

Reports of the Planning and Environment Committee Meeting held at 7.30pm on Tuesday, 12 August 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 12 August 2014

Present

His Worship the Mayor, Councillor C Mead
Councillor R Kolkman
Councillor D Lound
Councillor A Matheson
Councillor M Oates
Councillor T Rowell
Councillor R Thompson
General Manager - Mr P Tosi
Director Planning and Environment - Mr J Lawrence
Acting Director Planning and Environment - Mr J Baldwin
Manager Communications and Marketing - Mrs B Naylor
Manager Community Resources and Development - Mr B McCausland
Manager Compliance Services - Mr P Curley
Manager Cultural Services - Mr M Dagostino
Manager Executive Services - Mr N Smolonogov
Manager Financial Services - Mrs C Mears
Acting Manager Sustainable City and Environment - Ms R Winsor
Acting Manager Governance and Risk - Mr C Taylor
Acting Coordinator Animal Care Facility - Mr J Greiss
Coordinator Procurement and Contracts - Ms K Stares
Executive Assistant - Mrs K Peters

Apology (Thompson/Kolkman)

That the apology from Councillor Greiss 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.

1. WASTE AND RECYCLING SERVICES

No reports this round

2. SUSTAINABLE CITY AND ENVIRONMENT

2.1 Minutes of the Heritage Protection Sub Committee Meeting held on 22 May 2014

Reporting Officer

Manager Sustainable City and Environment

Attachments

Minutes of the Heritage Protection Sub Committee meeting held on 22 May 2014.

Purpose

To seek Council's endorsement of the minutes of the Heritage Protection Sub Committee meeting held on 22 May 2014.

Report

Detailed below are the recommendations of the Heritage Protection Sub Committee. The recommendations have been reviewed by Council officers and are now presented for the consideration of Council. The recommendations requiring an individual resolution of Council are detailed in the officer's recommendation.

Recommendations of the Heritage Protection Sub Committee

Reports listed for consideration

7.1 Development Application for Demolition of Etchells Cottage, 60 Hansens Road, Minto Heights

1. That the Heritage Protection Sub Committee notes the information and representations provided by the applicant / owner Mr Bob Etchells.
 2. That the Heritage Protection Sub Committee having considered the Development Application 822/2014/DA-DEM for the demolition of Etchells Cottage and timber barn due to extensive damage and safety concerns, advise Council that it has no concerns with the application progressing for further consideration.
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3. That Council be requested to consider applying a condition of consent requiring that before demolition commences that the applicant submit an archival record (plan and photos) to the Campbelltown and Airds Historical Society.

7.2 Development Application for Reconstruction of a Bridge, Road Restoration and Vegetation Management Works at 'Beulah', Appin Road, Gilead

That the Heritage Protection Sub Committee having considered the Development Application 2002/2013/2DA-CW for the reconstruction of a bridge, road restoration and vegetation management works at 'Beulah', No. 767 Appin Road, Gilead advise Council that it has no concerns with this application progressing for further consideration.

7.3 Tree Removal Application - St Peter's Anglican Cemetery

That the Heritage Protection Sub Committee support the tree removal application TA 5266/2014 for the removal of four trees at St Peters Anglican Church Cemetery, subject to compensatory planting being undertaken by the applicant to the requirements of Council's Tree Specialist.

7.4 Development Application for the construction of a Commercial Building (Health Consulting Rooms) with Associated Parking and Landscaping, Nos. 12-14 Queen Street Campbelltown

That the Heritage Protection Sub Committee having considered the Development Application 824/2014/DA-C for the construction of a commercial building with associated parking and landscaping at Lot 1 DP 216516, Nos. 12-14 Queen Street, Campbelltown and advise Council it has no objection with this Development Application progressing for further consideration.

7.5 Maryfields Planning Proposal

That the Heritage Protection Sub Committee notes the request submitted to Council to prepare a Planning Proposal for 'Maryfields', located at Narellan Road, Campbelltown.

8.1 Edmondson Park Works

That the information be noted.

8.2 Silos located on Appin Road, Campbelltown

1. That Campbelltown City Council raise concerns with the Roads and Maritime Services in relation to the poor roofing condition of the Silos located on Appin Road, Campbelltown.
2. That Council officers provide an update at the next Heritage Protection Sub Committee meeting in relation to investigations into the current condition of the Silos located on Appin Road, Campbelltown.

8.3 Campbellfield (Redfern's Cottage)

That the information be noted.

8.4 Heritage Medallion

That the information be noted.

8.5 Campbelltown City Council - Council's New Consolidated Local Environmental Plan

That the information be noted.

Officer's Recommendation

That the Minutes be noted.

Committee's Recommendation: (Oates/Thompson)

That the Officer's Recommendation be adopted.

CARRIED

Council Meeting 19 August 2014 (Mead/Thompson)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 146

That the Officer's Recommendation be adopted.

ATTACHMENT 1

Minutes of the Heritage Protection Sub Committee

Held Thursday 22 May 2014 in Committee Room 3

Meeting Commenced: 6.02pm

1. Acknowledgement of Land

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

2. Attendance and Apologies:

Councillor Ted Rowell (Chairperson) - Campbelltown City Council
James Gardner - Qualified Person
Kay Hayes - Campbelltown Airds Historical Society
Robert Wheeler - National Parks Association
Learna Coupe - Campbelltown Airds Historical Society
Sue Kijurina - Campbelltown Airds Historical Society
Mario Majarich - National Parks Association Alternate Delegate

Also in Attendance: Jim Baldwin - Acting Director Planning and Environment
Jeff Burton - Strategic Planner
Jane Worden - Executive Support
Clarice Sretch - Campbelltown Airds Historical Society
Emma Page - Development Planner
Bob Etchells - Owner of Etchells Cottage
Ian Innes - Asst. Director Heritage, Sydney Living Museums

Apologies: Councillor Bob Thompson - Deputy Chair

Sub Committee's Recommendation: (Rowell/Hayes)

That the above apologies be accepted.

CARRIED

3. Declarations of Interest

There were no Declarations of Interest made at this meeting.

4. Minutes of the Previous Meeting

Reporting Officer

Manager Sustainable City and Environment

Report

The Minutes of the Heritage Protection Sub Committee Meeting held on 20 February 2014, copies of which were circulated to each Sub Committee Member, were presented to Council for adoption at its meeting held on 8 April 2014.

Council resolved to adopt the Minutes in accordance with the Officer's recommendation.

Officer's Recommendation

That the information be noted.

Sub Committee's Recommendation: (Coupe/Hayes)

That the information be noted.

CARRIED

5. Business Arising from the Previous Minutes

Reporting Officer

Manager Sustainable City and Environment

Purpose

To report on business arising from the Minutes of the Heritage Protection Sub Committee Meeting held on 20 February 2014.

Report

The Minutes of the Heritage Protection Sub Committee meeting (held on 20 February 2014) were considered and endorsed by Council on 8 April 2014.

The matters of business arising from the previous Minutes relate to the following relevant items as detailed below:

7.1 Heritage Listed Glenalvon House – Oral Presentation by Mrs Gerri Nicholas

That Council be requested to write a letter of appreciation to Mrs Gerri Nicholas for her efforts in preparing and making the oral presentation to the Heritage Protection Sub Committee.

On 7 May 2014, Council forwarded letter of appreciation to Mrs Gerri Nicholas in accordance with the above resolution.

7.2 2014 Heritage Medallion Nominations

That the Director Planning and Environment present a separate confidential report to Council seeking endorsement of the Heritage Protection Sub Committee's recommended recipient of the 2014 Heritage Medallion.

A confidential report recommending Uncle Ivan Wellington as the recipient of the 2014 Heritage Medallion was considered and endorsed by Council at its meeting of 11 March 2014.

The Heritage Medallion and Forum was held on Thursday 17 April, 7pm at Campbelltown Arts Centre. The event was well attended, reaching close to capacity with over 60 people attending on the night.

Local Indigenous dance group Amaroo Dangara opened the night followed by an Aboriginal Acknowledgement from Uncle Norm Newlin and an official opening by Mayor of Campbelltown, Councillor Clinton Mead.

2.1 Minutes Of The Heritage Protection Sub Committee Meeting Held On 22 May 2014

Uncle Ivan Wellington was awarded the 2014 Heritage Medallion, with his contribution to Campbelltown's heritage warmly acknowledged by Councillor Mead and Manager Cultural Services, Michael Dagostino.

Following the presentation of the Medallion, Brandy Murphy facilitated a panel discussion involving Uncle Norm Newlin, Charles Mundine and Tamika Briggs, diverse representatives from Indigenous organisations and Indigenous community members from Campbelltown and South West Sydney. Panel presenters shared some of their personal life journeys, as well as their perspective on what heritage means to them and their communities. A question and answer session followed the presentations, which invited audience members to comment, enquire and discuss some of the themes addressed throughout the evening.

Officer's Recommendation

That the information be noted.

Sub Committee's Recommendation: (Hayes/Gardner)

That the information be noted.

CARRIED**6. Correspondence - NIL****7. Reports****7.1 Development Application for Demolition of Etchells Cottage, 60 Hansens Road, Minto Heights****Reporting Officer**

Manager Development Services

Purpose

The purpose of this report is to:

1. Seek comments from the Heritage Protection Sub Committee with respect to Development Application 822/2014/DA-DEM for the demolition of (local heritage listed) Etchells Cottage at 60 Hansens Road, Minto Heights.
2. Allow the opportunity for the applicant and family descendant of the original owner of the listed building to make direct representations to the Heritage Protection Sub Committee in support of the subject application.

Property Description	Lot 322 DP 710690, No. 60 Hansens Road, Minto Heights
Application No	822/2014/DA-DEM
Applicant	R & J Etchells
Owner	Mr Robert William Etchells and Mrs Judith Alberta Etchells
Statutory Provisions	Interim Development Order No. 13 Campbelltown (Sustainable City) Development Control Plan 2012
Date Received	9 April 2014

Report

Etchell's Cottage is located at No. 60 Hansens Road, Minto Heights, and is listed as an item of local heritage significance under Interim Development Order No.13 – City of Campbelltown (IDO 13).

Council's records indicate that the heritage significance of Etchell's Cottage relates to its historical association with the original owner Albert Etchells (and his family) since he purchased the property in 1913.

The current owner of the land, Mr Bob Etchells, has submitted a development application seeking Council's consent to demolish the cottage and associated timber barn given the deteriorated state of the buildings.

The applicant is the grandson of Albert Etchells, and has requested the opportunity to make direct representations to the Heritage Protection Sub Committee at its meeting on 22 May 2014 in order to provide additional information.

Assessment

A preliminary assessment of the application has been undertaken by Council's planning staff in accordance with the relevant statutory considerations, and the following matters are provided for consideration by the Heritage Protection Sub Committee:

Interim Development Order No. 13 – City of Campbelltown

The land is zoned 7(b) Scenic Protection Area under IDO 13 and the proposed development (demolition) is permissible with Council's consent under IDO No. 13.

Clause 17 of IDO 13 requires Council to make an assessment of the significance of the heritage item on the land (Etchells Cottage), and the extent to which carrying out the proposed development would affect the significance of the item and its site.

Council's records indicate that the item has historical significance given its association with the original owner Albert Etchells and family since 1913. Etchells Cottage also has some degree of aesthetic significance as a rustic vernacular cottage of the early 20th century.

It is evident that the demolition of the cottage and outbuilding would extinguish the physical association of the building with the property. The key issue for Council to consider is whether the poor state of the building(s) justifies the proposed demolition.

The basis of the request for demolition relates to the poor condition of the subject buildings and application and the associated safety hazard. A Building Report prepared by Childs Property Inspections, dated 19 February 2014, was submitted in support of the application. The report concludes that the item is 'beyond restoring' and a qualified contractor should be called to dismantle the structure.

The applicant, Mr Bob Etchells, has requested the opportunity to make direct representations to Council's Heritage Sub-Committee to discuss the application and possible ways to create a first-hand historical record of the item.

Conclusion

Council has received a development application for the demolition of Etchells Cottage at No 60 Hansens Road, Minto Heights, which is listed as an item of local significance under IDO 13.

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Given the heritage significance of the item, the application has been referred to the Heritage Protection Sub Committee for consideration prior to Council's determination of the application.

The applicant is the grandson of the original owner, Albert Etchells, and has requested the opportunity to make direct representations to the Heritage Protection Sub Committee in order to provide additional information and discussion relevant to the proposal.

Officer's Recommendation

1. That the Heritage Protection Sub Committee notes the information and representations provided by the applicant / owner Mr Bob Etchells.
2. That the Heritage Protection Sub Committee consider Development Application 822/2014/DA-DEM for the demolition of Etchells Cottage at Lot 322 DP 710690, No. 60 Hansens Road, Minto Heights and provide comments to assist Council in its determination of the application.

Sub Committee Note:

Mr Bob Etchells owner of the Etchells Cottage at Lot 322 DP 710690, No. 60 Hansens Road, Minto Heights provided a photographic and oral presentation to the Heritage Protection Sub Committee in relation to the current state of Etchells Cottage in support of Development Application 822/2014/DA-DEM for the demolition of Etchells Cottage and associated barn.

Sub Committee's Recommendation: (Wheeler/Hayes)

1. That the Heritage Protection Sub Committee notes the information and representations provided by the applicant / owner Mr Bob Etchells.
2. That the Heritage Protection Sub Committee having considered the Development Application 822/2014/DA-DEM for the demolition of Etchells Cottage and timber barn due to extensive damage and safety concerns advised Council that it has no concerns with the application progressing for further consideration.
3. That Council be requested to consider applying a condition of consent requiring that before demolition commences that the applicant submit an archival record (plan and photos) to the Campbelltown and Airds Historical Society.

CARRIED**7.2 Development Application for Reconstruction of a Bridge, Road Restoration and Vegetation Management Works at 'Beulah', Appin Road, Gilead****Reporting Officer**

Manager Development Services

Purpose

The purpose of this report is to seek comments from the Heritage Protection Sub Committee with respect to Development Application 2002/2013/DA-CW for reconstruction of a bridge; road restoration and vegetation management works on the site of the State Heritage Register listed Beulah Homestead, Appin Road, Gilead.

Property Description Lot 23 DP 1132437, No. 767 Appin Road, Gilead

Application No	2002/2013/DA-CW
Applicant	Historical Houses Trust NSW
Owner	Historic Houses Trust NSW
Statutory Provisions	Interim Development Order No.15 Campbelltown (Sustainable City) Development Control Plan 2012
Date Received	25 September 2013

Report

The subject property 'Beulah' is owned by Historic Houses Trust (HHT) New South Wales, and is currently being managed by HHT as an Endangered Houses Fund project. The Beulah property is listed on the following heritage registers:

- State Heritage Register, Permanent Conservation Order No 368
- Schedule 4 of Interim Development Order 15
- Heritage Item of Campbelltown in the Appendix to DCP No. 83; and
- Local Heritage Register for Gilead.

The subject application relates to restoration works being undertaken on the site by HHT, which relate to the reinstatement and repair of the original driveway over a creek and through an ecological biobank area, to the Beulah Homestead.

Proposed Development

A development application was lodged with Council on 25 September 2013 for the reconstruction of a bridge, road restoration and vegetation management works at 'Beulah', No. 767 Appin Road, Gilead.

Currently, the bridge is in a state of disrepair. The proposed restoration of the bridge involves the following works:

- Replacement of collapsed timber beam structures with concrete beams to the same size and configuration as the original, with the exception of a timber beam retained at each outer edge; and
- New timber deck with pedestrian pathways and handrails on both sides of the bridge. The proposal also includes the following site works
- Reinstatement of the roadway to allow access to the back areas of the property. This work would not involve the construction of new sections of road. The reinstatement would follow the same alignment as the existing track and would not involve any grading of the current road surface. A new layer of crushed sandstone (150mm thick) would be compressed onto the roadway to form the new surface. The reinstatement would include minor cutting and filling to level out the existing road surface
- The creation of a 10 metre easement along the full width of the road and bridge to allow for the reinstatement of the road which would include removing 94 trees (which is included as part of the Biobank Agreement).

Assessment

An assessment of the application has been undertaken by Council's planning staff in accordance with the relevant statutory considerations, and the following matters are provided for consideration by the Heritage Protection Sub Committee:

Interim Development Order No.15 - City of Campbelltown

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The land is zoned 1 Non Urban (100 ha. minimum) under Interim Development Order No.15 - City of Campbelltown (IDO 15). The proposed development relates to the existing structure and use of the site and is permissible with Council's consent under IDO 15.

Clause 19(2) of IDO 15 requires Council to make an assessment of the significance of the heritage item on the land (Beulah Homestead), and the extent to which carrying out the proposed development would affect the significance of the item and its site.

The application has been publically exhibited and is currently under assessment.

Campbelltown (Sustainable City) Development Control Plan 2012

Campbelltown (Sustainable City) Development Control Plan 2012 (SCDCP2012) applies to the subject property and has been considered as part of the assessment of the proposal. The requirements of SCDCP 2012 relating to heritage conservation are being addressed as part of the equivalent consideration of the potential heritage impacts under IDO 15.

NSW Heritage Council

The applicant has previously referred the proposal to the NSW Heritage Council and the following comments were received:

- While Beulah Homestead is listed on the State Heritage Register, the bridge itself falls outside the curtilage for this listing
- The Bridge is considered to be contemporary with the construction of Beulah and to be one of the oldest surviving bridges on the Australian mainland and is believed to be the only example of its type constructed by a private owner in colonial times
- The proposal will allow the bridge to continue to be used in a way that supports the tenancing of Beulah Homestead while acknowledging and referencing the Bridge's original design and fabric
- The reinstatement of the roadway must ensure that the sandstone retaining walls or the original stone road surfacing are not negatively impacted and will be protected, and if possible restored, as part of the works
- The proposed sandstone treatment for the road resurfacing is considered appropriate as it would provide a much more sympathetic interpretation of what the road originally would have looked like more than a modern, sealed treatment such as bitumen. The areas of original packed stones (cobble) are to be covered with geo-fabric underneath the new sandstone layer for protection and to provide separation between old and new fabric.

NSW Office of Water

Given the proposed bridge works over a watercourse, the application was also referred to the application to the Office of Water pursuant to Section 91A of the Environmental Planning and Assessment Act 1979 and the Water Management Act 2000. A response from the Office of Water was received which included its General Terms of Approval. If the application is approved by Council the General Terms of Approval would form part of the consent conditions.

Conclusion

On 25 November 2013, Council received a development application for the reconstruction of a bridge, road restoration and vegetation management at the state heritage listed Beulah Homestead at 767 Appin Road, Gilead.

The proposed development is permissible under IDO 15 with Council's consent and has been granted general terms of approval by the relevant state authorities.

2.1 Minutes Of The Heritage Protection Sub Committee Meeting Held On 22 May 2014

Given the heritage significance of the subject site, the application has been referred to the Heritage Protection Sub Committee for information and comment prior to Council's determination of the application.

Officer's Recommendation

That the Heritage Protection Sub Committee consider Development Application 2002/2013/2DA-CW for the reconstruction of a bridge, road restoration and vegetation management works at 'Beulah', No. 767 Appin Road, Gilead and provide comments to assist Council in its determination of the application.

Sub Committee Note:

Mr Ian Innes, Assistant Director Heritage at Sydney Living Museums provided the Heritage Protection Sub Committee with a photographic and oral presentation in support of the Development Application 2002/2013/DA-CW for the reconstruction of a bridge, road restoration and vegetation management works at 'Beulah', No. 767 Appin Road, Gilead.

Sub Committee's Recommendation: (Wheeler/Hayes)

That the Heritage Protection Sub Committee having considered the Development Application 2002/2013/DA-CW for the reconstruction of a bridge, road restoration and vegetation management works at 'Beulah', No. 767 Appin Road, Gilead advise Council that it has no concerns with this application progressing for further consideration.

CARRIED

7.3 Tree Removal Application – St Peter's Anglican Cemetery

Reporting Officer

Manager Development Services

Attachments

Tree Removal Application (distributed under separate cover)

Purpose

To seek the endorsement of the Heritage Protection Sub Committee of an application submitted for tree removal at the local heritage listed St Peters Anglican Church Cemetery.

Report

St Peters Anglican Church Cemetery, located in Cordeaux Street, Campbelltown, is listed as a local heritage item within the 'St Peters Anglican Church group' in *Campbelltown (Urban Area) Local Environmental Plan 2002*. In this respect it is noted that the St Peters Anglican Church Group comprises the Church built in 1821-22; Cemetery established in 1822; and the Rectory built in 1887.

On 2 May 2014, Council received a tree removal application seeking Council approval for the removal of four existing trees located near the eastern boundary of the St Peter's Anglican Church Cemetery, adjacent to St Peter's Anglican Primary School. A copy of the application, including photos of the subject trees, is provided as Attachment 1.

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The tree removal application relates to an area of the cemetery that is subject to a current development application (DA) for the construction of new columbarium walls. This DA has been deferred by Council for additional information and remains undetermined at this time. In this respect, it is noted that Council Officers met with the site owner and suggested any proposed tree removal could be included for consideration under this related DA. However, in this instance the applicant has submitted a separate tree removal application to expedite the resolution of this matter separate to the DA assessment process.

The application has been submitted by Mr Nigel Fortescue on behalf of the site owner, who has provided the following supporting information:

Following the tragedy at Pitt Town Public School, we like many charitable and education oriented organisations underwent a full tree audit. This was performed by Tom Reeve in conjunction with two local arborist firms. As part of that, we agreed with two previous assessments that four trees in the south east corner of the cemetery should be removed. Other trees will also be subject to further applications but these were judged to be of first importance.

These trees are subject to a DA linked to the building of a new columbarium wall for the RSL in that area but given:

- 1. The proximity of the trees to St Peter's Anglican Primary School;*
- 2. The state of the trees and risk they pose to children and visitors to the cemetery;*
- 3. The previous approval given for removal (29/7/10 Permit: 0433 File Ref: 5355);*
- 4. The delays in approval of the DA due to ongoing concerns with the wall location; and*
- 5. Campbelltown Councils own approach to trees in the Heritage area (eg. the tree in Mawson Park next to the Elizabeth Campbell Macquarie statue that dropped a branch and was removed the next day);*

we decided to phone council and were encouraged to lodge a tree removal application in an attempt to expedite the process.

Only the Oak tree holds heritage significance. Stella Vernon, our archivist and members of CAHS, writes:

"You know how interested I am in History. This tree was planted as a tribute to Reverend Alkin, because he came from England. He died in 1921 so it is almost ninety years old and for that reason it is valued and the variety is on Council's significant tree register and for that reason it has been kept in spite of its gradual decline. It is however eaten out in the middle, as is shown by Rob Hazell's excellent photos. In addition it has also caused havoc with the headstone next to Revd Alkin's and now the roots have half destroyed Revd Alkin's grave as well. There is a new small oak on the opposite side of the path, which is growing well and will take over from the first one."

Conclusion

St Peters Anglican Church Cemetery and is listed as an item of local heritage significance under *Campbelltown (Urban Area) Local Environmental Plan 2002*. The cemetery is of historical significance as one of the oldest cemeteries in Australia, and is integral to the original town plan for Campbelltown marked out by Governor Macquarie. The cemetery, in conjunction with St Peters Church, is of historical significance for its ability to demonstrate 19th century religious practices.

As part of the assessment of any development within the site, including tree removal, Council must consider the potential impacts to the heritage significance of the site. Whilst Council does not have clear historical records to identify the original gardens and landscaping on the site, it is evident that the existing trees on the land are not original plantings given that the cemetery dates from 1822.

