

PART TWO

Reports from the Planning and Environment Committee Meeting held at 7.30pm on Tuesday, 14 September 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 Royalties for Regions Plan

2.2 Minutes of the Heritage Protection Sub Committee Meeting held on 12 August 2010

2.3 Proposed Renaming of Part of Badgally Road, Gregory Hills

2.4 Investigation into Electric Car Charging Stations for Campbelltown

2.5 Development Contributions Reforms

2.6 Exhibition of Draft Bardia Sub-Precinct Development Control Plan

PART TWO

3. DEVELOPMENT SERVICES

3.1 Development Services Section Application Statistics - August 2010

3.2 No. 26 Aberfoyle Road, Wedderburn - Proposed Two Lot Subdivision

3.3 Erection of 18 'Adshel' Bus Shelters at 11 separate sites throughout the Campbelltown Local Government Area

3.4 No. 36 Fraser Street, Macquarie Fields - 2 Lot Strata Subdivision

4. COMPLIANCE SERVICES

4.1 Legal Status Report

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18.	CONFIDENTIAL ITEMS	
18.1	Confidential Information Relating to Various Items on Planning and Environment Agenda 14 September 2010	

Minutes of the Planning and Environment Committee held on 14 September 2010

Present Councillor R Matheson (Chairperson)
Councillor G Greiss
Councillor R Kolkman
Councillor M Oates
Councillor J Rowell
Councillor R Thompson
General Manager - Mr P Tosi
Director Planning and Environment - Mr J Lawrence
Manager Compliance Services - Mr A Spooner
Manager Development Services - Mr J Baldwin
Manager Environmental Planning - Mr P Jemison
Manager Executive Services - Mr N Smolonogov
Manager Waste and Recycling Services - Mr P Macdonald
Manager Community Resources and Development - Mr B McCausland
Corporate Support Coordinator - Mr T Rouen
Executive Assistant - Mrs D Taylor

CARRIED

Apology (Kolkman/Oates)

That the apology from Councillor Bourke be received and accepted.

CARRIED

Acknowledgement of Land

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

DECLARATIONS OF INTEREST

Declarations of Interest were made in respect of the following item:

Pecuniary Interests

Non Pecuniary – Significant Interests

Non Pecuniary – Less than Significant Interests

Councillor Kolkman - Item 3.2 - No. 26 Aberfoyle Road, Wedderburn - Proposed Two Lot Subdivision - Councillor Kolkman advised that the applicant is known to him and that her late husband was a member of the Australian Labor Party. Councillor Kolkman advised that he had facilitated a number of meetings between the applicant and the Director Planning and Environment.

3. DEVELOPMENT SERVICES

3.1 Development Services Section Application Statistics - August 2010

Reporting Officer

Manager Development Services

Attachments

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

Purpose

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

Report

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

Officer's Recommendation

That the information be noted.

Committee's Recommendation: (Greiss/Thompson)

That the Officer's Recommendation be adopted.

CARRIED

Council Meeting 21 September 2010 (Matheson/Kolkman)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 177

That the Officer's Recommendation be adopted.

3.2 No. 26 Aberfoyle Road, Wedderburn - Proposed Two Lot Subdivision

Reporting Officer

Manager Development Services

Attachments

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

Purpose

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

Property Description	Lot B, DP 449151 – No. 26 Aberfoyle Road, Wedderburn
Application	3028/2007/DA-S
Applicant	Rhodes Haskew Associates
Owner	M. A. Hewson
Statutory Provisions	State Environmental Planning Policy No. 44 – Koala Habitat State Environmental Planning Policy No. 55 – Remediation of Land Greater Metropolitan Regional Environmental Plan 2 – Georges River Catchment Campbelltown Local Environmental Plan No. 1 Rural Fires Act 1997 State Environmental Planning Policy No. 1 – Development Standards
Other Provisions	Campbelltown (Sustainable City) Development Control Plan 2009 Development Control Plan No. 49 – Rural Environmental Protection Subdivision and Dwelling Policy
Strategic Context	Campbelltown 2025 Looking Forward
Date Received	5 December 2007

Report

Introduction

The subject property is zoned 1(c) Rural "C" (Small Holdings) under Campbelltown Local Environmental Plan No. 1 (LEP No.1). The site is 8.35 hectares in area with frontages to Aberfoyle Road, Pheasants Road and Hodgson Close. The site is occupied by a single dwelling and associated outbuildings. The land contains a former orchard, while also containing remnant vegetation within the south eastern corner of the site, surrounding an existing farm dam.

The application is for the subdivision of the land into two (2) allotments Lot 1 – 6.35 hectares and Lot 2 – 2.00 hectares, each with separate road frontage. It is proposed to retain the existing dwelling on proposed Lot 1, while Lot 2 would provide an opportunity for a future dwelling, which would be subject to a separate Development Application.

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

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

The Site

The subject site is situated on the eastern side Aberfoyle Road, Wedderburn, between Pheasants Road and Hodgson Close. The land is legally described as Lot B, DP 499151, and was registered on 5 March 1948. The property is commonly known as No. 26 Aberfoyle Road, Wedderburn.

The site is trapezoidal in shape having frontage to Aberfoyle Road of 458m, frontage to Pheasants Road of 115m and frontage to Hodgson Close of 272m. The total site area is 8.35 hectares.

The site is occupied by a single dwelling and outbuildings, a former orchard, whilst also containing remnant vegetation within the south eastern corner of the site, adjacent to an existing farm dam.

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

The Proposal

The subject application seeks Torrens title subdivision of the site into 1 x 6.35 hectare allotment (proposed Lot 1) and 1 x 2.00 hectare allotment (proposed Lot 2). The existing dwelling with its associated outbuildings and dam would be situated on proposed Lot 1, whilst an existing machinery shed would be located on proposed Lot 2.

Vehicular access to the proposed Lot 2 would be available from Hodgson Close or Aberfoyle Road. Vehicular access to the proposed Lot 1 (existing dwelling) is to be retained in its existing form to Aberfoyle Road.

The proposed subdivision plan provides an indicative building / dwelling envelope on proposed Lot 2. Whilst it is noted that the application does not specifically involve the removal of trees, where it is directed at any date in the future by the Rural Fire Service to remove trees (i.e. to provide an Asset Protect Zone), it will be necessary for the applicant to seek separate development approval (i.e. by way of a Section 96 Modification Application) for the removal of those trees. The applicant would be required to consider the impact of the tree removal on flora and fauna at that stage.

Campbelltown 2025 Looking Forward

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

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

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

The strategic directions relevant to this application are:

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

The proposed development is generally consistent with these directions.

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

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

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

Assessment

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

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

The subject site is identified by the Campbelltown City Council Draft Comprehensive Koala Plan of Management as 'Preferred Habitat Buffer over Cleared'. A Koala Habitat Assessment accompanies the application and outlines that the site does not contain core koala habitat.

Whilst it is noted that the Koala Habitat Assessment was undertaken by a qualified Horticulturalist, as opposed to a qualified ecologist / flora and fauna expert, as required by Clause 8 of SEPP 44, the findings are consistent with Council's draft Comprehensive Koala Plan of Management. Moreover, it is noted that the proposal does not involve the removal of any vegetation and a condition has been included within the recommendation, confirming such.

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

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

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

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

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

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

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

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

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

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

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

The issue of sewage management on the site has been examined under a report submitted with the application, prepared by specialist consultant "Woodlands and Wetland Pty. Ltd." This provides an assessment of site capacity and conceptual design requirements for on site sewage management for proposed Lot 2. The report identifies that treated wastewater can be sustainably managed for a dwelling on Lot 2 and that a residential / dwelling development could occur without causing any adverse impacts on the water quality of the Georges River.

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

4. Campbelltown Local Environmental Plan No. 1

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

The proposed development is permissible with consent in the zone, however variation of the development standard at Clause 7(4) of LEP No.1, in respect of the minimum area requirement of the parent parcel, is required to be taken into account.

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

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

In respect to the above, the appointed day is 26 June 1981 and the subject allotment was created on 5 March 1948. Accordingly, the subject site satisfies the date criteria of Clause 7(4)(a), however the minimum area requirement of 10 hectares is not achieved. In this respect the application relies upon the provisions of State Environmental Planning Policy No. 1 (SEPP 1), in support of a variation to the relevant subdivision standard. This matter has been considered in detail, and is discussed in the following section of this report which draws the conclusion that the variation is satisfactorily founded and therefore can be supported in the circumstances.

