

Reports of the Planning and Environment Committee Meeting held at 7.30pm on Tuesday, 9 September 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 9 September 2014

Present

His Worship the Mayor, Councillor C Mead
Councillor G Greiss (Chairperson)
Councillor R Kolkman
Councillor D Lound
Councillor A Matheson
Councillor M Oates
Councillor R Thompson
General Manager - Mr P Tosi
Director Planning and Environment - Mr J Lawrence
Acting Director Planning and Environment - Mr J Baldwin
Manager Community Resources and Development - Mr B McCausland
Manager Emergency Management and Facility Services - Mr R Blair
Manager Waste and Recycling Services - Mr P Macdonald
Manager Governance and Risk - Mrs M Dunlop
Business Review and Improvement Officer - Mr C Taylor
Executive Assistant - Mrs D Taylor

Apology

(Matheson/Thompson)

That the apology from Councillor Rowell be received and accepted.

CARRIED

Acknowledgement of Land

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

DECLARATIONS OF INTEREST

There were no Declarations of Interest at this meeting.

Pecuniary Interests

Nil

Non Pecuniary – Significant Interests

Nil

Non Pecuniary – Less than Significant Interests

Nil

1. WASTE AND RECYCLING SERVICES

1.1 Environment Protection Authority (EPA) Grant Funding - Community Recycling Centres

Reporting Officer

Manager Waste and Recycling Services

Attachments

Photographs of Liverpool City Council's Community Recycling Centre (contained within this report)

Purpose

To provide information regarding the availability of grant funding for the construction and operation of a Community Recycling Centre (CRC), to enable Council to determine whether to apply for such a grant.

History

Through the 'Waste Less Recycle More' grants program, the NSW Government is making available significant funding for the establishment of CRCs. Round 2 of the funding program was recently released. Applications close on 29 September 2014.

Report

The NSW Government's 'Waste Less Recycle More Initiative' is a five-year program to fund improvements in waste management and recycling. It includes grant programs for initiatives such as new and upgraded infrastructure, community recycling centres for household problem wastes, and reducing illegal dumping and litter.

The Environment Protection Authority (EPA) is encouraging councils to apply for grants to build and operate CRCs. The purpose of these facilities is to enable residents to drop off 'problem' wastes including:

- Oil-based paint
 - Water-based paint
 - Motor oils
 - Non-motor oils
 - Fire extinguishers
 - Household batteries
 - Light globes
-

1.1 Environment Protection Authority (Epa) Grant Funding - Community Recycling Centres

- Smoke detectors
- Car batteries
- LPG bottles
- Other gas bottles (eg. the taller oxygen/acetylene bottles).

Round 1 of the grant program provided funding for upgrading of existing facilities in 24 Local Government Areas across the state. These were located mostly in rural areas where councils already own and operate landfill facilities and waste management centres. Metropolitan councils that received funding for upgrading of existing facilities included Leichhardt Municipal Council and Randwick City Council.

Round 1 of the grant program also provided funding for construction of new facilities in 10 Local Government Areas across the state. Again these were mostly located in rural areas. Metropolitan councils that received funding for new facilities included Blue Mountains City and Hurstville/Kogarah/Rockdale City Councils (shared facility).

Liverpool City Council recently completed construction of its CRC. While this facility has been operating for only a very short time, early indications are that it has been well received by the community, with approximately 35 to 40 drop-offs per day. This number is likely to increase as the community becomes more aware of the facility.

In addition to the schedule of problem wastes accepted at CRCs, the Liverpool CRC also accepts televisions, computers, mobile phones, polystyrene, cardboard and paper under separately funded programs. The most commonly dropped off items at the Liverpool CRC are paints, motor oils, televisions, computers and polystyrene.

Grants are available for 100% of infrastructure costs to establish a CRC, up to a maximum amount of \$250,000. This amount covers:

- Design plans
- Community consultation
- Site works
- Construction materials
- Access and egress road works
- Safety equipment
- Fencing/security
- Fork lift
- Computer/IT device for online reporting.

While the grants for the abovementioned infrastructure costs are awarded and administered by the NSW Environmental Trust, successful applicants will receive additional funding from the EPA through separate grants for:

- Signage
 - Training
 - Receptacles
 - Cabinets to store 'by-catch' (items delivered to but not accepted at the CRC)
 - Spill kits
 - Education funding
 - Costs to collect and reprocess certain targeted problem wastes (funded only to 30 June 2017).
-

1.1 Environment Protection Authority (Epa) Grant Funding - Community Recycling Centres

There are clear benefits from the operation of a CRC, including:

- the availability of a community facility to enable residents to drop off problem wastes all year-round
- potential reduction of these types of wastes in the general garbage and kerbside clean-up stream
- potential for reduction in illegal dumping of these types of waste
- regardless of its future use, Council retains the infrastructure.

Balanced against these benefits are costs, or potential costs that need to be taken into account:

- The grant funding does not include salaries and on-costs associated with the operation of CRCs. The recently opened Liverpool CRC opens 6 days per week from 8.00am to 3.00pm. Liverpool City Council operates this facility on the basis of 1.6 full-time-equivalent positions, approximately \$114,000 (salaries + on-costs) per year. The grant funding requires that a CRC open at least two weekdays and be accessible on weekends. Should Council agree to submit an application for funding, the application would propose that the Campbelltown CRC open Thursdays, Fridays and Saturdays from 8.00am to 3.00pm. This would incur salaries and on-costs expenses of approximately \$56,000 per year which would equate to an additional (approximately) \$1.05 per year per household on top of ratepayers current Annual Domestic Waste Management Charge.
- Grant funding would be guaranteed by the EPA for the cost of removal and recycling of the material dropped off at the CRC only until 30 June 2017. If further grant funding is unavailable beyond that date, Council would need to absorb these costs if it chose to continue to run that facility at its own cost. CRCs are a new concept, and those that were created under Round 1 of the grant program have been operating for only a short period. It is therefore difficult to accurately estimate the likely cost of removal and recycling of the materials dropped off. Discussions with senior EPA officers indicate that the EPA 'hopes' that funding for processing and disposal costs for CRCs will be ongoing into the foreseeable future, beyond 30 June 2017. Grant funding requires that Council may not charge residents a fee to drop off items at the CRC while ever the EPA funds removal and recycling costs. However, if EPA funding should cease after 30 June 2017, Council would be in a position to mitigate these costs by introducing a user-pay arrangement, whereby a nominal fee, for example \$10.00 per visit could be charged to residents who drop off items at the CRC.

Should Council decide to apply for a grant for the construction and operation of a CRC, and should the application be successful, it is likely that the facility would be built at Council's domestic waste collection depot at No. 59 Junction Road, Leumeah. This is considered to be the most suitable location, as it is towards the LGA's geographic centre, and residents who take advantage of the annual Chemical CleanOut event would already be familiar with this site.

Conclusion

CRCs are likely to be successful in contributing to the diversion of problem wastes from landfill. As the community continues to become more environmentally conscious, it is expected that CRCs will be welcomed by the growing number of residents who wish to dispose of problem wastes in an environmentally sustainable way.

1.1 Environment Protection Authority (Epa) Grant Funding - Community Recycling Centres

A CRC operated on the basis of three days per week would initially result in an increase in ratepayers' Annual Domestic Waste Charge by approximately \$1.05 per household per year to fund salaries and on-costs, as this component is not covered by the grant. After 30 June 2017, if no further EPA funding is available, Council would need to absorb the cost of removal and recycling waste materials if it was to continue the service, but could introduce a user-pay arrangement to mitigate these costs.

At \$311.40, Campbelltown's current Annual Domestic Waste Management Charge is among the lowest in the Sydney Metropolitan Area and with an additional charge of approximately \$1.05 per year, per household per annum, would continue to remain one of the lowest domestic waste charges in Sydney.

Officer's Recommendation

1. That Council submit an application for grant funding to build and operate a Community Recycling Centre.
2. That if the application is successful, Council accept the grant and expedite construction of a Community Recycling Centre (subject to development approval) at its domestic waste collection depot at No. 59 Junction Road, Leumeah.

Committee's Recommendation: (Kolkman/Greiss)

1. That Council submit an application for grant funding to build and operate a Community Recycling Centre.
2. That if the application is successful, Council accept the grant and expedite construction of a Community Recycling Centre (subject to development approval) at its domestic waste collection depot at No. 59 Junction Road, Leumeah.
3. That further information in relation to opening hours be provided in terms of community benefit and demand.

CARRIED

Council Meeting 16 September 2014 (Greiss/Matheson)

That the Committee's Recommendation be adopted.

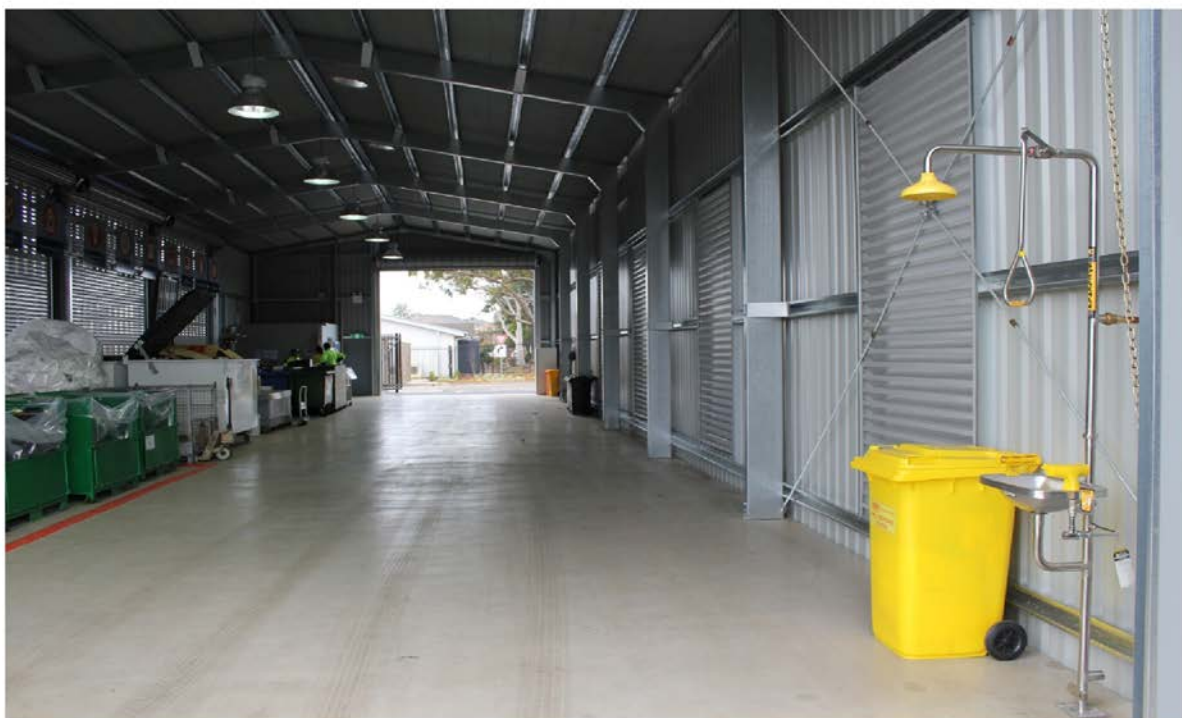
Council Resolution Minute Number 166

That the Committee's Recommendation be adopted.

ATTACHMENT 1



1.1 Environment Protection Authority (Epa) Grant Funding - Community Recycling Centres



2. SUSTAINABLE CITY AND ENVIRONMENT

2.1 Joint Regional Planning Panel Application - DA 1141/2014/DA-SW for Stages 1 and 2 Claymore Urban Renewal Project

Reporting Officer

Manager Sustainable City and Environment

Attachments

1. Council Resolution (18 December 2012) relating to the Claymore Urban Renewal Plan (CURP) Concept Application (contained within this report)
2. CURP - Approved Concept Plan Layout (contained within this report)
3. Proposed Subdivision Plan (Stages 1 and 2) (contained within this report)

Purpose

To advise Council on the receipt of Development Application 1141/2014/DA-SW, relating to the first two stages of the Claymore Urban Renewal Project, and recommend that Council make a submission to the Sydney West Joint Regional Planning Panel (JRPP) prior to its determination of the application.

Proposed Development

Development Application No 1141/2014/DA-SW : Torrens Title land subdivision creating 249 residential allotments, two allotments for future medium density housing, one public open space allotment, four residue allotments, associated civil works, tree removal and landscaping.

