.	To ensure that the spatial arrangement of apartments is functional and well organised.  To ensure that apartment layout provides a high standard of residential amenity.  To accommodate a variety of household activities and needs.	Single aspect apartments are generally located on the north facing side of the building to maximise solar penetration of units. Some units face south however, numbers still comply with RFDC and are consistent with SCDP 2012 minimums. Window location and size maximise solar penetration. Apartments comply with BASIX requirements for energy efficiency and thermal comfort. Apartment sizes exceed 'rule of thumb' requirements as set out in the RFDC. Depth of apartments complies with "rule of thumb".
Apartment mix  Design practice notes provided.	To provide a diversity of apartment types, which cater for different household requirements now and in the future.  To maintain equitable access to new housing by cultural and socio-economic groups.	Building contains a mix of 1, 2 and three bedroom units. Consistent with Council's SCDP 2012.

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Requirement	Objectives	Comment
<p>Balconies</p> <p>Design practice notes provided. 'Rules of thumb' provided.</p>	<p>To provide all apartments with open space.</p> <p>To ensure that balconies are integrated into the overall architectural form and detail of the building.</p> <p>To ensure that balconies are functional.</p> <p>To contribute to the safety and liveliness of the street by allowing for casual overlooking.</p>	<p>Balconies meet minimum depth requirement in the 'rules of thumb' of the RFDC.</p> <p>Balconies are all directly accessible from living areas and/or bedrooms.</p> <p>Balconies would provide casual surveillance of the street.</p>
<p>Ceiling heights</p> <p>'Rules of thumb' provided</p>	<p>To increase the sense of space in apartments.</p> <p>To promote the penetration of light into the depths of apartments.</p> <p>To achieve quality interior spaces while considering the external building form requirements.</p>	<p>The building complies with the 'rules of thumb' of RFDC. A minimum of 2.7 metres would be provided to each unit.</p>
<p>Ground floor apartments</p> <p>No numeric requirements stipulated. Design practice notes provided.</p>	<p>To contribute to the desired streetscape of an area and to create active safe streets.</p> <p>To increase the housing and lifestyle choices available in apartment buildings.</p>	<p>Ground floor units provided with terraces and screened from the street by landscaping.</p> <p>Landscaping would still provide for some views to and from the apartment building at street level. Variations in ground floor RLs increase privacy and allow for casual surveillance.</p>
<p>Mixed Use</p> <p>No numeric requirements stipulated. Design practice notes provided</p>	<p>Mix of uses that complement and reinforce the character and function of the area.</p> <p>Flexible layouts to promote variable tenancies or uses.</p> <p>Legible circulation systems by isolating commercial service requirements, demarcated residential entries, distinguishing commercial and residential entries for safety reinforcement.</p>	<p>No specific commercial or retail uses proposed. Commercial, office or retail occupancies proposed for part of the ground floor level.</p> <p>Tenancies could be varied.</p> <p>Commercial and residential uses are clearly separated and readily distinguishable.</p> <p>Development does not provide for loading and unloading for larger vehicles that would be required to park on the street. Small incidental deliveries can be accommodated within the basement.</p>

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Requirement	Objectives	Comment
Circulation  'Rule of thumb' provided. Design practice notes provided.	To create safe and pleasant spaces for the circulation of people and their personal possessions.  To encourage interaction and recognition between residents to contribute to a sense of community and improve perceptions of safety.	The number of units accessed from each corridor complies with the RFDC 'rule of thumb' ie less than eight units accessed from each corridor.  Corridors are wide and would allow for the movement of furniture.
Storage  Numeric 'rules of thumb' provided. Design practice notes provided	To provide adequate storage for everyday household items within easy access of the apartment.  To provide storage for sporting, leisure, fitness and hobby equipment.	Rules of thumb' in RFDC are mirrored in Council's SCDGP. The building is consistent with these requirements.

### Building Amenity

Requirement	Objectives	Comment
Acoustic privacy  No numeric requirement stipulated. Design practice notes provided.	To ensure a high level of amenity by protecting the privacy of residents.	Potentially busy/noisy areas within units have been located adjacent to each other. Bedrooms kept away from mechanical plant. Party walls between units minimised as much as possible.
Daylight access  Design practice notes provided and rules of thumb.	To ensure that daylight access is provided to all habitable rooms.  To provide adequate levels of ambient lighting and minimise the need for artificial lighting during the day.  To provide residents with an opportunity to adjust the quantity of daylight to suit their needs.	All living areas provided with windows. Awnings provided to some windows and balconies to provide for shading during summer.  Consistent with RFDC having regard to number of units being provided with the minimum three hours of direct sunlight throughout the day.
Natural ventilation  Rules of thumb provided. Design practice notes provided.	To ensure that apartments are designed to provide all habitable rooms with direct access to fresh air.  To provide natural ventilation to non-habitable rooms where possible.  To reduce energy consumption.	Majority of units provide cross ventilation opportunities. Where no cross ventilation is provided, large balcony openings would ensure adequate airflow into units.

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Requirement	Objectives	Comment
<p>Facades</p> <p>Design practice notes provided. No numerical requirements stipulated.</p>	<p>To promote high architectural quality in residential flat buildings.</p> <p>To ensure that new developments have facades which define and enhance the public domain and desired street character.</p> <p>To ensure that building elements are integrated into the façade design.</p>	<p>The building has been provided with an array of architectural treatments to enhance its appearance from the street and surrounding properties and to provide a superior architectural outcome as viewed from the public domain.</p> <p>Design elements such as varying colours, projecting fin walls, varying materials and balconies have been provided to break up the building mass, along with the separation of the two tower elements.</p> <p>The building also presents at a scale that is complementary to that of recently approved multi-storey apartment buildings that would be located on Lot 3004 Stowe Avenue and demonstrates a 'stepped' building transition from the adjoining open space corridor.</p>

### Building Performance

Requirement	Objectives	Comment
<p>Energy efficiency</p> <p>No numeric requirement stipulated. Design practice notes provided.</p>	<p>To reduce the necessity for mechanical heating and cooling.</p> <p>To minimise greenhouse gas emissions.</p>	<p>Passive solar design initiatives incorporated into the building. It satisfies BASIX requirements for water, energy and thermal comfort requirements, which were not in place at the time the RFDC was originally prepared.</p>
<p>Waste management</p> <p>No numeric requirement stipulated. Design practice notes provided.</p>	<p>To avoid the generation of waste through design, material selection and building practices.</p> <p>To plan for the types and amount of waste to be generated during demolition and construction.</p> <p>To encourage waste minimisation, including source separation, reuse and recycling.</p>	<p>A waste management plan has been submitted with the application. The plan details that collection and disposal of recyclables will be provided in the building. Separation of general waste and recyclables will also be provided to reduce potential contamination of recycling collection.</p>

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Requirement	Objectives	Comment
Water conservation  Design practice notes provided. 'Rules of thumb' provided.	To reduce mains consumption of potable water.  To reduce the quantity of urban stormwater runoff.	Energy efficient appliances and taps/showerheads to be provided throughout the building. BASIX water reduction targets satisfied.  On-site stormwater detention system supplied.

The building is considered to be generally compliant with the objectives and controls within the SEPP and its accompanying Design Code.

In conclusion, the proposed development generally satisfies the overall intent of SEPP 65 and guidelines of the RFDC, with no significant exceptions.

### 2.3 Campbelltown (Sustainable City) Development Control Plan 2012 (SCDCP)

Campbelltown SCDCP does not apply to the land, although it is not unreasonable to use the controls for residential apartment and mixed use buildings as a basis for planning assessment. The proposed development is examined for the sake of consistency with the SCDCP.

The aims of the SCDCP are:

- 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
- 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
- ensure that new development minimises the consumption of energy and other finite resources, to conserve environmental assets and to reduce greenhouse gas emissions
- provide for a variety of housing choices within the City of Campbelltown.

It is considered that the development is generally consistent with several of the relevant aims of the SCDCP.

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## **Part 2 - Requirements applying to all types of development**

The general provisions of Part 2 of the Plan apply to all types of development. Compliance with the relevant provisions of Part 2 of the Plan is discussed as follows:

**Site analysis** - A site analysis plan has been submitted identifying the constraints and opportunities for the development and how the proposed development relates to the site.

**Views and vistas** - The proposed development appropriately responds to Campbelltown's important views and vistas to and from public domain places.

**Sustainable building design** - A BASIX certificate was submitted for the proposed development with all relevant requirements detailed on the plans.

**Landscaping** - The land is currently void of any landscaping. A landscaping plan detailing new landscaping for the site was submitted and is considered to be satisfactory.

**Flora and fauna** - A flora and fauna assessment was not required to be undertaken as the subject site does not contain any native vegetation and/or habitat for threatened biodiversity.

**Erosion and sediment control** - An erosion and sediment control plan has been submitted for the proposed development and is considered to be satisfactory.

**Cut and fill** - The proposal requires excavation of two basement levels which would be constructed in accordance with Council's requirements.

**Demolition** - The proposed development does not include demolition as the land does not contain any structures.

**Water cycle management** - A Water Cycle Management Plan was submitted as part of the proposed development. Council's Technical Services staff have assessed the proposal and no issues have been raised.

**Heritage conservation** - The subject site is not located within a zone of archaeological sensitivity nor are there any heritage items located on or within the surrounding locality of the subject site.

**Security** - The proposed development has been designed to minimise opportunities for crime and enhance security.

**Risk management** - The proposed site is not within a bushfire prone area nor is subject to mine subsidence. Council's records suggest no history of contamination nor significant contaminating land uses. However the subject land is affected by overland stormwater flow. Council's Technical Services staff have assessed the proposal and no objections have been raised.

**Waste management** - A Waste Management Plan for construction works has been submitted and is considered to be satisfactory. Information regarding ongoing waste management was submitted and is discussed further in this report.

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## Part 5 – Residential apartment buildings and mixed-use development

Campbelltown SCDP does not apply to the land, although it is not unreasonable to use the controls for residential apartment and mixed use buildings as the basis for a planning assessment.

The below table illustrates the proposal's assessment against the relevant provisions of SCDP having regard to residential apartment buildings and mixed use development:

		<b>Campbelltown (Sustainable City) Development Control Plan 2012</b>	
<b>Control</b>	<b>Proposed</b>	<b>Requirement</b>	<b>Complies</b>
<b>Maximum Height</b>	Maximum six storeys	SCDCP height controls not applicable to site	NA
<b>Building Design</b>	<p>Appropriate facades address both frontages</p> <p>Articulation in walls via use of balconies with flat roof elements enhanced with selected skillion overhangs</p> <p>Variation in planes of external walls</p> <p>Variation in roof height</p> <p>Various building materials and colours are proposed</p> <p>Provision of landscaping and architectural details</p>	<p>Appropriate facades to address street frontages</p> <p>Articulation in walls, variety of roof pitch, architectural features</p> <p>Variation in planes of exterior walls</p> <p>Variation in height</p> <p>Articulation through use of colour and building materials</p> <p>Landscaping and architectural detailing at ground level</p>	Yes
<b>Site Services</b>	The roof mounted plant and lift overruns would not be visible from street level	Roof mounted plant shall not be visible from public place	Yes
<b>Site Area</b>	Site area: 2,282m <sup>2</sup>	Minimum 1,200m <sup>2</sup>	Yes
<b>Site Width</b>	Minimum with 42.4 metres at Stowe Ave boundary	Minimum 30 metres	Yes
<b>Street Boundary Setback</b>	Minimum 2.1 metres from Tailby St	Zero metres from any boundary	Yes

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		<b>Campbelltown (Sustainable City) Development Control Plan 2012</b>	
<b>Control</b>	<b>Proposed</b>	<b>Requirement</b>	<b>Complies</b>
<b>Side/Rear Setback</b>	Minimum 1.7 metres to adjoining creek channel. Minimum 3.0 metres to adjoining TIDIC car park	6.0 metres	No
<b>Unit Ratio</b>	3 x 1 bedroom units	Minimum 5% of the total number of dwellings shall be one bedroom or a studio  Requires: 2.2	Yes
<b>Adaptable Units</b>	Provides: four	Minimum of 10% of the total number of dwellings shall be adaptable  Requires: 4.4 (say four)	Yes
<b>Dwelling Floor Area</b>	No studio One bed: 75m <sup>2</sup> - 87m <sup>2</sup> Two bed: 79m <sup>2</sup> - 112m <sup>2</sup> Three: 113m <sup>2</sup> - 115m <sup>2</sup>  No four bedroom dwellings	40m <sup>2</sup> for studio 60m <sup>2</sup> for one bedroom 90m <sup>2</sup> for two bedroom 125m <sup>2</sup> for three bedroom  No minimum for four or more bedroom	Yes, but partial inconsistencies with some units. Most inconsistencies are within 7% of the DCP standard.
<b>Access from Common Lobby Area</b>	Maximum six dwellings from each lift and lobby area	Maximum of eight dwellings shall be accessible from a common lobby area on each level	Yes
<b>Lift Access</b>	Two lifts are provided for the building of which both provide access from the second basement level to top most level  Each lift is accessed by a maximum of 35 dwellings  Direct access and illuminated	All residential apartment buildings shall provide at least one lift for access from the basement to the upper most accessible area  A maximum of 50 dwellings shall be accessible from a single common lift  Direct access and illuminated	Yes

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		<b>Campbelltown (Sustainable City) Development Control Plan 2012</b>	
<b>Control</b>	<b>Proposed</b>	<b>Requirement</b>	<b>Complies</b>
<b>Deep Soil Planting</b>	Provides: 518m <sup>2</sup>	Minimum of 25% of the required open space area or 15% of the total site area, whichever is the greater shall be available for deep soil planting  15% of site area: 342m <sup>2</sup>	Yes
<b>Storage Facilities</b>	Storage compartments are provided in the basement as well as storage within each individual unit	Storage facilities are to be provided for each unit either in the unit and/or within the basement with a capacity of no less than:  6.0m <sup>3</sup> for a studio 8.0m <sup>3</sup> for a one bedroom unit 10m <sup>3</sup> for a two bedroom unit 12m <sup>3</sup> for a three bedroom unit 15m <sup>3</sup> for four or more bedroom units.	Yes
<b>Car Parking</b>	Provided: 70 spaces	One space per unit (44) One space per four units (11) One space per 10 units for visitors (4.4) One space per 25m <sup>2</sup> of GFA of commercial space (eight)  Required: 67.4 spaces (say 68)	Yes
<b>Solar access</b>	Orientated in a north-south direction  The private open space of adjoining properties receive solar access for greater than three hours	Orientated and sited to maximise northern exposure  20m <sup>2</sup> of the required private open space on adjoining land to receive three hours continuous solar access	Yes

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		<b>Campbelltown (Sustainable City) Development Control Plan 2012</b>	
<b>Control</b>	<b>Proposed</b>	<b>Requirement</b>	<b>Complies</b>
<b>Balconies and Ground Level Apartments</b>	All balconies are a minimum of 8.0m <sup>2</sup> in area and have minimum depth of 2.0 metres	Courtyards/balconies shall be not less than 8.0m <sup>2</sup> in area and have a minimum depth of 2.0 metres	Yes
<b>Privacy</b>	Ground level apartments have privacy screens  Windows and/or balconies that directly face another unit's balcony or habitable rooms have privacy screens	Ground level apartments shall have privacy screens  No window of a habitable room or balcony shall directly face a window or habitable room of another dwelling	Yes
<b>Communal Recreation facilities</b>	Activities area/terrace is 203m <sup>2</sup>  Outdoor area is 280m <sup>2</sup>  Not located within primary street setback	Activity room with a minimum of 50m <sup>2</sup> per dwellings per 50 dwellings  Outdoor dining area with a minimum area of 50m <sup>2</sup> per 50 dwellings  Not located within primary or secondary street setback	Yes
<b>Waste Management</b>	Residential and commercial waste management independent to each other.  Residential waste to be contained within 6 x 1100L bins in designated bin room	240L bin per three dwellings  1000L bulk bin per 12 dwellings  240L recyclable bin per three dwellings	Yes

The proposal is generally consistent with the provisions of the SCDCP with the exception of the side and rear setback requirements. This matter is discussed in more detail below.

### **Side and Rear Setbacks**

The proposed development is not consistent with the SCDCP side and rear setback provision of 6.0 metres. The proposal's building is located 1.74 metres from the western boundary and 3.0 metres from the northern boundary.

### 3.5 Lot 3005 Stowe Avenue, Campbelltown - Construction Of A Mixed Use Commercial And Residential Flat Building Of Three To Six Storeys Containing Three Commercial Tenancies And 44 Apartments And Two Levels Of Basement Car Parking

Whilst an inconsistency is evident, the adjoining lots contain a commuter car park and open space reserve (forming part of creek system) and it is anticipated there would be no direct impact on the lots at this time.

## 2.4 Draft Macarthur Precinct Development Control Plan

In February 2012, Council exhibited the draft Macarthur Precinct Development Control Plan. This DCP was supplementary to the Sustainable City DCP and provided a range of precinct specific controls relating to the Macarthur Precinct.

As Council would be aware, this draft DCP is yet to be considered for adoption. This is primarily owing to a number of outstanding issues with key stakeholders. However, during the intervening period a number of other key issues have arisen such as the Urban Activation Precinct application for parts of the Campbelltown/Macarthur Business Centre and draft development proposals that have been suggested for a significant site in the Macarthur precinct. This has further delayed Council's further consideration of the draft DCP.

To address these issues Councillors were briefed on a proposal to undertake a holistic review of the planning framework that applies to the wider Macarthur area in September 2013. Council received an update on this work at its briefing of 26 November. At the most recent briefing, Council was advised that a proposed new Macarthur Development Control Plan is to be presented to Council for its consideration in early 2014. This Plan would not only create a singular plan for the Macarthur locality but also address the outstanding issues yet to be resolved.

Noting that the Macarthur Precinct DCP is still in draft form, a brief assessment is provided below against the controls contained within the draft plan.

		Draft Macarthur Development Control Plan	
Control	Proposed	Requirement	Complies
Maximum Height	3-6 storeys	Maximum six storeys with a two storey transition zone within 20m of zoned open space	Yes, but partial non-compliance in regard to the transition zone
Density	175 dwellings/ha	44 dwellings/2,282sqm 193 dwellings/ha	Yes
Unit Ratio	0 x Studio units	Minimum of 10% of the total number of apartments shall be Studio apartments Requires: 4.4 (say 4)	No
	3 x 1 bedroom units	Minimum of 10% of the total number of apartments shall be one bedroom Requires: 4.4 (say 4)	No

3.5 Lot 3005 Stowe Avenue, Campbelltown - Construction Of A Mixed Use Commercial And Residential Flat Building Of Three To Six Storeys Containing Three Commercial Tenancies And 44 Apartments And Two Levels Of Basement Car Parking

		Draft Macarthur Development Control Plan	
Control	Proposed	Requirement	Complies
	37 x 2 bedroom units	Minimum of 40% of the total number of apartments shall be two bedroom Requires: 17.6 (say 18)	Yes
	4 x 3+ bedroom units	Minimum of 15% of the total number of apartments shall be three bedroom or greater. Requires: 6.6 (say 7)	No
Dwelling Floor Area	No studio One bed: 75m <sup>2</sup> - 87m <sup>2</sup> Two bed: 79m <sup>2</sup> - 112m <sup>2</sup> Three: 113m <sup>2</sup> - 115m <sup>2</sup> No four bedroom dwellings	40m <sup>2</sup> for studio 60m <sup>2</sup> for one bedroom 90m <sup>2</sup> for two bedroom 125m <sup>2</sup> for three bedroom No minimum for four or more bedroom	Yes, but partial non-compliances with some units. Most non-compliances are within 7% of the draft DCP control.
Car Parking	Provided: 70 spaces	One space per unit (44) One space per four units (11) One space per 10 units for visitors (4.4) One space per 25m <sup>2</sup> of GFA of commercial space (eight) 10% discount due to proximity to Rail Station Required: 60.66 spaces (say 61)	Yes

The notable issues of non-compliance with the draft DCP relate to the apartment mix and the two storey transition zone within 20m of public open space.

With regard to the requirements for the mixture of apartments, it should be noted that this clause was designed to create a highly modified built form outcome. In comparison to the Sustainable City DCP which requires only that 5% of total number of apartments shall be Studio or one bedroom apartments the draft Macarthur Precinct DCP sought to influence control of the apartment type for 85% of any proposed development. This was primarily driven by a desire to minimise the risk of developers proposing new buildings made up wholly of studio or one bedroom apartments.