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

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

The application includes an objection pursuant to the relevant provisions of the State Environmental Planning Policy No. 1, seeking variation to the subdivision development standard found under Clause 7(4)(a) of the Campbelltown Local Environmental Plan No. 1.

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

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

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

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

The SEPP 1 objection relates specifically to Clause 7(4)(a) of LEP No.1, which is as follows:

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

The subject application seeks to vary the provisions of Clause 7(4)(a) of LEP No.1, to allow the subdivision of an existing holding with an area of less than 10 hectares into 2 allotments, each of which would have an area of at least 2 hectares being 6.35 hectares and 2.00 hectares respectively.

The subject site was created on 5 March 1948 and was therefore a separate parcel in existence on 26 June 1981 being the 'appointed day' for LEP No.1. The area of the subject allotment being 8.35 hectares, is less than the 10 hectare minimum area pursuant to Clause 7(4)(a) of LEP No.1.

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

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

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

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

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

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

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

In this instance, Clause 7(4) of LEP No.1 establishes a minimum existing allotment area (10ha) that must be adhered to, to allow for further subdivision of that allotment, where that allotment was created prior to a specified day. The SEPP 1 objection argues that the minimum allotment area specified by the LEP No.1 is a development standard. For the purpose of this objection, it is considered that the numerical control contained within Clause 7(4) of LEP No.1, which relates to minimum allotment areas, is a development standard for the purposes of SEPP 1 as it falls within the matters described in item (a) above.

ii. The application's non-compliance with the LEP No.1 standard

The application seeks to subdivide an existing parcel of land that has an area of 8.35 hectares to create two allotments of 2.00 hectares and 6.35 hectares. The minimum allotment area of an existing allotment pursuant to Clause 7(4) of LEP No.1 is 10 hectares.

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

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

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

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

Is the development standard unreasonable or unnecessary in this instance?

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

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

The reasons provided by the applicant have been considered in depth and are discussed in detail as follows:

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

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

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

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

- **Consistency with Surrounding Subdivision Patterns**

The proposed lot sizes of 6.35 hectares and 2.00 hectares are considered to be consistent with the prevailing lot sizes within the immediate vicinity of the subject site as well as the broader Wedderburn Plateau area. The Wedderburn Plateau is characterised by a range of allotment sizes from below 1 hectare to over 10 hectares with the most common allotment size being between 2 and 3 hectares of which there are 55 allotments. Given the range of allotment sizes reflected in the existing subdivision pattern in the locality, compliance with the 10 hectares existing holding size for subdivision is considered to be both unreasonable and unnecessary in the circumstances of the case.

- **Preservation of Agricultural Production Potential**

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

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

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

The site has had a long history of agricultural activity over much of its land area, with the area north west of the existing dam being used as an orchard between 1971 and 2002. The proposed concessional allotment (2.00 hectare allotment) is shown to encompass a part of the existing allotment which has never been suitable for agriculture pursuits due to its rocky and shallow soils. Given that the larger allotment (6.35 hectare allotment) is the more fertile of the two allotments and that the larger allotment will have the benefit of two existing farm dams, it is considered that the agricultural viability of the whole site would not be altered. The 2.00 hectare concessional allotment is largely placed over land which has never accommodated agriculture and therefore it is considered that, the subdivision of this land would not erode the agricultural production opportunities of the whole of the land parcel.

Having regard to the proposed subdivision and its relationship with the physical characteristics of the existing holding, it is not considered that the agricultural production potential of the site would be detrimentally affected as a result of the subdivision. Furthermore, the 10 hectare minimum existing allotment size requirement, which was designed to retain agricultural production on an 8 hectare holding whilst allowing the excision of a 2 hectare concessional allotment, is also considered irrelevant having regard to the physical characteristics of the site. Accordingly compliance with the standard is considered unreasonable and unnecessary in the circumstances of this case.

- **Absence of Environmental Harm**

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

The proposal will not give rise to significant (if any) tree removal or unreasonably impact upon native fauna. A suitable area is available to site a future dwelling on proposed Lot 2 including sufficient area in which to appropriately dispose of waste water. Given the scale of the proposal, it is highly unlikely that any undue impact upon the local road network or the provision of services will result from the subdivision.

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

6. Campbelltown (Sustainable City) Development Control Plan 2009

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

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

The application has also been considered in accordance with Part 3 of the SCDCP (which applies to residential development) and it is considered that the proposal complies with the relevant objectives of this part. The proposed subdivision pattern would provide sufficient opportunity for another dwelling to be erected on proposed Lot 2, in accordance with the specific requirements of DCP 2009.

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

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

Section	Comments	Compliance
Section 11 – Tree Preservation and Landscaping	<p>While the proposal does not specifically involve the removal of trees, it is noted that the formation of Asset Protection Zones to achieve compliance with other requirements imposed by the NSW Rural Fire Service, could potentially necessitate the need for tree removal with any future development proposal.</p> <p>Notwithstanding, it is considered that the proposed allotment layouts provide a wide range of possible building opportunities on proposed Lot 2, without the need for any tree clearance. Any proposed dwelling would be subject to a separate subsequent Development Application, whereby the specific environmental impacts would be assessed at that time.</p>	<p>Yes.</p> <p>Furthermore a condition has been included within the recommendation, confirming that no approval is issued for the removal of any trees / vegetation and that any proposal to remove trees / vegetation will require the subsequent approval of Council.</p>
Section 20 – Dimensions for Subdivision	<p>Allotments of approximately 2 hectares in size are to have a minimum width of 60m. The width of proposed Lot 2 is 83m wide at the main street frontage (Aberfoyle Road) and 272m along the secondary street frontage (Hodgson Close).</p>	<p>Yes</p>
Section 22 – Services	<p>Any Development Consent issued for the subdivision of land, shall require arrangements to be made with the Sydney Water (for the provision of water reticulation to each lot, where the Board can physically provide water reticulation) and Integral Energy (for the provision of electricity reticulation to each lot)</p>	<p>Yes.</p> <p>While reticulated water services are not available to the subject site, a condition has been included within the recommendation requiring arrangements being made with Integral Energy regarding the provision of electricity.</p>
Section 24 – Building Setbacks	<p>Front building setback of 35m for single storey dwellings, 50m for two (2) storey dwellings and 70m for outbuildings. Minimum side and rear boundary setbacks are 10m.</p> <p>The proposed development provides a subdivision layout that accommodates the required setbacks for the existing dwelling on proposed Lot 1 and a future dwelling on proposed Lot 2.</p>	<p>Yes</p>

8. Rural Fires Act 1997

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

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

9. Campbelltown City Council Section 94A Development Contributions Plan

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

10. Environmental Impacts

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

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

Bush Fire Risk

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

In this regard it is noted that the Bush Fire Hazard Assessment gave consideration to an earlier (but now superseded) subdivision layout. This Bush Fire Hazard Assessment and the now superseded subdivision plan, was referred to the NSW Rural Fire Service for comment and no objection was raised. Notwithstanding, it is considered that the revised subdivision layout provides improved opportunities for the establishment of a 'buffer zone' on proposed Lot 2, whilst not compromising the 'buffer zone' on proposed Lot 1. In this regard, it is considered that the proposal can potentially comply with the NSW Rural Fire Service's, Planning for Bush Fire Protection requirements.

Flora and Fauna

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

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

Furthermore, despite the fact that the proposal does not specifically seek approval in relation to tree removal, a condition has been included within the recommendation, confirming that no approval is issued for the removal of any trees / vegetation.

Social and Economic Impacts

The proposed subdivision would allow for positive social outcomes by providing the opportunity for the current owner to reside in a dwelling on a smaller allotment and maintain their social ties with the local community, whilst at the same time allowing the opportunity for the remainder of the parent parcel to be sold and maintained by new owners and / or possibly be put to agricultural/horticultural use. However, it is unclear as to whether the reduced lot size would impede any agricultural production being undertaken on the residue land in an economically sustainable manner.

In the present situation, the land is not being put to productive agricultural use, but rather forms merely a scenic backdrop to the curtilage of the dwelling house. This is a situation shared by many other landholdings in Wedderburn i.e. no productive agricultural use. Given the present situation, it is unlikely that agricultural activities would commence under the existing ownership. In this respect, the proposed subdivision and subsequent sale of proposed Lot 1 may increase the potential for a future owner carrying out agricultural activities on that land. However, even if this does not occur, the subject land would nevertheless be put to a higher economic use by providing rural-residential accommodation for two (2) households.

