

# **Reports of the Planning and Environment Committee Meeting held at 7.30pm on Tuesday, 4 February 2014.**

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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 4 February 2014**

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**Present**

His Worship the Mayor, Councillor C Mead  
Councillor G Greiss (Chairperson)  
Councillor R Kolkman  
Councillor D Lound  
Councillor A Matheson  
Councillor M Oates  
Councillor T Rowell  
Councillor R Thompson  
General Manager - Mr P Tosi  
Acting Director Planning and Environment - Mr J Baldwin  
Manager Community Resources and Development - Mr B McCausland  
Manager Waste and Recycling Services - Mr P Macdonald  
Manager Sustainable City and Environment - Mr A Spooner  
Acting Coordinator Development Assessment - Mr A MacGee  
Acting Manager Governance and Administration - Mr T Rouen  
Executive Assistant - Mrs D Taylor

**Apology** Nil

**Also in Attendance**

Following the conclusion of the City Works Committee meeting the following Councillors attended the remainder of the Planning and Environment Committee meeting

Councillor P Lake  
Councillor F Borg  
Councillor P Hawker

**Acknowledgement of Land**

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

**DECLARATIONS OF INTEREST**

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

**Pecuniary Interests**

Nil

**Non Pecuniary – Significant Interests**

Nil

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**Non Pecuniary – Less than Significant Interests**

Councillor Matheson - Item 3.3 - 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.

Councillor Mead - Item 3.3 - 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 Mead advised that he has attended a number of events at this site in his capacity as an elected representative.

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

### **1.1 Outcome of the 2014 Free Recyclables Drop Off Day**

#### **Reporting Officer**

Manager Waste and Recycling Services

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#### **Attachments**

Nil

#### **Purpose**

To update Council on the outcome of the Free Recyclables Drop Off Day held on 4 January 2014.

#### **History**

Council held its inaugural Free Recyclables Drop Off Day in January 2009, and due to the success of the event, Council at its meeting on 3 February 2009 resolved to provide Campbelltown residents with a Free Recyclables Drop Off Day each year following Christmas and New Year.

#### **Report**

The sixth annual Free Recyclables Drop Off Day was held on Saturday 4 January 2014 at Coronation Park, Redfern Road, Minto. Residents were provided with the opportunity to drop off recyclable materials that would normally be collected in their domestic yellow-lid recycling bin for free.

As in previous years, residents were also able to drop off polystyrene for recycling, which cannot be placed in domestic recycling bins, but is a common waste accumulated during the festive season.

Two divisions of SITA Australia (SITA) provided sponsorship for the 2014 event. SITA's Campbelltown Branch supplied two compactor vehicles free of charge to assist with the collection of recyclables at the event, and the recyclables collected at the event were accepted at SITA's Spring Farm Advanced Resource Recovery Park for recycling free of charge.

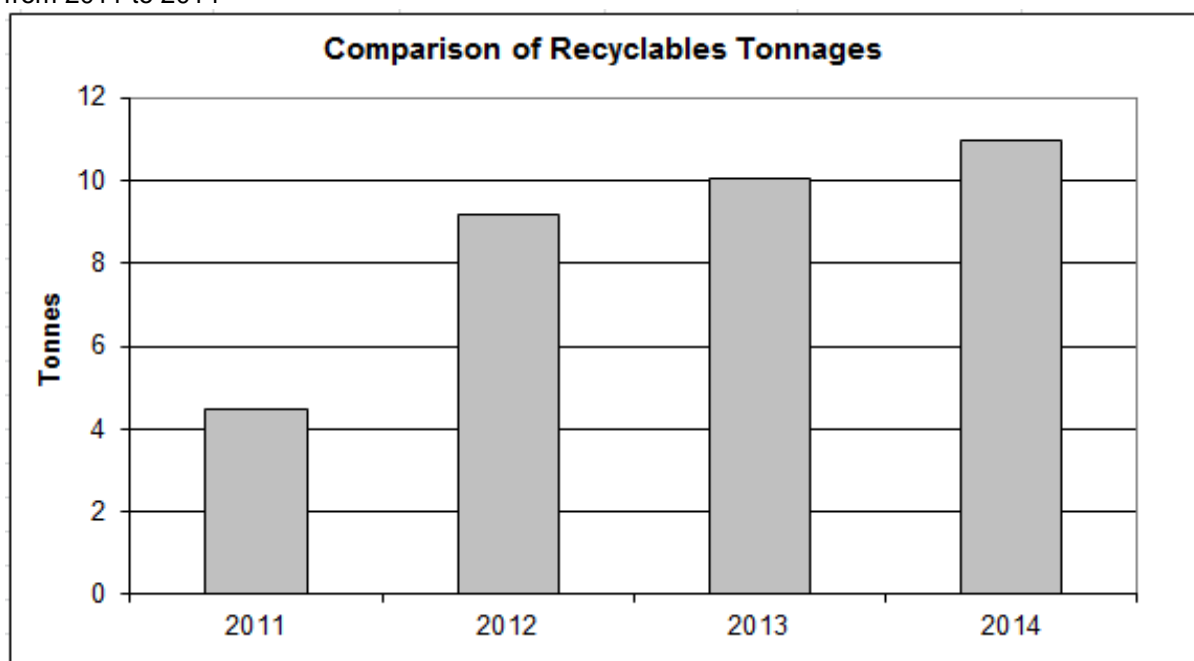
The 2014 Free Recyclables Drop Off Day saw the highest participation to date, with 609 residents utilising the service. This is an increase of 73 participants from the previous attendance record set at the 2013 event. It should be noted that 375 participants (or 62%) had not attended a Free Recyclables Drop Off Day previously. This indicates that advertising for the event continues to reach a new audience, suggesting that participation rates have the potential to increase at future events.

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Not surprisingly, the increase in participation resulted in an increased tonnage of recyclables dropped off on the day. Nearly 11 tonnes of material was collected, which was an increase of almost 1 tonne when compared to the 2013 event. The recyclables collected consisted primarily of cardboard, which is consistent with the material composition seen in previous years. Other recyclables collected at the event included glass bottles, aluminium cans, plastic bottles and paper.

Figure 1 shows the tonnage of recyclable materials collected at the 2014 Free Recyclables Drop Off Day, in comparison with the tonnages collected at the previous three events.

Figure 1: Comparison of recyclables tonnages collected at Free Recyclables Drop Off Day events from 2011 to 2014



The polystyrene drop off service proved to be popular again in 2014, with nearly 350 residents dropping off approximately 90 cubic metres of polystyrene for recycling. By using this service, residents have collectively saved approximately 640 general waste bins full of polystyrene from going to landfill. The polystyrene will now be recycled into new products such as timber-look blinds, decking and compact discs.

The 2014 event was promoted in local newspapers, Council's libraries, leisure centres and child care centres and in the Summer edition of Compass. Information was also provided on Council's website, Facebook page and in the Mayoral message on C91.3, which aired on 1 January 2014.

In addition, Council's variable message board located on Narellan Road and Campbelltown Road were utilised on 2 and 3 January for further promotion. These signs were first used in the lead up to the event in 2012, and proved to be a useful promotional tool again in 2014.

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As in previous years, the feedback received from residents who participated in the event was very positive. Due to the increase in participation and the higher volume of material collected, some increased waiting periods occurred during the peak of the day. However, a large proportion of participants expressed their thanks to Council for providing the service, and nearly all participants indicated that they would use the service again in 2015.

### **Officer's Recommendation**

That the information be noted.

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

That the Officer's Recommendation be adopted.

### **CARRIED**

### **Council Meeting 11 February 2014 (Greiss/Matheson)**

That the Officer's Recommendation be adopted.

### **Council Resolution Minute Number 4**

That the Officer's Recommendation be adopted.

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

### **2.1 Camden Gas Community Consultative Committee Minutes**

#### **Reporting Officer**

Manager Sustainable City and Environment

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#### **Attachments**

Minutes of the Camden Gas Community Consultation Committee Meeting, held on 26 September 2013 (contained within this report)

#### **Purpose**

To inform Council on the outcomes of the Camden Gas Community Consultation Committee meeting held on 26 September 2013.

#### **History**

The Camden Gas Community Consultation Committee (CGCCC) is comprised of representatives of Campbelltown, Camden and Wollondilly Councils as well as community representatives associated with each of the stages of the Camden Gas Project (CGP). The Committee was established as a condition of consent for the CGP to provide a forum for discussion between AGL Upstream Investment (AGL) (the proponent) and the community.

The General Manager was appointed as Council's representative to the CGCCC on 31 May 2011 and the Director of Planning and Environment as his formal delegate.

#### **Report**

A meeting of the CGCCC was held at the Rosalind Park Gas Processing Plant on 26 September 2013. The minutes were formally endorsed at the CGCCC meeting held on 21 November 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 (Manager SC&E) on request.

This report provides a broad summary of the outcomes of the CGCCC meeting and highlights issues of relevance to Council.

#### **1. Presentation on the Independent Environmental Audit of the CGP 2010-2012**

As reported in the Planning and Environment Division Councillor Weekly Memo (CWM) of 20 September 2013, AGL engaged Treo Environment (a consultancy specialising in environmental audits) to conduct a mandatory independent environmental audit of the CGP for the period 1 July 2010 to 30 June 2012.

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Representatives from Treo Environment delivered a presentation on the scope, methodology, and findings of the Audit.

The audit identified that the environmental performance of the Camden Gas Project was generally satisfactory and in accordance with statutory requirements. However, several non-compliances were identified, including:

- failure to carry out continuous monitoring of emissions from the Rosalind Park Gas Processing Plant over the entire period
- failure to operate appropriate equipment during a maintenance procedure at a well site on the Sugarloaf Property (near Menangle) in May 2011, which resulted in the emission of a non-toxic foam (later identified as a soap used to enhance gas extraction)
- consultation undertaken by AGL with stakeholders (such as Council), was not consistently conducted in accordance with consent requirements.

Council staff enquired if there was intended to be any monitoring and reporting on the implementation of the Audit's recommendations. AGL advised that details on corrective actions to address non-compliance with conditions of consent for the CGP (identified by the Audit) would be provided at the next meeting of the CGCCC.

## **2. Presentation on the outcomes of a groundwater investigation study**

In response to concerns over lower than anticipated salinity levels in removed groundwater at a number of well sites, AGL engaged Parsons Brinckerhoff (a specialist groundwater consultancy) to investigate the issue.

The investigation broadly concluded that:

- the lower salinity levels were due to changes in the surrounding environment (such as pressure and temperature) that occur as the groundwater moves upwards towards the surface
- there is no evidence to suggest that the collected groundwater is being altered or contaminated as a consequence of connection between shallow and deep groundwaters.

This issue is currently being investigated in detail as part of the Stage 2 'Review of Coal Seam Gas Activities in NSW' by the Office of Chief Scientist and Engineer (the Office). It is therefore appropriate that any response to the AGL investigation be deferred until the final report on the Review by the Office is presented to Council.

## **3. Update on the CGP Stage 3 Application**

AGL advised that this application remains suspended, however it is anticipated that the company would make a formal announcement on the future of this application in the near future.

## **4. Update on the AGL groundwater monitoring program**

AGL's hydrogeologist provided an update on the groundwater monitoring program and its findings. The monitoring program has provided an enhanced understanding of the groundwater environment in the CGP area.

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The CGCCC community representative questioned the need for the location of a monitoring site within the Stage 3 Project Area. AGL advised that monitoring at this site was necessary to assist with the comparative understanding of the groundwater environment within the Stage 2 Project Area.

#### **5. Update on regulatory action undertaken by the EPA**

As advised in the CWM of 16 August 2013, the EPA entered into a legally binding Enforceable Undertaking (EU) with AGL in response to the failure by AGL to carry out continuous monitoring of emissions from the Rosalind Park Plant between 2009 and 2012. The EU includes a requirement for AGL to pay \$150,000 to the University of Western Sydney (UWS) for a wetland education project to be delivered to Macarthur schools.

Council staff reiterated Council's position that the EPA should have prosecuted this serious breach in the appropriate court rather than enter into an EU. Staff also enquired if there was intended to be any independent auditing of the expenditure of funds related to the EU. The EPA advised that AGL is required to report on its compliance with the EU, which will be made publicly available.

#### **6. Recent breaches at the Rosalind Park Processing Plant**

AGL advised that on 4 August 2013, nitrous oxide emissions from the Plant exceeded levels permitted by the licence for a total of three hours. AGL outlined corrective actions that had been taken and advised that an incident investigation report had been submitted to the EPA.

In a separate matter the EPA issued a Penalty Notice to AGL for failure to publish emission monitoring data for February and March 2013 on its website within the statutory 14 day timeframe. AGL advised that this breach was due to difficulties with the recently installed continuous monitoring equipment and delays in receiving collated data from the air quality consultant.

#### **7. EPA gas well inspection program**

The EPA has commenced an inspection program targeting methane leakages from gas wells. Subsequent to the meeting the EPA has advised Council staff that the program has identified a number of minor leaks which have been rectified by AGL.

#### **8. Next meeting**

The next meeting of the CGCCC will be held on 20 March 2014, where the minutes of the meeting held on 21 November 2013 are scheduled to be endorsed. A report providing a summary of the minutes of the 21 November 2013 meeting will be presented to the next available Council meeting following their endorsement.

### **Officer's Recommendation**

That the information be noted.

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

That the Officer's Recommendation be adopted.

**CARRIED**

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**Council Meeting 11 February 2014 (Greiss/Matheson)**

That the Officer's Recommendation be adopted.

**Council Resolution Minute Number 4**

That the Officer's Recommendation be adopted.

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## ATTACHMENT 1

### COMMUNITY CONSULTATIVE COMMITTEE AGL – CAMDEN GAS PROJECT

#### MEETING NO.37

Held in the RPGP Conference Room, Menangle on 26 September 2013 at 5.30pm

#### MINUTES

Member / Guest	Attendance Type
Mrs Margaret MacDonald-Hill (MM) <b>Chair</b>	Present
Mr Brad Staggs (BS)	Present
Mrs Diane Gordon (DG)	Apology
Mr Fred Anderson (FA)	Apology
Ms Jacqui Kirkby (JK)	Present
Mr Michael Hingley (MH)	Apology
Mr Peter Bloem (PB)	Present
Mr Simon Hennings (SH)	Apology
Mr Troy Platten (TP)	Present
Mr Paul Reynolds (PR)	Apology
Cr Lou Amato (LA)	Apology
Cr Lara Symkowiak (LS)	Present
Mr Aaron Clifton (AC)	Present
Ms Jenny O'Brien (JO)	Present
Mr Adam Lollback (AL)	Apology
Ms Sara Olivier (SO)	Present
Mr Andrew Spooner (AS)	Present
Dr Wendy McLean (WM)	Present
Ms Denise Corish (DC)	Present
Ms Suzanne Westgate (SW)	Present
Ms Nicola Fry (NF)	Present
Mr David Henry (DH)	Present
Mr Geoff Green (GG)	Present
Ms Nicole Magurren	Apology

#### Meeting Opened at:

ITEM	ACTION
<b>1.0 Welcome</b>  Welcome and Introductions by Chair – MM  Introduced presenters Dr Wendy McLean from Parsons Brinkerhoff, Denise Corish from Treo Environment and Nicola Fry from AGL.  Also introduced Suzanne Westgate, Land and Approvals Manager from AGL who was attending in place of Adam Lollback.  MM - Advised that she is engaged by AGL as an independent chair, approved by the Director General of 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>  <b>Corrections to meeting #36 minutes</b> Pg 2 - Update question from AS to read <i>AGL to verify that M25 recently flooded.</i>  Pg 6 – Correct first comment by AC. <i>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.</i>  Pg 1 – Update the member guest list with MM's observer Lisa Andrews.  Pg 2 – Update the corrections from JK by removing "in relation to the discussion about the pros and cons of EU" and "in relation to the proposal being tabled as part of the EU"  JK provided MM with typed up changes to meeting #35 minutes.  Pg 4 – Under heading Water Monitoring first comment from JK should read: <i>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?</i>  Pg 6 – Update second question from JK to read: <i>Queried why AGL had not put up the monthly report?</i>  Pg 7 – Update JK comment to also include: <i>Queried if the HIA report was for the Northern Expansion and why this is still necessary?</i>  Pg 7 – Update PB comment to read: <i>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.</i>  Pg 1 – Insert initials after Andrew Spooner.  <b>Moved: Troy Platten</b> <b>Seconded: Andrew Spooner</b>	
<b>4.00 Invited Speakers</b> (Agenda reordered to allow guest presenters to go first)	



**Presentation by Denise Corish on the Independent Environmental Audit of the Camden Gas Project 2010-2012**

Denise Corish is a Director of Treo Environment, a registered Environmental Lead Auditor with RABQSA, approved as an independent auditor by the Director-General.

**Questions:**

JK – Will the CCC members receive copies of the presentations?

MM – Confirmed they would and presentation will also be uploaded onto the website.

JK – Would like to know which authority is going to ensure compliance and what will be the penalty for non conformance?

AC - AGL pursued this audit and even though AGL scored 92% conformance there is room for improvement. AGL has gone through the report thoroughly and has formed a compliance team internally. This team has been tasked with overseeing site conditions and all Upstream Gas projects. They undertake a weekly review of compliance and have reviewed all non-conformance from the past 2 years to prevent future non compliances. There are new systems in place and there have been real improvements through more frequent meetings with EPA, OCSG and DPI.

JK? What is Office of CSG?

SW – It is an office within the Department of Trade and Investment. Consents for CSG developments are complex and fall under Part 3A and Part 4. Recommendations have been made to consolidate the conditions so the requirements are clearer. This would assist with audits and compliance. It is a complex regime with contradictions between conditions of consent and the license which makes the audit process very challenging.

PB - Had AGL considered consolidating the many consents as they exist under various approvals?

SW – From an operators point of view, we agree. Would like the overlap between the consents and license to be removed however recognise this is a big task which may take years.

PB – Commented that a very large number of conditions were audited and appreciated it was a very complex task. The majority of breaches were administrative according to the auditor.

JK – The government made a number of changes to simplify matters for the community. Is the EPA the lead regulator? Non-compliance looks like they relate to conditions of consent. Does the EPA monitor this?

PB – Consent conditions are administered by the Department of Planning.

