

# **Reports of the Planning and Environment Committee Meeting held at 7.30pm on Tuesday, 8 September 2015.**

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## **APOLOGIES**

## **ACKNOWLEDGEMENT OF LAND**

## **DECLARATIONS OF INTEREST**

### **Pecuniary Interests**

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

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

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**Minutes of the Planning and Environment Committee held on 8 September 2015**

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**Present**

- Councillor G Greiss (Chairperson)
- Councillor R Kolkman
- Councillor D Lound
- Councillor A Matheson
- Councillor M Oates
- Councillor T Rowell
- Councillor R Thompson
- Acting General Manager - Ms L Deitz
- Director Strategy - Mr J Lawrence
- Acting Director Planning and Environment - Mr J Baldwin
- Manager Community Resources and Development - Mr B McCausland
- Manager Information Management and Technology - Mrs S Peroumal
- Manager Property Services - Mr J Milicic
- Manager Waste and Recycling Services - Mr P Macdonald
- Manager Sustainable City and Environment - Mr A Spooner
- Manager Governance and Risk - Mrs M Dunlop
- Executive Assistant - Mrs K Peters

**Apology** Nil

**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.

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

### **1.1 CD and DVD Recycling**

#### **Reporting Officer**

Manager Waste and Recycling Services

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#### **Attachments**

Nil

#### **Purpose**

To update Council on the current status of CD and DVD recycling and to propose a new program for recycling these items.

#### **History**

Council at its meeting held 3 July 2012 resolved that a pilot CD and DVD recycling program be offered to residents for a period of six months and that a further report on the results of the pilot program be provided to Council.

Council was provided an update report on the pilot at its meeting on 26 February 2013, at which it was resolved to extend the program for a further 12 months, and that a further report be provided to Council at the conclusion of the 12 month period advising of the results and possible continuation of the program. At that meeting, concern was raised with the cost of the recycling program, particularly when considered on a per-item basis.

Having regard to the cost, the most significant cost associated with the pilot program was newspaper advertising (\$4,500 for the six month pilot period and \$9,000 for the 12 month extension), with the lesser component being freight charges to transport the items to the recycler. Taking these and other related minor expenses into account, it was estimated that the cost to recycle each CD or DVD was \$2.70 during the six month pilot period, reducing to \$1.80 during the following 12 month period (taking into account that the drop-off boxes had already been paid for during the first pilot period).

During the extended pilot period the company that received the CDs and DVDs ceased operation. As no alternative company could be sourced, the recycling program was abandoned and Council ceased its promotion.

#### **Report**

Recent investigation has identified a company in Tullamarine, Victoria that will accept CDs and DVDs for recycling free of charge.

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Should Council consider resuming the CD and DVD recycling program, it would be proposed that the cost of the recycling program could be reduced significantly by removing the program's most significant single expense: newspaper advertising. Promotion of the program could instead be conveyed by means that would incur little or no cost to Council. Such means could include:

- website
- Facebook
- eNewsletter
- 'Compass' newsletter
- periodically in the 'Mayor's Column' in local newspapers (subject to the Mayor's approval)
- posters at Council facilities
- posters and flyers at public events
- flyers included with kerbside clean-up confirmation letters
- flyers included in new resident kits.

With the deletion of newspaper advertising and hardware costs, it is estimated that the cost per item for this recycling program would be approximately 23 cents.

Should Council re-introduce the CD and DVD recycling program, these items could be included in the suite of items available for free drop-off at Council's Community Recycling Centre, which is scheduled to be operational in May 2016.

### **Officer's Recommendation**

1. That Council re-introduce the free CD and DVD recycling program.
2. That this program continue for as long as there is sufficient demand, and for as long as an organisation can be identified to accept CDs and DVDs for recycling at no charge to Council.

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

That the Officer's Recommendation be adopted.

### **CARRIED**

### **Council Meeting 15 September 2015: (Greiss/Kolkman)**

That the Officer's Recommendation be adopted.

### **Council Resolution Minute Number 170**

That the Officer's Recommendation be adopted.

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## **2. ENVIRONMENTAL PLANNING**

### **2.1 Noorumba Reserve - Formal Biobanking Credit Assessment**

#### **Reporting Officer**

Manager Environmental Planning

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#### **Attachments**

Nil

#### **Purpose**

To advise Council on the results of a Biobanking feasibility study undertaken for Council reserves, and seek Council support to undertake a formal Biobanking credit assessment for Noorumba Reserve.

#### **Introduction**

Biobanking is a NSW Government initiative that seeks to address the decline in biodiversity by giving it an economic value through the creation of biodiversity credits. Biobanking is a market-based scheme that provides a streamlined biodiversity assessment process for development, a rigorous and credible offsetting scheme as well as an opportunity for landowners to generate income by managing land for conservation.

Following the introduction of the Biobanking Scheme in NSW in 2006, a biodiversity offset market was established whereby landowners (including Council) are able to register a biobank agreement on their land and sell the biodiversity credits (ecosystem and species credits) so generated. The sale of ecosystem credits provides the resources for the management of the land in perpetuity, and subject to market demand, additional returns can also be obtained to provide for lost opportunities.

Biobanking should only be pursued at sites where the landowner does not foresee any future development potential as the agreement is registered on title and the land is held in perpetuity for conservation purposes.

