

PART ONE

Reports from the Planning and Environment Committee Meeting held at 7.30pm on Tuesday, 20 July 2010.

APOLOGIES

ACKNOWLEDGEMENT OF LAND

DECLARATIONS OF INTEREST

Pecuniary Interests

Non Pecuniary – Significant Interests

Non Pecuniary – Less than Significant Interests

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PART ONE

1. WASTE AND RECYCLING SERVICES

No reports this round

2. ENVIRONMENTAL PLANNING

2.1 Road Renaming Proposals - Minto, Bardia and Gregory Hills

2.2 Rosemeadow Rezoning Request

2.3 Noorumba Streamcare Update

2.4 Section 94E Direction under the Environmental Planning and Assessment Act 1979 - Local Development Contributions

2.5 Minutes of the Heritage Protection Sub-Committee Meeting held on 17 June 2010

2.6 Feral Pest Rabbit Eradication Program - John Kidd Reserve, Blair Athol

PART TWO

3. DEVELOPMENT SERVICES

3.1 Development Services Section Application Statistics - June 2010

3.2 No.415 Pembroke Road, Minto - Subdivision of an industrial estate into five allotments and dedication of estate access road as a public road

3.3 Lot 31, DP 621804 – Sherwood Hills Christian School, No. 65 Jacaranda Avenue, Bradbury - Construction of a School Library and Carpark Reconfiguration

PART THREE

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PART FOUR		
3.5	No. 395 Pembroke Road, Minto - Subdivision Of An Industrial Estate Into Seven Allotments And Dedication Of Estate Access Road As A Public Road - Addendum To Previous Report	
4.	COMPLIANCE SERVICES	
4.1	Legal Status Report	
5.	GENERAL BUSINESS	
18.	CONFIDENTIAL ITEMS	
18.1	Confidential Information Relating to Various Items on the Planning and Environment Agenda 20 July 2010	

Minutes of the Planning and Environment Committee held on 20 July 2010

Present Councillor R Kolkman (Chairperson)
Councillor J Bourke
Councillor G Greiss
Councillor M Oates
Councillor R Thompson
General Manager - Mr P Tosi
Acting Director Planning and Environment - Mr J Baldwin
Director Business Services - Mr M Sewell
Manager Environmental Planning - Mr P Jemison
Acting Manager Development Services - Mr A Macgee
Manager Compliance Services - Mr A Spooner
Manager Waste and Recycling Services - Mr P Macdonald
Manager Community Resources and Development - Mr B McCausland
Environmental Planning Coordinator - Ms R Winsor
Principal Strategic Infrastructure Planner - Mr B Dunlop
Executive Assistant - Mrs D Taylor

Election of Chairperson

In the absence of the Chairperson, Councillor Matheson, Councillor Kolkman was elected to Chair the meeting.

Apology (Greiss/Thompson)

That the apologies from Councillors Matheson and Rowell 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.

1. WASTE AND RECYCLING SERVICES

No reports this round

2. ENVIRONMENTAL PLANNING

2.1 Road Renaming Proposals - Minto, Bardia and Gregory Hills

Reporting Officer

Manager Environmental Planning

Attachments

1. Location Map – Moss Glen Street, Minto
2. Location Map – Ingleburn Gardens Drive, Bardia
3. Location Map – part of Badgally Road, Gregory Hills
4. Developer's submission regarding proposed renaming of part of Badgally Road

Purpose

To provide information on three (3) road renaming proposals in the suburbs of Minto, Bardia and Gregory Hills for Council's consideration.

History

Council is currently in receipt of three (3) road renaming proposals for its consideration under the provisions of Division 2 of the Roads Regulation 2008.

These road renaming proposals were advertised to allow for community comment in the Campbelltown Macarthur Chronicle of 11 May 2010 and the Campbelltown Macarthur Advertiser of 12 May 2010, and were also exhibited at the Campbelltown, Minto and Ingleburn Libraries and Council's Administration Centre. In addition, all of the property owners directly affected by these proposals were individually notified by letter as well as the statutory authorities required under clause 7 of the Roads Regulation 2008. A letter was subsequently received from the Land and Property Management Authority (Department of Lands) stating that it had no objection to the use of any of the proposed names. Any other comments received from the exhibition and notification process are detailed in the body of this report for the relevant road renaming proposal.

Report

Proposed renaming of Moss Glen Street, Minto

As a result of recent construction works associated with Stage 3 of the Minto Renewal Project, Moss Glen and Monaghan Streets have now been connected to form a single through road. Given that it is impractical to retain both of these road names for what is now a single road, Landcom have requested that Council consider adopting the name Monaghan Street for the entire road by renaming the portion currently named Moss Glen Street. The location of this proposal is shown in Attachment 1.

No public comments were received regarding this renaming proposal. It is therefore recommended that Council approve the renaming of Moss Glen Street to Monaghan Street.

Proposed renaming of part of Ingleburn Gardens Drive, Bardia

At its meeting on 5 August 2008, Council resolved to adopt the name Ingleburn Gardens Drive for the main access road within the Ingleburn Gardens Estate. However, as a result of recent road construction associated with new stages within this development and the future closure of part of the currently constructed extent of this road within the proposed rail corridor, it is proposed to rename part of Ingleburn Gardens Drive to Nash Street. The name Nash Street is taken from the list of road names endorsed by Council for this development on the theme of "Names of Local War Dead". The location of the portion of Ingleburn Gardens Drive proposed to be renamed and the final extent of this road are shown in Attachment 2.

No public comments were received regarding this renaming proposal. It is therefore recommended that Council approve the renaming of part of Ingleburn Gardens Drive to Nash Street.

Proposed renaming of part of Badgally Road, Gregory Hills

As a result of the proposed extension of Badgally Road to the Camden Valley Way, as part of the development of the South West Growth Centre, Council has received a request from the developers of the Turner Road Precinct (Dart West Developments Pty Ltd) to consider the renaming of part of Badgally Road to Gregory Hills Drive. This renaming proposal only currently relates to the short section of public road located west of the intersection with Eagle Vale Drive, as shown in Attachment 3, but the name Gregory Hills Drive is proposed to eventually be applied to the whole of the future new road from Eagle Vale Drive to the Camden Valley Way once it is constructed. It should also be noted that this renaming proposal does not apply to the major part of Badgally Road from its intersection with Eagle Vale Drive south to Campbelltown Railway Station. A copy of the developer's submission is included as Attachment 4 to this report in which they cite the following reasons for Council to approve the proposed renaming of this section of Badgally Road:

- (i) it would provide a clear legible road through the centre of the new suburb of Gregory Hills, enabling existing and future residents of the area, as well as new businesses and their customers, to easily locate the new suburb of Gregory Hills;
 - (ii) the whole extent of the proposed through road is within the recently gazetted suburb of Gregory Hills;
-

- (iii) the naming of this road would mirror the (proposed) renaming of the eastern section of Cobbitty Road to Oran Park Drive, ensuring that people travelling along the Camden Valley Way would have clear options for right or left turns to access the newest suburbs in Camden Local Government Area (LGA);
- (iv) it would help to establish a clear sense of identity for the new residents of the suburb of Gregory Hills;
- (v) it would help avoid confusion between the sections of Badgally Road which are currently located in the Campbelltown LGA, enabling residents, visitors and businesses to more accurately find their destinations;
- (vi) it would not require the renaming of any existing public road and would therefore lead to minimal inconvenience with only two private dwellings and St Gregory's College having to change their current addresses;
- (vii) it would reinforce the historical connection between St Gregory's College and its farm and the new suburb of Gregory Hills in the same way as the creation of the new suburb.

Two (2) submissions from affected property owners were received, objecting to the proposed renaming of this part of Badgally Road. They each strongly requested that Council not approve the proposal because of the following reasons:

- (i) the residential development within the suburb of Gregory Hills will be located on the other side of St Gregory's College within the Camden Local Government Area (LGA) and should not affect the name of the road within the Campbelltown LGA;
- (ii) the proposed road renaming would result in changes to their property addresses and associated inconvenience;
- (iii) the name Badgally Road is part of the history of the area (the road was originally named after the hill on which St Gregory's College now stands).

It should also be noted that Council has been advised that the developer has been in discussion with Camden Council regarding the naming of the section of this road located within their LGA. It is understood that Camden Council will be considering a report on this matter at its meeting in July 2010 with a recommendation by the reporting officer to approve the naming of the section of this road located within the Camden LGA as Gregory Hills Drive.

Given the objections received from the public and the long historical associations of this road name with the area surrounding St Gregory's College, it is recommended that Council does not approve the proposed renaming of part of Badgally Road to Gregory Hills Drive and instead requests that the existing name of Badgally Road continues in use for the full proposed extent of the road to the Camden Valley Way, or at least up to a logical point, such as a road intersection, at the eastern extent of the proposed residential development within the Camden LGA.

Officer's Recommendation

1. That Council approves the renaming of Moss Glen Street, Minto to Monaghan Street.
2. That Council approves the renaming of part of Ingleburn Gardens Drive, Bardia to Nash Street.
3. That Council not approve the renaming of part of Badgally Road, Gregory Hills to Gregory Hills Drive.
4. That Council write to the developer requesting that the existing name of Badgally Road continues in use for the full proposed extent of the future road to the Camden Valley Way, or at least up to a logical point, such as a road intersection, at the eastern extent of the proposed residential development within the Camden Local Government Area.

Committee's Recommendation: (Greiss/Thompson)

That the Officer's Recommendation be adopted.

Amendment: (Oates/Kolkman)

1. That Council approves the renaming of Moss Glen Street, Minto to Monaghan Street.
2. That Council approves the renaming of part of Ingleburn Gardens Drive, Bardia to Nash Street.
3. That Council defer the approval of the renaming of part of Badgally Road, Gregory Hills to Gregory Hills Drive subject to a briefing of the Council.

The above **Amendment** on being Put was **CARRIED**.

Council Meeting 27 July 2010 (Kolkman/Oates)

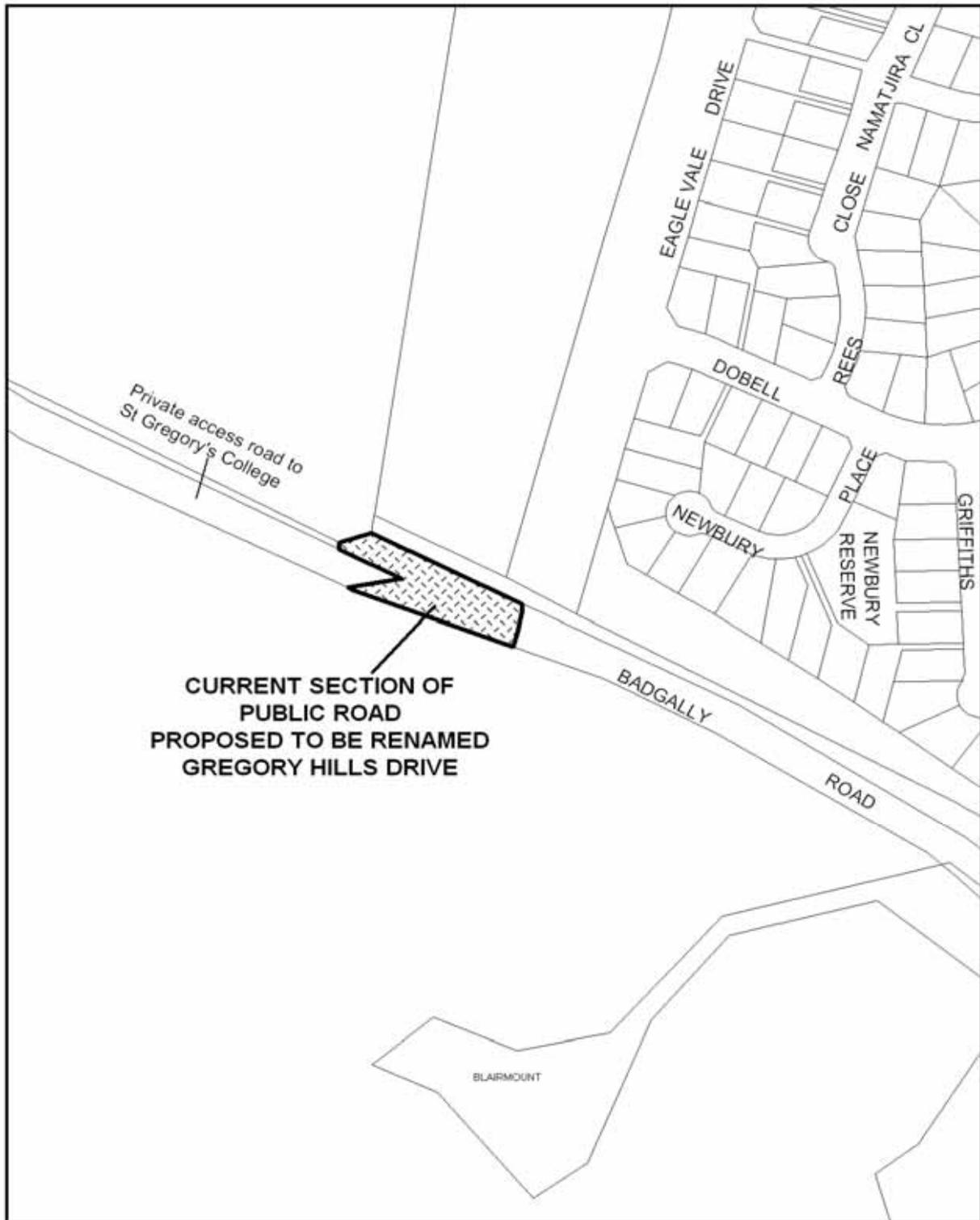
That the Committee's Recommendation be adopted.