<p>JK – Which authority is going to monitor compliance and issue penalties?</p> <p>PB – Compliance obligations fall under both the licence and the conditions of consent. The EPA monitors and ensures compliance with conditions of the EPL. The Department of Planning is responsible for non-conformance with the development approval.</p> <p>JK – Should someone from the Department of Planning be attending these meetings?</p> <p>MM – It is not common for agencies to attend, pointed out Howard Reed from DP&amp;I had attended recently.</p> <p>JK – How does the Director General of Planning receive information and make an assessment of actions being taken?</p> <p>AC – AGL has reported back to Department of Planning on actions being taken in response to the audit recommendations.</p> <p>DH - Will AGL report back on how they are actioning recommendations from the audit?</p> <p>JO – The website will be updated every 3 months and at the next meeting AC will present back to CCC on corrective actions taken.</p> <p>TP – Questioned how Denise was engaged by AGL.</p> <p>AC- AGL asked Treo to undertake audit and Denise’s CV was sent to the Director General.</p> <p>TP – Asked if Denise was local?</p> <p>DC – Explained was local to Sydney.</p>	
<p><b>Presentation by Nicola Fry, AGL</b></p> <p>NF gave a powerpoint presentation of groundwater in the Camden area and an update on the groundwater monitoring program.</p> <p>NF – Responded to the query about where and why there was an additional groundwater monitoring bore installed in the Northern Expansion area. Explained that AGL installed an additional monitoring bore on a Denham Court property with Cumberland Plain Woodland- the property now has a total of four monitoring bores. This monitoring bore has been placed outside of the CSG activity so it is good to monitor activity between this type of vegetation and the groundwater.</p> <p>AGL continues to collect monitoring data from the Denham Court monitoring bores- outside the Camden Gas Project- because it provides good background data. The data from the monitoring bores will be uploaded onto the project website quarterly.</p>	



<p><b>Questions:</b></p> <p>JK – Why are the wells referred to as Raby / Denham Court when they are not located in Raby? It is confusing to the community.</p> <p>NF – They have historically been called this.</p> <p>AC – Will look into changing the name however it is possible it cannot be changed because the names are attached to the monitoring licence.</p> <p>JK - Why is it useful background data?</p> <p>NF - Groundwater varies across the area. Looking for trends and to better understand the natural variations. It is useful to have this data across a broad geographical area.</p> <p>JK – How long would it take to detect an impact from gas production downstream?</p> <p>NF – The monitoring bores are not monitoring for pollution events but rather looking at long term trends. The monitoring bores are collecting baseline spatial data ie. comparison between a geographic area but are being conducted at the same time as the CSG operations within the Camden Gas Project .</p> <p>JK- Where do the flow paths of the aquifers end up?</p> <p>NF – The Sydney basin is a basin shape. The outcrop of the Hawkesbury Sandstone aquifer is south of Camden Gas Project, it is a lot deeper at the centre of Sydney and outcrops again to the north. The water in the aquifer flows to the middle of the basin and then likely flows out to Sydney Harbour.</p> <p>JK – Is the baseline data being collected by the monitoring wells impacted by the exploration that has already been undertaken in the area?</p> <p>NF – No. The type of exploration that has been carried out in proximity to the monitoring wells would not impact on the data being collected.</p> <p>NF - Explained that through routine monitoring, AGL found water from a few gas wells had lower salinity than expected. Engaged Parsons Brinkerhoff to investigate the lower salinity and provide reasons why this was happening. AGL took a proactive approach to these investigations. It was not a requirement to undertake this investigation. NF introduced Dr Wendy McLean.</p>	<p>AC: Look into the ability of changing the names of existing wells</p>
<p><b>Presentation from Dr Wendy McLean, Water quality investigation</b></p> <p>Dr Wendy McLean carried out work whilst working for Parsons Brinkerhoff however now works for EMM.</p> <p>Wendy has a PhD in hydrochemistry and hydrogeology, is a Member of the International Association of Hydrogeologists, a Registered</p>	

<p>Professional Geoscientist, is an Australian Research Council Fellow and has nearly ten years' experience in the coal seam gas industry.</p> <p>Powerpoint presentation provided an overview of the research methodology and findings into why some water samples taken from a few gas wells had low salinity. Research identified that dilution was the cause of these results.</p> <p><b>Questions:</b></p> <p>JK – Will the data be peer reviewed?</p> <p>NF - All the data has been uploaded onto the website and could be peer reviewed. The report was also shared with the EPA, NSW Office of Water, Office of Coal Seam Gas and the NSW Department of Planning.</p> <p>Members - Asked Wendy which government department she previously worked for?</p> <p>WM - Previously worked for DLWC which is now called the Office of Water.</p> <p>TP – Asked for a copy of the presentation.</p> <p>JO – Indicated all presentations would be provided and uploaded onto the website.</p>	
<p><b>Meeting reverted to normal business agenda</b>  <b>4.0 Business Arising</b></p> <p>JK – Referred back to the data about the location of production wells on the ABC was wrong. Said the AGL Northern Expansion map was clear however the map for other stages of the project were confusing. The maps are unclear about whether the wells labelled as plugged or abandoned are suspended from production permanently or have the potential to be brought back into production. Need to be able to distinguish between suspended, plugged and abandoned. The label for production wells are also unclear. Are they being drilled or are they in production? These should also be differentiated on the map.</p> <p>JO – Clarified that there are no wells currently being drilled.</p> <p>SW – AGL will look into the labelling of the wells and their status. In particular the labelling of production, exploration, plugged and abandoned and suspended wells.</p> <p>JK – Asked for the percentage breakdown of wells on public versus private land and the percentage breakdown of pipeline infrastructure on public versus private land. Would like a separate breakdown of this infrastructure.</p> <p>JO – Explained a recent email sent to the CCC provided information</p>	<p>AGL to send link to Office of CSG website and interactive map.</p> <p>AGL will review the existing map</p>



<p>about the pipeline infrastructure breakdown.</p> <p>JK – Only the breakdown of well locations have been given. Have not received the breakdown of pipeline infrastructure on public and private land.</p> <p>MM – Suggested perhaps the information request before has been interpreted differently.</p> <p>AC – The intent of recent information distributed to the CCC was to respond to this request however AGL will review and action.</p>	<p>AC to review information provided to date and provide further detail where possible.</p>
<p><b>5.0 Correspondence</b></p> <p><b><u>OUT</u></b> Nil</p> <p><b><u>IN</u></b> email 13/7/13 from AGL with link to NSW Chief Scientist &amp; Engineer review email 9/8/13 from AGL on EU &amp; link email 10/9/13 from AGL on IEA AGL Corrective Actions Register &amp; links email 11/9/13 from AGL on Water Quality Investigation Report &amp; link email 13/9/13 from AGL on continuous monitoring exceedance &amp; links email 17/9/13 from AGL on Open Day email 19/9/13 from AGL on well sites and link to website</p>	
<p><b>6.0 AGL Update</b></p> <p>SW introduced herself as Head of Land and Approvals at AGL. Took over the role in April this year and was previously in the legal team at AGL.</p> <p>Provided an overview of recent policy developments including the EPBC Amendment Bill. A new water trigger has been introduced. Federal assessment and approval is required for coal seam gas and large coal mining developments.</p> <p>JK – Asked what classifies as ‘significant’ to trigger a project to have to be referred to the Commonwealth Government for approval?</p> <p>SW – the term ‘significant’ is broadly defined. There are two components that would be considered as a significant impact – a change to hydrogeology including to the water level or to water quality.</p> <p>JK – Who decides if an impact is made?</p> <p>SW – A preliminary assessment is carried by the proponent and if there is any doubt about the impact then proponents refer the project to the Federal Government.</p>	

SW – Provided an update on the Enforceable Undertaking

JK – Raised concerns that AGL will be perceived as a good corporate sponsor.

SW – This breach is being taken extremely seriously by the board and there is nothing about this process that will portray AGL as a good corporate sponsor. There will be no AGL branding and UWS has been upfront about AGL's involvement with the three local governments involved in the project. AGL will step away from the project.

JK – Wanted to state on the record that she considered \$150,000 to be trivial compared to what penalties could have been received if the matter had gone through the courts.

PB – The EPA made the decision that an EU was an appropriate course of action. The \$150,000 is not a fine but a significant amount committed toward an environmental project. It is commensurate in dollar terms with fines imposed by the courts for significant environmental offences. The EPA has a strong prosecution record and details can be found in the Annual Report. The EU steps out all poor conduct and places it clearly on the public record. If another incident were to occur then consideration would be given to prosecution however in this particular case and situation an EU was considered the best outcome for the community and the environment.

JK – Will send a letter to the EPA. Has an issue with a number of things including the media release distributed by the EPA that incorrectly claimed that the EU had been developed in consultation with the AGL CCC.

PB – Advised JK should send a letter to the Chief Environmental Regulator.

AS – Stated that it had been agreed that it was not part of the CCC's role to get involved in the EU. From Campbelltown Council's point of view the EPA should have prosecuted AGL. Questioned whether there would be an independent auditing process for how money is being spent?

PB – This is not outlined in the EU but a project plan sits behind the EU which outlines how the money will be spent.

AS – Questions who goes back to confirm how the money is spent.

PB – The EU requires AGL to submit documentation to the EPA about how they have complied with the EU.

JO – In addition, UWS is taking this project seriously. It has gone through their ethics committee and a steering committee has been set up. The steering committee will meet quarterly to provide an update and this will be reported back to the EPA.



<p><b><u>Status of wells, HSE Update and Field Operations</u></b></p> <p>AC gave powerpoint presentation containing an overview of the status of the wells, HSE and field operations.</p> <p>BS – Was the weekly review of wells at the request of the EPA?</p> <p>PB -Reviewing the wells is part of the EPA’s role. EPA is currently undertaking a well inspection program in regard to fugitive methane. AGL has its own leak detection and repair system. EPA is reviewing wells for its own purposes and the inspection program is being done over and above licence requirements. Information from both AGL and EPA programs will inform future licence requirements.</p> <p>TP – Is the EPA auditing AGL because they have done something wrong?</p> <p>PB - AGL has announced an enhanced monitoring program. The EPA have new responsibilities now have their own methane monitors.</p> <p>MM – Commented the government is responding to public interest.</p> <p>PB – There is public interest in fugitive methane. Leak monitoring is a licence not a consent requirement that is monitored by AGL however the public are still sceptical. The EPA is doing its own monitoring which is a new area for the EPA.</p> <p>AC- Outlined a NOx exceedance was recorded on Compressor 1 in August and the details of the exceedance are included in the August 2013 CEMS report. It was caused by a cracked engine mount.</p> <p>TP – Asked who fixed the cracked engine mount and whether they provided a report?</p> <p>AC – Explained a subcontractor fixed it the engine mount and that no report was provided. The engine mount was 9 years old and it is not an uncommon problem. AC will follow up for a summary report from the subcontractor.</p> <p><b><u>Community update</u></b></p> <p>JO - Provided a powerpoint presentation on recent community open days, AGL volunteering and the Campbelltown show. Upcoming events were also discussed.</p> <p>MM –Were the people who attended the open day local people?</p> <p>JO - Explained it was a real mixture – of industry, community and Gloucester residents. JO asked CCC members to distribute the invite to the Camden Community Open Day on October 12 to their respective stakeholders.</p>	<p>AC to request report from Contractor who repaired the cracked weld</p>
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<p>JK – Queried whether there has been any AGL activity including truck movements in the Mt Annan area?</p> <p>AC – Didn't believe so but asked JK to resend her email so he could confirm.</p> <p>AC – In July, four officers from the EPA and OCSG undertook an unannounced audit of the project. The audit was carried out on 17 and 19 July against the license conditions and against the project operations in general. The audit report is still being finalised by the EPA team. It will be made available once it has been received.</p> <p>PB – The audit was carried out by the compliance audit section of the EPA which is an independent section of the EPA.</p>	
<p><b>8.0 Next Meeting Date</b>          21 November 2013</p>	

**Meeting Closed at: 7.35pm**

Acronym Index

AEPR	Annual Environmental Performance Report
CCC	Community Consultative Committee
PAC	Planning Assessment Commission
SRLUP	Strategic Regional Land Use Policy
EPL	Environment Protection Licence
EU	Enforceable Undertaking
HIA	Health Impact Assessment
SEPP	State Environmental Planning Policy
SMH	Sydney Morning Herald
OCSG	Office of Coal Seam Gas
DP&I	Department of Planning and Infrastructure
DWLC	former Department of Water and Land Commission
HSE	Health, Safety and Environment
UWS	University of Western Sydney
CEMS	Continuous Emissions Monitoring System

## **2.2 Georges River Combined Council Committee Annual Report 2012-2013**

### **Reporting Officer**

Manager Sustainable City and Environment

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### **Attachments**

Nil

### **Purpose**

To present an overview of the Georges River Combined Councils' Committee (GRCCC) Annual Report 2012-2013 to Council and to highlight the work undertaken by the GRCCC within the Campbelltown Local Government Area (LGA) during the 2012-2013 financial year.

### **History**

The GRCCC represents local councils in the Georges River catchment of NSW. Members include nine local councils: Rockdale City, Sutherland Shire, Kogarah City, Hurstville City, Bankstown City, Liverpool City, Fairfield City, Campbelltown City and Wollondilly Shire councils. Council's representative on the GRCCC is Cr George Greiss. It is an incorporated association of local councils working in partnership with State and Federal Government agencies and community representatives within the Georges River Catchment.

Formed in 1979, the GRCCC's mission is to advocate for the protection, conservation and enhancement of the health of the Georges River, by developing programs and partnerships and by lobbying government organisations and other stakeholders.

### **Report**

During the 2012-2013 period, the GRCCC continued to partner with the nine member councils and several State and Federal government agencies to achieve shared goals of quality catchment management. Corrective Services NSW continues to commit to the program and similarly National Parks and Wildlife service continued to allow the GRCCC to use their premises in Revesby as a headquarters.

This report outlines the GRCCC's priorities and achievements in the 2012-2013 period as detailed in the 2012-2013 Annual Report which can be accessed at [www.georgesriver.org.au](http://www.georgesriver.org.au).

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In recognition of its achievements the GRCCC was one of three finalists in the annual International River Foundation 2012 Australian Riverprize award. This is the most prestigious prize for environmental achievement in the country and the GRCCC was the only finalist from NSW. The award recognises and supports those who have developed and implemented outstanding visionary and sustainable programs in river basin management and on-ground improvements to River Health.

## **GRCCC Programs**

### **1. Georges Riverkeeper Program**

The Riverkeeper program removed over 100 tonnes of rubbish from the Georges River catchment area and also contributed to the rejuvenation of many bushland areas.

Corrective Services NSW together with the Clean-up Australia Day volunteers contributed a total of 30,684 community volunteer hours to the program. Bush regeneration and weed removal work covered 18,406m<sup>2</sup> of remnant bushland within the whole of the Georges River catchment.

Within the Campbelltown LGA over 20 tonnes of rubbish was collected through 4727 volunteer hours. Bush regeneration covered an area of 4,566 m<sup>2</sup> at both Eagle Farm Reserve (Eagle Vale) and Tree Gully Reserve (Blair Athol). Works focused on the removal of noxious and invasive weed species and the regeneration of native ground covers.

### **2. Community River Health Monitoring Program**

The program continued to build upon four years of data collection providing council with water quality information and engaging with a suite of stakeholders to create a greater understanding of environmental issues relating to the Georges River catchment. The program has engaged with over 400 volunteers and 53 community groups since 2011.

Funding for the program, provided through the Federal Government's Caring for Country Initiative concluded in June 2013. The program was successful in meeting the terms of the grant agreement including exceeding the targets for community engagement and operating within budget.

Member Councils recognised the value in continuing the program beyond the grant funding period and agreed to continue to fund the program.

The River Health Program was awarded the 2012 National Landcare Award in recognition of its natural resource management outcomes connected to the urban environment. A review of the program is planned to be undertaken in 2013-2014 to ensure the program responds to the member Councils' needs and reflects current best practice ecological monitoring of the Georges River and the estuary.

### **3. Communications and Engagement Program**

The Communications and Engagement Program continued its role as the central and coordinating player in developing and delivering education platforms. The program focused on strengthening the positive partnerships through its network of stakeholders.

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Through the program the inaugural CrossCurrents Art and Environment Festival, was held at Garrisons Point in Georges Hall in November 2012. The GRCCC also focused on the development of a policy framework to support sponsorship for programs and events.

#### **4. Estuary Management Program**

The draft Georges River Estuary Coastal Zone Management Plan was publically exhibited during March and April 2013 and is currently being finalised. The GRCCC also received a grant from the Hawkesbury-Nepean Catchment Management Authority to continue to service and maintain the Botany Bay water quality monitoring buoys for a further 12 months.

#### **GRCCC Partnership Program**

##### **Improving Prospect Creek for Water Quality and Habitat**

The Improving Prospect Creek Project is a partnership between Bankstown City, Fairfield City and Holroyd City Councils, primarily funded through the NSW Environmental Trust. The Strategic Management Plan for the Prospect Creek riparian corridor was finalised and implemented during the reporting period. The grant funded stage of the project is now complete.

#### **Financial Position**

The 2012-2013 annual report provides an Independent Auditors Report of the financial position of the GRCCC. The corresponding financial statements indicate that the GRCCC was in receipt of \$629,686 in revenue, primarily sourced from membership and program fees and grants. Their total expenses were \$526,355 leaving a surplus of \$103,331. The GRCCC's current assets are worth \$619,939, the majority of these assets are cash and cash equivalents.

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

That the information be noted.

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

That the Officer's Recommendation be adopted.

#### **CARRIED**

#### **Council Meeting 11 February 2014 (Greiss/Matheson)**

That the Officer's Recommendation be adopted.

#### **Council Resolution Minute Number 4**

That the Officer's Recommendation be adopted.

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## **2.3 JRPP Application - Fitout of Industrial Building for Electricity Network Support**

### **Reporting Officer**

Manager Sustainable City and Environment

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### **Attachments**

1. Locality Plan (contained within this report)
2. Site and Floor Plan Layout (contained within this report)
3. Eastern (Rear) Building Elevation (contained within this report)
4. Western (Street) Building Elevation (contained within this report)

### **Purpose**

To advise Council of a development application that has been referred to the Sydney West Joint Regional Planning Panel (JRPP) for determination. The proposal is for the fitout and use of an existing industrial building in Huntsmore Road, Minto for a gas powered electricity generating sub-station.

The application has been referred to the Sydney West Joint Regional Planning Panel, (JRPP) for determination in accordance with Part 2A of the Environmental Planning and Assessment Act 1979, as the development is for an 'electricity generating work' with a capital investment value of more than \$5 Million.

<b>Property Description</b>	Lot 238 DP 260481, 15 Huntsmore Road, Minto
<b>Application No</b>	2325/2013/DA-I
<b>Applicant</b>	Novapower P/L
<b>Owners</b>	Amenley P/L
<b>Statutory Provisions</b>	Environmental Planning and Assessment Act 1979 Campbelltown (Urban Area) Local Environmental Plan 2002
<b>Date Received</b>	4 November 2013

### **Report**

#### **Introduction**

Council has received a development application for the fit out and use of an existing vacant industrial building for peak load electricity generation. The proposal involves the installation and operation of four gas fired engine generators to provide supplemental power to the main electricity grid during periods of peak demand.

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The facility is proposed to only operate at times of peak electricity demand, so as to supplement the existing 'base load' of the electricity grid. This would be during summer loading periods - late afternoon and evening periods (4.00pm to 11.00pm). However, it is noted that the facility is intended to operate at any time of day as required.

The subject property is located within the Minto industrial area at the cul-de-sac head of Huntsmore Road, adjacent to the main railway line (refer Attachment 1). The closest residential areas are located on the opposite side of Pembroke Road near Council's main depot, approximately 600 metres east of the subject property.

The land is generally level, approximately 6,800 m<sup>2</sup> in size and occupied by two industrial buildings which are separated by a common driveway (Unit 1 to the north and Unit 2 to the south). The application relates to Unit 2 only.

Unit 2 is currently vacant and comprises a pre-fabricated concrete tilt-up panel for the western wall, with a steel frame and steel cladding for the other walls and a concrete slab floor. Two roller doors are located on the eastern (rear) side of the building. The building has overall dimensions of 22m (width) by 50m (length) and 10.8m height (at roof peak) with a floor area of 1,085 m<sup>2</sup>. There is a paved vehicular parking and manoeuvring area at the rear of the building, with a grassed area along the rear boundary adjacent to the railway corridor.

In December 2012 Council granted development consent for the 2 lot subdivision of the site to create a separate allotment for each existing unit, although it is noted that this subdivision has not been registered. The current proposal is consistent with the 2012 subdivision approval issued by Council.

### **Proposal**

The proposal involves the fitout and modification of the existing industrial building (Unit 2), and includes external works generally at the rear of the site. The proposed physical works are described as follows.

Proposed works within the existing building:

- four gas powered engine generators within building
- four electricity transformers housed within a fire proof enclosure
- switch room
- acoustic treatment of internal walls and roof to meet statutory noise requirements.

Equipment and structures to be installed on site at rear of the existing building:

- four heat exchangers (radiator fans) measuring 6m long x 4m high x 2.4m wide, placed on concrete footings and plinths in the existing car park / storage area
  - two (2) x Switching stations in the northeast corner of the rear car park, each measuring 0.8m length x 1m high x 0.8m wide
  - underground electrical cabling within the site to facilitate connection with existing power line
  - new fence with double gate between the northeast corner of the existing building to the railway boundary fence
  - earthworks and trenching to install underground conduits and earth grid.
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Modifications to external appearance of existing building:

- existing glass entrance on the southern end of the street elevation (secondary entrance) to be replaced with external wall and ventilation louvres similar to existing
- changes to eastern (rear) wall of building to accommodate additional ventilation louvres, external exhaust vents, building exit, and physical connection with heat exchangers (radiators) at rear of building.

The facility is proposed to operate on a fully automated basis, with attendance by staff only required for routine maintenance or in the event of an alarm or plant failure.

### **Assessment**

The detailed assessment of all technical and planning considerations relevant to the assessment of the application is being undertaken by JRPP in accordance with Part 2A of the Environmental Planning and Assessment Act 1979.

The application is defined as integrated development under the *Environmental Planning and Assessment Act 1979*, as it requires an environmental protection licence (EPL) from the NSW Environment Protection Authority (EPA) as a prescribed 'metropolitan electricity works' activity. Accordingly, the determination of the application by the JRPP would be reliant upon general terms of approval being issued by the EPA to appropriately regulate potential air emissions and acoustic impacts under the Protection of the Environment Operations Act (POEO Act).

Staff reporting to the JRPP are required to undertake a comprehensive assessment of the proposal to determine the likely environmental impacts, and prepare a detailed report prior to the determination of the proposal. In this respect it is noted that the Statement of Environmental Effects accompanying the development application includes the following detailed studies and reports:

- Air Quality and Greenhouse Gas Assessment
- Environmental Noise Assessment
- Waste Management Plan
- Flood Risk Advice and Stormwater Information
- Electrolysis Statement
- Indicative Equipment information
- Building Code of Australia Capability Statement.

Whilst it is beyond the scope of this report to provide a parallel assessment of the full range of matters to be considered by the JRPP, a broad review of the application has been undertaken and the following matters are considered to be the main issues of significance:

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

The subject land is zoned 4 (a) – *General Industry Zone* under the provisions of *Campbelltown (Urban Area) Local Environmental Plan 2002* (LEP 2002). The General Industry Zone allows for wide range of industrial activities with consent, including developments that promote economic growth. In this respect, it is considered that the proposed development would be consistent with the zone objectives for new development.

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As an industrial use, the subject proposal would be permissible with Council's consent, unless it posed a significant hazard risk to the locality so as to be defined as a 'hazardous industry' under LEP 2002. This matter would need to be examined by the JRPP in accordance with *State Environmental Planning Policy No.33 - Hazardous and Offensive Development (SEPP 33)* and is discussed below.

