

Reports of the Planning and Environment Committee Meeting held at 7.30pm on Tuesday, 27 May 2014.

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 27 May 2014

Present

His Worship the Mayor, Councillor C Mead
Councillor R Kolkman
Councillor D Lound
Councillor A Matheson
Councillor T Rowell
Councillor R Thompson
General Manager - Mr P Tosi
Director Planning and Environment - Mr J Lawrence
Acting Director Planning and Environment - Mr J Baldwin
Manager Community Resources and Development - Mr B McCausland
Manager Executive Services - Mr N Smolonogov
Manager Waste and Recycling Services - Mr P Macdonald
Acting Manager Development Services - Mr S Barnes
Acting Manager Sustainable City and Environment - Mrs R Winsor
Corporate Support Coordinator - Mr T Rouen
Executive Assistant - Mrs D Taylor

Apologies (Thompson/Lound)

That the apologies from Councillors Greiss and Oates be received and accepted.

CARRIED

Chairperson

In the absence of the Chairperson, Councillor Greiss, His Worship the Mayor, Councillor Mead chaired the meeting.

Acknowledgement of Land

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

DECLARATIONS OF INTEREST

There were no Declarations of Interest at this meeting.

Pecuniary Interests

Nil

Non Pecuniary – Significant Interests

Nil

Non Pecuniary – Less than Significant Interests

Nil

1. WASTE AND RECYCLING SERVICES

1.1 Grant Allocation for a Regional Coordination Support Project

Reporting Officer

Manager Waste and Recycling Services

Attachments

Nil

Purpose

To provide Council with information regarding the awarding of grant funding to the MACROC Councils for a 'Regional Coordination Support' project.

History

In 2012 the NSW Government commissioned an independent review of the waste levy system and its objectives, with a view to reducing waste generation and disposal to landfill, and encouraging increased recycling. One key outcome of the review was the introduction of the 'Waste Less Recycle More' initiative, a \$465.7m package over five years, managed by the NSW Environmental Protection Authority (EPA). A significant portion of this funding is to be distributed by way of both contestable and non-contestable grants to Councils. One such grant was for the 'Regional Coordination Support' project. This grant is made available to regions of Councils for the development of Regional Waste Strategies and implementation of the actions identified in the Strategies.

Report

Councillors would be aware that the Councils of Campbelltown, Camden and Wollondilly already work closely together in relation to the management of a joint domestic waste processing and disposal contract. The three Councils, through MACROC, recently applied for grant funding for the Regional Coordination Support project. The application was successful, and funding was awarded in the sum of \$600,000, to be paid in instalments as follows:

- \$200,000 in early 2014
 - \$120,000 in July 2014
 - \$120,000 in July 2015
 - \$160,000 in July 2016.
-

The first instalment of \$200,000 has been received. The funds are held and administered through MACROC on behalf of the three partner Councils. In the first stage of the funding, a consultant has been engaged to develop a Regional Waste Strategy which must be submitted to the EPA by 30 June 2014. Once the Regional Waste Strategy is complete, the remaining grant funds will be used over the next three years to either engage a consultant or an employee under a fixed-term contract to implement the specific actions identified in the Regional Waste Strategy, to apply for further grants under the Waste Less Recycle More initiative, and to implement the actions required under those grants.

Council will be provided with updated information as significant milestones are met during the period covered under the Waste Less Recycle More initiative.

Officer's Recommendation

That the information be noted.

Committee's Recommendation: (Rowell/Matheson)

That the Officer's Recommendation be adopted.

CARRIED

Council Meeting 3 June 2014 (Mead/Rowell)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 82

That the Officer's Recommendation be adopted.

2. SUSTAINABLE CITY AND ENVIRONMENT

2.1 Maryfields Planning Proposal

Reporting Officer

Manager Sustainable City and Environment

Attachments

1. Location map (contained within this report)
2. Concept Masterplan (contained within this report)
3. Site Constraints Map (contained within this report)
4. Main View of Site – Narellan Road (contained within this report)
5. Draft Planning proposal for referral to the Department of Planning and Environment (contained within this report)

Purpose

To advise Council of a request to prepare for a planning proposal for the rezoning of the "Maryfields" site, Narellan Road Campbelltown, to permit a mix of residential, private open space, and business park uses.

To seek Council's approval to forward the Planning Proposal to NSW Planning and Infrastructure for determination by the Gateway Panel.

Report

Property Description / Ownership:

Lot 1 in DP 1136995	Trustees Assoc Franciscan Order
Lot 1 in DP 247902	Trustees Assoc Franciscan Order
Lot 2 in DP 569795	Trustees Assoc Franciscan Order
Lot 1 DP 575729	Trustees Assoc Franciscan Order
Lot 12 in DP 829093	Trustees Poor Clare Colletines
Lot 13 in DP 1034409	Trustees of the Franciscan Fathers.

Applicant: Capital Syndications

Introduction

Council has received a request for a Planning Proposal relating to the site known as "Maryfields", located at the intersection of Narellan Road and the Hume Motorway currently used for religious activities by the Franciscan Friars and Poor Clare Nuns.

The subject property is an irregular shaped parcel of land comprising six adjoining allotments with a total area of approximately 44 hectares. The majority of the land is zoned 5(a) - 'Special Uses – Monastery' under the provisions of Campbelltown (Urban Area) Local Environmental Plan 2002 (CLEP 2002). There is a residual 6(a) Local Open Space zone on one lot (Lot 2 DP 569795) adjoining the Hume Motorway boundary.

A series of terracotta religious statues known as the 'Stations of the Cross' are located towards the front of the property and are listed under CLEP 2002 as a heritage item of local significance.

The request for Council to prepare a Planning Proposal for the land has been lodged by Capital Syndications Consultants acting on behalf of the land owners. The request seeks the rezoning of the site to allow for a mix of land uses over the site including a business park, residential development, seniors living precinct and private open space areas.

The proposal includes a conceptual Masterplan that illustrates the intended future development layout of the site, however it is noted that this plan is indicative only. Should the proposed rezoning of the land occur, then development under the Masterplan would be subject to future development applications being lodged for detail assessment and determination.

This report reviews the information submitted by the applicant and recommends that Council support the submission of a Planning Proposal to the Department of Planning and Infrastructure for Gateway Determination.

Background

At its meeting on 13 November 2012, Council resolved to nominate the subject site as part of an Urban Activation Precinct (UAP) under the program established by the (then) NSW Department Planning and Infrastructure (the Department). The UAP nomination included adjacent land comprising part of the University of Western Sydney site and part of the Blaxland Road industrial area. The report outlined the common synergies and potential of this centrally located precinct to facilitate housing, employment and business growth for the Campbelltown LGA. The nomination also recognises the potential for the area to contribute towards the consolidation of Campbelltown / Macarthur as a regional city centre.

To date, no decision on the UAP application has been made by the Department. It is also noted that the landowner separately nominated the Maryfields site under a standalone UAP application, however Council understands that this also remains undetermined.

Given the delay in a decision by the Department to proceed with the UAP application(s), the landowners of the Maryfields site have submitted the subject planning proposal to provide for housing and employment growth outcomes on the site consistent with the objectives of the UAP program.

On Tuesday 17 September 2013, consultants acting on behalf of the property owners of the Maryfields site provided a briefing session to Councillors explaining the details of the subject planning proposal and an accompanying conceptual masterplan. On 31 January 2014, the formal request was lodged with Council to consider a planning proposal for the rezoning of the Maryfields site.

The Site

The subject land comprises six adjoining allotments located on the north-eastern junction of Narellan Road and the Hume Motorway. The land is irregular in shape with a total area of approximately 44 hectares, and main frontage to Narellan Road of approximately 800 metres in length.

The property is bounded by the Hume Motorway to the north-west, Maryfields Drive and the residential suburb of Blair Athol to the north-east, Narellan Road to the south and public open space (John Kidd Reserve) to the south-east. Vehicular access to the site is currently restricted to two separate driveway entrances to Narellan Road. (attachment 1).

The land is under the ownership of the Trustees Association of the Franciscan Order of Friars (Friars) and the Trustees Poor Clare Collentines (Poor Clare Nuns).

The site is gently undulating and largely undeveloped, generally comprising a rural landscape of open grasslands with scattered vegetation. There are two ridgelines running west-east across the property, with two intermediate watercourses running west-east from the Hume Motorway boundary and converging to a main dam in the south eastern corner of the site. A series of earth dams have been constructed along the watercourse which meanders adjacent to the Narellan Road property frontage.

The main ridgeline at the rear of the site generally runs for the width of the site, with the front ridgeline or knoll generally limited to the western half. There is an approximate 30 metre height difference across the site, from highpoints of the ridgelines near the western boundary (Hume Motorway) down to the main dam in the south eastern corner. Above ground high voltage electrical lines occupy a 9 metre wide electricity easement crossing the northern corner of the site.

Remnant trees are scattered across the site, with vegetation generally concentrated along the gully lines, internal roads, and near to the perimeter of the property adjacent to Narellan Road and the Hume Motorway.

Existing development on the site is limited, with the two main buildings being the Poor Clare Nuns Bethlehem Monastery located at the central rear, and Friars Residence building sited near the eastern boundary. There is also a guest residence, an asphalt parking area and small cemetery near to the Monastery building, and a caretakers cottage and meeting hall located in the south-western portion of the site. Vehicular access is provided to the existing buildings from an internal driveway which loops around the site from two separate access points to Narellan Road.

A series of terracotta religious statues known as the 'Stations of the Cross' are also located towards the front of the property on Lot 1 DP 247902, and are listed as a heritage item of local significance in the Campbelltown (Urban Area) Local Environmental Plan, 2002.

Concept Masterplan

The subject planning proposal is supported by a concept masterplan that illustrates the intended future subdivision design and land use layout for the site (Attachment 2). The proponent has advised that the development of the site is intended to take place in a staged manner over 8 or more years, so as to allow the resident order of Poor Clare Nuns to remain on the land during the initial stages of development.

The range of land uses proposed under the Masterplan is listed as follows:

- A campus-style business office park
- Residential development comprising of low and medium density residential dwellings
- Seniors living and aged care precinct
- Private recreation zone including creek lines and dams, heritage and park areas
- Neighbourhood Shopping Centre
- A community facility to be operated by the Friars as an interpretative centre.

The Concept Masterplan generally divides the site into four broad areas of land use, with the residential component located in the north and east (adjacent to the suburb of Blair Athol); seniors living and aged care in the west (adjacent to the Hume Motorway); business park and neighbourhood centre in the central part of the site; and the private open space / heritage areas across the front portion of the site adjacent to Narellan Road.

Employment and housing generation outcomes proposed under the Masterplan are summarised as follows:

- Residential Precinct – A total of 620 residential dwellings over 16.5 hectares, comprising 183 low density and 437 medium density residential dwellings. Building heights limited to two storeys near the main ridgeline adjacent to Blair Athol and a maximum height of 3-storeys elsewhere
- Seniors Living / Aged Care Precinct – Approximate area of 8.5 hectares, 260 dwellings and aged care facility that could accommodate up to 100 beds and employ 40 people. Maximum building height is likely to be up to 4-storeys, with building footprints up to 50% of the respective site areas
- Business Precinct – Approximately 12.7ha in area, with an anticipated Gross Floor Area of 52,000m² and 1000 employees. Typically office buildings at 4-storey maximum heights facilitating medical and health based enterprises with a neighbourhood shopping centre. Building footprints to be in the order of 30% of the site area, with the business precinct divided into two main areas (northern and southern) by a riparian corridor of green space
- Neighbourhood Centre - Provision for a centrally located neighbourhood shopping centre near the junction of the three precincts, that is intended to serve the needs of the local catchment. The proponent has identified that this centre could accommodate up to three separate spaces of up to 500m² in aggregate, and that these uses might include a convenience store, café/restaurant and local newsagent.

The indicative road layout shown under the Masterplan restricts the through movement of traffic through the site between Narellan Road and Blair Athol. In this respect, the proposed residential areas would be accessed from the north via the two existing roundabouts on Maryfields Drive through the existing local road network of Blair Athol. The business office park, seniors living /aged care and private recreation areas of the development would be accessed from a single access point at the signalised intersection of Narellan Road and the UWS Access Road.

The proposal also includes a revised layout for the heritage listed Station of the Cross statues for consideration, which would ultimately require the mapping of the current heritage listing to be adjusted. However, it is noted that repositioning and repair works proposed for these statues would require separate development approval.

It is also noted that the Masterplan includes minor boundary adjustments along the Narellan Road frontage proposed by Roads and Maritime Services, associated with the proposed construction of a new slip lane from the Hume Motorway across the south western corner of the site and intersection works with Narellan Road and the adjacent UWS site.

Preferred Rezoning – Draft CLEP 2014

To date, Council has endorsed the preliminary draft CLEP 2014 for the Campbelltown LGA for public exhibition which will occur for 40 business days during June/July/August 2014.

Under the draft CLEP 2014, the subject land is proposed to be included as “Deferred Matters”, meaning that the current zoning under Campbelltown (Urban Area) Local Environmental Plan 2002 would prevail. As noted, the site is presently zoned 5(a) – Special Uses A Zone (Monastery) and one residual parcel of 6(a) - Local Open Space Zone under CLEP 2002.

Given the imminent exhibition of draft CLEP 2014, it is recommended that Council consider the subject proposal as an amendment to this Plan. This approach is preferred to ensure that any rezoning of the land is consistent with the direction that Council is taking on the draft LEP, and also allows for appropriate planning controls under the standard planning instrument with respect to building heights, floor space ratio and lot sizes for the future development of the land envisaged under the Masterplan.

Key planning and strategic issues

The opportunities and constraints affecting the site are illustrated in attachment 3 and the key planning issues relevant to the site are summarised in this section of the report.

The subject proposal has the potential to provide sustainable housing and employment growth outcomes for the Local Government Area within a centrally located site, consistent with the strategic direction of Campbelltown as an emerging regional city.

The following strategic points are presented to Council in support of the planning proposal:

- The proposal is consistent with Council’s endorsement of the site under the Urban Activation Precinct Program to facilitate sustainable housing and employment growth for the City of Campbelltown
 - The site presents a unique opportunity to create a high quality medicine/health based business park for the Campbelltown/Macarthur region that builds upon the synergies of the site with the UWS Faculty of Medicine, Campbelltown Public Hospital and Campbelltown Private Hospital
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- The proposed land use precincts respond to the neighbourhood context of the site, having regard to assimilation of low density housing with the Blair Athol residential suburb to the north, the compatibility of higher density business park and urban housing outcomes with the University of Western Sydney site to the south, and the extension of open space areas adjoining John Kidd Reserve to the east
- The proposal relates to a strategically located and significantly sized landholding that is not frustrated by fragmented ownership patterns
- Promotion of housing diversity and choice for Campbelltown residents within a strategically located site, including the provision of a purpose built living environment for seniors
- Provide opportunities for the improved long term conservation and enhancement of the heritage listed Stations of the Cross religious statues
- Opportunities for the conservation and management of riparian and remnant vegetation areas.

Ecological Constraints

The applicant has provided an ecological constraints assessment conducted by specialist consultants.

Council has considered the information provided by the proponent, and a summary of the assessment and recommendations is provided as follows:

- The majority of the study area comprising cleared land, paddocks, buildings and associated plantings, driveways and tracks was considered to have minimal ecological value
- The main ecological constraint identified comprises the critically endangered ecological community Cumberland Plain Woodland generally located along the gullies and riparian areas of the site
- There is potential habitat for a number of threatened and migratory fauna species
- The site exhibits a number of hollow bearing trees, which if removed would need to be considered as part of the Assessment of Significance process under the *Threatened Species Conservation Act*.

Additional fauna and flora studies are therefore considered necessary to make a sufficiently detailed assessment of significance in accordance with Section 5A of the *EPA Act 1979*, *Threatened Species Assessment Act* and EPBC Act.

It is recommended that consultation occur with the Office of Environment and Heritage (OEH) to ascertain the level of environmental investigations/studies that may be needed and any mitigation or compensation strategies that may be required at the detailed planning proposal stage which would need to occur should a Gateway approval be issued.

Traffic, transport and access

The proponent has submitted a Traffic and Transport Assessment for the planning proposal prepared by specialist engineering consultants. This assessment has considered a range of private and public transport issues for the development of the site generally in accordance with the masterplan, however it is noted that the information has been provided as 'Stage 1' and 'Stage 2' studies which assess different internal road layouts.

In this respect it is noted that the 'Stage 2' Traffic Study fundamentally supersedes the 'Stage 1' Study given significant amendments made to the masterplan layout, namely the reduction of the Business Park from 3000 to 1000 employees, and the separation of vehicular traffic between Narellan Road and Maryfields Drive. These amendments made to the masterplan in the 'Stage 2' study would appear to address some of the traffic concerns raised in early consultation meetings between the proponent and Council.

The traffic analysis is therefore founded upon the division of vehicular access from the north and south with no road connection through the site. As such, the traffic modelling analysis separately examines vehicular generation from the northern and southern precincts within the site, and the respective impacts upon the Blair Athol and Narellan Road systems.

Additionally, the modelling assumes completion of the planned upgrade of Narellan Road by RMS to three lanes and the upgrade of the UWS/Narellan Road intersection which would connect the southern component of the Maryfields site. Upgrades to the two roundabout intersections along Maryfields Drive would also be required to provide suitable connections to the northern residential component of the Maryfields masterplan.

Whilst Council's assessment indicates that the applicant's examination of traffic generation and assignment is generally reasonable, further refinement is considered necessary to accurately reflect the final masterplan road layout.

Other issues identified for further assessment include the impacts of road construction over existing dams and provision of access during times of flood, and provision of bus services throughout the site, particularly to the seniors living area and western part of the proposed business park area.

Visual Impacts

In its present state, the land is largely undeveloped and forms a prominent rural gateway site to the Campbelltown Local Government Area at the junction of the Hume Motorway and Narellan Road. It is therefore considered that any future development on the site needs to be carefully managed to address the potential impacts on the visual character of the area.

A visual analysis study has been prepared by the applicant to examine this matter and has been assessed by Council. This analysis identifies that the visual impacts of the masterplan development would generally be constrained when viewed from surrounding areas due to the topography of the land and location of densely vegetated areas along the perimeter of the site.

With the exception of a small pocket of land located in the north-western corner of the property, views are completely restricted along the Hume Motorway due to the increased elevation of the land between the roadside and western property boundary, and the dense vegetation along this edge which continues at the Narellan Road corner and a substantial portion of the Narellan Road frontage.

Views from the rear (Blair Athol) are generally restricted to the adjoining areas along Maryfields Drive, and are limited to the northern face of the rear ridgeline.

The prominent vista into the site occurs along an approximate 200 metre section of cleared frontage to Narellan Road located opposite the Campus Access Road entry to the University of Western Sydney (UWS) and Campbelltown TAFE entry. This forms the prominent vista into the site as illustrated in Attachment 4, and comprises the main dam in the foreground and the Bethlehem Monastery and Franciscan Friary buildings on elevated land in the distance.

It is important to note however that the characteristics of this vista from Narellan Road will be altered by RMS road works to be undertaken at the existing Narellan Road intersection with the UWS access road. The upgraded intersection at this point is shown on the masterplan as the new consolidated access point from Narellan Road.

It is considered that the visual assessment undertaken by the applicant provides sufficient information for Council to understand the main issues that would need to be addressed should development on the land proceed under the masterplan. In this respect, it is considered that a more detailed visual assessment to determine building heights and footprints on the land would be required to properly manage the visual impact of any future development on the site, with particular emphasis on the prominent vista from Narellan Road at the south-eastern frontage to the main ridge line across the main dam.

Economic Impact Assessment

The proposed business park precinct occupies a substantial area of the site, anticipated to have a gross floor area of 52,000m² and approximately 1000 employees. The business precinct is also proposed to incorporate a neighbourhood retail centre intended to service the local catchment.

In order to assist the finalisation of the planning proposal, it is considered that a detailed economic assessment should be undertaken to confirm the viability of the proposed business park and the positive contribution that the proposal would make to the future of the Campbelltown Regional City Centre as a hub of future economic investment and job creation. This assessment should also inform controls on the scale and mix of retail uses on the site to ensure the development takes into account the retail centre hierarchy and is focused on the serving the needs of the immediate precinct.

European Heritage

The Stations of Cross Statues are collectively listed as an item of local heritage significance under LEP 2002 given their historic, aesthetic and social significance and association with religious worship practices. The Stations of the Cross have particular historical significance to Catholics in Sydney, as the site of regular, well attended Way of the Cross ceremonies from 1936 to 1988, and occasional ceremonies since.

The applicant has provided a Statement of Heritage Impact prepared by Specialist Heritage Consultants, to assess the potential heritage impacts of the Planning Proposal. It is currently proposed to retain and reposition most of the Station of the Cross statues within a reduced curtilage identified in consultation with the Religious Order on the land.

The heritage assessment included specific consideration for repositioning and repair works proposed to the Station of the Cross statues as part of the rezoning of the Maryfields site. Key findings of this are summarised as follows:

- the statues will be repaired and remain on the site as visual cues and as a reminder of the significant event that occurred here. The reduced curtilage and repositioning has been carefully considered so that a sense of the “pilgrimage” and experience of rising to the 12th Station is retained and can continue to be interpreted
- the Statues will continue to occupy an open grassed field with ornamental lakes and ponds, trees and plantings as their backdrop
- improved pathways and vehicular access to the site will provide better use and interpretation of these items on the site.

The repair and reinstatement of the statues within a reconfigured layout under the masterplan is considered to be generally beneficial from a heritage point of view. The proposed integration of the heritage listed statues within an open space area adjacent to seniors living housing would support the improved interpretation and accessibility for these items, and would be consistent with the long term conservation and management of the heritage listed Stations of the Cross Statues.

Details of the proposal have been forwarded to Council’s Heritage Protection Sub Committee for comment and consideration as part of the planning proposal process. In this respect, it is noted that a Conservation Management Plan for the Stations of the Cross Statues would be required for detailed consideration as a requirement of the planning proposal proceeding.

Indigenous Heritage

The applicant has submitted an Aboriginal Heritage and Due Diligence Assessment conducted by Specialist Environment and Heritage Consultants.

The due diligence assessment involved a consideration of background and contextual information and a visual inspection of the subject area with representatives from Cubbitch Barta Native Title Claimants Aboriginal Corporation.

The findings of the assessment identified that the land adjacent to the unnamed creekline has high potential to contain Aboriginal sites and/or objects. This land is less disturbed and in proximity to a water source.

An inspection of the subject area located one Aboriginal heritage site, Maryfields AS1, which contained a broken ground-edge axe. The site inspection also located an area of potential archaeological deposits (PAD), Maryfields PAD1, adjacent to Maryfields AS1.

Maryfields PAD1 has been identified in an area earmarked as a future business precinct.

If future ground disturbance to either Maryfields PAD or AS1 cannot be avoided, further investigations and an Aboriginal Heritage Impact Permit would be required. These issues could be effectively managed in consultation with OEH and would not preclude the rezoning process proceeding at this stage.

Bushfire

The applicant has provided a Bushfire Constraints Assessment Report for the proposed rezoning of the land, prepared by *Australian Bushfire Protection Planners Pty Limited*.

A section of the eastern portion of the land within the proposed residential precinct of the site is identified as containing the buffer zone to bushfire prone vegetation located within the adjoining John Kidd Reserve.

This Bushfire Constraints Assessment undertakes an assessment of the bushfire protection measures required to address the bushfire risk to the proposed residential precinct, seniors living precinct and business park precinct, consistent with the deemed-to satisfy provisions of *Planning for Bushfire Protection 2006*.

The report considers the characteristics of the site, together with the fire protection measures recommended, and concludes that the rezoning and subsequent subdivision of the land for residential, seniors living and commercial development is suitable in terms of bushfire risk. It is considered therefore that the issue of bushfire risk could be effectively managed through the rezoning process and subsequent development assessment.

Acoustic Issues

The applicant has provided a preliminary noise assessment for the proposal, prepared by *Specialist Acoustic Consultants*, to consider potential noise impacts from the adjacent Narellan Road and Hume Highway upon the proposed future land uses. This assessment included consideration of the RMS proposal to extend and modify the Hume Highway southbound off ramp to Narellan Road requiring acquisition of part of the western corner of the subject land.

The preliminary assessment has determined that the northern residential precinct would be impacted by road noise from the Hume Highway and would require noise mitigation measures to be implemented. Whilst the analysis identified that noise criteria could potentially be achieved by incorporating building facade treatments or acoustic shielding from higher density buildings, the preference was to install a noise barrier along the Hume Highway boundary at an estimated height of 4 – 5 metres.

It is therefore considered that further assessment of proposed acoustic measures for future development on the land would be required should a Gateway approval be issued. This would need to include where relevant, the visual impacts of any required acoustic walls.

Stormwater/Drainage

Stormwater runoff from future development is proposed to be discharged to the existing watercourses via appropriate pollution control measures. However, the applicant has only provided a preliminary assessment of drainage and stormwater management required to service future development under the concept masterplan. Further investigation and stormwater modelling is therefore considered necessary to determine the sizing and location of stormwater infrastructure required, and any associated service corridors and easements.

Servicing

Reports provided by the applicant indicate that there are no servicing issues that would preclude the rezoning of the site, and are summarised as follows:

Sewerage - Gravity Drainage of all 'Ground Floor Areas' can be achieved by utilizing the 3 existing Sewer Drainage connections. A meeting was held 4 December 2013 with Sydney Water's Growth Strategy Team. It was concluded that the proposed systems work from a gravity/logical' point of view. Additional studies would need to be carried out to assess the impact on the existing Infrastructure beyond the property boundaries and confirm servicing capability.

Water Supply - it was concluded that Water can be supplied to the proposed site. However, additional studies would need to be carried out to assess the impact on the existing Infrastructure beyond the Property Boundaries.

Natural Gas - gas can be supplied to the proposed site. Additional studies would need to be carried out to assess the impact on the existing Infrastructure beyond the property boundaries and confirm service capability.

Contamination

A preliminary Environmental Site Investigation has been prepared by a Specialist Engineer to assess the potential for contamination from past and present activities, and identify possible constraints on future development. Analysis included a desk top review of past land uses, and limited site analysis and ground soil testing.

The issues examined included potential contamination from past agricultural uses (chemicals, fuel storage), introduced fill, past demolition works, septic tank and effluent disposal, and cemetery use.

The report concludes that there is a low potential for some contamination of portions of the site to have occurred as a result of past and present activities. However, the potential contamination is unlikely to be of such a scale or occurrence that common remediation or management techniques could not render the site suitable for the proposed use.

It is therefore considered that the rezoning process could proceed subject to consultation with the OEH to determine any site specific remediation requirements in order to accommodate the proposed uses.

Geotechnical Considerations

A preliminary geotechnical report has been provided by the applicant, prepared by Geo-Environmental Engineering, to assess the constraints for development on the site as a result of past filling and earthworks over the land.

The report gave consideration to areas of potential instability, namely the existing dams, embankments associated with existing buildings, and earthworks associated with the internal roadway. The assessment also included an assessment of sub-surface conditions, mines subsidence records, geological features, slope gradients, and visual analysis to determine areas of potential instability.

The report concludes that the proposed rezoning and subsequent development is considered feasible subject to engineering design and further assessment of risks being undertaken for future subdivision and earthworks. This would require detailed geotechnical investigations being undertaken as part of specific development proposals, and provisions included in the relevant planning instruments to require these investigations to be carried out.

Open Space and Recreation

A broad review of the open space and recreation opportunities for the Maryfields site has been undertaken by Specialist Planners on behalf of the applicant. The analysis has been based upon the masterplan, and examines the potential demand for open space and recreation facility supply to meet the future needs of the potential demographic character of the area.

The main outcome of the assessment is that the provision of any playing fields or outdoor courts for organised sports within the Maryfields site is not justified based upon the relatively small population and good provision of sportsgrounds in the surrounding area.

However, neighbourhood and local open space would be required to cater for local needs, with an emphasis on walkways, bike paths and recreation areas. The analysis determines that an overall provision of 8.28 hectares of open space would be required to adequately meet the needs of the projected population.

Whilst the masterplan layout provides a sufficient volume of open space throughout the site, it is considered that further details would be required to ensure the design and proposed management of these spaces is appropriate. This would include the proposed manner in which these spaces are to be embellished and managed in perpetuity. Other specific issues which would need to be addressed include the following:

- Proposed embellishment of the water bodies adjacent to the Narellan Road frontage, given their potential to provide an important recreation and natural area resource for the community
 - Connection and treatment of recreation and open space areas to the Stations of the Cross heritage items, so as to reinforce the heritage values of the site
 - Conservation of existing treed areas within parks and streetscapes
-

- Inclusion and management of the existing nun's cemetery within open space
- Opportunities to create public realm spaces within the business park precinct and connection of these spaces with existing clusters of trees
- Other parks and streetscapes could be connected to trees to provide appealing settings.

It is therefore considered that further assessment of proposed open space and recreation issues would be required prior to any public exhibition of the proposal.

Conclusion

The subject planning proposal presents a unique opportunity to promote housing and employment growth on a strategically important site within the Campbelltown LGA. The site has strong connections to road and rail infrastructure, and is in close proximity to the Campbelltown/Macarthur central business areas, and would contribute towards the centre's status and viability as Regional City Centre.

The business park concept reflects the synergies of the site with existing surrounding development and infrastructure, namely the regionally significant public and private hospitals and tertiary educational facilities.

The proposed rezoning of the land is consistent with Council's recent endorsement of the site for inclusion under the Urban Activation Precinct Program, which endorsed the site for housing and employment growth in conjunction with the adjacent UWS site and underutilised industrial land in Blaxland Road.

The site is prominently located at the junction of Narellan Road and the Hume Motorway, and forms a key gateway site to the Campbelltown LGA. Furthermore, the site also exhibits significant heritage and ecological values. Further assessment would be required to determine how these site attributes should be appropriately managed as part of the rezoning process. If Council decides to support this planning proposal request, then it would be necessary for further technical documentation to be prepared and assessed prior to any public exhibition of the proposal.

Staff have prepared a draft planning proposal based on the information provided by the applicant for Council's consideration for endorsement and subsequent lodgement with the Department for determination by the Gateway Panel – refer attachment 5.

At this stage it is recommended that the draft Planning Proposal be considered as a Standard Planning Instrument LEP with the aim of being merged into Council's draft CLEP 2014. This option would allow a greater suite of planning controls to be considered in accordance with the Standard Instrument LEP template.

It is anticipated that this issue would be clarified by the Department's Gateway Panel in their response/determination should Council support the draft Planning Proposal for further consideration.

Upon receipt of a draft planning proposal that has been endorsed by Council, the Department of Planning and Infrastructure's Gateway Panel would issue a determination which will specify whether the proposal should proceed, and if so under what circumstances. Generally, if the proposal is supported by the Panel then the determination would advise what further studies would be required, which State or Commonwealth Public Authorities would need to be consulted, and the times within which the various stages of the procedure for the making of the proposed LEP amendment are to be completed.

As such if the draft planning proposal is supported by both the Council and the Gateway Panel, then a further report would be prepared for Council's consideration, prior to the public exhibition of any planning documentation for this proposed LEP amendment.

Officer's Recommendation

1. That Council endorse the draft planning proposal for the rezoning of Maryfields to generally enable land use outcomes as presented by this report and lodge the draft Planning Proposal with the Department of Planning and Infrastructure for determination by the Gateway Panel.
2. That Council advise the applicant of Council's decision.

Committee Note: The applicant, Mr Camenzuli addressed the Committee regarding the proposal.

Committee's Recommendation: (Kolkman/Mead)

That the Officer's Recommendation be adopted.

CARRIED

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

Voting against the Committee's Recommendation: Nil.

Council Meeting 3 June 2014 (Mead/Rowell)

Having declared an interest in regard to Item 2.1, Councillor Hawker left the Chamber and did not take part in debate nor vote on this item.

Council Meeting 3 June 2014 (Mead/Rowell)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 83

That the Officer's Recommendation be adopted.

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

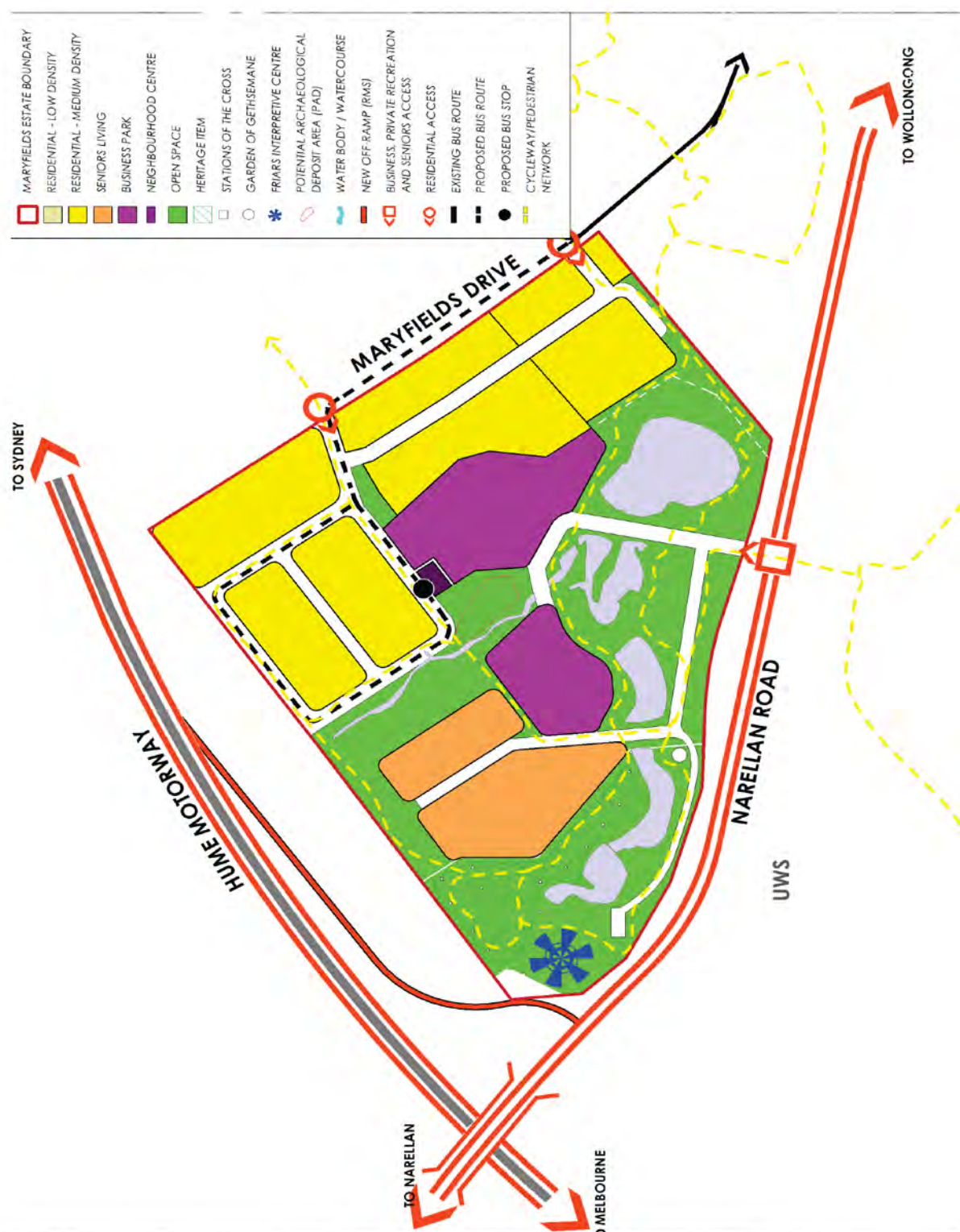
Voting against the Council Resolution: Nil.

At the conclusion of the discussion regarding Item 2.1, Councillor Hawker returned to the Chamber.

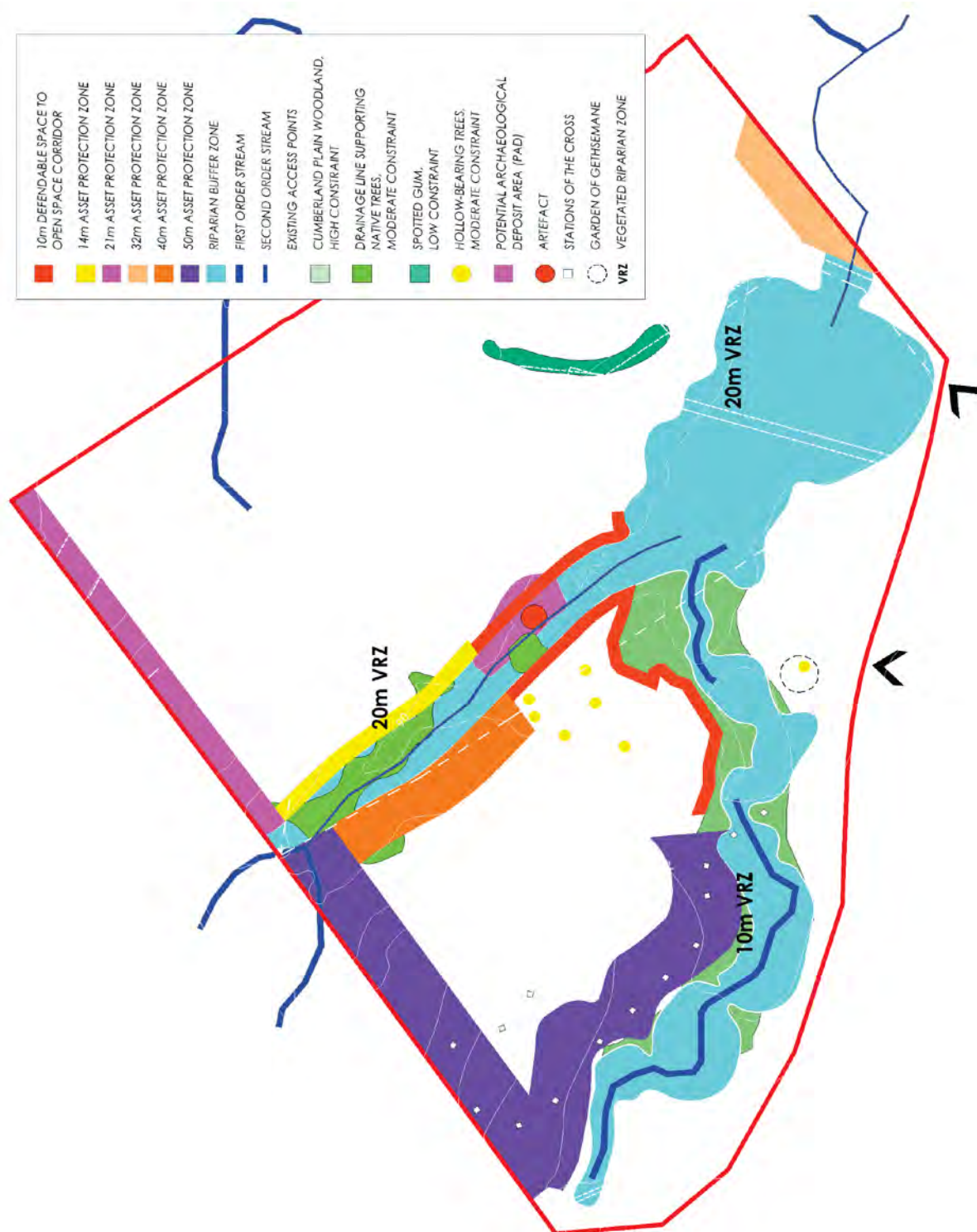
ATTACHMENT 1



ATTACHMENT 2



ATTACHMENT 3



ATTACHMENT 4



ATTACHMENT 5

Campbelltown City Council – Planning Proposal for Maryfields

Name of Proposal

Amendment of Draft Campbelltown Local Environmental Plan 2014 – Proposed Rezoning of Maryfields, Narellan Road, Campbelltown.

Introduction

The subject planning proposal relates to land of approximately 44 hectares in area located at the junction of Narellan Road and the Hume Motorway, Campbelltown. The site is shown in Figure 1 and comprises the following lots:

- Lot 1 in DP 1136995
- Lot 1 in DP 247902
- Lot 2 in DP 569795
- Lot 1 DP 575729
- Lot 12 in DP 829093
- Lot 13 in DP 1034409

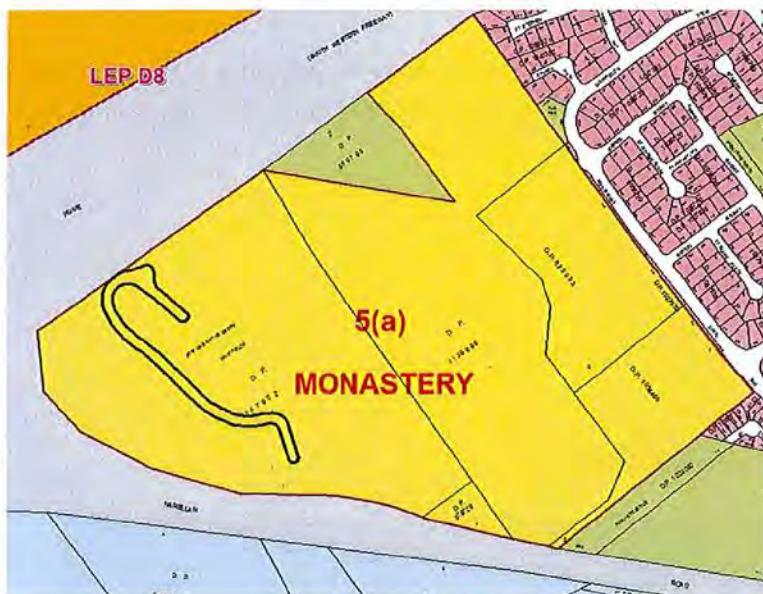
Figure 1: Area subject to the Planning Proposal



The majority of the subject site is currently zoned 5(a) Special Uses – Monastery under Campbelltown Local Environmental Plan 2002 (LEP 2002). A minor portion of the site (Lot 2 in DP 569795) adjoining the Hume Motorway boundary is zoned 6 (a) Local Open Zone under the same Plan.

The land is also partly affected by a local heritage listing under the provisions of LEP 2002. A copy of the LEP 2002 zoning map is shown below.

Figure 2: Campbelltown (Urban Area) Local Environmental Plan 2002 – Zoning Map Extract



Part 1 – Objectives or Intended Outcomes

The objectives for this planning proposal are as follows:

- (i) promote a balanced mix of sustainable housing and economic growth outcomes;
- (ii) provide the opportunity for the master planned development of the land comprising a mix of housing lots, aged care and seniors housing, and establishment of a health and technology based business park;
- (iii) protect and enhance the heritage and ecological values of the site.

Council is currently in the process of exhibiting draft Campbelltown Local Environmental Plan 2014 (*draft CLEP 2014*) following the preliminary endorsement of the Plan by the Department of Planning and Infrastructure (the Department).

Given the imminent progress of *draft CLEP 2014* to public exhibition, Council supports the option of incorporating this Planning Proposal within the draft CLEP 2014 rather than seeking an amendment to the soon to be superseded LEP 2002. This option would also provide greater certainty for development outcomes on the land relating to height, floor space ratio, and lot sizes which can be included in the *draft CLEP 2014* in accordance with the Standard Instrument LEP template provisions, rather than relying upon separate DCP guidelines to accompany LEP 2002.

It is anticipated that as the subject Planning Proposal progresses, Council will be guided by further advice from the Department on the best mechanism to achieve the intended outcomes for the site.

Part 2: Explanation of provisions

Concept Masterplan

The subject planning proposal is supported by a concept masterplan that indicates the intended future subdivision design and land use layout for the site (Figure 3).

Figure 3: Conceptual Masterplan



The range of land uses proposed under the Masterplan is listed as follows:

- A campus-style business office park;
- Residential dwellings comprising of low and medium density residential dwellings;
- Seniors living and aged care precinct;
- Private recreation zone including creek lines and dams, heritage and park areas;
- Neighbourhood Shopping Centre;
- A community facility to be operated by the Friars as an interpretative centre.

The Concept Masterplan generally divides the site into four broad areas of land use, with the residential component located in the north and east (adjacent Blair Athol), seniors living and aged care in the west (adjacent Hume Motorway), business park and neighbourhood centre in the central part of the site, and the open space / heritage areas across the front portion of the site adjacent to Narellan Road.

Employment and housing generation outcomes envisaged under the Masterplan are summarised as follows:

- Residential Precinct – A total of 620 residential dwellings over 16.5 hectares, comprising 183 low density and 437 medium density residential dwellings. Building heights limited to two storeys on the Blair Athol side of the main ridgeline and a maximum height of three storeys elsewhere.
- Seniors Living / Aged Care Precinct – Approximate area of 8.5 hectares, 260 senior living dwellings, and aged care facility that could accommodate up to 100 beds and employ 40 people. Maximum building height is likely to be up to four storeys, with up to 50% of site area as building footprint.
- Business Precinct – Approximately 12.7 hectares in area, with an anticipated GFA of 52,000m² and 1000 employees. Typically office buildings at four storey maximum heights facilitating medical and health research based enterprises. A neighbourhood shopping centre. Building footprints to be in the order of 30% of the site areas, with the business precinct divided into two main areas (northern and southern) by a riparian corridor of green space.
- Neighbourhood Centre - Provision for a centrally located neighbourhood shopping centre near the junction of the three precincts, that is intended to serve the needs of the local catchment. The proponent has identified that this centre could accommodate up to three separate spaces of up to 500m² in aggregate, and that these uses might include a convenience store, café/restaurant and local newsagent.

The indicative road layout shown under the Masterplan restricts the through movement of traffic through the site between Narellan Road and Blair Athol. In this respect, the proposed residential areas would be accessed from the north via the two existing roundabouts on Maryfields Drive through the existing local road network of Blair Athol. The business office park, seniors living /aged care and private recreation sites of the development would be accessed from a single access point at a reconfigured signalised intersection with Narellan Road and the UWS Access Road.

The proposal also includes a revised layout of the heritage listed Station of the Cross statues for consideration, which would ultimately require spatial adjustment of the physical statues.

It is also noted that the Masterplan includes minor boundary adjustments along the Narellan Road frontage proposed by RMS, associated with the proposed construction of a new slip lane from the Hume Motorway across the south western corner of the site and intersection works with Narellan Road and the adjacent UWS site.

Environmental Studies

The subject planning proposal is supported by a number of environmental and technical studies that provide a preliminary assessment of the likely impacts of development occurring in accordance with the conceptual masterplan. There are no issues identified in these studies that would preclude the planning proposal proceeding.

Should the planning proposal proceed, further assessment would be required to refine the preliminary assessments already undertaken and provide additional information to support the final planning proposal. These would include the following matters:

- Traffic impact assessment and management
- Public transport assessment
- Ecological impacts and conservation recommendations
- Stormwater management and flood risk assessment
- Management and ownership of open space areas
- Indigenous heritage
- Non-indigenous heritage
- Noise Impacts and acoustic controls
- Bushfire risk assessment
- Contamination
- Geotechnical assessment, including salinity and dam stability
- Visual impacts
- Economic impact justification and assessment
- Service infrastructure and capacity

The traffic impact assessment would need to include further investigation of road design and infrastructure improvements required to adequately service future development, including connectivity with Narellan Road and Blair Athol and consideration of traffic infrastructure upgrades required in conjunction with the adjacent UWS Masterplan development.

All dams on site are proposed to remain in private ownership. The owners will be required to seek Dam Safety Committee requirements for these water bodies.

The preliminary ecological assessment has identified that the site includes remnant Cumberland Plain Woodland which is a critically endangered ecological community. There is also considered to be potential habitat for a number of threatened and migratory fauna species. Consequently,

additional ecological assessment would be required to include targeted surveys for these species, and consideration given to the protecting sensitive areas within an appropriate environmental protection zone. Consideration will also need to be made of bushfire risk management requirements that may impact upon ecological conservation areas.

The site represents an iconic gateway site to Campbelltown, and particular attention will be required to examine in detail the management of future development on the site so as to not adversely impact the main focal point from Narellan Road across the main water body at the south-west corner of the property.

The outcome of these studies would be used to accurately define the proposed zone boundaries, land use parameters, and associated planning controls under the Standard Instrument LEP template. The final planning proposal would therefore need to consider the proposed amendments to *draft CLEP 2014* that would be required to accommodate these changes.

Part 3 – Justification

Section A – Need for the planning proposal

1. Is the planning proposal a result of any strategic study or report?

The planning proposal is consistent with State, draft Sub-regional and local planning strategies relating to housing and employment.

The Metropolitan Plan for Sydney 2036 identifies Campbelltown-Macarthur as a major centre, with potential to emerge as a regional city. Under this Plan 11,000 additional jobs are forecast for the 2006 – 2031 period, with a specific action of employment growth in health and education services.

The draft South West Sub-regional Strategy establishes a housing target for the Campbelltown-Macarthur of approximately 25,000 additional dwellings, with almost 20,000 in the form of infill development, and a target of 26,000 jobs for the Campbelltown LGA by 2031, with at least 8,000 jobs within this Centre.

The Campbelltown Employment Lands Review, prepared for Council by specialist consultants Strategic Economics and Cox Richardson in 2010-2011, reinforces the importance of the Centre for job creation and the potential of land within the precinct to accommodate a future business park linked to the area's established education and medical facilities.

On 20 November 2012, Council considered a report discussing the importance of identifying strategic sites within the Campbelltown Local Government Area (LGA) for future employment purposes. The subject land was included in a broader precinct identified as having significant potential for a business park to compliment the growth of the Campbelltown Centre as a major employment hub. Council subsequently nominated the subject land within the 'North Side' Urban Activation Precinct application which has been submitted to the Department for consideration.

As noted in Part 2, further technical studies will be prepared to ensure that the subject site is capable of being developed as envisaged under the Concept Masterplan.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The existing zoning of the Maryfields site prohibits the intended land use outcomes envisaged under the conceptual masterplan accompanying the subject planning proposal.

Council is currently in the process of exhibiting the draft comprehensive local environmental plan to cover the entire Campbelltown Local Government Area, however the zoning of the subject land is not proposed to change under the draft Plan. Accordingly, it is considered that the best means of achieving the objectives of the planning proposal would be to prepare an amendment to *draft CLEP 2014*.

3. Will the net community benefit outweigh the cost of implementing and administering the planning proposal?

The Planning Proposal will likely provide a net community benefit in that:

- The intended future development of the site is consistent with State, regional and local strategic directions for development in the area.
- The rezoning of the land will logically extend the urban footprint of residential development to the north (Blair Athol).
- The proposed business park will promote employment growth and be complementary to existing health and educational facilities nearby.
- The proposal will increase housing choice and supply in the Campbelltown LGA supporting existing social and transport infrastructure surrounding the site.
- The proposal will contribute to the sustainable management of important heritage and ecological assets on the site.

Section B – Relationship to strategic planning framework

4. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies).

Metropolitan Plan for Sydney 2036

The proposal is consistent with the Metropolitan Strategy in that it contributes to achievement of a housing target of 155,000 homes by 2036 for the South West, and employment growth of 11,000 additional jobs for the Campbelltown-Macarthur area.

The proposal is also consistent with Action E2.5 of the Metropolitan Plan, which identifies the potential for specialised centres to cluster together health, aged care, education and R&D facilities to improve efficiencies and foster innovation.

Draft South West Subregional Strategy

The draft South West Subregional Strategy aims to provide 24,653 new dwellings in the Campbelltown LGA by 2031, with 4,700 of these dwellings in Campbelltown greenfield release areas. An employment target of 26,000 additional jobs is also proposed for the Campbelltown LGA.

Campbelltown–Macarthur is classified as a Major Centre servicing the South West subregion, requiring housing and employment growth. The planning proposal is therefore considered to be consistent with the aims of both the Metropolitan Plan and the Draft South West Subregional Strategy given the significant employment, aged care and housing outcomes proposed.

5. Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

Campbelltown 2025 – Looking Forward is Council's Strategic Vision which provides a platform for the LGA's sustainable future. It is underpinned by six Strategic Directions which are summarised as follows:

- Protection and enhancement of the City's Key Environmental Assets
- Growth as a Regional City
- Creation of a Distinctive Campbelltown Sense of Place
- An Accessible City
- Provision and maintenance of quality Infrastructure
- Creation of Educational, Employment and Entrepreneurial Opportunities

Campbelltown's Community Strategic Plan 2013 – 2023 is built on the foundation goals and aspirations of the 2025 Strategic Vision, and is based on the following overarching objectives:

- A sustainable environment
- A strong local economy
- An accessible City
- Responsible leadership
- A safe healthy and connected community.

The subject planning proposal is considered to be consistent with the abovementioned Strategies of Council, given that the proposal would provide a more efficient and sustainable urban land use outcome on an underutilised site that is strategically located near the Campbelltown-Macarthur Centre, significant transport systems and infrastructure investment.

6. Is the planning proposal consistent with applicable state environmental planning policies?

It is considered that the planning proposal is consistent with all applicable state environmental planning policies (SEPPs) being:

SEPP No 1 – Development Standards
SEPP No 19 – Bushland in Urban Areas
SEPP No 44 – Koala Habitat Protection
SEPP No 55 – Remediation of Land
SEPP Affordable Rental Housing 2009
SEPP Building Sustainability Index – BASIX 2004
SEPP Housing for Seniors or People with a Disability 2004
SEPP Infrastructure 2007

However, it is noted that some additional technical studies would be required to inform the final planning proposal for public exhibition purposes, and would therefore be subject to further evaluation to determine consistency with all relevant SEPPs.

7. Is the planning proposal consistent with applicable Ministerial Directions (s117 directions)?

Yes. Details of the planning proposal and consistency with applicable s117 directions are summarised as follows:

1.1 Business and industrial zones	The Maryfields planning proposal is considered consistent with this direction as it proposes employment land in a suitable location. Further economic assessment is required to ensure that the proposal is consistent with the retail hierarchy of existing commercial centres.
2.3 Heritage conservation	The Maryfields planning proposal is considered consistent with this direction as it incorporates the conservation of listed heritage items and would be subject to the preparation of a Conservation Management Plan.
3.1 Residential zones	The Maryfields planning proposal is considered consistent with this direction as it would facilitate a variety and choice of housing types to provide for existing and future housing needs, and make more efficient use of existing infrastructure and services without adverse environmental impacts.
3.3 Home occupations	The Maryfields planning proposal is not inconsistent with this direction.
3.4 Integrating land use and transport	The Maryfields planning proposal is considered consistent with this direction as it would provide

	housing and employment opportunities within an area that is readily accessible to transport infrastructure, including public transport services.
4.1 Acid sulfate soils	The Maryfields planning proposal is considered consistent with this direction as the site does not contain acid sulfate soils.
4.2 Mine Subsidence and Unstable Land	The Maryfields planning proposal is considered consistent with this direction as the site is not identified as being subject to mine subsidence or identified as unstable land.
4.3 Flood prone land	The Maryfields planning proposal is considered consistent with this direction as it will seek to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005. Road construction would be required within a potential flood prone area, however the future design of that road would be required to comply with the Flood Policy and Manual as appropriate.
4.4 Planning for bushfire protection	The Maryfields planning proposal is considered consistent with this direction as it allows for appropriate defensible spaces and asset protection zones in accordance with the Planning for Bushfire Protection 2006 Guidelines.
5.1 Implementation of regional strategies	The Maryfields planning proposal is considered consistent with this direction as it seeks to meet the regional strategy vision, land use strategy, policies, outcomes and actions.
6.2 Reserving land for public purposes	The Maryfields planning proposal is not considered to be inconsistent with this direction subject to Departmental approval to alter the existing Local Open Space Zone for Lot 2 DP 569795. Further consideration with respect to the provision of land for public purposes will occur during the rezoning process.
6.3 Site Specific Provisions	The Maryfields planning proposal is to be consistent with this direction.
7.1 Implementation of the Metropolitan Plan for Sydney 2036	The Maryfields planning proposal is considered consistent with this direction as it generally complies with the vision, transport and land use strategy, policies, outcomes and actions

	contained in the Metropolitan Plan for Sydney 2036.
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Section C – Environmental, social and economic impact.

8. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

A preliminary ecological assessment has been undertaken for the proposal and has identified that the site includes remnant Cumberland Plain Woodland which is a critically endangered ecological community. There is also considered to be potential habitat for a number of threatened and migratory fauna species.

The conceptual layout of future development on the land generally conserves the most sensitive ecological areas within undeveloped open space and riparian areas. It is therefore considered unlikely that the proposal would have an adverse impact on the remnant Cumberland Plain Woodland or any potential habitat for threatened species.

However it is noted that some additional assessment of potential ecological impacts on possible threatened species would need to be undertaken, and measures identified in the detailed planning proposal for their management.

9. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

The planning proposal provides a conceptual masterplan for future development on the site, which is supported by a number of preliminary environmental and technical studies. It is considered that this information provides a sufficient understanding of the likely environmental effects of the proposal for the purposes of commencing the planning proposal process. In this respect, some additional detailed environmental, heritage and technical studies would be required for the final planning proposal.