Council Resolution Minute Number 130

That the Committee's Recommendation be adopted.

ATTACHMENT 3

Location Map – part of Badgally Road, Gregory Hills



ATTACHMENT 4



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320A Camden Valley Way
PO Box 228
Narellan NSW 2567
Phone: (02) 4648 4812
Fax: (02) 4648 4827

22 March 2010

Mr Paul Tosi
The General Manager
Campbelltown City Council
PO Box 57
Campbelltown NSW 2560

Dear Mr ~~Tosi~~, *Paul*

I am writing to you in relation to the naming of Badgally Road at Gregory Hills.

As you may know, Gregory Hills is now a formally declared suburb name approved by the Geographical Names Board in August 2008. However, the formal naming process for Badgally Road has not been undertaken at this stage. As the road traverses both Camden and Campbelltown local government areas, Dart West would now like to commence discussions with Council about the process for naming this road as Gregory Hills Drive.

Before raising this matter, Dart West has undertaken some initial research on the current status of the commonly used Badgally Road name. The structure planning process for the South West Growth Centre identified the need for an additional east-west road link between the future growth area in Camden and the established suburbs of Campbelltown. However, Dart West is not aware that the structure planning process identified a name for this road in any formal way. None of the plans issued by the Department of Planning (structure plan, precinct boundary maps etc) appear to identify the name of this road in a formal sense.

Throughout the precinct planning process, the name Badgally Road was used in an informal sense as part of the planning for the Turner Road precinct and in preliminary design studies for the road. However, again, no formal naming process was commenced.

Historically, a private road through St Gregory's College and its associated farm was known as Badgally Road and is still referenced as such in some street directories. However, this road is on privately owned land and has not been accessible to the general public for some years.

Dart West believes there is significant merit in naming the new road as Gregory Hills Drive for the section between Camden Valley Way and the existing extent of publicly owned Badgally Road which ends at Eagle Vale Drive, as shown in the attached plans.

The benefits of such a name would include:

- it would provide a clear and legible road through the centre of the new suburb of Gregory Hills, enabling existing and future residents of the area, as well as new businesses and their customers, to easily locate Gregory Hills;
- as proposed in the accompanying plans, it is wholly located within the new suburb of Gregory Hills;

- it would mirror the renaming of the eastern section of Cobbitty Road to Oran Park Drive, ensuring that people travelling along Camden Valley Way would have clear options for right or left turns to access the two newest suburbs in Camden;
- it would help to establish a clear sense of identity for the new residents of Gregory Hills;
- it would avoid confusion between the sections of Badgally Road which are currently located in Campbelltown local government area, enabling residents, visitors and businesses to more accurately find their destinations;
- it would not require the renaming of any existing public road, and would therefore lead to minimal (if any) inconvenience to the general public. In fact, only two private dwellings and St Gregory's College would have their current addresses affected; and
- it would reinforce the historical connection between St Gregory's College and its farm and the new suburb of Gregory Hills, in the same way that naming the suburb Gregory Hills has done.

I want to emphasise that Dart West is not seeking to rename the existing publicly accessible section of Badgally Road in the Campbelltown local government area. This section of road is unaffected by the proposal.

Dart West therefore believes there is significant merit in considering this proposal. We are therefore commencing informal consultation with both Councils. The views of both Councils will be sought before any formal application process is commenced. Dart West recognises the procedures required under the Roads Act and its accompanying Regulation.

A brief presentation including plans has been prepared to accompany this letter. I look forward to discussing this matter further with Council in the near future. In the meantime, I can be contacted on 4648 5511 should you have any questions. I also reiterate the offer made some weeks ago to meet with you to further discuss the issues raised in the recent conversations we have had in relation to Badgally Road. In this regard, and for your information, we are still awaiting the finalisation of the proposed Voluntary Planning Agreement in relation to Badgally Road.

Yours sincerely



David Taylor
General Manager – Property

Gregory Hills Drive

Road Naming Proposal

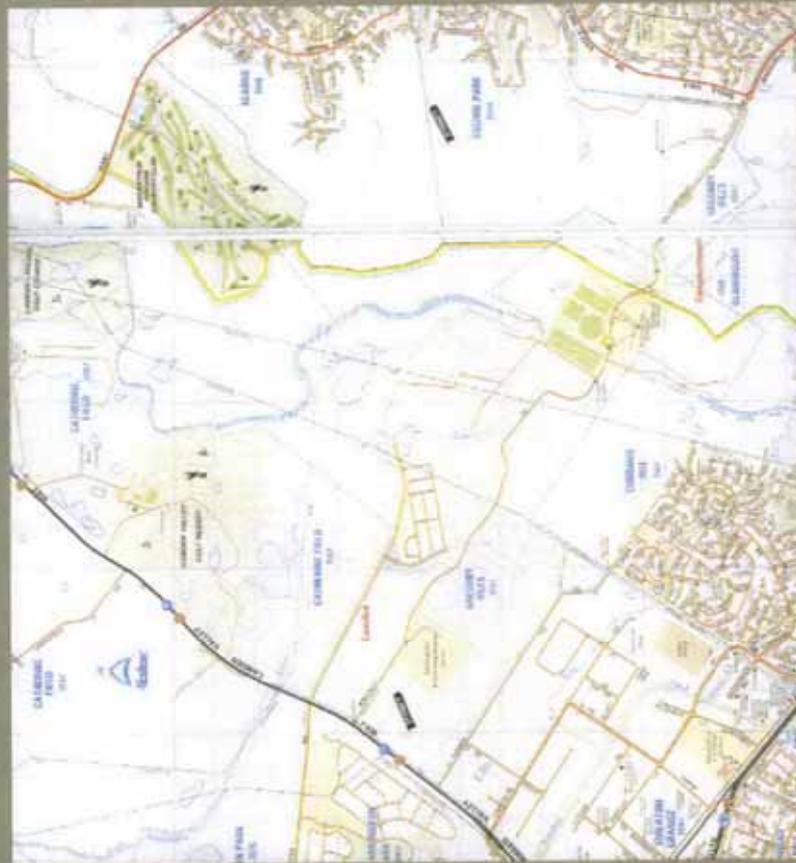
March 2010



Central Hills
Business Park

Gregory Hills Suburb Boundary

- Gregory Hills proclaimed a suburb by Geographical Names Board in 2008
- Suburb boundary shown as dashed light blue line
- LGA boundary shown as yellow line



Current Status

- Badgally Road is the informally used name for the proposed link road between Camden Valley Way and Eagle Vale Drive
- Private road through former St Greg's farm was known as Badgally Road, but this road is closed to traffic and is to be removed
- Proposed new road is on a different alignment and has not formally been named in South West Growth Centre plans
- Gregory Hills Drive is proposed as new name



DART WEST
DEVELOPMENTS PTY LTD

Central Hills
Business Park

Proposed Gregory Hills Drive

Oran Park Drive

Proposed Gregory Hills Drive

Existing Badgally Road

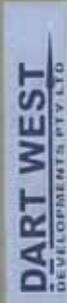
Central Hills Business Park

DART WEST DEVELOPMENTS PTY LTD

GREGORY HILLS

Benefits

- Proposed Gregory Hills Drive would function as key east – west link to and through the new formal suburb of Gregory Hills
- Assists wayfinding by existing and future residents of Camden and Campbelltown areas
- Mirrors use of Oran Park Drive as new name for part of Cobbitty Road west of Camden Valley Way
- Existing Badgally Road east of Eagle Vale Drive is retained



Next Steps

- Initial consultation with both Camden and Campbelltown Councils
- Discussion with neighbouring landowners
- Commencement of formal process with both Councils and (if supported) Geographical Names Board
- Resolution required by October 2010



DART WEST
DEVELOPMENTS PTY LTD

Central Hills
Business Park

2.2 Rosemeadow Rezoning Request

Reporting Officer

Manager Environmental Planning

Attachments

1. Location Plan and Zoning Map (LEP 2002) (distributed under separate cover)
2. Public Housing Masterplan Precinct - Ambarvale (distributed under separate cover)
3. Public Housing Masterplan Precinct - Rosemeadow (distributed under separate cover)

Purpose

To inform Council of a rezoning request that relates to existing open space zoned land located within the Housing NSW estates at Rosemeadow and Ambarvale. The report provides an assessment of the proposal and recommends that Council forward the Housing NSW planning proposal to the Department of Planning (DoP) for its review and consideration via the Department's new "Gateway Planning Process" in accordance with the Environmental Planning and Assessment Act 1979.

History

The high concentration of social housing tenants in the Rosemeadow and Ambarvale public housing estates has created some areas that are socially and economically disadvantaged. Impacts of these issues have been exacerbated by the poor physical layout of the estates (Radburn subdivision and housing pattern), which has contributed to poor amenity and security within the estates, leading to diminished social values and community cohesiveness.

On 16 February 2010, officers of Housing NSW provided a briefing to Councillors with respect to proposals for the redevelopment of the Rosemeadow and Ambarvale public housing estates, similar to works undertaken as part of the Minto Urban Renewal Project.

In summary, Council has now been advised that the NSW Minister for Housing has secured a funding package valued at almost \$40 million, to renew and revitalise the existing public housing estates within these areas. This project is in addition to redevelopment works that have already commenced in Macbeth, Malcolm and MacDuff Ways at Rosemeadow.

Key aspects of the package include:

- \$9.89m from the Commonwealth's Housing Affordability Fund to upgrade and sell 50 existing homes and create and sell 80 new building lots that will be sold to eligible owner occupiers in the low or moderate income bracket - particularly first home owners, at a discounted price for eligible low income families;
 - a further \$30m to upgrade and renovate 550 public housing homes, extend local roads and create new Torrens Title subdivisions;
-

Importantly, the proposal is subject to a formal planning proposal being prepared as per the Department of Planning Guidelines. This will require the preparation of relevant studies to substantiate the proposed rezoning and determine design issues, including:

- Social impacts and net community benefits;
- Fauna and flora impacts;
- Stormwater investigation and design,
- Community infrastructure provision;
- Traffic impacts and road design;
- Open space loss and provision;
- Land contamination assessment; and
- Archaeological assessment.

It is anticipated that the concept designs provided under the submitted masterplans for the housing estates would need to be refined to respond to the findings and recommendations of these particular studies to be undertaken as part of the planning proposal process.

Discussion

An initial assessment of the open space proposed to be rezoned has highlighted that the land is currently not well utilised and suffers from a number of problems including:

- Poor location;
- Heavily rubbished;
- Anti social behaviour;
- No discernable use except as a buffer between existing dwellings; and
- Minimal opportunities for improvement within current context.

While the rezoning would assist in addressing these problems, moreover the rezoning would allow for improved connectivity within the area, increase surveillance of public space, a reduction in the concentration of public housing and increase in social mix.

In this respect the proposed rezoning, in addition to addressing the problems previously highlighted regarding the open space, provides for a range of community benefits that go beyond the physical land use of the land.

Conclusion

The subject proposal relates to approximately 4.8 hectares of open space zoned land under the ownership of the Department of Housing, and forms existing public reserve areas within the Ambarvale and Rosemeadow public housing estates.

The proposal is being guided by a concept masterplan design prepared by Housing NSW which will improve the quality of life for the local communities through appropriate urban design initiatives and the provision of a more sustainable mix of private / public home ownership.

Housing NSW are seeking Council's approval to commence the rezoning process to facilitate the residential development of the land as part of the masterplanned redevelopment of these estates. The rezoning is required to enable future applications for residential development over the land, including road construction, drainage works and torrens title subdivision. Subject to appropriate detailed studies being undertaken to justify the proposal, it is considered that there would be sufficient community benefit arising from the masterplanned redevelopment of these estates to support the commencement of the rezoning process.

Officer's Recommendation

That Council forward the Housing NSW Planning Proposal to the Department of Planning for their review and consideration via the Gateway Planning process in accordance with the Environmental Planning and Assessment Act 1979.

Committee's Recommendation: (Bourke/Thompson)

That the Officer's Recommendation be adopted.