In other development control plans such as the before mentioned Sustainable City DCP, the Link Site DCP (Park Central) and draft Campbelltown City Centre DCP (endorsed for public exhibition 23 April 2013) such prescriptive controls have not been proposed or adopted. The apartment mix provided is considered to address market expectations and similar to that which is seen in similar developments across the Campbelltown/Macarthur Centre. Therefore this non-compliance is considered not unreasonable.

### 3.5 Lot 3005 Stowe Avenue, Campbelltown - Construction Of A Mixed Use Commercial And Residential Flat Building Of Three To Six Storeys Containing Three Commercial Tenancies And 44 Apartments And Two Levels Of Basement Car Parking

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In relation to the transition zone, the issue relates to the following clause within the draft DCP:

Developments within the transition zone shall be restricted to two storeys within 20 metres of the boundary with the public open space to

- reduce bulk/scale of development adjoining open space
- maintain solar access to open space
- retain human scale development adjoining open space.

This impact of this clause on the subject site is to restrict development to two storeys (or 9.0 metres) on approximately 46% of the site. This primarily relates to the western portion of the site which directly adjoins "The Valley" linear open space corridor.

A review of the application notes that within the transition zone a three storey (11 metres) and four storey (14 metres) built element is proposed. These elements break the height limit in the transition zone by 2.0 metres and 5.0 metres respectively. Despite this, the shadow diagrams provided show that from 12pm (June 21) the shadow impacts on "The Valley" open space corridor is minimal.

This in conjunction with the fact that the application has sought to articulate the building to minimise the apparent bulk and scale and the function of "The Valley" is that of a riparian corridor it is considered that this level of non-compliance is not unreasonable.

#### **Macarthur Regional Centre Master Plan**

In 2003, Council approved a Master Plan for the locality as a vision for the future redevelopment of 50 hectares of land at the Macarthur Regional Centre. The Master Plan would provide the planning framework for the development of a major new urban development comprising residential, commercial, open space and community infrastructure.

The purpose of the Master Plan document was to:

- provide a clearly articulated vision for the site that incorporates that community, Council, stakeholders and the applicant's aspirations for the site
- coordinate and guide the development of the site in an ordered manner to achieve the vision
- provide an explanation or rationale behind the development of the master plan
- provide certainty to the community and future residents in relation to the layout and level of amenity to be provided
- assist those responsible for the preparation of detailed designs and documentation for the public and private domain.

The Master Plan provides design controls that include height controls. The subject site is identified in the master plan as having being suitable for a minimum two storeys and maximum three storeys.

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### 3.5 Lot 3005 Stowe Avenue, Campbelltown - Construction Of A Mixed Use Commercial And Residential Flat Building Of Three To Six Storeys Containing Three Commercial Tenancies And 44 Apartments And Two Levels Of Basement Car Parking

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The proposed development would have a height of three storeys at the western boundary and rising to six storeys at the eastern boundary (adjacent to Tailby Street) when viewed from Stowe Avenue.

The building steps down away from the recently JRPP approved six, seven and eight storey development on land at the opposite side of Tailby Street. Using this stepping down and increased building setbacks for upper levels of the subject development application, the development responds to the topography of the land and recently approved development on a nearby allotment to provide an urban outcome that would have an acceptable impact on the streetscape.

The proposal partially complies with the Master Plan in this regard.

## 3. Planning Assessment

### 3.1 Impacts on the natural and built environment

Section 79C(1)(b) of the *Environmental Planning and Assessment Act 1979* requires Council to assess the development's potential impacts on the natural and built environment, as well as potential social and economic impacts.

The scale, density and built form is considered generally satisfactory with respect to the context of the site and the desired future character of the area however an inconsistency with the relevant Master Plan maximum height for part of the site is noted. The development is considered to be of high architectural quality that will not have any adverse impacts to the existing built environment, and presents as a good architectural fit to the site.

The principal matters associated with the consideration of these impacts are dealt with in light of the provisions of Campbelltown (Sustainable City) DCP and SEPP 65. It is considered that the impact of the proposed development on the built environment, while being visually different to existing development in the area, is representative of Council's desired future character for the precinct, noting the Sustainable City DCP and Council's Strategic Direction for the Regional Centre.

### 3.2 Salinity

A soil salinity report would be required due to the underground excavation required to construct the building's footings and basement car parking/storage areas. It is known through excavation at similar properties in the area that groundwater is potentially saline in nature, which may have an impact on the integrity of structural concrete in basement car parking areas. A report and salinity management plan would be required prior to issue of a construction certificate for the development, should consent be granted by Council.

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### 3.5 Lot 3005 Stowe Avenue, Campbelltown - Construction Of A Mixed Use Commercial And Residential Flat Building Of Three To Six Storeys Containing Three Commercial Tenancies And 44 Apartments And Two Levels Of Basement Car Parking

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#### 3.3 Building Code of Australia

Council's officers have undertaken an initial review of the proposal. As a result, the building is considered to be satisfactory in its compliance with the Code and meets particular provisions in relation to access for the disabled, sound transmission, fire safety and construction materials. More detailed assessment of the building and its compliance with the Building Code of Australia would be undertaken as part of construction certificate determination, should development consent be granted.

#### 3.4 Traffic impacts

Specialist traffic consultancy, Varga Traffic Planning Pty Ltd was engaged by the applicant to prepare a Traffic and Parking Assessment report in support of the proposed development.

The estimated potential traffic generation increase in vehicle movements would not exceed the RMS capacity volume and would not have a detrimental effect on the surrounding road network.

Council's development engineers pose no objection to the proposal.

A recommended condition of consent requires that a construction traffic management plan be prepared for the building's construction. The plan would identify 'road occupations' required for the loading and unloading of vehicles as well as staging areas for concrete trucks and so on so as to minimise the impacts on the surrounding locality during the building's construction.

#### 3.5 Waste management

The proposed development was referred to Council's Waste Management Officer for comment. The proposal is considered to be generally compliant with Council's requirements. As such, a recommended condition of consent requires that the submitted waste management plan be amended to ensure that bins are taken into and out of the building by a building site manager or caretaker.

Another recommended condition of development consent requires the applicant to consult with Council's Local Traffic Committee to establish on-street parking restrictions on bin collection day. This is consistent with the approach that Council has taken for similar developments in the locality.

Waste collection and storage is otherwise considered to be satisfactory.

#### 3.6 Social and economic impacts

It is anticipated that the development would contribute to the wider choice of housing available in Campbelltown and would provide a tangible social benefit. The scale and density of the development respects the identified desired planning outcome and takes advantage of nearby transport and other support services.

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3.5 Lot 3005 Stowe Avenue, Campbelltown - Construction Of A Mixed Use Commercial And Residential Flat Building Of Three To Six Storeys Containing Three Commercial Tenancies And 44 Apartments And Two Levels Of Basement Car Parking

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### 3.7 Site suitability

Section 79C(1)(c) of the *Environmental Planning and Assessment Act 1979* requires the JRPP to assess the suitability of the site for the proposed development.

The principal matters for attention are discussed in considering Campbelltown (Sustainable City) DCP and SEPP 65. It is considered that the site is suitable for the development of a mixed use residential and commercial/retail development given the land's zone and locality.

### 3.8 Safer by design

A matter for consideration is the safety of residents, tenants and visitors to the site. High levels of property maintenance and effective lighting establish a safe and accessible ground floor. The building design and features promote territorial reinforcement of the private space within the complex. Entrapment areas are minimal throughout the development and passive surveillance from dwellings and open spaces is considered to be adequate.

Recommended conditions of consent require that basement car parking security for residents would be provided by the use of security shutters with electronic 'key' activation so that parking areas could only be accessed by residents or authorised visitors. Elevators would also be key controlled so that residents would access only their floor and visitors to the site would require a resident to allow them access. Car park ceilings are to be finished with white paint to increase the effectiveness of lighting and to create the impression of a more 'open' space.

## 4. Public Participation

Section 79C(1)(d) of the *Environmental Planning and Assessment Act 1979* requires Council to consider submissions made to the proposal.

The subject development application was notified and publicly exhibited between the period of 2 September 2013 to 18 September 2013. The notification was extended to over 600 adjoining and nearby land owners. Council received two submissions objecting to the proposed development. It is noted that the submissions are identical.

A discussion of the matters is raised below:

#### a. Amount of street parking available and the overall congestion this proposal would create

**Comment:** The development is considered to satisfy car parking required by Council's SCDGP 2012. The development application is accompanied by a Traffic and Parking Assessment Report prepared by a suitably qualified professional. It is anticipated that the projected traffic increases as a result of the development is minimal and would have an acceptable impact on the surrounding road network.

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3.5 Lot 3005 Stowe Avenue, Campbelltown - Construction Of A Mixed Use Commercial And Residential Flat Building Of Three To Six Storeys Containing Three Commercial Tenancies And 44 Apartments And Two Levels Of Basement Car Parking

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- b. The building exceeds the height that was proposed for the area. A four storey development would be appropriate.**

**Comment:** The height of the development is transitional between six and three storeys and responds to the topography of the site and nearby development. Development on land across the road on Lot 3004 has recent approval for three buildings of six, seven and eight storeys, and land across the creek corridor contains two storey dwellings. It is considered that the development is responsive to adjoining and nearby development rather than if the subject site was developed with a four storey building over the land. The transition of the building element from six to three storeys reduces building mass and creates a visually interesting architectural response and landmark architectural feature for the locality.

#### **4.1 The public interest**

Section 79C(1)(e) of the *Environmental Planning and Assessment Act 1979* requires Council to consider the public interest in consenting to a development application.

The public interest is a comprehensive requirement that requires councils to consider the long term impacts of development and the suitability of the proposal in a larger context. Implicit to the public interest is the achievement of future built outcomes adequately responding to and respecting the desired future outcomes expressed in SEPPs, LEPs and DCPs.

Approval of the development is considered to be in the public interest as the proposal has demonstrated compliance with Council's development standards and objectives and is considered to be a suitable development in that location given its proximity to transport and retail opportunities.

The application is considered to have satisfactorily addressed Council's relevant objectives and controls required for development in this area.

#### **5. Conclusion**

Council has received an application for the construction of a mixed use residential flat building containing three commercial tenancies, 44 residential apartments, two levels of basement car parking containing 70 car parking spaces and associated landscaping at Lot 3005 Stowe Avenue, Campbelltown.

The proposed development generally conforms to the requirements of SEPP 65, LEP 2002 and Council's Sustainable City DCP. It is considered the proposal results in acceptable planning outcomes for the site, given the desired character outcomes contained in the Campbelltown (Sustainable City) Development Control Plan.

The proposed mixed use residential and commercial building responds to the site and locality in terms of its scale and building height. The proposed development steps down from a six storey component adjacent to Tailby Street to a three to four storey main façade component addressing Stowe Avenue and further stepping to a three storey component addressing the adjoining creek corridor.

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3.5 Lot 3005 Stowe Avenue, Campbelltown - Construction Of A Mixed Use Commercial And Residential Flat Building Of Three To Six Storeys Containing Three Commercial Tenancies And 44 Apartments And Two Levels Of Basement Car Parking

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The stepping down of the scale and building height provides transition between the recently approved and future development on adjoining land to east that is up to eight storeys in height. The communal terrace and open space have northerly aspects to achieve good solar access and natural ventilation.

The building incorporates design features in various facades to promote visual interest and has sufficient architectural merit to be considered favourably. Adequate measures relating to garbage collection and traffic management are proposed in order to ensure that the development does not significantly and detrimentally impact on traffic safety and convenience within the neighbourhood.

It is considered that the development as proposed forms an acceptable balance between the existing surrounding development and land uses and Council's desired likely future character for new development in the locality.

### **Officer's Recommendation**

That development application 1547/2013/DA-RA for the construction of a mixed use residential flat building containing three commercial tenancies, 44 residential apartments, two levels of basement car parking containing 70 car parking spaces and associated landscaping at Lot 3005 Stowe Avenue, Campbelltown be approved, subject to conditions detailed on Attachment 1.

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

That the Officer's Recommendation be adopted.

### **CARRIED**

Voting for the Committee's Recommendation were Councillors: Greiss, Lound, Matheson, Mead, Oates, Rowell and Thompson.

Voting against the Committee's Recommendation: Nil.

### **Council Meeting 10 December 2013 (Greiss/Rowell)**

That the Officer's Recommendation be adopted.

### **Council Resolution Minute Number 268**

That the Officer's Recommendation be adopted.

Voting for the Council Resolution were Councillors: Borg, Dobson, Glynn, Greiss, Hawker, Kolkman, Lake, Lound, Mead, Oates, Rowell and Thompson.

Voting against the Council Resolution was Councillor Bricevic.

Councillor Matheson had not arrived at the meeting at this stage and did not take part in debate nor vote on Item 3.5.

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### **3.6 Public Exhibition of Voluntary Planning Agreement for the Airds Bradbury Project**

#### **Reporting Officer**

Manager Development Services

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#### **Attachments**

1. Letter of Offer dated 10 October 2013 from NSW Land and Housing Corporation to Campbelltown City Council, to enter into a Voluntary Planning Agreement (contained within this report)
2. Airds Bradbury Renewal Project Development Contributions (contained within this report)

#### **Purpose**

The purpose of this report is to provide Councillors with the latest position in relation to the Airds Bradbury Renewal Project and for Council to endorse the process of public notification of the draft Voluntary Planning Agreement.

#### **History**

The draft Voluntary Planning Agreement associated with the Airds Bradbury Renewal Project has been considered by Council previously. At its meeting on 10 September 2013, Council resolved as follows:

1. That Council make a submission to the Department of Planning and Infrastructure regarding Urban Growth's modification application no. MP10-0186 MOD 1 advising that:
    - a. No amendment to the Concept Plan Approval should be considered that would have the effect of altering Council's capacity to negotiate and execute a Voluntary Planning Agreement for the Airds Bradbury Renewal Project, in the best interests of the community.
    - b. Council raises no objection to a modification to the Concept Plan Approval that accounts for the requirement for the proponent to put into place Works In Kind Agreements with Council to secure the funding and delivery of infrastructure relevant to Stages 1 and 2 of the Renewal Project, in accordance with the draft Voluntary Planning Agreement as amended and endorsed by Council.
  2. That Council formally acknowledge the letter of offer from the NSW Land and Housing Corporation dated 9 May 2013 and confirm its commitment to enter into a Voluntary Planning Agreement for the delivery of public amenity and infrastructure services associated with the Airds Bradbury Renewal Project.
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3. That Council request UrbanGrowth NSW to make amendments to the draft Voluntary Planning Agreement as submitted and associated documentation so that:
    - a. Council is the responsible management authority for any newly constructed Community Facilities Centre, from the commencement of its operation.
    - b. Any newly constructed Community Facilities Centre has exclusive access to at least 20 on site car parking spaces, secured through an appropriate legal mechanism.
    - c. More detailed specifications for the proposed Community Facilities Centre (Option 2) are provided to satisfy Council that the facility can accommodate local community requirements.
    - d. The proposed amenities buildings at both the proposed new Kevin Wheatley VC Reserve and Riley Park are a minimum of 205sqm GFA plus 110sqm awning.
    - e. A minimum 80 off-street spaces are provided at the proposed new Kevin Wheatley VC Reserve playing fields.
    - f. The minimum establishment/early maintenance period for bushland regeneration areas containing EECs is increased from two years to seven years or alternatively additional funds are made available to Council after the initial two year period, sufficient to enable Council to meet its higher establishment and early maintenance obligations for the management of EECs.
    - g. Structural engineering certification, attesting to the integrity of the walls of the pond at Kevin Wheatley VC Reserve, is provided and referred to in the Voluntary Planning Agreement.
  4. That upon receipt of the requested amendments (Item nos. 3a to 3g inclusive) to Council's satisfaction, the draft Airds Bradbury Renewal Project Voluntary Planning Agreement and Infrastructure Services Delivery Plan be placed on public notification/exhibition with such public notification/exhibition to be carried out in accordance with the *Environmental Planning and Assessment Act 1979* and Regulations, as soon as possible.
  5. That the General Manager be delegated authority to execute the Agreement with NSW Land and Housing Corporation following public notification/exhibition and subject to any variations arising from community submissions or ongoing negotiations with NSW Land and Housing Corporation and UrbanGrowth NSW, deemed appropriate by the General Manager.
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6. That the General Manager be delegated authority to provide owner's authorisation to the Airds Bradbury Renewal Project Stage 1 subdivision Development Application subject to a requirement that prior to the issue of the construction certificate for any access or works applicable to land currently owned by Council, the proponent is required to be the owner of that land.
7. That in negotiating the finer details of the Voluntary Planning Agreement Council officers explore the notion of retaining Baden Powell Reserve.

The body of this report provides information relevant to each point of Council's Resolution and a summary of the works and services to be provided under the Voluntary Planning Agreement.

## Report

Actions in relation to the Council resolution of 10 September 2013:

1. That Council make a submission to the Department of Planning and Infrastructure regarding Urban Growth's modification application no. MP10-0186 MOD 1 advising that:
  - a. No amendment to the Concept Plan Approval should be considered that would have the effect of altering Council's capacity to negotiate and execute a Voluntary Planning Agreement for the Airds Bradbury Renewal Project, in the best interests of the community.
  - b. Council raises no objection to a modification to the Concept Plan Approval that accounts for the requirement for the proponent to put into place Works In Kind Agreements with Council to secure the funding and delivery of infrastructure relevant to Stages 1 and 2 of the Renewal Project, in accordance with the draft Voluntary Planning Agreement as amended and endorsed by Council.

The modification application was approved by the Department of Planning and Infrastructure on 22 October 2013. The modified condition of consent relating to development contributions reads as follows:

Prior to the lodgement of any subdivision application relating to Stage 3, a planning agreement must be executed with council in accordance with the letter of offer made by the NSW Land and Housing Corporation to Campbelltown City Council dated 10 October 2013.

Each development application for subdivision for each of the stages must identify how any relevant contributions, or works in kind, required for that stage, will be delivered to be consistent with the terms of the letter of offer dated 10 October 2013 or an executed planning agreement.

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As a consequence, the Airds Bradbury Stage 1 subdivision Development Application was approved by the Sydney West Joint Regional Planning Panel on 6 November 2013 with the inclusion of the following condition of consent:

3. Works in Kind Agreement  
Prior to any subdivision certificate being issued for any lots within Stage 1, A Works in Kind Agreement that establishes the type and value of local infrastructure contributions relevant to the provision of the Stage 1 subdivision, including details of the contributions and the nature of any land dedications or works in kind, is to be finalised between NSW Land and Housing Corporation and Campbelltown City Council.

The approval for the Stage 1 subdivision has now been issued. Council has a draft Works In Kind Agreement and subject to final review it is anticipated that this Agreement will be signed shortly.

2. That Council formally acknowledge the letter of offer from the NSW Land and Housing Corporation dated 9 May 2013 and confirm its commitment to enter into a Voluntary Planning Agreement for the delivery of public amenity and infrastructure services associated with the Airds Bradbury Renewal Project.

The Letter of Offer of 9 May 2013 has now been superseded by a Letter of Offer dated 10 October 2013 (Attachment 1) that now addresses the issues raised by Council in Point 3 of the resolution of 10 September 2013 (see below) and is consistent with the modified condition of consent for the Concept Approval issued by the Department on 22 October 2013.

3. That Council request UrbanGrowth NSW to make amendments to the draft Voluntary Planning Agreement as submitted and associated documentation so that:
    - a. Council is the responsible management authority for any newly constructed Community Facilities Centre, from the commencement of its operation.
    - b. Any newly constructed Community Facilities Centre has exclusive access to at least 20 on site car parking spaces, secured through an appropriate legal mechanism.
    - c. More detailed specifications for the proposed Community Facilities Centre (Option 2) are provided to satisfy Council that the facility can accommodate local community requirements.
    - d. The proposed amenities buildings at both the proposed new Kevin Wheatley VC Reserve and Riley Park are a minimum of 205sqm GFA plus 110sqm awning.
    - e. A minimum 80 off-street spaces are provided at the proposed new Kevin Wheatley VC Reserve playing fields.
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### 3.6 Public Exhibition Of Voluntary Planning Agreement For The Airds Bradbury Project

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- f. The minimum establishment/early maintenance period for bushland regeneration areas containing EECs is increased from two years to seven years or alternatively additional funds are made available to Council after the initial two year period, sufficient to enable Council to meet its higher establishment and early maintenance obligations for the management of EECs.
- g. Structural engineering certification, attesting to the integrity of the walls of the pond at Kevin Wheatley VC Reserve, is provided and referred to in the Voluntary Planning Agreement.

These issues have been generally and satisfactorily addressed by UrbanGrowthNSW and NSW Land and Housing Corporation and are reflected in the Letter of Offer dated 10 October 2013.