Property Description

Various Lots - Badgally Road, Dobell Road, and Norman Crescent, Claymore

Applicant

NSW Land and Housing Corporation

Owners

NSW Land and Housing Corporation
UrbanGrowth NSW
Campbelltown City Council

Statutory Provisions

State Environmental Planning Policy (State and Regional Development) 2011
State Environmental Planning Policy No 55 - Remediation of Land
Campbelltown (Urban Area) Local Environmental Plan 2002
Claymore Urban Renewal Concept Plan Approval

Date Received

13 May 2014.

History

The redevelopment of the Claymore Public Housing estate is being undertaken by the NSW Land and Housing Corporation in accordance with the Claymore Urban Renewal Concept Plan Approval granted by the Minister for Planning and Infrastructure.

The Concept Plan aims to redress the poor amenity and social issues arising from the current 'Radburn' design of the area, with an improved street layout, better designed public parks, new town centre, and upgraded urban infrastructure. The Project aims for a more sustainable housing outcome with approximately 70% of the planned 1,490 dwellings under the Concept Plan to be privately owned.

At its meeting on 18 December 2012 Council considered a report on the Concept Plan Application being considered at that time by the Department of Planning and Infrastructure (the Department), and resolved to provide its qualified support for the project subject to a specific planning issues being addressed (refer attachment 1). These issues were conveyed to the Department to consider in their assessment of the Concept Plan Application, which was subsequently approved by the Minister on 24 May 2013 (refer Approved Concept Plan Layout - attachment 2).

It is relevant to note that there are two key points of difference between the final Concept Plan approved by the Minister, and that endorsed by Council at its meeting on 18 December 2013.

Firstly, a new retail centre has been included in addition to the existing shopping centre. Secondly, new housing allotments have been provided backing onto Badgally Road in lieu of public open space.

Council was made aware of these key issues of difference at its meeting on 13 September 2013, where it considered a report on the proposed modification to the Concept Approval to defer the timing of the required planning agreement for the delivery of infrastructure works. After considering the report on the matter, Council resolved as follows:

1. That no amendment to the Concept Plan Approval should be considered that would have the effect of altering Council's capacity to negotiate and execute a Voluntary Planning Agreement for the Claymore Renewal Project, in the best interests of the community.
-

2.1 Joint Regional Planning Panel Application - DA 1141/2014/DA-SW For Stages 1 And 2 Claymore Urban Renewal Project

2. That Council raises no objection to a modification to the Concept Plan Approval that accounts for the requirement for the proponent to put into place Works in Kind Agreements that are agreed to by Council, to secure the funding and delivery of infrastructure relevant to Stages 1 and 2 of the Renewal Project, and for all subsequent stages through and in accordance with a Voluntary Planning Agreement with Campbelltown City Council, endorsed by Council.
3. That the NSW Government be requested to provide a timetable for the implementation of the Claymore Renewal Project.

On 22 October 2013 the Claymore Urban Renewal Concept Approval was modified by the Minister to defer the requirement of a planning agreement for development contributions to Stage 3, and allow for a Works in Kind Agreement to be negotiated with Council for Stages 1 and 2. This outcome is generally consistent with the above resolution of Council.

Report

Introduction - JRPP Application

On 13 May 2014 the NSW Land and Housing Corporation submitted to Council the first development application under the Claymore Urban Renewal Concept Plan for subdivision works relating to Stages 1 and 2.

The JRPP has assumed Council's usual role as consent authority for the determination of the application in accordance with Part 4 of *State Environmental Planning Policy (State and Regional Development) 2011*. In this respect, the proposal exceeds the prescribed threshold for 'regional development', being an application made by a Crown authority with a capital investment value exceeding \$5 million (\$15.1M).

It is understood that the subject application will be reported to the JRPP for consideration and determination at a meeting to be held on 9 October 2014. In this respect, the following report provides a general review of the proposal, for the purpose of identifying any issues regarding the application, that Council can advise the JRPP of prior to its determination of the application.

Proposed Development

The application seeks consent for subdivision and associated works relating to Stages 1 and 2 of the Claymore Urban Renewal Project. These works represent the first stages of subdivision construction works on the land, although it is relevant to note that some demolition of existing public housing stock has already been undertaken as permitted by the Concept Plan Approval.

The land which is the subject of the development application involves multiple allotments located in the southern quarter of the Claymore Project Area, generally bounded by Badgally Road, Norman Crescent and Dobell Road (attachment 3 - Proposed Plan of Subdivision). The majority of the land is owned by the NSW Land and Housing Corporation, with Council having a minor ownership stake involving land for future road widening along Badgally Road, and a small portion of existing open space.

2.1 Joint Regional Planning Panel Application - DA 1141/2014/DA-SW For Stages 1 And 2 Claymore Urban Renewal Project

The Statement of Environmental Effects accompanying the application provides the following description of the proposal:

- The subdivision of the DA 1 site (which includes the Stages 1 and 2) into 249 lots for housing, 2 lots for Medium Density Senior and Accessible (Disability) Living complexes, 1 lot for open space and 4 residual lots
- Subdivision works including the construction of roads and roadworks, associated drainage, site regrading and retaining works, utility services including services relocation and street landscaping
- Landscaping and embellishment of a park
- Minor associated works such as the removal of redundant services, sedimentation control and tree removal
- Excavation works associated with road grading and site benching.

The proposed subdivision pattern generally aligns with Stages 1 and 2 of the Concept Approval, and includes the reconfiguration of public open space and the creation of a new main entrance road intersecting with Badgally Road.

Assessment

As the JRPP has assumed the role as consent authority, a detailed assessment addressing all prescribed considerations under the *Environmental Planning and Assessment Act 1979* will be separately prepared for the consideration of the JRPP. This process is being separately administered by Council development assessment staff and is to include an assessment of comments received from government agencies, Council and the community.

There are clear community benefits in progressing the social rejuvenation of the Claymore housing area, and the staged progression of development applications for subdivision in accordance with the approved Concept Plan is generally supported. However, it is important that all technical and environmental considerations are properly undertaken by the JRPP in its assumed role as determining authority, to ensure the beneficial outcomes envisaged by the Concept Plan Approval are attained.

As such, the following assessment does not replicate the full assessment required for determination, but rather identify and focus on the main issues of concern relating to the subject application for the purposes of assisting Council to decide whether to make a submission to the JRPP.

These matters are summarised for Council's consideration below.

Aboriginal Heritage

An Aboriginal Heritage Impact Permit (AHIP) will be required for the site, after development consent is granted. Previous studies for the Concept Plan indicates a low density of artefacts across the site.

The applicant has advised that they are in the process of undertaking further investigations based on the relevant recommendations of the previous assessment undertaken for the Concept Plan Application, and as reflected in the Concept Plan Approval (refer page 6 - SEE). A commitment has been made to provide the findings and recommendations of these investigations to Council prior to determination of the development application.

2.1 Joint Regional Planning Panel Application - DA 1141/2014/DA-SW For Stages 1 And 2 Claymore Urban Renewal Project

It is unclear whether this supplementary information has been provided by the applicant, and whether the findings and recommendations of the consultant's investigations have any bearing on the assessment of the subject development application.

European Heritage

Proposed Lot Nos. 1065 and 1121 are listed as 'residual', but are shown on the approved masterplan as part of a strip of 'open space' adjoining the heritage listed Glenroy Cottage (and the adjoining Hillcrest Item).

Both these two proposed allotments, in addition to the land shown as "Stage 2C" (which is identified as "Glenroy Park" on Council's information system), currently contribute to the open space heritage setting of Glenroy Cottage (and Hillcrest)

Condition #11 of the Concept Plan requires development at Claymore to have consideration of the visual / heritage study that was prepared for the Concept Plan.

It is therefore requested that the potential impacts of the proposal on the heritage setting of the adjoining heritage items are properly investigated by the JRPP prior to any determination of the proposal.

Entry Statements (Glenroy Road and Dobell Road)

The terms of the Concept Approval (Schedule 3 Part B.3) require landscape entry statements to be provided at the key entry points to the site from Badgally Road, and for details of proposed treatments and works to be provided to Council prior to the determination of the respective development applications.

The proposed Stage 1 subdivision plan includes the construction of the main entry road (Glenroy Road) into the site, as well as the establishment of the town park.

This issue requires resolution in accordance with the terms of the Concept Approval prior to the determination of the subject development application by the JRPP.

Consistency with Claymore Urban Renewal Development Control Guidelines

The terms of the Concept Approval require all subdivision applications to demonstrate consistency with the *Claymore Urban Renewal Development Control Guidelines* (DCG).

Thirteen allotments do not comply with the DCG guidelines being less than the 200m² minimum lot size required for 'narrow lots'. Some of these allotments have also marginally less than the minimum 6m lot width.

Whilst it is acknowledged that variations to lot sizes may be considered pursuant to Clause 1.5 of the DCG, the following concerns are raised:

- i. The DA is effectively a green field subdivision and there is no apparent reason why the subdivision layout could not be adjusted to comply
-

2.1 Joint Regional Planning Panel Application - DA 1141/2014/DA-SW For Stages 1 And 2 Claymore Urban Renewal Project

- ii. As the first DA for subdivision on the land, any variation of the minimum lot size requirement would likely set a precedent for permitting additional under-sized allotments for subsequent stages, and thereby would potentially "erode the standard" contrary to Clause 1.5
- iii. The six metre lot width is the absolute minimum of any lot sizes permitted under the DCG, and any further reduction should be substantiated with a dwelling design to demonstrate that other design requirements of the DCG would not be compromised eg. Solar access, provision of a 5m+ tree in front yard and 10m+ tree in rear yard.

It is therefore suggested that the subdivision layout is adjusted to comply with the requirements of the DCG as envisaged under the terms of the Concept Approval.

Site Remediation / Contamination

Refer: State Environmental Planning Policy No 55 - Remediation of Land, and Schedule 4 Condition No. 14 of the Concept Terms of Approval.

Asbestos containing materials have been identified on the subject land and the site is required to be remediated. A remediation action plan (RAP) is required to be prepared and implemented in order to make the site suitable for the proposed subdivision.

Remediation options for asbestos containing materials will need to be evaluated in the RAP and the preferred option may require negotiated approval with Council/Stakeholders.

It is therefore requested that prior to the determination of the subject application, that the JRPP be satisfied that the land will be appropriately remediated so that it is suitable for the intended land uses.

Conclusion

Council has previously resolved to provide its qualified support for the Claymore Urban Renewal Project given the overarching social benefits that will arise for the local community. The Project was given initial Concept Approval by the NSW Minister for Planning and Infrastructure in May 2013, and the subject application seeks development approval for Stage 1 and 2 subdivision works.

Notice of the application has been reported to Council to advise that the JRPP have assumed the role of consent authority in this instance, and to provide the opportunity for Council to endorse a submission to the JRPP prior to its determination of the proposal.

Council staff have undertaken a general review of the application for the purposes of Council's consideration as to whether it would seek to make a submission. It is apparent that there are a number issues that warrant a response from Council.

Accordingly, it is considered that Council provide a submission to the JRPP requesting that the application not be approved until the matters raised in this report are appropriately addressed.

Officer's Recommendation

1. That the information be noted relating to 1141/2014/DA-SW for proposed Stages 1 and 2 of the Claymore Urban Renewal Project.
2. That Council endorse a submission to the South West Sydney Joint Regional Planning Panel requesting that the subject application not be determined until those issues outlined in the body of this report are satisfactorily resolved by the JRPP.

Committee's Recommendation: (Kolkman/Lound)

That the Officer's Recommendation be adopted.

CARRIED

Council Meeting 16 September 2014

Having declared an interest in regard to Items 2.1 and 2.2, Councillors Hawker and Lake left the chamber and did not take part in debate nor vote on this item. In the absence of the Chairperson, His Worship the Mayor, Councillor Lake, Deputy Mayor, Councillor Rowell chaired the meeting for Items 2.1 and 2.2.

Council Meeting 16 September 2014 (Greiss/Matheson)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 167

That the Officer's Recommendation be adopted.