10. How has the planning proposal adequately addressed any social and economic effects?

The planning proposal has provided a broad assessment of the social and economic effects of development proceeding on the site generally in accordance with the accompanying masterplan. These potential impacts are considered to be generally beneficial having regard to the following matters:

- Provision of a range of housing types and living situations, including aged care and seniors living, that respond to the needs of the changing population.
 - Provision of a development outcome that protects and enhances social and local cultural amenity and identity through the integration and management of listed heritage items;
-

- Broadening and stimulating economic growth with the development of a business park that capitalises on existing higher order education and medical precincts in Campbelltown / Macarthur;
- Provision of new recreation places and spaces, and improved connections for pedestrians and cyclists, particularly with Blair Athol and John Kidd Reserve.

In order to properly inform the final planning proposal, it is considered that a detailed economic impact assessment would need to be undertaken to provide appropriate justification and analysis of the proposed business park precinct. This should include consideration of the market viability of proposed extent of commercial floor space, and where necessary, appropriate site and land use controls to ensure that the business park can operate sustainably as intended.

In addition, it is considered that the economic impact assessment should also examine the form and function of the proposed neighbourhood retail centre to ensure that it only serves the needs of the immediate area, and does not conflict with the hierarchy of higher order business and retail centres in the Campbelltown / Macarthur area.

Section D – State and Commonwealth interests.

11. Is there adequate public infrastructure for the planning proposal?

Initial investigations have noted that the subject site can be serviced with water, sewer, stormwater drainage, electricity, gas and telecommunication facilities. However, the relevant technical studies required for the final planning proposal would address availability of adequate public infrastructure to service the proposed future development of this site.

12. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

This issue should be addressed when Council receives the gateway determination.

Part 4 – Community Consultation

It is expected that the preparation of a Planning Proposal for the site to generally enable the land uses identified in the masterplan would be subject to the normal statutory period of a minimum 28 days for public exhibition.

3. DEVELOPMENT SERVICES

3.1 Development Services Section Statistics April 2014

Reporting Officer

Manager Development Services

Attachments

Development Services application statistics for April 2014 (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 April 2014 as they affect the Development Services section.

Officer's Recommendation

That the information be noted.

Committee's Recommendation: (Lound/Thompson)

That the Officer's Recommendation be adopted.

CARRIED

Council Meeting 3 June 2014 (Mead/Rowell)

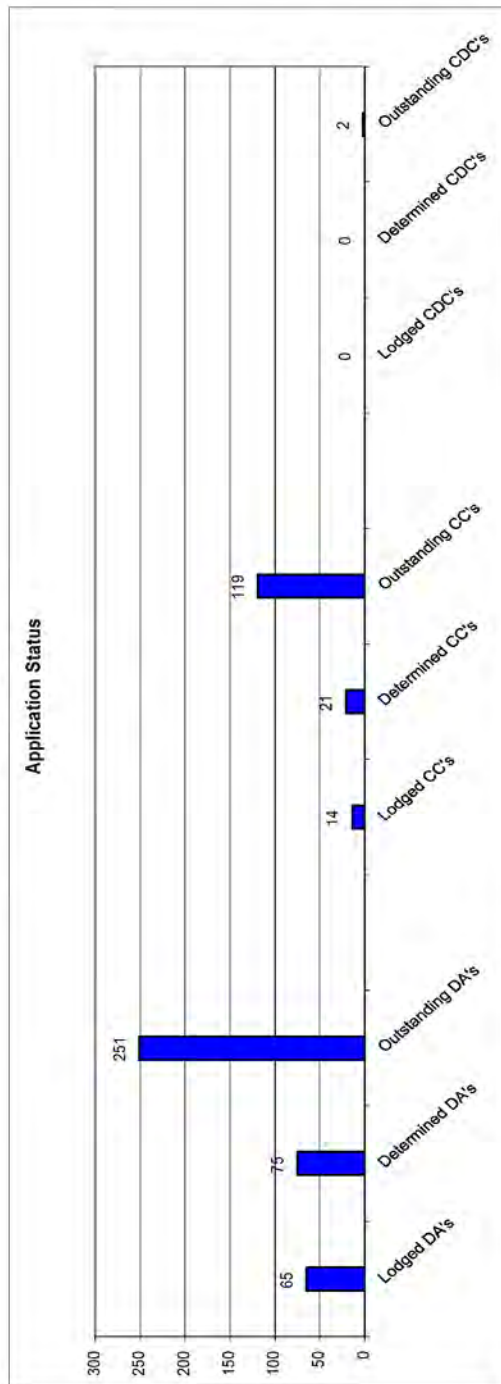
That the Officer's Recommendation be adopted.

Council Resolution Minute Number 82

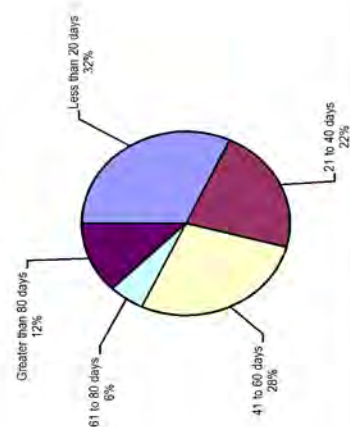
That the Officer's Recommendation be adopted.

ATTACHMENT 1

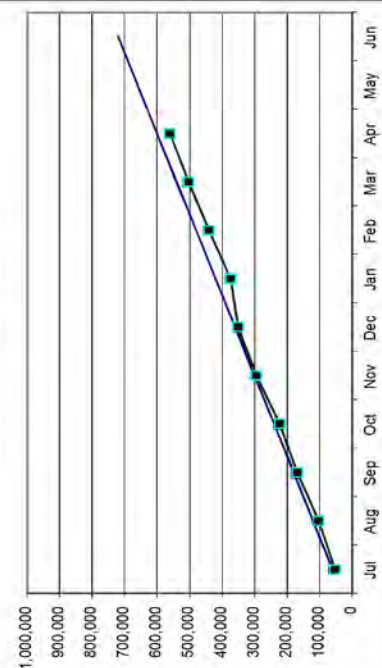
DEVELOPMENT SERVICES SECTION MONTH AT A GLANCE – April 2014



Development Application Monthly Processing Times



Development Application Income



3.2 No. 16 Kerr Road, Ingleburn - Use Of An Existing Industrial Building As A Waste Processing And Storage Facility

3.2 No. 16 Kerr Road, Ingleburn - Use of an existing industrial building as a waste processing and storage facility

Reporting Officer

Manager Development Services

Attachments

1. Recommended conditions of consent (contained within this report)
2. Locality Plan (contained within this report)
3. Floor Plan (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*.

Property Description	Lot 16 DP 717203, No. 16 Kerr Road, Ingleburn
Application No	1113/2013/DA-DE
Applicant	Benbow Environmental
Owner	J.W., S.L., C.M. and T.J. Baillie
Statutory Provisions	Environmental Planning and Assessment Regulation 2000 State Environmental Planning Policy No. 33 – Hazardous and Offensive Development State Environmental Planning Policy No. 55 – Remediation of Land Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment Campbelltown (Urban Area) Local Environmental Plan 2002 Campbelltown (Sustainable City) Development Control Plan
Other Provisions	Campbelltown 2025 – ‘Looking Forward’
Date Received	27 May 2013

History

Council considered a report on the development proposal at its Ordinary Meeting held on 29 April 2014. 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.

3.2 No. 16 Kerr Road, Ingleburn - Use Of An Existing Industrial Building As A Waste Processing And Storage Facility

An inspection was undertaken on 20 May 2014 to which both applicant and objectors were invited to attend.

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 29 April 2014.

A number of development applications have been granted development consent at the subject site over several years, either by Council or the Land and Environment Court. Briefly, the following relevant development consents are considered to be 'active' at the site and relate to the current proposal:

- Development Consent F/491/2002 – Erection of a truck workshop and office

This development consent relates to the construction of a building containing truck workshop bays, offices and amenities. The proposal also included the construction and use of several parts of the land for truck parking and other storage. The building was constructed following issue of a construction certificate by a private certifier in 2003 and was issued with an interim occupation certificate by a private certifier in March 2005. The building is located in the eastern portion of the site, where it is closest to the Main Southern Railway and is currently in use for truck repairs and other ancillary activities.

- Development Consent 336/2006/DA-DE – Construction of a concrete batching and masonry products manufacturing plant

Council resolved to refuse the subject application at its Ordinary Meeting held in June 2006. The application was refused for several reasons which predominantly related to the site's physical appearance, its potential to impact on the amenity of neighbours and the development's failure to demonstrate acceptable capture and disposal of stormwater.

Following the lodgement of an appeal against Council's refusal determination, the Land and Environment Court subsequently approved the application in March 2007. The approval was issued with several conditions which related to the operation of the proposed batching and masonry products manufacturing plant, the construction of the building in which it would be located and landscaping and finishing of the site in general.

The construction of the building was commenced following issue of a construction certificate by a private certifier in February 2008. Council has not been provided with any supplementary compliance certificates nor an occupation certificate to suggest that the building has been completed.

Officers are not aware that concrete batching or masonry products manufacturing has commenced at the site.

3.2 No. 16 Kerr Road, Ingleburn - Use Of An Existing Industrial Building As A Waste Processing And Storage Facility

In addition to the abovementioned consents and their subsequent development of the site, Council, in conjunction with the NSW Environmental Protection Authority (EPA) and NSW WorkCover, have attended the site during June 2013 as part of a joint inspection. The inspection was undertaken following reports that use of the site as a waste transfer and resource recovery facility had commenced without development consent and that dust was leaving the site and affecting nearby properties.

During the inspection, officers from the three agencies noted that a significant amount of demolition and organic waste was being stored and sorted at the site, including what appeared to be materials that had the potential to contain asbestos.

Subsequent to this discovery, Council issued an Emergency Order to cease use of the site. In addition, the EPA issued a 'Notice of Clean-Up Action', which contained several requirements including (but not limited to) that all asbestos containing material be removed from the site and a clearance certificate be issued by the EPA to verify that such material had been removed and lawfully disposed of.

The clean-up action was followed up by the EPA and the last correspondence received by Council in January 2014 confirmed that the waste had been removed and the site had been 'cleared' from contamination, although subject to receiving further advice from its internal legal section, the EPA had not yet issued the clearance certificate.

On 11 March 2014, Council received written advice from an independent professional engaged by the tenant of the property that the site has been cleared of all asbestos containing material, which has been verified by a NATA accredited laboratory that tested soil samples taken from the site during a targeted survey.

Council has advised the tenant to forward the information to the EPA so it can continue its role as the agency in charge of pursuing the clean-up of the site.

Report

A development application has been received to use the subject site as a waste transfer, processing and resource recovery facility. The waste transfer, processing and resource recovery facility would be operated within the confines of an existing building at the subject site, known as No. 16 Kerr Road, Ingleburn.

The application was made following Council's inspection of the property which revealed that it was being used for the subject purpose without development consent. Following issue of an emergency order to cease use of the premises, the site has not been used for the purpose of the waste transfer and sorting facility, aside from the 'clean-up' of the waste that was unlawfully transported there prior to Council's Order.

3.2 No. 16 Kerr Road, Ingleburn - Use Of An Existing Industrial Building As A Waste Processing And Storage Facility

The Site

The site is located in the north eastern corner of Kerr Road, at the end of a cul-de-sac. The site is accessed directly from Kerr Road and is bounded to the south east by the Main Southern Railway and Southern Sydney Freight Line and by Henderson Road to the north, which is raised in this location due to the Main Southern Railway overbridge adjoining the site. The building in which the use would be undertaken is within approximately 110 metres of the nearest residence, being No. 2 Gordon Street, Ingleburn located on the opposite side of the Main Southern Railway.

The site contains two buildings, which are joined along one wall. The buildings are those approved by Council and the Land and Environment Court as detailed earlier in the report. Further, the site has been finished in concrete and asphalt in some parts where vehicle manoeuvring and car parking are supposed to be undertaken. Other parts of the site are disturbed and used to store various equipment and what appear to be derelict pieces of machinery. A noise attenuation wall has been constructed along most of the site's frontage to the two railway lines.

The site is burdened by relatively large easements to drain water, which at this point in time have been affected by unauthorised works to alter their levels and store equipment.

The Proposal

The application proposes use of the existing building to undertake demolition waste and scrap metal sorting and processing for reuse.

Equipment involved in the waste processing and storage use as proposed includes:

- 20 tonne excavator
- Skid-steer loader
- Wheeled loader
- Trommel screen
- Crushing machine and screen
- Mulching machine
- Weighbridge.

As mentioned, it is intended to operate this business entirely within the confines of the existing building, approved by the Land and Environment Court pursuant to development consent 336/2006/DA-DE. A small number of metal skip bins may be stored outside under the existing awning from time to time, however, these would be empty.

Demolition and scrap metal waste would arrive at the site by truck, where it would be weighed and then transported into the building for sorting into basic categories, such as metals, masonry, timber and other products (such as plastic linings and glass). After this basic sorting, the materials would be placed in the trommel screen, which consists of a large cylindrical drum rotating at a slow speed with varying sized grates therein to sort out material of different sizes. Sorted products would then be placed in stock piles for further processing (in the case of masonry products) or storage for distribution to other waste processing facilities within Sydney.

3.2 No. 16 Kerr Road, Ingleburn - Use Of An Existing Industrial Building As A Waste Processing And Storage Facility

Masonry products such as bricks and concrete would be placed into the mobile crusher proposed to be used at the site within the building and crushed to a pre-determined aggregate size, depending on the proposed end use of the product, which could be as a road base or as an ingredient for concrete manufacture for example. This would also be transported off site for reuse.

Green waste and timber would be mulched for reuse off-site.

Asbestos, asbestos-containing materials and putrescible waste would not be accepted at the site under this proposal.

The applicant's environmental impact statement (EIS) notes that up to 15,000 tonnes of waste would be received, sorted and redistributed at the site per annum.

The business would employ approximately five staff and would create up to 16 truck movements within Kerr Road per day. The proposed hours of operation are 7.00am to 6.00pm on weekdays and 7.00am to 4.00pm on Saturday. These hours are consistent with those approved by the Land and Environment Court for the concrete batching plant.

Up to 820 litres of diesel fuel for the machinery proposed to be used inside the building would be stored in drums within a bunded area inside the building.

Assessment

The development has been assessed in accordance with the matters for consideration under Section 79C(1) of the *Environmental Planning and Assessment Act 1979* (the EPA Act) and having regard to those matters, the following issues have been identified for further consideration.

1. Vision

Campbelltown 2025 – 'Looking Forward'

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

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

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

3.2 No. 16 Kerr Road, Ingleburn - Use Of An Existing Industrial Building As A Waste Processing And Storage Facility

The strategic direction relevant to this application is:

- Creating education, employment and entrepreneurial opportunities.

The application is consistent with the above strategic direction as the proposal would provide employment opportunities within the construction industry, and would permit the construction of an industrial development that would support the creation of employment opportunities as part of the operation of business that will operate from the site.

The relevant desired outcome of the strategic directions included in Campbelltown 2025 is:

- Development and land use that matches environmental capacity and capability.

The application is not inconsistent with the above desired outcome as the proposal's intention to use the internal space of an existing building responds to the site's context and constraints, and the proposed development would not result in any greater aesthetic impacts upon the public domain.

2. Planning Provisions

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

2.1 Environmental Planning and Assessment Regulation 2000

Schedule 3 of the Environmental Planning and Assessment Regulation 2000 provides details regarding what is 'designated development'. Specifically, Clause 32 of the Schedule details the factors upon which the consent authority may consider a waste management facility as 'designated development'. The relevant parts of the Clause are reproduced below:

Waste management facilities or works that store, treat, purify or dispose of waste or sort, process, recycle, recover, use or reuse material from waste and:

(d) that are located:

- (vi) within 500 metres of a residential zone or 250 metres of a dwelling not associated with the development and, in the opinion of the consent authority, having regard to topography and local meteorological conditions, are likely to significantly affect the amenity of the neighbourhood by reason of noise, visual impacts, air pollution (including odour, smoke, fumes or dust), vermin or traffic.

In this instance, a number of residential dwellings are located within 250 metres of the subject site, primarily on the eastern side of the railway lines in Gordon Avenue and Redfern Street, Ingleburn.

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Importantly, the Clause prompts the consent authority to consider whether or not the development is likely to “significantly affect the amenity of the neighbourhood.” If the consent authority is of the opinion that the development would “significantly affect the amenity of the neighbourhood”, the consent authority is obliged to consider the proposal as a ‘designated development’. If the application is considered ‘designated development’, the Sydney West Joint Regional Planning Panel would be the consent authority.

Conversely, it can therefore be construed that if the consent authority is not of the opinion that the development is likely to significantly affect the neighbourhood, the development does not have to be considered as ‘designated development’ under the Schedule.

It is the case that this development is not considered likely to significantly affect the amenity of the neighbourhood, noting its location within an existing building, its scale and the proposed imposition of strict conditions relating to noise, dust, the quantity and type of materials accepted at the site and ongoing monitoring. These environmental and amenity issues are discussed later in the report.

It is therefore considered that the proposal is not ‘designated development’ and Council is the consent authority in this instance.

2.2 State Environmental Planning Policy No. 33 – Hazardous and Offensive Development

Pursuant to Clause 3 of State Environmental Planning Policy No. 33 - Hazardous and Offensive Development (SEPP 33) ‘potentially hazardous industry’ is defined as follows:

‘potentially hazardous industry’ means a development for the purposes of any industry which, if the development were to operate without employing any measures (including, for example, isolation from existing or likely future development on other land) to reduce or minimise its impact in the locality or on the existing or likely future development on other land, would pose a significant risk in relation to the locality.

- (a) to human health, life or property
- (b) to the biophysical environment.

and includes a hazardous industry and a hazardous storage establishment.

Hazardous storage establishment is defined at Clause 4 of SEPP 33 as follows:

‘hazardous storage establishment’ means any establishment where goods, materials or products are stored which, when in operation and when all measures proposed to reduce or minimise its impact on the locality have been employed (including, for example, measures to isolate the establishment from existing or likely future development on the other land in the locality), would pose a significant risk in relation to the locality.

- (a) to human health, life or property
 - (b) to the biophysical environment.
-

3.2 No. 16 Kerr Road, Ingleburn - Use Of An Existing Industrial Building As A Waste Processing And Storage Facility

Under this proposal, the materials stored on site would predominantly consist of recycled building materials as well as sand, aggregate, cement and concrete masonry units. None of these materials are considered hazardous. As mentioned earlier, the applicant has stated several times in the submitted environmental impact statement that asbestos will not be accepted, stored and processed at the site.

Potential emissions from the proposed operations include dust and noise. However, due to the use being undertaken within the confines of a masonry building, the presence of an existing acoustic wall and the installation of an internal dust suppression system, it is considered that the impact of operations would not have a significant impact on local amenity and are therefore not considered 'offensive'.

2.3 State Environmental Planning Policy No. 55— Remediation of Land

Pursuant to Clause 7 of State Environmental Planning Policy No. 55 — Remediation of Land (SEPP 55), the consent authority shall not provide consent to the carrying out of development unless it has considered contamination and remediation.

Relevant portions of Clause 7 state the following:

- (1) A consent authority must not consent to the carrying out of any development on land unless:
 - (a) it has considered whether the land is contaminated
 - (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
 - (c) if the land requires remediation to be made 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.

Council was made aware that use of the site as a waste sorting and storage facility was undertaken prior to consent being granted. As such (and with the assistance of the EPA), an Order was issued to cease use of the premises. Further, the EPA also issued a 'Notice of Clean-Up Action' that required all potential contamination to be removed from the site.

On 11 March 2014, Council received written advice from an independent professional engaged by the tenant of the property that the site has been cleared of all asbestos containing material, which has been verified by a NATA accredited laboratory that tested soil samples taken from the site during a targeted survey.

The site is not considered to be contaminated and therefore, is not subject to further assessment via the requirements of SEPP 55.

2.4 Greater Metropolitan Regional Environmental Plan No. 2 — Georges River Catchment

Clause 9 of the Plan contains specific planning principles for various factors of urban development, which are considered briefly below:

Acid Sulphate Soils

The subject site does not contain acid sulphate soils.

Bank Disturbance

The proposed development will not result in any disturbance to the bank of the natural watercourse that flows to nearby Redfern Creek or Bunbury Curran Creek.

Flooding

The site is subject to inundation by flood waters. The pollution hazard of the industrial site being flooded must be considered by Council. The changes to ground levels across the site which may interfere with over land water flows is discussed later in this report.

Industrial Discharges

The proposed development is unlikely to result in any industrial discharges to land.

On-Site Sewage Management

The subject site has access to Sydney Water's reticulated sewerage system. No on-site sewage disposal is proposed.

River-Related Uses

The site does not extend to the foreshore of the Redfern Creek or Bunbury Curran Creek and accordingly, this issue is not relevant to the subject site.

Sewer Overflows

The proposed development is unlikely to result in significant sewerage discharge.

Urban/Stormwater runoff

The application is considered satisfactory with regard to this issue as the addition to the site's operation would be carried out inside a building.

Urban Development Areas

Not relevant to the proposal.

Vegetated Buffer Areas

The proposed development provides for the maintenance of an 8m buffer to the natural vegetation separating the site from Henderson Road as well as the Main Southern Railway. This treatment is consistent with other similar localities/developments and is considered to be satisfactory. Further conditioning of the consent to ensure compliance with existing approvals on the site will also create additional landscaped vegetation buffer areas.

Water quality and River Flows

Subject to conditioning of the development consent with specific regard to storage or stockpiles, bunding of the factory building and a general 'clean-up' of the outdoor parts of the site, the proposal is not considered likely to have a significant impact on water quality.

Wetlands

Not relevant to the proposal.

Item 22 in Clause 11 of GMREP 2 provides specific planning controls for waste management facilities as follows:

A system is to be required to manage leachate surface controls on the land on which the waste management facility or works is or are proposed.

A site management plan is to be required for the land on which the waste management facility or works is or are proposed.

The likelihood of groundwater contamination.

The adequacy of the proposed leachate management system and surface water controls.

The long-term stability of the final landform and the adequacy of the site management plan.

In relation to the above matters it is noted that:

- All storage of raw material will take place within the factory building and recycling activities are to occur on hardstand areas also all located within the existing building. Accordingly, there is considered to be minimal to negligible risk of leaching of materials into the subsoil
- The proposed development is unlikely to result in any ground and water contamination
- Upon completion of the development, there are no operational characteristics which would give rise to land instability
- The proposed development does not involve extraction of material; hence, there are no likely adverse impacts on the Georges River or its tributaries
- Soil and sediment controls already approved (yet not necessarily installed) would be adequate for this proposed additional development. No additional controls would be considered necessary. The storage area for empty bins would need to be drained to the existing sediment control system.

The proposal is therefore considered to be compliant with the GMREP, subject to conditions relating to the operation of the facility being implemented.

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

The subject site is zoned 4(a) - General Industry Zone under the provisions of Campbelltown (Urban Area) Local Environmental Plan 2002. The proposed development is defined as "industry" and is permissible with Council's development consent within the zone.

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Under the CLEP, “industry” means the manufacturing, assembling, altering, repairing, renovating, ornamenting, finishing, cleaning, washing, dismantling, processing or adapting of any goods or articles for commercial purposes.

In this instance, the site would be used for the processing of goods for commercial purposes.

The proposal is consistent with several zone objectives, particularly:

- (a) to encourage activities that will contribute to the economic and employment growth of the City of Campbelltown
- (b) to allow a range of industrial, storage and allied activities, together with ancillary uses, the opportunity to locate within the City of Campbelltown
- (c) to encourage a high quality standard of development which is aesthetically pleasing, functional and relates sympathetically to nearby and adjoining development
- (d) to protect the viability of the commercial centres in the City of Campbelltown by limiting commercial activities to those associated with permitted industrial, storage and allied development
- (e) to ensure development will not be carried out unless the consent authority is satisfied that the processes to be carried on, the transportation to be involved, or the plant, machinery or materials to be used, do not interfere unreasonably with the amenity of the area.

Accordingly, the proposal is permissible at the site, with Council's consent and Council is able to approve the subject application should it deem appropriate to do so.

2.6 Campbelltown (Sustainable City) Development Control Plan (SCDCP)

Council's SCDCP applies to the site and the relevant controls are discussed below:

Part 7.4 – Car Parking and Access

This Part of the SCDCP contains Council's controls for car parking and vehicular access at industrial sites.

The SCDCP requires that one car space be provided for every 100 square metres of floor area up to 2,000 square metres, and one space 250 square metres thereafter. The building proposed to be used for this development has an area of approximately 3,000 square metres, meaning that 14 spaces would be required.

Pursuant to the conditions and plans for Court-approved consent 336/2006/DA-DE (for the concrete batching plant), 73 car parking spaces are required to be constructed and made available for staff and visitors. Not all of the required spaces have yet been constructed, although it is considered that enough space would be provided across the site to enable parking for staff involved in both the batching plant and the waste reprocessing facility following completion of the car parking areas construction pursuant to the court approved consent.

The proposal provides for adequate space for trucks to manoeuvre within the building and around it so as to ensure that all vehicles can enter and leave the property in a forward direction.

Part 7.5 – Landscaping

This Part of the SCDCP contains Council's controls for landscaping of industrial sites. The site has not been landscaped in accordance with the conditions of the consent mentioned above. Further discussion on the means proposed to ensure compliance with relevant existing conditions of consent is undertaken later in this report.

Part 7.8 – Environmental Management

This Part of the SCDCP contains Council's controls for landscaping of industrial sites. Relevant portions of the Part detail Council's controls relating to noise, stormwater and drainage as well as air quality impacts. These matters are discussed in more detail later in the report, however, the proposal is considered to be complementary to the SCDCP's requirements.

3. Planning Assessment

Impacts on the Natural and Built Environment

Section 79C(1)(b) of the *EPA 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:

3.1 Noise

The machinery within the building that would be used to separate and crush the demolition materials will emit noise. As such, the applicant undertook a detailed noise assessment using the latest computer modelling software available.

The noise model considered noise from the following sources:

- Trommel screens
- Bobcat
- Crusher and screen
- Excavator
- Wheeled loader.

The building currently has 11 metre high exterior concrete walls that would be likely to attenuate the noise. The boundary acoustic wall of five metres in height will further attenuate the noise emissions from the site in the direction of nearby residences.

The noise levels of the equipment proposed as part of the application have been sourced from previous similar operations assessed by the applicant.

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Two scenarios were modelled:

- Doors of the building open
- Doors of the building closed.

Importantly, the noise predictions were made on the basis of a worst case scenario, with all equipment operating simultaneously (which is considered unlikely in practice). The noise predictions assumed that the activities of the approved concrete batching plant and concrete block manufacturing facility were also occurring at the same time.

The assessment was undertaken by adopting the noise contribution for these approved activities from the environmental impact statement submitted to Council with the previous application for the concrete batching plant and concrete products manufacture. As the approved activities have already been assessed and the noise limits agreed, there was no need to recalculate the noise levels of the concrete batching plant and concrete block manufacture. The noise limits from the batching and manufacturing plant have been set by a condition of consent in the Court's approval from 2006.

The EPA's 'Industrial Noise Policy' was also used to determine the acceptable levels of noise that could be generated at the site, noting the proposed hours of operation and the proximity of residential receivers.

The model detailed that the use of the site as proposed by the current application would not add a significant amount of noise to existing background levels, as well as those approved by the Court for the batching plant's operation. This result is largely attributable to three factors:

- The processes are undertaken inside of a concrete building
- There are no doors or other openings that directly face nearby residential receivers to the east
- An acoustic abatement wall has already been constructed along the site's eastern boundary adjacent to the railway corridor.

According to the applicant, noise directly attributable to the waste transfer facility would not be noticeable to a resident. Further, the applicant also notes that noises associated with the proposed use are likely to be masked by other noises from the industrial estate and the general "hum" of traffic noise in the community.

As mentioned, the noise generated by the development falls within the limits set by the previous Court-issued approval at the site. Therefore, the proposal is not considered likely to have a significant and detrimental impact on the local environment in respect to noise created during the proposed operations. Recommended conditions of consent in Attachment 1 have been formulated to ensure that noise generated by the development is within the accepted limits.

3.2 No. 16 Kerr Road, Ingleburn - Use Of An Existing Industrial Building As A Waste Processing And Storage Facility

3.2 Air quality

The applicant has undertaken detailed modelling of the proposal in accordance with the requirements of the EPA document "Approved Methods for the Modelling and Assessment of Air Pollutants in New South Wales" (DECC NSW 2005). This study identified all potential air emission sources on site, quantified the associated impacts by utilising an air dispersion model, and assessed the impacts and outcomes by comparing them with relevant legislation, standards and guidelines.

The following activities proposed for the site that may generate dust from site operations and activities include:

- Stockpiling demolition wastes
- Transferring materials for processing
- Crushing the waste into aggregates
- Screening the aggregates according to the particle size
- Blending aggregates to form materials that can be used in the concrete production.

No odour emission impacts are expected to occur, given that no green waste (other than timber) will be entering, generated, processed, or exiting the site. Treated pine would need to be removed from deposited demolition waste and disposed of at an appropriately licensed facility.

The main sources of dust emission include:

- Loading/unloading of materials
- Crushing and screening of demolition material
- Wind coming through the building
- Wheel movement along ground surfaces.

Dust mitigation controls for these processes were considered in the air dispersion modelling.

The applicant's report concluded that the fact that the processes involved in the proposed use would be undertaken internally, would significantly reduce the potential for the proposal to impact on air quality. Incremental increases in the amount of deposited dust and suspended particulates in the nearby area resulting from the development would be negligible, provided certain operational controls are implemented. These are that doors to/from the building remain closed during operations (which would also assist with noise transmission) and that demolition waste and sorted masonry stockpiles are sprayed with water mist to form a crust that reduces the creation of dust during movement.

The assessment states:

The incremental results associated with the proposed waste transfer and recycling facility were very low and the significance in cumulative impacts was due the high level of PM₁₀ (fine particulates) in the existing environment. The proposed activity itself does not produced high level of air pollutants emission, when compared with the background air quality.

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It is to be noted that the predicted results are derived based on Level 1 air impact assessment that takes into account worst-case meteorological conditions. The predicted results are therefore conservative.

The assessment made several recommendations to ensure that dust emanating from the proposed use would not create a significant impact. These are listed below and have been incorporated into recommended conditions of consent in attachment 1.

- All activities need to be conducted within the enclosed building with access doorways closed at all times excepting when used for entering or exiting the plant
- Water sprays would be needed to dampen the surface of the materials as these are processed. The surface of stock piles would also need to be kept damp even though these are located within the building
- Operational procedures need to be established to ensure appropriate storage of raw materials and correct operation of equipment within the capacity recommended by the manufacturers.

Having regard to the applicant's detailed assessment and the recommended conditions relating to air quality, the proposal is considered unlikely to have a significant and detrimental impact on the local environment.

3.3 Contamination

As mentioned earlier in the report, Council's officers, the EPA and WorkCover have previously attended the site following receipt of complaints relating to its unauthorised use. During these inspections, a significant quantity of asbestos containing material was discovered.

The presence of asbestos-containing material at the site could be considered to be inconsistent with several declarations made throughout the applicant's environmental impact statement, which explains many times that no asbestos would be accepted and processed at the site. It is the case that the asbestos was accepted at the site, prior to this subject application being lodged for Council's consideration.

Various recommended conditions of consent in attachment 1 require that no asbestos, asbestos-containing material of any kind be accepted at the site at any time. The operators of the facility will be responsible for ensuring that this material does not arrive on-site. Random checks of the material at the site would also need to be undertaken by Council and/or a suitably qualified and independent industrial hygienist with regular reporting to ensure that receipt of this material does not occur.

Further, a recommended condition of consent also requires that a management plan be developed that deals with unexpected arrivals of asbestos (and other potential contaminants) so that staff at the facility are able to appropriately identify and secure potentially contaminating material.

3.4 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 considered to be suitable, having regard to its location within an existing building and the industrial nature of nearby land uses. Transport access to the site is considered to be acceptable and existing noise control features would serve to reduce any impacts on residential areas.

One particular area of issue is the relationship of this current proposal with existing approved uses at the site. As mentioned at the commencement of this report, there are two existing consents that are considered 'active' at the site and it would be critical to ensure that those activities can operate from the same site, at the same time.

The approved uses are:

- Development Consent F/491/2002 – Erection of a truck workshop and office

This development consent relates to the construction of a building containing truck workshop bays, offices and amenities. The proposal also included the construction and use of several parts of the land for truck parking and other storage.

- Development Consent 336/2006/DA-DE – Construction of a concrete batching and masonry products manufacturing plant

This development relates to the construction of a large industrial building, construction and operation of a concrete batching plant and concrete products manufacturing facility within the approved building.

The subject proposal would be located inside the building approved pursuant to consent 336/2006/DA-DE. Use of the site for the truck repairs has commenced and the building associated with the concrete batching plant and masonry manufacturing operation has been constructed, although Council's officers have been unable to ascertain whether or not the batching plant has commenced operation. It is noted that should the concrete batching activities commence, a portion of the recycled masonry aggregate created in the reprocessing of demolition waste may be reused in that complementary operation.

Two conflicts between the current proposal and the previous consents have been identified and are discussed below:

i. Use of a designated truck parking area for bin storage.

The subject application proposes use of an area external to the building to store empty skip bins. However, the same area is nominated as truck parking pursuant to the approved plans associated with Land and Environment Court-approved 336/2006/DA-DE.

Comment: A recommended condition of consent requires that all bins related to the waste processing facility be stored within the confines of the building so that the nominated spaces outside are made available for truck parking as per the requirements of the previously-issued consent.

ii. Use of the building for the waste transfer facility and masonry products manufacturing

The building presently located on the site and proposed for the subject use is also the site of the proposed concrete products manufacturing facility approved pursuant to consent 336/2006/DA-DE. As the areas nominated for each use are the same, it is not possible to co-locate each industry within the site.

Comment: A recommended condition of consent requires that development consent 336/2006/DA-DE be modified, so that the portion that relates to the concrete products manufacturing facility be rescinded, should the applicant wish to operate the subject waste transfer facility from the same building. The use would need to be rescinded pursuant to the requirements of Sections 80A(1)(b) and 80A(5) of the *Environmental Planning and Assessment Act 1979* and Clauses 97(1) and 97(2) of the *Environmental Planning and Assessment Regulation 2000*.

Further to these conflicts, the development site exhibits a relatively poor rate of compliance with other pertinent conditions of consent relating to the two previous approvals. This is considered an important issue because the physical relationship between the proposed development and existing development/activities on the land are inextricably linked. The non-compliances detected by Council include (but are not limited to) the following:

- Landscaping provision and maintenance
- Car parking and truck parking provision
- Outdoor storage of equipment
- Noise and dust impacts
- Appropriate treatment and finishing of easements to drain water that affect the site
- Completion of building certification
- Completion of building construction
- Stormwater capture and disposal.

It is prudent to consider the site as a whole to ensure that the subject development can operate within the limits specified in the submitted documentation and so as to minimise any impacts on the nearby community and environment.

To this end, it is considered appropriate that should Council grant development consent, that it be issued with a 'deferred commencement' notation, so that use of the building is not possible until such time that certain conditions are met.

The conditions, detailed in attachment 1 of this report relate to rectifying the issues detailed above and would serve to provide Council with added surety that the use would operate in a responsible, compliant manner. The applicant would be provided with six months in which to complete the required amendments to the site to Council's satisfaction, failing which, the use of the site as a waste processing facility would not be permitted to commence and the consent would lapse.

Having regard to the above discussion, the site is considered to be suitable for the development, provided that certain conditions are imposed on its operation and ongoing management.

4. Public Participation

Section 79C(1)(d) of the *EPA Act* requires Council to consider submissions made in regard to the proposal.

Council publicly exhibited and notified the application directly to 176 land owners between 21 June 2013 and 26 July 2013. In addition, Council's officers consulted with the EPA regarding the proposal, although officers of the EPA advised Council verbally that the Authority did not have any comments as the volume of waste proposed to be processed did not reach the threshold at which it issues a licence to operate.

During the exhibition and notification period, two submissions in objection to the proposal were received. Both submissions were from residents of Gordon Avenue, Ingleburn.

The objections detailed the following concerns:

- the use of the site appears to have already commenced for waste sorting and processing
- the use may create noise
- the use may increase the number of trucks entering and leaving the area
- the use may create dust, which can impact on nearby residents' health
- the site may be used to handle asbestos.

In response, the following comments are provided:

It is acknowledged that the use of the site commenced without Council's consent. The use has since ceased upon Council's direction and the site has been substantially cleaned of waste that was previously received.

The applicant's submission is that no asbestos would be accepted at the site. Council must take this on 'face value', however, conditions have been recommended that impose strict monitoring of incoming waste and ongoing monitoring of the site so as to ensure that asbestos containing materials are not processed.

The use would be contained inside the building, with water and doors used to minimise dust creation and noise would be controlled by the building and existing acoustic walls.

Truck traffic associated with the development is not considered likely to detrimentally impact on the local industrial road network or local residential amenity.

5. Conclusion

The development application to operate a waste processing and storage facility at No. 16 Kerr Road, Ingleburn 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 the management of potential issues such as noise, dust control, incoming material detection and compliance with existing consents in operation at the site.

The site is considered to be suitable for the development, having regard to its proximity and complementary nature to the existing businesses operating at the site.

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 1113/2013/DA-DE for the use of an existing building as a waste processing and storage facility at No. 16 Kerr Road, Ingleburn 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: The applicant, Mr Benbow, addressed the Committee regarding the development application.

Committee's Recommendation: (Kolkman/Lound)

That the Officer's Recommendation be adopted.

CARRIED

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

Voting against the Committee's Recommendation was Councillor: Thompson.

Council Meeting 3 June 2014 (Mead/Rowell)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 85

That the Officer's Recommendation be adopted.

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

Voting against the Council Resolution was Councillor: Brticevic.

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 six 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 undertake the following works pursuant to consent 336/2006/DA-DE:
 - complete building works, including the concrete floor within the building erected pursuant to that consent
 - construct the concrete vehicle parking and manoeuvring areas required in accordance with the approved plans and condition pursuant to that consent
 - prepare and establish landscape tree plantings that are required pursuant to that consent
 - provide the engineering detail and certification required in Condition 26A
 - remove all items of equipment and storage of other products outdoors of any building that is not permitted by way of development consent condition or approved plan
 - provide all required acoustic abatement structures
 - re-form and finish the easements to drain water that burden the property in accordance with the restrictions on the land registered pursuant to Section 88B of the *Conveyancing Act 1919*
 - remove graffiti from the acoustic wall constructed along the site's eastern boundary
-

3.2 No. 16 Kerr Road, Ingleburn - Use Of An Existing Industrial Building As A Waste Processing And Storage Facility

- receive certification to occupy the subject building, pursuant to Part 4A, Division 1 of the *Environmental Planning and Assessment Act 1979* and relevant clauses of the Environmental Planning and Assessment Regulation 2000 or Sections 149A - 149E of the *Environmental Planning and Assessment Act 1979* and relevant clauses of the Environmental Planning and Assessment Regulation 2000.

The required works shall be completed to Council's written satisfaction.

Further, the applicant shall:

- receive written clearance certification from the NSW EPA that the 'Clean-Up Action Notice' issued in 2013 has been completed to the Authority's satisfaction.

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 be carried out in accordance with the approved plans listed below, and all associated documentation supporting this consent, including the Environmental Impact Statement prepared by Benbow Environmental (ref. 110072_EIS-Final_rev2, released on 16 May 2013) except as modified in red ink by Council and any conditions within.

Drawing/Document No.	Prepared By	Date
110072_site_layout	Benbow Environmental	15 May 2013

2. Modification of Existing Consent

Prior to **any** operations commencing in relation to the subject development, development consent 336/2006/DA-DE shall be modified.

The modification shall be made in accordance with the requirements of Sections 80A(1)(b) and 80A(5) of the *Environmental Planning and Assessment Act 1979* and Clause 97(1) of the Environmental Planning and Environment Regulation 2000.

The modification shall be made:

- to amend the development description to remove reference to a 'masonry plant'
-

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- to amend approved plan references to a 'masonry plant' or 'concrete factory'
- to amend references to a 'masonry plant' or 'concrete factory' in other conditions of consent.

The masonry production plant approved pursuant to consent 336/2006/DA-DE shall not proceed.

Should the applicant wish to pursue that activity on the site in the future, further development consent in relation to that specific use must be received prior to commencement of that undertaking.

3. Landscaping

Landscaping across the site shall be maintained in good order, regularly watered and fertilised in accordance with best practice guidelines for maintaining the health and vigour of the vegetation.

Dead or dying trees and shrubs shall be replaced.

The landscaping must be installed so as not to interfere with the drainage easements that burden the property.

4. Acceptable Waste

The materials acceptable to be received and processed at the site are as follows:

- demolition waste (including masonry products, metals, timber, glass and fibrous cement, associated plastics and remnant amounts of soil)
- scrap metals for sorting, storage and redistribution.

The waste transfer, reprocessing and storage facility shall at no time accept more than 15,000 tonnes of waste per calendar year, as determined from the date of operations commencing at the site.

Records of the mass of waste accepted at the site for processing shall be kept and made available to Council and the NSW EPA for inspection upon request.

This consent does not permit the acceptance, processing and storage of friable and non-friable asbestos-containing materials on the site at any time.

5. Inspection and Recording of Waste

The applicant shall establish and operate a management procedure for the inspection of waste to be delivered at the site prior to its dumping within the building for sorting. The inspection shall record the waste to be received and shall also be undertaken to determine if any contamination (such as friable or non-friable asbestos) is contained within the load. The mass of waste accepted shall also be recorded and a cumulative total be made available for inspection at Council's request at any time.

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The management plan shall detail an 'unexpected finds protocol' should asbestos-containing material or other chemical contaminants be detected during the recorded inspection or after dumping within the building.

The protocol shall be developed to ensure the safety of workers and to ensure that the contaminants are appropriately gathered and removed as soon as possible from the reprocessing facility and dumped lawfully at an appropriately licensed facility.

Council may undertake inspections of the site and where appropriate, require the spot check of loads by an independent and suitably qualified industrial hygienist at the applicant's expense to ensure that no asbestos-containing material is being kept at the site.

6. Operational Environmental Management Plan

An Operation Environment Management Plan must be prepared to Council's written satisfaction and implemented prior to commencement of operation of the facility.

The Plan shall include, but not necessarily be limited to:

- identification of all statutory and other obligations that the Applicant is required to fulfil in relation to operation of the facility, including all consents, licences, approvals and consultations
- a description of the roles and responsibilities for all relevant employees involved in the operation of the facility
- overall environmental policies and principles to be applied to the operation of the facility
- standards and performance measures to be applied to the facility, and a means by which environmental performance can be periodically reviewed and improved
- management policies to ensure that environmental performance goals are met and to comply with the conditions of this consent, including for example, door opening, waste checking, vehicle and bin storage.

7. Outdoor Storage and Operation

This consent does not permit or provide for the operation or storage of any goods or materials associated with the waste transfer and storage facility (including empty bins) outside of the building. All operations and storage must at all times be undertaken within the confines of the building.

8. Deliveries

Vehicles servicing the site shall comply with the following requirements:

- a. all vehicular entries and exits shall be made in a forward direction
-

3.2 No. 16 Kerr Road, Ingleburn - Use Of An Existing Industrial Building As A Waste Processing And Storage Facility

- b. all vehicles awaiting loading, unloading or servicing shall be parked on site and not on adjacent or nearby public roads
- c. all deliveries to the premises shall be made inside the building
- d. all trucks entering and leaving the premises that are carrying loads must be sealed or covered at all times.

A traffic sign shall be placed adjacent to the driveway at the entrance of the property advising drivers of the above information. Should the sign be damaged or removed, it shall be replaced within 48 hours.

9. Advertising Signs

This consent does not permit the erection or placement of any advertising signage at the site. A separate application must be made and consent granted by Council (where applicable) prior to any signs being placed on the land in relation to the waste transfer and storage facility.

10. Security Fencing

The front security fencing shall be established at a setback of 3 metres into the site and not on the road alignments. No barbed wire style fencing is to be erected in a location that can be seen from a public place.

11. Bund Wall

All liquid storage areas shall be bunded to prevent any spillage entering into the stormwater system. The bunded area shall provide a volume equal to a minimum of 110% of the largest container stored and graded to a blind sump so as to facilitate emptying and cleansing.

12. Storage of Flammable and Combustible Liquids

Flammable and combustible liquids shall be stored in accordance with Australian Standard 1940-(as amended) – The Storage and Handling of Flammable and Combustible Liquids.

13. 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.

14. Operating Hours

The use of the premises shall be limited to:

Monday to Friday	7.00am - 6.00pm
Saturday	7.00am - 4.00pm
Sunday	Closed

3.2 No. 16 Kerr Road, Ingleburn - Use Of An Existing Industrial Building As A Waste Processing And Storage Facility

15. Noise

The development, including operation of vehicles, shall be conducted so as to avoid the generation of unreasonable noise, dust or vibration 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.

Noise generated at the premises during the permitted operating hours must not exceed the noise limits presented in the table below. The noise limits represent the sound pressure level (noise) contribution at the nominated receiver locations in the table and include the concrete batching activities.

Receiver Identification	Predicted $L_{Aeq15minute}$ Noise Level	Combined Noise Level
2 Gordon Avenue	29	46
1 Redfern Street	27	40

To determine compliance with this condition, noise from the premises is to be measured at the most affected point on or within the residential boundary or at the most affected point within 30 metres of the dwellings where the dwelling is more than 30 metres from the boundary to determine compliance with the $L_{Aeq(15\text{ minute})}$ noise limits. The modification factors presented in Section 4 of the NSW Industrial Noise Policy shall also be applied to the measured noise level where applicable.

The noise emission limits apply under meteorological conditions of:

- wind speeds up to 3m/s at 10m above ground level; or
- temperature inversion conditions of up to 3°C/100m and wind speeds up to 2m/s at 10m above ground level.

In the event of a noise related issue arising, the person in charge of the premises shall when instructed by Council, cause to be carried out an acoustic investigation by an appropriate acoustical consultant and submit the results to Council. If required by Council, the person in charge of the premises shall implement any or all of the recommendations of the consultant and any additional requirements of Council to its satisfaction.

16. Air Quality

The development, including operation of vehicles, shall be conducted so as to avoid the generation of dust and cause no interference to adjoining or nearby occupants.

The applicant shall fit and operate high speed roller doors, with rapid opening and closing to each of the openings of the building in which the waste processing facility would be located. The doors shall be closed at all times during which the processing facility is being operated, except to allow for vehicle entry and exit.

In addition to the above, the applicant shall ensure that all reasonable means are undertaken to minimise the transference of dust from the site during operations.

The measures include but are not limited to the following:

- a) operate so that there is adequate water supply for dust suppression
- b) install and operate a water misting system that sprays water at a minimum rate of 0.5 litres per square meter of stockpile within the building during periods in which the stockpiles are being disturbed
- c) operate with an aim of preventing windblown dust from all sealed surfaces intended to carry vehicular traffic
- d) operate to suppress dust at transfer points and discharge to the material stockpiles
- e) operate to suppress dust during processing activities
- f) operate to suppress dust during front end loader activities at stockpiles or during loading operations.

17. WorkCover

At all times throughout the waste reprocessing and storage facility's operation, the applicant shall ensure that required work health and safety requirements as required by WorkCover and other agency standards are met. This may include hearing protection and the provision of personal protective equipment for staff and visitors.

18. Vehicle Washing

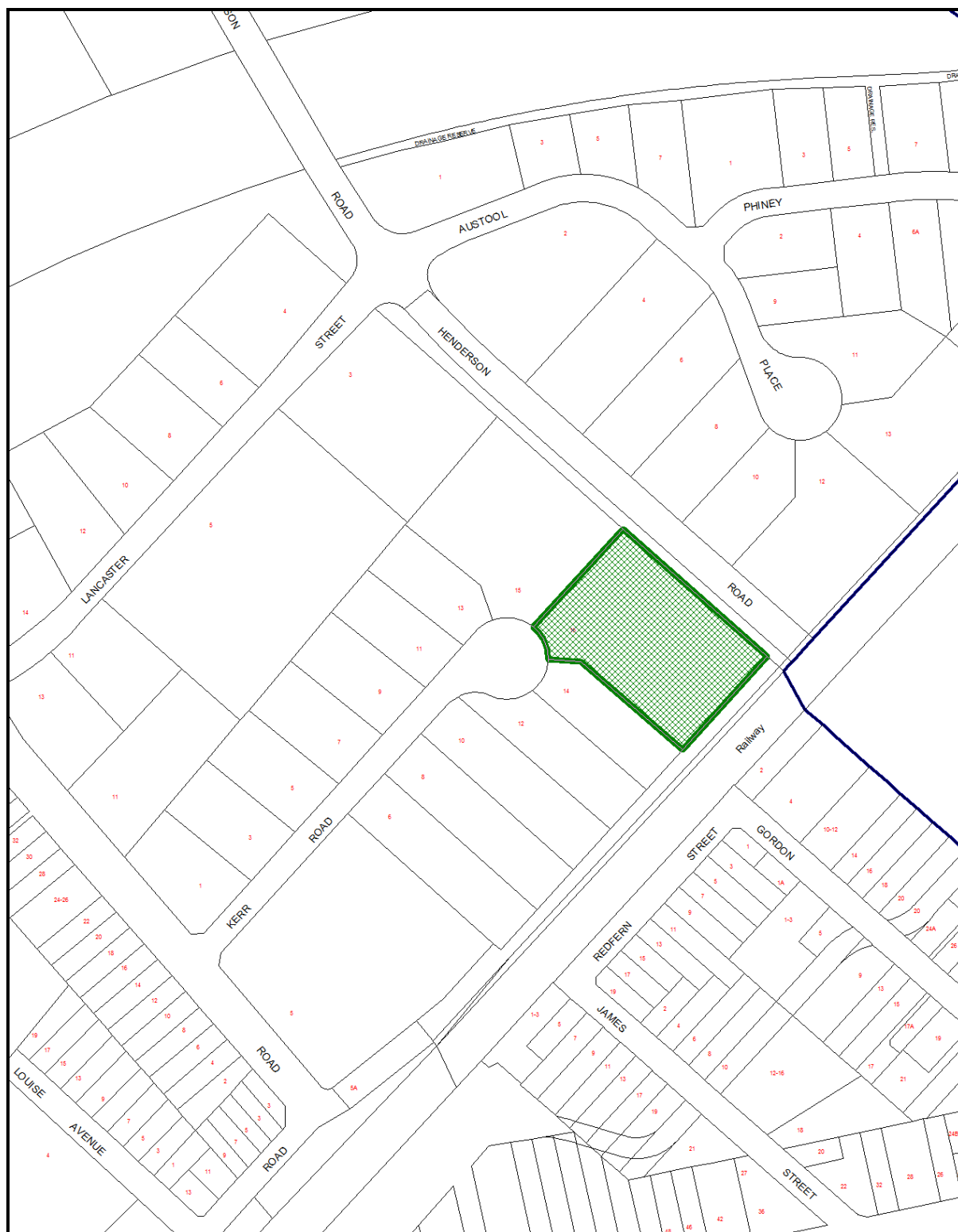
All vehicles leaving the site after delivering/dispatching materials must be subject to equipment or facilities to provide a cleaning process for the removal of materials from wheels and underneath the bodies of vehicles. The facilities must be designed and installed to:

- a. prevent materials being carried from the premises to external surfaces
- b. collect, treat and manage polluted water from any vehicle maintenance and truck wash areas in such a way that does not cause pollution of surface and ground waters
- c. be connected to Sydney Water's sewer in accordance with its requirements.

END OF CONDITIONS

3.2 No. 16 Kerr Road, Ingleburn - Use Of An Existing Industrial Building As A Waste Processing And Storage Facility

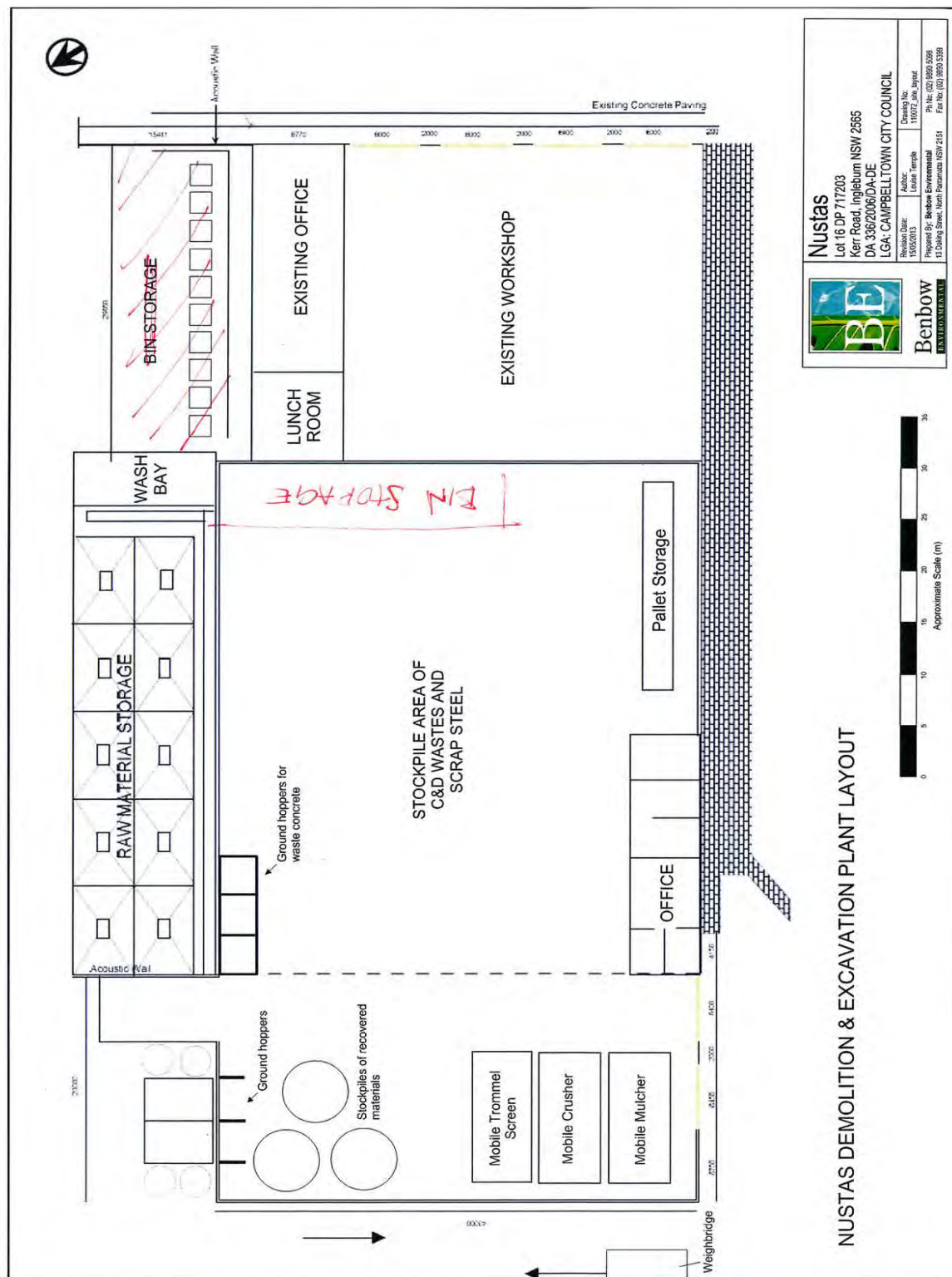
ATTACHMENT 2



Locality Plan

3.2 No. 16 Kerr Road, Ingleburn - Use Of An Existing Industrial Building As A Waste Processing And Storage Facility

ATTACHMENT 3



Floor Plan

3.3 Lots 6 And 7, DP 31977 Nos. 64 And 66 Kent Street, Minto - Demolition Of Existing Structures, Tree Removal And Construction Of A 12 Unit Seniors Living Development With Front Fencing

3.3 Lots 6 and 7, DP 31977 Nos. 64 and 66 Kent Street, Minto - Demolition of existing structures, tree removal and construction of a 12 unit Seniors Living development with front fencing

Reporting Officer

Manager Development Services

Attachments

1. Recommended Conditions (contained with this report)
2. Locality Plan (contained within this report)
3. Proposed Site and Floor Plan (confidential - for privacy reasons these are not available to the public)
4. Elevation Plan (contained within this report)
5. Access to Services Map (contained within this report)
6. Landscape Plan (confidential - for privacy reasons these are not available to the public)
7. Seven Part Test of Significance (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).

