

# Reports of the Planning and Environment Committee Meeting held at 7.30pm on Tuesday, 12 October 2010.

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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 12 October 2010**

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**Present** His Worship the Mayor, Councillor P Lake  
Councillor R Kolkman (Chairperson)  
Councillor J Bourke  
Councillor G Greiss  
Councillor P Hawker  
Councillor M Oates  
Councillor R Thompson  
General Manager - Mr P Tosi  
Director Planning and Environment - Mr J Lawrence  
Manager Environmental Planning - Mr P Jemison  
Manager Development Services - Mr J Baldwin  
Manager Waste and Recycling Services - Mr P Macdonald  
Manager Community Resources and Development - Mr B McCausland  
Acting Manager Corporate Support - Mr T Rouen  
Executive Assistant - Mrs K Peters

**Apology (Greiss/Hawker)**

That the apology from Councillor Matheson be received and accepted.

**CARRIED**

**Acknowledgement of Land**

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

**DECLARATIONS OF INTEREST**

There were no Declarations of Interest at this meeting.

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

**No reports this round**

## **2. ENVIRONMENTAL PLANNING**

### **2.1 Naming of Roads - John Therry High School, Rosemeadow**

#### **Reporting Officer**

Manager Environmental Planning

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#### **Attachments**

Nil

#### **Purpose**

To propose three (3) new road names for use within the residential development in the vicinity of John Therry Catholic High School, Rosemeadow for Council's consideration.

#### **History**

On the 29 June 2010, Council issued a staged consent for the subdivision of part of the land comprising John Therry Catholic High School, 80 Demetrius Road, Rosemeadow into 87 residential allotments. The applicant is now seeking Council's approval of names for the three (3) new public roads that will be created by this subdivision.

#### **Report**

It has been Council's protocol for some time to select a specific theme for road names within a suburb or development in an effort to harmonise the road names and provide some assistance to the travelling public. At its meeting on 15 July 1980, Council resolved to adopt the theme of "names of characters in the best known plays of William Shakespeare" for the road names within the suburb of Rosemeadow and approved a list of 53 road names based on this theme. At its meeting on 20 October 1981, Council approved a further 52 road names based on this theme for use in this suburb. All of these previously approved road names have now been used for roads within Rosemeadow.

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The road names suggested by the applicant are not derived from this previously adopted theme for road names in Rosemeadow. The applicant states that it is traditional within both the community and the Catholic Church to link the naming of buildings and places to significant people and events related to the site and the Church wishes to continue this tradition in the naming of the roads within this development. This is also in accordance with the Geographical Names Board's (GNB) guidelines for the naming of roads which state that proposed road names should be appropriate to the physical, historical or cultural character of the area concerned and lists local history as one of the preferred sources for road names. The land on which this development is situated is located within Our Lady Help of Christians Parish, Rosemeadow and has been in the ownership of the Wollongong Diocese of the Catholic Church since 1977. The applicant has therefore suggested the following names for the three (3) public roads that will be created in this development:

**Marian Drive** – “Marian” is an adjective used in Christianity for things relating to Mary, the Patroness of Our Lady Help of Christians Parish, Rosemeadow and the Diocese of Wollongong.

**Jubilee Circuit** – the subdivision was approved in the silver jubilee year of the first parish priest to the Parish of Rosemeadow in 1985, Fr Paul Ryan.

**William Place** – after Bishop William Edward Murray, Bishop of the Wollongong Diocese at the time the land was acquired. Bishop Murray created the Parish of Rosemeadow and appointed the first parish priest.

The applicant has also provided two alternative street names should any of the above not be suitable:

**Mary Mackillop** – who will be canonised as Australia's first saint later this year.

**McCabe** – after Bishop Thomas Absolom McCabe (1902–1983), the first bishop of the Diocese of Wollongong from 1951 to 1974.

These proposed road names have been assessed by Council staff to ensure that they comply with the GNB guidelines and do not duplicate or have the potential to cause confusion with any existing road names. It was found that Mackillop Crescent in St Helens Park had been named after Mary Mackillop and this proposed road name is, therefore, not considered suitable as it may be confused with an existing road name in an adjoining suburb. The GNB guidelines state the names of living persons should not be used in the naming of roads. The applicant has confirmed that Bishop William Murray is still alive which means that William Place is also unable to be used. The remaining three suggested road names comply with the GNB guidelines and it is therefore recommended that the road names Marian Drive, Jubilee Circuit and McCabe Place be approved by Council for use in this development.

Division 2 of Part 2 of the Roads Regulation 2008 outlines the procedure that Council must follow when proposing to name public roads under its control. In accordance with these procedures, it is also recommended that Council advertise the approved road names in local newspapers and notify Australia Post, the Registrar General, the Surveyor General and the various emergency services of its intention to name these roads. Should no objections be received during a period of one month following advertisement and notification of this proposal, it is recommended that Council complete the road naming process by publishing a notice of these new road names in the NSW Government Gazette.

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### **Officer's Recommendation**

1. That Council approve the names Marian Drive, Jubilee Circuit and McCabe Place for use in the subdivision in the vicinity John Therry Catholic High School, Rosemeadow.
2. That Council advertises its proposal to name these roads in local newspapers and notifies the authorities prescribed by the Roads Regulation 2008.
3. That, should no objections to the proposal to name these roads be received from the authorities prescribed by the Roads Regulation 2008 within one month, Council publish notice of these new road names in the NSW Government Gazette.
4. That the applicant be advised of Council's decision in this matter.

### **Committee's Recommendation: (Hawker/Bourke)**

That the Officer's Recommendation be adopted.

**CARRIED**

### **Council Meeting 19 October 2010 (Kolkman/Oates)**

That the Officer's Recommendation be adopted.

### **Council Minute Resolution Number 201**

That the Officer's Recommendation be adopted.

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## **2.2 Georges River Combined Councils Committee Meeting Update**

### **Reporting Officer**

Manager Environmental Planning

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### **Attachments**

1. Copy of Minutes from the Ordinary Meeting of the Georges River Combined Councils Committee, held on 26 August 2010 (distributed under separate cover)
2. GRCCC Executive Group Outcomes report July-August 2010 (distributed under separate cover)
3. Project Manager Update – Upper Georges River Initiative (distributed under separate cover)
4. Project Manager Update – Mid Georges River Initiative (distributed under separate cover)
5. Project Manager Update – Lower Georges River Initiative (distributed under separate cover)
6. GRCCC River Health Monitoring Project Cluster report (distributed under separate cover)
7. Improving Prospect Creek Project report (distributed under separate cover)
8. Riverkeeper Cluster report (distributed under separate cover)
9. GRCCC Estuary Management Plan Cluster report (distributed under separate cover)

### **Purpose**

To provide Council with an update on the outcomes of Georges River Combined Councils' Committee (GRCCC) Ordinary Meeting held at the offices of Campbelltown City Council on Thursday 26 August 2010.

### **History**

The Georges River Combined Councils Committee (GRCCC) represents nine Local Councils in the Georges River Catchment of NSW. Members include: Rockdale City, Sutherland Shire, Kogarah City, Hurstville City, Bankstown City, Liverpool City, Fairfield City, Campbelltown City and Wollondilly Shire Councils. It is an incorporated association of local councils working in partnership with State and Federal Government agencies and community representatives within the Georges River Catchment.

Formed in 1979, the GRCCC's mission is to advocate for the protection, conservation and enhancement of the health of the Georges River, by developing programs and partnerships and by lobbying government organisations and other stakeholders.

### **Report**

An Ordinary Meeting of the GRCCC was held at the offices of Campbelltown City Council on Thursday 26 August 2010. A copy of the Minutes of this meeting are provided as Attachment 1.

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An outline of the main issues discussed at this meeting is provided below:

**i) The impacts of long wall mining on the upland swamps of the Georges River**

Dr Ann Young, formerly an academic in Physical Geography from the University of Wollongong, delivered a presentation on the potential impacts of long wall mining on upland swamps.

Of relevance to the Georges River, are the upland swamps which occur at the headwaters of the O'Hares Creek catchment within Dharawal land. These swamps are perched above sandstone bedrock layers within shallow upland valleys where sediments and organic matter have slowly formed into swamps over many thousands of years. These swamps act as filters and are crucial (hydro geologically) as they supply the long-term base flow to upland streams. They also provide important habitat for a variety of fauna including threatened species.

Upland swamps are dependant on having an intact sandstone bedrock layer to trap water within the swamp sediments, preventing them from drying out. However, long wall mining can lead to subsidence and potential cracking of this bedrock layer. Dr Young provided monitoring results showing a significant drop in water levels within a swamp following long wall mining. She also provided historical examples showing that once swamp sediments dry out, erosion of swamps can be catastrophic. Once the swamps are dry, they can rapidly erode and form into open stream channels which are impossible to rehabilitate to their former state.

Dr Young called for greater controls to protect swamps from potential subsidence damage from the planned expansion of long wall mining in the O'Hares catchment area.

The GRCCC Committee agreed that potential impacts of long wall mining on upland swamps is an important issue which requires further lobbying from Councils and the community. The Committee agreed to further inform the community of this issue through the preparation of a media release, and the provision of information regarding potential damage to upland swamps on the GRCCC web-site.

**ii) GRCCC Program Cluster Reports**

a) Riverkeeper Program

The Riverkeeper has continued to work with various groups to remove rubbish from the river. Real time data loggers have been installed as part of the Botany Bay Water Quality Improvement Program.

b) Estuary Management Plan

Councils have provided their feedback on the final Estuary Process Study for the Georges River which is being developed by the consultancy firm SMEC. The final document was due to be completed by SMEC at the end of August. The application for funding for the final 2 stages of the estuary management planning process (the Estuary Management Study and Management Plans) has now been approved, with the total project budget of \$100,000 now secured.

c) River Health Monitoring Project

The draft Autumn 2010 Report Card, and a detailed summary report outlining the monitoring results for each individual Council Local Government Area (LGA) have been

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issued to cluster members and their managers. Technical presentations on Council specific results are available to Councils upon their request.

Councils are asked to supply a list of actions or projects (planned or present) which could be implemented to further investigate the findings or improve river health results within their LGAs.

The draft Autumn 2010 Report Card and detailed summary report for the Campbelltown LGA have been submitted to Council and are the subject of a separate report to Council included in this business paper.

d) Communications

David Kuhn has been appointed to the GRCCC as the new Community Engagement Officer. David will begin work full time from the 20 September. David will initially concentrate on the public release of the Autumn 2010 River Health Report Card.

**iv) Urban Sustainability Program Reports**

Project managers provided updates on their respective project activities.

**Upper Georges River**

Strategic Environmental Management Plan (SEMP) - The consultant firm Australian Wetlands in association with Ecological have been appointed to complete the SEMP.

Upper Georges River Website - Campbelltown City Council has recently appointed a new Environmental Education Officer (Maura Pigeon) within the Environmental Planning Unit. Maura has begun work on updating the Upper Georges River project pages on the GRCCC website.

On ground works – Campbelltown City Council has begun works on the Victoria Road Bioswale, which is due to be completed within four weeks. Wollondilly Shire Council has completed the majority of their on-ground works project. They are currently developing a brief for the Appin Catchment Stormwater Plan. Liverpool Council has begun the final stage of their project involving planting 300 seedlings at Helles Park.

Non-on ground works – ‘The River Project’, an art based project celebrating the Georges River within the context of other noteworthy rivers of the Asia Pacific Region was launched on the 27 August 2010. Stakeholders with connections to the Georges River are continuing to be interviewed as part of the Governance Project run through the University of Western Sydney. Survey interviews are to be finalised by the end of September and a draft report available in October.

Aboriginal Project Support Officer (APSO) – Clive Freeman has been appointed as the APSO, based with NPWS in the Wollongong Office. Clive has a wealth of experience in terms of management and protection of aboriginal heritage. Clive will be seeking to develop a conceptual understanding of the landscape and heritage and incorporate this into the various Park Management Plans. One project currently being pursued by Mr Freeman brings traditional owners in contact with their traditional art. The NSW Art Gallery has expressed interest in facilitating this initiative. Clive will be invited to present at the first GRCCC meeting in 2011 on Indigenous engagement activities.

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### **Mid Georges River**

Yeramba Lagoon – Signage and bush regeneration works have been progressing. Aquatic weed harvesting is being completed, and a bio-control for *Salvinia* will be released in September. Concept designs for reintroduction of tidal flows will now take a more appropriate whole of ecosystem approach.

Mill Creek – the Mill Creek Catchment Strategic Plan has been finalised. Bush regeneration and stormwater works are still progressing along the Menai and Alford's Point bushland interface. Over fifty entries were received for the Mill Creek art competition.

'Yerambles' Bushcare group has been running since June. Stormwater education and stenciling has continued to be carried out around the catchment.

### **Lower Georges River**

The community partnerships program 'getting greener' has commenced and project design and project development workshops have been conducted. Project plans have been submitted by eight community groups.

Col Freeman recommended that councils should utilise the *Water Sensitive Urban Design (WSUD) Institutional Capacity – Rapid Assessment & Action Plan Tool* and attend the associated half day workshop. Further information about these WSUD adoption resources is available on the Water Sensitive Urban Design website [www.wsud.org](http://www.wsud.org).

### **Improving Prospect Creek**

SMEC have been engaged to develop the Strategic Environmental Management Plan for the Prospect Creek Riparian Corridor. The Plan is well underway with much of the data collection and review being completed. The community engagement and consultation component of the project is due to commence during September and will consist of a series of community workshops and public meetings.

### **v) Executive Committee Report**

Staff have been working with NSW Corrective Services to undertake OH&S inspections for rubbish removal and bush regeneration sites. All of the rubbish removal sites have been approved based on these inspections, however some bush regeneration sites did not pass the initial OH&S inspection, and alternative sites will need to be nominated by the relevant Councils.

Campbelltown City Council sites at Macquarie Fields, Canterbury Road Bridge, and Pembroke Park Minto Camp did not satisfy these OH&S inspections, and alternative sites will need to be found.

The Autumn 2010 River Health Report Card is due for public release during October 2010. Councils are asked to provide information to the GRCCC about projects where there are partnering opportunities to restore sampling sites and improve results.

The GRCCC's final end of financial year result was a surplus of \$42,950.

The Executive Officer has sent the membership renewal letter and issued invoices for 2010/2011 membership fees and program fees.

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#### **vi) General Business**

Phill Byrtles from the Sydney Metropolitan Catchment Management Authority (SMCMA) outlined a research grant proposal for the Cooks and Georges catchments titled *The value of river health to the residential community*. The project aims to quantify environmental values by putting dollar figures on them. This knowledge would be useful in justifying and prioritising future river restoration works. The proposed project would be funded by a grant application to the Australian Research Council and would include a stipend for a PhD student. The SMCMA are calling for the provision of matching funding from industry partners for this project to proceed.

Daniel Wiecek from DECCW noted that new guidelines for Coastal Zone Management are now available on the DECCW website [www.environment.nsw.gov.au](http://www.environment.nsw.gov.au).

The Department of Planning (DoP) has also released the final NSW Coastal Planning Guideline: Adapting to Sea Level Rise, which can be viewed on the DoP website at: [www.planning.nsw.gov.au](http://www.planning.nsw.gov.au).

#### **vii) Next meeting**

The next meeting will be the AGM on 28 October at Hurstville City Council.

#### **Items for Action/Relevance to Campbelltown City Council**

1. Councils are requested to provide the Riverkeeper with additional OH&S information for their bush regeneration sites on maps (e.g. evacuation site locations).
2. Those Councils whose sites failed the OH&S inspection need to provide the Riverkeeper with alternative locations.
3. Councils which would like a technical presentation about their individual results for the Autumn river health monitoring can contact either Alison Hanlon or Carl Trippler.
4. Councils are asked to contribute their membership and program fees.
5. Campbelltown City Council staff are currently liaising with the Riverkeeper to identify alternative locations for Corrective Services clean-up projects.

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

That an update on the outcomes of the next meeting of the GRCCC be provided to Council pending the circulation of the relevant minutes.

#### **Committee's Recommendation: (Bourke/Thompson)**

That the Officer's Recommendation be adopted.

**CARRIED**

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**Council Meeting 19 October 2010 (Kolkman/Oates)**

That the Officer's Recommendation be adopted.

**Council Minute Resolution Number 201**

That the Officer's Recommendation be adopted.

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## 2.3 Aquatic Weed Mapping 2010 Outcomes

### Reporting Officer

Manager Environmental Planning

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### Attachments

1. Campbelltown Alligator Weed and Ludwigia Survey Report (distributed under separate cover)
2. Example of Weed Mapping: Comparison between the 2005 and the 2010 Ludwigia mapping results for the Bow Bowing/Fishers Ghost confluence (distributed under separate cover)

### Purpose

To provide information to Council on the outcomes of the Campbelltown City Council Alligator Weed and Ludwigia Mapping Project that was undertaken in the 2009/2010 financial year (The Aquatic Weed Mapping Project 2010).

### History

In 2003 Council commenced its first aquatic weed mapping project, the aim of which was to establish reliable baseline data on the extent, distribution and density of priority invasive aquatic noxious weeds across the Campbelltown Local Government Area (LGA).

The project which was executed over 3 stages in 2003/04, 2004/05 and 2005/06 focused on the mapping occurrences of Alligator Weed (*Alternanthera philoxeroides*), Ludwigia (*Ludwigia peruviana*) and Salvinia (*Salvinia molesta*) within the Campbelltown LGA. This data subsequently informed Council's annual noxious weed management program, ensuring that resources were strategically allocated to priority weed control programs and locations.

Alligator Weed, Ludwigia, Water Hyacinth and Salvinia are currently listed as Class 3 noxious weeds under the *Noxious Weeds Act 1993* for the Campbelltown LGA. Under the provisions of the Act, weeds declared as 'Class 3' must be fully and continuously suppressed and destroyed. Control activities undertaken under the guidance of the previous mapping program have resulted in the complete suppression of some water hyacinth and salvinia populations across the LGA. Consequently the current mapping project outlined in this report, does not include these species.

If untreated, aquatic noxious weeds can have a number of detrimental impacts on waterways. The weeds, if left to manifest, can obstruct streams, reduce water flow and degrade water quality. Aquatic weeds can also reduce the number of recreational activities available to the local community, as well as diminish the aesthetic quality of natural waterways.

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Council has coordinated a repeat of aquatic weed mapping during the 2009-10 financial year (The Aquatic Weed Mapping Project 2010) in order to update the data and to evaluate the effectiveness of Council's ongoing aquatic weed control program. Stage 1 of this mapping has been completed (across 60% of the waterways within the Campbelltown LGA). It is anticipated that stage 2 of the mapping will commence in December 2010 and will survey the remaining waterways.

The following waterways indicated in Table 1 have been mapped during the 2009-10 financial year, with the waterways listed in Table 2 to be mapped in the 2010-11 financial year commencing in December 2010.

Table 1: Waterways mapped during 2009-10

<b>Waterways mapped during 2009-10</b>	
<ul style="list-style-type: none"><li>• Biriwiri Creek (Park Central)</li><li>• Claymore Creek</li><li>• Mc Barron Creek</li><li>• Thompson Creek</li><li>• Bow Bowing Creek</li><li>• Smiths Creek</li><li>• Fishers Ghost Creek</li><li>• Leumeah Creek</li></ul>	<ul style="list-style-type: none"><li>• Monastery Creek</li><li>• Birunji Creek</li><li>• Claymore Creek/main drain</li><li>• Box Hill Creek</li><li>• Macquarie Creek</li><li>• Redfern Creek</li><li>• Bunbury Curran Creek</li><li>• Extensions/tributaries of these waterways</li></ul>

Table 2: Waterways to be mapped in 2010-11

<b>Waterways to be mapped during 2010-11</b>	
<ul style="list-style-type: none"><li>• Georges River</li><li>• Spring Creek</li><li>• Myrtle Creek</li><li>• Peter Meadows Creek</li><li>• Mansfield Creek</li><li>• Nepean River</li></ul>	<ul style="list-style-type: none"><li>• Menangle Creek</li><li>• Mallaty Creek</li><li>• Nepean Creek</li><li>• Leafs Gully</li><li>• Woodhouse Creek</li></ul>

## Report

The Aquatic Weed Mapping Project 2010 has two primary objectives:

1. To survey, map and record the location and extent of Alligator weed and Ludwigia infestations along all waterways and drainage lines within the Campbelltown LGA; and
2. To control all Alligator weed infestations using appropriate chemical means after they are mapped.

Specifically, the project aims to accomplish the following:

- Determine the extent of existing Alligator weed and Ludwigia infestations within the Georges River and Nepean River catchments (within the Campbelltown LGA) compared to 2005 baseline data;

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- Identify any new Alligator weed and Ludwigia infestations within the Georges River and Nepean River catchments (within the Campbelltown LGA);
  - Map and record the results of these surveys; and
  - Control Alligator weed and Ludwigia infestations

Waterways were surveyed on foot and in some instances by vehicle. A Global Positioning System (GPS) was used to record information on location. Associated attribute information (such as weed identification, weed name, drainage line name, density, weed maturity, area infested (m<sup>2</sup>), description, landscape, access, easting and northing (Map Grid of Australia) and, survey date) was recorded using a hand held computer.

### **Field Results and Comparison to 2005 Mapping Baseline Data**

Upon completion of the field survey, 173 records of weed occurrences were made. This includes:

- 81 records of *Alternanthera philoxeroides* Alligator weed;
- 83 records of *Ludwigia peruviana* Ludwigia;
- 7 records of non-target species (e.g. *Sagittaria platyphylla*, *Myriophyllum aquaticum*); and
- 1 record of *Eichhornia crassipes*; (a dense infestation was identified from a dam within private property, in proximity to Box Hill Creek in Varroville).

Weed infestations were recorded in accordance with an 'infestation density' (coverage) as follows:

- High (>70%)
- Medium (>30% - <70%)
- Low (>5% - <30%)
- Scattered (<5%)

The majority of records indicated densities of less than 5%, typically comprising a small infestation or single specimens. Only 12 records of target species were recorded with densities of more than 70%. Some drainage lines appear to remain weed-free: no occurrences of target species were identified within Biriwiri Creek, the Claymore Main Drain, Monastery Creek, Thompson Creek and only one occurrence of Ludwigia each within Leumeah Creek and in Birunji Creek were identified.

The following section provides a summary of the changes observed between the current extent of the target weed species (Ludwigia and Alligator Weed) to the previous surveys for those creeklines surveyed.

- **Smiths Creek**

The majority of Ludwigia infestations mapped in the 2005 project have been reduced to small, isolated low density occurrences, with several removed entirely. The exception to this outcome relates to the upstream section in the Bradbury/Airds area, and while the extent of infestation has been reduced this is still the area attributed with the majority of current records (occurrences).

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- **Fishers Ghost**

The extent of Ludwigia has been reduced to four (4) low density isolated areas, with only one medium density area remaining.

- **Bow Bowing**

Ludwigia infestations are scattered along the length of Bow Bowing Creek, and the number of records from the current survey is greater than previously recorded. A reduction in the extent of Ludwigia has occurred in the section upstream of the confluence with Monastery Creek in Blair Athol. The lower section of Bow Bowing Creek still has several scattered locations of Alligator Weed, similar to the previous survey although no sites correspond exactly. Extensions E6 and E16 still contain Alligator Weed. Three (3) isolated records of Alligator Weed now occur in areas where the species was not previously recorded, upstream of the confluence with Monastery Creek in Blair Athol.

- **Bunbury Curran Creek**

There are several isolated records of Ludwigia and Alligator Weed in the channelised section of Bunbury Curran Creek in the Ingleburn area, that were not previously identified. Downstream of the E1 Extension, Alligator Weed is still present, although generally reduced from the records identified from the previous surveys. Below the E4 Extension and the Georges River there is a large reduction in occurrences throughout the Glenfield/Macquarie Fields area. The previous Ludwigia site in the E4 Extension was not recorded during the current survey, and likewise previous Alligator Weed sites within E3 and E4.

- **Box Hill Creek**

No previous records exist for this Creek, and only one (1) Ludwigia occurrence, located on the edge of a dam in Raby was recorded during the current survey.

- **Redfern Creek**

Previous Ludwigia records with Redfern Creek were not identified during the current survey. Alligator Weed was recorded, although the extent is greatly reduced compared to previous records.

- **Macquarie Creek**

Alligator Weed was recorded in the lower sections of the Macquarie Creek close to Bunbury Curran Creek during the current survey, although the extent is greatly reduced compared to previous records.

- **McBarron Creek**

The extent of Ludwigia records for McBarron Creek is similar to that indicated in previous results, with some infestations not re-recorded, whilst several new sites have now been identified.

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- **Leumeah Creek**

Good reductions in the presence of Ludwigia have been recorded for this catchment, with only one (1) site mapped during the current survey as compared to nine locations previously.

### **Conclusion**

Campbelltown City Council's Alligator weed control and mapping program has resulted in a reduction in the total number of recorded infestations from 85 to 81 between 2005 and 2010, with average weed densities also being reduced from medium (>30% - <70%) to scattered (<5%) between 2005 and 2010. The 'highlight' outcome arising from the 2010 Aquatic Weed Mapping Project is the significant reduction in the extent and density of Alligator Weed along both Redfern and Macquarie Creeks.

Campbelltown City Council's Ludwigia control and mapping program has seen the reduction in the total number of infestations from 97 to 84, with average weed densities also being reduced from medium (>5% <30%) to scattered (<5%) between 2005 and 2010. The majority of Ludwigia infestations mapped in the 2005 Aquatic Weed Mapping Project have been reduced to small, isolated low density occurrences, with several removed entirely.

A noteworthy outcome arising from the 2010 Aquatic Weed Mapping Project is the great reduction in Ludwigia infestations along Leumeah Creek, from nine (9) locations in 2005 to only one (1) location in 2010.

These results indicate that Council's aquatic weed control program is having a positive impact as is evidenced by the observed reduction in aquatic weeds. In reducing these infestations Council is contributing to the improvement of the health of local waterways.

Council officers will continue to source external grant funding (matched by Council on a dollar-for-dollar basis) for the ongoing implementation of Council's aquatic weed control programs.

### **Officer's Recommendation**

That the outcomes of the 2010-11 Stage 2 Aquatic Weed Mapping be reported to Council once the works have been completed and evaluated.

### **Committee's Recommendation: (Greiss/Thompson)**

That the Officer's Recommendation be adopted.

### **CARRIED**

### **Council Meeting 19 October 2010 (Kolkman/Oates)**

That the Officer's Recommendation be adopted.

### **Council Minute Resolution Number 201**

That the Officer's Recommendation be adopted.

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### **3. DEVELOPMENT SERVICES**

#### **3.1 Development Services Section Application Statistics - September 2010**

##### **Reporting Officer**

Manager Development Services

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##### **Attachments**

Development Services Application Statistics for September 2010 (distributed under separate cover).

##### **Purpose**

To advise Council of the status of development applications and other key matters within the Development Services Section.

##### **Report**

In accordance with Council's resolution that Councillors be provided with regular information regarding the status of development applications, the attachment to this report provides details of key statistics for September 2010 as they affect the Development Services Section.