In relation to point a) it has been reconfirmed that Council is the responsible management authority for any newly constructed centre. This would enable it to facilitate access to the centre for NSW Land and Housing or its representatives in order to support the implementation of the Strategic Social Plan for Airds Bradbury. This is considered an appropriate outcome.

In relation to point b) the community centre will have access to 20 exclusive on-site parking spaces, the final design of such being subject to Development Applications lodged as part of Stage 3.

In relation to point c) more detailed information on costing and design specifications have been provided and reviewed. It is considered that the funding allocation provided in the draft VPA for the Community Facilities Centre is sufficient to ensure an appropriate facility is delivered. However, there will need to be ongoing discussions about the actual design of the centre in the lead up to the lodgement of any Development Application. This facility is within Stage 3 of the project so there is ample opportunity to continue these discussions before any Development Application is formulated.

In relation to point d) both Riley Park and the new Kevin Wheatley VC Reserve playing fields will have amenities buildings with a minimum size of 205sqm GFA plus a 110sqm awning as Council required.

In relation to point e) the minimum 80 off-street parking spaces are provided to service the sporting fields and pond area.

In relation to point f) the minimum establishment/early maintenance period for bushland regeneration has been increased from two years to five years to ensure these areas are very well established at the time Council assumes responsibility for them.

In relation to point g) appropriate engineering certification for the pond walls is provided for within the VPA.

- 4. That upon receipt of the requested amendments (Item nos. 3a to 3g inclusive) to Council's satisfaction, the draft Airds Bradbury Renewal Project Voluntary Planning Agreement and Infrastructure Services Delivery Plan be placed on public notification/exhibition with such public notification/exhibition to be carried out in accordance with the *Environmental Planning and Assessment Act 1979* and Regulations, as soon as possible.
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Clause 25D of the Environmental Planning and Assessment Regulations sets out public notification requirements for VPA's. If Council proposes to enter into a VPA, then it is required to issue a public notice in relation to that proposed agreement and it cannot sign that VPA until at least 28 days after public notification has been given. This provides ample time for interested members of the public to provide comments to Council.

Taking this into account, it is now proposed that the necessary public notification of the VPA be carried out over a four week period during late January and early February 2014. During this period, the VPA, the Infrastructure Services Delivery Plan and other relevant supporting information would be made available at Council, Campbelltown Library and at AB Central.

It should be noted that the VPA documentation is currently being reviewed by Council's Solicitors. Any technical alterations suggested by the solicitor would need to be answered and dealt with by the General Manager prior to the exhibition.

5. That the General Manager be delegated authority to execute the Agreement with NSW Land and Housing Corporation following public notification/exhibition and subject to any variations arising from community submissions or ongoing negotiations with NSW Land and Housing Corporation and UrbanGrowth NSW, deemed appropriate by the General Manager.

Following the public notification it is intended that the General Manager will execute the Agreement with NSW Land and Housing Corporation unless there are unresolved issues arising from public submissions, in which case a further report will be presented to Council before the Agreement is finalised.

6. That the General Manager be delegated authority to provide owner's authorisation to the Airds Bradbury Renewal Project Stage 1 subdivision Development Application subject to a requirement that prior to the issue of the construction certificate for any access or works applicable to land currently owned by Council, the proponent is required to be the owner of that land.

Owners authorisation was provided in order for the Stage 1 subdivision Development Application to proceed.

7. That in negotiating the finer details of the Voluntary Planning Agreement Council officers explore the notion of retaining Baden Powell Reserve.

The approved concept plan provides for the retained portion of Baden Powell Reserve to have an area of approximately 5,000sqm of public open space, with approximately 16,000sqm to be available for additional housing. Although this matter has been raised with representatives of UrbanGrowth is discussion over the VPA and renewal project in general. UrbanGrowth NSW has not been forthcoming with any agreement to seek an amendment to the approved Concept Plan in order to retain all of the land as public open space.

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At the time of writing this report no formal written response had been received by Council from UrbanGrowth concerning Baden Powell Reserve. It is understood, however, from discussions with officers of UrbanGrowth that no changes to the previously approved concept plan are contemplated. The latest letter of offer to enter into a VPA makes no reference to any amendment to the original letter (9 May 2013) as far as the retention of Baden Powell Reserve is concerned.

### **Important Elements of the Voluntary Planning Agreement**

Discussions and negotiations between Council, NSW Land and Housing Corporation and UrbanGrowth NSW have been ongoing over a number of years to determine what development contributions are required as a result of the Airds Bradbury Renewal Project.

All relevant Departments within Council have been a part of discussions and have been provided opportunity to comment on the draft VPA and Infrastructure Services Development Plan. Council's legal advisors have also reviewed the documents from a legal drafting perspective. The sub-total estimated value of contributions for the renewal project (excluding the value of community facility options) is \$18,626,906, noting that as a consequence of the approved modification to the conditions of the concept approval, works within Stages 1 and 2 will now be secured through a Works in Kind Agreement, while Stages 3 - 9 will be through the VPA.

Contributions cover the following broad items:

1. Road works, cycleways, bus stops and intersection upgrades – Contribution Value \$5,330,446
2. Water Cycle and Water Quality management – Contribution Value \$5,197,693
3. Open space and landscape works, recreation facilities and landscaping of public domain - Contribution Value \$7,602,454
4. Riparian and bushland regeneration - Contribution Value \$496,313
5. Community facilities – either refurbished (Option 1) or renewed (Option 2) the value of the contribution varies from \$100,000 to \$2,772,445 respectively. These values are in addition to the sub-total contribution figure of \$18,626,906 noted above and will form part of the total contribution figure depending on which option Council chooses.

Key components within those items include:

- Georges River Rd/Riverside Drive intersection – construction of a single lane roundabout (Stage 1)
  - Georges River Rd/Bellinger Rd intersection – give way intersection with additional approach from Deans Road (Stage 1)
  - St Johns Rd/Cambellfield Extension – construction of single lane roundabout (Stage 3)
  - Georges River Rd/Junction Rd (Peppin Rd extension) – construction of single lane roundabout (Stage 5)
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### 3.6 Public Exhibition Of Voluntary Planning Agreement For The Airds Bradbury Project

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- Upgrade of existing wetland/pond area west of (behind) the Riverside Inn (Stage 3)
- New playing fields at new proposed Kevin Wheatley VC Reserve including amenities and car parking (Stage 3)
- Upgraded Riley Park including new amenities and car parking (Stage 9)
- New upgraded Baden Powell reserve as per Council's resolution of 3 July 2012 (Stage 9). Note the earlier comments relating to Baden Powell Reserve.
- Community facilities Option 1- retention of Airds Youth Centre, Airds Neighbourhood Centre, Amarina Child Care Centre, including the dedication of this land to Council and Campbelltown Child and Family Centre. This option includes up to \$100,000 in contributions to fund improvements to these facilities
- Community facilities Option 2 - demolition of the facilities listed in Option 1 (with the exception of the Youth centre) and the construction of a new community facilities centre (integrated community, child and family services) on a minimum 1,450 sqm lot within the Town Centre. The building would be 710 sqm of Gross Floor Area and would have 20 car parking spaces
- Bushland regeneration, in particular Smiths Creek (Stage1) and Kevin Wheatley VC Reserve (Stage 3)
- Georges River Rd entry wall commemorating Kevin Wheatley VC (Stage 1).

The full list of works is set out in a schedule that describes the items, scope of work, value and timing (Attachment 2).

#### **Important issues to note**

Community facilities – As previously raised with the Council, there are two options available to the Council in order to provide adequate community facilities for the Airds/Bradbury area.

Option 1: is to keep the existing community facilities (Airds Youth Centre, Airds Neighbourhood Centre, Amarina Child Care Centre and Campbelltown Child and Family Centre) and receive a \$100,000 cash contribution to carry out upgrade works on these facilities. This option would include the dedication of the land occupied by Amarina, which is currently in the ownership of NSW Land and Housing Corporation, to Council.

Option 2: is the construction of a new Community Facilities Centre within the proposed new Town Centre, integrating community, family and child care services. This facility would be sited on its own allotment of at least 1,450sqm, would provide over 700sqm of gross floor area and have access to 20 exclusive onsite car parking spaces. The value of this facility is put by UrbanGrowth at approximately \$2.77M. The existing community facilities would be demolished, except for the youth centre, and that land developed for new housing.

A final decision on which option Council wishes to pursue is required prior to 30 June 2014 so that planning for Stage 3 of the renewal project and beyond can proceed appropriately.

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Playing field upgrades – there are two key areas being upgraded. The existing Riley Park playing fields will be upgraded with new drainage and irrigation as well as the introduction of a new synthetic cricket wicket between the fields. Future upgrading of lighting by Council will be facilitated through the placement of necessary infrastructure that provides capacity for a 100 lux rating. A new amenities building and car parking area will be provided.

The existing Kevin Wheatley VC Reserve is proposed to be relocated, including the existing playing fields. Two new fields will be constructed with drainage and irrigation. They will be flood lit to 50 lux with capacity for upgrade to 100 lux. A new amenities building will be built and car parking provided.

Open space embellishments - The Pond Area in the vicinity of the proposed new Kevin Wheatley VC Reserve will undergo major embellishment works including pathways, seating and viewing areas to enhance passive recreation opportunities. There will be BBQ/picnic areas as well as school age and toddler play areas. This area is intended to become the focus of the community, being adjacent to the town centre. Riley Park will also receive improved passive recreation facilities including BBQ/picnic and toddlers play area.

Native vegetation management – Council will be assuming responsibility for various remnant bushland areas that are classified Endangered Ecological Communities (EECs), as part of the Urban Renewal Project. These areas have been recognised as part of the statutorily required Biodiversity Off-Set Strategy which has been endorsed by the NSW Office of Environment and Heritage. As such, Council will be inheriting responsibility for the management of these areas to a higher standard than would ordinarily be the case for areas of general open space or bushland where EECs are not present. The maintenance provisions of the VPA now intend to recognise this fact by providing for a five year establishment and early maintenance period. For these areas of EEC, five years needs to be the minimum.

## **Conclusion**

Subject to Council being satisfied with the draft VPA and the supporting Infrastructure Services Delivery Plan, it can publicly notify its intention to enter into the Agreement with NSW Land and Housing Corporation.

The issues of concern previously raised by Council in its resolution of 10 September 2013 have been addressed satisfactorily other than the issue relating to Baden Powell Reserve, where Urban Growth has indicated its requirement to treat the reserve land as per the approved Concept Plan.

However, should any community submissions be received Council has a capacity to call for a report on same and to reconsider the Voluntary Planning Agreement prior to execution.

Following the required notification period, the Agreement can be executed.

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**Officer's Recommendation**

1. That Council endorse the draft Airds Bradbury Renewal Project Voluntary Planning Agreement and Infrastructure Services Delivery Plan for the purpose of public notification/exhibition with such public notification/exhibition to be carried out in accordance with the *Environmental Planning and Assessment Act 1979* and Regulations, over a minimum four week period during January and February 2014, subject to any matters raised by Council's Solicitor being addressed to the satisfaction of the General Manager.
2. That all submissions received during the public notification/exhibition period that do not support the Voluntary Planning Agreement be reported to Council. However, should no non supportive submissions be received then Council's General Manager be authorised to execute the Airds Bradbury Renewal Project Voluntary Planning Agreement, on behalf of Council.

**Committee Note:** Ms Michelle, Ms Parker and Ms Hierzer addressed the Committee.

**Committee's Recommendation: (Lound/Mead)**

1. That Council endorse the draft Airds/Bradbury Renewal Project Voluntary Planning Agreement and Infrastructure Services Delivery Plan, subject to the removal of any reference to Baden Powell Reserve or any proposed works thereon, for the purpose of public notification/exhibition with such public notification/exhibition to be carried out in accordance with the *Environmental Planning and Assessment Act 1979* and Regulations, over a minimum four week period closing no earlier than the end of February 2014, subject to any matters by Council's solicitor being addressed. With regard to Baden Powell Reserve negotiations should be carried out with UrbanGrowth NSW to ensure the retention of the reserve in its current form.
2. That all submissions received during the public notification/exhibition period that do not support the Voluntary Planning Agreement be reported to Council. However, should no non supportive submissions be received then Council's General Manager be authorised to execute the Airds Bradbury Renewal Project Voluntary Planning Agreement, on behalf of Council.

**Amendment: (Oates/Mead)**

1. That Council endorse the draft Airds Bradbury Renewal Project Voluntary Planning Agreement and Infrastructure Services Delivery Plan for the purpose of public notification/exhibition with such public notification/exhibition to be carried out in accordance with the *Environmental Planning and Assessment Act 1979* and Regulations, over a minimum four week period closing no earlier than the end of February 2014, subject to any matters raised by Council's Solicitor being addressed to the satisfaction of the General Manager.
2. That all submissions received during the public notification/exhibition period that do not support the Voluntary Planning Agreement be reported to Council. However, should no non supportive submissions be received then Council's General Manager be authorised to execute the Airds Bradbury Renewal Project Voluntary Planning Agreement, on behalf of Council.

**CARRIED**

Voting for the amendment were Councillors: Greiss, Matheson, Mead, Oates, Rowell and Thompson.

Voting against the amendment was Councillor Lound.

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**Council Meeting 10 December 2013 (Greiss/Rowell)**

Having declared an interest in regard to Item 3.6, Councillors Hawker and Lake left the Chamber and did not take part in debate nor vote on this item.

**Note:** Councillor Matheson arrived at the meeting during discussion of Item 3.6 and participated in debate and voted on this matter.

**Council Meeting 10 December 2013 (Greiss/Rowell)**

1. That Council endorse the draft Airds Bradbury Renewal Project Voluntary Planning Agreement and Infrastructure Services Delivery Plan for the purpose of public notification/exhibition with such public notification/exhibition to be carried out in accordance with the *Environmental Planning and Assessment Act 1979* and Regulations, over a minimum four week period closing no earlier than the end of February 2014, subject to any matters raised by Council's Solicitor being addressed to the satisfaction of the General Manager.
2. That all submissions received during the public notification/exhibition period that do not support the Voluntary Planning Agreement be reported to Council. However, should no non supportive submissions be received then Council's General Manager be authorised to execute the Airds Bradbury Renewal Project Voluntary Planning Agreement, on behalf of Council.

**Amendment (Dobson/Borg)**

1. That Council endorse the draft Airds Bradbury Renewal Project Voluntary Planning Agreement and Infrastructure Services Delivery Plan for the purpose of public notification/exhibition with such public notification/exhibition to be carried out in accordance with the *Environmental Planning and Assessment Act 1979* and Regulations, over a minimum four week period closing no earlier than 24 March 2014, subject to any matters raised by Council's Solicitor being addressed to the satisfaction of the General Manager.
2. That all submissions received during the public notification/exhibition period that do not support the Voluntary Planning Agreement be reported to Council. However, should no non supportive submissions be received then Council's General Manager be authorised to execute the Airds Bradbury Renewal Project Voluntary Planning Agreement, on behalf of Council.

Voting for the Amendment were Councillors: Borg, Brticevic, Dobson, Glynn, Greiss, Lound, Matheson, Mead, Rowell and Thompson.

Voting against the Amendment were Councillors: Kolkman and Oates.

**Council Resolution Minute Number 269**

That the above amendment be adopted.

Voting for the Council Resolution were Councillors: Borg, Brticevic, Dobson, Glynn, Greiss, Lound, Matheson, Mead, Rowell and Thompson.

Voting against the Council Resolution were Councillors: Kolkman and Oates.

At the conclusion of the discussion regarding Item 3.6, Councillors Hawker and Lake returned to the Chamber for the remainder of the meeting.

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3.7 Lot 2 DP 1187569, No. 250 Menangle Road, Menangle Park - Construction And Operation Of A Horse Stabling And Training Complex, Including Ancillary Site And Civil Works

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### 3.7 Lot 2 DP 1187569, No. 250 Menangle Road, Menangle Park - Construction and operation of a horse stabling and training complex, including ancillary site and civil works

#### Reporting Officer

Manager Development Services

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#### Attachments

1. Recommended conditions of consent (contained within this report)
2. Locality plan (contained within this report)
3. Indicative general site arrangement plan (contained within this report)
4. Indicative stable floor plan and elevations (contained within this report)
5. Independent Peer Review of Draft Assessment Report (contained within this report)
6. Independent Peer Review response to Final Report (contained within this report)

#### 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 (EP&A Act)*.

<b>Property Description</b>	Lot 2 DP 1187569, No. 250 Menangle Road, Menangle Park
<b>Application No.</b>	1861/2013/DA-C
<b>Applicant</b>	Michael Brown Planning Strategies
<b>Owner</b>	New South Wales Harness Racing Club Ltd
<b>Statutory Provisions</b>	State Environmental Planning Policy No. 55 – Remediation of Land State Environmental Planning Policy (Infrastructure) 2007 Sydney Regional Environmental Plan No. 9 - Extractive Industry (No. 2 1995) Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River Campbelltown Interim Development Order No. 15 Draft Campbelltown (Urban Area) Local Environmental Plan 2002 – Amendment No. 25 Campbelltown (Sustainable City) Development Control Plan
<b>Other Provisions</b>	Campbelltown 2025 – Looking Forward
<b>Date Received</b>	September 2013

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### 3.7 Lot 2 DP 1187569, No. 250 Menangle Road, Menangle Park - Construction And Operation Of A Horse Stabling And Training Complex, Including Ancillary Site And Civil Works

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## Report

### Introduction

Council has received a development application to construct and operate a new horse stabling and training facility at the subject site in Menangle Park. The site of the proposed development is adjacent to the existing harness racing track and its associated facilities. The land was recently purchased by the NSW Harness Racing Club Ltd from Council after the completion of an 'expression of interest' and contract of sale negotiation process.

The subject application was notified and subsequently, Council received submissions in objection to the proposal. Council also received responses from relevant Government agencies, to which the application was forwarded for comment.

### The site

The site is legally described as Lot 2 DP 1187569 and is known as No. 250 Menangle Road, Menangle Park.

The site is irregular in shape and has an area of 40 hectares. The site is presently vacant although has historically been used for farming and grazing, and has also been used for sand extraction mining. The site is presently vacant.

The site is bounded to the east by the Main Southern Railway, to the south by Menangle Road, to the west by an allotment held under Council's ownership which runs along the Nepean River. To the north, it joins land that is also owned by HRNSW, on which the Tabcorp Menangle Park harness racing track and associated facilities is presently located.

The site is sparsely vegetated, aside from some stands of trees and grass cover, having been cleared for grazing and mining (sand extraction) in the past. A gravel road that commences at Menangle Road traverses the site from south to north.

The land generally slopes down from the east to the west in the direction of the Nepean River, although variations in ground height are evident in specific areas, most likely due to previous mining activities.

### The proposal

The proposal can be broken down into four components, which are detailed below.

1. Construction of horse stabling facilities, featuring the following attributes:
    - up to 16 stable buildings
    - each stable building would contain up to 24 horses, feed stores, horse wash bays, an indoor stall and outdoor yard for each horse, harness equipment storage areas and amenities for staff
    - stable buildings would be constructed on concrete slabs and finished in Colorbond steel
    - construction of all 16 proposed stable buildings would provide for a total capacity of 384 horses.
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3.7 Lot 2 DP 1187569, No. 250 Menangle Road, Menangle Park - Construction And Operation Of A Horse Stabling And Training Complex, Including Ancillary Site And Civil Works

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2. Construction of horse training facilities, including:

- equine pools to allow horses to swim as part of training and injury rehabilitation
- horse walking machines
- sand roll pits
- a 1,000 metre training track
- fencing of outdoor paddocks constructed of open style post and wire style fencing.

3. Construction of ancillary works, including:

- a water quality treatment basin and 12,000 square metre effluent irrigation area
- a waste water treatment plant
- filling and reshaping the land to provide building platforms for the stables and other structures
- a car parking area providing for 22 vehicles and vehicle manoeuvring roads across the site, which would connect it with Menangle Road and the existing harness racing track to the north
- an overflow vehicle parking area
- undergrounding of existing electricity cabling
- site landscaping
- associated work such as installation of lighting, fencing and an alarm system.

4. Construction of a new intersection with Menangle Road.

- a new entry to the site would be constructed on Menangle Road, to the west of the current entry point to Roads and Maritime Services (RMS) requirements. Subject to final design preparation and approval from Council and the RMS, this may result in the closure of one of the existing entry points to 'Nepean Reserve', however, two other access points would be unaffected.

The application also proposes the construction of a noise abatement barrier along the development's eastern frontage to the Main Southern Railway and nearby residential development and establishment of a treed visual screen, both of which are discussed in further detail later in this report.