CARRIED

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

Voting against the Committee's Recommendation: nil.

Council Meeting 27 July 2010 (Kolkman/Oates)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 131

That the Officer's Recommendation be adopted.

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

Voting against the Council Resolution: nil.

2.3 Noorumba Streamcare Update

Reporting Officer

Manager Environmental Planning

Attachments

1. DECCW assessment sheet for Cumberland Plain remnant vegetation (remnant bushland).
2. Site Map (Distributed under separate cover).

Purpose

To provide Council with an update on the Noorumba streamcare program.

History

Noorumba Reserve is predominantly comprised of two endangered ecological communities; Cumberland Plain Woodland and Shale/Sandstone Transition Forest.

Council's Noorumba streamcare group has been operational since 2005, since this time the volunteers have been undertaking bush regeneration activities at four (4) sites across the Reserve (see Attachment 1).

The Noorumba Reserve Streamcare Group have been undertaking works across the Reserve since 2005. This work has involved extensive weed control including the removal of prickly pear, African olive and Chilean needle grass.

The sites being worked on by the group are displaying good quality regeneration of native species as a result.

Report

The Department of Environment, Climate Change and Water (DECCW) have developed best-practice guidelines, to provide guidance to land managers who have remnants of Cumberland Plain bushland on their properties. The guidelines aim to:

- assist agricultural enterprises to manage endangered Cumberland Plain ecological communities on farmland; and
- guide councils and other land managers on restoration of these communities within rural and urban lands.

In an effort to evaluate the works undertaken by the group. Each of the four (4) sites within Noorumba that have been the focus of work for the Streamcare Group that have been assessed according to the guidelines.

Of the four (4) sites, three (3) have been rated as healthy and therefore continuation of current management practices on the Reserve is recommended. The remaining one (1) site was rated as "good" which requires some management attention (see Attachment 2). These results are very pleasing given the extent of resourcing and efforts of the Streamcare Group that have been injected into the Noorumba Project.

Conclusion

The excellent ratings of Council's streamcare sites at Noorumba Reserve are reflective of the extensive effort and commitment by the volunteer group in particular. This rating assessment has also assisted in identifying which site(s) are open to further improvement.

Officer's Recommendation

That this information be noted.

Committee's Recommendation: (Bourke/Greiss)

That the Officer's Recommendation be adopted.

CARRIED

Council Meeting 27 July 2010 (Kolkman/Oates)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 130

That the Officer's Recommendation be adopted.

ATTACHMENT 1

DECCW assessment sheet for Cumberland Plain remnant vegetation (remnant bushland).

Assessment questions (answer 'Yes' or 'No')	Site number or name			
	1	2	3	4
Is the area fenced to control stock access?	✓	✓	✓	✓
Is there regeneration of native trees and shrubs or, if in grassland, regular (annual) germination of native herbs?	✓	✓	✓	✓
Is a diverse range of native tree and shrub species present, i.e. more than 10?	✓	✓	✓	
If grassland, is a diverse range of grasses and broad-leaved herbs present?	✓	✓	✓	✓
Is the ground covered with litter such as leaves, bark and twigs?	✓	✓	✓	✓
Are there mosses, lichens or liverworts on rocks, fallen branches or the ground surface?	✓	✓	✓	✓
Are weeds uncommon, sparsely scattered, absent or mainly found around edges of the area?	✓			
Is there a very low incidence of pest animals, e.g. foxes and rabbits?				
Is the remnant or paddlock shape a block rather than a strip?	✓	✓	✓	✓
Is the area greater than two hectares?	✓	✓	✓	✓
Is the remnant or paddlock linked to other remnants by corridors, e.g. roadside vegetation or scattered trees no more than 50 metres apart?	✓	✓	✓	✓
Is there a mix of tree ages present, i.e. saplings through to old-growth with hollows?	✓	✓	✓	✓
If trees are present, is there also an understorey?	✓	✓	✓	✓
Is the understorey mostly comprised of native shrubs and/or grasses and broad-leaved herbs?	✓	✓	✓	
Are there standing trees (alive or dead) with hollows in the remnant?	✓	✓	✓	✓
Are trees mainly healthy, with little or no dieback?	✓	✓	✓	
Are less than 20 per cent of trees affected by mistletoe?				
Are there logs and fallen timber on the ground?	✓	✓	✓	✓
If scattered paddock trees are unfenced, are stock camps absent?				
If scattered paddock trees are unfenced, is evidence of stock ringbarking or rubbing absent?				
Is the area free of herbicide, insecticide or fertiliser overspray from adjoining areas?				
Is the area free from the threat of salinity and/or high watertables in the next 10 years?				
Total number of Yes answers	16	15	15	12

Key

Number of Yes answers			Vegetation remnant condition rating	Need for management attention
Remnant bushland	Remnant grassland	Scattered paddock trees		
14+	9+	12+	Healthy	Site 1,2 & 3 Maintain current management
9-13	6-8	8-11	Good	Site 4 Needs some management attention
5-8	3-5	5-7	Fair	Needs a significant level of management attention
0-4	0-2	0-4	Poor	Urgent management required

Prepared by McMahan S. & Brickhill J. NSW NPWS, adapted from Disappearing Islands Group (1993) and Goldney & Wakefield (1997)

2.4 Section 94E Direction under the Environmental Planning and Assessment Act 1979 - Local Development Contributions

Reporting Officer

Manager Environmental Planning

Attachments

1. News Release: Premier of New South Wales – Significant reform to local council infrastructure charges (distributed under separate cover).
2. Planning Circular (PS 10-014): NSW Department of Planning – Local Development Contributions (distributed under separate cover).
3. Ministerial Direction under Section 94E under the Environmental Planning and Assessment Act, 1979 - 4 June 2010.

Purpose

To inform Council of changes to the *Environmental Planning & Assessment Act 1979 (Part 4 Division 6)*, pursuant to a media release issued by the Premier of New South Wales on 4 June 2010, a Ministerial Direction pursuant to Section 94E of the Act made on 4 June 2010, and a planning circular issued by the Department of Planning (4 June 2010) on the future impact on funding of infrastructure via development contributions.

Executive Summary

Over the past thirty (30) years, Section 94 of the *Environmental Planning and Assessment Act 1979* (the Act) has provided the mechanism for Local Government to ensure an equitable contribution from new development, toward the provision of infrastructure for which it generates a demand. This system has enabled Councils to meet the needs of incoming populations, commensurate with a level of service necessary to sustain liveable communities in which people will choose to live. However, recent pressures (particularly in the Sydney Metropolitan area) relating to issues such as housing affordability and land supply, have brought into focus the costs associated with the conversion of land for development purposes. In this regard, the State Government has rolled out a suite of initiatives in an attempt to resolve these issues, one of which relates to the reform of Section 94 of the Act. Of particular concern is that the development contribution reform initiatives that were recently announced by the Premier of NSW, in the form of a \$20,000 cap per residential dwelling, will significantly diminish Council's capacity to provide certain items of infrastructure for the future residents of the City of Campbelltown. Council considered a report on legal advice it received concerning the Ministerial Direction of 4 June 2010 and the Planning Circular PS 10-014, at its meeting held on 29 June 2010.

History

Section 94 of the Act allows Councils to levy Development Contributions towards the capital cost of providing or improving facilities, infrastructure and services to meet increased demand created by development within their areas.

Development Contributions can be made towards:

- Capital costs, including land acquisition costs;
- Public facilities which are needed as a consequence of, or to facilitate, new development; and
- Costs associated in the administration of Section 94.

Development Contributions may only be called up by the imposition of a condition on a development consent. The contribution can be:

- Dedication of land;
- Monetary contribution;
- Material public benefit (including a works-in-kind); or
- A combination of some or all of the above.

To impose a levy, Councils must first prepare a Development Contributions Plan in accordance with the *Environmental Planning and Assessment Act 1979*, which must include detailed and reasonable estimates of:

- Anticipated development patterns for a given area;
- Anticipated demands of the incoming population for facilities and services;
- The particular service facilities which will be required to meet the demand;
- Estimates of the capital cost of those items; and
- A timeline for when those facilities will be provided.

Since its inception in 1979, Section 94 of the Act has undergone a number of changes and reviews, including;

- **1993:** Requirement of Councils to prepare a formal Development Contributions Plan;
 - **1997 & 2000:** Reviews of the Act and Regulations as they apply to Section 94, which resulted in the issuing of “best practice” guidelines by the Department of Planning;
 - **2005:** Further amendment to the Act, introducing Section 94A (fixed percentage levy) and Section 93F – Voluntary Planning Agreements;
 - **2006:** Introduction of ‘special infrastructure contributions’ in specified areas, along with the power vested in the Minister for Planning to direct any Council to make, amend or repeal a Development Contributions Plan (Section 94EAA); and
-

- **2007:** Further changes introduced to Section 94 of the Act, including a reduction in the "State Infrastructure Levy" (special infrastructure contributions), from \$33,000 to \$23,000, resulting from the exclusion of Hospitals, School & Emergency Services from this funding source. Section 94 is also only to apply to directly related beneficiaries of development i.e. not due to population growth, essentially removing the ability of Councils to collect for City-Wide or Regional facilities, and removal of the funding of land for riparian corridors from Section 94 and Section 94A, with these areas to be protected/managed through planning controls.

The recent announcement by the Premier consolidates what constitutes the most significant changes to Section 94 in its thirty (30) year history, the major impacts of which are outlined in the following report.

Report

Planning Circular – Local development contributions

As Councillors may be aware, the Department of Planning issued a Planning Circular on 4 June 2010, providing advice to Councils of changes to the setting and collection of infrastructure contributions in NSW. This advice was further to the announcement made by the Hon. NSW Premier Kristina Keneally MP on the same date, concerning plans for a "Comprehensive Housing Supply Strategy". The Planning Minister also issued a Direction pursuant to Section 94E of the Environmental Planning and Assessment Act, 1979 on 4 June 2010, which gave effect to the introduction of a \$20,000 cap on Section 94 contributions from 7 June 2010.

The Planning Circular and the Premier's announcement, aimed at boosting the NSW housing industry and improving housing affordability, outlined the following initiatives;

- A hard cap of \$20,000 per lot/dwelling on Section 94 contributions (Note: Section 94A and Voluntary Planning Agreements under the Act are not affected by this hard cap);
- Retention of rate pegging, with a more transparent process of setting the rate through an IPART determination;
- Tasking IPART to determine special rate variations relating to provision of essential and community infrastructure; and
- Limit of Section 94 contributions to essential infrastructure i.e. land for open space and community facilities, road works and stormwater management (including trunk drainage).

This announcement follows the soon to be implemented Part 5B of the *Environmental Planning and Assessment Act 1979*, which in brief is intended to restrict Councils to only levy contributions under the Act, for the following;

- Local roads;
 - Local bus infrastructure;
 - Local parks that service a development site or precinct (now presumably inclusive of land only);
 - Drainage and stormwater management works;
 - Capital costs (now presumably land only) associated with local community infrastructure that services a development site or precinct; and
 - Land for other community infrastructure and recreation facilities (other than Council-wide facilities, or riparian corridors).
-

The legislative changes covering the specific provisions of these levies had been expected to take effect on 1 July 2010, however advice received from the Department recently, indicated that a revised commencement date is yet to be established.

Review of local development contributions – Impact on Campbelltown City Council

The implementation of the \$20,000 cap per lot/residential dwelling (as per the Ministerial Direction) will have an impact on all existing and future Council ‘new release area’ development contribution plans, which currently includes (but not limited to);

- Glenfield Road Urban Release Area;
- Menangle Park; and
- East Leppington Precinct (Growth Centres).

The specific implications of the soon to be implemented Part 5B of the *Environmental Planning and Assessment Act 1979* as they affect Council are summarised later in this report, however the impact of the \$20,000 cap is clearly demonstrated via the Glenfield Road Urban Release Area development contributions plan.

The current contribution rate for the Glenfield Road Urban Release Area is approximately \$43,000 per residential dwelling. This rate is for the provision of essential infrastructure required to service the development, including land and civil works for open space, drainage and roads. In restricting the development contribution to \$20,000 per residential dwelling, the State Government has consequently transferred the remaining \$23,000 as a cost impost on Council to fund from general revenue and/or other funding sources e.g. special rate variation. This initiative by the State Government seeks to transfer more than half of the cost of providing the infrastructure required by the incoming population into the Glenfield Road Urban Release Area, to existing residents, and subsequently disadvantaging those existing residents.

This initiative by the State Government seeks to transfer more than half of the cost of providing the infrastructure required by the incoming population into the Glenfield Road Urban Release Area, to existing residents, and subsequently disadvantaging those existing residents.