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

That the information be noted.

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

That the Officer's Recommendation be adopted.

##### **CARRIED**

##### **Council Meeting 19 October 2010 (Kolkman/Oates)**

That the Officer's Recommendation be adopted.

##### **Council Minute Resolution Number 201**

That the Officer's Recommendation be adopted.

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### **3.2 Nos. 12-14 King Street, Campbelltown - Review of determination to refuse construction of a six storey residential apartment building, basement car park and associated site and landscaping works**

#### **Reporting Officer**

Manager Development Services

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#### **Attachments**

1. Recommended conditions of development consent
2. Locality plan
3. Photographic impression
4. Site layout & floor plans
5. Basement plans
6. Elevation plans
7. Section plans
8. 3D perspective drawings
9. Landscaping plan
10. Urban design report prepared by Inspire Urban Design and Planning Pty Ltd (under separate cover)
11. Report tabled at Planning and Environment Committee held on 22 June 2010 (under separate cover)

#### **Purpose**

To assist Council in its determination of the subject application pursuant to the relevant provisions of Section 82A of the *Environmental Planning and Assessment Act 1979*.

<b>Property Description</b>	Lots 19 and 20 DP 9197, Nos 12-14 King Street, Campbelltown
<b>Application No</b>	1630/2010/DA-82A (related application 2166/2009/DA-RA)
<b>Applicant</b>	Branvel Developments Pty Ltd
<b>Owner</b>	R Ciampa
<b>Statutory Provisions</b>	State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development Campbelltown (Urban Area) Local Environmental Plan 2002 Campbelltown (Sustainable City) Development Control Plan 2009
<b>Other Provisions</b>	Campbelltown 2025 – ‘Looking Forward’
<b>Date Received</b>	2 August 2010

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## History

Council considered a report on the subject development at its Ordinary Meeting held on 29 June 2010. At the meeting, the following was resolved:

*That development application 2166/2009/DA-RA for the demolition of existing buildings and the construction of a six storey residential building with associated site works, basement car parking and landscaping at Nos. 12-14 King Street, Campbelltown be refused due to it significantly failing to comply with the standards set in Council's Campbelltown (Sustainable City) Development Control Plan.*

Accordingly, the application was refused for the following reasons:

1. *Pursuant to the provisions of Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development is inconsistent with Campbelltown (Sustainable City) Development Control Plan with respect to the minimum site area control contained in Part 4.4.1 of that Plan.*
2. *Pursuant to the provisions of Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development is inconsistent with Campbelltown (Sustainable City) Development Control Plan with respect the provision of deep soil planting as required in Part 4.4.3 of that Plan.*
3. *Pursuant to the provisions of Section 79C(1)(c) of the Environmental Planning and Assessment Act 1979, it is considered that the site is not suitable for the proposed development as the land size is less than what is considered reasonable for the construction of the proposed residential flat building.*
4. *Pursuant to the provisions of Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, it is considered that in the circumstances of the case, approval of the development would set an undesirable precedent for similar inappropriate development and is therefore not in the public interest.*

Pursuant to Section 82A of the *Environmental Planning Assessment Act 1979*, the applicant has requested that Council review its decision to refuse the application.

## Report

### Introduction

Council refused an application for the demolition of existing dwellings and construction of a six-storey residential apartment building, basement car park and associated site and landscaping works on the subject land, at its Ordinary Meeting held on 29 June 2010.

The applicant has subsequently requested that Council review its determination pursuant to Section 82A of the *Environmental Planning and Assessment Act 1979*. Section 82A (S82A) allows Council to review its determination of an application.

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A S82A review application is to be accompanied by a statement addressing Council's reasons for refusal and may also include amendments to plans that address items of non-compliance with development standards or controls.

In this instance, the applicant has supplied additional information to enable Council to reconsider its determination of the application. The applicant has also made some amendments to the previously submitted plans, including an increase in deep soil planting availability, changes to external wall and window locations along side boundaries and the introduction of screening structures to some balconies along side boundaries. The review is also accompanied with a detailed urban design statement that has been prepared by a suitably qualified third party, which addresses Council's reasons for refusal.

A copy of the previous report that was submitted to the Planning and Environment Committee meeting held on 22 June 2010 is shown as Attachment 11 to this report.

### **Background**

Council refused the application for two predominant reasons, being:

- The site area provided for the development did not comply with Part 4.4.1(a) of Campbelltown (Sustainable City) Development Control Plan 2009, which requires that a residential apartment building be erected on land with an area not less than 2,500 square metres, which may have lead to an inappropriate development of the site; and
- The area of deep soil planting provided for by the proposal did not comply with Part 4.4.3(h) of Campbelltown (Sustainable City) Development Control Plan 2009, which requires that a minimum 15% of the site be available for deep soil planting (root depth greater than 3 metres).

In response, the applicant has made certain changes to the proposal in order to achieve better compliance with the numerical requirements contained in Council's development control plan. Further, the applicant has submitted an urban design statement, which discusses the proposal's merits in terms of its streetscape presentation, use of available space and compliance with relevant development objectives.

Each component of the applicant's submission is discussed in detail below.

**Alterations to Plans** - The applicant has made several minor alterations to the previously submitted plans. The alterations are:

1. Reduction in the basement area – the reduction in basement area affords larger space for deep soil planting at the site. The basement area has been decreased by approximately 10 square metres. This means that the proposal now complies with Council's requirement that 15% of the site be available for deep soil planting.
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2. Alteration of window locations and use of screening devices – the applicant has amended the location of various windows throughout the floor plate of the building, In particular, windows at the end of the lift lobby on each floor and bedroom windows on the northern elevation of the building have been moved to reduce potential overlooking into neighbouring properties. Screen structures have also been placed on ground floor windows at the front and rear of the building where they are near side boundaries. The applicant argues that introducing the changes to window locations results in a development that is more ‘neighbourly’ in its relationship with adjoining sites, potentially mitigating the significance of its non-compliance with the minimum site area requirement in Council’s development control plan.

For reference, the amended plans are found at Attachments 3 to 9. Amendments to the plans are indicated by "clouds" surrounding the changes.

**Urban Design Statement** - A suitably qualified third party has prepared an urban design statement on the applicant's behalf. The statement assesses the proposal against Council's objectives, provides a context for the development and provides relevant commentary in respect to Council's development controls, particularly the minimum site area requirement and setbacks.

The statement has been prepared to support the applicant's position that the development meets Council's objectives for residential apartment building development, despite the fact it is located on a site that is markedly smaller than the development control plan minimum standard.

Matters raised in the statement are discussed in detail below.

**Site Context** - The urban design statement lodged with the S82A review application notes the following with regard to the site and its surrounds:

1. The subject site contains two significant trees to the rear. Trees are located in a similar position on some adjoining allotments. Preservation of the rear of these allotments would allow for the retention of the vegetation, which may provide habitat for birdlife, provide screening privacy for future residents and shade.
2. Redevelopment of the locality to date has been limited. The prevailing built form character is detached single and double storey dwellings and commercial suites (including dwellings converted for that purpose).
3. The cadastral boundary pattern is irregular. Allotments on the western side of King Street, in nearby Warby and Broughton Streets are notably deeper than those on the eastern side of King Street where the development would be located.
4. Two nearby properties have been redeveloped for the purposes of residential apartment buildings. Both sites appear to be in excess of Council's minimum site area requirement. Both sites are located on deep allotments and both sites present a large building to the street.

**Variations to development control plan controls** - The urban design statement discusses the proposal's variation to two specific controls contained in the Sustainable City Development Control Plan (SCDCP), one being deep soil planting availability and the second being in respect to the minimum site area requirement.

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1. With regard to the deep soil planting requirement, the plans have been amended such that the proposal now exceeds Council's 15% requirement for the availability of deep soil planting across the site and complies with the requirements of the SCDCP.
2. Having regard to the minimum lot size requirements, the statement contains a two-fold discussion in support of the variations. Each point is discussed in detail below:

*Campbelltown (Sustainable City) Development Control Plan objectives*

The statement acknowledges that the site area is less than the minimum required by the development control plan. The statement further notes that the applicant undertook negotiations to purchase of adjoining lands so as to satisfy the requirements of the SC DCP without success.

The statement details the relevant objectives contained in Part 4.4 of the DCP, which are as follows:

- *To encourage high quality, high-density residential apartment development within close proximity to public transport and business centres, which is innovative and responsive to the site's environmental characteristics and setting.*
- *To ensure a high level of amenity for the occupants of residential apartment buildings, adjoining developments and public places.*

An extract from the urban design statement reads:

*"Generally, the second objective has most relevance and it can be construed that the minimum lot size control seeks to:*

- *Ensure appropriate setbacks and appropriate levels of privacy with adjoining developments are achieved;*
- *Ensure a high level of resident amenity is achieved via the provision of sufficient outdoor space within the development site; and*
- *Ensure that potential built form impacts by way of building bulk and scale are addressed by the enabling of a lot of sufficient size to accommodate the building proposed.*

*In all respects the proposed development achieves these objectives."*

It should be noted that the report presented to Council's Planning and Environment Committee of 22 June 2010 also discussed the proposal's compliance with the objectives where it read:

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*The development is considered to successfully meet the abovementioned objectives, despite the fact it does not meet Council's minimum area requirement. In spite of the shortfall in land area, the development is compliant with almost all remaining respects of the SC DCP including, but not limited to unit mix, car parking, open space for residents, setbacks, height, density, water capture and reuse, energy efficiency and streetscape appearance.*

Similar to the abovementioned extract from the previous report, the development continues to demonstrate significant compliance with Council's objectives for residential apartment development, despite its non-compliance with the minimum area control. In all regards, including (but not limited to) its potential impact on neighbours and presentation to the street, the development is considered to create a positive influence in the area and is complementary to the future desired streetscape.

The urban design statement's second point of discussion follows:

*An alternate approach*

The urban design statement considers "what improvement, if any, could be gained if the proposed lot size were to achieve the minimum area of 2,500 square metres". The statement notes the setback requirements of the Sustainable City Development Control Plan and notes that regardless of the allotment size on which a residential apartment building is proposed the setback requirements are the same. In other words, a small development site is required to have the same building setback around a proposed building as that of a large development site.

To illustrate this point, the applicant's urban design statement includes a number of figures, which are reproduced with the author's (Inspire Planning Pty Ltd) permission below:



Fig. 1



Fig. 2



The figures illustrate that the proportion of setback and therefore landscaping area on a smaller site is potentially higher than that of a larger site (which is in compliance with Council's minimum area requirement). The illustration shows that the smaller allotments in Fig. 1 may achieve a higher proportion of landscaped space within the neighbourhood than the combination shown in Fig. 2.

The urban design statement also discusses the provision of a landscaped rear corridor which can be achieved when smaller allotments are developed and when they are not located between two streets. The statement notes that *"on larger sites that may extend between streets this opportunity may be lost due to the presence of basement areas that extend further across the site."*

Figures 3 and 4 illustrate the above point.



Further, the urban design statement moves to recognise that larger allotments may result in larger built forms addressing streets, which may have greater bulk and scale in comparison to smaller developments such as that proposed by the subject application. The statement argues that this may be an issue in King and Iolanthe Streets as the existing allotments are not particularly deep, therefore implementation of Council's minimum area requirement may potentially result in long, shallow lots, with a large building surface area present at street level. The statement says *"the development of small lots, with smaller buildings exhibiting setbacks between them at side boundaries breaks up the building wall, alleviating this potential concern."*

To illustrate the above point, the statement contains photographs of existing development at Victoria Park in Sydney's inner south west. The images are reproduced (with permission) below:

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The above photograph illustrates a large allotment frontage to a street. Whilst an attempt has been made to ‘break up’ the façade using alterations in colour, materials and architectural treatment, it is clear at street level that this is one large building.



*Photograph illustrating small sites, which promote a variation in built form, height and appearance.*

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It should also be noted that existing residential apartment developments located on King and nearby Warby Street have been constructed in such a manner that two separate buildings contain the dwellings at each site. This is a result of the need to satisfy the cross flow ventilation requirements, solar access and other matters which are raised in *State Environmental Planning Policy No. 64 – Design Quality of Residential Flat Development*. Construction of the proposed building at Nos. 12-14 King Street is likely to produce the same result, albeit with a separate owner constructing a building of similar scale and proportion at the rear (fronting Iolanthe Street), having regard to the existing cadastral boundaries in the area and the Policy's building depth requirements. As noted in the previous report to the Planning and Environment Committee of 22 June 2010, the proposal is considered to be generally compliant with the Policy and its subsidiary '*Residential Flat Design Code*' document.

The applicant's urban design statement concludes with the following comment:

*"In conclusion, it can be demonstrated that there would be no quantifiable improvements in amenity or streetscape character if the minimum lot size control were strictly applied in this instance.*

*Rather, as a consequence of this analysis, the minimum lot size standard in this particular area of Campbelltown may be actually acting against the objectives it seeks to achieve."*

## **Notification**

In accordance with the requirements of Section 82A of the Environmental Planning and Assessment Act 1979 and Council's Notification Policy, the review request (application) was notified to all land owners who were originally notified of the residential apartment building proposal in early 2010.

During the 14 day notification period, Council received 3 submissions. The submissions received were similar in nature to those received during the original notification of the proposal. For this reason, matters raised in the submissions received during each notification period are discussed below:

**Non-compliance with site area requirements** - some submissions noted the application's non-compliance with Council's minimum area requirement for apartment buildings.

This matter has been discussed both in the previous report submitted to the Planning and Environment Committee meeting held on 22 June 2010 and throughout this report. Essentially, whilst the site is significantly less in area than that amount required by Council's SCDCP, the development satisfactorily meets or exceeds almost all other planning controls and objectives expressed in Council's planning controls as well as the State Government's Residential Flat Design Code.

Notwithstanding the non-compliance with the minimum site area requirement, construction of the subject development is not considered likely to significantly and detrimentally affect the surrounding environment or preclude other adjoining sites from similar, high quality apartment building construction.

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**Car parking** - several submissions raised issue with the existing car parking situation in King Street and the proposal's potential to exacerbate the perceived lack of suitable car parking in the area, particularly during its construction.

King Street presently has time limited on-street car parking. The street also has a large Council-owned free car parking area at its end, located within the Campbelltown Showground site. It is acknowledged that construction of the development will create some traffic and parking impact on the street, however, having regard to the longevity of the proposal, that time period is considered to be relatively short.

The subject development contains sufficient car parking to comply with Council's requirements and whilst on-street car parking will always occur as a result of short visits to residences within the complex, Council cannot prejudice its decision on the proposal, when its requirements are satisfied.

**Traffic** – a number of submissions raised concerns about the impact of this development on the cumulative traffic congestion in the local area.

Whilst the proposal will lead to additional traffic in the locality both during the construction phase and also once the development is completed, it is considered that as parking for both tenants and visitors is being made available on site, the additional demands placed on the road system in terms of additional traffic, volumes are considered to be within the environmental capacity of King Street. Furthermore it is not considered that it will give rise to undue impact within the immediate vicinity or the Campbelltown Central Business District generally.

**Overshadowing** - two submissions raised issue with overshadowing that would be created by the building.

The shadows created by the building would be cast across several properties at different times of the day and would also be cast across King Street itself. The submitted shadow diagrams illustrate that nearby properties would retain access to adequate sunlight in accordance with Council's controls and those contained in the Residential Flat Design Code.

**Amenity** - A submission raised concern with a perceived loss of amenity in the neighbourhood.

The nature of the amenity loss was not quantified, however, the same submission also noted concerns with increases in noise and traffic at the site.

As mentioned earlier, the application complies with relevant controls for the provision of on-site car parking and is considered appropriate for the site having regard to its proximity to Campbelltown station and shopping and other business/service opportunities, which would be likely to result in decreased vehicle trips. With regard to noise, the use of the site for residential purposes, albeit of a higher density in nature, is not considered likely to be of significant consequence to surrounding properties having regard to existing high levels of background noise in the area and likely future development nearby.

Having regard to the submissions and assessment of the application, it is considered that the proposed development forms an acceptable outcome having regard to the existing surrounding development and land uses and Council's desired likely future character for the area, as detailed in the SCDCP's objectives for new residential apartment development, which are:

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- *To encourage high quality, high-density residential apartment development within close proximity to public transport and business centres, which is innovative and responsive to the site's environmental characteristics and setting.*
- *To ensure a high level of amenity for the occupants of residential apartment buildings, adjoining developments and public places.*

## **Conclusion**

The applicant has requested that Council review its previous determination to refuse an application for the construction of a residential apartment building at Nos 12-14 King Street, Campbelltown, pursuant to Section 82A of the *Environmental Planning and Assessment Act, 1979*. The predominant reason for Council's refusal of the application was that the proposal did not comply with the minimum site area requirement as contained in *Campbelltown (Sustainable City) Development Control Plan 2009*.

As part of their review request, the applicant has made minor amendments to the building's external design in order to achieve better privacy for adjoining current and future residents and to achieve greater compliance with certain aspects of Council's SCDCP, particularly in relation to the provision of landscaping. The review was also accompanied by an urban design review statement, which discusses the overlying objectives for development in the area and also discusses the implications of pursuing development solely in compliance with the minimum area requirement. The urban design review argues that smaller allotments, such as that which the development would be contained on, allows for additional landscaping opportunities and increases the variety of streetscapes, whilst decreasing the apparent bulk of larger residential apartment buildings.

## **Officer's Recommendation**

That pursuant to Section 82A(4A) of the *Environmental Planning and Assessment Act, 1979*, Council change its determination of development application 2166/2009/DA-RS to the effect that the development for the demolition of existing dwellings and construction of a six-storey residential apartment building, basement car parking and associated site and landscaping works be approved, subject to the conditions detailed in Attachment 1 of this report.

**Committee Note:** Mr McMahon addressed the Committee on behalf of the applicant.

## **Committee's Recommendation: (Bourke/Hawker)**

That pursuant to Section 82A(4A) of the *Environmental Planning and Assessment Act, 1979*, Council change its determination of development application 2166/2009/DA-RS to the effect that the development for the demolition of existing dwellings and construction of a six-storey residential apartment building, basement car parking and associated site and landscaping works be approved, subject to the conditions detailed in Attachment 1 of this report and the inclusion of an additional condition requiring the provision of a water tank for the collection, storage and onsite reuse of water.

**CARRIED**

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Voting for the Committee's Recommendation were Councillors: Bourke, Greiss, Hawker, Kolkman and Thompson.

Voting against the Committee's Recommendation was Councillor: Oates.

### **Council Meeting 19 October 2010 (Bourke/Thompson)**

That the Committee's Recommendation be adopted.

### **Council Minute Resolution Number 202**

That the Committee's Recommendation be adopted.

Voting for the Council Resolution were Councillors: Borg, Bourke, Glynn, Greiss, Hawker, Kolkman, Lake, Rowell, Thomas and Thompson.

Voting against the Council Resolution were Councillors: Chanthivong, Dobson, Oates and Rule.

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## ATTACHMENT 1

### GENERAL CONDITIONS

The following conditions have been applied to ensure that the use of the land and/or building is carried out in such a manner that is consistent with the aims and objectives of the planning instrument affecting the land.

For the purpose of these conditions, the term 'applicant' means any person who has the authority to act on or benefit of the development consent.

#### 1. Approved Development

The development shall take place in accordance with the approved development plans containing Council's approved development stamp and all associated documentation submitted with the application, except as modified by any conditions of this consent.

Any proposed alterations to these finishes are considered to be a modification to the development consent and require separate approval by Council.

A list of plans approved under this consent, prepared by PRD Architects (job no. 09-030) is:

Plan number	Issue	Date
DA00	B	29-07-2010
DA01	A	23-09-2009
DA02	A	23-09-2009
DA03	B	28-07-2010
DA04	B	29-07-2010
DA05	B	28-07-2010
DA06	B	28-07-2010
DA07	B	28-07-2010
DA08	B	28-07-2010
DA09	B	30-07-2010
DA10	B	30-07-2010
DA11	A	23-09-2009

Approved plans prepared by Sherson Lautier Consultancy Pty. Ltd. Consultants relating to water management of the site are:

Plan number	Amendment	Date
09156-C1		4 – 9 – 2009
09156-C2		4 – 9 – 2009
09156-C3		4 – 9 – 2009
09156-C4		4 – 9 – 2009
09156-C5	A	29 – 1 – 2010
09156-C6		4 – 9 – 2009

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Approved plans prepared by Ochre Landscape Architects relating to landscaping and tree planting at the site are:

Plan number	Amendment	Date
1174-LC01	Issue: CC	4 – 2 – 2010
1174-LC02	Issue: CC	4 – 2 – 2010

The following reports and recommendations as detailed in the statement of environmental effects accompanying the application form part of the development consent, except as modified by any conditions of this consent.

Report	Prepared by	Date
Statement of Environmental Effects	D-Plan Urban Planning Consultants Pty Ltd	October 2009
Residential Flat Design Code Assessment	D-Plan Urban Planning Consultants Pty Ltd	January 2010
Waste Management Plan	Applicant	October 2009

## 2. Building Code of Australia

All building work must be carried out in accordance with the provisions of the *Building Code of Australia*. In this clause, a reference to the *Building Code of Australia* is a reference to that Code as in force on the date the application for the relevant construction certificate is made.

## 3. Contract of Insurance (residential building work)

In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

This clause does not apply:

- a. To the extent to which an exemption is in force under Clause 187 or 188 of the Environmental Planning and Assessment Regulation 2000, subject to the terms of any condition or requirement referred to in Clause 187(6) or 188(4) of that regulation, or
- b. To the erection of a temporary building.

## 4. Notification of Home Building Act 1989 Requirements

Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the principal certifying authority for the development to which the work relates (not being Council) has given Council written notice of the following information:

- a. In the case of work for which a principal contractor is required to be appointed:
    - i. The name and licence number of the principal contractor, and
-

- ii. The name of the insurer by which the work is insured under Part 6 of that Act.
- b. In the case of work to be done by an owner-builder:
  - i. The name of the owner-builder, and
  - ii. If the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being Council) has given Council written notification of the updated information.

## **5. Fencing**

Fencing around the site shall be constructed in accordance with the approved development plans at the sole cost of the developer. 'Colorbond' style metal fences that face a public space are not permitted.

## **6. Landscaping**

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

## **7. External Finishes**

The external finishes shall be in accordance with the approved plans and the schedule of finishes submitted with this application. Any proposed alterations to these finishes are considered to be a modification to the development consent and require separate approval by Council.

## **8. Unreasonable Noise, Dust and Vibration**

The development, including operation of vehicles, shall be conducted so as to avoid unreasonable noise, dust or vibration and cause no interference to adjoining or nearby occupants. Special precautions must be taken to avoid nuisance in neighbouring residential areas.

In the event of a noise, dust or vibration problem arising at the time, the person in charge of the premises shall when instructed by Council, cause to be carried out an acoustic investigation by an appropriate acoustical consultant and submit the results to Council. If required by Council, the person in charge of the premises shall implement any or all of the recommendations of the consultant and any additional requirements of Council to Council's satisfaction.

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## **9. Garbage Room**

The garbage storage room identified on the approved plans shall:

- a. Be fully enclosed and shall be provided with a concrete floor, with concrete or cement rendered walls coved to the floor.
- b. The floor shall be graded to an approved sewer connection incorporating a sump and galvanised grate cover or basket.
- c. A hose cock shall be provided within the room.
- d. Garbage rooms shall be vented to the external air by natural or artificial means.

## **10. Rubbish/Recycling Bin Storage**

The rubbish and recycling bins shall not be stored within vehicle parking, vehicle manoeuvring areas or landscaped areas.

The bin(s) shall only be stored in accordance with the approved plans.

The garbage compactor and bin storage room shall be finished in accordance with the requirements of Section 4.3.10 of Council's Sustainable City Development Control Plan.

## **11. Switchboards/Utilities**

Switchboards, garbage storage areas and storage for other utilities shall not be attached to the front elevations of the building or side elevations that can be seen from a public place.

## **12. Shoring and Adequacy of Adjoining Property**

If the development referred to in this development consent involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must at the person's own expense:

- (a) Protect and support the adjoining premises from possible damage from the excavation, and
- (b) Where necessary, underpin the adjoining premises to prevent any such damage.

This condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

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**13. Lighting**

Illumination of the site is to be arranged to provide an appropriate level of lighting and in accordance with the requirements of *Australian Standard 4282 (as amended)* so as not to impact upon the amenity of the occupants of adjoining and nearby residential premises or traffic.

**14. Graffiti Removal**

In accordance with the environmental maintenance objectives of 'Crime Prevention Through Environmental Design', the owner/lessee of the building shall be responsible for the removal of any graffiti which appears on the buildings, fences, signs and other surfaces of the property within 48 hours of its application.

**15. Engineering Design Works**

The design of all engineering works shall be carried out in accordance with the requirements set out in the *Campbelltown (Sustainable City) DCP 2009 - Volumes 1 and 2*.

**16. Car Parking Spaces**

Forty (40) car parking spaces shall be designed, sealed, line marked and made available to all users of the site in accordance with Australian Standard 2890 (as amended).

The ceiling of basement car parking levels is to be finished in white paint to increase the effectiveness of lighting.

**17. Basement Car Park Security**

The basement car parking area shall be fitted with a secure roller shutter device and associated security keys to restrict access to the car park for residents and their visitors only.

**18. Common Area**

The common room and adjacent paved open space shall be made available for the use of residents and their visitors at all times.

The applicant shall install at least one permanent barbecue within the outdoor paved open space area for use by residents. The barbecue shall be maintained in a hygienic manner and kept in good order by the managing body of the unit complex.

**19. Air Conditioning Units**

Air conditioning units shall not be affixed to external walls of the building or placed on balconies where they are visible from a public place.

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## **20. Balcony Privacy Protection**

Balconies on the northern elevation of the building shall be fitted with sliding walls or louvres or other privacy screening structures to the satisfaction of Council to reduce the building's potential privacy impact on existing and future dwellings near the development.

## **PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE**

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

### **21. Geotechnical Report**

Prior to Council or an accredited certifier issuing a construction certificate, a geotechnical report prepared by a NATA registered lab shall be submitted which indicates that the land will not be subject to subsidence, slip, slope failure or erosion where excavation and/or filling exceeds 900mm in depth or identified as filled land.

### **22. Water/Electricity Utility Services**

Prior to Council or an accredited certifier issuing a construction certificate, the applicant shall submit written evidence of the following service provider requirements:

- a. *Integral Energy* - A letter of consent demonstrating that satisfactory arrangements have been made to service the proposed development.
- b. *Sydney Water* - The submission of a 'Notice of Requirements' under Section 73 of the *Water Board (Corporation) Act 1994*.

### **23. Sydney Water Stamped Plans**

Prior to Council or an accredited certifier issuing a construction certificate, development plans shall be submitted to a *Sydney Water Customer Centre or Quick Check Agent*, to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and or easements, and if further requirements need to be met. The plans, including any amended plans are required to be appropriately stamped.

### **24. Telecommunications Utility Services**

Prior to Council or an accredited certifier issuing a construction certificate, the applicant shall submit written evidence demonstrating that satisfactory arrangements have been made with a telecommunications carrier to service the proposed development.