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However, it may be possible that the current stand of trees on the site may be self-seeded from the original specimens and therefore may represent an historic link.

Additionally, Council Officers have verified the information provided by the applicant to confirm that the Oak tree proposed for removal was planted as a tribute to Reverend Thomas Alkin, who died in 1921 and was a recognised Australian Pioneer, botanist and long term Minister of the Church of England.

Council's Tree Specialist has made an assessment of the condition of the trees, and has indicated that the proposed removal of the trees could be supported having regard to their general poor condition, limited life span, and impacts upon cemetery infrastructure.

However, should Council support the application, it is considered essential that suitable compensatory planting of appropriate species be undertaken to conserve the landscaping qualities of the site. The applicant has advised that it is the intention of the Cemetery Trust to replace the trees proposed for removal with other species that are more appropriate for proximity to the school and with different root patterns to ensure graves are not damaged.

Further information and discussion on the condition of the trees and compensatory planting will be provided by Council's Tree Specialist at the Heritage Protection Sub Committee meeting of 22 May 2014.

Officer's Recommendation

That the Heritage Protection Sub Committee supports the tree removal application TA 5266/2014 for the removal of four trees at St Peters Anglican Church Cemetery, subject to compensatory planting being undertaken by the applicant to the requirements of Council's Tree Specialist.

Sub Committee's Recommendation: (Coupe/Gardner)

That the Heritage Protection Sub Committee support the tree removal application TA 5266/2014 for the removal of four trees at St Peters Anglican Church Cemetery, subject to compensatory planting being undertaken by the applicant to the requirements of Council's Tree Specialist.

CARRIED**7.4 Development Application for the Construction of a Commercial Building (Health Consulting Rooms) with Associated Parking and Landscaping, Nos. 12-14 Queen Street Campbelltown****Reporting Officer**

Manager Sustainable City and Environment

Attachments

Heritage Impact Statement including architectural plans (Distributed Under Separate Cover)

Purpose

The purpose of this report is to seek comments from the Heritage Protection Sub Committee with respect to Development Application 824/2014/DA-C for the construction of a commercial building (health consulting rooms) with associated parking and landscaping at No. 12-14 Queen Street, Campbelltown.

Property Description Lot 1 DP 216516

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	Nos. 12-14 Queen Street, Campbelltown
Application No	824/2014/DA-C
Applicant	Macarthur Natural Health Clinic
Owner	Nicholas Borg
Statutory Provisions	Campbelltown (Urban Area) Local Environmental Plan 2002 Campbelltown (Sustainable City) Development Control Plan 2012
Date Received	9 April 2014

Report

A development application was lodged with Council on 9 April 2014 that relates to the state heritage listed Warby's Stables site in Queen Street Campbelltown. As such, the application has been referred to Council's Heritage Sub-Committee for consideration and comment.

The site is located at the northern end of Queen Street, and abuts the Moore Oxley Bypass to the east, Campbelltown Performing Arts High School to the south east, Colonial Motor Inn to the south west and Tim's Garden Centre to the north.

The Warby's Stables building occupies part of the site and is one of two remaining structures from the Leumeah Estate. The other remaining structure from the Leumeah Estate is the former Warby's Barn, which is now used as a motel on an adjacent parcel of land.

Proposed works under the subject application are summarised as follows:

- Construction of a commercial development at the south-eastern section of the site which would provide for six commercial leases with a total of 39 consulting rooms
- The building would consist of two main buildings joined by a small bridge section. The combined ground floor area of both buildings would measure approximately 471m². The first floor over the south-eastern section of the building would measure approximately 237m²
- Landscaping works including the removal of two (2) She Oaks to the north of the property and one Eucalypt to the south boundary of the site. Landscaping works would also include planting of seven large trees ; and
- 55 car parking spaces including four accessible spaces.

No work or demolition is proposed to be carried out on the existing heritage building.

Assessment

A preliminary assessment of the application has been undertaken by Council's planning staff in accordance with the relevant statutory considerations, and the following matters are provided for consideration by the Heritage Protection Sub Committee:

Campbelltown (Urban Area) Local Environmental Plan 2002

The land is zoned 10(a) Regional Comprehensive Centre under *Campbelltown (Urban Area) Local Environmental Plan 2002* (CLEP). The proposed is permissible with Council's consent under CLEP.

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Clause 44(5) of CLEP requires Council to make an assessment of the significance of the heritage item on the land (Warby's Stables), and the extent to which carrying out the proposed development would affect the significance of the item and its site.

The applicant has submitted a Heritage Impact Statement (HIS) prepared by Adaptive Architects Pty Ltd, dated January 2014 (refer Attachment 1). The following Statement of Significance is given:

'Old Warby's Stables date from a period before the development of the town of Campbelltown when the area was the rough country of the Cowpastures and is amongst a very rare group of surviving buildings in NSW dating from the pre-1820 period. The building is one of the few surviving buildings of this period and demonstrates aspects of the early pioneering days of Colonial life. The building is associated with John Warby. An important early settler who played an important role in the early expansion and exploration of the southern areas of Sydney Town. His exploration, relationship with local Aboriginal groups, associated with Macquarie and early pastoral pursuits make him an important figure in the development of the Colony of NSW, as well as the local area. Old Warby's Stables demonstrates a high level of sophistication in its stonework detailing for the period and is evidence of a substantial and successful land holding. While generally rudimentary the building demonstrates some elements of refined design and execution such as the elliptical arched opening. As an early Colonial building, the building should be regarded as an icon of Campbelltown's historic identity, and is an important structure in defining the character and creativity of this early era.'

The HIS concludes that the proposal is acceptable in terms of its impact on the heritage values. It also states that there would be no impact upon the Stables Building as no physical works to the building are proposed.

Council is currently assessing the information provided by the applicant, which includes the potential impacts of the proposed development on the listed heritage curtilages and visual setting of Warby's Barn and nearby Stables.

As the property is listed on the State Heritage Register, Council's assessment of the potential heritage impacts of the proposal will be guided by advice and comments from the NSW Office of Environment and Heritage (OEH). Comments from OEH have not been received at this time, however a verbal update on the progress of the assessment will be provided by Council's Manager Development Services at the Heritage Protection Sub Committee Meeting on 22 May 2014.

Conclusion

On 9 April 2014, Council received a development application for the construction of a commercial building with associated parking and landscaping at Nos. 12-14 Queen Street, Campbelltown, which is listed as an item of State heritage significance.

Given the heritage significance of the subject site, the application has been referred to the Heritage Protection Sub Committee for information and comment to assist Council's assessment and determination of the application.

Officer's Recommendation

That the Heritage Protection Sub Committee consider Development Application 824/2014/DA-C for the construction of a commercial building with associated parking and landscaping at Lot 1 DP 216516, Nos. 12-14 Queen Street, Campbelltown and provide comments to assist Council in its determination of the application.

Sub Committee's Recommendation: (Wheeler/Hayes)

That the Heritage Protection Sub Committee having considered the Development Application 824/2014/DA-C for the construction of a commercial building with associated parking and landscaping at Lot 1 DP 216516, Nos. 12-14 Queen Street, Campbelltown and advised Council it has no objection with this Development Application progressing for further consideration.

CARRIED**7.5 Maryfields Planning Proposal****Reporting Officer**

Manager Sustainable City and Environment

Purpose

To advise the Heritage Protection Sub Committee of a request submitted to Council to prepare a Planning Proposal for the monastery site known as 'Maryfields', located at Narellan Road, Campbelltown.

Report

Council has received a request to prepare a Planning Proposal relating to the monastery site known as 'Maryfields', which is a 44 hectare parcel of land located at the intersection of Narellan Road and the Hume Motorway and under the ownership of the Franciscan Friars and Poor Clare Nuns.

The religious occupation and use of the site dates back to the 1930s, and includes the 'Stations of Cross' religious statues which are located within an open area near the south western corner of the site and are collectively listed as a local item of heritage significance under *Campbelltown (Urban Area) Local Environmental Plan 2002*. The statues are displaying various stages of deterioration due to their prolonged exposure to weathering and some vandalism activity.

The proposal submitted to Council includes a conceptual masterplan (as attached) that illustrates the intended layout of future land uses over the site, including residential development, seniors living precinct, open space areas, and a centrally located business park. The existing religious statues are proposed to be repaired and retained near their current location within an open space and landscaped area, visually connected to the seniors living precinct.

Council's initial evaluation indicates that the masterplan would likely maintain a suitable setting for the statues, and better promote the long term management and heritage conservation of these items. However, these issues would need to be assessed in detail under a separate Conservation Management Plan, and lodgement of a development application for any proposed works affecting the statues.

Council is currently considering the overall merits of proceeding with the Planning Proposal, and as such, the Heritage Protection Sub Committee will be further consulted should any future development proposals relating to the heritage listed Stations of the Cross Statues eventuate.

Officer's Recommendation

That the Heritage Protection Sub Committee notes the request submitted to Council to prepare a Planning Proposal for 'Maryfields', located at Narellan Road, Campbelltown.

Sub Committee's Recommendation: (Coupe/Hayes)

That the Heritage Protection Sub Committee notes the request submitted to Council to prepare a Planning Proposal for 'Maryfields', located at Narellan Road, Campbelltown.

CARRIED**8. General Business**

- 8.1 Edmondson Park Works:** Heritage Protection Sub Committee member James Gardner enquired as to what work is currently being undertaken at the Ingleburn Army Camp. Council's Strategic Planner Jeff Burton advised the Committee that works are being undertaken by UrbanGrowth as part of the Edmondson park redevelopment which includes the preservation of the Ingleburn Army Camp barracks and Mont St Quentin Oval. It was noted that preservation of these key sites form part the Heritage Conservation outcomes for Edmondson Park.

- 8.2 Silos located on Appin Road, Campbelltown:** Campbelltown Airds Historical Society representative Kay Hayes raised concerns in relation to the current state of the Silos located on Appin Road, Campbelltown. It was noted by the Committee that the condition of the roof guttering is in a poor state. The Campbelltown Airds Historical Society referred to the Silo's as a significant heritage site and requested that Council direct this query to the appropriate authority for their consideration. Further, that those Council officers provide an update in relation to this matter at the next meeting of the Heritage Protection Sub Committee.

Council's Strategic Planner Jeff Burton advised the Committee that the Silos are listed by Council as an item of local heritage significance and that the Silos are within the Appin Road Reservation which falls under the jurisdiction of the Roads and Maritime Service (RMS). Council officers gave an undertaking to write to the RMS in relation to this matter.

Sub Committee's Recommendation: (Coupe/Hayes)

1. That Campbelltown City Council raise concerns with the Roads and Maritime Services in relation to the poor roofing condition of the Silos located on Appin Road, Campbelltown.
2. That Council officers provide an update at the next Heritage Protection Sub Committee meeting in relation to investigations into the current condition of the Silos located on Appin Road, Campbelltown.

CARRIED

- 8.3 Campbellfield (Redfern's Cottage):** Campbelltown Airds Historical Society representative Kay Hayes raised concerns in relation to the proposed sale of the property known as Campbellfield and its future management.

Council's Strategic Planner Jeff Burton advised the Committee that it is Council's understanding that the owner UrbanGrowth have advertised for expressions of interest in relation to the sale of the property.

It was noted that the heritage listing of the site Campbellfield does not prevent the sale of the property by the owner however Council is taking a keen interest in the maintenance and management of this site as it relates to the heritage significance of the site.

Sub Committee's Recommendation: (Coupe/Hayes)

That the information be noted.

CARRIED

- 8.4 Heritage Medallion:** Chairperson Councillor Rowell congratulated Council staff on the recent success of the heritage medallion event.

Sub Committee's Recommendation: (Rowell/Hayes)

That the information be noted.

CARRIED

- 8.5 Campbelltown City Council - Council's New Consolidated Local Environmental Plan:** Council's Strategic Planner Jeff Burton advised that the Committee that Council officers responsible for Council's new consolidated LEP project would like to meet with representatives of the Campbelltown and Airds Historical Society and provide a presentation in relation to the LEP which will be on public exhibition from 12/6/14 to 8/8/14.

Sub Committee's Recommendation: (Gardner/Hayes)

That the information be noted.

CARRIED

Councillor Ted Rowell
Chairperson

Meeting Concluded: 7.30pm

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

3. DEVELOPMENT SERVICES

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

Reporting Officer

Acting Director Planning and Environment

Attachments

SEPP 1 variations approved for the period April to June 2014 (contained within this report)

Purpose

To advise Council of development applications approved for the period 1 April, 2014 to 30 June, 2014 that involved a variation of a development standard allowed under the relevant provisions of the State Environmental Planning Policy No. 1 - Development Standards (SEPP 1 applications).

Report

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

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

Officer's Recommendation

That the information be noted.

Committee's Recommendation: (Kolkman/Rowell)

That the Officer's Recommendation be adopted.

CARRIED

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

Council Meeting 19 August 2014 (Mead/Thompson)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 146

That the Officer's Recommendation be adopted.

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

ATTACHMENT 1

Council DA reference number	Lot number	DP number	Street number	Street name	Suburb/Town	Postcode	Category of development	Environmental planning instrument	Zoning of land	Development standard to be varied	Justification of variation	Extent of variation	Concurring authority	Date DA determined dd/mm/yyyy
546/2014/DA-1	Lot 1	DP 1089522	395	Pembroke Road	MINTO	2566	Industrial	CLEP2002	4(a) - General Industry Zone	<p>Clause 37 of CLEP2002 states that consent must not be granted to the use of land for development, other than the use of land for landscaping, for access roads and for off street parking, on any land within Zone 4(a) or 4(b) which is within 30 metres of Pembroke Road.</p>	<p>Having regard Clause 8 of SEPP 1 point (a), the non-compliance does not raise any matters of state or regional planning significance. In regard to point (b), the public benefit of maintaining compliance with the 30 metre setback control would be minimal to negligible, considering that if the 30 metre setback control was to be strictly enforced, the proposed awning would need to be deleted from the proposal, which would achieve no perceivable benefit to the community given that the proposed awning (which only encroaches 2.5m into the setback zone) would be barely visible from Pembroke Road in any case. As such, it is considered that a variation to the setback standard would achieve a better functional outcome for the development than if the setback standard was strictly enforced. It is also deemed that given the size of the encroachment, the height differential of the building to Pembroke Road and the existence of the vegetative corridor between Pembroke Road and the building, the encroachment would result in a negligible visual impact on the Pembroke Road streetscape (which is the underlying reason for the control), and the greatest public benefit would be best achieved by allowing the control to be varied in the circumstances. In this regard it is considered that would be unreasonable in the circumstances to enforce the development standard and it is considered that notwithstanding the variation, the objectives of Clause 37 are still satisfied as the reduced setback does not prevent the overall development from having a high quality design that addresses the surrounding streets/roads, nor does it detract from the Pembroke Rd streetscape. As such, strict enforcement of the development standard would be unreasonable in the circumstances.</p>	2.82m = 9.4%	Council	10/06/14

3.2 Construction Of A Partly Built Attached Dual Occupancy, Fencing, Retaining Walls, Driveway And Landscaping - Lot 1 Zouch Road, Ingleburn

3.2 Construction of a partly built attached dual occupancy, fencing, retaining walls, driveway and landscaping - Lot 1 Zouch Road, Ingleburn

Reporting Officer

Acting Director Planning and Environment

Attachments

1. Recommended Conditions of Consent (contained within this report)
2. Locality Plan (contained within this report)
3. Site Plan (contained within this report)
4. Elevation Plan (contained within this report)
5. Floor Plan (confidential – for privacy reasons these are not available to the public)
6. Landscape Plan (contained within this report)

Purpose

To assist Council in its consideration and determination of the subject S82A application being a review of a previous refusal decision issued under delegated authority by Council in accordance with the relevant provisions of the *Environmental Planning and Assessment Act 1979* (the Act).

Property Description	Lot 1 DP 1039153, Lot 1 Zouch Road, Ingleburn
Application No	1138/2014/DA-M
Applicant	Ahmad Majzoub
Owner	Abdulhalim and Amne Elbaf
Provisions	Campbelltown (Urban Area) Local Environmental Plan 2002 Campbelltown (Sustainable City) Development Control Plan 2012
Non Statutory	Campbelltown 2025 – Looking Forward
Date Received	13 May 2014

History

A development application was received by Council on 22 April 2013 for the construction of a two storey dwelling and detached outbuilding (DA879/2013/DA-DW). The development application was made in order to regularise certain unauthorised construction works that have been undertaken on the subject land.

3.2 Construction Of A Partly Built Attached Dual Occupancy, Fencing, Retaining Walls, Driveway And Landscaping - Lot 1 Zouch Road, Ingleburn

The development application for the dwelling and detached outbuilding was considered to inadequately address the relevant provisions of Section 79C of the Act and was subsequently refused by Council under delegated authority on 25 June 2013.

A review of determination pursuant to Section 82A of the *Environmental Planning and Assessment Act 1979* was made by the applicant on 12 July 2013. This review (1458/2013/DA-82A) was put to Council's Planning and Environment Committee on 8 October 2013. At Council's Ordinary Meeting on 15 October 2013 the refusal of the subject development was confirmed with revised reasons for refusal.

The applicant subsequently commenced Class 1 proceedings appeal in the Land and Environment Court appealing Council's refusal of the development application (*Elbaf & Anor v Campbelltown City Council (2014) NSWLEC 1074*). The appeal of the refusal of the development application was heard on 14 and 15 April 2014.

Commissioner Morris gave her judgement on 29 April 2014 dismissing the appeal and refused the development application for the construction of a dwelling at the subject land. Commissioner Morris found that the development was not a 'dwelling' as defined in the LEP, particularly given the layout and design of the development and that the proposal is such that it is 'capable of being used as separate domiciles' and concluded that the development application appeal for a dwelling must be dismissed.

The judgement included a merit assessment of other aspects of the development which are discussed later in this report.

In addition, further discussion will be presented in this report which give regard to the Court's comments, with particular reference being made to setbacks and setback non-compliances.

The subject development application is for the continued construction of a dual occupancy (attached), as the development is partially constructed, and has been assessed as such.

Introduction

As noted above, Council originally received a development application in April 2013 for the construction of a two storey dwelling and detached outbuilding at Lot 1 Zouch Road, Ingleburn. The application sought consent to complete development works that had been partially constructed without the appropriate authority. The applicant has also made an application for a Building Certificate to regularise the physical works undertaken to date.

The original development proposal comprised the following main elements:

- Dwelling house with a standard floor layout consisting of a floor area of 347 square metres
 - A sub floor level below the dwelling, consisting of a series of rooms with a floor area of 173 square metres. There was no internal physical access provided between each level. Each level is accessed externally and separate to one another
 - A detached outbuilding that consisted of a series of rooms including rooms with plumbed floor wastes and a subfloor garage having a total floor area of 140 square metres.
-

3.2 Construction Of A Partly Built Attached Dual Occupancy, Fencing, Retaining Walls, Driveway And Landscaping - Lot 1 Zouch Road, Ingleburn

A site inspection by Council officers revealed that the works undertaken at that time were inconsistent with the plans accompanying the original development application.

Notwithstanding the above, the current development application seeks consent for an attached dual occupancy (Campbelltown (Urban Area) Local Environmental Plan 2002 defines the proposal as a 'dual occupancy (attached)'). The application seeks consent to continue building works and to attach the two proposed current domiciles. Driveways, masonry fencing and landscaping works also form part of the development application.

A fresh Building Certificate application (for the works already undertaken) has also been lodged with Council, which is pending the determination of this application.

The Land

The subject land is situated on the eastern side of Zouch Road (southern part) near its intersection with Keating Place. The land is located to the north of the M31 Motorway, but does not directly adjoin it.

The land has an area of 1.017 hectares and currently contains no vegetation. The land contains the partially constructed development for which consent is sought.

Land to the north comprises the recently released suburb of Bardia (Edmondson Park South) that is currently being transformed into urban and rural residential allotments. It is to be noted that land immediately to the north of the subject land has been designated as public open space under the approved Masterplan and Edmondson Park South Development Control Plan 2012 which is applicable to that land.

The land to the west includes similarly sized one hectare allotments that have been developed with single dwellings. Land to the south and east contains the M5 motorway. A vacant one hectare allotment is located to the east of the subject land. This undeveloped allotment is accessed via a handle that immediately adjoins the subject land's southern boundary.

The Proposal

The subject development application is seeking development consent for the completion of a dual occupancy (attached). The development is partially completed.

When completed the development will comprise the following:

Front Dwelling (upper level)

- Lounge, dining, kitchen, living areas
 - 4 bedrooms and study
 - 3 bathrooms
 - Laundry
 - Kitchen and walk-in pantry
 - Alfresco area
 - Double garage.
-

3.2 Construction Of A Partly Built Attached Dual Occupancy, Fencing, Retaining Walls, Driveway And Landscaping - Lot 1 Zouch Road, Ingleburn

Front Dwelling (lower level)

- Lower ground comprising shower/utility room, bar/wine cellar, two bedrooms, bathroom.

Second Dwelling (at rear)

- Lounge, dining, kitchen
- 3 bedrooms
- 1 bathroom and 1 laundry
- Single garage.

The development will include two driveways (one to service each dwelling), masonry fencing and landscaping works.

Assessment

1. Vision

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

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

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

The strategic directions relevant to this application are:

- Growing the Regional City
- Building a distinctive Campbelltown sense of place
- Creating employment and entrepreneurial opportunities.

The proposed development is generally consistent with these directions.

The relevant desired outcomes associated with Council's 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.
-

3.2 Construction Of A Partly Built Attached Dual Occupancy, Fencing, Retaining Walls, Driveway And Landscaping - Lot 1 Zouch Road, Ingleburn

It is considered that the development of a dual occupancy (attached) on this land is not inconsistent with the Vision's relevant desired outcomes having regard to the proposed scale, function and environmental capacity and capability of the land.

2. Planning Provisions

The application has been assessed have regard to the matters for consideration prescribed under the *Environmental Planning and Assessment Act 1979*. Subsequently the following matters have been identified for further consideration and discussion.

2.1 Campbelltown (Urban Area) Local Environmental Plan 2002

The subject land is zoned 7(d5) – Environmental Protection 1 Hectare Minimum Zone under the provisions of Campbelltown (Urban Area) Local Environmental Plan 2002.

Under the Plan, the proposed development is defined as a 'dual occupancy (attached)'. The Plan defines 'dual occupancy (attached)' as follows:

'a dual occupancy comprising two attached dwellings on the same lot'.

The proposed development comprises of two dwelling houses that are attached and under the same roof line. The Plan defines a 'dwelling house' as a 'building containing one, but not more than one dwelling'.

Dwellings (other than dwelling houses and dual occupancies (attached)) are a prohibited land use in the zone.

The proposed development as a 'dual occupancy (attached)' is specifically excluded from the prohibition and as such is a permissible form of development (with Council's development consent).

Following on from the above, the objectives of the 7(d5) – Environmental Protection 1 Hectare Minimum Zone are:

- (a) to conserve the rural-residential character of the land by maintaining a minimum area of 1 hectare for lots used for rural-residential living
- (b) to protect environmentally important land and watercourses possessing scenic, aesthetic, ecological or conservation value
- (c) to allow some diversity of development, but only where it is unlikely to have a detrimental effect on the quality and character of the locality or the amenity of any existing or proposed development in the locality.

Except as otherwise provided by this plan, consent must not be granted 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.

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

3.2 Construction Of A Partly Built Attached Dual Occupancy, Fencing, Retaining Walls, Driveway And Landscaping - Lot 1 Zouch Road, Ingleburn

The proposed development is considered to be generally consistent with at least one of the zone objectives.