Public Participation

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

Conclusion

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

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

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

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

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

Pursuant to Clause 7 of SEPP 1 and paragraph 12 of the Department of Planning's Circular B1, Council is required to forward the application and the SEPP1 objection to the development standard, to the Department of Planning for the Director General's concurrence, prior to the determination of the application. In this regard, where the Council is of a mind to allow the SEPP 1 objection, the application will be referred to the Department of Planning for the Director General's concurrence.

Officer's Recommendation

1. That Council allow the SEPP 1 objection in respect to Clause 7(4)(a) of LEP No.1;
2. That subject to the SEPP 1 objection being allowed by Council, that the application be referred to the Department of Planning seeking the Director General's concurrence to the allowance of the SEPP 1 objection;
3. That subject to the receipt of the Director General's concurrence, that Development Application 3028/2007/DA-S, for the subdivision of the land into two (2) allotments, at No.26 Aberfoyle Road, Wedderburn (Lot B, DP 449151), be determined under delegated authority by the Director of Planning and Environment.+

Committee's Recommendation: (Oates/Thompson)

That the Officer's Recommendation be adopted.

CARRIED

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

Voting against the Committee's Recommendation: nil.

Council Meeting 21 September 2010 (Matheson/Kolkman)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 178

That the Officer's Recommendation be adopted.

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

Voting against the Council Resolution: nil.

ATTACHMENT 1

Recommended Conditions of Consent

DEFERRED COMMENCEMENT

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

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

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

SCHEDULE A

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

i. **Site Contamination**

A site contamination assessment shall be undertaken by a NSW Department of Environment, Climate Change and Water accredited consultant in accordance with the 'Guidelines for Assessing Former Orchards and Market Gardens'. The consultant shall consider appropriate restrictions for the future residential use of proposed Lot 2, including the nomination of a dwelling envelope and residential curtilage on the site.

The site assessment process shall include a preliminary site investigation, and if required, appropriate soil analysis and/or remedial measures to demonstrate that proposed Lot 2 complies with the relevant requirements for future residential use.

Where remediation works are required, a Site Validation Report shall be submitted to Council by a Department of Environment, Climate Change and Water accredited consultant, demonstrating that proposed Lot 2 has reached a standard appropriate for future residential use and that any residual contamination will not be harmful to human health or the environment.

SCHEDULE B

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

GENERAL CONDITIONS

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

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

1. Approved Development

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

Reference No.	Date Received by Council
ABE510	11 August 2010

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

2. Protection of Existing Trees

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

3. Fencing

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

PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE

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

4. Rural Fires Act 1997

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

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

5. Restriction on the Use of Land

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

a. Contamination (if required)

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

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

6. Weed Eradication and Management Plan

a. A Weed Eradication and Management Plan is to be prepared by a suitably qualified and experienced person(s), and shall be submitted to and approved by Council, prior to the issuing of a Subdivision Certificate. The plan is to include:

- i. An inventory of all Noxious and Environmental Weeds on the development site and a site plan indicating weed infestations with referenced to the species and degree of infestation (i.e. Low, Medium or High);
- ii. A Treatment Schedule in tabulated form, specifying for each species:
 - (a) the method of treatment (mechanical, herbicide use or cultural such as pasture improvement or grazing);
 - (b) the rates of application methods of all herbicide treatments;
 - (c) the primary control treatment to achieve a minimum 70% kill and a secondary control treatment to achieve a minimum 90% kill; and
 - (d) the timing of all treatments.
- iii. An annual weed maintenance program indicating the methods to be implemented to maintain a weed-free site;
- iv. Details of any methods of disposal of weed material.

b. All primary weed treatment measures identified in the Weed Eradication and Management Plan, shall be carried out prior to the issuing of a Subdivision Certificate.

7. Electricity Utility Services

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

8. Telecommunications Utility Services

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

9. Services

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

10. Council Fees and Charges

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

ADVISORY NOTES

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

Advice 1. Tree Preservation Order

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

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

Advice 2. Covenants

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

Advice 3. Principal Certifying Authority – Subdivision

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

Advice 4. Linen Plan and Copies

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

Advice 5. Linen Plan Checking Fee

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

Advice 6. Salinity

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

END OF CONDITIONS

ATTACHMENT 2

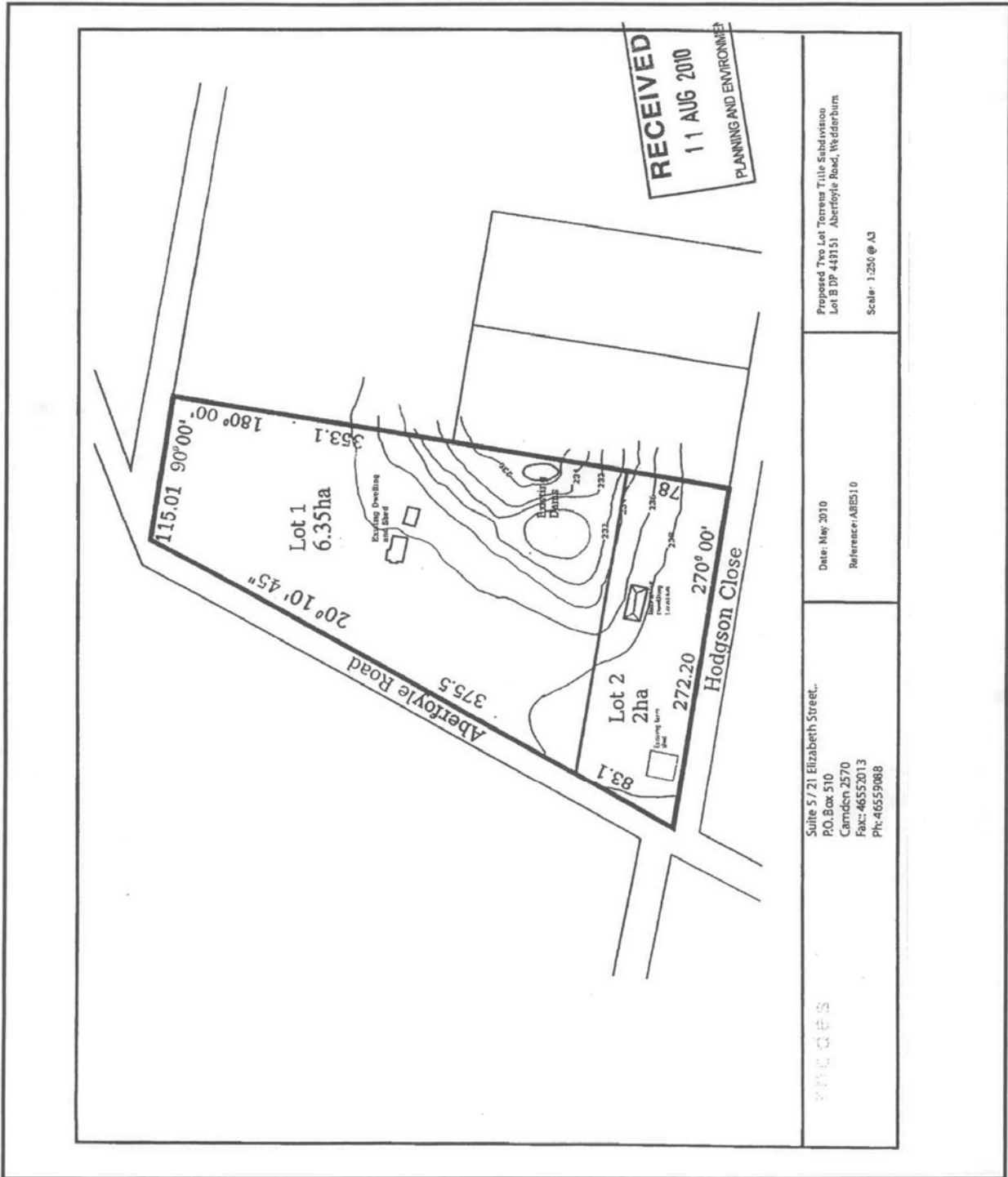


LOCALITY PLAN



SUBJECT: No. 26 ABERFOYLE ROAD, WEDDERBURN -
PROPOSED 2 LOT SUBDIVISION

ATTACHMENT 3



PROPOSED SUBDIVISION PLAN

SUBJECT: No. 26 ABERFOYLE ROAD, WEDDERBURN -
 PROPOSED 2 LOT SUBDIVISION

3.3 Erection Of 18 'Adshel' Bus Shelters At 11 Separate Sites Throughout The Campbelltown Local Government Area

3.3 Erection of 18 'Adshel' Bus Shelters at 11 separate sites throughout the Campbelltown Local Government Area

Reporting Officer

Manager Development Services

Attachments

1. Recommended Conditions of consent
2. Location plan
3. Floor plans and elevations

Purpose

To assist Council in its determination of a development application for the Construction of 18 Bus Shelters at various locations throughout the Campbelltown Local Government Area.