### **25. Soil and Water Management Plan**

Prior to Council or an accredited certifier issuing a construction certificate, a detailed soil and water management plan shall be submitted for approval.

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**26. Waste Management – Private Collection**

Prior to Council or an accredited certifier issuing a construction certificate, the applicant shall submit to Council details of the collection and disposal of internal waste generated by the occupants to be arranged through a licensed authorised contractor.

The details to be submitted shall also include information regarding the appointment and retention of a caretaker, who would be responsible for circulating the bins throughout the building and to the street for collection. The details shall also include information regarding the method for collection, storage and disposal of 'green waste' resulting from maintenance of the site's landscaped areas.

**27. Traffic Committee**

Prior to Council or an accredited certifier issuing a construction certificate, the applicant shall submit plans and obtain approval from Council's Local Traffic Committee for the placement of regulatory sign posting within King Street. In this regard, sign posting shall be provided that stipulates that the area in front of the development is a "No Parking" zone for a period of at least one hour either side of the scheduled garbage and recycling collections that would take place at the site.

**28. Traffic Control Plans**

Prior to Council or an accredited certifier issuing a construction certificate, the applicant shall prepare and obtain approval from an accredited person, a Traffic Control Plan (TCP) in accordance with the *RTA manual "Traffic Control at Work Sites"* and *Australian Standard AS 1742.3 (as amended)*. A copy of the approved TCP shall be kept on site for the duration of the works in accordance with *Work Cover Authority* requirements. A copy shall be submitted to Council for its records.

**29. Stormwater Management Plan (Development)**

Prior to Council or an accredited certifier issuing a construction certificate, a plan indicating all engineering details and calculations relevant to site regrading and the collection and disposal of stormwater from the site, building/s and adjacent catchment, shall be submitted for approval. Floor levels of all buildings shall be a minimum of 150mm above the adjacent finished site levels and stormwater shall be conveyed from the site in accordance with the approved stormwater concept plan submitted with the application. All proposals shall comply with the *Campbelltown (Sustainable City) DCP 2009 - Volumes 1 and 2*.

**30. Consolidation of Allotments**

Prior to Council or an accredited certifier issuing a construction certificate, the applicant shall submit a copy of the plan which consolidates the allotments that are the subject of the development application and have the plan registered with the Department of Land and Property Information.

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### **31. Section 94A Developer Contribution - Community Facilities and Services**

Prior to Council or an accredited certifier issuing a Complying Development Certificate or a Construction Certificate (or where a Construction Certificate is not required, a Subdivision Certificate), the applicant shall provide a receipt for the payment to Council of a community facilities and services contribution in accordance with the provisions of the *Campbelltown City Council Section 94A Development Contributions Plan*.

For the purposes of calculating the required S94A contribution, where the value of the total development cost exceeds \$100,000, the applicant is required to include with the application for the respective certificate, a report setting out a cost estimate of the proposed development in accordance with the following:

- where the value of the proposed development is greater than \$100,000 but less than \$500,000, provide a Cost Summary Report by a person who, in the opinion of the Council, is suitably qualified to provide a Cost Summary Report (Cost Summary Report Template 1). All Cost Summaries will be subject to indexation on a quarterly basis relative to the *Consumer Price Index - All Groups* (Sydney) where the contribution amount will be based on the indexed value of the development applicable at the time of payment; or
- where the value of the proposed development is \$500,000 or more, provide a detailed development cost report completed by a quantity surveyor who is a registered member of the Australian Institute of Quantity Surveyors (Quantity Surveyors Estimate Report Template 2). Payment of contribution fees will not be accepted unless the amount being paid is based on a Quantity Surveyors Estimate Report (QS Report) that has been issued within 90 days of the date of payment. Where the QS Report is older than 90 days, the applicant shall provide an updated QS Report that has been indexed in accordance with clause 25J(4) of the Environmental Planning and Assessment Regulation 2000 to ensure quarterly variations in the *Consumer Price Index All Group Index Number for Sydney* have been incorporated in the updated QS Report.

Copies of the Cost Summary Report - Template 1 and the Quantity Surveyors Estimate Report - Template 2 are located under "Developer Contributions" on Council's web site ([www.campbelltown.nsw.gov.au](http://www.campbelltown.nsw.gov.au)) or can be collected from Council's Planning and Environment Division during normal business hours.

On calculation of the applicable contributions, all amounts payable will be confirmed by Council in writing.

Payment of Section 94A Developer Contributions will only be accepted by way of Cash, Credit Card or Bank Cheque issued by an Australian bank. Payment by any other means will not be accepted unless otherwise approved in writing by Council.

**Note: This condition is only applicable where the total development value exceeds \$100,000.**

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**32. Dilapidation Report**

Prior to Council or an accredited certifier issuing a construction certificate, the applicant shall submit a dilapidation report for all buildings on lands that adjoin the subject works that may be affected by the underground construction activities associated with the development.

**33. Work on Public Land**

Prior to Council or an accredited certifier issuing a construction certificate, the applicant shall obtain written approval from Council for any proposed work on public land. Inspection of this work shall be undertaken by Council at the applicants expense and a compliance certificate, approving the works, shall be obtained from Council prior to the principal certifying authority issuing an occupation certificate.

**PRIOR TO THE COMMENCEMENT OF ANY WORKS**

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

**34. Demolition of Existing Dwelling**

Prior to the commencement of any other works, the existing dwelling and all other improvements on the land shall be demolished in accordance with the conditions of this consent.

**35. Erosion and Sediment Control**

Prior to the commencement of any works on the land, adequate/approved erosion and sediment control measures shall be fully installed/implemented.

**36. Erection of Construction Sign**

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

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

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

### **37. Toilet on Construction Site**

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

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

### **38. Vehicular Access during Construction**

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

### **39. Public Property**

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

### **40. Demolition Works**

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.
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- 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 Work Cover NSW prior to the commencement of any works.

#### **41. Footpath and Vehicular Crossing Levels**

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

#### **42. Hoarding / Fence**

Prior to the commencement of any works, a hoarding or fence must be erected between the work site and a public place if the work involved in the development is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or if the building involves the enclosure of a public place in accordance with Work Cover requirements.

The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

A separate land use application under Section 68 of the *Local Government Act 1993* shall be submitted to and approved by Council prior to the erection of any hoarding on public land.

### **DEVELOPMENT REQUIREMENTS DURING CONSTRUCTION**

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

#### **43. Construction Work Hours**

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

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

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#### **44. Erosion and Sediment Control**

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

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

#### **45. Work Zones**

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

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

#### **46. Fill Compaction Requirements**

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

#### **47. Fill Contamination**

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

#### **48. Dust Nuisance**

Measures shall be implemented to minimise wind erosion and dust nuisance in accordance with the requirements of the manual – *'Soils and Construction (2004) (Bluebook)*. Construction areas shall be treated/ regularly watered to the satisfaction of the principal certifying authority.

#### **49. Excess Material**

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

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**50. Public Safety**

Any works undertaken in a public place are to be maintained in a safe condition at all times in accordance with AS 1742.3. Council may at any time and without prior notification make safe any such works Council considers to be unsafe, and recover all reasonable costs incurred from the applicant.

**51. Compliance with Council Specification**

All design and construction work shall be in accordance with:

- a. Council's specification for Construction of Subdivisional Road and Drainage Works (as amended);
- b. *Campbelltown (Sustainable City) DCP 2009 - Volumes 1 and 2,*
- c. 'Soils and Construction (2004) (Bluebook); and
- d. Relevant Australian standards and State Government publications.

**52. Footpath Kerb and Gutter**

The applicant shall re-construct all damaged bays of concrete path paving and kerb & gutter, adjacent to the site, in King Street. Areas not concreted shall be re-graded, topsoiled and turfed. All works shall be in accordance with Council's *Specification for Construction of Subdivisional Road and Drainage Works (as amended)* and with the design requirements of the *Campbelltown (Sustainable City) DCP 2009 - Volumes 1 and 2.*

**53. Medium Density Driveway and Layback Crossing**

The applicant shall provide a reinforced concrete driveway and layback crossing/s to Council's *Medium Density Vehicle Crossing Specification.*

A separate application for this work, which will be subject to a crossing inspection fee, fixing of levels and inspections by Council, must be lodged with Council. Conduits must be provided to service authority requirements.

**54. Associated Works**

The applicant shall undertake any works external to the development that are made necessary by the development to make a smooth junction with existing work.

**55. Redundant Laybacks**

Redundant layback and vehicle crossing shall be reinstated to conventional kerb and gutter to Council's *Specification for Construction of Subdivisional Road and Drainage Works (as amended)* and with the design requirements of the *Campbelltown (Sustainable City) DCP 2009 - Volumes 1 and 2.*

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## **56. Completion of Construction Works**

Unless otherwise specified in this consent, all construction works associated with the approved development shall be completed within twelve (12) months of the date of the notice of the intention to commence construction works under Section 81A of the Act.

In the event that construction works are not continually ongoing, the applicant shall appropriately screen the construction site from public view with architectural devices and landscaping to Council's written satisfaction.

## **PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE**

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

Note: For the purpose of this development consent, any reference to "occupation certificate" shall also be taken to mean "interim occupation certificate".

## **57. Restoration of Public Roads**

Prior to the principal certifying authority issuing an occupation certificate, the restoration of public road and associated works required as a result of the development shall be carried out by Council and all costs shall be paid by the applicant.

## **58. Section 73 Certificate**

Prior to the principal certifying authority issuing an occupation certificate, the submission of a Section 73 certificate issued by *Sydney Water*.

## **59. Structural Engineering Certificate**

Prior to the principal certifying authority issuing an occupation certificate, the submission of a certificate from a practising structural engineer certifying that the building has been erected in compliance with the approved structural drawings and relevant *SAA Codes* and is structurally adequate.

## **60. Completion of External Works Onsite**

Prior to the principal certifying authority issuing an occupation certificate, all external works, repairs and renovations detailed in the schedule of treatment/finishes, landscaping, driveways, fencing and retaining walls are to be completed to the satisfaction of the principal certifying authority.

## **61. BASIX**

Prior to the principal certifying authority issuing an occupation certificate, completion of all requirements listed in the BASIX certification for the subject development shall be completed/installed.

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## **62. Public Utilities**

Prior to the principal certifying authority issuing an occupation certificate, any adjustments to public utilities, required as a result of the development, shall be completed to the satisfaction of the relevant authority and at the applicant's expense.

## **63. Council Fees and Charges**

Prior to the principal certifying authority issuing an occupation certificate, the applicant shall obtain written confirmation from Council that all applicable Council fees and charges associated with the development have been paid in full. Written confirmation will be provided to the applicant following Council's final inspection and satisfactory clearance of the public area adjacent the site.

## **ADVISORY NOTES**

The following information is provided for your assistance to ensure compliance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, other relevant Council Policy/s and other relevant requirements. This information does not form part of the conditions of development consent pursuant to Section 80A of the Act.

### **Advice 1. Environmental Planning and Assessment Act 1979 Requirements**

The Environmental Planning and Assessment Act 1979 requires you to:

- a. Obtain a construction certificate prior to the commencement of any works. Enquiries regarding the issue of a construction certificate can be made to Council's Customer Service Centre on 4645 4608.
- b. Nominate a principal certifying authority and notify Council of that appointment prior to the commencement of any works.
- c. Give Council at least two days notice prior to the commencement of any works.
- d. Have mandatory inspections of nominated stages of the construction inspected.
- e. Obtain an occupation certificate before occupying any building or commencing the use of the land.

### **Advice 2. Tree Preservation Order**

To ensure the maintenance and protection of the existing natural environment, you are not permitted to ringbark, cut down, top, lop, remove, wilfully injure or destroy a tree outside 3 metres of the building envelope unless you have obtained prior written consent from Council. Fines may be imposed if you choose to contravene Council's Tree Preservation Order.

A tree is defined as a perennial plant with self supporting stems that are more than 3 metres or has a trunk diameter more than 150mm measured 1 metre above ground level, and excludes any tree declared under the Noxious Weeds Act (NSW).

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**Advice 3. Disability Discrimination Act**

Nothing in this consent is to be taken to imply that the development meets the requirements of the *Disability Discrimination Act 1992* (DDA1992). Where a Construction Certificate is required for the approved works, due regard is to be given to the requirements of the *Building Code of Australia* (BCA). However, your attention is drawn to the existence of the DDA1992 and that compliance with the various requirements of the BCA does not provide automatic compliance with the DDA1992. In this regard it is the sole responsibility of the owner, builder and applicant to ensure compliance with the DDA1992.

**Advice 4. Filling on Site**

Council's records in respect of this lot indicate that varying depths of filling covers the natural ground surface.

**Advice 5. Buried Waste**

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

**Advice 6. Inspection Within Public Areas**

All works within public areas are required to be inspected at all stages of construction and approved by Council prior to the principal certifying authority releasing the Occupation Certificate.

**Advice 7. Adjustment to Public Utilities**

Adjustment to any public utilities necessitated by the development is required to be completed prior to the occupation of the premises and in accordance with the requirements of the relevant Authority. Any costs associated with these adjustments are to be borne by the applicant.

**Advice 8. Salinity**

Please note that Campbelltown is an area of known salinity potential. As such any salinity issues should be addressed as part of the construction certificate application. Further information regarding salinity management is available within *Campbelltown (Sustainable City) DCP 2009 - Volumes 1 and 2*.

**Advice 9. Asbestos Warning**

Should asbestos or asbestos products be encountered during construction or demolition works you are advised to seek advice and information prior to disturbing the material. It is recommended that a contractor holding an asbestos-handling permit (issued by Work Cover NSW), be engaged to manage the proper disposal and handling of the material. Further information regarding the safe handling and removal of asbestos can be found at:

[www.environment.nsw.gov.au](http://www.environment.nsw.gov.au)  
[www.nsw.gov.au/fibro](http://www.nsw.gov.au/fibro)  
[www.adfa.org.au](http://www.adfa.org.au)  
[www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au)

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Alternatively, call Work Cover Asbestos and Demolition Team on 8260 5885.

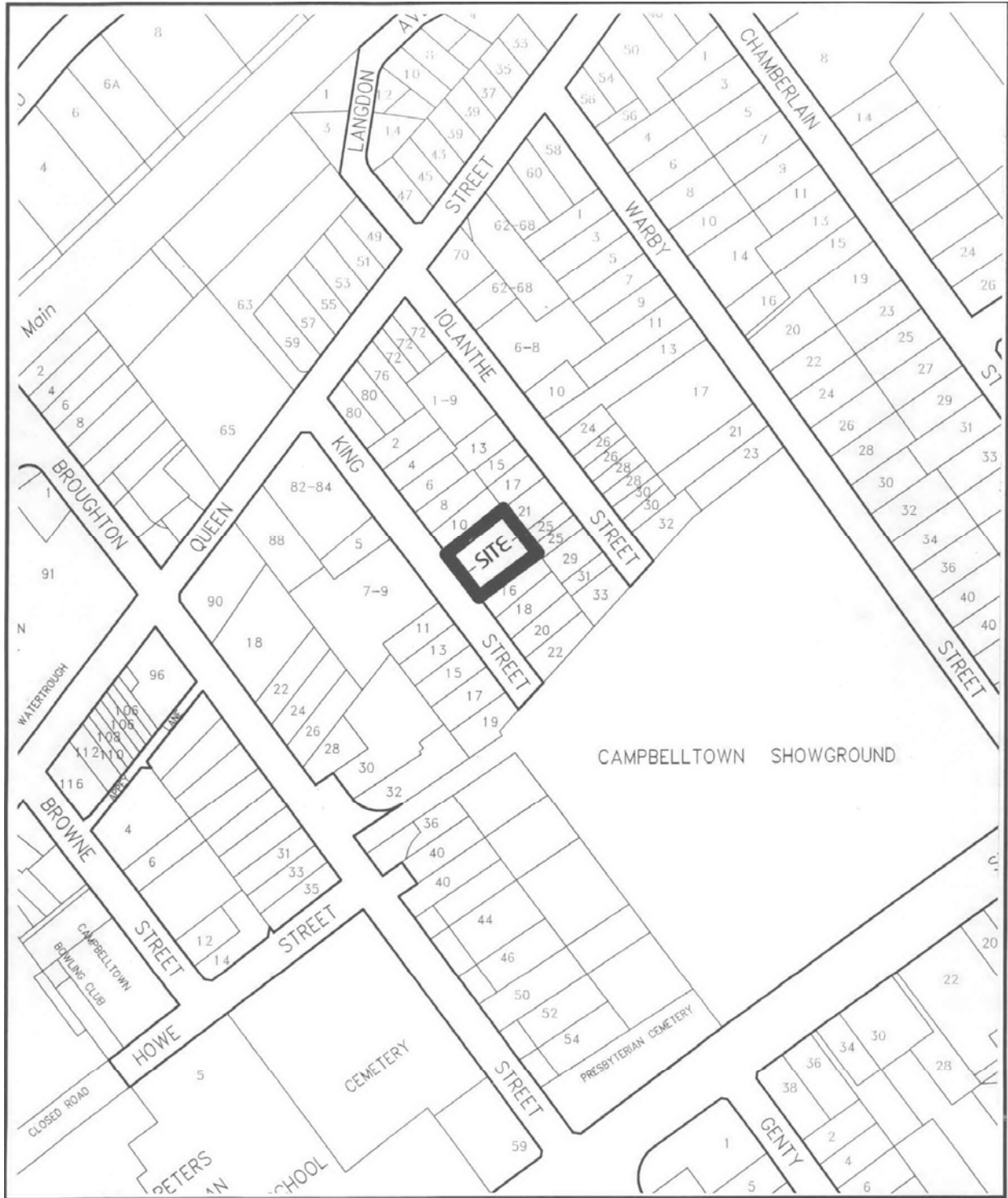
**Advice 10. Dial 1100 Before you Dig**

Underground cable and pipes may exist in the area. In your own interest and for safety, telephone 1100 before excavation or erection of structures. Information on the location of underground pipes and cables can also be obtained by fax on 1300 652 077 or through the following website - [www.dialbeforeyoudig.com.au](http://www.dialbeforeyoudig.com.au).

**END OF CONDITIONS**

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## ATTACHMENT 2



### LOCALITY PLAN



**SUBJECT:** Nos 12-14 KING STREET, CAMPBELLTOWN - REVIEW OF DETERMINATION  
TO REFUSE CONSTRUCTION OF A SIX STOREY RESIDENTIAL APPARTMENT  
BUILDING, BASEMENT CAR PARK & ASSOCIATED SITE & LANDSCAPING WORKS

## ATTACHMENT 3



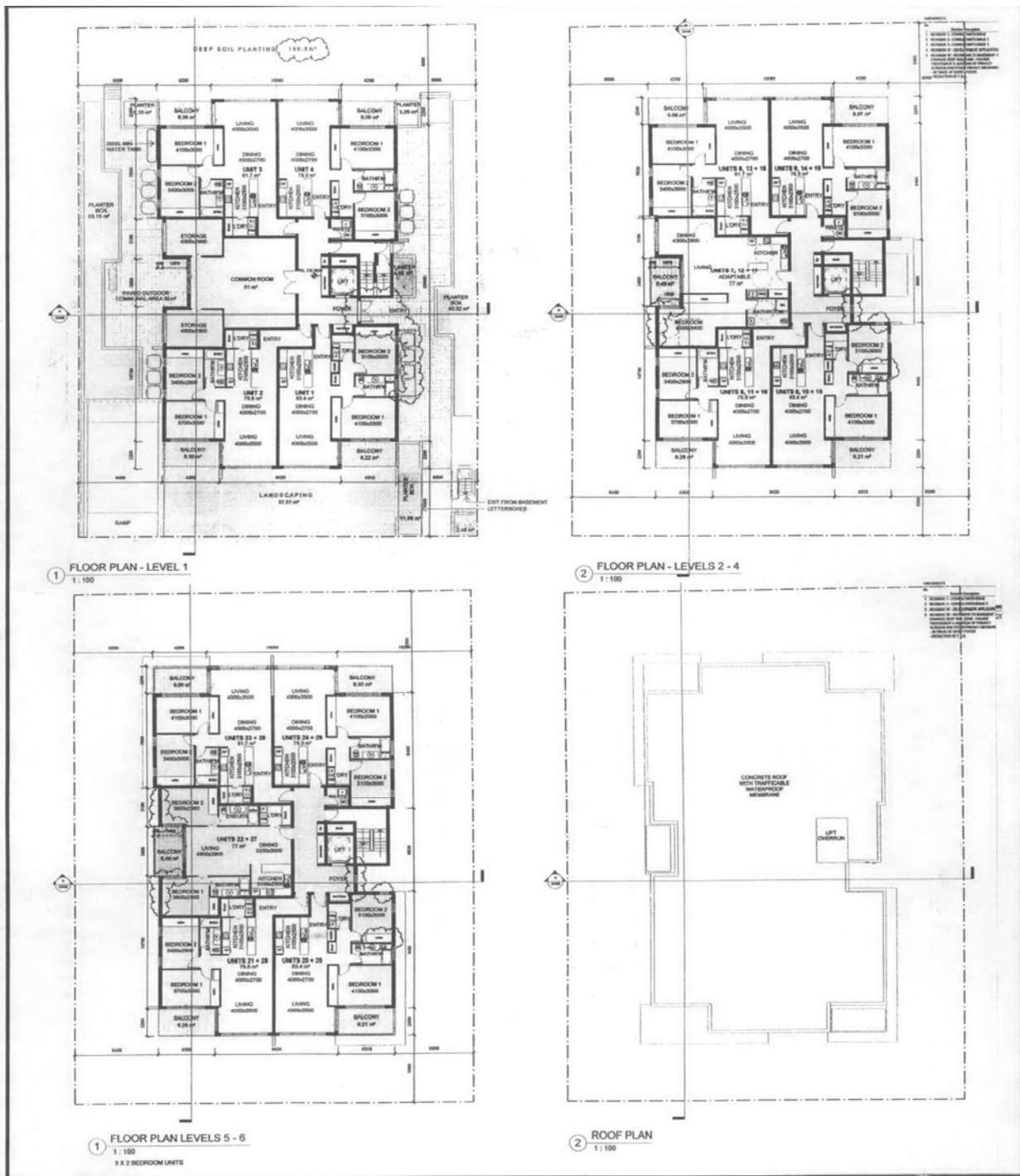
### PHOTOGRAPHIC IMPRESSION

**SUBJECT:** Nos 12-14 KING STREET, CAMPBELLTOWN - REVIEW OF DETERMINATION  
TO REFUSE CONSTRUCTION OF A SIX STOREY RESIDENTIAL APPARTMENT  
BUILDING, BASEMENT CAR PARK & ASSOCIATED SITE & LANDSCAPING WORKS

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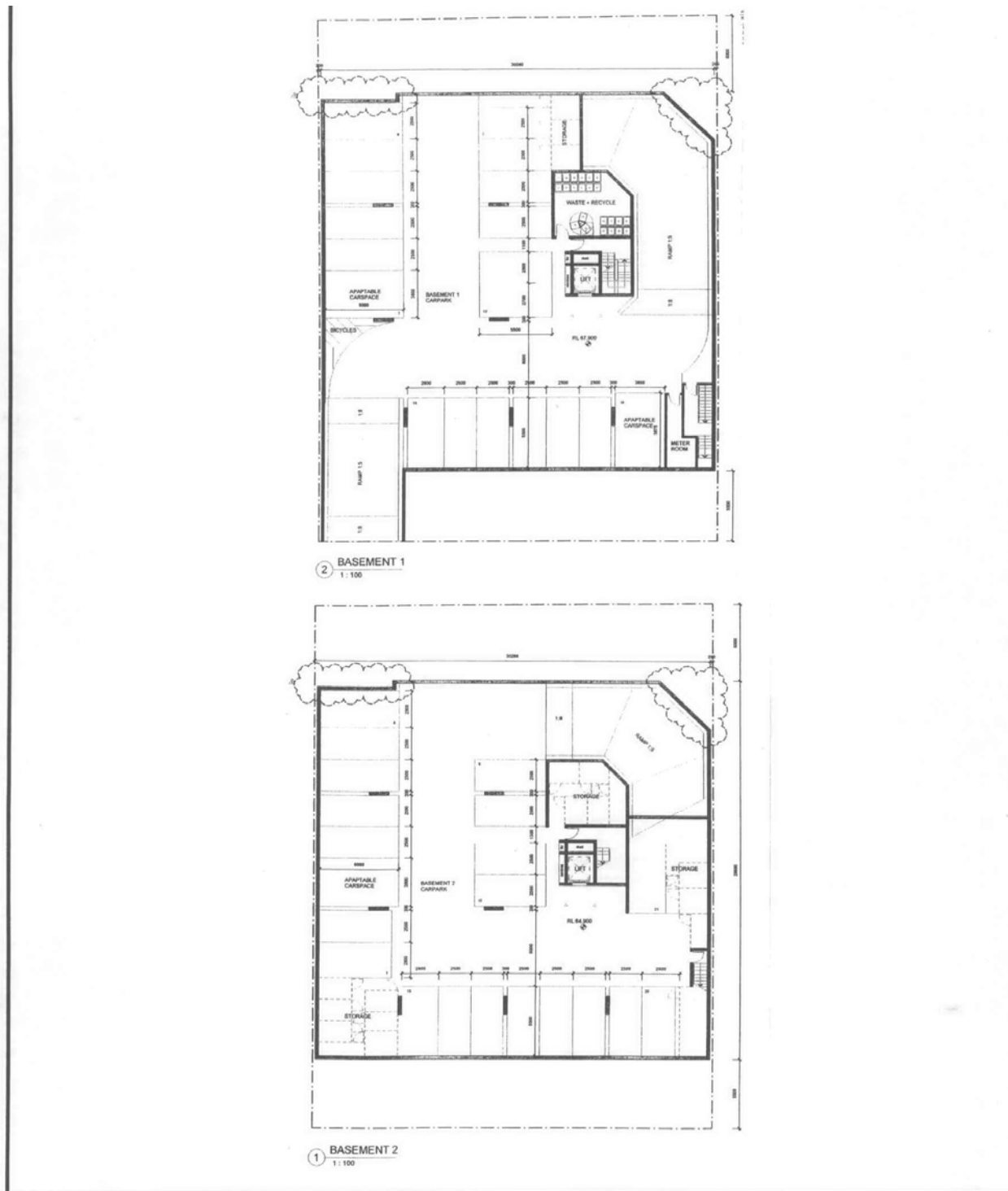
## ATTACHMENT 4



## SITE LAYOUT PLAN & FLOOR PLANS

**SUBJECT:** Nos 12-14 KING STREET, CAMPBELLTOWN - REVIEW OF DETERMINATION  
 TO REFUSE CONSTRUCTION OF A SIX STOREY RESIDENTIAL APARTMENT  
 BUILDING, BASEMENT CAR PARK & ASSOCIATED SITE & LANDSCAPING WORKS