In addition to ecosystem credits, 'species credits' exist for some threatened species. To date there have been no sale of species credits (largely due to very few biobank sites generating species credits), however, with the reclassification of some species to species credit status, the demand for species credits is expected to increase.

The credit sales price includes two components, a Credit Part A (the funds required for in-perpetuity management of the offsite site and held in a Biobanking Trust Fund (BTF)), and a Credit Part B (funds returned direct to the landholder subject to prevailing taxation issues including Capital Tax provisions). Ultimately, the market will determine the overall price paid for each credit. The landowner and credit purchaser will be free to negotiate any price as long as the total amount of Part A costs are deposited in the BioBanking Trust Fund.

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Biobanking opportunities for impacts on Ecological Communities in western Sydney, such as Cumberland Plain Woodland (CPW) and Shale Sandstone Transition Forest (SSTF) are in highest demand, and this is reflected in their credit price. In particular, due to the rarity of CPW (<6% of the original extent of this community remains today), credit prices have increased from \$2,563 in August 2010 - to \$16,000 per credit in September 2014, due to a lack of market supply.

Since August 2010, there have been 76 credit transfer transactions under the Biobanking Scheme, and 44 Biobanking agreements. Development offsets have ranged from small (1.7 ha) to large landholdings (1487.7 ha), and credits have been purchased by a range of developers, including private industry and government agencies. To date, 12 local Councils have executed Biobanking agreements across 15 sites, including – Bankstown, Hornsby, Wollongong, Baulkham Hills, Ku-ring-gai, Orange, Gosford, Port Stephens, Shoalhaven City, Lake Macquarie, Eurobodalla and the Hills Shire Council.

## History

EcoLogical Australia (ELA) was engaged by Council in December 2014 to undertake a preliminary Biobanking feasibility assessment on three Council reserves – Noorumba, Simmos Beach and Smiths Creek Reserves. The assessment estimated the number and types of Biobanking credits that could be generated, and the in-perpetuity management costs for these sites. The results of the study indicate each of the Reserves have the potential to be established as biobank sites.

The site with the foremost potential was identified as Noorumba Reserve, Rosemeadow, based on the:

- assessment of environmental values and site attributes
- number and types of biodiversity credits that could be generated
- management costs and credit prices and returns
- credit affordability.

Noorumba Reserve has also been identified by the NSW Office of Environment and Heritage (OEH) and the Commonwealth Department of Environment as one of three candidate lands for inclusion within the Priority Conservation Lands across the Cumberland Plain. These Priority Conservation Lands represent the best remaining opportunities to secure long-term biodiversity benefits in the region at the lowest possible cost, including the least likelihood of restricting land supply. The identification of Noorumba Reserve as a Priority Conservation Land means that the site will generate around 20% more credits if it is registered as a biobank site.

The establishment of a Biobanking site at Noorumba Reserve would mean that designated lands within the reserve would be preserved in-perpetuity for conservation purposes (although low-impact passive recreational activities would still be permissible within the reserve). In return Council would receive funds for the long-term management of these lands and depending on the market demand for credits, Council could potentially recoup significant additional funds for its own investment.

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On the 16 December 2014, Robert Humphries (Associate Director, EcoLogical) presented the results of the Biobanking feasibility study to the Open Space Review team, and attendees from the Environmental Planning section. This was followed by a presentation to the Executive Committee on the 10 March 2015.

Since this time, the projected report and associated financial figures have been provided to the Manager Financial Services, and subsequently to the auditors for review. They have advised that they concur with the findings of the report.

On the 28 July 2015, Mr Humphries conducted a briefing to Council on the findings of the Biobanking feasibility study. This report further outlines those findings.

## **Report**

### **Biodiversity credits**

Noorumba Reserve has an area of 46 hectares (ha), of which close to 40 ha comprise CPW. The feasibility study estimates that 398 ecosystem credits could be generated for the CPW vegetation present within the reserve. The number of species credits that could be generated is estimated at 506. This is based on previous threatened species records and areas of suitable habitat in the reserve for *Meridolum corneovirens* (Cumberland Plain Land Snail) and *Phascolarctos cinereus* (Koala).

### **Management costs**

The costs of managing the biodiversity values of the sites were estimated using the standard OEH framework. This framework, calculates the minimum Total Fund Deposit (TFD) or Part A funds required to establish a biobank site, and provide an in-perpetuity funding source. Consistent with OEH's requirements, the commercial costs of biodiversity management actions were determined for the reserve for fencing, management trail maintenance, ecological burns, weed control and feral animal management, and rubbish removal, together with administrative costs for annual reporting, periodic management plan review and business management expenses. A slightly higher maintenance level for boundary fencing, gates and rubbish removal was allowed for, given the proximity of the site to roads and a growing urban population.

Based on the above, the minimum TFD would need to be in the order of \$1,489,688. Once credits have been sold and the full TFD has been reached, this would provide \$114,409 for management in the first year, and around \$87,700/year for the next two years to undertake the early establishment costs (fencing/signage and initial weed control), reducing to around \$63,400/year for years 4-10 and \$21,400/year after year 10 for ongoing maintenance costs.

The annual payment for the reserve is subject to the provision of a satisfactory annual report, the cost of which has been included in the cost estimates as has business administration fees and periodic review of management plans and annual audit fees.