## **2. State Environmental Planning Policy No 33 – Hazardous and Offensive Development**

*State Environmental Planning Policy No.33 - Hazardous and Offensive Development (SEPP 33)* provides the relevant assessment criteria to determine whether any proposed industrial use may be defined as a hazardous industry (and therefore be prohibited under LEP 2002). Where a development may be potentially hazardous, SEPP 33 requires the preparation of a Preliminary Hazard Analysis (PHA) for assessment by the determining authority.

The proponent has indicated that preliminary discussions with the Department of Planning and Infrastructure have indicated that the proposed development is unlikely to be a potentially hazardous or offensive industry, and therefore would not trigger the need for a PHA. However it is noted that the final decision as to whether a PHA is required rests with the consent authority (JRPP) and this would need to be determined in accordance with SEPP 33 Guidelines.

Accordingly it is considered that the JRPP, as consent authority in this instance, would need to conduct a detailed assessment of the hazardous industry provisions of SEPP 33 in order to demonstrate that the proposed development is permissible in the zone.

## **3. Integrated Development (Environment Protection Authority) – Air Emissions and Acoustic Impacts**

The development is defined as integrated development under the *Environmental Planning and Assessment Act 1979*, as it requires an environmental protection licence (EPL) from the Environment Protection Authority (EPA) under the *Protection of the Environment Operations Act 1997* (POEO Act).

The EPA is the relevant government authority responsible for the assessment and regulation of industrial air emissions and acoustic impacts in accordance with the POEO Act. As such, it is noted that the development application cannot be approved without general terms of approval first being issued by the EPA to address air and noise compliance. The subject application has been referred to the EPA for their consideration; however at the time of writing of this report no response has been received.

Council does not have the resources to duplicate the analysis conducted by the EPA, or contest the scientific credibility of data submitted by the applicant. Provided the EPA is satisfied that the proposal would comply with relevant air emission and acoustic standards, then it would be difficult for the consent authority (in this case the JRPP) to refuse the application on these grounds.

Notwithstanding these limitations, the following matters have been identified as important issues that the JRPP would need to be confident have been adequately resolved as part of the holistic assessment of the proposal:

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### **Air Emissions and Operating Hours**

The air quality assessment provided by the applicant indicates that the most significant emissions resulting from the gas powered engines will mainly be nitrogen oxide exhausts. Other exhaust gases include ozone and carbon dioxide. Air dispersion modelling predictions have been provided by the applicant in accordance with EPA requirements to estimate the impacts and concentrations of offsite air pollutant in the vicinity of the subject site.

The air emission analysis and predictions are based upon a limited operation running time of the facility of 3.5 hours per day (2 x 1.75 hours). This is based upon the supplemental nature of the facility to only supply electricity to the grid during periods of peak electricity demand. However, there are no definitive operating hours specified in the application, and indeed the applicant has identified that the facility could operate at any time due to the need to provide network support at any time of the day.

Accordingly, it is considered that any consent issued by the JRPP imposes operating restrictions consistent with the methodology used by the applicant in the determination of air emission impacts. On the basis of air emission analysis supplied by the applicant, this would appear to warrant a restriction on operating times to 3.5 hours on any day.

### **Noise Assessment**

The environmental noise assessment report submitted by the applicant concludes that the noise emission limits will comply with the EPA Industrial Noise Policy for both industrial and residential receivers.

In general terms, the noise assessment models two acoustic scenarios, one based upon the acoustic qualities of the existing building, and the other being a “modified building envelope” with acoustic treatment to the existing building comprising fibro-cement sheeting to the internal walls and roof. By the applicant’s admission, the proposal only complies with the noise level criteria for the nearest industrial receiver under the “modified building envelope” scenario.

However, some issues have been identified with respect to the adequacy of the acoustic methodology provided in the noise assessment report. The issue of interest relates to whether the proposed development is consistent with either scenario considered in the noise report. In this respect, neither scenario appears to account for the building alterations proposed for the external walls of the existing building, namely new wall openings proposed to accommodate ventilation louvres, and building alterations to accommodate external exhaust stacks and radiators.

Additionally, the noise assessment report (page 19) states that the author has “*assumed openings will be required to reduce heat build up*”, which would indicate that the final building design has not been viewed by the author.

Accordingly, it is considered prudent that the Noise Assessment Report is reviewed to ensure consistency and accuracy with the plans lodged under the subject application.

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#### **4. General Considerations**

The following issues have been identified having regard to the broader suite of considerations prescribed by Section 79C of the *Environmental Planning and Assessment Act 1979*.

- Security

The proposal is intended to operate as a fully automated facility. The issue of crime prevention is therefore considered to be a relevant matter given the absence of personnel on the site to provide surveillance or respond to incidents in a timely manner. In this respect, it is considered that a 'Crime Prevention through Environmental Design' analysis should be undertaken to ensure this matter is adequately addressed.

- Landscaping

Existing landscaping of the site is lacking, particularly along the rear landscape strip adjoining the railway corridor which is largely grass ground cover. A landscape plan to embellish the site with appropriate indigenous plantings should be provided by the applicant and implemented as part of any approval issued.

- Emergency response

As an industrial activity involving combustion processes and flammable materials, the assessment of the proposal should address the potential for emergency incidents to arise, and how these would be responded to in an appropriate and timely manner.

- Ancillary gas piping

The proposed development relies upon provision of a new gas supply line to the site however details of this associated aspect of the proposal are unclear. If the subject proposal is approved, the relevant gas authority may be able to undertake these works without Council approval as infrastructure works. However, in the interests of providing a holistic and transparent disclosure of the total project being proposed, that additional details on these associated works are provided under the current application.

#### **Conclusion**

Council has received a development application for the fit out and use of an existing vacant industrial building for gas powered electricity generation. The intent of the facility is to provide supplementary power to the main electricity grid during times of peak electricity demand.

The application will be determined by the Sydney West JRPP in accordance with Part 2A of the *Environmental Planning and Assessment Act 1979*.

Council staff have reviewed the application and a number of issues and potential concerns have been identified. In order to ensure that these matters are properly considered by the JRPP, it is recommended that Council forward a submission to the JRPP for its consideration prior to the determination of the proposal.

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### **Officer's Recommendation**

That Council's Director Planning and Environment forward a submission to the Sydney West Joint Regional Planning Panel (JRPP) requesting that the development application (2325/2013/DA-I) for the fitout of an industrial building for peak load electricity network support at 15 Huntsmore Road, Minto not be approved unless the concerns and issues outlined in the body of this report are satisfactorily addressed.

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

That a decision in this matter be deferred to the Council meeting to be held 11 February 2014 to allow for the provision of additional information from the Acting Director Planning and Environment.

### **CARRIED**

Having declared an interest in regard to Item 2.3, Councillors Hawker and Lake left the Chamber and did not take part in debate nor vote on this item.

### **Council Meeting 11 February 2014 (Greiss/Matheson)**

That a decision in this matter be deferred to the Council meeting to be held 11 February 2014 to allow for the provision of additional information from the Acting Director Planning and Environment.

### **Amendment (Greiss/Thompson)**

That this item be deferred to be dealt with as the last item of the agenda of the open meeting of Council to allow Councillors to be provided with additional information.

### **Council Resolution Minute Number 5**

That the above amendment be adopted.

At the conclusion of the discussion regarding Item 2.3, Councillors Hawker and Lake returned to the Chamber.

**Note:** This item was dealt with after at the all other business on the agenda for the open Ordinary meeting was concluded.

Having declared an interest in regard to Item 2.3, Councillors Hawker and Lake left the Chamber and did not take part in debate nor vote on this item.

### **Council Meeting 11 February 2014 (Greiss/Thompson)**

That Council's Director Planning and Environment forward a submission to the Sydney West Joint Regional Planning Panel (JRPP) requesting that the development application (2325/2013/DA-I) for the fitout of an industrial building for peak load electricity network support at 15 Huntsmore Road, Minto not be approved.

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### **Council Resolution Minute Number 17**

That the above Council Resolution be adopted.

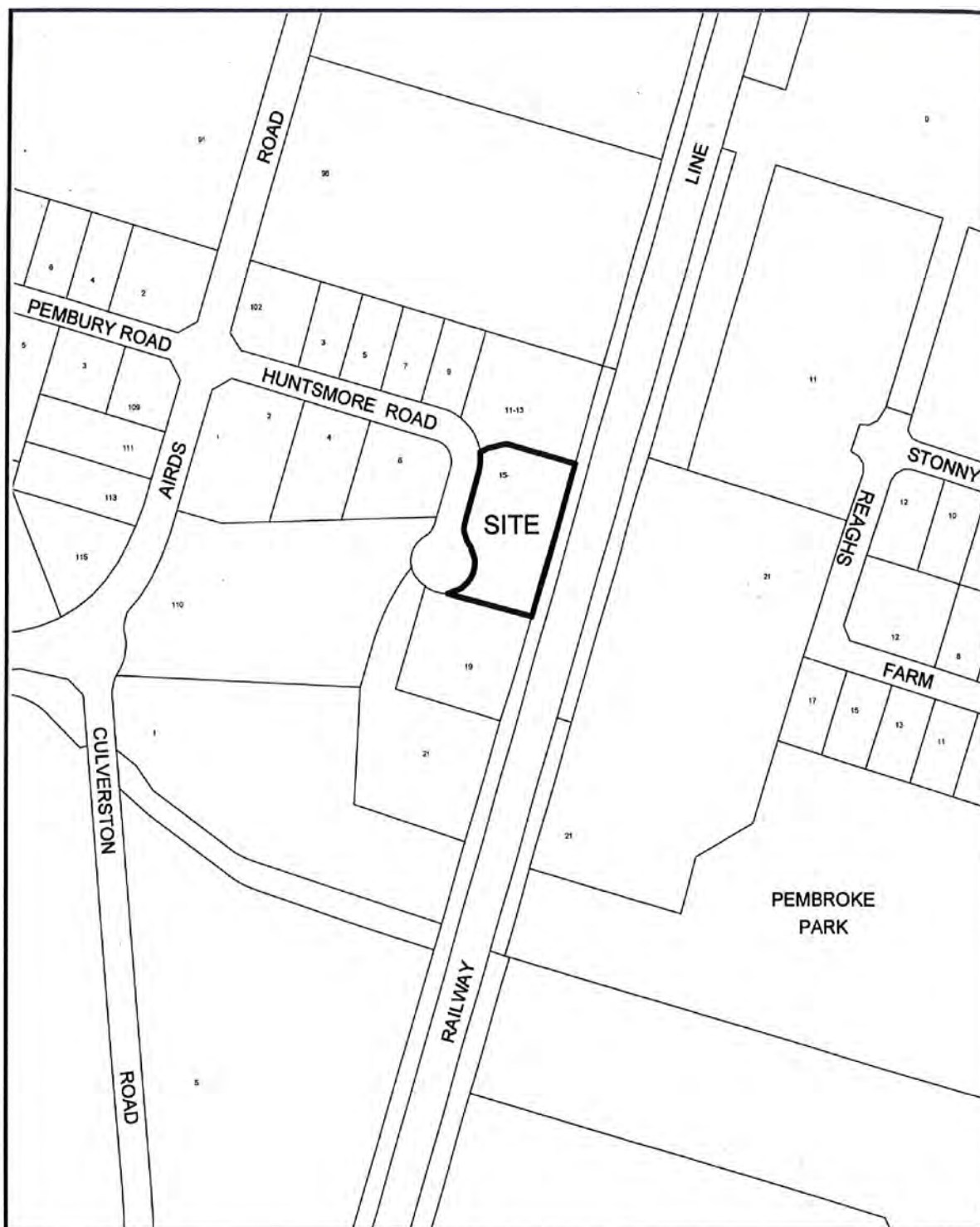
Voting for the Council Resolution were Councillors: Borg, Brticevic, Glynn, Greiss, Lound, Matheson, Oates, Rowell and Thompson.

Voting against the Council Resolution was Councillor Mead.

At the conclusion of the discussion regarding Item 2.3, Councillors Hawker and Lake returned to the Chamber for the remainder of the meeting.

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## ATTACHMENT 1



### LOCALITY PLAN

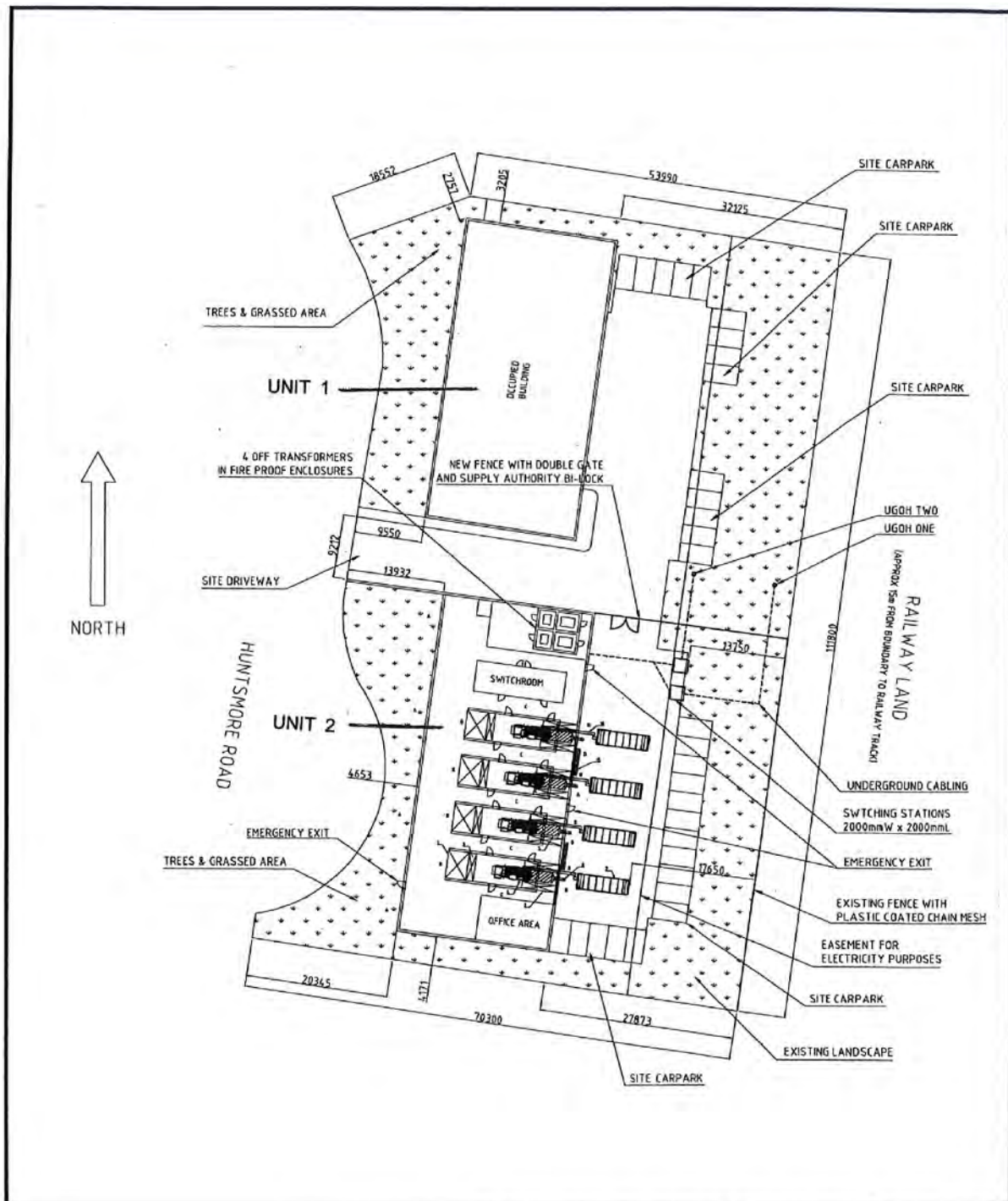


**SUBJECT:** FITOUT OF INDUSTRIAL BUILDING FOR ELECTRICITY NETWORK SUPPORT.

LOT 238 DP 260481 - No. 15 HUNTSMORE ROAD, MINTO.



## ATTACHMENT 2

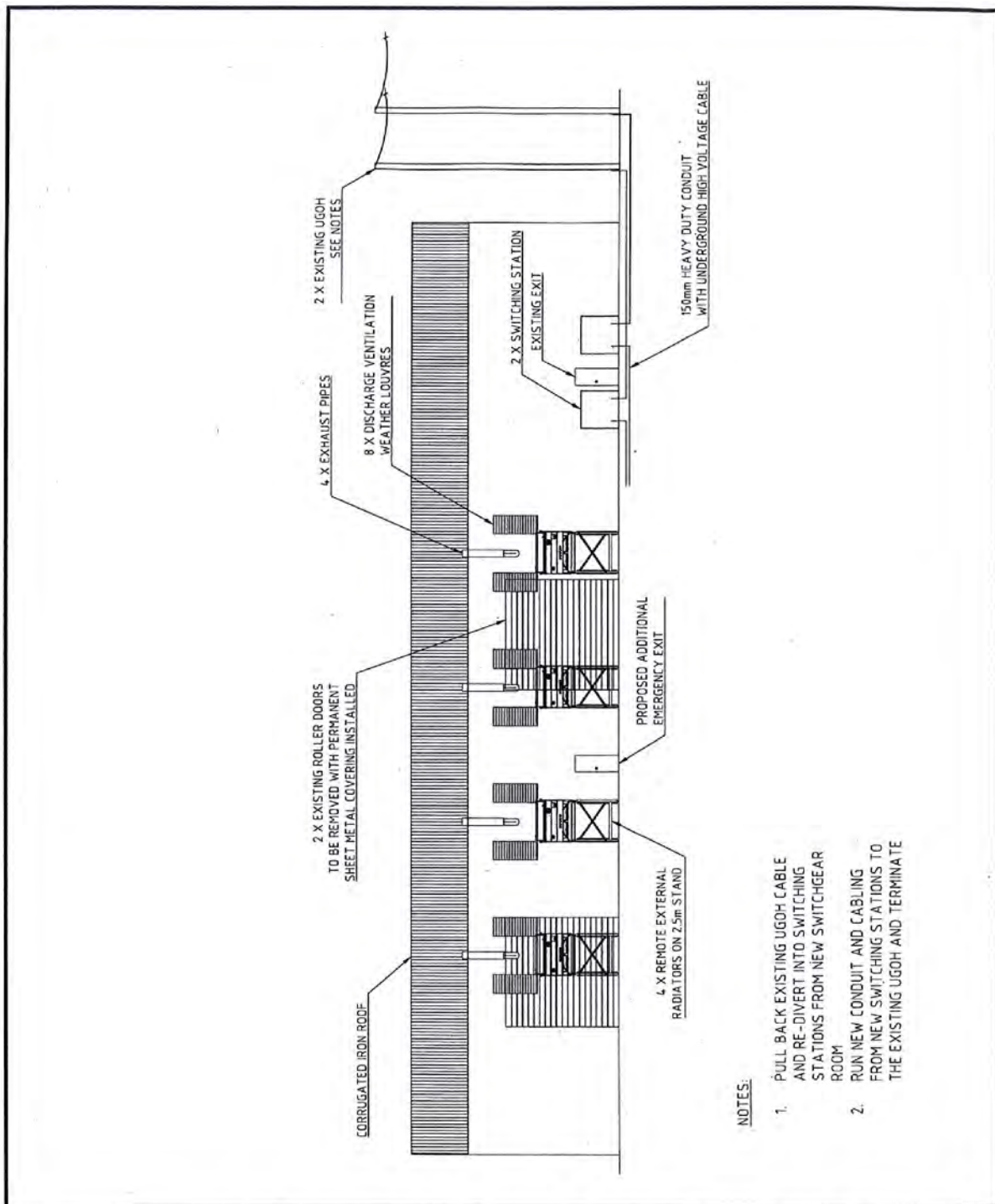


### SITE & FLOOR PLAN

**SUBJECT:** FITOUT OF INDUSTRIAL BUILDING FOR ELECTRICITY NETWORK SUPPORT.

LOT 238 DP 260481 - No. 15 HUNTSMORE ROAD, MINTO.