Property Description	Lots 6 & 7, DP 31977 – Nos.64 & 66 Kent Street, Minto
Application No.	935/2013/DA-SL
Applicant	Kundari Homes Pty. Ltd.
Owner	Anthony Neville, Andrzej Kaczmarek and Malgorzata Kaczmarek
Provisions	State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 State Environmental Planning Policy (Building Sustainability Index) State Environmental Planning Policy No. 44 – Koala Habitat Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment Campbelltown (Urban Area) Local Environmental Plan 2002 Campbelltown (Sustainable City) Development Control Plan 2009 Campbelltown City Council Section 94A Development Contributions Plan

3.3 Lots 6 And 7, DP 31977 Nos. 64 And 66 Kent Street, Minto - Demolition Of Existing Structures, Tree Removal And Construction Of A 12 Unit Seniors Living Development With Front Fencing

Development Control Plan No. 87 – Public Notification and Public Exhibition Policy

Date Received 1 May 2013

History

The following is a chronology of events in respect to the site and more specifically the subject Development Application:

- 1 May 2013 – Subject application lodged with Council
- 1 July 2013 – Letter issued by Council to applicant, advising of various non-compliances and issues requiring further attention
- 28 November 2013 – Part response provided to Council's letter dated 1 July 2013, including amended plans
- 9 January 2014 – Part response provided to Council's letter dated 1 July 2013, including amended plans
- 21 January 2014 – Part response provided to Council's letter dated 1 July 2013, including amended plans
- 4 April 2014 – Letter issued by Council to applicant, advising of further and outstanding, non-compliances and issues with the application
- 9 April 2014 – Response provided to Council's letter dated 4 April 2014, including amended plans.

Council considered a report on the development proposal at its Ordinary Meeting held on 29 April 2014. 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.

An inspection was undertaken on 13 May 2014 to which both applicant and objectors were invited to attend.

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 29 April 2014.

Report

Introduction

Council is in receipt of a Development Application, for the demolition of existing structures and construction of a 12 unit Seniors Living development, pursuant to State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

3.3 Lots 6 And 7, DP 31977 Nos. 64 And 66 Kent Street, Minto - Demolition Of Existing Structures, Tree Removal And Construction Of A 12 Unit Seniors Living Development With Front Fencing

The Site

The subject site is located within the suburb of Minto, on the eastern side of Kent Street, between Durham and Warwick Streets. The site consists of two allotments, with a total area of 3,280m². Existing improvements to the site include a dual occupancy development (No. 64 Kent Street) and a single dwelling house (No. 66 Kent Street).

There are 41 trees on the subject land, including remnant Cumberland Plain Woodland. Cumberland Plain Woodland is listed as a Critically Endangered Ecological Community under the *Threatened Species Conservation Act 1995* and as an Endangered Ecological Community under the Commonwealth's *Environmental Protection and Biodiversity Conservation Act 1999*.

Development within the surrounding locality is characterised predominantly by low and medium density single storey housing, although there is also a nursing home located on an adjacent allotment.

The Proposal

The proposal seeks development consent for the demolition of existing structures and construction of a 12 unit Seniors Living development. The proposal contains the following elements:

- Demolition of the existing structures
- Removal of 36 trees
- Construction of a 12 unit, single storey 'in-fill self-care housing' – Seniors Living development consisting of 10 x two bedroom dwellings and 2 x three bedroom dwellings. Each with attached single car garages. Two of the dwellings are accessed directly from the street, while the other 10 units are accessed via a central common driveway
- Front fencing
- External parking for four cars
- Site earth works
- Associated site landscaping works, including paving
- Stormwater management works.

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.
-

3.3 Lots 6 And 7, DP 31977 Nos. 64 And 66 Kent Street, Minto - Demolition Of Existing Structures, Tree Removal And Construction Of A 12 Unit Seniors Living Development With Front Fencing

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 generally consistent with these directions.

Some of the relevant desired outcomes of the vision included in Campbelltown 2025 include:

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

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

Assessment

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

1. State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

Clause 2 of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* (Seniors Housing SEPP), outlines that the Policy aims to:

- (a) increase the supply and diversity of residences that meet the needs of seniors or people with a disability
- (b) make efficient use of existing infrastructure and services
- (c) be of good design.

These aims are to be achieved by:

- (a) setting aside local planning controls that would prevent the development of housing for seniors or people with a disability that meets the development criteria and standards specified in this Policy
-

3.3 Lots 6 And 7, DP 31977 Nos. 64 And 66 Kent Street, Minto - Demolition Of Existing Structures, Tree Removal And Construction Of A 12 Unit Seniors Living Development With Front Fencing

- (b) setting out design principles that should be followed to achieve built form that responds to the characteristics of its site and form
- (c) ensuring that applicants provide support services for seniors or people with a disability for developments on land adjoining land zoned primarily or urban purposes.”

Clause 4 of the Seniors Housing SEPP, outlines that the Policy applies to land that is zoned primarily for urban purposes or that adjoins land zoned primarily for urban purposes, and on which development of any of the following is permitted:-

- dwelling houses
- residential flat buildings
- hospitals
- development of a kind identified in respect of land zoned for special uses, including (but not limited to) churches, convents, educational establishments, schools
- seminaries
- the land is being used for the purposes of a registered club.

The site is zoned ‘2(b) – Residential’, pursuant to Campbelltown (Urban Area) Local Environmental Plan 2002 (LEP 2002) and dwelling houses are permissible. Hence the Seniors Housing SEPP applies to the subject land.

The proposed development is defined by Clause 13 of the Seniors Housing SEPP, as an ‘in-fill, self-care housing’ development (see below).

(1) General term: “self-contained dwelling

In this Policy, a self-contained dwelling is a dwelling or part of a building (other than a hostel), whether attached to another dwelling or not, housing seniors or people with a disability, where private facilities for significant cooking, sleeping and washing are included in the dwelling or part of the building, but where clothes washing facilities or other facilities for use in connection with the dwelling or part of the building may be provided on a shared basis.

(2) Example: “in-fill self-care housing”

In this Policy, in-fill self-care housing is seniors housing on land zoned primarily for urban purposes that consists of 2 or more self-contained dwellings where none of the following services are provided on site as part of the development: meals, cleaning services, personal care, nursing care.

Clause 15 of the Seniors Housing SEPP, allows seniors housing, despite the provisions of any other Environmental Planning Instrument (including a Council's local environmental plan), if the development is carried out in accordance with the Policy:

It is considered that the proposal is permissible with Council's consent pursuant to Clause 15 of the Seniors Housing SEPP.

3.3 Lots 6 And 7, DP 31977 Nos. 64 And 66 Kent Street, Minto - Demolition Of Existing Structures, Tree Removal And Construction Of A 12 Unit Seniors Living Development With Front Fencing

Clause 18 of the Seniors Housing SEPP outlines that a Consent Authority (Council) must not grant Development Consent to seniors housing, unless:

- (1) Development allowed by this Chapter may be carried out for the accommodation of the following only:
 - (a) seniors or people who have a disability
 - (b) people who live within the same household with seniors or people who have a disability
 - (c) staff employed to assist in the administration of and provision of services to housing provided under this Policy.
- (2) A consent authority must not consent to a development application made pursuant to this Chapter unless:
 - (a) a condition is imposed by the consent authority to the effect that only the kinds of people referred to in subclause (1) may occupy any accommodation to which the application relates
 - (b) the consent authority is satisfied that a restriction as to user will be registered against the title of the property on which development is to be carried out, in accordance with section 88E of the *Conveyancing Act 1919*, limiting the use of any accommodation to which the application relates to the kinds of people referred to in subclause (1).

Accordingly, should Council decide to support the proposed development, it is recommended that conditions be imposed in accordance with the above requirements.

Part 2 of the Seniors Housing SEPP outlines various site related requirements. These matters have been considered and the following table details how the proposal responds to each of the relevant requirements of the Seniors Housing SEPP.

Criteria	Proposed	Comment
<p>Clause 26 – Location and Access to Facilities</p> <p>(1) A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied, by written evidence, that residents of the proposed development will have access that complies with subclause (2) to:</p> <p>(a) shops, bank service providers and other retail and commercial services that residents may reasonably require, and</p> <p>(b) community services and recreation facilities, and</p> <p>(c) the practice of a general medical practitioner.</p> <p>(2) Access complies with this clause if:</p> <p>(b) in the case of a proposed development on land in a local government area within the Sydney Statistical Division—there is a public transport service available to the residents who will occupy the proposed development:</p>	<p>The site is located approximately 210m from a bus stop (suitably serviced public transport), providing access to Minto, Ingleburn and Campbelltown business centres.</p>	<p>The proposal satisfies the SEPP requirements concerning "access to facilities".</p>

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<p>(i) that is located at a distance of not more than 400 metres from the site of the proposed development and the distance is accessible by means of a suitable access pathway, and</p> <p>(ii) that will take those residents to a place that is located at a distance of not more than 400 metres from the facilities and services referred to in subclause (1), and</p> <p>(iii) that is available both to and from the proposed development at least once between 8am and 12pm per day and at least once between 12pm and 6pm each day from Monday to Friday (both days inclusive),</p> <p>and the gradient along the pathway from the site to the public transport services (and from the public transport services to the facilities and services referred to in subclause (1)) complies with subclause (3).</p> <p>(3) For the purposes of subclause (2) (b) and (c), the overall average gradient along a pathway from the site of the proposed development to the public transport services (and from the transport services to the facilities and services referred to in subclause (1)) is to be no more than 1:14, although the following gradients along the pathway are also acceptable:</p> <p>(i) a gradient of no more than 1:12 for slopes for a maximum of 15m at a time,</p> <p>(ii) a gradient of no more than 1:10 for a maximum length of 5m at a time,</p> <p>(iii) a gradient of no more than 1:8 for distances of no more than 1.5m at a time.</p> <p>(4) For the purposes of subclause (2): (a) a suitable access pathway is a path of travel by means of a sealed footpath or other similar and safe means that is suitable for access by means of an electric wheelchair, motorised cart or the like, and (b) distances that are specified for the purposes of that subclause are to be measured by reference to the length of any such pathway.</p>	<p>Given the local area is relatively flat, it is considered that the path of travel satisfies the gradient and surface requirements.</p>	
<p>Clause 28 – Water and Sewer</p> <p>A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied, by written evidence, that the housing will be connected to a reticulated water system and have adequate facilities for the removal or disposal of sewage.</p>	<p>The site is served by a reticulated water system and is sewered.</p>	<p>The proposal satisfies the SEPP requirement. Moreover, a condition has been included within the recommendation requiring the provision of a Section 73 Certificate from Sydney Water.</p>
<p>Clause 30 – Site analysis</p>	<p>A detailed site analysis accompanied the application.</p>	<p>The proposal is considered to be satisfactory in this regard.</p>

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Clause 31 – Design of in-fill self-care housing	The overall design has been reviewed against the relevant SEPP requirements and it considered that the proposal satisfies various design principles.	The proposal is considered to be satisfactory in this regard.
Clause 32 – Design of residential development A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied that the proposed development demonstrates that adequate regard has been given to the principles set out in Division 2.	Discussed below (i.e. Clauses 33 to 39)	As detailed the proposal satisfies the principles of Division 2.
Clause 33 (a) – Neighbourhood amenity and streetscape The proposed development should recognise the desirable elements of the location's current character (or, in the case of precincts undergoing a transition, where described in local planning controls, the desired future character) so that new buildings contribute to the quality and identity of the area, and	The proposal is consistent with the existing and desired future likely character of the area.	The proposal is considered to be satisfactory in this regard.
Clause 33 (c) – Neighbourhood amenity and streetscape The proposed development should maintain reasonable neighbourhood amenity and appropriate residential character by: (i) providing building setbacks to reduce bulk and overshadowing, and (ii) using building form and siting that relates to the site's land form, and (iii) adopting building heights at the street frontage that are compatible in scale with adjacent development.	The proposal has provided building setbacks consistent with the residential development provisions of the Sustainable City DCP, which applies to other relevantly similar residential type developments. The overall design and layout has given regard to the existing levels of the site. The single storey development is of a scale which is compatible with existing development in the area.	The proposal is considered to be satisfactory in this regard.
Clause 33 (d) – Neighbourhood amenity and streetscape The proposed development should be designed so that the front building of the development is set back in sympathy with, but not necessarily the same as, the existing building line.	The proposed front setback of 5.5m, is consistent with the provisions of the Sustainable City DCP, and existing and future likely setbacks in the area.	The proposal is considered to be satisfactory in this regard.
Clause 33 (e) – Neighbourhood amenity and streetscape The proposed development should embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape.	The application has been accompanied by a detailed landscape plan, which provides for landscaping in scale with existing development in the area.	The proposal is considered to be satisfactory in this regard. (As discussed in further detail elsewhere in the report)
Clause 33 (f) – Neighbourhood amenity and streetscape The proposed development should retain, wherever reasonable, major existing trees.	While the proposal involves the removal of 36 trees the proposed layout enables the retention of five (5) large trees on the site.	The proposal is considered to be satisfactory in this regard.

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Clause 34 – Visual and Acoustic Privacy	The proposal maintains privacy levels within the locality and achieves satisfactory levels of privacy performance for future occupants.	The proposal is considered to be satisfactory in this regard.
Clause 35 – Solar access and design for climate	Overshadowing by the proposal of adjacent properties is minimal. Furthermore the northerly orientation of the site has been utilised where possible to maximise amenity levels for future occupants.	The proposal is considered to be satisfactory in this regard.
Clause 36 – Stormwater	The application has been accompanied by a stormwater concept plan outlining the proposed methods of stormwater disposal.	The proposal is considered to be satisfactory in this regard. Moreover, a condition has been included within the recommendation requiring compliance with the stormwater and engineering requirements of the Sustainable City DCP.
Clause 37 – Crime Prevention	The overall layout provides surveillance opportunities, minimises possible entrapment areas and provides a clear differentiation between private and public spaces.	The proposal is considered to be satisfactory in this regard.
Clause 38 – Accessibility	The local area is relatively flat, and the site is located approximately 210m from a bus stop and approximately 850m from Minto Railway Station.	The proposal is considered to be satisfactory in this regard.
Clause 39 – Waste Management The proposed development should be provided with waste facilities that maximise recycling by the provision of appropriate facilities.	The proposed layout provides appropriate bin storage areas.	The proposal is considered to be satisfactory in this regard. Moreover, a condition has been included within the recommendation requiring bins to be stored within the private courtyard areas.
Clause 40 (2) – The size of the site must be at least 1,000m ² .	3,280m ²	Complies
Clause 40 (3) – The site frontage must be at least 20m wide, measured at the building line.	40.23m	Complies

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Clause 40(4) (a) – The height of all buildings in the proposed development must be 8m or less.	The proposed buildings are single storey and have a maximum overall height of approximately 5m.	Complies
Clause 40 (4) (c) – a building located in the rear 25% area of the site must not exceed one (1) storey in height. Equating to a rear setback of 12m for the second storey component.	The proposed buildings are single storey and do not exceed a height of 5m.	Complies
Division 3 – Clause 41 – Standards for hostels and self-contained dwellings A consent authority must not consent to a development application made pursuant to this Chapter to carry out development for the purpose of a hostel or self-contained dwellings unless the proposed development complies with the standards specified in Schedule 3 for such development.	Consideration of the proposal indicates that the development can satisfy the standards of Schedule 3.	The proposal is considered to be satisfactory in this regard. Moreover, a condition is to be imposed requiring compliance with the construction standards.
Clause 50 (a) – Building Height All proposed buildings are to be 8m or less in height.	The proposed buildings have a maximum overall height of approximately 5m.	Complies
Clause 50 (b) – Density and Scale The density and scale of the buildings when expressed as a floor space ratio (FSR) are to be 0.5:1 or less.	Approximately 0.31:1	Complies
Clause 50 (c) (ii) – Landscaped Area A minimum of 30% of the site is to be landscaped.	Approximately 38%	Complies
Clause 50 (d) – Deep Soil Zones An area of not less than 15% of the area of the site is to be a deep soil zone, of which two-thirds of the deep soil zone should preferably be located at the rear of the site.	Approximately 34% of the site constitutes a deep soil zone, of which approximately 70% is in the rear portion of the site.	Complies
Clause 50 (e) – Solar Access Living rooms and private open spaces for a minimum of 70% of the dwellings are to receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter.	The living and private open space areas of each dwelling receive a minimum of three (3) hours of solar access at the winter solstice.	Complies
Clause 50 (f) (i) – Private Open Space No less than 15m ² of private open space per dwelling is to be provided, and of this open space, one area is not to be less than 3m long and is accessible from a living area.	Each dwelling is serviced by a private open space area, with a minimum size of 38m ² and a minimum depth of 4m directly accessible from the respective main living rooms.	Complies
Clause 50 (h) – Parking 0.5 car parking spaces are to be provided for each bedroom. The overall development includes 26 bedrooms, thereby constituting the need for 13 car parking spaces.	16 car parking spaces are provided.	Complies

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Schedule 3 of the Seniors Housing SEPP, outlines the construction standards for self-contained dwellings, in relation to the following elements:

- Siting Standards
- Security
- Letterboxes
- Private car accommodation
- Accessible entry
- Interior
- Bedroom
- Bathroom
- Toilet
- Surface finishes
- Door hardware
- Ancillary items
- Living room and dining room
- Kitchen
- Laundry
- Storage for linen
- Garbage.

It is considered that the development can satisfy these standards. Moreover, a condition is to be imposed requiring compliance with such.

2. State Environmental Planning Policy (Building Sustainability Index)

A BASIX Certificate has been provided for the proposal and relevant commitments made on the architectural / development plans. Therefore it is considered that the proposal is acceptable in this regard.

3. State Environmental Planning Policy No. 44 – Koala Habitat

The subject site is identified by the draft Campbelltown Comprehensive Koala Plan of Management as containing 'Marginal Habitat'. Notwithstanding this, given that the site consists of an area less than 1 hectare and is not co-located together with any adjoining land in the same ownership of an area of more than 1 hectare, Part 2 of State Environmental Planning Policy No. 44 does not apply to the proposal.

Accordingly, it is considered that the proposal does not conflict with the requirements of State Environmental Planning Policy No. 44.

4. Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment

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

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5. Campbelltown (Urban Area) Local Environmental Plan 2002

The subject site is zoned '2(b) – Residential' under the provisions of LEP 2002. The proposed 'multi dwelling housing' development is permissible, within the '2(b) – Residential' zone, as well as being consistent with the following objectives for the zone:

- (b) to permit the development of a range of housing types
- (c) to encourage a variety of forms of housing that are higher in density than traditional dwelling houses, including accommodation for older people and people with disabilities, in locations which are accessible to public transport, employment, retail, commercial and service facilities.

Consequently the proposal satisfies the provisions of Clause 9 of LEP 2002 and Council may grant consent to the application should it deem appropriate to do so.

6. Campbelltown (Sustainable City) Development Control Plan 2009 (SCDCP 2009)

Council is advised that SCDCP 2009 is the relevant Development Control Plan for the purposes of assessing this development application.

Although the current version of the Campbelltown (Sustainable City) DCP is the 2012 version (SCDCP 2012), the subject development application has been assessed under the provisions of SCDCP 2009 as the development application was made prior to 3 July 2013 (effective date of SCDCP 2012).

Notwithstanding the above, a brief assessment of the proposal against SCDCP 2012 was undertaken and found there to be no provisions under SCDCP 2012 that would result in a significantly different outcome to that recommended in this report.

The following compliance table, details the assessment of the proposed development pursuant to the relevant requirements of the SCDCP 2009.

Section	Control	Requirement	Proposed	Compliance
2.4.1	Rain Water Tanks	A 3,000L rain water tank shall be provided for all new buildings containing a roof area of between 101m ² to 200m ² .	Each dwelling is serviced by a 3,000L above ground rain water tank.	Yes
2.5	Landscaping	Provision of a detailed landscape plan, which shall enhance the visual character of the development and complement the site, and enhance the existing indigenous flora and fauna characteristics of a site wherever possible.	The application has been accompanied by a detailed landscaped plan, which includes various indigenous trees and shrubs.	Yes
2.8.1 (a)	Cut and Fill	A Cut and Fill Management Plan shall be provided, where the development incorporates cut and / or fill operations.	The proposed design follows the existing ground levels and involves minimal earthworks.	NA

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Section	Control	Requirement	Proposed	Compliance
2.9	Demolition		A detailed demolition work plan accompanied the application.	Yes. Moreover, a condition has been included within the recommendation requiring compliance with AS 2601 – 2001 – The Demolition of Structures.
2.12.1 (d)	Fencing	Front residential fencing shall be a maximum of 1.2m in height and complement the design of the development.	The proposed front fencing is 1.2m in height and is complementary in design to the overall development.	Yes
2.15.1	Waste Management	A detailed Waste Management Plan shall accompany multi dwelling applications.	A detailed Waste Management Plan accompanied the application and is satisfactory.	Yes
3.3.1 (a)	Streetscape	Building design (including facade treatment, massing, roof design and entrance features), setbacks and landscaping shall complement the scale of development, character and qualities of the desired streetscape.	The overall building design is in keeping with the existing and future likely character of the area and is considered satisfactory.	Yes
3.3.1 (c)	Streetscape	The built form shall relate to the natural landform and setting.	The proposed design relates to the existing ground levels of the site.	Yes
3.3.1 (d)	Streetscape	On-site parking areas shall be designed and sited to reduce the visual prominence of garage doors and external parking spaces as viewed from the street or other public place.	The siting of the car parking areas are integrated into the overall design, as to not dominate the visual appearance of the development.	Yes
3.3.1 (e)	Streetscape	Garage doors facing a public street shall be no wider than 50% of the width of the building (at its street fronting facade).	No garage is located within the main street frontage of the development.	Yes
3.3.2 (a) (i)	Building Height	Residential development shall not exceed two (2) storeys.	The proposed development is single storey.	Yes
3.3.2 (a) (ii)	Building Height	Residential development shall have a height not exceeding 7.2m at the upper most ceiling measured vertically from ground level (existing).	The proposed buildings have a maximum ceiling height of approximately 3m.	Yes
3.3.2 (a) (iii)	Building Height	Residential development shall have a height not exceeding 9.5m at the upper most roof height measured vertically from ground level (existing).	Approximately 5m	Yes

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Section	Control	Requirement	Proposed	Compliance
3.3.2 (b)	Building Height	The height of development shall not result in any significant loss of amenity (including loss of solar access and visual and acoustic privacy) to adjacent properties and public places.	The overall height of the development is single storey and in keeping with the height of surrounding development and given the siting of the proposed development, amenity impacts to adjacent dwellings have been minimised.	Yes
3.4 (a)	Car Parking and Access	The minimum external dimensions of any required parking space shall be 2.5m x 5.5m.	The external parking spaces have dimensions of 2.5m x 5.5m.	Yes
3.4 (b)	Car Parking and Access	The minimum internal dimension of an enclosed garage shall be 3m x 6m.	Each garage has dimensions of 3.2m x 6m.	Yes
3.4 (c)	Car Parking and Access	Transitional grades shall comply with AS 2890.1 (as amended) Parking Facilities - Off-Street Car Parking.	Transitional grades to the garages comply with the relevant standard.	Yes. Furthermore, a condition has been included within the recommendation requiring compliance with such.
3.4 (e)	Car Parking and Access	Driveways greater than 30m in length as viewed from the street shall be avoided.	Approximately 75m	No. However, the proposal has integrated significant landscaping adjacent to and within the driveway area and a condition has been included within the recommendation requiring the driveway being finished with a recessive colour, so as to minimise the visual prominence of the driveway area and the visual impact on the streetscape.
3.4 (g) (ii)	Car Parking and Access	The minimum width of the driveway at the street kerb shall be 5m where the driveway provides access for three (3) or more dwellings.	The driveway is 5m wide at the street boundary.	Yes
3.4 (i)	Car Parking and Access	Driveways shall be designed perpendicular to the road.	The driveway is perpendicular to the road.	Yes
3.4 (j)	Car Parking and Access	Plain concrete driveways shall not be permitted.	The driveway is of a patterned coloured concrete finish.	Yes
3.5.2 (a)	Visual Privacy	No window of a habitable room or balcony shall directly face a window of another habitable room, balcony or private open space of another dwelling located within 6m of the proposed window or balcony unless appropriately screened.	Side facing living room windows are setback a minimum of 3.4m from the property boundary. The overall layout does not involve habitable rooms facing other habitable rooms.	Yes

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Section	Control	Requirement	Proposed	Compliance
3.6 (a)	Solar Access	Living areas shall have a northerly orientation.	Each dwellings includes a living area with a north facing window.	Yes
3.6 (b)	Solar Access	A minimum of 20m ² of the required private open space area shall receive three (3) hours of continuous direct solar access on 21 June, between 9.00am and 3.00pm, measured at ground level.	In excess of 20m ² of the private open space area of each dwelling shall receive more than three (3) hours of solar access at the winter solstice.	Yes
3.6 (c)	Solar Access	Development shall have appropriate regard to the impact on solar access to useable private open space, solar collectors and clothes drying areas of adjoining residential development.	The layout and design of the development results in amenity impacts to adjacent dwellings being minimised.	Yes
3.9.1 (a)	Site and Density Requirements for Multi Dwellings	Multi dwelling developments shall not be erected on land with an area of less than 700m ² .	3,280m ²	Yes
3.9.1 (c)	Site and Density Requirements for Multi Dwellings	The number of dwellings permitted within a multi dwelling development shall not exceed two (2) dwellings for the first 700m ² of land area and 1 dwelling for each 300m ² of land area thereafter. Equates to 3,700m ² , for 12 dwellings.	3,280m ²	No. Although the proposal satisfies the density requirements of Clause 40 (2) and Clause 50 (b) of the Seniors Housing SEPP, pursuant to Clause 50 of the SEPP. Council cannot refuse a development application on the grounds of not satisfying this control.
3.9.1 (f) (i)	Site and Density Requirements for Multi Dwellings	Multi dwelling developments incorporating three (3) or more dwellings shall only be permitted on an allotment having a minimum width of 22.5m measured along the side boundaries at a distance of 5.5m from the primary street boundary.	40.23m	Yes
3.9.1 (f) (ii)	Site and Density Requirements for Multi Dwellings	Multi dwelling developments incorporating 3 or more dwellings shall only be permitted on an allotment having a minimum width of 10m measured between the extended property side boundaries.	40.23m	Yes

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Section	Control	Requirement	Proposed	Compliance
3.9.1 (f) (iii)	Site and Density Requirements for Multi Dwellings	Multi dwellings development incorporating 3 or more dwellings shall only be permitted on an allotment where no part of the allotment is within 50m of the commencement of the head of a cul-de-sac to which vehicular access to the site is obtained.	The site is not within 50m of a cul-de-sac.	Yes
3.9.1 (g)	Site and Density Requirements for Multi Dwellings	The total FSR shall not exceed 0.45:1.	Approximately 0.31:1	Yes
3.9.1 (h) (i)	Site and Density Requirements for Multi Dwellings	A multi dwelling development shall be setback a minimum of 5.5m from the primary street boundary.	The development has a minimum front setback of 5.5m.	Yes
3.9.1 (h) (iii)	Site and Density Requirements for Multi Dwellings	A multi dwelling development shall be setback a minimum of 900mm from any side boundary for the ground level.	The development has a minimum setback of 3.5m from the northern side boundary and a minimum setback of 3.43m from the southern side boundary.	Yes
3.9.1 (h) (v)	Site and Density Requirements for Multi Dwellings	A multi dwelling development shall be setback a minimum of 5m from the rear boundary for the ground level.	The development has a minimum rear setback of 6m.	Yes
3.9.2 (b)	General Requirements for Multi Dwellings	Each multi dwelling unit shall be provided with a minimum of one (1) single garage.	Each dwelling includes an attached single garage.	Yes
3.9.2 (c)	General Requirements for Multi Dwellings	One (1) external additional visitor car parking space shall be provided for every two (2) units (or part thereof), unless all dwellings within the development have direct frontage to a public street.	The overall development is serviced by three (3) visitor car parking spaces.	No. Although the proposal satisfies the car parking requirements of Clause 50 (h) (i) of the Seniors Housing SEPP, pursuant to Clause 50 of the SEPP. Council cannot refuse a development application on the grounds of not satisfying this control.
3.9.2 (d)	General Requirements for Multi Dwellings	No visitor car parking space shall be located forward of the primary or secondary street boundary.	The visitor car parking spaces are recessed beyond the front facade.	Yes
3.9.2 (e)	General Requirements for Multi Dwellings	No visitor car parking space shall be in a 'stacked' configuration.	None of the proposed car parking spaces are of a 'stacked' configuration.	Yes

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Section	Control	Requirement	Proposed	Compliance
3.9.2 (g)	General Requirements for Multi Dwellings	The total floor area occupied by all bedrooms (and / or rooms capable of being used as a bedroom) within each dwelling shall not exceed 35% of the total floor space of that dwelling.	Approximately 26% for the two (2) bedroom dwellings and approximately 31% for the three (3) bedroom dwellings.	Yes
3.9.2 (h) (i)	General Requirements for Multi Dwellings	Each multi dwelling unit shall be provided with an area or areas of private open space that are not located within the primary street setback.	The private open space areas for each dwelling are located beyond the two (2) street facing dwellings.	Yes
3.9.2 (h) (ii)	General Requirements for Multi Dwellings	Each multi dwelling unit shall be provided with an area or areas of private open space that have a minimum area of 60m ² .	Each dwelling is serviced by a private open space area, with a minimum size of 38m ² .	No. Although the proposal satisfies the private open space requirements of Clause 50 (f) (i) of the Seniors Housing SEPP, pursuant to Clause 50 of the SEPP. Council cannot refuse a development application on the grounds of not satisfying this control.
3.9.2 (h) (iii)	General Requirements for Multi Dwellings	Each multi dwelling unit shall be provided with an area or areas of private open space that have a minimum width of 3m.	Each private open space area has a minimum width of 3.4m.	Yes
3.9.2 (h) (iv)	General Requirements for Multi Dwellings	Each multi dwelling unit shall be provided with an area or areas of private open space that include a minimum levelled area of 5m x 5m.	Each private open space area has minimum dimensions of 3.4m x 10.3m.	No. Although given that the proposal satisfies the private open space requirements of Clause 50 (f) (i) of the SD SEPP being to provide a minimum private open space area of 3m x 3m, pursuant to Clause 50 of the SEPP. Council cannot refuse a development application on the grounds of not satisfying this DCP control.
3.9.2 (h) (v)	General Requirements for Multi Dwellings	Each multi dwelling unit shall be provided with an area or areas of private open space that have an internal living room directly accessible to outdoor private open space areas.	Each private open space area is directly accessible from the respective main living areas.	Yes
3.9.2 (h) (vi)	General Requirements for Multi Dwellings	Each multi dwelling unit shall be provided with an area of private open space that satisfies the solar access requirements contained in Section 3.6.	In excess of 20m ² of the private open space area of each dwelling receives more than three (3) hours of solar access at the winter solstice.	Yes

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Section	Control	Requirement	Proposed	Compliance
3.9.2 (i)	General Requirements for Multi Dwellings	No part of an outdoor living area is permitted to be located within the primary or secondary street setback area.	The private open space areas for each dwelling are located beyond the two (2) street facing dwellings.	Yes
3.9.2 (k)	General Requirements for Multi Dwellings	Multi dwellings shall satisfy the following additional provisions relating to streetscape: <ul style="list-style-type: none"> architectural features (such as balconies, openings, columns, porches, colours, materials etc.) and articulation in walls are to be incorporated into the front facade of each dwelling; no more than 30% of the area forward of any building alignment shall be surfaced with impervious materials. 	The front facade of each dwelling is articulated and consists of architectural features that are of a similar form to adjoining and future like developments. Approximately 29% of the area forward of the building alignment, is of an impervious finish.	Yes
3.9.2 (l)	General Requirements for Multi Dwellings	Multi dwellings shall satisfy the following requirements relating to landscape: <ul style="list-style-type: none"> a detailed landscape design plan shall be submitted by a suitably qualified person with the development application; and a minimum of 20% of the total site area shall be available for deep soil planting. 	The application was accompanied by a detailed landscape design plan. Approximately 34% of the site has been made available for deep soil planting.	Yes

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Section	Control	Requirement	Proposed	Compliance
3.9.2 (m)	General Requirements for Multi Dwellings	Multi dwellings development shall satisfy the following architectural requirements: <ul style="list-style-type: none"> a distinctive architectural outcome that unifies the range of building elements and diversity within the development and which also harmonises with surrounding development; incorporation of variations in roof heights and wall planes to avoid long unbroken ridge lines; incorporation of facade shifts and articulation, varied materials and colours in order to avoid duplication of the same building elements; and provision of windows and active spaces in the building ends, to provide additional security and visual interest. 	<p>The overall design of the proposed development is similar in terms of its finish, and bulk and scale, compared to existing and likely future developments in the locality.</p> <p>The front facades and roof forms are articulated, providing depth to the overall design.</p>	Yes
3.9.4 (a)	Multi Dwellings and Waste Management	Multi dwelling development shall make provision for individual waste storage, allocated behind the primary and secondary building alignment out of public view, for the following: <ul style="list-style-type: none"> a 140 litre bin; and two (2) 240 litre bins. 	Suitable provision is made within each private open space area for bin storage in positions behind the primary building line and out of public view.	Yes Furthermore, a condition has been included within the recommendation requiring bins to be stored within the private court yard areas.

7. Campbelltown City Council Section 94A Development Contributions Plan

Development contributions are applicable pursuant to the provisions of the Campbelltown City Council Section 94A Development Contributions Plan and accordingly a condition has been included within the recommendation, requiring payment of such.

8. Planning Assessment

The following is a summary of the areas of consideration regarding the likely environmental impacts and the suitability of the site, in respect to the proposed development:

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Built Form

The overall building design consists of articulated facades and is in keeping with the existing and future likely character of the area. Moreover, it is considered that the overall development is of an acceptable built form, in terms of scale, massing and articulation.

Natural Environment

As previously outlined, the site contains remnant Cumberland Plain Woodland, which is listed as a Critically Endangered Ecological Community under the Threatened Species Conservation Act 1995 and as an Endangered Ecological Community under the Commonwealth's Environmental Protection and Biodiversity Conservation Act 1999. Moreover, the proposal involves removal of 36 trees from the site. Accordingly, the application has been accompanied by a Flora and Fauna Assessment, prepared by a practising Ecological Consultant.

Moreover, a Seven Part Test of Significance (attached) was also undertaken by the same practising Ecological Consultant, pursuant to Section 5A of the *Environmental Planning and Assessment Act 1979*.

The Ecological Consultant's Report outlines that of the 41 trees located on the site, 22 are indigenous to the area and representative of Cumberland Plain (Shale Plain) Woodland, and that the 22 indigenous trees on the site combine with approximately 114 others, on surrounding properties to form a remnant stand of 136 Cumberland Plain Woodland trees. The Seven Part Test of Significance, outlines that as the proposal involves the removal of only 11% of the trees within the stand of 136 (15 trees of 136), it is unlikely to place the local occurrence of the Cumberland Plain (Shale Plain) Woodland at risk.

The Ecological Consultant recommends that 'Tree Protection Zones' be established around the perimeter of the five trees that are to be retained. Accordingly, conditions have been included within the recommendation, requiring the establishment of such.

Furthermore, the Ecological Consultant recommended that specific landscaping be utilised, in close proximity to the five existing trees around the site. The application was accompanied by a landscape plan which adopts the approach.

Amenity Impacts

The overall design of the proposed development has given satisfactory regard to existing adjoining residential premises, in terms of privacy, separation, overshadowing and the protection of trees and other vegetation within adjoining properties. Accordingly it is considered that the proposal is acceptable in this regard.

Security and Safety

The overall design of the proposed development is considered to be consistent with the 'principles for minimising crime risk' (Crime Prevention through Environmental Design) and it is therefore deemed to be satisfactory in this regard.

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Public Participation

In accordance with the requirements of Campbelltown Development Control Plan No. 87, the proposal was notified to adjoining property owners from 14 May 2013 until 28 May 2013. As a consequence of the notification, Council received 71 submissions, 69 of the submissions objected to the proposal, while the other two submissions raised concerns with the application. Following is a summary and comments relating to such:

Concern was raised suggesting that the design of the buildings are out of character with existing surrounding development.

Comment – The general architectural style is considered acceptable for the locality and whilst the redevelopment of the site gives rise to a different built form compared to that of more established residential development, it is considered to be not incompatible with the emerging streetscape and built form in the locality.

Concern was raised regarding the proposed front setback and its incompatibility with adjoining dwellings.

Comment – While it is acknowledged that the proposed front setback is less than the setback of the existing dwellings on the site and that of the dwellings to either side of the site, there are a number of more recently completed dwellings that are setback in the vicinity of 5.5m. Furthermore, the proposal is consistent with the setback requirements of the Sustainable City DCP, and is considered to be compatible with the emerging streetscape and built form in the locality.

Concern was raised regarding the density of the proposal being incompatible with that of the locality.

Comment – While the proposal includes 12 dwellings on a site that would only provide for 10 under the Sustainable City DCP, the Seniors Housing SEPP permits higher density housing, subject to additional criteria to which the proposal satisfies, as previously outlined.

Concern was raised regarding the location of the proposed driveway.

Comment – The central common driveway satisfies the relevant requirements of the Sustainable City DCP, while the application was referred to Council's Senior Development Engineer who was satisfied with the location of such.

Concern was raised regarding the removal of structures containing asbestos.

Comment – Conditions have been included within the recommendation requiring demolition works being undertaken in accordance with the relevant Australian Standards and that any asbestos be removed by an appropriately licensed contractor.

Concern was raised regarding the proliferation of 'Seniors Living' type developments in the locality.

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Comment – Whilst it is acknowledged that there is an existing Seniors Living type development in close proximity to the site, there are no such controls restricting the number of facilities in a given area.

Concern was raised regarding the management of the facility and the potential occupancy of the development by 'non-seniors'.

Comment – As previously outlined, in accordance with the Seniors Housing SEPP a condition is to be imposed upon any such development, requiring the registration of a restriction as to user on the title of the property, limiting the use and occupancy of the facility.

Concern was raised regarding the removal of Cumberland Plain Woodland and other existing trees.

Comment – As previously outlined, the application was accompanied by an Ecological Consultant's Report (containing a Flora and Fauna Assessment, and a Seven Part Test of Significance) which concludes that the proposal satisfies the relevant provisions, subject to the inclusion of conditions which have been included within the recommendation. Council's Environmental Planning staff have not raised an objection to the proposed development.

Concern was raised regarding the loss of animal habitat.

Comment – As previously outlined, the application was accompanied by an Ecological Consultant's Report (containing a Flora and Fauna Assessment, and a Seven Part Test of Significance) which concludes that the proposal satisfies the relevant provisions, subject to the inclusion of conditions which have been included within the recommendation.

Concern was raised regarding the proposal being inconsistent with publications of the NSW Office of Environment and Heritage.

Comment – As previously outlined, the application was accompanied by an Ecological Consultant's Report (containing a Flora and Fauna Assessment, and a Seven Part Test of Significance) which concludes that the proposal satisfies the relevant provisions, subject to the inclusion of conditions which have been included within the recommendation.

Concern was raised regarding potential amenity impacts during demolition and construction works.

Comment – Conditions have been included within the recommendation limiting the hours of works, in relation to dust management and requiring demolition works being undertaken in accordance with the relevant Australian Standards. Furthermore, any works are subject to the requirements of the Protection of the Environment and Operations Act, which has limitations on noise emissions.

Concern was raised regarding potential privacy issues.

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Comment – Whilst it is acknowledged that the proposal seeks to provide for nine additional dwellings over the site, it is limited to single storey dwellings and apart from highlight windows within one of the dwellings, all other side windows are located in excess of 3m from any property boundary. Furthermore, the overall design generally follows the existing ground levels. Accordingly, it is considered that the proposal is acceptable in his regard.

Concern was raised regarding potential overshadowing of adjoining properties.

Comment – The proposal is limited to single storey buildings. The layout includes six dwellings along the southern portion of the site, which apart from one of the dwellings are setback in excess of 3m. Given this, it is unlikely that the proposal would generate any overshadowing beyond that of a 1.8m high dividing fence and it is considered that the proposal is acceptable in this regard.

Concern was raised regarding potential additional noise generated by additional residents.

Comment – Whilst it is acknowledged that the proposal seeks to provide for nine additional dwellings and that common noise levels are likely to increase in the vicinity of the site, the Seniors Housing SEPP permits higher density housing and it is considered that the proposal is acceptable in his regard. Furthermore, it is noted that the provisions of the *Protection of the Environment Operations Act 1997*, limit noise emissions from sources such as air conditioning systems and the like.

Concern was raised regarding potential impacts from additional lighting.

Comment – Whilst it is acknowledged that the proposal seeks to provide for nine additional dwellings and that overall light levels are likely to increase in the vicinity of the site, the Seniors Housing SEPP permits higher density housing and it is considered that the proposal is acceptable in his regard. A condition has been included within the recommendation requiring that any lighting satisfies the relevant Australian Standards.

Concern was raised regarding the lack of car parking provided on site.

Comment – While the proposal does not provide visitor car parking to the standard required by the Sustainable City DCP, the Seniors Housing SEPP allows for such developments with a lower number of spaces.

Concern was raised regarding pedestrian safety and traffic issues in the vicinity of the site, of a result of nine additional dwellings.

Comment – Whilst it is acknowledged that the proposal would generate additional traffic movements, it is considered that local road network is capable of meeting the associated demand. Furthermore, the application was referred to Council's Development Engineer for consideration, who has not objected to the proposal.

Concern was raised suggesting that the site has poor drainage and that the proposal will further impact upon such.

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Comment – The application was accompanied by a stormwater concept plan and a Stormwater Assessment Study, which was prepared by a Consultant Chartered Engineer. The application was referred to Council's Development Engineer and Council's Technical Services Section for consideration, who found the proposal to be acceptable. Furthermore, conditions have been included within the recommendation requiring the implementation of various drainage measures in accordance with the requirements of the Sustainable City DCP.

Concern was raised suggesting that the proposal will be detrimental to Sydney Water and telecommunication facilities in the locality.

Comment – Any such development requires the developer to liaise with the appropriate service authority prior to the commencement of works, to ascertain if any associated upgrade will be required to service the needs of the proposed development.

Concern was raised regarding the development not being built in accordance with the approved plan.

Comment – A condition has been included within the recommendation requiring the completion of the development in accordance with the approved plans.

Concern was raised regarding the potential detrimental impact of a seniors living type development upon property values in the area.

Comment – No evidence has been provided in support of this claim. Furthermore, the relevant provisions provide for seniors living type development within the '2(b) – Residential' zone.

Concern was raised regarding the history and character of the applicant.

Comment – This is not a matter for consideration pursuant to the *EP&A Act*. Notwithstanding this, as previously outlined, conditions have been included within the recommendation, requiring the completion of the development in accordance with the approved plans, limiting the hours of works, implementation of dust management measures and requiring demolition works being undertaken in accordance with the relevant Australian Standards.

Concern was raised that one of the property owners does not wish to proceed with the development.

Comment – The application was made in accordance with the relevant provisions of the *EP&A Act* and included the consent of all property owners. Accordingly, Council is required to assess and ultimately make a determination based upon the application at hand.

Concern was raised regarding the offensive nature of comments made within the accompanying Statement of Environmental Effects, in relation to the appearance of surrounding dwellings.

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Comment – Noted, however this is not a matter for consideration pursuant to the provisions of the *EP&A Act*.

Concern was raised regarding the general concept of seniors living type housing, and the health and social effects of residing in such type housing.

Comment – No justification has been provided in support of this claim. Furthermore, this type of housing provides an additional and popular housing option.

Concern was raised regarding the quality of documentation accompanying the application and inconsistencies within.

Comment – It is noted that the documentation accompanying the application (as originally made) included out dated and inconsistent details, however following such concerns being raised with the applicant by Council revised details have been provided which generally address such concerns. Furthermore, various conditions have been included within the recommendation requiring the implementation of the development in the intended sequence and manner.

Concern was raised regarding the suitability of the site to accommodate seniors living type housing given the access available to various services.

Comment – As previously outlined the site satisfies the relevant provisions of the Seniors Housing SEPP in relation to access to services.

Concern was raised regarding potential fire safety issues.

Comment – Building works are subject to the requirements of the Building Code of Australia and accordingly conditions have been included within the recommendation requiring compliance with such.

Concern was raised regarding the additional community stress associated with additional building works being undertaken in the locality.

Comment – Whilst it is acknowledged that several other developments have been undertaken over the past decade in close proximity to the site, there are no such controls restricting the number of sites able to be developed in a given area. Conditions have been included within the recommendation limiting the hours of building works and in relation to dust management. Furthermore, any such building works are subject to the requirements of the Building Code of Australia and the *Protection of the Environment and Operations Act*.

Concern was raised regarding the stress associated with Development Applications continuously being made for the subject site and other properties in the area.

Comment – Whilst it is acknowledged that two other like applications have previously been made for the subject site and that a variety of applications have been made for other properties in the locality, this is not a matter for consideration pursuant to the *EP&A Act* and can be quite common in an area that is in transition.

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Concern was raised regarding the notification of the application, in relation to the extent of notification and lack of information being available on the internet.

Comment – The application was notified in accordance with the requirements of the Campbelltown Development Control Plan No. 87 – Public Notification and Public Exhibition Policy.

Conclusion

The proposal has been assessed pursuant to the relevant provisions of the Seniors Housing SEPP, LEP 2002 and the Sustainable City DCP. In this regard, while it is noted that the proposal does not comply with several of the requirements within Council's Sustainable City DCP, that pursuant to Clause 50 of the Seniors Housing SEPP, Council cannot refuse a development application which satisfies the associated requirements of the SEPP. The proposed development is permissible and assessment of such has not identified any significant environmental impacts. It is also considered that the site is suitable for the development. Accordingly, it is recommended that Council approve the application subject to appropriate conditions.

Officer's Recommendation

That Development Application No. 935/2013, for the demolition of existing structures, tree removal and construction of a 12 unit Seniors Living development, with front fencing at Nos. 64 & 66 Kent Street, Minto, be approved, subject to the attached conditions.

Committee Note: Ms Porter, Ms Barfield and Ms Cootes addressed the Committee in opposition to the development.

The applicant, Mr Misra, addressed the Committee regarding the development application.

Committee's Recommendation: (Mead/Lound)

That a decision in this matter be deferred to the Ordinary Meeting of Council to be held 3 June 2014, pending the receipt of further legal advice regarding the location of animals on the adjoining property.

CARRIED

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

Voting against the Committee's Recommendation was Councillor: Kolkman.

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Council Meeting 3 June 2014 (Kolkman/Greiss)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 86

That the Officer's Recommendation be adopted.

Voting for the Council Resolution were Councillors: Dobson, Greiss, Hawker, Kolkman, Lake, Matheson, Mead and Oates.

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

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ATTACHMENT 1

935/2013/DA-SL

Recommended Conditions of Consent GENERAL CONDITIONS

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

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

1. Approved Development

The development shall be carried out in accordance with the approved plans, listed below, and all associated documentation supporting this consent, except as modified in red by Council and / or any conditions within.

Drawing Number	Date Received by Council
DA01 (Revision: D)	9 April 2014
DA03 (Revision: D)	9 April 2014
DA04 (Revision: A)	9 April 2014
DA05 (Revision: D)	9 April 2014
DA06 (Revision: B)	9 April 2014
DA07 (Revision: D)	9 April 2014
DA/08 (Sheet 1 of 1)	9 April 2014

2. 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

3. Building Code of Australia

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

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4. Contract of Insurance (residential building work)

In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

This clause does not apply:

- a. To the extent to which an exemption is in force under Clause 187 or 188 of the Environmental Planning and Assessment Regulation 2000, subject to the terms of any condition or requirement referred to in Clause 187(6) or 188(4) of that regulation, or
- b. To the erection of a temporary building.

5. Notification of Home Building Act 1989 Requirements

Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the principal certifying authority for the development to which the work relates (not being Council) has given Council written notice of the following information:

- a. In the case of work for which a principal contractor is required to be appointed:
 - i. The name and licence number of the principal contractor, and
 - ii. The name of the insurer by which the work is insured under Part 6 of that Act.
- b. In the case of work to be done by an owner-builder:
 - i. The name of the owner-builder, and
 - ii. If the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being Council) has given Council written notification of the updated information.

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6. Shoring and Adequacy of Adjoining Property

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

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

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

7. External Finishes

- a. The external finishes shall be in accordance with the approved plans and the schedule of finishes submitted with this application. Any proposed alterations to these finishes are considered to be a modification to the development consent and require separate approval by Council.
- b. The driveway is to be finished either 'French Grey', 'Gunmetal' 'Bluestone', 'Charcoal', or another similar colour.

8. Driveway

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

The driveway is to be bounded with a 150mm high kerb / dwarf wall.

9. Car Parking Spaces

Car parking shall be provided in accordance with the approved plans and Australian Standards 2890.1 and 2, and made available to all users of the site at all times.

10. Landscaping

- (1) The provision and maintenance of landscaping shall be in accordance with the approved landscape plan, prepared by Ray Fuggle & Associates, submitted to Council on 21 January 2014, including the engagement of a suitably qualified landscape consultant / contractor for landscaping works.
 - (2) All plants shall be vigorous and well established, free from disease and pests, of good form, consistent with species or variety, hardened off, not soft or forced, with large healthy root systems with no evidence of root curl, restriction or damage.
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3.3 Lots 6 And 7, DP 31977 Nos. 64 And 66 Kent Street, Minto - Demolition Of Existing Structures, Tree Removal And Construction Of A 12 Unit Seniors Living Development With Front Fencing

- (3) All trees are to be staked and tied with a minimum of three (3) hardwood stakes. Ties are to be hessian and fixed firmly to the stakes, one tie at half the height of the main stem, others as necessary to stabilise the plant.
- (4) Root deflection barriers having a minimum depth of 600mm are to be installed adjacent to all footpaths and driveways.
- (5) Minimum 75mm depth of organic mulch shall be placed within an area 500mm radius from the base of trees. Mulch shall be free from deleterious and extraneous matter, including soil, weeds, rocks, twigs and the like and shall be placed so that it is not in contact with the stem of the plant.

11. Ground Levels

The existing ground levels shall only be altered in accordance with the levels shown on the approved plans. Under no circumstances shall levels elsewhere on the site (i.e. within the side or rear setback areas) be altered in any way.

12. Fencing

- a. 1.8m high fencing is to be erected to cordon off the private open areas, in accordance with the approved plans, prior to the issuing of an Occupation Certificate.
- b. Attention is directed to the provisions of the Dividing Fences Act 1991, in relation to the fencing of the boundaries of the overall site.

13. 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.

14. 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.

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 - Volumes 1 and 3*.

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16. Flood Level Controls

This site is located within an area that has been identified as at the risk of being affected by the 100 year ARI flood. The fill and floor level control, which affects this land shall be in accordance with the recommendations of the flood study report approved by Council and the requirements set out in the *Campbelltown (Sustainable City) DCP Volume 3*.

17. Rain Water Tanks

Rain water tanks shall be installed on site for the collection and storage of stormwater for irrigation and reuse purposes (eg the flushing of toilets), in accordance with the approved plans.

18. Rubbish / Recycling Bin Storage

Rubbish and recycling bins shall be stored within the private courtyard areas, not within vehicle parking, vehicle manoeuvring areas or landscaped areas.

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.

19. Compliance Certificate – Compliance with State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

The development shall comply with the relevant standards, objectives and controls contained within the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

Prior to Council or an accredited certifier issuing a Construction Certificate, the applicant shall obtain a Compliance Certificate from the Principal Certifying Authority in relation to the provision of satisfactory detailing of the following items, pursuant to Schedule 3 of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

- a. Siting Standards,
 - b. Security,
 - c. Letterboxes,
 - d. Private car accommodation,
 - e. Accessible entry,
 - f. Interior,
 - g. Bedroom,
 - h. Bathroom,
 - i. Toilet,
 - j. Surface finishes,
-

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- k. Door hardware,
- l. Ancillary items,
- m. Living room and dining room,
- n. Kitchen,
- o. Laundry,
- p. Storage for linen, and
- q. Garbage

Prior to Council or an accredited certifier issuing any Construction Certificate under this consent, the applicant shall provide written evidence and architectural plans demonstrating how every development standard listed above shall be achieved.

Prior to the principal certifying authority issuing an occupation certificate or an interim occupation certificate, the applicant shall demonstrate to the principal certifying authority's satisfaction that each development standard listed above has been achieved.

20. 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.

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

21. 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 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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22. 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.

23. Waste Management Plan

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

24. 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.

25. Soil and Water Management Plan

Prior to Council or an accredited certifier issuing a construction certificate, a detailed soil and water management plan shall be submitted for approval.

26. Stormwater Management Plan

Prior to Council or an accredited certifier issuing a construction certificate, a plan indicating all engineering details and calculations relevant to site regrading and the collection and disposal of stormwater from the site, building/s and adjacent catchment, shall be submitted for approval. Floor levels of all buildings shall be a minimum of 150mm above the adjacent finished site levels and stormwater shall be conveyed from the site to a piped drainage system under Council's control. In this regard the applicant shall construct a Council's standard kerb inlet pit in Kent Street and connect the site drainage to the pit.

The applicant shall obtain written approval from Council for the drainage works in public land prior to the accredited certifier issuing a construction certificate.

All proposals shall comply with the *Campbelltown (Sustainable City) DCP - Volumes 1 and 3*.

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27. Inundation by Flood Waters

Prior to Council or an accredited certifier issuing a construction certificate, the applicant shall submit plans addressing recommendations of the flood study report No: 12066CB Revision B, prepared by G J McDonald and approved by Council. In this regard the design levels including finished ground and floor levels shall be in accordance with the above mentioned flood study report.

- ii. Any filling required shall be undertaken in accordance with Council's 'Specification for *Construction of Subdivision Road and Drainage Works*' (as amended), AS3789 'guidelines for Earthworks for Commercial and Residential Development (as amended)', and the approved construction drawings.
- iii. Where finished floor and surface levels related to flooding are specified as above, a 'work as executed' plan certified by a registered surveyor shall be submitted to Council for approval prior to release of the occupation certificate.

28. 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 applicants expense and a compliance certificate, approving the works, shall be obtained from Council prior to the principal certifying authority issuing an occupation certificate.

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.

30. 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*.

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
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- 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) 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.

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.

31. 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.

32. Erection of Construction Sign

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

- a. Showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours;
 - b. Stating that unauthorised entry to the work site is prohibited; and
 - c. Pollution warning sign promoting the protection of waterways (issued by Council with the development consent);
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- 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.

33. 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.

34. 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.

35. 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.

36. 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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37. Footpath and Vehicular Crossing Levels

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

38. Demolition Works

Demolition works shall be carried out in accordance with the following:

- a. Prior to the commencement of any works on the land, a detailed demolition work plan designed in accordance with Clause 1.7.3 of Australian Standard AS 2601-2001 – The Demolition of Structures, prepared by a suitably qualified person with suitable expertise or experience, shall be submitted to and approved by Council and shall include the identification of any hazardous materials, method of demolition, precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials.
- b. Prior to commencement of any works on the land, the demolition Contractor(s) licence details must be provided to Council.
- c. The handling or removal of any asbestos product from the building/site must be carried out by a NSW Work Cover licensed contractor irrespective of the size or nature of the works. Under no circumstances shall any asbestos on site be handled or removed by a non-licensed person. The licensed contractor shall carry out all works in accordance with NSW Work Cover requirements.
- d. An appropriate fence preventing public access to the site shall be erected for the duration of demolition works
- e. Immediately prior to the commencement of the demolition or handling of any building or structure that contains asbestos, the applicant shall request that the principal certifying authority attend the site to ensure that all appropriate safety measures are in place. The applicant shall also notify the occupants of the adjoining premises and Workcover NSW prior to the commencement of any works.

39. Fencing

An appropriate fence preventing public access to the site shall be erected for the duration of construction works.

40. 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 PCA. The designing structural engineer shall also nominate a site classification in accordance with AS2870 – *Residential Slabs and Footings*.

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41. Structural Engineer Details

Prior to the commencement of any works, the submission to the principal certifying authority of all details prepared by a practicing structural engineer.

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.

42. 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.

43. 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.

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.

44. Waste Management Plan

The applicant shall undertake all works in accordance with the Waste Management Plan submitted to Council and the relevant provisions of Council's Waste Management Plan.

45. Work Zones

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

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

3.3 Lots 6 And 7, DP 31977 Nos. 64 And 66 Kent Street, Minto - Demolition Of Existing Structures, Tree Removal And Construction Of A 12 Unit Seniors Living Development With Front Fencing

46. Protection of Existing Trees

- a. Compliance at all times with the requirements and recommendations contained within the Ecological Consultant's Report, prepared by Accord Tree, submitted to Council on 9 January 2014.
- b. All trees that are to be retained are to be protected by fencing, firmly staked within the drip line / canopy of the tree and maintained during the duration of the works. The area within the fencing must not be used for stockpiling of any material, nor for vehicle or pedestrian convenience.

All useable trees and shrubs shall be salvaged for re-use, either in log form, or as woodchip mulch for erosion control or garden beds or site rehabilitation. Non-salvable materials such as roots and stumps shall be disposed of to a waste management centre or other approved form.

47. 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.

48. Termite Control

The building shall be protected from subterranean termites in accordance with *Australian Standard 3660.1*. Certification of the treatment shall be submitted to the principal certifying authority prior to the issue of an occupation certificate.

49. Public Safety

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

50. 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.
-

3.3 Lots 6 And 7, DP 31977 Nos. 64 And 66 Kent Street, Minto - Demolition Of Existing Structures, Tree Removal And Construction Of A 12 Unit Seniors Living Development With Front Fencing

51. Footpath

The unpaved area of the footpath verge adjoining the subject land shall be regraded, topsoiled and turfed in accordance with levels to be obtained from Council. The footpath formation may need to be extended beyond the site boundaries, to provide an acceptable transition to existing footpath levels.