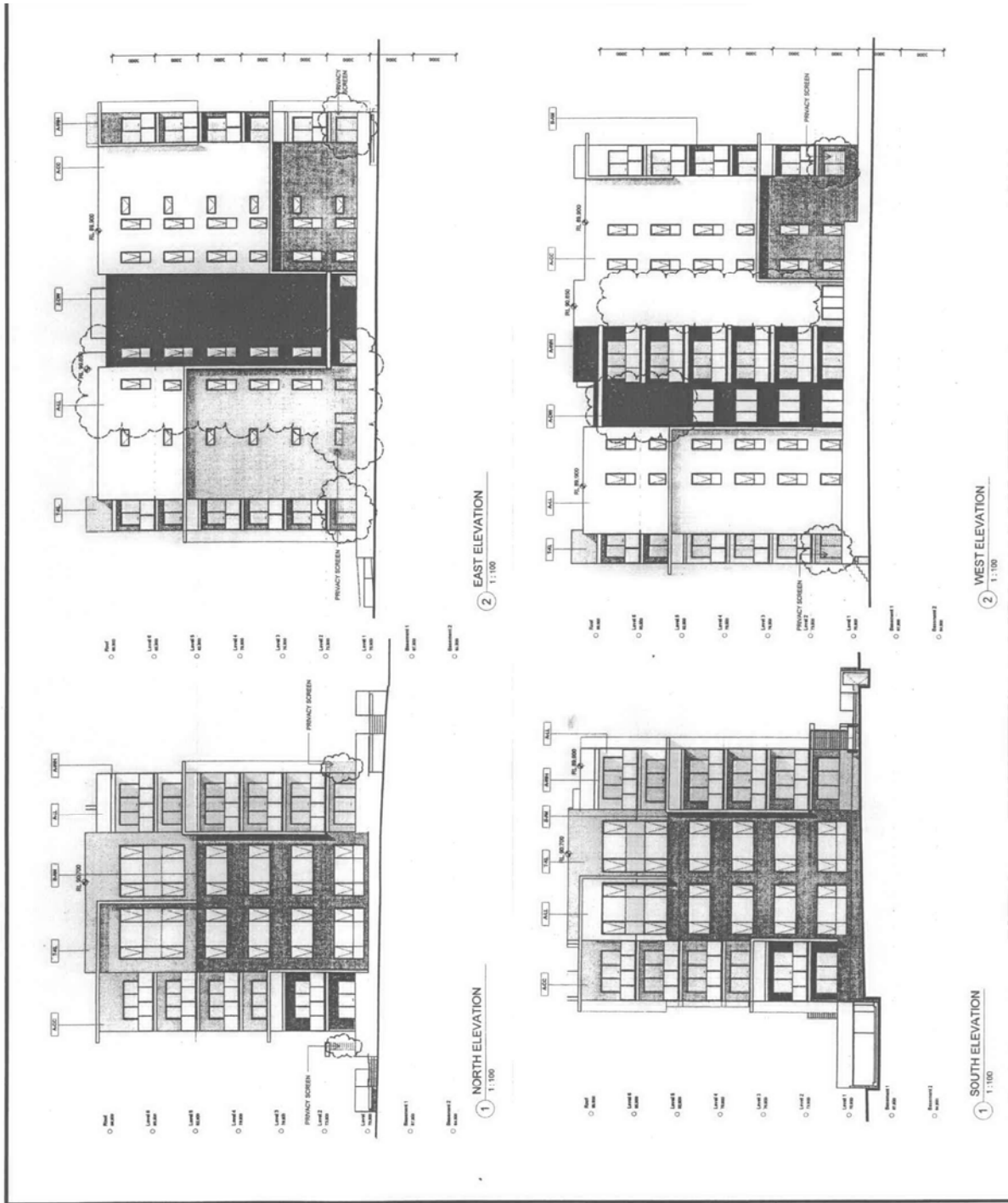
## ATTACHMENT 5



## BASEMENT PLANS

**SUBJECT:** Nos 12-14 KING STREET, CAMPBELLTOWN - REVIEW OF DETERMINATION  
TO REFUSE CONSTRUCTION OF A SIX STOREY RESIDENTIAL APARTMENT  
BUILDING, BASEMENT CAR PARK & ASSOCIATED SITE & LANDSCAPING WORKS

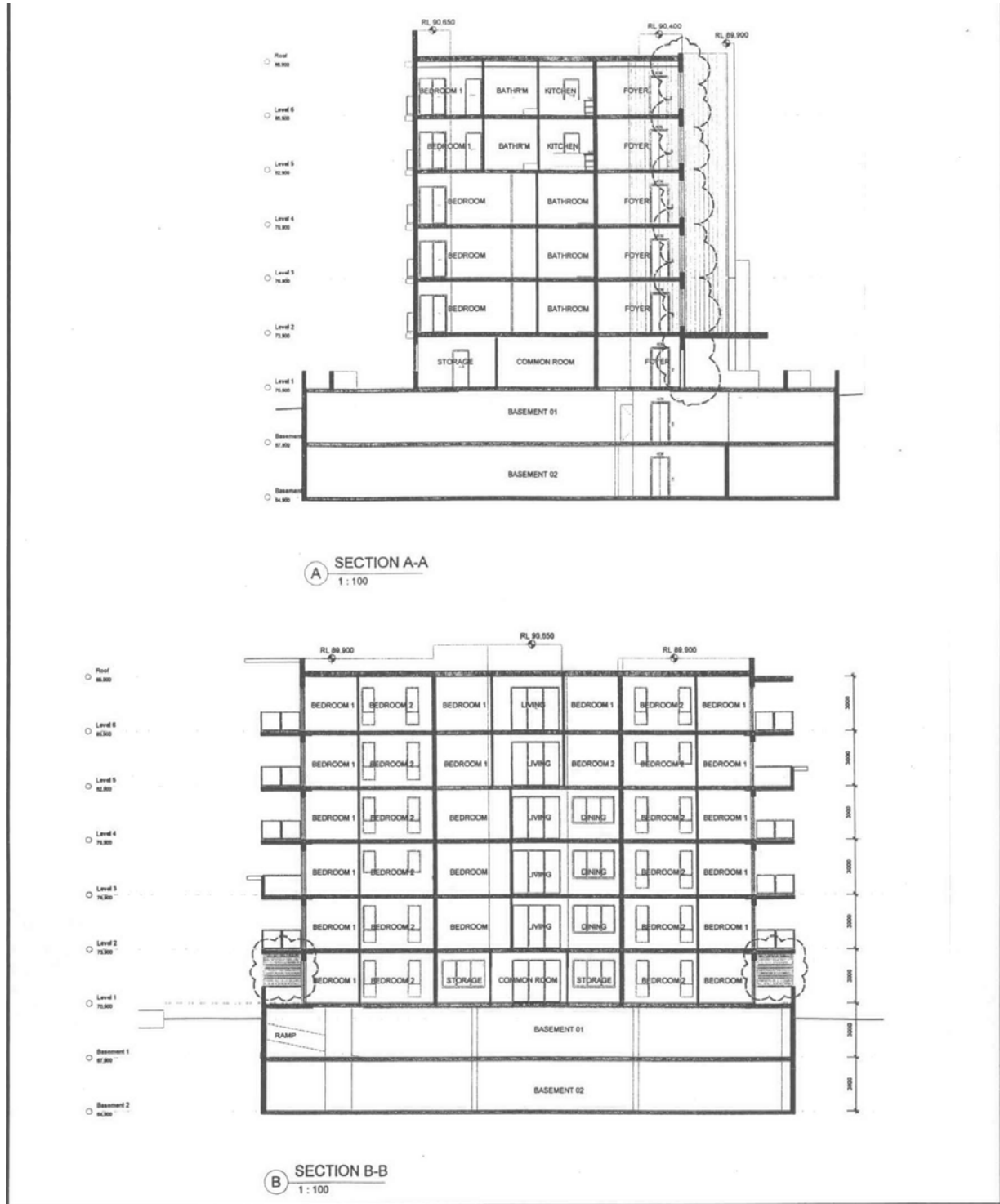
## ATTACHMENT 6



### ELEVATIONS

**SUBJECT:** Nos 12-14 KING STREET, CAMPBELLTOWN - REVIEW OF DETERMINATION TO REFUSE CONSTRUCTION OF A SIX STOREY RESIDENTIAL APARTMENT BUILDING, BASEMENT CAR PARK & ASSOCIATED SITE & LANDSCAPING WORKS

## ATTACHMENT 7



## SECTION PLANS

**SUBJECT:** Nos 12-14 KING STREET, CAMPBELLTOWN - REVIEW OF DETERMINATION  
 TO REFUSE CONSTRUCTION OF A SIX STOREY RESIDENTIAL APPARTMENT  
 BUILDING, BASEMENT CAR PARK & ASSOCIATED SITE & LANDSCAPING WORKS

## ATTACHMENT 8



① 3D View 01



① 3D View 02

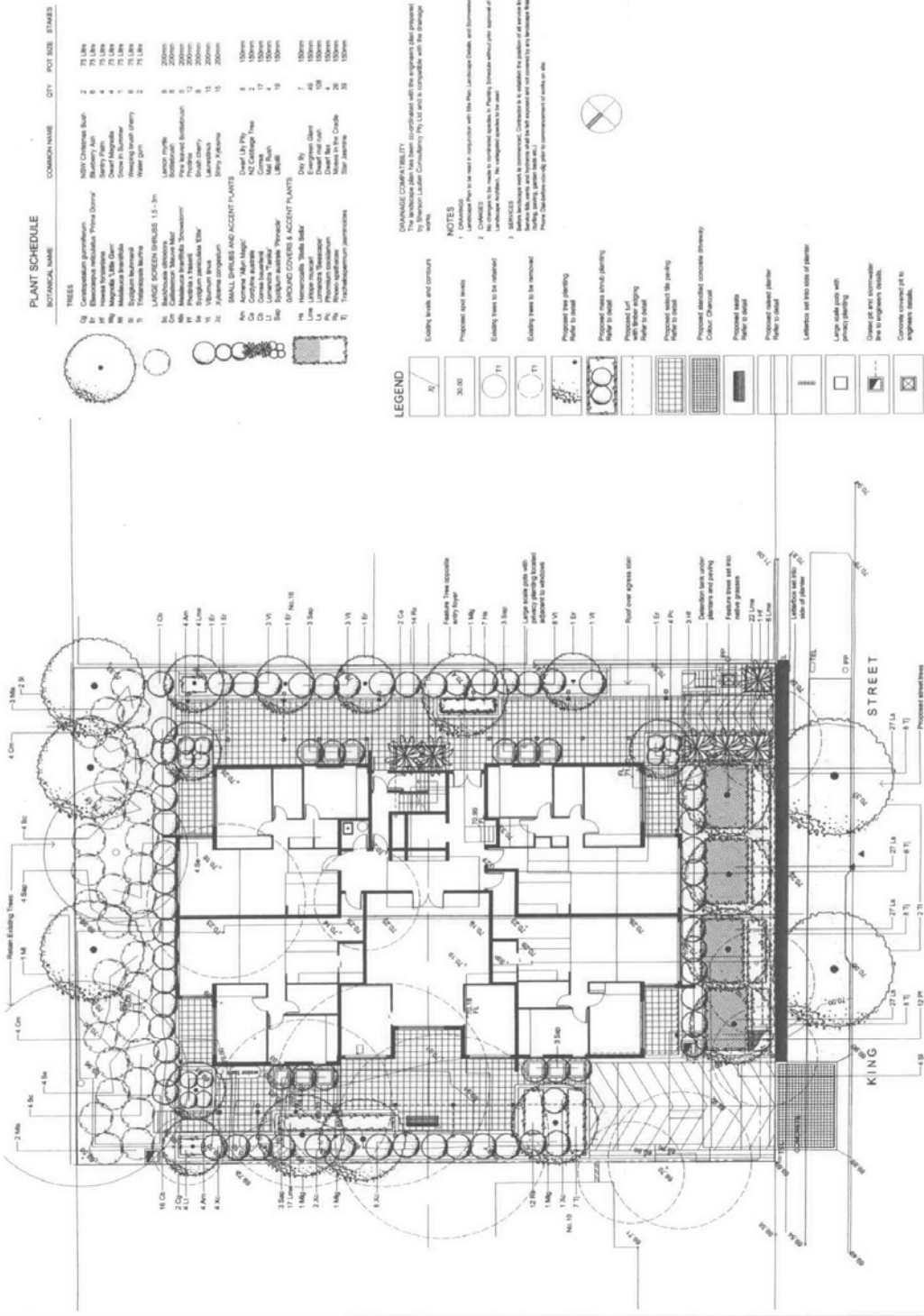
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### 3D PERSPECTIVES

**SUBJECT:** Nos 12-14 KING STREET, CAMPBELLTOWN - REVIEW OF DETERMINATION  
TO REFUSE CONSTRUCTION OF A SIX STOREY RESIDENTIAL APPARTMENT  
BUILDING, BASEMENT CAR PARK & ASSOCIATED SITE & LANDSCAPING WORKS

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# ATTACHMENT 9



## LANDSCAPING

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### 3.3 No. 7 Minerva Road, Wedderburn - Proposed Two Lot Subdivision

#### Reporting Officer

Manager Development Services

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#### Attachments

1. Recommended Conditions
2. Locality plan
3. Proposed Subdivision Plan
4. State Environmental Planning Policy No. 1 – Applicants Objection (distributed under separate cover)

#### Purpose

To assist Council in its determination of the subject Development Application in accordance with the provisions of the Environmental Planning and Assessment Act 1979 (EP&A Act).

<b>Property Description</b>	Lot 8, DP 22230 – No. 7 Minerva Road, Wedderburn
<b>Application</b>	3030/2007/DA-S
<b>Applicant</b>	Rhodes Haskew Associates
<b>Owner</b>	Michael Salter
<b>Statutory Provisions</b>	State Environmental Planning Policy No. 44 – Koala Habitat State Environmental Planning Policy No. 55 – Remediation of Land Greater Metropolitan Regional Environmental Plan 2 – Georges River Catchment Campbelltown Local Environmental Plan No. 1 Rural Fires Act 1997 State Environmental Planning Policy No. 1 – Development Standards
<b>Other Provisions</b>	Campbelltown (Sustainable City) Development Control Plan 2009 Development Control Plan No. 49 – Rural Environmental Protection Subdivision and Dwelling Policy
<b>Strategic Context</b>	Campbelltown 2025 Looking Forward
<b>Date Received</b>	5 December 2007

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## **Report**

### **Introduction**

The subject property is zoned 1(c) Rural "C" (Small Holdings) under Campbelltown Local Environmental Plan No. 1 (LEP 1). The site is a vacant allotment with an area of 8.056 hectares, located on the south eastern corner of the intersection of Minerva Road and Hodgson Close. The land contains remnant vegetation, though the site has previously been used for orcharding activities.

The application is for the subdivision of the land into two (2) allotments, Lot 801 – 6.056 hectares and Lot 802 – 2.00 hectares, each with separate road frontage. Both lots would provide an opportunity for future dwellings, which would be subject to a separate Development Application.

The proposal requires a variation to the subdivision Development Standard found under Clause 7(4) of LEP 1. The application includes an objection to the Development Standard, made in accordance with the provisions of State Environmental Planning Policy No. 1 (SEPP 1).

The site is identified as bushfire prone, and as such, the application requires authorisation from the NSW Rural Fire Service pursuant to Section 100B of the Rural Fires Act 1997. Whilst the application was not made as an Integrated Development proposal, a Bush Fire Hazard Assessment has been provided for consideration.

### **The Site**

The subject site is situated directly adjacent to the south eastern corner of the intersection of Minerva Road and Hodgson Close at Wedderburn. The land is legally described as Lot 8, DP 22230, and was registered on 23 November 1949. The property is commonly known as No. 7 Minerva Road, Wedderburn.

The site is trapezoidal in shape having frontage to Minerva Road of 223m and frontage to Hodgson Close of 337m. The total site area is 8.056 hectares.

The site is vacant, which is reported by the applicant to have previously been used for orcharding activities and consists of remnant indigenous vegetation. Aerial photos held with Council confirm that orcharding activities were carried out on the subject land.

The existing land uses surrounding the subject land are characterised by rural and rural-residential development types.

### **The Proposal**

The subject application seeks Torrens title subdivision of the site into 1 x 6.056 hectare allotment (proposed Lot 801) and 1 x 2.00 hectare allotment (proposed Lot 802).

Vehicular access to the proposed Lot 801 would be available from either Minerva Road or Hodgson Close and vehicular access to proposed Lot 802 is available from Hodgson Close.

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The proposed subdivision plan provides an indicative building / dwelling envelope on both of the proposed lots. Whilst it is noted that the application does not specifically involve the removal of trees, where it is directed at any date in the future by the Rural Fire Service to remove trees (i.e. to provide an Asset Protect Zone), it will be necessary for the applicant to seek separate development approval (i.e. by way of a Section 96 Modification Application) for the removal of those trees. The applicant would be required to consider the impact of the tree removal on flora and fauna at that stage.

### **Campbelltown 2025 Looking Forward**

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

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

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

The strategic directions relevant to this application are:

- *Growing the Regional City; and*
- *Building a distinctive Campbelltown sense of place.*

The proposed development is generally consistent with these directions.

Some of the relevant desired outcomes of the strategic directions included in Campbelltown 2025 include:

- *Urban environments that are safe, healthy, exhibit a high standard of design, and are environmentally sustainable; and*
- *Development and land use that matches environmental capacity and capability.*

It is considered that the Development Application is generally consistent with the Vision's desired outcomes having regard to the proposed density, design and impact on adjoining development and the locality.

### **Assessment**

The development has been assessed having regard to the matters for consideration under Section 79C of the EP&A Act, and having regard to those matters, the following issues have been identified for further consideration.

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## **1. State Environmental Planning Policy No. 44 – Koala Habitat (SEPP 44)**

The subject site is identified by the draft Campbelltown Comprehensive Koala Plan of Management as containing a combination of 'Preferred Habitat' and 'Preferred Habitat Buffer over Cleared' (being fringe habitat over cleared ground areas). A Koala Habitat Assessment accompanies the application and outlines that the site does not contain core koala habitat.

Whilst it is noted that the Koala Habitat Assessment was undertaken by a qualified Horticulturalist, as opposed to a qualified ecologist / flora and fauna expert, as required by Clause 8 of SEPP 44, the findings are consistent with Council's draft Comprehensive Koala Plan of Management.

Although the proposed subdivision will provide the opportunity for an additional dwelling, which would highly likely require the removal of vegetation, the subject proposal, specifically does not involve the removal of any vegetation and a condition has been included within the recommendation, confirming such.

Given the above matters, it is considered that the proposal does not conflict with any of the objectives or requirements of SEPP 44.

## **2. State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)**

The application has been assessed in accordance with State Environmental Planning Policy No. 55 – Remediation of Land. This Policy is a state-wide planning control for the remediation of contaminated land, and states that land must not be developed if it is unsuitable for a proposed use because it is contaminated. If the land is unsuitable, remediation must take place before the land is developed, in accordance with "Managing Land Contamination: Planning Guidelines", prepared in conjunction with the Environment Protection Authority (Department of Environment and Climate Change).

The Policy makes remediation permissible across the State; defines when consent is required; requires all remediation to comply with appropriate standards; ensures land is investigated if contamination is suspected; and requires councils to be notified of all remediation proposals.

The subject property is within an area of historical agricultural and horticultural use, and as such, consideration has been given to the potential for contamination from the possible use of chemicals and fuels associated with past agricultural and horticultural practices. However, Council has no record of contamination on the site, and the likelihood of the site being unsuitable for residential use is considered low, although this needs to be confirmed given potential previous horticultural use.

There was no contamination report provided as part of the application. Accordingly, it is recommended that should Council decide to support this development application, that any consent be issued as a 'deferred commencement consent', requiring the applicant to provide a contamination assessment report by a suitably qualified/accredited consultant, demonstrating that the land is suitable for future residential occupation, prior to the consent becoming operative. On this basis, it is considered that the development could proceed and that the requirements of SEPP 55 would be satisfied.

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### **3. Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment**

Greater Metropolitan Regional Environmental Plan No. 2 (REP 2) – Georges River Catchment applies to the land. The Plan aims to maintain and improve the water quality and river flows of the Georges River and its tributaries and ensure that development is managed in a manner that is in keeping with the national, state, regional and local significance of the catchment.

The aims and objectives of REP 2 are provided at Clause 5 of the plan. The relevant aims and objectives of this plan are:

- a) *to maintain and improve the water quality and river flows of the Georges River and its tributaries and ensure that development is managed in a manner that is in keeping with the national, State, regional and local significance of the Catchment,*
- b) *to protect and enhance the environmental quality of the Catchment for the benefit of all users through the management and use of the resources in the Catchment in an ecologically sustainable manner,*
- c) *to ensure consistency with local environmental plans and also in the delivery of the principles of ecologically sustainable development in the assessment of development within the Catchment where there is potential to impact adversely on groundwater and on the water quality and river flows within the Georges River or its tributaries.*

The relevant aims and objectives of REP 2, as outlined above, relate to the impacts of development on water quality within the Georges River Catchment. In this respect, the potential impacts of the development on water quality relate primarily to wastewater disposal from any future dwelling on the additional proposed lot.

The issue of sewage management on the site has been examined under a report submitted with the application, prepared by specialist consultant "Woodlands and Wetland Pty. Ltd." This provides an assessment of site capacity and conceptual design requirements for on-site sewage management for the proposed lots. The report identifies that treated wastewater can be sustainably managed for a dwelling on both lots and that a residential / dwelling development could occur without causing any adverse impacts on water quality of the Georges River and / or its tributaries.

Given the above matters, it is considered that the proposed development is consistent with the relevant requirements of REP 2.

### **4. Campbelltown Local Environmental Plan No. 1 (LEP 1)**

The land is zoned 1(c) Rural "C" (Small holdings) under the provisions of LEP 1. There are no prescribed objectives for development within this zone.

The proposed development is permissible with consent in the zone, however variation is sought to Clause 7(4) of LEP 1, in respect of the minimum area requirement of the parent parcel, is required to be taken into account.

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Subdivision standards are provided at Clause 7 of that instrument as follows:

- 7 (1) *This clause applies to land within Zone No 1.(c)*
- (2) *Land to which this clause applies shall not be subdivided except in accordance within this clause.*
- (3) *Except as provided in subclause (4), the council shall not consent to the subdivision of land to which this clause applies unless each separate allotment of land created by the subdivision has an area of not less than 10 hectares.*
- (4) *The council may consent to –*
  - (a) *the subdivision of land to which this clause applies where the land proposed to be subdivided was in existence as a separate parcel as at the appointed day and had an area of not less than 10 hectares, and the proposed subdivision will result in the creation of not more than 2 allotments each of which shall have an area of not less than 2 hectares; or....*

In respect to the above, the appointed day is 26 June 1981 and the subject allotment was created on 23 November 1949. Accordingly, the subject site satisfies the date criteria of Clause 7(4)(a), however the minimum area requirement of 10 hectares is not achieved. In this respect the application relies upon the provisions of State Environmental Planning Policy No. 1 (SEPP 1), in support of a variation to the relevant subdivision standard. This matter has been considered in detail, and is discussed in the following section of this report which draws the conclusion that the variation is satisfactorily founded and therefore can be supported in the circumstances.

## **5. State Environmental Planning Policy No. 1 - Development Standards**

*State Environmental Planning Policy No. 1 – Development Standards* (SEPP 1) aims to provide flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary. The SEPP allows for objections to Council's development standards, which in this instance is the minimum allotment size of the parent allotment as specified by LEP 1.

The application includes an objection under the provisions of SEPP 1, seeking a variation to the subdivision development standard under Clause 7(4)(a) of LEP 1.

The objectives of SEPP 1 are to provide flexibility in the application of development standards in circumstances where strict compliance with those standards would be unreasonable or unnecessary or would hinder the attainment of the objectives specified in section 5(a)(i) and (ii) of the EP&A Act, 1979.

The relevant objects of Clause 5 of the EP&A Act, 1979, are:

- “(a) to encourage:*
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- (i) *the proper management development and conservation of natural and man-made resources, including agricultural land, natural areas, forest, minerals, water cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment;*
  - (ii) *the promotion and co-ordination of the orderly and economic use and development of land;”*

It is considered that the proposal is not inconsistent with these objectives.

The SEPP 1 objection relates specifically to Clause 7(4)(a) of LEP 1, which is as follows:

- 7 (1) *This clause applies to land within Zone No 1.(c)*
- (2) *Land to which this clause applies shall not be subdivided except in accordance within this clause.*
- (3) *Except as provided in subclause (4), the council shall not consent to the subdivision of land to which this clause applies unless each separate allotment of land created by the subdivision has an area of not less than 10 hectares.*
- (4) *‘The council may consent to –*
  - (a) *the subdivision of land to which this clause applies where the land proposed to be subdivided was in existence as a separate parcel as at the appointed day and had an area of not less than 10 hectares, and the proposed subdivision will result in the creation of not more than 2 allotments each of which shall have an area of not less than 2 hectares; or*

The subject application seeks to vary the provisions of Clause 7(4)(a) of LEP 1, to allow the subdivision of an existing holding with an area of less than 10 hectares into 2 allotments, each of which would have an area of at least 2 hectares being 6.056 hectares and 2 hectares respectively.

The subject site was created on 23 November 1949 and was therefore a separate parcel in existence on 26 June 1981 being the ‘appointed day’ for LEP 1. The area of the subject allotment is being 8.056 hectares, is less than the 10 hectare minimum area pursuant to Clause 7(4)(a) of LEP 1.

The reasons submitted by the applicant in justifying the variation to the development standard are as follows:

- *Consistency with the Intent of Concessional Lot Provisions*
  - *Consistency with Surrounding Subdivision Patterns*
  - *Absence of Environmental Harm*
  - *Precedent*
-

Matters raised in the SEPP 1 objection are detailed and responded to below.

*i. Is the minimum allotment area requirement a development standard?*

Pursuant to the *Environmental Planning and Assessment Act 1979*, relevant items that are considered to be development standards are:

*"development standards" means provisions of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of:*

- (a) the area, shape or frontage of any land, the dimensions of any land, buildings or works, or the distance of any land, building or work from any specified point,*
- (b) the proportion or percentage of the area of a site which a building or work may occupy,*
- (c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work,*
- (d) the intensity or density of the use of any land, building or work,*
- (o) such other matters as may be prescribed.*

In this instance, Clause 7(4) of LEP 1 establishes a minimum existing allotment area (10ha) that must be adhered to, to allow for further subdivision of that allotment, where that allotment was created prior to a specified day. The SEPP 1 objection argues that the minimum allotment area specified by the LEP 1 is a development standard. For the purpose of this objection, it is considered that the numerical control contained within Clause 7(4) of LEP 1, which relates to minimum allotment areas, is a development standard for the purposes of SEPP 1 as it falls within the matters described in item (a) above.

*ii. The application's non-compliance with the LEP 1 standard*

The proposed subdivision seeks to subdivide an existing parcel with an area of 8.056 hectares to create two allotments of 2.00 hectares and 6.056 hectares in area. The minimum allotment area of an existing allotment pursuant to Clause 7(4) of the Plan is 10 hectares.