The extent of the liability for Council as a result of the State Government \$20,000 cap on development contributions is estimated as follows for the Glenfield Road Urban Release Area;

Glenfield Road Urban Release Area	Development Contribution Rates	Remaining Development Potential	Totals
Current Contribution	\$43,000	700 lots	\$30,100,000
State Govt. limited cap	\$20,000	700 lots	\$14,000,000
Shortfall – to be funded by Council			\$16,100,000

Yet another adverse by-product of the Ministerial Direction relates to the existence of ‘Works-In-Kind’ credits, particularly in the Glenfield Road Urban Release Area. The circumstance exists whereby a developer has provided certain items of infrastructure in advance of their development, with a view to retaining a credit for these works. However, the potential now exists for the future funding source via development contributions to be reduced to half, raising questions as to how any remaining credit due to a developer would be funded. The Department’s Circular fails to address this specific issue.

The extent of the financial implications of the \$20,000 per residential dwelling cap is demonstrated via the following table, which outlines the potential impost of the \$14,000,000 burden placed upon the remaining 700 lots in the Glenfield Road Urban Release Area, based on its recoupment via General Rates;

Glenfield Road Urban Release Area			
		2009/10	Future Rate (not indexed)
Number of lots	700		
Total shortfall	\$14,000,000		
Average Rates		\$1,333.47	
Average Rates	5 years	\$1,333.47	\$5,333.47
% increase		0%	299.97%
Average Rates	10 years	\$1,333.47	\$3,333.47
% increase		0.0%	149.98%
Average Rates	15 years	\$1,333.47	\$2,666.80
% increase		0%	99.99%

Consistent with the principles of ‘apportionment’ enshrined in the Act, Council has projected the implications of the \$16,100,000 shortfall created by the Minister’s Direction, via General Rates on the remaining development potential (700 lots) in the Glenfield Road Urban Release Area (as opposed to the total 1,100 lots in the catchment area). The most conservative of these calculations indicates an increase of 99.99% in General Rates for the Glenfield area, projected over a 15 year timeframe. Furthermore, based on the theory advocated by many advocate for the Development Industry that development contributions are absorbed in developer profit margins (as opposed to being passed on to future residents), this perpetuates the inequity to the benefit of the first 400 lot owners in the Glenfield Road Urban Release Area. That is, according to the Development Industry these property owners have theoretically not paid a development contribution, nor will the property owners be subject to the 99.99% increase in General Rates. These results are of serious concern and raise questions as to the sustainability of the Minister’s Direction in light of housing affordability, given future Glenfield residents could be burdened with a rating index twice that of adjacent residents, living in the same neighbourhood.

Menangle Park and Edmondson Park Release Areas

Planning for the Menangle Park & Edmondson Park Release Areas are at varying preliminary stages. Following is a further projection as to the extent of the financial implications of the \$20,000 per residential dwelling cap, for the Menangle Park Release Area:

Menangle Park Release Area			
		2009/10	Future Rate (not indexed)
Number of lots	3,600		
Total shortfall	\$36,000,000		
Average Rates		\$3,701.68	
Average Rates	5 years	\$3,701.68	\$5,701.68
% increase		0%	54.03%
Average Rates	10 years	\$3,701.68	\$4,701.68
% increase		0.0%	27.01%
Average Rates	15 years	\$3,701.68	\$4,368.35
% increase		0%	18.01%

The most conservative of these calculations indicate an increase of 18.01% in General Rates for the Menangle Park Release Area, projected over a 15 year timeframe, in contrast to comparable properties within the vicinity of this future development.

While this projection is based on limiting the cost impost to those areas that directly benefit from the shortfall in funding for critical infrastructure, an alternate option available to Council could be, to distribute the total funding shortfall (for all of the aforementioned release areas) resulting from the Minister's Direction, across all rateable properties in the Campbelltown City Council Local Government Area.

This option has several negative implications, not the least significant being that the Campbelltown community would be required to subsidise the provision of infrastructure to new communities, thereby subsidising the growth of Metropolitan Sydney.

The current status of planning for the Edmondson Park Release Area indicates it will proceed as a Part 3A development proposal under the Act. In this regard, it is possible that infrastructure provision will occur via Section 94B of the Act, which enables a consent authority (Minister for Planning) to issue a consent condition under Section 94, even though it is not authorised or determined in accordance with a contributions plan. There may also be some capacity to negotiate a voluntary planning agreement concerning infrastructure provision.

Campbelltown City Council – LGA Wide Funding Liability

The following table outlines and approximates the potential financial implications for each of the property owners in the Campbelltown City Council Local Government Area, should the Section 94E Direction for the Glenfield Road and Menangle Park areas be implemented as it currently stands.

Campbelltown City Council – LGA Wide Funding Liability			
		2009/10	Future Rate (not indexed)
Number of Rateable Properties	53,100		
Total shortfall	\$96,800,000		
Average Rates		\$1,104.60	\$1,469.20
Average Rates	5 years	\$1,104.60	\$1,286.90
% increase		0%	33.01%
Average Rates	10 years	\$1,104.60	\$1,226.13
% increase		0.0%	16.5%
Average Rates	15 years	\$1,104.60	\$1,195.75
% increase		0%	11.00%

The conservative projection of a rate increase of 11.00% on all rateable properties throughout the Campbelltown City Council Local Government Area over a 15 year timeframe is a significant contrast to the history of rate-pegging in NSW. Notwithstanding the distribution of Council's infrastructure funding shortfall across 53,100 households, the cost impost is significant as it adversely affects all residents in absence of any nexus between the cost and the parties taken to benefit from the revenue raised ie existing ratepayers would suffer a cost impost with no relevant benefit to them.

This means the Minister's Direction would significantly undermine the ability of Council to provide key community infrastructure, in spite of the fact that there remains a legitimate basis for levying development at a local level. The principle of 'nexus' outlines the fundamental importance of development contributions planning, as it demonstrates that when development creates a need or increases demand for a particular facility, it is supported in the levying of contributions via a development contributions plan to fund such facilities. It ensures that existing users do not subsidise the costs of demand for facilities generated by future development. The basis of 'apportionment' is a fair and equitable method of funding facilities and infrastructure, which also locks in financial commitment from Councils. Importantly, the point needs to be recognised that the local infrastructure to be funded is not extravagant, but "basic" in its function, purpose and standard.

In light of the significant financial and social implications of the Minister's Direction under Section 94E of the Act, it is critical that the Minister issue an exemption to Council to allow it to impose contributions over the maximum specified in the Direction, being the future contributions rate (and rates calculated thereafter) subject to the making of a development contributions plan for the Menangle Park Release Area.

While the liability for Council created by the Minister's Direction is of significant concern, as disconcerting, is the issue that Council's Glenfield Section 94 Plan is otherwise in keeping with the principles of the soon to be implemented Part 5B of the *Environmental Planning & Assessment 1979*.

For example, the Glenfield Section 94 Plan encompasses an environmental corridor that, with the Cumberland Plain Woodland and riparian corridors, forms part of the open space network. Its linear form provides both linkage and aesthetic open space functions that benefit the whole development area, by providing visual relief for residents, cyclists and pedestrians. These areas also provide a dual purpose in the form of pedestrian/cycle routes that may traverse the periphery of the corridor. In reference to Section 116I of the amended Act, it states that Council may no longer provide for, via development contributions, the acquisition of land for riparian corridors, unless the acquisition will satisfy the need for local parks, or is required for drainage or stormwater management purposes.

The constraint facilitated on infrastructure planning by the Minister's Direction and the forthcoming Part 5B provisions is highlighted in a recent analysis of Council's Glenfield Section 94 Plan. In adhering with the \$20,000 per residential dwelling cap, the level of infrastructure that could be provided was determined by modelling. The results are summarised below:

Glenfield Road Urban Release Area		
Infrastructure Type	Original Value	As per \$20K Cap
Drainage/Open Space Land	\$23,684,250	\$11,612,701
Recreational Facilities	\$1,507,454	\$461,005
Community Facilities	\$1,268,738	\$0
Road Land	\$1,633,183	\$744,511
Road/Traffic Works	\$6,416,535	\$3,540,059
Drainage Works	\$5,460,730	\$4,335,119
Studies/Admin	\$3,694,166	\$0
Total	\$43,665,056	\$20,693,395

The aforementioned analysis highlights the disparity between the originally planned infrastructure for the Glenfield Road Urban Release Area, and that which would be provided pursuant to the \$20,000 per residential dwelling cap.

Further to the confidential report tabled at the Ordinary Meeting of 29 June 2010 titled 'Changes to Section 94 Development Contributions Planning - Legal Advice', the aforementioned analysis reflects two salient points for the consideration of Council. The first point being, that the commitment of certain infrastructure items under the \$20,000 cap include those provided via the proposed Material Public Benefits Agreement currently being negotiated between Council and Mirvac Homes (NSW) Pty Limited. The second point is that, notwithstanding the shortfall created as a result of the \$20,000 cap, Council is not being compelled to actually fund the deficit created. It could be just as likely that Council provide the base infrastructure required (to the value of \$20,000 per residential dwelling) in order to make the development function, with the remaining infrastructure to either remain incomplete or be provided by the developer. It is acknowledged however that this may well lead to poor planning outcomes, with fragmented provision of facilities, and areas such as social infrastructure i.e. recreational/community placed at highest risk.

This legislation would significantly undermine the ability of Council to provide key community infrastructure, in spite of the fact that relevant parts of the Act remain a legitimate basis for levying development at a local level. The principle of 'nexus' outlines the fundamental importance of development contributions planning, as it demonstrates that when development creates a need or increases demand for a particular facility, it is supported in the levying of contributions via a development contributions plan to fund such facilities. It ensures that existing users do not subsidise the costs of demand for facilities generated by future development. The basis of 'apportionment' is a fair and equitable method of funding facilities and infrastructure, which also locks in financial commitment from Councils.

The proposed legislation (and the \$20,000 per residential dwelling cap) essentially splits the concept of nexus. That is, whereas new residents previously paid in part toward certain items of infrastructure from which they derived a benefit, now due to the change in legislation and the State Government's \$20,000 cap initiative, they will enjoy the benefit of some of these facilities for "free" (assuming of course that Council agrees to fund the revenue shortfall from Section 94, from rates or by other means). The fracturing of 'causal nexus' via these changes will create inequity between existing and future communities. The conventional tests of reasonableness and proper apportionment will no longer be possible under the proposed changes, as they will promote inequity in the funding of infrastructure.

Under current legislative arrangements, Councils have an obligation to ensure rigour is assigned to the investigation of the real needs of the community. The proposed changes in restricting the levying of contributions in connection to land development only (i.e. not population growth), and an artificial contribution rate (\$20,000 per residential dwelling) are of significant concern.

The changes would prevent Councils from imposing critical, and often State Agency demanded infrastructure requirements on new developments, particularly with regard to riparian and environmental corridors. This is because Councils will be unable to source development contributions to satisfy the costs of such infrastructure, even though without the new development, the infrastructure would not have been required. This issue is further compounded by the \$20,000 cap.

Environmental Planning & Assessment Amendment Act 2008 – Introduction of the new 'Part 5B' (Provision of public infrastructure)

Further to the issues outlined previously in response to the Minister's Direction on the \$20,000 per residential dwelling cap, following is a summary of the main points of concern evident in the yet to be implemented Part 5B of the *Environmental Planning & Assessment 1979*.

Division 2 – Community infrastructure contributions **Section 116H - Councils require contributions plan**

Subclause 2 of this Section empowers the Minister to authorise Council to require key community infrastructure of a kind not determined in accordance with a contributions plan approved by Council. This essentially enables the Minister to over-ride the planning authority of Council in the area of infrastructure planning, as has occurred in the recently issued Section 94 Direction, potentially resulting in an adverse planning outcome for the people of the City of Campbelltown.

For example, a developer may propose to dedicate land as part of their development with the intent for it to serve a recreational/environmental function. However, the area of land for dedication is in-excess of the reasonable quantum required to provide a recreational purpose, and also includes riparian corridor (which may not be levied for, under the amended Act).

On this basis, Council would not be able to account for the cost of the subject land in preparation of a contributions plan. However, if the Minister were to intervene under Section 116H(2), the outcome could possibly be the disproportionate provision of an asset type relative to the needs of a community. This poor planning result is compounded by the fact that it would also result in increased maintenance costs to Council, once again placing the existing community at a disadvantage as a result of the incoming population, by diverting resources to the over supply of an un-necessary asset.

Section 116I - Councils limited to contributions for key community infrastructure

In reference to Section 116I of the amended Act, it states that Council may no longer provide for, via development contributions, the acquisition of land for riparian corridors, unless the acquisition will satisfy the need for local parks, or is required for drainage or stormwater management purposes.

The onus is therefore placed upon Council in articulating the argument in support of retaining said items in a development contributions plan. For example, Council may otherwise be required to provide specified information and documents (such as a business plan, as well as an independent assessment of the business plan) in support of, or otherwise in connection with the development contributions plan.