52. Medium Density Driveway and Layback Crossing

The applicant shall provide a reinforced concrete driveway and layback crossing/s to Council's *Medium Density Vehicle Crossing Specification*.

A separate application for this work, which will be subject to a crossing inspection fee, fixing of levels and inspections by Council, must be lodged with Council. Conduits must be provided to service authority requirements.

53. Associated Works

The applicant shall undertake any works external to the development, that are made necessary by the development, including additional road and drainage works or any civil works directed by Council, to make a smooth junction with existing work.

54. Redundant Laybacks and Kerb outlets

All redundant kerb outlet/s and layback/s shall be removed and the kerb shall be reinstated to conventional kerb and gutter to Council's *Specification for Construction of Subdivisional Road and Drainage Works (as amended)* and with the design requirements of the *Campbelltown (Sustainable City) DCP - Volumes 1 and 3*.

55. 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.

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".

3.3 Lots 6 And 7, DP 31977 Nos. 64 And 66 Kent Street, Minto - Demolition Of Existing Structures, Tree Removal And Construction Of A 12 Unit Seniors Living Development With Front Fencing

56. 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 > 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.

57. Structural Engineering Certificate

Prior to the principal certifying authority issuing an occupation certificate, the submission of a certificate from a practising structural engineer certifying that the building has been erected in compliance with the approved structural drawings and relevant SAA Codes and is structurally adequate.

58. Completion of External Works Onsite

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

59. Restoration of Public Roads

Prior to the principal certifying authority issuing an Occupation Certificate, the restoration of public road and associated works required as a result of the development shall be carried out by Council and all costs shall be paid by the applicant.

60. Works as Executed Plans

Prior to the principal certifying authority issuing an occupation certificate, the applicant shall submit to Council the following documents:

- a. 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 of the *Campbelltown (Sustainable City) DCP 2009 - Volumes 1 and 3*.
-

3.3 Lots 6 And 7, DP 31977 Nos. 64 And 66 Kent Street, Minto - Demolition Of Existing Structures, Tree Removal And Construction Of A 12 Unit Seniors Living Development With Front Fencing

61. Registration of Levels

Prior to the principal certifying authority issuing an occupation certificate, a qualified practicing surveyor shall certify that the finished floor and finished surface levels of the development comply with the relevant condition in the development consent. An electronic copy of this work as executed information shall also be submitted to Council, complying with the following provisions:

1. MGA 94 (Map Grid of Australia 1994) Zone 56 - Coordinate System.
2. DXF and/or MID/MIF file format(s), and
3. Datum to be AHD (Australian Height Datum)

62. 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.

63. Service Authorities

Prior to the principal certifying authority issuing a subdivision certificate, two copies of all servicing plans shall be forwarded to Council in accordance with the following:

Written advice from *Sydney Water*, *Integral Energy* and where applicable the relevant gas company, shall be submitted, stating that satisfactory arrangements have been made for the installation of either service conduits or street mains in road crossings, prior to the construction of the road pavement. All construction work shall conform to the relevant authorities specification/s.

The final seal shall be deferred pending installation of all services. In this regard the applicant shall provide a temporary seal and lodge with Council as security, the amount to be determined by Council, to cover the cost of trench restoration by Council and the placement of the final asphaltic concrete seal.

64. BASIX

Prior to the principal certifying authority issuing an occupation certificate, completion of all requirements listed in the relevant BASIX certificate for the subject development shall be completed/installed.

65. Restriction On The Use Of Land

Prior to the principal certifying authority issuing an Occupation Certificate, the applicant shall create a restriction as to user, registered against the title of the property of land under Section 88E of the Conveyancing Act 1919, limiting the use of any accommodation to which the application relates to, either.

- a. seniors or people who have a disability,
-

3.3 Lots 6 And 7, DP 31977 Nos. 64 And 66 Kent Street, Minto - Demolition Of Existing Structures, Tree Removal And Construction Of A 12 Unit Seniors Living Development With Front Fencing

- b. people who live within the same household with seniors or people who have a disability, or
- c. staff employed to assist in the administration of and provision of services to housing provided under this Policy.

The applicant shall liaise with Council regarding the required wording. The authority empowered to release, vary or modify these restrictions on the use of land shall be the Council of the City of Campbelltown. The cost and expense of any such release, variation or modification shall be borne by the person or corporation requesting the same in all respects.

66. Council Fees and Charges

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

ADVISORY NOTES

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

Advice 1. Environmental Planning and Assessment Act 1979 Requirements

The Environmental Planning and Assessment Act 1979 requires you to:

- a. Obtain a construction certificate prior to the commencement of any works. Enquiries regarding the issue of a construction certificate can be made to Council's Customer Service Centre on 4645 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.
-

3.3 Lots 6 And 7, DP 31977 Nos. 64 And 66 Kent Street, Minto - Demolition Of Existing Structures, Tree Removal And Construction Of A 12 Unit Seniors Living Development With Front Fencing

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.

Advice 4. Smoke Alarms

From 1 May 2006 all NSW residents must have at least one working smoke alarm installed on each level of their home. This includes owner occupier, rental properties, relocatable homes and any other residential building where people sleep.

The installation of smoke alarms is required to be carried out in accordance with AS 3786. The licensed electrical contractor is required to submit to the Principal Certifying Authority a certificate certifying compliance with AS 3000 and AS 3786.

Advice 5. Covenants

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

3.3 Lots 6 And 7, DP 31977 Nos. 64 And 66 Kent Street, Minto - Demolition Of Existing Structures, Tree Removal And Construction Of A 12 Unit Seniors Living Development With Front Fencing

Advice 6. Inspections – Civil Works

Where Council is nominated as the principal certifying authority for civil works, the following stages of construction shall be inspected by Council.

- a. EROSION AND SEDIMENT CONTROL –
 - i. Direction/confirmation of required measures.
 - ii. After installation and prior to commencement of earthworks.
 - iii. As necessary until completion of work.
- b. STORMWATER PIPES – Laid, jointed and prior to backfill.
- c. VEHICLE CROSSINGS AND LAYBACKS – Prior to pouring concrete.
- d. FINAL INSPECTION – All outstanding work.

Advice 7. 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 8. 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 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 2009 - Volumes 1 and 2*.

Advice 10. 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
www.nsw.gov.au/fibro
www.adfa.org.au
www.workcover.nsw.gov.au

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

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Advice 11. Rain Water Tank

It is recommended that water collected within any rainwater tank as part of the development be limited to non-potable uses. NSW Health recommends that the use of rainwater tanks for drinking purposes not occur where a reticulated potable water supply is available.

Advice 12. 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 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 13. 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.

END OF CONDITIONS

3.3 Lots 6 And 7, DP 31977 Nos. 64 And 66 Kent Street, Minto - Demolition Of Existing Structures, Tree Removal And Construction Of A 12 Unit Seniors Living Development With Front Fencing

ATTACHMENT 2



LOCALITY PLAN



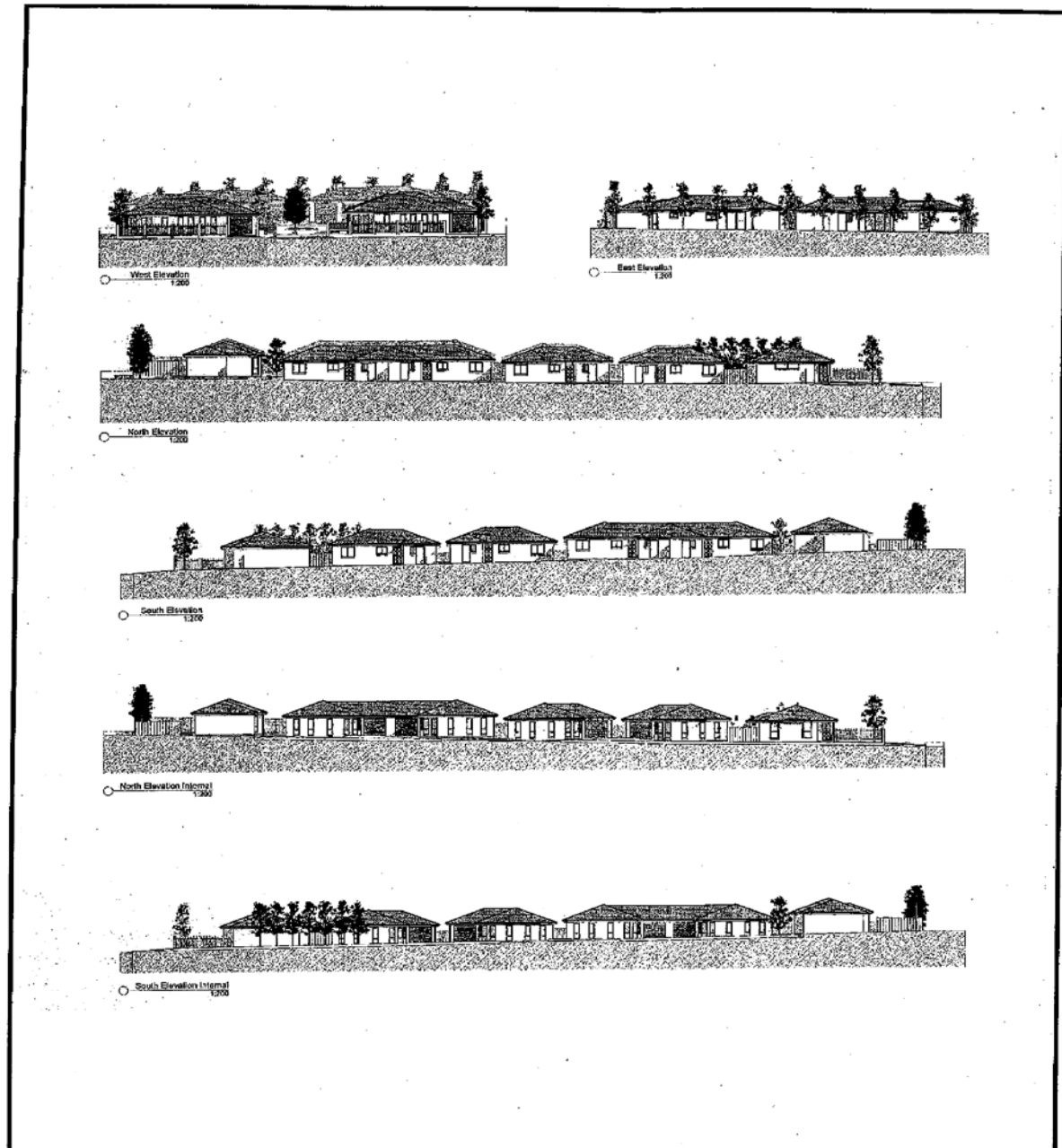
SUBJECT:

SENIOR LIVING DEVELOPMENT.

LOTS 6 & 7 DP 31977 - Nos. 64 & 66 KENT STREET, MINTO.

3.3 Lots 6 And 7, DP 31977 Nos. 64 And 66 Kent Street, Minto - Demolition Of Existing Structures, Tree Removal And Construction Of A 12 Unit Seniors Living Development With Front Fencing

ATTACHMENT 4



ELEVATIONS

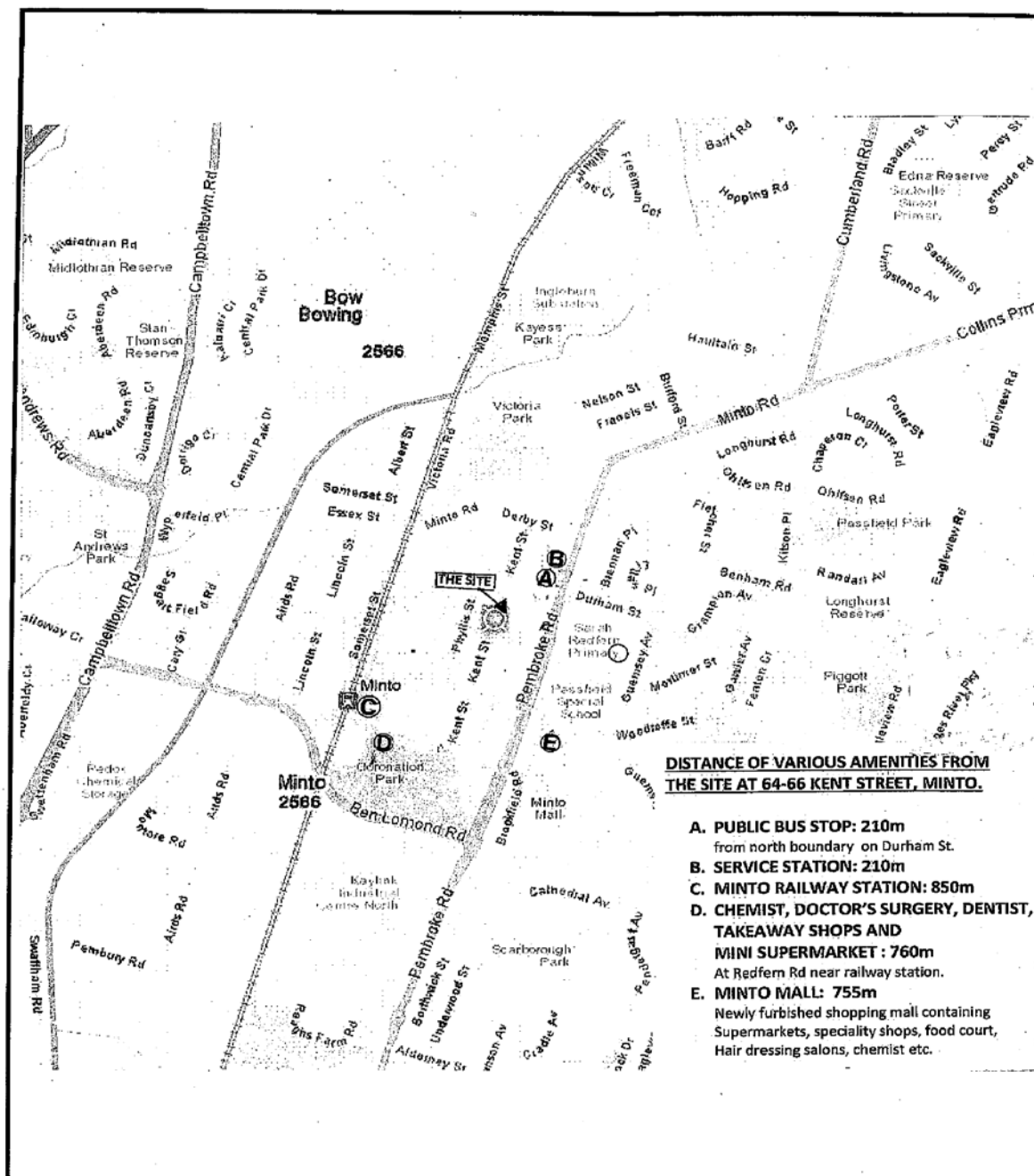
SUBJECT:

SENIOR LIVING DEVELOPMENT.

LOTS 6 & 7 DP 31977 - Nos. 64 & 66 KENT STREET, MINTO.

3.3 Lots 6 And 7, DP 31977 Nos. 64 And 66 Kent Street, Minto - Demolition Of Existing Structures, Tree Removal And Construction Of A 12 Unit Seniors Living Development With Front Fencing

ATTACHMENT 5



ACCESS TO SERVICES

SUBJECT:

SENIOR LIVING DEVELOPMENT.

LOTS 6 & 7 DP 31977 - Nos. 64 & 66 KENT STREET, MINTO.

3.3 Lots 6 And 7, DP 31977 Nos. 64 And 66 Kent Street, Minto - Demolition Of Existing Structures, Tree Removal And Construction Of A 12 Unit Seniors Living Development With Front Fencing

ATTACHMENT 7

Flora & Fauna Assessment & Seven Part Test @ 64 – 66 Kent Street, Minto

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5.1.2 Seven Part Test on the Shale Plains Woodland Ecological Community

- a. **In the case of a threatened species, whether the action proposed is likely to have an adverse effect on the life cycle of the species that constitutes the endangered population such that a viable local population is likely to be placed at risk of extinction.**

Response – This question is not relevant to a threatened Ecological Community

- b. **In the case of an endangered population, whether the action proposed is likely to have an adverse effect on the life cycle of the species that constitutes the endangered population such that a viable local population is likely to be placed at risk of extinction.**

Response – This question is not relevant to a threatened Ecological Community

- c. **In the case of an endangered ecological community or critically endangered ecological community, whether the action proposed:**
 (i) **Is likely to have an adverse effect on the extent of the ecological community such that its local occurrence is likely to be placed at risk**

Response – The study area has been mapped by NPWS (2002) as containing Shale Plains Woodland with a conservation significance of Other Remnant Vegetation, as it consists of remnant trees over urban residential development. It was previously cleared and subdivided in 1950 for residential development. Since that time approximately 136 trees have become established from seedling recruitment. These have developed into an equal aged stand of trees which are competing heavily for light and nutrients. The shrub and ground stratum are dominated by introduced species.

The subject site contains 41 trees; 22 indigenous and 21 introduced. While the proposed activity will require the removal of 75% of the indigenous trees on the site, this represents only 11% of the stand in the study area. This is unlikely to place the local occurrence of the SPW at risk.

- (ii) **Is likely to substantially and adversely modify the composition of the ecological community such that its local occurrence is likely to be placed at risk of extinction.**

Response – The removal 15 trees out of a stand of 136 is unlikely to substantially modify the community (represented by remnant trees over urban development) and is unlikely to place the local occurrence of the community at risk of extinction.

- d. **In relation to the habitat of a threatened species, population or ecological community:**

- (i) **The extent to which habitat is likely to be modified as a result of the action proposed**

Response – Fifteen of 136 trees in the remnant stand of SPW are proposed for removal in order to create the footprint of the proposed building. The action proposed will remove 11% of the stand. No significant habitat is provided by the shrub and ground stratum

Quality of the Site Habitat: The quality of the habitat in the study area is very poor and is represented by remnant trees over existing urban development. The surrounding areas have also been cleared for urban development.

- (ii) **Whether an area of is to become fragmented or isolated from other areas of habitat as a result of the proposed action**

Response – No, the study area is already isolated from other areas of habitat by residential development and associated infrastructure. The activity will not further fragment the study area

3.3 Lots 6 And 7, DP 31977 Nos. 64 And 66 Kent Street, Minto - Demolition Of Existing Structures, Tree Removal And Construction Of A 12 Unit Seniors Living Development With Front Fencing

(iii) The importance of the habitat to be removed, modified, fragmented or isolated to the long term survival of the species, population or ecological community in the locality.

Response – The conservation significance of the site has been assessed as Other Remnant Vegetation and does not provide important habitat for SPW.

Ecological Integrity: Its structure has been significantly altered by land clearing associated with the existing residential development. The stand of trees could be retained in the medium to long term (15 - >40 years) assuming reasonable maintenance. The shrub and ground stratum are dominated by introduced species and do not provide important habitat features for threatened species. It is highly unlikely that this EEC will become re-established under the current land tenure.

e. Whether the action proposed is likely to have an adverse effect on critical habitat (either directly or indirectly)

Response – No areas of critical habitat have been declared for Shale Plains Woodland.

f. Whether the action proposed is consistent with the objectives or actions of a recovery plan or threat abatement plan.

Response – A number of objective and strategies for this community have been detailed in DEC (2006) 'Introducing the threatened species priority action statement'. Of relevance to this proposal are the following objectives.

1. Surveying and mapping
2. Habitat protection

The 1st objective is served by undertaking the survey for this assessment and the provision of data to the relevant authorities.

The 2nd objective is served by this assessment process with the survey conducted of the ecological community to identify the presence of any important habitat features.

g. Whether the action proposed constitutes or is part of a key threatening process or is likely to result in the operation of, or increase the impact of, a key threatening process.

Response – The proposed action relates to 'Clearing on Native Vegetation' which is listed as a key threatening process on Schedule 3 of NSW TSC Act (1995). However, it is unlikely to increase the impacts of this threatening process at a local, regional or national level.

Conclusion

This Seven Part Test indicates that the proposed development is unlikely to have a significant impact upon the remnant Shale Plains Woodland ecological community in the study area, and it is unlikely to place its local occurrence at risk

3.4 Lot 407 DP1107378 No. 5 Parc Guell Drive, Campbelltown - Construction Of A Studio Above An Existing Garage

3.4 Lot 407 DP1107378 No. 5 Parc Guell Drive, Campbelltown - Construction of a studio above an existing garage

Reporting Officer

Manager Development Services

Attachments

1. Recommended Conditions of Consent (contained within this report)
2. Locality Plan (contained within this report)
3. Precinct Plan for Link Site DCP (contained within this report)
4. Floor Plans (confidential - for privacy reasons these are not available to the public)
5. Section Plan (contained within this report)
6. Elevation Plans (contained within this report)
7. Shadow Diagrams (contained within this report)
8. External finishes schedule (contained within this report)

Purpose

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

Property Description	Lot 407 DP 1107378 No. 5 Parc Guell Drive, Campbelltown
Application No	2097/2013/DA-M
Applicant	Accurate Design and Drafting
Owner	Mr Frank Herman Binder and Mrs Glynis Anne Binder
Provisions	State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 Campbelltown (Urban Area) Local Environmental Plan 2022 Campbelltown (Sustainable City) Development Control Plan 2012 Campbelltown Development Control Plan No. 104 Campbelltown 2025 – Looking Forward Studio Housing – Second Occupancy Dwellings in Master Planned Estates 2007 Section 94A Development Contributions Plan
Date Received	10 October 2013

History

Council considered a report on the development proposal at its Ordinary Meeting held on 29 April 2014. 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.

An inspection was undertaken on 20 May 2014 to which both applicant and objectors were invited to attend.

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 29 April 2014.

Report

Introduction

Council is in receipt of a development application proposing the construction of a studio over an existing rear double garage at No. 5 Parc Guell Drive, Campbelltown.

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

The Site

The subject site, legally described as Lot 407 DP 1107378, is an irregular shaped allotment with a total area of approximately 521.5 square metres. The site has a primary frontage to the southern side of Parc Guell Drive of approximately 15.49 metres. The site is unique as it also has access to a rear double garage located at the cul-de-sac head on the northern end of Santana Road. The western boundary of the site adjoins a pedestrian access from Santana Road to Parc Guell Drive. The site also shares a rear property boundary with No. 14 and No. 16 Rizal Street, Campbelltown.

Development surrounding the subject site is predominately two storey and single storey detached dwellings. Parc Guell Drive is characterised by two storey dwelling and Santana Road is predominately single storey detached dwellings. Rizal Street is predominately two storey detached dwellings. Immediately to the west of the site is a two and three storey residential flat building.

The Proposal

The development application proposes the construction of a studio over an existing rear double garage.

3.4 Lot 407 DP1107378 No. 5 Parc Guell Drive, Campbelltown - Construction Of A Studio Above An Existing Garage

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

- 35 square metre studio comprising of a kitchenette and bathroom facilities
- Access provided by stairs located on the southern side of the existing garage from Santana Road
- Privacy screen 1,600mm high along the access stairs and landing
- East facing kitchen window located 1,705mm above floor level
- North facing bathroom window constructed using obscure glass
- Two west facing windows 1,600mm x 1,900mm.

Materials and finishes would match the existing garage structure.

Vehicular access to the existing garage would be maintained.

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 EPA Act) and having regard to those matters, the following issues have been identified for further consideration.

1. Vision

Campbelltown 2025 – Looking Forward

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

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

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

The proposed development is most consistent with the following strategic direction:

- Growing the Regional City.

The strategic direction aims to encourage ongoing investment by the private and public sectors to assure the longer term sustainability of high order retail, commercial, community education and cultural amenities, and job growth within the Campbelltown Regional City Centre.

3.4 Lot 407 DP1107378 No. 5 Parc Guell Drive, Campbelltown - Construction Of A Studio Above An Existing Garage

The development is considered to contribute to the growth of the regional population by way of providing housing opportunities located at key points within the Region. The provision of a variety of housing types within the Region allows for variation in the appearance of and density of development within residential areas to cater for family units of various sizes, and living arrangements.

Relevant desired outcomes of the strategic directions include:

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

The proposed studio above the existing garage is consistent with desired outcomes within Campbelltown 2025 specifically in relation to supporting the growth of the regional population. It is considered to contribute positively to the long term sustainability of the Region, and as such is to be considered favourably, subject to the result of assessment under Section 79C of the *Environmental Planning and Assessment Act 1979*.

2. Planning Provisions

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

2.1 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

An application for development consent in relation to residential development must be accompanied by a list of commitments set out in a BASIX certificate with regard to the proposed development. Accordingly, the applicant has submitted the required BASIX Certificate (Certificate No. 538338S) and has shown the appropriate measures on the architectural plans.

2.2 Campbelltown (Urban Area) Local Environmental Plan 2002

The subject site is zoned 10(a) – Regional Comprehensive Centre under the provisions of Campbelltown (Urban Area) Local Environmental Plan 2002. The proposed development is defined as ‘dual occupancy’ and is permissible with Council’s development consent. A dual occupancy is defined as per the following:

‘Dual occupancy means two dwellings on the same lot.’

It is considered the proposed studio falls within the definition of a ‘dual occupancy’ as stated in CLEP 2002.

3.4 Lot 407 DP1107378 No. 5 Parc Guell Drive, Campbelltown - Construction Of A Studio Above An Existing Garage

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

- (f) to encourage a variety of forms of higher density housing, including accommodation for older people and people with disabilities in locations which are accessible to public transport, employment, retail, commercial and service facilities.

Except as otherwise provided by CLEP 2002, Council as the consent authority, must grant consent for development on land within this zone unless the consent authority is of the opinion that carrying out the proposed development would be consistent with one or more of the objectives of this zone.

The proposed studio construction would contribute towards a variety of higher density housing in a location that is accessible to public transport, employment, retail, commercial and service facilities. In this regard, the application is for a permissible studio construction in a higher density living area.

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

2.3 Campbelltown (Sustainable City) Development Control Plan 2012

Campbelltown (Sustainable City) Development Control Plan (SCDCP) does not apply to the site as there is a site specific development control plan for Park Central, however it is considered relevant to assess the proposed development against the aims of the SCDCP as follows:

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

3.4 Lot 407 DP1107378 No. 5 Parc Guell Drive, Campbelltown - Construction Of A Studio Above An Existing Garage

It is considered that the development is generally consistent with several of the relevant aims of the SCDCP, particularly providing for a variety of housing choices within the City of Campbelltown.

2.4 Campbelltown Development Control Plan (DCP) No. 104

Development Control Plan No. 104 – Campbelltown Link Site (DCP 104) came into force on 9 January 2002 and applies to the whole of the Link Site. The objectives of the DCP are:

- a) To allow for a variety of land uses and building types including open space, residential, mixed uses, commercial and aged persons housing within appropriate identified precincts
- b) To ensure a minimum neighbourhood dwelling density of 30 dwellings per hectare of total residential precincts is achieved through the provision of a mixture of dwelling types and building configurations
- c) To ensure building design demonstrates architectural merit and comprises high quality materials and finishes
- d) To create a place that serves and inspires present generations without compromising future generations through the utilisation of ecologically sustainable design practices
- e) To provide opportunities to a range of transport nodes
- f) To provide for increased housing densities in close proximity to transport nodes and civic precincts, in accordance with State Government Policies and Council's Housing Strategy
- g) To capitalise on the Link Site's location and distinctive features to create a high quality urban environment which offers a range of housing, employment and recreational opportunities.

The proposed development complies with a number of the objectives of DCP 104, in particular by allowing for a variety of building types and allowing for increased housing densities in close proximity to transport nodes. It is considered that the proposed development would not compromise the overall objectives of DCP 104.

The subject site falls within the Entry Avenue Precinct, which is designed to create a unique sense of arrival to the Link site through building form and streetscape pattern. The objectives of this precinct are:

- To promote hard edge building design which complements the street layout and landscape characteristics to create functional and aesthetic gateways to the site
 - To provide a variety of medium density housing to meet the changing demand for housing in the Campbelltown Area and the requirements of Council's Housing Strategy
-

3.4 Lot 407 DP1107378 No. 5 Parc Guell Drive, Campbelltown - Construction Of A Studio Above An Existing Garage

- To provide opportunities for residential-mixed use development in close proximity to the special commercial and business commercial precincts.

The proposed development complies with these precinct objectives as it maintains the existing streetscape of Parc Guell Drive.

Overall, it is considered that the proposed development would not compromise the overall objectives of DCP 104.

Design Guidelines

Specific controls in relation to design, massing and setbacks have been provided for proposed developments within the Entry Avenue Precinct by DCP 104. The proposed development has been assessed against these guidelines and the responses are detailed below:

Design Guideline	Assessment
Allotment size Minimum 390 square metres.	The subject site has an area of 521.5 square metres.
Site Frontage Minimum 7.5 metres.	The subject site has a frontage of 15.49 metres to Parc Guell Drive.
Site Coverage Site coverage maximum of 65%.	The proposal would not alter the existing site coverage.
Design and Massing Street elevations to be formal, continuous and uniform in massing with architectural detailing to provide for variety in the design. Strong building frontage with projecting balconies and clearly defined entries.	The proposed development would be located in the rear of the subject site and would not alter the existing streetscape of Parc Guell Drive.
Private Open Space Minimum 20% of the site area of each allotment with minimum dimension of 4.0 metres x 4.0 metres.	The proposed studio construction would not alter the existing private open space dimensions.
Car Parking Car parking is to be provided at the rear of the dwelling for all lots with rear street access.	The proposed development would not alter the existing car parking facilities of the subject site.
Setbacks Front: 2.5 metres applies to all buildings with 1.5 metres setback for indentations. Side: Maximum 1.5 metres for all buildings. Rear: Minimum 3.0 metres.	The proposal would maintain the existing front setback. The proposal would maintain the existing side setback. The existing rear setback would be maintained.

The proposed development complies with the Design Guidelines for the Entry Avenue Precinct.

3.4 Lot 407 DP1107378 No. 5 Parc Guell Drive, Campbelltown - Construction Of A Studio Above An Existing Garage

2.5 Council Report – Studio Housing – Second Dwellings in Master Planned Estates 2007

‘Studio Housing – Second Dwellings in Master Planned Estates 2007’, was prepared to provide guidance to Council, developers and the community regarding studio housing development in master-planned estates. The report details various forms of studio housing which includes:

1. Type 1 – Studio room(s) above garage (no subdivision)
2. Type 2 – Studio apartments above garage (on separate Strata title)
3. Type 3 – Studio apartment above principal dwelling (on separate Strata title).

The proposal proposes to construct a Type 1 studio. A type 1 studio means:

‘A room or suite of rooms occupied or used, or so constructed or adapted as to be capable of being occupied or used, as either a detached part of the dwelling house on the land, or as a separate secondary domicile on the land, which is located above a garage, car port or the like, but is not intended to, or capable of being separately subdivided from the principal dwelling house on the land.’

Development Standards for Type 1 Studio – Studio room(s) above garage (no subdivision)

		Studio Housing - Second Dwellings in Master Planned Estates	
Control	Proposed	Requirement	Complies
Floor Area of Studio (excluding balcony, car space and stairs)	35 square metres.	No minimum floor area Maximum floor area = 50m ²	Yes
On Site Car Parking for Studio	An additional parking space would not be provided.	No additional car parking space required.	Yes
Private Open Space for Studio	The provision of separate private open space would not be provided.	No separate private open space to be provided for studio.	Yes
Location of Studio	The proposed studio would be located above the existing rear garage.	Studio to be located above the garage, carport or like structure for the principal dwelling on the land.	Yes
Subdivision of Studio	Subdivision does not form part of the development application.	No subdivision of studio from principal dwelling on the land.	Yes

3.4 Lot 407 DP1107378 No. 5 Parc Guell Drive, Campbelltown - Construction Of A Studio Above An Existing Garage

		Studio Housing - Second Dwellings in Master Planned Estates	
Control	Proposed	Requirement	Complies
Access to Studio	The proposed studio would have direct access from the secondary street.	The studio shall not have separate direct access to a street or private access way.	No. See below for discussion.
Services and Facilities for Studio	No separate services or provision of separate on-site garbage storage are proposed.	No separate services or facilities required for studio.	Yes
Privacy for Studio	The location of the access stairs and the location of the windows do not impact upon the privacy of any neighbouring dwellings. The proposed windows facing the secondary street frontage promotes casual surveillance of the public domain.	Location of windows, doors and balcony of studio not to impact upon privacy of any dwelling on an adjoining allotment.	Yes

The proposed development generally complies with the Development Standards except as detailed below:

Access to Studio

The existing rear garage has direct access from the secondary street. Access to the proposed studio from Santana Road is considered acceptable in this case as the subject site has existing vehicular access from the secondary street. There are also numerous examples of studios facing the street, particularly in Joubert Lane where all studios are directly accessible from the lane. Furthermore, the proposed studio introduces an interesting streetscape element which is visually compatible within the streetscape context and also promotes passive surveillance of the public domain, particularly the pedestrian access from Santana Road to Parc Guell Drive. It is also considered that the proposal provides for increased housing density in close proximity to transport nodes, as well as adding to the offer of a range of housing opportunities in accordance with the objectives of the DCP. In the circumstances of this case, access to the studio via the secondary street is considered acceptable.

2.6 Section 94A Development Contributions Plan

The estimated cost of the complete development is \$50,000. As the proposed works are less than \$100,000, Section 94A Development Contributions do not apply to the proposal.

3. Planning Assessment

Built Form and Character

The proposed studio addition to the existing double garage is similar in form and massing to adjoining development and is considered to integrate into the streetscape.

Privacy

The location of the access stairs would not impact upon the privacy of neighbouring properties. The proposal includes the construction of a 1,600mm high privacy screen along the access stairs and landing which would minimise any potential overlooking opportunities.

The eastern facing kitchen window would be constructed 1,705mm above the floor level of the studio addition and provide amenity for the resident whilst minimising potential overlooking opportunities.

The north facing bathroom window would face the rear of the principal dwelling and be constructed using obscure glass.

The orientation of the proposed windows facing Santana Road and the pedestrian access way would provide natural surveillance of the public domain. The position of these windows would not significantly increase the potential amount of overlooking that the nearby residential apartment building is currently subject to from the public domain.

Overshadowing

Shadow diagrams were submitted with the development application. The proposed first floor studio would not have any significant adverse overshadowing implications for the adjoining properties, namely No. 16 Rizal Street, No. 14 Rizal Street and No. 7 Parc Guell Drive, Campbelltown. No. 16 Rizal Street would experience minimal overshadowing of the north eastern corner of the rear yard between 9.00am and 12.00pm. No. 14 Rizal Street would be minimally overshadowed from 12.00pm to 3.00pm. No. 7 Parc Guell Drive would experience minimal overshadowing in the south western portion of the rear yard between 12.00pm and 3.00pm. From the shadow diagrams, there does not appear to be any overshadowing to any of the windows, including north facing windows, of the adjoining properties.

The proposed development would not impact the affected properties from receiving three hours of continuous sunlight at winter solstice. As such the minimal overshadowing impacts are considered satisfactory.

4. Public Participation

Section 79C(1)(d) of the *EPA Act* requires Council to consider submissions made with regard to the proposal.

The proposed development was notified to 29 adjoining and nearby land owners in accordance with the provisions of Development Control Plan No. 87 – Public Notification and Public Exhibition Policy for a period of 14 days from 8 October to 22 October 2014.

3.4 Lot 407 DP1107378 No. 5 Parc Guell Drive, Campbelltown - Construction Of A Studio Above An Existing Garage

Council received seven written submissions of objection in relation to the proposed development. It is noted that three of the seven written submissions are identical. A petition with 15 signatures was also received. The petition does not state reasons for objection, rather the opposition of the progression of the proposal. It is also noted that three of the signatories also submitted separate written objections to the development.

A discussion of the matters raised in the submissions is provided below:

a. The proposal is not in keeping with the single storey residences on Santana Avenue

Comment: Under the Campbelltown Link Site DCP 104 the subject site is within the Entry Avenue Precinct. The single storey residences fronting Santana Avenue are within Rolling Green Precinct which subsequently has different objectives and design guidelines. Furthermore, the bulk and scale of the studio addition would be in keeping with the scale of other existing development located within the immediate surrounding development.

b. The proposal would promote overlooking to adjoining properties

Comment: The proposal includes the construction of a 1,600mm high privacy screen along the access stairs and landing which would minimise any potential overlooking opportunities. The eastern facing kitchen window would be constructed 1,705mm above floor level and provide amenity for the resident and minimise any overlooking opportunities. The north facing bathroom window would face the rear of the principal dwelling and be constructed using obscure glass.

The two west facing windows to the main studio living area would provide natural surveillance of the public domain, particularly the pedestrian access from Santana Road to Parc Guell Drive. The position of these windows would not significantly increase the potential amount of overlooking that the residential apartment is currently subject to from the public domain.

c. The proposal would result in overshadowing of adjoining properties

Comment: Shadow diagrams were submitted with the development application. From the shadow diagrams there does not appear to be any overshadowing to any of the windows, including north facing windows, of the adjoining properties. Furthermore, the proposed development would not impact the affected properties from receiving three hours of continuous sunlight at winter solstice. As such, the overshadowing impacts are considered satisfactory.

d. The proposal would be an 'eyesore'

Comment: A schedule of proposed materials, colours and finishes was submitted with the development application. The studio construction would be constructed of materials and finishes to match the existing high quality finish of the garage structure. Also, the studio addition would be similar in form and massing to adjoining development and is considered to integrate into the streetscape.

3.4 Lot 407 DP1107378 No. 5 Parc Guell Drive, Campbelltown - Construction Of A Studio Above An Existing Garage

e. Increased density of people and traffic

Comment: The proposal is for the construction of a small 35 square metre studio. The resultant increase in numbers of residence and traffic generation would be minimal and would not result in a significant adverse impact on the surrounding road network.

f. The proposal would affectively turn the building(s) into a boarding house

Comment: There is no evidence to suggest the site is being used or intended to be used as a 'boarding house'. The proposal is for a small 35 square metre studio above an existing rear garage which would not result in the site becoming a 'boarding house'. Furthermore, the subject site is zoned 10(a) Regional Comprehensive Centre Zone under the provisions of Campbelltown (Urban Area) Local Environmental Plan 2002 (CLEP 2002) and a boarding house is not a prohibited land use with development consent from Council.

5. Conclusion

The development application proposing to construct a studio over an existing garage at No. 5 Parc Guell Drive, Campbelltown has been assessed against the relevant matters for consideration within environmental planning legislation and Council's development controls.

The subject site is zoned 10(a) – Regional Comprehensive Centre under the provisions of Campbelltown (Urban Area) Local Environmental Plan 2002 and satisfies the zoning objectives by providing a variety of higher density housing in a location that is accessible to public transport, employment, retail, commercial and service facilities. In this regard, the application is for a permissible studio construction in a higher density living area.

The site is considered to be suitable for the proposed development as it is consistent with DCP 104 objectives particularly by providing a variety of building types and allowing for increased housing densities in close proximity to transport nodes. The proposal is also considered to be consistent with strategic vision of Campbelltown 2025 – Looking Forward. The development is considered to contribute to the strategic direction of growing the regional city by supporting population growth by way of providing varied housing opportunities.

Privacy and overshadowing considerations have been key planning issues included in the assessment of the proposed studio. It is considered that the privacy of neighbouring properties would be minimally impacted due to the incorporation of a privacy screen along the access stairs and landing and the east facing kitchen window constructed 1705mm above the floor level. It is also considered that the proposed development would not prevent the adjoining properties from receiving three hours of continuous sunlight at winter solstice. As such, the privacy and overshadowing impacts are considered satisfactory.

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 2097/2013/DA-M for the construction of a studio over an existing garage at No. 5 Parc Guell Drive, Campbelltown 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 Morgan, Mr Ward and Mr Connolly addressed the Committee in opposition to the development.

Committee's Recommendation: (Thompson/Lound)

That development application 2097/2013/DA-M for the construction of a studio over an existing garage at No. 5 Parc Guell Drive, Campbelltown be refused as it is out of character with the area.

LOST

Voting for the above Committee's Recommendation were Councillors: Lound and Thompson.

Voting against the above Committee's Recommendation were Councillors: Kolkman, Matheson, Mead and Rowell.

Committee's Recommendation: (Kolkman/Matheson)

1. That development application 2097/2013/DA-M for the construction of a studio over an existing garage at No. 5 Parc Guell Drive, Campbelltown 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.

CARRIED

Voting for the above Committee's Recommendation were Councillors: Kolkman, Matheson, Mead and Rowell.

Voting against the above Committee's Recommendation were Councillors: Lound and Thompson.

Council Meeting 3 June 2014 (Mead/Rowell)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 87

That the Officer's Recommendation be adopted.

Voting for the Council Resolution were Councillors: Borg, Dobson, Greiss, Kolkman, Lake, Matheson, Mead, Oates and Rowell.

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

ATTACHMENT 1

Recommended Conditions of Consent

GENERAL CONDITIONS

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

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

1. Approved Development

The development shall be carried out in accordance with the approved plans prepared by Accurate Design and Drafting, listed below, and all associated documentation supporting this consent, except as modified in red by Council and/or any conditions within.

Plans prepared by Accurate Design and Drafting (Job: Proposed Additions & Alterations)

Drawing Name	Sheet No.	Issue	Date
Floor Plan	1	G	25 March 2014
Elevations	2	G	25 March 2014
Section A-A & Site Plan	3	G	25 March 2014
Shadow Diagram	4	G	25 March 2014
Drainage Plan	5	G	25 March 2014
Existing Floor Plan	6	G	25 March 2014

2. Building Code of Australia

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

3. Contract of Insurance (residential building work)

In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

This clause does not apply:

- a. To the extent to which an exemption is in force under Clause 187 or 188 of the Environmental Planning and Assessment Regulation 2000, subject to the terms of any condition or requirement referred to in Clause 187(6) or 188(4) of that regulation, or
 - b. To the erection of a temporary building.
-

3.4 Lot 407 DP1107378 No. 5 Parc Guell Drive, Campbelltown - Construction Of A Studio
Above An Existing Garage

4. Notification of *Home Building Act 1989* Requirements

Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the principal certifying authority for the development to which the work relates (not being Council) has given Council written notice of the following information:

- a. In the case of work for which a principal contractor is required to be appointed:
 - i. The name and licence number of the principal contractor, and
 - ii. The name of the insurer by which the work is insured under Part 6 of that Act.
- b. In the case of work to be done by an owner-builder:
 - i. The name of the owner-builder, and
 - ii. If the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being Council) has given Council written notification of the updated information.

5. External Finishes

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

6. Privacy Screen

A minimum 1,600mm high privacy screen must be erected along the access stairs and landing to the studio to ensure reasonable privacy for the adjoining properties on Rizal Street, Campbelltown. The privacy screen must be permanently fixed and made of durable materials to withstand outdoor exposure.

7. 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.

8. 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
 - 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.

9. 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 for:

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

or telephone 13 20 92.

10. 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.

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.

11. 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.

12. 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.

13. 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
- b. If connection to a public sewer is not practicable, to an accredited sewage management facility approved by Council
- c. If connection to a public sewer or an accredited sewage management facility is not practicable, to some other management facility approved by Council.

14. 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.

15. 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.

16. Demolition Works

Demolition works shall be carried out in accordance with the following:

- a. Prior to the commencement of any works on the land, a detailed demolition work plan designed in accordance with Clause 1.7.3 of Australian Standard AS 2601-2001 – The Demolition of Structures, prepared by a suitably qualified person with suitable expertise or experience, shall be submitted to and approved by Council and shall include the identification of any hazardous materials, method of demolition, precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials.
- b. Prior to commencement of any works on the land, the demolition Contractor(s) licence details must be provided to Council.
- c. The handling or removal of any asbestos product from the building/site must be carried out by a NSW WorkCover licensed contractor irrespective of the size or nature of the works. Under no circumstances shall any asbestos on site be handled or removed by a non-licensed person. The licensed contractor shall carry out all works in accordance with NSW WorkCover requirements.
- d. An appropriate fence preventing public access to the site shall be erected for the duration of demolition works
- e. Immediately prior to the commencement of the demolition or handling of any building or structure that contains asbestos, the applicant shall request that the principal certifying authority attend the site to ensure that all appropriate safety measures are in place. The applicant shall also notify the occupants of the adjoining premises and WorkCover NSW prior to the commencement of any works.

17. Fencing

An appropriate fence preventing public access to the site shall be erected for the duration of construction works.

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.

18. 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.

19. 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.

Note: On the spot penalties up to \$1500 will be issued for any non-compliance with this requirement without any further notification or warning.

20. Work Zones

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

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

21. Protection of Existing Trees

During construction, no trees are to be cut down, lopped, destroyed or removed without the separate written approval of Council unless those trees are within three metres of the footprint of a building that has been approved by Council.

All trees that are to be retained are to be protected by fencing, firmly staked within the drip line/ canopy of the tree and maintained during the duration of the works. The area within the fencing must not be used for stockpiling of any material, nor for vehicle or pedestrian convenience.

All useable trees and shrubs shall be salvaged for re-use, either in log form, or as woodchip mulch for erosion control or garden beds or site rehabilitation. Non-salvable materials such as roots and stumps shall be disposed of to a waste management centre or other approved form.

22. 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.

23. 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.

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".

24. 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 > 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.

25. Completion of External Works Onsite

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

26. 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.

27. Council Fees and Charges

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

ADVISORY NOTES

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

Advice 1. Environmental Planning and Assessment Act 1979 Requirements

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

- a. Obtain a construction certificate prior to the commencement of any works. Enquiries regarding the issue of a construction certificate can be made to Council's Customer Service Centre on 4645 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.

Advice 4. Smoke Alarms

From 1 May 2006 all NSW residents must have at least one working smoke alarm installed on each level of their home. This includes owner occupier, rental properties, relocatable homes and any other residential building where people sleep.

The installation of smoke alarms is required to be carried out in accordance with AS 3786. The licensed electrical contractor is required to submit to the Principal Certifying Authority a certificate certifying compliance with AS 3000 and AS 3786.

Advice 5. Covenants

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

Advice 6. 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 7. 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 8. 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 WorkCover 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
www.nsw.gov.au/fibro
www.adfa.org.au
www.workcover.nsw.gov.au.

Alternatively, call WorkCover Asbestos and Demolition Team on 8260 5885.

Advice 9. 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 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 10. 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.

END ON CONDITIONS

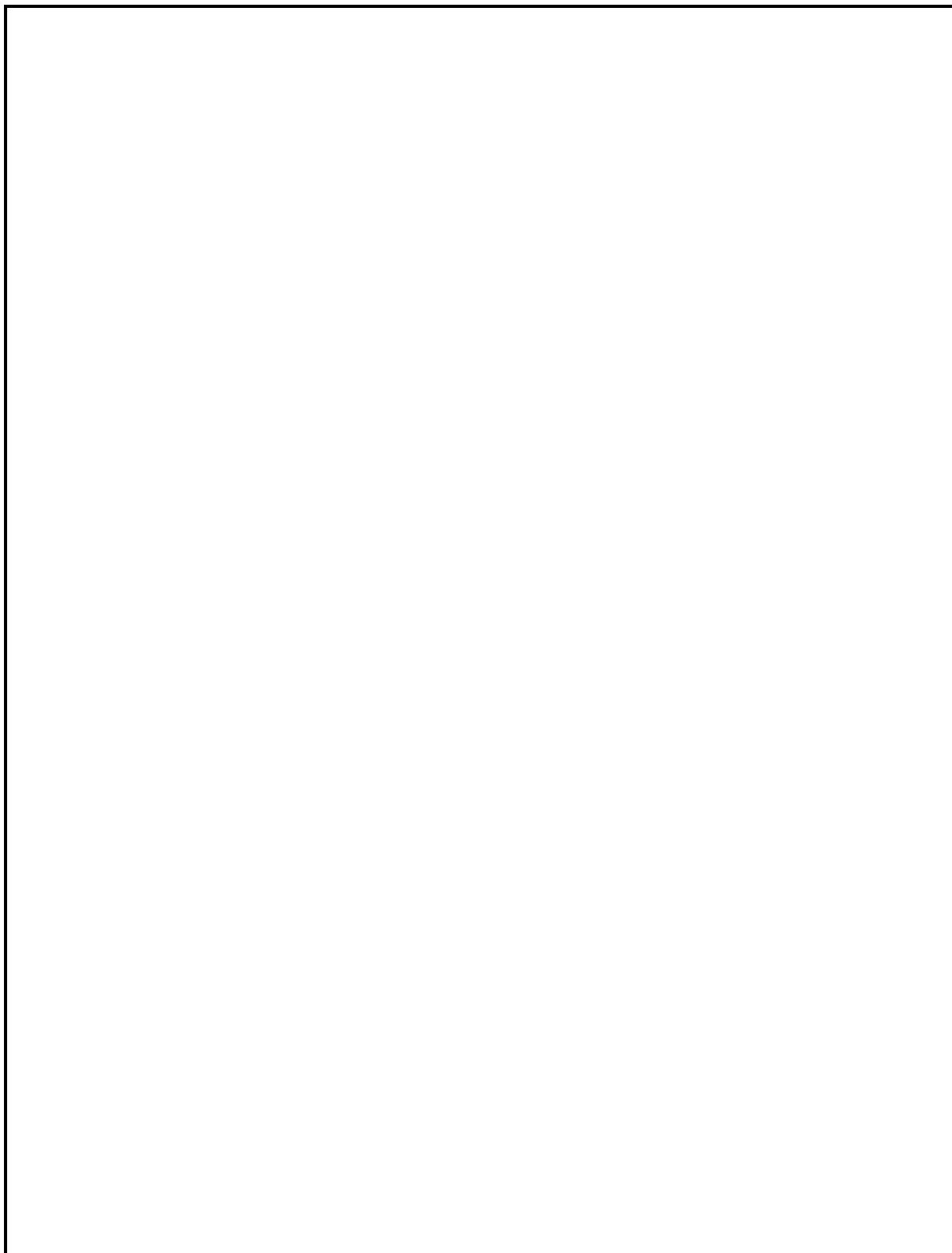
3.4 Lot 407 DP1107378 No. 5 Parc Guell Drive, Campbelltown - Construction Of A Studio
Above An Existing Garage

ATTACHMENT 2



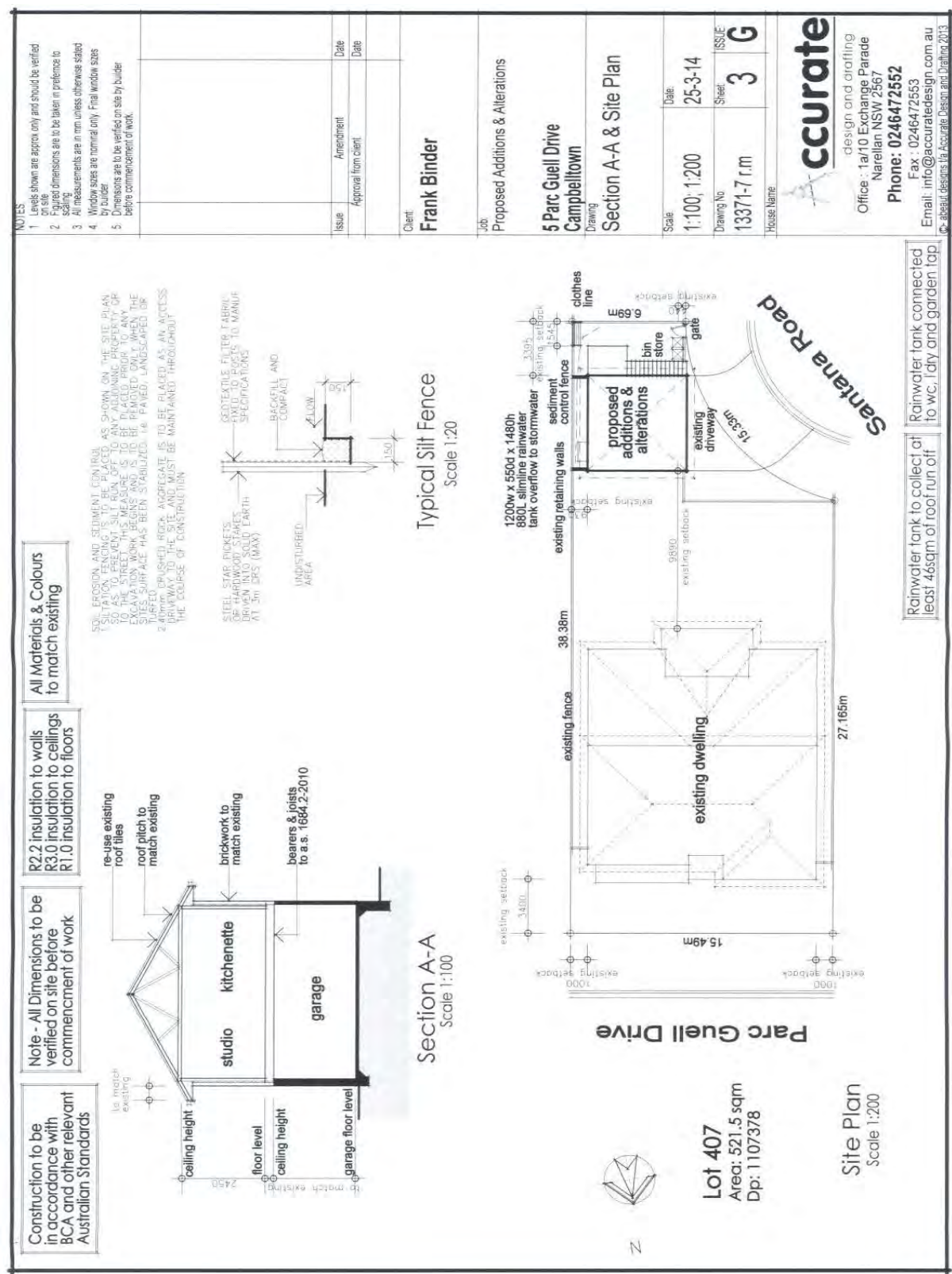
Locality Plan

ATTACHMENT 3

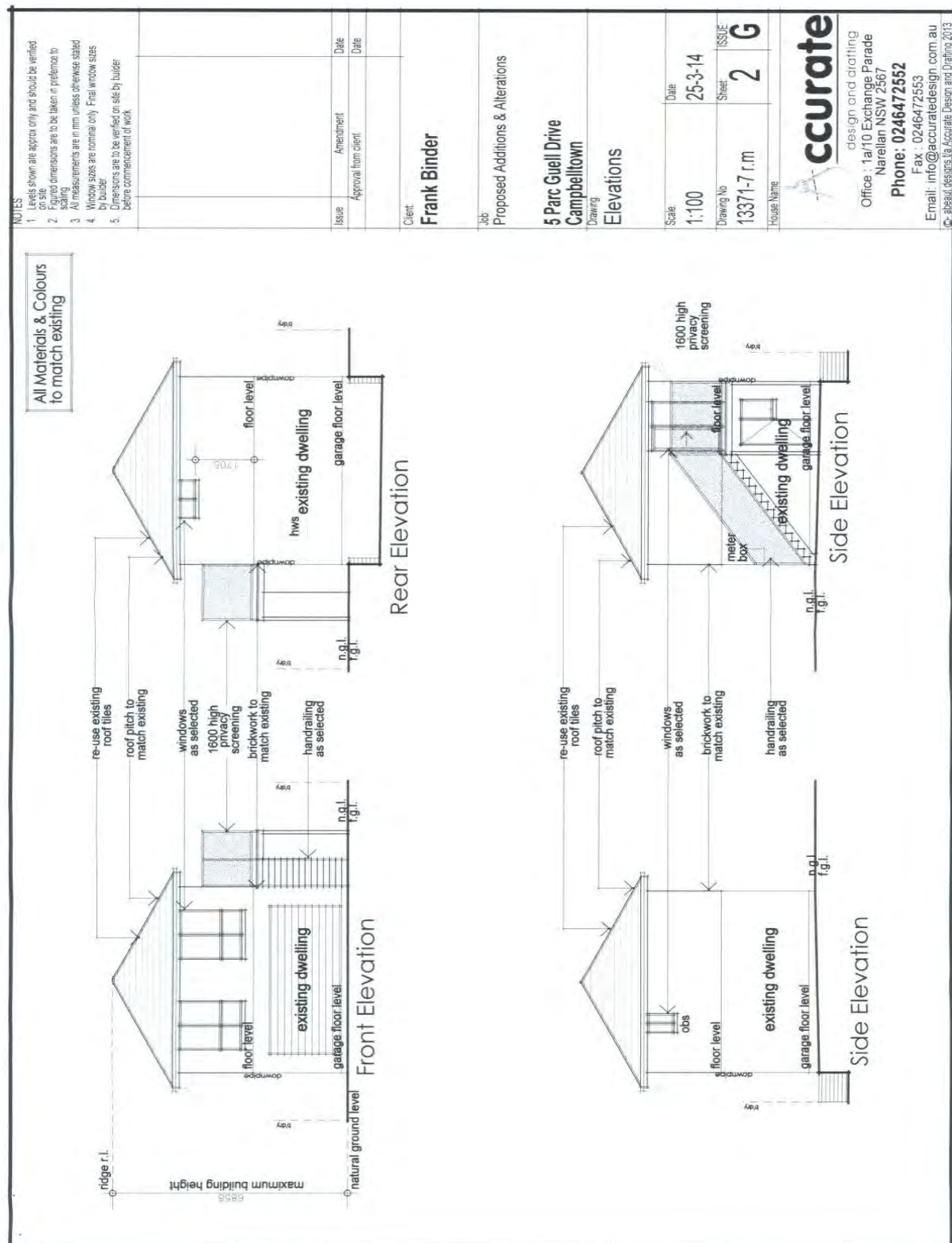


Precinct Plan for Link Site DCP

ATTACHMENT 5



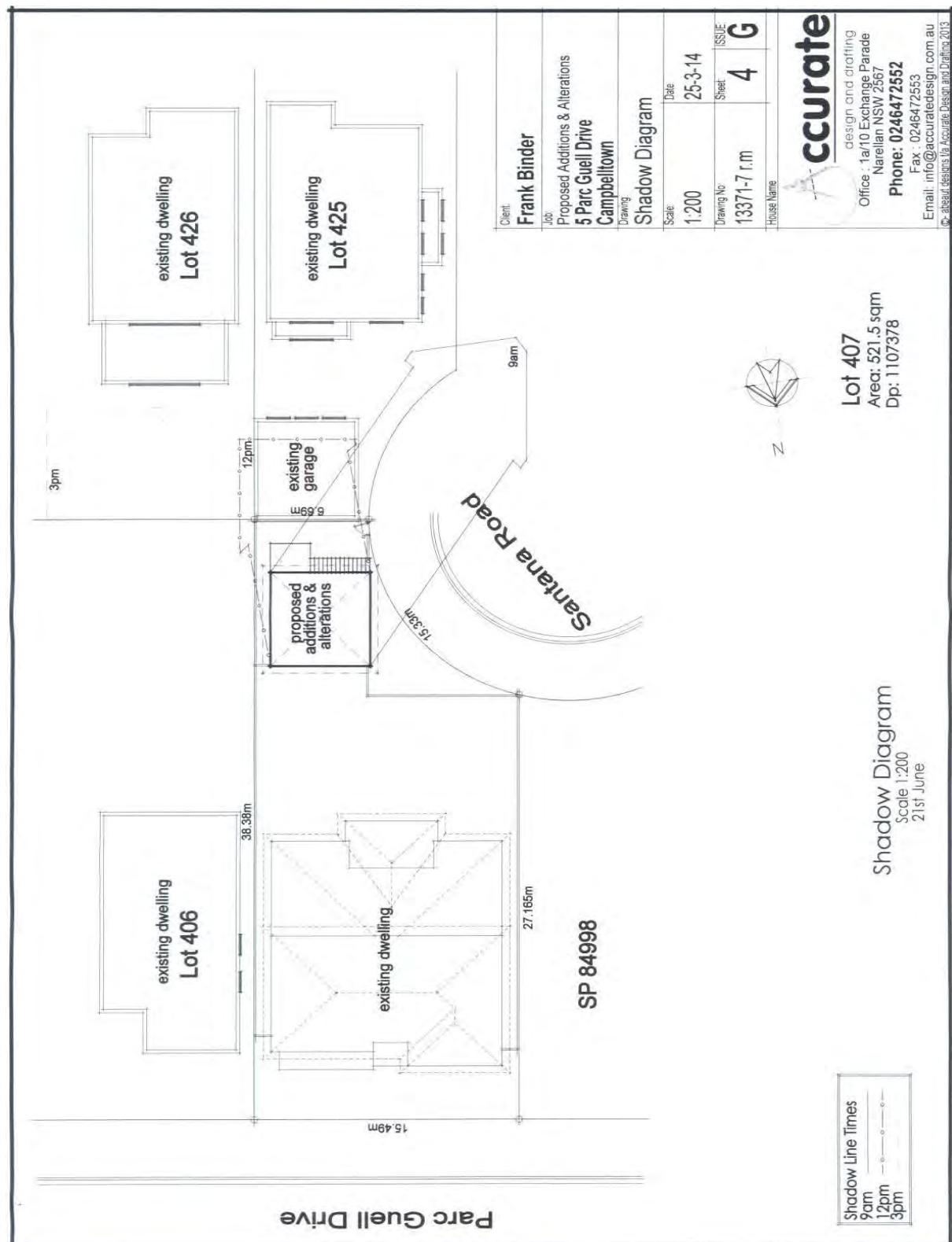
ATTACHMENT 6



Elevation plans

3.4 Lot 407 DP1107378 No. 5 Parc Guell Drive, Campbelltown - Construction Of A Studio Above An Existing Garage

ATTACHMENT 7



Shadow diagrams

ATTACHMENT 8

NOTES

1. Levels shown are approx only and should be verified on site
2. Poured dimensions are to be taken in preference to scaling
3. All measurements are in mm unless otherwise stated
4. Window sizes are nominal only. Final window sizes by builder
5. Dimensions are to be verified on site by builder before commencement of work

All Materials & Colours to match existing

Front Elevation

Bricks
Carlisle - to match existing

Garage Door
Classic Cream - To be retained

Windows
Classic Cream

Fascia
Classic Cream
Re-Use where possible

Privacy Screen
Classic Cream

Roof Tiles
Charcoal
Re-use Existing Tiles

Driveway
Charcoal
Existing

Downpipes
Monument

Gutter
Monument
Re-Use where possible

Scale	Date
1:100	25-3-14
Drawing No.	Sheet
13371-7 r.m	7
House Name	ISSUE
	G

design and drafting

Office 1a/10 Exchange Parade

Narellan NSW 2567

Phone: 0246472552

Fax: 0246472553

Email: info@accuratedesign.com.au

© accurate designs via Accurate Design and Drafting 2013

External Color Selections

External finishes schedule

3.5 Public Exhibition of Planning Agreement for Airds Bradbury Renewal Project

Reporting Officer

Manager Development Services

Attachments

1. Letter of Offer dated 10 October 2013 from NSW Land and Housing Corporation to Campbelltown City Council, to enter into a Planning Agreement (contained within this report)
2. Draft Airds/Bradbury Renewal Project Planning Agreement documentation (as exhibited - contained within this report)
3. Pro forma submission requesting amendments to Concept Plan (contained within this report)

Purpose

The purpose of this report is to provide Councillors with information in relation to the Airds Bradbury Renewal Project Voluntary Planning Agreement following the process of public notification and to seek Council's support to seek further amendments to the Voluntary Planning Agreement in negotiations with the NSW Land and Housing Corporation.