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### **Credit prices and returns**

The in-perpetuity management cost per credit would therefore be \$4,229 (for Part A minimum credit value). However as previously mentioned, the purchase cost is dictated by the market, and based on current market prices, CPW credits are attracting around \$16,000 each, and thus the site could potentially generate up to \$6,368,000 if all credits are sold (of which \$1,481,683 would be held in the BTF). Taking this into consideration, if management costs (Part A) were subtracted, the site could potentially have an offset value of around \$4.9 million, funds that would be returned directly to Council. These funds could then be used to manage other Council reserves to improve environmental outcomes, or to purchase additional conservation lands in the Local Government Area (LGA).

It is estimated that depending on the rarity and demand/supply for species credits, these credits could sell for between \$10 and \$1,000 each. Koala (*Phascolarctos cinereus*) and Cumberland Plain Land Snail (*Meridolum corneovirens*) credits are estimated to sell at the lower end of this range, thus potentially generating an additional \$38,000.

### **Credit affordability**

When compared to other registered western Sydney biobank credit prices, the Credit Part A for Noorumba Reserve is at the low end of the range, which provides Council with the opportunity to provide credits at a competitive price to increase the certainty of sales, for example by offering credits below the current market value.

Such credit prices would be affordable to a range of proponents including urban, residential and infrastructure projects. Due to the high number of credits that would be generated, the credits would likely appeal to major project developers, such as Urban Growth, Roads and Maritime Services (RMS), and TransGrid.

Should Council be interested in pursuing Biobanking, the consultant has recommended two options to progress the issue:

1. Lodging a biobank site Expression of Interest (EOI) which is placed on the OEH website to advertise free of charge Council's interest in registering a biobank site and test the market for potential purchasers of credits.
2. Undertaking a formal Biobanking credit assessment, this will involve a comprehensive survey of biodiversity values and a definitive determination of the number credits available from the site, at cost.

An EOI (Option 1) is voluntary and has been undertaken by some landowners who are uncertain if their credits will be sold. To enter into a biobanking arrangement, a formal credit assessment (Option 2) must be undertaken. For Noorumba reserve this assessment is estimated to be \$35,000 however these costs can be recouped once credits are sold. This process is anticipated to take 2-3 months.

Due to the high demand for CPW credits, it is highly likely that credits for Noorumba reserve will be sold. It is therefore recommended that Council proceed in pursuing the more definitive Option 2, being the undertaking of a formal Biobanking credit assessment for the reserve.

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If Council was to proceed with Option 1, Council would be able to actively participate in the Biobanking scheme sooner than that of pursuing Option 2.

Moreover, it is considered to be an optimal time for Council to pursue Biobanking, as OEH is currently in the process of making Biobanking mandatory for all types of development. It is anticipated that OEH will make a formal announcement on this matter by end of September, 2015.

### **Officer's Recommendation**

That Council support a formal Biobanking credit assessment (Option 2) being undertaken for Noorumba Reserve.

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

That the Officer's Recommendation be adopted.

### **CARRIED**

Councillors Rowell and Thompson asked for their names to be recorded in opposition to the resolution for Item 2.1 – Noorumba Reserve - Formal Biobanking Credit Assessment.

### **Council Meeting 15 September 2015: (Greiss/Kolkman)**

That the Officer's Recommendation be adopted.

### **Council Resolution Minute Number 170**

That the Officer's Recommendation be adopted.

Councillor Rowell asked for his name to be recorded in opposition to the resolution for Item 2.1 – Noorumba Reserve - Formal Biobanking Credit Assessment.

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## **2.2 Camden Gas Project - Stage 3**

### **Reporting Officer**

Manager Environmental Planning

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### **Attachments**

Nil

### **Purpose**

To update Council on the future of the Camden Gas Project and seek support to cancel the previously proposed coal seam gas rally.

### **History**

Until recently the Campbelltown Local Government Area has been under significant pressure from coal seam gas mining activities and associated infrastructure through AGL's Camden Gas Project. Stages 1 and 2 of the project include 144 gas wells, gas gathering pipelines and the Rosalind Park Gas Processing Plant within the Southern Macarthur area including Menangle Park. The proposed Stage 3 (Northern Expansion) of the project was to include 11 gas wells, gas gathering pipelines and a surface project area to be established within Campbelltown and Camden, predominately throughout the Scenic Hills.

This proposal was met with strong Council and community opposition. Consequently at its meeting on 18 December 2012 Council resolved:

That Council lead, organise, support and promote a 'No Coal Seam Gas in Macarthur' community protest rally to be held in February/March 2013 at an appropriate location to oppose and reject all Coal Seam Gas Mining in Macarthur.

On 8 February 2013 AGL suspended its Stage 3 application. Council subsequently considered a report on coal seam gas issues at its meeting on 26 February 2013 and resolved:

That Council's upcoming rally be deferred until the Chief Scientist's and Engineer's Report is published and further information is received in relation to coal seam gas regulations and what those proposed regulations mean to the Environmental Protection Authority being the lead regulator of environmental and health impacts with responsibility for compliance and enforcement.

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## **Report**

As advised in the Councillor Weekly Memo (dated 17 July 2015), AGL has recently completed a comprehensive review of its Upstream Gas business and has announced that it will now focus on core gas projects and divest non-core and under-performing gas assets and activities. As a result AGL will surrender three of its Petroleum Exploration Licences (PELs), including PEL2 which covers most of western Sydney.