## ATTACHMENT 3

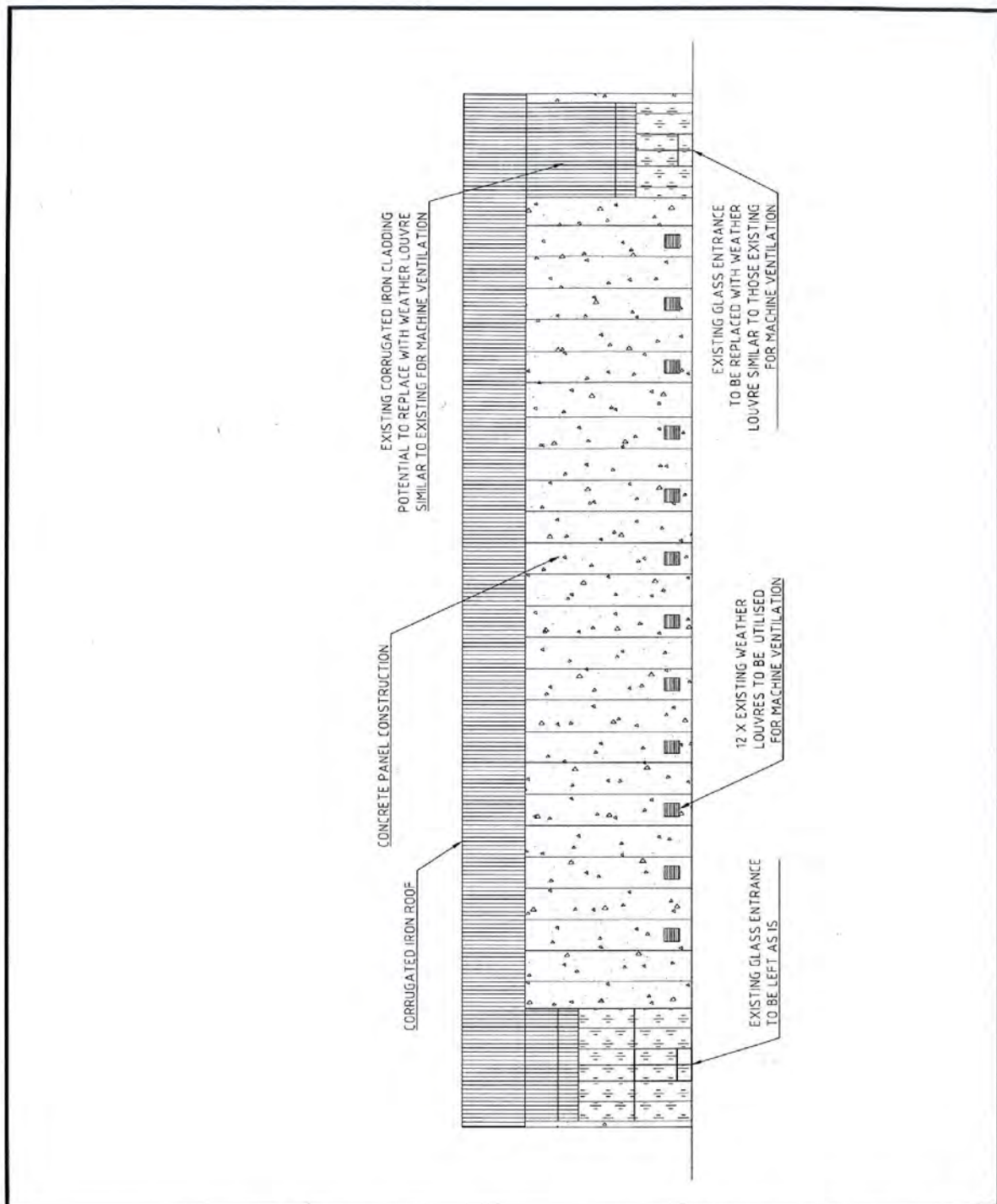


### Eastern (Rear) Building ELEVATION

**SUBJECT:** FITOUT OF INDUSTRIAL BUILDING FOR ELECTRICITY NETWORK SUPPORT.

LOT 238 DP 260481 - No. 15 HUNTSMORE ROAD, MINTO.

## ATTACHMENT 4



### Western (Street) Building ELEVATION

**SUBJECT:** FITOUT OF INDUSTRIAL BUILDING FOR ELECTRICITY NETWORK SUPPORT.

LOT 238 DP 260481 - No. 15 HUNTSMORE ROAD, MINTO.

### **3. DEVELOPMENT SERVICES**

#### **3.1 Development Services Section Statistics - November and December 2013**

##### **Reporting Officer**

Acting Manager Development Services

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##### **Attachments**

Development Services application statistics for the November and December 2013 period (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 November and December 2013 period as they affect the Development Services section.

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

That the information be noted.

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

That the Officer's Recommendation be adopted.

##### **CARRIED**

##### **Council Meeting 11 February 2014 (Greiss/Matheson)**

That the Officer's Recommendation be adopted.

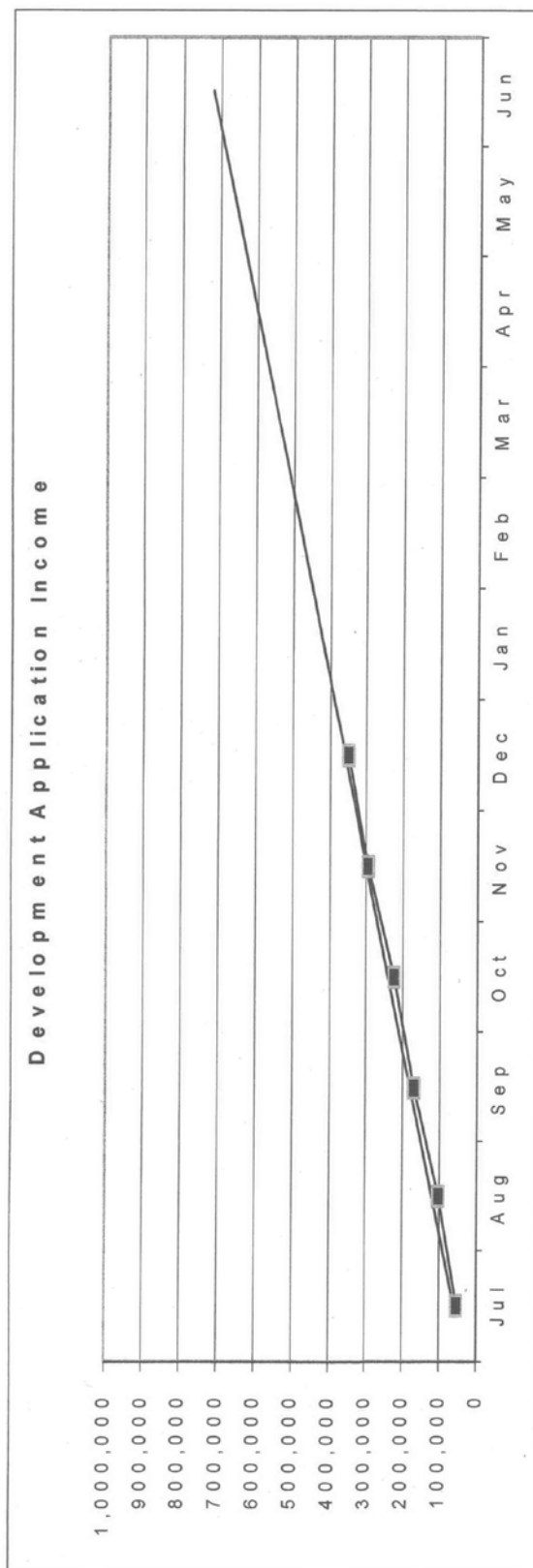
##### **Council Resolution Minute Number 4**

That the Officer's Recommendation be adopted.

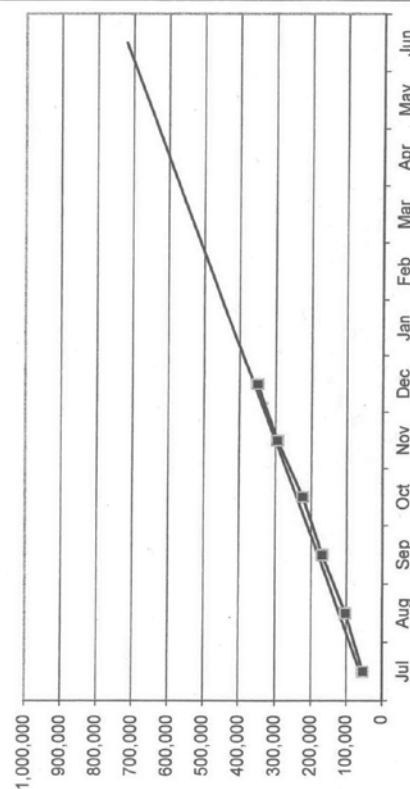
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## ATTACHMENT 1

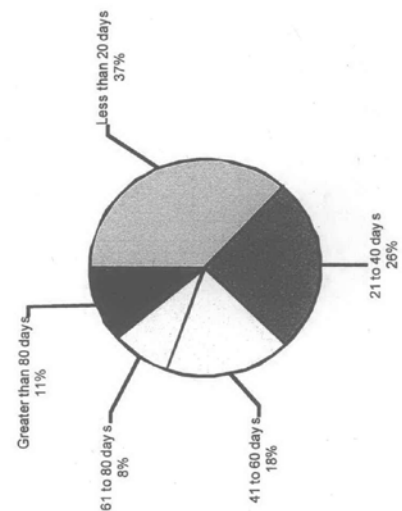
DEVELOPMENT SERVICES SECTION  
 MONTH AT A GLANCE – November / December 2013



Development Application Income



Development Application  
 Monthly Processing Times



3.2 Council's Monitoring And Reporting Obligations Of Variations To Development Standards Allowed Under State Environmental Planning Policy No.1 - Development Standards (SEPP 1)

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**3.2 Council's Monitoring and Reporting obligations of Variations to Development Standards allowed under State Environmental Planning Policy No.1 - Development Standards (SEPP 1)**

**Reporting Officer**

Acting Manager Development Services

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**Attachments**

SEPP 1 variations approved for the period October - December 2013 (contained within this report)

**Purpose**

To advise Council of development applications approved for the period 1 October 2013 to 31 December 2013, that involved a variation of a development standard allowed under the relevant provisions of the State Environmental Planning Policy No. 1 - Development Standards (SEPP 1 applications).

**Report**

In accordance with the Department of Planning and Infrastructure's (DPI) requirement for all SEPP 1 applications to be reported to Council, the attachment to this report provides details of all SEPP 1 applications that were determined within the period stated above.

Further to the above, a copy of the attachment to this report was included in the quarterly report to the DPI and the information is also made available to the public under the SEPP 1 register on Council's website.

**Officer's Recommendation**

That the information be noted.

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

That the Officer's Recommendation be adopted.

**CARRIED**

**Council Meeting 11 February 2014 (Greiss/Matheson)**

That the Officer's Recommendation be adopted.

**Council Resolution Minute Number 4**

That the Officer's Recommendation be adopted.

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### 3.2 Council's Monitoring And Reporting Obligations Of Variations To Development Standards Allowed Under State Environmental Planning Policy No.1 - Development Standards (SEPP 1)

## ATTACHMENT 1

Council DA reference number	Lot numbers	DP numbers	Street number	Street name	Suburb/Town	Postcode	Category of development	Environmental planning instrument	Zoning of land	Development standard to be varied	Justification of variation	Extent of variation	Concurring authority	Date DA determined ddmmyyyy
9932013/DA-1	1, 13 & 14	182766 1071594	10	Phiney	Ingleburn	2565	12: Industrial	LEP2002	4(a) - General Industry Zone	Clause 37 Setbacks within industrial areas	The SEPP 1 objection provided the following justification to vary the Development Standard:  1. The main southern railway corridor as it passes through the Campbelltown Local Government Area has a predominantly constant width. However, in the case of the subject land, the adjoining zoned railway corridor is significantly wider than other sections of the corridor as the zoned corridor includes the adjacent Lot 1 DP 1062256, having a width of 20m and variable as the land returns to the northwest.  2. Compliance with the development standard is considered unnecessary as the proposed development observes the required physical setback of 30m to the actual railway line which is generally the point from which an adjacent building or works is to be viewed from within the railway corridor.  3. Application of the development standard when measured from the boundary of the additional railway zoned land (land provided in addition to actual rail corridor operational needs) would unreasonably and unnecessarily affect the proper economic development of the subject land.  4. Application of the development standard when measured from the actual boundary of the zoned corridor (when also having regard to its unusual and varying alignment at the subject location) is considered unreasonable when the intent of the standard is to provide visual setbacks from the actual point from which a building or works on an adjacent land is viewed from the rail corridor (ie from within a train), and not from the outer extents (boundary) of the railway corridor as its width may or may not vary from place to place along the corridor.	97% 30mtrs to 1mtr	Council	10/12/2013

3.3 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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**3.3 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**

Acting 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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### 3.3 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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## History

Council considered a report on the development proposal at its Ordinary Meeting held on 10 December 2013. At that meeting, it was resolved to defer determination of the application until such time that Councillors had been able to undertake an inspection of the site and its surrounds.

That inspection was undertaken on 28 January 2014 and included a visit to the subject site and a neighbouring property ('The Pines'). At Council's request, the applicant had placed poles and markers at the development site to illustrate the location and height of buildings along the proposal's frontage to the Main Southern Railway. Councillors heard from both the applicant and the owners of the neighbouring property, who have made a submission objecting to the development.

Subsequent to the inspection and in accordance with Council's previous resolution, the application is again presented to Council for its consideration.

The report and the recommendations are unchanged from the report tabled at Council on 10 December 2013.

## 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.

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### 3.3 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 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.
  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.
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3.3 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. 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.

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.

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### 3.3 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 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.

#### **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.

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### 3.3 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 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.

### 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.

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### 3.3 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 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

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.

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3.3 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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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
- 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.

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3.3 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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(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.

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.

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### 3.3 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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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.

### **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.

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3.3 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 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.

### 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.

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### 3.3 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 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.

## **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.

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### 3.3 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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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.

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.

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### 3.3 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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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.

#### 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.

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#### 2.13 Risk Management

The SCDGP 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.

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.
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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.

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".

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#### 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
- 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.

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#### 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.

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.

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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.

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).

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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.

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.

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#### 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).

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.

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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.

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.

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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
  - 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.
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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 contaminants 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.

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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.

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.

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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.

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.

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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.

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.

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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.

#### **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.

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### 3.3 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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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.

#### **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 Kolnar and Mr Ryan addressed the Committee in opposition to the development.

Mr Dumesny and Mr Brown addressed the Committee in favour of the development.

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

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, with the exception of:
  - a. condition 13 which should be amended to:
    - i. require the installation of an earthen barrier/mound of suitable height in lieu of an acoustic barrier wall.
    - ii. specify which stables require the installation of sound absorption material.
  - b. other conditions including conditions No. 2 and No. 67 being amended where necessary so as to be consistent and not in conflict with the amended version of condition 13.
2. That those who made a submission on the proposal be advised of Council's decision.

#### **CARRIED**

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

Voting against the Committee's Recommendation: Nil.

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### **Council Meeting 11 February 2014 (Greiss/Matheson)**

That the Committee's Recommendation be adopted.

#### **Amendment (Borg/Mead)**

That the Committee's Recommendation be adopted subject to, prior to works commencing on the site, the applicant shall engage a suitably qualified practicing and independent person (having no prior involvement in the subject project) to prepare and oversee the implementation of a site environmental management plan having regard to the recommendations made in the 'detailed site investigation and salinity assessment' report prepared by Cardno and which considers managing risks for site users during and after construction.

#### **LOST**

### **Council Resolution Minute Number 6**

That the Committee's Recommendation be adopted.

Voting for the Amendment were Councillors: Borg, Brticevic and Glynn.

Voting against the Amendment were Councillors: Greiss, Hawker, Lake, Lound, Matheson, Mead, Oates, Rowell and Thompson.

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

Voting against the Council Resolution were Councillors: Brticevic and Glynn.

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## **ATTACHMENT 1**

### **Recommended Conditions of Consent**

#### **DEFERRED COMMENCEMENT**

You are advised that the subject application has been granted a “Deferred Commencement” consent pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979.

The applicant has been given a period of 6 months in which to provide the required information to satisfy the matters as listed in Schedule “A”. Upon the submission of such evidence and the applicant receiving written notification that Council is satisfied, then the consent shall become operative subject to compliance with conditions outlined in Schedule “B”.

Should the required information not be provided in the time period nominated above, the deferred commencement consent shall lapse.

#### **SCHEDULE A**

The conditions of Schedule 'A' are set out as follows:

- i. The applicant shall receive written approval from Roads and Maritime Services for the construction of a new intersection with the subject site and Menangle Road, pursuant to State Environmental Planning Policy (Infrastructure) 2007 and the Roads Act 1993.

The permission of all affected land owners is to be obtained consenting to any works affecting their land.

#### **SCHEDULE B**

##### **GENERAL CONDITIONS**

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

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

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

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

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3.3 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. Amended Plans**

The development is to incorporate the following amendments and the amended plans are to be submitted to the Council and the Principal Certifying Authority, for written approval, prior to the issuing of a construction certificate:

- The central row of stables (located in Stage 1 of the development) shall be moved west so that the face of the easternmost stable building is at least 25 metres from the site's boundary with the Main Southern Railway.
- The location of the noise abatement wall shall be adjusted accordingly as per the change to the location of the central stable buildings and the outcome of further assessment relating to its potential to reflect rail noise.
- The stables elevations shall be amended to incorporate rises between each ridge, with feature vents and skylights to Council's satisfaction. Gabled ends shall also contain feature vents to improve internal ventilation and add visual interest to the buildings. End stable doors shall be finished in feature timber-look materials.

The overall height of each stable shall not increase more than 400mm as a result of the abovementioned changes.

- The wastewater treatment plant, its associated emergency storage tanks and the required effluent irrigation area shall be illustrated.
- The overflow vehicle parking area shall be illustrated.

## **3. Not Consented To**

The following components of the development (which are identified on plans as subject to future application) are not approved as part of this development consent:

- Veterinary building and associated facilities
- Farrier building and associated facilities
- Harness and produce supply store building
- Administration building and associated facilities
- Enclosed water walker building.

Separate development application for the abovementioned components will be required.

## **4. Building Code of Australia**

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

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3.3 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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## **5. External Finishes**

The external finishes of the stable buildings and acoustic barrier wall shall be selected and prepared in conjunction with a specialist heritage impact expert, as per the recommendations of the 'Heritage Impact Assessment' prepared by Urbis (ref. SH266 Revision 1, dated August 2013).

The colours and materials selected shall complement the nearby heritage item and the rural nature of the precinct.

Once the finishes are selected, the applicant shall submit these to Council for its written approval.

Any proposed alterations to these finishes are considered to be a modification to the development consent and require separate approval by Council.

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

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

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

## **7. Graffiti Removal**

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

## **8. Car Parking Spaces**

All car parking spaces shall be designed, sealed, line marked and made available to all users of the site in accordance with Australian Standards 2890.1 and 2 (as amended), excluding the overflow parking area.

## **9. Landscaping**

Landscaping of the site shall be undertaken in accordance with the approved plans and the applicant's Statement of Environmental Effects.

The site's eastern frontage along the Main Southern Railway shall be intensively landscaped within the area between the rail corridor and the approved stables buildings for the entire length of the development where it is near the rail corridor.

Landscaped screen tree plantings shall be established using mature trees as per the recommendations of the 'Heritage Impact Assessment' prepared by Urbis (ref. SH266 Revision 1, dated August 2013).

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## **10. Switchboards/Utilities**

Switchboards, garbage storage areas and storage for other utilities shall not be attached to the front elevations of the building or side elevations that can be seen from a public place.

## **11. Driveways**

The gradients of driveways and manoeuvring areas shall be designed in accordance with Australian Standard AS 2890.1 and AS 2890.2 (as amended).

Driveways shall be constructed using materials that minimise the creation of dust and reduce the potential for sediment to be tracked onto Menangle Road.

## **12. Lighting**

Illumination of the site is to be arranged to provide an appropriate level of lighting and in accordance with the requirements of Australian Standard 4282 (as amended) so as not to impact upon the amenity of the occupants of adjoining and nearby residential premises or traffic.

## **13. Unreasonable Noise**

The development, including operation of vehicles, shall be conducted so as to avoid the generation of unreasonable noise and cause no interference to adjoining or nearby occupants. Special precautions must be taken to avoid nuisance in neighbouring residential areas, particularly from machinery, vehicles, warning sirens, public address systems and the like.

The applicant shall install and follow the recommendations laid out in the 'Acoustic Assessment' prepare for the proposal by Acoustic Logic (ref. 20130665.1, August 2013), including (but not limited to):

- Construction of an acoustic barrier wall along the development's eastern frontage
- Installation of sound absorption materials within certain stables buildings
- Installation of rubber and plywood sheeting within the internal walls of stable stalls
- Minimising use of the training facilities before 6.00am
- Installing signs and instructing staff/visitors about noise generation, particularly at night time.

The applicant shall undertake further consultations with an acoustic expert to ensure that the acoustic barrier wall along the development's eastern frontage does not have the potential or is designed/finished in such a manner that it does not reflect rail traffic noise towards adjoining residences and is suitable to protect animals stabled at the premises from rail noise.

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Noise from plant and vehicles associated with the development shall not exceed the values contained within the Protection of the Environment Operations (Noise Control) Regulation 2008.

**14. Flood Level Controls**

This site is located within an area that has been identified as being at the risk of being affected by the 100 year ARI flood. The fill level control which affects this land is RL 77.3 metres AHD. The floor level control which affects this land is RL 77.8 metres AHD.

**15. Engineering Design Works**

The design of all engineering works shall be carried out in accordance with the requirements set out in the Campbelltown (Sustainable City) DCP Volume 3.

**16. Operating Hours**

The use of the stabling and training complex shall be limited between the hours of 10.00pm and 6.00am to minimise disturbance to neighbours.

Use between these times should only relate to returning horses and equipment to the complex after races and shall not include training of the animals.

**17. Solid Waste Bin Storage**

The solid waste storage bins shall not be located within vehicle parking, vehicle manoeuvring areas or landscaped areas.