History

At its meeting on 13 August 2013 Council resolved as follows:

1. That Council make a submission to the Department of Planning and Infrastructure regarding Urban Growth's modification application no. MP10-0186 MOD 1 advising that:
 - a. no amendment to the Concept Plan Approval should be considered that would have the effect of altering Council's capacity to negotiate and execute a Voluntary Planning Agreement for the Airds Bradbury Renewal Project, in the best interests of the community.
 - b. Council raises no objection to a modification to the Concept Plan Approval that accounts for the requirement for the proponent to put into place Works In Kind Agreements with Council to secure the funding and delivery of infrastructure relevant to Stages 1 and 2 of the Renewal Project, in accordance with the draft Voluntary Planning Agreement as amended and endorsed by Council.
 2. That Council formally acknowledge the letter of offer from the NSW Land and Housing Corporation dated 9 May 2013 and confirm its commitment to enter into a Voluntary Planning Agreement for the delivery of public amenity and infrastructure services associated with the Airds Bradbury Renewal Project.
-

3.5 Public Exhibition Of Planning Agreement For Airds Bradbury Renewal Project

3. That Council request UrbanGrowth NSW to make amendments to the draft Voluntary Planning Agreement as submitted and associated documentation so that:
 - a. Council is the responsible management authority for any newly constructed Community Facilities Centre, from the commencement of its operation.
 - b. Any newly constructed Community Facilities Centre has exclusive access to at least 20 on site car parking spaces, secured through an appropriate legal mechanism.
 - c. More detailed specifications for the proposed Community Facilities Centre (Option 2) are provided to satisfy Council that the facility can accommodate local community requirements.
 - d. The proposed amenities buildings at both the proposed new Kevin Wheatley VC Reserve and Riley Park are a minimum of 205sqm GFA plus 110sqm awning.
 - e. A minimum 80 off-street spaces are provided at the proposed new Kevin Wheatley VC Reserve playing fields.
 - f. The minimum establishment/early maintenance period for bushland regeneration areas containing EECs is increased from two years to seven years or alternatively additional funds are made available to Council after the initial two year period, sufficient to enable Council to meet its higher establishment and early maintenance obligations for the management of EECs.
 - g. Structural engineering certification, attesting to the integrity of the walls of the pond at Kevin Wheatley VC Reserve, is provided and referred to in the Voluntary Planning Agreement.
 4. That upon receipt of the requested amendments (Item nos. 3a to 3g inclusive) to Council's satisfaction, the draft Airds Bradbury Renewal Project Voluntary Planning Agreement and Infrastructure Services Delivery Plan be placed on public notification/exhibition with such public notification/exhibition to be carried out in accordance with the Environmental Planning and Assessment Act 1979 and Regulations, as soon as possible.
 5. That the General Manager be delegated authority to execute the Agreement with NSW Land and Housing Corporation following public notification/exhibition and subject to any variations arising from community submissions or ongoing negotiations with NSW Land and Housing Corporation and UrbanGrowth NSW, deemed appropriate by the General Manager.
 6. That the General Manager be delegated authority to provide owner's authorisation to the Airds Bradbury Renewal Project Stage 1 subdivision Development Application subject to a requirement that prior to the issue of the construction certificate for any access or works applicable to land currently owned by Council, the proponent is required to be the owner of that land.
 7. That in negotiating the finer details of the Voluntary Planning Agreement Council officers explore the notion of retaining Baden Powell Reserve.
-

3.5 Public Exhibition Of Planning Agreement For Airds Bradbury Renewal Project

A report to Council's Planning and Environment Committee on 3 December 2013 dealt with a range of matters concerning the draft Voluntary Planning Agreement, including the relevant items raised in Council's resolution of 13 August 2013 (above).

Following consideration of the Planning and Environment' Committee's recommendation, Council at its meeting on 10 December 2013, resolved as follows:

1. That Council endorse the draft Airds Bradbury Renewal Project Voluntary Planning Agreement and Infrastructure Services Delivery Plan for the purpose of public notification/exhibition with such public notification/exhibition to be carried out in accordance with the Environmental Planning and Assessment Act 1979 and Regulations, over a minimum four week period closing no earlier than 24 March 2014, subject to any matters raised by Council's Solicitor being addressed to the satisfaction of the General Manager.
2. That all submissions received during the public notification/exhibition period that do not support the Voluntary Planning Agreement be reported to Council. However, should no non supportive submissions be received then Council's General Manager be authorised to execute the Airds Bradbury Renewal Project Voluntary Planning Agreement, on behalf of Council.

The exhibition process was conducted for a period of 28 days from 4 March to 1 April 2014.

Report

Important Elements of the Planning Agreement

As previously reported to Council, the total estimated value of contributions for the renewal project is \$18,544,017 exclusive of the value of any land dedicated to Council, as part of the renewal project, noting that works within approved Stages 1 and 2 will be secured through a Works in Kind Agreement, while Stages 3 - 9 will be through the Voluntary Planning Agreement (VPA).

Contributions cover the following broad items:

1. Road works, cycleways, bus stops and intersection upgrades – Contribution Value \$5,330,446
 2. Water Cycle and Water Quality management – Contribution Value \$5,197,693
 3. Open space and landscape works including the dedication of these areas to Council as public reserves, recreation facilities and landscaping of public domain - contribution Value \$6,972,571 (excluding land value)
 4. Riparian and bushland regeneration - Contribution Value \$1,043,308
 5. Community facilities – either new or refurbished (see below) Contribution Value varies dependent upon which option Council chooses
-

Key components within those items include:

- Georges River Rd/Riverside Drive intersection – construction of a single lane roundabout (Stage 1)
- Georges River Rd/Bellinger Rd intersection – give way intersection with additional approach from Deans Road (Stage 1)
- St Johns Rd/Campbellfield Extension – construction of single lane roundabout (Stage 3)
- Georges River Rd/Junction Rd (Peppin Rd extension) – construction of single lane roundabout (Stage 5)
- Upgrade of existing wetland/pond area west of (behind) the Riverside Inn (Stage 3)
- New playing fields at new proposed Kevin Wheatley VC Reserve including amenities and car parking (Stage 3)
- Upgraded Riley Park including new amenities and car parking (Stage 9)
- New upgraded Baden Powell reserve as per Council's original resolution of 3 July 2012 (Stage 9).
- Community facilities, Option 1 involves the retention of Airds Youth Centre, Airds Neighbourhood Centre, Amarina Child Care Centre, including the dedication of this land to Council and Campbelltown Child and Family Centre. This option includes up to \$100,000 contribution to fund improvements to these facilities
- Community facilities Option 2 involves demolition of the above facilities (with the exception of the Youth Centre) and the construction of a new community facilities centre (integrated community, child and family services) on a minimum 1450 sqm lot located within the Town Centre. The building would be 710 sqm of Gross Floor Area and would have a minimum 20 car parking spaces
- Bushland regeneration, in particular Smiths Creek (Stage 1) and Kevin Wheatley VC Reserve (Stage 3)
- Georges River Rd entry wall commemorating Kevin Wheatley VC (Stage 1).

The full list of works is set out in Schedule 3 of the draft VPA document (Attachment 2) and summarised in the accompanying Infrastructure Services Delivery Plan (Attachment 3).

Summary of submissions received

As a result of the public notification process, Council received twelve (12) individual submissions.

One was from the South Western Sydney & Sydney Local Health District supporting the "positive health improving facilities and social infrastructure that are planned to be included in the renewal of Airds Bradbury".

Another two can be fairly referred to as letters of support for the Airs Bradbury renewal project and the supporting VPA. The authors of these submissions were from Bradbury. They conclude by requesting Councillors to support the VPA in its entirety and avoid any further delays to the renewal project. With direct reference to matters associated with the VPA, both of these submissions would like to see additional meeting rooms within the proposed community centre, a volunteer management committee to facilitate ongoing access and an overhaul of the Youth Centre to facilitate better access for the community.

The remaining nine submissions can best be described as comments on the already approved concept plan with the loss of bushland and open space being the main points of contention. The authors of these submissions are residents of Bradbury, Bow Bowing, Ruse and Blairmount. In particular, objection is raised to the loss/reduction of Baden Powell Reserve and to the lack of protection for koalas. These submissions do not make specific comments in relation to elements of the VPA.

In addition, 2157 pro-forma letters were received. These letters did not make direct comments relating to the details of the VPA or ISDP.

Rather, these submissions relate to the already approved concept plan. In particular, a major issue of concern is the belief that there was a lack of broad based community consultation associated with the formulation of the concept plan and therefore it should be reviewed and amended.

Across these submissions there was a consistent theme requesting potential amendments to the approved concept plan including:

- Retention and enhancement of the whole of existing Kevin Wheatley Reserve
- Deletion of the proposed Campbellfield Avenue extension and new playing fields as they will destroy koala corridor and bushland
- Retention and enhancement of Baden Powell Reserve
- Establish a koala movement corridor
- Transfer Amarina Child Care Centre land to Council
- Retain existing community facilities in Council ownership
- Greater protection of bushland, including Smiths Creek corridor.

These submissions, many of which have no name/address information (or at best illegible details), have been treated as a petition, with the head petitioner receiving a formal response from Council acknowledging receipt and advising him of the timing of this report to Council.

Comment on submissions

With the vast majority of submissions raising concerns with the already approved concept plan, it is important that Council be clear about its position in relation to the concept plan and that all those that made a submission be informed of that position. If Council was of a view to support the requests for amendment to the approved concept plan, it would need to formally request NSW Land and Housing and Urbangrowth NSW to seek an approval for an amended concept plan. Otherwise the renewal project would be likely to be rolled out as currently approved.

3.5 Public Exhibition Of Planning Agreement For Airds Bradbury Renewal Project

The current Council resolution in relation to the Concept Plan is one of support, as resolved at its meeting on 3 July 2012. The only change to this position since that time was the resolution made by Council on 13 August 2013, relating to the draft Voluntary Planning agreement. i.e.:

- “7. That in negotiating the finer details of the Voluntary Planning Agreement Council officers explore the notion of retaining Baden Powell Reserve.”

The approved Concept Plan provides for Baden Powell Reserve (currently 2.1 hectares in total area) to have an area of approximately 5000sqm of public open space, with approximately 1.6 hectares to be available for additional housing. Although this matter has continued to be raised at various project meetings that are held between NSW Land and Housing Corporation, Urbangrowth NSW and Council staff, no agreement has been able to be reached to seek an amendment to the approved Concept Plan in order to retain all of the land currently known as Baden Powell Reserve, as public open space.

Given the community feedback on this issue arising from the public notification of the draft Voluntary Planning Agreement, it is not seen as unreasonable for Council to again seek the support of the NSW Land and Housing Corporation to retain Baden Powell Reserve as public open space or at the least, seek a further significant reduction in the area of the Reserve to be developed for housing.

Having regard to the movement of koalas through the Airds Bradbury precinct, Council has required appropriate street tree plantings to assist koala movements through the site. Bushland protection has been dealt with through a comprehensive Bushland Management Plan and a Biodiversity Offset Strategy that has been endorsed by the NSW Office of Environment and Heritage. The VPA has secured initial maintenance periods of 5 years for areas of bushland that will come under Council's long term control.

Notwithstanding, it is not considered unreasonable, given the community feedback on this issue, together with the understood recent sightings of koalas in the Airds area, for Council to seek the assistance of the NSW Land and Housing Corporation to facilitate the enhanced general movement of koalas across the Airds redevelopment. To that end, it is recommended that Council seek an amendment to the exhibited draft Voluntary Planning Agreement to include a package of on- ground works (based on an action plan agreed to by Council) including crossing treatment at major road routes, tree planting, and signage.

Having regard to community facilities, the VPA allows for Council to be the managing authority for any new community facilities centre. This will allow Council to facilitate NSW Land and Housing Corporation access to the centre to support the implementation of initiatives within the Strategic Social Plan that is required to be developed as a condition of the renewal project approval. If Council chooses to maintain the existing facilities in lieu of a new facility, the land upon which Amarina Child Care Centre sits, would be dedicated to Council.

In relation to deleting the proposed Campbellfield Avenue extension, this aspect of the concept plan is seen as important in improving the connectivity of Airds with other areas of Campbelltown and making the town centre a more viable and vibrant location than is the current situation, as Councillors may be aware of.

Further issues to note

Community facilities – Council will have two options available under the VPA. Option 1 is to keep the existing community facilities (Airds Youth Centre, Airds Neighbourhood Centre, Amarina Child Care Centre and Campbelltown Child and Family Centre) and receive a \$100,000 cash contribution to carry out upgrade works on these facilities. This option would include the dedication of the land occupied by Amarina, which is currently in the ownership of NSW Land and Housing Corporation, to Council.

Option 2 is the construction of a new Community Facilities Centre within the Town Centre, integrating community, family and child care services. This facility would be sited on its own lot of at least 1450sqm, would provide over 700sqm of gross floor area and have access to 20 exclusive onsite car parking spaces. The value of this facility is put by the proponents at approximately \$1.8M. The existing community facilities would be demolished, except for the youth centre, and that land developed for new housing.

Council will need to make a final decision on which option it wishes to pursue prior to the issue of a Subdivision Certificate for the final 250th lot of the Renewal Project. This deadline is required so that planning for Stage 3 and beyond can proceed appropriately. With both Stage 1 and Stage 2 subdivisions totalling over 300 lots already approved, this decision will need to be made in the near future.

Playing field upgrades – there are two key areas being upgraded. The existing Riley Park playing fields will be upgraded with new drainage and irrigation as well as the introduction of a new synthetic cricket wicket between the fields. Future upgrading of lighting by Council will be facilitated through the placement of necessary conduits that provide capacity for a 100 lux rating. A new amenities building and car parking area will also be provided.

The existing Kevin Wheatley VC Reserve is proposed to be relocated, including the existing playing fields. Two new fields will be constructed with drainage and irrigation. They will be flood lit to 50 lux with capacity for upgrade to 100 lux. A new amenity building will be built and car parking provided.

Open space embellishments - The Pond Area in the vicinity of the proposed new Kevin Wheatley VC Reserve will have a major embellishment including pathways, seating and viewing areas to enhance passive recreation opportunities. There will be BBQ/picnic areas as well as school age and toddler play areas. This area is intended to become a focus for the community, being adjacent to the town centre. Riley Park will also receive improved passive recreation facilities including BBQ/picnic and toddlers play area.

Native vegetation management – Council will be assuming responsibility for various remnant bushland areas that are classified Endangered Ecological Communities (EECs), as part of the Urban Renewal Project. These areas have been recognised as part of the statutorily required Biodiversity Off-Set Strategy which has been endorsed by the NSW Office of Environment and Heritage. As such, Council will be inheriting responsibility for the management of these areas to a higher standard than would ordinarily be the case for areas of general open space or bushland where EECs are not present. The maintenance provisions of the VPA now intend to recognise this fact by providing for a five year establishment and early maintenance period.

The above elements of the VPA have remained consistent throughout the period of negotiating the Agreement.

Proposed Timing of Contributions

While the scope of works and value of contributions have generally been negotiated over the past 12-18 months, the timing of payments has remained a matter to determine.

The position originally put forward in the draft VPA linked contributions associated with various stages of development to the creation of the final lot in that stage. Council did not favour that method as it could result in demand for infrastructure being generated but payments being held up on the basis of just one lot in that stage being withheld.

As a result of further negotiation, the draft VPA needs to link the payment of contributions to either the creation of the final lot in a particular stage of development or a particular number of lots being created within the overall development area, with those lot numbers reflecting demand on that particular piece of infrastructure. This is a more secure way of establishing the timing of contribution payments and ensuring that the delivery of infrastructure matches the need for that infrastructure to be available. The proposed timing for contributions are considered to be reasonable and should be supported. This suggested amendment will be incorporated into the voluntary planning agreement documentation prior to the agreement being reported to Council for consideration for final adoption.

Conclusion

A range of matters have been raised as part of the response to the public notification/exhibition of the draft Voluntary Planning Agreement, a number of which relate to the Airds Bradbury Renewal Project Concept Plan Approval, and not directly to the draft Agreement.

The matter of Council's resolution on 13 August 2013 concerning the retention of Baden Powell Reserve, whilst having been pursued by Council staff as part of the draft VPA negotiations, has not resulted in any agreement with the NSW Land and Housing Corporation.

In light of the submissions received as a result of the notification/exhibition of the draft Voluntary Planning Agreement, it is considered not unreasonable for Council to seek to carry out further negotiations with the NSW Land and Housing Corporation to secure the Corporation's support to amend the draft Agreement and where necessary, the Concept Plan Approval to take account of the following items:

- the inclusion of a package of on-ground works (based on an action plan agreed to by Council) including crossing treatment at major road routes, tree planting, and signage) to assist general koala movement across the Airds re-development.
- the retention of Baden Powell Reserve as public open space or at the least, to achieve a further significant reduction in the area of the Reserve to be developed for housing.

Council does need to finalise a position on its preferred option for community facilities and to this end it would be prudent to arrange a formal Councillor briefing session to address this matter.

Officer's Recommendation

1. That Council further negotiate with the NSW Land and Housing Corporation to secure the Corporation's support to amend the draft Airds Bradbury Renewal Project Voluntary Planning Agreement and where necessary, the Concept Plan Approval to take account of the following items:
 - the inclusion of a package of on-ground works (based on an action plan agreed to by Council) including crossing treatment at major road routes, tree planting, and signage) to assist general koala movement across the Airds re-development.
 - the retention of Baden Powell Reserve as public open space or at the least, to achieve a further significant reduction in the area of the Reserve to be developed for housing.
2. That the outcome of negotiations pursuant to Item No. 1 above be reported to Council for consideration.
3. That the matter of the preferred option for community facilities within the Voluntary Planning Agreement be discussed at a Councillor Briefing Session, to be held prior to the end of August 2014.

Committee Note: Ms Parker, Ms Scott and Ms Michelle addressed the Committee.

Committee's Recommendation: (Kolkman/Lound)

That the Officer's Recommendation be adopted.

Amendment: (Rowell/Thompson)

That a decision in this matter be deferred to the full Council meeting to be held on 3 June 2014.

WON and became the Motion.

Voting for the Amendment were Councillors: Matheson, Mead, Rowell and Thompson.

Voting against the Amendment were Councillors: Kolkman and Lound.

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

Voting for the Motion were Councillors: Kolkman, Lound, Matheson, Mead, Rowell and Thompson.

Voting against the Motion: Nil.

Council Meeting 3 June 2014

Having declared an interest in regard to Item 3.5, Councillor Hawker left the Chamber and did not take part in debate nor vote on this item.

Council Meeting 3 June 2014 (Mead/Rowell)

That the Committee's Recommendation be adopted.

Amendment (Dobson/Mead)

1. That a decision in this matter be deferred.
2. That an urgent meeting be arranged with the Premier of NSW, The Hon Mike Baird, the Member for Wollondilly, Mr Jai Rowell, the Member for Campbelltown, Mr Bryan Doyle, the Mayor of Campbelltown City Council, Councillor Dobson and the General Manager to discuss the overall original concept plan.
3. That at this meeting a submission be presented to the Premier to withdraw from the concept plan Kevin Wheatley Reserve, the Smiths Creek Reserve environmentally sensitive area, Baden Powell and the Campbellfield Avenue extension. The loss of this development potential be replaced by reviewing and increasing the current densities proposed in the current concept plan.

LOST

Voting for the above Amendment were Councillors: Dobson and Rowell.

Voting against the above Amendment were Councillors: Borg, Brticevic, Greiss, Kolkman, Lake, Lound, Matheson, Mead and Oates.

Amendment (Greiss/Dobson)

1. That Council further negotiate with the NSW Land and Housing Corporation to secure the Corporation's support to amend the draft Airds Bradbury Renewal Project Voluntary Planning Agreement and where necessary, the Concept Plan Approval to take account of the following items:
 - the inclusion of a package of on-ground works (based on an action plan agreed to by Council) including crossing treatments at major roads, tree planting and driver warning signage, to assist general koala movement across the Airds renewal area.
 - the retention of Baden Powell Reserve as public open space or at the least, to achieve a further significant reduction in the area of the Reserve to be developed for housing.
 2. That the outcome of negotiations pursuant to Item No. 1 above be reported to Council for consideration.
 3. That the matter of the preferred option for community facilities within the Voluntary Planning Agreement be discussed at a Councillor Briefing Session, to be held prior to the end of August 2014.
-

3.5 Public Exhibition Of Planning Agreement For Airds Bradbury Renewal Project

4. That an urgent meeting be arranged with the Premier of NSW, The Hon Mike Baird, the Member for Wollondilly, The Hon Jai Rowell, the Member for Campbelltown, Mr Bryan Doyle, the Mayor of Campbelltown City Council, Councillor Dobson and the General Manager to discuss the final part of the concept plan.

WON and became the Motion.

Voting for the above Amendment were Councillors: Dobson, Greiss, Lake, Matheson, Mead and Rowell.

Voting against the above Amendment were Councillors: Borg, Brticevic, Kolkman, Lound and Oates.

Council Resolution Minute Number 84

1. That Council further negotiate with the NSW Land and Housing Corporation to secure the Corporation's support to amend the draft Airds Bradbury Renewal Project Voluntary Planning Agreement and where necessary, the Concept Plan Approval to take account of the following items:
 - the inclusion of a package of on-ground works (based on an action plan agreed to by Council) including crossing treatments at major roads, tree planting and driver warning signage, to assist general koala movement across the Airds renewal area.
 - the retention of Baden Powell Reserve as public open space or at the least, to achieve a further significant reduction in the area of the Reserve to be developed for housing.
2. That the outcome of negotiations pursuant to Item No. 1 above be reported to Council for consideration.
3. That the matter of the preferred option for community facilities within the Voluntary Planning Agreement be discussed at a Councillor Briefing Session, to be held prior to the end of August 2014.
4. That an urgent meeting be arranged with the Premier of NSW, The Hon Mike Baird, the Member for Wollondilly, The Hon Jai Rowell, the Member for Campbelltown, Mr Bryan Doyle, the Mayor of Campbelltown City Council, Councillor Dobson and the General Manager to discuss the final part of the concept plan.

Voting for the Council Resolution were Councillors: Dobson, Greiss, Lake, Matheson, Mead and Rowell.

Voting against the Council Resolution were Councillors: Borg, Brticevic, Kolkman, Lound and Oates.

At the conclusion of the discussion regarding Item 3.5, Councillor Hawker returned to the Chamber for the remainder of the meeting.

ATTACHMENT 1



**Land & Housing
Corporation**

Renewal, Level 10, 234 Sussex Street
Sydney NSW 2000
Tel: 02 9268 3517 Fax: 02 9268 3498
ABN 24 960 729 253

10 October 2013

The General Manager
Campbelltown City Council
PO Box 57
Campbelltown NSW 2560

Attention: Paul Tosi

Dear Paul,

Airds Bradbury Renewal Project Revised Voluntary Planning Agreement Offer

The purpose of this letter is to make a revised offer to enter into a Planning Agreement with Campbelltown City Council for the delivery of public amenity and infrastructure services associated with the Airds Bradbury Renewal Project. This offer is made under Section 93F of the Environmental Planning and Assessment Act (Act) and it incorporates the following amendments to our previous offer dated 9 May 2013.

The general terms of the Airds Bradbury Renewal Planning Agreement remain:

- The Planning Agreement is between NSW Land and Housing Corporation and Campbelltown City Council;
- The land to which the Agreement applies is described in Schedule 1 of the Planning Agreement;
- The nature of contributions to be provided under the Agreement and timing of works is described in the attached schedule;
- The monetary contribution of \$100,000 will be provided for the upgrade of the existing community facilities if Campbelltown City Council decide to retain the facilities;
- The Planning Agreement is not to be registered on title;
- The Agreement requires contributions, namely the carrying out of Work and dedication of land to be completed before Subdivision Certificates can be issued as a form of security;
- The Agreement excludes the application of s94, s94A of the Act to the Development;
- The Agreement does not exclude the application of s94EF of the Act to the Development;
- Each Party is to pay for their own costs of preparing, negotiating, executing and stamping the Agreement.

3.5 Public Exhibition Of Planning Agreement For Airds Bradbury Renewal Project

In addition to our previous offer, we propose the following (items previously requested by Council):

- Council is the responsible management authority for any newly constructed Community Facilities Centre, from the commencement of its operation and should facilitate NSW Land and Housing Corporation (or representative) access to the centre to support implementation of initiatives within the social plan.
- Any newly constructed Community Facilities Centre has access to at least 20 exclusive on site car parking spaces, secured through an appropriate legal mechanism.
- Detailed specifications for the proposed Community Facilities Centre (Option 2) are to be provided to Council demonstrating that the funds are adequate to construct the facility.
- The proposed amenities buildings at both the proposed new Kevin Wheatley VC Reserve and Riley Park are a minimum of 205sqm GFA plus 110sqm awning.
- A minimum 80 off-street spaces are provided at the proposed new Kevin Wheatley VC Reserve playing fields (including the sporting fields and pond area).
- The minimum establishment/early maintenance period for bushland regeneration areas containing EECs has increased from two years to five years.
- Engineering certification, attesting to the integrity of the walls of the pond at Kevin Wheatley VC Reserve, is provided and referred to in the Voluntary Planning Agreement.

The works to be carried out are detailed within the attached Infrastructure Services Delivery Plan (ISDP) which is consistent with the Airds Bradbury Renewal Concept Plan approved 24 August 2012. The total cost of the works to be delivered excluding land is \$18,726,906 (based on option to retain and upgrade existing community facilities) or \$21,399,351 (based on option to build new integrated community facility and demolish existing community facilities).

I look forward to receiving Council's response to this letter of offer.

Yours sincerely



Mark Shepherd
GENERAL MANAGER

ATTACHMENT 2



lindsaytaylorlawyers
planning • environment • local government

Airds Bradbury Renewal Project Planning Agreement

Under s93F of the *Environmental Planning and Assessment Act 1979*

DRAFT *-as exhibited*

**Campbelltown City Council
New South Wales Land and Housing Corporation**

[Insert Date]

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Airds Bradbury Renewal Project Planning Agreement
Campbelltown City Council
New South Wales Land and Housing Corporation



Airds Bradbury Renewal Project Planning Agreement

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Campbelltown City Council
New South Wales Land and Housing Corporation



Airds Bradbury Renewal Project Planning Agreement

Summary Sheet

Council:

Name: Campbelltown City Council
Address: Civic Centre, cnr Queen and Broughton Streets, Campbelltown NSW
2560
Telephone: 4645 4000
Facsimile: 4645 4111
Email: michael.sewell@campbelltown.nsw.gov.au
Representative: Michael Sewell

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The Corporation:

Name: New South Wales Land and Housing Corporation
Address: Level 2, 223-239 Liverpool Road, Ashfield, New South Wales 2131
Telephone: 9268 3440
Facsimile: 9268 3496
Email: theo.posumah@services.nsw.gov.au
Representative: Theo Posumah

Land:

See definition of *Land* in clause 1.1.

Development:

See definition of *Development* in clause 1.1.

Development Contributions:

See clause 10 and Schedule 3.

Airds Bradbury Renewal Project Planning Agreement
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Application of s94, s94A and s94EF of the Act:

See clause 8.

Enforcement:

See clause 25.

Registration:

This Agreement is not to be registered. See clause 30.

Restriction on dealings:

See clause 31.

Dispute Resolution:

Expert determination and mediation. See clauses 28 and 29.

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Airds Bradbury Renewal Project Planning Agreement
Campbelltown City Council
New South Wales Land and Housing Corporation



Airds Bradbury Renewal Project Planning Agreement

Under s93F of the *Environmental Planning and Assessment Act 1979*

Parties

Campbelltown City Council ABN 31 459 914 087 of Civic Centre, cnr Queen and Broughton Streets, Campbelltown NSW 2560 (**Council**)
and

New South Wales Land and Housing Corporation ABN 24 960 729
253 of Level 2, 223-239 Liverpool Road, Ashfield, New South Wales 2131 (**The Corporation**)

Background

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- A The Corporation is the owner of part of the Land.
- B The Corporation has lodged with the Council, as delegate of the Minister, the Concept Plan Application relating to the Development.
- C The Corporation intends to lodge further Development Applications relating to the Development.
- D The Corporation is prepared to make Development Contributions in connection with the carrying out of the Development in accordance with this Agreement.

Operative provisions

Part 1 - Preliminary

1 Definitions & Interpretation

- 1.1 In this Agreement the following definitions apply:

Act means the *Environmental Planning and Assessment Act 1979* (NSW).

Agreement means this Agreement and includes any schedules, annexures and appendices to this Agreement.

Authority means the Commonwealth of Australia, the State of New South Wales, or any department or agency of the Commonwealth of Australia or the

Airds Bradbury Renewal Project Planning Agreement
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State of New south Wales, any public authority within the meaning of the Act, and any court or tribunal.

Claim against any person means any allegation, action, demand, cause of action, suit, proceeding, judgement, debt, damage, loss, cost, expense, or liability howsoever arising and whether present or future, fixed or unascertained, actual or contingent whether at law, in equity, under statute or otherwise.

Concept Plan Application means the application made to the Minister for approval of a concept plan for the Development being MP10_0186, and which will be assessed by Council under delegation from the Minister.

Construction Certificate has the same meaning as in the Act.

Contribution Value in relation to each Item means the amount shown in column 5 of Schedule 3 for that Item, indexed from the date of this Agreement in accordance with the Consumer Price Index (All Groups - Sydney) published by the Australian Bureau of Statistics.

Defect means any error, omission, shrinkage, blemish in appearance or other fault in the Works caused by the Developer which prevents the Works from being reasonably capable of being used for their intended purpose.

Developer means The Corporation.

Development means the development of the Land described in Schedule 2.

Development Application has the same meaning as in the Act.

Development Area means each of the areas described as '1A', '1B', '2A', '2B', '3', '4', '5', '6', '7A', '7B', '8', '9A', '9B' and '9C' on the Development Area Plan.

Development Area Plan means the plan in Schedule 4.

Development Consent means a development consent, within the meaning of the Act, or approval to carry out a project under Part 3A of the Act, and, for the avoidance of doubt, does not include an approval of a concept plan under Part 3A of the Act.

Development Contribution means any of the following, or any combination of them, to be used for, or applied towards, a public purpose:

- a monetary contribution,
- the dedication of land free of cost,
- the carrying out of work,
- the provision of any other material public benefit.

Final Lot means a lot to be created in the Development for separate occupation and disposition, not being:

- (a) a lot created by a subdivision of the Land that is to be dedicated or otherwise transferred to the Council, or
- (b) a lot created by a subdivision of the Land which may be further subdivided.

ISDP means the document titled '*Infrastructure Services Delivery Plan, Airs Bradbury Renewal Project*' dated [Insert date].

Item means the object of a Development Contribution specified in Schedule 3.

Airds Bradbury Renewal Project Planning Agreement
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Land means the land described in Schedule 1 of this Agreement.

Minister means the Minister administering the Act.

Party means a party to this agreement, including their successors and assigns.

Rectification Notice means a notice in writing that identifies a Defect in a Work and requires rectification of the Defect within a specified period of time.

Registrar General means the Registrar General within the meaning of the *Real Property Act 1900*.

Regulation means the *Environmental Planning and Assessment Regulation 2000*.

Subdivision Certificate has the same meaning as in the Act.

Work means the physical result of any building, engineering or construction work in, on, over or under land, required to be carried out by the Developer under this Agreement.

1.2 In the interpretation of this Agreement, the following provisions apply unless the context otherwise requires:

1.2.1 Headings are inserted for convenience only and do not affect the interpretation of this Agreement.

1.2.2 A reference to a business day means a day, other than a Saturday or Sunday, on which banks are open for business generally in Sydney.

1.2.3 If the day on which something is to be done under this Agreement is not a business day, then it must be done on the next business day.

1.2.4 A reference to dollars or \$ means Australian dollars and all amounts payable under this Agreement are payable in Australian dollars.

1.2.5 A reference in this Agreement to a \$ value relating to a Development Contribution is a reference to the value exclusive of GST.

1.2.6 A reference to any legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision.

1.2.7 A reference to any agreement, deed or document is to that agreement, deed or document as amended, novated, supplemented or replaced.

1.2.8 A reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this Agreement.

1.2.9 A reference to a person includes any company, trust, partnership, joint venture, association, body corporate or governmental agency.

1.2.10 Where a word or phrase is given a defined meaning, another part of speech or other grammatical form for that word or phrase has a corresponding meaning.

1.2.11 The singular includes the plural, and the plural includes the singular.

1.2.12 References to the word 'include' or 'including' are to be construed without limitation.

Airds Bradbury Renewal Project Planning Agreement
Campbelltown City Council
New South Wales Land and Housing Corporation



- 1.2.13 A reference to a Party to this Agreement includes a reference to the Party's employees, agents and contractors, and the Party's successors and assigns.
- 1.2.14 Any schedules, appendices and attachments form part of this Agreement.

2 Status of this Agreement

- 2.1 This Agreement is intended by the Parties to be a planning agreement within the meaning of s93F(1) of the Act.

3 Commencement of this Agreement

- 3.1 This Agreement commences on the date on which it has been executed by all Parties.

4 Application of this Agreement

- 4.1 This Agreement applies to the Land and the Development.
- 4.2 The Parties acknowledge that the Development Contributions required to be made under this Agreement are to meet the expected demand for public facilities arising from the Development.

5 Commencement of Development Contributions obligations

- 5.1 The Developer is under no obligation to make the Development Contributions provided for in this Agreement unless and until:
 - 5.1.1 Development Consent is granted to any part of the Development, subject to a requirement or condition requiring this Agreement to be entered into, and
 - 5.1.2 this Agreement is entered into as required by clause 25C(1) of the Regulation and the Council executes this Agreement.
 - 5.2 Until then, this document, executed only by the Developer, is to be read and construed as containing the Developer's irrevocable offer to make the Development Contributions once all of the matters specified in clause 5.1 have occurred.
 - 5.3 A Development Contribution which is required to be made in connection with a Development Area, is not required to be made unless Development Consent is granted to that Development Area.
 - 5.4 The Council must notify the Developer immediately after it executes this Agreement and promptly provide the Developer with the Agreement as executed by the Council.
-

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6 Part-performance of this Agreement

- 6.1 The Council is not to raise any objection, requisition or claim, or impose any requirements beyond that provided for in this Agreement in relation to any obligation imposed on the developer under this Agreement that had been performed, whether in whole or in part, on the date this Agreement commenced.

7 Further agreements relating to this Agreement

- 7.1 The Parties may, at any time and from time to time, enter into agreements relating to the subject-matter of this Agreement that are not inconsistent with this Agreement for the purpose of implementing this Agreement.

8 Application of s 94, s 94A and s 94EF of the Act to the Development

- 8.1 This Agreement excludes the application of s 94 and s 94A to the Development.
- 8.2 This Agreement does not exclude the application of s 94EF to the Development.

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9 Ownership of Land

- 9.1 The Developer will ensure that it becomes the registered proprietor of the Land, or any part thereof, that is required to be dedicated and that it does not own as at the date of this Agreement, prior to any obligations arising under this Agreement which require any part of that Land to be dedicated to Council, unless otherwise agreed with Council.
- 9.2 The Developer will ensure that it secures the legal right to access, and construct any relevant Works on any part of the Land that it does not own as at the date of this Agreement, prior to any obligations arising under this Agreement which require the carrying out of Works on that part of the Land, unless otherwise agreed with Council.

10 Provision of Development Contributions

- 10.1 The Developer is to make Development Contributions to the Council in accordance with this Agreement.
- 10.2 Schedule 3 has effect in relation to Development Contributions to be made by the Developer under this Agreement.
- 10.3 A Contribution Value specified in relation to an obligation by the Developer to carry out Work or dedicate land under this Agreement does not define or limit the extent of the Developer's obligation in that regard.
- 10.4 If the cost incurred by the Developer to properly perform an obligation to carry out Work or dedicate land is less than a Contribution Value specified in

Airds Bradbury Renewal Project Planning Agreement
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relation to the obligation, the Developer is not required to carry out further Work or dedicate further land or pay money to the Council to make up the difference between the Contribution Value and the cost incurred by the Developer in performing the obligation.

- 10.5 The Council is to apply each Development Contribution made by the Developer under this Agreement towards the public purpose for which it is made and otherwise in accordance with this Agreement.

11 Variation of scope or timing for provision of Development Contributions

- 11.1 The Developer may request that the Council approve in writing, a variation to the scope or the timing for the provision of Development Contributions, and the Council must act reasonably in determining whether to approve the variation.
- 11.2 For the purposes of determining whether to approve a variation under clause 11.1, the Council may consider the content of the ISDP and whether the variation prejudices the provision of public services or public amenities for any Development Area.
- 11.3 The scope or the timing for provision of a Development Contribution is not to be varied unless:
- 11.3.1 the Parties, acting reasonably, agree in writing to the variation, and
- 11.3.2 any consent or approval required under the Act or any other law to the variation is first obtained, if required, and
- 11.3.3 each Party bears its own costs of and incidental to the variation.
- 11.4 If a variation is made to the scope or timing for provision of a Development Contribution pursuant to this clause, then Schedule 3 is taken to have been amended accordingly.
- 11.5 If the Council requests a variation to a Work after a Construction Certificate has been issued for the Work, then the Council is liable to pay to the Developer an amount equal to the increase in the costs incurred by the Developer of completing the Work which results from the variation requested by the Council.
- 11.6 Council shall pay the amount referred to in clause 11.5 to the Developer after the Work is complete, and within 28 days of receipt of:
- 11.6.1 a tax invoice for the amount claimed by the Developer; and
- 11.6.2 documentation which verifies the increase in costs incurred by the Developer as a result of the variation.
- 11.7 The Council cannot withhold its agreement to a variation of a Work if the variation does not result in a change to the matters identified as core elements for that Work in the ISDP.

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Part 2 – Provisions relating to monetary Development Contributions

12 Payment of monetary Development Contributions

- 12.1 A monetary Development Contribution is made for the purposes of this Agreement when the Council receives the full amount of the contribution payable under this Agreement in cash or by unendorsed bank cheque or by the deposit by means of electronic funds transfer of cleared funds into a bank account nominated by the Council.
- 12.2 The Developer is to give the Council not less than 2 business days written notice of its intention to pay a monetary Development Contribution.
- 12.3 The Developer is not required to pay a monetary Development Contribution under this Agreement unless the Council, after having received the Developer's notice under clause 12.2, has given to the Developer a tax invoice for the amount of the Development Contribution.
- 12.4 The Developer is not in breach of this Agreement if it fails to pay a monetary Development Contribution at the time required by this Agreement by reason only of the Council's failure to give to the Developer a tax invoice in relation to the amount proposed to be paid by it.

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Part 3 – Provisions relating to dedication of Land

13 Procedures relating to the dedication of Land

- 13.1 A Development Contribution comprising the dedication of any part of the Land is made for the purposes of this Agreement when:
 - 13.1.1 a deposited plan is registered in the register of plans held with the Registrar General that:
 - (a) dedicates land as a public road (including a temporary public road) under the *Roads Act 1993*, or
 - (b) creates a public reserve or drainage reserve under the *Local Government Act 1993*, or
 - 13.1.2 the Council is given an instrument in registrable form under the *Real Property Act 1900* that is effective to transfer the title to the relevant part of the Land to the Council when registered.
- 13.2 For the purposes of clause 13.1.2:
 - 13.2.1 the Developer is to give the Council, for execution by the Council as transferee, an instrument of transfer under the *Real Property Act 1900* relating to the Land to be dedicated, and
 - 13.2.2 within 7 days of receiving it from Developer, the Council is to execute it and return it to Developer, and
 - 13.2.3 within 7 days of receiving it from the Council (properly executed), the Developer is to lodge it for registration with the Registrar General, and

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- 13.2.4 the Developer is to do all things reasonably necessary to enable it to be registered.

Part 4 – Provisions relating to the carrying out of Work

14 Design and Specification of Work

- 14.1 Before commencing construction of a Work, the Developer is to submit to the Council for its approval the detailed design and specification for the Work.
- 14.2 If, within 21 days of the date of submission referred to in clause 14.1:
- 14.2.1 the Council notifies the Developer in writing of its approval of the design and specification, the Developer is to carry out and complete the Work in accordance with that design and specification,
- 14.2.2 the Council fails to notify the Developer in writing that it approves or does not approve of the design and specification or does not require the Developer to make modifications, the Council is taken to have approved the design and specification of the Work and the Developer may carry out and complete the Work in accordance with that design and specification,
- 14.2.3 the Council notifies the Developer in writing that it does not approve of the design and specification or requires the Developer to make modifications, the Developer may elect to:
- (a) amend the design and specification and submit to the Council the amended design and specification in which case this clause 14.2 applies to that amendment, or
- (b) make monetary Development Contributions for the provision of the Work in lieu of carrying out the Work not exceeding the amount of the Contribution Value of the Work.
- 14.3 If the Developer elects to make monetary Development Contributions under clause 14.2.3 (b), the Developer is to pay the Development Contributions to the Council as progress payments upon presentation by the Council of documents verifying costs incurred by the Council in carrying out the Work, or in such instalments as may be agreed in writing between the Parties.
- 14.4 For the purposes of clause 14.2.3, the Council is not to require the Developer to make modifications to the design and specification of a Work that result in a change to the matters identified as core elements for that Work in the ISDP.

15 Standard of construction of Work

- 15.1 Any Work that the Developer is required to carry out under this Agreement is to be carried out in accordance with:
- 15.1.1 this Agreement,
- 15.1.2 any further agreement entered into by the Parties under clause 7,

Airds Bradbury Renewal Project Planning Agreement
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- 15.1.3 any reasonable requirements and directions of the Council notified in writing to the Developer before the Work is completed for the purposes of this Agreement, that are not inconsistent with this Agreement or any Development Consent for the Development,
- 15.1.4 the requirements of any approval, consent, permission or licence issued by a relevant Authority,
- 15.1.5 any Australian standards and other laws applicable to the Work, and
- 15.1.6 in a proper and workmanlike manner, complying with current industry practice and standards relating to the Work.

16 Maintenance and management of Works

- 16.1 The Developer will maintain each Hard Landscaping Work and Soft Landscaping Work during the Maintenance Period in accordance with any matters set out in clause 15.1.
- 16.2 Despite any other provision of this Agreement, if the Developer has complied with its obligations under this clause, the Council cannot make any Claim, objection or demand about the state or condition of a Work after the end of the Maintenance Period for that Work.
- 16.3 For the purposes of this clause maintenance does not include repairing damage caused by vandalism to the Work (but includes replacement of plants due to vandalism), unless the Developer notifies the Council in writing that it elects to carry out such repair.
- 16.4 In this clause:
 - 16.4.1 **Hard Landscaping Work** means items such as paving, seating, buildings, signage, lighting, playground equipment, and any other landscaping works that is not Soft Landscaping Work.
 - 16.4.2 **Maintenance Period** means:
 - (a) in respect of Hard Landscaping Work, a period of 12 months commencing on the date the Work is completed for the purpose of this Agreement,
 - (b) in respect of Soft Landscaping Work, a period of 24 months commencing on the date the Work is completed for the purpose of this Agreement.
 - 16.4.3 **Soft Landscaping Work** means any Work comprising the planting of vegetation and associated preparation of planting beds or growing medium such as trees, shrubs, groundcovers, mulch and grass.

17 Access for Works

- 17.1 The Developer is to permit the Council, its officers, employees, agents and contractors to enter the Land or any other land at any time, upon giving reasonable prior notice, to:
 - 17.1.1 inspect, examine or test any Work, or
 - 17.1.2 remedy any breach by the Developer in carrying out a Work.
-

Airds Bradbury Renewal Project Planning Agreement
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- 17.2 The Council is to grant to the Developer its officers, employees, agents and contractors a legal right to enter and occupy any land owned or controlled by the Council, including any part of the Land owned by the Council, to
- 17.2.1 enable the Developer to carry out any Work under this Agreement that is required to be carried out on that land, or
- 17.2.2 perform any other obligation imposed on the Developer by this Agreement.

18 Protection of people and property

- 18.1 The Developer is to ensure to the fullest extent reasonably practicable in carrying out any Work that:
- 18.1.1 all necessary measures are taken to protect people and property, and
- 18.1.2 unnecessary interference with the passage of people and vehicles is avoided, and
- 18.1.3 nuisances and unreasonable noise and disturbances are prevented.

19 Completion

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- 19.1 Work is completed for the purposes of this Agreement when the Council at the request of the Developer, acting reasonably, gives a certificate to the Developer to that effect or the Developer gives the Council a Compliance Certificate to that effect.
- 19.2 The Council is to respond to any request made by the Developer to provide a certificate referred to in clause 19.1 within 14 business days.
- 19.3 Despite clause 19.1, if a response referred to in clause 19.2 is not provided within the time specified in that clause, then the Work to which the request referred to in that clause relates is taken to be completed for the purposes of this Agreement.
- 19.4 In this clause **Compliance Certificate** has the same meaning as in the Act.

20 Procedures relating to the rectification of Defects

- 20.1 During the Defects Liability Period, the Council may give to the Developer a Rectification Notice.
- 20.2 The Developer is to comply with a Rectification Notice at its own cost according to its terms and to the satisfaction of the Council.
- 20.3 In this clause:
- 20.3.1 **Building Work** has the same meaning as in the Act.
- 20.3.2 **Defects Liability Period** means:
- (a) for any Work which Column 2 of Schedule 3 indicates is for the public purpose of 'Road works and Intersection Upgrades', 'Water Cycle Management', 'Open Space and Landscape Works', 'Riparian and Bushland Regeneration',

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'Bushland Regeneration' – 12 months from the date the Work is completed for the purposes of this Agreement,

- (b) for Building Work – 3 months from the date the Work is completed for the purposes of this Agreement.

21 Deferral of Work

- 21.1 Notwithstanding any other provision of this Agreement, if the Developer reasonably considers, at any time, that it is unable to make a Development Contribution comprising a Work by the time the Work is required to be completed under this Agreement, then:
- 21.1.1 the Developer is to provide written notice to the Council to that effect,
- 21.1.2 the Developer is to provide the Council with Security for the uncompleted part of the Work before the date on which the Work is required to be completed under this Agreement,
- 21.1.3 the Developer is to provide to the Council, for approval, a revised completion date for the Work, and
- 21.1.4 the time for completion of the Work under this Agreement is the revised completion date approved or agreed to by the Council under this clause 21.1.
- 21.2 If the Developer complies with clause 21.1 in relation to a Work, then it is not in breach of this Agreement as a result of a failure to complete the Work by the time for completion of the Work specified in Column 4 of Schedule 3.
- 21.3 In this clause:
- 21.3.1 **Security** means a letter of undertaking from the Developer to the Council containing a commitment to comply with this Agreement on terms satisfactory to the Council.

22 Failure to carry out Work

- 22.1 Subject to clause 26, if the Council considers that the Developer is in breach of any obligation under this Agreement relating to the carrying out of any Work, including Work the subject of a Rectification Notice, the Council may give the Developer a notice under this clause.
- 22.2 The notice may require the Developer to:
- 22.2.1 rectify the breach to the Council's satisfaction, and
- 22.2.2 immediately cease carrying out further work relating to the Work except to rectify the breach.
- 22.3 A notice given under clause 22.1 is to allow the Developer not less than 28 days (or such further period as the Council considers reasonable in the circumstances) to rectify the breach.
- 22.4 If the Developer does not comply with the notice given under clause 22.1, the Council may carry out and complete the Work the subject of the breach. This does not affect the Council's other rights to enforce this Agreement.
- 22.5 Clauses 28 and 29 do not prevent a notice being given under clause 22.1, nor do they apply to such a notice or the circumstances relating to the giving of

Airds Bradbury Renewal Project Planning Agreement
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the notice. Any procedure commenced under clause 28 or clause 29 ceases to apply when such a notice is given.

- 22.6 If the Council reasonably incurs a cost in carrying out, completing or rectifying a Defect in a Work, the Council may recover the cost from the Developer in a court of competent jurisdiction.
- 22.7 For the purposes of clause 22.6, the costs which Council can recover include fees and charges incurred by Council, Council's employees, agents and contractors, and legal costs and expenses.

23 Works-as-executed-plan

- 23.1 No later than 60 days after a Work is completed in accordance with this Agreement, the Developer is to submit to the Council a full works-as-executed-plan for the Work.

24 Hand-over of Works

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- 24.1 Subject to anything to the contrary in this Agreement, Council accepts responsibility for a Work on the later of:
- 24.1.1 the date when the Work is completed for the purposes of this Agreement, or
- 24.1.2 if the Work is carried out on land which is to be dedicated to the Council under this Agreement, the date of dedication of that land.
- 24.2 The Developer, at its own cost, is to repair and make good to the satisfaction of the Council (acting reasonably) any loss or damage to a Work from any cause whatsoever which occurs before the Work is completed for the purposes of this Agreement.

Part 5 –Enforcement and Disputes

25 Enforcement

- 25.1 The Parties acknowledge that Council is entitled to withhold a Subdivision Certificate in respect of a Development Area of the Development if the Development Contributions required by this Agreement to be provided prior to the issue of a Subdivision Certificate for that Development Area, have not been provided in accordance with this Agreement.

26 Council to consult before enforcing this Agreement

- 26.1 This clause applies to any of the Developer's obligations under this Agreement.
- 26.2 If the Council reasonably forms the opinion that the Developer has failed to comply with an obligation to which this clause applies, it is not to enforce this Agreement against the Developer (including taking any action under clause

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- 21) unless it has first notified the Developer in writing of its intention to do so and has consulted with the Developer as to:
- 26.2.1 the reason for the non-compliance,
 - 26.2.2 the likely effects of the non-compliance, and
 - 26.2.3 the Developer's capacity in all of the circumstances to reasonably rectify the non-compliance.
- 26.3 The Council is not to enforce this Agreement against the Developer unless, after having consulted with the Developer:
- 26.3.1 it has reasonably formed the opinion the Developer has no reasonable excuse for the non-compliance,
 - 26.3.2 it has notified the Developer in writing that it intends to enforce the Agreement not earlier than 14 days from the date of the notice, and
 - 26.3.3 the notice specifies the enforcement action it intends to take.
- 26.4 At any time between the date of the notice referred to in clause 26.3 and the time when the Council takes action to enforce this Agreement, the Developer may notify the Council of a dispute under clause 28 or 29.
- 26.5 If the Developer notifies the Council in accordance with in clause 26.4, the Council is not to enforce this Agreement against the Developer in relation to the relevant non-compliance unless and until the dispute resolution process under clause 28 or 29 has been exhausted without resolution between the parties.