Consequently the proposed Camden Northern Expansion Project Stage 3, which has been on hold since February 2013, will no longer proceed. However the remaining operations under the current Camden Gas Project will continue, focusing on reducing production costs.

In view of this welcomed decision by AGL, it is considered that the 'No Coal Seam Gas in Macarthur' community protest rally is no longer necessary and it is therefore deemed appropriate not to proceed with the event.

## **Officer's Recommendation**

That as a consequence of AGL's decision to surrender Petroleum Exploration Licence (PEL2), which covers the Camden Gas Stage 3 project area, Council's 'No Coal Seam Gas in Macarthur' community protest rally not proceed.

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

That the Officer's Recommendation be adopted.

## **CARRIED**

## **Council Meeting 15 September 2015: (Greiss/Kolkman)**

That the Officer's Recommendation be adopted.

## **Council Resolution Minute Number 170**

That the Officer's Recommendation be adopted.

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### **3. DEVELOPMENT SERVICES**

#### **3.1 Development Services Section Statistics July 2015**

##### **Reporting Officer**

Acting Manager Development Services

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##### **Attachments**

Development Services application statistics for July 2015 (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 2015 as they affect the Development Services section.

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

That the information be noted.

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

That the Officer's Recommendation be adopted.

##### **CARRIED**

##### **Council Meeting 15 September 2015: (Greiss/Kolkman)**

That the Officer's Recommendation be adopted.

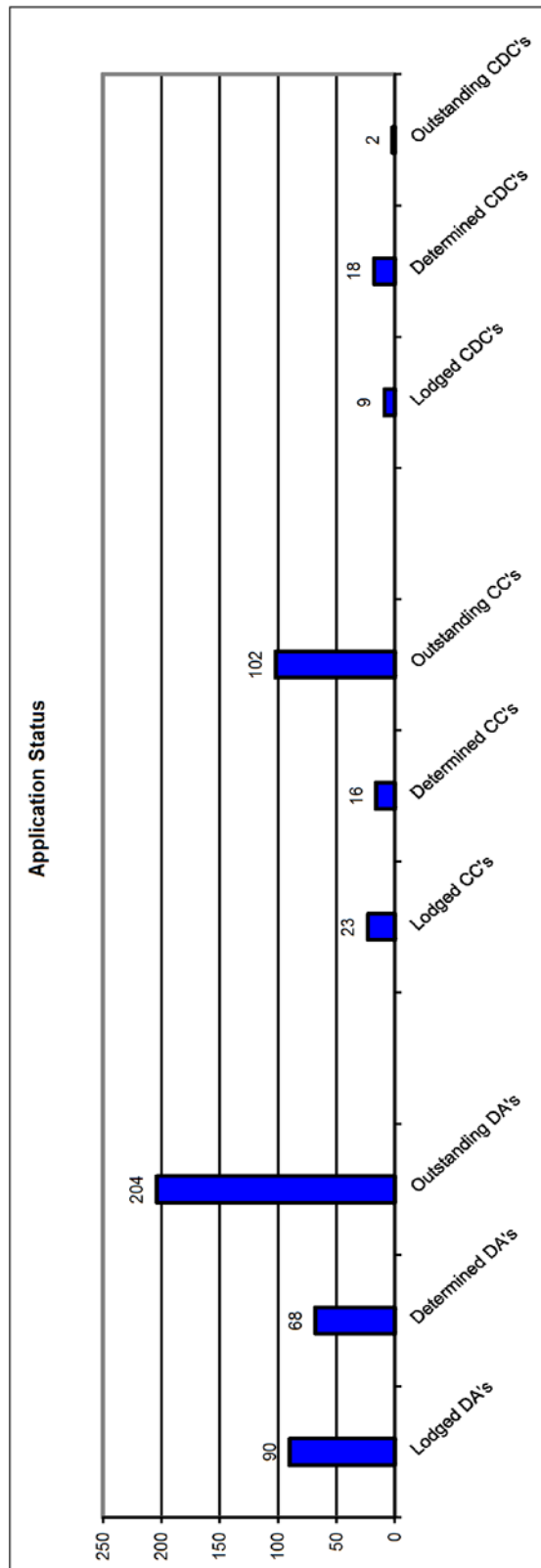
##### **Council Resolution Minute Number 170**

That the Officer's Recommendation be adopted.

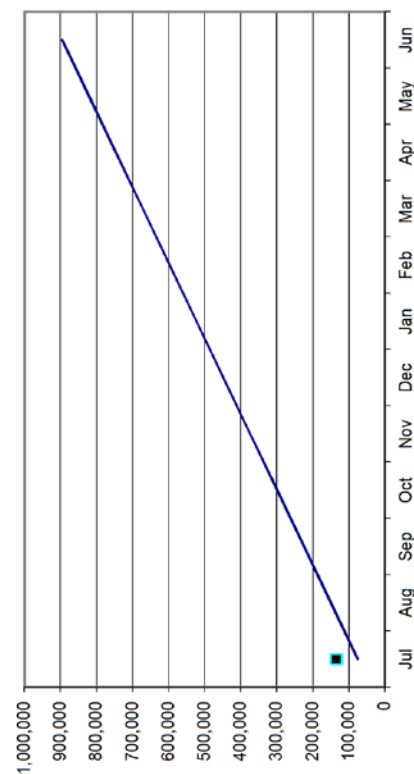
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## ATTACHMENT 1