The bins shall be stored in a location that minimizes the potential for odours to affect nearby residential premises and shall be emptied regularly in accordance with the approved waste management plan for the complex.

**18. Stabling Operations and Design**

Stabling operations and the design and fit out of stables shall comply with the requirements of the NSW Animal Welfare Code of Practice No 3 - Horses in Riding Centres and Boarding Stables, which are published and updated by the NSW Department of Primary Industries.

**19. Odour Management**

The applicant shall ensure that odours emanating from the site are minimised using best management practices and best available technology at all times.

The applicant shall maintain compliance with the Office of Environment and Heritage's publication "Assessment and management of odour from stationary sources in NSW" 2006, including the establishment of a complaints management system.

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3.3 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 Management Plan' referred to in this consent, shall establish the means by which odour shall be controlled (such as ensuring regular cleaning and removal of solid wastes) and complaints received and acted upon.

The requirements of the *Protection of the Environment Operations Act and Regulation* shall also be adhered to at all times.

## **20. Australian Rail and Track Corporation (ARTC) Requirements**

The approved development shall satisfy the following requirements of the ARTC:

- Fencing along the site's boundary to the Main Southern Railway shall be constructed to such a standard that it prevents stock and horse access to the railway corridor
- Works on the site shall not intensify or increase stormwater runoff toward the rail corridor
- Trees that are planted in the landscaped screening area shall not overhang or be located within the rail corridor during growth and upon maturity.

## **21. Mine Subsidence Board (MSB) Requirements**

The applicant shall comply with the following requirements of the MSB, as detailed in its condition approval of the proposal in November 2013 (ref. FN90-01476P0DB:KR):

1. The submission of final drawings to the Board prior to the commencement of construction and containing a certification by a qualified structural engineer that the improvements have been constructed for the following parameters and any damage would be light, localised and readily repairable:
    - (a) Maximum vertical subsidence of 1,550mm
    - (b) Maximum ground strains of  $\pm 2.5\text{mm/m}$
    - (c) Maximum tilt of 6.0 mm/m
    - (d) Maximum radius curvature of 10,000 metres
  2. The stable facilities, horse walking machines and horse pools are to be designed for the parameters provided and constructed so they provide for the vertical mine subsidence and there is no increased propensity for flooding.
  3. On completion of all building work, certification is required from a qualified structural engineer to the effect that all improvements have been constructed in compliance with the plans approved by the Board.
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## **22. Construction Certificate**

Prior to the commencement of any works that require a construction certificate:

- a. The applicant shall obtain a construction certificate for the particular works;
- b. The applicant shall appoint a principal certifying authority; and
- c. The private certifying authority shall notify Council of their appointment no less than two days prior to the commencement of any works

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

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

## **23. Utility Servicing Provisions**

Prior to Council or an accredited certifier issuing a construction certificate, the applicant shall obtain a letter from both the relevant electricity authority and the relevant telecommunications authority stating that satisfactory arrangements have been made to service the proposed development.

The applicant shall receive written approval to undertake the proposed undergrounding of electricity supply lines at the site prior to the issue of a construction certificate.

**Note:** The applicant should also contact the relevant water servicing authority to determine whether the development will affect the authority's water or sewer infrastructure.

## **24. Sydney Water Stamped Plans**

Prior to Council or an accredited certifier issuing a construction certificate, the approved plans must be submitted to a Sydney Water Quick Check agent to determine whether the development will affect any Sydney Water wastewater and water mains, stormwater drains and/or easements, and if any requirements need to be met. Plans will be appropriately stamped.

Please refer to the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) for:

- Quick Check agents details - see Building and Developing then Quick Check and
- Guidelines for Building Over/Adjacent to Sydney Water Assets - see Building and Developing then Building and Renovating

or telephone 13 20 92.

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3.3 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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## **25. Waste Management Plan**

Prior to Council or an accredited certifier issuing a construction certificate, the applicant shall submit a detailed waste management plan for Council's written approval, which details as a minimum:

- The likely quantities solid waste that would be generated at the site
- The procedures for storage of the waste so as to minimise the potential for odours to leave the property
- The frequency of solid waste removal, contractor's licensing details and the waste's destination.

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

Prior to Council or an accredited certifier issuing a construction certificate, a plan indicating all engineering details and calculations relevant to site regrading and the collection and disposal of stormwater from the site, building/s and adjacent catchment, shall be submitted for Council's written approval.

Floor levels of all buildings shall be a minimum of 150mm above the adjacent finished site levels.

The applicant shall supply the computer modelling used to determine the water quality assessment undertaken as part of the report prepared by Cardno (ref. NA50613003 Version 2, dated 20 August 2013) to Council for its assessment.

Details of the stormwater's reuse on the site for irrigation, watering/washing of horses shall also be included in the detailed design documentation.

All proposals shall comply with the Campbelltown (Sustainable City) DCP Volume 3 – Engineering Design Guide for Development.

## **27. Flooding**

Prior to Council or an accredited certifier issuing a construction certificate, the applicant shall provide updated flooding assessment of the development's potential to alter local flooding regimes for Council's review and written approval.

The assessment shall consider the requirements of Council's Campbelltown (Sustainable City) Development Control Plan – Volume 3 and the NSW Floodplain Development Manual 2005.

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

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

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

- where the value of the proposed development is greater than \$100,000 but less than \$500,000, provide a Cost Summary Report by a person who, in the opinion of the Council, is suitably qualified to provide a Cost Summary Report (Cost Summary Report Template 1). All Cost Summaries will be subject to indexation on a quarterly basis relative to the Consumer Price Index - All Groups (Sydney) where the contribution amount will be based on the indexed value of the development applicable at the time of payment; or
- where the value of the proposed development is \$500,000 or more, provide a detailed development cost report completed by a quantity surveyor who is a registered member of the Australian Institute of Quantity Surveyors (Quantity Surveyors Estimate Report Template 2). Payment of contribution fees will not be accepted unless the amount being paid is based on a Quantity Surveyors Estimate Report (QS Report) that has been issued within 90 days of the date of payment. Where the QS Report is older than 90 days, the applicant shall provide an updated QS Report that has been indexed in accordance with clause 25J(4) of the Environmental Planning and Assessment Regulation 2000 to ensure quarterly variations in the Consumer Price Index All Group Index Number for Sydney have been incorporated in the updated QS Report.

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

On calculation of the applicable contributions, all amounts payable will be confirmed by Council in writing.

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

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

## 29. Design for Access and Mobility

Prior to Council or an accredited certifier issuing a Construction Certificate, the applicant shall demonstrate by way of detailed design, compliance with the relevant access requirements of the BCA and AS 1428 – Design for Access and Mobility.

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3.3 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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### **30. Waste Water Management**

Prior to Council or an accredited certifier issuing a construction certificate for any component of the development that involves the construction of horse stabling facilities or other amenities, the applicant shall prepare and submit to Council for its written approval a detailed waste water management plan, which addresses the following matters, as a minimum:

- The design capacity and processes that would be incorporated into the recommended capture and treatment system
- All calculations of liquid waste input that would be expected for the system
- Details of the soil's suitability to accept the treated liquid within the nominated effluent irrigation area
- Details of the system's flood or wet weather proofing and emergency storage/disposal during periods where the effluent disposal area is not available due to saturation
- Details of the system's compliance with relevant public health and animal welfare guidelines and Australian Standards, particularly if the effluent disposal area is expected to be grazed by livestock or horses
- Confirmation that the effluent irrigation area is above the five year ARI flood level
- Details regarding the capture and treatment of resuspended nutrients during periods of flood.

### **31. RMS General Requirements**

1. The applicant will be required to enter into a Works Authorisation Deed (WAD) for the civil works in Menangle Road. The WAD will need to be executed prior to the RMS's assessment of the detailed design plans. The Council or accredited certifier shall not release a construction certificate for the development until such time the WAD is executed.
2. The applicant shall be responsible for all public utility adjustment/relocation works necessitated by the above work and as required by the various public utility authorities and/or their agents.
3. All costs associated with the proposed development including (but not limited to) the associated civil works on Menangle Road or other lands are to be borne entirely by the applicant and at no cost to the RMS or the Council.

#### **Design Auditing**

A detailed design stage audit shall be undertaken on the submitted design plans by independent accredited road safety auditors. The audit report shall be submitted with the design plans to Council and RMS for review as part of the access arrangement approval process for the site. The intersection auditing process is controlled by the RMS and shall be implemented in accordance with its requirements.

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3.3 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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### **32. Intersection Construction**

Prior to Council or an accredited certifier issuing a construction certificate, the applicant shall submit engineering details of the required intersection construction described below:

The applicant shall carry out design and construction of the intersection of Menangle Road and the subject site to include all necessary road pavement construction, drainage, creation of right turn lane, deceleration and acceleration lanes, thermoplastic line marking and signposting, kerb and gutter, splitter islands and medians, landscaping, and the capital cost of street lighting to Endeavour Energy's requirements.

Design shall be in accordance with RMS requirements, "Austroads Guide to Traffic Engineering Practice Part 5" and with the design requirements of the Campbelltown (Sustainable) City DCP Volume 3 and 'Specification for Construction of Subdivision Road and Drainage Works' (as amended).

### **33. External Finishes**

Prior to Council or an accredited certifier issuing a construction certificate, the applicant shall prepare and submit to Council for its written approval, the details of external finishes and colours of all buildings and the acoustic barrier wall proposed for the development.

The external finishes of the stable buildings and acoustic barrier wall shall be selected and prepared in conjunction with a specialist heritage impact expert, as per the recommendations of the 'Heritage Impact Assessment' prepared by Urbis (ref. SH266 Revision 1, dated August 2013).

### **34. Lighting Plan**

Prior to Council or an accredited certifier issuing a construction certificate, the applicant shall prepare and submit for Council's written approval a plan which illustrates proposed lighting throughout the site and details its potential to spill across neighbouring properties.

The lighting shall be designed to ensure that safe levels are provided within the site to allow for movement, while not disturbing neighbouring residential properties and nocturnal wildlife.

### **35. Landscaping Plan**

Prior to Council or an accredited certifier issuing a construction certificate, the applicant shall prepare and submit for Council's written approval, a detailed landscaping plan.

The landscaping plan shall detail the extent of proposed landscaping works, the location, species and mature height of screening trees that are required to be planted along the development's eastern boundary.

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The plan shall also comply with the recommendations of the 'Heritage Impact Assessment' prepared by Urbis (ref. SH266 Revision 1, dated August 2013) submitted with the application.

Selected screening trees shall be located so as to ensure that once mature, the trees effectively screen the development from neighbouring residential properties and that no limbs of the trees would overhang the Main Southern Railway corridor.

All trees to be retained are to be specifically marked and identified as being retained on all relevant construction plans. Appropriate notations and instructions are to be included to ensure adequate protection for the retained trees and shall include measures to prevent vehicle collision, excavation within the root zone, and root zone compaction.

**36. Telecommunications Infrastructure**

- a. If the development is likely to disturb or impact upon telecommunications infrastructure, written confirmation from the service provider that they have agreed to proposed works must be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate or any works commencing, whichever occurs first; and
- b. The arrangements and costs associated with any adjustment to telecommunications infrastructure shall be borne in full by the applicant/developer.

**37. Geotechnical Report**

Prior to Council or an accredited certifier issuing a construction certificate, a geotechnical report prepared by a NATA registered lab shall be submitted which indicates that the land will not be subject to subsidence, slip, slope failure or erosion where excavation and/or filling exceeds 900mm in depth or identified as filled land.

**38. Mine Subsidence Board**

Prior to Council or an accredited certifier issuing a construction certificate for a building identified in the Mine Subsidence Board's conditional approval for the development, the applicant shall receive final approval for the design and construction of such buildings in accordance with Condition 1 of the Board's approval issued on 7 November 2013.

**39. Traffic Committee**

Prior to Council or an accredited certifier issuing a construction certificate, the applicant shall submit plans and obtain approval from Council's Local Traffic Committee for any proposals for the construction of prescribed traffic control devices and traffic control facilities and all associated line marking and/or sign posting.

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#### **40. Traffic Control Plans**

Prior to Council or an accredited certifier issuing a construction certificate, the applicant shall prepare and obtain approval from an accredited person, a Traffic Control Plan (TCP) in accordance with the State Roads Authority manual "Traffic Control at Work Sites" and Australian Standard AS 1742.3 (as amended).

A copy of the approved TCP shall be kept on site for the duration of the works in accordance with WorkCover Authority and RMS requirements. A copy shall be submitted to Council for its records.

#### **41. Work on Public Land**

Prior to Council or an accredited certifier issuing a construction certificate, the applicant shall obtain written approval from Council for any proposed work on public land. Inspection of this work shall be undertaken by Council at the applicant's expense and a compliance certificate, approving the works, shall be obtained from Council (and where applicable, the RMS) prior to the principal certifying authority issuing any occupation certificate.

#### **42. Subdivision Plan**

Prior to Council or an accredited certifier issuing a construction certificate, the applicant shall prepare a plan of subdivision which illustrates the relocation of the restrictions which are nominated 'A' and 'C' on deposited plan 1187569:

Right of Carriageway 10 metres wide, and  
Right of Access 5.0 metres wide

The relocation of those Rights shall be made in accordance with the approved intersection design.

The applicant shall also liaise with the electricity supplier in regard to creating easements for underground power should the existing above-ground infrastructure be relocated.

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

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

#### **43. Aboriginal Heritage**

Prior to any physical work commencing in relation to the development, the applicant shall apply for and receive an Aboriginal heritage impact permit, pursuant to Section 90 of the *National Parks and Wildlife Act 1974* and the conditions imposed by the Office of Environment and Heritage.

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3.3 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 copy of the permit shall be provided to Council and the principal certifying authority for their records should the permit be issued.

The applicant is advised to contact the Office of Environment and Heritage's Hurstville office for further information regarding the application for the permit.

#### **44. Site Environmental Management Plan**

Prior to works commencing on the site, the applicant shall prepare a Site Environmental Management Plan in accordance with the recommendations made in the 'Detailed Site Investigation and Salinity Assessment' report, prepared by Cardno (ref. 3NA50613003/Report 003 Ver 03, dated 15 August 2013), which considers:

- Managing risks for site users during and after construction of the development, and
- An 'unexpected finds protocol', which would detail the procedures upon which contractors and visitors to the site would operate should unexpected archaeological, utility or contamination be found during construction works.

#### **45. Erosion and Sediment Control**

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

#### **46. Erection of Construction Sign**

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

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

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

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3.3 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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**47. Toilet on Construction Site**

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

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

**48. Roads and Maritime Services Requirements**

Prior to any works commencing in relation to the entry/exit points (which require approval prior to issue of any construction certificate), the applicant shall obtain an RMS 'Work Instruction'. Further details can be obtained from RMS on (02) 8849 2172.

**49. Trade Waste**

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

**50. Vehicular Access during Construction**

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

**51. Public Property**

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

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3.3 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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## **52. Hoarding / Fence**

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

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

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

## **53. Geotechnical Reference**

Prior to the commencement of any works, a certificate prepared by the designing structural engineer certifying that the design is in accordance with the geotechnical investigation of the site shall be submitted to the principal certifying authority.

The geotechnical engineer shall consider the requirements of the Mines Subsidence Board provided specifically for this site as part of issuing the certificate.

## **DEVELOPMENT REQUIREMENTS DURING CONSTRUCTION**

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

## **54. Construction Work Hours**

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

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

## **55. Erosion and Sediment Control**

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

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

**56. Dust Nuisance**

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

**57. Completion of Construction Works**

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

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

**58. Fill Compaction Requirements**

Any filling carried out in accordance with this consent shall maintain a minimum requirement of 98% standard compaction.

**59. Certification of Location of Building During Construction**

Prior to the positioning of wall panels/ bricks or block work, the applicant shall submit to the principal certifying authority a qualified practicing surveyor's certificate showing the boundaries of the allotment, distances of walls and footings from the boundaries, and the dimensions of buildings along the site's eastern boundary with the Main Southern Railway.

A copy of the plan shall also be submitted to Council for its records if it is not the principal certifying authority.

**60. Excess Material**

All excess material is to be removed from the site. The spreading of excess material or stockpiling on site will not be permitted without prior written approval from Council.

**61. Earth Works/Filling Works**

All earthworks, including stripping, filling, and compaction shall be:

- a. Undertaken in accordance with Council's 'Specification for Construction of Subdivisional Roads and Drainage Works' (as amended), AS 3798 'Guidelines for Earthworks for Commercial and Residential Development' (as amended), and approved construction drawings;
-

3.3 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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- b. Supervised, monitored, inspected, tested and reported in accordance with AS 3798 Appendix B 2(a) Level 1 and Appendix C by a NATA registered laboratory appointed by the applicant. Two collated copies of the report and fill plan shall be forwarded to Council; and
- c. Certified by the laboratory upon completion as complying, so far as it has been able to determine, with Council's specification and AS 3798.

## **62. Public Safety**

Any works undertaken in a public place are to be maintained in a safe condition at all times. In this regard, the applicant shall ensure that a safe, fully signposted passage, minimum 1.2 metres wide, separated from the works and moving vehicles by suitable barriers and lights, is maintained for pedestrians, including disabled pedestrians, at all times.

The applicant shall ensure that traffic control is undertaken and maintained strictly in accordance with AS 1742.3, the requirements set out in the State Roads Authority manual "Traffic Control at Work Sites" (as amended), all applicable Traffic Management and/or Traffic Control Plans. The contractor shall also ensure that all WorkCover Authority requirements are complied with.

Council or the RMS may at any time and without prior notification make safe any such works that be considered to be unsafe, and recover all reasonable costs incurred from the applicant.

## **63. Compliance with Council Specification**

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

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

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

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

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

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3.3 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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**64. Waste Water Treatment System Approval**

Prior to Council or an accredited certifier issuing any occupation certificate, the applicant shall receive an approval to operate the waste water treatment system, pursuant to the requirements of Section 68 of the *Local Government Act 1993* and its accompanying Regulation.

**65. Stables Management Plan**

Prior to Council or an accredited certifier issuing any occupation certificate, the applicant shall prepare and submit to Council for its written approval, a Stables Management Plan.

The Stables Management Plan shall detail the management of stables so as to ensure:

- Odours do not impact on the surrounding community
- Animal welfare is considered as per the requirements of the Department of Primary Industries and horse industry best practice
- Staff and visitors are informed and instructed on matters relating to noise reduction, particularly at night time
- Complaints are registered and acted upon swiftly with responses to the complaints recorded and made available for inspection by Council
- Feed is stored appropriately and in quantities that will not attract vermin to the site
- Appropriate methods proposed for ongoing vermin control are instituted within the complex
- Staff, horses and equipment (including water drainage infrastructure within affected stables) are appropriately prepared for inundation of flood waters at the complex
- Should a security system be installed, it shall be a silent 'back to base' type that does not emit noise
- Maintenance of the waste water treatment system is to be undertaken periodically in accordance with the manufacturer's recommendations to ensure that performance of the system provides for appropriate environmental standards to be met.

**66. Screen Tree Establishment and Maintenance**

Prior to Council or an accredited certifier issuing an occupation certificate, the applicant shall ensure that all required screen trees as detailed in the approved landscape plan have been established on the site.

Ongoing maintenance including watering and fertilising as recommended by a landscape professional shall be undertaken at the applicant's expense for the life of the horse stabling and training complex to ensure that the trees remain viable and provide appropriate screening as required to protect the heritage significance of the adjoining property.

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3.3 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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If a tree or trees should die, they shall be replaced as soon as possible with a tree or trees of a similar species that will have a similar mature height, spread and screening properties.

**67. Acoustic Treatments**

Prior to Council or an accredited certifier issuing an occupation certificate, the applicant shall obtain written verification from an acoustic impact assessment professional, which states that the acoustic treatments detailed in the report prepared by Acoustic Logic (ref. 20130665.1, August 2013) have been installed at the site and in the buildings where required.

**68. Intersection Completion**

Prior to Council or an accredited certifier issuing any occupation certificate, the applicant shall complete the intersection of the development site with Menangle Road to the requirements of the RMS and Council.

The satisfactory completion shall be verified in writing by the RMS and Council.

**69. Subdivision Plan**

Prior to Council or an accredited certifier issuing any occupation certificate, the applicant shall register a plan of subdivision which illustrates the relocation of the restrictions which are nominated 'A' and 'C' on deposited plan 1187569:

Right of Carriageway 10 metres wide, and  
Right of Access 5.0 metres wide

The relocation of those Rights shall be made in accordance with the approved and constructed intersection design.

The applicant shall also liaise with the electricity supplier in regard to creating easements for underground power should the existing above-ground infrastructure be relocated.

**70. Completion of External Works Onsite**

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

**71. Council Fees and Charges**

Prior to the principal certifying authority issuing an occupation certificate, the applicant shall obtain written confirmation from Council that all applicable Council fees and charges associated with the development have been paid in full.

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3.3 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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Written confirmation will be provided to the applicant following Council's final inspection and satisfactory clearance of the public area adjacent the site.

## **72. Section 73 Certificate**

Prior to the principal certifying authority issuing an occupation certificate, a Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water Corporation. Early application for the certificate is suggested as this can also impact on other services and building, driveway or landscape design.

Application must be made through an authorised Water Servicing Coordinator.