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27 Enforcement in court

- 27.1 Subject only to clause 26, the Parties may enforce this Agreement in any court of competent jurisdiction.
- 27.2 For the avoidance of doubt, nothing in this Agreement prevents:
- 27.2.1 a Party from bringing proceedings in the Land and Environment Court to enforce any aspect of this Agreement or any matter to which this Agreement relates,
 - 27.2.2 the Council from exercising any function under the Act or any other Act or law relating to the enforcement of any aspect of this Agreement or any matter to which this Agreement relates.

28 Dispute resolution – expert determination

- 28.1 This clause applies to a dispute under this Agreement about a matter that can be determined by an appropriately qualified expert (**Expert Determination Dispute**).
- 28.2 Such a dispute is taken to arise if one Party gives another Party a notice in writing specifying particulars of the dispute and requiring it to be determined by an appropriately qualified expert.
- 28.3 Within 14 days of the notice, the Parties are to meet to try to resolve the dispute.

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- 28.4 If within a further 28 days the dispute is not resolved, the dispute must be referred to the President of the NSW Law Society to appoint an expert to determine the dispute.
- 28.5 The expert determination binds the Parties, except in the case of the expert's fraud or misfeasance.
- 28.6 Each Party must bear its own costs arising from or in connection with the appointment of the expert and the expert determination.
- 28.7 If the Parties disagree over whether a dispute is properly an Expert Determination Dispute, then either Party may refer that issue to the Chief Executive Officer (CEO) of the professional body that represents persons with the relevant expertise, for a determination of that issue. The CEO's determination is final and binds the Parties.

29 Dispute resolution - mediation

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- 29.1 This clause applies to any dispute under this Agreement other than a dispute to which clause 28 applies.
 - 29.2 Such a dispute is taken to arise if one Party gives another Party a notice in writing specifying particulars of the dispute.
 - 29.3 The Parties are then to meet within 14 days of the notice to try to resolve the dispute.
 - 29.4 If the dispute is not resolved within a further 28 days, the Parties must mediate the dispute in accordance with the Mediation Rules of the Law Society of New South Wales published from time to time, and must request the President of the Law Society, or the President's nominee, to select a mediator.
 - 29.5 If the dispute is not resolved by mediation within a further 28 days, or any longer period that may be needed to complete any mediation process which has been started, then the Parties may exercise their legal rights in relation to the dispute, including by taking legal proceedings in a court of competent jurisdiction in New South Wales.

30 Registration of this Agreement

- 30.1 The Parties agree not to register this Agreement for the purposes of s 93H of the Act.

31 Assignment, sale of Land, etc

- 31.1 Unless the preconditions specified in clause 31.2 are satisfied, the Developer is not to:
 - 31.1.1 transfer the Land, other than a Final Lot, to any person, or
 - 31.1.2 assign its rights or obligations under this Agreement, or novate this Agreement, to any person.
- 31.2 The preconditions to be satisfied under clause 31.1 are:
 - 31.2.1 the Developer has, at no cost to the Council:

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- (a) procured the execution by the person to whom the Developer proposes to sell or transfer the Land or to whom the Developer's rights or obligations under this Agreement are to be assigned or novated (**Third Party**), of an agreement in favour of the Council on terms satisfactory to the Council acting reasonably, and
- (b) provided evidence, satisfactory to the Council (demonstrated by the Council giving written notice to the Developer of its satisfaction) to show that the Third Party is reasonably capable of performing the Developer's obligations under the Agreement, and

31.2.2 the Developer is not in breach of this Agreement.

31.3 An agreement entered into pursuant to clause 31.2.1(a):

- 31.3.1 must provide that the Third Party is to do all such things as necessary to enable the Developer to comply its obligations under this Agreement, if the Developer will remain responsible for making any Development Contributions under the Agreement after the transfer, assignment or novation;
- 31.3.2 may require the Third Party to register this Agreement on the title to any part of the Land which the Third Party will own within 90 days of the transfer of the Land or part of the Land to the Third Party, and
- 31.3.3 may require the Third Party to provide security in a form acceptable to Council, in respect of the performance by the Third Party of obligations under this Agreement,

and if the Third Party provides evidence that any security required under the agreement can be provided, then Council cannot refuse to provide the written notice referred to in clause 31.2.1(b).

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Part 6 - Other provisions

32 Indemnity

- 32.1 Each Party indemnifies the other Party from and against all Claims that may be sustained, suffered, recovered or made against the other Party arising in connection with the performance of their obligations under this Agreement except if, and to the extent that, the Claim arises because of the other Party's negligence or default.

33 Insurance

- 33.1 The Developer warrants, and Council acknowledges, that:
 - 33.1.1 the Developer is a member of the NSW Treasury Managed Fund (**Fund**),
 - 33.1.2 the Fund provides the Developer with insurance cover against any liability arising from a breach by the Developer of its obligations under this Agreement.

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34 Developer may Review Draft Determinations Relating to the Development

- 34.1 Not less than 14 days before determining a Development Application or an application under s96 of the Act relating to the Development, the Council is to give to the Developer a copy of its proposed determination including, if applicable, the terms and conditions upon which any Development Consent or approval is proposed to be granted.
- 34.2 The Developer may, by notice in writing, not more than 14 days from receipt of the proposed determination under clause 34.1 request the Council to modify or abandon the proposed determination.
- 34.3 The Council is to properly consider a request made by the Developer under clause 34.2 before it makes any further decision in relation to the determination.

35 Termination of Agreement

- 35.1 This Agreement terminates at the later of:
 - 35.1.1 when the Developer has satisfied all of its obligations under this Agreement, including its obligations to rectify Defects under clause 20, or
 - 35.1.2 at the end of the Defects Liability Period for the last of the Works to be Completed.

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36 Review of this Agreement

- 36.1 The Developer is to provide the Council with a report every 3 years detailing the performance of its obligations under this Agreement.
- 36.2 The report is to be:
 - 36.2.1 given no later than every 3 years from the date on which this Agreement is entered into, and
 - 36.2.2 in the form and addressing the matters the Council notifies to the Developer from time to time.
- 36.3 The Parties are to review this Agreement every 3 years, and otherwise if either Party considers that any change of circumstance has occurred, or is imminent, that materially affects the operation of this Agreement.
- 36.4 For the purposes of clause 36.3, the relevant changes include:
 - 36.4.1 any change to a law that restricts or prohibits, or enables the Council or any other planning authority to restrict or prohibit, any aspect of the Development, or
 - 36.4.2 any Alternative Funding has been obtained by any Party.
- 36.5 For the purposes of addressing any matter arising from a review of this Agreement referred to in clause 36.3, the Parties are to use all reasonable endeavours to agree on and implement appropriate amendments to this Agreement.

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- 36.6 If this Agreement becomes illegal, unenforceable or invalid as a result of any change to a law, the Parties agree to do all things necessary to ensure that an enforceable agreement of the same or similar effect to this Agreement is entered into.
- 36.7 A Party's failure to agree to take action requested by the other Party as a consequence of a review referred to in clause 36.3 is not a dispute for the purposes of clauses 28 and 29, and is not a breach of this Agreement.
- 36.8 In this clause, **Alternative Funding** means any funding obtained by any Party from persons not a party to this Agreement that may be applied towards the cost of the Works.

37 Confidentiality

- 37.1 The terms of this Agreement are not confidential and this Agreement may be treated as a public document and exhibited or reported without restriction by any Party.
- 37.2 The Parties acknowledge that:
 - 37.2.1 confidential information may have been supplied to some or all of the Parties in the negotiations leading up to the making of this Agreement, and
 - 37.2.2 the Parties may disclose to each other further confidential information in connection with the subject matter of this Agreement.
 - 37.2.3 subject to clauses 37.3 and 37.4, each Party agrees:
 - (a) not to disclose any confidential information received before or after the making of this Agreement to any person without the prior written consent of the Party who supplied the confidential information, or
 - (b) to take all reasonable steps to ensure all confidential information received before or after the making of this Agreement is kept confidential and protected against unauthorised use and access.
- 37.3 A Party may disclose confidential information in the following circumstances:
 - 37.3.1 in order to comply with the law, or the requirements of any Authority, or
 - 37.3.2 to any of their employees, consultants, advisers, financiers or contractors to whom it is considered necessary to disclose the information, if the employees, consultants, advisers, financiers or contractors undertake to keep the information confidential.
- 37.4 The obligations of confidentiality under this clause do not extend to information which is public knowledge other than as a result of a breach of this clause.

38 Notices

- 38.1 A notice, consent, information, application or request (**Notification**) that must or may be given or made to a Party under this Agreement is only given or made if it is in writing and sent in one of the following ways:
-

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- 38.1.1 delivered or posted to that Party at its address set out in the Summary Sheet, or
- 38.1.2 faxed to that Party at its fax number set out in the Summary Sheet, or
- 38.1.3 emailed to that Party at its email address set out in the Summary Sheet.
- 38.2 A Party may change its address, fax number or email address by giving the other Party 3 business days' notice of the change, in which case the new address, fax number or email address is treated as the address or number in the Summary Sheet.
- 38.3 A Notification is to be treated as given or made if it is:
 - 38.3.1 delivered, when it is left at the relevant address, or
 - 38.3.2 sent by post, 2 business days after it is posted, or
 - 38.3.3 sent by fax, as soon as the sender receives from the sender's fax machine a report of an error-free transmission to the correct fax number, or
 - 38.3.4 sent by email, and the sender does not receive a delivery failure message from the sender's internet service provider within a period of 24 hours of the email being sent.
- 38.4 If a Notification is delivered, or an error-free transmission report in relation to it is received, on a day that is not a business day, or if on a business day, after 5pm on that day in the place of the Party to whom it is sent, it is to be treated as having been given or made at the beginning of the next business day.

39 Approvals and consent

- 39.1 In this clause, a reference to an approval or consent does not include a reference to a Development Consent.
- 39.2 Except as otherwise set out in this Agreement, and subject to any statutory obligations, a Party may give or withhold an approval or consent to be given under this Agreement in that Party's absolute discretion and subject to any conditions determined by the Party.
- 39.3 A Party is to give its reasons for giving or withholding consent or for giving consent subject to conditions.

40 Costs

- 40.1 The Parties are each to pay their own costs of preparing, negotiating, executing and stamping this Agreement and any document related to this Agreement.

41 Entire Agreement

- 41.1 This Agreement contains everything to which the Parties have agreed in relation to the matters it deals with.

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- 41.2 No Party can rely on an earlier document, or anything said or done by another Party, or by a director, officer, agent or employee of that Party, before this Agreement was executed, except as permitted by law.

42 Further acts

- 42.1 Each Party must promptly execute all documents and do all things that another Party from time to time reasonably requests to effect, perfect or complete this Agreement and all transactions incidental to it.

43 Notations on section 149(2) Planning Certificates

- 43.1 The Council agrees not to make a notation under section 149(5) of the Act regarding this Agreement on any certificate issued under section 149(2) of the Act relating to the Land.

44 Governing law and jurisdiction

- 44.1 This Agreement is governed by the law of New South Wales.
44.2 The Parties submit to the non-exclusive jurisdiction of its courts, and are not to object to the exercise of jurisdiction by those courts on any basis.

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45 Joint and individual liability and benefits

- 45.1 Except as otherwise set out in this Agreement:
- 45.1.1 any agreement, covenant, representation or warranty under this Agreement by 2 or more persons binds them jointly and each of them individually, and
 - 45.1.2 any benefit in favour of 2 or more persons is for the benefit of them jointly and each of them individually.

46 Representations and warranties

- 46.1 The Parties represent and warrant that they have power to enter into this Agreement and to comply with their obligations under the Agreement, and that entry into this Agreement will not result in the breach of any law.

47 Severability

- 47.1 If a clause or part of a clause can be read in a way that makes it illegal, unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way.
47.2 If any clause or part of a clause is illegal, unenforceable or invalid, that clause or part of it is to be treated as removed from this Agreement, but the rest of this Agreement is not affected.

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48 Modification

- 48.1 No modification of this Agreement has any effect unless it is in writing and signed by the Parties.

49 Waiver

- 49.1 A Party does not waive any of the other Party's obligation or breach of obligation merely by failing to do, or delaying in doing, something under this Agreement.
- 49.2 A waiver by a Party is effective only if it is in writing.
- 49.3 A written waiver by a Party is effective only in relation to the particular obligation or breach for which it is given. It is not to be taken as an implied waiver of any other obligation or breach, or as an implied waiver of that obligation or breach in relation to any other occasion.

50 GST

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- 50.1 In this clause:
- Adjustment Note, Consideration, GST, GST Group, Margin Scheme, Money, Supply and Tax Invoice** have the meaning given by the GST Law.
- GST Amount** means in relation to a Taxable Supply the amount of GST payable for the Taxable Supply.
- GST Law** has the same meaning as in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and any other Act or regulation relating to the imposition or administration of the GST.
- Input Tax Credit** has the meaning given by the GST Law and a reference to an Input Tax Credit entitlement of a Party includes an Input Tax Credit for an acquisition made by that Party but to which another member of the same GST Group is entitled under the GST Law.
- Taxable Supply** has the meaning given by the GST Law, excluding (except where expressly agreed otherwise) a supply for which the supplier chooses to apply the Margin Scheme in working out the amount of GST on that supply.
- 50.2 Subject to clause 50.4, if GST is payable on a Taxable Supply made under, by reference to or in connection with this Agreement, the Party providing the Consideration for that Taxable Supply must also pay the GST Amount as additional Consideration.
- 50.3 Clause 50.2 does not apply to the extent that the Consideration for the Taxable Supply is expressly stated in this Agreement to be GST inclusive.
- 50.4 No additional amount is payable by the Council under clause 50.2 unless, and only to the extent that, the Council (acting reasonably and in accordance with the GST Law) determines that it is entitled to an Input Tax Credit for its acquisition of the Taxable Supply giving rise to the liability to pay GST.
- 50.5 If there are Supplies for Consideration which is not Consideration expressed as an amount of Money under this Agreement by one Party to the other Party that are not subject to Division 82 of the *A New Tax System (Goods and Services Tax) Act 1999*, the Parties agree:

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- 50.5.1 to negotiate in good faith to agree the GST inclusive market value of those Supplies before issuing Tax Invoices for those Supplies;
- 50.5.2 that any amounts payable by the Parties in accordance with clause 50.2 (as limited by clause 50.4) to each other for those Supplies will be set off against each other to the extent that they are equivalent in amount.
- 50.6 No payment of any amount under this clause 50, and no payment of the GST Amount where the Consideration for the Taxable Supply is expressly agreed to be GST inclusive, is required until the supplier has provided the recipient with a Tax Invoice or Adjustment Note as the case may be.
- 50.7 Any reference in the calculation of Consideration or of any indemnity, reimbursement or similar amount to a cost, expense or other liability incurred by a Party, must exclude the amount of any Input Tax Credit entitlement of that Party in relation to the relevant cost, expense or other liability.
- 50.8 This clause continues to apply after expiration or termination of this Agreement.

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51 Explanatory Note Relating to this Agreement

- 51.1 The Appendix contains the Explanatory Note relating to this Agreement required by clause 25E of the Regulation.
- 51.2 Under clause 25E(7) of the Regulation, the Parties agree that the Explanatory Note in the Appendix is not to be used to assist in construing this Agreement.

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Schedule 1

(Clause 1.1)

Land

[Drafting Note: Insert land titles.]

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Schedule 2

(Clause 1.1)

Development

Development means the development of the Land described in the Concept Plan Application.

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(Clause 10)

Development Contributions

Column 1	Column 2	Column 3	Column 4	Column 5
Item	Public purpose	Nature and Extent	Timing	Contribution Value
1. Georges River Road /Riverside Drive Intersection (single lane roundabout)	Road Works and Intersection Upgrades	Carrying out of Works as described under the heading '1. Road Works (Incl. Cycleways and Bus Stops) and Intersection Upgrades' in Part A of the ISDP relevant to the intersection of Georges River Road and Riverside Drive. Dedication of land on which the Work is located	Work to be completed before the issuing of the Subdivision Certificate that creates the last Final Lot for residential purposes in Development Area 1B. Land to be dedicated on or before the registration of the plan of subdivision that creates the last Final Lot in Development Area 1B.	\$253,000.00
2. Georges River Road /Bellinger Road (Give-Way) with additional approach from Deans Road	Road Works and Intersection Upgrades	Carrying out of Works as described under the heading '1. Road Works (Incl. Cycleways and Bus Stops) and Intersection Upgrades' in Part A of the ISDP relevant to the intersection of Georges River Road, Bellinger Road and Deans Road Dedication of land on which the Work is	Work to be completed before the issuing of the Subdivision Certificate that creates the last Final Lot for residential purposes in Development Area 1A. Land to be dedicated on or before the registration of the plan of subdivision that creates the last Final	\$189,750.00

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		located	Lot in Development Area 1A.	
3. Georges River Road / Junction Road (From Peppin Crescent extension) - (roundabout)	Road Works and Intersection Upgrades	Carrying out of Works as described under the heading '1. Road Works (Incl. Cycleways and Bus Stops) and Intersection Upgrades' in Part A of the ISDP relevant to the intersection of Georges River Road, Junction Road and Peppin Crescent Dedication of land on which the Work is located	Work to be completed before the issuing of the Subdivision Certificate that creates the last Final Lot for residential purposes in Development Area 5. Land to be dedicated on or before the registration of the plan of subdivision that creates the last Final Lot in Development Area 5.	\$253,000.00
4. St John Road / Cambellfield Avenue Extension (single lane roundabout)	Road Works and Intersection Upgrades	Carrying out of Works as described under the heading '1. Road Works (Incl. Cycleways and Bus Stops) and Intersection Upgrades' in Part A of the ISDP relevant to the intersection of St John Road and Cambellfield Avenue Dedication of land on which the Work is located	Work to be completed before the issuing of the Subdivision Certificate that creates the last Final Lot for residential purposes in Development Area 3. Land to be dedicated on or before the registration of the plan of subdivision that creates the last Final Lot in Development Area 3.	\$253,000.00
5. Collector Roads	Road Works and Intersection Upgrades	Carrying out of Works as described under the heading '1. Road Works (Incl. Cycleways and Bus Stops) and Intersection Upgrades' in Part A of the ISDP relevant to collector roads Dedication of land on which the Work is located	Work located within a particular Development Area 1B, 2A, 2B, 3, 4, 6 and 7A is to be completed before the issuing of the Subdivision Certificate that creates the last Final Lot for residential purposes in that Development Area. Land within a particular Development Area is to be dedicated on or before the registration of the plan of subdivision that creates the	\$2,700,528.00

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			last Final Lot in that Development Area.	
6. Roads Adjacent to Parks	Road Works and Intersection Upgrades	Carrying out of Works as described under the heading '1. Road Works (incl. Cycleways and Bus Stops) and Intersection Upgrades' in Part A of the ISDP relevant to roads adjacent to parks and open space Dedication of land on which the Work is located	Work located within a particular Development Area 1B, 2B, 3, 4, 5, 8 and 9 is to be completed before the issuing of the Subdivision Certificate that creates the last Final Lot for residential purposes in that Development Area. Land within a particular Development Area is to be dedicated on or before the registration of the plan of subdivision that creates the last Final Lot in that Development Area.	\$1,048,668.00
7. Remove existing underpasses	Road Works and Intersection Upgrades	Carrying out of Works as described under the heading '1. Road Works (incl. Cycleways and Bus Stops) and Intersection Upgrades' in Part A of the ISDP relevant to the removal of existing underpasses Dedication of land on which the Work is located	Work located within a particular Development Area 4 and 7A is to be completed before the issuing of the Subdivision Certificate that creates the last Final Lot for residential purposes in that Development Area. Land within a particular Development Area is to be dedicated on or before the registration of the plan of subdivision that creates the last Final Lot in that Development Area.	\$632,500.00
8. Trunk stormwater pipes and pits	Water Cycle Management	Carrying out of Works as described under the heading '2. Detention Facilities, Gross Pollutant Traps and Bio-Retention Devices' in Part A of the	Work located within a particular Development Area 1B, 2A, 3, 6, 7B and 8 is to be completed before the issuing of the Subdivision Certificate	\$2,677,613.00

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		ISDP relevant to trunk stormwater pipes and pits Dedication of land on which the Work is located	that creates the last Final Lot for residential purposes in that Development Area. Land within a particular Development Area is to be dedicated on or before the registration of the plan of subdivision that creates the last Final Lot in that Development Area.	
9. Upgrade of existing Kevin Wheatley wetland / pond	Water Cycle Management	Carrying out of Works as described under the heading '2. Detention Facilities, Gross Pollutant Traps and Bio-Retention Devices' in Part A of the ISDP relevant to Kevin Wheatley Park Pond Area upgrade Dedication of land on which the Works is located	Work to be completed before the issuing of the Subdivision Certificate that creates the last Final Lot for residential purposes in Development Area 3. Land to be dedicated on or before the registration of the plan of subdivision that creates the last Final Lot in Development Area 3.	\$161,920.00
10. Proposed gross pollutant traps	Water Cycle Management	Carrying out of Works as described under the heading '2. Detention Facilities, Gross Pollutant Traps and Bio-Retention Devices' in Part A of the ISDP relevant to gross pollutant traps Dedication of land on which the Work is located	Work located within a particular Development Area 1B, and 3 is to be completed before the issuing of the Subdivision Certificate that creates the last Final Lot for residential purposes in that Development Area. Land within a particular Development Area is to be dedicated on or before the registration of the plan of subdivision that creates the last Final Lot in that Development Area.	\$632,500.00

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11. Upgrade of Existing Culverts	Water Cycle Management	Carrying out of Works as described under the heading '2. Detention Facilities, Gross Pollutant Traps and Bio-Retention Devices' in Part A of the ISDP relevant to upgrade of existing culverts under Georges River Road Dedication of land on which the Work is located	Work to be completed before the issuing of the Subdivision Certificate that creates the last Final Lot for residential purposes in Development Area 1B. Land to be dedicated on or before the registration of the plan of subdivision that creates the last Final Lot in Development Area 1B.	\$651,475.00
12. Smiths Creek Detention Basin	Water Cycle Management	Carrying out of Works as described under the heading '2. Detention Facilities, Gross Pollutant Traps and Bio-Retention Devices' in Part A of the ISDP relevant to the Smiths Creek detention basin Dedication of land on which the Work is located	Work to be completed before the issuing of the Subdivision Certificate that creates the last Final Lot for residential purposes in Development Area 1B. Land to be dedicated on or before the registration of the plan of subdivision that creates the last Final Lot in Development Area 1B.	\$169,510.00
13. Proposed bio-retention facilities	Water Cycle Management	Carrying out of Works as described under the heading '2. Detention Facilities, Gross Pollutant Traps and Bio-Retention Devices' in Part A of the ISDP relevant to bio-retention facilities Dedication of land on which the Work is located	Work located within a particular Development Area is to be completed before the issuing of the Subdivision Certificate that creates the last Final Lot for residential purposes in that Development Area. Land within a particular Development Area is to be dedicated on or before the registration of the plan of subdivision that creates the last Final Lot in that Development Area.	\$904,675.00

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14. Kevin Wheatley Reserve Pond Area Landscaping	Open Space and Landscape Works	Carrying out of Works as described under the heading '3. Kevin Wheatley VC Reserve' in Part A of the ISDP relevant to pond area landscaping Dedication of land on which the Work is located	Work to be completed before the issuing of the Subdivision Certificate that creates the last Final Lot for residential purposes in Development Area 3. Land to be dedicated on or before the registration of the plan of subdivision that creates the last Final Lot in Development Area 3.	\$1,444,652.00
15. Kevin Wheatley Reserve Playing Fields	Open Space and Landscape Works	Carrying out of Works as described under the heading '3. Kevin Wheatley VC Reserve' in Part A of the ISDP relevant to playing fields Dedication of land on which the Work is located	Work to be completed before the issuing of the Subdivision Certificate that creates the last Final Lot for residential purposes in Development Area 3. Land to be dedicated on or before the registration of the plan of subdivision that creates the last Final Lot in Development Area 3.	\$1,878,043.00
16. Kevin Wheatley Reserve Amenities Block	Open Space and Landscape Works	Carrying out of Works as described under the heading '3. Kevin Wheatley VC Reserve' in Part A of the ISDP relevant to the amenities building Dedication of land on which the Work is located	Work to be completed before the issuing of the Subdivision Certificate that creates the last Final Lot for residential purposes in Development Area 3. Land to be dedicated on or before the registration of the plan of subdivision that creates the last Final Lot in Development Area 3.	\$640,533.00
17. Kevin Wheatley Reserve Car	Open Space and Landscape Works	Carrying out of Works as described under the heading '3. Kevin Wheatley VC Reserve' in Part A of the ISDP	Work to be completed before the issuing of the Subdivision Certificate that creates the last Final Lot for	\$354,200.00

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Parking Area	Works	relevant to the car park Dedication of land on which the Work is located	residential purposes in Development Area 3. Land to be dedicated on or before the registration of the plan of subdivision that creates the last Final Lot in Development Area 3.	
18 Merino Park Landscaping	Open Space and Landscape Works	Carrying out of Works as described under the heading '4. Merino Park' in Part A of the ISDP Dedication of land on which the Work is located	Work to be completed before the issuing of the Subdivision Certificate that creates the last Final Lot for residential purposes in Development Area 8. Land to be dedicated on or before the registration of the plan of subdivision that creates the last Final Lot in Development Area 8.	\$419,457.00
19 Riley Park Amenities Block	Open Space and Landscape Works	Carrying out of Works as described under the heading '5. Riley Park' in Part A of the ISDP relevant to the amenities building Dedication of land on which the Work is located	Work to be completed before the issuing of the Subdivision Certificate that creates the last Final Lot for residential purposes in Development Area 9C. Land to be dedicated on or before the registration of the plan of subdivision that creates the last Final Lot in Development Area 9C.	\$640,533.00
20 Riley Park Car Parking Area	Open Space and Landscape Works	Carrying out of Works as described under the heading '5. Riley Park' in Part A of the ISDP relevant to the car park Dedication of land on which the Work is located	Work to be completed before the issuing of the Subdivision Certificate that creates the last Final Lot for residential purposes in Development Area 9C. Land to be dedicated on or before the registration of the plan of subdivision that creates the last Final Lot in Development Area 9C.	\$227,700.00

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			the registration of the plan of subdivision that creates the last Final Lot in Development Area 9C.	
21 Riley Park Landscaping	Open Space and Landscape Works	Carrying out of Works as described under the heading '5. Riley Park' in Part A of the ISDP relevant to playing fields. Dedication of land on which the Work is located	Work to be completed before the issuing of the Subdivision Certificate that creates the last Final Lot for residential purposes in Development Area 9C. Land to be dedicated on or before the registration of the plan of subdivision that creates the last Final Lot in Development Area 9C.	\$1,106,158.00
22 Baden Powell Reserve Landscaping	Open Space and Landscape Works	Carrying out of Works as described under the heading '6. Baden Powell Reserve' in Part A of the ISDP. Dedication of land on which the Work is located	Work to be completed before the issuing of the Subdivision Certificate that creates the last Final Lot for residential purposes in Development Area 9A. Land to be dedicated on or before the registration of the plan of subdivision that creates the last Final Lot in Development Area 9A.	\$84,195.00
23 George River Road Entry Wall	Open Space and Landscape Works	Carrying out of Works as described under the heading '7. Georges River Road Entry - Kevin Wheatley VC Wall' in Part A of the ISDP. Dedication of land on which the Work is located	Work to be completed before the issuing of the Subdivision Certificate that creates the last Final Lot for residential purposes in Development Area 1B. Land to be dedicated on or before the registration of the plan of subdivision that creates the last Final Lot in Development Area 1B.	\$177,100.00

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24 Smiths Creek Reserve (BC1)	Riparian and Bushland Regeneration	Carrying out of Works as described under the heading '8 Riparian and Bushland Regeneration' in Part A of the ISDP relevant to BC1 Smiths Creek Dedication of land on which the Work is located	Work to be completed before the issuing of the Subdivision Certificate that creates the last Final Lot for residential purposes in Development Area 1B. Land to be dedicated on or before the registration of the plan of subdivision that creates the last Final Lot in Development Area 1B.	\$313,389.00
25 Kevin Wheatley (Riverside Dr West) (BC2)	Bushland Regeneration	Carrying out of Works as described under the heading '8 Riparian and Bushland Regeneration' in Part A of the ISDP relevant to BC2 Kevin Wheatley Reserve Dedication of land on which the Work is located	Work to be completed before the issuing of the Subdivision Certificate that creates the last Final Lot for residential purposes in Development Area 3. Land to be dedicated on or before the registration of the plan of subdivision that creates the last Final Lot in Development Area 3.	\$593,192.00
26 Peppin Park North (BC3)	Bushland Regeneration	Carrying out of Works as described under the heading '8 Riparian and Bushland Regeneration' in Part A of the ISDP relevant to BC3 Peppin Park (North) Dedication of land on which the Work is located	Work to be completed before the issuing of the Subdivision Certificate that creates the last Final Lot for residential purposes in Development Area 5. Land to be dedicated on or before the registration of the plan of subdivision that creates the last Final Lot in Development Area 5.	\$35,552.00
27 Peppin Park South (BC4)	Bushland Regeneration	Carrying out of Works as described under the heading '8 Riparian and Bushland Regeneration' in Part A of the	Work to be completed before the issuing of the Subdivision Certificate that creates the last Final Lot for	\$21,545.00

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		ISDP relevant to BC4 Peppin Park (South) Dedication of land on which the Work is located	residential purposes in Development Area 5. Land to be dedicated on or before the registration of the plan of subdivision that creates the last Final Lot in Development Area 5.	
28 Georges River Reserve (Riverside Dr East) (BC5)	Bushland Regeneration	Carrying out of Works as described under the heading '8 Riparian and Bushland Regeneration' in Part A of the ISDP relevant to BC5 Georges River Reserve Dedication of land on which the Work is located	Work to be completed before the issuing of the Subdivision Certificate that creates the last Final Lot for residential purposes in Development Area 4. Land to be dedicated on or before the registration of the plan of subdivision that creates the last Final Lot in Development Area 4.	\$39,321.00
29 Hagan Reserve (Greengate Road) (BC6)	Bushland Regeneration	Carrying out of Works as described under the heading '8 Riparian and Bushland Regeneration' in Part A of the ISDP relevant to BC6 Hagan Reserve Dedication of land on which the Work is located	Work to be completed before the issuing of the Subdivision Certificate that creates the last Final Lot for residential purposes in Development Area 8. Land to be dedicated on or before the registration of the plan of subdivision that creates the last Final Lot in Development Area 8.	\$40,309.00
Total Contribution Value:				\$18,544,017.00
30 Retain and Upgrade of Existing Community	Community Facilities	Payment of \$100,000.00 to the Council towards the upgrade of the existing community facilities as described under the heading '9 Community Facilities' in	If required, before the issuing of a Subdivision Certificate for a plan of subdivision which creates the last Final Lot for residential purposes	\$100,000.00

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Facilities	Part A and '1 Upgrade Existing Community Facilities' in Part B of the ISDP, but only if Council notifies the Developer in writing prior to 30 June 2014 that existing community facilities are to be retained.	within Development Area 3.	
31 Amarina Child Care Centre Land Dedication	Dedication of Land on which the Amarina Child Care Centre is located, as described under the heading '9 Community Facilities' in Part A of the ISDP, but only if Council notifies the Developer in writing prior to 30 June 2014 that existing community facilities are to be retained.	If required, before the issuing of a Subdivision Certificate for a plan of subdivision which creates the last Final Lot for residential purposes within Development Area 3.	N/A
Total Contribution Value for Option to Retain & Upgrade Existing Facilities Value: \$100,000.00			
32 New Community Facilities Centre	Community Facilities If Items 30 and 31 are not required to be provided: <ul style="list-style-type: none"> Carrying out of Works as described under the heading '9 Community Facilities' in Part A of the ISDP relevant to constructing a new community facilities centre Dedication of land on which the Work is located 	If required: <ul style="list-style-type: none"> Work to be completed before the issuing of the Subdivision Certificate that creates the last Final Lot for residential purposes in Development Area 3. Land to be dedicated on or before the registration of the plan of subdivision that creates the last Final Lot in Development Area 3. 	\$1,801,360.00
33 Demolition of existing Community	Community Facilities If Items 30 and 31 are not required to be provided: <ul style="list-style-type: none"> Carrying out of Works as described 	If required: <ul style="list-style-type: none"> Work to be completed before the issuing of the Subdivision 	\$140,000.00

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Facilities	<p>under the heading '9 Community Facilities' in Part A of the ISDP relevant to demolition of existing community facilities</p> <ul style="list-style-type: none"> Dedication of land on which the Work is located 	<p>Certificate that creates the last Final Lot for residential purposes in Development Area 4.</p> <ul style="list-style-type: none"> Land to be dedicated on or before the registration of the plan of subdivision that creates the last Final Lot in Development Area 4. 	
Option for New Community Facilities Centre Value:			\$1,941,360.00

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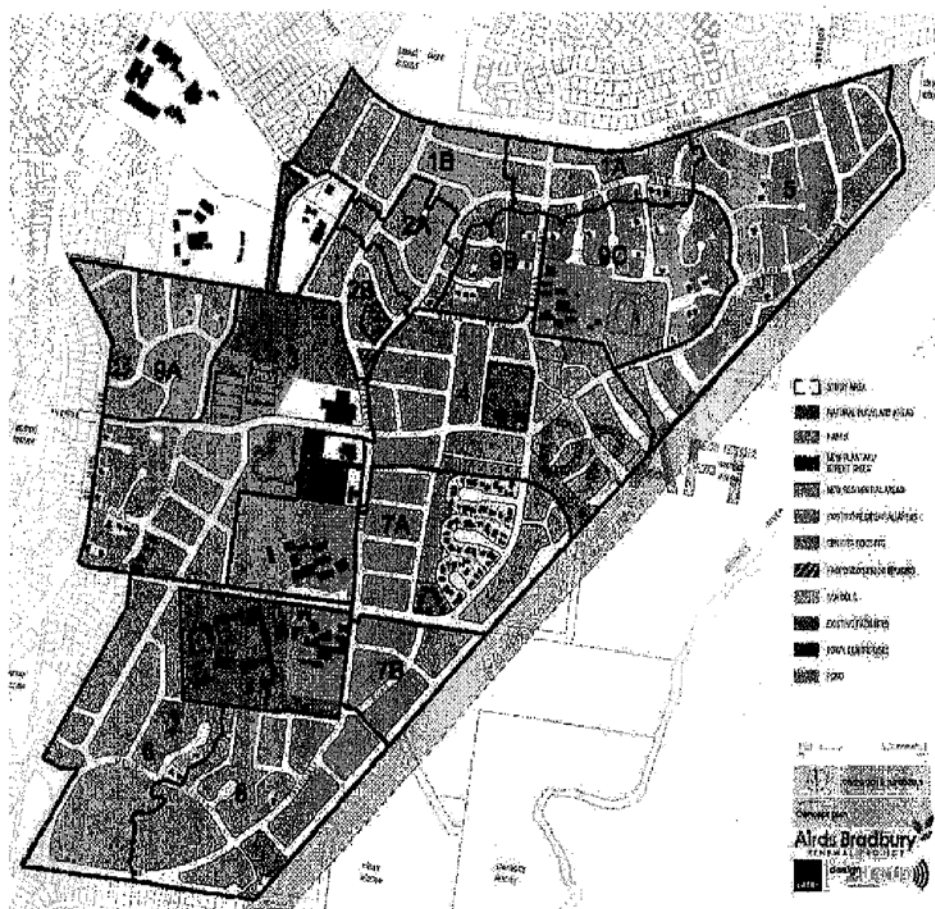
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Schedule 4

(Clause 1.1)

Development Area Plan



Airds Bradbury Renewal Project Planning Agreement
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Execution

Executed as an Agreement

Dated:

Executed on behalf of the Council

General Manager

DRAFT

Witness/Name/Position

Executed on behalf of The Corporation in accordance with s127(1) of the
Corporations Act (Cth) 2001

Name/Position

Name/Position

Airds Bradbury Renewal Project Planning Agreement
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Appendix

(Clause 51)

Environmental Planning and Assessment Regulation 2000

(Clause 25E)

Explanatory Note

Draft Planning Agreement

Under s 93F of the *Environmental Planning and Assessment Act 1979*

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Parties

Campbelltown City Council ABN 31 459 914 087 of Civic Centre, cnr Queen and Broughton Sts, Campbelltown NSW 2560 (**Council**)

New South Wales Land and Housing Corporation ABN 84 608 917 940 of Level 2, 223-239 Liverpool Road, Ashfield, New South Wales 2131 (**The Corporation**)

Description of the Land to which the Draft Planning Agreement Applies

The Land described in Schedule 1.

Description of Proposed Development

Residential development on the Land as described in the Concept Plan Application, generally being retention of 880 existing dwellings each on a separate lot, retention of 53 seniors housing units and provision of at least 52 additional units, and provision of 1,172 new dwellings.

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Summary of Objectives, Nature and Effect of the Draft Planning Agreement

Objectives of Draft Planning Agreement

The objective of the Draft Planning Agreement is to provide infrastructure, facilities and services to meet the Development and dedication of land.

Nature of Draft Planning Agreement

The Draft Planning Agreement is a planning agreement under s93F of the *Environmental Planning and Assessment Act 1979 (Act)*. It is a voluntary agreement, under which the Developer makes Development Contributions (as defined in clause 1.1 of the Draft Planning Agreement) for various public purposes (as defined in s 93F(3) of the Act).

Effect of the Draft Planning Agreement

The Draft Planning Agreement:

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- relates to the carrying out by the Developer of the Development,
- excludes the application of s 94 and s 94A of the Act to the Development,
- does not exclude the application of s 94EF of the Act to the Development,
- requires dedication of land and carrying out of Works
- is not to be registered on the title to the Land,
- imposes restrictions on the Developer transferring the Land or part of the Land or assigning an interest under the Agreement,
- provides a dispute resolution method for a dispute under the agreement, being mediation and expert determination,
- provides that the agreement is governed by the law of New South Wales, and
- provides that the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) applies to the agreement.

Whether the Draft Planning Agreement specifies that certain requirements must be complied with before issuing of a construction certificate, occupation certificate or subdivision certificate

- This Draft Planning agreement contains requirements that must be complied with, namely the carrying out of Work and dedication of land, before Subdivision Certificates may be issued.

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Assessment of the Merits of the Draft Planning Agreement

The Planning Purposes Served by the Draft Planning Agreement

The Draft Planning Agreement:

- promotes and co-ordinates the orderly and economic use and development of the Land to which the Agreement applies,
- provides land for public purposes in connection with the Development,
- provides and co-ordinates community services and facilities in connection with the Development, and
- provides increased opportunity for public involvement and participation in environmental planning and assessment of the Development.

[Drafting Note: Council to confirm the above.]

How the Draft Planning Agreement Promotes the Public Interest

The Draft Planning Agreement promotes the public interest by promoting the objects of the Act as set out in a ss 5(a)(ii)-(v) and 5(c) of the Act.

[Drafting Note: Council to confirm the above.]

For Planning Authorities:

Development Corporations - How the Draft Planning Agreement Promotes its Statutory Responsibilities

N/A

Other Public Authorities - How the Draft Planning Agreement Promotes the Objects (if any) of the Act under which it is Constituted

N/A

Councils - How the Draft Planning Agreement Promotes the Elements of the Council's Charter

The Draft Planning Agreement promotes the elements of the Council's charter by:

- providing services and facilities for the community,
 - ensuring that the public facilities provided by the Developer under the agreement are transferred to and managed by the Council or are otherwise subject to the Council's control,
-

Airds Bradbury Renewal Project Planning Agreement
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- providing a means that allows the wider community to make submissions to the Council in relation to the agreement.

[Drafting Note: Council to confirm the above.]

***All Planning Authorities – Whether the Draft Planning Agreement
Conforms with the Authority's Capital Works Program***

[Drafting Note: To be Completed by Council.]

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Infrastructure Services Delivery Plan

Airds Bradbury Renewal Project

February 2014

Works listed in Schedule 2 of the Planning Agreement between
NSW Land and Housing Corporation and Campbelltown City Council

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Purpose

The Airds Bradbury Renewal Project Infrastructure Services Delivery Plan (ISDP) is a document which details the items of work to be delivered by way of a Planning Agreement between NSW Land and Housing Corporation (the Developer) and Campbelltown City Council.

The physical and social renewal of the area will be supported by the appropriate provisions of infrastructure necessary to support the existing and new community. The works set out in the ISDP has been designed generally consistent with the Airds Bradbury Renewal Concept Plan (refer to Figure A) approved via Part 3A of the Act in August 2012.

The ISDP is a defined term in the Planning Agreement and is specifically referenced in that document as follows:-

1. In Schedule 3 and Clause 10 of the Planning Agreement which lists the Core Elements to be delivered as Development Contributions; and
2. In Clause 11.2 which provides that the content of the ISDP can be considered in determining whether to approve a variation to the scope or timing for the provision of Development Contributions under the Planning Agreement.

To assist in the interpretation and implementation of the Planning Agreement, this ISDP includes:-

- A more detailed description of the scope of works consistent with the approved Concept Plan showing the general location and configuration of works on the site. This is consistent with and in some cases provides more detail than the Plan at Schedule 4 of the Planning Agreement;
- A budget estimate (ex. GST) for the delivery of the item based on the scope of works and/or concept plans referenced; and
- A rationale for the staging of delivery of each item of works based on Development Area/Stage or lot threshold of works. Figure A identifies the development stages/areas for the works.

In reading this document, the following should be noted:-

- The Description of the Works outlines the scope of works proposed to be delivered.
 - The cost estimates for each item of work are based upon today's construction rates. These cost estimates includes allowances for contingency, professions fees, approvals, maintenance and defects liability period.
 - All hard landscaping works will be maintained by the Developer for a period no longer than 12 months from the completion of works. Soft landscaping works will be maintained by the Developer for 24 months from the date of completion (excluding bushland regeneration works).
 - Bushland Regeneration to conserve remnant vegetation and regenerate threatened species and endangered ecological communities is to run for 5 years from commencement of works or for a reduced period as agreed with Council.
 - Maintenance does not include repair works due to vandalism but includes provision for replacement of plants due to vandalism.
 - The estimated budgets are outlined to give an understanding and context to the scope of works proposed. There is nothing to stop the same works being delivered at a reduced cost if efficiencies can be negotiated at tender or through the detailed design stage. Any cost savings achieved by the Developer do not need to be passed onto Council.
-

3.5 Public Exhibition Of Planning Agreement For Airds Bradbury Renewal Project

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- For the ISDP items, a scope of works has been defined as a performance specification (ie. Roads, drainage, utilities etc.) An upper limit fixed prices for all items is provided.
- On a project of this size, there is provision for flexibility in time when the Developer and Council can negotiate refinements or changes to the details of the infrastructure provisions and delivery timing pursuant to Clause 10 of the Planning Agreement. The flexibility is subject to the following limitations and assurances:
 - Conditions attached to the Part 3A approval or subsequent planning approvals for the redevelopment of Airds Bradbury; and
 - The Description of Works identified in the ISDP cannot be varies without an amendment.

The following schedules provided in Part A and Part B of the ISDP detail the scope, budget and staging of all items of works consistent with Schedule 3 of the Planning Agreement.

Proposed development

The Airds Bradbury Renewal Project involves the redevelopment of the existing Airds Bradbury public housing estate. The renewal area comprises approximately 1,540 dwellings, 94% of which are in public ownership. The current 'Radburn' design of the estate has resulted in poor amenity and poor environmental and social outcomes, including poor quality open spaces, lack of surveillance and poor maintenance of common areas.

The Airds Bradbury Renewal Project seeks to improve the quality of the social and urban environment by creating conditions conducive to the establishment of a sustainable place to live. The project comprises a new urban structure within the renewal area reflecting a new street pattern and subdivision layout based around a series of existing and new infrastructure and dwellings.

The Concept Plan will provide in the order of 2,095 dwellings upon completion of the project, comprising generally the following:

- Retention of 830 existing dwellings each on a separate lot with some to be retained for social housing and some to be on-sold to the private market.
- Retention of 53 seniors housing units and the provision of an additional 52 units; and
- 1,160 new dwellings/lots for both social housing and private housing.

These figures are indicative and are subject to change as the development proceeds depending on detailed design considerations, market responses and community demand.

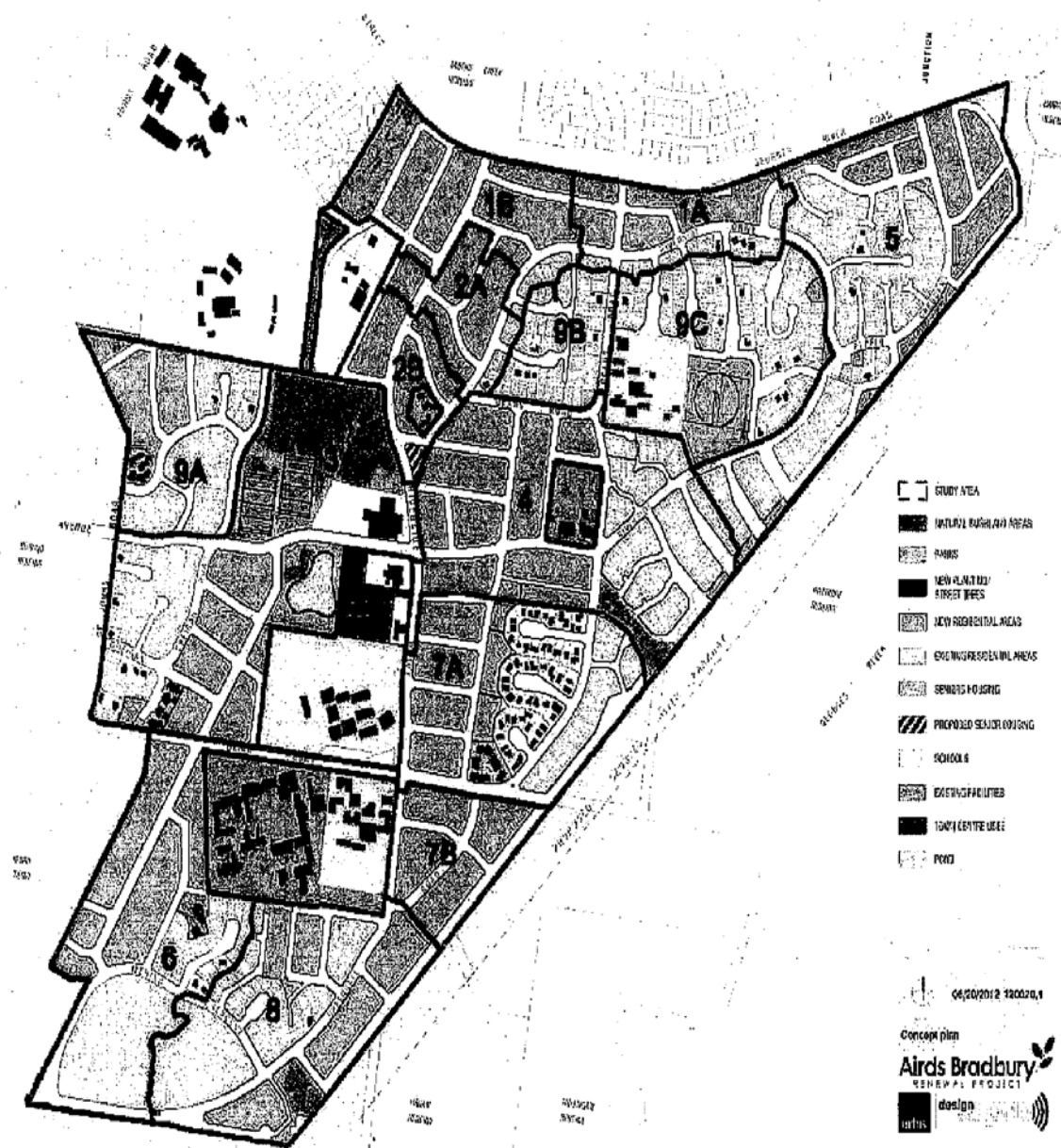
Timing

Timing and provision of items (works and land) of the development project will be generally in accordance with the indicative timing outlined in this ISDP. However, it is recognised that the Development Areas identified in the indicative sequencing plan should only be treated as indicative and it may become necessary to modify the sequencing based on the delivery of the proposed development. Items of material public benefit will be provided in the relevant development area but delivered by the time prescribed in the Planning Agreement Summary Table of this ISDP.

3.5 Public Exhibition Of Planning Agreement For Airs Bradbury Renewal Project

Airds Bradbury Renewal ISDP February 2014

Figure A – Airds Bradbury Renewal Concept Plan and Development Areas



3.5 Public Exhibition Of Planning Agreement For Airds Bradbury Renewal Project

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Planning Agreement Summary Table

#	Item	Approx area (ha)	Location (Development Area)	Timing	Contribution Value	Nature of Contribution
Proposed Roads and Intersections						
1	Collector Roads		1B, 2A, 2B, 3, 4, 6, 7A	Final Lot of the relevant Development Area	\$2,700,528	Works in Kind
2	Roads Adjacent to Parks		1B, 2B, 3, 4, 5, 8, 9	Final Lot of the relevant Development Area	\$1,048,668	Works in Kind
3	Removal of Existing Underpasses		4, 7A	Final Lot of the relevant Development Area	\$632,500	Works in Kind
4	Georges River Road/ Riverside Drive Intersection		1B	180 th Lot in the Development	\$253,000	Works in Kind
5	Georges River Road /Bellinger Road / Deans Road Intersection		1A	180 th Lot in the Development	\$189,750	Works in Kind
6	St John Road / Cambellfield Avenue Intersection		3	395 th Lot in the Development	\$253,000	Works in Kind
7	Georges River Road /Junction Road/ Peppin Crescent Intersection		5	710 th Lot in the Development	\$253,000	Works in Kind
Water Management Facilities						
8	Trunk Stormwater Pipes and Pits (ex. network in collector roads)		1B, 2A, 3, 6, 7B, 8	Final Lot of the relevant Development Area	\$2,677,613	Works in Kind
9	Pond Area Engineering Upgrade		3	395 th Lot in the Development	\$161,920	Works in Kind
10	Proposed Gross Pollutant Traps		1B, 3	Final Lot of the relevant Development Area	\$632,500	Works in Kind
11	Upgrade Existing Culverts under Georges River Road		1B	395 th Lot in the Development	\$651,475	Works in Kind
12	Proposed Detention Basin		1B	395 th Lot in the Development	\$169,510	Works in Kind
13	Proposed Bio-Retention Facilities		All Stages	Final Lot of the relevant Development Area	\$904,675	Works in Kind
Parks and Recreation Facilities						
14	Smiths Creek Reserve Landscaping	2.22	1B, 2A	Final Lot of the relevant Development Area	\$218,257	Works in Kind
15	Kevin Wheatley Reserve and Pond Area Landscaping	4.26	3	595 th Lot in the Development	\$1,444,652	Works in Kind
16	Kevin Wheatley Reserve Playing Fields		3	595 th Lot in the Development	\$1,878,043	Works in Kind
17	Kevin Wheatley Reserve Amenities Block		3	595 th Lot in the Development	\$640,533	Works in Kind
18	Kevin Wheatley Reserve Car Parking Area		3	595 th Lot in the Development	\$354,200	Works in Kind
19	Kevin Wheatley Bushland Landscaping	5.26	3	395 th Lot in the Development	\$411,626	Works in Kind
20	Merino Park Landscaping	0.74	8	1,110 th Lot in the Development	\$419,457	Works in Kind
21	Riley Park Landscaping	2.37	9	710 th Lot in the Development	\$1,106,158	Works in Kind
22	Riley Park Amenities Block		9	710 th Lot in the Development	\$640,533	Works in Kind
23	Riley Park Car Parking Area		9	710 th Lot in the Development	\$227,700	Works in Kind
24	Baden Powell Reserve Landscaping	0.49	9	1,160 th Lot in the Development	\$84,195	Works in Kind
25	Georges River Road Entry Wall		1B	180 th Lot in the Development	\$177,100	Works in Kind
Other Facilities						
26	Smiths Creek Reserve (BC1)	2.22	1B	310 th Lot in the Development	\$128,726	Works in Kind
27	Kevin Wheatley Reserve (BC2)	5.26	3	395 th Lot in the Development	\$168,559	Works in Kind
28	Peppin Park North (BC3)	0.40	5	710 th Lot in the Development	\$44,407	Works in Kind
29	Peppin Park South (BC4)	0.17	5	710 th Lot in the Development	\$31,981	Works in Kind
30	Georges River Reserve (BC5)	0.84	4	925 th Lot in the Development	\$58,296	Works in Kind
31	Hagan Reserve (BC6)	0.79	8	1,110 th Lot in the Development	\$64,344	Works in Kind
Total Contribution Value					\$18,626,906	

Airds Bradbury Renewal ISDP February 2014

Community Facilities

Community Facilities						
32	Retain and Upgrade Existing Community Facilities		3, 4	Final Lot of the relevant Development Area	\$100,000	Monetary Contribution
33	Amarina Child Care Centre Land		7A	Final Lot of the relevant Development Area	\$0	Land Dedication

OR

Community Facilities						
34	New Community Facilities Centre		3	825 th Lot in the Development	\$2,632,445	Works in Kind
35	Demolition of Existing Facilities		4	Final Lot of the relevant Development Area	\$140,000	Works in Kind

Airds Bradbury Renewal ISDP February 2014

Part A: Development Contributions – Carrying Out of Works

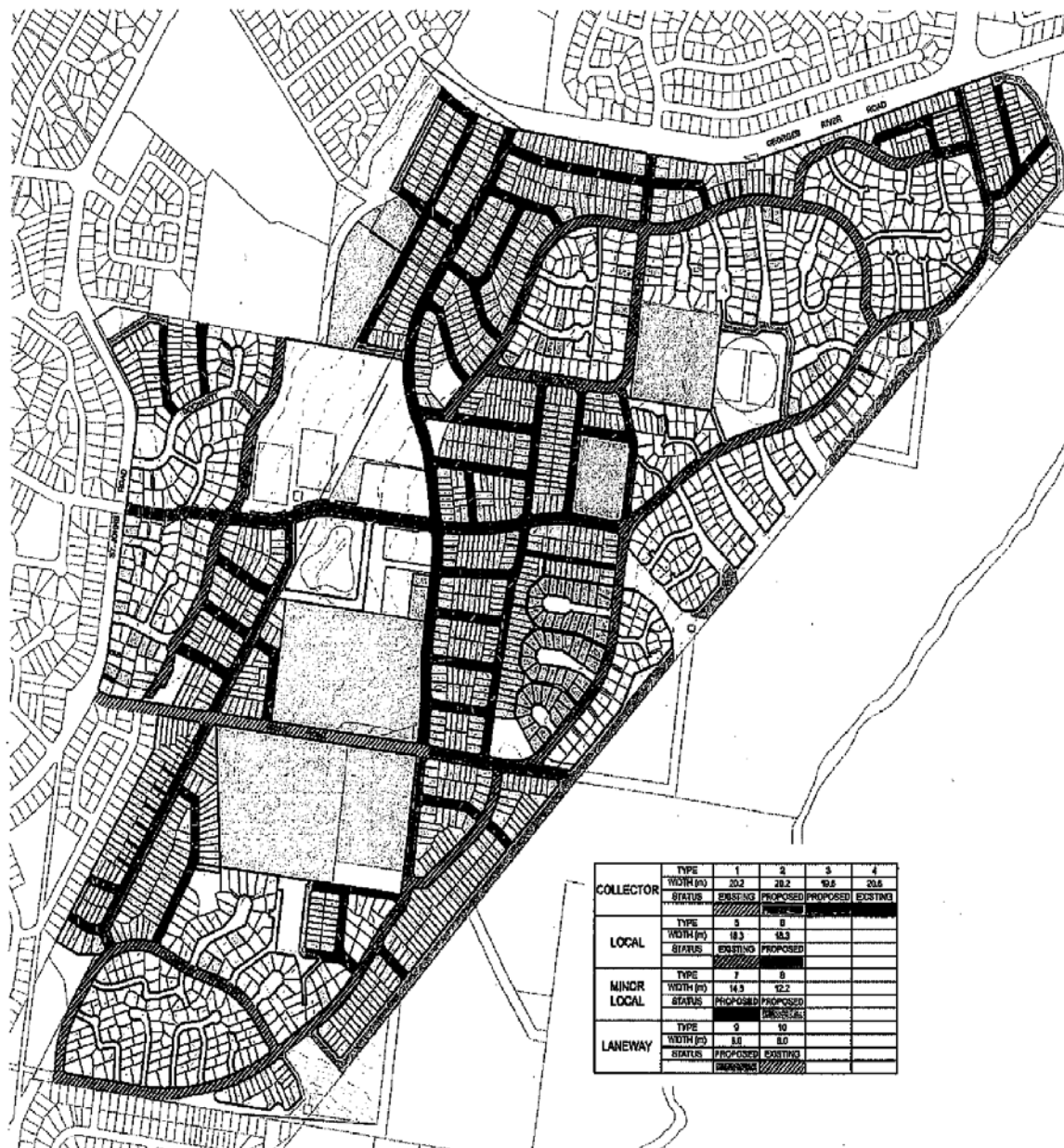
1. Roads Works (incl. Cycleways and Bus Stops) and Intersection Upgrades