2.2 Campbelltown Sustainable City Development Control Plan (SCDCP)

Campbelltown (Sustainable City) Development Control Plan (SCDCP) applies to the subject land. The aims of the SCDCP are:

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

Although it could be argued that the development is generally consistent with some of the relevant aims of the SCDCP, serious consideration needs to be given to the design and siting of the proposed development in that it has given no regard to the SCDCP standards relating to building setbacks and the like.

The below table illustrates the proposal's assessment against the relevant provisions of SCDCP having regard to dual occupancy development on non-urban land:

		Campbelltown (Sustainable City) Development Control Plan 2012	
Control	Proposed	Requirement	Complies
Landform 4.3.1(a) of SCDCP	Development considered to fit contours and landform	Development shall be designed to fit the existing contours and landform	Yes
Hills and Ridgelines 4.3.1(b)	Development not sited on hill or ridgeline	Buildings shall not be sited on top of prominent hills and ridgelines	Yes

3.2 Construction Of A Partly Built Attached Dual Occupancy, Fencing, Retaining Walls, Driveway And Landscaping - Lot 1 Zouch Road, Ingleburn

		Campbelltown (Sustainable City) Development Control Plan 2012	
Control	Proposed	Requirement	Complies
Materials and Colours 4.3.1(d)	Materials and colours considered to not be visually obtrusive	Materials and colours shall not be obtrusive and complement the landscape setting.	Yes
Garages and Outbuildings 4.3.1(e) and (f)	Width of garage considered satisfactory – 28% of width of dwelling	Garages and outbuilding shall not dominate the primary street frontage and be no wider than 50% of the width of the dwelling	Yes
Roofing 4.3.1(g)	Reflective materials not used	Highly reflective material and bright colours not supported	Yes
Bonded Fencing 4.3.2(a)	Fencing does not contain bonded metal sheets	Bonded fencing shall not be constructed on non-urban land	Yes
Fencing Forward of Building Line 4.3.2(b)	Proposed fencing is a maximum 1.8m	Shall be a maximum 1.8m	Yes
	Is open style for any part higher than 1.2m	Be of an open style for any part higher than 1.2m	Yes
	Is of solid style for parts lower than 1.2m	Be of a solid or open style for any part lower than 1.2m	Yes
	Is not constructed of solid metal sheeting	Not be constructed of solid metal sheeting	Yes
	Complements the design	Complement the design of the development	Yes
Fencing at Side and Rear Boundary 4.3.2(c)	Fencing is not higher than 1.8m	Shall be maximum 1.8m Be located behind the primary building line	Yes
Fencing Details 4.3.2(f)	Fencing details submitted with DA	Fencing details to be submitted with DA	Yes
Fencing in Bushfire Prone Land 4.3.2(g)	Fencing not of combustible materials	Shall not be of combustible materials	Yes

3.2 Construction Of A Partly Built Attached Dual Occupancy, Fencing, Retaining Walls, Driveway And Landscaping - Lot 1 Zouch Road, Ingleburn

		Campbelltown (Sustainable City) Development Control Plan 2012	
Control	Proposed	Requirement	Complies
Surface Flow of Water 4.3.2(h)	The masonry fence is not constructed along the length of the whole boundaries (northern and western) and does not impact upon the overland flow	A fence shall not be constructed to redirect overflow of surface water onto adjoining properties	Yes
Building Height 4.3.3(a)	Development is a maximum of two storeys	Shall not exceed two storeys	Yes
	The dwelling does not exceed 7.2m at uppermost ceiling	Shall have a height not exceeding 7.2m at the uppermost ceiling measured vertically from ground level	Yes
	Development does not have a building height exceeding 9.5m	Shall have a building height not exceeding 9.5m	Yes
Amenity 4.3.3(b)	Development is unlikely to result in loss of amenity to adjacent properties	Development shall not result in any significant loss in amenity to adjacent properties	Yes
Garage Dimensions 4.4(b)	Development's garages satisfy minimum dimensions	Minimum internal dimensions of enclosed garage shall be 3m x 6m	Yes
Transitional Grades 4.4(c)	Entry/exit is relatively flat. Grades are considered acceptable	Transitional grades shall comply with AS2890.1 (as amended)	Yes
Driveway Design 4.4(d)	Driveway will be constructed of hardstand material	Shall be constructed to allow all weather access	Yes
	Will follow contours	Designed to follow contours	Yes
	Have a width of 5m	Have a width of between 3m and 5m	Yes
	Will not result in further vegetation removal	Located to minimise impact on vegetation and tree removal	Yes
	Will contain two (2) driveways	One (1) driveway access is permitted	No

3.2 Construction Of A Partly Built Attached Dual Occupancy, Fencing, Retaining Walls, Driveway And Landscaping - Lot 1 Zouch Road, Ingleburn

		Campbelltown (Sustainable City) Development Control Plan 2012	
Control	Proposed	Requirement	Complies
Permissibility 4.5.3(a)	Dual Occupancy (attached)	Dual Occupancy development permitted only where EPIs allow this type of development to occur	Yes
Number of Dual Occupancies 4.5.3(b)	One dual occupancy sought	Only one dual occupancy permitted per allotment	Yes
Number of Dwellings Permitted 4.5.3(c)	The proposed development is for two (2) dwellings	The number of dwellings that occupy an allotment of land shall be limited to two (2)	Yes
Dual Occupancy Setbacks 4.5.3(d)	<p>The proposed single storey component of the dwelling is 9.9m from front boundary</p> <p>The double storey element is located 10m from the front boundary</p> <p>The dwelling is a minimum of 4.8m from the side (northern) boundary</p>	<p>On land between 1 and 2 hectares, the setbacks shall be:</p> <p>Single storey – 35m</p> <p>Double storey – 50m</p> <p>Side and rear – 10m</p>	<p>No</p> <p>No</p> <p>No</p>

The proposed development is generally consistent with the requirements of the SCDCP. The development's non-compliances with the SCDCP have been identified and relate to the setbacks of the building as well as the number of driveways. The applicant has formally sought a variation to the SCDCP in this regard.

Having regard to the relevant aspects of development including the proposal for the construction of two driveways, the applicant has stated that the development is for a dual occupancy (attached) and as such it is not unreasonable to provide a separate driveway access to the dwelling located to the rear.

The separate driveway access to service each dwelling is considered to not be unreasonable in this instance given the location and character of the site and surrounds. It is not unusual for properties of this size to have two points of vehicular access.

Further to the above the development is also inconsistent with the setback requirements of the SCDCP.

When giving regard to the dimensions of the subject land, the land is more than capable of supporting a development that complies with the relevant setback provisions for development of this type.

3.2 Construction Of A Partly Built Attached Dual Occupancy, Fencing, Retaining Walls, Driveway And Landscaping - Lot 1 Zouch Road, Ingleburn

There are no known constraints on the land that would otherwise prevent the siting of the attached dual occupancy in compliance with the SCDCP setback controls.

However in her judgement of *Elbaf & Anor v Campbelltown City Council (2014) NSWLEC 1074* Commissioner Morris made a number of comments and recommendations having regard to the setback issue.

The Court heard from the expert town planners in relation to reasons for keeping the development's setbacks consistent with SCDCP as well as justification for the Court to vary the setback controls.

In summary, the Court heard that there was no consistency in setbacks in the locality, with particular reference being made to an inconsistent approach in applying setback controls in the near vicinity of the site in Zouch Road (on the opposite of side of the road to the subject land).

The Commissioner's judgment concluded:

"Within the broader locality that includes Keating Place and Brooks Road, the setbacks vary considerably, particularly in Brooks Road, the means of access to the site. Those setbacks are, according to the evidence in Exhibit 3, in the vicinity of 10 – 15 metres for the majority of the road with others setback further. As those streets have their individual character, allowing a variation to the setback control for this site would not result in a precedent for future development within the 7(d5) zone.

The location of the site adjacent to a proposed public reserve is also a factor that provides for a reduction in the side boundary setback.

For the reasons outlines above, I consider that it would be appropriate to allow a variation of the setback controls provided extensive landscaped areas were provided at the front of the site. That would require the deletion of the extensive driveway and paved area across the front of the main building structure however provide for the completion of a building in the location of the current works."

Having regard to the comments made by the Court, it is considered that the above variation to the setback controls can be allowable in this instance.

Notwithstanding the above it is unlikely that the Court would uphold the strict compliance of setbacks on this land when considering that the development has been partially constructed as well as the location of the site within the locality.

The assessment has also considered the relevant components of Part 2 Requirements Applying to all Types of Development of the SCDCP 2012 and is outlined below:

2.2.1 Views and Vistas

It is considered that the development would have an acceptable impact on views and vistas in the locality. The bulk and scale of the development is not considered to be unacceptable for the land.

3.2 Construction Of A Partly Built Attached Dual Occupancy, Fencing, Retaining Walls, Driveway And Landscaping - Lot 1 Zouch Road, Ingleburn

2.2.2 Sustainable Building Design

Sustainable building design has been considered in the assessment of the development application and is considered acceptable in this instance.

2.2.3 Landscaping

The proposed development provides adequate landscaping of the land.

2.2.4 Erosion and Sediment Control

An erosion and sediment control plan to accompany the development application has been submitted and is considered satisfactory.

2.2.5 Heritage Conservation

The land does not contain an item of heritage significance and is not located within a heritage conservation area or precinct.

2.2.6 Waste Management

The development application is accompanied by a Waste Management Plan that is considered acceptable.

3. Suitability of the Site

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

The subject site was previously undeveloped and may have been used previously for rural uses.

Having regard to the absence of any significant environmental impacts that would likely result from the proposed development, it is considered that the site is suitable for the proposed development.

4. Public Participation

The development application was notified to adjoining and nearby land owners for a period of 14 days from 10 July 2014. During this period Council did not receive any submissions objecting to the proposed development.

5. Conclusion

The subject development application is seeking the continuation of the construction of a dual occupancy (attached) at Lot 1 DP 1039153 (also known as Lot 1 Zouch Road, Ingleburn). The application has been amended to a dual occupancy (attached) in response to the Land and Environment Court's dismissal of the applicant Class 1 appeal of Council's refusal of a previous development application made.

3.2 Construction Of A Partly Built Attached Dual Occupancy, Fencing, Retaining Walls, Driveway And Landscaping - Lot 1 Zouch Road, Ingleburn

A separate Building Certificate application has been made to formalise the works that have been undertaken on the land without prior authorisation.

The subject land is zoned 7(d5) – Environmental Protection 1 Hectare Minimum Zone under the provisions of Campbelltown (Urban Area) Local Environmental Plan 2002. A dual occupancy (attached) is permissible with development consent in the zone.

Despite the variation sought the development is generally consistent with the controls contained with SCDCP and is considered to be acceptable in this instance and is unlikely to have an significantly adverse impact on adjoining or nearby land uses.

Officer's Recommendation

That development application 1138/2014/DA-M for the continued construction of a dual occupancy (attached) at Lot 1 Zouch Road, Ingleburn be approved subject to conditions contained in Attachment 1.

Committee Note: Mr Sarich addressed the Committee.

Committee's Recommendation: (Kolkman/Oates)

That the Officer's Recommendation be adopted.

CARRIED

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

Voting against the Committee's Recommendation: nil

Council Meeting 19 August 2014 (Mead/Thompson)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 147

That the Officer's Recommendation be adopted.

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

Voting against the Council Resolution: Borg.

ATTACHMENT 1

1138/2014/DA-M

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 A2 Concepts (and others), listed below, and all associated documentation supporting this consent, except as modified in red by Council and / or any conditions within.

Plans prepared by A2 Concepts, project number IZ001:

Drawing No. DA-01, Issue B, dated 10.07.2014
Drawing No. DA-02, Issue B, dated 10.07.2014
Drawing No. DA-03, Issue B, dated 10.07.2014
Drawing No. DA-04, Issue B, dated 10.07.2014
Drawing No. DA-05, Issue B, dated 10.07.2014
Drawing No. DA-06, Issue B, dated 10.07.2014

Plans prepared by Conzept Landscape Architects:

Drawing No. LPDA 14-07/1, Issue B, dated 06.05.2014
Drawing No. LPDA 14-07/2, Issue B, dated 06.05.2014

Plans prepared by MLE Designs (concept stormwater plan), job number 13GA66/AM:

Drawing No. C01-STORM, Revision A, dated 24.06.2013

3.2 Construction Of A Partly Built Attached Dual Occupancy, Fencing, Retaining Walls, Driveway And Landscaping - Lot 1 Zouch Road, Ingleburn

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.

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.

3.2 Construction Of A Partly Built Attached Dual Occupancy, Fencing, Retaining Walls, Driveway And Landscaping - Lot 1 Zouch Road, Ingleburn

5. Landscaping

The provision and maintenance of landscaping shall be in accordance with the approved landscape plan containing Council's approved development stamp including the engagement of a suitably qualified landscape consultant/ contractor for landscaping works. The landscape design shall incorporate a significant portion of native, low water demand plants.

6. 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.

7. Switchboards/Utilities/Air Conditioning Units

Switchboards, garbage storage areas, air conditioning units 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. Driveway

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

Driveways shall be constructed using decorative paving materials such as pattern stencilled concrete, coloured stamped concrete or paving bricks. The finishes of the paving surfaces are to be non-slip and plain concrete is not acceptable.

All driveways in excess of 20 metres in length shall be separated from the landscaped areas by the construction of a minimum 150mm high kerb, dwarf wall or barrier fencing.

9. Engineering Design Works

The design of all engineering works shall be carried out in accordance with the requirements set out in the *Campbelltown (Sustainable City) DCP 2009 - Volumes 1 and 3*.

10. Bushfire Protection

Construction of the development shall comply with the Bushfire Attack Level (BAL) 12.5 construction standard as detailed in Australian Standard AS 3959 (as amended) – Construction in Bushfire Prone Areas section A3.7 Addendum Appendix 3 of Planning for Bushfire Protection - 2006.

The entire property shall be managed as an 'inner protection area' as outlined within section 4.1.3 of *Planning for Bushfire Protection – 2006* and the Rural Fire Services (RFS) document *Standards for Asset Protection Zones*.

3.2 Construction Of A Partly Built Attached Dual Occupancy, Fencing, Retaining Walls, Driveway And Landscaping - Lot 1 Zouch Road, Ingleburn

11. Rain Water Tank(s)

Rain water tank/s 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.

12. Construction Certificate

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

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

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

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

13. 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.

14. 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.

15. 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.

16. Stormwater Management Plan (Development)

Prior to Council or an accredited certifier issuing a construction certificate, a plan indicating all engineering details and calculations relevant to site regrading and the collection and disposal of stormwater from the site, building/s and adjacent catchment, shall be submitted for approval. Floor levels of all buildings shall be a minimum of 150mm above the adjacent finished site levels and stormwater shall be conveyed from the site to a system under Council's control. All proposals shall comply with the *Campbelltown (Sustainable City) DCP 2009 - Volumes 1 and 3*.

3.2 Construction Of A Partly Built Attached Dual Occupancy, Fencing, Retaining Walls, Driveway And Landscaping - Lot 1 Zouch Road, Ingleburn

17. Section 94A Developer Contribution - Community Facilities and Services

Prior to Council or an accredited certifier issuing a Construction 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
- 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.

3.2 Construction Of A Partly Built Attached Dual Occupancy, Fencing, Retaining Walls, Driveway And Landscaping - Lot 1 Zouch Road, Ingleburn

18. 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.

19. 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.

20. Erection of Construction Sign

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

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

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

3.2 Construction Of A Partly Built Attached Dual Occupancy, Fencing, Retaining Walls, Driveway And Landscaping - Lot 1 Zouch Road, Ingleburn

21. Toilet on Construction Site

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

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

22. Trade Waste

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

23. Vehicular Access during Construction

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

24. Public Property

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

25. Footpath and Vehicular Crossing Levels

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

26. Fencing

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

3.2 Construction Of A Partly Built Attached Dual Occupancy, Fencing, Retaining Walls, Driveway And Landscaping - Lot 1 Zouch Road, Ingleburn

DEVELOPMENT REQUIREMENTS DURING CONSTRUCTION

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

27. Construction Work Hours

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

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

28. Erosion and Sediment Control

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

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

29. Work Zones

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

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

30. Fill Compaction Requirements

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

Any lot filling operations carried out in accordance with this consent shall be tested to establish the field dry density every 300mm rise in vertical height. Test sites shall be located randomly across the fill site with 1 test per 500m² (minimum 1 test per 300mm layer) certified by a qualified geotechnical engineer.

3.2 Construction Of A Partly Built Attached Dual Occupancy, Fencing, Retaining Walls, Driveway And Landscaping - Lot 1 Zouch Road, Ingleburn

31. Fill Contamination

Any landfill used on the site is to be validated in accordance with the *Environment Protection Authority's* guidelines for consultants reporting on contaminated sites. The validation report shall state in an end statement that the fill material is suitable for the proposed use on the land.

32. 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.

33. 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.

34. Excess Material

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

35. Earth Works/Filling Works

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

- a. Undertaken in accordance with Council's *'Specification for Construction of Subdivisional Roads and Drainage Works' (as amended)*, AS 3798 *'Guidelines for Earthworks for Commercial and Residential Development' (as amended)*, and approved construction drawings;
- b. Supervised, monitored, inspected, tested and reported in accordance with AS 3798 *Appendix B 2(a) Level 1 and Appendix C* by a NATA registered laboratory appointed by the applicant. Two collated copies of the report and fill plan shall be forwarded to Council; and
- c. Certified by the laboratory upon completion as complying, so far as it has been able to determine, with Council's specification and AS 3798.

36. 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.

3.2 Construction Of A Partly Built Attached Dual Occupancy, Fencing, Retaining Walls, Driveway And Landscaping - Lot 1 Zouch Road, Ingleburn

37. 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.

38. 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".

39. 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.

40. 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.

3.2 Construction Of A Partly Built Attached Dual Occupancy, Fencing, Retaining Walls, Driveway And Landscaping - Lot 1 Zouch Road, Ingleburn

41. 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.

42. 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.

43. Termite Protection

Prior to the principal certifying authority issuing an occupation certificate, certification from a licensed pest controller shall be submitted certifying that the termite treatment has been installed in accordance with AS3660.1.

44. 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.

45. 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.
-

3.2 Construction Of A Partly Built Attached Dual Occupancy, Fencing, Retaining Walls, Driveway And Landscaping - Lot 1 Zouch Road, Ingleburn

- 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. Buried Waste

Should buried materials/wastes or the like be uncovered during the excavation of footings or trenches on site works, Council is to be contacted immediately for advice on the treatment/removal methods required to be implemented.

3.2 Construction Of A Partly Built Attached Dual Occupancy, Fencing, Retaining Walls, Driveway And Landscaping - Lot 1 Zouch Road, Ingleburn

Advice 6. 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 7. 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 8. 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 9. 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 10. 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 11. HOW Insurance or Owner Builders Permits

Must be submitted to Council prior to the commencement of works. Failure to do so will prevent council from inspecting works.

3.2 Construction Of A Partly Built Attached Dual Occupancy, Fencing, Retaining Walls, Driveway And Landscaping - Lot 1 Zouch Road, Ingleburn

Advice 12. 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.

Advice 13. 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 14. Waste-Derived Material

The application of waste-derived material to land is an activity that may require a licence under the *Protection of the Environment Operations Act 1997* (POEO Act). However, a licence is not required by the occupier of land if the only material applied to land is virgin excavated natural material or waste-derived material that is the subject of a resource recovery exemption under clause 51A of the *Protection of the Environment Operations (Waste) Regulation 2005*.

Resource recover exemptions are available on Department of Environment and Climate Change's website at <http://www.epa.nsw.gov.au/waste/rrecoveryexemptions.htm>

Definition of 'virgin excavated natural material' within the meaning of the POEO Act:

Natural material (such as clay, gravel, sand, soil or rock fines) that has been excavated or quarried from areas that are not contaminated with manufactured chemicals, or with process residues (as a result of industrial, commercial, mining or agricultural activities), and that does not contain any sulfidic ores or soils or any other waste.

Definition of 'waste' within the meaning of the POEO (Waste) Regulation:

See Part 1, Clause 3B.

3.2 Construction Of A Partly Built Attached Dual Occupancy, Fencing, Retaining Walls, Driveway And Landscaping - Lot 1 Zouch Road, Ingleburn

Advice 15. 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 16. 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

ATTACHMENT 2



LOCALITY PLAN

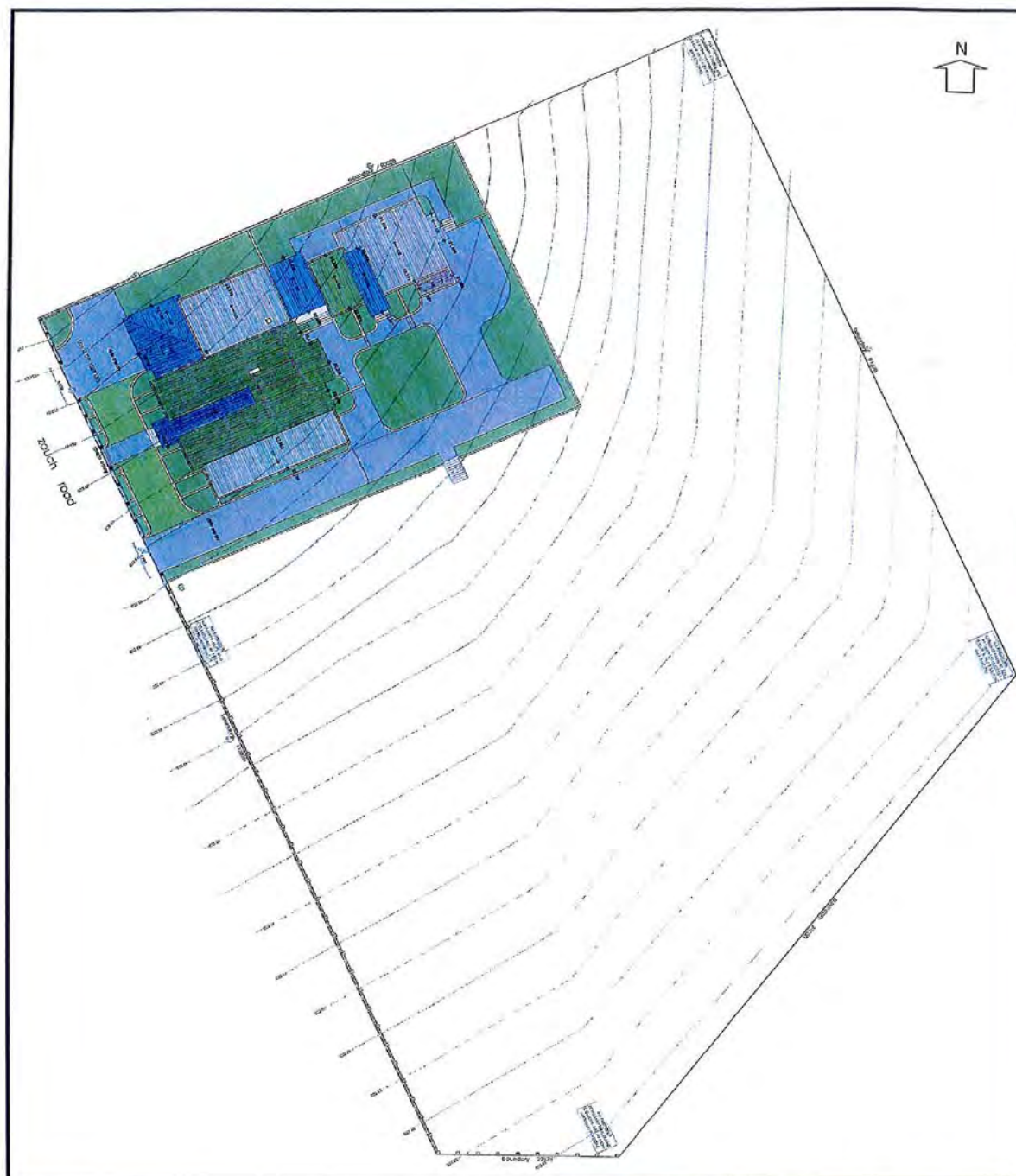


SUBJECT:

CONTINUED CONSTRUCTION OF DUAL OCCUPANCY.