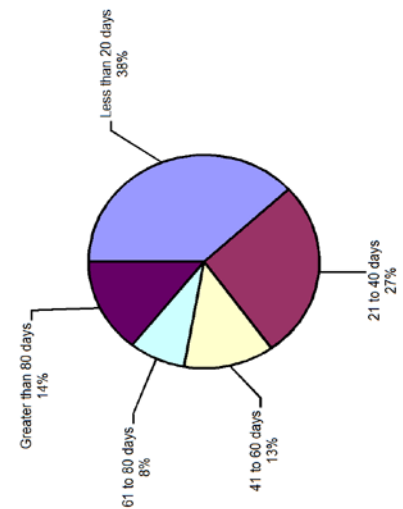
### DEVELOPMENT SERVICES SECTION MONTH AT A GLANCE – July 2015



### Development Application Income 2015/2016



### Development Application Monthly Processing Times



## **4. COMPLIANCE SERVICES**

### **4.1 Legal Status Report**

#### **Reporting Officer**

Manager Compliance Services

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#### **Attachments**

Planning and Environment Division Monthly Legal Matters Status and Costs Summary  
(contained within this report)

#### **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 2015-2016 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 cost totals itemised in sections one to seven inclusive of the report do not necessarily correlate with the costs to date total of individual matters listed in each section, as the costs to date total of individual matters shown refer to total costs from commencement of the matter, which may have commenced before 1 July.

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

That the information be noted.

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

That the Officer's Recommendation be adopted.

**CARRIED**

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**Council Meeting 15 September 2015: (Greiss/Kolkman)**

That the Officer's Recommendation be adopted.

**Council Resolution Minute Number 170**

That the Officer's Recommendation be adopted.

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## ATTACHMENT 1

<b>1. Land and Environment Court Class 1 Matters – Appeals Against Council's Determination of Development Applications</b>
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<b>Total ongoing Class 1 DA appeal matters (as at 21/08/2015)</b>	<b>3</b>
<b>Total completed Class 1 DA appeal matters (as at 21/08/2015)</b>	<b>0</b>
<b>Costs from 1 July 2015 for Class 1 DA appeal matters:</b>	<b>\$40,154.07</b>

<b>1 (a)</b>	<b>RAMM INVESTMENTS PTY LIMITED</b>
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**Issue:** An appeal against Council's refusal of development application No. 1473/2012/DA-MAH that sought consent for construction of 26 two-storey dwellings and construction of a cul-de-sac in Collis Place, Minto.

**Property:** Lot 101 DP 1044069, 124 Minto Road, Minto.

**Property Owner:** Ramm Investments Pty Limited

**Council File:** Development Application No: 1473/2012/DA-MAH

**Court Application:** Filed on 27 March 2015 - File No. 10275 of 2015

**Applicant:** Ramm Investments Pty Limited

**Costs Estimate:** \$25,000 (exclusive of Barristers, Court Appointed Experts or disbursement fees)

**Costs to date:** \$21,183.65

**Status:** Ongoing – Proceedings to be discontinued subject to agreement on costs being reached.

**Progress:** The Applicant filed an appeal in the Land and Environment Court of NSW against Council's refusal of development application No. 1473/2012/DA-MAH that sought consent for construction of 26 two-storey dwellings and construction of a cul-de-sac in Collis Place, Minto. The matter was listed for first directions hearing on 24 April 2015.

On 24 April 2015, the Registrar made certain procedural directions and adjourned the proceedings to 14 May 2015 for section 34 conciliation conference.

On 14 May 2015, no agreement was reached at the conciliation conference; accordingly, the Commissioner made certain procedural directions and adjourned the proceedings to 21 May 2015, and then further adjourned the proceedings to 2 June 2015 for callover hearing listing before the Registrar.

On 2 June 2015, the Registrar made certain procedural directions and adjourned the proceedings to 4 and 5 August



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2015 for directions hearing commencing on-site.

Matter was before the Court on 31 July for hearing the applicant's Notice of Motion seeking to amend the development application and vacate the hearing dates for 4 and 5 August 2015. The Commissioner ordered that the applicant's Notice of Motion is dismissed; and leave was granted for the applicant to discontinue the proceedings conditionally upon the applicant paying Council's costs of the proceedings as agreed or assessed.

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**1 (b)**

**FLIP OUT (CASTLE HILL) PTY LTD**

**Issue:** An appeal against Council's refusal of development application No. 2014/2013/DA-C that sought consent for construction of fitout and use of premises for recreation facility.

**Property:** Lot 17 DP 1113810, 31 Mount Erin Road, Campbelltown.

**Property Owner:** Mr Vijay Sood and Mrs. Nutan Sood

**Council File:** Development Application No: 2014/2013/DA-C

**Court Application:** Filed on 19 May 2015 - File No. 10429 of 2015

**Applicant:** Flip Out (Castle Hill) Pty Ltd

**Costs Estimate:** \$20,000 (exclusive of Barristers, Court Appointed Experts or disbursement fees)

**Costs to date:** \$3,249.53

**Status:** Ongoing – listed for mention on 8 October 2015.

**Progress:** The Applicant filed an appeal in the Land and Environment Court of NSW against Council's refusal of development application No. 2014/2013/DA-C that sought consent for construction of fitout and use of premises for recreation facility. The matter was listed for first directions hearing on 17 June 2015.