For help either visit [www.sydneywater.com.au](http://www.sydneywater.com.au) > Building and developing > Developing your Land > Water Servicing Coordinator or telephone 13 20 92.

The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to the issue of an occupation certificate.

## **73. Final Inspection – Works as Executed Plans**

Prior to the principal certifying authority issuing an occupation certificate, the applicant shall submit to Council two complete sets of fully marked up and certified work as executed plans in accordance with Council's Specification for Construction of Subdivisional Road and Drainage Works (as amended) and with the design requirements detailed in the Campbelltown (Sustainable City) DCP Volume 3 (as amended).

The applicant shall **also** submit a copy of the Works as Executed information to Council in an electronic format in accordance with the following requirements:

### **Survey Information**

- Finished ground and building floor levels together with building outlines
  - Spot levels every five metres within the site area
  - Where there is a change in finished ground levels that are greater than 0.3m between adjacent points within the above mentioned 5.0m grid, intermediate levels will be required
  - A minimum of 15 site levels
  - If the floor level is uniform throughout, a single level is sufficient
  - Details of all stormwater infrastructure including pipe sizes and types as well as surface and invert levels of all existing and/or new pits/pipes associated with the development
  - All existing and/or new footpaths, kerb and guttering and road pavements to the centre line/s of the adjoining street/s
  - The surface levels of all other infrastructure.
-

3.3 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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### Format

- MGA 94 (Map Grid of Australia 1994) Zone 56 - Coordinate System
- All level information to Australian Height Datum (AHD)

### AutoCAD Option

- The "etransmit" (or similar) option in AutoCAD with the transmittal set-up to include as a minimum:

Package Type	-	zip
File Format	-	AutoCAD 2004 Drawing Format or later
Transmittal Options	-	Include fonts Include textures from materials Include files from data links Include photometric web files Bind external references The drawing is <b>not</b> to be password protected.

### MapInfo Option

- Council will also accept either MapInfo Native format (i.e. .tab file) or MapInfo mid/mif.

All surveyed points will **also** be required to be submitted in a point format (x,y,z) in either an Excel table or a comma separated text file format.

## 74. Public Utilities

Prior to the principal certifying authority issuing an occupation certificate, any adjustments to public utilities, required as a result of the development, shall be completed to the satisfaction of the relevant authority and at the applicant's expense.

## 75. Line Marking / Sign Posting Documentation (development)

Prior to the principal certifying authority issuing an occupation certificate, the applicant shall submit to Council for Local Traffic Committee records two copies of work as executed plans of the line marking / sign posting approved by the Traffic Committee for the development. The plans shall show all works undertaken and the date of installation.

## ADVISORY NOTES

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

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

The *Environmental Planning and Assessment Act 1979* requires you to:

- a. Obtain a construction certificate prior to the commencement of any works. Enquiries regarding the issue of a construction certificate can be made to Council's Customer Service Centre on 4645 4000.
- b. Nominate a principal certifying authority and notify Council of that appointment prior to the commencement of any works.
- c. Give Council at least two days notice prior to the commencement of any works.
- d. Have mandatory inspections of nominated stages of the construction inspected.
- e. Obtain an occupation certificate before occupying any building or commencing the use of the land.

**Advice 2. Tree Preservation Order**

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

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

**Advice 3. Provision of Equitable Access**

Nothing in this consent is to be taken to imply that the development meets the requirements of the *Disability Discrimination Act 1992* (DDA1992) or Disability (Access to Premises – Buildings) Standards 2010 (Premises Standards).

Where a Construction Certificate is required for the approved works, due regard is to be given to the requirements of the Building Code of Australia (BCA) & the Premises Standards. In this regard it is the sole responsibility of the certifier, building developer and building manager to ensure compliance with the Premises Standards.

Where no building works are proposed and a Construction Certificate is not required, it is the sole responsibility of the applicant and building owner to ensure compliance with the DDA1992.

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3.3 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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**Advice 4. Asbestos Warning**

Should asbestos or asbestos products be encountered during construction or demolition works you are advised to seek advice and information prior to disturbing the material. It is recommended that a contractor holding an asbestos-handling permit (issued by Work Cover NSW), be engaged to manage the proper disposal and handling of the material. Further information regarding the safe handling and removal of asbestos can be found at:

[www.environment.nsw.gov.au](http://www.environment.nsw.gov.au)  
[www.nsw.gov.au/fibro](http://www.nsw.gov.au/fibro)  
[www.adfa.org.au](http://www.adfa.org.au)  
[www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au)

Alternatively, call Work Cover Asbestos and Demolition Team on 8260 5885.

**Advice 5. Inspection Within Public Areas**

All works within public areas are required to be inspected at all stages of construction and approved by Council prior to the principal certifying authority releasing the Occupation Certificate.

**Advice 6. Adjustment to Public Utilities**

Adjustment to any public utilities necessitated by the development is required to be completed prior to the occupation of the premises and in accordance with the requirements of the relevant Authority. Any costs associated with these adjustments are to be borne by the applicant.

**Advice 7. Linen Plan and Copies**

A linen plan and if required an original 88B Instrument together with thirteen copies shall be submitted to Council prior to the release of the subdivision certificate.

**Advice 8. Linen Plan Checking Fee**

Where Council is the principal certifying authority a linen plan checking fee is payable on submission of the linen plan of subdivision to Council. The exact amount will be calculated at the rate applicable at the time of release of the linen plans.

**Advice 9. Salinity**

Please note that Campbelltown is an area of known salinity potential. As such any salinity issues should be addressed as part of the construction certificate application. Further information regarding salinity management is available within Campbelltown (Sustainable City) DCP Volume 3.

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3.3 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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**Advice 10. Smoke Free Environment Act**

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

**Advice 11. Dial Before You Dig**

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial Before You Dig at [www.1100.com.au](http://www.1100.com.au) or telephone on 1100 before excavating or erecting structures (this is the law in NSW).

If alterations are required to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets.

It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction or planning activities.

**Advice 12. Telecommunications Act 1997 (Commonwealth)**

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any persons interfering with a facility or installation owned by Telstra is committing an offence under the *Criminal Code Act 1995* (Cth) and is liable for prosecution.

Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on phone number 1800 810 443.

**Advice 13. Swimming Pool Owner's Responsibility**

- a. A securely fenced pool is no substitute for responsible adult supervision. When children are in or around a swimming pool they should always be responsibly supervised.
- b. Swimming pool owners are required, under the provisions of the *Swimming Pool Act*, to register their swimming pools on an online register.

There is a penalty (i.e. penalty notice amount of \$220) that applies to owners who fail to register their pool.

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For further information visit the Department of Local Government website [www.dlg.nsw.gov.au](http://www.dlg.nsw.gov.au) or contact Campbelltown City Council on (02) 4645 4000.

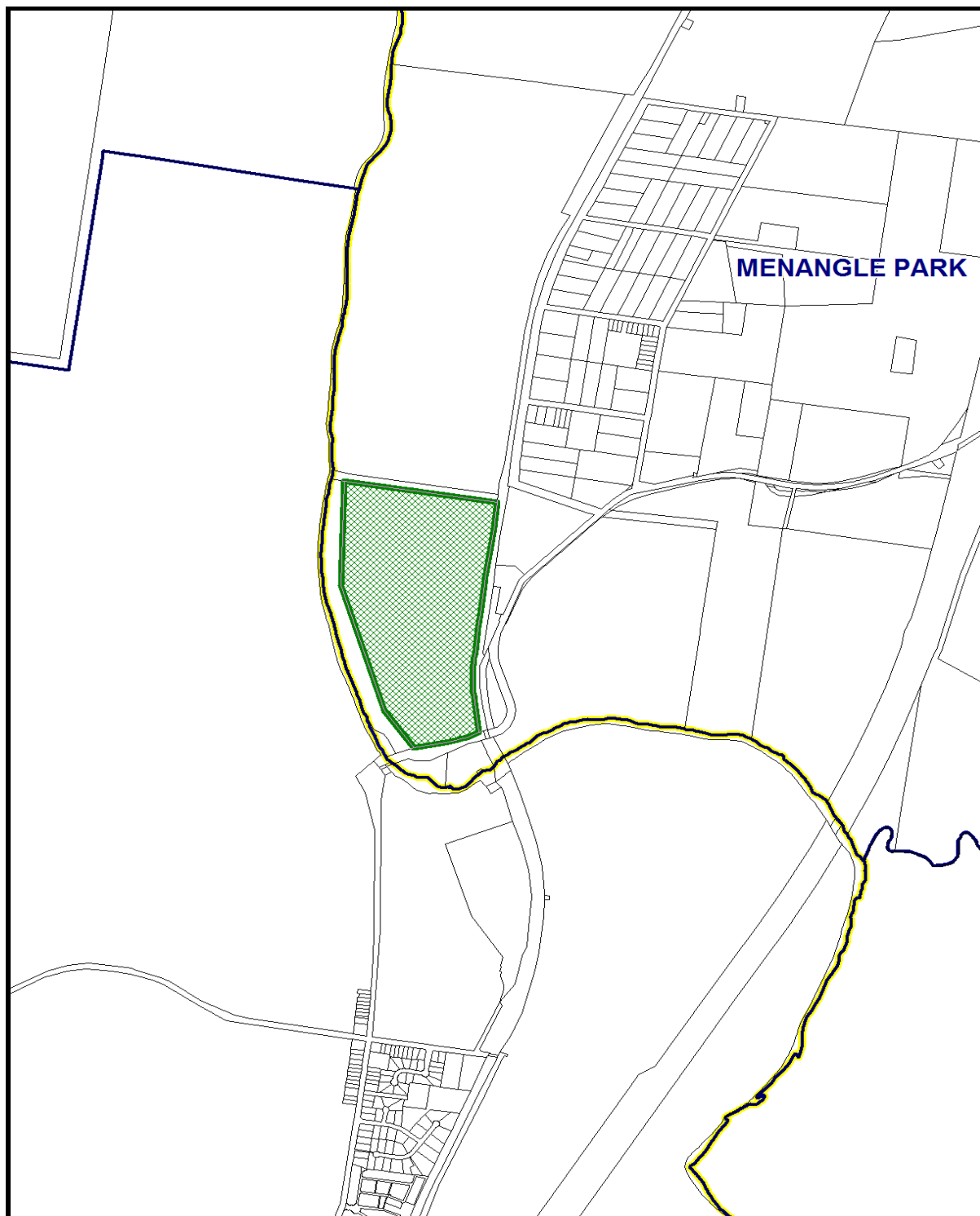
- c. Owners of properties with swimming pools are required, under the provisions of the Swimming Pools Act, to obtain a valid Section 24 Swimming Pool Compliance Certificate before sale or lease of their property.

**END OF CONDITIONS**

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## ATTACHMENT 2

### Locality Plan

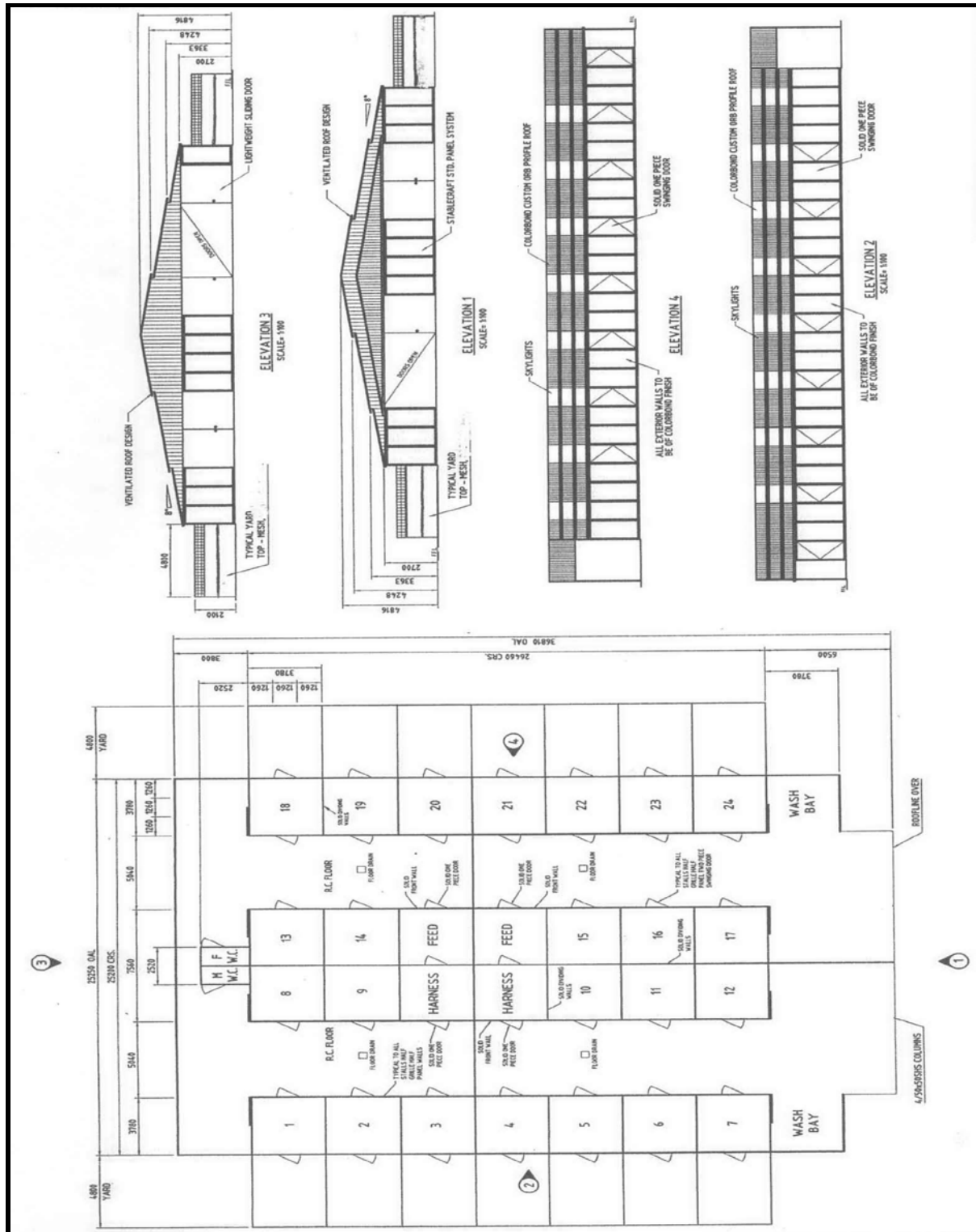






## ATTACHMENT 4

## Indicative Stable Floor Plan and Elevations



## ATTACHMENT 5

### Independent Peer Review of Draft Assessment Report





3.3 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

PEER REVIEW OF DEVELOPMENT ASSESSMENT  
HORSE STABLING AND TRAINING COMPLEX  
250 Menangle Road, Menangle Park

SquareLink

## 1.0 INTRODUCTION

SquareLink Pty Ltd has been engaged by Campbelltown City Council to undertake a peer review of the draft assessment report for the subject Development Application (DA) 1861/2013/DA-C. We have undertaken this assessment based on the information provided to SquareLink Pty Ltd by Campbelltown City Council, which includes:

- The Development Application Form,
- Statement of Environmental Effects prepared by Michael Brown Planning Strategies,
- Stable Plans prepared by Stable Craft Pty Ltd,
- Aboriginal Assessment prepared by Artefact Heritage,
- Civil Engineering Assessment Report prepared by Cardno ,
- Heritage Impact Assessment prepared by Urbis,
- Stormwater Management Report prepared by Cardno,
- Site Investigation and Salinity Assessment prepared by Cardno,
- Acoustic Assessment prepared by Acoustic Logic,
- Submissions received from the public during the exhibition period,
- Draft assessment report – V1 and V2,
- Draft conditions of consent.

## 1.1 APPLICATION DETAILS

<b>DA Number:</b>	Development Application (DA) No. 1861/2013/DA-C
<b>Description:</b>	Construction and operation of a horse stabling and training complex, including ancillary site and civil works
<b>Applicant:</b>	Michael Brown Planning Strategies
<b>Owner:</b>	New South Wales Harness Racing Club
<b>Property Description:</b>	Lot 2 DP 1187569, No. 250 Menangle Road, Menangle Park
<b>Site Area:</b>	40 Hectare
<b>Zone:</b>	1 - Non Urban under Campbelltown Interim Development Order (IDO) No. 15
<b>Construction/Work Cost:</b>	\$9,977,000

3.3 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

PEER REVIEW OF DEVELOPMENT ASSESSMENT  
HORSE STABLING AND TRAINING COMPLEX  
250 Menangle Road, Menangle Park

SquareLink

## 2.0 BACKGROUND

The subject application seeks to construct and operate a horse stabling and training facility on a 40 hectare parcel being Lot 2 DP 1187569 and is known as 250 Menangle Road, Menangle Park.

### Comments:

The statement of environmental effects (Page 20) states that the new road access will result in one of the current access points to the Nepean River Reserve (opposite this site) being closed and removal of the potential short vehicle right hand turn storage bay. Council should ensure that owners' consent for the Nepean River Reserve has been adequately addressed to facilitate the closure of this access.

The statement of environmental effects (Page 21) states that horses will be taken to the race track on the neighbouring site via the internal road system. Council should ensure that the application is supported with the appropriate owners' consent to facilitate this access and use.

### THE SITE - 250 MENANGLE ROAD, MENANGLE PARK

The site is primarily covered by tall grass, and has historically used for grazing and mining. The site is bounded by the Main Southern Railway to the east, Menangle Road to the south, a Council owned site and the Nepean River to the west. The Tabcorp Menangle Park harness racing track is on the property to the north. Site access is via a gravel road off Menangle Road, this road traverses the site from south to north.

### Comments

The site is appropriately described within the officer's report.

### 3.3 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

PEER REVIEW OF DEVELOPMENT ASSESSMENT  
HORSE STABLING AND TRAINING COMPLEX  
250 Menangle Road, Menangle Park

SquareLink

## 3.0 THE PROPOSAL

The description of the proposed development is described within the officer's report. The description should be expanded to reflect the additional matters shown in *italics* below.

1. Construction of horse stabling facilities, featuring the following attributes:
  - 16 state of the art stable buildings *providing capacity for 384 horses*.
  - 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, tack rooms and storage areas and amenities for staff.
  - Stable buildings would be constructed on concrete slabs and finished in Colorbond steel.
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.
  - A waste water treatment plant *and 12,000m2 irrigation area*.
  - 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 the site with Menangle Road and the existing harness racing track to the north.
  - *An overflow parking area.*
  - *Undergrounding of all existing electricity cabling.*
  - *Landscaping.*
  - *An administration and training (TAFE) building, including showers and toilet facilities and onsite manager's residence.*
  - *CPTED works including fencing, lighting, CCTV and security 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 meet Roads and Maritime Services (RMS) requirements *including provision of short right hand turn storage bay*.
  - *Closure of one of the current access points to Menangle River reserve picnic area.*

The report accurately nominates the other proposed facilities, which would be subject to future development application and assessment, including:

- An indoor horse water-walker
- 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.

The officer's report states that 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". It

3.3 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

PEER REVIEW OF DEVELOPMENT ASSESSMENT  
HORSE STABLING AND TRAINING COMPLEX  
250 Menangle Road, Menangle Park

SquareLink

is noted that this is inconsistent with the statement on page 17 of the SEE which states that the buildings will be earthy tones to match the existing colours of the racing precinct buildings.

### 3.3 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

PEER REVIEW OF DEVELOPMENT ASSESSMENT  
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## 4.0 THE ASSESSMENT

### 4.1 OTHER PROVISIONS CAMPBELLTOWN 2025 – LOOKING FORWARD

#### Comments

The assessment concludes that the development is consistent with the provisions of Campbelltown 2025. Based on information available this is accurate.

### 4.2 PLANNING PROVISIONS

#### 4.2.1 SYDNEY REGIONAL ENVIRONMENTAL PLAN NO. 9 - EXTRACTIVE INDUSTRY (NO. 2 1995)

#### Comments

The assessment concludes that the development is consistent with the provisions of SEPP 9. Based on information available this assessment is accurate.

#### 4.2.2 SYDNEY REGIONAL ENVIRONMENTAL PLAN NO. 20 – HAWKESBURY-NEPEAN RIVER

#### Comments

The assessment concludes that the development is consistent with the provisions of SEPP 9. Based on information available this is accurate.

It is required that the onsite wastewater treatment plant be identified and provided on a portion of the site that is flood free during the 1% AEP flood event.

#### General Comments For Planning Provisions

##### STATE ENVIRONMENTAL PLANNING POLICY No. 55 – REMEDIATION OF LAND

The assessment report should be expanded to discuss the application of this SEPP. The SEE identifies appropriate conditions that can be incorporated into the consent to manage the site contamination matters.

##### STATE ENVIRONMENTAL PLANNING POLICY - INFRASTRUCTURE

The infrastructure SEPP requires consideration of rail noise or vibration on non-rail development. The assessment report should be expanded to discuss the application of this SEPP. This matter was raised by the Australian Rail Track Corporation Ltd in their correspondence dated 22 November 2013, and was addressed by the SEE.