The application also mentions other proposed facilities, which would be subject to future development application and assessment, including:

- an indoor horse water-walker
- an administration building
- a farrier's shop for the fitting of shoes and other equipment to horses
- a veterinary building to assess and treat horses kept at the site
- a harness and produce supply shop.

Horses would be transported to the site and kept there for a period of several months at a time while they compete in metropolitan and outer-metropolitan harness racing fixtures. The horses would be trained and housed within the complex and its surrounds during their stay at the site. Harness Racing NSW anticipates that existing stabling and training facilities which various people operate within the Menangle Park township, are likely to relocate to the subject site following its construction.

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### 3.7 Lot 2 DP 1187569, No. 250 Menangle Road, Menangle Park - Construction And Operation Of A Horse Stabling And Training Complex, Including Ancillary Site And Civil Works

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The stables would primarily be of metal construction and will present as large 'barn'-type structures, with dimensions of 38.45 x 36.80 metres, including covered verandas and the outdoor yards. The buildings would have a height above finished ground level of approximately 5.0 metres.

The stables would be finished in colours that are to be recommended by heritage experts, having regard to their proximity to a local heritage item known as 'The Pines'. The stables would also feature detailed gables and roof openings as well as timber-look feature panels to increase their visual interest. Internally, the stable stalls would be lined with plywood and rubber to minimise noise and reduce the potential for injury to horses if they make contact.

The buildings that would be constructed as part of this application would be located on the eastern-most side of the land, adjacent to the Main Southern Railway. The applicant nominated this site for the complex as it is the highest part of the land and would be least susceptible to inundation during flooding from the Nepean River. The placement of the complex in this location puts it relatively close to two existing residential dwellings. The potential impacts of this placement as it relates to residential amenity and heritage significance are discussed later in this report.

The majority of horse training activities and movements on the site would be undertaken between 6.00am and 7.00pm at night. The impacts of noise associated with the proposed activities are considered later in this report.

Although the application has not been submitted as a 'staged development' pursuant to the *Environmental Planning and Assessment Act 1979*, the applicant has indicated that the complex would be constructed in three stages, being:

Stage 1 – construction of six stable buildings, the training track, water treatment basin, paddocks, exercise machines, waste water treatment plant, internal roads and car park, acoustic barrier, landscaping and the intersection with Menangle Road;

Stage 2 – construction of four additional stable buildings; and

Stage 3 – construction of the final six stable buildings.

### **Assessment**

The development has been assessed in accordance with the matters for consideration under Section 79C of the *Environmental Planning and Assessment Act 1979* (the EP&A Act) and having regard to those matters, the following issues have been identified for further consideration.

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3.7 Lot 2 DP 1187569, No. 250 Menangle Road, Menangle Park - Construction And Operation Of A Horse Stabling And Training Complex, Including Ancillary Site And Civil Works

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## 1. Campbelltown 2025 – Looking Forward

‘Campbelltown 2025 - Looking Forward’ is a vision 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
- 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
- building a distinctive Campbelltown sense of place
- creating employment and entrepreneurial opportunities.

The proposed development is consistent with these directions.

The relevant desired outcomes associated with Council’s vision, included in ‘Campbelltown 2025 – Looking Forward’ include:

- urban environments that are safe, healthy, exhibit a high standard of design, and are environmentally sustainable
- an impression of architecture that engages its environmental context in a sustainable way
- development and land use that matches environmental capacity and capability.

It is considered that the proposed development is generally consistent with the Vision’s desired outcomes having regard to the proposed scale, function and design of the proposed development subject to some adjustments recommended by this report.

## 2. Planning provisions

Section 79C(1)(a) of the *EP&A Act* requires Council to consider environmental planning instruments and development control plans that apply to the site.

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3.7 Lot 2 DP 1187569, No. 250 Menangle Road, Menangle Park - Construction And Operation Of A Horse Stabling And Training Complex, Including Ancillary Site And Civil Works

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## **2.1 State Environmental Planning Policy No. 55 – Remediation of Land**

Due to the nature of former land uses on the site, the proposed development is subject to the provisions of SEPP 55 – Remediation of Land. Specifically the Policy provides, under Clause 7(1), that development consent must not be granted by Council unless:

- (a) It has considered whether the land is contaminated, and
- (b) If the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and
- (c) If the land requires remediation to be suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

The applicant has undertaken 'Phase I' and 'Phase II' contamination assessments pursuant to the SEPP. Further discussion on the site's potential contamination is provided later in this report.

## **2.2 State Environmental Planning Policy (Infrastructure) 2007**

State Environmental Planning Policy (Infrastructure) 2007 (the Infrastructure SEPP) applies to the development in two separate and distinct ways. The two ways are discussed below.

### **Part 2, Division 15, Subdivision 2 – Development in rail corridors**

As detailed earlier in the report and illustrated in the indicative general site arrangement plan in Attachment 3 to this report, the proposal would be located in close proximity to the Main Southern Railway. As such, consideration of certain Clauses within the Infrastructure SEPP is warranted.

Clause 86 of the Infrastructure SEPP requires Council to forward applications for development within 25 metres of a rail corridor involving excavation to a depth of greater than 2.0 metres to the corridor's relevant rail authority for its assessment. Although it is not explicitly stated in the application that excavation would be required to a depth greater than 2.0 metres, Council still forwarded the proposal to ensure that the relevant authority was able to comment on the application. In this case, the relevant authority is the Australian Rail Track Corporation (ARTC), to which Council forwarded the proposal.

Council received a written response from the ARTC, which is discussed later in this report.

### **Part 2, Division 17, Subdivision 2 – Development in or adjacent to road corridors and road reservations**

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3.7 Lot 2 DP 1187569, No. 250 Menangle Road, Menangle Park - Construction And Operation Of A Horse Stabling And Training Complex, Including Ancillary Site And Civil Works

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Menangle Road is a classified road pursuant to the SEPP and is under the control of the RMS as the relevant government agency. As such, Clause 101(2) applies and requires Council to consider the following:

- (a) where practicable, vehicular access to the land is provided by a road other than the classified road, and
- (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:
  - (i) the design of the vehicular access to the land, or
  - (ii) the emission of smoke or dust from the development, or
  - (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and
- (c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.

In regard to Clause 101(2)(a), vehicular access to the land can only be provided by the classified road (Menangle Road) as it is the only public road to which the development has direct frontage.

In regard to Clause 101(2)(b), the application has been forwarded to the RMS for its comment and approval. A key component of the RMS's assessment of the proposal is the design of the proposed intersection and its effects on vehicle safety and efficiency.

The RMS's final comments have not been received at the time of the report's preparation. As such, as a recommended condition of development consent, it is proposed to issue a 'deferred commencement' consent, so that should Council approve the application, the consent does not become active until such time that the RMS approval is received.

In regard to Clause 101(2)(c) and upon consideration of both the proposed use, the distance that the stable complex would be set back from Menangle Road (approximately 150 metres) and the amount of traffic that utilises Menangle Road, the development it is not considered likely to be detrimentally impacted by its proximity to a classified road.

Having regard to the abovementioned discussion of relevant aspects within the Infrastructure SEPP, the proposal is considered to be compliant, subject to receipt of an approval from the RMS for a new intersection on Menangle Road.

### **2.3 Sydney Regional Environmental Plan No. 9 - Extractive Industry (No. 2 1995)**

Sydney Regional Environmental Plan No. 9 - Extractive Industry (No. 2 1995) applies to the site and includes several aims and objectives. Those relevant to this application are detailed below:

- to facilitate the development of extractive resources in proximity to the population of the Sydney Metropolitan Area by identifying land which contains extractive material of regional significance
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3.7 Lot 2 DP 1187569, No. 250 Menangle Road, Menangle Park - Construction And Operation Of A Horse Stabling And Training Complex, Including Ancillary Site And Civil Works

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- to ensure consideration is given to the impact of encroaching development on the ability of extractive industries to realise their full potential
- to promote the carrying out of development for the purpose of extractive industries in an environmentally acceptable manner.

Despite the sand extraction that has previously occurred at the site, it is not identified as being of regional significance under Schedule 1 of the Plan, which lists several sites throughout metropolitan Sydney that are of significance for their extractive capacity. The application is considered to be compliant with the Plan and its relevant objectives.

**2.4 Sydney Regional Environmental Plan No. 20 - Hawkesbury-Nepean River (No. 2 1997)**

Sydney Regional Environmental Plan No. 20 - Hawkesbury-Nepean River (No. 2 1997) (SREP 20) applies to the site. The Plan aims to "to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context".

Part 3, Clause 11 of SREP 20 contains development controls for certain land uses occurring on land to which the Plan applies. The application is consistent with two of the land uses, both of which require Council's consent in order to occur. They are detailed in the extract below:

(7) Filling

Definition:

Filling of land, including submerged aquatic land, by raising the ground level through disposal of spoil from any landfill method (such as mining, dredging or refuse dumping), whether or not to enable the construction of a road or the erection of buildings or pylons or any other structure, where filling exceeds 1 metre in depth, or an area of 100 square metres.

Consent required.

(14) Recreational facilities

Definition:

Development for the purpose of a building, work or place used (whether or not for commercial gain) for sporting activities, recreation or leisure activities, being a building, work or place that is situated within the river or on land:

- (a) that adjoins the river or a tributary of the river, or
- (b) that is flood prone land.

Consent required.

(17) Sewerage systems or works

Definition:

Development for the purpose of any sewerage system or work which stores, treats or disposes of sewage (including domestic on-site disposal systems that are ancillary to development which requires consent) but not including a public utility undertaking.

Consent required.

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3.7 Lot 2 DP 1187569, No. 250 Menangle Road, Menangle Park - Construction And Operation Of A Horse Stabling And Training Complex, Including Ancillary Site And Civil Works

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Additional matters for consideration by the consent authority:

- (a) Whether the proposed development will be capable of connection to a Sydney Water Corporation Limited or council sewerage system either now or in the future.
- (b) The suitability of the site for on-site disposal of effluent or sludge and the ability of the sewerage systems or works to operate over the long-term without causing significant adverse effects on adjoining property.
- (c) The likely effect of any on-site disposal area required by the proposed development on:
  - any water bodies in the vicinity (including dams, streams and rivers), or
  - any mapped wetlands, or
  - any groundwater, or
  - the floodplain.
- (d) The scope for recycling and reusing effluent or sludge on the site.
- (e) The adequacy of wet weather storage and the wet weather treatment capacity (if relevant) of the proposed sewerage system or works.
- (f) Downstream effects of direct discharge of effluent to watercourses.
- (g) The need for ongoing monitoring of the system or work.

The Plan lists several objectives and policy directions for matters such as water quality, catchment management, flora and fauna management and riverine scenic quality. The development is not likely to affect the matters detailed for further policy and strategic planning under the SREP due to its nature and size.

In relation to the additional matters for consideration regarding the proposed sewage management facility, the applicant has provided Council with a waste water management report, which identifies that a treatment system for waste liquids emanating from the development will need to be installed and operated at the site. The system is discussed in more detail later in this report.

Having regard to the above discussion, the proposal is consistent with the controls detailed in the Plan and its objectives for development in the vicinity of the Hawkesbury-Nepean system.

## **2.5 Campbelltown Interim Development Order No. 15**

The subject property is within land affected by the provisions of Interim Development Order No. 15 (IDO 15). Under IDO 15, the site is zoned 1 - Non Urban (40 hectare minimum). Under Clause 4 of the IDO the development of the site as proposed is not specifically prohibited, and is therefore permissible with Council's consent.

Use of the site as proposed is considered to be complementary to the IDO's non-urban zoning of the land and is consistent with existing land uses in the vicinity.

Several additional clauses of the IDO relate to the application. They are discussed below.

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3.7 Lot 2 DP 1187569, No. 250 Menangle Road, Menangle Park - Construction And Operation Of A Horse Stabling And Training Complex, Including Ancillary Site And Civil Works

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## Clause 6

Clause 6(a) requires Council to take into consideration the probable aesthetic appearance of a development when it is viewed from a waterway, main road, railway or public reserve. The subject site is near the Nepean River and would be visible from Menangle Road and the Main Southern Railway.

The development (in particular, the stable buildings) is likely to be visible from Menangle Road, owing to its relatively close proximity to the road and its elevated position. The buildings would feature architecturally interesting panelling, roof and gable height variations and an array of colours that are considered to be complementary to existing development at the harness racing track nearby and with respect to the heritage residence on an adjoining site. The complex would be screened to an extent by trees and a noise abatement barrier, which would also be finished in colours that complement the scenic nature of the locality and the heritage significance of a nearby residential dwelling.

Clause 6(c) requires Council to consider whether:

- (i) adequate areas are provided on site for the parking of vehicles,
- (ii) adequate vehicular entry and exit points are provided to ensure that persons or vehicles accessing the site are not endangered, and
- (iii) adequate space has been provided on site for the loading and unloading of vehicles.

A new intersection would be constructed to Menangle Road in accordance with Roads and Maritime Services (RMS) requirements. A car parking area accommodating 22 vehicles is also proposed, which is considered to be adequate to provide parking for staff and visitors to the site, which will not be open to the public. Internal roads that presently connect the subject site to the racing track and associated facilities to the north would be formalised as part of the development.

## Clause 13

Clause 13 relates to tree preservation on land subject to the provisions of IDO 15. The development requires the removal of a small stand of trees (incorporating approximately five individual trees) in the centre of the site, to make way for the proposed training track. Having regard to the size, scale and species of trees proposed for removal and their disconnection from other trees on the site, their removal is not considered to be significant. Trees that are located on the site's western side, past the existing access road would not be removed.

## Clause 19

Clause 19 relates to the protection of environmental heritage. Whilst the site itself is not identified as a place of European heritage significance, a nearby residential dwelling, known as 'The Pines' is listed as being 'locally significant'. Further discussion relating to the development and its potential impact on this item of environmental heritage are detailed later in the report.

The site is also considered likely to contain artefacts of indigenous heritage significance. This is discussed later in the report.

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### Clause 23

Clause 23 of the IDO contains Council's requirements for certain developments related to animal husbandry and other agricultural pursuits. The proposal is defined under the IDO as an "animal boarding or training establishment", which means a building or place used for commercial boarding, breeding, keeping, maintaining, receiving or training of dogs, cats, horses or birds.

Development of the site for this purpose is permissible with Council's consent.

The Clause goes on to require Council to consider the following matters when determining an application for such development:

- (a) the need to protect the quality of downstream watercourses
- (b) the need to conserve native vegetation
- (c) the need to protect environmentally sensitive land, such as riparian land, land containing an endangered species, population or ecological community or a vulnerable species within the meaning of the *Threatened Species Conservation Act 1995*
- (d) the need to protect the amenity of the area from noise, spray drift, odour or any other potentially offensive consequences
- (e) the need to limit the impact of development on flood liable land

Items a, c, d and e are relevant and are discussed below.

The complex would be designed and constructed to comply with relevant requirements of Council and relevant State Government publications such as 'Using MUSIC in Sydney's Drinking Water Catchment' in order to determine its potential impacts on the natural environment. The development's impact on natural waterways would be minimised by the use of a specifically designed and constructed waste water treatment facility and effluent irrigation area that would be sized and determined based on the land's ability to accommodate the effluent and the capacity required for the development. Water run-off would be captured and treated in a water quality basin to meet and exceed Council's requirements for the reduction of solids, nitrogen and phosphorus leaving the site.

The development has been designed to incorporate specific noise impact ameliorative measures, including construction of a solid barrier, use of certain specified materials within the stable buildings and restrictions on the timing of operations at the site. Noise intrusion, odour and other potential amenity impacts are discussed later in this report.

The proposal's impact on flooding at the site has been measured and is considered to be negligible, noting the existing and proposed ground contours, the removal of materials from the land over time as part of mining, the development's location at the existing highest point of the land and the velocity of flood waters that would traverse the development site.

Given this discussion, the application is considered to be compliant with the relevant standards contained within IDO 15 and is therefore a permissible development with Council's consent.

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## **2.6 Draft Campbelltown (Urban Area) Local Environmental Plan 2002 – Amendment No. 25**

Council has previously publicly exhibited a draft planning proposal to amend the zoning throughout Menangle Park as part of strategic planning for the area. As such, the draft amendment to Council's relevant local environmental plan is a matter for consideration pursuant to Section 79C(1)(a)(ii) of the EP&A Act.

Under the planning proposal, the site would be rezoned to 6(c) – Private Open Space Zone.

The proposed objectives for the land under the 6(c) zone are:

- (a) to identify areas where private recreation facilities are or may be developed, and
- (b) to allow a limited range of other activities which will not detract significantly from the character of the locality or the amenity of any existing or proposed development in the locality.

The use of the site as proposed is consistent with the abovementioned objectives.

The stables and training facility would be defined as an “animal boarding and training facility” under the draft planning proposal, which is consistent with the definition of the development contained in IDO 15. This use is not a permissible development in the 6(c) zone.

During the exhibition of the draft planning proposal, the applicant prepared a submission and requested that the use of the site as proposed in the current development application be considered by Council as permissible at the site. A separate report will be prepared for Council's consideration in the future in regards to the planning proposal's exhibition and a discussion of submissions received will be included therein.

Notwithstanding the above comment, IDO 15 is the prevailing local environmental planning instrument at the site and under that instrument, the development is permissible with Council's consent.

## **2.7 Campbelltown Sustainable City Development Control Plan**

Campbelltown (Sustainable City) Development Control Plan (SCDCP) applies to the subject land and development type.

It is noted that at the time of the application's lodgement, the previous version of the SCDCP was the relevant development control plan (referred to as the '2009 version'). As such, this is the version considered by the applicant and in this report, although where necessary and relevant, comparison to the current version of the SCDCP (referred to as the '2012 version') is made.

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Relevant aims of the SCDCP are:

- ensure that the aims and objectives of any relevant Environmental Planning Instruments 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
- 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
- ensure that new development minimises the consumption of energy and other finite resources, to conserve environmental assets and to reduce greenhouse gas emissions.

The development is consistent with these aims.

Part 2 of the SCDCP applies to all development. Relevant portions of that Part are detailed as follows:

Campbelltown (Sustainable City) Development Control Plan (SCDCP) does not contain controls that specifically relate to 'animal boarding and training establishments', but it does apply to the subject land. The relevant general provisions of Part 2 of the Plan, applying to all types of development, have been considered and are discussed as follows:

### 2.3 Views and Vistas

The Plan requires that development appropriately responds to important views to certain land features within the City. Of particular relevance to this application is the SCDCP's mention of the Nepean River corridor as being of visual and environmental significance. As detailed in the discussion of IDO 15, the complex would be visible from Menangle Road owing to the difference in ground levels and the scale of buildings proposed. It is not considered likely to be visible from the Nepean River due to existing riparian vegetation and the change in ground levels. The site will be screened by physical and landscaped barriers from nearby residential dwellings.

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#### 2.5 Flora, Fauna and Weed Management

The development site has largely been cleared of vegetation. According to the plans submitted with the application, approximately five trees would be removed as part of the complex's construction, although as qualified previously, they are not considered to be significant as a wildlife corridor or for biodiversity protection in the immediate vicinity. Fauna species are not likely to be impacted by the development.

#### 2.6 Erosion and Sediment Control

A detailed sediment and erosion control plan would be required to be submitted to Council prior to work commencing on site should development consent be granted. An appropriate condition of consent is included in Attachment 1 to ensure that sediment does not leave the site and enter the Nepean River or road network during construction and operation of the facility.

#### 2.7 Cut and Fill

Fill material will be required to be placed near the existing 'knoll' atop which the complex would be constructed. The fill would be placed in this area to increase the 'envelope' available for development of flood free land and so as to increase the floor height of proposed buildings to minimise flooding impacts to animals and infrastructure. The fill proposed for use at the site would be won from the same land as part of the excavation of a surface water treatment pond and would be considered as 'virgin material' as it emanates from the site.

#### 2.10 Heritage Conservation

The SCDCP contains recommendations for the assessment of development applications on or in the vicinity of items of environmental heritage. This matter is addressed later in this report.

#### 2.13 Risk Management

The SCDCP requires Council to consider several items relating to the management of potential risks at a development site, including contaminated land, salinity, bushfire and mine subsidence.

A salinity and land contamination report was submitted with the proposal. In brief, the report does not identify the land as being contaminated other than some specific areas that relate to previous infrastructure installed on the land. Potential contamination of the site is discussed in more detail later in this report.

The land may be subject to mine subsidence in the future if planned mining occurs in the area. Advice from the Mines Subsidence Board indicates that the land may be susceptible to subsidence in the future. Recommended conditions of consent relating to the design and construction of the development in accordance with the Board's requirements are detailed in Attachment 1 of this report. The applicant has submitted plans for the development bearing the Mine Subsidence Board approved development stamp.