LOT 1 DP 1039153 ZOUC ROAD, INGLEBURN.

ATTACHMENT 3



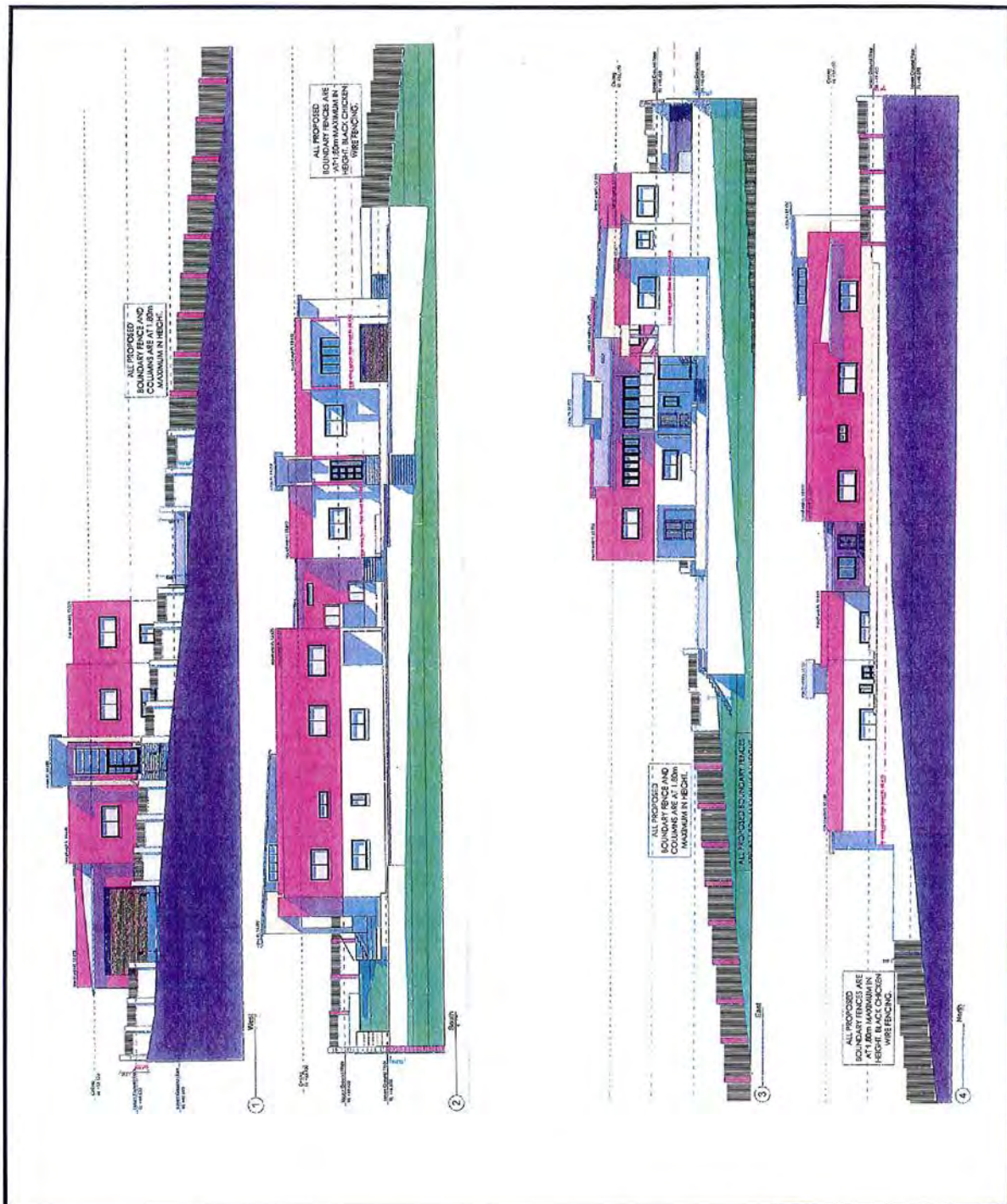
SITE PLAN

SUBJECT:

CONTINUED CONSTRUCTION OF DUAL OCCUPANCY.

LOT 1 DP 1039153 ZOUC ROAD, INGLEBURN.

ATTACHMENT 4



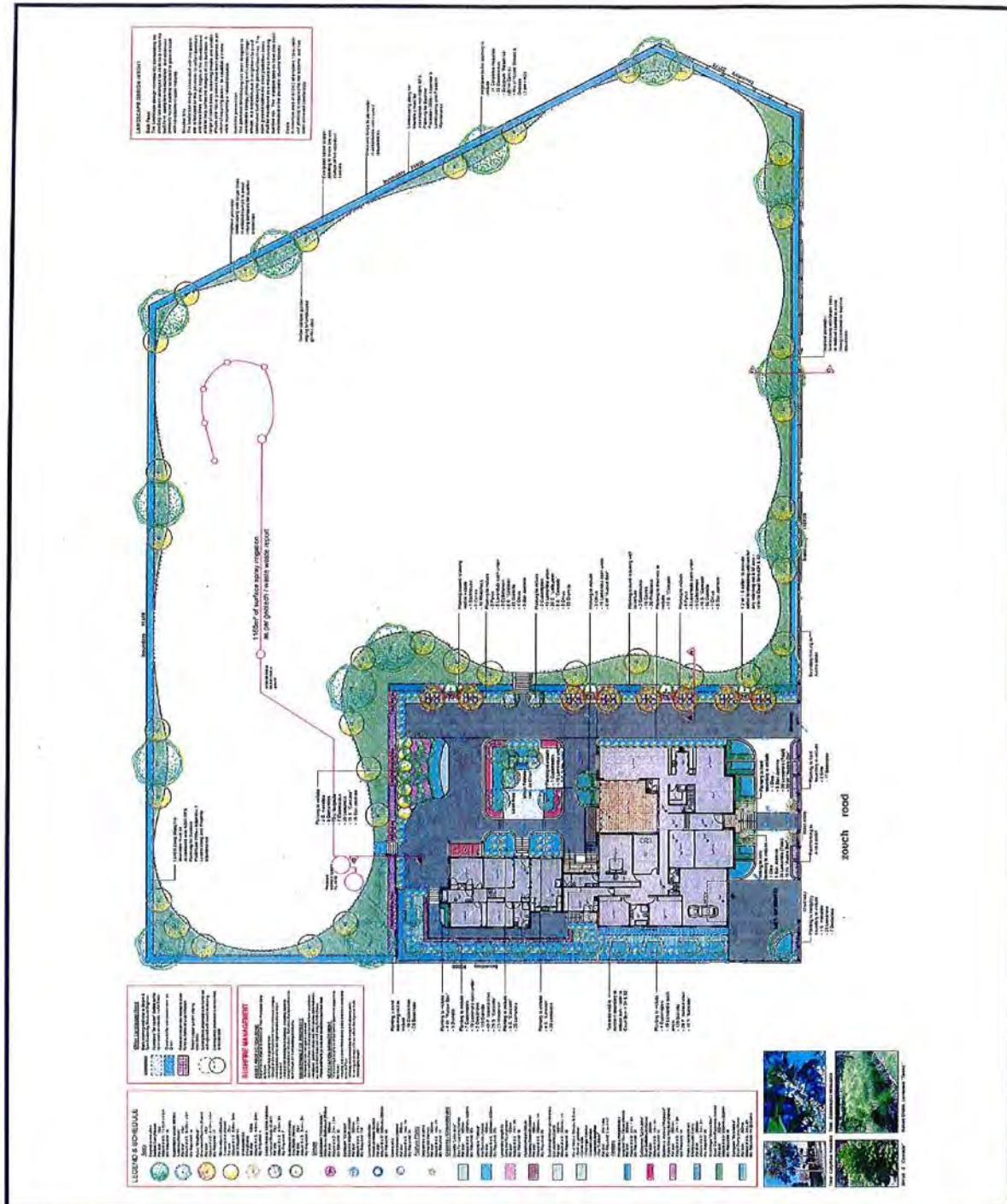
ELEVATIONS

SUBJECT:

CONTINUED CONSTRUCTION OF DUAL OCCUPANCY.

LOT 1 DP 1039153 ZOUC ROAD, INGLEBURN.

ATTACHMENT 6



SUBJECT:

CONTINUED CONSTRUCTION OF DUAL OCCUPANCY.

LOT 1 DP 1039153 ZOUCHE ROAD, INGLEBURN.

3.3 Advertising structures for University of Western Sydney Residential Project

Reporting Officer

Manager Development Services

Attachments

1. Draft Conditions of Consent (contained within this report)
2. Proposed sign posting plan (contained within this report)
3. Indicative billboard design (contained within this report)
4. Gilchrist Drive Entry sign design (contained within this report)
5. SEPP 64 Schedule 1 Assessment (contained within this report)

Purpose

The purpose of this report is to provide Councillors with information regarding advertising structures being proposed by UrbanGrowth NSW, designed to display directional and informational signage related to the approved UWS residential development.

Background

The UWS residential development has been the subject of numerous reports to Council. The development comprises 5 stages and proposes to create a new residential precinct of approximately 840 dwellings. The Stage 1 DA for 240 lots was approved by the Joint Regional Planning Panel in November 2012. Both the Stage 2 and Stage 3 applications have been lodged but remain undetermined. Primary access to the residential precinct will be via Goldsmith Avenue (at its intersection with Gilchrist Drive) with secondary access via University Drive (at its intersection with Narellan Road).

Report

Proposed Development

A series of advertising and directional signage structures are proposed to be erected to coincide with the opening land release of the UWS residential project. The signs are proposed to be located upon land owned by either the University of Western Sydney, or UrbanGrowth NSW.

Some additional entry blade signs are proposed within the future public road reserve at the intersection of Gilchrist Drive and Goldsmith Avenue. The road reserve at this location is very wide and the proposed location of the signs has taken into account the approved geometric design of the future intersection. The location of these signs on University lands would result in the effectiveness of the signs and the information they intend to convey being severely compromised.

The following types of signs are proposed and their locations are described on the proposed sign posting plan (refer to Attachment 2) including details on type, size etc.

- Direction signage
- Billboard signage
- Talker signage (fixed and rotating)
- Flagpole banners.

The signs are to form a cohesive set of communication and promotional materials. It is intended that they give direction by way of indicating the location and nature of the land release as well as providing directions for those that wish to visit the site.

Due to the natural topography of the surrounding lands, the UWS residential precinct will not be visible to most people because the area sits low behind the University campus. Also, it will be a location that you need to have a purpose to go to, rather than pass through. Because of this, the proposed signage is critical in identifying the new land release and directing people to it.

The proposed billboard sign on Narellan Road (refer to Attachment 2) will occupy a prominent location in order to capture the attention of the large volume of traffic passing by each day and is designed to increase recognition of the land release.

The blade signs at the Gilchrist Drive/Goldsmith Avenue intersection (refer to Attachment 3) are designed to provide site identification and a welcome at the sites major entry point.

Materials proposed are non-reflective and there are no flashing or illuminated signs or moving parts. The colours, text and motives are all coordinated to ensure a consistent message as well as quality control.

The signs are intended to be temporary and will be removed upon completion of the sales process for the residential land release. It is intended to relocate a number of the 'talker' signs during the life of the project as the focus of sales moves from one stage to another. Overall, a life of five years is anticipated for these signs and this can be included as a condition of consent, with an option for additional time if sales are slower than currently anticipated.

All ongoing management and maintenance of the signs will be the responsibility of UrbanGrowth NSW and at the expiry of the development consent they will be responsible for the removal of the signs and restoration of any disturbed areas at their expense.

Statutory Considerations

Campbelltown (Urban Area) Local Environmental Plan 2002

The UWS site is zoned 10(a) Regional Comprehensive Centre under the Campbelltown (Urban Area) Local Environmental Plan 2002 (CLEP2002). Signage is permissible with consent.

Draft Campbelltown Local Environmental Plan 2014

Under the draft Campbelltown Local Environmental Plan 2014 (DCLEP2014), the residential precinct land is proposed to be zoned High Density Residential while the University campus land is a deferred matter. There is nothing in the DCLEP2014 that acts to restrict or prohibit the subject proposal.

State Environmental Planning Policy No.64 – Advertising and Signage

The specific task of SEPP 64 is to facilitate advertising signage/structures provided they are:

- compatible with the desired amenity and visual character of an area
- provide effective communication in suitable locations
- of a high quality design.

The SEPP allows for time limited consents so that advertising that is originally designed to support specific land uses or circumstances at a point in time, can be phased out as those land uses or circumstances change or become irrelevant. Advertising/promoting a new land release is a good case in point – signs are required to alert people to the new land release, but no longer required once the land is developed.

Council must be satisfied that an application for signage under the SEPP satisfies the objectives and the assessment criteria contained within Schedule 1 of the SEPP. The SEE that supports this Development Application includes an assessment of the proposed signage against the Schedule 1 criteria. As shown in Attachment 4.

Roads Act 1993

Section 138 of the *Roads Act 1993* requires approval from the appropriate roads authority to erect structures in, over or on a public road. The proposed development includes eight blade signs at the intersection of Gilchrist Drive and Goldsmith Avenue which are proposed to be within the existing road reserve at this location. If development consent was to be issued, the applicant would need to gain further approvals from the Council under s138 of the *Roads Act 1993* before the signs could be erected.

Assessment

It is considered that the proposed signage is appropriate both in terms of its purpose and design.

The submitted Statement of Environmental Effects is considered to have satisfactorily addressed the relevant planning considerations, in particular the provisions of SEPP 64 and concluded that the proposed signs are consistent with the aims and objectives of SEPP64. On review and consideration of the application made by the proponent, the conclusion is considered fair and reasonable.

When having regard to the specific provisions of Section 79(c) of the *Environmental Planning and Assessment Act 1979*, the following comments are made.

(a) The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

There are no likely impacts upon the natural environment. The signs are to be located within a developed urban environment with no need for any removal and/or destruction of existing trees/vegetation.

The erection of the signs as proposed is not expected to result in an adverse impact on the built environment. The signs have been designed to provide information as well as becoming a unified element of the street scape.

The major billboard on Narellan Road is by necessity located in a prominent position and will therefore be highly visible. The current view from Narellan Road both down towards the University and across to more distant suburbs, will be punctuated by the billboard. However, any view loss would be minimal as the perspective of the moving traffic changes continuously. It will also only be a temporary imposition as any consent can be conditioned to remove the billboard once sales of the residential land have been completed or reached a particular level.

There have been no social impacts identified.

There have been no direct adverse economic impacts identified as arising from the proposal, although it is hoped that the signs will stimulate added interest in the residential land release and as a result, consolidate sales. This would be considered a positive economic outcome.

(b) The suitability of the site for the development

The various sites for the various signage types are each considered suitable. The largest and most obvious of the signs, the Narellan Road billboard, has been sited so as to maximise its impact upon the passing traffic. By default, the signs purpose demands a high profile and visible location.

(c) Any submissions made in accordance with this Act or the regulations

In accordance with the provisions of Part 9 Public Consultation of the Campbelltown (Sustainable City) Development Control Plan 2012, the Development Application was not required to be notified or exhibited. Given the nature of the development, the character of the proposed locations for the signage and the lack of any immediately adjoining landowners who may be affected, it was also considered unnecessary to publicly exhibit. As such, there are no public submissions to consider.

(d) The public interest

The proposed development is not of a type to give rise to significant issues of public interest. It could be argued that it is generally in the public interest to be made aware of a new land release and to be directed safely to it. There are no know issues arising from the proposal that could be said to be against the public interest.

Conclusion

A series of advertising and directional signage structures are proposed to be erected to coincide with the opening land release of the UWS residential project. The signs are proposed to be located upon land owned by either the University of Western Sydney, or UrbanGrowth NSW.

The purpose of the proposed signage is to advertise the UWS residential land release. On consideration of the information provided with the application, it is considered that the application can be supported both in terms of the purpose of the signage as well as the coordinated design and presentation of the signage.

The proposed signage complies with the SEPP 64 requirements, being compatible, effective and of high quality. Due to the nature of the locations proposed, the signs have no serious impact on the natural, built, social or economic environments.

It is acknowledged that the temporary billboard on Narellan Road will act to punctuate the existing vista to and over the University site. However it is considered that the justification for such a sign is not unreasonable as it is by necessity, located in a prominent position and any impact will be of a temporary nature.

Officer's Recommendation

That development application 1586/2014/DA-A for the erection of advertising structures associated with the UWS residential project be approved for a maximum period of five years, subject to the conditions included at Attachment 1.

Committee's Recommendation: (Kolkman/Thompson)

That the Officer's Recommendation be adopted.

CARRIED

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

Voting against the Committee's Recommendation: nil

Council Meeting 19 August 2014 (Mead/Thompson)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 148

That the Officer's Recommendation be adopted.

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

Voting against the Council Resolution: nil.

ATTACHMENT 1

ATTACHMENT 1 1586/2014/DA-A Recommended Conditions of Consent

GENERAL CONDITIONS

1. Approved Development

The development shall take place in accordance with the approved plans containing Council's approved development stamp, submitted with the Statement of Environmental Effects prepared by MG Planning dated July 2014 and all associated information as described within that Statement of Environmental Effects.

2. Advertising Signs

- a. All signage is to be erected/supported in a safe and secure manner and in compliance with any relevant requirements of the Building Code of Australia
- b. No signage shall flash, move or display electronic images
- c. the advertising structure shall be maintained in a condition so as not to become unsightly so as to adversely affect the amenity of the surrounding area
- d. The advertising signs and any associated structures must be removed and the sites reinstated within a period of five (5) years from the date of consent. If the advertising signs are to be retained after this period, a new Development Application must be lodged before the expiration of the consent for Council's consideration.

3. Roads Act Approval

Prior to the erection of any sign within a road reserve, the applicant is to obtain an approval under the Section 138 of the Roads Act 1993 from the appropriate roads authority.

4. Public Liability Insurance

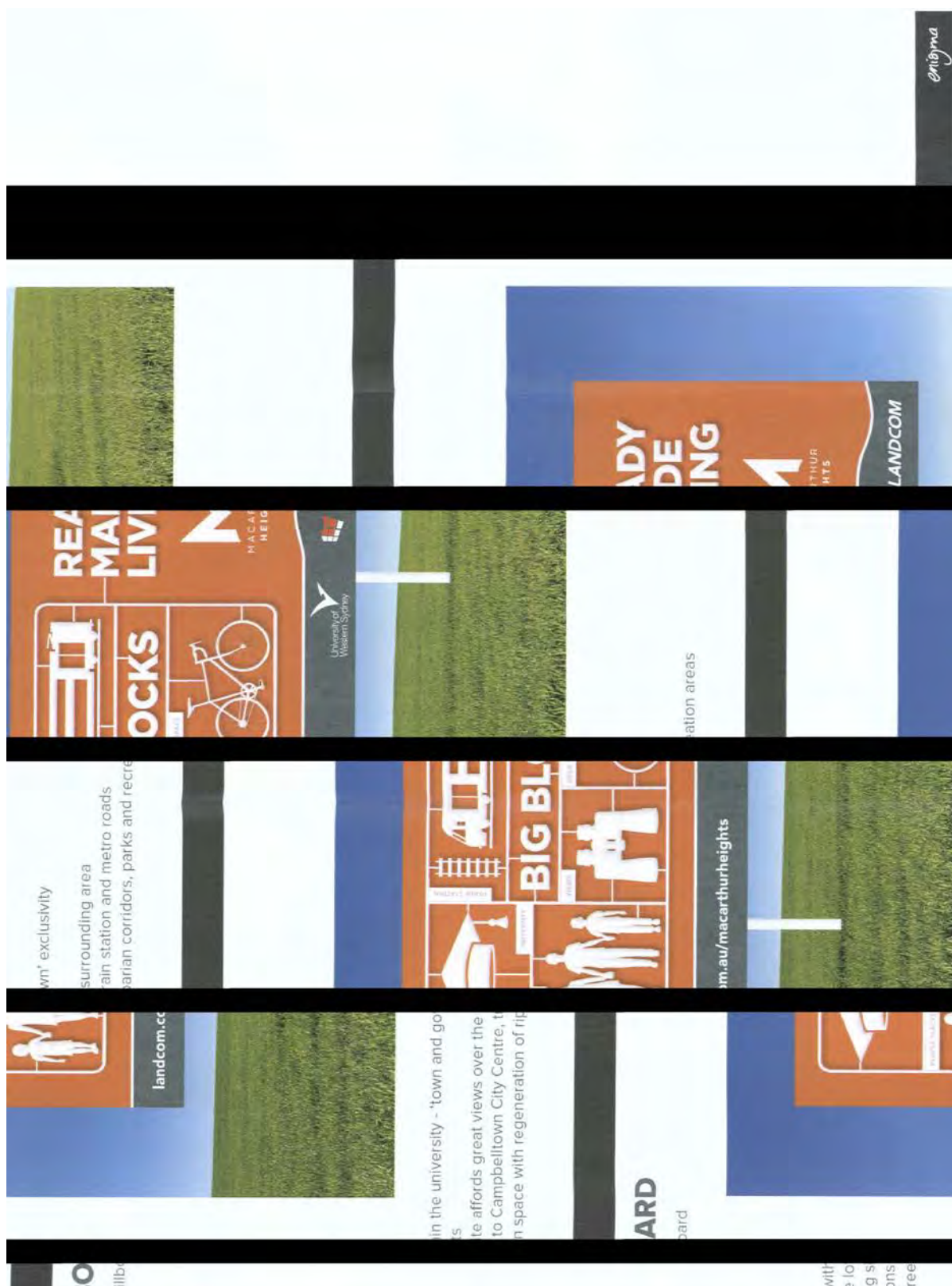
A copy of valid public liability insurance cover for the value of \$20M or as adjusted by Council, covering any signs or associated works within the public area and indemnifying Council from any claims arising from an incident caused or associated with the any of the proposed signs, or associated works shall be provided to Council each year for the duration of this consent.

5. Construction Work Hours

All work on site associated with the erection of the signs shall only occur between the hours of 7.00am – 6.00pm, Monday to Friday and 8.00am – 4.00pm Saturday.