On 17 June 2015, the Registrar made certain procedural directions and adjourned the proceedings to 7 August 2015 for section 34 conciliation conference.

Conciliation conference is part-heard and has been adjourned for mention on 8 October 2015 to allow the applicant to prepare amended plans addressing the issues discussed during the conference.

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<b>1 (c)</b>	<b>Anne McCusker and Flossiy Rutter T/as Garden Homes</b>
<b>Issue:</b>	An appeal against Council's refusal of development application No. 1603/2014/DA-DW that sought consent for construction of a single storey dwelling.
<b>Property:</b>	Lot 9 DP 242894, Lot 2 DP 629721, 512 Appin Road Gilead.
<b>Property Owner:</b>	Mr Gregory James Messer, Mr David James Messer, and Mr Stephen Wayne Messer
<b>Council File:</b>	Development Application No: 1603/2014/DA-DW
<b>Court Application:</b>	Filed on 25 May 2015 - File No. 10449 of 2015
<b>Applicant:</b>	Anne McCusker and Flossiy Rutter T/as Garden Homes
<b>Costs Estimate:</b>	\$22,000 (exclusive of Barristers, Court Appointed Experts or disbursement fees)
<b>Costs to date:</b>	\$3,722.13
<b>Status:</b>	New matter – listed for section 34AA conciliation conference and hearing on 29 and 30 September 2015.
<b>Progress:</b>	<p>The Applicant filed an appeal in the Land and Environment Court of NSW against Council's refusal of development application No. 1603/2014/DA-DW that sought consent for construction of a single storey dwelling. The matter was listed for first directions hearing on 23 June 2015.</p> <p>On 23 June 2015 the Registrar made certain procedural directions and adjourned the proceedings to 24 July for directions hearing.</p> <p>On 24 July 2015, the Registrar made certain procedural directions and adjourned the proceedings to 29 and 30 September 2015 for section 34AA conciliation conference and hearing.</p>

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**2. Land and Environment Court Class 1 and 2 Matters – Appeals Against Notices, Orders, or Directions issued by Council**

<b>Total ongoing Class 1 and 2 appeal matters (as at 21/08/2015)</b>	<b>1</b>
<b>Total completed Class 1 and 2 appeal matters (as at 21/08/2015)</b>	<b>0</b>
<b>Costs from 1 July 2015 for Class 1 and 2 appeal matters:</b>	<b>\$0.00</b>

**2 (a) FLIP OUT (CASTLE HILL) PTY LTD**

**Issue:** An appeal against Council's order 1 & 12 in the table to section 121B of the Environmental Planning and Assessment Act 1979 requiring the occupier Flip Out (Castle Hill) Pty Ltd to cease use of the property at 31 Mount Erin Road, Campbelltown, as a recreation facility and to restore the property to the condition it was prior to the unauthorised occupation.

**Property:** Lot 17 DP 1113810, 31 Mount Erin Road, Campbelltown.

**Property Owner:** Mr Vijay Sood and Mrs. Nutan Sood

**Council File:** Council Order 503/2015/N-EPA

**Court Application:** Filed on 19 May 2015 - File No. 10427 of 2015

**Applicant:** Flip Out (Castle Hill) Pty Ltd

**Costs Estimate:** \$20,000 (exclusive of Barristers, Court Appointed Experts or disbursement fees)

**Costs to date:** \$0.00

**Status:** Ongoing – appeal adjourned until further direction pending outcome of appeal in respect of Development Application 2014/2013/DA-C – see item 1(b) of this report.

**Progress:** The Applicant filed an appeal in the Land and Environment Court of NSW against Council's order 1 & 12 in the table to section 121B of the Environmental Planning and Assessment Act 1979 requiring the occupier Flip Out (Castle Hill) Pty Ltd to cease use of the property at 31 Mount Erin Road, Campbelltown, as a recreation facility and to restore the property to the condition it was prior to the unauthorised occupation. The matter was listed for first directions hearing on 17 June 2015.

On 17 June 2015, the parties, by consent, notified the Court that agreement had been reached to seek adjournment of the proceedings pending the outcome of the appeal in respect of Development Application 2014/2013/DA-C. The Registrar made those directions.

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

Total ongoing Class 4 matters before the Court (as at 21/08/2015)	0
Total completed Class 4 matters (as at 21/08/2015)	0
Costs from 1 July 2015 for Class 4 matters	\$0.00

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

Total ongoing Class 5 matters before the Court (as at 21/08/2015)	0
Total completed Class 5 matters (as at 21/08/2015)	0
Costs from 1 July 2015 for Class 5 matters	\$0.00

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**5. Land and Environment Court Class 6 - Appeals from convictions relating to environmental matters**

Total ongoing Class 6 matters (as at 21/08/2015)	0
Total completed Class 6 matters (as at 21/08/2015)	0
Costs from 1 July 2015 for Class 6 matters	\$0.00

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**6. Supreme Court of NSW – Contractual proceedings with WSN Environmental Solutions concerning South West Sydney Councils Resource Recovery Project**

Total ongoing matters (as at 21/08/2015)	1
Total completed (as at 21/08/2015)	0
Costs from 1 July 2015 for this matter	\$10,635.57

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## 7. Local Court prosecution matters

The following summary lists the current status of the Division's legal matters before the Campbelltown Local Court.