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Having regard to the above comments, the development is considered to be compliant with the relevant controls and objectives contained in the Plan.

### **3. Planning Assessment**

#### **3.1 Impacts on the Natural and Built Environment**

Section 79C(1)(b) of the *EP&A Act* requires Council to assess the development's potential impacts on the natural and built environment.

The primary areas in which the development may have some impacts on its environment are detailed as follows:

#### **3.2 Noise**

The applicant has submitted an assessment of potential noise impacts associated with the development prepared by Acoustic Logic (ref. 20130665.1, August 2013).

The report considers the use of the site for the stabling and training of horses and in particular, its potential to cause disturbance to nearby residential dwellings. The main noise sources identified in the report are:

- horse exercise noise
- horse “huffing” (a horse blowing air out its mouth and over its lips)
- noise from vehicles, voices and plant associated with the development
- noise ‘breakout’ from the stables buildings

The report considers the proximity of sensitive receivers, being two residential dwellings on the eastern side of the Main Southern Railway, with the nearest being approximately 60 metres from the development site. The report considered background noise, which was measured using an unattended noise monitor on one of the affected residential properties over a period of seven days. The noise monitor also detected rail movements on the adjacent Main Southern Railway, which typically occurred up to six times per night.

The report uses the former Department of Environment and Climate Change ‘Industrial Noise Policy (Intrusiveness and Amenity Criteria)’ and the ‘Environmental Criteria for Road Traffic Noise’ publications.

The report makes various assumptions about the likely number of horses that would be undertaking various activities throughout the day. Of particular importance is the period from 6.00am to 7.00am, which is part of ‘night time’, in which more strict noise intrusiveness criteria are applied.

Briefly, the noise likely to be generated by the complex was not considered likely to significantly or detrimentally impact the two nearby dwellings. This includes during night time (10.00pm – 7.00am). Sleep arousal noise criteria established by the Industrial Noise Policy were not exceeded in the modelling. The report noted that the sleep disturbance assessment considered that windows of the residences may be left open for ventilation overnight.

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Day and night time predicted noise average levels and peak noise levels did not exceed the relevant criteria in the modelling undertaken.

The report concludes with recommendations that certain materials and activities be undertaken at the complex in order to reduce its noise impact on neighbours. The recommendations have been included within Attachment 1 to this report; however, briefly they include (but are not limited to):

- construction of a noise abatement barrier with a height of at least 2.1 metres along the development's eastern boundary
- further consideration of the potential for rail noise to be reflected from the noise abatement barrier towards nearby residential properties
- limitations on exercise start times in the morning
- internal lining of stables to minimise noise from contact between horses and the metal of the buildings
- restriction on the selection of any mechanical plant (including ventilation equipment and pool filters) and
- installation of noise absorptive material within certain stables.

With these measures in place, the report concludes that the development is within the parameters established by the Industrial Noise Policy, "preventing adverse impact on nearby residential properties".

### 3.3 Flooding

Flooding and drainage represents an issue for the site as it is known to be liable to flooding. The site is subject to inundation from the Nepean River during events as frequent as 1 in 5 year annual recurrence intervals (ARI). For this reason, the applicant has sought to locate the majority of the development, particularly the buildings associated with it, on the highest ground on the land, which is in the central and eastern portion of the site.

The report, prepared by Cardno (ref. NA50613003 Version 2, dated 20 August 2013) relied upon work that was done previously by the NSW Harness Racing Club during its development of an enlarged racing track, approved by Council in December 2006 and constructed soon thereafter. The modelling used for that particular application was subjected to rigorous assessment by Council at the time.

The Cardno report made several findings regarding the proposed new development, some of which are reproduced below:

- the existing and proposed models were run for the 5, 20, 50 & 100 year ARI's and the results show that generally there are no impacts on peak flood levels on neighbouring properties
  - the proposed regional five year ARI flood level will reach approximately RL 74.1m AHD affecting the eastern portion of the site however, this section of the site is not intended to be developed. The water quality/quantity basin proposed to be provided sits below the five year ARI flood level and would provide some additional flood storage for this flood event
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- the 100 year ARI flood level affecting the development has been used to set the Flood Planning Level (FPL)
- the minor increase in fill within the existing 100 year ARI flood affected area will not result in increases in peak water levels greater than 0.01m and will not affect any neighbouring properties
- a 1.05 ha refuge area above the probable maximum flood level has been included as part of the development. The probable maximum flood level was predicted by a separate report, recently prepared as part of land release strategic planning for Menangle Park
- the area of filling that occurs within the 100 year ARI extent is minor with net flood storage for the site being increased as a result of moving fill from the proposed basin location, which is below the 100 year ARI, to above the PMF level
- the lack of impact on peak flood levels on neighbouring properties during the 100 year ARI and the increase in net flood storage shows that this development will not result in cumulative impacts downstream.

Having regard to the above comments, the development is considered to be acceptable in terms of its impact upon local flooding behaviours and is not likely to significantly or detrimentally impact upon nearby land owners or the environment.

### 3.4 Waste capture and disposal

The use of the stable complex for the boarding and training of close to 400 horses is likely to generate a significant amount of solid and liquid wastes. The application considers this likelihood as required by relevant State and local planning controls.

Solid waste would be captured from within the stables as part of daily 'mucking out' procedure. The solid waste (manure) would be collected along with the degradable bedding used within the stables, which are generally wood shavings and/or straw. The bedding material would also capture most of the urine from horses when they are being kept indoors.

The applicant anticipates that approximately seven tonnes per day of combined manure and bedding would be generated by the development, at its full horse capacity. This solid waste would be captured during daily cleaning of the stables and collected in commercial bins, which would be kept adjacent to each stable building. The solid waste would then be collected by a licensed contractor and used off-site for other purposes.

The horses are also likely to spend a significant time outdoors in training or paddocks. In this case, urine and manure would be deposited on the ground and would break down over time by action from microbes and the weather.

Odour that may emanate from the complex's operation is discussed later in this report.

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Waste water would be captured and treated by a waste water treatment plant, which would connect each of the stable buildings across the site. The treatment plant would utilise current best-practice treatment processes, including aeration tanks, filters and ultra violet light disinfection prior to disposal over an appropriately sized irrigation area. Final effluent irrigation area would be subject to future detailed assessment at the design phase, prior to any work taking place at the site.

During periods of prolonged rain or flooding where the irrigation area is saturated with water, the effluent would be captured in emergency storage tanks for later disposal or collection by a licensed contractor. The recommendations of the waste water report, prepared by Cardno (ref. NA50613003 Version 2, dated 20 August 2013) notes that further detailed design will be required, along with compliance with relevant Government agency requirements, Australian Standards and receipt of a Section 68 approval from Council pursuant to the *Local Government Act 1993*. These requirements are reflected in the recommended conditions of consent detailed in Attachment 1.

### 3.5 Odour

Odour sources from the development include the solid waste discussed above and the waste water treatment plant. In line with Office of Environment and Heritage guidelines, the applicant has stated that an odour complaints management system would be established, which would afford potentially affected land owners an opportunity to register complaints and require the applicant to respond and ameliorate the issue.

The applicant would also need to comply with the requirements of the *Protection of the Environment Operations Act 1997*, which defines offensive odour and provides compliance mechanisms to ensure that odour does not cause offence to nearby receivers.

Recommended conditions of development consent in Attachment 1 detail Council's requirements for the applicant in relation to ensuring that the complex does not detrimentally impact on neighbours in this regard.

### 3.6 Traffic

The traffic impacts of the development are not likely to be significant. A new intersection at the site's southern entry point with Menangle Road would be constructed in accordance with RMS requirements.

Council forwarded the application to the RMS for its review. At the time of writing this report, the RMS's final response had not been received, however, officers understand that subject to receipt of additional information and minor amendments to the original proposal, the RMS will be satisfied that a new intersection can be constructed at the site.

The new intersection will make it safer for vehicles entering and leaving the site in both directions on Menangle Road.

As mentioned previously, should Council grant development consent for the application, it is to be recommended that it be issued as a 'deferred commencement', so that until such time that the RMS issues its approval for the intersection alteration on Menangle Road, the consent is not active.

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Recommended conditions of consent in Attachment 1 incorporate Council's requirements for final design and construction of the intersection. The conditions also require the applicant to continue consultation and receive final design and road safety audit approval from the RMS prior to any works commencing.

#### **3.7 Heritage impact**

The development's potential impact on heritage is twofold and addressed separately below.

##### **Aboriginal Heritage**

The development site is known to contain an area of cultural and archaeological significance to the local Aboriginal community. A sample extract from the applicant's Aboriginal heritage assessment, submitted with the application follows:

It was recommended that the site, recorded on the Office of Environment and Heritage (OEH) Aboriginal Heritage Information Management System (AHIMS) sites register as site # 52-2-3764, and associated area of high archaeological potential would require test excavation in accordance with the OEH Code of Practice for the Archaeological Investigation of Aboriginal Objects in New South Wales (2010).

Aboriginal community consultation was conducted in accordance with the OEH Aboriginal Cultural Heritage Consultation Requirements for Proponents (2010). Seven Aboriginal stakeholders registered as groups that may hold cultural knowledge relevant to determining the Aboriginal cultural values of the subject site. Test excavation was conducted over 10 days between November 26 and December 7 2012, with representatives of six registered Aboriginal stakeholder groups taking part in the excavation.

A total of 60 excavations were made and from those 60 excavations, 89 artefacts were discovered. The distribution of those artefacts indicates a sparse scatter across the majority of the site area, with a distinct concentration of artefact bearing pits in the northern portion of the site.

The artefacts collected from the test excavations indicate that stone use at the site was part of a larger strategy of raw material use in the area. All identified raw material was transported to the site from elsewhere. The presence of silcrete within the uncovered artefacts, considering the closest known sources were over 25 km away, demonstrates raw material exchange through different Aboriginal language groups, with the site located close to a 'travel corridor' that facilitated movement between the Illawarra and northern Cumberland Plain.

Based on the results of archaeological test excavation, AHIMS site # 52-2-3764 has been assessed as demonstrating moderate archaeological significance. Where conservation is not achievable within the northern 100 metres of the site area, targeted salvage excavation as a condition of an Aboriginal heritage impact permit (AHIP) would allow for the removal of all, or a large portion of, a specified area of high artefact density. The removal of a section of high artefact density would provide more information on the activities that took place at the site, and would mitigate against impact to the remainder of the site area.

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Council forwarded the application to the Office of Environment and Heritage (OEH) for its comment, noting that a portion of the development area is listed as a site within the Office's records. The Office responded verbally to Council's request for comment, indicating that a full and thorough assessment of the proposal would be undertaken at the time the applicant requested an Aboriginal Heritage Impact Permit, pursuant to the *National Parks and Wildlife Act 1974*.

A recommended condition of consent requires that the applicant receive a permit as mentioned, prior to the issue of a construction certificate for any works to take place at the site. A Permit would ensure that recovered artefacts are studied and potentially reburied in an unaffected portion of the site, whilst updating the OEH's records. This excavation work is undertaken in consultation with relevant local Aboriginal groups and heritage/archaeological professionals.

#### **European Heritage**

Aside from the site's historical use for grazing and other colonial agricultural purposes, the land does not contain a particular item of European heritage and it is not part of a heritage precinct. However, the horse training and boarding complex's footprint would be located in relatively close proximity to an item of heritage significance, known as 'The Pines'. 'The Pines' is currently occupied and used as a residential dwelling and would be located approximately 55 metres to the east of the nearest stables building proposed by the applicant. Between the proposed stables building and 'The Pines' lies the Main Southern Railway, which is used for passenger and freight rail traffic.

Noting the proposal's proximity to 'The Pines', the applicant commissioned the preparation of a 'heritage impact statement', which was prepared by Urbis (ref. SH266 Revision 1, dated August 2013). The report was prepared to determine the effects that the development may have on the significance of 'The Pines' and to detail measures that may be taken to minimise impacts that may be discerned following the assessment.

'The Pines' is a late colonial sandstone dwelling constructed circa 1870. The dwelling is listed as an item of 'local significance', pursuant to Campbelltown Interim Development Order No. 15. 'The Pines' is listed on the National Trust's Register (item no. S10491). Council's heritage register identifies the dwelling as being "a very good late example of the classical colonial stone house." The dwelling and its surrounds are well-maintained and as mentioned previously, is presently occupied for residential purposes.

The heritage impact statement considered the proximity of the proposed buildings to 'The Pines' and what impact this may have on the significance of the dwelling. Upon completion of the assessment, including a check of relevant statutory controls and NSW Heritage Office guidelines for assessing the heritage impact of new development, the applicant's heritage consultant states:

The proposed stable complex is supported in principle and will not impact on the identified significance, or curtilage of the heritage items in the vicinity. The proposed location is also supported with consideration for the environmental limitations of the site (i.e. flooding).

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Although the proposed development is in close proximity to 'The Pines', the separation of the subject site by the railway line and existing mature landscaping mitigates potential visual impacts between the site and 'The Pines'. The significance of 'The Pines' includes its enclosed cultural landscape which provides a dense landscape setting around the house and garden which strongly defines the item and its curtilage. This is not a heritage item which currently depends on a vista to the west and is not visually associated with the rural landscape of the subject site, as the construction of 'The Pines' postdates the railway.

The proposed stables complex is sympathetic to 'The Pines' in its north south orientation which reduces the scale of the development in views and reads as an ensemble of ventilated pitched roof elements in conjunction with the graduating height of surrounding elements including the acoustic barrier, vegetation and the railway line.

The proposal has been recommended to Council for approval subject to the following recommendations:

- mature tree planting should be provided along the site boundary adjacent to the Pines to reinforce the existing landscaped character of the heritage item and create a landscape buffer
- proposed materials and finishes schedules for the stable complex should be provided to ensure that the complex is recessive in views from Menangle Road. Materials and finishes should be prepared in consultation with a heritage consultant
- proposed materials and finishes schedules should be provided for the proposed sound barrier wall to ensure that the element is recessive in views from Menangle Road. Materials and finishes should be prepared in consultation with a heritage consultant
- the proposed sound wall should be articulated to reduce visual impact and should be no higher than the minimum 2.1m required for acoustic buffering.

Further discussion of the potential impacts of the development on 'The Pines' are discussed later in this report.

### 3.8 Suitability of the Site.

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

The site is presently vacant and has recently been purchased from Council. The development site is in close proximity to the applicant's existing facilities and infrastructure associated with the harness racing industry and has been an integral part of the Menangle Park village for over 50 years. Access to the site would be provided via a new, safer intersection with Menangle Road in the southern portion of the land, which removes heavy vehicles and horse floats from the public's entry to the harness racing track, which is located on Racecourse Avenue in the Menangle Park township.

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The development would not cause the destruction of significant native vegetation, loss of historical significance of nearby items of heritage nor significantly impact the drainage and flooding regime of the locality.

The applicant identifies some additional reasons that the site may be considered suitable for the development, which are reproduced in part below:

The development of the subject land has a net community benefit in the following ways:

- a number of these trainers will relocate to the new stable complex, which will provide modern stabling facilities, offices for trainers, stable hand accommodation, security, seminar room, car parking for vehicles (including horse floats), produce supplies, veterinary room, and other ancillary facilities
- the relocation of trainers from the Village will enable the redevelopment of Menangle
- park to occur in a reasonable or early timeframe, as trainers will sell their properties to developers. There will be substantial relocation costs if trainers have to relocate to other rural areas
- reduce the vehicle and horse traffic numbers within the Village. On race days there will be a substantial reduction in the number of horse floats in the Village area, as the trainers will be within the overall racing complex
- there will be no conflict of land uses, i.e. new residents living adjacent to stables with noise and other impacts will not occur
- the new stable complex will draw trainers from other areas.

Given the site's location in relation to the existing established harness racing facilities on the adjoining land, the proposal's potential to positively influence Menangle Park township and its limited environmental impact, the site is considered to be suitable for the development.

#### **4. Public Participation**

Section 79C(1)(d) of the *EP&A Act* requires Council to consider submissions made in regard to the proposal.

The application was forwarded to three relevant agencies for comment, being:

- Roads and Maritime Services (RMS) – in relation to the construction of a new intersection with Menangle Road
  - Office of Environment and Heritage (OEH) – in relation to the site's Aboriginal archaeological and cultural significance
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- The Australian Rail and Track Corporation (ARTC) – in relation to the development's proximity to the Main Southern Railway
- The Mine Subsidence Board (MSB) – as the development site is within a mine subsidence district.

As mentioned previously in the report, at the time of writing, the RMS has not formally responded to Council, although it is understood that from discussions both before and since the application's lodgement, that the concept design of the new intersection is considered to have merit. Approval from the RMS would be required prior to the consent becoming active and the final detailed design plans and safety audit for the intersection would need to be approved prior to a construction certificate being issued for the development.

The OEH has verbally responded to Council's referral of the application. The Office has noted the application but will undertake a detailed assessment of the proposal and its potential to impact on Aboriginal archaeological and cultural significance at the site upon receipt of the proponent's application for a Permit under the Natural Parks and Wildlife Act, 1974.

The ARTC responded in writing to Council's referral of the proposal and did not raise specific objection, provided that certain criteria are met, such as

- including compliance with the 'Development Near Rail Corridors and Busy Roads – Interim Guideline 2008'
- restriction of stormwater entering the rail corridor
- ensuring that trees required for landscape screening do not enter the rail corridor at maturity
- ensuring the fencing is constructed that will restrict horses accessing the rail corridor
- consideration of rail noise and its potential impact on horses.

The abovementioned comments from the ARTC have been incorporated into recommended conditions of consent in Attachment 1.

The MSB provided its conditional approval for the development in November 2013. The conditions relate to the provision of further detailed structural engineering design verification of the proposal prior to work at the site commencing. The MSB's conditional approval has been carried as a recommended condition of consent in Attachment 1.

In addition to notifying relevant government agencies, the proposed development was notified to 109 adjoining and nearby land owners in accordance with the provisions of Campbelltown (Sustainable City) Development Control Plan, specifically Part 9 – Public Consultation. The proposal was notified for a period of 14 days from 16 to 30 October 2013. Council also notified Wollondilly Shire Council of the proposal in writing, as Nepean River forms the boundary between the two local government areas.

Three submissions were received. Two submissions were in objection to the proposal and one submission requested the further investigation of a particular issue at the development site.

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Issues raised in the submissions are addressed below:

**Concern:** Potential contamination of the site due to its former use for military purposes

A submission detailed that the site may have been used as a temporary depot for approximately 200 military vehicles about the time of the commencement of World War II and this use lead to contamination of the site.

**Comment:** The temporary use of the adjoining harness racing track land by the Army (in both World Wars) and the Royal Australian Air Force during World War II is well documented. Use of the subject site however is not readily documented. Its temporary use for military operations was not detailed in the applicant's heritage impact assessment report or other supporting documentation.

Council's officers researched the use of the land following receipt of the submission. A reference to the "Hire of vacant land adjoining Menangle Racecourse by the Australian military forces . . . required by the military as a parking area for 180 vehicles" was located within the National Archives of Australia's records. Council has not been able to determine whether or not the subject site is in fact the one referred to in the archive listing.

Notwithstanding, Council subsequently requested additional information from the applicant's contamination experts regarding the site's possible use as a temporary military vehicle depot and whether or not this use would preclude the site's development as proposed.

The applicant's expert consultant responded by letter as follows:

Cardno's contamination assessment was undertaken with the knowledge of historic military usage of the area and inspection was undertaken in consideration of possible contaminates as a result of this history (hydrocarbons, buried waste, un-exploded ordnance, Small Arms Ammunition, underground storage facilities, rubbish tips, sand mining etc).

Intrusive investigations including soil sampling undertaken as part of the Cardno (2013) Detailed Site Investigation and Salinity Assessment, did not detect contaminants of concern including those potentially associated with offsite historical Defence activities.

As part of the assessment of potential salinity, GBG Australia was commissioned to carry out an electromagnetic geophysical investigation in January 2013. This investigation provided measurements on apparent conductivity in a range approximately 0.5 to 6m below ground. In general large high conductivity anomalies (which may be associated with buried drums or scrap metal waste) were not identified.

The letter continued with an explanation of the rationale used to determine the location of boreholes used in the original contamination assessment. The boreholes were located in areas that had not been subjected to sand mining of the land in the past. The response also noted that the contamination assessment report recommends the preparation of a site environmental management plan (which incorporates an 'unexpected finds protocol') should contamination or evidence of the possible past use of the site be discovered. A recommended condition of development consent in Attachment 1 addresses this issue.

