
CAMPBELLTOWN CITY COUNCIL

Minutes Summary

Local Planning Panel Meeting held on Wednesday, 16 December 2020.

ITEM	TITLE	PAGE
1.	ACKNOWLEDGEMENT OF LAND	2
2.	APOLOGIES	2
3.	DECLARATIONS OF INTEREST	2
4.	REPORTS	2
4.1	Demolition of existing dwelling and structures and construction of a 27 room boarding house - 88 Rudd Road, Leumeah	2
4.2	Demolition of existing structures and construction of child care facility - 139 St Johns Road, Bradbury	4
4.3	Tree removal, dam dewatering, bulk earthworks and remediation works - Appin Road, Gilead	6
4.4	Subdivision of land to create 333 residential lots, six residue lots and associated civil works, including the removal of trees, dewatering of dams, earthworks and construction of roads and infrastructure - Appin Road, Gilead	10
5.	REPORTS FROM OFFICERS CONSIDERED IN CLOSED SESSION	12
5.1	Planning Proposal - Reclassification of Land - Campbelltown	12

Minutes of the Local Planning Panel Meeting held on 16 December 2020

Present Member Ian Reynolds
 Member Mary-Lynne Taylor
 Member Cecilia Cox
 Member Scott Lee

Also Present

1. ACKNOWLEDGEMENT OF LAND

An Acknowledgement of Land was presented by the Chairperson .

2. APOLOGIES

Nil

3. DECLARATIONS OF INTEREST

There were no Declarations of Interest made at this meeting.

4. REPORTS

4.1 Demolition of existing dwelling and structures and construction of a 27 room boarding house - 88 Rudd Road, Leumeah

Executive Summary

- Council has received a development application for the demolition of the existing dwelling and associated structures and the construction of a two storey boarding house containing 27 rooms and basement car parking.
- The subject site is zoned R3 Medium Density Residential under the provisions of the Campbelltown Local Environmental Plan 2015 (CLEP 2015). Boarding houses are permissible with consent in the R3 Medium Density Residential zone.
- The provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARHSEPP) apply to the proposed development.
- The proposal was referred to NSW Police to review the proposal from a Crime Prevention Through Environmental Design (CPTED) perspective.
- The development application was publicly exhibited and notified in accordance with Council's Community Participation Plan from 20 February 2020 to 17 March 2020. In total, 17 submissions and a petition were received.

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- An assessment under Section 4.15 of the EP&A Act has been undertaken and has identified a number of issues of concern with the proposed application relating to the bulk/scale of the development, its impact on adjoining properties (trees and solar access) and the method of waste management. Therefore it is recommended that the application be refused.

Panel Considerations and Reasons for Decision

The Panel inspected the site and observed the character of the surrounding area. The Panel also noted that the land is within an R3 medium density residential zone and will transition over time to a medium density environment. The Panel is satisfied that this is potentially a suitable location for a boarding house.

The submitted application however is not compliant with the provisions of the State Environmental Planning Policy (Affordable Rental Housing) 2009. In particular the proposal does not satisfy the maximum floor space ratio standard and therefore cannot be approved in its current form. The submitted application is also unacceptable in terms of the design of the common room, solar access, waste collection, the impact on the tree on the adjoining lot and landscaping.

The Panel considered the applicant's request for the application to be deferred to address the issues raised in the report. The age of the application was noted along with the revisions to the plans over the course of the application.

It is noted that the applicant has the opportunity to address these concerns by submitting amended plans with an application to review the determination of the application. If the applicant takes this opportunity then the following changes would need to be made:

- Provide a pitched roof to be consistent with neighbourhood architectural character
- Comply with the maximum floor space ratio requirement
- Reduce the proposal by at least 2 rooms
- Improve the design of the common room
- Reduce the footprint of the development to prevent damage to the tree located on the adjoining property
- Provide acceptable arrangements for waste management
- Reduce the overshadowing of the adjoining property

Decision of the Panel

Development application 3988/2019/DA-BH for the proposed demolition of existing dwelling and associated structures and construction of a 27 room boarding house at 88 Rudd Road, Leumeah be refused for the reasons identified in attachment 1 to the Council Officer's report.