ATTACHMENT 1

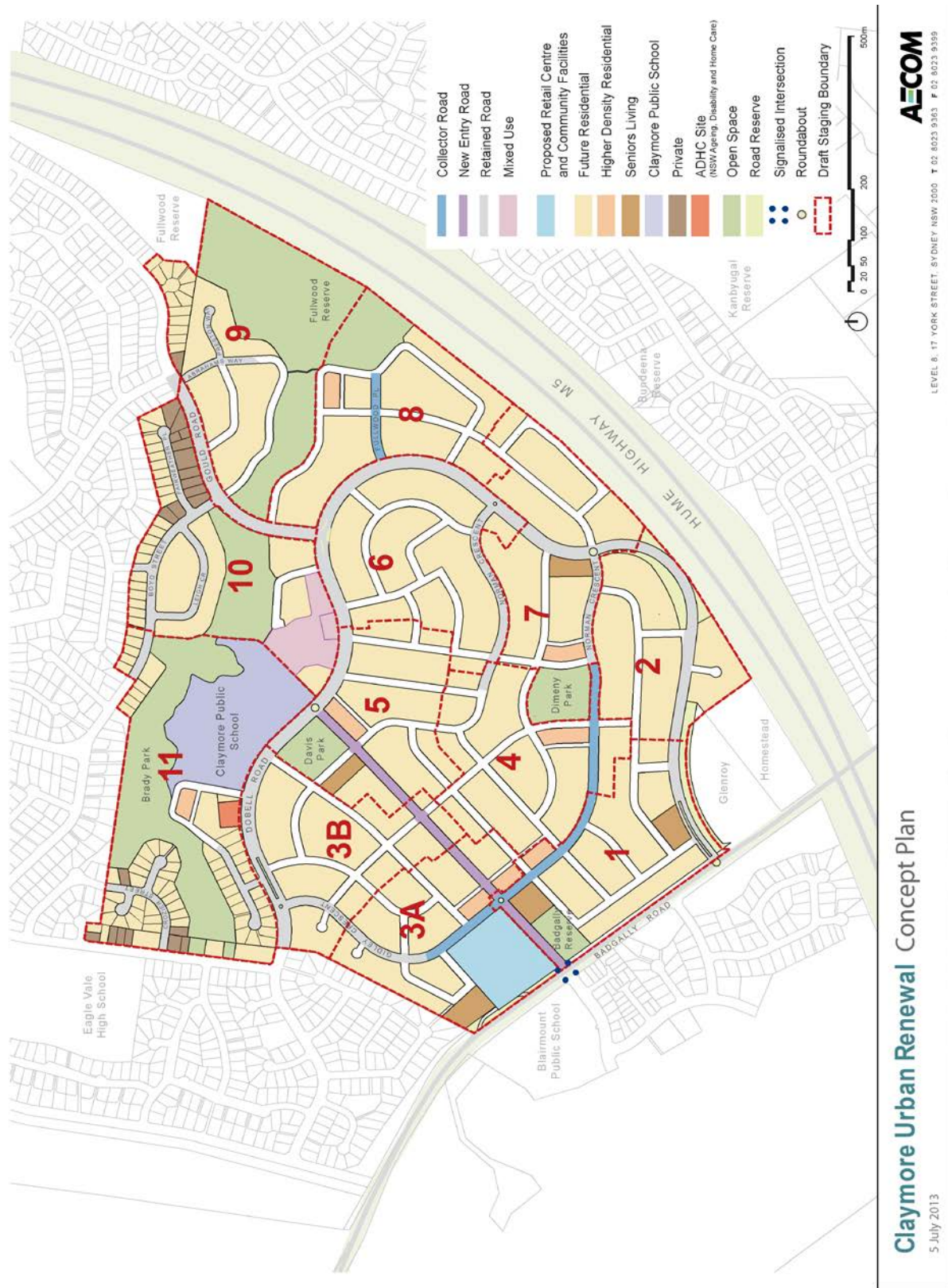
Council Meeting 18 December 2012

Concept Plan Application for the Claymore Renewal Project

Council Resolution Minute Number 218

1. That Council advise the Director General that subject to the retention of the existing shopping centre in its current location and the retention of open space fronting Badgally Road, that Council supports the concept plan application for the Claymore Renewal Project.
 2. That having regard to Recommendation 1, Council advise the Director General of the Department of Planning and Infrastructure that it supports the Concept Plan (Master plan) for the Claymore Renewal Project as depicted in Attachment 8 to this report excepting provisions relating to the existing and proposed shopping centre sites, noting in particular the following:
 - a) Council must be satisfied of the biodiversity off-set package proposed in the Statement of Commitments prior to the determination of any Development Application under the Concept Plan
 - b) Council and the proponent must agree on the final land use layout for the proposed town centre prior to the determination of any Development Application under the Concept Plan
 - c) All roads that form part of the final bus route shall be at least minor collector road standard
 - d) Council support for any retail centre on Badgally Road deemed appropriate by the Minister, is on the basis of providing a new opportunity for a supermarket and speciality shops for local needs, not predominately for uses reliant upon high volumes of passing trade
 - e) Provision must be made for the continued presence of the existing Baptist Church and Guardian Angels Child Care Centre
 - f) Council and the proponent must agree on the landscaping and fencing treatment of any areas where rear property fences abuts the public domain, prior to the determination of any Development Application under the Concept Plan, noting that such areas have been minimised by the Concept Plan.
 3. That Council endorse the original planning assessment report (Attachment 1 to this report) excepting matters dealing with the existing and proposed shopping centre sites and advise the Department of Planning and Infrastructure accordingly.
 4. That Council acknowledge the need to receive a further report in order to endorse the final terms and conditions of the draft Voluntary Planning Agreement for the Claymore Renewal Project prior to placing the Voluntary Planning Agreement on public exhibition. Planning and Environment Committee Meeting 11 December 2012 Page 105 3.5 Concept Plan Application For The Claymore Renewal Project
 5. That Council support the application to rezone the land within the Claymore Renewal Project area consistent with the zoning map as depicted in Attachment 7 to this report excepting for the existing Claymore shopping centre site which should be a 10(c) Local Comprehensive Centre zone and subject to resolution of issues associated with the existing and proposed shopping centre sites by the Minister.
 6. That Council, once a determination has been made by the Department of Planning and Infrastructure, notify in writing, those persons who made a submission in respect of the Claymore Renewal Project.
 7. That Council write to the Premier and the Minister for Community Services requesting confirmation that the necessary funding for the redevelopment has been allocated.
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ATTACHMENT 2





2.2 Joint Regional Planning Panel Application - DA 1057/2014/DA-C Expansion of Macarthur Square Shopping Centre

Reporting Officer

Manager Sustainable City and Environment

Attachments

1. Site Plan (contained within this report)
2. Building Extensions - General Layout (contained within this report)
3. Building Extensions – Elevations (contained within this report)
4. Artist Impression - Kellicar Road (contained within this report)

Purpose

To advise Council of the lodgement of Development Application 1057/2014/DA-C relating to the proposed expansion of Macarthur Square Shopping Centre, and provide Council with the opportunity to make a submission to the Sydney West Joint Regional Planning Panel (JRPP) prior to its determination of the proposal.

Property Description

Lot 10 DP 116750, Lot 302 DP 259215 and Lot 3 DP 1150348
Kellicar Road, Campbelltown.

Applicant

Lend Lease Property Management Aust P/L

Property Owners

GPT Funds Management Ltd
Lend Lease Real Estate Investments Ltd
Stockland Property Services P/L

Principal Statutory Provisions

State Environmental Planning Policy (Infrastructure) 2007
State Environmental Planning Policy (State and Regional Development) 2011
Campbelltown (Urban Area) Local Environmental Plan 2002
Campbelltown (Sustainable City) Development Control Plan 2012

2.2 Joint Regional Planning Panel Application - DA 1057/2014/DA-C Expansion Of Macarthur Square Shopping Centre

Report

Development Application 1057/2014/DA-C was lodged with Council on 2 May 2014 and proposes the expansion of the existing Macarthur Square Shopping Centre. The proposed development has a total capital investment value of \$99.8 million.

The JRPP has assumed Council's usual role as consent authority for the determination of the subject application in accordance with Part 4 of *State Environmental Planning Policy (State and Regional Development) 2011*. This policy applies to development that has a capital investment value of more than \$20 million.

A detailed assessment addressing all prescribed considerations under the *Environmental Planning and Assessment Act 1979* is being separately prepared by Council officers for the consideration of the JRPP, and is to include an assessment of comments received from government agencies, Council and the community.

Accordingly, the following report provides a general summary of the proposed development with the focus on identifying potential issues and concerns that Council may include in any submission to the JRPP, it may wish to make prior to its determination of the application.

Proposed Development

The application is for the expansion of the Macarthur Square Shopping Centre (Macarthur Square), located south of Menangle Road and to the north of Gilchrist Drive Campbelltown. The site forms part of the Macarthur Regional Comprehensive Centre Zone and is strategically located adjacent to major public transport nodes (Macarthur Railway Station and bus interchange), Campbelltown's major educational precinct (UWS and TAFE) and residential areas to the south (Park Central) and west (Macarthur Gardens).

Details of the allotments affected by the subject proposal are provided in the following table:

Subject Allotment	Owner	Area
Lot 10 DP 1167560	GPT Funds Management Ltd and Lend Lease Real Estate Investments Ltd.	22.28 hectares
Lot 302 DP 259215	GPT Funds Management Ltd	2.53 hectares
Lot 3 DP 1150348	Stockland Property Services P/L	1,959 m ²

GPT Funds Management Limited and Lend Lease Real Estate Investments Ltd are the joint owners of Macarthur Square and hold the main land parcels affected by the proposal.

Lot 3 is a relatively narrow linear parcel of land forming the western boundary of the development site, and is under the same ownership as the adjacent Macarthur Gardens Retirement Village (Macarthur Gardens) to the west. The applicant has advised that this strip of land is intended to be acquired by the joint owners of Macarthur Square on approval of the subject application. It is duly noted that the application has been lodged with the authorisation of Macarthur Gardens as part owner of the land.

2.2 Joint Regional Planning Panel Application - DA 1057/2014/DA-C Expansion Of Macarthur Square Shopping Centre

The proposal involves the western expansion of the Macarthur Square within an open area located south of Kellicar Road, currently used (in part) for at grade carparking. The area of land affected by the proposal is approximately 4.2 hectares in area, with a street frontage of approximately 220m to the southern side of Kellicar Road.

The application also includes building alterations within the existing shopping centre to accommodate a new Kmart Discount Department Store, generally within the area occupied by the existing Coles tenancy and adjacent internal spaces.

The information provided in the application states that the proposal will expand the overall retail floor area by 15,743m², and increase the provision of on-site parking by 461 parking spaces. The main components of the proposed development are summarised as follows:

- The erection of a new predominantly three storey high extension containing a new retail mall, fresh food precinct and relocated Coles supermarket
- Carparking areas over two levels below the retail floor, and at grade on the western side of the building extension
- Provision of new retail tenancies and outdoor terrace facing Kellicar Road
- Travelators linking the mall, parking and Kellicar Road tenancies
- Alterations to the existing building to accommodate a Kmart Department store within the area generally occupied by the existing Coles tenancy
- Associated earthworks, tree removal, landscaping, demolition and utility service works.

Access into the car parking area is proposed from the existing roundabout-controlled intersection of Geary Street and Kellicar Road. A second vehicular access point from Kellicar Road is proposed adjacent to the western perimeter of the site, to be used for truck deliveries and an internal driveway that links with carparking areas at the rear of the development site and Gilchrist Drive to the south.

Issues for Consideration

A detailed assessment addressing all prescribed considerations under the *Environmental Planning and Assessment Act 1979* is being separately administered by JRPP appointed staff and will be separately reported to the JRPP in their assumed role as consent authority for the subject application.

In this respect, there is a clear expectation that the JRPP will properly address all relevant environmental and technical considerations that should be considered for a commercial proposal of this scale, in addition to an assessment of external submissions submitted from Government agencies and the local community.

As such, the following review does not replicate the full assessment being separately undertaken for the JRPP, but rather focuses on the key issues and potential concerns that are likely to be of interest to Council for the purposes formulating a submission to the JRPP. These issues are outlined below for Council's consideration.

1. Campbelltown (Urban Area) Local Environmental Plan 2002 - Zone Objectives

The subject land is zoned *10(a) Regional Comprehensive Centre Zone* under the provisions of *Campbelltown (Urban Area) Local Environmental Plan 2002*.

2.2 Joint Regional Planning Panel Application - DA 1057/2014/DA-C Expansion Of Macarthur Square Shopping Centre

The core objectives for development in the zone relate to the provision of land for the City of Campbelltown and the Macarthur region's largest centre of commerce, and the encouragement of employment and economic growth.

The subject proposal relates to the orderly expansion of Macarthur Square which is Campbelltown's major retail centre servicing the growing population of the wider Campbelltown-Macarthur Area. The proposed expansion of retail trading at the site is considered to be consistent with the core objectives of the Regional Comprehensive Centre Zone relating to economic and employment growth outcomes, and the promotion of the Campbelltown-Macarthur area as an emerging regional centre.