<b>Total ongoing Local Court Matters (as at 21/08/2015)</b>	<b>8</b>
<b>Total completed Local Court Matters (as at 21/08/2015)</b>	<b>6</b>
<b>Costs from 1 July 2015 for Local Court Matters</b>	<b>\$0.00</b>

<b>File No:</b>	LP23/15 – Penalty Notice Court Election
<b>Offence:</b>	Stop on/near pedestrian crossing.
<b>Act:</b>	<i>Road Rules 2014</i>
<b>Costs to date:</b>	\$0.00 – Matter being dealt with by Council's Legal and Policy Officer in conjunction with the Police Prosecutor.
<b>Status:</b>	Ongoing – Listed for hearing on 28 August 2015
<b>Progress:</b>	<p>Matter was before the Court for first mention on 16 June 2015, where the defendant did not enter a plea. The Registrar adjourned the proceedings to 30 June 2015 for plea mention.</p> <p>On 30 June 2015 the defendant entered a not guilty plea. The Registrar adjourned the proceedings to 28 August 2015 for hearing.</p>

<b>File No:</b>	LP26/15 – Penalty Notice Court Election
<b>Offence:</b>	Stop on/near pedestrian crossing.
<b>Act:</b>	<i>Road Rules 2014</i>
<b>Costs to date:</b>	\$0.00 – Matter being dealt with by Council's Legal and Policy Officer in conjunction with the Police Prosecutor.
<b>Status:</b>	Ongoing – Listed for hearing on 31 August 2015
<b>Progress:</b>	Matter was before the Court for first mention on 7 July 2015, where the defendant entered a not guilty plea. The Registrar adjourned the proceedings to 31 August 2015 for hearing.

<b>File No:</b>	LP27/15 – Penalty Notice Court Election
<b>Offence:</b>	Double Park.
<b>Act:</b>	<i>Road Rules 2014</i>
<b>Costs to date:</b>	\$0.00 – Matter being dealt with by Council's Legal and Policy Officer in conjunction with the Police Prosecutor.



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<b>Status:</b>	Completed
<b>Progress:</b>	<p>Matter was before the Court for first mention on 7 July 2015, where the defendant entered a not guilty plea. The Registrar adjourned the proceedings to 21 August 2015 for hearing.</p> <p>On 21 August 2015 the defendant Hooi Eng Chua maintained a not guilty plea. After hearing the evidence and submissions the Magistrate found the offence proved and imposed a fine of \$242.00.</p>

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<b>File No:</b>	LP28/15 – Penalty Notice Court Election
<b>Offence:</b>	Deposit litter (cigarette butt) from vehicle.
<b>Act:</b>	<i>Protection of the Environment Operations Act</i>
<b>Costs to date:</b>	\$0.00 – Matter being dealt with by Council's Legal and Policy Officer in conjunction with the Police Prosecutor.
<b>Status:</b>	Completed
<b>Progress:</b>	<p>Matter was before the Court on 21 July 2015, where the defendant Amanda Lea Cotton made no appearance. The Magistrate granted Council's application for the matter to be heard in the defendant's absence and after hearing the evidence found the offence proved and imposed a \$206.00 fine.</p>

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<b>File No:</b>	LP29/15 – Penalty Notice Court Election
<b>Offence:</b>	Park contrary to control sign / road marking.
<b>Act:</b>	<i>Road Rules 2014</i>
<b>Costs to date:</b>	\$0.00 – Matter being dealt with by Council's Legal and Policy Officer in conjunction with the Police Prosecutor.
<b>Status:</b>	Completed
<b>Progress:</b>	<p>The matter was before the Court for first mention on 4 August 2015, where the defendant made no appearance. The Magistrate granted Council's application to be heard in the defendant's absence and after hearing the evidence found the offence proved and imposed a \$300 fine.</p>

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<b>File No:</b>	LP30/15 – Penalty Notice Court Election
<b>Offence:</b>	Stop on path/strip in built-up area.
<b>Act:</b>	<i>Road Rules 2014</i>
<b>Costs to date:</b>	\$0.00 – Matter being dealt with by Council's Legal and Policy Officer in conjunction with the Police Prosecutor.
<b>Status:</b>	Completed
<b>Progress:</b>	The matter was before the Court for first mention on 11 August 2015 where the defendant entered a guilty plea with explanation. After hearing the evidence and submissions the Magistrate found the offence proved and ordered the matter be dismissed without penalty.

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<b>File No:</b>	LP31/15 – Penalty Notice Court Election
<b>Offence:</b>	Stop in bus zone (school zone).
<b>Act:</b>	<i>Road Rules 2014</i>
<b>Costs to date:</b>	\$0.00 – Matter being dealt with by Council's Legal and Policy Officer in conjunction with the Police Prosecutor.
<b>Status:</b>	Completed
<b>Progress:</b>	<p>Matter was before the Court for first mention on 4 August 2015, where the defendant entered a not guilty plea. The Registrar adjourned the proceedings to 19 August 2015 for hearing.</p> <p>The matter was before the Court on 19 August 2015 where the defendant entered a guilty plea with explanation. After hearing the evidence and submissions the Magistrate found the offence proved and ordered the matter be dismissed without penalty.</p>

