
CAMPBELLTOWN CITY COUNCIL

Minutes Summary

Local Planning Panel Meeting held at on Wednesday, 24 July 2019.

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Minutes of the Local Planning Panel Meeting held on 24 July 2019

Present Chairperson - Stuart McDonald
 Member Mary-Lynne Taylor
 Member Jenny Rudolph
 Member Edward Saulig

Also Present**1. ACKNOWLEDGEMENT OF LAND**

An Acknowledgement of Land was presented by the Chairperson .

2. APOLOGIES

Nil

3. DECLARATIONS OF INTEREST

Jenny Rudolph made a declaration re. Item 4.1. Jenny Rudolph stated that she is declaring a conflict of interest as the company she works for, Elton Consulting, have undertaken work on the Mt Gilead project over the years and are undertaking work for Lend Lease. Jenny stated that she would not be part of the hearing or discussions relating to Item 4.1.

Ms Rudolph left the public meeting during the consideration Item 4.1.

Stuart McDonald made a declaration re. Item 4.1.

Stuart McDonald declared that his firm SJB Planning has the University of Sydney as a client and the firm has undertaken a project for the university at their city campus that has also included Lend Lease as another consultant on the same project for one of the proposed university buildings. Lend Lease were not the client and there is no financial relationship with Lend Lease. Lend Lease's involvement ended and there is no ongoing involvement with them. The declaration is made for the purpose of public information only and does not constitute a conflict of interest.

4. REPORTS**4.1 Tree removal, dewatering of dams, site remediation works and bulk earthworks - Appin Road, Gilead**

Executive Summary

- In September 2017, the Greater Sydney Commission rezoned the site to support urban development.
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- The site is an urban release area and is located at Appin Road, Gilead. The site has an area of 203.33 hectares.
 - The application proposes tree removal, dewatering of dams, site remediation works and bulk earthworks.
 - The site contains five land use zones under the Campbelltown Local Environmental Plan 2015, and earthworks are permitted with consent. The proposal is consistent with the applicable objectives of each zone.
 - The site is bounded by Noorumba Reserve to the north, the Upper Canal and Mt Gilead to the west, Beulah to the south and Appin Road to the east.
 - An Aboriginal Impact Permit was previously issued for the land under which an archaeological testing program was undertaken in consultation with Registered Aboriginal Parties.
 - The land is subject to a Biodiversity Certification Agreement, and no further ecological assessments are required to be undertaken on the land.
 - The proposal is consistent with the applicable controls of Campbelltown (Sustainable City) Development Control Plan 2015, and the site specific Mt Gilead Development Control Plan.
 - The application was publicly notified and exhibited. Twenty-two submissions objecting to the proposed development were received.
 - The application is recommended for approval, subject to the conditions in attachment 1 to this report.

Public Address

The Local Planning Panel meeting was addressed by Margaret Rolph, Saul Dean, Barry Durman, Patricia Durman, Sue Gay, Cita Murphy, Sharyne Cullis, Wayne Smithers, Maria Bradley and Julie Shepherd who are objecting to the application. The Panel was also addressed by Arthur Ilias and Matt Cooper as the applicant.

Panel members asked questions that were responded to directly at the meeting.

Panel Considerations and Reasons for Decision

This site lies within an urban release area which was rezoned from rural land to urban development land in September 2017 by the Greater Sydney Commission. Accordingly, the Panel accepts that the applicant is permitted to proceed with preliminary site preparation works to facilitate the urban development and by way of ongoing development applications considered pursuant to Campbelltown Local Environmental Plan 2015.

The proposed development, subject to the recommended conditions as further amended by the Panel, satisfies relevant State legislation and State Environmental Planning Policies including the *National Parks and Wildlife Act 1974*, SEPP 55 Remediation of Land and SEPP (Infrastructure) 2007 and *Water Management Act 2000* and other relevant legislation.

On the grounds that the application proposes works that are greater than 40 metres from a natural watercourse as determined by the NSW Office of Water, it is not integrated development and does not require referral under the *Water Management Act 2000*.