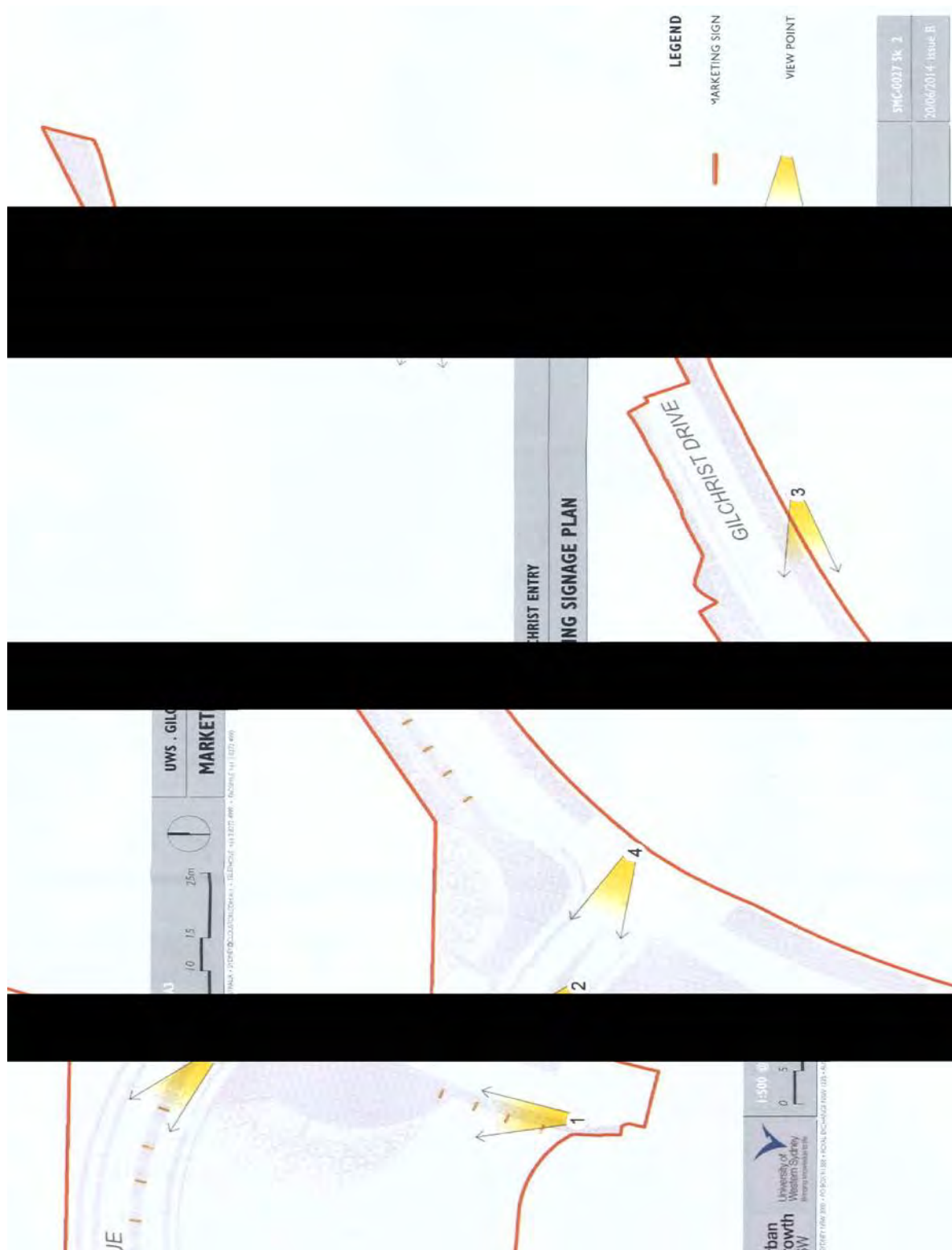
Proposed sign posting plan

ATTACHMENT 3



Indicative billboard design

ATTACHMENT 4



Gilchrist Drive Entry sign design
View perspective plan



**Gilchrist Drive Entry sign design
 Southern approach – View 1**



Gilchrist Drive Entry sign design
Approach form the North – View 3



Gilchrist Drive Entry sign design
 Gilchrist Drive entrance – View 4

ATTACHMENT 5

State Environmental Planning Policy No. 64 – Advertising and Signage Assessment Criteria

1. Character of the area	Response
<ul style="list-style-type: none"> Compatibility with existing or desired future character of area? 	<p>The proposed signs are compatible with the future character of the area and will provide an attractive coordinated suite of signage to provide directions and information to visitors to the area while marketing of the new land release is being undertaken. The signs will create an identity and advertise the 'Macarthur Heights' land release which is consistent with the future residential character of this area.</p> <p>The signs will display both directional information for visitors to the new land release area and will advertise the new land release at appropriate locations. This is entirely compatible with other new land releases within the immediate and wider locality.</p>
2. Special areas <ul style="list-style-type: none"> Does proposal detract from amenity or visual quality of any environmental sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas? 	<p>The proposed will not detract from the amenity or visual quality of the area. The proposed signs are appropriate to their function, have been designed as a coordinated suite and are sited in locations where signs are necessary but will not impact on any sensitive areas.</p>
3. View and Vistas <ul style="list-style-type: none"> Does the proposal obscure or compromise important views? Does the proposal dominate the skyline and reduce the quality of vistas? Does the proposal respect the viewing rights of other advertisers? 	<p>No – the proposed signage is of a suitable size and scale and will not impact on any views.</p> <p>No – the proposed signs are of a suitable size and scale and will not dominant and have been located to ensure that they do not impact on any vistas.</p> <p>Yes. This has been considered in the locations of the signage.</p>
4. Streetscape, setting or landscape <ul style="list-style-type: none"> Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape? 	<p>Yes – the proposed signs are consistent with their purpose and with their setting. The scale and proportions of signs are appropriate to their function and the surrounding environment. The signs have been located at points within the UWS Campbelltown site where information / direction signage is necessary but in specific locations where they will not impact on any surrounding features.</p> <p>Yes – the proposed signs will provide appropriate wayfinding and other information to visitors of the new residential subdivision. The signage suite has been specifically designed so that signs are consistent in scale with the way they are experienced by visitors. The materials and finishes used are appropriate.</p>
<ul style="list-style-type: none"> Does the proposal contribute to the visual interest of the streetscape, setting or landscape? 	<p>Not applicable – the signs are within an area which is currently being developed for land release.</p>
<ul style="list-style-type: none"> Does proposal reduce clutter by rationalising and simplifying existing advertising? 	No
<ul style="list-style-type: none"> Does the proposal screen unsightliness? 	No
<ul style="list-style-type: none"> Does the proposal protrude above buildings, structures or tree canopies in the area or locality? 	No

SEPP 64 Schedule 1 Assessment

3.3 Advertising Structures For University Of Western Sydney Residential Project

▪ Does the proposal require ongoing vegetation management?	No
5. Site and building	
▪ Is the proposal compatible with the scale, proportion and other characteristics of the site or building or both on which the signage is to be located?	Yes – the proposed signs are consistent with setting and the specific locations.
▪ Does the proposal respect important features of the site or building or both?	Yes – as noted above all signs are located clear of any features.
▪ Does the proposal show innovation and imagination in its relationship to the site or building or both?	Yes – the proposed signs are attractive and appropriate to their function. They will provide information to visitors thereby enhancing their experience.
6. Associated devices and logos with advertisements and advertising structures	
7. Illumination	
▪ Would illumination result in unacceptable glare?	N/A None of the signs will be illuminated.
▪ Would illumination affect safety for pedestrians, vehicles or aircraft?	N/A None of the signs will be illuminated.
▪ Would illumination detract from the amenity of any residence or other form of accommodation?	N/A None of the signs will be illuminated.
▪ Can the intensity of the illumination be adjusted?	N/A None of the signs will be illuminated.
▪ Is the illumination subject to a curfew?	N/A None of the signs will be illuminated.
8. Safety	
▪ Would the proposal reduce the safety for any public road?	No – the proposed signs are all setback from the public roads and do not contain any distractions to drivers. Further the signs are all located so that they do not impede any view lines at intersections and will not therefore result in any safety implications for any public road. The main intent of the signs is to direct and inform drivers to a destination.
▪ Would the proposal reduce the safety for pedestrian or bicyclists?	No as the signs are located adjacent to roads while still allowing adequate room for the movement of bicyclists and pedestrians.
▪ Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	No – the proposed signs have been sensitively sited to ensure they do not obscure sightlines to or from any public areas.

SEPP 64 Schedule 1 Assessment

4. COMPLIANCE SERVICES

4.1 Legal Status Report

Reporting Officer

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 2014-2015 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
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Total ongoing Class 1 DA appeal matters (as at 22/07/2014)	0
Total completed Class 1 DA appeal matters (as at 22/07/2014)	0
Costs from 1 July 2014 for Class 1 DA appeal matters:	\$0.00

2. Land and Environment Court Class 1 Matters – Appeals Against Council's issued Orders / Notices
--

Total ongoing Class 1 Order/Notice appeal matters (as at 22/07/2014)	1
Total completed Class 1 Order/Notice appeal matters (as at 22/07/2014)	0
Costs from 1 July 2014 for Class 1 Order/Notices appeal matters:	\$0.00

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 mention on 25 July 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.

On 16 June 2014 the Court, by consent, granted the Applicant's application to vacate the hearing dates, pending determination by Council of a fresh DA No. 1138/2014/DA-M for the proposed development comprising the completion of construction of a partly built attached dual-occupancy, fencing, retaining walls, driveways and landscaping. The Court gave certain procedural directions and adjourned the proceedings to 25 July 2014 for mention.

3. Land and Environment Court Class 4 Matters – Civil Enforcement in respect of non-compliance with Planning Law or Orders issued by Council

Total ongoing Class 4 matters before the Court (as at 22/07/2014)	2
Total completed Class 4 matters (as at 22/07/2014)	0
Costs from 1 July 2014 for Class 4 matters	\$31,191.59

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: \$43,806.51

Status: Ongoing – listed for mention on 25 July 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> <p>On 16 June 2014 the Court, by consent, granted the Applicant's application to vacate the hearing dates, pending determination by Council of a fresh DA No. 1138/2014/DA-M for the proposed development comprising the completion of construction of a partly built attached dual-occupancy, fencing, retaining walls, driveways and landscaping. The Court gave certain procedural directions and adjourned the proceedings to 25 July 2014 for mention.</p>
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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:	\$11,532.30

Status: Ongoing – listed for mediation on 15 August 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.

On 13 June 2014 the Respondent notified the Court of his intention to file a fresh DA, which is intended to remedy the breach of the existing consent. Council noted its concerns regarding the ongoing safety issues pertaining to the existing intersection at Campbelltown and Blomfield Roads and that the submission of the fresh DA may necessitate the original summons being amended to join the Childcare Centre operator. The Court gave certain procedural directions and adjourned the proceedings to 4 July 2014 for further directions hearing.

On 4 July 2014 the Court, by consent, adjourned the proceedings for mediation before a Commissioner of the Court. At the mediation Council will seek to join the Early Education Centre operator in the mediation. The Registrar of the Court has listed the mediation for 15 August 2014.

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

Total ongoing Class 5 matters before the Court (as at 22/07/2014)	0
Total completed Class 5 matters (as at 22/07/2014)	0
Costs from 1 July 2014 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 22/07/2014)	0
Total completed Class 6 matters (as at 22/07/2014)	0
Costs from 1 July 2014 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 22/07/2014)	0
Total completed Appeal matters (as at 22/07/2014)	0
Costs from 1 July 2014 for District Court matters	\$0.00

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 22/07/2014)	5
Total completed Local Court Matters (as at 22/07/2014)	1
Costs from 1 July 2014 for Local Court Matters	\$0.00

File No:	LP13/14 – Penalty Notice Court Election
Offence:	Stand on path/strip in built-up area
Act:	<i>Road Rules 2008</i>
Costs to date:	\$0.00
Status:	Ongoing.
Progress:	The matter was before the Court for mention on 24 June 2014 where the defendant entered a not guilty plea. The proceedings were adjourned to 31 July 2014 for defended hearing.

File No:	LP14/14 – Penalty Notice Court Election
Offence:	Disobey no stopping sign – School Zone
Act:	<i>Road Rules 2008</i>
Final Costs:	\$0.00
Status:	Completed.
Progress:	The matter was before the Court for mention on 8 July 2014 where the defendant entered a guilty plea with explanation. After considering the evidence and submissions the Magistrate found the offence proved and ordered that the charge be dismissed without conviction or penalty under section 10(1)(a) of the Crimes (Sentencing Procedure) Act 1999.

File No:	LP15/14 – Penalty Notice Court Election
Offence:	Not register company animal – not dangerous or restricted dog
Act:	<i>Companion Animals Act 1998</i>
Costs to date:	\$0.00
Status:	New matter.
Progress:	Listed for first mention on 22 July 2014.

File No:	LP16/14 – Penalty Notice Court Election
Offence:	Not stand vehicle in marked parking space
Act:	<i>Local Government Act 1993</i>
Costs to date:	\$0.00
Status:	New matter.
Progress:	Listed for first mention on 22 July 2014.

File No:	LP17/14 – Penalty Notice Court Election
Offence:	Disobey no stopping sign – school zone
Act:	<i>Road Rules 2008</i>
Costs to date:	\$0.00
Status:	New Matter.
Progress:	Listed for first mention on 29 July 2014.

File No:	LP18/14 – Penalty Notice Court Election
Offence:	Not register company animal – not dangerous or restricted dog
Act:	<i>Companion Animals Act 1998</i>
Costs to date:	\$0.00
Status:	New matter.
Progress:	Listed for first mention on 5 August 2014.

8. Matters referred to Council's solicitor for advice

Matters referred to Council's solicitors for advice on questions of law, the likelihood of appeal or prosecution proceedings being initiated, and/or Council liability.

Total Advice Matters (as at 22/07/2014)	1
Costs from 1 July 2014 for advice matters	\$1,396.20

9. Legal Costs Summary		
The following summary lists the Planning and Environment Division's net legal costs for the 2013/2014 period.		
Relevant attachments or tables	Costs Debit	Costs Credit
Class 1 Land and Environment Court - appeals against Council's determination of Development Applications	\$0.00	\$0.00
Class 1 Land and Environment Court - appeals against Orders or Notices issued by Council	\$0.00	\$0.00
Class 4 Land and Environment Court matters - non-compliance with Council Orders, Notices or prosecutions	\$31,191.59	\$0.00
Class 5 Land and Environment Court - pollution and planning prosecution matters	\$0.00	\$0.00
Class 6 Land and Environment Court - appeals from convictions relating to environmental matters	\$0.00	\$0.00
Land and Environment Court tree dispute between neighbours matters	\$0.00	\$0.00
District Court appeal matters	\$0.00	\$0.00
Local Court prosecution matters	\$0.00	\$0.00
Matters referred to Council's solicitor for legal advice	\$1,396.20	\$0.00
Miscellaneous costs not shown elsewhere in this table	\$0.00	\$0.00
Costs Sub-Total	\$32,587.79	\$0.00
Overall Net Costs Total (GST exclusive)	\$32,587.79	

Officer's Recommendation

That the information be noted.

Committee's Recommendation: (Kolkman/Rowell)

That the Officer's Recommendation be adopted.

CARRIED

Council Meeting 19 August 2014 (Mead/Thompson)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 146

That the Officer's Recommendation be adopted.

4.2 Options for the Operation of the Animal Care Facility

Reporting Officer

Manager Compliance Services

Attachments

Table outlining the comparison between the options (contained within this report)

Purpose

To advise Council on future options for the operation of the Animal Care Facility (ACF) following its decision to decline to accept tenders received for the management of the Facility.

History

In February 2013, consultant Mr Cliff Haynes on behalf of Council undertook an independent review of Council's ACF operations. The review came about in response to concerns received from the community over issues related to animal euthanasia rates, animal welfare and customer service levels.

The findings of the independent review were reported to Council and in June 2013 Council resolved to invite tenders for the management of the Animal Care Facility (not including regulatory and compliance functions).

Tenders were subsequently received from two organisations:

- Gosford Dog Paws Pty Ltd (conforming and non-conforming tenders); and,
- Sydney Dogs and Cats Home Incorporated.

On 17 June, 2014 Councillors were provided with a briefing relating to the tenders. At its meeting on 29 July, 2014 Council resolved to decline to accept the tenders and called for a further report regarding alternative options for the provision of services relating to the ACF.

Report

This report presents and discusses three options for the future operation of the ACF. Estimated costings have been included in the report and incorporate costs for companion animal regulatory services currently provided by Council. This approach has been adopted for comparison sake given that regulatory services are included in the current budget for the ACF and these services are common to and would continue to be performed with all options considered in the report.

Option 1 - Council operate the ACF at current service levels

This option involves Council continuing to operate the ACF as it does currently. This would require the operation to be continued within current budget and staffing levels, and would not address service improvements called for under the recent tender including in particular, volunteer coordination, extended operating hours, daily website updating and the regular exercise of impounded dogs.

The main feature of this option includes the relatively (compared to other options) lower nett operating cost to Council, (\$464,000 in 2013-2014), given no increase to service levels, including volunteer coordination, extension of operating hours and associated liabilities and costs.

Disadvantages associated with this option are that service levels would not be increased to accommodate a volunteer program, more regular exercising of dogs, daily update of the website for lost/impounded animals, and extended public opening times (including Sundays).

Irrespective of the above, a number of policy and operational improvements have been implemented within existing resources at the ACF over recent years contributing to a significant reduction in euthanasia rates (from 50% to 22% for dogs) and increases in the number of re-homed and rescued dogs. A policy that requires all animals sold by the ACF to be desexed, has also been introduced which (together with Council's continued participation in the CAWS subsidised desexing program) will help realise a gradual reduction in the number of unwanted or abandoned companion animals impounded or surrendered in future years.

In addition, capital works improvements have been undertaken at the ACF such as the cattery upgrade and the installation of roller shutters to previously open fronted kennels, thereby improving the standard of accommodation and welfare for animals.

Option 2 - Council operate the ACF with increased service levels

This option involves increasing service levels by employing a volunteer coordinator to implement and supervise an ACF volunteer program, as well as an extension to the operating hours of the facility by one hour Monday to Friday (to facilitate a 4.30pm close) and on Saturday (to facilitate a 1.00pm close), and also opening on Sundays (9.00am – 1.00pm).

In addition, to ensure the ACF is adequately staffed across the increased spread of operating hours (7.30am - 4.30pm Monday - Friday, 9.00am – 1.00pm Saturdays, Sundays and public holidays) it would be necessary to employ an additional three operational staff and an additional Technical Support Officer (TSO) at the ACF.

The additional three operational animal control staff would be required to ensure facility personnel have the capacity to undertake kennel duties and grounds maintenance, impounding of animals and complaints handling across the increased spread of hours, until 4:30pm (Monday to Friday) and across weekends. An additional TSO would also be required to ensure adequate administrative capability through extended hours Monday to Friday and on weekends. The additional TSO would also enable the more timely data entry of registration information into Council's electronic database and follow up of microchipped animals that have not been registered (particularly cats).

Under option 2, it is intended that volunteers would be engaged under an agreement which would incorporate strict code of conduct requirements to manage operational risk and maintain Work Health and Safety standards. Volunteers would assist with activities including animal grooming, basic obedience training and exercise, cleaning of bed linen and website updating. It is also envisaged volunteers would attend the facility outside of public opening times to minimise operational risks.

This option is estimated to generate a nett operational cost to Council of approximately \$858,000p.a. to allow for volunteer coordination, supervision, equipment and training as well as additional staffing and overtime costs associated with extending current operating hours.

Benefits associated with this option include enhanced levels of customer service and greater public accessibility to the ACF due to increased operating hours across weekends; improved animal welfare through volunteer support, better promotion, presentation and marketing of animals available for adoption.

Issues related to this option may include increased potential operational risks associated with volunteer involvement (e.g. WHS, disease control) increased operational costs and the direct responsibility of managing volunteers in an "operational environment". In addition, future capital upgrades such as the construction of dog exercise runs, would most likely need to be considered.

Option 3 - Shared Service Agreement - Sutherland Shire Council

Staff have examined an option involving the take up of non-regulatory related functions by a separate service provider.

This option proposes a shared service agreement with Sutherland Shire Council to utilise its animal shelter for the provision of animal pound services.

Under the arrangement, Council's ACF would operate as a temporary holding facility where it holds impounded animals for up to seven days, to provide an opportunity for owners to claim their impounded animal.

Unclaimed and unidentified animals would then be conveyed by Campbelltown Council staff to the Sutherland Shire Council Animal Shelter (SSCAS) where staff from that shelter would care for the animals until they are re-homed.

As part of the proposed agreement, Campbelltown City Council would be required to initially contribute approximately \$400,000 towards a capital/infrastructure upgrade for the Sutherland animal shelter to accommodate Campbelltown's impounded and surrendered companion animals that would be transferred to the Sutherland facility. The exact amount of contribution would need to be confirmed once firm quotations on the upgrade have been obtained.

In addition, Council would be required to pay an annual management fee of \$140,000 per annum (for animal care services but excluding vet fees) and pay all vet expenses associated with the care of Campbelltown's animals. In addition to the above, a transport vehicle would need to be purchased to transfer companion animals to the SSCAS. These costs would need to be confirmed once agreement terms are finalised.

In view of the significant financial contribution required with this option, it is considered prudent that any agreement be written over a long term period of at least ten years. Sydney City Council (since 2009) currently has a similar shared service agreement with Sutherland Shire Council which extends over a 21 year term. Sutherland's animal shelter has recently been acknowledged for its successful shared service arrangement with Sydney City Council winning a Local Government Industry Award for its collaborative efforts with the shared service arrangement. Council staff recognise that the Sutherland animal shelter is held in high regard and enjoys a good reputation as a facility with very successful rehoming strategies, a high level of care and boasts one of the lowest euthanasia rates in Australia and Council has been reassured that the SSCAS aims to re-home every suitable animal in accordance with its "low kill" policy.

In addition to the shelter staff who undertake day to day operations, there is a team of approximately 60 volunteers that assist to ensure that all the animals held in that facility are exercised, groomed and engaged in play and human contact every day. All animals rehomed by the shelter are desexed, with the cost of desexing included in the adoption fee.

The Sutherland Shire Local Government Area has a population in excess of 215,000 people making it one of the largest Councils (by population) in Australia. This 'scale' provides significant opportunities to re-home dogs and cats. Adoptions would be promoted through both Campbelltown and Sutherland Council websites. The Sutherland Shelter's team of volunteers also re-home animals by "word of mouth" and by promoting details of animals available for adoption onto other shelters and rescue websites.

Councillors may also be interested to note that a number of other Southern Sydney Councils have also indicated an interest in entering a shared services arrangement with Sutherland Shire Council, including Botany and Waverly Councils. Sutherland Council have indicated that not all Councils can be accommodated and that they would give preference on a "first in best dressed" basis.

A range of benefits have been identified by staff as being associated with this shared service option, including:-

- Shared pound responsibilities and associated service level and animal welfare improvements through accessing the SSCAS
- Access to an extensive, established and successful volunteer program without having direct volunteer coordination and supervision responsibilities
- Access to the SSCAS animal adoption networks and resources
- Access to improved animal accommodation, welfare and care
- Reduced potential for public complaint
- Additional incentive for local (Campbelltown LGA) residents to microchip their animals.

Issues associated with the shared service arrangement may relate to increased operating costs and the remoteness and accessibility of the Sutherland animal shelter to Campbelltown's residents. As part of implementing this option Council would need to employ a part-time Animal Control Officer and an additional vehicle to transport animals to the Sutherland facility on a three days per week basis.

A table summarising an overall comparison of the above options is shown in Attachment 1.

Evaluation Summary

Council's overall aim in deciding how to proceed with the provision of non-regulating animal care services has a number of key elements including:

- Reducing animal euthanasia rates
- Maximising animal re-homing rates
- Achieving acceptable levels of animal welfare for impounded animals
- Encouraging responsible animal ownership amongst Campbelltown's residents
- Providing a good level of customer service for Campbelltown residents who have occasion to deal with Council over animal related matters.