In overlaying this point upon the Glenfield Section 94 Plan, Council may be required to prepare and lodge a business plan with the Minister for Planning that demonstrates the extent to which the tracts of Drainage/Riparian corridor provide a drainage or stormwater management function. However, it infers that land that does not otherwise service such a function may no longer be funded via development contributions. This is of particular concern in that the requirement of Riparian corridor provision is predominantly the result of State Government imposed constraints imposed at the rezoning stage of new release areas. As a result, while one State Government department (DECCW) determines the constraint upon land, a separate State Government department (DoP) restrict the capacity of Council to ensure its funding.

Section 116L - Minister's Directions about community infrastructure contributions

This section of the amended Act represents an issue of significant concern in that it empowers the Minister to intervene in the planning of infrastructure without the need for reference to the affected stakeholders.

Section 116L enables the Minister to:

- Direct Council to impose a contribution that would otherwise not be permissible under the very same legislation;
 - Determine what Council must accept as a material public benefit (refer to earlier example of dedication of excess land);
 - Identify where (or where not) contributions may be imposed;
 - Vary the value rate of indirect contributions, creating un-certainty for Council in forward planning of infrastructure using this methodology;
-

- Stipulate when a development is to be completed i.e. the time within which contributions under the Act are to be applied;
- Direct Council to use community infrastructure contributions for a purpose other than that for which they were paid. This creates the potential for inconsistency in the standard set by the amended Act upon which all Councils would otherwise be required to comply; and
- Direct Council to make a joint contributions plan, without consultation with the affected stakeholders.

Evidence of future potential adverse outcomes resulting from Section 116L are acutely reflected in the recent Section 94E Direction regarding the \$20,000 cap.

Division 5 – Development contributions for affordable housing

The establishment of State infrastructure contributions has resulted in a direct impost on the land conversion process, promoting via the amended Act, an enhanced ‘user pays’ scenario. This has resulted in an acute focus on the issue of housing affordability. However, the proposed changes are not guaranteed to alleviate the pressures of housing affordability, as was acknowledged by the NSW Treasurer in a media interview on 16 October 2007. In fact, the reduction in the value of local contributions will directly benefit the developer, as the price of serviced land continues to be determined by market forces. The result would be that with the proposed changes, the residents of Campbelltown will experience a reduced level of service, as the benefit of the few will be at the expense of the majority.

In this regard, it is important to comment on other factors that impact upon the affordability of housing. In the conversion of non-urban land to urban land, there are significant infrastructure costs not covered by the administration of development contributions, which are an ordinary cost to the developer. These include the provision of local roads and drainage, gas, water, sewer, electricity and telecommunication services. In addition, there are also other developer costs required such as meeting corporate overheads, professional and project management fees, product marketing/advertising, holding charges and various government taxes. These are aside from the cost of land acquisition. Council does not have direct control or influence over these costs, which inevitably are accounted for in the final price of housing products and have a direct bearing on housing affordability.

One of the significant elements in the cost of development is the component for land acquisition. Land is needed to support all the facilities delivered in a development contributions plan, and often constitutes the bulk of its total value. This requires acknowledgement, particularly where contemporary stormwater management systems requiring high levels of water quality control, are proposed on top of the standard provision of other infrastructure required to meet the community’s needs. In Council’s view, the need to provide land for these and other relevant purposes is likely to have a significant impact on housing affordability.

It is relevant to note that considerations in the planning of new urban release areas and the dialogue now occurring with a range of State Government agencies, is reviewing the wisdom of continuing to provide community facilities on a stand-alone basis in new urban communities. That approach consumes more land and does not take account of the management difficulties in many cases being encountered to effectively operate community facilities over the long term or provide sufficient flexibility for changes in use of facilities, as community needs and interests also change over time. Alternate models are being explored which look at the co-location and multiple use of community facilities which may overcome some of these historical difficulties. Interestingly, government agencies such as the Department of Education and Training are looking at models for the delivery of new primary schools, for example, which incorporate on-site child care, and dual usage and sharing of playing fields.

An option available to the State Government to underwrite some of the infrastructure costs in the conversion of non-urban land to urban land, relates to the 'profit' enjoyed by landowners when land is sold following a rezoning for urban development purposes. Under this arrangement, a proportion of the financial benefit derived when a property is sold following a change of zoning, from rural to residential for example, could be recouped by the State Government and channelled back into infrastructure delivery to underpin the new urban development. This concept of a 'betterment tax' is not a new initiative and has historically provided for contributions in developing areas prior to the advent of the Act. Such a funding source would significantly restore the balance in funding the provision of local infrastructure, and subsequently the affordability of housing.

It is prudent to note that since the issuing of the Minister's Direction of the \$20,000 cap on 7 June 2010, there has been some anecdotal evidence in the property market that the cap will not have the intended outcome on the issue of housing affordability. A number of developers have already indicated that there would be no change to the current list price for residential dwellings resulting from the Minister's Direction. This advice clearly indicates that the \$20,000 per residential dwelling cap is likely to succeed only in benefiting the financial return of developers.

Schedule 1 Provisions relating to development contributions

3.3 Amendments to *Environmental Planning and Assessment Regulation 2000*

31A Key community infrastructure and additional community infrastructure

The principle of 'nexus' outlines the fundamental importance of development contributions planning. The concept of nexus demonstrates that when development creates a need or increases demand for a particular facility, it is supported in the levying of contributions via a development contributions plan to fund such facilities. It ensures that existing users do not subsidise the costs of demand for facilities generated by future development. Accordingly, the nexus argument should always underpin any developer contributions arrangements. However, this Section of the amended Act will in essence artificially negate certain elements of the nexus principle.

It is also relevant to note that under current arrangements, Councils have an obligation to ensure rigour is assigned to the investigation of the real needs of the community and that the misidentification of what is required to sustain emerging communities over time is avoided. The other tests of reasonableness, proper apportionment and accountability are also relevant principles to maintain.

It is important to recognise that development contributions are not limited to the physical works required to enable a development or subdivision to proceed. They also embrace the broader principle of community building and the provision of necessary infrastructure and facilities, which will sustain a community in the longer term. By restricting the definition of these facilities in the form of 'key community infrastructure', Council is constrained in the facilitation of this community building, as the amended Act seeks to marginalise communities via artificial intervention in infrastructure provision.

In considering the fundamental elements for which contributions have been traditionally sought, it is worth noting the three main components for which funding is ordinarily required:

- The significant costs associated with converting non-urban to urban land e.g., major drainage systems, collector roads, etc, which would be required for a new major urban release area.
- Converting subdivisions into new communities through the provision of social infrastructure, e.g., provision of parks, neighbourhood facilities, child care centres, etc; and
- The level of demand or need generated by new communities for facility provision off-site e.g., city-wide cultural facilities, district level open space, etc.

Council has recognised that increased population emerging through new development across the City of Campbelltown also creates a demand for facilities for which the existing community is a beneficiary; for example, the arts centre, library facilities, etc. It is important that the opportunity remains for development to contribute to these city-wide facilities, which, although not necessarily being located on or immediately adjacent to land the subject of development, nonetheless fulfil an important community need.

The intent to no longer permit funding of riparian corridors via development contributions, rather, to protect them through planning controls, has the potential to place Council at risk as the acquisition authority without a funding source. It is also noted that removing riparian corridor funding from development contribution plans may have an affect (of its own accord) of inflating other local land (open space) acquisitions, given price inflator impacts relating to residual values on land that has to be acquired. It is also not reasonable to expect that landowners with a riparian zoning would not rigorously pursue some form of compensation for their land, with Local Government the prime target.

Conclusion

As outlined in this report, the proposed changes to the infrastructure contributions framework will have significant impacts on development contributions planning in NSW, the extent of which needs to be determined via further investigation and consultation with the relevant stakeholders. An absence of meaningful consultation has undermined the integrity of planning reforms as they apply to development contributions, as having the intent of best serving the interests of all affected stakeholders. To proceed in earnest with these changes would exert pressure on Councils to resist rezonings, and even some development applications, because they may be not able commit to fund the shortfall of infrastructure upgrade triggered by new development.

Notwithstanding Council's previous submissions to the Minister regarding the proposed changes now contained in the amended Act, it is evident that none of Council's proposals were incorporated into the amended Act. It is therefore recommended that Council requests the Minister engage in meaningful consultation with all of the affected stakeholders (including Campbelltown City Council) prior to proceeding any further with the amended Act.

In the interim, it is recommended that Council call upon the Minister to repeal the \$20,000 cap proposed for Local Government infrastructure contributions, and to re-consider Council's previous submissions, to ensure the retention of equitable legislation for the provision of infrastructure in supporting any population growth in NSW.

Officer's Recommendation

1. That Council note the content of the 'News Release: Premier of New South Wales – Significant reform to local council infrastructure charges' and the 'Planning Circular (PS 10-014): NSW Department of Planning – Local Development Contributions'; as attached to this report.
2. That Council write to the Minister for Planning objecting to the proposals set out in the 'Planning Circular (PS 10-014): NSW Department of Planning – Local Development Contributions', subject to a Ministerial direction pursuant to Section 94E of the *Environmental Planning and Assessment Act 1979*, and request that the Minister engage in meaningful consultation with Campbelltown City Council prior to any further amendments to the Act with regard to Development Contributions.
3. That Council seek an urgent meeting with the Minister for Planning and lodge a submission to the Department of Planning drawing particular attention to Council's concern that new communities may be significantly disadvantaged if Council is unable to provide expected/required infrastructure as a consequence of the depletion of Section 94 funds.
4. That Council seek a formal exemption from the Ministerial Direction issued on 4 June 2010 pursuant to Section 94E of the Environmental Planning and Assessment Act , 1979 as far as development consents relating to land within the Glenfield Road Urban Release Area are concerned.

Committee's Recommendation: (Oates/Greiss)

That the Officer's Recommendation be adopted.

CARRIED

Council Meeting 27 July 2010 (Kolkman/Oates)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 130

That the Officer's Recommendation be adopted.

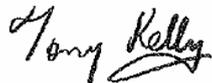
ATTACHMENT 3

Direction Section 94E

under the
Environmental Planning and Assessment Act 1979

I, the Minister for Planning, in pursuance of section 94E of the *Environmental Planning and Assessment Act 1979* (the Act) direct councils as consent authorities to comply with the requirements set out in this Direction.

This Direction revokes the previous Directions issued under section 94E of the Act as set out in the Schedule to this Direction.

 - 4 JUN 2010

TONY KELLY, M.L.C.,
Minister for Planning

Requirements of this Direction

- (1) A council as a consent authority must not impose a condition of development consent under section 94(1) or 94(3) of the Act requiring the payment of a monetary contribution exceeding \$20,000 for each dwelling authorised by the consent or in the case of a development consent that authorises the subdivision of land into residential lots, exceeding \$20,000 for each lot authorised by the consent.

Date this Direction takes effect

- (2) This Direction takes effect on and from 7 June 2010.

Definitions

- (3) Words and expressions in this Direction have the same meaning as they have in the Act unless otherwise defined.
 - (4) In this Direction:
 - (a) **Dwelling** means a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile,
 - (b) **Residential lot** means a lot created by the subdivision of land (as defined in section 4B of the Act) for the purpose of a dwelling not being a lot, which in the opinion of the council, is to be further subdivided for the purpose of creating lots to be used for dwellings.
 - (5) Notes do not form part of this Direction.
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Notes

Section 94EC(1A) of the Act provides as follows:

The imposition of a condition by an accredited certifier as authorised by a contributions plan is subject to compliance with any directions given under section 94E(1)(a), (b) or (d) with which a council would be required to comply if issuing the complying development certificate concerned.

Schedule

(1) The following directions are revoked by this Direction:

- (a) The Direction, dated 13 January 2009, to councils exercising functions as a consent authority,
 - (b) The Directions, dated 31 May 2009, to Blacktown City Council, Camden Council, City of Sydney Council, Ku-ring-gai Council, Lake Macquarie City Council, Liverpool City Council, Maitland City Council, Penrith City Council and Wyong Shire Council,
 - (c) The Directions, dated 10 July 2009, to Campbelltown City Council, Holroyd City Council, Leichhardt Municipal Council, Palerang Council, Pittwater Council, Shoalhaven City Council, The Hills Shire Council, Tweed Shire Council, Wollondilly Shire Council and Yass Valley Council.
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2.5 Minutes of the Heritage Protection Sub-Committee Meeting held on 17 June 2010

Reporting Officer

Manager Environmental Planning

Attachments

Minutes of the Heritage Protection Sub Committee Meeting held on 17 June 2010.

Purpose

To seek Councils' endorsement of the Minutes of the Heritage Protection Sub Committee meeting held on 17 June 2010.

Report

Detailed below are the recommendations of the Heritage Protection Sub Committee. Council officers have reviewed the recommendations and they are now presented for Council's endorsement. The recommendations that require an individual resolution of Council are detailed in the officer's recommendation.

Recommendations of the Heritage Protection Sub Committee.