Property Description	Ingleburn - Oxford Road Precinct Campbelltown - Queen Street, Narellan Road and Hurley Street Precincts Minto - Pembroke Road Precinct and Brookfield Road Leumeah – Railway Precinct – O’Sullivan Road Macarthur Square - Shopping Centre, Kellicar Road
Application No	2179/2009/DA-O
Applicant	Adshel Street Furniture Pty Ltd
Owner	Campbelltown City Council
Statutory Provisions	Campbelltown (Urban Area) Local Environmental Plan 2002 State Environmental Planning Policy No.64 – Advertising and Signage. State Environmental Planning Policy (Infrastructure) 2007 Campbelltown Sustainable City Development Control Plan 2009 Development Control Plan No.99 – Advertising Signs
Non- Statutory Provisions	Campbelltown 2025 Looking Forward
Date Received	16 October 2009

3.3 Erection Of 18 'Adshel' Bus Shelters At 11 Separate Sites Throughout The Campbelltown Local Government Area

History

Council provides a range of bus shelters some of which provide seating only, others with side and rear panelling and roofing. Adshel Street Furniture Pty Ltd (Adshel) has been engaged by Council to install, maintain and operate bus shelters for various sites throughout Campbelltown. The subject bus shelters will either replace existing bus shelters or provide bus shelters in new locations.

Council originally prepared a 'Street Furniture Agreement' and contract with Adshel that identified among other requirements, advertising with restrictions, installation and ongoing maintenance requirements. Under this agreement, Council derives an income which will help support the delivery of other infrastructure and services benefiting the community.

At a recent Council briefing session dated 6 July 2010, Councillors were advised that the contract between Adshel and Council was amended due to the economic down turn. The contract provided a revised delivery plan for 25 units by 2010-2011, 58 units by 2012 and 51 units decided on a year by year basis after 2012.

Report

Proposal

Council has received a development application for the installation of eighteen (18) bus shelters.

(Refer to Attachments 2 and 3).

The proposal involves the placement of 18 bus shelters at various locations throughout the Campbelltown Local Government Area in accordance with a 'Street Furniture Agreement' entered into between Council and Adshel on 13 November 2007.

- 11 sites have been chosen as locations for the placement of 18 bus shelters as part of the initial installation program.

Adshel will install the bus shelters at the nominated locations and provide routine maintenance, at no cost to Council. In accordance with the 'Street Furniture Agreement', Adshel will take out and maintain at all times:

- Public Liability Insurance for an amount not less than \$20m;
- Workers Compensation Insurance for all its employees;
- Professional Indemnity Insurance for an amount not less than \$5m; and
- Comprehensive Motor Vehicle Insurance, with \$20m minimum third party property cover.

The majority of the new bus shelters would replace older bus shelters or are new installations at designated bus stops. The new bus shelters are located at strategic public transport locations.

It should be noted that Council would receive an income (a proportion of revenue generated by advertising placed on each of the bus shelters) from the ongoing operation of the bus shelters.

3.3 Erection Of 18 'Adshel' Bus Shelters At 11 Separate Sites Throughout The Campbelltown Local Government Area

The Sites

There are 11 sites that have been chosen as locations for the placement of 18 bus shelters as part of the initial installation program. The location and number of shelters are shown below:

- No. 200805 - 3 bus shelter structures - Campbelltown
Northern side of Queen St, East of Railway St (adjacent the Court House).
- No. 200811 - 1 bus shelter structure - Campbelltown
Southern side of Hurley St (adjacent Koshigaya Park.)
- No. 200817 - 1 bus shelter structure - Campbelltown
Southern side of Narellan Rd, 500m West of Gilchrist Rd (Campbelltown TAFE).
- No. 200816 - 1 bus shelter structure - Minto
Western side of Pembroke Rd, 60m North of Warwick St.
- No. 200809 - 1 bus shelter structure - Ingleburn
Northern side of Oxford Rd, 20m West of Cumberland Rd.
- No. 200802 - 2 bus shelters structures – Macarthur Square Shopping Centre
Southern side of Kellicar Rd.
- No. 200803 - 2 bus shelter structures - Macarthur Square Shopping Centre
Northern side of Kellicar Rd, east of entry.
- No. 200804 - 1 bus shelter structure - Macarthur Square Shopping Centre
Northern side of Kellicar Rd.
- No. 200812 - 2 bus shelter structures - Minto
Western side of Brookfield Rd, opposite Minto Mall, north and south shelters.
- No. 200813 - 2 bus shelter structures - Minto
Eastern side of Brookfield Rd, opposite Minto Mall, north and south shelters.
- No. 200902 - 2 bus shelter structures - Leumeah
Western side of O'Sullivan Rd, Leumeah Railway Station.

Campbelltown 2025 - Looking Forward

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

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

3.3 Erection Of 18 'Adshel' Bus Shelters At 11 Separate Sites Throughout The Campbelltown Local Government Area

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

The strategic directions relevant to this application are:

- Building a distinctive Campbelltown sense of place, and
- Building and maintaining quality public infrastructure.

The proposed development is generally consistent with these directions.

The relevant desired outcomes of the strategic directions included in Campbelltown 2025 (the Vision) are:

- Urban environments that are safe, healthy, exhibit a high standard of design, and are environmentally sustainable;
- An impression of architecture that engages its environmental context in a sustainable way;
- Development and land use that matches environmental capacity and capability;
- A sustainable system of local infrastructure that has the capacity and capability to satisfy the demands of the existing and future community; and
- Local infrastructure that is well utilised for positive community and/or environmental gain.

The proposed application has been assessed having regard to Campbelltown 2025 Looking Forward. In this regard, it is considered that the development application is generally consistent with the Vision's desired outcomes having regard to the provision of public transport bus shelter facilities that would be well utilised by community members and would further satisfy the demands of the existing and future community.

It is considered that the application presents a development that is integral to the effective operation of public transport corridors and has been designed to reflect the surrounding locality in terms of siting, function and accessibility. The proposal is also consistent with the stated focus area "to match the scale and intensity of the existing land use with the capability of the local environment to sustain that use".

The proposal conforms to the desired outcomes listed in Sections 6.4 & 6.5 of the Vision by providing quality public infrastructure that will be well utilised by the community and that has a high standard of urban design.

The proposed bus shelters exhibit 'best practice' design and construction techniques and incorporate a contemporary architectural form that will have minimal maintenance requirements over the long term.

It is anticipated that the development would have a positive social impact upon the Campbelltown Local Government Area, which is also a stated desired outcome of the Vision.

3.3 Erection Of 18 'Adshel' Bus Shelters At 11 Separate Sites Throughout The Campbelltown Local Government Area

Statutory Provisions

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

1. Campbelltown (Urban Area) Local Environmental Plan No. 2002 (CLEP 2002)

The proposed locations of the bus shelters and corresponding zones are provided in the following table:

Table 1: Zones of sites and adjoining zones

Site No.	Zone
No. 200805	No Zone (Local Road) – adjoins 10(a) Regional Comprehensive Centre Zone
No. 200809	No Zone (Local Road) - adjoins 10(b) District Comprehensive Centre Zone
No. 200811	No Zone (Regional Road) - adjoins 10(a) Regional Comprehensive Centre Zone
No. 200802	No Zone (Local Road) – adjoins 10(a) Regional Comprehensive Centre Zone
No. 200803	No Zone (Local Road) - adjoins 10(a) Regional Comprehensive Centre Zone
No. 200804	No Zone (Local Road) - adjoins 10(a) Regional Comprehensive Centre Zone
No. 200812	No Zone (Local Road) - adjoins 10(b) District Comprehensive Centre Zone
No. 200813	No Zone (Local Road) - adjoins 10(b) District Comprehensive Centre Zone
No. 200902	No Zone (Local Road) – adjoins 5 (a) Special Uses A Zone (Railway)
No. 200816	5 (b) "Classified Road"
No. 200817	5 (b) "Classified Road"

The proposed bus shelters are defined as a 'structure' with advertisement. They are not defined as advertising structures which are defined as follows:

Advertising structure means a structure used or to be used principally for the display of an advertisement.