Clause 87 of the Infrastructure SEPP requires that appropriate measures need to be taken to ensure that the following LAeq levels are not exceeded:

In any bedroom in the building – 35dB(A) at any time between 10:00pm and 7:00am,  
Anywhere else in the building (other than a garage kitchen, bathroom, or hallway – 40dB(A) at any time.

It is noted that this standard needs to be assessed for the proposed onsite manager's residence and for the Administration Building which the SEE states will be established as a TAFE. There is inadequate information available to assess whether these elements of the development will comply with the required internal noise levels.



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It is also noted that the proposal includes installation of a 2.1m high noise wall which is intended to prevent noise from this development impacting on neighbouring properties. This wall may provide dual benefit to the subject site in that the rail noise may be abated at the boundary as well as preventing on site noise escaping.

A noise assessment report is required, which:

- Addresses the internal noise levels within the onsite manager's residence and TAFE component of the development against Clause 87 of the SEPP, and
- Considers the impact of noise from the rail line being reflected off the noise wall and onto adjoining properties including "The Pines".
- Considers whether the development is of a type that is sensitive to traffic noise or vehicle emissions in against Clause 101 of the SEPP and identifies required acoustic treatments.

Clause 101 of the SEPP requires that the consent authority must be satisfied that developments which have a frontage to a classified road are accessed from an alternate road, not being a classified road where practicable. In this circumstance no alternate road access is available. The SEPP also requires that the safety, efficiency and ongoing operation of the classified road will not be adversely affected. Therefore RMS consideration and concurrence of the access arrangements is required.

Clause 104 of the SEPP relates to 'traffic generating development'. Column 2 of Schedule 3 identifies Stables development, therefore triggering assessment under Clause 104 of the SEPP. Insufficient information is available to determine if the requirements of Clause 104(3) have been satisfied. It is understood that formal RMS comment has not yet been received; it is recommended that further contact with the RMS is made regarding the proposed new Menangle Road access and the alteration of access to Menangle River Reserve.

#### **DEVELOPMENT NEAR RAIL CORRIDORS AND BUSY ROADS PLANNING GUIDELINE**

The assessment report should be expanded to discuss the application of planning guideline document. This matter was raised by the Australian Rail Track Corporation Ltd in their correspondence dated 22 November 2013.

The application should be assessed under the relevant clauses of the SEPP Infrastructure as provided above. At this stage there is insufficient information to conclude compliance with the relevant requirements.

#### **4.2.3 CAMPBELLTOWN INTERIM DEVELOPMENT ORDER (IDO) NO. 15**

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.

#### **Comments**

This could be strengthened by consideration of the consistency of the proposed development with the Non-Urban zoning of the land. It is considered to be an appropriate use of the land consistent with and complimentary to surrounding land uses. It is also worth mentioning that the application proposes a range of ancillary uses are proposed to compliment the use of the site for a stabling complex, and these are appropriately considered to be ancillary uses.

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#### Clause 6(a)

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 officers report outlines that the proposed development would feature architecturally interesting panelling, roof and gable height variations and an array of colours that are complementary to existing development at the harness racing track nearby and with respect to the heritage residence on an adjoining site.

#### Comments

It is also noted that the design of the building is consistent with the rural nature and character of the area.

#### Clause 6(c)

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.*

The officer's report outlines that the 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.

#### Comments

The SEE refers to overflow parking area, should this be required it should be nominated on plans prior to issuance of a Construction Certificate.

Access to the adjoining racing track site does form part of this application. Council should ensure that appropriate Owner's consent has been received for the adjoining racetrack property, to facilitate the assessment and approval.

It is agreed that the application is satisfactory in terms of Clause 6(c).

#### Clause 13

Clause 13 relates to tree preservation. The assessment report outlines that the development requires the removal of a small stand of trees (incorporating approximately 5 individual trees) in the centre of the site, to make way for the proposed training track. Further the report outlines that 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.

#### Comments

This conclusion is considered appropriate.

The assessment mentions that the trees that are located on the sites western side, past the existing access road would not be removed. The landscape plan should be checked to ensure that these trees are marked for retention.



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#### Clause 19

Clause 19 relates to the protection of environmental heritage.

#### Comments

The assessment of heritage commentary provided within the report is detailed and recommends appropriate conditions to address both the indigenous and non-indigenous heritage values of the site and its vicinity.

#### Clause 23

Clause 23 of the IDO contains Councils requirements for certain developments related to animal husbandry and other agricultural pursuits.

Further the IDO requires 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.*

#### Comments

The report accurately identifies that items a, c, d and e are relevant to this application, and have been adequately addressed.

#### Assessment Under the IDO 15

The overall statement that the application is consistent with the provisions of the IDO is supported.

#### General Comments For Planning Provisions

##### DRAFT LOCAL ENVIRONMENTAL PLAN 2002 (AMENDMENT 25)

It is understood that the Draft Local Environmental Plan 2002 (Amendment 25) is applicable to this site and that the amendment constitutes a matter for consideration in accordance with Section 79C (1)(a)(ii) of the Environmental Planning and Assessment Act.

##### Comment:

The assessing officer's report should be expanded to include assessment of this draft instrument. It is noted that the provisions of this draft instrument would preclude this development should the amendment have been gazetted. Given the draft status of the application, it is appropriate however to give consideration to the intended objectives of the draft instrument.

The proposed development is considered reasonably consistent with the stated objectives of the proposed 6(c) Private Recreation zone being:

- (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.



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#### 4.2.4 CAMPBELLTOWN (SUSTAINABLE CITY) DEVELOPMENT CONTROL PLAN (SCDCP)

It is noted that the development is consistent with the aims of the DCP, and that the DCP does not contain controls that are specifically relevant. It is appropriate therefore that the assessment report considers those controls applicable to all development.

The officer's report provides an appropriate evaluation of the following DCP provisions

- Views and Vistas,
- Flora, Fauna and Weed Management,
- Erosion and Sediment Control,
- Cut and Fill,
- Heritage Conservation,
- Risk Management.

Appropriate conditions are referred to in the assessment of these matters.

The following additional DCP elements were addressed within the Submitted SEE which are considered relevant and should be addressed in the assessment report.

- 2.4 - Sustainable Building Design,
- 2.5 - Landscaping
- 2.10 - Water Cycle Management
- 2.13 - Security
- 6.3 - Building form and Character
- 6.4 - Carparking and Access
- 6.6 - Landscaping

#### Comments

Having regard to the assessment report, and the SEE the development is considered to be compliant with the relevant controls and aims contained in the SCDCP.

#### 4.3 SECTION 79(C) CONSIDERATIONS

The officer's report provides an appropriate evaluation of the following impacts on the Natural and Built Environment.

##### 4.3.1 Noise

It is noted that the SEE provides an assessment of potential noise impacts generated by the development. The report concludes with recommendations that certain materials and activities be undertaken in order to reduce its noise impact on neighbours. The conditions proposed would appropriately address this matter.

A further noise assessment report is however required which addresses:

- the internal noise levels within the onsite manager's residence and TAFE component of the development against Clause 87 of the SEPP, and
- Considers the impact of noise from the rail line being reflected off the noise wall and onto adjoining properties including "The Pines".
- Whether the development is of a type that is sensitive to traffic noise or vehicle emissions in against Clause 101 of the SEPP and identifies required acoustic treatments.

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#### 4.3.2 Flooding

The site is subject to flooding impacts. It is noted that the reporting suggests that there are no impacts on peak flood levels on neighbouring properties for the tested flood events. The conclusion that the development is considered to be acceptable in terms of its impact on local flooding behaviours is supported.

#### 4.3.3 Waste capture and disposal

The officer's report provides detailed assessment of the environmental impact of waste generated by the development. It is noted that the waste treatment plant would utilise current best-practice treatment processes, and that conditions can be imposed to require appropriately sized irrigation area, alarmed emergency storage tanks, ground moisture sensors, compliance with relevant Government agency requirements, Australian Standards and receipt of a Section 68 approval from Council pursuant to the *Local Government Act 1993*.

#### 4.3.4 Odour

Odour is appropriately assessed and it is noted that the applicant will also need to comply with the requirements of the *Protection of the Environment Operations Act 1997*. The recommended conditions of development consent are considered appropriate to ensuring that the odour impacts can be appropriately managed.

#### 4.3.5 Traffic

The assessing officer's report states that 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. It is noted that the conditions require the applicant to continue consultation and receive final design and road safety audit approval from the RMS prior to works commencing. This could be supported with a condition stating that the applicant is to enter into a works authorisation deed with the RMS to ensure delivery of the works to meet RMS standards.

As the use is defined under SEPP Infrastructure as 'traffic generating development' assessment under Clause 104 of the SEPP is required. It is understood that formal RMS comment has not yet been received; it is recommended that further contact with the RMS is made regarding the proposed new Menangle Road access and the alteration of access to Menangle River Reserve.

#### 4.3.6 Heritage impact

A detailed assessment of Indigenous and Non-indigenous heritage impacts has been undertaken.

##### *Aboriginal Heritage*

The development site is known to contain an area of cultural and archaeological significance to the local Aboriginal community and certain artefacts were recorded on the site. It is noted that Council forwarded the application to the Office of Environment and Heritage (OEH) for its comment. The Office responded verbally, 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. This will ensure that any excavation work is undertaken in consultation with relevant local Aboriginal groups and heritage/archaeological professionals.

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#### *European Heritage*

The proposed horse training and boarding complex is in relatively close proximity to an item of heritage significance, known as „The Pines“. The application is supported by a heritage impact statement which recommends measures that may be taken to minimise impacts on the heritage significance.

#### **4.4 SITE SUITABILITY**

The officer's report provides an appropriate evaluation of the following impacts on the suitability of the site for the proposed use:

##### **Comments**

The evaluation and conclusion that the application is suitable 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, are supported.

#### **4.5 PUBLIC PARTICIPATION**

The officer's report outlines that the application has been referred to the following agencies:

- Roads and Maritime Services (RMS)
- Office of Environment and Heritage (OEH)
- The Australian Rail and Track Corporation (ARTC)

##### **Roads and Maritime Services (RMS)**

The officer's outlines that at the time of writing, the RMS has not formally responded to Council. The report outlines that discussions held with the RMS both before and since the application's lodgement, identified that that the RMS saw merit in the new intersection.

Final design and acceptance of the proposal by the RMS would be required prior to a construction certificate being issued for the development. This is appropriately included as a condition of consent.

##### **Comment on RMS**

Given that the use is defined under SEPP Infrastructure as 'traffic generating development' it is recommended that further contact with the RMS is made regarding the proposed new Menangle Road access and the alteration of access to Menangle River Reserve prior to determination.

##### **Office of Environment and Heritage (OEH)**

The officer's report outlines that the OEH has verbally responded to Council's referral of the application. Issuance of an Aboriginal heritage impact permit is required prior to commencement of works on the site.

##### **Comment on OEH**

This is appropriately included as a condition of consent.

##### **The Australian Rail and Track Corporation (ARTC)**

The ARTC provided written comment on 22 November. The assessing officer's report explains the matters can be addressed through conditions of consent.



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#### Comment on ARTC

This is appropriately included as a condition of consent.

#### General Comments For Public Participation

The report should be expanded to provide assessment of the issues raised by ARTC.

##### Fencing and Safety

The SEE establishes that the site is currently fenced along the Menangle Road frontage and the Great Southern Railway Line boundary. The proposal also seeks to create day yards for horses of post and rail construction. The concern could be appropriately addressed through Conditions of Consent.

##### Stormwater

The land generally slopes down from the east to the west in the direction of the Nepean River. The SEE outlines that while there will be some filling proposed on the site, the final landform will be generally consistent with the shape of the existing landforms and does not represent significant alteration of the site. The development therefore will not cause substantial stormwater flows toward the rail corridor. The concern could be appropriately addressed through Conditions of Consent.

##### Noise and Vibration

A noise assessment report is required which addresses:

- the internal noise levels within the onsite manager's residence and TAFE component of the development against Clause 87 of the SEPP, and
- considers the impact of noise from the rail line being reflected off the noise wall and onto adjoining properties including "The Pines".
- Whether the development is of a type that is sensitive to traffic noise or vehicle emissions in against Clause 101 of the SEPP and identifies required acoustic treatments.

It is noted that a condition of consent is proposed to address the Development Near Rail Corridors and Busy Roads – Interim Guideline 2008. This is not an appropriate condition of consent given that the guideline addresses the assessment of developments near rail corridors and busy roads.

##### Vegetation along rail corridor

The concern of ARTC that vegetation will impact on the functioning of the rail line could also be appropriately addressed through Conditions of Consent.

#### Public comments

The officer's report outlines that in accordance with the provisions of Campbelltown (Sustainable City) Development Control Plan, the application was notified to 109 adjoining and nearby land owners, and the adjoining Council. During the 14 day notification period from 16 to 30 October 2013 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.

Consideration has been given to the comments received from the public. A variety of issues were raised including:

- Potential contamination arising from former military use of the land

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- Heritage and locality character
- Amenity of nearby residences
- Waste
- Vermin
- Impact on future use of neighbouring land, and
- Conflict of interest due to previous Council ownership of the land.

**Comment Public Submissions**

The assessing officer's report has given appropriate consideration to the matters raised and where appropriate, conditions of consent are recommended to address concerns. With regard to the claims of conflict of interest it is noted that the Environmental planning and Assessment Act 1979 establishes that Councils have the determining function for local development.

**4.6 THE PUBLIC INTEREST**

An assessment of the public interest has been undertaken.

**Comment on the Public Interest**

It is agreed that the proposal provides economic benefits and responds satisfactorily to environmental matters and is compliant with relevant planning controls and objectives. From a social perspective, the development will provide improved accessibility through traffic improvements and adequately addresses heritage concerns. Conditions of consent can be imposed to regulate and ensure ongoing compliance with these standards. It is agreed that the application is in the public interest and that the proposal is compatible with the locality and its immediate surroundings.

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## 5.0 CONCLUSION AND RECOMMENDATION

In view of the above assessment, we recommend that:

1. The assessing officer's report is augmented to address the comments raised throughout this report.
2. A supplementary noise assessment report be required, which:
  - Addresses the internal noise levels within the onsite manager's residence and TAFE component of the development against Clause 87 of the SEPP,
  - Considers the impact of noise from the rail line being reflected off the noise wall and onto adjoining properties including "The Pines", and
  - Considers whether the development is of a type that is sensitive to traffic noise or vehicle emissions against Clause 101 of the SEPP and identifies required acoustic treatments.
3. Contact is made with the RMS regarding Clause 104 of the SEPP Infrastructure, the proposed design of road works on Menangle Road, which includes the alteration of access to the subject site and to Menangle River Reserve.
4. Council confirms that the requirements of Clause 104(3) have been satisfied.

*Extract from SEPP Infrastructure Clause 104(3)*

*Before determining a development application for development to which this clause applies, the consent authority must:*

- (a) give written notice of the application to the RTA within 7 days after the application is made, and*
- (b) take into consideration:*
  - (i) any submission that the RTA provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, the RTA advises that it will not be making a submission), and*
  - (ii) the accessibility of the site concerned, including:*
    - (A) the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and*
    - (B) the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and*
  - (iii) any potential traffic safety, road congestion or parking implications of the development.*

Following confirmation and consideration of the above outstanding matters it is likely that the application could be approved.

#### Conditions of Consent

An evaluation of the draft conditions of consent has been undertaken and the following comments are made:

#### Clause 2 Amended Plans

Additional dot point to require the location of the following to be shown on the plans:

- Wastewater treatment plant and emergency storage tanks,
- Overflow parking area, and
- Waste water irrigation area 12,000m<sup>2</sup>.

#### Clause 3 Not Consented To

The SEE notes that certain uses are to be subject of separate applications and therefore this condition is appropriate. This list should however include the following:

- enclosed water walker building,

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- veterinary facility building,
- *harness and produce supply store building*, and
- farrier service building .

The SEE however does seek approval for the Administration building and associated facilities. This use should be removed from Condition 3.

**Clause 8 Car Parking Spaces**

Add the words "excluding the overflow parking area".

**Clause 13 Unreasonable noise**

This condition may need to be revised following receipt and consideration of a further noise report that responds to the requirements of SEPP Infrastructure.

**Clause 20 Australian Rail and Track Corporation (ARTC) Requirements**

Delete dot point 1 as this guideline relates to assessment of applications.

Amend dot point 3 to require: Works undertaken on the site shall not intensify or increase stormwater runoff toward the rail corridor.

Delete dot point 4, this matter needs to be considered following receipt of a further noise report that responds to the requirements of SEPP Infrastructure.

**Clause 24A Energy Authority approval**

The application proposes undergrounding of electricity cables. This needs to be undertaken in consultation with the relevant authority and meet required standards. An appropriate condition should be provided

**Clause 27 Flooding**

Add the words "and approval by the relevant Manager." following "Council's review"

**Clause 66**

This condition should be modified to add that:

- Should a security system be provided it should be a silent back to base type security alarm.
- Maintenance of the wastewater treatment system is to be undertaken periodically to ensure that performance of the system provides for appropriate environmental standards to be met.

**Clause 70 Subdivision Plan**

This clause may need to be adjusted to make mention of the electricity easement across the property, in recognition of the undergrounding of the electricity lines.



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## ATTACHMENT 6

### Independent Peer Review response to Final Report

SquareLink

Our Ref: SP0201  
Contact: Milan Marecic

28 November 2013

General Manager  
**Campbelltown City Council**  
Cnr Queen and Broughton Streets,  
CAMPBELLTOWN NSW 2560

**Attn: Mr James Baldwin**

Dear James

#### Peer Review – Development Assessment of Development Application No. 1861/2013/DA-C

SquareLink Pty Ltd has been engaged by Campbelltown City Council to undertake a peer review of the assessment report for Development Application (DA) 1861/2013/DA-C. An assessment of the draft and subsequent Council report was undertaken.

Following the initial Peer Review of the development assessment, Council provided additional information in the form of a document titled "Response to Issues Raised in Peer Review", and a revised Assessment Report, which included Conditions of Consent. A review of both documents has been completed and further consideration and recommendations are provided in the right hand column of the table below.

SquareLink Pty Ltd Peer Review Comment	Campbelltown Council - Response to Issues Raised in "Peer Review" & Additional information	SquareLink Pty Ltd Consideration and Recommendation
Page 3 - Access to Nepean Reserve	The RMS and the proponent are (as we understand) now finalising the Menangle Road intersection plan, we are comfortable with issuing a deferred commencement consent that requires the proponent to obtain the RMS's approval and the approval of any affected land owner (being the Council) prior to the consent being activated.	The addition of a deferred commencement condition as proposed is an appropriate mechanism to address this matter.  Council's revised Conditions of Consent needs to be amended to require the approval of any affected land owner (being the Council) prior to the consent being activated.
Page 3 - Access to Nepean Reserve	Council's Property Manager has advised that given the availability of two other informal points of access to the Council land, that Council would allow the closure of one of the informal access ways if required due to the new intersection.	The advice from the property manager of potential closure is noted.  The deferred commencement condition referred to above will be the appropriate formal mechanism to ensure appropriate owners consent is provided.
Page 3 - Internal road system and owner's consent	The two properties are owned by the same entity, consent is assumed. Council propose to seek separate permission from the owner.	Given the ownership arrangements (being the same entity) the approach to obtain separate permission from the owner is sound.
Page 4 - Expanded description of the proposal	Expansions noted, will be included in report.	Council's revised report appropriately describes the proposal.  Council's revised Conditions of Consent appropriately do not give consent to the portions of the development, which will be subject of future application(s).
Page 4 - Inconsistency between SoEE and Urbis Heritage report	Heritage report recommendations rather than SoEE comments will be incorporated into recommended conditions of consent.	Reliance on the Heritage report is supported.
Page 6 - SEPP 55	Additional discussion will be added to the assessment report	Council's revised report appropriately addresses SEPP 55.
Page 6 - SEPP Infrastructure	The offices and manger's residence that were included in the original application have since been withdrawn from the application by the applicant and are not part of the assessment /recommended consent.	Given the withdrawal of the Administration building and manager's residence from the application the noise and vibration elements of the SEPP are no longer required to be assessed.