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3.7 Lot 2 DP 1187569, No. 250 Menangle Road, Menangle Park - Construction And Operation Of A Horse Stabling And Training Complex, Including Ancillary Site And Civil Works

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The letter concluded:

Cardno is confident that potential historical usage by the military of this site will not preclude the proposed works or long term usage of the site as a premier class stable facility for Sydney.

The applicant's consultants are certified experts in this field. As such, it is concluded that while no definite evidence of the site's use as a military depot exists or remains at the site, measures will be in place to ensure that if contamination is discovered, appropriate action can be taken.

**Concern:** The proximity of the proposal to 'The Pines' and the impact this will have on the heritage significance of that building and the wider district as well as disruption of vistas to and from the heritage-listed dwelling.

**Comment:** The proximity of the proposed stabling facility to 'The Pines' is acknowledged. The applicant asserts that the location of the buildings was chosen as it is the highest point of the subject site, meaning it is the least susceptible to inundation during flood events. This is an important consideration particularly in respect of minimising the development's impact on flooding behaviours in the locality, minimising damage to infrastructure (such as waste water treatment facilities) as well as reducing the potential threat to horses during flood events.

A consequence of the land's existing form and the applicant's desire to locate the facility on the highest ground as possible is its proximity to 'The Pines'. As proposed, the nearest stable building would be located approximately 50 metres from the outer face of 'The Pines' and 35 metres from its surrounding gardens.

The applicant's heritage impact assessment report notes that subject to the implementation of significant tree screening and use of the required noise abatement barrier to reduce the development's visual impact on the nearby heritage-listed dwelling. Existing vegetation both within the gardens of 'The Pines' and within the subject site and rail corridor are also noted, and its effects on reducing the proposed development's visual impact should not be discounted.

However, noting the issues expressed in the submission and the heritage significance of the Pines, it is considered appropriate to require the readjustment of some of the stables, to increase their separation distance to 'The Pines'. In particular, via a recommended condition of development consent, a requirement to move the central spine of six stables to the west to a distance that will achieve at least 25 metres setback from the boundary to the Main Southern Railway. This increase of 13 metres from the submitted proposal will increase the visual separation distance to 'The Pines' and will minimise the apparent bulk of the buildings, where they may be visible past the screen vegetation and noise abatement wall.

The setback of the stables where they are closest to 'The Pines' would increase to approximately 65 metres, which will assist in preserving the curtilage of the dwelling and its gardens.

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3.7 Lot 2 DP 1187569, No. 250 Menangle Road, Menangle Park - Construction And Operation Of A Horse Stabling And Training Complex, Including Ancillary Site And Civil Works

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The submission's concern relating to the proposal's potential destruction of the area's wider heritage value is noted. The Menangle area and nearby Camden Park are some of Australia's first major farming lands. The landscape remains relatively unchanged in comparison to more urbanised areas not far away.

The development as proposed is considered to be compatible with the existing use of the adjoining site, held under the same ownership as this current proposal. The uses are complementary to the desired future development of Menangle Park in terms of its potential future land use zoning, preservation of riparian corridors and the net positive effect it would have on various horse training establishments within Menangle Park township.

While the scale of the development in comparison to surrounding land uses and buildings is acknowledged, the proposal is not considered to be incompatible with the locality and its immediate surroundings, particularly following a change to the location of some buildings as proposed and the implementation of the heritage specialist's recommendations in relation to building colours and establishment of screening.

**Concern:** Impacts on the amenity of nearby residents and wildlife as a result of noise and light intrusion.

Two submissions noted the proximity of the development as proposed to nearby residential premises and the potential that this would have to detrimentally impact on the amenity of residents.

**Comment:** The application has considered these impacts. Subject to compliance with conditions relating to light spill, implementation of the recommendations contained in the noise assessment report detailed earlier, the development is not considered likely to have significant impacts in relation to these matters. Lighting of the development is not considered likely to disturb wildlife. The spill of light will be restricted in order to minimise the development's impact on surrounding land uses, including residential properties and the railway line. The applicant states that lighting used at the site would predominantly be internal, aside from low intensity bollard lights along internal movement areas and a light at the end of each stable which would be underneath a veranda.

Further, relocation of the stable buildings nearest to the dwelling as detailed above is likely to further reduce these impacts.

**Concern:** The potential impacts that the waste produced by the horses and vermin that might emanate from the complex would have on nearby residents.

Two submissions detailed concern with the development's potential to generate a significant amount of solid and liquid waste and create a vermin infestation problem.

**Comment:** It is acknowledged that a significant amount of solid and liquid waste would be generated at the site, if it was used to its full capacity in the future. The applicant has submitted details regarding the likely waste generation, based on facilities of a similar nature and would provide for adequate facilities to store and dispose of that waste. The solid waste and bedding materials (which also captures urine) would be transported from the site and reused for other purposes.

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3.7 Lot 2 DP 1187569, No. 250 Menangle Road, Menangle Park - Construction And Operation Of A Horse Stabling And Training Complex, Including Ancillary Site And Civil Works

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A stable management plan would also be developed and instituted to minimise the potential for excess feed to promote an influx of vermin and would also ensure that stables are cleaned and maintained in accordance with public health guidelines and Department of Primary Industries best practice. Recommended conditions of development consent in Attachment 1 address these matters.

**Concern:** The potential impact that the development would have on future use of 'The Pines'.

A submission detailed a potential future use of 'The Pines' as a site for garden weddings, a tea house and possible a bed and breakfast establishment would be jeopardised if the development was constructed.

**Comment:** The proposals mentioned in the submission have not been formally considered by Council as part of a development application. A range of developments would be permissible at the subject site should a formal application be made.

The development of the adjoining land is likely to be well-screened from 'The Pines', by way of separation distance, including the Main Southern Railway corridor, vegetative screening, changes in ground level and the required noise abatement barrier. The potential impacts that the proposal may have on the success of proposed businesses are difficult to quantify as they have not yet commenced.

**Concern:** That a conflict of interest exists as the Council sold the land to the Harness Racing Club of NSW for a substantial sum and is now assessing a development application on that land.

A submission raised issue with the fact that Council sold the land to the developer of the site and is now undertaking an assessment of the proposal.

**Comment:** The development site was sold to the NSW Harness Racing Club Ltd following an open 'Expression Of Interest' process overseen by a local real estate agent and Council's solicitors.

Settlement of the sale was completed in August 2013.

Notwithstanding the above and in response to the point raised within the submission, an independent town planning consultant was engaged to undertake a "peer review" of the draft and final development assessment report and recommendations therein, prior to its tabling before the full Council.

A copy of the independent peer review can be found at Attachments 5 and 6 of this report.

Having regard to the above comments and discussion, the proposal, following the required amendments to building sighting, increases to landscaping density and proper management of the stabling facilities, the development is considered to respond favourably to the matters raised in submissions, whilst still providing adequate opportunities for the proposal to succeed.

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3.7 Lot 2 DP 1187569, No. 250 Menangle Road, Menangle Park - Construction And Operation Of A Horse Stabling And Training Complex, Including Ancillary Site And Civil Works

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#### **4.1 The Public Interest**

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

The public interest is an overarching assessment of the benefits or otherwise that a development may have for the immediate area and/or a community in general.

The development of the site as proposed has the potential to increase local employment during construction and operation of the facility and is complementary to the current medium to long term planning for development in the Menangle Park district. The proposal is considered to respond satisfactorily to environmental matters such as waste management and flooding impacts and is compliant with relevant planning controls and objectives.

The development would be amended to facilitate greater separation of the proposed buildings from the existing heritage item on an adjoining property, so as to minimise its impact on that site and the residents therein.

Accordingly, overall the proposed development is considered to be in the public interest.

#### **5. Conclusion**

The development application to construct a horse training and stabling complex, with associated site and civil works at No. 250 Menangle Road, Menangle Park has been assessed against the relevant matters for consideration within environmental planning legislation and Council's development controls.

The development's impacts on the natural and built environment are considered to be relatively minimal, subject to management of potential issues such as noise, flooding, waste capture, treatment and disposal and local heritage significance.

The site is considered to be suitable for the development, having regard to its proximity and complementary nature to the existing harness racing facilities and infrastructure.

Objections to the proposal have been considered and responded to as part of this assessment.

With due reference to the matters for consideration under Section 79C of the *Environmental Planning and Assessment Act 1979* and the issues raised throughout the report, it is considered that the proposed development is satisfactory and should be approved subject to the recommended conditions contained in Attachment 1.

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3.7 Lot 2 DP 1187569, No. 250 Menangle Road, Menangle Park - Construction And Operation Of A Horse Stabling And Training Complex, Including Ancillary Site And Civil Works

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### **Officer's Recommendation**

1. That development application 1861/2013/DA-C for the construction and operation of a horse stabling and training facility, with associated site and civil works at No. 250 Menangle Road, Menangle Park be approved, subject to the conditions detailed in Attachment 1 of this report.
2. That those who made a submission on the proposal be advised of Council's decision.

**Committee Note:** Mr Seddon, Ms Market, Mr Ryan, Ms Kolner, Mr Blackwood, Ms Kirkby and Mr Gibbs addressed the Committee in opposition to the development.

Mr Brown and Mr Dumensy addressed the Committee in favour of the development.

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

That the Officer's Recommendation be adopted.

### **CARRIED**

Voting for the Committee's Recommendation were Councillors: Greiss, Matheson, Mead and Rowell.

Voting against the Committee's Recommendation were Councillors: Lound, Oates and Thompson.

### **Council Meeting 10 December 2013 (Greiss/Rowell)**

That the Officer's Recommendation be adopted.

### **Amendment (Borg/Glynn)**

That a decision in this matter be deferred to allow an inspection of the site on 28 January 2014 to allow a further report to be presented to the Ordinary Meeting of Council to be held 11 February 2014.

Voting for the Amendment were Councillors: Borg, Brticevic, Dobson, Glynn, Greiss, Hawker, Kolkman, Lound, Matheson, Mead and Thompson.

Voting against the Amendment were Councillors: Lake, Oates and Rowell.

### **Council Resolution Minute Number 270**

That the above amendment be adopted.

Voting for the Council Resolution were Councillors: Borg, Brticevic, Dobson, Glynn, Greiss, Hawker, Kolkman, Lound, Matheson, Mead and Thompson.

Voting against the Council Resolution were Councillors: Lake, Oates and Rowell.

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## **4. COMPLIANCE SERVICES**

### **4.1 Legal Status Report**

#### **Reporting Officer**

Acting 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 for the 2013-2014 period as they relate to:

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

A summary of year-to-date costs and the total number of matters is also included.

<b>1. Land and Environment Court Class 1 Matters – Appeals Against Council's Determination of Development Applications</b>
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<b>Total ongoing Class 1 DA appeal matters (as at 22/11/2013)</b>	<b>1</b>
<b>Total completed Class 1 DA appeal matters (as at 22/11/2013)</b>	<b>2</b>
<b>Costs from 1 July 2013 for Class 1 DA appeal matters:</b>	<b>\$16,684.65</b>

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**1 (a)**

**Ray JARDINE**

**Issue:**

Appeal against Council's deemed refusal of Building Certificate Application No. 772/2012/BC-UW seeking to regularise unauthorised building works (two mezzanine floors and addition of access doors) which have impacted on the structural aspects and fire safety provisions of the building.

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<b>Property:</b>	Lot 26 DP 28853 No. 2 Somerset Street, Minto
<b>Property Owner:</b>	Mr. Ray Jardine and Mrs. Precilla Eva Jardine
<b>Council File:</b>	No. 772/2012/BC-UW
<b>Court Application:</b>	Filed on 21 February 2013 - File No. 10120/2019
<b>Applicant:</b>	Ray Jardine
<b>Costs Estimate:</b>	\$11,000 (exclusive of Barristers, Court Appointed Experts or disbursement fees)
<b>Costs to date:</b>	\$11,777.05
<b>Status:</b>	Completed – awaiting solicitor's final invoice.
<b>Progress:</b>	<p>On 17 October 2013 the matter was before the Court at on-site mention where it was revealed that the outstanding matters noted at Council's inspection of 9 October 2013 had been satisfactorily completed. Accordingly, Senior Commissioner Moore made a direction that the proceeding be listed for further mention on 31 October 2013 for determination of the consent orders, which are to be filed with the Court by midday 30 October 2013.</p> <p>On 31 October 2013 the Court by consent made orders that Council issue the Building Certificate No. 772/2012/BC-UW within 14 days of the date of the orders.</p> <p>On 5 November 2013 Council issued Building Certificate No. 772/2012/BC-UW to the applicant.</p>

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<b>1 (b)</b>	<b>Yeugen KYSELOV</b>
<b>Issue:</b>	Appeal against Council's refusal of Development Application No. 2159/2012/DA-RS for the construction of a dual occupancy with Torrens title subdivision.
<b>Property:</b>	Lot 2736 DP 811889 No. 15 Nepean Towers Avenue, Glen Alpine
<b>Property Owner:</b>	Mr. Yeugen Kyselov
<b>Council File:</b>	No. 2159/2012/DA-RS
<b>Court Application:</b>	Filed on 18 October 2013 - File No. 10812/2013
<b>Applicant:</b>	Yeugen Kyselov
<b>Costs Estimate:</b>	\$18,000 (exclusive of Barristers, Court Appointed Experts or disbursement fees)

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**Costs to date:** \$0.00

**Status:** New matter – listed for mention on 15 November 2013.

**Progress:** On 18 October 2013 the applicant filed a Class 1 appeal application with the Land and Environment Court of New South Wales against Council's refusal of Development Application No. 2159/2012/DA-RS for the construction of a dual occupancy with Torrens title subdivision.

The matter is listed for first mention on 15 November 2013.

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**2. Land and Environment Court Class 1 Matters – Appeals Against Council's issued Orders / Notices**

Total ongoing Class 1 Order/Notice appeal matters (as at 22/11/2013)	0
Total completed Class 1 Order/Notice appeal matters (as at 22/11/2013)	0
Costs from 1 July 2013 for Class 1 Order/Notices appeal matters:	\$0.00

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**3. Land and Environment Court Class 4 Matters – Civil Enforcement in respect of non-compliance with Planning Law or Orders issued by Council**

Total ongoing Class 4 matters before the Court (as at 22/11/2013)	0
Total completed Class 4 matters (as at 22/11/2013)	1
Costs from 1 July 2013 for Class 4 matters	\$35,615.68

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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**

Total ongoing Class 5 matters before the Court (as at 22/11/2013)	0
Total completed Class 5 matters (as at 22/11/2013)	0
Costs from 1 July 2013 for Class 5 matters	\$0.00

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**5. Land and Environment Court Class 6 - Appeals from convictions relating to environmental matters**

Total ongoing Class 6 matters (as at 22/11/2013)	0
Total completed Class 6 matters (as at 22/11/2013)	0
Costs from 1 July 2013 for Class 6 matters	\$0.00

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**6. District Court – Matters on Appeal from lower Courts or Tribunals not being environmental offences**

<b>Total ongoing Appeal matters before the Court (as at 22/11/2013)</b>	<b>1</b>
<b>Total completed Appeal matters (as at 22/11/2013)</b>	<b>0</b>
<b>Costs from 1 July 2013 for District Court matters</b>	<b>\$0.00</b>

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**6 (a) Scott CASTLE**

**Issue:** Appeal against the severity of sentence handed down in the Local Court Campbelltown on 16 September 2013.

**Offence:** The defendant, Scott Castle was prosecuted under section 16(1) of the Companion Animals Act 1998 for an offence of 'own dog that attacked animal'.

**Appellant:** Mr. Scott Castle

**Appeal filed on:** 26 September 2013 - Case No. 2013/00217125-001

**Costs Estimate:** Awaiting estimate

**Costs to date:** \$0.00

**Status:** New matter – listed for hearing on 17 December 2013.

**Progress:** On 26 September 2013 the appellant, Scott Castle, filed an appeal in the District Court (Criminal) Campbelltown against the severity of a sentence handed down in the Local Court (Criminal) Campbelltown on 16 September 2013 where, despite Mr. Castle being aware of the part-heard listing, he made no appearance at the Court. The Magistrate convicted Mr. Castle of an offence under the Companion Animals Act 1998 of 'own dog that attacked animal', imposing a fine of \$1,000, together with orders for Council's legal costs in the sum of \$550, a compensation order for part veterinary costs in the sum of \$85, and a 5-year control order in respect of additional requirements for the keeping of Mr. Castle's dog.

The matter is listed for hearing before the District Court Campbelltown on 17 December 2013.

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## 7. Local Court prosecution matters

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

<b>Total ongoing Local Court Matters (as at 22/11/2013)</b>	<b>1</b>
<b>Total completed Local Court Matters (as at 22/11/2013)</b>	<b>15</b>
<b>Costs from 1 July 2013 for Local Court Matters</b>	<b>\$2,200.00</b>

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<b>File No:</b>	LP24/13 – Penalty Notice Court Election
<b>Offence:</b>	Stop in bus zone – school zone
<b>Act:</b>	<i>Road Rules 2008</i>
<b>Final Costs:</b>	\$0.00
<b>Status:</b>	Completed.
<b>Progress:</b>	The matter was before the Court for mention on 5 November 2013 where the defendant, Salah Naji, entered a guilty plea with explanation. After hearing the facts and submissions the Magistrate found the offence proved and convicted the defendant imposing a fine of \$100 and an order for courts costs of \$85.

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<b>File No:</b>	LP25/13 – Penalty Notice Court Election
<b>Offence:</b>	Stop on path/strip in built-up area
<b>Act:</b>	<i>Road Rules 2008</i>
<b>Costs to date:</b>	\$0.00
<b>Status:</b>	New matter.
<b>Progress:</b>	Listed for first mention on 19 November 2013.

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## 8. Matters referred to Council's solicitor for advice

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.

<b>Total Advice Matters (as at 22/11/2013)</b>	<b>4</b>
<b>Costs from 1 July 2013 for advice matters</b>	<b>\$7,209.50</b>

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## **9. Legal Costs Summary**

The following summary lists the Planning and Environment Division's net legal costs for the 2012/2013 period.

<b>Relevant attachments or tables</b>	<b>Costs Debit</b>	<b>Costs Credit</b>
Class 1 Land and Environment Court - appeals against Council's determination of Development Applications	\$16,684.65	\$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	\$35,615.68	\$0.00
Class 5 Land and Environment Court - pollution and planning prosecution matters	\$0.00	\$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	\$2,200.00	\$0.00
Matters referred to Council's solicitor for legal advice	\$7,209.50	\$0.00
Miscellaneous costs not shown elsewhere in this table	\$0.00	\$0.00
Costs Sub-Total	\$61,709.84	\$0.00
<b>Overall Net Costs Total (GST exclusive)</b>	<b>\$61,709.84</b>	

### **Officer's Recommendation**

That the information be noted.

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

That the Officer's Recommendation be adopted.

### **CARRIED**

### **Council Meeting 10 December 2013 (Greiss/Rowell)**

That the Officer's Recommendation be adopted.

### **Council Resolution Minute Number 265**

That the Officer's Recommendation be adopted.

## **4.2 Revised Policy - Second Hand Clothing Bins**

### **Reporting Officer**

Acting Manager Compliance Services

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### **Attachments**

1. Letter from NACRO dated 23 August, 2013 (contained within this report)
2. Revised Second-hand Clothing Bins Policy (contained within this report)

### **Purpose**

To seek Council's endorsement of the revised Second-Hand Clothing Bins Policy that has been amended in response to a written request by the National Association of Charitable Recycling Organisations (NACRO).

### **History**

The policy was first adopted by Council at its meeting on 18 October 1988, with the most recent review of the policy being approved by Council at its meeting on 26 July 2011.

The policy aims to ensure second-hand clothing bins are satisfactorily located, managed and maintained.

### **Report**

On 27 August 2013, Council received written correspondence from the National Association of Charitable Recycling Organisations (NACRO) requesting Council to introduce a clothing collection bin placement policy which limits the operation of donation bins to NACRO members and includes a "Code of Practice" for the safe and efficient management of clothing collection bins.

The correspondence from NACRO advises that commercial enterprises are seeking to gain financially from the generosity of donors by using charity names on their collection bins. NACRO claims that some clothing donors are being deceived and led to believe they are donating to the charity named on the bin, when they are actually giving over their goods to a commercial re-seller.

Item 2 of Council's Second-Hand Clothing Bins Policy Statement states "only second-hand clothing bins provided by registered charities or organisations with an Australian Business Number are permitted."

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In view of the above advice from NACRO, it is considered that there is merit in amending point 2 of Council's policy statement to require that only second-hand clothing bins provided by registered charities be permitted unless the bin is clearly marked to indicate that it is operated by a commercial "non-charitable" organisation. This will enable the public to make informed choices about whom they make their clothing donations to.