Voting

4/0

4.2 Demolition of existing structures and construction of child care facility - 139 St Johns Road, Bradbury

Executive Summary

- This development application proposes the demolition of existing structures and the construction of a 45-place centre based child care centre at 139 St Johns Road, Bradbury.
- The subject site is zoned R2 Low Density Residential under the provisions of the Campbelltown Local Environmental Plan 2015 (CLEP 2015) and the proposed centre-based child care centre is permitted with consent.
- The development application was originally notified to adjoining owners from 6 August to 20 August 2018 and then renotified to all properties within a 100 metre radius from 5 September 2018 to 19 September 2018. A total of 13 unique submissions were received.
- When further information was received on the 18 April 2019, the application was renotified to owners within a 100m radius from 23 May 2019 to 6 June 2019. Six submissions were received.
- When the application was amended in May 2020 it was again re-notified to owners within a 100 metre radius from 17 June, 2020 for a period of 21 days followed by a further notification period from 27 July 2020 to 21 June 2020. Six submissions of objection were received.
- The main concerns raised in submissions relate to vehicular safety accessing the site and the development not being consistent with the character of the streetscape.
- Council's engineers have considered the safety of vehicle movements to and from the site and advised that sufficient sight distance is provided. The safety and adequacy of internal vehicle and pedestrian movements is also considered satisfactory.
- It is considered that the building form, scale and setbacks are compatible with the existing streetscape setting.
- Clause 7(2) of State Environmental Planning Policy No. 55 (Remediation of Land) is satisfied subject to a recommended condition of consent for a site audit statement to be issued prior to the release of the Occupation Certificate.
- An assessment under Section 4.15 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) has been undertaken and it is recommended to the Panel that the application be approved, subject to the recommended conditions of consent listed in attachment 1.

Panel Considerations and Reasons for Decision

The Panel inspected the site and observed the character of the surrounding area.

The proposed development is permissible with consent in the R2 low medium density residential zone and considered to be consistent with the objectives of the zone.

The Panel considered the concerns raised in regards to traffic and noted the advice of Council's engineers that the access to and egress from the site is acceptable. It was further noted that there is a recommended condition to place a warning sign on the approach to the development.

The Panel noted the applicant's advice provided during the meeting that they agreed to the recommended conditions of consent.

The Panel received advice from Council's planners that an inadvertent error had been made in drafting the recommended consent conditions and a standard condition relating to demolition had not been incorporated in full into the recommended conditions. The Panel agreed to adding this to the conditions of consent noting that it was a standard condition that would ordinarily apply and served the applicant by providing more details regarding the expectations of them during the demolition process.

Decision of the Panel

Development application 2401/2018/DA-C for the proposed demolition of existing dwelling and associated structures and construction of a 45 place centre based child care centre at 139 St John's Road, Bradbury is approved subject to the conditions listed in attachment 1 to the Council Officer's report with the following amendments:

1. The following is added to condition 58:

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

a). Prior to the commencement of any works on the land, a detailed demolition work plan designed in accordance with Clause 1.7.3 of Australian Standard AS 2601-2001 – The Demolition of Structures, prepared by a suitably qualified person with suitable expertise or experience, shall be submitted to and approved by Council and shall include the identification of any hazardous materials, method of demolition, precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials.

b). Prior to commencement of any works on the land, the demolition Contractor(s) licence details must be provided to Council.

c). The handling or removal of any asbestos product from the building/site must be carried out by a NSW Work Cover licensed contractor irrespective of the size or nature of the works. Under no circumstances shall any asbestos on site be handled or removed by a non-licensed person. The licensed contractor shall carry out all works in accordance with NSW Work Cover requirements.

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

e). Immediately prior to the commencement of the demolition or handling of any building or structure that contains asbestos, the applicant shall request that the principal certifying authority attend the site to ensure that all appropriate safety measures are in place. The applicant shall also notify the occupants of the adjoining premises and Workcover NSW prior to the commencement of any works."