The bus shelters are being constructed principally for the purpose of public infrastructure, in the form of seating, shelter and security. The display of advertising material is an incidental/ancillary use of the bus shelter structures.

The majority of the new bus shelters replace existing bus shelters whilst the remaining new bus shelters are new public infrastructure installations at designated bus stops.

i. Sites Not Zoned

Most of the proposed bus shelter sites are located within road reserves which are unzoned land. Notwithstanding this, under the provisions of the State Environmental Plan (Infrastructure) 2007 (ISEPP), clause 98(1) allows development (i.e. bus shelters) to be carried out with consent, on a public road that is unzoned land for any purpose that may be carried out (either with or without consent) on land adjoining the road.

3.3 Erection Of 18 'Adshel' Bus Shelters At 11 Separate Sites Throughout The Campbelltown Local Government Area

As detailed in Table 1 above, all of the bus shelter sites within unzoned land, adjoin either the 10(a) Regional Comprehensive Centre Zone, the 10(b) District Comprehensive Centre Zone or the 5(a) Special Uses A Zone (Railway).

Discussion of the permissibility of the bus shelters and advertisement within those adjacent lands is provided below.

ii. **5(a) - Special Uses A Zone (Railway)**

The objectives of the Special Uses A Zone are:

- (a) *to provide land for special uses which would otherwise be prohibited by the zoning of the surrounding area, and*
- (b) *to identify land used or required for railway purposes.*

Except as otherwise provided by this plan, consent must not be granted for development on land within this zone unless the consent authority is of the opinion that carrying out the proposed development would achieve the objective of this zone stated in paragraph (a).

A further objective of this zone is to encourage a high quality standard of development which is aesthetically pleasing, functional and relates sympathetically to nearby and adjoining development.

The proposed bus shelter structures are of a high quality standard of development. The bus shelters link two forms of public transport systems i.e. the railway and road network.

Development for the purposes of a road is permissible with consent within the Special Uses A Zone. In this regard, it is reasonable to expect that (without there being any other direction to the contrary) development that is ancillary to that of a road, (i.e. bus shelters inclusive of artistry signage) is also permissible with consent on the land zoned as Special Uses A Zone.

It then follows, in accordance with the relevant provisions of the ISEPP, that the development for the purpose of a bus shelter and advertising is permissible with consent within unzoned lands adjacent to the 5(a) Special Uses A Zone.

iii. **5(b) – Special Uses Arterial Roads Zone (Classified Road)**

The objectives of the Special Uses Arterial Roads Zone 5 (b) are:

- (a) *to identify land required for existing or proposed arterial roads (including the widening of existing roads), and*
 - (b) *to control vehicular access to and from roads in the zone so as not to inhibit the free flow of traffic on arterial roads, and*
 - (c) *to allow for the development of such land prior to its acquisition for road purposes.*
-

3.3 Erection Of 18 'Adshel' Bus Shelters At 11 Separate Sites Throughout The Campbelltown Local Government Area

Except as otherwise provided by this plan, consent must not be granted for development on land within this zone unless the consent authority is of the opinion that carrying out the proposed development would be consistent with one or more of the objectives of this zone.

A further objective of this zone is to encourage a high quality standard of development which is aesthetically pleasing, functional and relates sympathetically to nearby and adjoining development.

The proposed bus shelters (with advertising) within Zone 5(b) comply with the last objective, in that they are high quality items of street furniture, are considered aesthetically pleasing and serve as a functional item of infrastructure for the convenience of users of public transport. In the case of Site No. 200817, the bus shelter would replace an existing shelter for the convenience of students, teachers and employees of TAFE NSW. (South Western Sydney Institute - Campbelltown College).

Development for the purposes of roads is permissible with consent within the Special Uses 5(b) Zone and as such, it is considered reasonable to assume that (without any other direction) development that is ancillary to that of a road (being permissible development) is also permissible with consent on the land zoned as Special Uses Zone.

It then follows, in accordance with the relevant provisions of the ISEPP, that the development for the purpose of a bus shelter and advertising is permissible with consent within unzoned lands adjacent to the 5(b) Special Uses Zone.

iv. 10(a) - Regional Comprehensive Centre Zone and 10(b) - District Comprehensive Centre Zone

Seven of the bus shelter sites are located on unzoned land but are located adjacent to land zoned 10(a) or 10(b).

The 10(a) Regional Comprehensive Centre Zone and 10(b) District Comprehensive Centre Zone share similar objectives and permissible land uses. Both identify in their objectives the following:

A further objective of this zone is to encourage a high quality standard of development which is aesthetically pleasing, functional and relates sympathetically to nearby and adjoining development

The proposed bus shelter structures are considered to be an integral component of infrastructure that supports public transport and contributes to the success and vibrancy of a commercial centre. The bus shelter structures are sympathetic in terms of design, are strategically located to serve the commercial centre and will contribute to the unified identification of public transport infrastructure linking business centres in the Campbelltown Region. In this regard, it is considered reasonable to assume that (without any other direction) development that is ancillary to that of a road (being permissible development) is also permissible with consent on the 10(a) or 10(b) zones.

It then follows, in accordance with the relevant provisions of the ISEPP, that the development for the purpose of a bus shelter and advertising is permissible with consent within unzoned lands adjacent to the 10(a) or 10(b) zones,

3.3 Erection Of 18 'Adshel' Bus Shelters At 11 Separate Sites Throughout The Campbelltown Local Government Area

v. Part 2 Division 2 - Clause 31 (CLEP2002) – Outdoor Advertising Controls

This clause provides relevant objectives and controls for the placement/erection of outdoor advertisements. However, the clause does not provide specific direction for advertisement within unzoned lands. Despite this, it is considered appropriate to assess the proposal against the relevant objectives and controls of this clause, to ensure that outdoor advertising is consistent with the provisions of this clause. The objectives of clause 31 are:

- (a) conveys advertisers' messages and images while complementing and conforming to both the development on which it is displayed and the character of the surrounding locality, and*
- (b) does not adversely affect the locality in which it is located in terms of appearance, size, illumination, over-shadowing or in any other way, and*
- (c) does not lead to visual clutter through the proliferation of signs.*

In respect to the above, all advertising content on each bus shelter would be approved by Council through the 'Street Furniture Agreement'. Council will have the right to veto any advertising campaigns, should it decide that the advertisement is inappropriate or unacceptable.

Further to this, the applicant has advised that:

- all advertisements will be legal, decent, honest and prepared with a sense of obligation to the consumer and society;
- the advertising will at all times comply with relevant Commonwealth and State Legislation;
- the advertising will comply with applicable voluntary codes of conduct established by the advertising industry;
- advertising depicting smoking or tobacco products will not be permitted; and
- advertisements depicting political, religious or contentious subject matter will not be permitted.

The advertising panel proposed within each of the bus shelters would not dominate the skyline nor obscure or compromise important views at any of the 11 sites. No adverse lighting or over-shadowing impacts on nearby residences or traffic would result. As such, in the absence of Clause 31 applying directly to unzoned land, the proposed development is considered consistent with the objectives of Clause 31 – Controls for Outdoor Advertising.

2. Campbelltown Development Control Plan No. 99 - Advertising Signs (DCP99)

Council's DCP99 - Advertising Signs, lists the criteria for Street Furniture Signs as firstly, having a maximum of two (2) signs per furniture item and secondly, having a maximum advertising area of one square metre (1sqm) per sign.

The subject proposal involves two (2) signs per bus shelter. Each sign is almost two square metres (2sqm) in area. Therefore a variation to DCP 99 would be required in this circumstance.

3.3 Erection Of 18 'Adshel' Bus Shelters At 11 Separate Sites Throughout The Campbelltown Local Government Area

The Applicant has advised that the bus shelters would provide a public benefit to users of public transport and it is anticipated that the new shelters would encourage greater use of public transport through modernization of the shelter structures, provision of all weather protection, improvements to comfort, security and visibility and the reduction of vandalism.