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SquareLink Pty Ltd Peer Review Comment	Campbelltown Council - Response to Issues Raised in "Peer Review" & Additional information	SquareLink Pty Ltd Consideration and Recommendation
		Council's revised report appropriately addresses SEPP Infrastructure.
		Also Council's revised Conditions of Consent appropriately addresses the ARTC comments.
Page 7 - Rail noise being reflected by stables' noise abatement wall	Propose to add a condition regarding noise report recommendations will be amended to ensure that this is considered as part of the wall's final design/construction.	Council's revised report appropriately addresses noise generated by the development and by the rail line.
		Also Council's revised Conditions of Consent appropriately addresses the noise requirements.
Page 7 - Clause 101 of SEPP Infrastructure	Council propose to address Clause 101, which requires RMS concurrence through a deferred commencement condition.	The suggested deferred commencement condition is supported.
		Council's revised report appropriately addresses SEPP Infrastructure.
		Also Council's revised Conditions of Consent appropriately addresses the need for RMS approval of works.
Page 7 - Clause 104 of SEPP Infrastructure	Stables or animal boarding and training establishments are not listed in Schedule 3 of the SEPP as a 'traffic generating development'.	Agreed.
		Council's revised report appropriately addresses SEPP Infrastructure.
Page 7 - Rail Corridors and Busy Guidelines	Not relevant as the Administration building and manager's residence have been withdrawn from the application.	Given the withdrawal of the Administration building and manager's residence from the application the noise and vibration elements of the SEPP are no longer required to be assessed.
		Council's revised report appropriately addresses SEPP Infrastructure.
		Also Council's revised Conditions of Consent have appropriately been amended.
Page 8 - Overflow parking and tree retention to be shown on plans	Inclusion of overflow parking and tree retention on prior to CC plans are noted and will be included in conditions of consent.	Council's revised Conditions of Consent have appropriately been amended to require overflow parking to be included.
		The conditions should be further amended to ensure that trees to be retained are marked on the "Prior to CC" plans.
Page 9 - Draft LEP Amendment 25	This matter will be added to the assessment report.	Council's revised report appropriately addresses Draft LEP Amendment 25.
Page 10 - Noise report re: manager's residence	Residence not required for this DA, as there is now no residential component.	Given the withdrawal of the Administration building and manager's residence from the application the noise and vibration elements of the SEPP are no longer required to be assessed.
Page 10 - Reflected rail noise to 'The Pines'	Propose to add a condition regarding noise report recommendations will be amended to ensure that this is considered as part of the wall's final design/construction.	Council's revised report appropriately addresses noise generated by the development and by the rail line.
		Also Council's revised Conditions of Consent appropriately addresses the noise requirements.
Pages 11 & 12 - Formal comment from RMS	Council propose to address Clause 101, which requires RMS concurrence through a deferred commencement condition.	The suggested deferred commencement condition is supported.
		Council's revised report appropriately addresses SEPP Infrastructure.
		Also Council's revised Conditions of Consent appropriately addresses the need for RMS approval of works.
Page 15 - Amended plans	Recommendation to expand the matters to be shown on the amended plans is accepted.	Council's revised Conditions of Consent appropriately lists the additional matters to be shown on the amended plans.

3.3 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

SquareLink Pty Ltd Peer Review Comment	Campbelltown Council - Response to Issues Raised in "Peer Review" & Additional Information	SquareLink Pty Ltd Consideration and Recommendation
Page 16 – Amended Conditions	Conditions have been amended in line with SquareLink advice where appropriate.	Council's revised Conditions of Consent have been appropriately amended.

The review has identified only two minor matters that remain for your further consideration. These are summarised below.

- **Deferred Commencement Condition**  
Council's revised Conditions of Consent needs to be amended to require the approval of any affected land owner (being the Council) prior to the consent being activated.
- **Amended Plans**  
The conditions should be further amended to ensure that trees to be retained are marked on the "Prior to CC" plans.

In conclusion the final Report provides a comprehensive assessment and proposed development and is supported by an appropriate set of conditions.

If you require any additional information or clarification regarding the contents of this Review please do not hesitate to contact me on 0418 674 124.

Yours sincerely,

Milan Marecic  
Director  
SquareLink Pty Ltd

### **3.4 2014 Urban Development Industry of Australia Congress - Brisbane**

#### **Reporting Officer**

Acting Manager Development Services

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#### **Attachments**

UDIA Congress Program (distributed under separate cover)

#### **Report**

The Urban Development Industry of Australia Congress (the UDIA Congress) for 2014 will be held in Brisbane on the 25-28 March 2014. The theme for the four day program is 'Rise up; it's time to take charge of the future'. The Program includes a number of informative speakers who will discuss the future of development in Australia. The Program will include a number of tours of award winning urban developments in and around Brisbane.

The UDIA Congress will bring together State and local politicians, developers, academics, practitioners and professionals from around Australia to hear and discuss demographic and infrastructure issues and how these will influence the development industry in Australia into the future. Participants at the UDIA Congress will also gain benefit from hearing speakers such as Alexandros Washburn, Chief Urban Designer, New York City Department of Planning; Richard Peiser Ph.D., Professor of Real Estate Development Harvard Graduate School of Design, USA; and Dr Lie Thai Ker Director RSP Architects Planners & Engineers (Pte) Ltd, Singapore. Dr Ker has been instrumental in housing more than a million residents through the creation of 24 towns and half a million units.

Development and industry trends are indicating that the nation's housing sector will continue to see growth on the back of sustained population growth, and with the opening of new urban release areas such Stockland's 'Willowdale' at East Leppington and UrbanGrowth's Edmondson Park, Menangle Park and UWS residential development sites, to name a few, this is expected to have a direct and significant impact on the Campbelltown Local Government Area (LGA) and its community.

This is in addition to the impact that population growth and the creation of new towns outside of the LGA will have on existing public infrastructure located within the LGA (roads, railway and parking in particular), and the funding of improvements and upgrades to the same.

Having regard to the issues and topics to be discussed at the UDIA Congress, the calibre of attending speakers (government and private), and the fact that the UDIA Congress is widely viewed as the nation's peak urban development forum, it is considered important that the Council representatives attend the UDIA Congress as it will provide important first hand insight into how Government and the private sector are planning for this future growth in housing and population, which directly relate to the future planning outcomes for the Local Government Sector.

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As such, it is considered appropriate and recommended that the General Manager or his nominee, the Manager Development Services, the Manager Executive Services and any interested Councillors be authorised to attend the 2014 UDIA Congress.

### **Officer's Recommendation**

1. That the General Manager or nominee, the Manager Development Services, the Manager Executive Services and any interested Councillors attend the 2014 UDIA Congress in Brisbane.
2. That all fees and charges be paid in accordance with Council's Policy.

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

That the Officer's Recommendation be adopted.

### **CARRIED**

### **Council Meeting 11 February 2014 (Greiss/Matheson)**

That the Officer's Recommendation be adopted.

### **Council Resolution Minute Number 4**

That the Officer's Recommendation be adopted.

Councillor Mead asked that his name be recorded in opposition to the resolution in regard to Item 3.4.

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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 22/01/2014)</b>	<b>3</b>
<b>Total completed Class 1 DA appeal matters (as at 22/01/2014)</b>	<b>2</b>
<b>Costs from 1 July 2013 for Class 1 DA appeal matters:</b>	<b>\$23,391.38</b>

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<b>1 (a)</b>	<b>Yeugen KYSELOV</b>
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<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.
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<b>Property:</b>	Lot 2736 DP 811889 No. 15 Nepean Towers Avenue, Glen Alpine
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<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)
<b>Costs to date:</b>	\$0.00
<b>Status:</b>	Ongoing – Matter heard on 22 and 23 January 2014.
<b>Progress:</b>	No determination reached as the Commissioner reserved judgment until a later date.

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**1 (b)**

**Abdulhalim ELBAF & Amne ELBAF**

<b>Issue:</b>	Appeal against Council's deemed refusal of a Building Certificate Application seeking to regularise building works, the subject of a disputed complying development certificate comprising a partly constructed residential dwelling and residential outbuilding and associated retaining walls, on the property.
<b>Property:</b>	Lot 1 DP 1039153 Zouch Road, Ingleburn.
<b>Property Owner:</b>	Mr. Abdulhalim Elbaf and Mrs Amne Elbaf
<b>Council File:</b>	No. 957/2013/BC-UW
<b>Court Application:</b>	Filed on 12 December 2013 - File No. 10969 of 2013
<b>Applicant:</b>	Abdulhalim Elbaf and Amne Elbaf
<b>Costs Estimate:</b>	\$10,000 (exclusive of Barristers, Court Appointed Experts or disbursement fees)
<b>Costs to date:</b>	Nil
<b>Status:</b>	New matter – listed for callover on 14 February 2014
<b>Progress:</b>	The Applicants have filed an appeal in the Land and Environment Court of NSW against Council's deemed refusal of a building certificate application seeking to regularise building works, the subject of a disputed complying development certificate comprising a partly constructed residential dwelling and residential outbuilding and associated retaining walls, on the property.

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The appeal was before the court for first mention on 16 January 2014, where by consent, the proceedings were adjourned to 14 February 2014 for callover, in order to bring all three Class 1 appeal matters together and thereby give priority to Class 4 review matter of the disputed Complying Development Certificate listed under item 3(a) of this report.

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**1 (c)**

**Abdulhalim ELBAF & Amne ELBAF**

**Issue:** Appeal against Council's refusal of a modified development application seeking a review under section 82A of the *Environmental Planning and Assessment Act 1979* of development application No. 1458/2013/DA-DW for building works, the subject of a disputed complying development certificate comprising a residential dwelling and residential outbuilding and associated site works, on the property.

**Property:** Lot 1 DP 1039153 Zouch Road, Ingleburn.

**Property Owner:** Mr. Abdulhalim Elbaf and Mrs Amne Elbaf

**Council File:** No. 1458/2013/DA-82A

**Court Application:** Filed on 12 December 2013 - File No. 10970 of 2013

**Applicant:** Abdulhalim Elbaf and Amne Elbaf

**Costs Estimate:** \$10,000 (exclusive of Barristers, Court Appointed Experts or disbursement fees)

**Costs to date:** Nil

**Status:** New matter – listed for callover on 14 February 2014

**Progress:** The Applicants have filed an appeal in the Land and Environment Court of NSW against Council's refusal of a modified development application seeking a review under section 82A of the *Environmental Planning and Assessment Act 1979* of development application No. 1458/2013/DA-DW for building works, the subject of a disputed complying development certificate comprising a residential dwelling and residential outbuilding and associated site works, on the property.

The appeal was before the court for first mention on 16 January 2014, where by consent, the proceedings were adjourned to 14 February 2014 for callover, in order to bring all three Class 1 appeal matters together and thereby give priority to Class 4 review matter of the disputed Complying Development Certificate listed under item 3(a) of this report.

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<b>2. Land and Environment Court Class 1 Matters – Appeals Against Council's issued Orders / Notices</b>
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<b>Total ongoing Class 1 Order/Notice appeal matters (as at 22/01/2014)</b>	<b>1</b>
<b>Total completed Class 1 Order/Notice appeal matters (as at 22/01/2014)</b>	<b>0</b>
<b>Costs from 1 July 2013 for Class 1 Order/Notices appeal matters:</b>	<b>\$0.00</b>

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**2 (a) Abdulhalim ELBAF & Amne ELBAF**

**Issue:** Appeal against Council's Order 2 given under section 121B of the Environmental Planning and Assessment Act 1979 requiring the building works, the subject of a disputed complying development certificate comprising a partly constructed residential dwelling and outbuilding and associated retaining walls, on the property be demolished.

**Property:** Lot 1 DP 1039153 Zouch Road, Ingleburn.

**Property Owner:** Mr. Abdulhalim Elbaf and Mrs Amne Elbaf

**Council File:** No. 801/2013/N-EPA

**Court Application:** Filed on 6 December 2013 - File No. 10954 of 2013

**Applicant:** Abdulhalim Elbaf and Amne Elbaf

**Costs Estimate:** \$10,000 (exclusive of Barristers, Court Appointed Experts or disbursement fees)

**Costs to date:** Nil

**Status:** New matter – listed for callover on 14 February 2014

**Progress:** The Applicants have filed an appeal in the Land and Environment Court of NSW against Council's Order 2 given under section 121B of the Environmental Planning and Assessment Act 1979 requiring the building works, the subject of a disputed complying development certificate comprising a partly constructed residential dwelling and outbuilding and associated retaining walls, on the property be demolished.

The appeal was before the court for first mention on 16 January 2014, where by consent, the proceedings were adjourned to 14 February 2014 for callover, in order to bring all three Class 1 appeal matters together and thereby give priority to Class 4 review matter of the disputed Complying Development Certificate listed under item 3(a) of this report.

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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**

<b>Total ongoing Class 4 matters before the Court (as at 22/01/2014)</b>	<b>1</b>
<b>Total completed Class 4 matters (as at 22/01/2014)</b>	<b>1</b>
<b>Costs from 1 July 2013 for Class 4 matters</b>	<b>\$35,802.68</b>

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**3 (a) Abdulhalim ELBAF & Amne ELBAF**

**Issue:** Appeal seeking judicial review of disputed complying development certificate No. CDC 0455/12 issued by the private certifier for the development comprising a residential dwelling and residential outbuilding and associated site works, on the property.

**Property:** Lot 1 DP 1039153 Zouch Road, Ingleburn.

**Property Owner:** Mr. Abdulhalim Elbaf and Mrs Amne Elbaf

**Council File:** No. 2491/2012/CDCPRI

**Court Application:** Filed on 24 December 2013 - File No. 41030 of 2013

**Applicant:** Abdulhalim Elbaf and Amne Elbaf

**Costs Estimate:** \$10,000 (exclusive of Barristers, Court Appointed Experts or disbursement fees)

**Costs to date:** Nil

**Status:** New matter – listed for first mention on 7 February 2014.

**Progress:** The Applicants have filed an appeal in the Land and Environment Court of NSW seeking judicial review of disputed complying development certificate No. CDC 0455/12 issued by the private certifier for the development comprising a residential dwelling and residential outbuilding and associated site works, on the property.

The appeal is listed before the Court for first mention on 7 February 2014.

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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 22/01/2014)	0
Total completed Class 5 matters (as at 22/01/2014)	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 22/01/2014)	0
Total completed Class 6 matters (as at 22/01/2014)	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**

Total ongoing Appeal matters before the Court (as at 22/01/2014)	0
Total completed Appeal matters (as at 22/01/2014)	1
Costs from 1 July 2013 for District Court matters	\$795.00

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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:** \$2,000.00

**Costs to date:** \$795.00

**Status:** Completed.

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**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 was before the District Court Campbelltown on 17 December 2013 for hearing where the appellant, Mr. Scott Castle, appeared unrepresented. Having considered the evidence and submissions, the judge found in favour of the appellant in respect of the severity of the penalty imposed by the Local Court and made an order reducing the fine to \$500; and, confirmed the other orders of the Local Court in respect of legal costs, compensation for part veterinary costs, and the control of the dog.

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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 22/01/2014)</b>	<b>4</b>
<b>Total completed Local Court Matters (as at 22/01/2014)</b>	<b>17</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>	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>Final Costs:</b>	\$0.00
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<b>Status:</b>	Completed.
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<b>Progress:</b>	The matter was before the Court for mention on 19 November 2013 where the defendant entered a guilty plea with explanation. Having heard the facts and submissions the Magistrate found the offence proved and made an order that the matter be dismissed without penalty under section 10(1)(a) of the <i>Crimes (Sentencing Procedure) Act 1999</i> .
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<b>File No:</b>	LP26/13 – 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>	Ongoing.
<b>Progress:</b>	The matter was before the Court for mention on 12 November 2013 where the defendant entered a not guilty plea. The matter has been listed for defended hearing on 24 January 2014.

<b>File No:</b>	LP27/13 – Penalty Notice Court Election
<b>Offence:</b>	Stop on path/strip in built-up area
<b>Act:</b>	<i>Road Rules 2008</i>
<b>Final Costs:</b>	\$0.00
<b>Status:</b>	Completed.
<b>Progress:</b>	The matter was before the Court for mention on 17 December 2013 where the defendant, Md Jahangir Islam, did not appear. The Magistrate granted Council's application to have the matter heard in the defendant's absence and after having considered the facts and submissions, found the offence proved and convicted the defendant imposing a fine of \$100 and Court Costs of \$85.

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<b>File No:</b>	LP28/13 – Section 48 Penalty Notice Appeal
<b>Offence:</b>	Stand vehicle longer than allowed
<b>Act:</b>	<i>Local Government Act 1993</i>
<b>Costs to date:</b>	\$0.00
<b>Status:</b>	New matter.
<b>Progress:</b>	Listed for first mention on 11 March 2014.

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<b>File No:</b>	LP29/13 – Penalty Notice Court Election
<b>Offence:</b>	Stand vehicle in disabled persons space without authority
<b>Act:</b>	<i>Local Government Act 1993</i>
<b>Costs to date:</b>	\$0.00
<b>Status:</b>	New matter.
<b>Progress:</b>	Listed for first mention on 14 January 2014.

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<b>File No:</b>	LP30/13 – Penalty Notice Court Election
<b>Offence:</b>	Own dog uncontrolled in a public place – not dangerous dog
<b>Act:</b>	<i>Companion Animals Act 1998</i>
<b>Costs to date:</b>	\$0.00
<b>Status:</b>	New matter.
<b>Progress:</b>	Listed for first mention on 14 January 2014.

#### **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 22/01/2014)</b>	<b>6</b>
<b>Costs from 1 July 2013 for advice matters</b>	<b>\$10,930.20</b>

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<b>9. Legal Costs Summary</b>		
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	\$23,391.38	\$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	\$35,802.68	\$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	\$795.00	\$0.00
Local Court prosecution matters	\$2,200.00	\$0.00
Matters referred to Council's solicitor for legal advice	\$10,930.20	\$0.00
Miscellaneous costs not shown elsewhere in this table	\$0.00	\$0.00
Costs Sub-Total	\$73,119.26	\$0.00
<b>Overall Net Costs Total (GST exclusive)</b>	<b>\$73,119.26</b>	

### **Officer's Recommendation**

That the information be noted.

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

That the Officer's Recommendation be adopted.

**CARRIED**

### **Council Meeting 11 February 2014 (Greiss/Matheson)**

That the Officer's Recommendation be adopted.

### **Council Resolution Minute Number 4**

That the Officer's Recommendation be adopted.

## **4.2 Companion Animals Regulation, 2008 - Fee Changes**

### **Reporting Officer**

Acting Manager Compliance Services

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### **Attachments**

Nil

### **Purpose**

To inform Council of fee changes imposed under amendments to the Companion Animals Regulation 2008, that commenced 1 January, 2014.

### **History**

Council received advice by way of a Circular from NSW Department of Premier & Cabinet Division of Local Government (DLG) on 18 December 2013 to advise that from 1 January, 2014 cat and dog registration fees were increasing and from 1 July, 2014 those fees will increase annually in line with the Consumer Price Index. The DLG advised that this is the first fee increase since 2006 and forms part of a number of measures being implemented to encourage responsible pet ownership.

### **Report**

Under the amendments to the Companion Animals Regulation 2008, as of 1 January, 2014 the following new fees will apply:

Desexed animal	\$49 (increased from \$40)
Non-desexed animal	\$182 (increased from \$150)
Breeder concession	\$49 (increased from \$40)
Pensioner concession (desexed animal only)	\$19 (increased from \$15)

In addition to the above, the prescribed maximum fee for Council inspections of restricted and dangerous dog enclosures will also increase to \$150 (increased from \$100).

The intent of the above fee increases is to assist councils to deliver responsible pet ownership programs, including the establishment of a new council grants program (over three years) to manage companion animal issues and fund initiatives such as micro-chipping and de-sexing programs.

The council grants program will be funded through the Companion Animals Fund and will require a temporary decrease in the proportion of registration fees remitted to Council from the Fund of 5% between 2014 and 2016.

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### **Officer's Recommendation**

1. That Council adopt the following fees in accordance with the amendments to the Companion Animals Regulation 2008 to apply as and from 1 January, 2014:

Desexed animal	\$49
Non-desexed animal	\$182
Breeder concession	\$49
Pensioner concession (desexed animal only)	\$19
Council inspection of restricted dog/dangerous dog enclosures	\$150

2. That a public notice be advertised in the local papers informing the community of the fee increases outlined in recommendation 1.

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

That the Officer's Recommendation be adopted.

**CARRIED**

### **Council Meeting 11 February 2014 (Greiss/Matheson)**

That the Officer's Recommendation be adopted.

### **Council Resolution Minute Number 4**

That the Officer's Recommendation be adopted.

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## **5. GENERAL BUSINESS**

### **5.1 Impounded dogs**

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

1. That photos of dogs that are impounded be placed on Council's website within two days of their impoundment.
2. That after the Animal Care Facility tender process is completed, the successful tenderer be asked to consider undertaking the process identified in recommendation 1 on their own website.

#### **CARRIED**

#### **Council Meeting 11 February 2014 (Greiss/Matheson)**

That the Committee's Recommendation be adopted.

#### **Amendment (Rowell/Glynn)**

1. That photos of impounded dogs that have no form of owner identification be placed on Council's website within two full working days of the dogs impoundment.
2. That photos of impounded dogs that have owner identification, but are not claimed within 14 days of notice being given of the dog's impoundment, be placed on Council's website on the next full working day after the notice period has expired.
3. That after the Animal Care Facility tender process is completed, the successful tenderer be asked to consider undertaking the process identified in recommendations 1 and 2, on their own website.

#### **Council Resolution Minute Number 4**

That the above amendment be adopted.

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## **5.2 Interim Occupation Certificate**

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

That a detailed report be presented:

- i. outlining the entire history of the Interim Occupation Certificate that was issued to Nustas Demolition and Excavation, Ingleburn.
- ii. detailing all complaints and actions that Council has taken in regards to the complaints.

**CARRIED**

### **Council Meeting 11 February 2014 (Greiss/Matheson)**

That the Committee's Recommendation be adopted.

### **Council Resolution Minute Number 4**

That the above amendment be adopted.

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

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**

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## **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 9.00pm.

G Greiss  
CHAIRPERSON

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