The site has been subject to Aboriginal archaeological investigation involving registered Aboriginal parties and has also received biodiversity certification. The biodiversity certification allows the dewatering of dams. However, the Panel has imposed an additional condition requiring any fauna inhabiting the dams and surrounding vegetation to be relocated.

As the application does not involve subdivision it does not require an approval under the *Rural Fires Act 1997* or approval under the *Coal Mine Subsidence Compensation Act 2017*.

In regards to the relevant provisions and objectives of the site-specific Mount Gilead DCP applying to this development application for earthworks, the proposal is consistent with the indicative structure plan that seeks to permit low rise residential development that ensures the preservation of regional views to a rural landscape.

The Panel notes that Roads and Maritime Services (RMS), for Appin Road, has decided that east-west migration of fauna will be managed with fauna fencing as part of the road upgrade. This applicant will be required to meet the *Environmental Protection and Biodiversity Conservation Act 1999* conditions of approval in relation to koala management, taking into account the decision already made by RMS.

The Panel notes that there are no heritage controls applicable to the site and that the homestead at Mount Gilead is located on another site. The remnants of the Hillsborough Cottage near the entrance gates to Mt Gilead has archaeological significance. As noted in the Council Officers report, the site of the former cottage would be retained and protected from earthworks.

Consideration of the above matters were contained in public submissions, both written and verbal. In regard to concerns raised about the absence of a staging plan, the Panel is satisfied that for the purpose of this application which concerns earthworks, a staging plan does not alter any environmental impacts associated with the application.

The provision of water and sewerage services to the site will be subject to future arrangements between the applicant and Sydney Water in accordance with a Growth Servicing Strategy to be determined. The Panel is satisfied that these servicing arrangements will be addressed in the future and are not matters that warrant the refusal of this application for earthworks.

The Panel carefully considered all written and verbal submissions including material provided for consideration at the meeting and was satisfied that all matters raised are satisfactorily addressed in the application or by way of conditions of consent. In the Panel's opinion there are no grounds to justify refusal of the application.

Decision of the Panel

Development Application 3868/2017/DA-CW for tree removal, dewatering of dams, site remediation works and bulk earthworks at Appin Road, Gilead is approved subject to the conditions detailed in attachment 1 to this report with the following amendment:

Insert new condition 19A to say:

A Dewatering Plan must be prepared for the waterbodies that occur within the development site. This Plan must be submitted to and approved by Council's Executive Manager Urban Release (or equivalent) prior to the commencement of any works and prior to the issuing of a construction certificate. The Dewatering Plan must include measures to ensure that any fauna inhabiting the waterbodies and surrounding vegetation, are treated humanely and relocated before development activities commence. A qualified ecologist or wildlife carer is required to be present throughout the de-watering activities to relocate fauna or take fauna into care where appropriate. To address community concern relating to this activity, evidence of community engagement with interested persons should be provided as part of preparation of the Plan.

Voting

The Local Planning Panel voted 3/0

Ms Rudolph returned to the public meeting.

4.2 Construction of a telecommunications tower - 29 Pheasants Road, Wedderburn

Executive Summary

- An application was lodged on 6 August 2018 for the construction of a telecommunications tower at 29 Pheasants Road, Wedderburn, known as Walsa.
- The subject site is located within a rural environmental area with significant areas of threatened ecological communities.
- The proposed location for the telecommunications tower requires the removal of 14 trees. Despite Council officer attempts to identify alternative locations on the subject site, that do not involve the removal of trees, they have been rejected by the landowner.
- The proposed development is inconsistent with State Environmental Planning Policy No. 44 – Koala Habitat Protection as a Koala Plan of Management has not been lodged with the application. The proposal is also inconsistent with Part 2 and Part 11 of the Campbelltown (Sustainable City) Development Control Plan 2015 and the proposal requires a 400 percent variation to the height of building development standard under the Campbelltown Local Environmental Plan 2015.
- The application was publicly exhibited and notified to nearby neighbours for a period of 14 days between 4 September 2018 and 19 September 2018 and 16 submissions were received.
- It is recommended to the Panel that the application be refused, subject to the recommended reasons for refusal in attachment 1.