Accordingly, the proposed development is considered to be consistent with the objectives of the 10(a) Regional Comprehensive Centre Zone and permissible with consent in the zone.

2. Built Form and Urban Design

The scale of the proposal is consistent with the existing centre, and at a maximum height of four stories readily complies with the 10 storey height limit prescribed for the majority of the site under *Campbelltown (Sustainable City) Development Control Plan*.

The main visual impact of the proposal on the public domain will be to the streetscape of Kellicar Road (refer Attachment 4). However, this impact is considered to be largely positive with a suitable emphasis on activating the street frontage of the proposed building extension. The design includes selected retail activity and outdoor terraces at street level, pedestrian access to the internal mall area, combined with a contemporary façade treatment, glazing and architectural elements.

The building layout also provides a better pedestrian connection across Kellicar land to the well-used dining and entertainment precinct of Kellicar Lane to the north, which ultimately links with Macarthur Railway Station. At present, the open space area of Kellicar Lane effectively ends at Kellicar Road in the vicinity of the existing building overpass.

In this respect, the proposed activation of the building façade at street level, including improved lighting and pedestrian activity is considered to be a positive urban design outcome that would enhance the public realm in this part of the site. A public art strategy is also proposed to be undertaken by the developer in consultation with Council which could be managed through a condition of consent and is supported.

It is therefore considered that the proposal suitably integrates with the design of the existing centre, and that the activation of the street level façade along Kellicar Road and enhanced pedestrian linkages would be a positive urban design outcome for the site generally. Accordingly, no significant concerns are perceived with the built form outcomes or urban design aspects of the proposal.

3. Economic Impact

The potential economic impacts of the proposal have been considered in an Economic Impact Analysis Report prepared by Location IQ, Sydney, provided by the applicant. This report examines the economic viability and impacts of the proposal, having regard to a number of factors including the socio-economic profile of the trade catchment, future population trends, and commercial relationship with other retail competitors such as Campbelltown Mall and Narellan Town Centre.

The proposed expansion of Macarthur Square would result in approximately 16,000m² of additional retail floor space, which would facilitate a new Kmart discount department store and additional retail specialty shops. A key point emphasised in the report is that the population catchment forming the trading base of Macarthur Square is projected to grow at an average rate of 11,980 persons per annum, which would sustain an annual increase in retail floor space of 26,500m² for the trade catchment as a whole.

As such, the economic report generally justifies the proposed expansion on the basis of meeting increasing consumer demand from population growth in the trade catchment, and ensuring that Macarthur Square maintains its role as a major regional centre serving the wider Campbelltown-Macarthur region. In addition, the proposed expansion would ensure that the economic function of Macarthur Square is not diminished by increasing competition from other major retail centres outside of the Campbelltown LGA such as Narellan Town Centre. These outcomes are considered to be consistent with Council's land use zone objectives for the site.

However it is also acknowledged that on balance, the strengthening of economic and retail activity at Macarthur Square would potentially have negative trade impacts for other retailers within the same market catchment, including existing retailers within the Campbelltown Local Government Area. In this respect, it is considered that the nearby Campbelltown Mall would have the greatest exposure to increased competition from the proposal given its close proximity and current operation of the same retail tenancies (Kmart and Coles) proposed to be expanded or added under the subject application.

The economic analysis report submitted by the applicant indicates that the proposed expansion would cause a direct loss in trade for Campbelltown Mall in the order of 8.9%. However, the report concludes that this impact would be within the commercial tolerance of operating conditions for the Mall, and would be offset over time through expanding trade opportunities from population growth in the region.

Additionally, it is relevant to note that the economic impacts resulting from increased competition in the market place as a consequence of a development proposal is not in itself a valid planning consideration for refusal of a development application (refer *Fabcot Pty Ltd v Hawkesbury City Council* (1997) 93 LGERA 373). Consequently, the fact that there is likely to be some negative impact on commercial competition for other traders in Campbelltown would not be considered a valid reason for Council to object to the subject proposal.

Noting that the proposed retail expansion is permissible in the land use zone and complies with the relevant objectives for economic and employment growth, it is considered that for the reasons outlined above, the proposal is unlikely to result in economic impacts of such a level that would warrant Council objecting to the proposal.

4. Potential Impacts on Macarthur Gardens

The closest residential area to the proposed development is the Macarthur Gardens Retirement Village (Macarthur Gardens), located adjacent to the western boundary of the development site. Given the close proximity, there is some potential for amenity impacts to affect the residents of Macarthur Gardens.

The likely visual and solar access impacts of the proposed building expansion on Macarthur Gardens would be largely mitigated by the development site being on the downslope and the tapered height of the building. In this respect, the corresponding elevation of the proposed development would generally present as a single storey building when viewed from the elevated level of Macarthur Gardens. In addition, the proposed building is setback approximately 21m from the common boundary, which includes a landscaped embankment of 10m - 12m in width that slopes down to the development site.

As such, the proposed built form, boundary setbacks and landscape buffer are considered to be sufficient for the purpose of mitigating any adverse visual or overshadowing impacts resulting from the proposed building extensions on the residential precinct of Macarthur Gardens.

Notwithstanding, some operational aspects of the proposed development do have the potential to cause amenity issues for the adjacent residential area. These issues would need to be considered by the JRPP prior to their determination of the proposal. These matters are outlined as follows:

Acoustic

Noise impacts from car and truck movements, loading dock activities, construction works and operation of roof mounted mechanical plant systems. Following the lodgement of the application, it is understood that an independent acoustic report has been commissioned to provide appropriate recommendations and controls to achieve acoustic compliance. This includes the implementation of a 'Demolition & Construction Noise Management Plan', and provision of a 2.4m high acoustic fence (with landscaping) at the interface with Macarthur Gardens.

Light Spill

Potential for excessive light spill from external lighting of the development site and car parking areas. An appropriate lighting management plan should be developed and implemented for the development site to mitigate the potential impacts of light spill on adjacent residents.

Pedestrian Safety

Increased vehicle movements pose an increased risk of conflict with pedestrian movements in the vicinity of the proposal. The development should implement appropriate traffic calming devices and pedestrian paths / crossings within the site to mitigate this risk.

Air Quality

Potential for dust impacts resulting from construction activities. A demolition and construction management plan should be developed and implemented to ensure appropriate dust control measures and air quality outcomes are maintained during the construction period.

Crime Prevention**Through Environmental Design (CPTED)**

A CPTED report should be provided for assessment to ensure appropriate design measures are implemented for the safety of the development generally. This should include an examination of the design and security measures of the proposed walkway connection between Macarthur Gardens and the shopping centre.

It is acknowledged that the detailed assessment of the proposal currently being undertaken by JRPP appointed staff is likely to include consideration and resolution of the above matters as part of the assessment process. However it is recommended that Council highlight the above issues as important points for consideration by the JRPP.

5. Traffic Impacts

The proposed expansion would increase the current leasable floor area of Macarthur Square by 15,743m² to a total of 103,138m². Given the large scale of the subject development, the applicant has provided a specific traffic and parking report to address the potential parking and traffic impacts of the proposal. This methodology is consistent with the assessment requirements of Council for large scale retail developments.

According to the traffic report submitted with the application, Macarthur Square currently provides 3,613 off-street car parking spaces, and the subject application proposes a net increase of 461 spaces to a total on-site parking supply of 4,074 spaces.

To cater for the increase in parking demand associated with the proposal, the application proposes additional car parking over two levels behind the proposed shopfront façade to Kellicar Road, and an at grade carparking area on the western side of the site. These areas are accessible to vehicles from a new driveway connection to Kellicar Road (roundabout at Geary Street) and from Gilchrist Drive (at Therry Road) via the existing internal driveway network. A truck loading area is also provided on the western side of the building extension accessible from the new driveway connection to Kellicar road.

The applicant's car parking and traffic report provides an assessment of the following matters:

- parking availability and demand (based upon survey counts)
 - future traffic generation and circulation
 - operating capacity of surrounding road intersections
 - impacts of planned road works
 - loading dock access from Kellicar Road
 - compliance of the carparking layout and design with relevant Australian Standards.
-

2.2 Joint Regional Planning Panel Application - DA 1057/2014/DA-C Expansion Of Macarthur Square Shopping Centre

It is relevant to note that the traffic and parking report has also been referred to the NSW Roads and Maritime Service (RMS) for comment in accordance with Clause 104 of *State Environmental Planning Policy (Infrastructure) 2007*. This assessment by RMS would also include consideration of the operational efficiencies of the surrounding road network and intersections impacted upon by the proposal, however at the time of writing this report the RMS had not finalised their comments.

Whilst it is beyond the scope of this report to provide a detailed traffic and parking analysis similar to that being undertaken by as a part of the assessment, the following issues are highlighted for further consideration:

- The traffic report estimates that the peak future demand of the expanded centre would be 4,092 spaces on Saturday, which would be satisfied by the proposed provision, taking into account the availability of an additional 44 on street car spaces in Kellicar Road. All carparking should be provided on site in accordance with Council's usual DCP requirements.
- Modifications to existing bus circulation and stops within Kellicar Road need to be identified and properly considered to ensure satisfactory bus access for users.
- There is an existing informal overflow carparking area used for peak periods of parking demand which will be displaced by the proposed building works and formalised carparking area. The provision of an equivalent overflow parking area nearby should be provided to retain the provision of an overflow parking area during peak shopping periods (eg. Christmas).
- The proposed truck manoeuvring and loading dock areas need to be assessed for compliance with relevant Australian Standards and consistency with required acoustic measures.
- Potential increases in future parking demand from railway commuters, and resultant displacement of on-site parking for retail customers needs to be appropriately managed.
- Subject to comments from RMS, the need to provide upgrades to the surrounding road network / intersections to cater for increased traffic movements attributed to the proposed development. In this respect it is noted that the applicant's traffic assessment report identified that the capacity of nearby intersections with Narellan Road are already approaching their theoretical capacity.
- The traffic and parking assessment provided by the applicant needs to account for the displacement of 44 formed and marked car spaces currently located at ground level near the north western corner of the existing multi-storey carpark. In this regard, the net increase in proposed on-site parking is estimated to be 417 car spaces, not 461 spaces as stated in the traffic and parking assessment.

5. Conditions of Consent - Public Space Issues

It is noted that the applicant has agreed to provide further information for the approval of Council addressing the following issues affecting the public domain:

- Public Art Strategy
- External Signage Strategy

The provision of this information as a condition of any consent for Council's approval is noted and supported.

Conclusion

The subject land is zoned *10(a) Regional Comprehensive Centre Zone* under *Campbelltown (Urban Area) Local Environmental Plan 2002*, and the proposed development is considered to be consistent with the core objectives of the zone relating to economic and employment growth.

The JRPP have assumed the role of consent authority for the subject application given the high capital value of the proposed works. Accordingly, the application has been reported to Council to provide the opportunity for Council to endorse a submission to the JRPP prior to their determination of the proposal.

Whilst it is beyond the scope of this report to provide a parallel assessment of all matters to be considered by the JRPP, a general review of the application has been undertaken and there is considered to be sufficient merit for the proposal to be supported in principle by Council. However, a number of assessment issues have been identified that should be resolved as part of the determination of the application, and it is therefore recommended that Council should make a submission to the JRPP to ensure these matters are appropriately addressed.

Officer's Recommendation

1. That the information be noted relating to Development Application 1057/2014/DA-C for the proposed expansion of Macarthur Square Shopping Centre.
2. That Council delegate authority to the Director Planning and Environment to make a submission to the South West Sydney Joint Regional Planning Panel requesting that the subject application not be determined until those issues outlined in the body of this report are suitably resolved.

Committee's Recommendation: (Thompson/Lound)

1. That the information be noted relating to Development Application 1057/2014/DA-C for the proposed expansion of Macarthur Square Shopping Centre.
2. That Council delegate authority to the Director Planning and Environment to make a submission to the South West Sydney Joint Regional Planning Panel requesting that the subject application not be determined until those issues outlined in the body of this report are suitably resolved.
3. That the Council submission to the South West Sydney Joint Regional Planning Panel include a requirement that the Panel condition any consent such that a minimum of 60 additional car parking spaces be provided as an overflow car parking facility in addition to all other parking proposed as part of the development.

CARRIED

Council Meeting 16 September 2014 (Greiss/Matheson)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 168

That the Officer's Recommendation be adopted.

At the conclusion of the discussion regarding Items 2.1 and 2.2, Councillors Hawker and Lake returned to the Chamber and His Worship the Mayor, Councillor Lake resumed the Chair.