The variation sought represents a departure from DCP 99, however the public benefit that results from the installation of these forms of shelters (supported by the revenue raised from the advertising signs) is significant in that it will provide safe, secure and an all weather protection facility for users of public transport and it will contribute to the promotion and use of public transport, therefore, the variation to DCP 99 in this circumstance is considered justified.

It is important to note that both the State Environmental Planning Policy No. 64 – Advertising Signage (SEPP 64) and the State Environmental Planning Policy (Infrastructure) 2007 (ISEPP) prevails over DCP 99. The SEPP 64 and ISEPP are addressed later in this report. Both permit the proposed size of advertising signage in this application.

3. Campbelltown (Sustainable City) Development Control Plan 2009 (SCDCP)

Part 2.1 Application

This Part contains general design requirements for development. All development is required to conform to all relevant requirements contained in this Part.

The sub-headings below deal with only those sections which are relevant to the development, having regard to the possible environmental impacts of the development.

2.7 Erosion and Sediment Control

Erosion and sediment controls, where required, are installed before work commences. These devices are installed down-slope to catch sediment. All drains will be protected with a geo-textile material filled with blue metal and all earth stockpiles are stored behind sediment fences and covered with plastic to prevent wind erosion.

2.9 Demolition

Demolition of an existing bus shelter is proposed at site No.200805, where a large existing brick and steel bus shelter will be demolished and replaced with three Adshel's structures. Demolition works at other sites may be required, but this would only involve the dismantling of existing bus shelters. The only construction works in these locations will be site preparation for footings. A generic waste management plan has been submitted, which deals with waste materials from all sites, including this one.

Demolition waste materials will be separated and stored on site, until they are safely removed for re-use, recycling or disposal.

The proposed bus shelter structures are considered not to be inconsistent with the relevant provisions of the SCDCP. Demolition and sediment and erosion control measures issues will be controlled by way of the inclusion of standard conditions with any approval that Council may issue.

4. State Environmental Planning Policies

i. State Environmental Planning Policy No 64 –Advertising and Signage (SEPP 64)

The SEPP 64 aims to ensure that outdoor advertising is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations and is of high quality design and finish. The SEPP 64 was amended in August 2007 to permit and regulate outdoor advertising in transport corridors (e.g. freeways, tollways and rail corridors). The amended SEPP 64 also aims to ensure that public benefits may be derived from advertising along and adjacent to transport corridors.

The relevant sections of the SEPP 64 are as follows:

3 Aims, objectives etc

1) This Policy aims:

(a) to ensure that signage (including advertising):

- (i) is compatible with the desired amenity and visual character of an area, and*
- (ii) provides effective communication in suitable locations, and*
- (iii) is of high quality design and finish, and*

(b) to regulate signage (but not content) under Part 4 of the Act, and

(c) to provide time-limited consents for the display of certain advertisements, and

(d) to regulate the display of advertisements in transport corridors, and

(e) to ensure that public benefits may be derived from advertising in and adjacent to transport corridors.

13 Matters for consideration

(1) A consent authority (other than in a case to which subclause (2) applies) must not grant consent to an application to display an advertisement to which this Policy applies unless the advertisement or the advertising structure, as the case requires:

(a) is consistent with the objectives of this Policy as set out in clause 3 (1) (a), and

(b) has been assessed by the consent authority in accordance with the assessment criteria in Schedule 1 and the consent authority is satisfied that the proposal is acceptable in terms of its impacts, and

(c) satisfies any other relevant requirements of this Policy.

The proposed development is considered to meet the relevant aim/objectives as identified in Clause 3.1. The bus shelters and signage are compatible with the visual character of the area and would improve the amenity for the users of public transport and streetscape character. The design of the shelters represents modern architecture and would have a public benefit. Therefore the development satisfies Clause 13(1)(a). In regard to satisfying Clause 13(1)(b), Schedule 1 Assessment Criteria of SEPP 64, the following assessment has been undertaken:

3.3 Erection Of 18 'Adshel' Bus Shelters At 11 Separate Sites Throughout The Campbelltown Local Government Area

Schedule 1 Assessment Criteria

1. Character of the Area

Each of the proposed bus shelter locations are already serviced by established bus transport routes. It is intended that some of the bus shelters would replace outdated shelters, while other shelters are in locations that do not currently provide any form of seating or shelter. Each of the bus shelter locations are in established commercial areas or established public transport corridors therefore the character of the areas in which shelters are to be located would not be compromised.

The applicant is required to ensure that the bus shelters are maintained in a good state of repair, in accordance with a routine Maintenance Program and to the satisfaction of Council.

The applicant proposes to display advertisements which comply with Commonwealth and State legislation, any Council local laws, subordinate local laws and policies as well as all voluntary codes of conduct established by the advertising industry and which exhibit high quality graphic design and finish.

A list of prohibited advertisements is given under Section 9 of the Street Furniture Agreement and it includes for example political, religious, pornographic, tobacco or alcohol related sponsorship signage.

2. Special Areas

The proposal does not detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open area areas, waterways, rural landscapes or residential areas.

3. Views and Vistas

The proposal does not obscure or compromise important views at any of the 11 sites. Due to the minimal size of the advertising panels, the proposal does not dominate the skyline and therefore, respects the viewing rights of other advertisers.

The proposal would have no overshadowing impact on adjacent properties due to its location and overall height and the development would not affect views from adjoining or nearby properties.

4. Streetscape, Setting or landscape

The proposals are appropriate to the area in that they contribute to the visual interest of the various streetscapes expressed in their scale, proportion and form. The shelters are well designed, high quality structures that would complement the urban landscape.

5. Site and Building

The proposal is compatible with the scale, proportion and other characteristics of each of the sites.

3.3 Erection Of 18 'Adshel' Bus Shelters At 11 Separate Sites Throughout The Campbelltown Local Government Area

6. *Associated devices and logos with Advertisements and Advertising Structures*

The incorporation of the illuminated advertising panel into each of the bus shelter forms an integral part of the structure, but does not have a visually overwhelming effect.

The Evo Mk111 bus shelter design features toughened glass roof panels allowing extra light to flow through the shelter and has dedicated electrical management channels throughout the structure.

7. *Illumination*

The advertising panels within the bus shelters would be illuminated. It is considered that there would be no adverse lighting impacts upon any nearby residences and traffic.

The maximum luminance for each illuminated advertising panel would not exceed 600 candela (luminous intensity). The shelters comply with AS/NZS 1158.3.1 Road lighting, Part 3.1 Pedestrian area (Category P) lighting.

8. *Safety*

The proposal has recognised the principles of 'Crime Prevention Through Environmental Design' (CPTED) by using materials and finishes in the shelters that minimise opportunities for crime and provide for good surveillance.

Lighting of the shelters would also assist in improving "night time" safety for bus passengers, and reduce opportunities for night time graffiti attacks.

The use of glass panels would provide clear sight lines, to view ahead along the route, or within the space occupied by the bus shelter. This provides opportunity for casual surveillance.

The use of toughened glass is safer from a visual perspective and the paint used on the powder coated aluminium frame would lessen the potential impact from graffiti.

The applicant would take all measures necessary to protect people and property during the installation process and during the period of routine maintenance, in accordance with any relevant Australian Standards and Industry Codes of Practice.

Adshel is to comply with all necessary safety requirements during the performance of the services including the provision of barricades, guards, fencing, temporary access, warning signs, lighting, watching and traffic flagging.

Further measures involving OH&S would be detailed in the 'Street Furniture Agreement'.

9. *Transport Corridor outdoor advertising and signage guidelines – assessing development application under SEPP 64 – July 2007*

Under clause 17 and 18 of SEPP 64, Councils must seek RTA concurrence for Development Applications for advertising structures that are located within 250 metres of a classified road if any part of the sign is visible from a classified road.

3.3 Erection Of 18 'Adshel' Bus Shelters At 11 Separate Sites Throughout The Campbelltown Local Government Area

Adshel Sites 200816 and 200817 (Classified Road Sites) and Site 200811 which is within 250 metres of a classified road, are affected and therefore, RTA concurrence is required.

The RTA has provided its concurrence with respect to the proposal subject to conditions. Should the application be approved, these conditions will form part of the recommended conditions of consent.