*iii. What are the underlying objectives or reasons for imposing the standard?*

By examining and interpreting the meanings and consequences of the relevant and prescribed objectives, the reason for their imposition and subsequent creation of a development standard relating to allotment size in the zone should become apparent. However in this instance, the SEPP 1 objection correctly states that Clause 7(4) does not contain an objective or reason for the application of a minimum allotment size to the 1(c) zone. In the absence of a reason or objective within that particular Clause, such reason or objectives relating to the standard may be gleaned from the respective Clause that discusses the zoning of the land. Again however, the planning instrument is silent on the reasons or objectives behind the zoning of the land.

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In this respect, the only rationale that can be identified is within a report to Council (preceding the LEP coming into effect) which refers to a provision known as a "Home Sites Plan". This report (the report is undated, but in existence circa late 70's to late 80's) explained that the intent of the "Home Sites Plan" provision was to provide owners with the opportunity of retaining a portion of the original land for self-use while at the same time being able to dispose of the rest of the land for financial relief (in the event of a decline in agricultural viability), and also to offset the difficulties associated with the maintenance of large properties by ageing agriculturalists. The report further detailed, that only allotments of 10 hectares or above should have the "home site potentials", while those lots smaller than 10 hectares would not suffer the same burden as the large holdings and therefore would not qualify for further subdivision.

In this regard, the specific justification provided by the applicant within the SEPP 1 objection, relates to the intention of Clause 7(4) being to provide an alternate subdivision standard, that accommodates future demand for rural residential living in a manner that involves minimal negative agricultural impact, reduces the burden of maintaining larger properties and responds to the needs of the retiring agriculturalists who wishes to remain in residence and within the local community.

*Is the development standard unreasonable or unnecessary in this instance?*

The SEPP 1 objection to the 10 hectare minimum existing allotment size asserts that the standard is unreasonable and unnecessary for a number of reasons.

- Consistency with the Intent of Concessional Lot Provisions
- Consistency with Surrounding Subdivision Patterns
- Preservation of Agricultural Production Potential
- Absence of Environmental Harm

These reasons have been considered in depth and in light of supporting information provided by the applicant, are discussed in detail as follows:

- **Consistency with the Intent of Concessional Lot Provisions as per the "Home Sites Plan"**

Campbelltown Local Environmental Plan No. 1 came into effect on 26 June 1981. Whilst there are no written objectives for the Rural 1(c) zone, it is considered that the intent of the zoning is to preserve the rural character of the locality by restricting minimum lot sizes to 10 hectares, as required by Clause 7(3) of LEP No.1. These lot size limitations would also indicate that the likely intent for the zone is to minimise potential land use conflicts between traditional agricultural lands and adjoining residential dwellings situated on more rural- residential scaled allotments.

Similarly, there are no written objectives or details in LEP No.1 that explicitly define the purpose of the reduced lot size provisions found under Clause 7(4). Notwithstanding this, the report to Council preceding the making of LEP No.1 provides some guidance and referred to the subject provisions as a "Home Sites Plan". This report explained that the intent of the "Home Sites Plan" provision was to provide opportunities for owners to retain a parcel of land for self-use and the disposal of the remainder for financial relief, in the event of a decline in agricultural viability. This was also provided to offset the difficulties associated with the maintenance of large properties by ageing agriculturalists. The report further detailed, that only allotments with a minimum area of greater than 10 hectares should have the "home site potentials", while those lots smaller than 10 hectares would not suffer the same burden as the large holdings and therefore would not qualify for further subdivision.

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The justification provided by the applicant pursuant to the provisions of the State Environmental Planning Policy No. 1, specifically relates to the intention of Clause 7(4) being to provide an alternate subdivision standard; the accommodation of subdivision patterns that respond to the demand for rural residential living in a manner that involves minimal impact on agricultural activities; and reduces the burden of maintaining large properties by the retiring agriculturalists while enabling those residents to remain within the local area and a part of the local community of which they are a part.

- **Consistency with Surrounding Subdivision Patterns**

The proposed lot sizes of 6.056 hectares and 2 hectares are considered to be consistent with the prevailing lot sizes within the immediate vicinity of the subject site as well as the broader Wedderburn Plateau area. The Wedderburn Plateau is characterised by a range of allotment sizes from below 1 hectare to over 10 hectares with the most common allotment size being between 2 and 3 hectares of which there are 55 allotments. Given the range of allotment sizes reflected in the existing subdivision pattern in the locality, compliance with the 10 hectares existing holding size for subdivision is considered to be both unreasonable and unnecessary in the circumstances of this case.

- **Preservation of Agricultural Production Potential**

Whilst it is acknowledged that the area and location of the proposed "concessional allotment" is that part of the site which is understood to have not been used for agricultural purposes, as previously outlined the intention of the "Home Sites Plan" provision was to allow owners to be able to retain a small parcel of land for self-use and the disposal of the rest for financial relief, in view of the decline in agricultural viability and/or to offset the difficulty associated with the maintenance of large properties in retirement. The 'Home Sites Plan' provisions were based on the premise that allotments smaller than 10 hectares would not suffer the same loss in agricultural viability or maintenance burden to the same extent as the larger holdings.

However in 1996 a report on the viability of agricultural holding at Wedderburn was commissioned on the instruction of Council and involved consultation with the Wedderburn land owners and the Department of Agriculture. The report identified 8 hectares as the minimum allotment size for a viable agricultural holding which equates to the current minimum subdivision standard of 10 hectares, less a 2 hectares concessional allotment.

A further study in 1997 commissioned by the "Wedderburn Land Owners Group" found that a minimum lot size of just 6 hectares is sufficient to allow viable agricultural holding for more intensive agricultural processes.

Given that the larger of the proposed allotments is shown to encompass the more sparsely covered/open area of the overall site, it is considered that any agricultural potential for the site will have been preserved. The 2 hectare concessional allotment is largely placed over land which has no evidence of accommodating any agricultural pursuits and therefore, the proposed subdivision pattern is not considered to have an adverse affect on the agricultural potential of the land.

Having regard to the subdivision proposed in relation to the physical characteristics of the existing holding it is not considered that the agricultural production potential would be eroded by the subdivision. Furthermore the 10 hectare minimum existing allotment size requirement designed to retain agricultural production on an 8 hectare holding following subdivision of a 2 hectare concessional allotment is also considered irrelevant having regard to the physical characteristics of the site. Accordingly compliance with the standard is considered unreasonable and unnecessary in the circumstances of this case.

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- **Absence of Environmental Harm**

Whilst the absence of environmental harm is not in or of itself a singularly substantive reason to justify the departure from the applicable development standard, it is relevant when considering the merit of the application in a holistic sense. In the case of this development application, it is considered that the proposal does not exceed the carrying capacity of the site.

The subdivision pattern gives regard to the existing cleared areas of the site and as such, reduces the potential for adverse impact upon native flora and fauna through future development of the land. In this regard, the proposal identifies potential house building envelopes for each of the proposed allotments and as such, shows that each of the proposed allotments has the capacity to carry a dwelling without significant impact on existing flora and fauna.

In addition, it is considered that suitable area is also available on both allotments to site not only a future dwelling, but provides sufficient area in which to appropriately dispose of waste water. Given the scale of the proposal, it is highly unlikely that any undue impact upon the local road network or the provision of services will result from the subdivision.

It is therefore considered that compliance with the standard is also unnecessary in the circumstances of the case.

## **6. Campbelltown (Sustainable City) Development Control Plan 2009**

The application has been assessed in accordance with the provisions of the Campbelltown (Sustainable City) Development Control Plan 2009 (SCDCP).

The application is considered compliant with the relevant provisions of Parts 1 and 2 of the Plan, which applies to all types of development.

The application has also been considered in accordance with Part 3 of the SCDCP (which applies to residential development) and it is considered that the proposal complies with the relevant objectives of this part. The proposed subdivision pattern would provide sufficient opportunity for a dwelling house to be erected on both proposed lots, in accordance with the specific requirements of DCP 2009.

## **7. Development Control Plan No. 49 – Rural Environmental Protection Subdivision and Dwelling Policy**

The application has been considered in accordance with the relevant provisions of Development Control Plan No. 49, with the following matters identified for further consideration:

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Section	Comments	Compliance
Section 11 – Tree Preservation and Landscaping	While the proposal does not specifically involve the removal of trees, it is noted that the formation of Asset Protection Zones to achieve compliance with other requirements imposed by the NSW Rural Fire Service, could potentially necessitate the need for tree removal with any future development proposal.	Yes.  Furthermore a condition has been included within the recommendation, confirming that no approval is issued for the removal of any trees / vegetation and that any proposal to remove trees / vegetation will require the subsequent approval of Council.
Section 20 – Dimensions for Subdivision	Allotments of approximately 2 hectares in size are to have a minimum width of 60m. The width of proposed Lot 802 is approximately 180m.	Yes
Section 22 – Services	Any Development Consent issued for the subdivision of land, shall require arrangements to be made with the Sydney Water (for the provision of water reticulation to each lot, where the Board can physically provide water reticulation) and Integral Energy (for the provision of electricity reticulation to each lot)	Yes.  While reticulated water services are not available to the subject site, a condition has been included within the recommendation requiring arrangements being made with Integral Energy regarding the provision of electricity.
Section 24 – Building Setbacks	Front building setback of 35m for single storey dwellings, 50m for two (2) storey dwellings and 70m for outbuildings. Minimum side and rear boundary setbacks are 10m.  The proposed subdivision layout provides the opportunity for future dwellings to satisfy these setback requirements.	Yes

## 8. Rural Fires Act 1997

The proposed subdivision requires the authorisation of the NSW Rural Fire Service, pursuant to Section 100B of the Rural Fires Act 1997. Given that the application was not made as an Integrated Development under the provisions of Section 91 of the Environmental Planning and Assessment Act 1979, a condition has been included within the recommendation requiring the obtaining of such, prior to the issue of a Subdivision Certificate (being the development).

Furthermore, in light of the potential for the NSW Rural Fire Service to impose various requirements on the development in relation to the removal of trees and / or vegetation (for the purpose of creating Asset Protection Zones), a condition has been included within the recommendation specifically outlining that no approval has been issued for the removal of any trees and / or vegetation. Accordingly should such a direction from the NSW Rural Fire Service necessitate tree removal, the applicant will be required to seek a modification to the Development Consent, which shall enable Council to consider the associated environmental effects at that stage.

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## 9. Campbelltown City Council Section 94A Development Contributions Plan

As the estimated value of the proposed works does not exceed \$100,000, development contributions are not applicable pursuant to the provisions of the Campbelltown City Council Section 94A Development Contributions Plan.

## 10. Environmental Impacts

Section 79C(1)(b) of the EP&A Act requires Council to consider *"the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality"*.

The above matters prescribed under these sections have been assessed, and those issues considered relevant are discussed further below.

### Bush Fire Risk

As previously outlined, the site is identified as bushfire prone land, and as such requires subsequent authorisation from the NSW Rural Fire Service (RFS), pursuant to Section 100B of the Rural Fires Act 1997. While the application was not made as an Integrated Development proposal, a Bush Fire Hazard Assessment accompanied the application.

A Bush Fire Hazard Assessment accompanied the application, giving consideration to the proposed subdivision layout. The Bush Fire Hazard Assessment was prepared in accordance with the, Planning for Bush Fire Protection requirements and concluded that the proposal is satisfactory in this regard.

Notwithstanding the above, the application is deemed to be Integrated Development and as such, the application was referred to the RFS. A response was received from the RFS of which the only requirement noted was that the development was to be undertaken as per the subdivision layout identified in the drawing lodged by the applicant – drawing No. HOD1007 dated November 2006.

### Flora and Fauna

As a number of listed threatened species have been located in the wider local area, pursuant to Section 5A of the EP&A Act, consideration is to be given to any *significant effect on threatened species, populations or ecological communities, or their habitats*.

The report accompanying the application outlines that no flora species of national or state significance were identified on the site.

As previously outlined, the subject site is identified by the Campbelltown City Council Draft Comprehensive Koala Plan of Management as containing a combination of 'Preferred Habitat' and 'Preferred Habitat Buffer over Cleared'. In this regard, a Koala Habitat Assessment has accompanied the application.

It is further noted that the proposed subdivision will create an opportunity for an additional dwelling house (Lot 802), of which it is likely that the future construction of any house on that allotment would require the removal of some vegetation to satisfy the bush fire safety requirements of the NSW Rural Fire Service (RFS). Notwithstanding this, the proposed subdivision (the application subject of this report) does not specifically involve any physical works or the removal of trees or other vegetation, and as such, it is highly unlikely that this development proposal would have any direct impact on existing flora and fauna within the site.

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Any future development application for the erection of a dwelling house or the like on proposed Lot 802 would need to give regard to any potential impact on flora and/or fauna as well as the impact of any tree clearing required by the RFS. In this regard, given that the dwelling envelope indicated on the plans for proposed Lot 802 is shown within an area that is already cleared, as well as being adjacent to sparsely wooded area of lower value relative to the "Preferred Habitat" area to the east of the site, it is considered unlikely that the construction of a dwelling house at that location and any clearing in response to the requirements of the RFS would have a significant impact on the local habitat nor the areas identified as "Preferred Habitat". In this regard, to ensure any future development is undertaken in a way that limits the amount of any future on-site tree clearing, it is recommended that a building envelope restriction be placed on title pursuant to section 88b of the Conveyancing Act 1919 in the location shown on the plans submitted with the application.

### **Social and Economic Impacts**

No evidence is available to suggest whether or not the reduced lot size would impede any agricultural production being undertaken on the residue land in an economically sustainable manner. In the present situation, the land is not being put to a productive agricultural use.

However, the proposed subdivision provides the opportunity for the subject land to be put to a higher economic use by providing rural-residential type living for two (2) households.

### **Public Participation**

In accordance with the requirements of Campbelltown Development Control Plan No. 87, it was not necessary to notify the application.

### **Conclusion**

Given the above matters, it is recommended that the SEPP 1 objection be allowed and, subject to the receipt of concurrence from the Director General of the Department of Planning, approve the development application subject to recommended conditions.

The proposal has been considered in accordance with Section 79C of the Environmental Planning and Assessment Act, and it is considered that there will be no adverse environmental impacts resulting from the proposal. The application has adequately demonstrated that wastewater can be sustainably managed on both of the proposed allotments.

The proposal requires a variation to the concessional allotment standard under LEP No.1 (i.e., clause 7(4)), and includes a submission in accordance with the provisions of SEPP 1 for this purpose. The proposed variation of the subdivision standard under LEP No.1 has been reviewed in accordance with the provisions of SEPP 1, and it is considered that strict compliance with the 10 hectare subdivision standard and the 10 hectare concessional allotment qualifying standard would be unreasonable and unnecessary in the circumstances. In addition, it is not considered that the development would hinder the attainment of the objectives specified in Section 5(a)(i) and (ii) of the Environmental Planning and Assessment Act 1979. This view is generally based upon the subdivision achieving a far greater economic use of the land; there being no adverse environmental impacts occurring; consistency with the various allotment sizes already existing in the locality; and there being no significant precedent created.

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Given the circumstances associated with the subject application, it is considered that the proposed variation is reasonable as it has been adequately demonstrated that the proposal is consistent with the planning intention of the Council's historic "Home Site Plan" provision. It is therefore considered that the State Environmental Planning Policy No. 1 objection made by the applicant is satisfactorily founded and as such, can be supported.

The application has also been considered in accordance with the provisions of SEPP 55, and the risk of site contamination is considered low for any future residential use of the vacant allotment to be created. However, it is recommended that this matter be verified by an accredited consultant to ensure that the development could proceed without the risk of compromising future development of the land giving regard to the potential existence of residual contamination on the land or any contamination risk to human health or the environment. Accordingly, it is recommended that this matter be addressed by way of a deferred commencement condition on any consent issued. This is important given that the subdivision would create an allotment for residential occupation.

Pursuant to Clause 7 of SEPP 1 and paragraph 12 of the Department of Planning's Circular B1, Council is required to forward the application and the SEPP 1 objection to the development standard, to the Department of Planning for the Director General's concurrence, prior to the determination of the application. In this regard, where the Council is of a mind to allow the SEPP 1 objection, the application will be referred to the Department of Planning for the Director General's concurrence.

### **Officer's Recommendation**

1. That Council allow the SEPP 1 objection in respect to Clause 7(4)(a) of LEP No.1.
2. That the application be referred to the Department of Planning seeking the Director General's concurrence to the allowance of the SEPP 1 objection.
3. That Development Application 3030/2007/DA-S, for the subdivision of the land into two (2) allotments, at No.7 Minerva Road, Wedderburn (Lot 8, DP 22230), be APPROVED subject to the conditions at Attachment 1 of this report and the receipt of the Director General's concurrence.

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

That the Officer's Recommendation be adopted.

### **CARRIED**

Voting for the Committee's Recommendation were Councillors: Bourke, Greiss, Hawker, Kolkman, Oates and Thompson.

Voting against the Committee's Recommendation: Nil.

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**Council Meeting 19 October 2010 (Kolkman/Borg)**

That the Officer's Recommendation be adopted.

**Council Minute Resolution Number 203**

That the Officer's Recommendation be adopted.

Voting for the Council Resolution were Councillors: Borg, Chanthivong, Dobson, Glynn, Greiss, Hawker, Kolkman, Lake, Oates, Rowell, Rule, Thomas and Thompson.

Voting against the Council Resolution was Councillor: Bourke.

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## **ATTACHMENT 1**

### **DEFERRED COMMENCEMENT**

You are advised that the subject application has been granted a “Deferred Commencement Consent” pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979.

The applicant has been given a period of 6 months in which to provide the required information to satisfy the matters as listed in Schedule “A”. Upon the submission of such evidence and the applicant receiving written notification that Council is satisfied, then the consent shall become operative subject to compliance with conditions outlined in Schedule “B”.

Should the required information not be provided in the time period nominated above, the development consent shall lapse.

### **SCHEDULE A**

The conditions of Schedule 'A' are set out as follows:

i. **Site Contamination**

A site contamination assessment shall be undertaken by a NSW Department of Environment, Climate Change and Water accredited consultant in accordance with the ‘Guidelines for Assessing Former Orchards and Market Gardens’. The consultant shall consider appropriate restrictions for the future residential use of the proposed allotments, including the nomination of dwelling envelopes and residential curtilage.

The site assessment process shall include a preliminary site investigation, and if required, appropriate soil analysis and / or remedial measures to demonstrate that the proposed allotments satisfy the relevant requirements for future residential use.

Where remediation works are required, a Site Validation Report shall be submitted to Council by a Department of Environment, Climate Change and Water, accredited consultant, demonstrating that proposed allotments are of a standard appropriate for residential use and that any residual contamination will not be harmful to human health or the environment.

### **SCHEDULE B**

The conditions of Schedule 'B' are set out as follows:

### **GENERAL CONDITIONS**

The following conditions have been applied to ensure that the use of the land and/or building is carried out in such a manner that is consistent with the aims and objectives of the planning instrument affecting the land.

For the purpose of these conditions, the term ‘applicant’ means any person who has the authority to act on or benefit of the development consent.

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## 1. Approved Development

The development shall be completed in accordance with the approved plan prepared by Rhodes Haskew Associates, listed below, and all associated documentation submitted with the application, except as modified in red by Council and / or any conditions of this consent.

Reference No.	Date
HOD1007	November 2006

Note: The "indicative house locations" on the approved plans prepared by Rhodes Haskew Associates, are for reference only and are in no way to be taken as Council's tacit approval for the erection of a dwelling house.

## 2. Protection of Existing Trees

No trees and / or vegetation is to be cut down, lopped, destroyed or removed in anyway, without the separate written approval of Council.

## 3. Fencing

Any fencing erected on the site shall be open rural type fencing. 'Colorbond' style metal fences are not permitted.

## PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE

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

## 4. Rural Fires Act 1997

A Bush Fire Safety Authority under the Rural Fires Act 1997 is to be obtained from the NSW Rural Fire Service and a copy provided to Campbelltown City Council, prior to the issue of a Subdivision Certificate.

Note: Any changes required to the design / approved plans and / or the associated removal of trees (if applicable) as a result of this process, are likely to require the modification of this consent or where considered to be a substantial departure from this consent, will require the lodgement of a new development application.

## 5. Restriction on the Use of Land

Prior to the principal certifying authority issuing a subdivision certificate, the applicant shall create appropriate restrictions on the use of land under Section 88B of the Conveyancing Act.

- a. Contamination (if required)
  - b. Building envelope (lot 802)
-



If required, the wording shall be in accordance with the recommendations of the land contamination assessment report. Any subsequent restrictions identified during the subdivision process shall also be suitably burdened.

Design plans and work as executed plans shall show affected lots marked with Council approved symbols. The authority empowered to release, vary or modify these restrictions on the use of land shall be the Council of the City of Campbelltown. The cost and expense of any such release, variation or modification shall be borne by the person or corporation requesting the same in all respects.

## **6. Weed Eradication and Management Plan**

- a. A Weed Eradication and Management Plan is to be prepared by a suitably qualified and experienced person(s), and shall be submitted to and approved by Council, prior to the issuing of a Subdivision Certificate. The plan is to include:
  - i. An inventory of all Noxious and Environmental Weeds on the development site and a site plan indicating weed infestations with referenced to the species and degree of infestation (i.e. Low, Medium or High);
  - ii. A Treatment Schedule in tabulated form, specifying for each species:
    - a) the method of treatment (mechanical, herbicide use or cultural such as pasture improvement or grazing);
    - b) the rates of application methods of all herbicide treatments;
    - c) the primary control treatment to achieve a minimum 70% kill and a secondary control treatment to achieve a minimum 90% kill; and
    - d) the timing of all treatments.
  - iii. An annual weed maintenance program indicating the methods to be implemented to maintain a weed-free site;
  - iv. Details of any methods of disposal of weed material.
- b. All primary weed treatment measures identified in the Weed Eradication and Management Plan, shall be carried out prior to the issuing of a Subdivision Certificate.

## **7. Electricity Utility Services**

Prior to Council or an accredited certifier issuing a Subdivision Certificate, the applicant shall submit written evidence from Integral Energy, demonstrating that satisfactory arrangements have been made to service the proposed development.

## **8. Telecommunications Utility Services**

Prior to Council or an accredited certifier issuing a construction certificate, the applicant shall submit written evidence demonstrating that satisfactory arrangements have been made with a telecommunications carrier to service the proposed development.

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## **9. Services**

A letter from a Registered Surveyor shall be submitted to Council, prior to the issuing of a Subdivision Certificate, certifying that no Public Utility services or waste water disposal devices presently connected to existing buildings straddle proposed boundaries after subdivision.

## **10. Council Fees and Charges**

Prior to the principal certifying authority issuing a Subdivision Certificate, the applicant shall obtain written confirmation from Council that all applicable Council fees and charges associated with the development have been paid in full. Written confirmation will be provided to the applicant following Council's final inspection and satisfactory clearance of the public area adjacent the site.

## **ADVISORY NOTES**

The following information is provided for your assistance to ensure compliance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, other relevant Council Policy/s and other relevant requirements. This information does not form part of the conditions of development consent pursuant to Section 80A of the Act.

### **Advice 1. Tree Preservation Order**

To ensure the maintenance and protection of the existing natural environment, you are not permitted to ringbark, cut down, top, lop, remove, wilfully injure or destroy a tree outside 3 metres of the building envelope unless you have obtained prior written consent from Council. Fines may be imposed if you choose to contravene Council's Tree Preservation Order.

A tree is defined as a perennial plant with self supporting stems that are more than 3 metres or has a trunk diameter more than 150mm measured 1 metre above ground level, and excludes any tree declared under the Noxious Weeds Act (NSW).

### **Advice 2. Covenants**

The land upon which the subject building is to be constructed may be affected by restrictive covenants. Council issues this approval without enquiry as to whether any restrictive covenant affecting the land would be breached by the construction of the building, the subject of this permit. Persons to whom this permit is issued must rely on their own enquiries as to whether or not the building breaches any such covenant.

### **Advice 3. Principal Certifying Authority – Subdivision**

Council is the principal certifying authority for the construction of the proposed subdivision and issue of the subdivision certificate and Council shall carry out all inspections required by the development consent. Work must not proceed past any inspection point until Council has approved the work inspected.

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**Advice 4. Linen Plan and Copies**

A linen plan and if required an original 88B Instrument together with thirteen copies shall be submitted to Council prior to the release of the subdivision certificate.

**Advice 5. Linen Plan Checking Fee**

Where Council is the principal certifying authority a linen plan checking fee is payable on submission of the linen plan of subdivision to Council. The exact amount will be calculated at the rate applicable at the time of release of the linen plans.

**Advice 6. Salinity**

Please note that Campbelltown is an area of known salinity potential. As such any salinity issues should be addressed as part of the construction certificate application. Further information regarding salinity management is available within *Campbelltown (Sustainable City) DCP 2009 - Volumes 1 and 2*.