Public purpose:	Roads, Traffic and Transport
Development Area/Staging Rationale	Various – refer to Planning Agreement Summary Table.
Description of Works	<p>Road Works: The road works include the demolition of redundant roads and underpasses, embellishment of retained existing roads and the construction of new roads, verges, cycleways, footpaths, bus stops and shelters. Whilst some existing roads will be embellished with new landscaping and footpaths, it is not proposed to upgrade the pavement of existing dedicated roads. Refer to figure 1.1 for the Road Hierarchy Plan and Figure 1.2 for the VPA Road Allocation Plan. The various road types will be designed in accordance with Figures 1.3 -1.11.</p> <p>Cycleways and Shared Paths: The bicycle network includes both on-street cycleways and off-street shared paths. On-street cycleways include standalone bicycle lanes or integrated with parking lanes with appropriate signage and line marking. Off-street shared paths are provided along the verge of roads or through public open space. Refer to Figure 1.12 for Proposed Bicycle Routes.</p> <p>Bus Stops and Shelters: Bus stops and 3x bus shelters are to be provided within easy walking distance (maximum 400m) from all residences. Bus stop signage shall be installed in accordance with Campbelltown City Council and the local bus authority. The stops and shelters will be located generally in accordance with the Proposed Bus Routes plan shown in Figure 1.13.</p> <p>Intersection Upgrades: Existing intersections that require upgrades have been approved via the Concept Plan and will be designed in accordance with Figure 1.14. None of the intersections require any additional land acquisition to provide the intended configurations.</p>
Core Elements	<ul style="list-style-type: none"> ▪ Collector Roads ▪ Roads Adjacent to Parks ▪ Removal of Existing Underpasses ▪ Georges River Road /Riverside Drive Intersection ▪ Georges River Road /Bellinger Road /Deans Road Intersection ▪ Georges River Road /Junction Road /Peppin Crescent Intersection ▪ St John Road / Campbellfield Avenue Intersection
Estimates Works Value:	The estimated cost for the works listed above is \$5,330,446
Area:	TBA

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Figure 1.1 – Road Hierarchy Plan

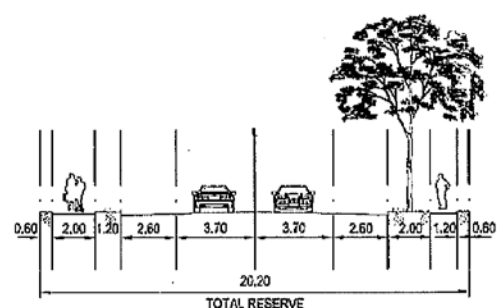
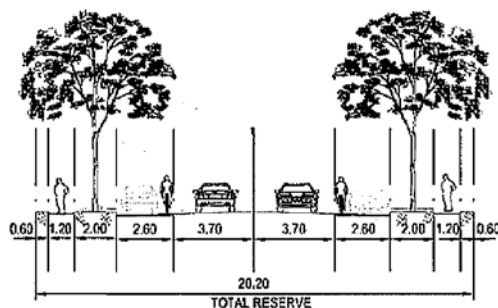


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Airds Bradbury Renewal ISDP February 2014

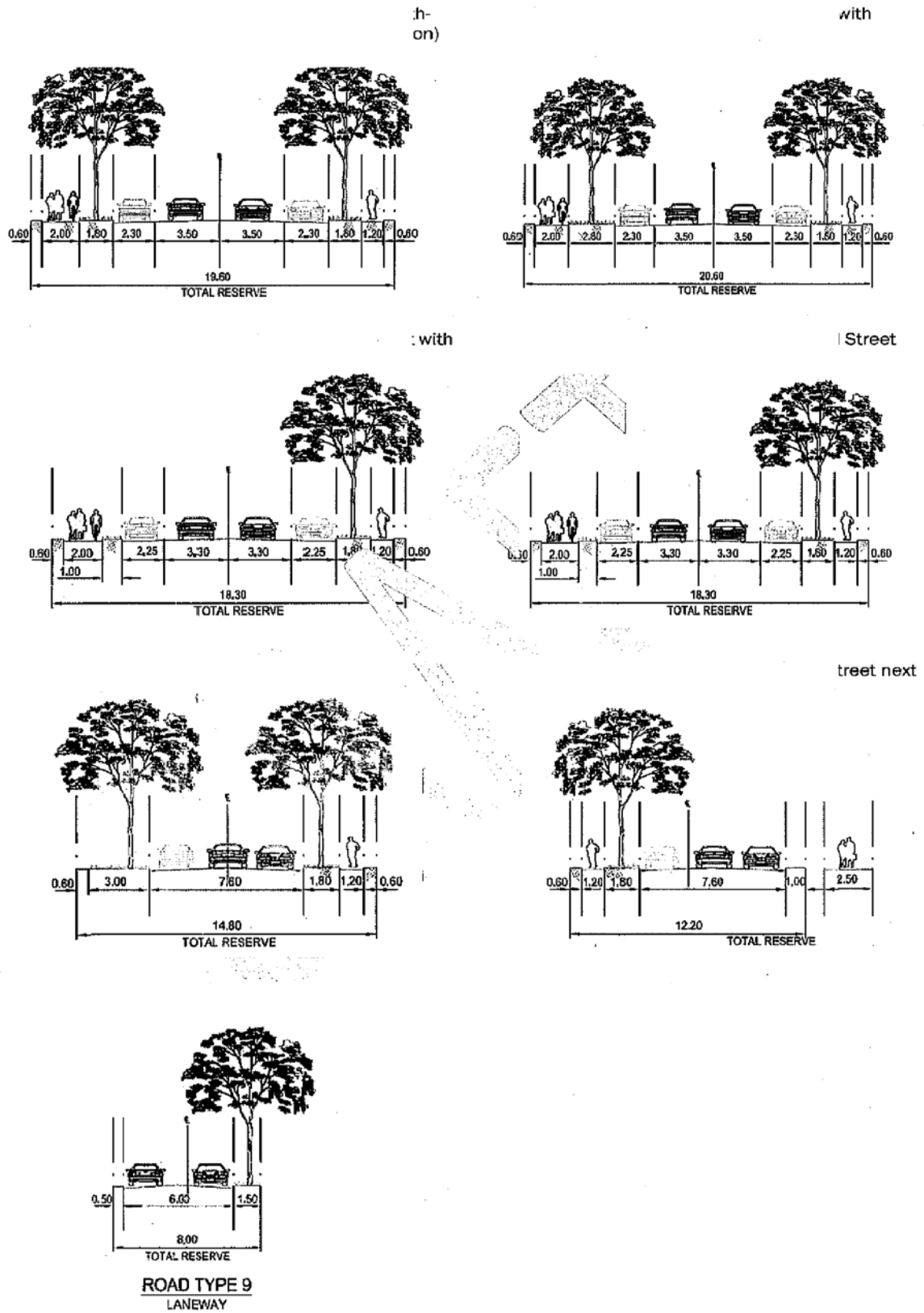


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3.5 Public Exhibition Of Planning Agreement For Airds Bradbury Renewal Project

Airds Bradbury Renewal ISDP February 2014



3.5 Public Exhibition Of Planning Agreement For Airds Bradbury Renewal Project

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Figure 1.12 – Proposed Bicycle Routes

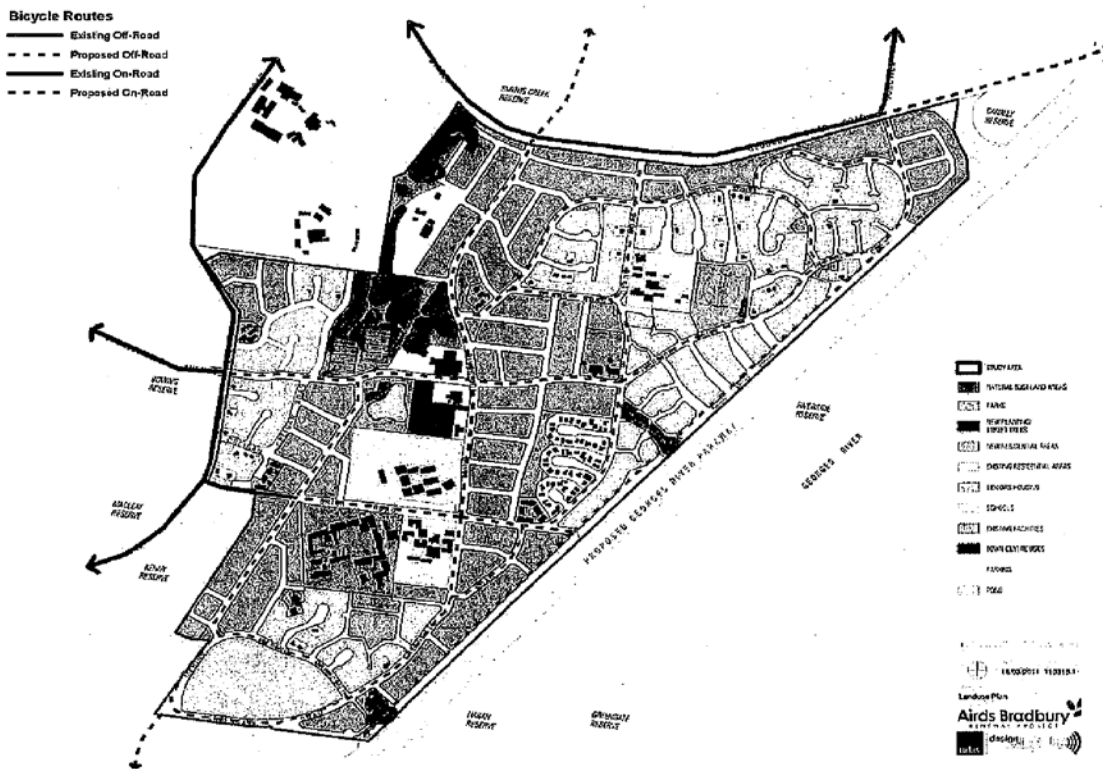


Figure 1.13 – Proposed Bus Routes and Bus Stops

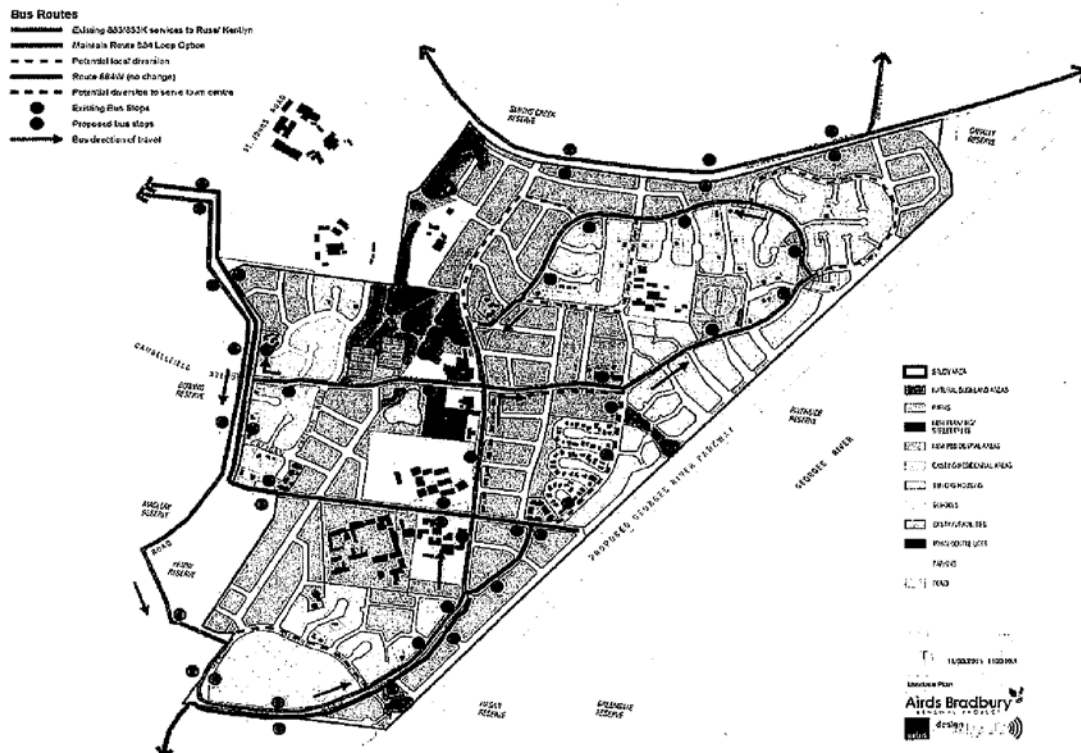
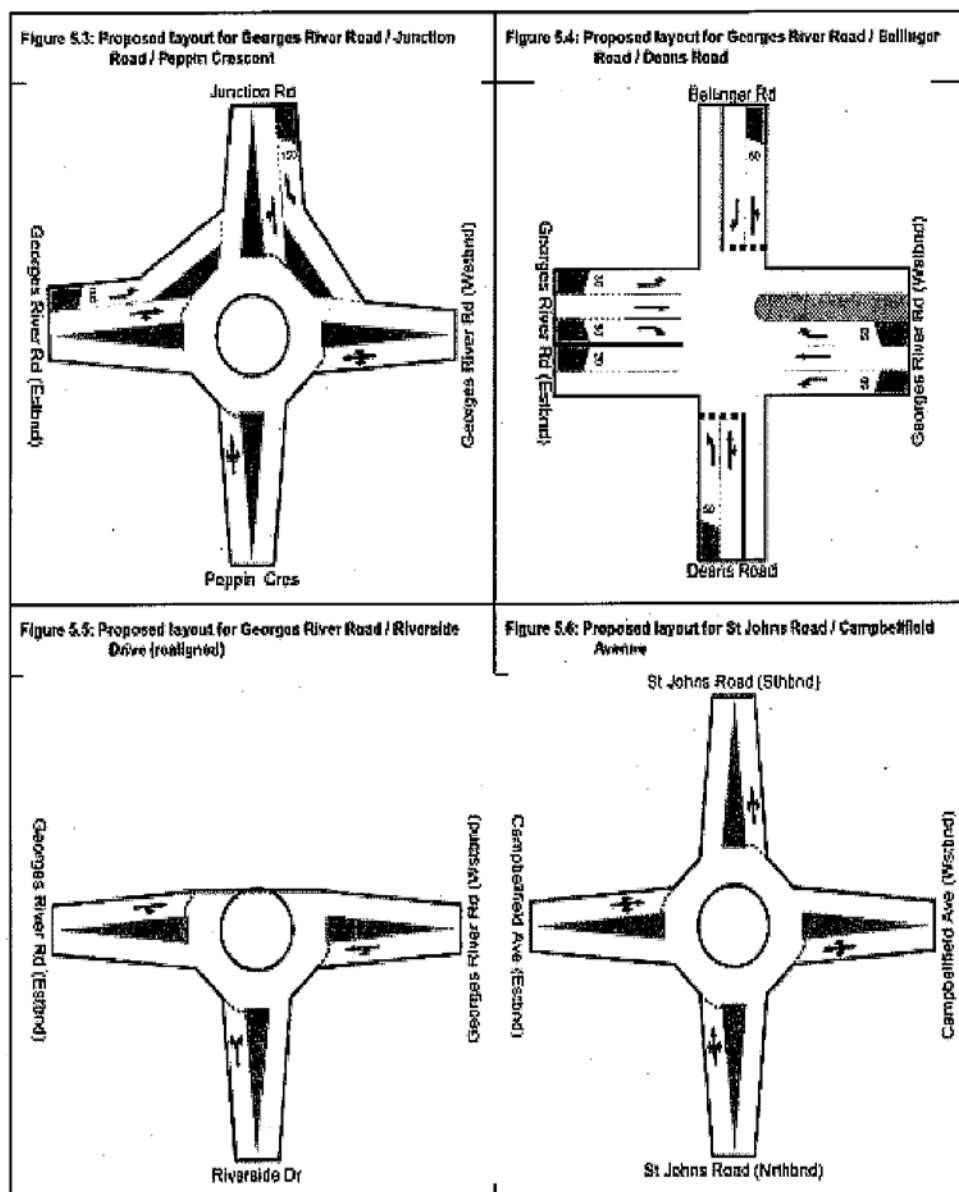


Figure 1.14 – Proposed Intersection Upgrades



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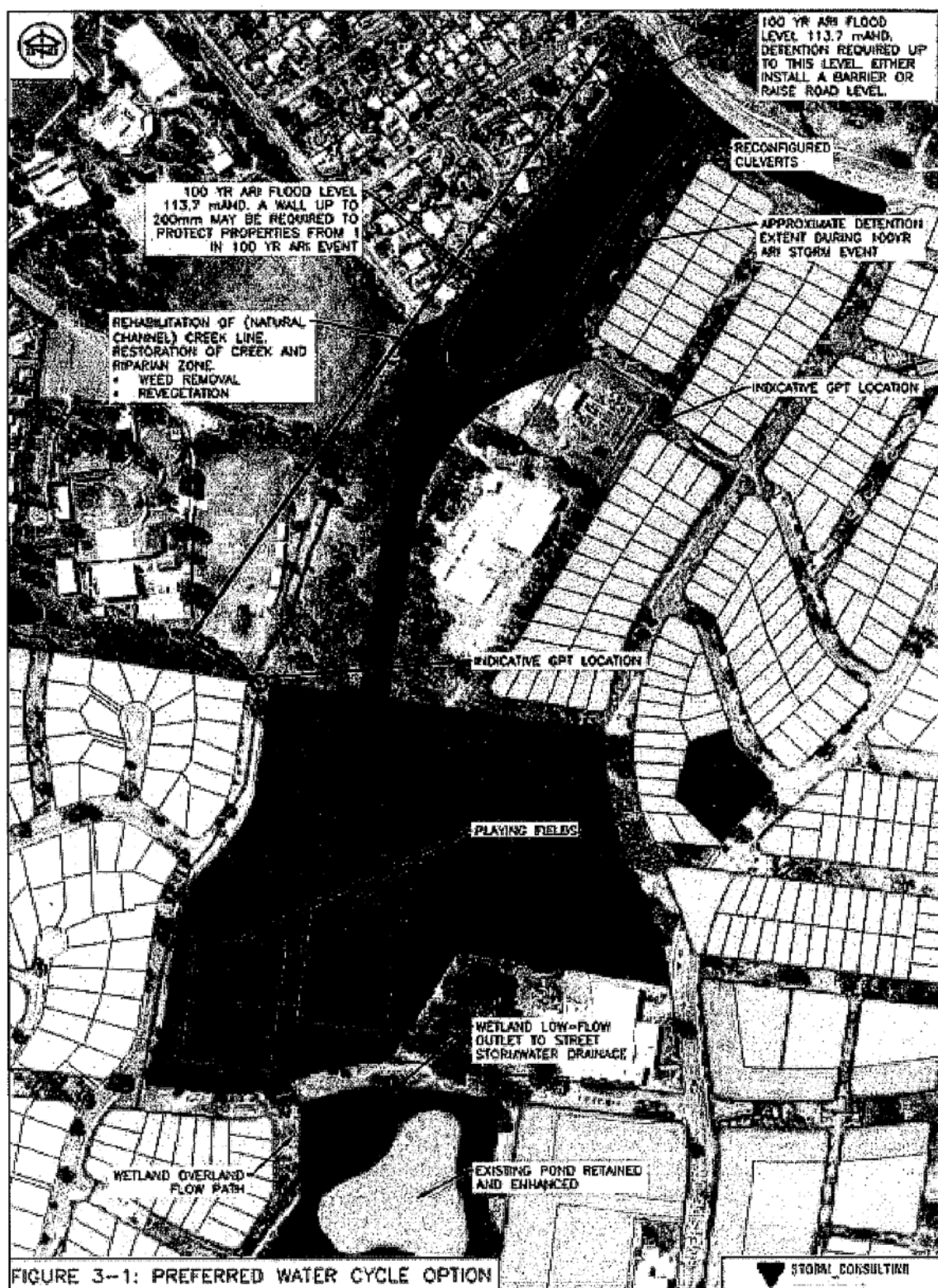
2. Detention Facilities, Gross Pollutant Traps and Bio-Retention Devices

Public purpose:	Water Cycle and Water Quality Management
Development Area/Staging Rationale	Various – refer to Planning Agreement Summary Table.
Description of Works	<p>Detention Facilities: It is proposed to construct a single, stormwater detention facility in the Smiths Creek corridor immediately upstream of Georges River Road. As a minimum it will adequately mitigate the stormwater quantity/flooding impacts created by the development upon the downstream catchments as per the approved Concept Plan documentation.</p> <p>Gross Pollutant Traps and Bio-Retention Devices: The GPTs will be standard proprietary pre-cast units requiring excavation and installation. The bio-retention facilities will require excavation, liner material, subsoil drainage, filter media and grass plantings capable of withstanding temporary inundation and periods of drought.</p> <p>Refer to Figures 2.1 and 2.2 for the approved Water Cycle Management Plan and Water Quality Strategy for Airds Bradbury Renewal.</p>
Core Elements	<ul style="list-style-type: none"> ▪ Trunk Stormwater Pipes and Pits (ex. network in collector roads) ▪ Pond Area Engineering Upgrade is required to ensure the integrity of the pond structure, including certification of the works. ▪ Proposed Gross Pollutant Traps ▪ Upgrade Existing Culverts under Georges River Road ▪ Smiths Creek Detention Basin ▪ Proposed Bio-Retention Facilities
Estimates Works Value:	The estimated cost for the items of works listed above is \$5,197,693.
Area:	TBA

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Airds Bradbury Renewal ISDP February 2014

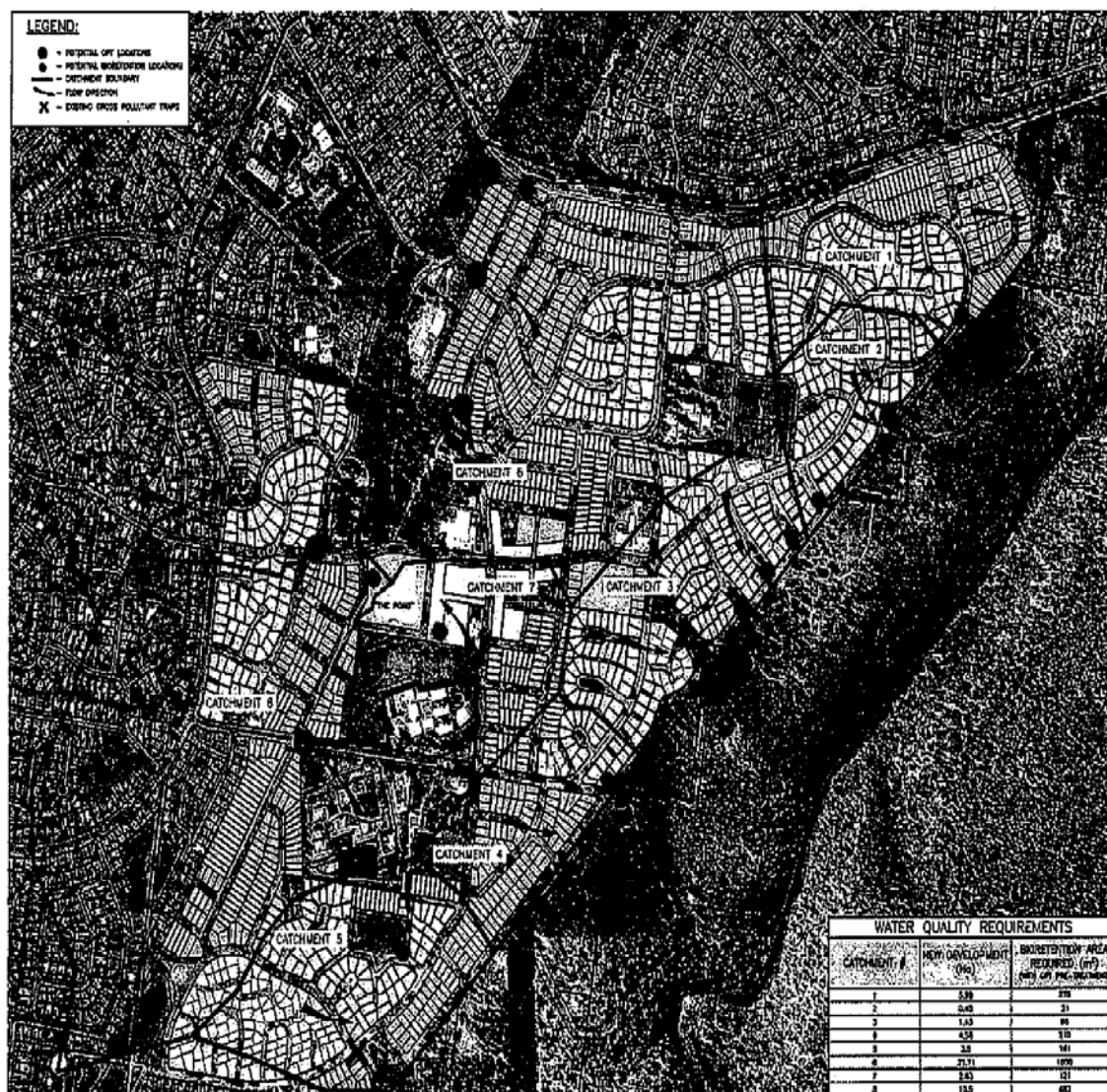
Figure 2.1 – Water Cycle Management Plan



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Figure 2.2 – Water Quality Strategy



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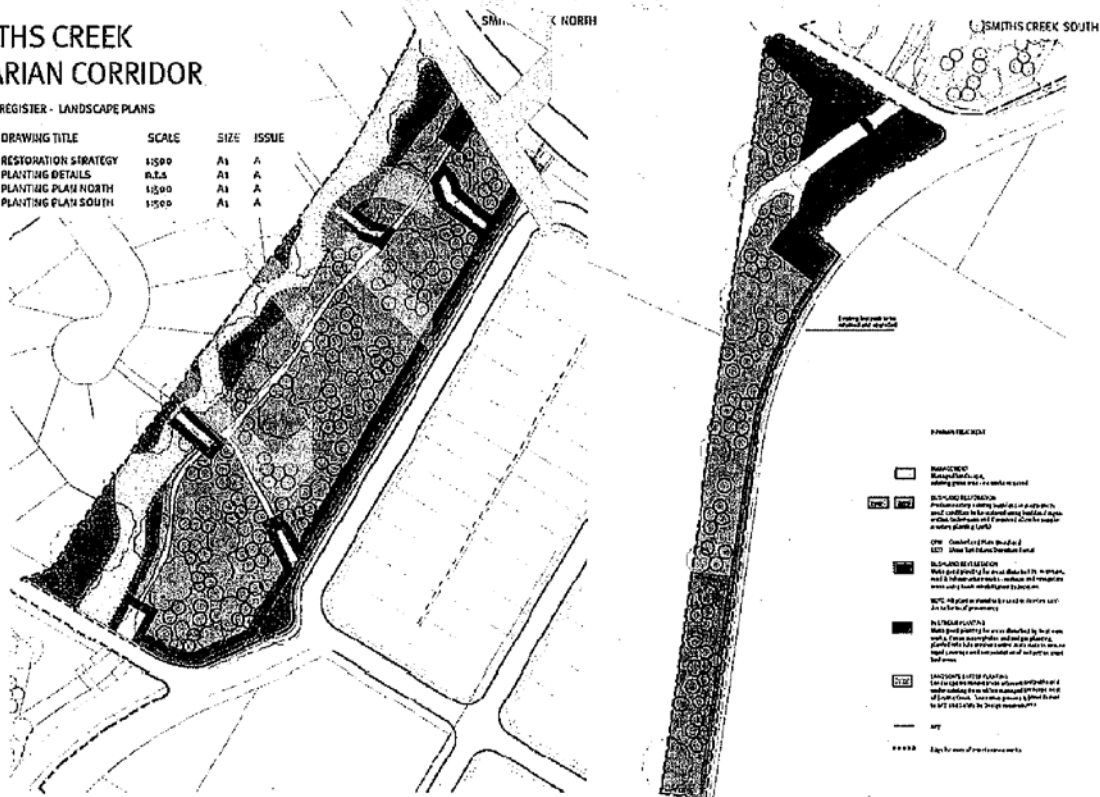
3. Smiths Creek Reserve

Public purpose:	Public Open Space
Development Area/Staging Rationale	Stages 1B and 2A
Description of works	Landscaping and revegetation of Smiths Creek Reserve including restoration of riparian vegetation. Refer to Figure 3.1.
Core Elements	<p>Smiths Creek Reserve Landscaping</p> <ul style="list-style-type: none"> Restoration and revegetation of riparian vegetation. Works to include cultivation, planting and mulching.
Estimates Works Value:	The estimated cost for the Kevin W ^h atley Pond Area and Playing Fields is \$218,257.
Area:	Approximately 2.22ha

SMITHS CREEK
RIPARIAN CORRIDOR

DRAWING REGISTER - LANDSCAPE PLANS

DWG NO.	DRAWING TITLE	SCALE	SIZE	ISSUE
L01	RESTORATION STRATEGY	1:500	A1	A
L02	PLANTING DETAILS	A1/A2	A1	A
L03	PLANTING PLAN NORTH	1:500	A1	A
L04	PLANTING PLAN SOUTH	1:500	A1	A



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4. Kevin Wheatley VC Reserve

Public purpose:	Public Open Space
Development Area/Staging Rationale	Stage 3
Description of works	Kevin Wheatley Reserve will include landscaping to the bushland area, the area surrounding the pond, construction of 2x playing fields, a new amenities building and provision for 80 car parking spaces. Refer to Figures 4.1 and 4.2 for Kevin Wheatley Reserve Playing Fields and Pond Area Concept Plans.
Core Elements	<p>Kevin Wheatley Reserve and Pond Area Landscaping (Ex. Engineering Upgrades)</p> <ul style="list-style-type: none"> Planting around the playing fields with an exercise area with a range of fitness equipment, shade structure, seating with robust anti-graffiti and vandalism material; Additional planting and footpaths around the bushland area; Embellish pond area to include walking circuit around pond area, small seating viewing areas, planting for passive recreation opportunities, and a playground that caters for a range of ages and challenge levels; Public Domain furniture incl. rubbish bins, 3x BBQ (electric) and 1 pergola will small grassed play area; <p>Playing Fields</p> <ul style="list-style-type: none"> 2x playing fields (68m x 100m) plus 8 metre in-goal area and 5 metre over runs on all sides with subsurface drainage and automatic irrigation system complete (incl. moisture sensor) with tank top up from portable main, slave unit to Council's central controller for lights and Irrigation; Flood lights in 25 metre steel poles, min 50 lux to whole field with electrical capacity and infrastructure to increase to 100 lux, control as above. Park lighting to Endeavour Energy's basic standard; Upgrade surface of existing basketball courts located behind the Airds Youth Centre; <p>Amenities Building</p> <ul style="list-style-type: none"> Amenity building including home & away change facilities, referees room, public toilets, and canteen (205m² GFA and 110m² Awning @ \$2,470/m² of GFA). Also accommodated in this building is Council's maintenance storage including separate irrigation pump room; <p>Car Park</p> <ul style="list-style-type: none"> Min 80 marked car parking spaces (60 paved onsite) for the playing fields, with an additional 20 marked shared parking spaces with the pond area and town centre with planting to soften visual impact of car park.
Estimates Works Value:	The estimated cost for the Kevin Wheatley Pond Area and Playing Fields is \$4,729,054.
Area:	Approximately 9.52ha

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Figure 4.1 – Kevin Wheatley VC Reserve - Playing Fields

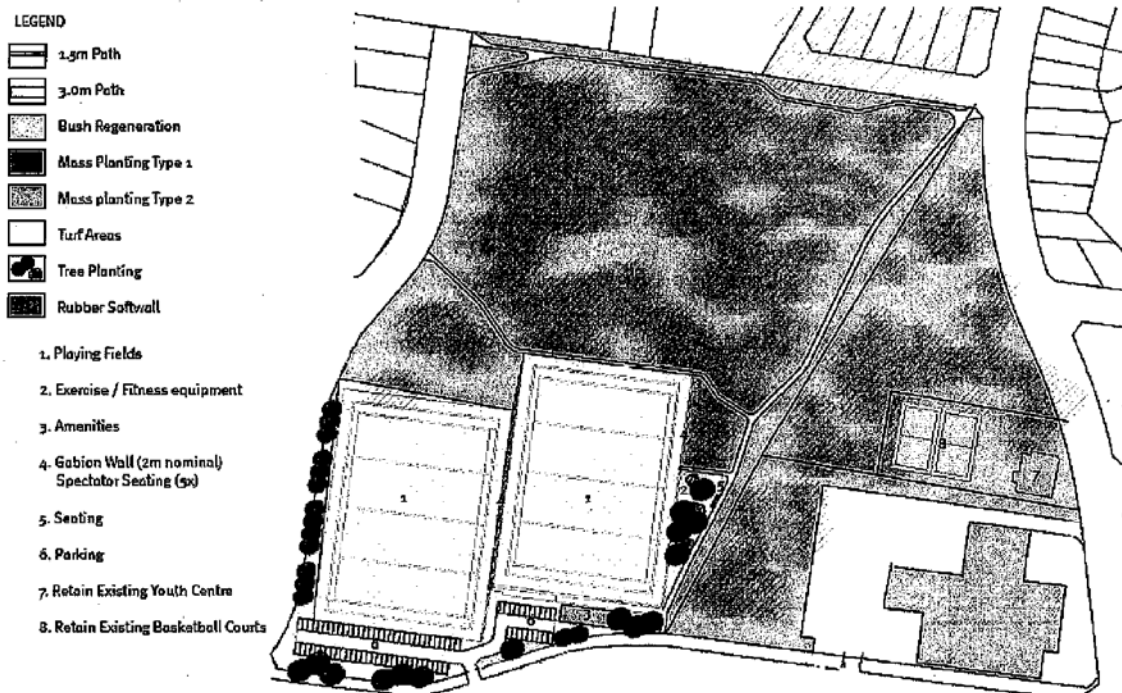
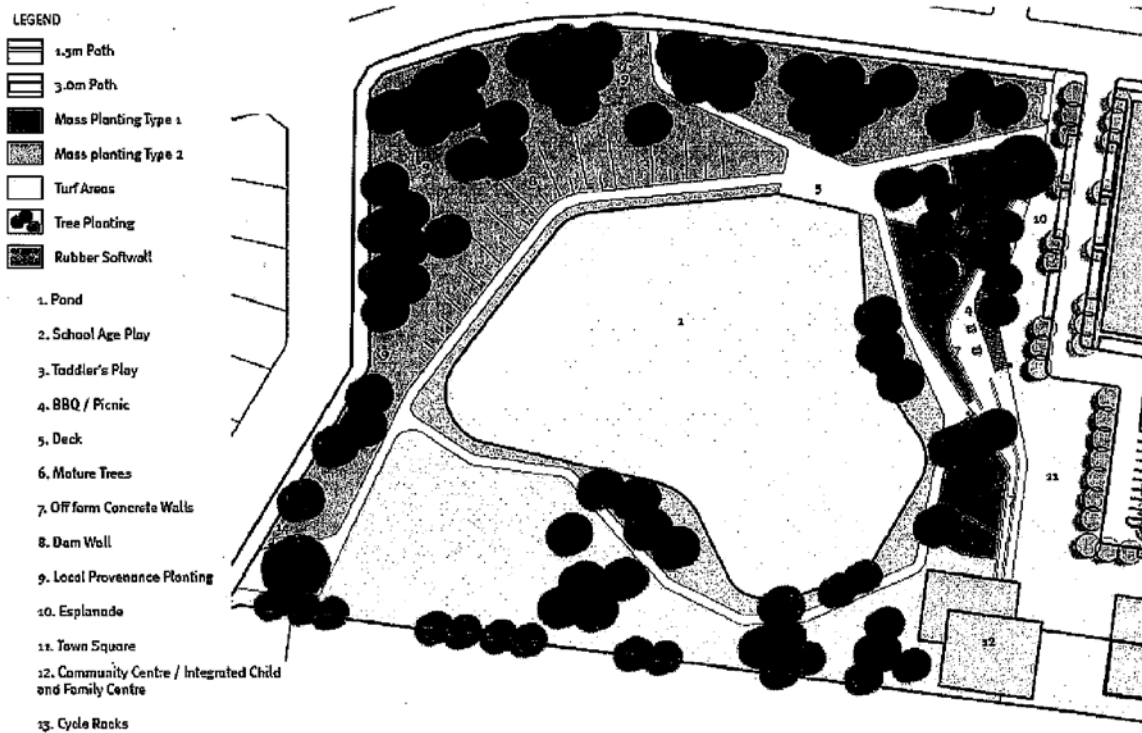


Figure 4.2 – Pond Area



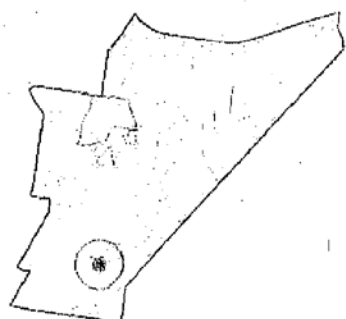
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5. Merino Park

Public purpose:	Public Open Space
Development Area/Staging Rationale	Stage 8
Description of works	Merino Park will be embellished to include planting along edges; run around grass area, 1.2m wide footpaths, informal playground, half basketball court, seating and picnic area. Refer to Figure 5.1 for Merino Park Concept Plan.
Core Elements	<ul style="list-style-type: none"> ▪ Street tree planting along northern and western edge; ▪ Adequate parallel on street parking already exists along park edges; ▪ Reinforce access points: doormat + feature entry planting; ▪ Canopy trees to provide shade and create 'forest' character; ▪ Low native planting along edges; ▪ 1.2m wide footpath through the park; ▪ Run around grass area, introduce shallow batter along main footpath to redirect straight desire line into slight curve; ▪ Playground (informal play) utilise existing change in level to create undulating landscape, tree planting to provide; ▪ Half basketball court; ▪ Seating and picnic tables associated with children's play area.
Estimates Works Value:	The estimated cost for Merino Park works is \$419,457 .
Area:	Approximately 0.74ha

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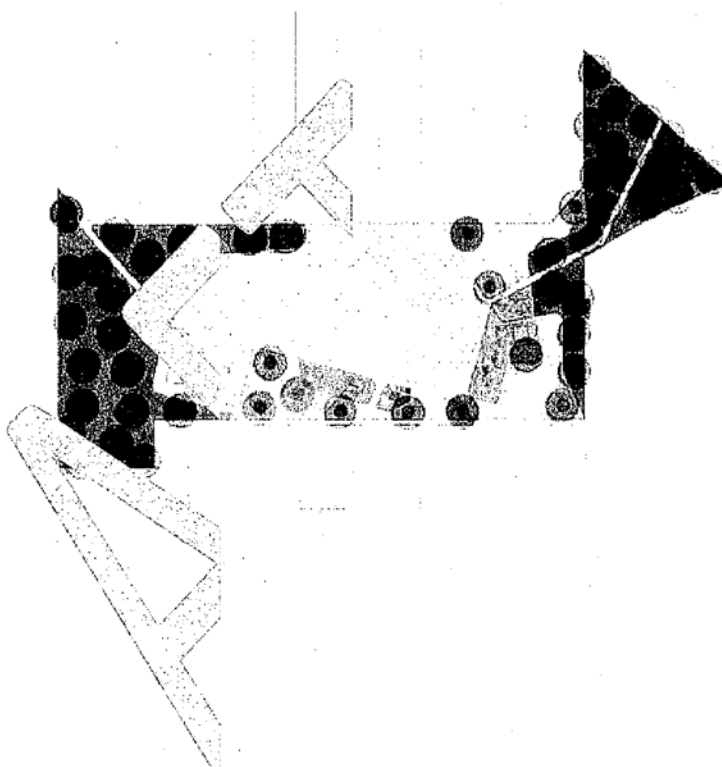
LOCATION PLAN

LEGEND

- 1.2m Path
- Planting
- Turf Areas
- Tree Planting
- Feature Tree
- Rubber Softfall
- Decomposite Granite
- Plexipave
- Mulch

PROPOSED FACILITIES

- Seating
- Picnic Settings, Bin
- School Age Playground
- Pre School Playground
- Adventure / Nature Play
- Basketball Half Court
- Bike Rack
- Run around



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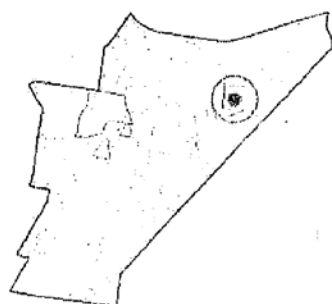
6. Riley Park

Public purpose:	Public Open Space
Development Area/Staging Rationale	Stage 9C
Description of works	Riley Park facilities will be improved and will include re-sized football fields, a synthetic cricket wicket, a new amenities building, BBQ area, children's play area, boundary and street planting and 80 paved spaces car park. Conduits for future lighting will be provided. Refer to Figure 6.1 for Riley Park Concept Plan.
Core Elements	<p>Playing Fields</p> <ul style="list-style-type: none"> ▪ Maintain current 2x football fields with over runs of 5 metres around; ▪ Synthetic cricket wicket between both fields with adult cricket field fitting within precinct; ▪ Sporting fields with sub surface drainage and automatic irrigation system complete (incl. moisture sensor) with tank top up from potable main, slave unit to Council central controller for lights and irrigation; ▪ Conduits for future park lighting; ▪ Consider provision of bench seating / viewing banks for spectators; ▪ Boundary and street tree planting spaced along the length of the park and tall clear trunked indigenous trees along park edge will maintain open views out and frames views in to the park promoting passive surveillance; ▪ Pedestrian path linking to school; ▪ 1x electric double unit barbeque; ▪ Younger children's play area located in close proximity of amenity building with shade structure nearby and/or covering part of play area. Shade structure of robust anti-graffiti and vandal resistant material. Rubber softfall to be used under all play equipment (no organic mulch). <p>Amenities Building</p> <ul style="list-style-type: none"> ▪ Amenity building including home & away change facilities, referees room, public toilets, and canteen (205m² GFA and 110m² Awning @ \$2,470/m² of GFA). Also accommodated in this building is Council's maintenance storage including separate irrigation pump room; <p>Car Park</p> <ul style="list-style-type: none"> ▪ Car park (40 paved spaces and 40 overflow) + cycle parking provide buffer planting along riverside drive.
Estimates Works Value:	The estimated cost for Riley Park works is \$1,974,391
Area:	Approximately 2.37ha

Figure 6.1 – Riley Park

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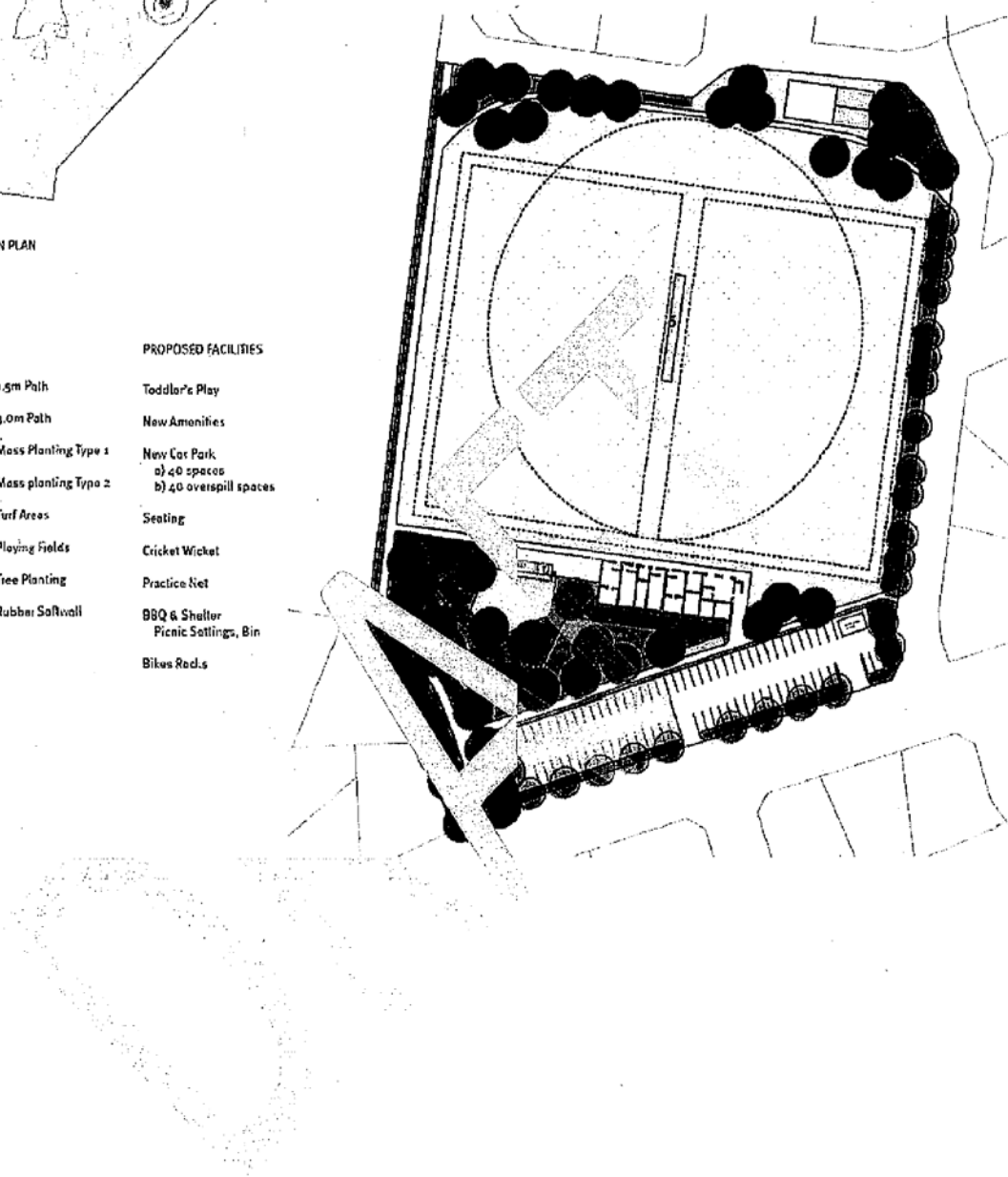
LOCATION PLAN

LEGEND

- 1.5m Path
- 3.0m Path
- Mass Planting Type 1
- Mass planting Type 2
- Turf Areas
- Playing Fields
- Tree Planting
- Rubber Softball

PROPOSED FACILITIES

- Toddler's Play
- New Amenities
- New Car Park
 - a) 40 spaces
 - b) 40 overspill spaces
- Seating
- Cricket Wicket
- Practice Net
- BBQ & Shelter
- Picnic Settings, Bin
- Bikes Racks

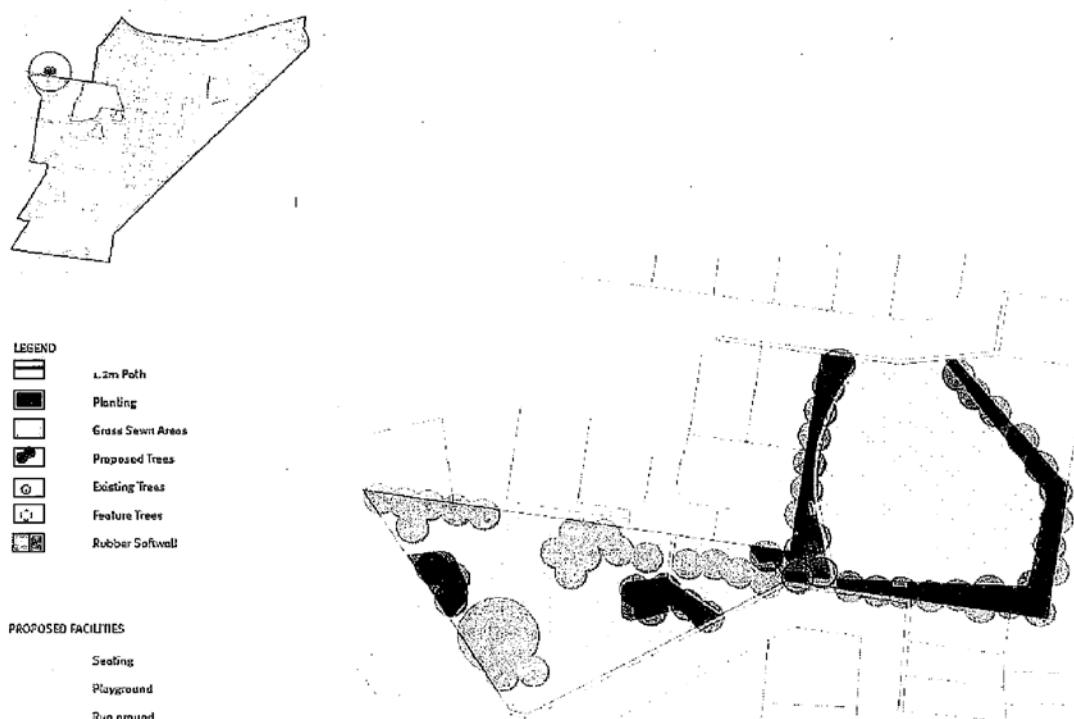


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7. Baden Powell Reserve

Public purpose:	Public Open Space
Development Area/Staging Rationale	Stage 9A
Description of works	Baden Powell Reserve will retain existing vegetation and will be embellished with feature tree planting, central run around area, playground, seating and pedestrian linkages.
Core Elements	<ul style="list-style-type: none"> Retain existing vegetation; Provide north / south pedestrian linkages; Reinforce access points: doormat + feature tree planting; Create central run around area and provide 'observer' seating; Playground area; Trees to provide screening and shade.
Estimates Works Value:	The estimated cost for Baden Powell Reserve works is \$84,195
Area:	Approximately 0.49ha

Figure 7.1 – Baden Powell Reserve

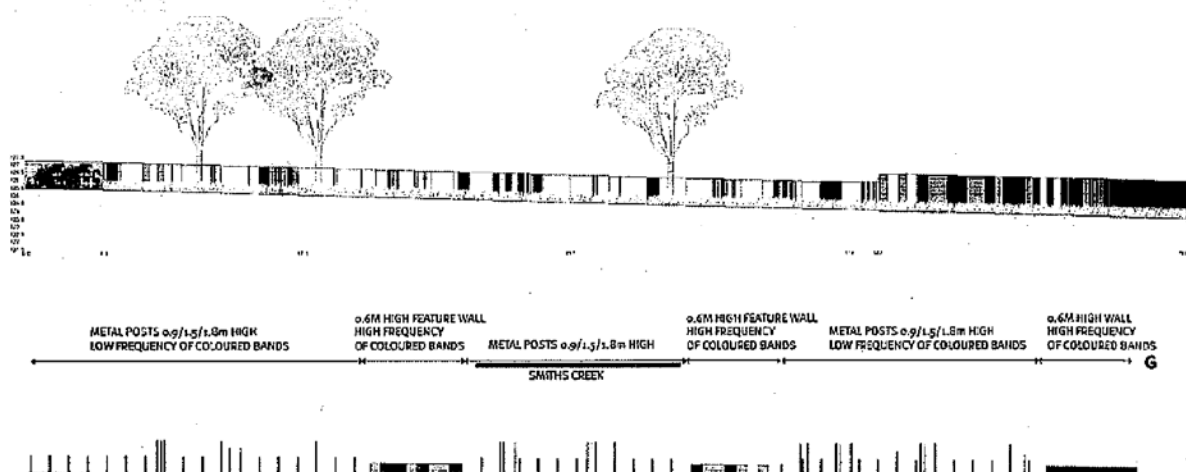


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8. Georges River Road Entry – Kevin Wheatley VC Wall

Public purpose:	Public Open Space
Development Area/Staging Rationale	Stage 1B
Description of works	A combination of concrete wall panels faced with bands of coloured tiles and metal posts will be provided along Georges River Road as an entry feature to the development. The entry marker becomes an expression of past memories, valour and hope for the future with the overall theme celebrating the idea of courage. The past courage of Kevin Wheatley VC is an act of validation and a role model for the community to take responsibility for the future.
Core Elements	<ul style="list-style-type: none"> The entry wall is themed the 'exploration of courage'; The past courage of Kevin Wheatley VC is an act of validation and a role model for the community to take responsibility for the future. The entry and boundaries will be rendered masonry or concrete walls faced with bands of coloured tiles. Materials designed to discourage graffiti; Low native grasses and ground covers will be planted in front of the wall to visually soften and provide colour and massing; Street tree and understorey planting is part of the entry sequence into the site; Open canopy trees to frame the roadway and connect to the bushland along Smiths Creek corridor.
Estimates Works Value:	The estimated cost Kevin Wheatley Entry Wall works is \$177,100
Area:	TBA



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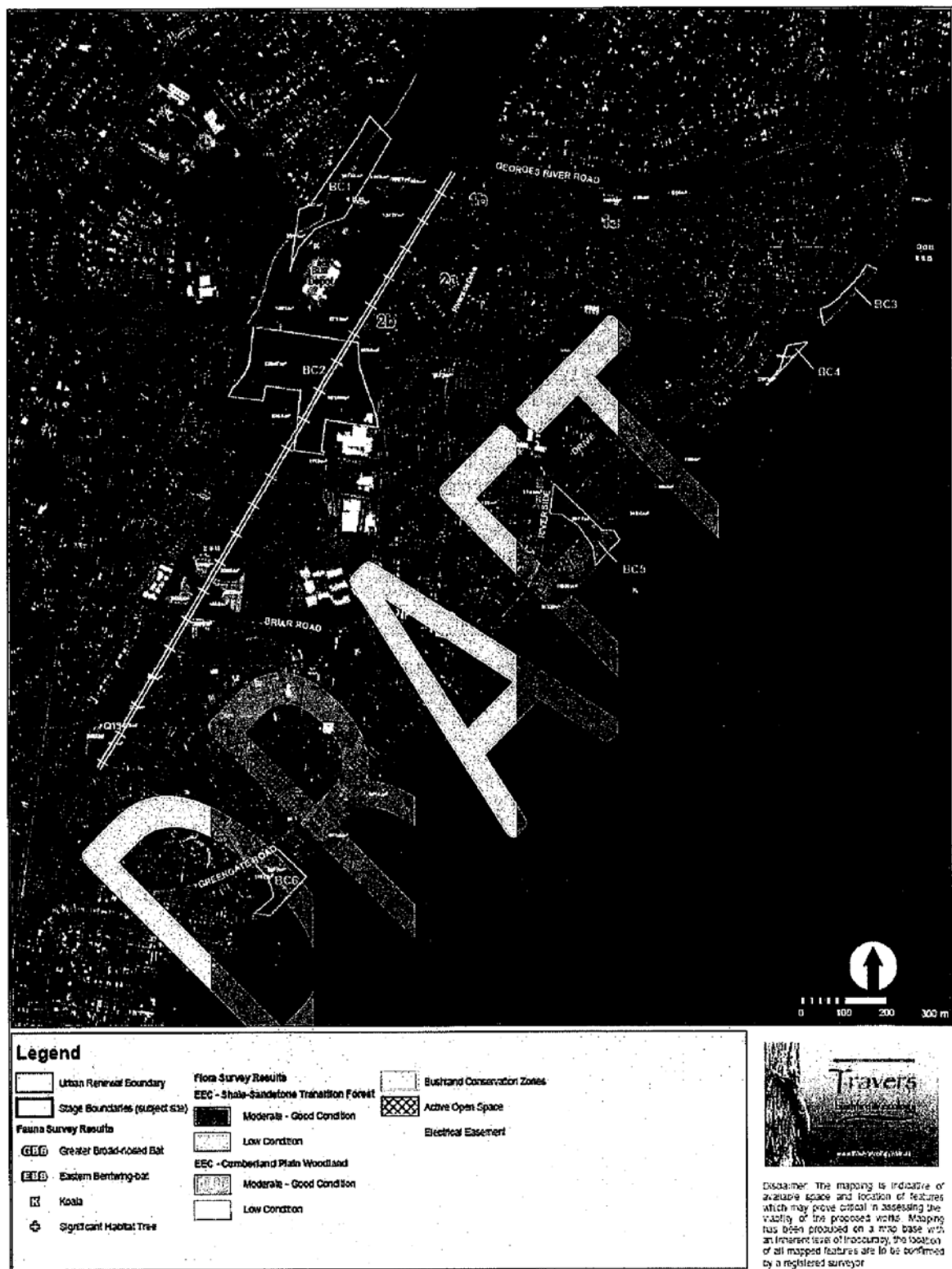
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9. Bushland Regeneration

Public purpose:	Public Open Space
Development Area/Staging Rationale	Various – refer to Planning Agreement Summary Table.
Description of works	The aim is to conserve remnant vegetation of conservation value within Airds Bradbury and to undertake long term regeneration and management of the reserves to enhance habitat for threatened species and endangered ecological communities. The bushland regeneration is to run for 5 years from commencement of works or for a reduced period as agreed with Council. Refer to Figure 9.1 for Bushland Regeneration Plan.
Core Elements	<p>BC1 Smiths Creek</p> <ul style="list-style-type: none"> Shale Sandstone Transition Forrest Regeneration and Revegetation <p>BC2 Kevin Wheatley Reserve</p> <ul style="list-style-type: none"> Cumberland Plain Woodland Regeneration and Revegetation <p>BC3 Peppin Park (North) and BC4 Peppin Park (South)</p> <ul style="list-style-type: none"> Shale Sandstone Transition Forrest Regeneration and Revegetation <p>BC5 Georges River Reserve</p> <ul style="list-style-type: none"> Shale Sandstone Transition Forrest Regeneration and Revegetation <p>BC6 Hagan Reserve</p> <ul style="list-style-type: none"> Shale Sandstone Transition Forrest Regeneration and Revegetation
Estimates Works Value:	The estimated cost for riparian and bushland regeneration works is \$496,313
Area:	Approximately 9.68ha

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10. Community Facilities

Public purpose:	Community Facilities
Development Area/Staging Rationale	Stage 3
Description of works	<p>Council is to advise the Developer after entering into the Planning Agreement but prior to the Subdivision Certificate that creates the 250th lot for residential purposes in the Airds Bradbury Development, of its decision to either retain existing community facilities or replace with a new Multipurpose Community Centre and Facility Centre within or around the Town Centre. Refer to Figure 10.1 for draft Community Centre plan.</p> <p>If Council does not make a decision by the time stated above, then the Developer will make the decision on which Community Facilities option to proceed with.</p>
Core Elements	<p>Option 1: Retain Existing Community Facilities</p> <ul style="list-style-type: none"> ▪ Council operated community facilities that currently exist within the project area include the Airds Youth Centre, Airds Neighbourhood Centre, Amarina Child Care Centre and Campbelltown Child and Family Centre; ▪ If Council decide to retain these facilities, a maximum value of up to \$100,000 will be provided by the Developer to Council to fund improvement to the existing community facilities in accordance with Part B of the ISDP; ▪ The Developer will dedicate the Amarina Child Care Centre land to Council; ▪ If Council decide to retain these facilities, then the value of Option 2 (construct new Community Facilities Centre) will be forfeited by Council. <p>Option 2: Construct New Community Facilities Centre</p> <ul style="list-style-type: none"> ▪ This option involves the construction of a new Community Facilities Centre (integration of community centre and, child and family centre) on a minimum 1,450m² lot within the Town Centre; ▪ Approx. 700m² of Gross Floor Area (includes external accessible toilet facilities and 100m² of storage, but excludes fixtures, furniture and equipment - defined as any movable furniture, fixtures or equipment that has no permanent connection to the structure of the building); ▪ Landscaping, external lighting and access to and provision of 20 dedicated car parking spaces for the new Community Facilities Centre secured through an appropriate legal mechanism. ▪ Council is the responsible management authority for any newly constructed Community Facilities Centre, from the commencement of its operation and should facilitate NSW Land and Housing Corporation (or representative) access to the centre to support implementation of initiatives within the social plan; ▪ Demolition of the existing community facilities listed in Option 1, excluding the Airds Youth Centre; ▪ Dedication of Airds Youth Centre Land as Community Open Space.