Public Address

The Local Planning Panel meeting was addressed by Cheryl O'Neill, Michael Lace, Brian Samaha, Helen Phillips, Michael Darcy who are objecting to the application. The Panel was also addressed by Laura Hamer and Rob Cusack as the applicant.

Panel members asked questions that were responded to directly at the meeting.

Panel Considerations and Reasons for Decision

The Panel considered the proposal and the nature of the development in the surrounding locality and considers the proposal to be inconsistent with the objectives of the E3 Environmental Management zone listed in Campbelltown Local Environmental Plan 2015.

The Panel noted the applicant did not lodge a Clause 4.6 variation request to vary Clause 4.3 height of building development standard within the Campbelltown Local Environmental Plan 2015.

The Panel noted an Individual Koala Plan of Management Plan was not submitted for the proposed development, as a result the proposal does not satisfy State Environmental Planning Policy 44 - Koala Habitat Protection.

The Panel noted the site offered other suitable alternative locations for the proposed telecommunications tower that would not result in the removal of trees.

The Panel considers the proposed development is unsuitable in the nominated location for the site and agrees with the reasons for refusal as recommended by Council officers.

Decision of the Panel

Development Application 2768/2018/DA-C for the construction of a telecommunications tower at 29 Pheasants Nest Road, Wedderburn is refused for the reasons detailed in attachment 1 to this report.

Voting

The Local Planning Panel voted 4/0

4.3 Construction of five silos and extension of sifter room - 1 Magnum Place, Minto

Executive Summary

- An application was submitted on 10 January 2019 for the construction of 5 x 70 tonne silos and extension of sifter room at 1 Magnum Place, Minto.
 - The subject site is located within an established industrial area.
 - The proposed development generally complies with the CLEP 2015 and the Campbelltown (Sustainable City) Development Control Plan 2015.
 - The proponent requests a 38 percent variation to the maximum height of building
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control in clause 4.3 of the CLEP 2015.

- The application was not required to be notified.
- It is recommended to the Panel that the application be approved, subject to the recommended conditions of consent detailed in attachment 1.

Public Address

The Local Planning Panel meeting was addressed by the applicant David Cahill and the constructor Rob Blythman

Panel members asked questions that were responded to directly at the meeting.

Panel Considerations and Reasons for Decision

The Panel upholds the applicants written request pursuant to Clause 4.6 of the Campbelltown Local Environmental Plan 2015 to contravene the maximum building height standard under Clause 4.3 of the Campbelltown Local Environmental Plan, 2015 (CLEP 2015).

In accepting the applicant's request the Panel is satisfied that it properly addresses the provisions of clause 4.6 (3)(a) and (b) of the CLEP 2015. The Panel further believes approval of the development will be in the public interest meaning clause 4.6 (4)(a) (ii) of the CLEP 2015 is also satisfied.

The proposal will have a positive economic impact on the locality and a smaller and compliant proposal would look inconsistent with the existing site structures and architecture.

The proposal is consistent with the objectives of the zone and will have no undesirable impacts.

The Panel has considered the applicant's written submission in regard to the proposed conditions and agrees that Conditions 3 and 14 are not required. It is further agreed that due to the age of the existing structure it may not be possible to match the existing finishes and therefore Condition 4 should be modified to provide flexibility to have a similar finish.

Decision of the Panel

Development application 48/2019/DA-I for the construction of five x 70 tonne silos and extension of sifter room at 1 Magnum Place, Minto is approved subject to the conditions detailed in attachment 1 to this report with the following changes:

- Condition 3 is deleted
- Condition 4 is modified to read: The external finishes shall either match the existing building or silo structures or be of a similar colour and texture.
- Condition 14 is deleted
- Condition 20A is added and states:

20A Transport Sydney Trains

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- a. Prior to the issue of a Construction Certificate the Applicant is to provide structural details that the concrete slab or footings will be protected by a vapour barrier membrane. A copy of this detail is to be provided by the Principal Certifying Authority with the application for a Construction Certificate.
 - b. Prior to the issuing of a Construction Certificate the Applicant must submit to Sydney Trains a plan showing all craneage and other aerial operations for the development and must comply with all Sydney Trains requirements. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from the Sydney Trains confirming that this condition has been satisfied.