**END OF CONDITIONS**

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## ATTACHMENT 2

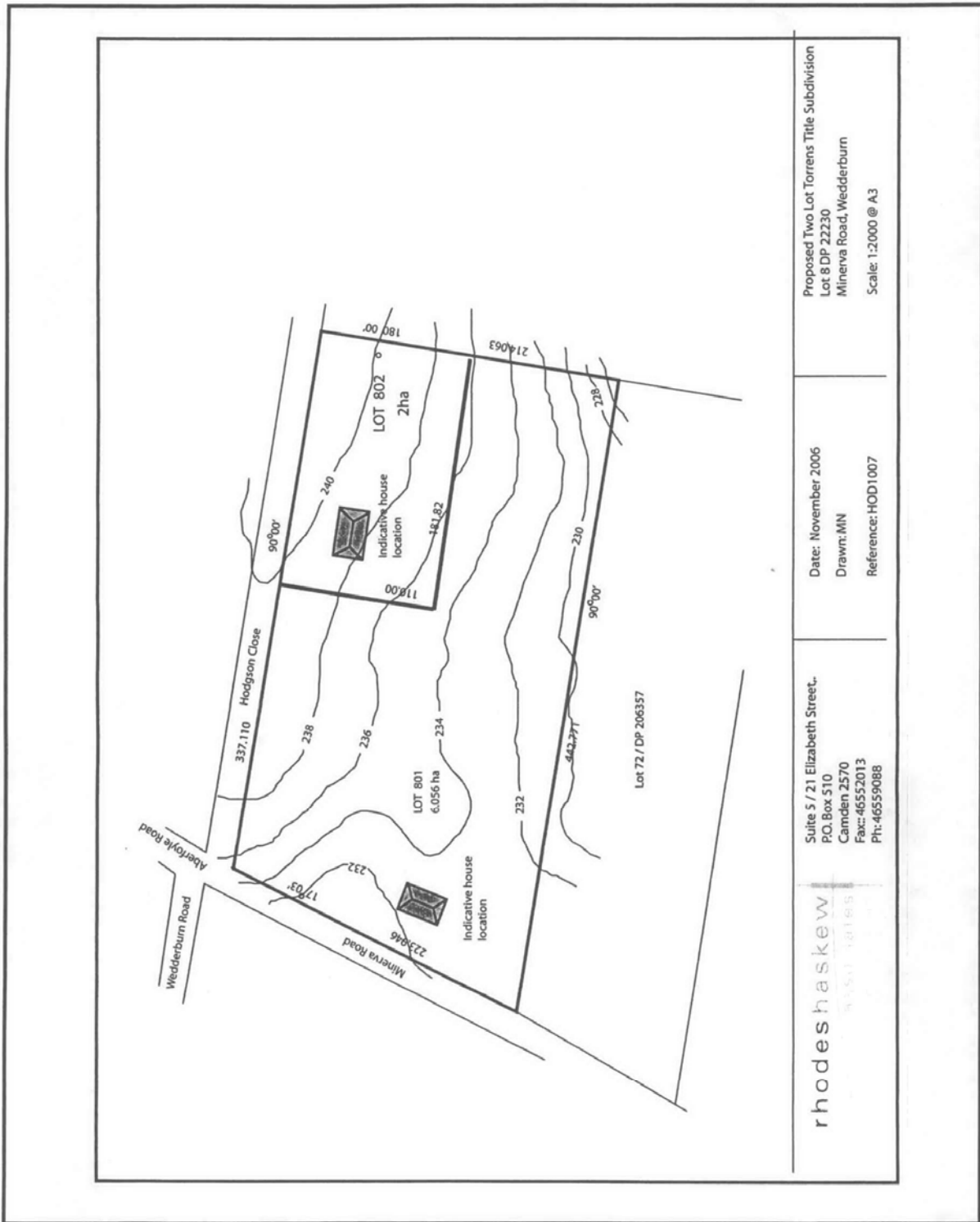


**LOCALITY PLAN**



**SUBJECT:** No. 7 MINERVA ROAD, WEDDERBURN -  
PROPOSED 2 LOT SUBDIVISION

**ATTACHMENT 3**



**PROPOSED SUBDIVISION PLAN**

**SUBJECT:** No. 7 MINERVA ROAD, WEDDERBURN -  
 PROPOSED 2 LOT SUBDIVISION

### **3.4 No. 1 Rennie Road, Campbelltown - Modification to strata subdivision of existing building**

#### **Reporting Officer**

Manager Development Services

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#### **Attachments**

1. Recommended Conditions of Consent
2. Locality Plan
3. Subdivision Plans

#### **Purpose**

To assist Council in its determination of the subject development application in accordance with the provisions of the *Environmental Planning and Assessment Act 1979*.

<b>Property Description</b>	Lot 6 DP 836313 No. 1 Rennie Road, Campbelltown
<b>Application No</b>	309/2010/DA-S/A
<b>Applicant</b>	Project Surveyors
<b>Owner</b>	Quest Campbelltown Property Pty Ltd
<b>Statutory Provisions</b>	Campbelltown (Urban Area) Local Environmental Plan 2002 Campbelltown (Sustainable City) Development Control Plan 2009
<b>Other Provisions</b>	Campbelltown 2025 - 'Looking Forward'
<b>Date Received</b>	30 July 2010

#### **History**

13 January 2009 - the Land and Environment Court approved the demolition of an existing building and the construction of a part 2 storey, part 4 storey serviced apartment building containing 49 rooms, a gym and associated landscaping and car parking.

30 October 2009 - Council granted development consent to a Section 96 modification for changes to the original building including:

- the relocation of car parking spaces;
  - a new pedestrian ramp to be constructed from Harbord Road and along the vehicular ramp;
  - a new pedestrian exit from the car park;
  - relocation of the bin enclosure door;
  - minor internal changes to the reception area;
  - new electronic gate at the main vehicular entry adjacent to the reception area;
-

- relocation of the substation to the south western boundary;
-

- relocation of the lift motor room and air conditioning units;
- reduction in the building height by 995mm;
- feature façade panels (coloured panels) installed over the precast concrete panels (same colours as previously approved);
- glazed balustrades on balconies;
- a masonry base added to the southern elevation; and
- all windows and doors increased by 5% to comply with the Building Code of Australia requirements.

27 May 2010 - Council granted development consent for the subdivision of 50 strata allotments as follows:

- Forty nine (49) strata lots being the motel rooms;
- One (1) strata lot for the gym and office areas;
- Thirty six (36) car parking spaces designated as visitor spaces and being common property;
- Thirty five (35) car parking spaces allocated to motel rooms; and
- Conference room and BBQ area designated as common property.

## **Report**

### **Introduction**

Council is in receipt of a modification application to development consent 309/2010/DA-S for the strata subdivision of a building at Lot 6 DP 836313, No. 1 Rennie Road, Campbelltown. The purpose of the modification is to allow the allocation of a single car space to each of the strata allotments, i.e. the assignment of one parking space to each of the 50 strata allotments. The approved development provides 71 parking spaces in total, with the remaining 21 spaces to be made available as common property.

### **The Site**

The location of the proposed subdivision is within a serviced apartment building on the corner of Harbord and Rennie Roads, Woodbine. The site is located on the northern side of Rennie Road and is surrounded by a number of restaurants including KFC and Krispy Krème. The site sits adjacent to the multi storey, pitched roof Formula 1 Hotel development. The site has a total area of approximately 2880 square metres. Immediately to the north and west of the subject site, the land rises steeply within Payten and Kanbyugal Reserves, both of which are used for passive and active public recreation. Further to the north and west is the residential suburb of Woodbine.

### **The Proposal**

The proposal seeks Development Consent to modify the existing development consent so as to assign one car space to each of the 50 apartment units, leaving the remaining 21 car spaces as communal staff/visitor parking. The proposal can be outlined as follows:

- Strata subdivision of the existing building into 50 strata allotments;
  - Allocation of one parking space to each of the 49 apartments and one parking space to the Strata lot containing the gym and office spaces.
-



## **Campbelltown 2025 Looking Forward**

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

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

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

The strategic directions relevant to this application are:

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

The proposed development is generally consistent with these directions.

Some of the relevant desired outcomes of the strategic directions included in Campbelltown 2025 include:

- *Urban environments that are safe, healthy, exhibit a high standard of design, and are environmentally sustainable;*
- *An impression of architecture that engages its environmental context in a sustainable way; and*
- *Development and land use that matches environmental capacity and capability.*

The proposal is considered to be complementary to the relevant desired outcomes of "Campbelltown - 2025 Looking Forward".

## **Assessment**

The development has been assessed in accordance with the heads of consideration under Section 79C of the Environmental Planning and Assessment Act, 1979, and having regard to those matters, the following issues have been identified for further consideration.

### **1. Campbelltown (Urban Area) Local Environmental Plan 2002**

The subject site is zoned 4(b) Industry B zone under the provisions of Campbelltown (Urban Area) Local Environmental Plan 2002 (CLEP).

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The objectives of the 4(b) Industry B zone, of relevance to the proposed development are:

- a) *To encourage activity that will contribute to economic and employment growth in the City of Campbelltown; and*
- b) *To encourage a high quality standard of development which is aesthetically pleasing, functional and relates sympathetically to nearby and adjoining development.*

It is a requirement of CLEP that development must be consistent with at least one of the zone objectives in order for Council to grant development consent. It is considered that the proposed subdivision is ancillary to a development that would contribute to economic and employment growth and would provide a development that is of a high quality architectural standard and which is aesthetically pleasing.

The proposed subdivision is defined as a 'development' and is permissible on land located with the 4(b) zone with Council's development consent.

## 2. Campbelltown (Sustainable City) Development Control Plan 2009

The following addresses the assessment of the proposal pursuant to the relevant requirements of the Campbelltown (Sustainable City) Development Control Plan 2009 (DCP 2009)

Section	Control	Requirement	Proposed	Compliance
5.8.1 a)	Strata Subdivision	No more than 50% of the required car parking within a strata title subdivision shall be allocated to individual commercial units within a multi-unit complex.	70 % of required car spaces (50 of the 71 spaces) be allocated to individual strata units.	No
5.8.1 b)	Strata Subdivision	All car parking spaces that are allocated to individual units shall be proportioned in number to the size of the units.	1 car parking space per unit is proposed. Units are all similarly sized.	Yes
5.8.1 e)	Strata Subdivision	No common property car parking spaces shall be fenced off from other parts of the development	The proposed common property car parking spaces would not be fenced off from other parts of the development	Yes

The proposed subdivision does not comply with Clause 5.8.1 a) of DCP 2009. The application proposes for approximately 70% of the required car parking be allocated to individual apartments. The current approval allows the allocation of approximately 50 % of the available

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parking to individual units (i.e. 35 out of 71 spaces) which is considered to be in accordance with the aims and Section 5.8.1(a) of the DCP 2009.

The applicant seeks Council's support for the variation of the above standard on the basis that making 100% of the parking spaces available to all users of the site at all times provides a better overall outcome for the functionality of the car parking within the development. The applicant states:

*"...As the units are being sold under a lease agreement there will be a strict compliance regime which will restrict the owners from having the rights to occupying their allocated car spaces. Notwithstanding those spaces allocated to individual units, the manager of the business to be operated from the property will be able to ensure that all spaces are available to any occupant and any time which will mean that any vacant space will be available to guests and visitors if required. No car spaces at the property will be "locked off" or sign marked as reserved, An inspection of the now completed property will evidence this.*

*The proposal is a much better result than effectively "locking off" 50% of the car spaces at the property as contemplated under the planning scheme. We therefore request that Council vary their Design Requirement policy in this instance and agree to our section 96 application."*

Under the proposed modification, conditions can be included on any consent granted by Council to ensure that despite fifty (50) of the parking spaces being allocated to single units, these will not be labelled or in any way restricted; ensuring staff, visitors and/or patrons of the site are free to use them as needed. This creates a situation where 100% of the carpark is available to visitors and staff of the Quest facility, which may help reduce any potential overflow into surrounding carparks and the public street. The current Development Approval is compliant with the requirements of DCP 2009, however, the consent allows for thirty five (35) car spaces to be "locked off". It is a fact that the current application would result in a greater number of unrestricted parking spaces being made available on the site (100%), than that under the current approval which requires 50% of on-site parking to be unrestricted.

In this regard where Council is of a mind to approve the current application, it is considered appropriate to include the following conditions:

***"Car Parking***

- a. The car parking spaces designated as common property and/or visitor car parking shall not be physically separated from any other part of the development.*
  - b. This consent does not permit the erection or display of signage, labelling or numbering of any car parking spaces. This consent does not permit the construction, installation or use of bollards, car space protectors, storage facilities or any other device or method that may inhibit vehicular access to an on-site car parking space. All car parking spaces are to be made available to all users of the site without restriction or specific allocation at all times.*
  - c. Car parking spaces are not to be sub-let, cross hired, leased or sold separately to the unit to which it was originally allocated.*
-

- d. No use of the parking facilities is allowed by any person other than for staff, patrons of the conference or accommodation facilities, or those people involved in maintenance or other ancillary type functions.”*
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Also, in regard to the proposed strata title to be placed over each allotment, it is considered appropriate to include the following condition:

***“Restriction on the Use of Land***

*Prior to the principal certifying authority issuing a subdivision certificate, the applicant shall create appropriate restrictions on the use of land under Section 88B of the Conveyancing Act.*

- a. The serviced motel rooms shall provide overnight and/or short term accommodation only. No permanent residency is permitted in any of the serviced motel rooms at any time.*
- b. The erection or display of signage, labelling or numbering of any car parking spaces is not permissible. It is also not permissible to construct, install or use bollards, car space protectors, storage facilities or any other device or method that may inhibit vehicular access to any onsite car parking space.*
- c. Car parking spaces are not to be sub-let, cross hired, leased or sold separately to the unit to which it was originally allocated.*

*The applicant shall liaise with Council regarding the required wording. Any lots subsequently identified during the subdivision process as requiring restrictions shall also be suitably burdened. Design plans and work as executed plans shall show affected lots marked with Council approved symbols. The authority empowered to release, vary or modify these restrictions on the use of land shall be the Council of the City of Campbelltown. The cost and expense of any such release, variation or modification shall be borne by the person or corporation requesting the same in all respects.”*

The inclusion of these conditions in any consent (and within the Section 88B Instrument), serves to prevent the unauthorised restriction of parking spaces on the site, whilst at the same time, provides potential purchasers the knowledge of restrictions that (despite any conditions of consent) may burden to allotment within the strata unit complex.

**Conclusion**

An application has been received to strata subdivide the existing development and allocate 50 of the parking spaces to individual units at the Quest Serviced Apartments, Campbelltown. The building and car parking were constructed in 2009. In May 2010 Council granted development consent for the strata subdivision of the subject building including the allocation of 35 of the car parking spaces to individual strata units.

The proposed development complies with a number of the zoning objectives of Campbelltown (Urban Area) Local Environment Plan 2002 (LEP 2002). However, the proposed development does not comply with the car parking requirements of the Campbelltown (Sustainable City) Development Control Plan 2009.

Consequently, the applicant has requested a variation to the relevant parking/subdivision controls found within the Campbelltown (Sustainable City) Development Control Plan 2009. The applicant has argued that the proposed development to allocate 50 unrestricted parking spaces to individual units and to make those spaces freely available to all patrons of the site, would result in

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a better outcome for the surrounding area than that of the current arrangement, and would limit the potential overflow of parked cars into surrounding businesses and public streets.

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Taking into consideration the applicants request for variation, it is considered that with appropriate restrictions to be included on the title and as part of the consent, the proposed development should result in a better outcome than that currently approved and it is therefore recommended that the request for variation be allowed and the application be approved.

### **Officer's Recommendation**

1. That Council allow the variation to section 5.8.1 of the Campbelltown (Sustainable) City Development Control Plan 2009.
2. That Development Application No. 309/2010/DA-S/A, for the subdivision into 50 Strata allotments including the allocation of 50 car parking spaces to individual strata allotments at No. 1 Rennie Road, Campbelltown, be approved, subject to the recommended conditions at Attachment 1.

### **Committee's Recommendation: (Thompson/Hawker)**

That the Officer's Recommendation be adopted.

### **CARRIED**

Voting for the Committee's Recommendation were Councillors: Bourke, Greiss, Hawker, Kolkman, Oates and Thompson.

Voting against the Committee's Recommendation: Nil.

### **Council Meeting 19 October 2010 (Oates/Rule)**

That the Officer's Recommendation be adopted.

### **Council Minute Resolution Number 204**

That the Officer's Recommendation be adopted.

Voting for the Council Resolution were Councillors: Borg, Bourke Chanthivong, Dobson, Glynn, Greiss, Hawker, Kolkman, Lake, Oates, Rowell, Rule, Thomas and Thompson.

Voting against the Council Resolution were Councillors: Nil.

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## **ATTACHMENT 1**

### **GENERAL CONDITIONS**

The following conditions have been applied to ensure that the use of the land and/or building is carried out in such a manner that is consistent with the aims and objectives of the planning instrument affecting the land.

For the purpose of these conditions, the term 'applicant' means any person who has the authority to act on or benefit of the development consent.

#### **1. Approved Development**

The development shall take place in accordance with the approved development plans containing Council's approved development stamp and all associated documentation submitted with the application, except as modified in red by Council and/or any conditions of this consent.

Section 96 (2) - Strata Subdivision

Plan - Draft Strata Ground Floor

Plan - Draft Strata Level 1

Plan - Draft Strata Level 2 & Level 3

#### **2. Car Parking**

- a. The car parking spaces designated as common property and/or visitor car parking shall not be physically separated from any other part of the development.
- b. This consent does not permit the erection or display of signage, labelling or numbering of any car parking spaces. This consent does not permit the construction, installation or use of bollards, car space protectors, storage facilities or any other device or method that may inhibit vehicular access to an on-site car parking space. All car parking spaces are to be made available to all users of the site without restriction or specific allocation at all times.
- c. Car parking spaces are not to be sub-let, cross hired, leased or sold separately to the unit to which it was originally allocated.
- d. No use of the parking facilities is allowed by any person other than for staff, patrons of the conference or accommodation facilities, or those people involved in maintenance or other ancillary type functions.

### **PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE**

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

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### 3. Restriction on the Use of Land

Prior to the principal certifying authority issuing a subdivision certificate, the applicant shall create appropriate restrictions on the use of land under Section 88B of the Conveyancing Act.

- a. The serviced motel rooms shall provide overnight and/or short term accommodation only. No permanent residency is permitted in any of the serviced motel rooms at any time.
- b. This consent does not permit the erection or display of signage, labelling or numbering of any car parking spaces. This consent does not permit the construction, installation or use of bollards, car space protectors, storage facilities or any other device or method that may inhibit vehicular access to an on-site car parking space. All car parking spaces are to be made available to all users of the site without restriction or specific allocation at all times.
- c. Car parking spaces cannot be sub-let, cross hired, leased or sold separately to the unit to which it has been allocated.

The applicant shall liaise with Council regarding the required wording. Any lots subsequently identified during the subdivision process as requiring restrictions shall also be suitably burdened. Design plans and work as executed plans shall show affected lots marked with Council approved symbols. The authority empowered to release, vary or modify these restrictions on the use of land shall be the Council of the City of Campbelltown. The cost and expense of any such release, variation or modification shall be borne by the person or corporation requesting the same in all respects.

### 4. Council Fees and Charges

Prior to the principal certifying authority issuing a subdivision certificate, the applicant shall obtain written confirmation from Council that all applicable Council fees and charges associated with the development have been paid in full. Written confirmation will be provided to the applicant following Council's final inspection and satisfactory clearance of the public area adjacent the site.

## ADVISORY NOTES

The following information is provided for your assistance to ensure compliance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, other relevant Council Policy/s and other relevant requirements. This information does not form part of the conditions of development consent pursuant to Section 80A of the Act.

### Advice 1. Environmental Planning and Assessment Act 1979 Requirements

The Environmental Planning and Assessment Act 1979 requires you to:

- a. Obtain a construction certificate prior to the commencement of any works. Enquiries regarding the issue of a construction certificate can be made to Council's Customer Service
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Centre on 4645 4608.

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- b. Nominate a principal certifying authority and notify Council of that appointment prior to the commencement of any works.
- c. Give Council at least two days notice prior to the commencement of any works.
- d. Have mandatory inspections of nominated stages of the construction inspected.
- e. Obtain an occupation certificate before occupying any building or commencing the use of the land.

**Advice 2. Covenants**

The land upon which the subject building is to be constructed may be affected by restrictive covenants. Council issues this approval without enquiry as to whether any restrictive covenant affecting the land would be breached by the construction of the building, the subject of this permit. Persons to whom this permit is issued must rely on their own enquiries as to whether or not the building breaches any such covenant.

**Advice 3. Strata Linen Plan and Copies**

Should Council be nominated as the principal certifying authority for the strata subdivision, an original linen plan (and if required an original 88B Instrument) together with four copies of each shall be submitted to Council prior to the release of the subdivision certificate.

**Advice 4. Linen Plan Checking Fee**

Where Council is the principal certifying authority a linen plan checking fee is payable on submission of the linen plan of subdivision to Council. The exact amount will be calculated at the rate applicable at the time of release of the linen plans.

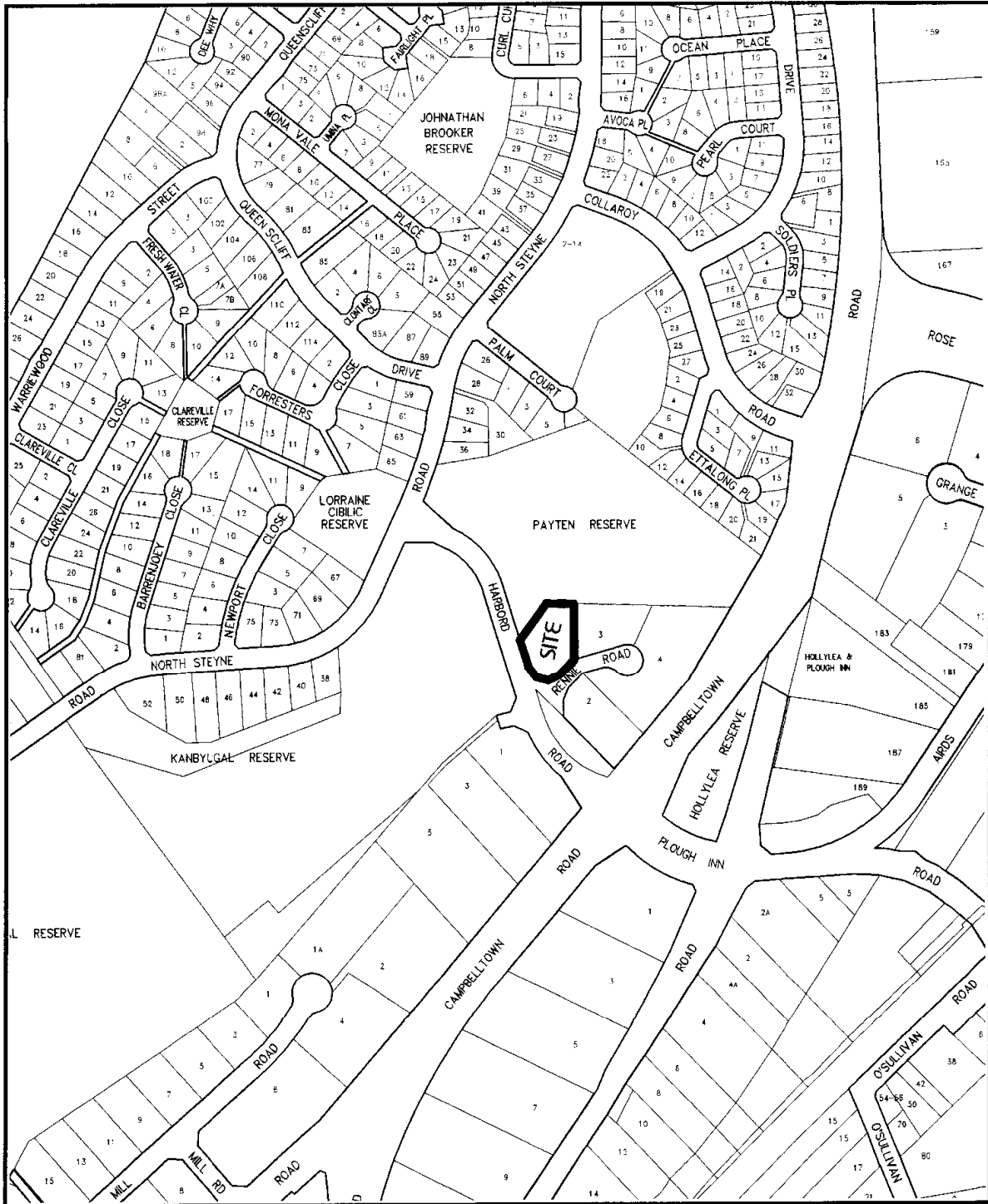
**Advice 5. Dial 1100 Before you Dig**

Underground cable and pipes may exist in the area. In your own interest and for safety, telephone 1100 before excavation or erection of structures. Information on the location of underground pipes and cables can also be obtained by fax on 1300 652 077 or through the following website - [www.dialbeforeyoudig.com.au](http://www.dialbeforeyoudig.com.au)

**End of Conditions**

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## ATTACHMENT 2



### LOCALITY PLAN

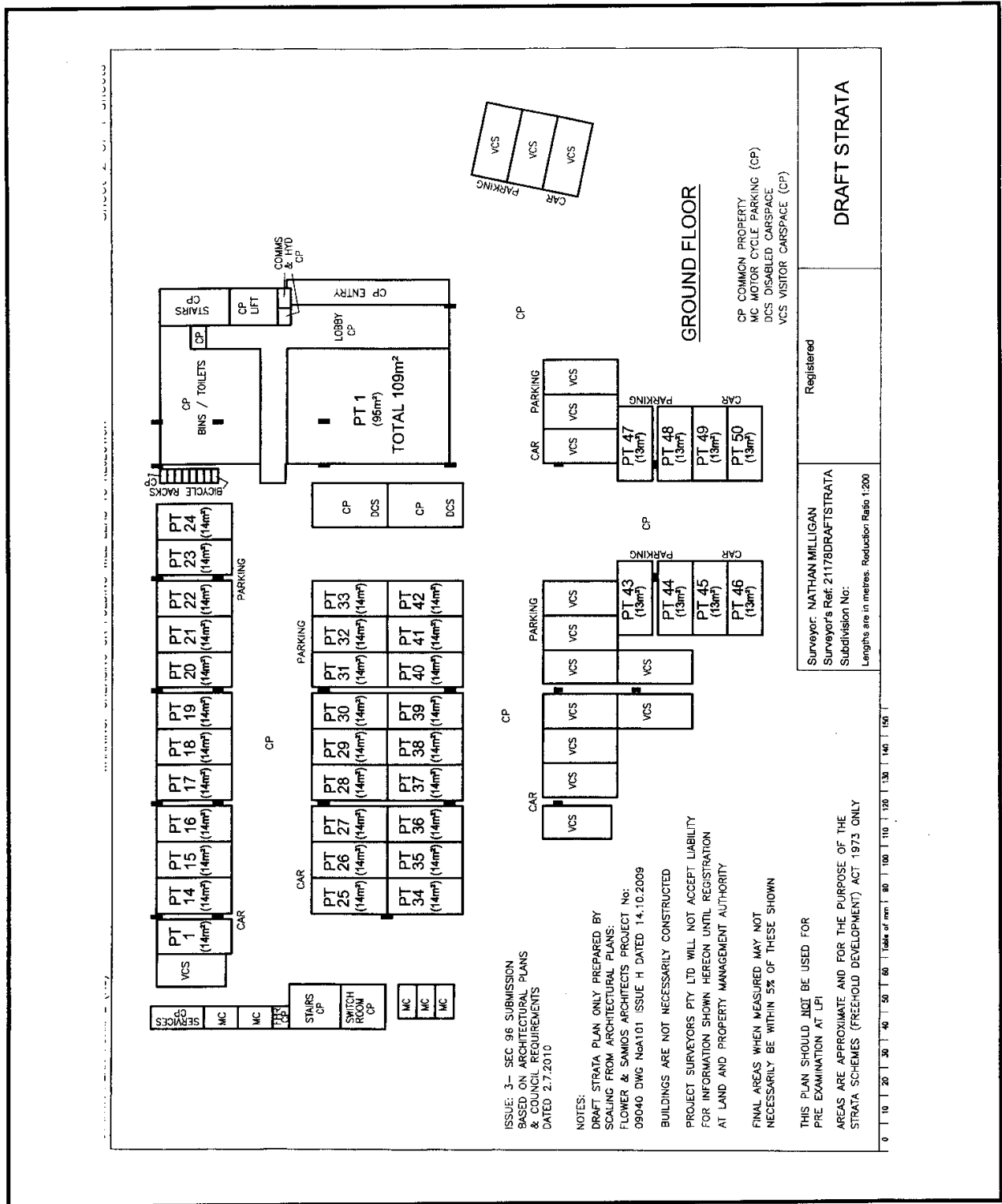


**SUBJECT:** MODIFICATION TO STRATA SUBDIVISION OF EXISTING BUILDING.

LOT 6 DP 836313 - No. 1 RENNIE ROAD, CAMPBELLTOWN.