Voting

4/0

4.3 Tree removal, dam dewatering, bulk earthworks and remediation works - Appin Road, Gilead

Executive Summary

- The site is an urban release area and is located at Appin Road, Gilead. The site has an area of 208.37 hectares.
 - The application proposes tree removal, dam dewatering, bulk earthworks and remediation works.
 - The site contains five land use zones under the Campbelltown Local Environmental Plan 2015 (CLEP 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 Heritage Impact Permit (AHIP) was previously issued for the land under which an archaeological testing program was undertaken in consultation with Registered Aboriginal Parties.
 - The proposal was externally referred to:
 - Endeavour Energy in accordance with clause 45 of State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP) as the site contains an easement for electricity.
 - APA in accordance with clause 66C of the Infrastructure SEPP as an ethane gas pipeline passes through land proximate to the site.
 - Heritage NSW with respect to the submitted AHIP and Notice of Variation of AHIP that have been issued for the land.
 - The land is subject to a Biodiversity Certification Agreement (BCA), and biodiversity certification has been conferred on the land under Part 7AA of the *Threatened Species Conservation Act* (TSC Act).
 - In accordance with the Biodiversity Conservation (Savings and Transitional) Regulation 2017 (BCR), the biodiversity certification is taken to be biodiversity certification conferred on the specified land under Part 8 of the *Biodiversity Conservation Act 2016* (BC Act).
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- In accordance with the BC Act, an assessment of the likely impact on biodiversity of development on biodiversity certified land is not required for the purposes of Part 4 of the EP&A Act.
 - The proposal is consistent with the applicable controls of Campbelltown (Sustainable City) Development Control Plan 2015 (SCDCP), and the site specific Mt Gilead Development Control Plan, including the Staging Plan that applies to the land.
 - The application was publicly notified and exhibited. 85 submissions objecting to the proposed development were received. 44 late submissions were received in the lead up to the Panel Meeting and were provided to and considered by Panel Members.

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 seek consent for 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, satisfies relevant State legislation and State Environmental Planning Policies including the Biodiversity Conservation Act 2016, National Parks and Wildlife Act 1974, SEPP (Sydney Region Growth Centres) 2006, SEPP (Infrastructure) 2007, SEPP 55 Remediation of Land, SEPP (Koala Habitat Protection) 2020, SEPP 19 (Bushland in Urban Areas), and other relevant legislation.

In relation to SEPP (Koala Habitat Protection) 2020 which was published on the NSW Legislation Website on 30 November 2020, the Panel was provided additional information from the applicant concerning the consistency with the requirements of the SEPP, noting that Council and the Panel are not formally required to consider the requirements of the SEPP due to Clause 8.4 of the Biodiversity Conservation Act 2016. Notwithstanding, the advice confirmed consistency with the relevant guidelines as contained within Planning Circular B-35 issued on 22 March 1995, in addition to the assessment against the Campbelltown Comprehensive Koala Plan of Management.

The site has been subject to Aboriginal archaeological investigation involving registered Aboriginal parties and an Aboriginal Heritage Impact Permit has been issued for the land, and subsequently varied by Heritage NSW.

The land is subject to a Biodiversity Certification Agreement, and biodiversity certification has been conferred on the land. In accordance with the BC Act, an assessment of the likely impact on biodiversity of development on biodiversity certified land is not required for the purposes of Part 4 of the EP&A Act

The biodiversity certification allows the dewatering of dams, and any fauna inhabiting the dams and surrounding vegetation would be suitably relocated in accordance with the dam dewatering plan that accompanied the application.

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.

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 is satisfied the proposed development is consistent with the staging plan that applies to the land, which enables the development to be undertaken in a number of phases. The potential impacts of tree removal on the environment have been considered and addressed appropriately within the Officer's report.

The Panel notes that Transport for NSW, for Appin Road, has decided that east-west migration of fauna will be managed with fauna fencing as part of the road upgrade. The 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 Transport for NSW.

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 have archaeological significance. As noted in the Council Officers report, the site of the former cottage would be retained and protected from earthworks.

The Panel considered Clauses 5.10, 6.2, 6.3, 7.1, 7.2, 7.4, 7.5, 7.18 and 7.20 of Campbelltown Local Environmental Plan 2015 as addressed in the Officer's report and considers that the relevant requirements have been satisfied.

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. Based on further information provided to the Panel, a Review of Environmental Factors, assessed under Part 5 of the Environmental Planning and Assessment Act 1979, has been undertaken by Sydney Water to assess the potential impacts of connecting to the existing Old Menangle Road Carrier Main. The Panel also notes that page 17 of Sydney Water's Growth Servicing Plan 2019-2024 identifies Mt Gilead as "delivered under commercial agreement" for drinking water and wastewater. On this basis, the Panel is satisfied that adequate arrangements have been made to make that infrastructure available when it is required.

Consideration of the above matters were contained in public submissions, both written and verbal. Additional submissions were also received after publication of the officers assessment report which have all been received by the Panel and considered.

In response to public submissions concerning the width of the Menangle Creek corridor in proximity to Noorumba Reserve, the Panel considers there is utility in widening this section of corridor for the purpose of supporting its function as a Strategic Linkage Area for Koalas and other fauna. The Panel notes the recommendations of the Chief Scientist and Engineer report, titled *Advice on the protection of the Campbelltown Koala Population* suggest that efforts to widen the corridor should be made. The nexus for widening this section would be dependent on securing an effective Appin Road crossing which the Panel understands is being separately addressed via proposed amendments to the State Voluntary Planning Agreement (2018/9398) for Mt Gilead. A minimum suitable width, consistent with the advice of Dr Steve Phillips, as reported to Council's Ordinary Meeting on 13 October 2020 would be

250m, noting the associated limitations for revegetation due to existing land use in proximity to the creek.