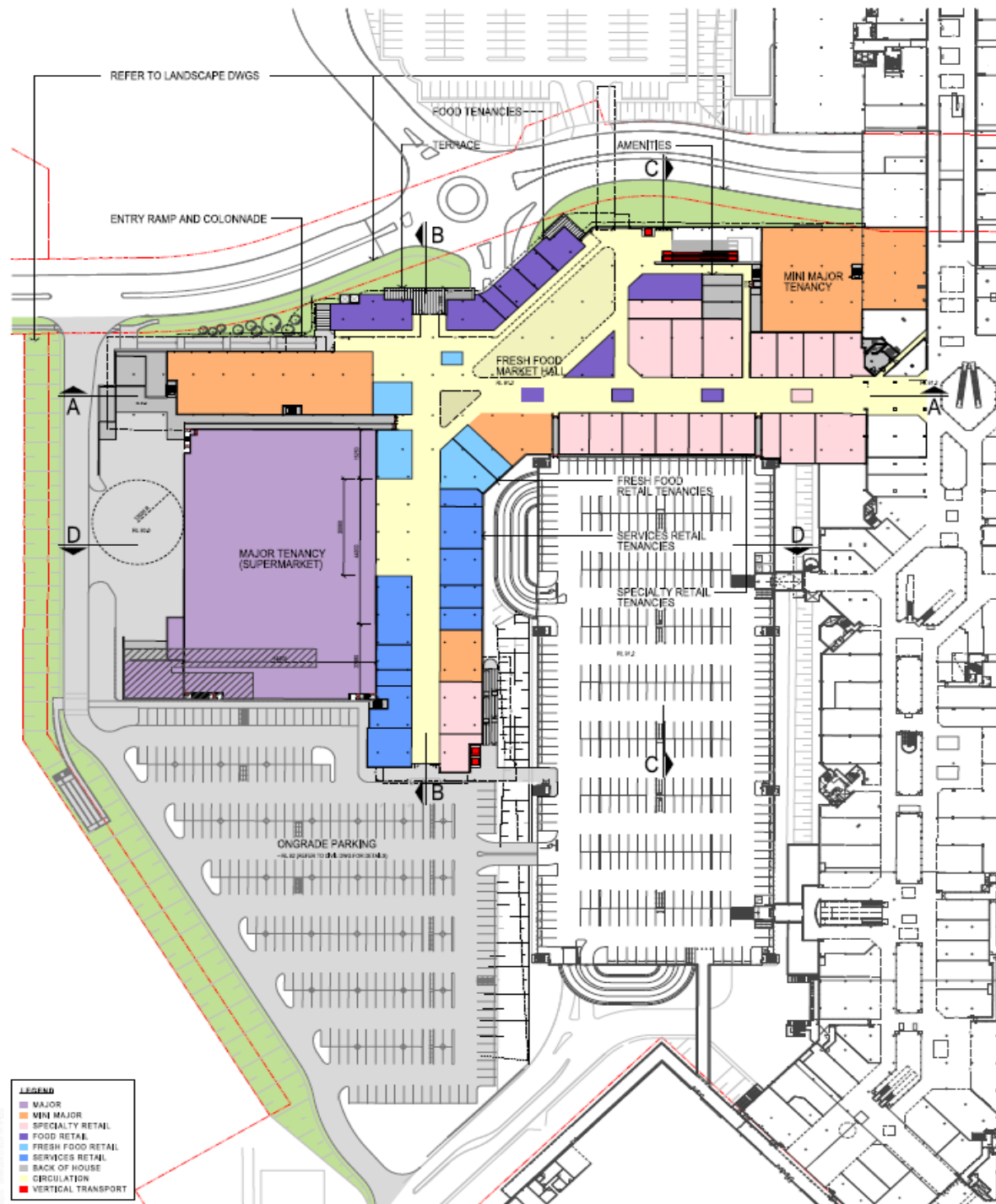
ATTACHMENT 1



Site Plan

Joint Regional Planning Panel Application - DA 1057/2014/DA-C Expansion of Macarthur Square Shopping Centre

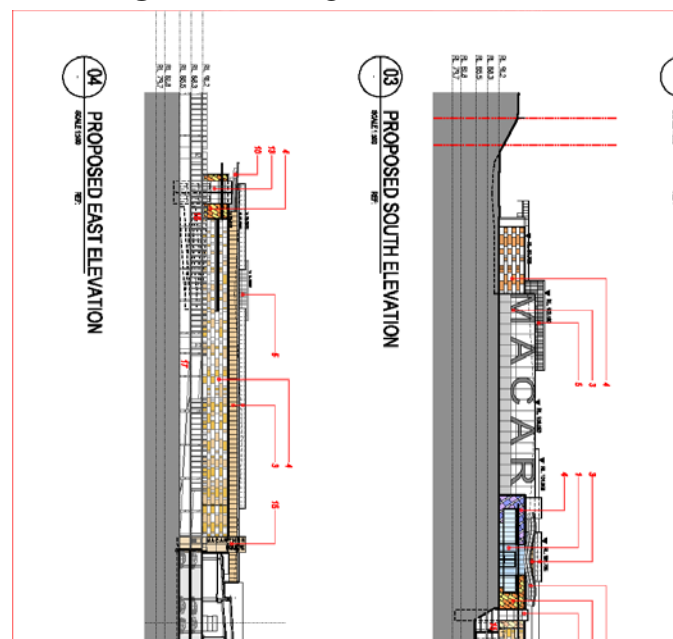
ATTACHMENT 2



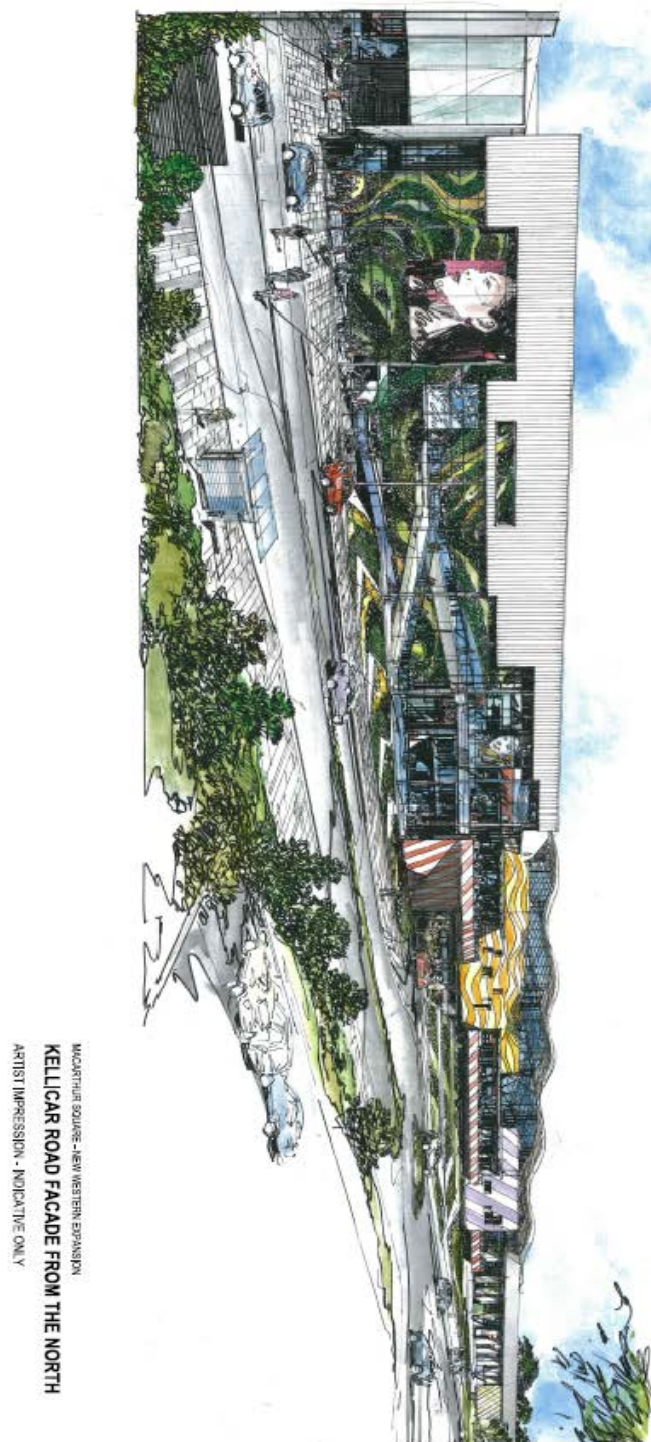
<p>MACARTHUR SQUARE</p>	<p>APPF</p>	<p>GPT The GPT Group</p>	<p>Land Lease</p>	<p>0 10 20 30</p>	<p>MACARTHUR SQUARE WESTERN MALL EXPANSION PRECINCT A LEVEL 3 FLOOR PLAN</p> <p>10/04/14 162544 01 DA00025</p>
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2.2 Joint Regional Planning Panel Application - DA 1057/2014/DA-C Expansion Of
Macarthur Square Shopping Centre

ATTACHMENT 3



ATTACHMENT 4



 MACARTHUR SQUARE	APPF <small>Associated Property & Planning Firm</small>	GPT <small>The GPT Group</small> Lead Lease		MACARTHUR SQUARE WESTERN MALL EXPANSION ARTISTS IMPRESSION KELLICAR ROAD FACADE FROM	14/04/14	162544	01	DA00037
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2.3 Revised Draft Policy Of The Association Of Mining Related Councils On Coal Seam Gas

2.3 Revised Draft Policy of the Association of Mining Related Councils on Coal Seam Gas

Reporting Officer

Manager Sustainable City and Environment

Attachments

1. Revised draft Policy of the Association of Mining Related Councils on Coal Seam Gas – Exploration and Production (contained within this report)
2. Alternative draft Policy for the Association of Mining Related Councils on Coal Seam Gas – Exploration and Production, prepared by Council staff (contained within this report)

Purpose

To seek Council's endorsement of a recommended response to the revised draft Policy.

History

A key responsibility of the Association of Mining Related Councils (AMRC) is to advocate the concerns of member councils and their local communities on mining related activities to the Government and Government Agencies. At its meeting on 9 May 2013, the Association adopted the viewpoint that the adoption of a Policy which defines its position on coal seam gas would be of benefit in the carrying out of this responsibility.

Following this resolution the Association has now developed a draft Policy on Coal Seam Gas (CSG). At its meeting on 1 April 2014 Council considered the report on a draft policy of the AMRC on CSG and resolved:

"That Council provide in-principle support to the draft Policy of the Association of Mining Related Councils on Coal Seam Gas and advise the Association of its decision in this matter."

Report

In response to the various comments received from other member Councils (including Campbelltown) and the Executive, the Association has now revised its original draft Policy on CSG. At the AMRC meeting of 7 August 2014, a revised draft Policy on CSG was tabled (see attachment 1). The revised policy included several changes and additions, including:

- support for member councils in developing their own CSG policies
 - a commitment to advocate on behalf of member councils affected by CSG exploration and production
-

2.3 Revised Draft Policy Of The Association Of Mining Related Councils On Coal Seam Gas

- a commitment to lobby the NSW Government over the role of Local Government in regard to land use, consent agreements and voluntary planning agreements
- the stance that planning and environmental safeguards should be expanded to apply to additional land use zones
- a request for the NSW Government to consult with key industry groups, stakeholder agencies and relevant scientists regarding research on impacts of the CSG industry
- a request for the NSW Government to support and clarify the role of Local Government in pre-gateway determinations
- promoting security of gas supplies for member councils, local communities and industries
- the recommendation for the appointment of an independent Ombudsman to oversee the industry and respond to complaints.

The revised draft policy was debated at the meeting and consequently it was determined that member councils should be provided with the opportunity to once again review and comment on the draft Policy. In this regard, the Executive Committee will be making a final recommendation on the Policy at the next meeting of the AMRC on 7 November in Cessnock and have requested any comments be submitted to the Executive Officer prior to 26 September 2014.

The revised draft Policy remains broadly consistent with Council's current resolutions regarding the CSG industry, however Council staff have reviewed the format and structure of the statement and have drafted an alternative version that is considered to more concisely encompass the main concerns and viewpoints of the AMRC (see attachment 2).

As such, it is therefore recommended that Council write to the AMRC expressing its continued in principle support for a revised draft Policy and further recommend that the AMRC adopt alternate wording and format as shown in attachment 2.

Officer's Recommendation

That Council write to the Association of Mining Related Councils and provide in-principle support to the revised draft Policy of the Association of Mining Related Councils on Coal Seam Gas and recommend that the AMRC adopt the wording and formatting as provided in attachment 2 of this report.