In addition, it is considered that the recommendation by NACRO to include provisions in the policy relating to the safe and efficient management of clothing collection bins, also has merit. For this purpose, it is recommended that relevant provisions relating to the safe and efficient management of clothing bins be dealt with by the policy as set out below:

- to ensure donation bins are located appropriately so as not to detract from site amenity
- the need for donation bins to be regularly emptied, cleaned and maintained
- to ensure the donation bins do not cause obstruction to footpaths and roadways
- to ensure the donation bins are adequately fixed to prevent damage to property or injury to persons
- be of a design that would ensure people are not able to climb into them
- not be located on driveways, access ways, car parking areas, landscaping areas.

It is therefore recommended that the policy changes outlined in the report and highlighted in the attached draft policy for second-hand clothing bins, be placed on public exhibition for a minimum period of 28 days and that a further report be submitted to Council to consider any submissions received at the conclusion of the consultation period.

### **Officer's Recommendation**

1. That the revised draft Second-Hand Clothing Bin Policy as attached to this report be placed on public exhibition for a minimum period of 28 days.
2. That a further report be presented to Council to consider adoption of the policy and any submissions received during the public exhibition period.

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

1. That the revised draft Second-Hand Clothing Bin Policy as attached to this report be placed on public exhibition for a minimum period of 28 days subject to clause 2 of the policy statement being amended to read:

'only second-hand clothing bins provided by charitable organisations are permitted unless the organisation has an Australian Business Number and the bin in such cases is clearly marked to indicate it is a commercial operator collection bin.'

2. That a further report be presented to Council to consider adoption of the policy and any submissions received during the public exhibition period.

**CARRIED**

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**Council Meeting 10 December 2013 (Greiss/Rowell)**

That the Committee's Recommendation be adopted.

**Council Resolution Minute Number 265**

That the Committee's Recommendation be adopted.

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## **4.3 Application to Revoke Dangerous Dog Declaration**

### **Reporting Officer**

Acting Manager Compliance Services

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### **Attachments**

Memorandum of assessment of application for revocation of Dangerous Dog Declaration by Council officer which includes the correspondence from dog owner to Campbelltown City Council dated 27 September 2013 requesting revocation of a Dangerous Dog Declaration (contained within this report)

### **Purpose**

To report on a request for Campbelltown City Council to revoke a Dangerous Dog Declaration issued in respect of a certain dog.

### **History**

On 8 April 2005, Wollondilly Shire Council declared a Tenterfield Terrier owned by a resident of that local government area as a dangerous dog. The owner (who at the time resided in Silverdale) advises that the dog was declared dangerous in response to an incident where the dog attacked and killed a household rabbit.

The dog allegedly had escaped its property and entered the rear yard of a neighbouring property where a small child was playing. The young child mistakenly placed the dog into the hutch where the rabbit was kept without realising the consequences. As a result, the rabbit was unfortunately attacked and killed and the dog was seized and handed over to a Ranger from Wollondilly Shire Council. The dog was subsequently declared dangerous under the provisions of the *Companion Animals Act* ("the Act").

The owner and the dog have recently relocated to a residence in Ruse. The owner advises that since the rabbit attack took place in 2005, there have been no further threatening incidents or occurrences where the dog's behaviour or temperament could be questioned. This claim is supported by a recent check of the Companion Animals Register which failed to reveal any reported incident or attack involving the dog since the declaration was made.

### **Report**

In view of the history above, the owner has made written application to Campbelltown City Council, as the responsible regulatory authority, to seek to have the declaration revoked, particularly given the circumstances surrounding the initial attack which occurred in 2005 and that there has been no signs of further aggressive behaviour or temperament displayed by the dog since.

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A review of the circumstances surrounding the declaration and an assessment of the dog's temperament have been undertaken by Council's Acting Companion Animals Advisory Officer and a recommendation made by him that the Dangerous Dog Declaration be revoked. The dog has been scanned to confirm that the identity of the dog matched the registration details.

It should be noted that under Section 39 (1) of the *Companion Animals Act* ("the Act"), the owner of a dog that has been declared dangerous can apply to the Council of the area in which the dog is ordinarily kept (whether or not it is the Council that made the declaration) for the declaration to be revoked. This application cannot be made until 12 months after the dog was declared dangerous.

Section 39 (2) of the Act provides that the Council to which the application is made can revoke the declaration, but only if it is satisfied it is appropriate to do so.

In addition, a Council that revokes a declaration must give notice of the declaration to the Director General Division of Local Government within seven days.

On review of the application and the circumstances surrounding the Dangerous Dog Declaration, it is concluded that the Tenterfield Terrier identified by microchip number 968000001410828 does not pose a danger to the community and therefore it is recommended that the Dangerous Dog Declaration be revoked.

### **Officer's Recommendation**

1. That the Dangerous Dog Declaration made on 8 April 2005 in respect of a female Tenterfield Terrier identified by microchip number 968000001410828 be revoked in accordance with the provisions of Section 39 (2) *Companion Animals Act, 1998*.
2. That Council give notice to the owner of the dog and to the Director General Division of Local Government of the revocation of the Dangerous Dog Declaration referred to in 1 above within 7 days in accordance with the provisions of Sections 39 (3) and 40 (2) *Companion Animals Act, 1998*.

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

That the Officer's Recommendation be adopted.

**CARRIED**

### **Council Meeting 10 December 2013 (Greiss/Rowell)**

That the Officer's Recommendation be adopted.

### **Council Resolution Minute Number 265**

That the Officer's Recommendation be adopted.

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## ATTACHMENT 1

### Campbelltown City Council

**Date:** 17 October 2013  
**Memo to:** Jim Greiss, Acting Coordinator, Animal Care Facility  
**From:** Steve Austin, Companion Animals Advisory Officer  
**Subject:** Application to revoke Dangerous Dog Declaration

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#### ISSUE:

Request by [redacted] for Campbelltown Council to revoke a dangerous dog declaration.

#### BACKGROUND:

On 8 April, 2005 Wollondilly Council declared a Tenterfield Terrier identified by microchip number 968000001410828 as a 'Dangerous Dog'. A letter outlining the circumstances is attached along with the Companion Animal Register Certificate of Registration.

#### COMMENT:

Under Section 39 (1) of the Act, the owner of a dog that has been declared dangerous can apply to the council of the area in which the dog is ordinarily kept (whether or not it is the council that made the declaration) for the declaration to be revoked. This application cannot be made until 12 months after the dog was declared dangerous.

A dangerous dog order can only be revoked by a resolution of council. Section 39 (2) of the Act stipulates that councils must be satisfied that it is appropriate to revoke a dangerous dog declaration before doing so.

On 15 October, 2013 a check of the Companion Animal Register failed to show any incident involving any attack or similar since the declaration was made. I contacted Wollondilly Council and spoke to ranger [redacted] who has worked in the Animal Compliance Section for the past ten years. In regards to the dangerous dog order [redacted] was unable to locate any affiliated paperwork in relation to the reasons why the dangerous dog order was imposed on the dog and did not have any personal knowledge of the matter.

On 16 October, 2013 I attended [redacted] and spoke to the dog owner, [redacted]. The animal was sighted and scanned. The same microchip number as outlined above was detected. The dog has a DOB of 31.12.02. The dog has cataracts and lives indoors. The dog has a friendly nature. The owner has a 16 month old child who plays with the dog and there have been no incidents or aggressive nature shown by the dog. The yard was inspected. The boundary fences are in good order. During the time of my inspection the dog showed no signs of aggression and appeared quite placid. I am of the view that this dog does not pose a danger to the community.

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**RECOMMENDATION:**

I recommend that the dangerous dog declaration be revoked. Submitted for attention and resolution by Council at the next meeting.

Steve Austin  
Companion Animals Advisory Officer

Forwarded to Paul Curley for Manager approval and submission to Council as per officer's recommendation.

A handwritten signature in black ink, appearing to read 'J Greiss', with a horizontal line extending to the left.

J Greiss  
Acting Co-ordinator  
Animal Care Facility

Friday 27<sup>th</sup> September 2013

OCT01'13 08:03:31 RCVD

**Re: Dangerous Dog Declaration**

To Whom It May Concern,

My name is [redacted] (formerly [redacted]) and I have a dangerous dog that is registered with your council. In 2005 my Foxie X was declared dangerous for killing a household rabbit. Jessica had just had a litter of pup and got out of the back yard of my former residence at Silverdale. Jessica ended up in the backyard for another residence where a small child had been playing. The child placed her in the rabbit hutch without realising what would have happened. Unfortunately the rabbit was killed and Jessica was picked up by the Wollondilly Shire Council Ranger. Jessica was placed on the Dangerous Dogs list and has remained there since. I recently received a letter from Wollondilly Council re changes to the law surrounding dangerous dogs and inspections. I rang them to advise that Jessica was no longer registered under their council and that she was re registered under Campbelltown as we reside at Ruse. During this conversation I enquired as to how I would go about having her removed from this list. They advised that I would have to apply to my current council and request this in writing outlining the reasons why.

Since this incident took place in 2005, there have been not occurrences or incidents where Jessica's temperament or behaviour could be brought into question. We have a 16 month old child at home who plays with her everyday and she shows him nothing but love and affection. We have both family and friends who come over regularly with their children and pets and have never had any problems. She is always happy to play despite being 14 years old. She is truly one of the family. If there was ever a moment that I thought she could be a threat to my son or our visitors children or pets I would have had her destroyed. I understand that from your view it is quite easy for an owner to spin a story; however I am willing to do whatever it takes to prove that she is no threat to anyone or anything. I would be happy to open up our home to the council for inspection and for them to come out and carry out their own investigation for them to make a determination as to whether or not her status should be revoked.

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Thank you for your time and I look forward to hearing from you at your earliest convenience.

Kindest Regards

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Certificate of Registration

Page 1 of 2

## NSW Companion Animals Register Certificate of Registration

Issued in accordance with section 72 of the NSW Companion Animals Act 1998



**This dog is a declared DANGEROUS DOG effective 8/04/2005**

This Certificate was reprinted on 16 October 2013

### Microchip Information

**Authorised Identifier number:** V0005010

**Microchip No:** 968000001410828

**Date of Implantation:** 25 February 2003

**Animal Status:** Home

### Registration Details

**Registration Type:** Prior to 2006 Non  
Desexed

**Receipt No:** 29869

**Date of Registration:** 06 December 2004

**Amount Paid:** \$100

**Date Receipt Issued:** 03 December 2004

**Receipt Issued By:** Wollondilly Shire Council

### Owner Details

**Owner Name:**

**Residential Address:**

NSW 2560

**Home Phone:**

**Work Phone:**

**Mobile Phone:**

**Email address:**

### Animal Information

**Name:**

**Species:** Dog

**Breed:**

Tenterfield

**Date of birth:**

31 December 2002

**Gender:** Female

**Desexed:**

No

**Colour:** White and black

**Identifying marks:**

Brown and black ears, desexed

**Address usually kept:**

NSW 2560

**Secondary Address:**

### Residential Address

### **Microchip Information**

**Authorised Identifier number:** V0005010

**Microchip No:** 968000001410828

**Date of Implantation:** 25 February 2003

**Animal Status:** Home

### **Secondary contact person details**

**Name:**

**Home Phone:**

**Work Phone:**

**Mobile Phone:**

### **Dangerous Animal Details**

**Order Date**

**Revoke Date**

08 April 2005

### **WHAT TO DO NEXT:**

- **Have you read all the details?**
- **Are all the details correct?**
- **Have you read the privacy notification?**

**THE INFORMATION ON THIS CERTIFICATE MAY BE CORRECTED OR UPDATED BY YOU, BY CONTACTING A LOCAL COUNCIL IN NSW.**

### **NOTE:**

The owner must be a person 18 years or over, or an organisation. The information on this certificate (except for the animal's name, secondary address and secondary contact person) is required under the Companion Animals Act 1998 and Regulation 2008, and will be entered onto the NSW Companion Animals Register.

The information on the Register may be corrected or updated by you, by contacting your local council. Failure to identify or register your animal as required by the Act, or failure to update relevant information, may lead to fines of up to \$2,200. If you are concerned that disclosure of your information could jeopardise the safety of you or your family, you may request that the details be suppressed.

The information on the Register can only be accessed by authorised persons, for the purposes of enforcing the Companion Animals Act 1998. 'Authorised persons' is defined at s.75 of the Act, and includes authorised staff of councils, council pounds and police.

**IF YOU NEED TO CHANGE, UPDATE OR ALTER ANY INFORMATION ON THIS CERTIFICATE PLEASE CONTACT A LOCAL COUNCIL IN NSW.**

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## 4.4 Compliance Services Quarterly Statistics July to September 2013

### Reporting Officer

Acting Manager Compliance Services

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### Attachments

Compliance Services quarterly activity summary table (contained within this report)

### Purpose

To provide Council with a quarterly report of activities for the Compliance Services Section.

### Report

This report summarises key section activities and operational results for the reporting period July to September 2013.

#### 1. Regulated premises inspections

Regulated premises inspection statistics presented in the Activity Summary Statistics Table are divided into food, public health and wastewater management system inspections.

All regulated premises are placed in a risk category. The frequency of inspections varies according to the risk classification. Additional inspections (ie reinspections) are sometimes undertaken when premises are found to be unsatisfactory and there is an identified need to follow up on outstanding matters.

##### a. Food premises

Within Campbelltown, there are approximately 758 regulated food premises separated into three categories requiring 1136 scheduled inspections per annum as follows:

**Low Risk Premises 1** (inspections of market and events throughout the year) ie Festival of Fisher's Ghost, Ingleburn Alive, Riverfest, New Year's Eve and Australia Day.

**Low Risk Premises 2** (inspected as required for food recalls or customer complaint) - includes food businesses such as pre-packaged food outlets, variety stores, confectionary shops, chemists, video stores, newsagents, teaching kitchens and tobacconists.

**Medium Risk Premises** (inspected once per year) - includes fruit and vegetable stores, service stations and convenience stores (serving unpackaged food), general grocery stores and minimal food preparation stores.

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**High Risk Premises** (inspected twice per year) - includes restaurants, takeaway shops, cafes, clubs, childcare centres, supermarkets, unprepared fish shops, delicatessens, school canteens, mobile food vendors, boarding houses and charcoal chicken outlets.

Food premises category	No. of premises	No. of annual inspections
Low Risk 1	9	9
Low Risk 2	143	when required
Medium Risk	85	85
High Risk	521	1042
<b>TOTAL</b>	<b>758</b>	<b>1136</b>

Amendments to the *Food Act 2003* and the establishment of the Food Regulations Partnership between the NSW Food Authority and NSW councils in 2008, resulted in a mandated and more consistent role for local government in food regulation.

As a result, Council reviewed its food premises categories and inspection frequency in order to be consistent with other NSW councils.

A total of 438 food premise inspections were conducted for the reporting period, which is above the quarterly average inspection numbers (246) for 2012-2013. Of the 438 inspections undertaken, 99 (23%) food premises inspections were recorded as unsatisfactory. Follow up reinspections are undertaken where premises are found to be unsatisfactory at the time of initial inspection, to ensure they reach a satisfactory standard. In certain situations, Improvement Notices or Penalty Notices are issued under the *Food Act 2003* when necessary to encourage compliance.

#### **b. Public health**

Within Campbelltown, there are approximately 275 regulated premises separated into three risk categories requiring 286 scheduled inspections per annum.

- **Category 1 Premises** (inspected once per year) - beauty salons (low risk), boarding houses, funeral parlours, skin penetration (low risk procedure, ie waxing), hairdressers, nail artists
- **Category 2 Premises** (inspected twice per year) - brothels, skin penetration (high risk procedure - body piercing)
- **Category 3 Premises** (inspected once per year) - *Legionella* microbial control (air-conditioning towers)
- **Category 4 Premises** (inspected via complaints) - public and private swimming pools.

Health premises category	No. of premises	No. of annual inspections
Category 1 - Medium	162	162
Category 2 - High	27	54
Category 3 - Low	70	70
Category 4 - Swimming Pools	16	via complaints only
<b>TOTAL</b>	<b>275</b>	<b>286</b>

A total of 37 health premises inspections were conducted for the reporting period being consistent with the quarterly averages (38) for 2012 - 2013.

Of the 37 regulated health premises inspections conducted during the reporting period, seven (14%) of the premises inspected were recorded as unsatisfactory.

Follow up (reinspections) are undertaken where premises are found to be unsatisfactory at the time of initial inspection, to ensure the premises reach a satisfactory standard.

### **c. Wastewater management systems**

The effective regulation and management of on-site wastewater management systems is necessary to ensure these systems operate properly and as a consequence, do not cause a threat to the environment or human health.

As part of its effort to more effectively manage and regulate wastewater management systems, Council revised its Wastewater Management Strategy which was formally adopted by Council on 7 July 2009.

The implementation of the revised strategy has continued and is staged, with various unsewered locations throughout the city being addressed progressively.

A total of 62 system inspections were conducted during the reporting period.

In addition, no new installations were approved and four existing systems were issued with an approval to operate during the reporting period.

## **2. Notices/Orders issued**

*Food Act 2003* Notices are usually issued where there is repeated failure by a proprietor to meet appropriate standards or where serious breaches are identified. A total of four *Food Act 2003* Notices were issued during the reporting period, being relatively consistent with quarterly average Food Act notice numbers (8) for 2012-2013.

*Local Government Act 1993* Notices and Orders are issued for a range of matters including overgrown, unhealthy, unsafe or unsightly conditions. The number of *Local Government Act 1993* Notices and Orders issued during the reporting period was 60, being marginally below the corresponding quarter (64) in 2012 - 2013.

The number of *Swimming Pools Act 1992* Directions issued (22) requiring the erection of pool fencing or fencing repairs was marginally lower than the corresponding quarter (28) in 2012 - 2013.

*Environmental Planning and Assessment Act 1979* Notices and Orders are issued by Land Use and Environmental Compliance staff, primarily to ensure that premises comply with conditions of development consent and to regulate unauthorised land use. A total of 38 Notices and Orders were served during the reporting period which is higher than quarterly averages (33) for 2012-2013.

*Protection of the Environment Operations Act 1997* (POEO) Notices are issued for a variety of pollution matters including water pollution and waste dumping. The number of POEO Notices issued for the reporting period (9) was marginally higher than quarterly averages (8) for 2012-2013.

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### 3. Customer service requests

The Compliance Services Section receives a significant number of customer service requests across a broad range of issues as represented in attachment 1. A total of 878 customer service requests were received for the reporting period. Significant complaint categories were:

Category	July to September 2013
Parking (includes heavy vehicles)	134
Barking dogs	124
Abandoned motor vehicles	94
Illegal construction/development	93
Pollution	80
Rubbish dumping/litter	63
Health (non-regulated premises)	61
Dogs straying	49
Overgrown land	36

### 4. Applications

Building Certificate Applications relate to certificates issued under Section 149A of the *Environmental Planning and Assessment Act 1979* and provide assurance to applicants on issue that Council will not take action to require the demolition or upgrade of the respective structure for a period of seven years after the date of issue of the certificate. These certificates are generally sought on sale of property.

The number of Building Certificate Applications (7) received during the reporting period was below the quarterly average (13) experienced in 2012-2013 period.

Staff have continued to seek applications for an approval to operate a system of waste water management from system owners, on a risk category basis. Four applications for approval to operate a wastewater management system were received during the reporting period, lower than the average number of applications (35) received per quarter for 2012-2013. This variation is not unusual as application numbers fluctuate in response to bulk mail outs that are conducted from time to time to seek applications from different areas within the Local Government Area.

Six section 68 (*Local Government Act 1993*) event applications were received. These were for Moscow Circus and Sleep Over at Harlequins at Campbelltown Showground, Amazing Animals Expo and Pic's at the Flicks in Atlantic Boulevarde, Glenfield, The Family Fun Festival at Koshigaya Park and Airds Monster Fun Day at Kevin Wheatley Reserve, Airds.

### 5. Impounding

The number of dogs impounded during this reporting period was 362, which is lower than the 417 dogs impounded for the corresponding quarter in 2012 - 2013. The percentage of dogs microchipped at the time of impounding was 91%.

A total of 140 cats were impounded throughout the reporting period which is marginally lower than the number of cats impounded (152) in the corresponding quarter in 2012 - 2013. The number of cats that are microchipped at the time they were impounded is typically lower than the dogs and for this reporting period, 23% were microchipped.

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The number of abandoned vehicles impounded for this quarter was eight. Two of these vehicles were released back to their owners, five were disposed of by Council, and Council is currently holding one abandoned vehicle.

No shopping trolleys were impounded during the quarter.