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

1. That Development Application 2984/2020/DA-CW for the proposed tree removal, dam dewatering, bulk earthworks and remediation works at Appin Road, Gilead be approved subject to conditions in attachment 1 to the report presented to the Panel, subject to the following amendments:
 - a. Insert after exiting condition 22, the following new condition 22A under the heading Prior to Issue of a Subdivision Works Certificate:

Prior to the commencement of any works or the issuing of a subdivision works certificate, whichever is to occur first, a plan must be provided to the satisfaction of Council's Executive Manager Urban Release and Engagement (or equivalent), that identifies a revised boundary of proposed works adjacent to the section of the Noorumba-Mt Gilead Biobank/Conservation Stewardship Site located between Lot 3 DP 730136 Appin Road Gilead and Pt Lot 102 DP 611552 Noorumba Reserve. The purpose of the plan is to identify a corridor of minimum 250 metre width, measured south from the centre line of Menangle Creek, within which no works will be permitted to occur under this consent.
 - b. Amend Condition 12 to replace the last sentence with "Any such sign/s is to be maintained while the approved works are being carried out, but must be removed when the work has been completed".
 - c. Amend Condition 23 to include at the end of the paragraph, "Where relevant, this information is to be provided to Council".
 - d. Amend Condition 24 to include at the end of the paragraph, "Copies of the report must be provided to Council for their records".
2. That an application for the modification of Development Application 2984/2929/DA-CW, for a kind of development that is to be referred to the Panel for Determination, be reported to the Panel for its determination unless the application meets the criteria determined by the Panel at its meeting on 30 May 2018, in which case the application can be determined by the General Manager or her delegate.

Voting

4/0

4.4 Subdivision of land to create 333 residential lots, six residue lots and associated civil works, including the removal of trees, dewatering of dams, earthworks and construction of roads and infrastructure - Appin Road, Gilead

Executive Summary

- The land is situated within an urban release area and is located along Appin Road, Gilead. The land comprises four allotments with a total land area of 85.2 hectares.
 - The application proposes the subdivision of land to create 333 residential lots, six residue lots and associated civil works, including the removal of trees, dewatering of dams, earthworks and construction of roads and infrastructure.
 - The land contains four land use zones under the Campbelltown Local Environmental Plan 2015 (LEP 2015), and the land may be subdivided with development consent. The proposal is consistent with the applicable objectives of each zone.
 - General Terms of Approval have been issued from the NSW Natural Resources Access Regulator (NSW NRAR), NSW Rural Fire Service (NSW RFS) and Subsidence Advisory NSW. Concurrence has been provided by NSW Roads and Maritime Services (NSW RMS).
 - The application involves variations to the site specific Mt Gilead Development Control Plan with regards to street cross sections and minimum lot widths, and the Campbelltown (Sustainable City) Development Control Plan (SCDCP) with respect to subdivision design.
 - The application was publicly notified and exhibited from 8 July 2019 to 19 July 2019. Twenty-nine submissions objecting to the proposed development were received.
 - The land is subject to a Biodiversity Certification Agreement (BCA), and biodiversity certification has been conferred on the land under Part 7AA of the *Threatened Species Conservation Act 1995* (TSC Act).
 - In accordance with the Biodiversity Conservation (Savings and Transitional) Regulation 2017 (BCSTR), the biodiversity certification is taken to be biodiversity certification conferred on the specified land under Part 8 of the *Biodiversity Conservation Act 2016* (BC Act).
 - In accordance with the BC Act, an assessment of the likely impact on biodiversity of development on biodiversity certified land is not required for the purposes of Part 4 of the EP&A Act.
 - The land is subject to State and Local Voluntary Planning Agreements which have been executed and registered on the relevant land titles.
 - The Secretary has certified that satisfactory arrangements have been made to
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contribute to the provision of designated State public infrastructure in relation to the land.

- The application is recommended for approval in accordance with the recommended conditions in attachment 1 to this report.

Panel Considerations and Reasons for Decision

The proposed development, subject to the recommended conditions, satisfies relevant State legislation and State Environmental Planning Policies including the Rural Fires Act 1997, Coal Mine Subsidence Compensation Act 2017, Water Management Act 2000, Biodiversity Conservation Act 2016, SEPP (Sydney Region Growth Centres) 2006, SEPP (Infrastructure) 2007, SEPP 55 Remediation of Land, SEPP 19 Bushland in Urban Areas, SEPP (Koala Habitat Protection) 2020, and other relevant legislation.