## **ATTACHMENT 3**

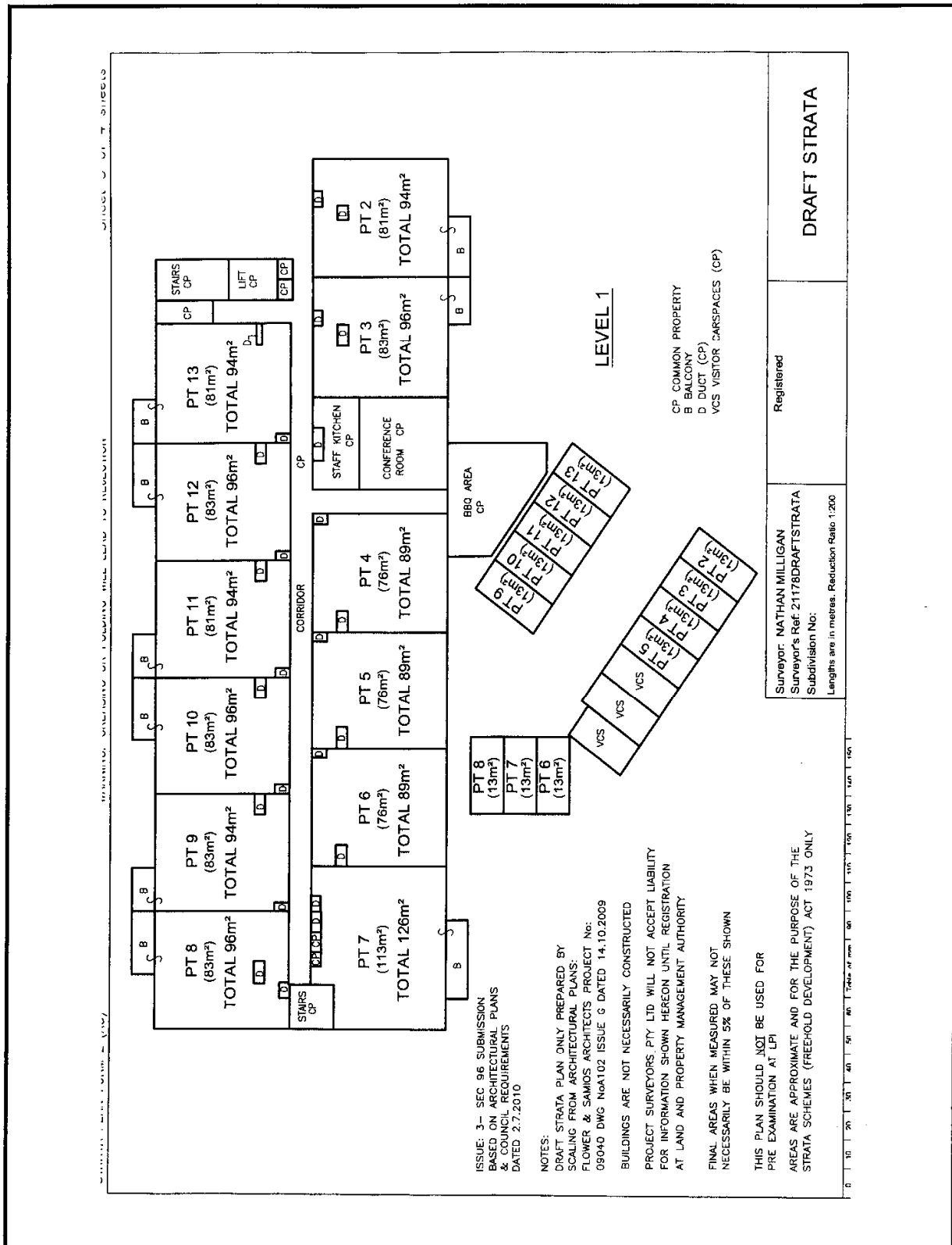
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# SUBDIVISION PLAN

**SUBJECT:** MODIFICATION TO STRATA SUBDIVISION OF EXISTING BUILDING.

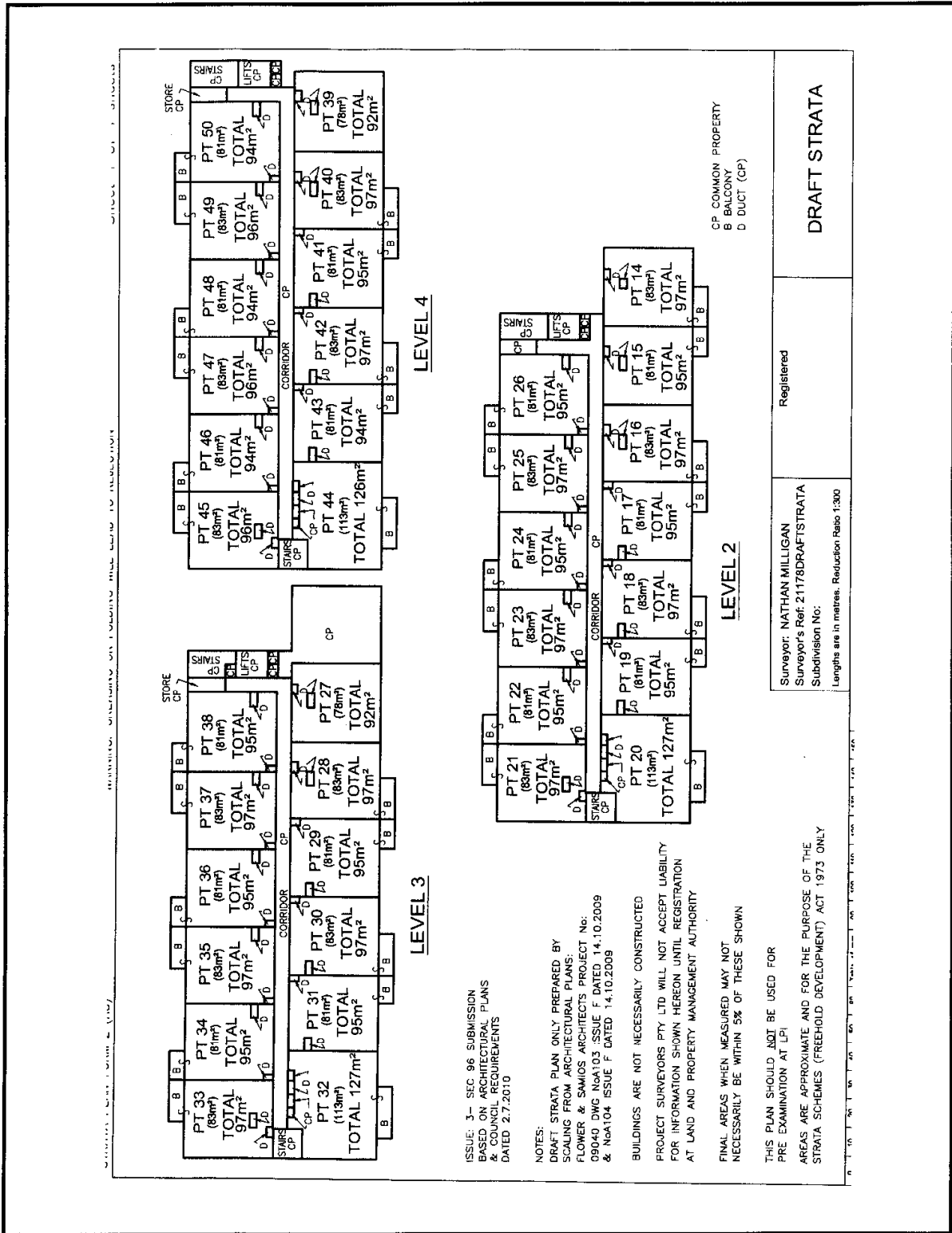
LOT 6 DP 836313 - No. 1 RENNIE ROAD, CAMPBELLTOWN.



# SUBDIVISION PLAN

**SUBJECT:** MODIFICATION TO STRATA SUBDIVISION OF EXISTING BUILDING.

LOT 6 DP 836313 - No. 1 RENNIE ROAD, CAMPBELLTOWN.



# SUBDIVISION PLAN

**SUBJECT:** MODIFICATION TO STRATA SUBDIVISION OF EXISTING BUILDING.

LOT 6 DP 836313 - No. 1 RENNIE ROAD, CAMPBELLTOWN.



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### 3.5 No. 7 Williamson Road, Ingleburn - Construction of Concrete Pad for Storage of Pallets

#### Reporting Officer

Manager Development Services

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#### Attachments

1. Recommended Conditions of Consent
2. Locality Plan
3. Site Plans

#### Purpose

To assist Council in its determination of the subject development application in accordance with the provisions of the *Environmental Planning and Assessment Act 1979*.

<b>Property Description</b>	Lot 1003, DP 771713, No. 7 Williamson Road, Ingleburn
<b>Application No</b>	1210/2010/DA-I
<b>Applicant</b>	Kimberly-Clark Pty Ltd
<b>Owner</b>	Kimberly-Clark Pty Ltd
<b>Statutory Provisions</b>	Campbelltown (Urban Area) Local Environment Plan 2002
<b>Other Provisions</b>	Campbelltown (Sustainable City) Development Control Plan 2009 Campbelltown 2025 Looking Forward
<b>Date Received</b>	4 June 2010

#### Report

##### Introduction

Council is in receipt of a Development Application for the construction of a concrete pad for the purpose of pallet storage at Lot 1003, DP 771713, No. 7 Williamson Road, Ingleburn.

##### The Site

The location of the proposed concrete pad is at the rear of the property. The subject land contains a large single factory unit, which is currently used for the manufacture and packaging of nappies. The subject site is within the Ingleburn Industrial Estate, and to the east, north and south lie similar, large scale factory units. To the west of the site runs the South Western Freeway.

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## The Proposal

The proposal seeks Development Consent to construct a concrete pad for the storage of stacked pallets. The proposed concrete pad is 25.6 metres in length and varies from 3.66–6.0 metres in width. The proposed pad is located a variable 16.537-16.927 metres from the rear boundary which backs onto the South Western Freeway Corridor.

## Campbelltown 2025 Looking Forward

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

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

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

The strategic directions relevant to this application are:

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

The proposed development is generally consistent with these directions.

Some of the relevant desired outcomes of the strategic directions included in Campbelltown 2025 include:

- *Urban environments that are safe, healthy, exhibit a high standard of design, and are environmentally sustainable;*
- *An impression of architecture that engages its environmental context in a sustainable way; and*
- *Development and land use that matches environmental capacity and capability.*

The proposed development has been assessed giving regard to Campbelltown 2025 *Looking Forward*. It is considered that the Development Application is not inconsistent with the Vision's desired outcomes when giving regard to the design and level of impact on adjoining development and the locality.

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## Assessment

The development has been assessed in accordance with the heads of consideration under Section 79C of the Environmental Planning and Assessment Act, 1979, and having regard to those matters, the following issues have been identified for further consideration.

### 1. Campbelltown (Urban Area) Local Environmental Plan 2002

The subject site is zoned 4(a) – General Industry Zone under the provisions of Campbelltown (Urban Area) Local Environmental Plan 2002. The proposed development is defined as “industry” and is permissible with Council’s development consent within the zone.

The proposal is consistent with several zone objectives, particularly:

- (a) *to encourage activities that will contribute to the economic and employment growth of the City of Campbelltown, and*
- (b) *to allow a range of industrial, storage and allied activities, together with ancillary uses, the opportunity to locate within the City of Campbelltown, and*
- (c) *to encourage a high quality standard of development which is aesthetically pleasing, functional and relates sympathetically to nearby and adjoining development, and*
- (d) *to protect the viability of the commercial centres in the City of Campbelltown by limiting commercial activities to those associated with permitted industrial, storage and allied development, and*
- (e) *to ensure development will not be carried out unless the consent authority is satisfied that the processes to be carried on, the transportation to be involved, or the plant, machinery or materials to be used, do not interfere unreasonably with the amenity of the area.*

Despite the above, the proposal does not comply with the setback standard found within Clause 37 of the Campbelltown (Urban Area) Local Environmental Plan 2002. An excerpt of this clause can be found below:

#### **37 Setbacks within industrial areas**

*Consent must not be granted to development, other than the use of land for landscaping, for access roads and for off street parking, on any land within Zone 4 (a) or 4 (b) which is within:*

- (a) *30 metres of the main southern railway line, the South Western Freeway, Ben Lomond Road between Pembroke Road and the Main Southern Railway Line, Campbelltown Road, Henderson Road, Pembroke Road, Rose Payten Drive or Williamson Road*

The proposed development is situated within 30 metres of the South Western Freeway and therefore does not comply with the above clause.

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Notwithstanding the requirements of Clause 37, the applicant argues that the standard is unreasonable in the circumstances. As such, the applicant has lodged an objection to the standard pursuant to the provisions of the State Environmental Planning Policy No. 1 – Development Standards.

## **2. State Environmental Planning Policy No. 1 – Development Standards**

*State Environmental Planning Policy No. 1 – Development Standards* (SEPP 1) aims to provide flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary. The SEPP 1 provides an avenue for an applicant to object to Council's development standards, which in this instance is the minimum distance for development to be located from the South Western Freeway Corridor (pursuant to Clause 37 of the LEP 2002). In this regard, an objection pursuant to the provisions of SEPP 1 has been lodged in respect to the proposal's non compliance with Clause 37 of the Campbelltown (Urban Area) Local Environment Plan 2002.

As stated previously, the objectives of SEPP 1 are to provide flexibility in the application of development standards in particular circumstances. It also ensures that compliance with those standards does not hinder the attainment of the objectives specified in section 5(a)(i) and (ii) of the EP&A Act, 1979.

The relevant objectives of Section 5 of the EP&A Act, 1979, are:

“(a) to encourage:

- (i) *the proper management development and conservation of natural and man-made resources, including agricultural land, natural areas, forest, minerals, water cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment;*
- (ii) *the promotion and co-ordination of the orderly and economic use and development of land;”*

It is considered that the proposal is not inconsistent with these objectives.

As previously mentioned, the purpose of this SEPP 1 objection relates specifically to Clause 37 of the LEP 2002, which is as follows:

*Consent must not be granted to development, other than the use of land for landscaping, for access roads and for off street parking, on any land within Zone 4 (a) or 4 (b) which is within:*

- (a) *30 metres of the main southern railway line, the South Western Freeway, Ben Lomond Road between Pembroke Road and the Main Southern Railway Line, Campbelltown Road, Henderson Road, Pembroke Road, Rose Payten Drive or Williamson Road.*

The subject application seeks a variation to the provisions of Clause 37 of LEP 2002, to allow the construction of a concrete pad with a setback from the rear boundary (which abuts the South Western Freeway Corridor) of between 16.5 and 16.9 metres.

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The SEPP1 objection submitted with this application details and argues that the proposed variation with Clause 37:

- Is consistent with the underlying purpose or objectives of the development standard, and;
- Achieves the relevant objectives specified in Section 5 (a) (i) and (ii) of the EPA Act 1979

### **Consistency with the underlying purpose or objectives of Clause 37 of LEP 2002**

The SEPP 1 objection lodged by the applicant states that the objectives of the setback requirements of Clause 37 of the LEP 2002 are not specifically outlined, but can be assumed to be:

- To create a sense of openness
- To provide opportunities for landscaping
- To minimise impact of development on streetscape; and
- To maintain visual pattern and continuity of buildings.

**Comment:** In the absence of a specific outline of the objectives of Clause 37 of LEP 2002, the above interpretation of the objectives behind Clause 37 is considered reasonable.

The SEPP 1 objection argues that compliance with Clause 37 is unnecessary or unreasonable as the proposal does not compromise the above assumed objectives. This is justified by the application as follows:

*“It is considered that strict compliance with the setback standard of 30 metres is unreasonable and unnecessary as the proposal will not compromise the underlying objectives of the control because the storage area:-*

- a) is located in a position where there will be no significant loss of vegetation and will not affect any perceived sense of openness*
- b) will not be visible from Williamson Road as it is obscured by the existing building*
- c) will not be visible from the South Western Freeway because of the dense buffer vegetation separating the site as well as the fall of the land resulting in the storage area being at a lower ground point*
- d) will not interfere with the visual continuity of the streetscape nor buildings on the site”*

**Comment:** It is considered that the proposed development is unlikely to have an adverse impact upon vegetation and/or the streetscape of Williamson Road or the South Western Freeway. The submission is considered to adequately justify the variation to Clause 37 on the grounds that in this particular circumstance, the development standard can be considered as unnecessary or unreasonable given the minimal impact on the surrounding environment.

### **The relevant objectives specified in Section 5 (a) (i) and (ii) of the EPA Act 1979**

Clause 3 of SEPP 1 requires consideration to be given to whether strict compliance with a development standard would tend to hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the Environmental Planning and Assessment Act 1979 (EP&A Act). Section 5(a)(i) and (ii) of the EP&A Act are as follows:

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## **“5 Objects**

*The objects of this Act are:*

(a) *to encourage:*

- (i) *the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
- (ii) *the promotion and co-ordination of the orderly and economic use and development of land”*

The SEPP 1 objection considers the above objectives and provides the following comment:

*“Notwithstanding the non-compliance, it is considered that the proposal is generally consistent with the intent of the objectives by promoting the orderly use of these industrial premises and its operation.”*

**Comment:** It is considered that the above submission in regard to Section 5(a)(i) and (ii) of the Environmental Planning and Assessment Act 1979 (EP&A Act) is adequate and it is considered that the proposal put forward by the applicant is generally consistent with the objectives outlined above. The proposed development is ancillary and complementary to the sites overall use as an industrial site and will contribute to the continued economic use of the subject land. It is therefore considered that the SEPP 1 objection to Clause 37 is well founded in the circumstances of the case.

## **2. Campbelltown (Sustainable City) Development Control Plan 2009**

The following addresses the assessment of the proposal pursuant to the relevant requirements of the Campbelltown (Sustainable City) Development Control Plan 2009 (DCP 2009)

<b>Section</b>	<b>Control</b>	<b>Requirement</b>	<b>Proposed</b>	<b>Compliance</b>
<b>6.3.2 a) i)</b>	Building Form and Character	Industrial development shall be setback by 30 metres to the South Western Freeway corridor	The application lies within 30 metres of the boundary between the lot in question and the boundary of the South Western Freeway corridor.	No
<b>6.4.1 c) v)</b>	Car Parking and Access	One car space shall be provided per 300sqm of outdoor storage space	The existing carparking facilities accommodate 172 spaces.	Yes

Section	Control	Requirement	Proposed	Compliance
6.6 b)	Outdoor Storage Areas	Outdoor storage areas shall not be located between the primary or secondary street boundary and any building on the allotment.	The proposed development is located to the rear of the allotment and does not come between primary or secondary street boundaries	Yes
6.6 c)	Outdoor Storage Areas	Outdoor storage areas shall be adequately screened from public view	The proposed development is screened from the primary street by the existing building and is screened from the rear boundary by dense vegetation	Yes
6.6 f)	Outdoor Storage Areas	All outdoor storage areas shall be sealed and drained to the storm water system in accordance with any environmental management requirements	The proposed development is a sealed concrete storage pad. Plans have been provided outlining drainage system of the proposed development.	Yes

The proposed development generally complies with the relevant provisions of DCP 2009 except for the requirements found at Section 6.3.2 a) i) which states that industrial development must be setback 30 metres from the South Western Freeway corridor. This requirement is identical to the development standard found at Clause 37 of LEP 2002. In this regard, the SEPP 1 objection lodged with this application is relevant and applicable to this section of the DCP 2009 and as such, is considered to provide adequate justification for the variation to Section 6.3.2 a) i) of DCP 2009.

### Public Participation

The application was not required to be notified to the public, pursuant to Development Control Plan No. 87 – Public Notification and Public Exhibition Policy.

### Conclusion

An application has been received for the construction of a concrete storage pad at the rear of an existing factory unit in Ingleburn.

The proposed location of the concrete pad does not comply with Council's setback standards contained within Clause 37 of the Campbelltown (Urban Area) Local Environment Plan 2002 (LEP 2002) and Section 6.3.2 a) i) of the Campbelltown (Sustainable City) Development Control Plan 2009 (SCDCP 2009).

Due to the non compliance with LEP 2002, an objection to the 30 metre setback standard was made pursuant to the State Environmental Planning Policy No. 1 – Development Standards. The objection argued that compliance with the development standard (minimum setback from South Western Freeway) was unreasonable and unnecessary in the circumstances as the proposed development would not compromise the underlying objectives of Clause 37. The SEPP 1 objection also argued that the proposed development is consistent with Section 5(a)(i) and (ii) of the Environmental Planning and Assessment Act 1979 (EP&A Act) as the proposed development would not compromise the orderly use of these industrial premises and its operation.

The proposed development was also found to be non-compliant with Section 6.3.2 a) i) of DCP 2009. As this design requirement is identical to the requirements of Clause 37 of the LEP 2002 (clause subject of the SEPP 1 objection), it is considered that the SEPP 1 objection to Clause 37 of the LEP provides adequate justification for the variation to Section 6.3.2 a) i) of SCDP 2009 as well.

Given the merits of the case (including the minimal risk of negative impacts to vegetation or streetscapes), it is considered that the proposal is worthy of support.

Given that the subject application involves an objection to a development standard pursuant to the provisions of the State Environmental Planning Policy No. 1 (relating to the setback of the development), Council cannot grant consent until such time as the concurrence of the Director General of Planning has been received. Hence, it is recommended that Council allow the SEPP 1 objection and approve the application subject to conditions and the receipt of the Director General's concurrence to the SEPP 1 objection.

### **Officer's Recommendation**

1. That Council allow the SEPP 1 objection in respect to the non-compliance with the 30m setback standard found at Clause 37 of LEP 2002.
2. That the application be referred to the Department of Planning seeking the Director General's concurrence to the allowance of the SEPP 1 objection.
3. That Development Application 1210/2010/DA-I, for the construction of a concrete pad for pallet storage, at No. 7 Williamson Road, Ingleburn (Lot 1003, DP 771713), be approved, subject to the conditions at Attachment 1 and the receipt of the Director General's concurrence.

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

That the Officer's Recommendation be adopted.

### **CARRIED**

Voting for the Committee's Recommendation were Councillors: Bourke, Greiss, Hawker, Kolkman, Oates and Thompson.

Voting against the Committee's Recommendation: Nil.

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**Council Meeting 19 October 2010 (Kolkman/Chanthivong)**

That the Officer's Recommendation be adopted.

**Council Minute Resolution Number 205**

That the Officer's Recommendation be adopted.

Voting for the Council Resolution were Councillors: Borg, Bourke Chanthivong, Dobson, Glynn, Greiss, Hawker, Kolkman, Lake, Oates, Rowell, Rule, Thomas and Thompson.

Voting against the Council Resolution were Councillors: Nil.

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## **ATTACHMENT 1**

### **GENERAL CONDITIONS**

The following conditions have been applied to ensure that the use of the land and/or building is carried out in such a manner that is consistent with the aims and objectives of the planning instrument affecting the land.

For the purpose of these conditions, the term 'applicant' means any person who has the authority to act on or benefit of the development consent.

#### **1. Approved Development**

The development shall take place in accordance with the approved development plans containing Council's approved development stamp and all associated documentation submitted with the application, except as modified in red by Council and/or any conditions of this consent.

#### **2. Building Code of Australia**

All building work must be carried out in accordance with the provisions of the *Building Code of Australia*. In this clause, a reference to the *Building Code of Australia* is a reference to that Code as in force on the date the application for the relevant construction certificate is made.

#### **3. Security Fencing**

All security fencing shall be established behind the required landscape areas and not on the road alignments. No barbed wire style fencing is to be erected in a location that can be seen from a public place.

#### **4. Graffiti Removal**

In accordance with the environmental maintenance objectives of 'Crime Prevention Through Environmental Design', the owner/lessee of the building shall be responsible for the removal of any graffiti which appears on the buildings, fences, signs and other surfaces of the property within 48 hours of its application.

#### **5. Shoring and Adequacy of Adjoining Property**

If the development referred to in this development consent involves an excavation that extends below the level of the base of the footings of a building on adjoining land or undermines adjacent lands, the person having the benefit of the development consent must at the person's own expense:

- (a) Protect and support the adjoining premises from possible damage from the excavation, and
  - (b) Where necessary, underpin the adjoining premises to prevent any such damage.
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This condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

## **PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE**

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

### **6. Waste Management Plan**

Prior to Council or an accredited certifier issuing a construction certificate, the relevant provisions of Council's *Waste Management Plan* is to be completed to the satisfaction of Council.

## **PRIOR TO THE COMMENCEMENT OF ANY WORKS**

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

### **7. Erosion and Sediment Control**

Prior to the commencement of any works on the land, adequate/approved erosion and sediment control measures shall be fully installed/implemented.

### **8. Erection of Construction Sign**

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

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

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

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## 9. Trade Waste

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

## DEVELOPMENT REQUIREMENTS DURING CONSTRUCTION

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

## 10. Construction Work Hours

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

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

## 11. Erosion and Sediment Control

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

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

## 12. Work Zones

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

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

## 13. Dust Nuisance

Measures shall be implemented to minimise wind erosion and dust nuisance in accordance with the requirements of the manual – *Soils and Construction (2004) (Bluebook)*. Construction areas shall be treated/ regularly watered to the satisfaction of the principal certifying authority.

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#### **14. Public Safety**

Any works undertaken in a public place are to be maintained in a safe condition at all times in accordance with AS 1742.3. Council may at any time and without prior notification make safe any such works Council considers to be unsafe, and recover all reasonable costs incurred from the applicant.

#### **15. Completion of Construction Works**

Unless otherwise specified in this consent, all construction works associated with the approved development shall be completed within twelve (12) months of the date of the notice of the intention to commence construction works under Section 81A of the Act.

In the event that construction works are not continually ongoing, the applicant shall appropriately screen the construction site from public view with architectural devices and landscaping to Council's written satisfaction.

### **ADVISORY NOTES**

The following information is provided for your assistance to ensure compliance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, other relevant Council Policy/s and other relevant requirements. This information does not form part of the conditions of development consent pursuant to Section 80A of the Act.

#### **Advice 1. Environmental Planning and Assessment Act 1979 Requirements**

The Environmental Planning and Assessment Act 1979 requires you to:

- a. Obtain a construction certificate prior to the commencement of any works. Enquiries regarding the issue of a construction certificate can be made to Council's Customer Service Centre on 4645 4608.
- b. Nominate a principal certifying authority and notify Council of that appointment prior to the commencement of any works.
- c. Give Council at least two days notice prior to the commencement of any works.
- d. Have mandatory inspections of nominated stages of the construction inspected.
- e. Obtain an occupation certificate before occupying any building or commencing the use of the land.

#### **Advice 2. Tree Preservation Order**

To ensure the maintenance and protection of the existing natural environment, you are not permitted to ringbark, cut down, top, lop, remove, wilfully injure or destroy a tree outside 3 metres of the building envelope unless you have obtained prior written consent from Council. Fines may be imposed if you choose to contravene Council's Tree Preservation Order.