Voting

The Local Planning Panel voted 4/0

4.4 Use and fitout of unit 7 as a sex services premises - 4 Grange Road, Leumeah

Executive Summary

- An application was lodged on 6 May 2016 for the use and fitout of unit 7, 4 Grange Road, Leumeah as a sex services premises.
- The site is zoned B5 Business Development under the provisions of Campbelltown Local Environmental Plan 2015 and the proposed use as a sex services premises is permitted with consent.
- The site is within a strata titled development. Consent from the owners corporation was not provided with the development application that would permit any required improvements on common property associated with the application inclusive of lighting and security measures.
- The application was notified and publicly exhibited between 20 May 2016 and 3 June 2016. Fifteen written submissions were received and one petition with 109 signatures.
- The proposed development is not considered to be in the public interest. The application fails to consider critical aspects that have been raised through public submissions, such as safety and security concerns and the proximity to sensitive land uses and places where children and adolescents regularly gather.
- It is considered that approval of the proposed development would be contrary to the public interest.
- It is recommended to the Panel that the application be refused, subject to the recommended reasons of refusal in attachment 1.

Public Address

The Local Planning Panel meeting was addressed by objector Judith Bond and Lara Merhi

on behalf of the owner.

Panel members asked questions that were responded to directly at the meeting.

Panel Considerations and Reasons for Decision

The Panel notes that the works proposed in the application include works on common property and the owner's consent of the strata scheme has not been provided with the application.

Decision of the Panel

The Panel defers the determination of this application for a period of twenty eight (28) days from the date the minutes are published on Council's website for the applicant to provide owners consent from the Owners Corporation to permit the necessary site improvements to address safety and security concerns inclusive of details of a lighting plan and surveillance measures and directional signage.

In the event that owners consent as outlined above is not provided within the 28 days then the application will be determined by the Panel by electronic means including reasons for the decision.

In the event that the owner's consent is provided the Panel is to be provided with draft conditions of consent and a decision may be made by the Panel by electronic means including reasons for the decision.

Voting

The Local Planning Panel voted 4/0

4.5 Multi Dwelling Housing development and strata subdivision at 5-7 Fields Road, Macquarie Fields.

Executive Summary

- Council is in receipt of a development application pursuant to the State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARHSEPP), that proposes the construction of five multi dwelling housing units, strata subdivision and associated site works at No. 5 – 7 Fields Road, Macquarie Fields. The subject site is zoned R2 Low Density Residential under the provisions of the Campbelltown Local Environmental Plan 2015 (LEP2015). One of those dwellings is nominated as an affordable rental dwelling under the provisions of the ARHSEPP.
 - The application was notified to adjoining and nearby properties between 6 December 2018 and 21 December 2018. One submission was received which sought clarification on the proposal.
 - An assessment under Section 4.15 of the *Environmental Planning and Assessment Act 1979* has been undertaken and found that the proposal is generally compliant with the relevant environmental planning instruments.
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Panel Considerations and Reasons for Decision

The Panel viewed the site and the surrounding area and considers that the development is consistent with the scale of development in the neighbourhood and compatible with the low scale residential character of the local area.

The Panel considers that the proposal is consistent with the objectives of the zone and will have no undesirable impacts subject to the adjustment of the design to improve the space available for vehicle manoeuvring. The Panel also notes that the proposal complies with the State Environmental Planning Policy (Affordable Rental Housing) 2009.

The development will provide additional affordable rental housing and assist with meeting this need in the locality and is suitable for the site and is in the public interest.

Decision of the Panel

Development Application 4345/2018/DA-MAH for the construction of a multi-dwelling housing development, strata subdivision and associated site works under the provisions of the State Environmental Planning Policy (Affordable Rental Housing) 2009 is approved subject to the conditions detailed in attachment 1 to this report.