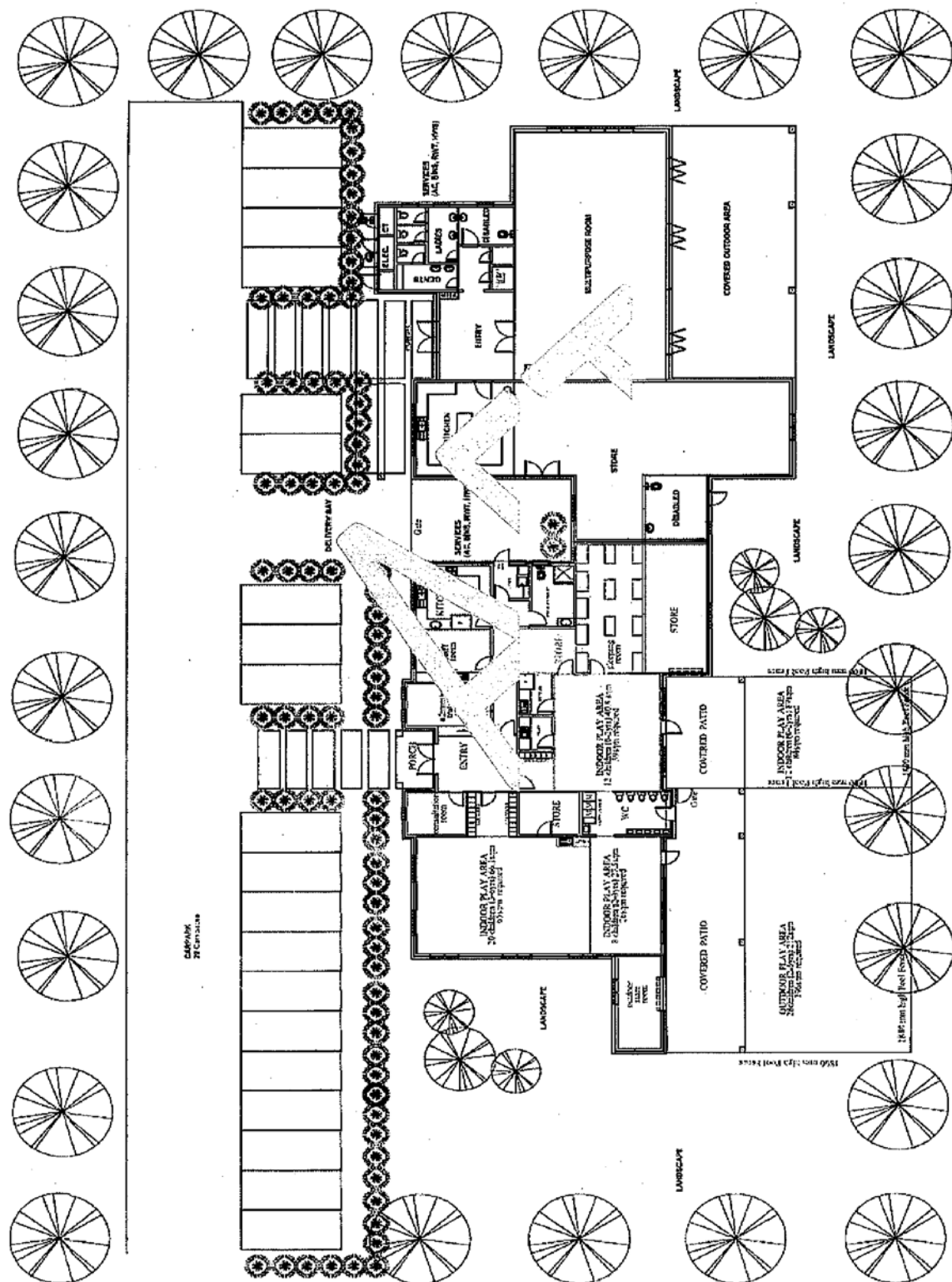
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Estimates Works Value:	Option 1: \$100,000 monetary contribution toward upgrade of existing community facilities and dedication of Amarina Child Care land; OR Option 2: \$2,632,445 for new Community Facilities Centre and \$140,000 for demolition of existing community facilities,
Area:	TBA

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Part B: Development Contributions – Monetary Contributions

1. Upgrade Existing Community Facilities

Purpose of Monetary Contribution	<p>There are four Council operated community facilities currently existing within the project area which include:</p> <ul style="list-style-type: none">▪ Airds Youth Centre;▪ Airds Neighbourhood Centre;▪ Amarina Child Care Centre; and▪ Campbelltown Child and Family Centre. <p>Should Council decide to retain these existing facilities after entering into the Planning Agreement and prior to the Subdivision Certificate that creates the 250th lot for residential purposes in the Airds Bradbury Development, the Developer will provide a maximum \$100,000 contribution to Council to fund possible improvements to these existing community facilities.</p>
Payment Rationale	<p>The Developer will provide the \$100,000 contribution to Council with the Stage 3 Development Application to fund possible improvements to the existing community facilities in accordance with Section 10 Part B of this ISDP.</p>

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Part C: Land Dedication Provision

A significant amount of Public Land exists within the Airds renewal project site. Much of that land will remain as public land during and after the redevelopment process, while additional public land will also be created. There are three types of land proposed to be dedicated to Campbelltown City Council upon the completion of the works identified in this plan. These are:

- Public Roads (in accordance with the provisions of the Roads Act, 1993);
- Community Land for use as Parks and Open Space (in accordance with the provisions of the Local Government Act 1993); and
- Operational Land to be used for Community Facilities (in accordance with the provisions of the Local Government Act 1993).

1. Associated Costs

It is important to recognise that the cost estimates do not include any costs associated with the acquisition or dedication of land to Council for the purposes of roads and public open space.

Compensation for the Developer's compulsory acquisition of land originally owned by Council is to be based on a 'peppercorn' payment, to reflect the future dedication of land at no cost to Council as public road, public open space and operational community land.

2. Dedication Timing

Following the completion of construction and embellishment works in accordance with this ISDP, all public roads, open space areas and new community facilities shall be dedicated to Council as part of the relevant subdivision certificate process for that stage of development.

3. Public Roads

In order to facilitate the construction of new road connections and intersections, the proposed redevelopment will require that some of the existing public roads within the development site be closed or partially closed, and new public roads built and dedicated in accordance with the new planning layout.

Closure or partial closure of the existing public roads will be carried out by compulsory acquisition by the Developer under the Housing Act 2001 and Land Acquisition (Just Terms Compensation) Act. Compulsory acquisition of public roads by the Developer from Campbelltown City Council would have the effect of closing the roads.

Council's agreement would be required prior to any acquisition and road closure process. The dimensions and areas of each public road or part thereof intended to be acquired must be identified in each relevant development application.

Subsequent survey and detailed design would be required on plans of acquisition for lodgement at the Land and Property Management Authority.

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4. Parks and Open Space

Existing public open space areas within the development site are currently owned by both NSW Land & Housing Corporation and Campbelltown City Council. Figure 11.1 identifies 18.96 hectares of open space currently owned by Council.

During the redevelopment process, the location and shape of existing open space may be changed to suit the new road and lot layout and so it will be necessary for the Developer to acquire part or all of the existing open space from Council under the Land Acquisition (Just Terms Compensation) Act.

The existing and new open space areas will also be enhanced and redeveloped prior to dedication back to Council as public open space. Figure 11.2 identifies the proposed 19.67 hectares of open space that will be dedicated back to Council.

5. Land Remediation

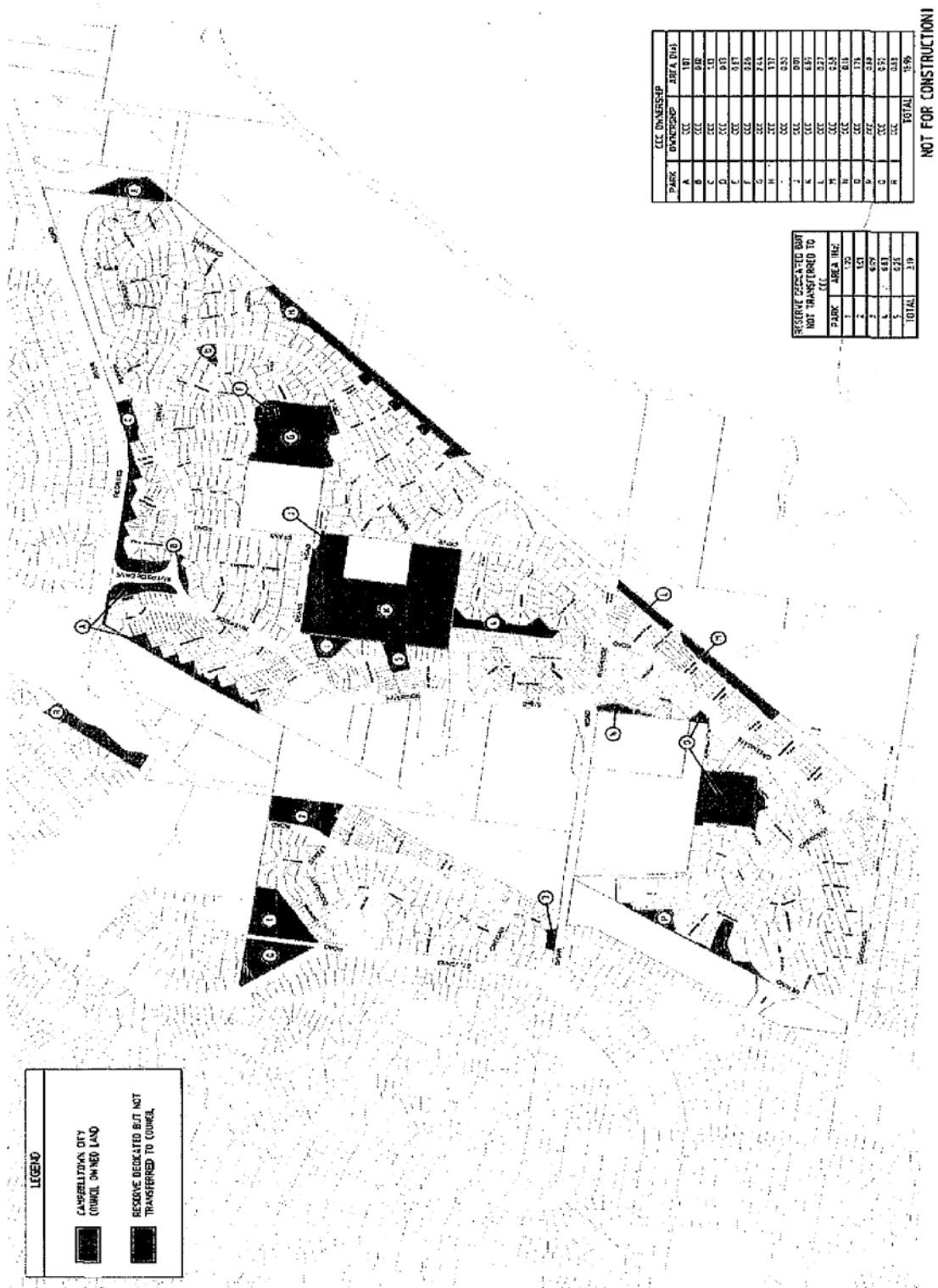
During the redevelopment process, localised existing areas of contaminated ground may become disturbed. As part of the redevelopment works, some existing lands will require validation before handover / dedication. Due to the split ownership of land between NSW Land & Housing Corporation (L&HC) and Campbelltown City Council (CCC), the following specific remediation protocols will be observed based on current ownership:

- Land currently owned by CCC to be compulsorily acquired by The Developer and subsequently dedicated back to CCC without works will not be subject to remediation and/or validation;
- Land currently owned by CCC to be compulsorily acquired by The Developer and subsequently dedicated back to CCC with works will be subject to remediation and/or validation via an unexpected finds protocol only associated with the works;
- Land currently owned by CCC to be acquired by The Developer for residential allotments will require validation certificates;
- Land currently owned by L&HC to be dedicated as open space/road reserves to CCC will require validation certificates;
- Land currently owned by L&HC as residential allotments to remain unchanged (i.e. no changes to lot layout, cottages to remain) will not physically be able to be validated and therefore will not require certificates;
- Land currently owned by L&HC as residential allotments to remain as such, but with layout changes will require validation certificates.

All validation certificates are to be provided by a suitably qualified Environmental Engineer in accordance with the requirements of SEPP55 – Remediation of Land.

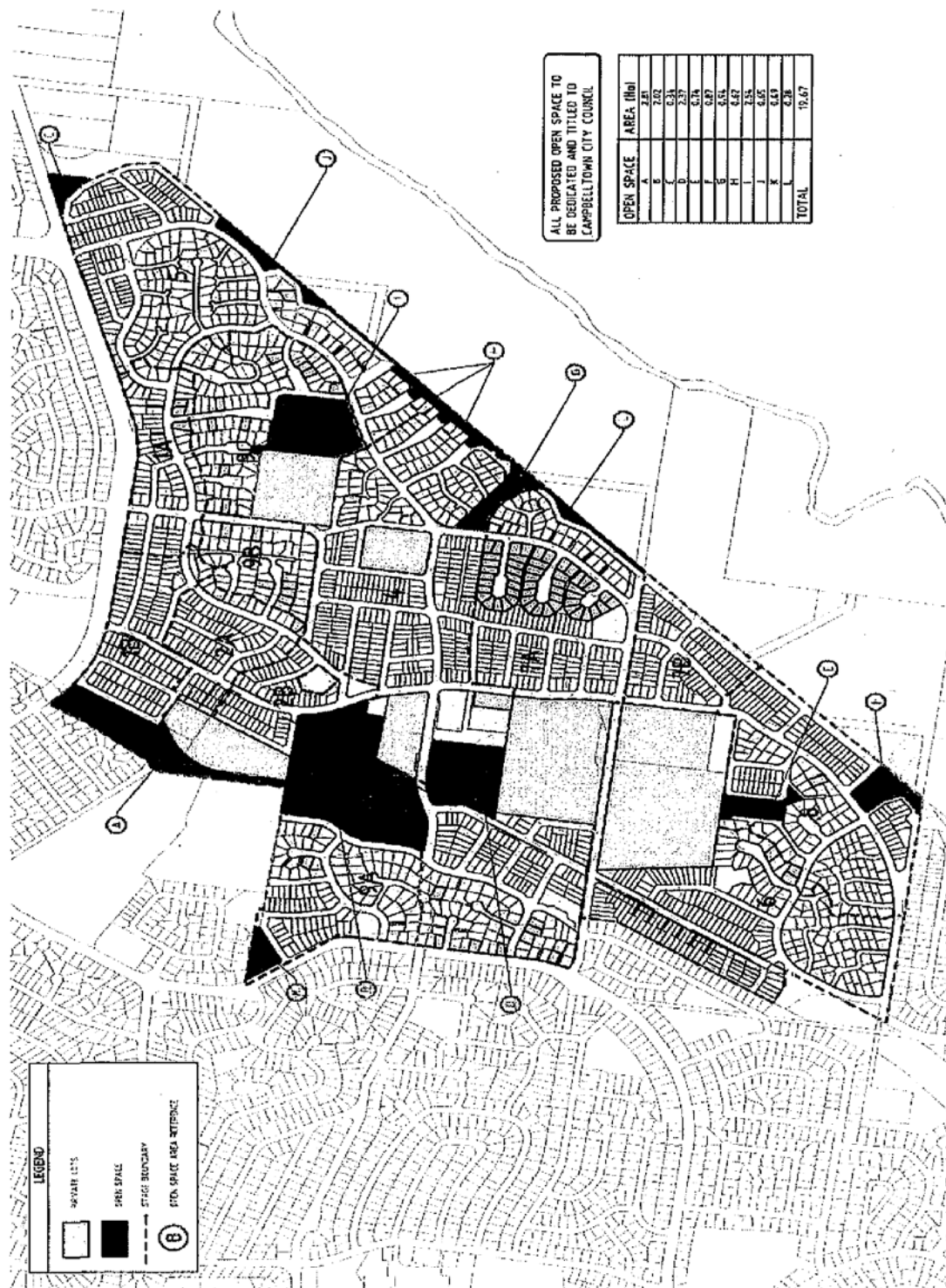
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Airds Bradbury Renewal Project Planning Agreement

Explanatory Note

(as required by Clause 25E of the Environmental Planning and Assessment Act 1979)

Summary of the objectives, nature and effect of the proposed Agreement

The objective of the Planning Agreement is to provide infrastructure, facilities and services to meet the demand generated by the Airds Bradbury Renewal Project. This project proposes the retention of 880 existing dwellings, retention of 53 seniors housing units and provision of at least 52 additional units and provision of 1,172 new dwellings. The infrastructure, facilities and services includes roads and intersection upgrades, open space and playing fields, bushland conservation and community facilities.

The Airds Bradbury Renewal Project Planning Agreement is a planning agreement under s93F of the *Environmental Planning and Assessment Act 1979*. It is a voluntary agreement between the proponent of the development, NSW Land and Housing Corporation, and Campbelltown City Council, under which the proponent makes Development Contributions for various public purposes (as described above).

The Planning Agreement:

- excludes the need for the proponent to make further development contributions
- requires dedication of land and carrying out of Works
- is not to be registered on the title to the Land,
- imposes restrictions on the Developer transferring the land or part of the land or assigning an interest under the Agreement,
- provides a dispute resolution method for a dispute under the Agreement, being mediation and expert determination,
- provides that the Agreement is governed by the law of New South Wales

Assessment of the merits of the proposed agreement, including the impact on the public

The proposed infrastructure, facilities and services to be provided under the Agreement reflect the nature of the Airds Bradbury Renewal Project. The thorough assessment that has previously been undertaken of the concept plan ensures that the proposed contributions are appropriate. The concept plan benefited from extensive public involvement in the initial phases which assisted in identifying community priorities. The Agreement therefore has merit and a positive impact upon the public, by virtue of its ability to ensure the agreed outcomes are delivered.

How the Agreement promotes the public interest and the objects of the *Environmental Planning and Assessment Act 1979*

The Planning Agreement promotes the public interest by supporting the objects of the Act as set out in a Sections 5(a)(ii)-(v) and 5(c) of the Act. In particular, the Agreement ensures that appropriate new facilities and infrastructure are provided as well as upgrading of existing facilities and infrastructure.

How the Agreement promotes elements of the Council's charter under section 8 of the Local Government Act 1993

The Planning Agreement promotes the elements of the Council's charter by:

- providing services and facilities for the community,
- ensuring that the public facilities provided by the Developer under the Agreement are transferred to and managed by the Council or are otherwise subject to the Council's control,
- providing a means that allows the wider community to make submissions to the Council in relation to the Agreement.

The planning purpose served by the Agreement and the means of achieving that purpose

The Planning Agreement:

- promotes and co-ordinates the orderly and economic use and development of the Land to which the Agreement applies being the Airds Bradbury Renewal Project,
- provides land for public purposes in connection with the Development,
- provides and co-ordinates community services and facilities in connection with the Development, and
- provides increased opportunity for public involvement and participation in environmental planning and assessment of the Development.

How the Agreement conforms with the Council's capital works program

The Planning Agreement and the supporting Infrastructure Services Delivery Plan, sets out the works that will be delivered. This has been assessed against Council's capital works program and infrastructure maintenance program for the areas covered by the Airds Bradbury Renewal Project.

What requirements of the Agreement must be complied with before a construction certificate, occupation certificate or subdivision certificate is issued.

The Airds Bradbury Renewal Project is a development that will be staged over a number of years. Therefore the Planning Agreement contains requirements that must be complied with at certain times as the development proceeds. Certain work and dedication of land, must be done before Subdivision Certificates relating to various stages of development can be issued. The timing of these requirements are set out in both the Agreement and the supporting Infrastructure Services Delivery Plan.

ATTACHMENT 3

Comment on the VPA for the Airds/Bradbury Housing Estate and proposed absorption of Badgally Reserve at Blaimount

This letter requests that Campbelltown City Council and the NSW State Government protects and preserves the natural environment and the Parks and Reserves owned by the residents of Campbelltown.

The massive error in the Airds/Bradbury Concept Plan is that before it went through any pre planning and early consolidating budgeting plans it should have gone out to the whole of the Campbelltown Community to comment on as it will absorb community assets owned by the Campbelltown Community from Appin to Glenfield.

There was no broad based Community Consultation done across the whole of the Campbelltown LGA and many people are unaware of what is happening.

Outlined below are my requests to Campbelltown City Council and the NSW Government to ensure that the Airds/Bradbury Concept Plan is amended to preserve and protect both the Community assets and Koalas now and into the long term future. This is of the upmost importance especially as Campbelltown's population will almost double over the next 30 to 50 years.

The numbered points below relate to the areas numbered on the attached Airds/Bradbury Concept Plan map. It is requested that Council and the Government support the:

1. retention and enhancement of the whole of Kevin Wheatley Reserve and Bushland
2. & 5 abandonment of the Campbellfield Avenue extension including two new sports fields as it will totally destroy Smiths Creek and the Wildlife Koala corridor
3. retention and enhancement of Baden Powell Reserve
4. establishment of a Koala movement corridor as outlined on the attached map
6. transfer of Campbelltown's Amarina Childcare Centre Land to Campbelltown Council
7. & 8. retention of the two Community facilities blocks owned by Council.
10. protection of the bushland at the rear of the Airds Shopping Centre. The extension of College Road through to Riverside Drive would have a huge impact on Smiths Creek, opening it up to traffic access, domestic pets, rubbish dumping, more fragmentation, degrading, die back, increased fire risk and the loss of more mature trees.

It is also imperative for Smiths Creek and adjoining bushland, including the Airds Pond and Swampy land, as it is all an integrated and interrelated environment containing Cumberland Woodland and Sandstone Shale Forest are protected from future development.

In this economic climate, perhaps Council should seek a cash contribution to rebuild/upgrade existing Community Facilities!

It is not in the best interest of this City to give up Kevin Wheatley Reserve as it is a large sports ground, 14 acres of prime sports fields, larger than Campbelltown Stadium at Leumeah. Kevin Wheatley has the potential to become a Regional Sports ground. Campbelltown is short of quality Sports Grounds like Kevin Wheatley. At the same time this reserve should assist in the establishment of a Koala corridor between Smiths Creek the Georges River and the Dharawal National Park.

Smith's Creek, the Pond and the Swampy Land is an interrelated sensitive environment and should be left intact as a Wild Life corridor supporting Campbelltown's Koala colony and other assorted native species of marsupials, birds, native water fowl, wild ducks that have been present and breeding for decades in this environment. This area also contains Cumberland Wood Plain and Sandstone Shale Forest that are both registered endangered species. Should this environment not have been protected and strengthened from the beginning in this redevelopment, not degraded with roads

The Community owned Parks and Reserves should enhance the whole redevelopment to improve and protect the natural environment which will attract new families to the area while protecting Sydney's last disease free breeding Koala Colony. Where else in Sydney can you find disease free breeding Koalas in your front and back yards?

The two Community Service Lots owned by Campbelltown Council must be retained in their present central locations that are on bus routes which benefit the whole estate and surrounding suburbs where many tenants have been relocated.

It is also important that Community Services maintain their own precincts and not be located next to the Airds Hotel. You do not run Early Intervention Programs with Parents and young Children 0 to 5 next door to a Hotel. This would be a direct negative and irresponsible planning decision at best.

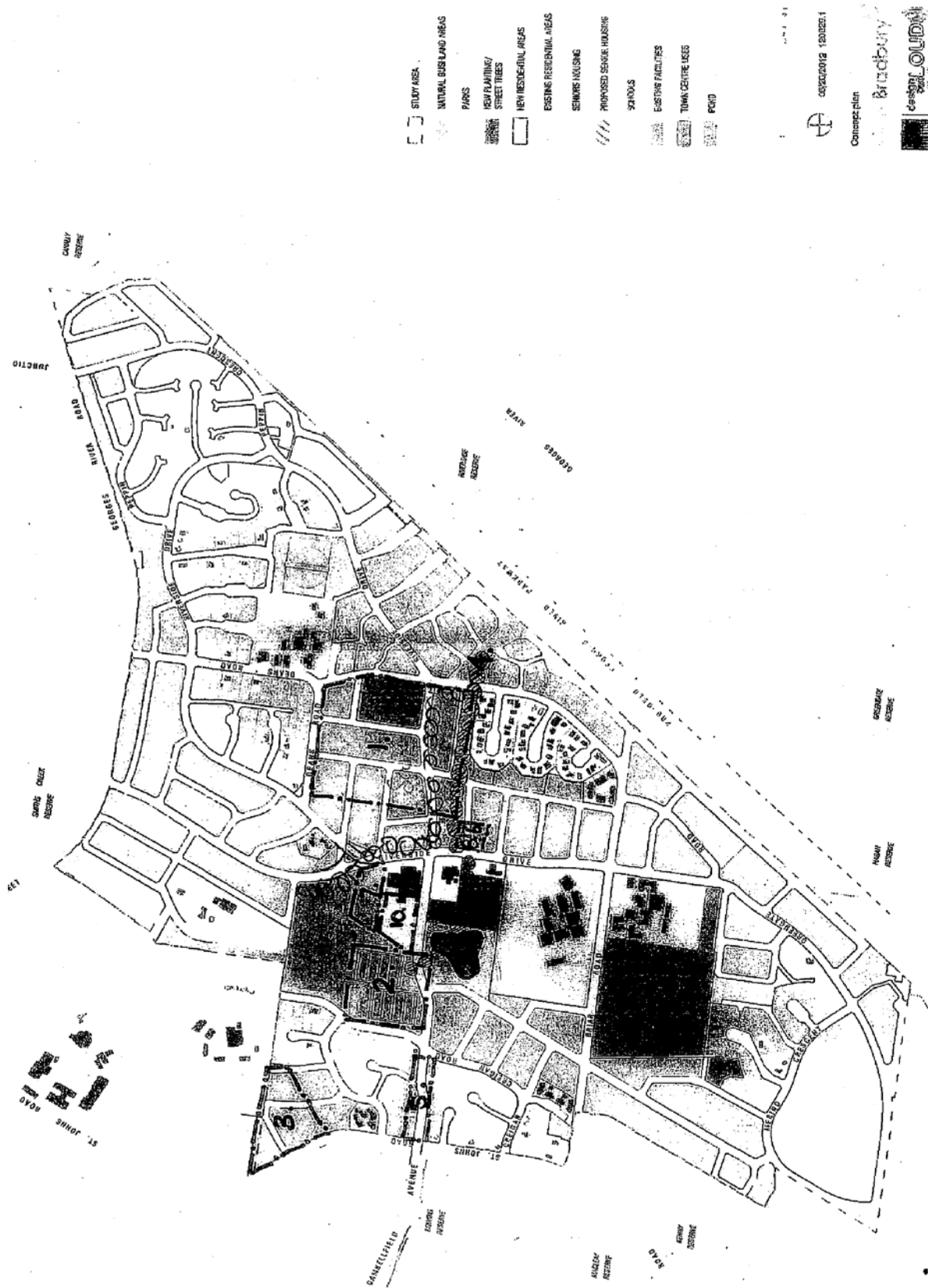
Airds/Bradbury is a sensitive environment and a valuable asset for the whole Campbelltown community. The Parks and Reserves owned by the Community need to be protected from irresponsible development. **Please be responsible in planning for Campbelltown's future.**

This letter also requests that Campbelltown City Council and the NSW State Government protects and preserves Badgally Reserve at Badgally Road Blairmount.

Yours sincerely



3.5 Public Exhibition Of Planning Agreement For Airds Bradbury Renewal Project



4. COMPLIANCE SERVICES

4.1 Legal Status Report

Reporting Officer

Acting Manager Compliance Services

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.

1. Land and Environment Court Class 1 Matters – Appeals Against Council's Determination of Development Applications
--

Total ongoing Class 1 DA appeal matters (as at 6/05/2014)	0
Total completed Class 1 DA appeal matters (as at 6/05/2014)	5
Costs from 1 July 2013 for Class 1 DA appeal matters:	\$49,170.75

1 (a)

Abdulhalim ELBAF & Amne ELBAF

Issue:

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.

Property:	Lot 1 DP 1039153 Zouch Road, Ingleburn.
Property Owner:	Mr. Abdulhalim Elbaf and Mrs Amne Elbaf
Council File:	No. 957/2013/BC-UW
Court Application:	Filed on 12 December 2013 - File No. 10969 of 2013
Applicant:	Abdulhalim Elbaf and Amne Elbaf
Costs Estimate:	\$10,000 (exclusive of Barristers, Court Appointed Experts or disbursement fees)
Costs to date:	\$4,398.21
Status:	Completed – awaiting solicitors final costs invoice.
Progress:	<p>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.</p> <p>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 call over, 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.</p> <p>The appeal was before the court on 14 February where, by consent, the proceedings were adjourned to 21 February 2014 for directions hearing. The adjournment was to allow the Applicant to file a Notice of Motion seeking orders that the proceedings be transferred to the Court's Residential List to enable the appeal to proceed separately to the Class 1 and Class 4 proceedings listed at items 2(a) and 3(a) respectively of this report.</p> <p>The appeal was before the court on 21 February 2014, where orders were made adjourning the proceedings for section 34 conciliation conference and section 34AA hearing respectively on 14 and 15 April 2014.</p> <p>The appeal was before the court on 14 and 15 April 2014, for preliminary conciliation conference and subsequent hearing where upon completion the Commissioner reserved judgement to a date to be advised.</p>

On 29 April 2014 the Commissioner handed down judgement dismissing the appeal in respect of building certificate application No. 957/2013/BC-UW and refusing the application.

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 the determination 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:

\$4,398.21

Status:

Completed – awaiting solicitors final costs invoice.

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 the determination 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 call over, 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.

The appeal was before the court on 14 February where, by consent, the proceedings were adjourned to 21 February 2014 for directions hearing. The adjournment was to allow the

Applicant to file a Notice of Motion seeking orders that the proceedings be transferred to the Court's Residential List to enable the appeal to proceed separately to the Class 1 and Class 4 proceedings listed at items 2(a) and 3(a) respectively of this report.

The appeal was again before the court on 21 February 2014, where orders were made adjourning the proceedings for section 34 conciliation conference and section 34AA hearing respectively on 14 and 15 April 2014.

The appeal was before the court on 14 and 15 April 2014, for preliminary conciliation conference and subsequent hearing where upon completion the Commissioner reserved judgement to a date to be advised.

On 29 April 2014 the Commissioner handed down judgement dismissing the appeal in respect of modified development application No. 1458/2013/DA-82A and refusing the application.

2. Land and Environment Court Class 1 Matters – Appeals Against Council's issued Orders / Notices
--

Total ongoing Class 1 Order/Notice appeal matters (as at 6/05/2014)	1
Total completed Class 1 Order/Notice appeal matters (as at 6/05/2014)	0
Costs from 1 July 2013 for Class 1 Order/Notices appeal matters:	\$1,450.00

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: \$1,450.00

Status: Ongoing – listed for hearing on 16 and 17 June 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 call over, 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.

On 14 February 2014 the Court, by consent, adjourned the proceedings to 4 April for directions hearing.

On 4 April 2014 the Court gave certain procedural directions and adjourned the proceedings to 16 and 17 June for hearing.

3. Land and Environment Court Class 4 Matters – Civil Enforcement in respect of non-compliance with Planning Law or Orders issued by Council

Total ongoing Class 4 matters before the Court (as at 6/05/2014)	2
Total completed Class 4 matters (as at 6/05/2014)	1
Costs from 1 July 2013 for Class 4 matters	\$45,444.78

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:	\$9,472.70
Status:	Ongoing – listed for further hearing on 16 and 17 June 2014.
Progress:	<p>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.</p> <p>At the first mention on 7 February 2014 the proceedings were adjourned to 14 February for directions hearing.</p> <p>On 14 February 2014, the Court, by consent, adjourned the proceedings to 4 April 2014 for directions hearing.</p> <p>On 4 April 2014 the Court gave certain procedural directions and adjourned the proceedings to 16 and 17 June for hearing.</p>

3 (b)	John Frank GALLUZZO
Issue:	The Land and Environment Court NSW granted conditional development consent No. 610/2004/DA-C on 25 September 2005 for a childcare centre at 1 Blomfield Road, Denham Court. Conditions 15 and 19 of the consent required the respondent to construct a Type B intersection at the intersection of Campbelltown Road with Blomfield Road, Denham Court. To date the respondent has failed to fully comply with the consent.
Property:	Pt Lot 101 DP 602622, 1 Blomfield Road, Denham Court.
Property Owner:	Mr. John Frank Galluzzo
Council File:	Development Application No: 610/2004/DA-C
Court Application:	Filed on 25 March 2014 - File No. 40179 of 2014
Respondent:	John Frank Galluzzo
Costs Estimate:	\$15,000 (exclusive of Barristers, Court Appointed Experts or disbursement fees)
Costs to date:	\$3,767.20

Status: Ongoing – listed for further directions hearing on 13 June 2014.

Progress:

On 25 March 2014 Council issued a summons seeking declarations and orders of the Court that the respondent comply with conditions 15 and 19 of Court issued development consent No. 610/2004/DA-C relating to the construction of a Type B intersection at the intersection of Campbelltown Road and Blomfield Road, Denham Court.

The matter was before the Court for first mention on 24 April 2014 where counsel for the respondent sought an adjournment until after 2 June, as the respondent was overseas attending to his seriously ill wife. Council informed the Court that it was aware that the respondent and the childcare centre proprietor had been conferring about the submission of a modification application to development application No: 610/2004/DA-C seeking consent for a revised intersection installation at the corner of Blomfield and Campbelltown Roads and an increase in the centre enrolment numbers from 74 to 90 children. Having regard to the long history of this matter and the safety concerns raised by the respondents failure to comply with the conditions of the original consent requiring construction of the subject intersection, Council made submissions that the Court direct the respondent progress the preparation and submission of the development application during the period of any adjournment granted. The Court agreed and made directions accordingly and adjourned the proceedings to 13 June 2014 for further directions hearing.

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 6/05/2014)	0
Total completed Class 5 matters (as at 6/05/2014)	0
Costs from 1 July 2013 for Class 5 matters	\$0.00

5. Land and Environment Court Class 6 - Appeals from convictions relating to environmental matters

Total ongoing Class 6 matters (as at 6/05/2014)	0
Total completed Class 6 matters (as at 6/05/2014)	0
Costs from 1 July 2013 for Class 6 matters	\$0.00

6. District Court – Matters on Appeal from lower Courts or Tribunals not being environmental offences

Total ongoing Appeal matters before the Court (as at 6/05/2014)	0
Total completed Appeal matters (as at 6/05/2014)	1
Costs from 1 July 2013 for District Court matters	\$795.00

7. Local Court prosecution matters

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

Total ongoing Local Court Matters (as at 6/05/2014)	1
Total completed Local Court Matters (as at 6/05/2014)	28
Costs from 1 July 2013 for Local Court Matters	\$2,200.00

File No:	LP03/14 – Penalty Notice Court Election
Offence:	Disobey No Parking sign – School Zone
Act:	<i>Road Rules 2008</i>
Final Costs:	\$0.00
Status:	Completed.
Progress:	The matter was before the Court for hearing on 28 April 2014 where, after hearing the evidence and submissions, the proceedings were dismissed, as the Magistrate was not satisfied beyond reasonable doubt that the defendant was the driver of the vehicle at the time of the offence.

File No:	LP05/14 – Penalty Notice Court Election
Offence:	Stop in bus zone – School Zone
Act:	<i>Road Rules 2008</i>
Costs to date:	\$0.00
Status:	Ongoing.
Progress:	Listed for first mention on 15 April 2014. The matter was before the Court for further mention on 28 April 2014 where, by consent, the proceedings were adjourned to 13 May 2014 for plea/mention in order that the defendant can make representation to Council.

File No:	LP06/14 and LP07/14 – Penalty Notice Court Election
Offence:	Disobey No Stopping sign
Act:	<i>Road Rules 2008</i>
Final Costs:	\$0.00
Status:	Completed
Progress:	Matter was before the Court for first mention on 6 May 2014 where the defendant, Mutlu Koch, did not appear. The Magistrate granted Council's application for the matters to proceed in the defendant's absence, and after hearing the evidence and submissions, found the offences proved and convicted the defendant imposing a \$300 fine and \$85 Court costs for each offence (total \$770).

File No:	LP08/14 – Penalty Notice Court Election
Offence:	Not park rear to kerb where indicated by sign
Act:	<i>Local Government Act 1993</i>
Final Costs:	\$0.00
Status:	Completed
Progress:	Matter was before the Court for first mention on 6 May 2014 where the defendant, Eugen-Stefan Sevcicu, entered a guilty plea with explanation. After hearing the evidence and submissions, the Magistrate found the offence proved and convicted the defendant imposing a \$100 fine and \$85 Court costs.

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.

Total Advice Matters (as at 6/05/2014)
Costs from 1 July 2013 for advice matters

11
\$23,833.20

9. Legal Costs Summary

The following summary lists the Planning and Environment Division's net legal costs for the 2012/2013 period.

Relevant attachments or tables	Costs Debit	Costs Credit
Class 1 Land and Environment Court - appeals against Council's determination of Development Applications	\$49,170.75	\$0.00
Class 1 Land and Environment Court - appeals against Orders or Notices issued by Council	\$1,450.00	\$0.00
Class 4 Land and Environment Court matters - non-compliance with Council Orders, Notices or prosecutions	\$45,444.78	\$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	\$23,833.20	\$0.00
Miscellaneous costs not shown elsewhere in this table	\$0.00	\$0.00
Costs Sub-Total	\$122,893.73	\$0.00
Overall Net Costs Total (GST exclusive)	\$122,893.73	

Officer's Recommendation

That the information be noted.

Committee's Recommendation: (Lound/Kolkman)

That the Officer's Recommendation be adopted.

CARRIED

Council Meeting 3 June 2014 (Mead/Rowell)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 82

That the Officer's Recommendation be adopted.

4.2 Compliance Services Quarterly Statistics January to March 2014

Reporting Officer

Acting Manager Compliance Services

Attachments

Compliance Services quarterly activity summary table (contained within this report)

Purpose

To provide Council with a quarterly report of activities for the Compliance Services Section.

Report

This report summarises key section activities and operational results for the reporting period January to March 2014.

1. Regulated premises inspections

Regulated premises inspection statistics presented in the Activity Summary Statistics Table are divided into food, public health and wastewater management system inspections.

All regulated premises are placed in a risk category. The frequency of inspections varies according to the risk classification. Additional inspections (ie reinspections) are sometimes undertaken when premises are found to be unsatisfactory and there is an identified need to follow up on outstanding matters.

a. Food premises

Within Campbelltown, there are approximately 786 regulated food premises separated into three categories requiring 1156 scheduled inspections per annum as follows:

Low Risk Premises 1 (inspections of market and events throughout the year) ie Festival of Fisher's Ghost, Ingleburn Alive, Riverfest, New Year's Eve and Australia Day.

Low Risk Premises 2 (inspected as required for food recalls or customer complaint) - includes food businesses such as pre-packaged food outlets, variety stores, confectionary shops, chemists, video stores, newsagents, teaching kitchens and tobacconists.

Medium Risk Premises (inspected once per year) - includes fruit and vegetable stores, service stations and convenience stores (serving unpackaged food), general grocery stores and minimal food preparation stores.

High Risk Premises (inspected twice per year) - includes restaurants, takeaway shops, cafes, clubs, childcare centres, supermarkets, unprepared fish shops, delicatessens, school canteens, mobile food vendors, boarding houses and charcoal chicken outlets.

Food premises category	No. of premises	No. of annual inspections
Low Risk 1	0	0
Low Risk 2	160	when required
Medium Risk	96	96
High Risk	530	1060
TOTAL	786	1156

Amendments to the *Food Act 2003* and the establishment of the Food Regulations Partnership between the NSW Food Authority and NSW councils in 2008, resulted in a mandated and more consistent role for local government in food regulation.

As a result, Council reviewed its food premises categories and inspection frequency in order to be consistent with other NSW councils.

A total of 175 food premise inspections were conducted for the reporting period, which is below the quarterly average inspection numbers (326) for 2012-2013. Of the 175 inspections undertaken, 42 (24%) food premises inspections were recorded as unsatisfactory. Follow up reinspections are undertaken where premises are found to be unsatisfactory at the time of initial inspection, to ensure they reach a satisfactory standard. In certain situations, Improvement Notices or Penalty Notices are issued under the *Food Act 2003* when necessary to encourage compliance.

b. Public health

Within Campbelltown, there are approximately 291 regulated premises separated into four risk categories requiring 307 scheduled inspections per annum.

- **Category 1 Premises** (inspected once per year) - beauty salons (low risk), boarding houses, funeral parlours, skin penetration (low risk procedure, ie waxing), hairdressers, nail artists
- **Category 2 Premises** (inspected twice per year) - brothels, skin penetration (high risk procedure - body piercing)
- **Category 3 Premises** (inspected once per year) - *Legionella* microbial control (air-conditioning towers)
- **Category 4 Premises** (inspected via complaints) - public and private swimming pools.

Health premises category	No. of premises	No. of annual inspections
Category 1 - Medium	152	152
Category 2 - High	39	78
Category 3 - Low	77	77
Category 4 - Swimming Pools	23	via complaints only
TOTAL	291	307

A total of two health premises inspections were conducted for the reporting period being below the quarterly averages (35) for 2012-2013.

Of the two regulated health premises inspections conducted during the reporting period, two (100%) of the premises inspected were recorded as unsatisfactory.

Follow up (reinspections) are undertaken where premises are found to be unsatisfactory at the time of initial inspection, to ensure the premises reach a satisfactory standard.

c. Wastewater management systems

The effective regulation and management of on-site wastewater management systems is necessary to ensure these systems operate properly and as a consequence, do not cause a threat to the environment or human health.

As part of its effort to more effectively manage and regulate wastewater management systems, Council revised its Wastewater Management Strategy which was formally adopted by Council on 7 July 2009.

The implementation of the revised strategy has continued and is staged, with various unsewered locations throughout the city being addressed progressively.

A total of 45 system inspections were conducted during the reporting period.

In addition, no new installations were approved and 34 existing systems were issued with an approval to operate during the reporting period.

2. Notices/Orders issued

Food Act 2003 Notices are usually issued where there is repeated failure by a proprietor to meet appropriate standards or where serious breaches are identified. A total of six *Food Act 2003* Notices were issued during the reporting period, being relatively consistent with quarterly average Food Act notice numbers (5) for 2012-2013.

Local Government Act 1993 Notices and Orders are issued for a range of matters including overgrown, unhealthy, unsafe or unsightly conditions. The number of *Local Government Act 1993* Notices and Orders issued during the reporting period was 64, being considerably higher than the corresponding quarter (34) in 2012-2013.

The number of *Swimming Pools Act 1992* Directions issued (57) requiring the erection of pool fencing or fencing repairs was considerably higher than the corresponding quarter (15) in 2012 - 2013.

Environmental Planning and Assessment Act 1979 Notices and Orders are issued by Land Use and Environmental Compliance staff, primarily to ensure that premises comply with conditions of development consent and to regulate unauthorised land use. A total of 56 Notices and Orders were served during the reporting period which is higher than quarterly averages (21) for 2012-2013.

Protection of the Environment Operations Act 1997 (POEO) Notices are issued for a variety of pollution matters including water pollution and waste dumping. The number of POEO Notices issued for the reporting period (12) was higher than quarterly averages (7) for 2012-2013.

3. Customer service requests

The Compliance Services Section receives a significant number of customer service requests across a broad range of issues as represented in attachment 1. A total of 946 customer service requests were received for the reporting period. Significant complaint categories were:

Category	January to March 2014
Parking (includes heavy vehicles)	173
Barking dogs	148
Abandoned motor vehicles	79
Illegal construction/development	76
Pollution	72
Animals (other)	41
Health (non-regulated premises)	85
Dogs straying	36
Overgrown land	73

4. Applications

Building Certificate Applications relate to certificates issued under Section 149A of the *Environmental Planning and Assessment Act 1979* and provide assurance to applicants on issue that Council will not take action to require the demolition or upgrade of the respective structure for a period of seven years after the date of issue of the certificate. These certificates are generally sought on sale of property.

The number of Building Certificate Applications (10) received during the reporting period was below the quarterly average (13) experienced in 2012-2013 period.

Staff have continued to seek applications for an approval to operate a system of waste water management from system owners, on a risk category basis. Ten applications for approval to operate a wastewater management system were received during the reporting period, lower than the average number of applications (35) received per quarter for 2012-2013. This variation is not unusual as application numbers fluctuate in response to bulk mail outs that are conducted from time to time to seek applications from different areas within the Local Government Area.

Three section 68 (*Local Government Act 1993*) event applications were received. These were for Ingleburn Alive Festival, NSW Little League Championships at Milton Park, Macquarie Fields and Celebration of Bangladesh National Independence Day at Seddon Park, Glenfield.

5. Impounding

The number of dogs impounded during this reporting period was 395, which is higher than the 324 dogs impounded for the corresponding quarter in 2012-2013. The percentage of dogs microchipped at the time of impounding was 84%.

A total of 275 cats were impounded throughout the reporting period which is higher than the number of cats impounded (172) in the corresponding quarter in 2012-2013. The number of cats that are microchipped at the time they were impounded is typically lower than the dogs and for this reporting period, 9% were microchipped.

The number of abandoned vehicles impounded for this quarter was six. None of these vehicles were released back to their owner, three were disposed of by Council, and Council is currently holding three abandoned vehicles.

38 shopping trolleys were impounded during the quarter.

6. Penalty notices

Council issues a range of penalty notices relating to various matters including parking offences (on street, Council car parks, school zones), companion animal registration, dog straying, littering, fail to comply with orders, food safety and fail to obtain or comply with development consent. Please refer to the table at attachment 1 for the number of penalty notices issued under the various offence categories.

The number of penalty notices issued for parking offences in Council car parks (720) was considerably higher than the number of penalty notices issued in the previous quarter (467). The number issued for on-street offences (527) was lower than the previous quarter (730).

7. Compliance/education programs

Compliance programs are an integral component of the section's activities and represent a coordinated proactive approach to targeting specific community concerns. Resources are deployed strategically on a local or citywide basis as an alternative to addressing complaints on an individual basis.

A summary of compliance programs undertaken during the reporting period follows:

a. Illegal parking in school zones

During the reporting period, 75 school locations were patrolled, resulting in the issue of 92 penalty notices.

b. Illegal sign statistics

A summary of sign statistics for the quarter can be located in attachment 1.

c. Illegal trail bike riding

Rangers continue to undertake a number of single agency patrols of known trail bike riding hot spots in response to community complaints.

d. Litter from vehicles

Monitoring of littering from vehicles was undertaken during the reporting period, no penalty notices were issued.

e. Shopping trolleys

Monitoring of areas in proximity of shopping centres was undertaken as part of daily patrols during the reporting round which resulted in 38 trolleys being tagged and impounded.

f. Truck parking

Two truck parking patrols were undertaken during the reporting period, resulting in 21 penalty notices being issued.

8. ACF operational issues

At Council's Ordinary Meeting of 18 June, 2013 Council adopted an Operational Change Plan for the ACF. Listed below is a summary of actions undertaken in response to plan implementation during the report period:-

- the ACF continues to work actively with 23 approved Rescue Groups
- the cattery upgrade was completed with the installation of cat cages to the facility
- euthanasia procedure document has been amended to require a list of all euthanased animals to be recorded together with the reasons for euthanasia
- consultation has occurred with Rescue Groups to finalise the Procedure document for Rescue Organisations
- website update process has been streamlined to facilitate more rapid updating of the website to show "lost" animals and "animals for sale"
- tender Evaluation Committee formed to progress arrangements to tender out the operation of the ACF. Tenders were called and 3 submissions were received which are currently being evaluated.

9. Other activities

A summary of other activities or initiatives implemented within the reporting period are listed below:

- Council continues to conduct surveillance of construction sites for sediment and erosion control compliance
 - active participation in the Food Regulation partnership, incorporating activity reporting and the review of inspection procedures and related documentation
 - continued participation in the Sydney South West Area Health Service Public Health Unit Skin Penetration Working Group to improve industry practice and compliance
 - patrols (by way of formalised agreement) of disabled parking at Campbelltown Mall and Macarthur Square continued through the reporting period
 - periodic (three yearly) review of risk identification documents for various environmental health, building, land use, animal care/control and ranger activities
 - ongoing review and development of Standard Operating Procedures relating to Section activities, tasks and programs
 - continuation of participation in the CAWS subsidised desexing program for cats and dogs jointly with the RSPCA and Sydney University Veterinary Training Hospital Camden Campus. This program provides subsidised desexing in identified hot spots locations within the city for low income earners
-

- An awning safety program was commenced with a survey undertaken to identify premises within the City that have awnings that overhang the footpath. Identified premises are to be notified of their responsibilities to ensure their awnings are structurally sound and requested to consider arranging an engineers assessment.

Officer's Recommendation

That the information be noted.

Committee's Recommendation: (Lound/Kolkman)

That the Officer's Recommendation be adopted.

CARRIED

Council Meeting 3 June 2014 (Mead/Rowell)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 82

That the Officer's Recommendation be adopted.

ATTACHMENT 1

Compliance Quarterly Activity Summary Statistics

Activity	2013-2014 Quarter Results				YTD
	1	2	3	4	
Regulated Premises Inspections					
Food	438	258	175		871
Public Health	37	105	2		144
Wastewater Management System	62	100	45		207
Total	537	463	222		1222
Notices/Orders Issued					
<i>Food Act 2003</i>	4	5	6		15
<i>Local Government Act 1993</i>	60	54	64		178
<i>Swimming Pools Act 1992</i>	22	23	57		102
<i>Protection of Environment Operations Act 1979</i>	9	6	12		27
<i>Environmental Planning and Assessment Act</i>	38	49	56		143
<i>Companion Animals Act 1998</i>	2	8	10		20
Total	135	145	194		474
Customer Requests					
Abandoned Motor Vehicles	94	67	79		240
Animals (other)	29	25	41		95
Barking Dogs	124	88	148		360
Dog Attacks	24	18	19		61
Dog Straying	49	48	36		133
Food/Health (regulated)	18	18	23		59
Footpath Obstruction	10	20	15		45
Health (other)	61	76	85		222
Heavy Vehicle Parking	44	34	37		115
Illegal Constructions/Development	93	92	76		261
Misuse of Council Park	7	1	5		13
Overgrown Land	36	71	73		180
Parking (General)	90	96	136		322
Pollution	80	60	72		212
Rubbish Dumping/Litter	63	47	32		142
Shopping Trolley	22	19	19		60
Signs	8	6	8		22
Swimming Pool Fence	5	19	15		39
Trail Bikes	12	18	19		49
Tree Removal/Dangerous	9	11	8		28
Total	878	834	946		2658
Applications					
Building Certificates	7	18	10		35
Approval to Operate Effluent Disposal System Section 68 (<i>Local Government Act 1993</i>)	4	222	10		236
Event Approvals Section 68 (<i>Local Government Act 1993</i>)	6	5	3		14
Total	17	245	13		275

Activity	2013-2014 Quarter Results				YTD
	1	2	3	4	
Impounding					
Abandoned Vehicles	8	7	6		21
Shopping Trolleys	0	25	38		63
Dogs (Incoming)					
Impounded	362	355	395		1112
Surrendered	121	101	103		329
Dogs (Outgoing)					
Released to Owner	225	127	250		552
Sold	111	48	81		240
Released to rescue organisation	35	75	61		171
Euthanased – Surrendered by Owner	56	52	47		155
Euthanased – Restricted Dog	1	1	1		3
Euthanased – Health/temperament	35	32	32		99
Euthanased – Unable to re-home	15	16	20		51
Total	478	807	492		1777
Cats (Incoming)					
Impounded	140	261	275		676
Surrendered	25	71	59		155
Cats (Outgoing)					
Released to Owner	5	7	18		30
Sold	28	34	29		91
Released to rescue organisation	3	77	48		128
Euthanased – Surrendered by Owner	13	35	44		92
Euthanased – Health/temperament	101	142	137		380
Euthanased – Unable to re-home	15	13	22		50
Total	165	640	298		1103
Penalty Notices					
Companion Animals	256	117	68		441
Environmental - includes litter and waste dumping	47	43	26		116
General - Includes Public Health and Food Safety	18	6	20		44
Land Use	1	2	2		5
Parking (car parks)	491	467	720		1678
Parking (on street)	758	730	527		2015
Total	1571	1365	1363		4299
Compliance Programs					
Illegal Parking in School Zones					
Patrols	55	79	75		209
Warnings	1	0	13		14
Penalty Notices	123	142	92		357

Activity	2013-2014 Quarter Results				YTD
	1	2	3	4	
Illegal Signs					
Complaints – Council property	8	5	6		19
Complaints – Private property	0	0	2		2
Letters sent	0	0	1		1
Cautions issued	0	0	0		0
Fines issued	0	0	0		0
Removed (posters from poles)	226	180	274		680
Illegal Trail Bike Riding					
Joint Patrols	1	0	0		1
Bikes Seized	0	0	0		0
Penalty Notices (Police)	0	0	0		0
Penalty Notices (Council)	0	0	0		0
Charges	0	0	0		0
Juvenile Cautions	0	0	0		0
Litter from Vehicles	2	1	0		3
Patrols	2	3	0		5
Penalty Notices					
Shopping Trolleys					
Patrols	1	0	0		1
Trolley's Tagged	13	25	38		76
Trolleys Impounded	0	25	38		63
Contractor Notified	0	25	9		34
Truck Parking					
Patrols	5	3	2		10
Penalty Notices	32	25	21		78

5. GENERAL BUSINESS

Nil.

Confidentiality Motion: (Lound/Thompson)

That the Committee in accordance with Section 10 of the *Local Government Act 1993*, move to exclude the public from the meeting during discussions on the items in the Confidential Agenda, due to the confidential nature of the business and the Committee's opinion that the public proceedings of the Committee would be prejudicial to the public interest.

CARRIED

18. CONFIDENTIAL ITEMS

18.1 Confidential Report Directors of Companies

Reason for Confidentiality

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

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

There being no further business the meeting closed at 10.05pm.

C Mead
CHAIRPERSON