The Sutherland shared service agreement option presents an opportunity to engage with a "best practice" award winning and reputable animal shelter, that is equipped with high quality animal accommodation facilities, a successful volunteer program and an effective re-homing approach. These advantages combine to provide Council with an option that effectively address the aims stated above.

After considering the three options presented in this report, it is recommended that Option 3 (shared service agreement with Sutherland Shire Council) be pursued for Council's further consideration. To advance this option, Council would need to enter into a Memorandum of Understanding (MOU) with Sutherland Shire Council to define arrangements for Sutherland Shire Council to provide companion animal sheltering services at its animal shelter for Campbelltown City Council. Once a draft agreement is finalised, further details would be provided in a report to Council for its consideration and ultimately, endorsement. Once a signed service agreement is finalised and endorsed it is estimated that it would take approximately 8-12 months to implement, given the time needed to obtain the necessary consents/approvals and completing the required capital works upgrade.

Officer's Recommendation

1. That Council enter into a Memorandum of Understanding with Sutherland Shire Council to define arrangements that will form the basis of a shared service agreement for Sutherland Shire Council to provide companion animal sheltering services in accordance with the provisions outlined in this report, for Campbelltown City Council at the Sutherland Shire Council Animal Shelter.
 2. That a further report be presented to Council outlining details of the proposed shared services agreement including the agreement term and associated costs, for its consideration for endorsement, once agreement details are determined.
-

Committee Note: Ms S Riley, Ms J Scott and Ms R McNiece addressed the Committee.

Committee's Recommendation: (Rowell/Thompson)

1. That option two as outlined within the report be adopted.
2. That the Campbelltown Animal Care Facility be upgraded to reflect current industry requirements and guidelines including a purpose built facility to house cats and dogs including dedicated exercise runs.
3. That a report be presented to Council detailing the planning designs and construction with all associated costs together with staffing and volunteer implications.
4. That the Campbelltown Animal Care Facility works towards becoming a no kill facility within a short time frame with the exception of medically unwell animals and dangerous breeds or behavioural issues.

CARRIED

Amendment: (Mead/Kolkman)

That a decision in this matter be deferred pending a Briefing and a further report to Council to consider all the options.

LOST

Council Meeting 19 August 2014 (Mead/Thompson)

That the Officer's Recommendation be adopted.

Amendment (Rowell/Thompson)

1. That the Campbelltown Animal Care Facility including the day to day operation and animal care remain within the Campbelltown Local Government Area.
 2. That as a matter of urgency a dedicated exercise run be installed in the current Facility.
 3. That the Campbelltown Animal Care Facility work towards becoming a low kill animal Facility.
 4. That an urgent report be presented to Council detailing upgrade requirements to reflect current Industry Standards and Best Practices in housing of animals and animal care including:
 - a) the construction of purpose built, building/buildings to house animals with separate dedicated animal exercise runs
 - b) the best location to house the Facility within the Campbelltown Local Government Area
 - c) the best Management Practices for the Facility and animal welfare/care.
-

Council Resolution Minute Number 146

That the above amendment be adopted.

A **Division** was called in regard to the Resolution for Item 4.2– Options for the Operation of the Animal Care Facility with those voting for the Motion being Councillors Dobson, Greiss, Hawker, Lake, Lound, Matheson, Mead, Rowell and Thompson.

Voting against the Resolution were Councillors Borg, Brticevic, Kolkman and Oates.

ATTACHMENT 1

Option Summary Comparison Table

Option	Estimated Nett Annual Operating Cost	Animal Welfare	Volunteer Program	Operating hours	Other comments
Option 1 - Council run with current service levels.	<ul style="list-style-type: none"> ✓ ✓ ✓ \$464,000 (2013/14 actual costs)	<ul style="list-style-type: none"> ✓ Current level of care maintained 	<ul style="list-style-type: none"> X No Volunteer Program 	<ul style="list-style-type: none"> ✓ Current opening times maintained (Monday to Saturday) 	<ul style="list-style-type: none"> All cats and dogs sold are desexed.
Option 2 - Council run with increased service levels.	<ul style="list-style-type: none"> ✓ \$858,000	<ul style="list-style-type: none"> ✓ ✓ Volunteer support with care arrangements. Regular dog walking program 	<ul style="list-style-type: none"> ✓ Volunteer management required. Volunteer Coordinator to be appointed Volunteer program to be established. 	<ul style="list-style-type: none"> ✓ ✓ Public opening times extended across 7 days. 	<ul style="list-style-type: none"> All cats and dogs are desexed. Public opening times proposed to be limited outside of volunteer attendance times. 5 additional staff employed to provide for a spread of hours staffing arrangement and volunteer coordination.
Option 3 - Shared Service Arrangement	<ul style="list-style-type: none"> ✓ ✓ \$674,500	<ul style="list-style-type: none"> ✓ ✓ ✓ Volunteer support with weekly vet visitation. Regular dog walking and exercise yards. "Low kill" euthanasia policy. State of the art animal holding facilities. 	<ul style="list-style-type: none"> ✓ ✓ Successful volunteer program in place and run by Sutherland Shire Council. 	<ul style="list-style-type: none"> ✓ Open 6 days (Monday to Saturday) 	<ul style="list-style-type: none"> All sold cats and dogs desexed. ACF operates as a temporary holding facility. Access to established rehoming networks and large population base for animal rehoming opportunities. Driver employed to transport animals to Sutherland Shire Council Animal Shelter.

4.3 Compliance Services Quarterly Statistics April to June 2014

Reporting Officer

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 April to June 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 774 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	149	when required
Medium Risk	94	94
High Risk	531	1062
TOTAL	774	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 333 food premise inspections were conducted for the reporting period, which is above the quarterly average inspection numbers (326) for 2012-2013. Of the 333 inspections undertaken, 75 (23%) food premises inspections were recorded as unsatisfactory. Follow up reinspections are undertaken where premises are found to be unsatisfactory at the time of initial inspection, to ensure they reach a satisfactory standard. In certain situations, Improvement Notices or Penalty Notices are issued under the *Food Act 2003* when necessary to encourage compliance.

b. Public health

Within Campbelltown, there are approximately 289 regulated premises separated into three risk categories requiring 305 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	149	149
Category 2 - High	39	78
Category 3 - Low	78	78
Category 4 - Swimming Pools	23	via complaints only
TOTAL	289	305

A total of 11 health premises inspections were conducted for the reporting period being lower than the quarterly averages (38) for 2012 - 2013.

Of the 11 regulated health premises inspections conducted during the reporting period, two (18%) 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 38 system inspections were conducted during the reporting period.

In addition, 2 new installations were approved and 35 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 18 *Food Act 2003* Notices were issued during the reporting period, being higher than the quarterly average Food Act notice numbers (7) 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 59, being considerably higher the corresponding quarter (34) in 2012 - 2013.

The number of *Swimming Pools Act 1992* Directions issued (153) 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 49 Notices and Orders were served during the reporting period which is higher than quarterly averages (33) for 2012-2013.

Protection of the Environment Operations Act 1997 (POEO) Notices are issued for a variety of pollution matters including water pollution and waste dumping. The number of POEO Notices issued for the reporting period (5) is consistent with the quarterly averages (8) 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 853 customer service requests were received for the reporting period. More significant complaint categories were:

Category	April to June 2014
Parking (includes heavy vehicles)	191
Barking dogs	124
Abandoned motor vehicles	81
Illegal construction/development	68
Pollution	81
Health (non-regulated premises)	55
Dogs straying	47
Overgrown land	51

For a complete list of complaints received, please refer to the Customer Requests section of the Compliance Activity Summary Statistics in Attachment 1.

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 (4) 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. Six 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.

Four section 68 (*Local Government Act 1993*) event applications were received. These were for World No Tobacco Day at Kevin Wheatley Reserve, Airds, Lennon Bros Circus at Campbelltown Showground, Gala Day - World War 1 at Wood Park, Ingleburn and NAIDOC Family Fun Day at Kevin Wheatley Reserve, Airds.

5. Impounding

The number of dogs impounded during this reporting period was 355, which is similar with the 349 dogs impounded for the corresponding quarter in 2012 - 2013. The percentage of dogs microchipped at the time of impounding was 77%.

A total of 197 cats were impounded throughout the reporting period which is marginally higher than the number of cats impounded (182) 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, 12% were microchipped.

The number of abandoned vehicles impounded for this quarter was six. None of these vehicles were released back to their owner, six were disposed of by Council, and Council is not currently holding any abandoned vehicles.

70 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 (309) was considerably lower than the number of penalty notices issued in the previous quarter (720). The number issued for on-street offences (488) was lower than the previous quarter (527).

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, 33 school locations were patrolled, resulting in the issue of 51 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, three 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 70 trolleys being tagged.

f. Truck parking

Three truck parking patrols were undertaken during the reporting period, resulting in 38 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 24 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. Three tenders were received which are currently under evaluation.

9. Other activities

A summary of other activities or initiatives implemented within the reporting period are listed below:

- Council continues to conduct surveillance of construction sites for sediment and erosion control compliance
- active participation in the Food Regulation partnership, incorporating activity reporting and the review of inspection procedures and related documentation
- continued participation in the Sydney South West Area Health Service Public Health Unit Skin Penetration Working Group to improve industry practice and compliance
- patrols (by way of formalised agreement) of disabled parking at Campbelltown Mall and Macarthur Square continued through the reporting period
- periodic (three yearly) review of risk identification documents for various environmental health, building, land use, animal care/control and ranger activities
- ongoing review and development of Standard Operating Procedures relating to Section activities, tasks and programs
- continuation of participation in the CAWS subsidised desexing program for cats and dogs jointly with the RSPCA and Sydney University Veterinary Training Hospital Camden Campus. This program provides subsidised desexing in identified hot spots locations within the city for low income earners.

Officer's Recommendation

That the information be noted.

Committee's Recommendation: (Rowell/Kolkman)

That the Officer's Recommendation be adopted.

CARRIED

Council Meeting 19 August 2014 (Mead/Thompson)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 146

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	333	1204
Public Health	37	105	2	11	144
Wastewater Management System	62	100	45	38	245
Total	537	463	222	382	1604
Notices/Orders Issued					
<i>Food Act 2003</i>	4	5	6	18	33
<i>Local Government Act 1993</i>	60	54	64	59	237
<i>Swimming Pools Act 1992</i>	22	23	57	153	255
<i>Protection of Environment Operations Act 1979</i>	9	6	12	5	32
<i>Environmental Planning and Assessment Act</i>	38	49	56	49	192
<i>Companion Animals Act 1998</i>	2	8	10	7	27
Total	135	145	194	291	776
Customer Requests					
Abandoned Motor Vehicles	94	67	79	81	321
Animals (other)	29	25	41	33	128
Barking Dogs	124	88	148	124	484
Dog Attacks	24	18	19	21	82
Dog Straying	49	48	36	47	180
Food/Health (regulated)	18	18	23	18	77
Footpath Obstruction	10	20	15	25	70
Health (other)	61	76	85	55	278
Heavy Vehicle Parking	44	34	37	31	146
Illegal Constructions/Development	93	92	76	68	329
Misuse of Council Park	7	1	5	2	15
Overgrown Land	36	71	73	51	231
Parking (General)	90	96	136	160	482
Pollution	80	60	72	81	292
Rubbish Dumping/Litter	63	47	32	16	158
Shopping Trolley	22	19	19	7	67
Signs	8	6	8	11	33
Swimming Pool Fence	5	19	15	6	45
Trail Bikes	12	18	19	12	61
Tree Removal/Dangerous	9	11	8	4	32
Total	878	834	946	853	3511
Applications					
Building Certificates	7	18	10	4	39
Approval to Operate Effluent Disposal System Section 68 (<i>Local Government Act 1993</i>)	4	222	10	6	242
Event Approvals Section 68 (<i>Local Government Act 1993</i>)	6	5	33	4	48
Total	17	245	23	14	329

Activity	2013-2014 Quarter Results				YTD
	1	2	3	4	
Impounding					
Abandoned Vehicles	8	7	6	6	27
Shopping Trolleys	0	25	38	70	133
Dogs (Incoming)					
Impounded	362	355	395	355	1467
Surrendered	121	101	103	87	412
Dogs (Outgoing)					
Released to Owner	225	127	250	204	806
Sold	111	48	81	81	321
Released to rescue organisation	35	75	61	73	244
Euthanased – Surrendered by Owner	56	52	47	31	186
Euthanased – Restricted Dog	1	1	1	3	6
Euthanased – Health/temperament	35	32	32	20	119
Euthanased – Unable to re-home	15	16	20	23	74
Total	478	351	492	435	1756
Cats (Incoming)					
Impounded	140	261	275	197	873
Surrendered	25	71	59	37	192
Cats (Outgoing)					
Released to Owner	5	7	18	19	49
Sold	28	34	29	26	117
Released to rescue organisation	3	77	48	11	139
Euthanased – Surrendered by Owner	13	35	44	24	116
Euthanased – Health/temperament	101	142	137	68	448
Euthanased – Unable to re-home	15	13	22	64	114
Total	165	308	298	212	983
Penalty Notices					
Companion Animals	256	117	68	230	671
Environmental - includes litter and waste dumping	47	43	26	23	139
General - Includes Public Health and Food Safety	18	6	20	22	66
Land Use	1	2	2	12	17
Parking (car parks)	491	467	720	309	1987
Parking (on street)	758	730	527	488	2503
Total	1571	1365	1363	1084	5383
Compliance Programs					
Illegal Parking in School Zones					
Patrols	55	79	75	33	242
Warnings	1	0	13	7	21
Penalty Notices	123	142	92	51	408

Activity	2013-2014 Quarter Results				YTD
	1	2	3	4	
Illegal Signs					
Complaints – Council property	8	5	6	9	28
Complaints – Private property	0	0	2	1	3
Letters sent	0	0	1	1	2
Cautions issued	0	0	0	0	0
Fines issued	0	0	0	0	0
Removed (posters from poles)	226	180	274	611	1291
Illegal Trail Bike Riding					
Joint Patrols	1	0	0	1	2
Bikes Seized	0	0	0	0	0
Penalty Notices (Police)	0	0	0	0	0
Penalty Notices (Council)	0	0	0	0	0
Charges	0	0	0	0	0
Juvenile Cautions	0	0	0	0	0
Litter from Vehicles					
Patrols	2	1	0	1	4
Penalty Notices	2	3	0	3	8
Shopping Trolleys					
Patrols	1	0	0	4	5
Trolley's Tagged	13	25	38	70	146
Trolleys Impounded	0	25	38	70	133
Contractor Notified	0	25	9	4	38
Truck Parking					
Patrols	5	3	2	3	13
Penalty Notices	32	25	21	38	116

4.4 Proposed New Policy - Street Trading

Reporting Officer

Manager Compliance Services

Attachments

Draft Street Trading Policy (contained within this report)

Purpose

To submit a draft street trading policy to Council for consideration for endorsement for public exhibition.

History

Council currently has in place a Trading in Public Places Policy which prohibits trading activity (without the consent of Council) for the purpose of selling any article in a public place. This general policy position was initially adopted by Council in response to an incident involving the tragic death of a toddler associated with a mobile food vendor operating in the Campbelltown area in 1994.

Under the current Trading in Public Places Policy, trading by commercial operators in public places is generally prohibited, except when undertaken in association with Council or other approved events. Trading by not-for-profit organisations is permitted in certain circumstances with Council's written approval (eg street stalls in designated CBD locations).

More recently Council has received community feedback indicating that Council's current Trading in Public Places Policy is too restrictive, and that policy provisions could be broadened to provide greater opportunities for Council to support the enhancement of the character, culture and vibrance of its public places for the benefit of the Campbelltown community. This feedback has prompted the need to consider the development of a new replacement Street Trading Policy.

An outline of the direction and the terms of a draft Street Trading Policy were presented at two Councillor briefings on 25 February and 15 July 2014.

Report

The purpose of the draft Street Trading Policy is to appropriately regulate street trading activities conducted by commercial operators and charitable/community organisations to ensure such activities meet the following objectives:

- To adequately protect public health and safety
 - To adequately preserve public amenity
-

- To respect the economic "playing field" that local established businesses operate within
- To provide suitable opportunities to enhance the character and vitality of Council's road related public spaces, particularly those located within the CBD areas of Campbelltown and Ingleburn.

The draft Street Trading Policy intends to permit a broader range of trading activities and opportunities (than currently permitted under the existing Trading in Public Places Policy) such as business promotion stalls, flyer distribution and marketing, busking, street theatre and art.

The draft Policy is also intended to prohibit a range of inappropriate street trading activities, such as nuisance, offensive or unsafe activities, activities that adversely impact on lawfully operating businesses, spruiking or religious preaching, bill posting and other business advertising signage erected within road related areas.

It is proposed that permitted activities and approved street traders are to be regulated by a Street Trading Activity Permit issued to operators with binding conditions. Annual permits are proposed to be issued for regular or recurring activities.

Permit Fees are proposed to apply to commercial operators and for profit performers (and not to charitable organisations) as follows:

- Buskers/street performers (theatre/art) - annual permit fee \$30
- Outdoor Dining - annual permit fee - \$60 (up to 20 chairs), \$100 (for greater than 20 chairs)
- Business promotion stalls (not being event stalls) - annual permit fee \$100
- Other street trading activities by commercial operators - permit fee \$60.

Stalls associated with Council events will continue to have fees applied as per Council's existing fees and charges schedule.

The draft Policy defines various operational requirements and conditions that would apply to approved street trading activity permitted under the Policy, to ensure the activities are appropriately located, conducted safely and do not cause nuisance or impact unreasonably and adversely on local businesses or amenity. The draft Policy identifies designated locations in Campbelltown and Ingleburn CBD areas where street stalls, charity stalls and busking can occur.

Under the terms of the draft Policy Council would require all approved street traders, including commercial organisations, for profit performers (ie buskers) and charitable organisations, to hold and maintain a minimum \$20 million public liability insurance policy coverage for the respective street trading activity. Council as an alternative, may wish to exempt certain activities (for example buskers/street performers) from this requirement under the Street Trading Policy, however in such circumstances, Council would need to either extend its public liability insurance policy to cover these activities or otherwise be directly liable for these activities.

A copy of the draft Street Trading Policy needs to be distributed under separate cover due to the size of the document. It is recommended that the draft policy, together with the associated activity permit fees, be placed on public exhibition for comment by the community. A further report is intended to be presented at the conclusion of the exhibition period to consider any comments received. In the event that the proposed Street Trading Policy is adopted, the current Trading in Public Places Policy would need to be rescinded.

Officer's Recommendation

1. That the draft Street Trading Policy shown as the Attachment to this report and associated fees be placed on public exhibition for a minimum period of 28 days.
2. That a further report be presented to Council for Council consider adoption of the draft policy and the associated fees referred to above in recommendation 1, together with details of any submissions received, at the conclusion of the public exhibition period.

Committee's Recommendation: (Rowell/Kolkman)

1. That the draft Street Trading Policy shown as the Attachment to this report and associated fees be placed on public exhibition for a minimum period of 28 days subject the following amendments:
 - (i) the removal of busking from the corner of Queen Street and Dumaresq Street within the draft policy.
 - (ii) the relocation of the busking area in Lithgow Street Mall to the stage area.
2. That a further report be presented to Council for Council consider adoption of the draft policy and the associated fees referred to above in recommendation 1, together with details of any submissions received, at the conclusion of the public exhibition period.

CARRIED

Council Meeting 19 August 2014 (Mead/Thompson)

That the Committee's Recommendation be adopted.

Amendment (Borg/Greiss)

That a decision in this item be deferred for presentation at a briefing evening and the next Planning and Environment Committee meeting.

LOST

Council Resolution Minute Number 146

That the Committee's Recommendation be adopted.

ATTACHMENT 1

DRAFT

STREET TRADING POLICY

CAMPBELLTOWN CITY COUNCIL

AUGUST 2014

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Policy Statement

Campbelltown City Council supports the development of the City's business centres, with a vibrant mix of retail, business and community activities. Council seeks to encourage active street life and enhance community participation in the Campbelltown and Ingleburn business centres through the safe undertaking of certain non-commercial and commercial activities on footways and roadways (including road reserves).

The Street Trading Policy provides a framework for Council to deal with requests for the use of footways and roadways for certain non-commercial and commercial activities.

The Policy applies to all public footways and roadways in the Campbelltown Local Government Area (LGA) that are managed by Council directly or are under its care and control.

PART ONE - PRELIMINARY

1. Purpose

The purpose of the Street Trading Policy is to provide a framework for Council to deal with requests for the use of community land being footways and roadways, for certain non-commercial and commercial activities.

The Policy is to supplement provisions of the Local Government Act (the Act) and the Local Government (Approvals) Regulation 1993 by:

- Specifying the circumstances in which a person is not required to obtain a particular approval from the council;
- Specifying criteria which the Council must consider when determining whether or not to grant approval to a particular activity;
- Specifying other matters relating to approvals not dealt with by the Act or Regulations

1.1 Aims

In dealing with street trading activities, Council aims to

1. Protect public health and safety.
2. Preserve the amenity of the City area.
3. Give regard to the well-being of local lawfully established businesses and the principles of equity and fair competition.

1.2 Legislative Context

The Local Government Act 1993 under **Section 68 - What activities generally require the approval of the council** states that:

- 1) A person may carry out an activity specified only with the prior approval of council, except in so far as this act, the regulations or a local policy adopted under Part 3 allows the activity to be carried out without that approval.

Section 68 of the Local Government Act specifies that Council approval is required in respect of a trade or business activity conducted on community land, unless there is a policy in place that exempts such an activity from requiring approval. This policy shall be read in conjunction with Section 68.

1.3 Definitions

The following terms when read in this Policy, shall be taken to mean as defined below:

application means an application made under Section 68 of the Local Government Act 1993.

approval means an approval issued by the Council pursuant to section 68 of the Local Government Act 1993

busking means singing, playing a musical instrument or a dramatic or dance performance. Other forms of expression may include, but not strictly be limited to, mime or 'live statues'.

Charitable or Non-commercial organisation means a type of non-profit organisation that is created and operates for philanthropic rather than pecuniary pursuits, as well as for social well-being (e.g. charitable, educational, religious or other similar purpose, serving the public interest or common good).

Commercial Organisation means a company or business organisation that engages in some form of commercial activity, such as selling goods or services, with the primary objective of making a profit.

public place means:

- (a) a public reserve, public bathing reserve, public baths or public swimming pool, or
- (b) a public road, public bridge, public wharf or public road-ferry, or
- (c) a Crown reserve comprising land reserved for future public requirements, or
- (d) public land or Crown land that is not:
 - (i) a Crown reserve (other than a Crown reserve that is a public place because of paragraph (a), (b) or (c), or
 - (ii) a common, or
 - (iii) land subject to the Trustees of Schools of Arts Enabling Act 1902, or
 - (iv) land that has been sold or leased or lawfully contracted to be sold or leased, or
- (e) land that is declared by the Local Government regulations to be a public place for the purposes of this definition.

public road means a road or road related area (land adjacent a road) which the public are entitled to use.

selling includes to barter, trade, offer, display for sale/auction any article, including the distribution of pamphlets or the collection of donations.

special event means a community event coordinated by Campbelltown City Council that is either the Fishers Ghost Festival, Ingleburn Alive Festival, Riverfest or a like event.

street trading means the selling, bartering or exposing or offering for sale of any article (including a living thing) or service on a public road or road related area. Trading also extends to include the distribution of pamphlets or the collection of donations.

1.4 Land policy applies to

This policy applies to land located within the Campbelltown Local Government Area.