#### **6. Penalty notices**

Council issues a range of penalty notices relating to various matters including parking offences (on street, Council car parks, school zones), companion animal registration, dog straying, littering, fail to comply with orders, food safety and fail to obtain or comply with development consent. Please refer to the table at attachment 1 for the number of penalty notices issued under the various offence categories.

The number of penalty notices issued for parking offences in Council car parks (491) was below the number of penalty notices issued in the previous quarter (577). The number issued for on-street offences (758) was higher than the previous quarter (647).

#### **7. Compliance/education programs**

Compliance programs are an integral component of the section's activities and represent a coordinated proactive approach to targeting specific community concerns. Resources are deployed strategically on a local or citywide basis as an alternative to addressing complaints on an individual basis.

A summary of compliance programs undertaken during the reporting period follows:

##### **a. Illegal parking in school zones**

During the reporting period, 55 school locations were patrolled, resulting in the issue of 123 penalty notices.

##### **b. Illegal sign statistics**

A summary of sign statistics for the quarter can be located in attachment 1.

##### **c. Illegal trail bike riding**

During the reporting period, one joint patrol with NSW Police was undertaken. NSW Police are currently reviewing their trail bike patrol program which has impacted on joint patrols with Council and other agencies. Historically, this program has been successful in addressing wide ranging illegal trail bike riding issues across the Local Government Area.

Rangers continue to undertake a number of single agency patrols of known trail bike riding hot spots in response to community complaints.

##### **d. Litter from vehicles**

Monitoring of littering from vehicles was undertaken during the reporting period with two penalty notices issued.

##### **e. Shopping trolleys**

Monitoring of areas in proximity of shopping centres was undertaken as part of daily patrols during the reporting round which resulted in 13 trolleys being tagged.

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**f. Truck parking**

Five truck parking patrols were undertaken during the reporting period, resulting in 32 penalty notices being issued.

**8. ACF operational issues**

At Council's Ordinary Meeting of 18 June, 2013 Council adopted an Operational Change Plan for the ACF. Listed below is a summary of actions undertaken in response to plan implementation during the report period:-

- the ACF continues to work actively with 22 approved Rescue Groups
- plans for the proposed cattery upgrade were completed and an order made for construction of cat cages to progress the cattery upgrade
- euthanasia procedure document has been amended to require a list of all euthanased animals to be recorded together with the reasons for euthanasia
- consultation has occurred with Rescue Groups to finalise the Procedure document for Rescue Organisations.
- website update process has been streamlined to facilitate more rapid updating of the website to show "lost" animals and "animals for sale"
- tender Evaluation Committee formed to progress arrangements to tender out the operation of the ACF. A draft technical specification has been prepared for inclusion in the management agreement which will form part of the tender documentation.

**9. Other activities**

A summary of other activities or initiatives implemented within the reporting period are listed below:

- Council continues to conduct surveillance of construction sites for sediment and erosion control compliance
  - active participation in the Food Regulation partnership, incorporating activity reporting and the review of inspection procedures and related documentation
  - continued participation in the Sydney South West Area Health Service Public Health Unit Skin Penetration Working Group to improve industry practice and compliance
  - patrols (by way of formalised agreement) of disabled parking at Campbelltown Mall and Macarthur Square continued through the reporting period
  - periodic (three yearly) review of risk identification documents for various environmental health, building, land use, animal care/control and ranger activities
  - ongoing review and development of Standard Operating Procedures relating to Section activities, tasks and programs
  - continuation of participation in the CAWS subsidised desexing program for cats and dogs jointly with the RSPCA and Sydney University Veterinary Training Hospital Camden Campus. This program provides subsidised desexing in identified hot spots locations within the city for low income earners.
-

**Officer's Recommendation**

That the information be noted.

**Committee's Recommendation: (Oates/Lound)**

That the Officer's Recommendation be adopted.

**CARRIED**

**Council Meeting 10 December 2013 (Greiss/Rowell)**

That the Officer's Recommendation be adopted.

**Council Resolution Minute Number 265**

That the Officer's Recommendation be adopted.

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## ATTACHMENT 1

Activity	2013-2014 Quarter Results				YTD
	1	2	3	4	
<b>Regulated Premises Inspections</b>					
Food	438				438
Public Health	37				37
Wastewater Management Systems	62				62
<b>Total</b>	<b>537</b>				<b>537</b>
<b>Notices/Orders Issued</b>					
<i>Food Act 2003</i>	4				4
<i>Local Government Act 1993</i>	60				60
<i>Swimming Pool Act 1992</i>	22				22
<i>Protection of Environment Operations Act 1979</i>	9				9
<i>Environmental Planning and Assessment Act</i>	38				38
<i>Companion Animals Act 1998</i>	2				2
<b>Total</b>	<b>135</b>				<b>135</b>
<b>Customer Requests</b>					
Abandoned Motor Vehicles	94				94
Animals (other)	29				29
Barking Dogs	124				124
Dog Attacks	24				24
Dog Straying	49				49
Food/Health (regulated)	18				18
Footpath Obstruction	10				10
Health (other)	61				61
Heavy Vehicle Parking	44				44
Illegal Construction/Development	93				93
Misuse of Council Park	7				7
Overgrown Land	36				36
Parking (General)	90				90
Pollution	80				80
Rubbish Dumping/Litter	63				63
Shopping Trolley	22				22
Signs	8				8
Swimming Pool Fence	5				5
Trail Bikes	12				12
Tree Removal/Dangerous	9				9
<b>Total</b>	<b>878</b>				<b>878</b>
<b>Applications</b>					
Building Certificates	7				7
Approval to Operate Effluent Disposal System Section 68 ( <i>Local Government Act 1993</i> )	4				4
Event Approvals Section 68 ( <i>Local Government Act 1993</i> )	6				6
<b>Total</b>	<b>17</b>				<b>17</b>

Activity	2012-2013 Quarter Results				YTD
	1	2	3	4	
<b>Impounding</b>					
Abandoned Vehicles	8				8
Shopping Trolleys	0				0
<b>Dogs (Incoming)</b>					
Impounded	362				362
Surrendered	121				121
<b>Dogs (Outgoing)</b>					
Released to Owner	225				225
Sold	111				111
Released to rescue organisation	35				35
Euthanased – Surrendered by Owner	56				56
Euthanased – Restricted Dog	1				1
Euthanased – Health/temperament	35				35
Euthanased – Unable to re-home	15				15
<b>Total</b>	<b>478</b>				<b>478</b>
<b>Cats (Incoming)</b>					
Impounded	140				140
Surrendered	25				25
<b>Cats (Outgoing)</b>					
Released to Owner	5				5
Sold	28				28
Released to rescue organisation	3				3
Euthanased – Surrendered by Owner	13				13
Euthanased – Health/temperament	101				101
Euthanased – Unable to re-home	15				15
<b>Total</b>	<b>165</b>				<b>165</b>
<b>Penalty Notices</b>					
Companion Animals	256				256
Environmental – includes litter and waste dumping	47				47
General – includes Public Health and Food Safety	18				18
Land Use	1				1
Parking (car parks)	491				491
Parking (on street)	758				758
<b>Total</b>	<b>1571</b>				<b>1571</b>
<b>Compliance Programs</b>					
<b>Illegal Parking in School Zones</b>					
Patrols	55				55
Warnings	1				1

Activity	2012-2013 Quarter Results				YTD
	1	2	3	4	
Penalty Notices	123				123
<b>Illegal Signs</b>					
Complaints – Council property	8				8
Complaints – Private property	0				0
Letters sent	0				0
Cautions issued	0				0
Fines issued	0				0
Removed (posters from poles)	226				226
<b>Illegal Trail Bike Riding</b>					
Joint Patrols	1				1
Bikes Seized	0				0
Penalty Notices (Police)	0				0
Penalty Notices (Council)	0				0
Charges	0				0
Juvenile Cautions	0				0
<b>Litter from Vehicles</b>					
Patrols	2				2
Penalty Notices	2				2
<b>Shopping Trolleys</b>					
Patrols	1				1
Trolley's Tagged	13				13
Trolleys Impounded	0				0
Contractor Notified	0				0
<b>Truck Parking</b>					
Patrols	5				5
Penalty Notices	32				32

## **4.5 New Policy - Management of Infant and Feral Companion Animals**

### **Reporting Officer**

Acting Manager Compliance Services

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### **Attachments**

Draft Policy Statement – Management of Infant and Feral Companion Animals (contained within this report)

### **Purpose**

To submit a proposed policy to ensure Council meets its statutory obligations in respect of the management of feral and infant companion animals received at Council's Animal Care Facility (ACF).

### **Report**

Section 64 (2) of the Companion Animals Act provides for the humane euthanising of feral and infant companion animals by Council, prior to the end of the mandatory holding period (which is 14 days for registered animals and seven days for unregistered animals) if there is an adopted policy in place to do so. The Management of Feral and Infant Companion Animals Policy ("the policy") has been drafted to comply with this provision.

Often it is not practical or humane to detain feral and infant companion animals at Council's Animal Care Facility (ACF) for various reasons such as biosecurity risk (ie transmission of disease) animal health or behavioural issues (e.g. feral cats), humane reasons or care requirements (ie infant animals which need an intense level of 'round the clock care' particularly in terms of warmth and feeding).

The intent of the policy is to authorise (subject to the terms of the policy) the humane euthanising of feral or infant companion animals that are not considered either suitable for re-homing (ie feral animals) or where it is not practical to retain them at Council's ACF (eg due to the intensive care requirements of infant animals being less than eight weeks of age) prior to the expiration of the mandatory holding period.

For a companion animal to be considered as "feral" or "infant" under the terms of the policy it must be assessed by staff upon arrival at the ACF and the results of the assessment documented on the respective form.

Under the terms of the policy and once a companion animal is assessed as feral and the assessment documented, the animal is not considered suitable for re-homing and is able to be put to sleep at any time prior to the expiration of the mandatory holding period.

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With respect to infant animals, once a companion animal is assessed to be an infant and the assessment documented (as per the requirements of the policy), the policy requires a number of steps to be undertaken to ascertain if the infant is in good health and able to be cared for; if there is a suitable lactating animal at the ACF that is able to adopt and care for the infant; or if there is a foster carer with an approved rescue group that may be able to provide immediate and ongoing care to the infant.

Under the terms of the policy infant animals, due to the intensive care requirements and for humane reasons may be euthanised prior to the mandatory holding period if a practical and timely care arrangement cannot be implemented.

The policy advocates a practical and humane approach to managing infant and feral animals received at Council's ACF, particularly during times of seasonal influx (such as cat breeding season), which is consistent with practices adopted at other impounding facilities such as those operating at Blacktown City's facility and at Renbury Farm.

### **Officer's Recommendation**

1. That the proposed policy "Management of Infant and Feral Companion Animals", as outlined in attachment 1 of the report, be placed on public exhibition for a minimum period of 28 days.
2. That a further report to consider adoption of the policy referred to in 1 above and any submissions received, be presented to Council following the public exhibition period.

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

That the Officer's Recommendation be adopted.

### **CARRIED**

### **Council Meeting 10 December 2013 (Greiss/Rowell)**

That the Officer's Recommendation be adopted.

### **Council Resolution Minute Number 265**

That the Officer's Recommendation be adopted.

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## ATTACHMENT 1

 campbelltown city council		<b>POLICY</b>
Policy Title	Management of Feral and Infant Companion Animals	
Related Documentation	DW2468330 – Procedure Document – Euthanasia of Impounded Animals. DW 2241642 – Procedure Document – Impounding Animals DW2535841 – Procedure Document – Housing Impounded Animals Risk Identification (R1011ACF) Euthanasia of Animals Risk Identification (R1012ACF) Disposal of Dead Animals	
Relevant Legislation/ Corporate Plan	Companion Animals Act 1998 – S64& 64A; Guideline on the Exercise of Functions under the Companion Animals Act	
Responsible Officer	Manager Compliance Services; Animal Care Facility Coordinator	

**Policy details may change prior to review date due to legislative changes, therefore this document is uncontrolled when printed.**

### Objectives

To authorise the humane euthanasia of seized, abandoned or surrendered feral and infant companion animals before the end of any statutory holding periods in certain circumstances, as prescribed in the Policy Statement and as permitted under Section 64 (2) of the Companion Animals Act 1998.

### Policy Statement

The policy provides for the assessment and management of Feral and Infant Companion Animals that are not deemed either suitable for re-homing or practical to retain at Council's Animal Care Facility (ACF).

Feral and infant companion animals may not be practical to retain at Council's ACF for various reasons such as:

- Biosecurity risk
- Animal health or behavioural issues
- Humane reasons
- Care requirements

### Scope

The policy provides for the assessment and management of Feral and Infant Companion Animals that are not deemed either suitable for re-homing or practical to retain at Council's Animal Care Facility (ACF).

#### **Definitions**

1. **Companion Animal** means a dog or cat and any other animal that is prescribed by the Companion Animals Act regulations as a companion animal.
2. **Feral** means wild or showing no signs of domestication but does not include any companion animal that is micro chipped or wearing a collar.
3. **Infant** means a companion animal that appears to be under 8 weeks of age.
4. **Euthanasia** refers to the euthanasing procedure administered by Council's authorised veterinary surgeon in accordance with Procedure Document DW 2468330 "Euthanasia of Impounded Animals".

#### **Legislative Context**

The Companion Animals Act 1998 at Section 64(2) provides for the humane euthanising of feral or infant animals prior to the end of the statutory holding periods if there is an adopted Council policy in place to do so. This policy has been developed to comply with that provision.

#### **Principles**

##### **1. Feral companion animals**

Feral companion animals may be euthanised at any time prior to the expiration of the statutory holding period providing the requirements of this procedure are observed and documented evidence of this is recorded by the ACF Coordinator or a delegated officer on a feral animal assessment form.

Upon receiving the animal at Council's ACF, a feral animal assessment form (Attachment 1) is to be completed to document and justify the assessment of the animal as "feral".

##### **2. Infant companion animals**

Prior to euthanising an infant companion animal, all reasonable and practical steps shall be taken by the ACF Coordinator or a delegated officer to ascertain:

- a) if the infant is in good health and able to be cared for and if so:
- b) if there is a suitable lactating animal at the Animal Care Facility that is able to adopt and care for the infant or:
- c) if there is an alternative care arrangement (for example a foster carer with an approved Rescue Group) that is able to be implemented immediately to accept responsibility for, and deliver an appropriate level of care to, the infant.

Infant companion animals may be euthanised at any time prior to the expiration of the statutory holding period if the requirements of this procedure, as indicated at (a) – (c) above, are observed and documented evidence of this is recorded by the ACF Coordinator on an infant animal assessment form.

Upon receiving the infant animal at Council's ACF, an Infant Animal Assessment form (see Attachment 2) is to be completed to document and justify the assessment of the animal as an "infant".

#### **Responsibility**

It is the responsibility of the Animal Care Facility Coordinator or delegated officer to administer this policy.

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**Effectiveness of this Policy**

The policy will be administered in accordance with the Companion Animals Act 1998 to manage the infant and feral companion animals received by the Animal Care Facility.

**END OF POLICY STATEMENT**

## **4.6 Macarthur Square Free Parking Area Agreement**

### **Reporting Officer**

Acting Manager Compliance Services

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### **Attachments**

Correspondence from Macarthur Square Lend Lease of 16 July 2013 (contained within this report)

### **Purpose**

To report on a request from Macarthur Square Lend Lease to amend the existing free parking area agreement with Council to include the monitoring of loading docks, no stopping and no parking zones and non-designated areas of the Macarthur Square car parking areas.

### **History**

A Free Parking Area Agreement has been in place between Council and Lend Lease Real Estate Investments Limited and GPT Funds Management Limited since 2011 that provides for Council to monitor and enforce disabled parking zones within the shopping centre car park areas.

Macarthur Square Lend Lease has written to Council (Attachment 1) requesting that Council alter the existing free parking area agreement for Macarthur Square to include an extension of Ranger enforcement of restricted car parking areas to include loading docks, no stopping and no parking zones and non-designated parking areas in the interest of protecting public safety.

Council is also a party to Free Parking Area Agreements at Campbelltown Mall (disabled zones only) and Ingleburn Town Centre (all parking offences). Campbelltown Mall has previously expressed some interest in amending the existing parking area agreement to extend parking enforcement activities similar to that requested by Macarthur Square Management.

### **Report**

The request by Macarthur Square Lend Lease to amend the free parking area agreement stems from concerns for public safety arising from illegally parked cars preventing the access to, and forward movement of, trucks in and out of loading docks and restricting the free movement of vehicles in and around car park areas.

The request for amendment of the free parking area agreement does not extend to the enforcement of time limit parking areas within the shopping centre car park areas and does not affect the current enforcement of disabled car parking spaces permitted under the agreement.

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Centre management have implemented a number of strategies without success to attempt to regulate and control illegal parking in loading zones and non-designated areas including the placement of notices on vehicle windscreens and the engagement of security staff for car park supervision and monitoring. This is understood to have prompted a written request from centre management to seek assistance from Council to expand its parking enforcement activities through a proposed amendment to the terms of the existing free parking area agreement.

Council retains the revenue raised from parking enforcement activities carried out under the terms of the free parking area agreement and this would not change under the proposed amendment to the agreement.

In addition, Macarthur Square management have confirmed its willingness to contribute financially to additional surveillance activities on an agreed hourly rate yet to be negotiated.

In view of the positive public safety benefit from increasing parking enforcement to regulate illegal parking in loading docks, no stopping and no parking zones, and non-designated parking areas, it is recommended that Council vary the existing free parking area agreement in accordance with the request by shopping centre management in their letter of 16 July 2013.

### **Officer's Recommendation**

1. That Council's General Manager be granted delegated authority to enter into an amended Free Parking Area Agreement with parties to the existing agreement to enable Council to enforce illegal parking in loading docks, no stopping and no parking zones and non-designated areas as requested by Macarthur Square Lend Lease in their letter to Council of 16 July 2013.
2. That the General Manager be authorised to negotiate terms of our amended agreement including a suitable rate of financial contribution on a fee for service basis, with Macarthur Square management as part of finalising the amended Free Parking Area Agreement.
3. That Council's General Manager be granted delegated authority to enter into similar Free Parking Area Agreements to that referred to in item 1 above with other major shopping centre should Council receive further proposals.

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

That the Officer's Recommendation be adopted.

### **Amendment: (Thompson/Mead)**

That a decision in this matter be deferred subject to the provision of a further report examining matters including the legal liabilities for Council staff, financial details outlining provision for full cost recovery and details relating to Council's existing parking enforcement activities on private property.

**CARRIED**

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**Council Meeting 10 December 2013 (Greiss/Rowell)**

That a decision in this matter be deferred subject to the provision of a further report examining matters including the legal liabilities for Council staff, financial details outlining provision for full cost recovery and details relating to Council's existing parking enforcement activities on private property.

**Council Resolution Minute Number 265**

That the above recommendation be adopted.

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## ATTACHMENT 1



16 July 2013

Mr P Tosi

Campbelltown City Council

DX 5114 Campbelltown

JUL18'13 08:08:15 RCVD

Dear Paul

We write to you with regard to the original agreement for the monitoring of the disable parking areas at Macarthur Square.

Over the last several months we have been experiencing many cars parked illegally in Loading Docks and non-designated areas of our car park that has become a major risk not only to property damage but also physical injury, due to the obstruction of the illegally parked vehicles.

We therefore would like to ask council if the existing agreement can be altered to include the monitoring of loading docks, no standing areas, no parking areas and non-designated areas to ensure the safety of all concerned, when in Macarthur Square Shopping Centre. We also request that the new agreement be placed under State Legislation and not the Local Government Act as this will have a far greater effect in dealing with illegally parked vehicles.

We attach a copy of our current agreement and photos of the illegally parked vehicles for your consideration on this matter.

Yours Sincerely

A handwritten signature in black ink, appearing to read "M Figallo".

**Michael Figallo | Operations Manager | Macarthur Square | Lend Lease**

200 Gilchrist Drive, Campbelltown NSW 2560 Australia

T +61 2 4621 7207 | F +61 2 4628 4411 | M 0438 499 724

[michael.figallo@lendlease.com](mailto:michael.figallo@lendlease.com) | [www.macarthursquare.com.au](http://www.macarthursquare.com.au)

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## **5. GENERAL BUSINESS**

Nil.

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

That the Committee in accordance with Section 10 of the *Local Government Act 1993*, move to exclude the public from the meeting during discussions on the items in the Confidential Agenda, 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.

**CARRIED**

## **18. CONFIDENTIAL ITEMS**

### **18.1 Confidential Report Directors of Companies**

#### **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

There being no further business the meeting closed at 10.04pm.

G Greiss  
CHAIRPERSON

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