Committee's Recommendation: (Thompson/Kolkman)

That the Officer's Recommendation be adopted.

CARRIED

Council Meeting 16 September 2014 (Greiss/Matheson)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 166

That the Officer's Recommendation be adopted.

ATTACHMENT 1



Draft Policy

Association of Mining Related Councils

Coal Seam Gas - Exploration and Production

1. The Association supports member councils in the development of Coal Seam Gas Policies that reflect the needs and directions of their local communities.
2. The Association will advocate on behalf of member councils that are affected by CSG exploration and production.
3. The Association shall lobby the NSW Government concerning the role of Local Government as a key stakeholder in all negotiations related to land use, consent agreements and VPAs, when CSG exploration and production is proposed.

Position Statement

1. The Association recognises there are genuine concerns in the community surrounding the short term and long term environmental impacts of Coal Seam Gas as they are not well understood at either a state-wide or regional level. Further, the Association will advocate on behalf of member councils that are affected by CSG exploration and production.

2. The Association would like to acknowledge the progress that has been made by this government in establishing both planning and environmental safeguards around exploration and mining activities however, advocates for the inclusion of R5 Large Lot Residential Zone as identified in the Standard Instrument LEP. The Association further acknowledges recent extensions to CSG exclusion zones, the signing of "Agreed Principles of Land Access" agreements between companies and rural industries affected by CSG exploration and production and, the extension of the planning gateway process.

The Association acknowledges the release of the Chief Scientist and Engineer's report "Placement of Monitoring Equipment for Water Resources in NSW". The Association calls upon the NSW Government to commission with the key industry groups, Sydney Catchment Authority and Environmental and Hydro-Geological Scientists, peer reviewed research

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2.3 Revised Draft Policy Of The Association Of Mining Related Councils On Coal Seam Gas



Association of
Mining Related Councils Inc

demonstrating the possible impacts and effects of CSG mining on ground water and surface water systems, related use of chemicals, as well as hydraulic fracturing and dewatering activities, effects of greenhouse gas and other emissions and the nature and effect of remediation under the Petroleum (Onshore) Act 1991 and under clause 14 of SEPP (Mining, Petroleum Production and Extractive Industries) 2007.

4. The Association also requests that the state government supports and clarifies the role and position of local government in the pre-gateway determinations concerning CSG operations and their impacts on local communities, environment and infrastructure.
5. The Association monitor the future development of NSW government and commonwealth government energy policies to ensure there is a security of gas supplies for member councils' local communities and industries.
6. The Association supports the actions of those member councils that have adopted local coal seam gas (CSG) policies.
7. That an independent Ombudsman be appointed for complaints and ongoing oversight of the industry;

Additional information to assist councils in forming their CSG policy

1. The Association is the peak body representing NSW local governments areas and therefore, has an important role to effectively lobby state and federal government to financially support the infrastructure needed to adequately deal with additional local mining and extractive industries;
1. That impacts on Local Government Council Infrastructure are adequately compensated for in the immediate and future life of those assets;
3. In regard to the communities environmental assets, that the appropriate oversight body, whether government or private, is engaging effectively and is communicating with Council and the processes are put in place to independently obtain baseline data on air and water quality;
4. Councils should as far as practicable adopt a "nil" effect position in regard to the quality of surface water, domestic, stock and irrigation aquifers used by our community and a "nil" net effect on above ground environmental assets in relation to coal seam gas activities;
5. That health and environmental impact assessments are conducted for all significant mining and extractive industries during the approval process;

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2.3 Revised Draft Policy Of The Association Of Mining Related Councils On Coal Seam Gas



6. That individual property rights in regard to unwelcome drilling, exploration and/or extraction activities are supported;
7. That the ten (10) International Council of Mining and Metals (ICMM) principles are supported by Association;
8. That the Association and member councils recommend to the State government that the pre-gateway determination process be modified to enable a refusal where appropriate and;
9. Promote the dissemination of information to landholders that is independent and informs them of their rights and obligations prior to entering into any agreements relating to coal seam gas exploration or production".

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ATTACHMENT 2

Policy

Association of Mining Related Councils

Coal Seam Gas – Exploration and Production

1. The Association supports member councils in the development of Coal Seam Gas (CSG) policies that reflect the needs and directions of their local communities.
2. The Association will advocate on behalf of member councils that are affected by CSG exploration and production.
3. The Association shall lobby the NSW Government over the role of Local Government as a key stakeholder in all negotiations related to land use, consent agreements and Voluntary Planning Agreements, for developments and proposals associated with CSG.

Position Statement

The Association recognises that there are genuine concerns in the community surrounding the short and long term environmental impacts of CSG. The Association is of the view that the CSG industry has the potential to significantly impact both positively and detrimentally on Australian communities; economically, socially and environmentally. To appropriately manage these impacts the Association espouses that:

- The NSW Government must consult with and consider the advice of key industry groups, stakeholder agencies (including Local Land Services), Local Government and the environmental and hydro-geological scientific community during CSG policy development and in consideration of development applications
 - Local Government must be a part of all stages of the development application process including pre-gateway determinations
 - Planning and environmental safeguards against mining and exploration impacts should apply to all land use zones
 - Security of gas supplies for the local communities and industries of member councils should be ensured
 - An independent Ombudsman should be established to oversee the operation and governance of the CSG industry
 - Adequate compensation should be provided to impacted councils for costs to infrastructure and the environment
 - Effective monitoring, including the collection of baseline data, for air, water and other environmental effects must be undertaken and used to assess the ongoing impacts of the industry on communities over the long term
 - The precautionary principle and the principles of Ecologically Sustainable Development should be applied to all assessments for mining development, including rigorous health and environmental impact assessments
 - All developments should demonstrate a net improve or nil impact on local communities and the environment
 - Individual property rights should be respected in regard to drilling, exploration and extraction activities and the NSW Government should actively engage with and promote the rights of landholders.
 - The NSW Government should ensure that landholders are provided independent information informing them of their rights and obligations prior to entering into any agreements relating to CSG exploration and/or production.
-

2.4 10/50 Vegetation Clearing Laws

Reporting Officer

Manager Sustainable City and Environment

Attachments

Nil

Purpose

To advise Council of the introduction of new laws introduced under the *Rural Fires Act 1997* designed to help people better prepare their homes for bushfires in NSW.

History

The NSW Government has recently introduced new laws to allow for the clearing of trees and other vegetation, for bush fire protection purposes, near a building containing habitable rooms or nominated high-risk facilities (specified building). The new laws under the *Rural Fires Act 1997* are supported by the 10/50 Vegetation Clearing Code of Practice for NSW. The new laws were introduced in response to the catastrophic bush fires that occurred in the Blue Mountains in October 2013, and in order to provide residents in Bush Fire Prone Lands with greater flexibility in managing the risk of fire attack upon their residence.

The revised 10/50 Vegetation Clearing Laws were the subject of a Councillor Briefing on 2 September 2014.

Report

The 10/50 vegetation clearing framework allows landowners within a designated 10/50 Vegetation Clearing Entitlement Area (VCEA) to:

- Clear trees on their property within 10 metres of a specified building, without seeking prior approval
- Clear underlying vegetation such as shrubs (but not trees) on their property within 50 metres of a specified building, without seeking prior approval.

For the purpose of the 10/50 Vegetation Clearing Code of Practice a specified building (building) is one containing habitable rooms such as a home, tourist or visitor accommodation, caravans that are in caravan parks, and manufactured homes installed in manufactured home estates. High risk facilities also captured by the rule include child care centres, hospitals and schools (but not tertiary institutions such as universities or TAFE).

The building must also be one that has been lawfully approved with the provision for habitable rooms, by way of development consent or other lawful authority. If the building has been constructed without lawful consent, the rule does not apply.

The specified distance is measured from the external walls of the building and includes permanent fixed structures such as decks or garages that are attached to the building, however does not include detached garages, sheds and the like.

Clearing can only be undertaken by the landowner or with the landowner's permission. Clearing is **optional and is not a mandatory requirement**.

Neighbours may also be requested to undertake clearing if the vegetation on their property is within the VCEA of a neighbour's specified building, however, they may only clear their land if their property is also in a clearing entitlement area. These rules apply both to public and private lands.

As part of the introduction of the new laws, the Rural Fires Service (RFS) has developed an online search tool which advises if a property is located within a VCEA.

Council staff have conducted searches with this tool and have identified a significant number of properties within the Campbelltown Local Government Area (LGA) that are within a VCEA. However, on review it would appear that a holistic map showing the boundaries of the VCEA's within the LGA is yet to be developed by the RFS.

Notwithstanding the above, there are some limitations on the application of the rules, including:

- appropriate use of herbicide
- no disturbance of the soil profile
- no use of graders, ploughs and dozers
- no vegetation removal within the 10 metre riparian zone of a Prescribed Stream identified by the Office of Environment and Heritage (OEH)
- clearing cannot be undertaken on slopes greater than 18 degrees, however pruning may be undertaken
- clearing may not be undertaken within an area identified by the OEH as containing Aboriginal and other cultural heritage.

It is also important to note that the provisions of the new 10/50 Code prevail over the NSW Threatened Species legislation and in this regard, the 10/50 Code can be lawfully relied upon to undertake the clearing (without prior approval) of flora and fauna protected under the NSW *Threatened Species Conservation Act 1995*. However, whilst the 10/50 Code may prevail over the NSW law, the provisions of the 10/50 Code do not prevail over the relevant provisions of the Commonwealth's *Environment Protection and Biodiversity Conservation Act 1999* and as such, it remains the owner's responsibilities to ensure compliance with the relevant provisions of the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* despite the allowances provided under the 10/50 Code.

The Current Bushfire Risk Management Framework

Vegetation clearing for the purpose of property protection is currently regulated under the *Rural Fires Act 1997* as a form of bush fire hazard reduction work, which is defined as:

- (a) the establishment or maintenance of fire breaks and fire trails on land, and
- (b) the controlled application of appropriate fire regimes or other means for the reduction or modification of available fuels within a predetermined area to mitigate against the spread of a bush fire.

The Macarthur Bush Fire Risk Management Plan (approved by the NSW Bush Fire Coordinating Committee on 4 March 2010) identifies the level of bushfire risk across the Local Government Area, identifies community assets at risk from bush fire, determines where mechanical clearing or hazard reduction burns are conducted, and designates which areas require specialised fire protection.

A bushfire hazard reduction certificate is required in order to undertake hazard reduction clearing and a bushfire hazard reduction certificate can only be issued after an environmental risk assessment has been considered. A bushfire hazard reduction certificate cannot be used in areas that are considered to be environmentally sensitive lands such as critical habitat, littoral rainforests or coastal wetlands.

Under section 100C(4) of the *Rural Fires Act 1997*, bushfire hazard reduction work may be carried out despite any requirement for an approval, consent or other authorisation for the work made by the *Environmental Planning and Assessment Act 1979*, *Native Vegetation Act 2003*, the *National Parks and Wildlife Act 1974*, the *Threatened Species Conservation Act 1995* or any other Act or regulatory instrument if:

- (a) the work is carried out in accordance with a bushfire risk management plan that applies to the land, and
- (b) there is a bushfire hazard reduction certificate in force in respect of the work and the work is carried out in accordance with any conditions specified in the certificate, and
- (c) the work is carried out in accordance with the provisions of the *Bush Fire Environmental Assessment Code (BFEA Code)*.

The purpose of the BFEA Code is to provide a streamlined environmental assessment process for use by issuing authorities and certifying authorities in determining bushfire hazard reduction certificates. Council is the certifying authority for any land that is vested in or under its control.

It is also a requirement of section 100J of the *Rural Fires Act 1997* that the Commissioner, in preparing the BFEA Code, has to give regard to:

- (a) the principles of ecological sustainable development, and
 - (b) considerations under section 111 (*Duty to consider environmental impact*) of the *Environmental Planning & Assessment Act 1979*.
-

Funding from the Rural Fire Service (RFS) for hazard reduction works is dependent upon compliance with the BFEA Code. This code is used in the issuing of a **hazard reduction certificate**, which authorises and records the works to be undertaken. This financial year \$110,000 of funding was granted to Campbelltown City Council from the RFS for hazard reduction.

The expenditure for any works carried out under the relevant provisions of the 10/50 Code would not be eligible for RFS funding.

Whilst the 10/50 code offers home owners further opportunity to help protect their property from bush fire attack, the establishment and maintenance of existing asset protection zones in accordance with the BFEA Code is considered to provide adequate protection to properties and fulfils council's obligations under the *Rural Fires Act 1997*.