Following on from the above, it is considered that the proposed built form and location of the proposed bus shelters and the associated advertising signage would not cause an adverse impact on the surrounding environment. The location of each shelter is in a suitable location and the form of advertising is consistent with the Schedule 1 Assessment Criteria and the transport corridor outdoor advertising and signage guidelines.

The proposed development satisfies clause 13(1)(b) of the SEPP 64. There are no other relevant requirements of this Policy. Therefore it then follows that the proposed development is permitted under SEPP 64.

ii. State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)

The ISEPP came into effect on the 1 January 2008 to facilitate the delivery of infrastructure across the State by improving regulatory certainty and efficiency. The relevant sections of the ISEPP are as follows:

Division 17 – Roads and Traffic

Subdivision 1 Road infrastructure facilities

97 Exempt development

- (1) *Development for any of the following purposes is exempt development if it is carried out by or on behalf of a public authority in connection with a road or road infrastructure facilities and complies with clause 20 (2) (Exempt development):*
 - (b) *construction, maintenance or repair of bus stops or shelters (but not including any commercial advertising on them) outside an area serviced by STA buses, if:*
 - (i) *they have a height above the footpath of not more than 3.2m, and*
 - (ii) *they have only non-reflective finishes, and*
 - (iii) *they do not obstruct the line of sight of vehicular traffic or pedestrian traffic, and*
 - (iv) *they comply with the development standards, and other requirements, relating to bus stops and shelters in a relevant development control plan, and*
 - (v) *any associated kerb construction, access paths and ramps, lighting and signage complies with AS:1428.2 and the Disability Standards,*

98 Development other than road facilities on public roads

- (1) *Development may be carried out with consent on a public road that is unzoned land for any purpose that may be carried out (either with or without consent) on land adjoining the road.*
-

3.3 Erection Of 18 'Adshel' Bus Shelters At 11 Separate Sites Throughout The Campbelltown Local Government Area

- (2) *Development for any purpose may be carried out by a public authority without consent on a public road that is unzoned land.*

Both Clauses 97 and 98 provide an opportunity to erect bus shelters on public roads without requiring development consent. However, the applicant is not a public authority and is not technically carrying out development on behalf of a public authority. As such, the proposed development requires planning approval in accordance with Clause 98(1) of the ISEPP.

Planning Assessment

Section 79C Considerations

The following section provides an assessment of the proposed development in accordance with the provisions of Section 79C of the Environmental Planning and Assessment Act, 1979.

1. Matters for Consideration – General

In determining a development application, a consent authority is to take into consideration the following:

- i. *The likely impacts of that development, including environmental impacts on both the natural and built environments and social and economic impacts in the locality*

- (a) *impact on the natural environment*

Comment

The proposed development would not have an adverse impact on the natural environment. The landscape in these areas is generally that of an urban environment.

- (b) *impact on the built environment*

Comment

The built forms of the proposed shelters are appropriate to each of the sites, in terms of their alignment and proportions.

All sites are designated bus stops and would not be incompatible with the future desired character of each neighbourhood.

- (c) *Social and Economic impacts in the locality*

Comment

The proposed development would not have any negative social or economic impacts in the area. The proposed development would contribute positively by providing quality transport infrastructure in the area, to support the use of alternative transport options.

- (d) *Social and Community benefits:*

Comment

The installation of Adshel bus shelters in most cases would replace existing, older-style shelters or would be erected as new installations, at designated bus stops.

3.3 Erection Of 18 'Adshel' Bus Shelters At 11 Separate Sites Throughout The Campbelltown Local Government Area

The bus shelters have been designed to provide good shelter, and meet disability access requirements.

The development would result in an improved streetscape at all nominated sites.

(e) *Environmental benefits:*

Comment

The bus shelters would be likely to encourage the use of public transport and lessen dependence upon private cars. This would help to reduce vehicle emissions.

The bus shelters would readily identify that public transport is available at that location.

The Evo Mk111 Shelter designs have been installed in other Local Government Areas in New South Wales, in other States and Territories of Australia and in parts of New Zealand.

The development would not result in any unreasonable impact to adjoining properties.

ii. the suitability of the site for development

Comment

The proposed bus shelter sites are in strategic public transport routes which are already established and regularly serviced. The location of each site immediately adjoins a road and is geographically located to maximise catchment area for users. Therefore the proposed development is considered suitable for each of the proposed sites.

iii. any submissions made in accordance with this Act or the regulations

Comment

The application was notified in accordance with Council's Development Control Plan 87 Public Notification and Public Exhibition Policy. No submissions were received within this period.

iv. The public interest

Comment

The public interest is an over-arching requirement, which includes the consideration of the matters discussed above. Implicit to the term "public interest", is the achievement of future built outcomes adequately responding to and respecting the desired future outcomes expressed in LEPs and DCPs. As detailed in the above section there were no submissions received during the public notification and exhibition period.

The bus shelter network would provide added comfort and weather protection for existing passengers and further encourage additional bus service patronage adding to the sustainability of the bus companies and the value of the public transport infrastructure.

The development would also contribute to the existing streetscape. The proposed development is of a design that does not detract from the built form in the area.

It is considered that the proposed development is generally consistent with Council's policies and would not result in any unreasonable impacts.

3.3 Erection Of 18 'Adshel' Bus Shelters At 11 Separate Sites Throughout The Campbelltown Local Government Area

2. Financial Impacts / Considerations

In accordance with the 'Street Furniture Agreement', Adshel would bear the total cost for all bus shelter installations as well as continuous maintenance cost (including removal of graffiti within 24hr of attack/reporting) during the contract term.

Note: Adshel will pay to the Council a percentage of the revenue derived from advertisement rental in accordance with the 'Street Furniture Agreement'. However, this is not a matter for consideration under s79C of the Environmental Planning and Assessment Act 1979.

Conclusion

The proposal to erect bus shelters at various locations throughout the Campbelltown Local Government Area, has been assessed against the provisions of Section 79C of the EP&A Act 1979 and all relevant environmental planning instruments. It is considered that the proposal satisfactorily addresses all relevant aims, objectives and standards outlined in the ISEPP, SEPP 64 and CLEP 2002. However, a variation is sought in regard to the provision of Council's DCP 99 - Advertising Structures, which permits two signs per finished item with a maximum area of 1m² per sign. The bus shelters would provide for two signs, but proposes 2m² in area per sign. The applicant has requested a variation and there is clearly a public benefit of providing an all-weather, safe and secure seating area at the various locations. As revenue derived from the signage will cater for the upkeep of the bus shelters, it is considered reasonable in circumstances to allow the variation. Further to this, as part of the Street Furniture Agreement, Council has the ability to control (on an ongoing basis) the type/content of the advertisements erected within the bus shelters.

The bus shelters are considered to be in the public interest and would provide substantial benefits to the local community. The design of the shelters is considered sympathetic and compatible with the immediate surrounding localities and is unlikely to have a negative impact on the environment or residential amenity. The bus shelters are not expected to pose any undue risk to the safety and security of the surrounding community and the public in general. Advertising incorporated into the bus shelter structures is not considered significant, and is not considered to have a potential for adverse impacts on the environment or local amenity.

Therefore, having regard to the merits of the proposal and in the absence of any adverse environmental impacts, it is recommended that the application be supported by Council.

Officer's Recommendation

That development application 2179/2009/DA-O for the construction of eighteen (18) Bus Shelters at the eleven (11) sites identified within this report, be approved subject to the conditions contained in Attachment 1.

Committee's Recommendation: (Oates/Thompson)

That the Officer's Recommendation be adopted.

CARRIED

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

Voting against the Committee's Recommendation: nil.

3.3 Erection Of 18 'Adshel' Bus Shelters At 11 Separate Sites Throughout The Campbelltown Local Government Area

It was **Moved** Councillor Matheson, **Seconded** Councillor Kolkman that the report of the Director Planning and Environment - Item 12.2 - Erection of Adshel Bus Shelters be brought forward and dealt with in conjunction with this item.

Council Meeting 21 September 2010 (Matheson/Kolkman)

That the Committee's Recommendation be adopted.