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<b>File No:</b>	LP32/15 – Penalty Notice Court Election
<b>Offence:</b>	Disobey no parking control sign (school zone).
<b>Act:</b>	<i>Road Rules 2014</i>
<b>Costs to date:</b>	\$0.00 – Matter being dealt with by Council's Legal and Policy Officer in conjunction with the Police Prosecutor.
<b>Status:</b>	Completed
<b>Progress:</b>	The matter was before the Court for first mention on 11 August 2015 where the defendant entered a guilty plea with explanation. After hearing the

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	evidence and submissions the Magistrate found the offence proved and ordered the matter be dismissed without penalty.
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<b>File No:</b>	LP33 & 34/15 – Penalty Notice Court Election
<b>Offence:</b>	Unregistered dog x 2.
<b>Act:</b>	<i>Companion Animals Act 1998</i>
<b>Costs to date:</b>	\$0.00 – Matter being dealt with by Council’s Legal and Policy Officer in conjunction with the Police Prosecutor.
<b>Status:</b>	New matter
<b>Progress:</b>	Listed for first mention on 18 August 2015.

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<b>File No:</b>	LP35 & 36/15 – Penalty Notice Court Election
<b>Offence:</b>	Dog x 2 not under effective control - public place.
<b>Act:</b>	<i>Companion Animals Act 1998</i>
<b>Costs to date:</b>	\$0.00 – Matter being dealt with by Council’s Legal and Policy Officer in conjunction with the Police Prosecutor.
<b>Status:</b>	Ongoing
<b>Progress:</b>	The matter was before the Court for first mention on 18 August 2015 where the defendant entered a not guilty plea. The registrar adjourned the matter to 11 September 2015 for hearing.

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<b>File No:</b>	LP37/15 – Penalty Notice Court Election
<b>Offence:</b>	Deposit litter (cigarette butt) from vehicle.
<b>Act:</b>	<i>Protection of the Environment Operations Act</i>
<b>Costs to date:</b>	\$0.00 – Matter being dealt with by Council’s Legal and Policy Officer in conjunction with the Police Prosecutor.
<b>Status:</b>	Ongoing
<b>Progress:</b>	The matter was before the Court for first mention on 18 August 2015 where the defendant entered a not guilty plea. The registrar adjourned the matter to 18 September 2015 for hearing.

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<b>File No:</b>	LP38/15 – Penalty Notice Court Election
<b>Offence:</b>	Double park in school zone.
<b>Act:</b>	<i>Road Rules 2014</i>
<b>Costs to date:</b>	\$0.00 – Matter being dealt with by Council's Legal and Policy Officer in conjunction with the Police Prosecutor.
<b>Status:</b>	New matter
<b>Progress:</b>	Listed for first mention on 25 August 2015.

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<b>File No:</b>	LP39/15 – Penalty Notice Court Election
<b>Offence:</b>	Stand vehicle in area longer than allowed.
<b>Act:</b>	<i>Local Government Act 1993</i>
<b>Costs to date:</b>	\$0.00 – Matter being dealt with by Council's Legal and Policy Officer in conjunction with the Police Prosecutor.
<b>Status:</b>	New matter
<b>Progress:</b>	Listed for first mention on 25 August 2015.

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<b>File No:</b>	LP40/15 – Enforcement Order annulled - Penalty Notice referred back to Local Court for Hearing.
<b>Offence:</b>	Development not in accordance with consent
<b>Act:</b>	<i>Environmental Planning &amp; Assessment Act 1979</i>
<b>Costs to date:</b>	\$0.00 – Council's Legal and Policy Officer has prepared the brief and instructed external solicitor to appear.
<b>Status:</b>	Ongoing
<b>Progress:</b>	Listed for first hearing on 27 August 2015.

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#### **8. Matters referred to Council's solicitor for advice**

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

<b>Total Advice Matters (as at 21/08/2015)</b>	<b>2</b>
<b>Costs from 1 July 2015 for advice matters</b>	<b>\$2,729.60</b>

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<b>9. Legal Costs Summary</b>  The following summary lists the Planning and Environment Division's net legal costs for the 2015/2016 period.		
<b>Relevant attachments or tables</b>	<b>Costs Debit</b>	<b>Costs Credit</b>
Class 1 Land and Environment Court - appeals against Council's determination of Development Applications	\$40,154.07	\$0.00
Class 1 and 2 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	\$0.00	\$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
Supreme Court hearing and appeal matters	\$10,635.57	\$0.00
District Court appeal matters	\$0.00	\$0.00
Local Court prosecution matters	\$0.00	\$0.00
Matters referred to Council's solicitor for legal advice	\$2,729.60	\$0.00
Miscellaneous costs not shown elsewhere in this table	\$0.00	\$0.00
Costs Sub-Total	\$53,519.24	\$0.00
<b>Overall Net Costs Total (GST exclusive)</b>	<b>\$53,519.24</b>	

## **5. GENERAL BUSINESS**

### **5.1 Leumeah Shopping Centre Toilet Facilities**

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

That Council investigate the feasibility of installing toilet facilities at Leumeah Shopping Centre.

#### **CARRIED**

#### **Council Meeting 15 September 2015: (Greiss/Kolkman)**

That the Committee's Recommendation be adopted.

#### **Council Resolution Minute Number 170**

That the Committee's Recommendation be adopted.

## **20. CONFIDENTIAL ITEMS**

### **No reports this round**

There being no further business the meeting closed at 7.37pm.

G Greiss  
CHAIRPERSON

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