In this regard, it is considered more appropriate for Council to manage bushfire risk on public land in a more holistic and coordinated approach via the approved Macarthur Bush Fire Risk Management Plan. Where the Council was to endorse the use of the 10/50 Code, there is a concern that individual requests from members of the public for land clearing or hazard reduction works on Council managed land would lead to a more fragmented and costly approach to bushfire risk management.

It is therefore recommend that Council advise the community that it will continue to undertake bushfire hazard reduction works based on the approved Bush Fire Risk Management Plan and will not be undertaking works outside of what is identified in that plan.

Implications of the 10/50 Code

Council staff have reviewed the 10/50 Code and although it is accepted that the overarching intent of the 10/50 Code is to ensure the safety of person and property in the event of bushfire, the following has been identified as the more significant operational implications of the 10/50 Code that will require further consideration and clarification:

- **Integration with other bushfire management codes and policies** - The 10/50 Code does not appear to be integrated with other bushfire risk management tools such as Planning for Bush Fire Protection, the Bush Fire Environmental Assessment Code and the Bush Fire Prone Lands Map;
 - **Impacts on Biodiversity** - The 10/50 Code does not require any assessment of the potential impacts that land clearing of areas that contain threatened species or Endangered Ecological Communities identified under relevant State law may have.
 - **Impacts on Local Heritage Items** - It is unclear how the new rules will impact on vegetative assets of significant value that are listed on Council's Heritage Register or Significant Tree Register.
 - **Impacts on suburban environments** – Under the new Code, street trees and other public street landscaping may be eligible to be removed. Private trees and landscaping within the private lands of many suburban areas may unnecessarily be removed.
-

- **Inconsistency with the Planning for Bush Fire Protection Policy** - Development Applications lodged with a consent authority will still be required to be assessed under and comply with the Planning for Bush Fire Protection Policy and other relevant Acts/environmental policies. However, where conditional consent is issued by the consent authority, the 10/50 Code will generally make any condition of the consent that requires the retention of particular vegetation (that also falls within the 10/50 VCEA) redundant. This is regardless of whether the consent was issued under delegated authority, the Council, the Joint Regional Planning Panel (JRPP) or the Planning Minister.
- **Inconsistency with the Water Management Act 2000** - The 10/50 Code does not appear to give consideration on how to treat riparian buffer zones on watercourses that are not listed by the OEH as prescribed streams. The Code appears to allow the clearing of any non-prescribed stream that meets the VCEA criteria and clearing activities along these stream types is likely to result in watercourse erosion, bank instability and reduced water quality.
- **Increased workload and cost to Council** – By way of public complaint, Council staff could be requested to investigate instances of tree/vegetation removal and as part of each investigation, will have to conduct a preliminary assessment to determine if the clearing is being conducted in accordance with the 10/50 Code. Investigation and prosecution of illegal clearing activities that are considered to fall outside of the scope of the 10/50 Code will remain the Council's responsibility under existing planning legislation.

Since the introduction of the 10/50 Code Council staff have received a significant number of enquiries from the community regarding this matter. In an attempt to assist the community and Councillors further, staff are providing the following advice and have updated Council's website as follows:

- The 10/50 framework and supporting online tools are for use by individual landowners. Council will not provide advice on the rules or the mapping of the 10/50 Vegetation Clearing Entitlement Area
- Advice on the 10/50 rule will need to be sought from the RFS
- Clearing can only be conducted by the landowner, or with approval of the landowner. Council will not provide approval to undertake clearing on Council land under the 10/50 Code
- Council has a bushfire works program based on the Bush Fire Risk Management Plan, and will not be undertaking works outside of what is identified in the program
- Any bushfire hazard complaint should be directed to the RFS Macarthur office on 9603 7077
- Any further enquiries about the rules within the 10/50 Code should be directed to the RFS Macarthur office on 9603 7077.
- Further information on the 10/50 Code framework can be found at:

<http://www.rfs.nsw.gov.au/news-and-media/general-news/1050-vegetation-clearing>

The 10/50 Code was introduced in response to the catastrophic bushfires that occurred in the Blue Mountains in October 2013. While it is acknowledged that the 10/50 Code provides residents in Bush Fire Prone Lands with greater flexibility in managing the risk of bushfire attack upon their residence, the 10/50 Code is one tool in the overall bushfire risk management strategy.

With this in mind it is recommended that Council continue to undertake bushfire hazard reduction in accordance with the existing approved Bush Fire Risk Management Plan.

Further to the above, as the 10/50 Code has attracted a number of recent media reports in relation to its implications on tree removal within suburban properties located in a number of inner harbour LGAs, the NSW Rural Fire Service is now considering amending the 10/50 Code. A subsequent review undertaken by Council officers in consideration of the potential implications of the 10/50 Code on the Campbelltown LGA has identified a number of issues including impacts on biodiversity, local heritage items and potential changes to the suburban environment. These will all require further consideration and discussion with the NSW Rural Fire Service as part of its review of the Code.

Officer's Recommendation

1. That Council advise the community that it will continue to undertake bushfire hazard reduction works based on the approved Bush Fire Risk Management Plan and will not be undertaking works outside of what is identified in that plan.
2. That Council write to the State Government requesting a review of the legislation and associated code based on Council's concerns as contained in this report.

Committee's Recommendation: (Greiss/Mead)

1. That Council advise the community that it will continue to undertake bushfire hazard reduction works based on the approved Bush Fire Risk Management Plan and will not be undertaking works outside of what is identified in that plan.
2. That Council write to the State Government expressing Council's concerns as contained in this report.
3. That when mapping has been completed a report be submitted to Council detailing an appropriate information campaign to inform affected residents.

CARRIED

Council Meeting 16 September 2014 (Greiss/Matheson)

That the Committee's Recommendation be adopted.

Council Resolution Minute Number 166

That the Committee's Recommendation be adopted.

3. DEVELOPMENT SERVICES

3.1 Development Services Section Statistics July 2014

Reporting Officer

A/Manager Development Services

Attachments

Development Services application statistics for July 2014 (contained within this report)

Purpose

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

Report

In accordance with Council's resolution of 23 August 2005, that Councillors be provided with regular information regarding the status of development applications, the attachment to this report provides details of key statistics for July 2014 as they affect the Development Services section.

Officer's Recommendation

That the information be noted.

Committee's Recommendation: (Thompson/Matheson)

That the Officer's Recommendation be adopted.

CARRIED

Council Meeting 16 September 2014 (Greiss/Matheson)

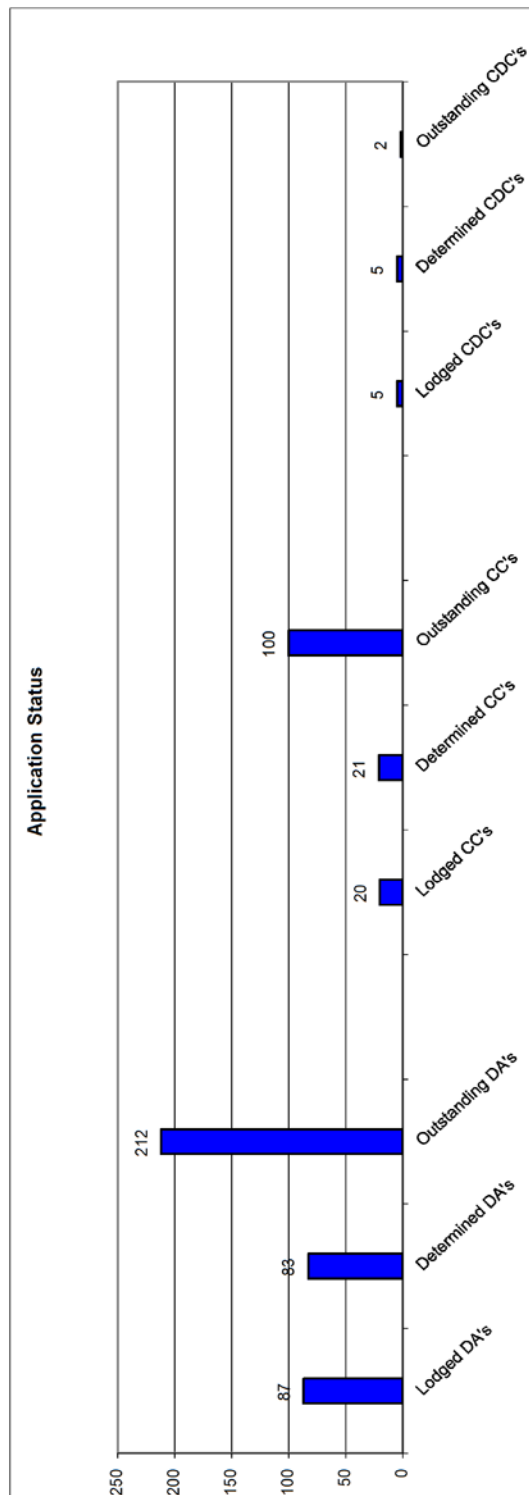
That the Officer's Recommendation be adopted.

Council Resolution Minute Number 166

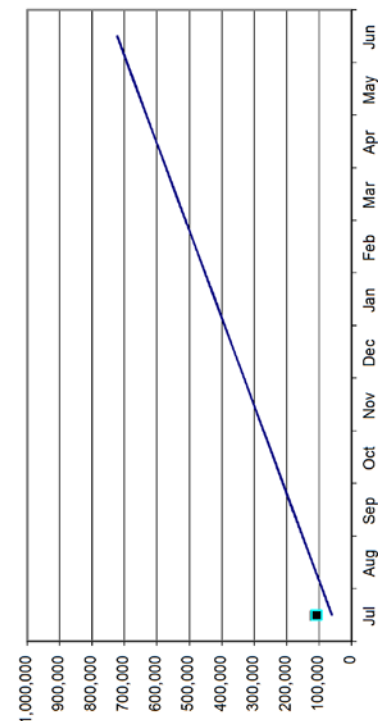
That the Officer's Recommendation be adopted.

ATTACHMENT 1

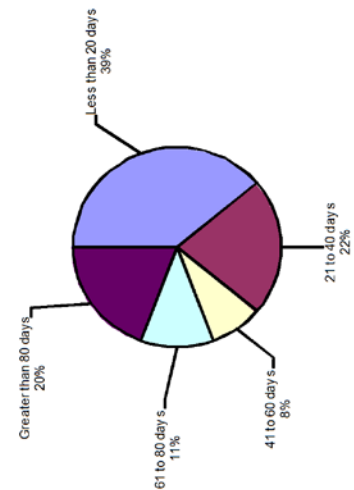
DEVELOPMENT SERVICES SECTION MONTH AT A GLANCE – July 2014



Development Application Income



Development Application Monthly Processing Times



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.

Note: The year to date totals itemised in Sections 1 to 7 inclusive of the report do not necessarily correlate with the total of individual matters listed in each section, as the total of individual matters shown refer to total costs from commencement of the matter, which may have commenced before 1 July.

1. Land and Environment Court Class 1 Matters – Appeals Against Council's Determination of Development Applications
--

Total ongoing Class 1 DA appeal matters (as at 12/08/2014)	0
Total completed Class 1 DA appeal matters (as at 12/08/2014)	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 12/08/2014)	1
Total completed Class 1 Order/Notice appeal matters (as at 12/08/2014)	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 further mention on 29 August 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.

On 25 July 2014 the Court, by consent, granted the Applicant's application to adjourn the proceedings pending determination by Council at its ordinary meeting of 19 August 2014 of 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 29 August 2014 for mention.

Council at its Ordinary Meeting on 19 August 2014 gave conditional consent to DA No. 1138/2014/DA-M for development comprising construction of an attached dual occupancy, fencing, retaining walls, driveway and landscaping.

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 12/08/2014)	2
Total completed Class 4 matters (as at 12/08/2014)	0
Costs from 1 July 2014 for Class 4 matters	\$38,667.60

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:	\$26,367.69
Status:	Ongoing – listed for further mention on 29 August 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> <p>On 25 July 2014 the Court, by consent, granted the Applicant's application to adjourn the proceedings pending determination by Council at its ordinary meeting of 19 August 2014 of 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 29 August 2014 for mention.</p>

3 (b) John Frank GALLUZZO

Issue: The Land and Environment Court NSW granted conditional development consent No. 610/2004/DA-C on 25 September 2005 for a childcare centre at 1 Blomfield Road, Denham Court. Conditions 15 and 19 of the consent required the respondent to construct a Type B intersection at the intersection of Campbelltown Road with Blomfield Road, Denham Court. To date the respondent has failed to fully comply with the consent.