Reports Listed for consideration

8.1 Development Application 2632/2009/DA-C- Proposed Additions to the Menangle Inn

That Council be advised that the Heritage Protection Sub Committee supports the application for the construction of an addition to the existing building known as the Menangle Inn, on lot 102, DP 776612, No 170 Menangle Road, Menangle Park.

8.2 Ingleburn Weir - Outcome of Works (from a heritage perspective)

1. That the Heritage Protection Sub Committee noted the outcomes of the work carried out on Ingleburn Weir in terms of maintaining the structure in its current form as an item of heritage significance for the local community.
 2. That the Heritage Protection Sub Committee endorses the Heritage Brochure that details the heritage significance of the Ingleburn Weir and the works undertaken as part of the Bring Back the Fish Project.
-

8.3 Removal of Significant Tree - No 17 Badgally Road Campbelltown

That Council be requested to require that the applicant, MH Enterprises, plant a 400 litre *Melaleuca decora*, White Feather Honey Myrtle tree to replace the Camphor Laurel tree which is to be removed from No. 17 Badgally Road Campbelltown, subject to confirmation that *Melaleuca decora* species is not known to cause any ill health effects.

8.4 Membership of the Heritage Protection Sub Committee

That Council be advised of the following:

1. That the Heritage Protection Sub Committee accepts the resignation of Mr Trevor Rhodes from the Heritage Protection Sub Committee.
2. That Council be advised that the Heritage Protection Sub Committee accepts the nomination of the alternate delegate from the Campbelltown and Airs Historical Society Mrs Jenny Goodfellow, to be appointed to the Heritage Protection Sub Committee as the representative for the Campbelltown and Airs Historical Society, to replace Mr Trevor Rhodes.
3. That Council be advised that the Heritage Protection Sub Committee accepts the nomination of Ms Learna Coupe to be appointed to the Heritage Protection Sub Committee as an alternate representative of the Campbelltown and Airs Historical Society; and
4. That Council be requested to forward a letter to Mr Trevor Rhodes to thank him for his contribution and commitment to the Heritage Protection Sub Committee.

9.1 Public Works Stone Yard Open Day

That the information be noted.

9.2 Removal of Trees Near Glenfield Railway Station

That the information be noted.

9.3 Windmill at Mount Gilead

That the information be noted.

9.4 Cemeteries in the Campbelltown LGA

That the information be noted.

Officer's Recommendation

1. That the Minutes be noted.
2. That in regard to Item 8.3 Removal of Significant Tree - No. 17 Badgally Road Campbelltown, the applicant, MH Enterprises be advised to plant a 400 litre melaleuca decora, white feather honey myrtle tree to replace the camphor laurel tree which is to be removed from No. 17 Badgally Road Campbelltown, subject to confirmation that melaleuca decora species is not known to cause any ill health effects.
3. That in regard to Item 8.4, Membership of the Heritage Protection Sub Committee:
 - i) the resignation of Mr Trevor Rhodes from the Heritage Protection Sub Committee be accepted.
 - ii) the current alternate delegate for the Campbelltown and Airs Historical Society Mrs Jenny Goodfellow be appointed to the Heritage Protection Sub Committee to replace Mr Trevor Rhodes.
 - iii) Ms Learnna Coupe to be appointed to the Heritage Protection Sub Committee as an alternate representative of the Campbelltown and Airs Historical Society.
 - iv) a letter be forwarded to Mr Trevor Rhodes to thank him for his contribution and commitment to the Heritage Protection Sub Committee.

Committee's Recommendation: (Bourke/Oates)

That the Officer's Recommendation be adopted.

CARRIED

Council Meeting 27 July 2010 (Kolkman/Oates)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 130

That the Officer's Recommendation be adopted.

ATTACHMENT 1

Minutes of the Heritage Protection Sub Committee Meeting

Held Thursday 17th June 2010 in Committee Room 3

1. Acknowledgement of Land

An Acknowledgement of Land was presented by the Chairperson, Councillor Bourke.

2. Attendance and Apologies

Attendance: Councillor Julie Bourke (Chairperson)
Jacqueline Green
James Gardner
Jenny Goodfellow
Robert Wheeler

Also in Attendance: Lisa Havilah - Manager Cultural Services
Jim Baldwin - Manager Development Services
David Henry - Environmental Officer
Caroline Puntillo - Executive Planner
Jane Worden - Executive Support

Apologies: Councillor Meg Oates
Melissa Plummer
Mario Majorich

Sub Committee's Recommendation: (Bourke/Gardner)

That the above apologies be accepted.

CARRIED

3. Declarations of Interest

Sub Committee members Jenny Goodfellow and Jacqueline Green made a Declaration of Interest in respect to Item 8.4 Membership of the Heritage Protection Sub Committee as they are both members of the Campbelltown and Airds Historical Society.

4. Presentation on the Campbelltown Heritage Medallion

Council's Manager Cultural Services provided the Sub Committee with a presentation on ideas for improving the process relating to the Campbelltown Heritage Medallion. The matters raised in the presentation were discussed by the Sub Committee and suggestions for additional improvements were made by the Sub Committee. These suggestions will be provided to Council's Manager Cultural Services via a memorandum for consideration in the preparation of the report on this matter to be submitted to the next meeting of the Heritage Protection Sub Committee.

5. Minutes of the Previous Meeting

Reporting Officer

Manager Environmental Planning

Report

The Minutes of the Heritage Protection Sub Committee Meeting held on 22 April 2010, copies of which were circulated to each Sub Committee Member, were presented to Council for adoption at its meeting held on 1 June 2010.

Council resolved to endorse the Sub Committee's recommendations.

Officer's Recommendation:

That the information be noted.

Sub Committee's Recommendation: (Green/Wheeler)

That the information be noted.

CARRIED

6. Business Arising from Previous Minutes

Reporting Officer

Manager Environmental Planning

Purpose

To report on business arising from the Minutes of the Heritage Protection Sub Committee Meeting held on 22 April 2010.

Report

A report on the Minutes of the Heritage Protection Sub Committee meeting (held on 22 April 2010) was presented to Council on 1 June 2010. Council resolved as follows:

1. That the Minutes be noted.
 2. That in regard to Item 7.1 Amended Local Heritage Fund Guidelines:
 - (i) *Council be requested to consider minor amendments to both Point 2 and Point 10 of the Eligible Projects Section within the Local Heritage Fund Guidelines so that they read:*
-

Point 2: Projects are eligible if they involve the repair, maintenance or reinstatement of missing elements of heritage buildings. Examples of eligible work include verandahs, roof cladding & guttering, hand painted signs and decorative detail, from structural work through to painting of projects to ensure the structural integrity of the heritage building. The re-creation of heritage gardens can also be funded under this grant program.

Point 10: Heritage items, for which funding has been granted in one financial year, are not eligible for additional funding in the same or following financial year. Items within a group are each eligible for separate funding if in different ownership.

(ii) *That Council be requested to investigate the specific reasons for the heritage listing of cemeteries located within the Campbelltown Local Government Area and that this information be provided to the Heritage Protection Sub Committee.*

3. That in regard to Item 7.2 Richmond Villa Landscape Plan:

(i) *Council be advised that the Heritage Protection Sub Committee endorses the Landscape Management Plan prepared by Nicholas Bray, Landscape Architect, for the curtilage of Richmond Villa subject to consideration being given to the following amendments:*

- That the landscaping works for Richmond Villa use appropriate heritage species plantings which are in keeping with the age of the heritage listed buildings;
- That the inconsistencies between the two Landscape Management Plans for Richmond Villa, as provided to the Heritage Protection Sub Committee, be clarified to ensure that garden beds as per the Landscape Management Plan dated 23/12/09 be established; and
- That the Richmond Villa Landscape Management Plan address the provision of a shaded outdoor area.

(ii) That Council be requested to relocate the existing Iris plantings and sandstone blocks to Glenalvon if they are not to be reused in the landscaping of Richmond Villa.

(iii) That Council be requested to seek additional funding for the replacement of the fence surrounding Richmond Villa, as a matter of urgency.

4. That in regard to Item 8.1 Date of the June Heritage Protection Sub Committee Meeting, the next meeting of the Heritage Protection Sub Committee be rescheduled to 17 June 2010.

The following update is provided on business arising from those relevant items in the Heritage Protection Sub Committee Minutes from its meeting held on 22 April 2010.

7.1 Amended Local Heritage Fund Guidelines

That in regard to Item 7.1 Amended Local Heritage Fund Guidelines:

- (i) *Council be requested to consider minor amendments to both Point 2 and Point 10 of the Eligible Projects Section within the Local Heritage Fund Guidelines so that they read:*

Point 2: Projects are eligible if they involve the repair, maintenance or reinstatement of missing elements of heritage buildings. Examples of eligible work include verandahs, roof cladding & guttering, hand painted signs and decorative detail, from structural work through to painting of projects to ensure the structural integrity of the heritage building. The re-creation of heritage gardens can also be funded under this grant program.

Point 10: Heritage items, for which funding has been granted in one financial year, are not eligible for additional funding in the same or following financial year. Items within a group are each eligible for separate funding if in different ownership.

- (ii) *That Council be requested to investigate the specific reasons for the heritage listing of cemeteries located within the Campbelltown Local Government Area and that this information be provided to the Heritage Protection Sub Committee.*

Officer's Comment: The Guidelines have been amended and letters regarding the 2010/2011 Local Heritage Fund were sent to all owners of heritage items located within the Campbelltown Local Government Area in mid June 2010.

7.2 Richmond Villa Landscape Plan

That in regard to Item 7.2 Richmond Villa Landscape Plan:

- (i) *Council be advised that the Heritage Protection Sub Committee endorses the Landscape Management Plan prepared by Nicholas Bray, Landscape Architect, for the curtilage of Richmond Villa subject to consideration being given to the following amendments:*

- That the landscaping works for Richmond Villa use appropriate heritage species plantings which are in keeping with the age of the heritage listed buildings;
- That the inconsistencies between the two Landscape Management Plans for Richmond Villa, as provided to the Heritage Protection Sub Committee, be clarified to ensure that garden beds as per the Landscape Management Plan dated 23/12/09 be established; and
- That the Richmond Villa Landscape Management Plan address the provision of a shaded outdoor area.

- (ii) *That Council be requested to relocate the existing Iris plantings and sandstone blocks to Glenalvon if they are not to be reused in the landscaping of Richmond Villa.*

- (iii) *That Council be requested to seek additional funding for the replacement of the fence surrounding Richmond Villa, as a matter of urgency.*
-

Officer's Comment: Council's Coordinator Property Services has advised that the landscaping plans for Richmond Villa were amended to reflect the concerns of the Sub Committee and as a result additional garden beds and useable outdoor space have been added to the plans. Work on the project was underway at the time of writing this report. The Sub Committee will be provided with an update once the works are completed.

Officer's Recommendation:

That the information be noted.

Sub Committee's Recommendation: (Green/Gardner)

That the information be noted.

CARRIED

7. Correspondence - Nil

8. Reports

8.1 Development Application 2632/2009/DA-C – Proposed Additions to the Menangle Inn

Reporting Officer

MANAGER DEVELOPMENT SERVICES

Purpose

The purpose of this report is to seek the Heritage Protection Sub Committee's endorsement of the subject development application (from a heritage perspective), relating to a proposed addition to a building located within the curtilage of Menangle House. The subject building is known as the Menangle Inn and is located on Lot 102, DP 776612, No. 170 Menangle Road, Menangle Park.

History

The subject site is known as Menangle House or "The Horse and Jockey Inn", located on Lot 102, DP 776612, No. 170 Menangle Road, Menangle Park (See Attachment No. 1). The property contains two early 19th century buildings, being a two storey face brick building of solid wall construction (Menangle House) with a single storey colonnade verandah and hipped roof, and rubble stone walled building with gable-ended roof, located to the north of the brick building.

A recent tavern development is located to the north of the proposed addition, and contains an extensive bar and restaurant building arranged around a courtyard with associated service areas and an open gazebo structure to the north-west.

There is also a replica/reconstructed 'rude timber' structure housing the TAB and two temporary framed fabric structures to the rear of the development site.

Report

The Proposal

RE Property Group (the applicant) is seeking development approval to facilitate an addition to the north east of the existing bar and lounge area of the recently constructed building north of Menangle House. This is illustrated in Attachment 2.

The proposed extension continues the same architectural expression of the existing building with a simple gable ended pitched roof, verandah and fenestration.

The materials that are proposed to be used for the construction of the addition are a colour bond roof, bagged walls, and cedar windows to match the existing bar and lounge building.

The development has been identified previously as a tavern and is a permissible use within the existing zoning, subject to approval by the consent authority.

A Statement of Heritage Impact prepared by Archnex Designs – Architects, Heritage Building Consultants and Interior Designers, accompanied the development application. The Statement was prepared having regard to the Conservation Management Plan for the site (by Design Architects dated August 1989) and an inspection of the site in May 2010.