The proposal is generally consistent with relevant provisions and objectives of the Campbelltown LEP and site-specific Gilead DCP, applying to this development application. Satisfactory arrangements have been made in relation to the provision of State infrastructure and State and Local Voluntary Planning Agreements have been executed and registered against the relevant land titles.

In particular, the Panel acknowledges that biodiversity certification has been conferred on the land under the Biodiversity Conservation Act 2016 and an assessment of the likely impact on biodiversity of development on biodiversity certified land is not required for the purposes of Part 4 of the Environmental Planning and Assessment Act 1979.

The Panel considered Clauses 4.1, 5.10, 6.1, 6.2, 6.3, 7.1, 7.2, 7.3, 7.4, 7.5, 7.10, 7.18 and 7.20 of Campbelltown Local Environmental Plan 2015 as addressed in the Officer's report and considers that the relevant requirements have been satisfied.

The proposed variations to the road cross sections will not compromise the function of the road network and will provide adequate land within verges for infrastructure, landscaping and pathways. The variation to the minimum lot width of three residential allotments, will not impact on the streetscape character of the subdivision or compromise the achievement of a high level of residential amenity. The potential impacts of tree removal on the environment have been considered and addressed appropriately within the Officer's report.

The provision of utilities and services will be subject to future arrangements between the applicant and Sydney Water, Endeavour Energy, NBN Co. and Jemena. The Panel is satisfied that these servicing arrangements will be addressed in the future and the relevant conditions have been included to ensure such connections are provided prior to the release of a subdivision certificate.

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. Based on further information provided to the Panel, a Review of Environmental Factors, assessed under Part 5 of the Environmental Planning and Assessment Act 1979, has been undertaken by Sydney Water to assess the potential impacts of connecting to the existing Old Menangle Road Carrier Main. The Panel also notes that page 17 of Sydney Water's Growth Servicing Plan 2019-2024 identifies Mt Gilead as "delivered under commercial agreement" for drinking water and wastewater. On this basis, the Panel is satisfied that adequate arrangements have been made to make that infrastructure available when it is required.

The Panel considers the proposed development is suitable for the site taking into account recommended conditions of consent, and agrees with the recommended conditions of consent.

Decision of the Panel

1. That Development Application 743/2018/DA-SW for the proposed subdivision of land to create 333 residential lots, six residue lots and associated civil works, including the removal of trees, dewatering of dams, earthworks, and construction of roads and infrastructure at Appin Road, Gilead be approved subject to the conditions in attachment 1 to the report presented to the Panel.
2. That an application for the modification of Development Application 743/2018//DA-SW, for a kind of development that is to be referred to the Panel for Determination, be reported to the Panel for its determination unless the application meets the criteria determined by the Panel at its meeting on 30 May 2018, in which case the application can be determined by the General Manager or her delegate.

Voting

4/0

5. REPORTS FROM OFFICERS CONSIDERED IN CLOSED SESSION

5.1 Planning Proposal - Reclassification of Land - Campbelltown

Officer's Recommendation

That the Local Planning Panel provide advice on the planning proposal at attachment 1 to this report.

Panel Considerations and Advice to Council

The Panel notes the report and proposed reclassification of land at Apex and Bradbury Parks from community to operational land. The Panel observed during the site visit the commencement of the construction of the Campbelltown Billabong.

The Panel is of the view that the reclassification of land would allow greater flexibility in the options for future management of the Billabong. The Panel considers that this will be of benefit to the ongoing management and use of the site as a community meeting place. The reclassification of land would also allow Council to potentially investigate options for other uses that seek to complement the Campbelltown Billabong.

The Panel noted that the substantial works proposed on the site render it different to other public recreation land. It is a reasonable approach to classify a significant community infrastructure site as operational land. This approach should not be extended to general

public open space which should remain as community land and therefore this should not be seen as a precedent to similar decisions for other open space.

To ensure the public have an appropriate level of scrutiny in regards to this decision, a public meeting with an independent chairperson should be held in regards to this planning proposal, post gateway determination,

The Panel considers the draft planning proposal has strategic and site specific merit and is appropriate. The Panel supports Council seeking a Gateway Determination.

Voting

4/0

The next meeting of the Local Planning Panel is scheduled for 24 February 2021.

Chairperson

Meeting Concluded: 4.50pm