PART TWO - TYPES OF STREET TRADING ACTIVITIES COVERED BY THIS POLICY

2. Types of activities covered by this Policy

This policy applies to a range of activities including:

- (i) Street stalls, information stands or like activities undertaken by recognised organisations such as local sporting clubs, schools, religious organisations, registered charities, community groups, government bodies and commercial organisations that may also involve the dissemination of general information for the purpose of promoting community awareness; charitable fundraising; or the sale of food or goods for charitable purposes.
- (ii) Commercial activities on public footways or roadways that include activities such as outdoor dining, busking, business promotion stalls or stands, distribution of flyers and the erection of promotional banners and signage within the Campbelltown Local Government Area (LGA).

PART THREE - PERMITTED STREET TRADING ACTIVITIES EXEMPT FROM THE NEED TO OBTAIN COUNCIL APPROVAL

3. Exemptions

The distribution of flyers or other promotional material that does not require the erection of a stand or stall or other equipment, and that is conducted on the public footway (located immediately adjacent to and in front of the business premises subject of the promotion) is an activity exempt from the need for prior Council approval (i.e. Street Trading Activity Permit) subject to the following:

- 1) Only one (1) person is permitted to stand outside the premises and distribute flyers or other promotional material;
- 2) Persons distributing flyers are not to impede, or cause an obstruction to pedestrians;
- 3) The direct sale of goods from the public footway is prohibited.
- 4) The organisation must ensure flyers or other promotional material is distributed lawfully and that the activity does not create a litter problem in the immediate vicinity.

Note: the placement of flyers or similar promotional material on vehicles is an offence under the Protection of the Environment Operations Act, 1997.

PART FOUR - PERMITTED STREET TRADING ACTIVITIES WHICH REQUIRE COUNCIL APPROVAL

4. Permitted activities which require Council's approval

The following activities are permitted in certain designated areas within the Campbelltown LGA with prior written Council approval, by way of a Street Trading Activity Permit issued by Council:

- 1) Fundraising and promotional activities by registered charities or not for profit associations (by non-commission collectors) and community organisations that are located or who are active within the Campbelltown LGA e.g. The Salvation Army, Legacy, the Cancer Council, Lions Club, sporting clubs etc.,
- 2) Street stalls or information stands conducted by non-commercial organisations;
- 3) Business promotion/marketing stalls conducted by commercial organisations;
- 4) Mobile displays or stand-alone vehicles that promote or provide a community or government service e.g. road safety, or health awareness/health screening activities such as the NSW Blood Bank, Breast Screen NSW;
- 5) Busking, performances or cultural activities;
- 6) Banner signs for community, charity or commercial (i.e. "business expo") type events; and
- 7) Outdoor dining

PART FIVE - PROHIBITIONS

5. Prohibited activities

The following activities are prohibited within the Campbelltown LGA:

- 1) Roadside trading by use of a stall, article, standing vehicle or the like and includes the selling, trading or giving of any goods or services;
 - 2) Display of goods, promotions or behaviour that conflicts with acceptable community standards or such activities that are considered by Council to be likely to cause a nuisance or offence to the public;
 - 3) Unauthorised street trading, business promotion, advertising or the selling of goods or services of any type;
 - 4) Religious preaching;
 - 5) Spruiking
 - 6) The erection of (bill) posters on any public place or property that bounds a public place;
 - 7) Advertising structures (including: Variable Message Sign boards/trailers (VMS), A-Frames, flags, balloons etc.) on public roads, footpaths and road related areas.
 - 8) Prostitution
-

PART SIX – MATTERS TO BE TAKEN INTO ACCOUNT AS PART OF THE DETERMINATION OF APPLICATIONS

A range of specified matters will be taken into account by Council when assessing applications seeking the approval of permissible street trading activities.

6.1 Street Stalls

6.1.1 Street stalls operated by charitable or non-commercial organisations

- 1) Charitable or non-commercial organisations are permitted to hold street stalls with Council approval only at the designated areas listed below:

- Lithgow Street Mall, Campbelltown
- Queen Street, Campbelltown
- Oxford Road, Ingleburn

Refer to location maps at Part Nine for further details.

- 2) The organisation must supply written evidence to Council of their charity registration or community organisation status;
 - 3) Organisations are encouraged to apply to Council for a permit at least four weeks (20 working days) prior to the proposed activity;
 - 4) The organisation must hold and maintain a current \$20 Million Public Liability Insurance Policy (noting Council as an interested party on this Policy). Such insurance arrangements shall satisfy Council that adequate indemnities are in place.
 - 5) On the day of the activity, the organisation must display or have available for inspection, a permit or letter as required, stating that permission for the activity has been granted by Council;
 - 6) Organisations may apply to undertake street stalls for a maximum of 12 occasions over a 12 month period and on no more than one occasion per month;
 - 7) No more than one group will be permitted to occupy a designated marked street stall area at any one time, subject to the conditions outlined in the Council permit;
 - 8) The organisation must keep the area free of waste and any other public risk at all times.
 - 9) Applicants must be able to demonstrate to Council that such activities will contribute to an active street life, provide information, raise awareness or be of interest or benefit to the general community and that these activities will not cause offence or conflict with accepted community standards;
 - 10) Except for Community Event stalls, the sale of food is restricted to pre-packaged food only and must include labeling in accordance with the Food Standards Code
-

(Food Standards Australia and New Zealand). Food that requires temperature control is not permitted to be sold or distributed other than at approved "community event" stalls. For Community Event stall operators, a separate application is required to be submitted to Council and food stall operators are to comply with Council's Requirements for the Operation of Temporary Food Stalls.

- 11) The following items are prohibited to be sold or distributed from street stalls:
- Weapons of any kind, including, but not limited to:
 - Replica guns (including plastic guns, pellet guns, water pistols, cap guns)
 - Ornamental weapon copies (e.g. Ninja swords)
 - Knives and swords (including pen knives)
 - Martial art supplies (e.g. nunchuks)
 - Explicit or pornographic material of any type including books, magazines, clothing, calendars etc.
 - Fake cigarettes
 - Fuel type fire lighters
 - Horns and trumpets
 - Pressure pack containers
 - Drugs or related goods (including cocaine kits, bongs etc.)
 - Stink bombs
 - Water bombs
 - Silly string
 - Fireworks / crackers
 - Laser pointers
 - Pop downs / throw downs
 - Eight shot caps, strip caps or roll caps
 - Any form of shooting projectile toys (e.g. bow and arrows).
 - Hazardous foods (other than that permitted in food stalls by Council at approved events)
- 12) For the sale or distribution of items including food, stall holders shall comply with Council's Requirements for the Operation of Temporary Food Stalls.
- 13) No overzealous trading or soliciting will be permitted.

6.1.2 Street stalls operated by commercial organisations

- 1) Commercial organisations are permitted to hold street stalls with Council approval only at the designated areas listed below:
- Lithgow Street Mall, Campbelltown
 - Queen Street, Campbelltown
 - Oxford Road, Ingleburn
- Refer to location maps at Part Nine for further details.
-

- 2) Council may grant a permit for street stall activities by commercial organisations providing it is satisfied that such activities will contribute to an active street life, provide or obtain useful or appropriate information of interest or benefit to the general community and provided Council is satisfied that these activities will not cause offence or conflict with accepted community standards.
 - 3) Organisations are encouraged to apply to Council for a permit at least four weeks (20 working days) prior to the proposed activity;
 - 4) The applicant must supply written evidence of their organisational status i.e. ABN Number;
 - 5) The individual or organisation must hold and maintain a current \$20 Million Public Liability Insurance policy (noting Council as an interested party). Such insurance arrangements shall satisfy Council that adequate indemnities are in place;
 - 6) On the day of the activity, the organisation must display at the location of the street stall or have available for inspection a permit or letter as required, stating that permission for the activity has been granted by Council
 - 7) A maximum of 3 individuals are allowed to conduct the permitted activity at any one time;
 - 8) Approved organisations may apply for a street stall permit for up to a maximum of twelve days per year;
 - 9) No more than one group will be approved to occupy a designated street stall area at any one time; subject to the conditions outlined in the Council permit.
 - 10) The organisation must keep the area free of waste and any other public risk at all times.
 - 11) Except for Community Event stalls, the sale of food is restricted to pre-packaged food only and must include labeling in accordance with the Food Standards Code (Food Standards Australia and New Zealand). Food that requires temperature control is not permitted to be sold or distributed other than at approved "community event" stalls. For Community Event stall operators, a separate application is required to be submitted to Council and food stall operators are to comply with Council's Requirements for the Operation of Temporary Food Stalls.
 - 12) Commercial activities that either replicate or inconvenience the activities of nearby lawfully established businesses will not be permitted unless the activities are conducted by that business;
 - 13) Except as authorised by Council for approved community events, the direct selling or distribution of goods is not permitted.
 - 14) The list of items that may not be sold or distributed as part of a street stall as outlined under Section 6.1.1 shall be complied with.
 - 15) For the sale or distribution of items including food, stall holders shall comply with Council's Requirements for the Operation of Temporary Food Stalls.
 - 16) No overzealous trading or soliciting will be permitted.
-

6.2 Busking

6.2.1 General

- 1) Busking activities are permitted with Council approval only at the following designated locations:
 - Lithgow Street Mall, Campbelltown
 - Queen Street, Campbelltown - south of Allman Street adjacent to Campbelltown Mall
 - Corner of Queen and Dumaresq Streets, Campbelltown
 - Corner of Cordeaux and Queen Street, Campbelltown
 - Queen Street, adjacent to Mawson Park
 - Corner of Queen and Railway Streets, adjacent to Campbelltown Court House
 - Corner Nardoo and Oxford Streets, Ingleburn (west side)

Refer to location maps at Part Nine for further details.

- 2) Buskers must apply to Council for and receive a busking permit prior to any activity taking place (See Section 7.1);
 - 3) Buskers must not unreasonably interfere with pedestrian flow or public amenity or cause a nuisance to nearby businesses;
 - 4) Buskers must operate only within the designated areas indicated (refer to location maps at Part Nine for further details);
 - 5) Buskers must not undertake any act that could be considered as causing offence or a public nuisance including excessive noise;
 - 6) Buskers are advised that the performance of political, religious, racial, sexually explicit or homophobic acts or material that may be deemed unduly persuasive, offensive or discriminatory as determined by the Anti-Discrimination Act 1977 is strictly prohibited;
 - 7) Buskers are not permitted to use fire, pyrotechnics, knives, swords, chainsaws or other dangerous goods likely to cause harm to the public, environment or property;
 - 8) Buskers are not permitted to use or discharge confetti or any other matter that may cause pollution or is likely to cause harm to the public, environment or property;
 - 9) Buskers must not interfere in any way with any other approved event or activity;
 - 10) Buskers must be a minimum of 16 years and must submit a letter of consent from a parent or guardian with an application for a permit if under 18 years of age;
 - 11) Buskers may receive a monetary appreciation from the audience but must not actively solicit funds in any way;
 - 12) Buskers must keep the footpath clear of obstruction, maintain the footway clear for pedestrian movement and the site clean during and following their performance to ensure that the activity does not pose a risk to public safety or the environment. A minimum unobstructed footpath width of 2.4 metres shall be maintained at all times.
-

- 13) Buskers must not use amplification via battery powered or mains voltage PA systems as part of their performance;
- 14) Council reserves the right to direct a busker to moderate or cease performing if deemed by Council to be creating a nuisance, threat to safety or the environment or to be causing offence.
- 15) Buskers are only permitted to occupy/perform at any location for a maximum period of 3 hours.
- 16) Buskers must hold and maintain a current \$20 Million Public Liability Insurance policy (noting Council as an interested party). Such insurance arrangements shall satisfy Council that adequate indemnities are in place.

6.2.2 Group busking acts

Groups involved in busking are limited to a maximum of 3 people/members. This is to ensure that pedestrians are able to move freely through the approved area. For group acts, Council requires that each individual member hold a current busking permit which must be clearly displayed during the performance.

6.2.3 Pavement Art

Performers who utilise pavement (chalk only) art as a form of entertainment may only do so with a Street Trading Activity Permit issued by Council and where:

- 1) the material used is removable by water and does not leave a residue;
- 2) the surface is of a non-porous material, such as bitumen and concrete;
- 3) individual renditions of the artist's work may not be offered for sale to the public;
- 4) any proposed material to be used in carrying out pavement art must not be slippery (whether wet or dry) and must not be such as to be likely to cause a public hazard, nuisance or offence;
- 5) the site is used for no more than eight hours at any one time or otherwise as approved by Council;
- 6) the work space to be used is defined by being either roped or chained off with all tools and personal belongings kept within this area; A free passage of at least 2.4 metres shall be maintained for pedestrians at all times.
- 7) performers must be conscious of public safety and accessibility at all times.
- 8) The individual or organisation must hold and maintain a current \$20 Million Public Liability Insurance policy (noting Council as an interested party). Such insurance arrangements shall satisfy Council that adequate indemnities are in place.

6.3 Charity collection

6.3.1 Fundraising by registered charities (by non-commission collectors)

- 1) Charitable organisations are permitted to collect donations from the public with Council approval only at designated areas listed below:
 - Lithgow Street Mall, Campbelltown
 - Queen Street, Campbelltown
 - Oxford Road, Ingleburn

Refer to location maps at Part Nine for further details.

- 2) The organisation must supply written evidence to Council of their charity registration or community organisation status.
- 3) Organisations are encouraged to apply to Council for a permit at least 4 weeks (20 working days) prior to the proposed activity.
- 4) The organisation must hold and maintain a current \$20 Million Public Liability Insurance Policy (noting Council as an interested party on this Policy). Such insurance arrangements shall satisfy Council that adequate indemnities are in place.
- 5) On the day of the activity, the organisation must display or have available for inspection, a permit or letter as required, stating that permission for the activity has been granted by Council.
- 6) Charitable organisations may apply for a permit to conduct fundraising for up to a maximum of 12 occasions over a 12 month period and on no more than one occasion per month.
- 7) No more than one charity organisation will be permitted to occupy a designated marked location at any given time, subject to the conditions outlined in the Council permit.
- 8) Charity organisations are to remain static and are not permitted to solicit donations from any area other than locations designated for this purpose in this Policy.

Refer to location maps at Part Nine for further details.

6.4 Banners

6.4.1 General

Approval may be granted by Council for the display of banners provided the intent is to promote community events, programs or services (i.e. an event or activity which is non-commercial or non-profit and offering a community benefit). NB: This opportunity is provided at no cost to community groups wishing to display a banner.

Consideration may be given to promoting "expo" type events that provide information relating to a range of services or by a group of local business providers for community benefit (e.g. Wedding Expos, Renovation Expos). Single business promotion will not be considered. A fee applies to permits issued for banners promoting "expo type" events.

A limited number of banner sites are available in the Campbelltown LGA (refer to Section 6.4.2) It should be noted that Council does not allow the advertising of offensive, political or religious statements or images on banners.

Banner signs may not be permitted to be erected any earlier than 14 days before the event and must be removed within 7 days after the event.

Council reserves the right to remove banners at any time if a banner is erected without approval or if any of the permit conditions are not complied with. Council also reserves the right to cancel bookings for the display of banners at designated locations at any time.

Note: Council does not issue permits for the placement of banners in elevated locations such as those on overhead bridges or walkways. Approval for these sites rests with the Roads & Maritime Services (RMS).

Organisations wishing to erect a banner in the Campbelltown LGA may only do so with a Street Trading Activity Permit issued by Council and must comply with the following requirements:

- 1) An organisation wishing to display a banner accepts responsibility for any claim for accidents or other issues arising from the erection, removal or display of the banner or the use of Council's infrastructure.
- 2) Any damage to Council's infrastructure and other facilities that is attributed to the display of a banner will be repaired at the expense of the organisation displaying the banner.
- 3) Evidence of the organisation's Public Liability Insurance of a minimum value of \$20 million, noting Council as an interested party, must be provided to Council before any permit for displaying a banner is issued.
- 4) Council is not liable or responsible for banners which are lost, damaged or stolen.

6.4.2 Locations where banners may be displayed

Banners are to be erected at or near ground level and are not permitted to be displayed within 50 metres of an intersection or within 3 metres of the road pavement and must not impede pedestrian movement. Only one banner is permitted to be erected at each designated location.

Banners may only be erected at the locations listed below:

- 1) Menangle Road, Campbelltown (approximately 500m south of Geary Street on west side of Road)
- 2) Narellan Road Campbelltown (approximately 150m west of Gilchrist Drive on south side of Road)
- 3) Appin Road Bradbury (adjacent to Silo's east side of Road)
- 4) Badgally Road, Eagle Vale (approximately 100m east of Eagleview Drive)
- 5) Raby Road, Raby (approximately 170m west of Thunderbolt Drive on South side of Road)
- 6) Campbelltown Rd, St Andrews (approximately 175m north of St Andrews Road)
- 7) Campbelltown Road, Minto (approximately 450m north of Rose Payton Drive)

6.4.3 Design and layout of banners

- 1) Commercial advertising is not permitted on banners, however, the logo of a sponsor/s or the co-ordinating organisation may be incorporated into the banner design.
 - 2) The logo of a sponsor is to be a maximum of 10% of the total face area of the banner.
 - 3) If several sponsor logos are to be included then the maximum area of the logos is to be no more than 20% of the total face area of the banner. The purpose of these restrictions is to promote community services, not commercial ventures.
 - 4) The caption on the banner is to be succinct.
 - 5) The maximum size of a banner is 4 square metres.
 - 6) The lettering must be a minimum of 150mm in height. It is important in terms of safety that the message can be easily read by motorists and other road users.
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- 7) If languages other than English are being displayed on the banner at least 50% in equal size shall appear as a direct translation in English.
- 8) The proposed design of the banner (message, sponsor logos and layout) must be submitted at the time of applying for a permit requesting the display of a banner and should also include nominated dates and specific sites.

6.4.4 Construction of banners

Banners are to be constructed of sturdy material such as PVC or canvas that will not tear in the wind and thereby present a hazard to traffic ("Tyvek" is not considered an acceptable material for the construction of banners).

6.4.5 Attachment and removal of banners

- 1) The erection of the banner is the responsibility of the organisation displaying the banner. The banner should be inspected every day to monitor security and its condition. Council is not liable or responsible for banners which are lost, damaged or stolen.
- 2) To ensure banners are installed appropriately, banners will be required to be installed strictly in accordance with Council guidelines and as outlined in the Street Trading Activity Permit.
- 3) Banner signs are to be anchored by the use of star pickets driven into the ground no more than 350mm.
- 4) The banner must be attached and removed by the organisation displaying the banner on the dates specified on the permit.
- 5) Any damage to Council's infrastructure and other facilities will be repaired at the expense of the organisation displaying the banner.

6.5 Special events, festivals and community celebrations

Council coordinated festivals or events such as Fishers Ghost and Ingleburn Alive are community events coordinated by the Council for the whole community. Street stalls during these events are permitted to sell commercial products (other than prohibited items listed in Section 6.1.1) and prepared food.

Council approves these types of special events under a separate approval process under section 68 of the Local Government Act (Refer to Campbelltown City Council Outdoor Event Application Guideline for further information).

6.6 Outdoor dining areas

6.6.1 General

Outdoor dining contributes to the vitality and cultural life within the Central Business Districts (CBDs) of the Campbelltown LGA.

The NSW Government under the Roads Act 1993 and the Local Government Act 1993 states that the placement of articles for commercial purposes on public roadways and footways requires prior consent from Council.

All food premises that intend to provide seating on the public footway for the purpose of outdoor dining are required to obtain a permit from Council. An annual permit shall be obtained from Council prior to operating outdoor dining on Council's footpath.

Applications for outdoor dining permits must comply with the following requirements:

6.6.2 Location requirements for outdoor dining

As an overriding principle, applications for outdoor dining on public footways, roadways or public spaces must not in Council's determination compromise pedestrian access or safety, must be sympathetic to the surrounding streetscape, provide a safe, comfortable and attractive environment for patrons and the general public, and not unreasonably interfere with other commercial amenity.

- 1) Locations that might be considered suitable for outdoor dining include areas that have wide footpaths, street malls and open space.
- 2) Unsuitable locations for outdoor dining include areas that have a steep incline, or uneven surfaces unsuitable for the placement of furniture, narrow footpaths or corner intersections with high traffic flow.
- 3) The proposed outdoor dining areas must be located adjacent to the frontage of the premises and shall not extend beyond the boundary line of the respective shop front, extended to the kerb-line.
- 4) The proposed outdoor dining areas must provide safe and unobstructed access for pedestrian traffic at all times, within and around the outdoor dining area. Proposals must also take into consideration the needs of people with disabilities with particular consideration for people who use wheelchairs and electric powered scooters, people with visual impairment, elderly people, and the needs of parents with young children with regards to prams. Unobstructed access must also be provided to authorised delivery vehicles across land or pedestrian thoroughfares if applicable.
- 5)
 - (i) The footpath shall be a minimum of 3.5 metres wide and allow for a minimum of 2.4 metres of unobstructed pedestrian access at all times.
 - (ii) Depending upon the location, outdoor dining areas are permitted either abutting the shop front or adjacent to the roadway. Where an outdoor dining area is located adjacent to a roadway, there shall be a minimum clearance of 300mm from the back of the kerb to any structure associated with the dining area and balustrading for the length of the outdoor dining area street frontage and sides (where applicable) must be provided.
 - (iii) Outdoor dining areas may not be considered for a permit, if there are existing articles or infrastructure existing within or adjacent to the proposed outdoor dining area (e.g. public seats, litter bins, utility poles, bicycle racks, phone booths, bus shelters etc).

6.6.3 Outdoor dining furniture

- 1) The business owner is responsible for all outdoor furniture and furnishings associated with outdoor dining. The furniture and furnishings shall enhance the street environment and integrate well with the existing surroundings.

In selecting furniture and furnishings the business owner shall ensure the furniture is to:

- (i) be generally in harmony with the existing streetscape;
-

- (ii) be of a safe design (i.e. no hinges or sharp edges) and designed for commercial outdoor use and be of a suitable size and shape for the approved area;
 - (iii) be strong, durable, waterproof and weather resistant;
 - (iv) be constructed of high quality non-reflective stainless/powder coated steel/aluminium or timber (natural/painted) and canvas;
 - (v) be easily stacked and stored securely within the business premises outside operating hours;
 - (vi) not contain legs or support structures that could damage the ground surface;
 - (vii) be able to be easily cleaned and maintained.
 - 2) The use of planter boxes for the purpose of designating the approved outdoor dining boundary is generally discouraged by Council, however subject to a Council permit being issued, planter boxes must:
 - (i) Not exceed 900mm in height (including the height of the plants) and not pose a trip hazard;
 - (ii) be of a size and shape appropriate for either placement in the approved area or for use as a method of defining the approved area;
 - (iii) should be easily relocatable for storage within the premises outside of approved business hours;
 - (iv) make a positive contribution to the existing streetscape;
 - (v) be maintained to Council's satisfaction.
 - 3) The use of free standing umbrellas is generally discouraged by Council and is not permitted under awnings, balconies or verandahs (or in other such areas where protective structures may reasonably be installed) however, subject to a Council permit, umbrellas must:
 - (i) be securely anchored to ensure stability during extreme weather by methods that will not produce a trip hazard on the pavement;
 - (ii) be able to be easily stored within the premises outside approved business hours or during extreme weather conditions;
 - (iii) have a minimum clearance height of 2.2 metres to allow safe headway clearance;
 - (iv) be located within the approved outdoor dining area and should not either overhang the boundary or in any way encroach upon adjacent pedestrian thoroughfares or carriageways.
 - 4) Balustrade sections, subject to a Council permit
 - (i) shall be portable;
 - (ii) shall not exceed a height of 900mm or length of 2 metres;
 - (iii) shall be constructed of lightweight powder coated steel/aluminium frame with stabilising feet and with either a suitable metal, fabric or PVC banner type material or fabricated panel;
 - (iv) shall contain only the name of the premises and 1 product brand only.
 - 5) Heaters, subject to a Council permit
 - (i) can only be used in areas that have adequate ventilation;
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- (ii) will be subject to a Council permit and shall detail manufacturers specifications,
 - (iii) shall have a ground clearance of 2.2 metres to the heating element of the appliance;
 - (iv) shall turn off automatically if overturned;
 - (v) shall be easily relocatable;
 - (vi) shall be stored within the premises when not in use;
 - (vii) shall not be placed where they can be considered a fire hazard i.e. next to or under an umbrella, shrubs, trees etc.;
 - (viii) shall be installed in accordance with Australian Standard A4565-2004 Radiant gas heaters for outdoor and non-residential use.
- 6) Tableware, utensils and decorative items shall be of a windproof design and stored within the premises when not in use.
- 7) All furniture and furnishings shall be able to be removed from the proposed outdoor dining area and stored securely within the premises outside of the permitted business hours and during extreme weather conditions.
- 8) For approvals for outdoor dining that do not require the erection of permanent structures on the pavement (public footway), a street trading permit may be issued. For more complex applications that seek to install permanent structures/stalls/furniture and the like, a development application may be required to be lodged with Council.