The Heritage Impact Statement is summarised as follows:

A field inspection of the proposed development revealed that the proposed development is sufficiently separated from the significant items on the site – Menangle House and the Stone Building – such that its potential to have adverse impacts on the setting of the items will be negligible.

Design Principles and Elements:

The design of any proposed development should not lessen the significance of a heritage item. New development should be compatible and complementary.

The proposed addition is essentially a continuance of the nature of the recently constructed building accommodating dining rooms, a bar/lounge and ancillary uses to the north east of Menangle House and reflects the architectural expressions of the existing building by virtue of its roof form, fenestration, external materials, finishes and colours.

In considering the design principles of Development Control Plan No 83 – Heritage Policy:

- *the elements proposed are recessive/neutral;*
 - *the style, design and placement of the proposal is compatible and complimentary with the recently erected building(s) and the item(s);*
 - *the architectural and landscape elements have been taken into account;*
 - *there is no apparent necessity for the interpretation of significant architectural or landscape elements;*
 - *views to the from the site will be negligibly affected;*
 - *there is no streetscape to take into account per se; and*
 - *the proposed extension will assist in creating a sense of place in that the gazebo and lawn areas to the north-east of Menangle House will be incorporated into the function of the current usage.*
-

Burra Charter – Article 8 – Setting

Conservation: requires the retention of an appropriate visual setting and other relationships that contribute to the cultural significance of the place; New construction, demolition, intrusions or other changes which would adversely affect the setting or relationship are not appropriate.

The use of the proposed extension is consistent and compatible with the existing building to which it is to be attached - i.e. an enlargement of the lounge facility.

The siting of the proposed extension to an area identified in the conservation plan as being of comparatively low impact and the proposed building will be separated from the significant elements of the site to an extent that will be of minimal impact in terms of both views of the items and from the items.

The bulk of the proposed extension is consistent with that of the building to which it is to be attached. It adopts similar wall heights, a pitched roof and is of similar physical extent.

The form of the proposed addition is that of an extrude gable volume, similar to that of the building to which it is to be attached.

The scale of the proposed extension is consistent with that of the building which it is to be attached.

The character of the proposed extension is similar to and compatible with the building to which it is to be attached, and is reflected of a restrained vernacular – based style that is sympathetic and compatible with that of the identified buildings of heritage significance on the site, but does not attempt to mimic the nature of the items literally.

The colour is a function of the continued use of the dark recessive colourbond custom roof and the oxide bagging to the masonry walls and is intended to be consistent with the building off which it is to be extended.

The site inspection, research, analysis and assessment has revealed that the proposed additions to the recently constructed buildings to the grounds of Menangle House is consistent with the site zoning and significance as set out in the Conservation Plan, and is located in an area identified as available for future development.

In a practical sense the proposed extension is located at the furthest position on the site in which an extension can be made to an existing building and the field survey indicates that it will be of minimal impact in views both to and from the significant buildings(s) on the site.

Assessment

The proposal requires development consent under Part 4 of the *Environmental Planning and Assessment Act, 1979*.

1. Interim Development Order No 15

The subject property is located on land affected by the provisions of the Campbelltown City Council's non-urban *Interim Development Order No. 15*. A tavern is permitted subject to Council approval.

The site is listed in Schedule 4 of IDO 15 as an item of the environmental heritage. The Statement of Heritage Impact undertaken as part of the Statement of Environmental Effects addresses Clause 19 – Items of environmental heritage, Clause 20 – Conservation incentives relating to items of the environmental heritage, and Clause 22 – advertising of applications concerning items of the environmental heritage.

The relevant matters for consideration have been addressed above in the summary of the Statement of Heritage Impact and are considered to satisfy those provisions.

2. Development Control Plan No. 83 - Heritage Policy (DCP 83)

The site is identified in Appendix 1 of DCP 83 as a “heritage item of Campbelltown”.

The Statement of Heritage Impact undertaken by Archnex Designs (summarised earlier in this report), follows the principles of the Burra Charter and the existing Conservation Management Plan that applies to the site.

It is considered that the proposed development satisfies the Development Control Plan No. 83 - Heritage Policy (DCP 83).

Conclusion

Given its location and the design and finish of the proposed addition, the proposal is unlikely to have an impact upon the heritage significance of the site in terms of views, setting and visual amenity. The proposed addition is similar to the building it will be attached to, and is considered sympathetic and compatible with the items of heritage significance that are located on the site. As such, it is considered appropriate that the application be approved subject to relevant conditions of consent.

Officer's Recommendation:

That the Heritage Protection Sub-Committee support the application for the construction of an addition to the existing building known as the Menangle Inn, on Lot 102, DP 776612, No. 170 Menangle Road, Menangle Park.

Sub Committee's Recommendation: (Gardner/Goodfellow)

That Council be advised that the Heritage Protection Sub-Committee supports the application for the construction of an addition to the existing building known as the Menangle Inn, on Lot 102, DP 776612, No. 170 Menangle Road, Menangle Park.

CARRIED

8.2 Ingleburn Weir - Outcome of Works (from a heritage perspective)

Reporting Officer

Manager Environmental Planning

Purpose

The purpose of this report is to inform the Heritage Protection Sub Committee of the outcomes of remediation works conducted on Ingleburn Weir during August 2009, from a heritage perspective.

History

In 2006, the Ingleburn Weir was identified as having a high priority for remediation work under the NSW Industry and Investment Project (I&I Project) 'Bring Back the Fish' (BBTF). A presentation on the Heritage Impact Statement (HIS) associated with the proposed remediation works by I&I NSW was provided to the Heritage Protection Sub Committee at its meeting in November 2007. Following its consideration of the accompanying report to this presentation, the Sub Committee resolved that:

'Council give consideration to prepare a structural engineers report for the purposes of assessing the structural stability of Ingleburn Weir and any need for maintenance or remedial works to prevent further deterioration occurring to the weir'

A subsequent report outlining a number of options designed to retain the weir in its current form (i.e. partially breached) whilst enhancing fish passage was provided to Council at its meeting on 10 March 2009. In endorsing the recommended program of works outlined in this report, Council resolved (in part) that:

'An information report be provided to a meeting of Council's Heritage Protection Sub Committee outlining the endorsed Council response to enhance the longevity of Ingleburn Weir in its current form'

This report provides details of the endorsed Council response to the recommendations of the HIS as well as the outcomes of the works undertaken in relation to the heritage value of the weir.

Report

Background information

(i) Heritage features of Ingleburn Weir

A photograph of the weir prior to the works being undertaken (provided at Attachment 1) shows that the weir was partially breached. In recognition of the heritage features of the weir, the proposed I & I fish passage enhancement works (BBTF project works) were restricted to this fragmented section of the weir.

Prior to the works being carried out, a Heritage Consultant was engaged by Council to prepare a Heritage Impact Statement (HIS) to reassess the heritage value of the weir and identify any adverse impacts of the BBTF project works on these values. The HIS concluded that the weir had heritage significance at a local level due to its pre-war creation as a recreation facility for the local community. It also concluded that the weir is a relatively unique structure, constructed of sandstone and purely for a recreational purpose.

(ii) *Works carried out on the weir*

Due to safety reasons, works on the weir could only be undertaken in "low flow" conditions. As a consequence, following Council's endorsement of the recommended program of works at its meeting in March 2009, the works could not be undertaken until August later that year, due to the unsuitable height of the Georges River at the site of the weir.

The overall supervision of the works was undertaken by Council's Operational Services Section with technical advice provided by officers from Council's Environmental Planning and Technical Services Sections. The author of the HIS attended the site to provide advice to the Contractor undertaking the works in relation to the heritage features of the weir while the BBTF project manager from I&I NSW also attended the site periodically to provide advice to the Contractor regarding fish passage requirements.

Response to the recommended conservation approach outlined in the Heritage Impact Statement

Whilst noting that the remedial works would not impact on the identified heritage value of the weir, the HIS outlined a recommended conservation approach designed to preserve the weirs' identified heritage value following the completion of the remedial works. The approach was to enhance the longevity of the weir in its current form to ensure that the structure remained as an item of heritage significance for the local community.

A summary of the response to the recommended conservation approach outlined in the HIS, in terms of the program of works endorsed by Council at its meeting in March 2009, is presented in Attachment 3 and illustrated on the photograph provided at Attachment 2.

The outcomes of the works in relation to the heritage value of the weir

The HIS endorsed the initially proposed BBTF works to enhance fish passage as a legitimate conservation approach by retaining the weir in its current 'part ruin' state, given that restoration is not viable due to lack of support from Industry and Investment NSW. However, the completion of the endorsed program of works resulted in beneficial outcomes from a heritage perspective (as outlined below) in relation to two applicable State Heritage Register criteria:

Criterion c): An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW

Due to the retention of the weir in a 'part ruin' state, the work on the weir would not alter the assessment of the HIS that 'this item does not demonstrate particular aesthetic or technical characteristics'. However, the author of the HIS, during a site inspection, expressed satisfaction that the in-filling of the former voids as part of the program of works had increased the aesthetic characteristics of the structure from a heritage perspective.

Criterion e): An item has the potential to yield information that will contribute to an understanding of NSW's cultural or natural history (or the natural or cultural history of the local area)

The completion of stability work on the weir has increased the longevity of the structure in its current form in terms of removing the erosive forces formerly occurring within the former voids and providing enhanced resistance to the significant erosive forces that occur during flood events within the river. Consequently, the works have achieved the positive outcome of expanding the time period that the weir, in its current form and location, will be retained, and to allow for its heritage significance to be appreciated by the community.

Raising awareness of the outcomes of the works and the heritage significance of the weir

The HIS contained the following additional recommendation to promote the heritage significance of the weir and the access steps to the weir that were upgraded by a qualified stonemason (in association with a team of green corps in 2003).

Recommendation 6: *An Interpretation Strategy be developed that could include a history of the Reserve, the people involved with the weir and its construction, details of the weir construction as well as commentary on the construction of the sandstone steps providing access to the weir.*

In accordance with this recommendation, a brochure has been developed that provides information on the heritage significance of the Reserve as well as details of the program of works carried out on the weir. A copy of the brochure is provided as Attachment 4 to this report.

Subject to the endorsement of the brochure by the Heritage Protection Sub Committee (and subsequently by Council), it is intended that the brochure be made available at the Quondong Visitor Centre. Wider distribution of the brochure is not proposed, due to the potential for unauthorised modifications to the weir that might facilitate illegal access to the adjacent Holsworthy Military Reserve.

Conclusion

The works carried out on Ingleburn Weir, as outlined in this report, have satisfied the potentially competing objectives of preserving its heritage value and enhancing fish passage. In this regard, the author of the HIS has advised that the program of works has enhanced the heritage appearance of the structure (within the constraints associated with its location on the Georges River), as well as the long-term stability of the weir, to ensure that the weir (in its current form) remains as an item of heritage significance for the local community.

Officer's Recommendation:

1. That the Heritage Protection Sub Committee note the outcomes of the work carried out on Ingleburn Weir, in terms of maintaining the structure in its current form as an item of heritage significance for the local community.
2. That the Heritage Protection Sub Committee endorse the Heritage Brochure that details the heritage significance of the Ingleburn Weir and the works undertaken as part of the Bring Back the Fish Project.

Sub Committee Note:

The Heritage Protection Sub Committee congratulated Council's Environmental Officer, Mr David Henry, on the work undertaken to create the brochure on Ingleburn Weir, including its heritage significance and the works undertaken as part of the Bring Back the Fish Project.

Sub Committee's Recommendation: (Gardner/Green)

1. That the Heritage Protection Sub Committee noted the outcomes of the work carried out on Ingleburn Weir in terms of maintaining the structure in its current form as an item of heritage significance for the local community.
2. That the Heritage Protection Sub Committee endorses the Heritage Brochure that details the heritage significance of the Ingleburn Weir and the works undertaken as part of the Bring Back the Fish Project.

CARRIED

8.3 Removal of Significant Tree - No.17 Badgally Road Campbelltown

Reporting Officer

Acting Manager Operational Services

Purpose

To report on the removal of a significant tree at No.17 Badgally Road Campbelltown and seek the endorsement of the Heritage Protection Sub Committee for a suitable replacement tree species.

History

Council issued development approval for a motor showroom, car yard and associated workshop on Lot 11 DP 1126785, No. 17 Badgally Road, Campbelltown (DA249/2009/DA-C/A) on 26 May 2009.

The site contains a number of trees which are listed on Council's Significant Tree Register that related to the State Nursery that was previously located in this area.

The conditions of the development consent relate to the protection of existing trees on the land.

Whilst the tree has been retained as part of the development, it is noted that Council has issued an infringement notice for the unauthorised pruning of several other trees on the site.

Report

Council has received an application to remove a tree on the subject land, a Camphor Laurel which is estimated at 12 metres in height and 12 metres in width. The tree is located on the subject development site along the northern boundary and partly overhangs the adjacent public footpath.