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A tree is defined as a perennial plant with self supporting stems that are more than 3 metres or has a trunk diameter more than 150mm measured 1 metre above ground level, and excludes any tree declared under the Noxious Weeds Act (NSW).

**Advice 3. Disability Discrimination Act**

Nothing in this consent is to be taken to imply that the development meets the requirements of the *Disability Discrimination Act 1992* (DDA1992). Where a Construction Certificate is required for the approved works, due regard is to be given to the requirements of the *Building Code of Australia* (BCA). However, your attention is drawn to the existence of the DDA1992 and that compliance with the various requirements of the BCA does not provide automatic compliance with the DDA1992. In this regard it is the sole responsibility of the owner, builder and applicant to ensure compliance with the DDA1992.

**Advice 4. Retaining Walls**

A separate development application shall be submitted and approved for any retaining walls that exceed 0.9 metres in height.

**Advice 5. Covenants**

The land upon which the subject building is to be constructed may be affected by restrictive covenants. Council issues this approval without enquiry as to whether any restrictive covenant affecting the land would be breached by the construction of the building, the subject of this permit. Persons to whom this permit is issued must rely on their own enquiries as to whether or not the building breaches any such covenant.

**Advice 6. Tenancy Fit Out**

A separate development application is required to be submitted for the fit out of individual tenancies.

**Advice 7. Inspection Within Public Areas**

All works within public areas are required to be inspected at all stages of construction and approved by Council prior to the principal certifying authority releasing the Occupation Certificate.

**Advice 8. Adjustment to Public Utilities**

Adjustment to any public utilities necessitated by the development is required to be completed prior to the occupation of the premises and in accordance with the requirements of the relevant Authority. Any costs associated with these adjustments are to be borne by the applicant.

**Advice 9. Asbestos Warning**

Should asbestos or asbestos products be encountered during construction or demolition works you are advised to seek advice and information prior to disturbing the material. It is recommended that a contractor holding an asbestos-handling permit (issued by Work Cover NSW), be engaged to manage the proper disposal and handling of the material. Further information regarding the safe handling and removal of asbestos can be found at:

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www.environment.nsw.gov.au  
www.nsw.gov.au/fibro  
www.adfa.org.au  
www.workcover.nsw.gov.au

Alternatively, call Work Cover Asbestos and Demolition Team on 8260 5885.

**Advice 10. Smoke Free Environment Act**

Nothing in this consent is to be taken to imply that the development meets the requirements of the *Smoke Free Environment Act 2000* (SFEA2000) or the *Smoke Free Environment Regulations 2007* (SFER2007). In the event that the occupier wishes to facilitate smoking within any enclosed public place of the premises (in accordance with clause 6 of the SFER2007), the occupier must first contact NSW Department of Health to ensure that the design and construction of the area proposed to facilitate smoking fully complies with the requirements of the SFEA2000 and the SFER2007.

**Advice 11. Dial 1100 Before you Dig**

Underground cable and pipes may exist in the area. In your own interest and for safety, telephone 1100 before excavation or erection of structures. Information on the location of underground pipes and cables can also be obtained by fax on 1300 652 077 or through the following website - [www.dialbeforeyoudig.com.au](http://www.dialbeforeyoudig.com.au).

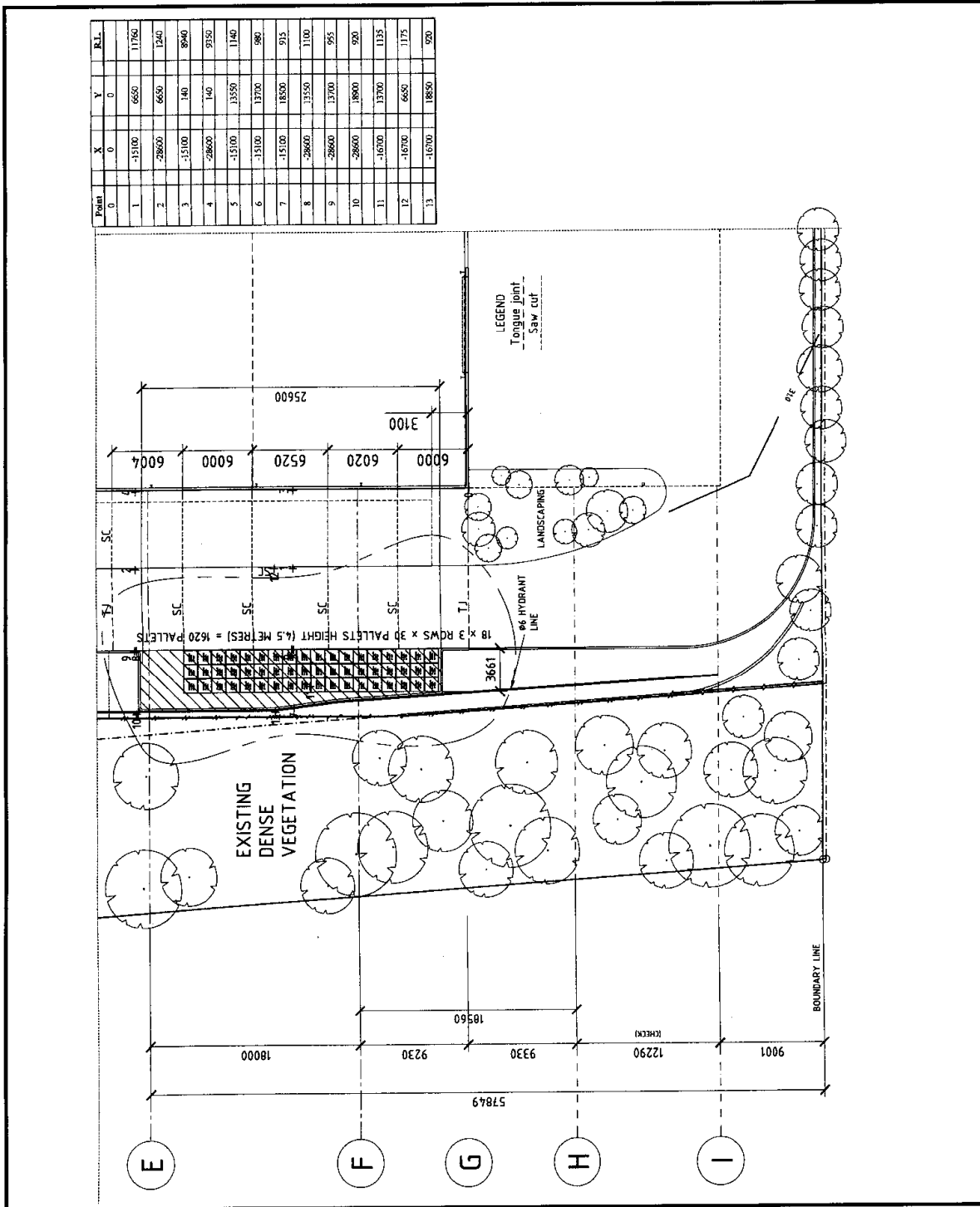
**End of Conditions**

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**ATTACHMENT 3**

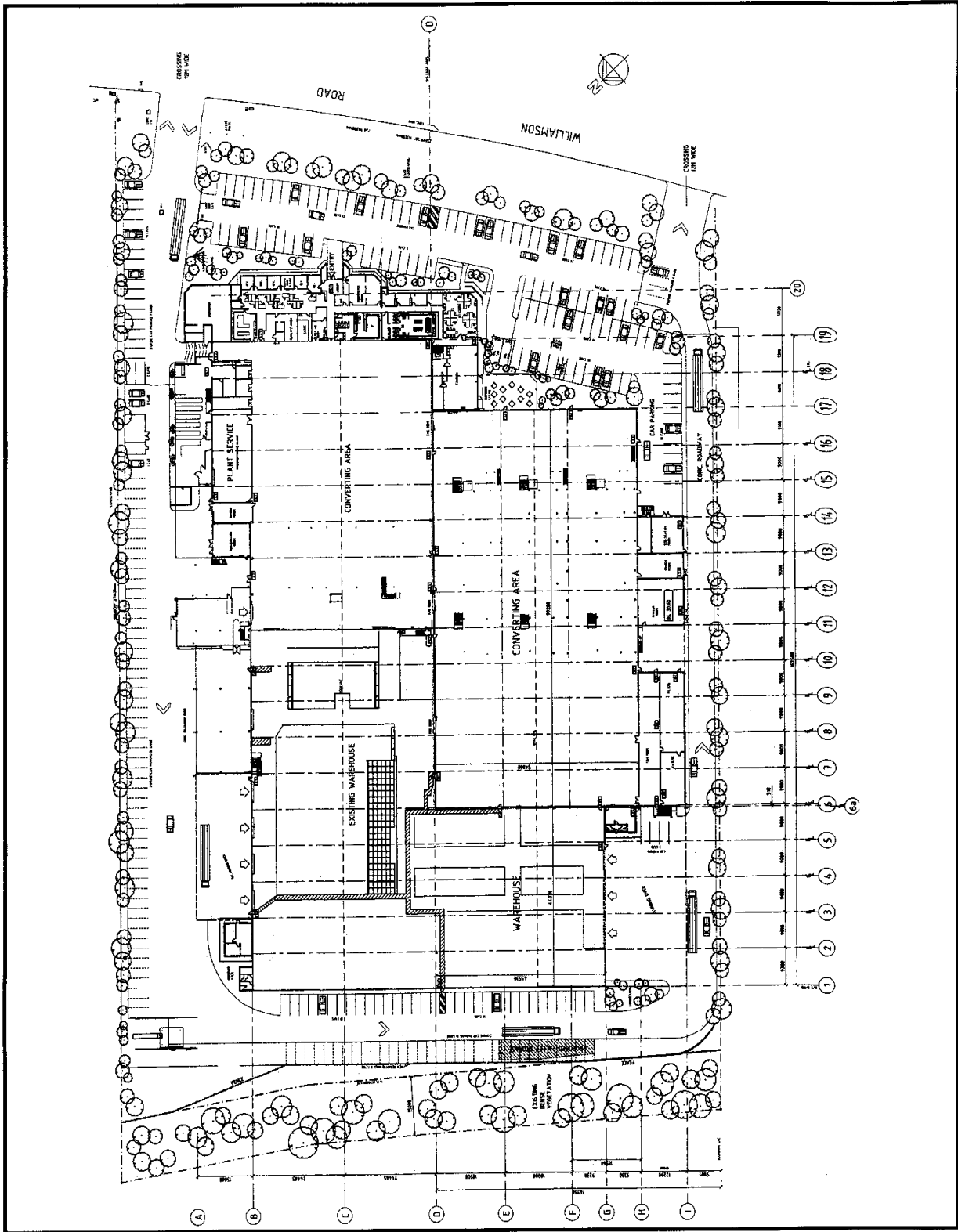


**SITE PLAN**

**SUBJECT:**

CONSTRUCTION OF CONCRETE PAD FOR STORAGE OF PALLETS.

LOT 1003 DP 771713 - No. 7 WILLIAMSON ROAD, INGLEBURN.



### SITE PLAN

**SUBJECT:** CONSTRUCTION OF CONCRETE PAD FOR STORAGE OF PALLETS.

LOT 1003 DP 771713 - No. 7 WILLIAMSON ROAD, INGLEBURN.

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## 4. COMPLIANCE SERVICES

### 4.1 Legal Status Report

#### Reporting Officer

Manager Compliance Services

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#### Attachments

Nil

#### Purpose

To update Council on the current status of the Planning and Environment Division's legal matters.

#### Report

This report contains a summary of the current status of the Division's legal matters relating to:

- The Land and Environment Court;
- The District Court;
- The Local Court; and
- Matters referred to Council's Solicitor for advice.

A summary of year-to-date costs and the total number of actions are also included.

<b>1. <i>Land and Environment Court Class 1 Matters – Appeals Against Council's Determination of Development Applications</i></b>
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<b>Total ongoing Class 1 DA Appeal Matters (as at 1/10/2010)</b>	<b>1</b>
<b>Total completed Class 1 DA Appeal Matters (as at 1/10/2010)</b>	<b>0</b>
<b>Costs from 1 July 2010 for Class 1 DA Appeal Matters:</b>	<b>\$46,495.42</b>

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1 (a)

**Angelo Skagias and Nick Skagias**

**Issue:**

Deemed refusal of a Section 96 application to modify Development Application 2334/2007/DA-C for the demolition of an existing dwelling and construction of a four storey commercial building.

**Property:**

Lot 6 SEC 4 DP 2913 No. 34 Carlisle Street Ingleburn.

**Property Owner:**

Mr Angelo Skagias and Mr Nick Skagias

**File No:**

2334/2007/DA-C (Court File 10156 of 2010)

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**Court Application Filed:** 9 March 2010  
**Applicant:** Mr. Angelo Skagias and Mr. Nick Skagias  
**Hearing date:** 12 and 13 July 2010  
**Costs Estimate:** \$20,000.00 (exclusive of Barristers, Court Appointed Experts or disbursement fees)  
**Costs to date:** \$46,368.07  
**Status:** Proceedings completed. Awaiting solicitor's final costs.

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**Action Since Last Meeting** Appeal upheld and conditional consent given to DA2334/2007/DA-C.

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

**Total ongoing Class 1 Order/Notice Appeal Matters (as at 1/10/2010)** 1  
**Total completed Class 1 Order/Notice Appeal Matters (as at 1/10/2010)** 0  
**Costs from 1 July 2010 for Class 1 Order/Notices Appeal Matters:** \$307.12

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**2 (a)**  
**Issue:** **Lalita Devi Lal and Vivian Praveen Lal**  
Appeal against terms of an Order 2 given by Council on 7 April 2010 under the Environmental Planning and Assessment Act 1979 requiring an unauthorised metal awning and timber deck to be demolished.  
**Property:** Lot 306 DP 870579 No. 30 Blair Athol Drive, Blair Athol.  
**Property Owner:** Miss Lalita Devi Lal and Mr. Vivian Praveen Lal  
**File No:** Court File 10634 of 2010  
**Court Application Filed:** 11 August 2010  
**Applicant:** Miss Lalita Devi Lal and Mr. Vivian Praveen Lal  
**Callover date:** 7 October 2010  
**Costs Estimate:** \$5,000.00 (exclusive of Barristers, Court Appointed Experts or disbursement fees)  
**Costs to date:** \$307.12  
**Status:** Ongoing.

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**Action Since Last Meeting** At the first callover on 16 September 2010 the Court directed the applicant to file and serve a notice of motion to extend the time for the appeal under the order by 30 September and that the matter be listed for further callover on 7 October 2010.

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**3. Land and Environment Court Class 4 Matters – Non-Compliance with Council Orders / Notices or Prosecutions**

Total ongoing Class 4 matters before the Court (as at 1/10/2010)	0
Total completed Class 4 matters (as at 1/10/2010)	0
Total ongoing Class 4 matters in respect of costs recovery (as at 1/10/2010) these matters will be further reported on completion	4
Costs from 1 July 2010 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 1/10/2010)	0
Total completed Class 5 matters (as at 1/10/2010)	0
Total ongoing Class 5 matters in respect of costs recovery (as at 1/10/2010) these matter will be further reported on completion	2
Costs from 1 July 2010 for Class 5 matters	\$6,115.55

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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 1/10/2010)	0
Total completed Class 6 Matters (as at 1/10/2010)	0
Costs from 1 July 2010 for Class 6 Matters	\$0.00

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**6. District Court – Matters on Appeal from lower Courts or Tribunals not being environmental offences.**

Total ongoing Appeal matters before the Court (as at 1/10/2010)	0
Total completed Appeal matters (as at 1/10/2010)	0
Total ongoing Appeal matters in respect of costs recovery (as at 1/10/2010) these matters will be further reported on completion	1
Costs from 1 July 2010 for District Court Matters	\$0.00

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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.

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<b>Total ongoing Local Court Matters (as at 1/10/2010)</b>	<b>14</b>
<b>Total completed Local Court Matters (as at 1/10/2010)</b>	<b>20</b>
<b>Costs from 1 July 2010 for Local Court Matters</b>	<b>\$2,046.61</b>

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<b>File No:</b>	LP 17/10 – Enforcement Order Court Election
<b>Offence:</b>	Stop on/near children's crossing – school zone
<b>Act:</b>	Road Rules 2008
<b>Costs to date:</b>	\$0.00
<b>Status – Ongoing:</b>	The matter is listed for hearing on 28 September 2010.

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<b>File No:</b>	LP 30/10 – Penalty Notice Court Election
<b>Offence:</b>	Pollute Waters - Corporation
<b>Act:</b>	Protection of the Environment Operations Act
<b>Costs to date:</b>	\$0.00
<b>Status – Proceedings completed; awaiting solicitor's final costs:</b>	The matter was before the Court on 17 September 2010 for hearing where the defendant, Admark Constructions Pty Ltd, entered a guilty plea with explanation. After hearing the evidence and submissions, the Magistrate found the offence proved and convicted the defendant imposing a \$5,000 fine and an order for Court costs of \$79.

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<b>File No:</b>	LP 31/10 – Penalty Notice Court Election
<b>Offence:</b>	Pollute Waters - Corporation
<b>Act:</b>	Protection of the Environment Operations Act
<b>Costs to date:</b>	\$0.00
<b>Status – Proceedings completed; awaiting solicitor's final costs:</b>	The matter was before the Court on 17 September 2010 where on the advice of Council's solicitor the matter was withdrawn and dismissed.

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<b>File No:</b>	LP 32/10 – Penalty Notice Court Election
<b>Offence:</b>	Pollute Waters - Corporation
<b>Act:</b>	Protection of the Environment Operations Act
<b>Costs to date:</b>	\$0.00
<b>Status – Proceedings completed; awaiting solicitor's final costs:</b>	The matter was before the Court on 17 September 2010 for hearing where the defendant, Admark Constructions Pty Ltd, entered a guilty plea with explanation. After hearing the evidence and submissions, the Magistrate found the offence proved and convicted the defendant imposing a \$5,000 fine and an order for Court costs of \$79.

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**File No:** LP 33/10 – Penalty Notice Court Election  
**Offence:** Development not in accordance with development consent  
**Act:** Environmental Planning and Assessment Act  
**Costs to date:** \$0.00  
**Status – Proceedings completed; awaiting solicitor's final costs:** The matter was before the Court on 17 September 2010 for hearing where the defendant, Admark Constructions Pty Ltd, entered a guilty plea with explanation. After hearing the evidence and submissions, the Magistrate found the offence proved and convicted the defendant imposing a \$10,000 fine and an order for Court costs of \$4,079.

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**File No:** LP 34/10 – Penalty Notice Court Election  
**Offence:** Development not in accordance with development consent  
**Act:** Environmental Planning and Assessment Act  
**Costs to date:** \$0.00  
**Status – Proceedings completed; awaiting solicitor's final costs:** The matter was before the Court on 17 September 2010 where on the advice of Council's solicitor the matter was withdrawn and dismissed.

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**File No:** LP 37/10 – Penalty Notice Court Election  
**Offence:** Stop in/on bicycle lane  
**Act:** Road Rules 2008  
**Final Costs:** \$0.00  
**Status – Completed:** The matter was before the Court on 9 September 2010 for hearing where the matter was withdrawn and dismissed, as evidence produced by the defendant showed that at the time of the offence the vehicle was the subject of a Police on-the-spot defect notice.

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**File No:** LP 38/10 – Penalty Notice Court Election  
**Offence:** Uncontrolled dog in a public place – not dangerous dog  
**Act:** Companion Animals Act  
**Final Costs:** \$0.00  
**Status – Completed:** The matter was before the Court on 6 September 2010 for hearing where the matter was withdrawn and dismissed, as a prior review of the evidence indicated that the circumstances of the offence did not warrant proceeding to a defended hearing.

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**File No:** LP 39/10 – Penalty Notice Court Election  
**Offence:** Development not in accordance with development consent  
**Act:** Environmental Planning and Assessment Act  
**Costs to date:** \$0.00  
**Status – Ongoing:** The matter was before the Court for plea/mention on 20 July 2010 where the Defendant entered a not guilty plea. The Court adjourned the matter to 7 October for hearing.

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**File No:** LP 40/10 – Penalty Notice Court Election  
**Offence:** Development not in accordance with development consent  
**Act:** Environmental Planning and Assessment Act  
**Costs to date:** \$0.00  
**Status – Ongoing:** The matter was before the Court for plea/mention on 20 July 2010 where the Defendant entered a not guilty plea. The Court adjourned the matter to 7 October for hearing.

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**File No:** LP 41/10 – Penalty Notice Court Election  
**Offence:** Development not in accordance with development consent  
**Act:** Environmental Planning and Assessment Act  
**Costs to date:** \$0.00  
**Status – Ongoing:** The matter was before the Court for plea/mention on 20 July 2010 where the Defendant entered a not guilty plea. The Court adjourned the matter to 7 October for hearing.

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**File No:** LP 46/10 – Annulment Application  
**Offence:** Deposit litter from vehicle – food scraps  
**Act:** Protection of the Environment Operations Act  
**Final Costs:** \$0.00  
**Status – Completed:** The matter was before the Court on 21 September 2010 for determination where the Court granted the application for annulment of the Courts previous Orders of 27 July. The defendant then entered a guilty plea with explanation and after considering the evidence and submissions the Magistrate found the offence proved and directed that under Section 10A(1) of the Crimes (Sentencing Procedure) Act no conviction be recorded. An Order for \$79 Court Costs was made.

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**File No:** LP 53/10 – Penalty Notice Court Election  
**Offence:** Uncontrolled dog in a public place – not dangerous dog  
**Act:** Companion Animals Act  
**Costs to date:** \$0.00  
**Status – Ongoing:** The matter was before the Court for first mention on 24 August 2010 where the defendant entered a not guilty plea. The matter has been listed for hearing on 15 October 2010.

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**File No:** LP 55/10 – Penalty Notice Court Election  
**Offence:** Not park parallel and in direction of travel  
**Act:** Road Rules 2008  
**Final Costs:** \$0.00  
**Status – Completed:** The matter was before the Court on 7 September 2010 for mention where the defendant, ABZ Enterprises Pty Ltd, made no appearance. The Magistrate granted an application by Council for the matter to proceed in the defendant's absence and after considering the evidence and submissions, the Magistrate found the offence proved and convicted the defendant imposing a \$150 fine and an order for Court costs of \$79.

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**File No:** LP 56/10 – Penalty Notice Court Election  
**Offence:** Uncontrolled dog in a public place – not dangerous dog  
**Act:** Companion Animals Act  
**Costs to date:** \$0.00  
**Status – Ongoing:** The matter was before the Court for first mention on 7 September 2010 where the defendant entered a not guilty plea. The Court adjourned the proceedings to 19 October 2010 for hearing.

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**File No:** LP 57/10 – Penalty Notice Court Election  
**Offence:** Unregistered dog – not dangerous dog  
**Act:** Companion Animals Act  
**Final Costs:** \$0.00  
**Status – Completed:** The matter was before the Court for mention on 14 September 2010 where the defendant entered a guilty plea with explanation. After considering the evidence and submissions the Magistrate found the offence proved and directed that under Section 10A(1) of the Crimes (Sentencing Procedure) Act no conviction be recorded.

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**File No:** LP 58/10 – Penalty Notice Court Election  
**Offence:** Uncontrolled dog in a public place – not dangerous dog  
**Act:** Companion Animals Act  
**Final Costs:** \$0.00  
**Status – Completed:** The matter was before the Court for mention on 14 September 2010 where the defendant entered a guilty plea with explanation. After considering the evidence and submissions the Magistrate found the offence proved and directed that under Section 10A(1) of the Crimes (Sentencing Procedure) Act no conviction be recorded. An Order for \$79 Court Costs was made.

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**File No:** LP 59/10 – Penalty Notice Court Election  
**Offence:** Stop on path/strip in built-up area  
**Act:** Road Rules 2008  
**Final Costs:** \$0.00  
**Status – Completed:** The matter was before the Court on 14 September 2010 for mention where the defendant, Wayne John Merzi, made no appearance. The Magistrate granted an application by Council for the matter to proceed in the defendant's absence and after considering the evidence and submissions, the Magistrate found the offence proved and convicted the defendant imposing a \$84 fine and an order for Court costs of \$79.

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**File No:** LP 60/10 & LP61/10 – Penalty Notice Court Elections  
**Offence:** Uncontrolled dog in a public place – not dangerous dog x 2  
**Act:** Companion Animals Act  
**Costs to date:** \$0.00  
**Status – New Matter:** Listed for first mention on 28 September 2010.

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**File No:** LP 62/10 – Penalty Notice Court Election  
**Offence:** Stand vehicle in area longer than allowed  
**Act:** Local Government Act  
**Costs to date:** \$0.00  
**Status – New Matter:** Listed for first mention on 12 October 2010.

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**File No:** LP 63/10 – Penalty Notice Court Election  
**Offence:** Stop in parking area without current disabled parking authority displayed.  
**Act:** Local Government Act  
**Costs to date:** \$0.00  
**Status – New Matter:** Listed for first mention on 19 October 2010.

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#### **8. Matters Referred to Council's Solicitor for Advice**

The following summary lists the status of 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.

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<b>Total Advice Matters (as at 1/10/2010)</b>	<b>4</b>
<b>Costs from 1 July 2010 for Advice Matters</b>	<b>\$4,527.00</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 2010/2011 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	\$46,495.42	\$0.00
Class 1 Land and Environment Court - appeals against Orders or Notices issued by Council	\$307.12	\$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	\$6,115.55	\$0.00
Class 6 Land and Environment Court - appeals from convictions relating to environmental matters	\$0.00	\$0.00
Land and Environment Court tree dispute between neighbours matters	\$0.00	\$0.00
District Court Appeal matters	\$0.00	\$0.00
Local Court Prosecution matters	\$2,046.61	\$0.00
Matters referred to Council's Solicitor for Legal Advice	\$4,527.00	\$0.00
Miscellaneous costs not shown elsewhere in this table	\$0.00	\$0.00
Costs Sub-Total	\$59,491.70	\$0.00
<b>Overall Net Costs Total (GST exclusive)</b>	<b>\$59,491.70</b>	

**Officer's Recommendation**

That the information be noted.

**Committee's Recommendation: (Oates/Greiss)**

That the Officer's Recommendation be adopted.

**CARRIED**

**Council Meeting 19 October 2010 (Kolkman/Oates)**

That the Officer's Recommendation be adopted.

**Council Minute Resolution Number 201**

That the Officer's Recommendation be adopted.

## **5. GENERAL BUSINESS**

Nil.

### **Confidentiality Motion: (Oates/Bourke)**

Due to the confidential nature of the business and the Committee's opinion that the public proceedings of the Committee would be prejudicial to the public interest, the Committee in accordance with Section 10 of the Local Government Act 1993 resolves to exclude the public from the meeting during discussions on this item.

**CARRIED**

## **18. CONFIDENTIAL ITEMS**

### **18.1 Confidential Information relating to Various Items on the Planning and Environment Agenda 12 October 2010**

#### **Reason for Confidentiality**

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(c) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business

There being no further business the meeting closed at 8.06pm.

R Kolkman  
CHAIRPERSON

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