6.6.4 Miscellaneous requirements for outdoor dining

- 1) The placement of advertising within the outdoor dining area shall comply with the relevant permit. A frame or sign boards are not permitted.
 - 2) The hours of use for the approved outdoor dining area cannot exceed the hours permitted under the current Development Consent for the operation of the associated business premises and are assessed on an individual basis subject to Council approval.
 - 3) No alcohol can be served in an outdoor dining area without an appropriate and current Liquor Licence being held by the associated business (as issued by the Office of Liquor, Gaming and Racing) and extended to cover the outdoor dining area.

A copy of the current Liquor Licence shall be submitted with the outdoor dining permit application and extended to cover the outdoor dining area for the life of the outdoor dining permit.

A copy of the current Liquor Licence shall be kept on the premises at all times and be made available for inspection upon request by relevant authorities.
 - 4) Live entertainment or amplified music shall not be permitted within the outdoor dining area.
 - 5) The permit holder is responsible for good conduct of patrons and staff at all times during hours of operation and to ensure that noise levels are kept to a minimum. Council and NSW Police will continue to handle noise and other complaints. The Office of Liquor Gaming and Racing has authority under the Liquor Act to investigate noise complaints and other concerns associated with licensed premises.
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In the event of any continued noise complaints relating to the use of the outdoor dining area, Council reserves the right to terminate the Outdoor Dining Permit without prior notice.

- 6) The permit holder is responsible to ensure compliance with the Companion Animals Act, 1998 which allows animals of genuine assistance in food consumption areas.
- 7) Any outdoor dining area permitted to operate outside of daylight hours must provide adequate lighting to satisfy safety and amenity requirements and is subject to Council's authorisation. The location of an outdoor dining area shall be within a clear line of vision from the associated business.
- 8) In accordance with the Australia New Zealand Food Standards Code in particular 3.2.2 Food Safety Practices and General Requirements Division 5 Cleaning, Sanitising and Maintenance, Clauses 19-21, all food businesses must maintain all fixtures, fittings and equipment to ensure there is no accumulation of food waste, dirt, grease or other visible matter. These standards shall apply to outdoor dining areas with respect to use of the public footpath.

The permit holder shall be responsible for all waste and litter generated by the outdoor dining area and shall ensure that:

- i) waste and litter is disposed of lawfully, and not allowed to enter garden beds, gutters or stormwater drains;
 - ii) the outdoor dining area including the footpath, gutter, and neighbouring surrounds are to be kept clear of waste and rubbish at all times;
 - iii) any waste generated by the operation of the business is to be disposed of in bins located within the business premises and not in public litter bins;
 - iv) any breakages or spills that might prove hazardous to patrons, staff or the general public or that might stain or otherwise damage the footpath are to be removed immediately.
 - 9) The permitted outdoor dining area is to be appropriately marked in a manner authorised by Council.
The permit holder shall:
 - (i) be responsible for maintaining the approved outdoor dining area in accordance with the permit;
 - (ii) ensure that all fixtures and furnishings remain within the marked area at all times and do not overhang or impede upon any pedestrian or vehicular thoroughfares;
 - (iii) ensure that the area remains clearly marked at all times and that it can be easily identified by Council to monitor compliance.
 - 10) Associated works to enhance an outdoor dining area with respect to permanent fixtures requires the separate and prior approval of Council and the cost of any such works are to be met by the applicant.
 - 11) Council reserves the right to carry out any type of maintenance work in or around the approved area at any time and will not accept any liability for interruption to business caused by such works or inclement weather.
 - 12) Outdoor advertising shall complement and be compatible with the footpath dining activities and local amenity and requires the separate and prior approval of Council.
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A-Frames signs or sign boards are not permitted to be placed on the footway or within the outdoor dining area.

- 13) For approvals for outdoor dining that do not require the erection of permanent structures on the public footway, a street trading permit may be issued. For more complex applications that propose permanent structures/stalls to be installed on the public footway, a Development Application may be required to be submitted to Council.

PART SEVEN – MAKING AN APPLICATION FOR STREET TRADING ACTIVITIES

7. Applying for approval to conduct a permitted street trading activity

7.1 Application requirements

Standard permit applications can be obtained from Council. All applicants, (individuals and groups) are required to apply in person. Street Trading activity shall not be conducted without first obtaining a permit issued by Council beforehand.

All applicants are required to present proof of identify with their application form before a permit is issued e.g. current motor vehicle licence, proof of age card or passport.

Details of the type of activity or entertainment proposed are required to be provided on the application.

Council reserves the right to refuse any permit application.

Applications for approval for activities that are described in this policy (as outlined in section 4) can be made by using the Street Trading Activities Permit application form or Outdoor Dining application form that is available from Council's Customer Service Centre or through Council's website: www.campbelltown.nsw.gov.au

As outlined on the forms, the following information shall be lodged with Council at least four weeks prior to the event or activity occurring, and the proposed activity must receive Council's permission prior to commencement.

The permit application must include the name of the individual(s) or organisation, the organisational status, i.e. registered charity, religious affiliation, community group, political organisation, commercial organisation, a brief outline of the organisation, a short description of the reason for the activity and the name and contact details of the person coordinating the activity.

For commercial organisations, the name of the company and a valid ABN number must be provided.

A site plan drawn to scale outlining key features of the activity layout (eg stalls, tables, chairs etc.) must also be supplied with the application. The plan should also clearly show the following details:

- Location of existing features such as trees, signage posts, bins etc.;
 - Details of any proposed furniture including the design, construction; dimensions, colours and materials to be placed within the designated stall location;
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- Any signage must be of a temporary nature and can only be displayed within the area/locations covered by the application (no other advertising materials or structures are permitted)

7.2 Permit fees

No permit fees apply to charities or not-for-profit organisations. An annual permit fee will apply to individuals or organisations that receive a commercial or financial gain from the permitted street trading activity.

Permit fees will be applied as detailed in Council's annual schedule of fees and charges. Permits are valid for up to 12 months from the commencement date. Permits are not transferable and fee payments are not refundable once the permit has been issued by Council.

7.3 Renewal of permits

Activity permits should be renewed before the expiry date should the activity continue. Street Trading shall not be conducted with an expired permit. Unauthorised Street Trading activity will also be subject to penalties as provided for under the Local Government Act, 1993.

7.4 Insurance

The applicant must provide a Public Liability Insurance Certificate of Currency from their insurer that notes Council as an interested party with regards to any personal injury or damage to property associated with the activity on a public footway, road or road related area for a minimum cover of \$20 Million or any other amount that Council may stipulate from time to time.

7.5 Additional application requirements for outdoor dining

Applications for activities described in Section 6.6 can be made by completing the Outdoor Dining application form.

Documentation required to be lodged with the permit application:

A site plan drawn to scale (1:50 or 1:100) with dimensions that clearly show the following:

- The building line of the premises in relation to adjoining premises;
- Distance from the kerb to the premises;
- Proposed layout with furniture and furnishings including chairs and tables, planters, bollards, balustrades, heaters, lights or articles;
- Access and service points to premises;
- Existing streetscape features such as street poles, signs, trees, seats, rubbish bins etc.;
- Diagram of the proposed area in relation to neighbouring premises;

The following information is also required to be lodged with a permit application:

- Details of manufacturers details particularly with regards to heaters and lights;
 - Details of artwork, advertising or signage including dimensions and location;
 - Written consent from the property owner;
 - Evidence of current Public Liability Insurance (noting cover for the specific activity location and noting Council as an interest party) for a minimum of \$20 Million;
 - Evidence of a current NSW Liquor Licence if applicable to the premises.
-

PART EIGHT – MISCELLANEOUS MATTERS

8.1 Approval of applications

Approval to use a public footway for street trading activities is subject to Council's discretion. Council reserves the right to impose on any permit such conditions as it determines necessary, appropriate and reasonable.

8.2 Street trading restrictions

Certain street trading activities being street stalls, charity collections and busking will be prohibited during the times at which approved community events are conducted within a nominated business centre.

8.3 Fees

All fees associated with street trading activities are to be identified in Council's Schedule of Fees and Charges and will be reviewed annually. Application fees shall be paid when an application is lodged with Council and are non-refundable, once the application is determined and regardless of the outcome of the determination of the application.

8.4 Display of permit

A copy of the permit issued by Council for an authorised street trading activity shall be on display at the activity location at all times.

8.5 Compliance/inspections

Council reserves the right to carry out compliance inspections as required.

8.6 Period of permit

Permits for street trading activity will be granted by Council for a period up to a maximum of 12 months in the first instance. Longer permit periods may be allowed by Council upon renewal, subject to review. A new application must be submitted to Council prior to the end of each permit period.

8.7 Variation of permit conditions

Any variation to a current permit will require a new application to be lodged with Council. A change of business ownership will also require a new permit application to be lodged with Council.

8.8 Street trading activity must not cause obstruction and be marked on the pavement

All street trading activity must not occupy an area larger than necessary to safely conduct the activity. At all times the activity must not cause obstruction to other users of the footway or unreasonably interfere with pedestrian flow, ensuring sufficient clear pedestrian access is maintained (minimum 2.4 metres wide pedestrian access shall be provided at all times). The permitted area for the street trading activity will be clearly defined on the Street Trading Activity Permit and shall be marked on the pavement by Council where appropriate for the above purpose.

8.9 Protocols for non-compliance

The following is a general guideline that will be taken into account by Council when seeking to remedy non-compliance issues associated with Street trading. Council has discretion to vary its approach depending upon individual circumstances, the extent of non-compliance and any prior infringements.

8.9.1 Operating without a permit

Written or verbal notice issued. A Penalty Notice may be issued if there is failure to act after a Notice to Comply, is issued. Continued non-compliance may result in further action being taken.

8.9.2 Breach of conditions

Written and or verbal notice will be issued to the operator requiring compliance. If no action is taken to remedy the breach after issuing a Notice to comply with a permit, a Penalty Notice may be issued.

Following the issuing of a Penalty Notice, the permit may be terminated and/or further action taken by Council. Special provisions may need to be applied in the case of an emergency/risk to public safety.

8.9.3 Operating with an expired permit

A Notice will be served upon the operator to cease the street trading activity or renew the permit. If the operator fails to comply with the Notice or renew the permit within the given time, a Penalty Notice may be served on the operator. Continued non-compliance may then result in further action being taken.

8.10 Termination of permit by the applicant

The applicant may terminate their Street Trading Activity Permit at any time by giving Council a minimum of one month's written notice.

8.11 Termination of permit by Council

Council reserves the right to terminate a Street Trading Activity Permit. Upon termination all property or materials associated with the street trading activity must be removed from the public area.

8.11.1 Reasons that Council may consider in deciding to terminate a permit

- 1) Non-compliance with conditions as outlined in the permit;
 - 2) Change of business ownership;
 - 3) Expired Public Liability Insurance;
 - 4) Where the street trading activity is found to cause undue inconvenience to pedestrian access and or safety and public amenity;
 - 5) Where Council or any other authority has received repeated complaints about an approved street trading activity that otherwise cannot be resolved.
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PART NINE - DESIGNATED STREET TRADING ACTIVITY LOCATIONS

9.1 Location Maps

Designated areas for specified street trading activities are shown on the locality plans (below) for the Campbelltown and Ingleburn business centres.

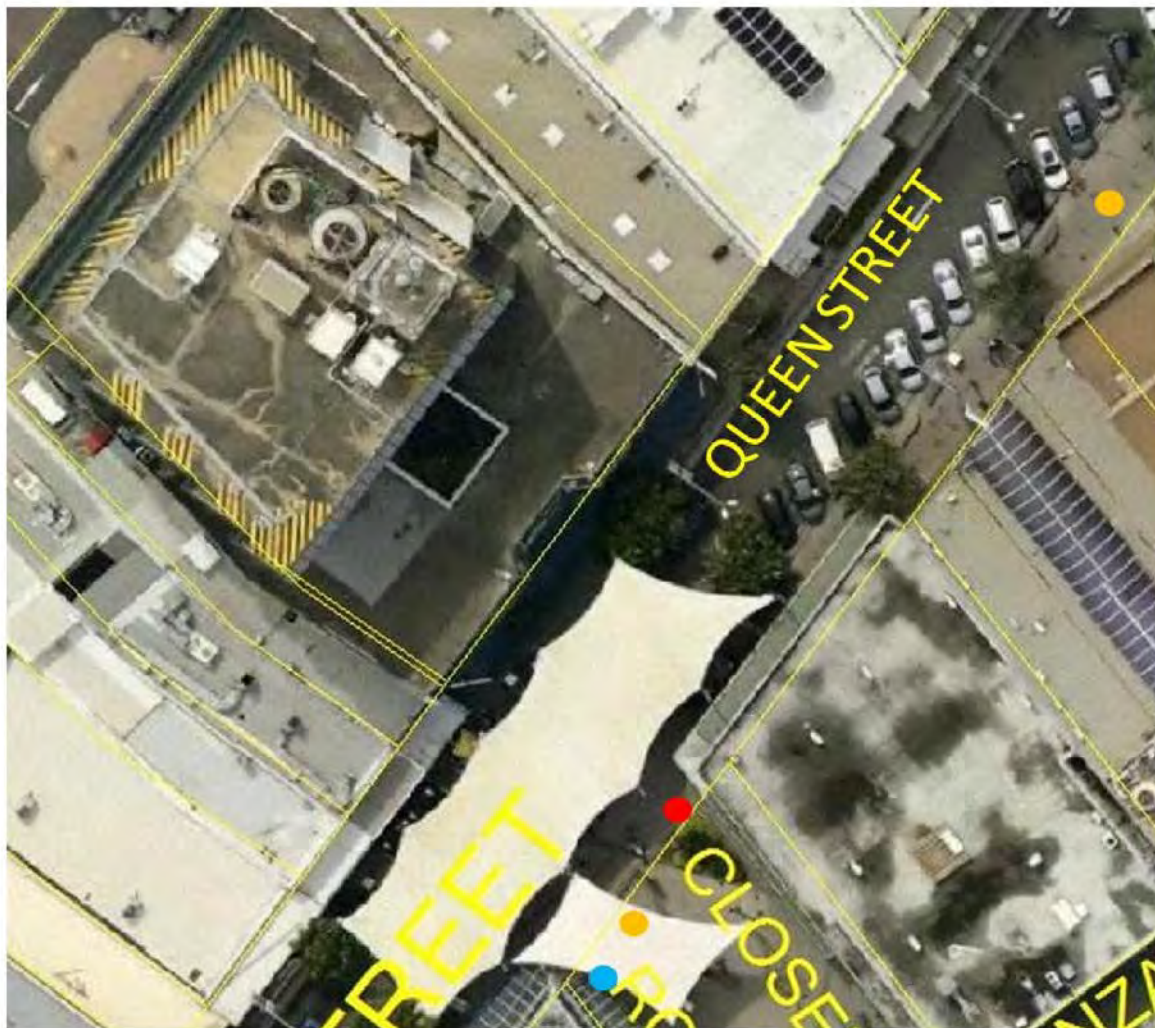
9.1.1 Campbelltown Business Centre - Overall Locations for Street Trading:

● Busking ● Charity Collection ● Street Stall ● Street Art



9.1.1.1 Queen and Lithgow Street Intersection Locations for Street Trading (Detail):

● Busking ● Charity Collection ● Street Stall



9.1.1.2 Queen and Cordeaux Street Intersection Locations for Street Trading (Detail):

● Busking ● Charity Collection ● Street Stall



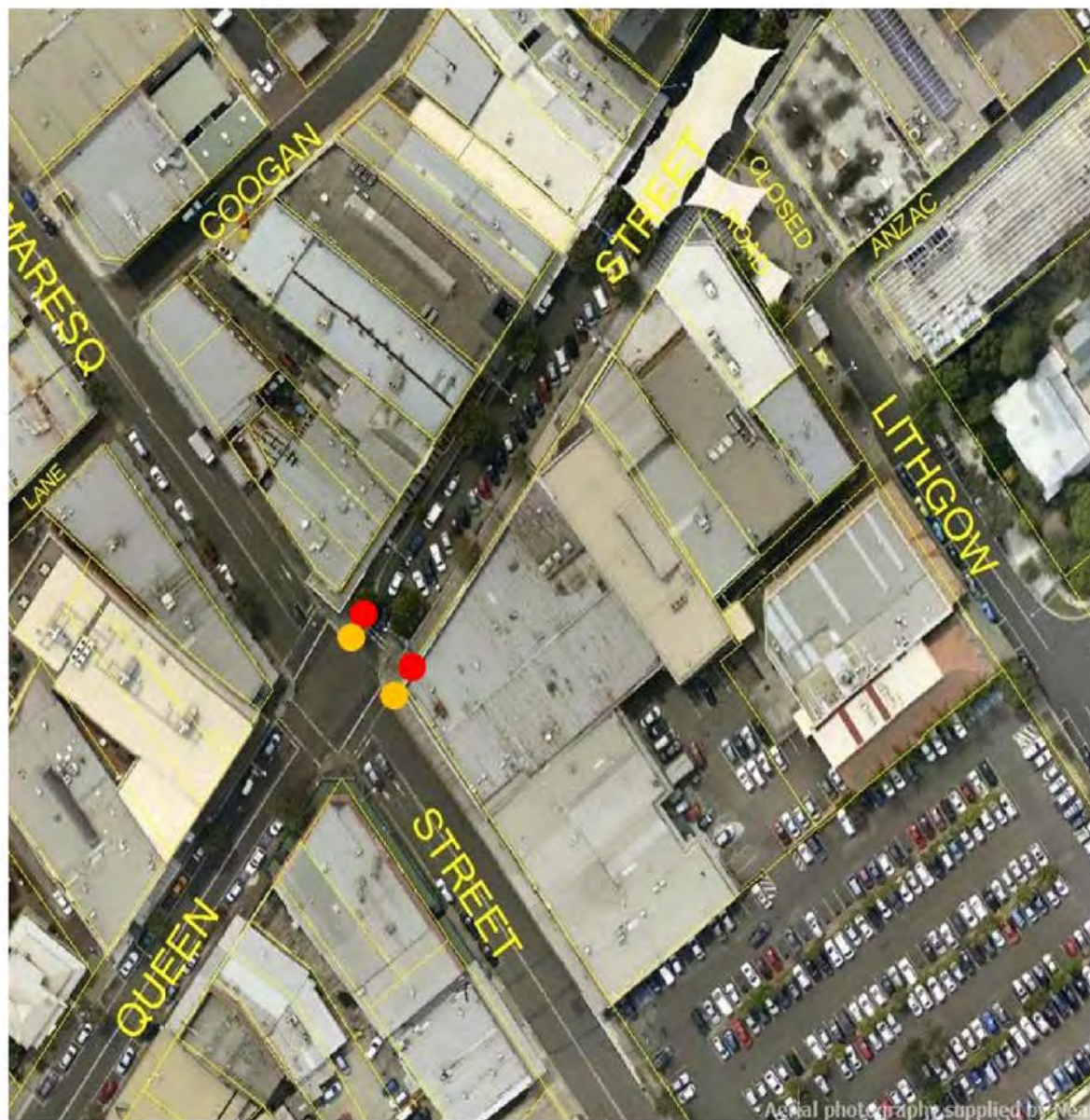
9.1.1.3 Queen and Allman Street Intersection Locations for Street Trading (Detail):

● Busking ● Charity Collection ● Street Stall ● Street Art



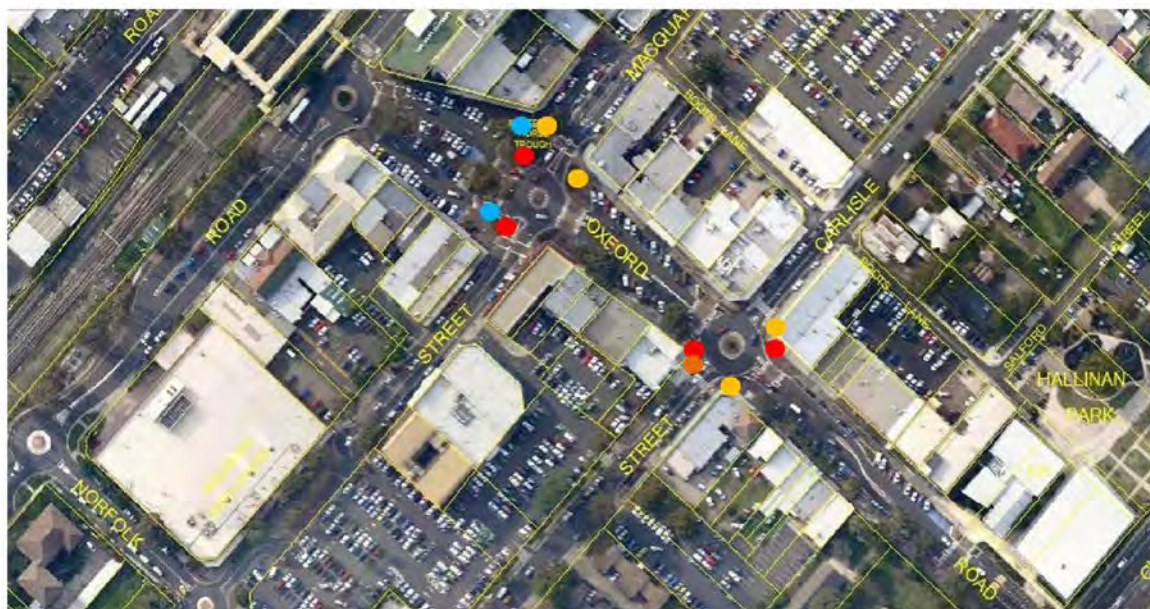
9.1.1.4 Queen and Dumaresq Street Intersection Locations for Street Trading (Detail):

- Busking ● Charity Collection



9.1.2 Ingleburn Business Centre Locations for Street Trading:

- Busking ● Charity Collection ● Street Stall ● Street Art



END OF POLICY STATEMENT

5. GENERAL BUSINESS

Nil.

Confidentiality Motion: (Lound/Kolkman)

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 9.17pm.

C Mead
CHAIRPERSON