An inspection of the tree by Council officers revealed that the tree is in very poor condition, being severely decayed and dying.

Due to the tree's declining condition and the risk to safety of the public and property, Council resolved at its meeting on the 1 June 2010:

1. That Council approve the application by MH Enterprises for the removal of one (1) Camphor Laurel tree located at 17 Badgally Road Campbelltown.
2. That the applicant be advised that Council's approval for the removal of the Camphor Laurel tree is subject to a condition that it be replaced with a "super-advanced" tree of a species agreed to by Council's Heritage Protection Sub Committee.
3. That Council's decision on this matter be reported to the Heritage Protection Sub Committee.

Councils' Horticulturalist recommends one of the following replacement native Australian tree species chosen according to environmental conditions, available space and existing landscape:

- *Waterhousea floribunda*, Weeping lilly pilly, medium sized tree, 10-15 metres in height, proven hardy tree.
- *Cupaniopsis anacardioides*, Tuckeroo, medium sized tree, 10-15 metres in height, non invasive roots and ideal hardy street tree.
- *Podocarpus elatus*, Plum or Brown Pine, small to medium sized evergreen tree, 8-15 metres in height, fast growing.
- *Melaleuca decora*, White Feather Honey Myrtle, medium sized tree, 6-10 metres in height, hardy tree, suits most soil types.

Officer's Recommendation:

That the Heritage Protection Sub Committee report to Council the recommended tree species to replace the Camphor Laurel tree to be removed from No. 17 Badgally Road Campbelltown.

Sub Committee's Recommendation: (Wheeler/Gardner)

That Council be requested to require that the applicant, MH Enterprises, plant a 400 litre *Melaleuca decora*, White Feather Honey Myrtle tree to replace the Camphor Laurel tree which is to be removed from No. 17 Badgally Road Campbelltown subject to confirmation that *Melaleuca decora* species is not known to cause any ill health effects.

CARRIED

8.4 Membership of the Heritage Protection Sub Committee

Reporting Officer

Manager Environmental Planning

Purpose

To advise the Heritage Protection Sub Committee of the resignation of Mr Trevor Rhodes, representative of the Campbelltown and Airs Historical Society, and to seek the Sub Committee's nomination for replacement members.

History

The Heritage Protection Sub Committee consists of eight members, two of whom are representatives from the Campbelltown and Airs Historical Society (CAHS). These members are Mrs Jacqueline Green, the current President and Curator of CAHS, and Mr Trevor Rhodes. The CAHS also has an alternate representative who stands in for either of the members of the Sub Committee when they are unable to attend Sub Committee meetings. This person is Mrs Jenny Goodfellow, the current Secretary of CAHS.

Report

Mr Trevor Rhodes has been a long serving member of the Heritage Protection Sub Committee. Due to personal commitments, Mr Rhodes has decided to resign from his position on the Sub Committee. Mr Rhodes' commitment and contribution to the Sub Committee has been greatly valued, and he will be sadly missed.

The CAHS has recommended that Mrs Jenny Goodfellow, who currently acts as the alternate representative of the CAHS on the Sub Committee, fill the vacancy created by the resignation.

The CAHS has also recommended that Ms Learna Coupe be considered as the appropriate candidate to fill the vacant position of alternate representative on the Sub Committee. Ms Coupe has been a member of the CAHS for several years and is the Society's current outings organiser.

Officer's Recommendation:

1. That the resignation of Mr Trevor Rhodes from the Heritage Protection Sub Committee be accepted.
2. That Mrs Jenny Goodfellow be appointed to the Heritage Protection Sub Committee as a representative of the Campbelltown and Airs Historical Society, to replace Mr Trevor Rhodes; and
3. That Ms Learna Coupe be appointed to the Heritage Protection Sub Committee as a alternate representative of the Campbelltown and Airs Historical Society.
4. That a letter be forwarded to Mr Trevor Rhodes to thank him for his contribution and commitment to the Heritage Protection Sub Committee.

Sub Committee's Recommendation: (Gardner/Wheeler)

That Council be advised of the following:

1. That the Heritage Protection Sub Committee accepts the resignation of Mr Trevor Rhodes from the Heritage Protection Sub Committee.
 2. That Council be advised that the Heritage Protection Sub Committee accepts the nomination of the alternate delegate from the Campbelltown and Airs Historical Society Mrs Jenny Goodfellow, to be appointed to the Heritage Protection Sub Committee as the representative for the Campbelltown and Airs Historical Society, to replace Mr Trevor Rhodes.
-

3. That Council be advised that the Heritage Protection Sub Committee accepts the nomination of Ms Learna Coupe to be appointed to the Heritage Protection Sub Committee as an alternate representative of the Campbelltown and Airds Historical Society; and
4. That Council be requested to forward a letter to Mr Trevor Rhodes to thank him for his contribution and commitment to the Heritage Protection Sub Committee.

CARRIED

9. General Business

9.1 Public Works Stone Yard Open Day

It was noted by the Heritage Protection Sub Committee that there will be an open day at the NSW Department of Public Works Stone Yard on Sunday 20th June 2010, from 8.00am - 2.00pm. The Stone Yard is located at 92A Burrows Road, Alexandria. Those wishing to attend the open day need to register their attendance by making a booking by phoning (02) 9565 9021.

Sub Committee's Recommendation: (Gardner/Green)

That the information be noted.

CARRIED

9.2 Removal of Trees Near Glenfield Railway Station

The Heritage Protection Sub Committee noted that a significant number of trees have been removed near Glenfield Railway Station. Council advised the Sub Committee that the trees were removed as part of the construction of the South West Rail Link. It was noted that residents and Council were not notified of the tree removal.

Council officers advised the Sub Committee that Council has made a collaborative submission in relation to the South West Rail Link development which addresses the environmental and heritage impacts of this State Government development. It was also noted that a replacement landscaping plan was included in the development plans however it is unknown when replacement planting will take place.

Sub Committee's Recommendation: (Gardner/Wheeler)

That the information be noted.

CARRIED

9.3 Windmill at Mount Gilead

The Sub Committee noted that the windmill at the heritage listed property at "Mount Gilead", at Gilead, may be the oldest surviving windmill in Australia. It was also noted that Council was not granted access to inspect the property as part of the current Heritage Study and Register Review.

Sub Committee's Recommendation: (Gardner/Wheeler)

That the information be noted.

CARRIED

9.4 Cemeteries in the Campbelltown LGA

At the April meeting of the Heritage Protection Sub Committee, the Sub Committee recommended:

“That Council be requested to investigate the specific reasons for the heritage listing of cemeteries located within the Campbelltown Local Government Area and that this information be provided to the Heritage Protection Sub Committee.”

Council adopted this recommendation at its meeting on 1 June 2010.

To respond to this recommendation, the Executive Planner provided the Sub Committee with the following information in relation to historic cemeteries within the Campbelltown LGA.

There are four heritage listed cemeteries within the Campbelltown LGA. These cemeteries are:

- St Peter's Anglican Cemetery, corner of Broughton and Howe Streets, Campbelltown, listed as part of the St Peter's Group, and as an item of local heritage significance;
- St John's Roman Catholic Cemetery, corner Broughton and George Streets, Campbelltown; listed as part of the St John's Group, and as an item of both local and State heritage significance.
- The Presbyterian Cemetery, corner Broughton Street and the Moore-Oxley Bypass, Campbelltown, listed as an item of local heritage significance.
- The Methodist Congregational Cemetery, Pioneer Park, St John's Road, Campbelltown, listed as an item of local heritage significance.

All of the cemeteries were heritage listed because of their links to the early pioneering days in Campbelltown, and because they include the graves of some of the earliest settlers in the area, some of whom are famous.

The cemetery at St John's was also listed because it is considered to be the most important cemetery in Campbelltown (James Ruse is buried there). It is considered one of the best early cemeteries in NSW due to its siting and atmosphere, and because it provides a setting for what is likely to be the oldest existing Catholic Church building in Australia.

The cemetery at St Peter's was also listed because the site was identified by Governor Macquarie when he first laid out the town of "Campbelltown" in 1820, and this has great historical significance. It is the earliest cemetery in Campbelltown and has the oldest known grave (dated 1823).

The Sub Committee discussed the information and noted that this matter may become an item for further and more detailed discussion at a future meeting of the Heritage Protection Sub Committee.

Sub Committee's Recommendation: (Gardner/Wheeler)

That the information be noted.

CARRIED

The next meeting of the Heritage Protection Sub Committee will be held on Thursday 12th August 2010, at 6.00pm, in Committee Room 3.

Cr Julie Bourke
Chairperson

2.6 Feral Pest Rabbit Eradication Program - John Kidd Reserve, Blair Athol

Reporting Officer

Manager Environmental Planning

Attachments

Nil

Purpose

To advise Council of the proposed commencement of a feral pest rabbit eradication program at John Kidd Reserve, Blair Athol, as part of a broader rabbit control program.

History

It is well documented and widely accepted that pest rabbits compete with native wildlife, damage vegetation, ringbark trees and prevent regeneration of seedlings. The control of pest rabbits is an ongoing and significant challenge. The primary reasons for rabbit control relate to protection of agricultural productivity, and endangered and threatened species. The proposed rabbit control program at Blair Athol will assist in the recovery of the State and Federally listed endangered ecological community, "Cumberland Plain Woodland".

Council has initiated planning for a rabbit control program in response to widespread community concern that the local population was escalating in numbers. Council officers confirmed that John Kidd Reserve at Blair Athol was infested with rabbits, and that a rabbit control program was likely to be effective for the following reasons:

- The site is ecologically isolated, meaning that there will be minimal chance of rabbits reinfesting from surrounding areas.
 - Many other land owners have conducted similar rabbit control works on lands adjacent to the Reserve. Pest management is most effective across landscapes and between land tenure.
 - The Cumberland Livestock Health and Pest Authority (CLHPA) have been contracted by Council to undertake the program. This Authority helps landholders by providing advice and assistance in eradicating declared pest species and works with private and government stakeholders to develop vertebrate pest management plans and cooperative management programs.
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Council recognises its statutory responsibilities with regards to pest control, and is seeking to comply with requirements prescribed in the following Acts:

- Rural Lands Protection Act 1998;
- Noxious Weeds Act 1993;
- Prevention of Cruelty to Animals Act 1979;
- Threatened Species Conservation Act 1995; and
- Pesticides Act 1999.

Under the *Rural Lands Protection Act 1998* all land managers in NSW, whether on public or private land, have an obligation to control declared pest species on their land. The CLHPA have recommended to Council that a Pindone baiting program be conducted at the reserve. The use of Pindone in this Reserve is the only lethal bait allowed to be used in an urban/residential and semi-rural area due to the close proximity of urban populations.

Report

Council has engaged the Cumberland Livestock Health and Pest Authority (CLHPA) to conduct a rabbit eradication (baiting) program at John Kidd Reserve, Blair Athol in August 2010 as part of a broader rabbit control program at Blair Athol. Under the eradication project, the Authority will lay Pindone baits in accordance with the measures specified in the Pindone Pesticide Control Order. The use of Pindone within a residential/rural setting such as John Kidd reserve is considered the most humane and effective baiting option for the control of rabbits.

The European rabbit is a declared pest animal under the NSW Rural Lands Protection Act (1998). This means that Council, as a land manager, has a legal responsibility to control rabbits where they occur on land that is under Council's care, control and management.

There is considered to be a significant population of feral pest rabbits currently occupying John Kidd Reserve, Blair Athol with concerns over the growing population being raised recently by of number of residents. An inspection of the site revealed numerous visible sightings of rabbits during the middle of the day, an abundance of warrens and visible rabbit diggings. The nature of the weed infested habitat with which they occupy, suggests a healthy feral rabbit population in the Reserve.

Works conducted on site to date, as part of the broader rabbit control program, include the control of noxious woody weeds, African Olive and African Boxthorn, and chemical control of blackberry infestations. These invasive species serve as harbour, or habitat, for the feral pest rabbit and as such the control of these weed species will place downward pressure on the local rabbit population.

With regard to the baiting component of the program, officers will ensure that appropriate public notification procedures are adhered to, which include:

- at least three days notice to be given to adjoining neighbours via direct mail outs and phone calls;
 - public notices in news papers and Council's website;
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- signage installed at all entry points to the reserve, entrance to the actual poisoning sites, and at the extremities of property boundaries fronting public thoroughfare (up for at least 4 weeks); and
- the closing of John Kidd Reserve for approximately 3 weeks.

Councillors will be kept informed of the program as it progresses.

Officer's Recommendation

That the information be noted.

Committee's Recommendation: (Oates/Bourke)

That the Officer's Recommendation be adopted.

CARRIED

Council Meeting 27 July 2010 (Kolkman/Oates)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 130

That the Officer's Recommendation be adopted.