Voting

The Local Planning Panel voted 4/0

4.6 Review of Campbelltown Local Environmental Plan 2015

Executive Summary

- In March 2018 the Greater Sydney Commission (GSC) released A Metropolis of Three Cities – The Greater Sydney Region Plan together with five supporting district plans.
 - The Campbelltown Local Government Area (LGA) has been included in the Western City District Plan along with the Blue Mountains, Camden, Fairfield, Hawkesbury, Liverpool, Penrith and Wollondilly.
 - The Western District Plan identifies planning priorities that Councils are required to meet as part of the review of the Campbelltown Local Environmental Plan 2015.
 - The NSW Governments Affordability Strategy has provided \$2.5m in funding to a number of Councils including Campbelltown to undertake the review of their individual LEP within two years.
 - This report proposes amendments to Campbelltown Local Environmental Plan 2015 (LEP2015) as well as the repeal of the Campbelltown (Urban Areas) Local Environmental Plan 2002 (LEP2002) and the repeal of Interim Development Order No. 15 to provide better alignment with the Western City District Plan.
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- The recommended changes to the LEP2015 written instrument and mapping tiles will provide a more accurate and up to date document. The changes include the provision of planning controls for the deferred areas, the expansion of the terrestrial biodiversity map, the mapping and establishment of additional assessment criteria for the scenic hills, an increase in the maximum height of buildings for industrial zones from 12m to 19m, the inclusion of public health objectives and the amendment of clauses 4.1B, 4.1C, 4.1D and 4.4 to improve the usability of the plan and reduce the risk of misinterpretation and errors when applying the instrument.

Panel Considerations and Reasons for Decision

The Panel notes the report and proposed amendments to the Campbelltown Local Environmental Plan, 2015 (CLEP 2015). The Panel also confirmed what had been seen during the site visit.

The Panel is of the view that there is public benefit in having one consistent set of planning rules and is therefore supportive of the proposal to repeal the previous planning instruments, being Campbelltown (Urban Areas) 2002, Campbelltown LEP District 8 (Central Hills) and Interim Development Order No. 15. The Panel considers that this will be of benefit to the development industry and the community through simplifying the planning system.

The Panel is supportive of the rezoning of land at the University of Western Sydney from R3 Medium Density Residential to the RE1 Public Recreation zone to be more reflective of the current/future uses of the land.

The Panel is supportive of the increase to the maximum height of buildings in Industrial Zones but details should be provided in the report to Council to justify the height proposed to 19m.

The Panel is supportive of the proposal to map and provide additional assessment criteria for the Scenic Hills which is required in the Sydney Western City District Plan. The Panel recommends that Council consult with neighbouring Camden Council on the proposed controls when the proposal is placed on formal exhibition.

The Panel notes the proposed expansion of the terrestrial biodiversity map so that it covers important vegetation across the whole Local Government Area as this will assist in providing consistent provisions for the assessment of applications.

The Panel understands the intention in including health objectives in the CLEP 2015 and in the Residential and Business Zones. The Panel requests that the wording of these objectives be carefully considered so that they do not form an unnecessary burden in preparing a development application.

The Panel is supportive of the proposed changes to Clauses 4.1B, 4.1C, 4.1D and 4.4 of the CLEP 2015 as they will assist in the ease of interpreting the instrument and will provide consistency in controls for dual occupancies, attached dwellings and multi-dwelling housing.

Additionally in response to issues raised during the consideration of Agenda Item 4.4, the Panel recommends that consideration be given to removing "sex service premises" from the list of development permissible with development consent in the B5 Business Development zone.

The Panel advises the Council that it considers the planning proposal to be consistent with

the Greater Sydney Region Plan, the Western City District Plan, the Campbelltown Community Strategic Plan 2027 and the draft Campbelltown Local Strategic Planning Statement.

The Panel further advises the Council that it considers the planning proposal has overall strategic merit, and in the case of the deferred matter areas, site specific merit, and is appropriate to advance to Gateway determination.

Voting

The Local Planning Panel voted 4/0

The next meeting of the Local Planning Panel will be held on Wednesday 28 August 2019 at 3.00pm in the Council Chambers, Level 3, Civic Centre, Campbelltown.

Stuart McDonald
Chairperson