Property: Pt Lot 101 DP 602622, 1 Blomfield Road, Denham Court.

Property Owner: Mr. John Frank Galluzzo

Council File: Development Application No: 610/2004/DA-C

Court Application: Filed on 25 March 2014 - File No. 40179 of 2014

Respondent: John Frank Galluzzo

Costs Estimate: \$15,000 (exclusive of Barristers, Court Appointed Experts or disbursement fees)

Costs to date: \$19,419.71

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 its desire to amend the original summons to join the Childcare Centre operator. The Court gave certain procedural directions and adjourned the proceedings to 4 July 2014 for directions hearing.

On 4 July 2014 the Court gave certain procedural directions and adjourned the proceedings to 11 July 2014 for further directions hearing.

On 11 July 2014 the Court by consent adjourned the proceedings and referred the matter for mediation. A Commissioner of the Court has been assigned to conduct the mediation on 15 August 2014.

On 15 August 2014 the mediation proceedings were adjourned to eCourt mention on 22 August. The purpose of the adjournment was to enable the parties to clarify and consider recommendations of the RMS pertaining to the intersection type, and for the parties to determine if the mediation should proceed or be terminated and restored to the Court list.

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 12/08/2014)	0
Total completed Class 5 matters (as at 12/08/2014)	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 12/08/2014)	0
Total completed Class 6 matters (as at 12/08/2014)	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 12/08/2014)	0
Total completed Appeal matters (as at 12/08/2014)	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 12/08/2014)	0
Total completed Local Court Matters (as at 12/08/2014)	7
Costs from 1 July 2014 for Local Court Matters	\$456.00

File No:	LP13/14 – Penalty Notice Court Election
Offence:	Stand on path/strip in built-up area
Act:	<i>Road Rules 2008</i>
Final Costs:	\$0.00 – handled by Council's Legal and Policy Officer in conjunction with the Police Prosecutor.
Status:	Completed.
Progress:	The matter was before the Court for defended hearing on 31 July 2014 where the defendant, Muhammed Rehan Choudary, changed his plea to guilty with explanation. After considering the evidence and submissions the magistrate found the offence proved and imposed a fine of \$200.

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 – handled by Council's Legal and Policy Officer in conjunction with the Police Prosecutor.
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.
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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:	\$456.00 – Instructions given to Council's Solicitor. Matter completed by Council's Legal and Policy Office
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Status:	Completed
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Progress:	The matter was before the Court on 15 August 2014 where the Magistrate granted Council's application for the matter to be withdrawn as fresh evidence has come to Council's attention that the defendant was not the actual owner of the dog. The dog has now been registered by the current owner.
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File No:	LP16/14 – Penalty Notice Court Election
Offence:	Not stand vehicle in marked parking space
Act:	<i>Local Government Act 1993</i>

Final Costs:	\$0.00 – handled by Council's Legal and Policy Officer in conjunction with the Police Prosecutor.
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Status:	Completed.
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Progress:	The matter was before the Court for mention on 22 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.
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File No:	LP17/14 – Penalty Notice Court Election
Offence:	Disobey no stopping sign – School Zone
Act:	<i>Road Rules 2008</i>

Final Costs: \$0.00 – handled by Council's Legal and Policy Officer in conjunction with the Police Prosecutor.

Status: Completed.

Progress: The matter was before the Court for mention on 29 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: LP18/14 – Penalty Notice Court Election
Offence: Not register company animal – not dangerous or restricted dog
Act: *Companion Animals Act 1998*

Final Costs: \$0.00 – handled by Council's Legal and Policy Officer in conjunction with the Police Prosecutor.

Status: Completed.

Progress: The matter was before the Court for mention on 5 August 2014 where the defendant, Deidre Yau, entered a guilty plea with explanation. After considering the evidence and submissions the magistrate found the offence proved and imposed a fine of \$100 and an order for court costs of \$85 and victims support levy of \$74.

File No: LP19/14 – Penalty Notice Court Election
Offence: Disobey no parking sign – School Zone
Act: *Road Rules 2008*

Costs to date: \$0.00 – handled by Council's Legal and Policy Officer in conjunction with the Police Prosecutor.

Status: Completed.

Progress: The matter was before the Court for first mention on 12 August 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.

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 12/08/2014)
Costs from 1 July 2014 for advice matters

3
\$2,800.90

9. Legal Costs Summary

The following summary lists the Planning and Environment Division's net legal costs for the 2014/2015 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	\$38,667.60	\$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	\$456.00	\$0.00
Matters referred to Council's solicitor for legal advice	\$2,800.90	\$0.00
Miscellaneous costs not shown elsewhere in this table	\$0.00	\$0.00
Costs Sub-Total	\$41,468.50	\$0.00
Overall Net Costs Total (GST exclusive)	\$41,924.50	

Officer's Recommendation

That the information be noted.

Committee's Recommendation: (Oates/Lound)

That the Officer's Recommendation be adopted.

CARRIED

Council Meeting 16 September 2014 (Greiss/Matheson)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 166

That the Officer's Recommendation be adopted.

4.2 Wrecking Yards in the Campbelltown Local Government Area

Reporting Officer

Manager Compliance Services

Attachments

Nil

Purpose

To advise Council of the number of authorised and unauthorised wrecking yards and premises that dismantle vehicles (undercover) within the Campbelltown Local Government Area and to provide information on planning and compliance controls and any other matters relating to these types of activities.

History

Council at its Meeting on 11 March, 2014 adopted a resolution that a report be prepared and presented to Council in relation to authorised and unauthorised wrecking yards and dismantling of vehicles undercover which exist in the Campbelltown Local Government Area and that the report include information regarding planning and compliance controls and associated matters.

Report

Existing Wrecking Yards and Auto Dismantlers

A review of Council records has identified that there are six businesses within the Campbelltown Local Government area that are approved for dismantling and or selling of vehicle parts. In addition to these businesses, there are three vehicle repair shops with approval for the dismantling of motor vehicles. Of the approved vehicle dismantlers, two of the establishments have facilities to dismantle and/or store vehicle parts (undercover), within buildings.

An additional search of businesses advertising vehicle parts for sale has identified two vehicle dismantling businesses operating within the Minto Industrial Estate that subject to the outcome of further investigation may be operating without appropriate approval.

The operation of a wrecking yard or vehicle dismantler is permissible within the Industrial Zone 4(a) and 4(b), subject to development consent.

Compliance/Regulatory Issues

There are a number of compliance or regulatory issues that are typically associated with wrecking yard and auto dismantling activities such as:

- Unauthorised Use - use of activities conducted without development consent.
- Unauthorised additions (eg mezzanines), alterations or structures (eg awnings, signage)
- Non-compliance with consent (eg hours of operation, provision of landscaping, screening, parking etc)
- Pollution incidents: eg polluted stormwater runoff (ie oils, degreaser, coolant etc) and, failure to protect stormwater drains, illegal discharge from oil separators, dust from unsealed storage yards, noise, etc
- Contamination of land (oils, battery acids etc.) resulting from stormwater runoff to, or dismantling or storing of vehicles/parts on, unsealed areas
- Waste storage and disposal
- Inappropriate storage of materials eg: vehicle stacking and amenity impacts
- BCA compliance and fire safety (access/egress, provision for fire suppression and safe evacuation etc).

In most cases, some of the above issues may be brought to Council's attention by way of complaints. This would then generate an inspection or audit of the premises by Compliance staff who would then assess the activities on the business in accordance with the requirements of the development consent and environmental legislation and standards.

With regards to compliance issues relating to the businesses approved as vehicle wrecking yards or dismantlers, there is no recent history (over the past five years) of compliance issues being raised with Council.

In recognition of the potential compliance/regulatory issues associated with wrecking yards and auto dismantlers as highlighted in the report, it is recommended that an audit be carried out of the various premises identified to ensure these premises operate in accordance with relevant planning and environmental regulatory requirements.

Officer's Recommendation

1. That the information be noted.
2. That a compliance audit be undertaken in respect of all known or approved wrecking yard and auto dismantling businesses operating in the Campbelltown Local Government Area and that the results of the wrecking yard and auto dismantler audit program be reported back to Council outlining details of any compliance action taken.

Committee's Recommendation: (Greiss/Mead)

That the information be noted.

CARRIED

Council Meeting 16 September 2014 (Greiss/Matheson)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 166

That the Officer's Recommendation be adopted.

4.3 Unauthorised Commercial and Residential Advertising on Public Places

Reporting Officer

Manager Compliance Services

Attachments

Nil

Purpose

To advise Council of the processes for dealing with unauthorised commercial and residential advertising signs which are displayed on roads and roundabouts across the Local Government Area.

History

At the City Works Committee Meeting on 27 May, 2014, the Committee adopted a recommendation that a report be presented to Council outlining the processes for dealing with unauthorised commercial and residential signs which are posted on roads and roundabouts across the Local Government Area. This recommendation was adopted by Council at its Ordinary Meeting of 3 June, 2014.

Report

Council's Development Control Plan (DCP) 99 Advertising Signs sets out the provisions for advertising on private and public places. The signs that are the subject of this report are considered temporary in nature.

Temporary signs may be permitted to be placed on a public place subject to Council approval. Approval may be granted to place a temporary sign on a public place to promote a local event of religious, educational, cultural, political, social or recreational nature but does not include advertising of a commercial nature, other than the names of event sponsors. Types of signage that may be used include core flute signs, banner signs or Variable Message Board signs, at approved roadside locations, affixed to fencing at sporting facilities and schools or Community Notice Boards. These advertisements are generally placed on a public place for a few weeks only (up to 4 weeks before an event and not exceeding 14 days after an event) and are removed by the community group associated with the event.

Although Commercial or business advertisements are generally restricted to the place of business, there are a number of business advertisements approved on public places. These include bus shelter advertisements that may be of a temporary nature by agreement with Council and a number of approved illuminated street name advertisements throughout the city that also advertise local businesses under contract for a fixed time period.

The above types of advertising have control measures in place to address the standard of advertising and the duration the advertisement can be displayed.

In addition to the above approved temporary advertisements on public places, Council has allowed local residents to place advertisements on roads and near intersections to promote garage sales. Most often this form of advertising will consist of temporary, light weight material signs affixed to light poles or roadside infrastructure such as street sign posts. In most cases the resident does not return to remove the advertisement and is then often removed by Council staff.

Generally, other forms of advertisements or signage on public places are deemed unauthorised or are prohibited, such as A-frame signs, Variable Message Board Signs (VMS), bunting, bill posters and similar commercial advertisements or signage.

Where a person or local business displaying unauthorised signage is identified and contactable, Council officers will generally approach the responsible party and direct them to immediately remove the signage (within 1-2 days). Should the responsible party not be able to be contacted, or the signage continue to be displayed contrary to direction by Council, the signage (wherever possible will be impounded by Council, under the provision of the Impounding Act, 1993, or alternatively a penalty notice issued, or both depending upon the circumstances.

The *Environmental Planning and Assessment Act, 1979* (the Act). provides that penalty notices (\$1500 for individuals and \$3000 for corporations) may be issued for development (the erection of signage is considered to be development for the purposes of Act) that is carried out without consent in respect of the unauthorised display of signage. Impounded signs (depending on their value) are either disposed of if unclaimed, or alternatively reclaimed by the owner of the sign, subject to payment of impounding fees (currently \$165 per sign).

Officer's Recommendation

That the information be noted.

Committee's Recommendation: (Oates/Kolkman)

That the Officer's Recommendation be adopted.

CARRIED

Council Meeting 16 September 2014 (Greiss/Matheson)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 166

That the Officer's Recommendation be adopted.

5. GENERAL BUSINESS

5.1 Funding options for the Hurley Park Cattle Tank and Silt Traps

Councillor Oates referred to a letter received from a resident outlining the historical importance of Campbelltown's water reservoir, cattle tank and silt traps located in Hurley Park, noting that both the cattle tank and reservoir wall have been restored, however the two silt trap sandstone spillways remain in need of restoration.

Committee's Recommendation: (Oates/Greiss)

1. That the letter be noted and a response letter be prepared.
2. That an urgent report be presented investigating all possible funding grants available from Sydney Water or any other Government Department for the repair and ongoing maintenance of the two silt trap sandstone spillways and other heritage resources located at Hurley Park.

CARRIED

Council Meeting 16 September 2014 (Greiss/Matheson)

This matter was moved forward and dealt with in conjunction with correspondence item 6.3.

18. CONFIDENTIAL ITEMS

No reports this round

There being no further business the meeting closed at 9.00pm.

G Greiss
CHAIRPERSON