Amendment (Matheson/Kolkman)

That development application 2179/2009/DA-O for the construction of eighteen (18) Bus Shelters at the 11 sites identified in the report of the Manager Development Services to the Planning and Environment Committee (Item 3.3 - 14 September 2010) be approved subject to:

- a. the relocation of the proposed shelter from site no. 200811 to a site located opposite the Campbelltown Mall on the western side of Hurley Street, Campbelltown; and
- b. the conditions contained in Attachment 1 of the report of the manager Development Services to the Planning and Environment Committee (Item 3.3 - 14 September 2010).

Council Resolution Minute Number 180

That the above amendment be adopted.

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

Voting against the Council Resolution: Nil.

ATTACHMENT 1

GENERAL CONDITIONS

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

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

1. Approved Development

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

2. Building Code of Australia

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

3. External Finishes

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

4. Advertising Sign

- a. All signage is to be erected/supported in a safe and secure manner.
- b. At no time shall the intensity, period of intermittency and hours of illumination of the signage cause injury to the amenity of the neighbourhood.
- c. No signage on site shall flash, move or display electronic images.
- d. The advertising structure shall be maintained in a condition so as to not become unsightly so as to adversely affect the amenity of the surrounding area.

5. Unreasonable Noise, Dust, Lighting and Vibration

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

3.3 Erection Of 18 'Adshel' Bus Shelters At 11 Separate Sites Throughout The Campbelltown Local Government Area

6. Public Liability Insurance

A copy of valid public liability insurance cover for the value of \$10,000,000 (ten million dollars) or as adjusted by Council, indemnifying Council from all and any claims arising from an incident caused or associated with operations or activities carried out within the public domain in accordance with the approved use shall be sent annually to Council's Property Services Section within seven days of the commencement of the period of insurance, or insurance renewal.

The value of the public liability insurance cover will be reviewed by Council on an annual basis and where Council deem it necessary to vary the amount of cover required, any subsequent policy taken out will need to be of an equal or greater amount to that set by Council following its review. In this regard, prior to the applicant applying for an annual renewal of the public liability insurance cover, the applicant is to contact the Council's Property Services Section to confirm the current value of the public liability insurance cover required for the continued use of the premises.

7. Graffiti Removal

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

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

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

8. Construction Certificate

- a. The developer shall obtain a construction certificate prior to the commencement of any works;
- b. The developer shall nominate a principal certifying authority; and
- c. Notify Council of that appointment prior to the commencement of any works.

9. Work on Public Land

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

3.3 Erection Of 18 'Adshel' Bus Shelters At 11 Separate Sites Throughout The Campbelltown Local Government Area

PRIOR TO THE COMMENCEMENT OF ANY WORKS

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

10. Erection of Construction Sign

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

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

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

11. Public Property

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

12. Demolition Works

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

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

3.3 Erection Of 18 'Adshel' Bus Shelters At 11 Separate Sites Throughout The Campbelltown Local Government Area

- c. The handling or removal of any asbestos product from the building/site must be carried out by a NSW Work Cover licensed contractor irrespective of the size or nature of the works. Under no circumstances shall any asbestos on site be handled or removed by a non-licensed person. The licensed contractor shall carry out all works in accordance with NSW Work Cover requirements.
- d. An appropriate fence preventing public access to the site shall be erected for the duration of demolition works
- e. Immediately prior to the commencement of the demolition or handling of any building or structure that contains asbestos, the applicant shall request that the principal certifying authority attend the site to ensure that all appropriate safety measures are in place. The applicant shall also notify the occupants of the adjoining premises and Workcover NSW prior to the commencement of any works.

13. Hoarding / Fence

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

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

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

14. Sydney Water

The approved plans must be submitted to a *Sydney Water Quick Check agent or Customer Centre* to determine whether the development will affect *Sydney Water's* sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. Plans will be appropriately stamped. For quick check agent details please refer to the web site www.sydneywater.com.au, see *Building Developing and Plumbing then Quick Check or telephone 13 20 92*.

DEVELOPMENT REQUIREMENTS DURING CONSTRUCTION

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

3.3 Erection Of 18 'Adshel' Bus Shelters At 11 Separate Sites Throughout The Campbelltown Local Government Area

15. Construction Work Hours

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

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

16. Erosion and Sediment Control

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

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

17. Work Zones

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

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

18. Public Safety

Any works undertaken in a public place are to be maintained in a safe condition at all times. In this regard, the applicant shall ensure that a safe, fully signposted passage, minimum 1.2 metres wide, separated from the works and moving vehicles by suitable barriers and lights, is maintained for pedestrians, including disabled pedestrians, at all times. The applicant shall ensure that traffic control is undertaken and maintained strictly in accordance with AS 1742.3, the requirements set out in the RTA manual "*Traffic Control at Work Sites*" (as amended), all applicable Traffic Management and/or Traffic Control Plans. The contractor shall also ensure that all *Work Cover Authority* requirements are complied with. Council may at any time and without prior notification make safe any such works that be considered to be unsafe, and recover all reasonable costs incurred from the applicant.

3.3 Erection Of 18 'Adshel' Bus Shelters At 11 Separate Sites Throughout The Campbelltown Local Government Area

19. Completion of Construction Works

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

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

PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

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

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

20. Structural Engineering Certificate

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

21. Public Utilities

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

22. Completion of Works Onsite

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

ROADS AND TRAFFIC AUTHORITY

23. Exercise of Concurrence Function under the Roads Act

The RTA has reviewed the development application under Section 138 (2) of the Roads Act and the following conditions are to be included in Council's conditions of development consent:

3.3 Erection Of 18 'Adshel' Bus Shelters At 11 Separate Sites Throughout The Campbelltown Local Government Area

- a. Traffic on Oxford Road/Narellan Road/Hurley Street/Pembroke road shall not be interrupted by the parking of vehicles to carry out the servicing of the bus shelters. Should lane closures be required, a Road Occupancy Licence shall be obtained from the RTA's Traffic management Centre (TMC) for any works that may impact on traffic flows on Oxford Road/Narellan Road/Hurley Street/Pembroke Road during construction activities.

The Planned Incident Unit (PCI) at the TMC can be contacted on:

Ph: 8396 1513 or
Fax: 8396 1530

Road Occupancy Licence details are available on the RTA's website at www.rta.nsw.gov.au.

- b. Should a bus shelter need to be relocated by reason of RTA roadworks or other construction works on the classified road network, Adshel shall relocate the shelters at no cost to the RTA. The 'Street Furniture Agreement' between Adshel Street Furniture Pty Limited (Adshel) and Campbelltown city Council shall be amended accordingly so that the relocation of any bus shelter is the responsibility of Adshel and all works for the relocation are at no cost to the RTA.

Should RTA roadworks or construction works take place which prevents Adshel from exhibiting advertising, alters an item of Adshel Street Furniture or results in the need for the relocation of Adshel Advertising or Street Furniture, the RTA will not be responsible for relocation or compensation costs from Adshel and/or Council.

Adshel and/or Council shall comply with any directions from the RTA in this regard within 2 weeks from written notice from the RTA. Failure to comply with this written notice from the RTA will result in the relocation/adjustment of Adshel Street Furniture and/or advertising at Council's cost.

- c. Council should ensure that safety considerations such as safe stopping distances for buses stopping at the bus stops and adequate sight distances for pedestrians are provided at each bus shelter location.
- d. All bus shelters are to be located outside the clear zone and shall not obstruct sight lines for vehicle access and egress points.
- e. All works are to be at no cost to the RTA.

Signage

- f. The proposed sign must not have/use:
- Flashing lights;
 - Electronically changeable messages;
 - Animated display, moving parts of simulated movement;
 - Complex displays that hold a driver's attention beyond "glance appreciation";
 - Displays resembling traffic signs or signals, or giving instruction to traffic by using words such as 'halt' or 'stop'; and
 - A method of illumination that distracts or dazzles.
-

3.3 Erection Of 18 'Adshel' Bus Shelters At 11 Separate Sites Throughout The Campbelltown Local Government Area

ADVISORY NOTES

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

Advice 1. Environmental Planning and Assessment Act 1979 Requirements

The Environmental Planning and Assessment Act 1979 requires you to:

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

Advice 2. Tree Preservation Order

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

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

Advice 3. Inspections – Building Works

REQUIRED INSPECTIONS

You have appointed Campbelltown City Council as the Principal Certifying Authority for the purposes of certifying the works involved in the development.

The following scheduled inspections are mandatory and must be completed by Council prior to the approval of an occupation certificate of the issuing of any compliance certificates. All inspection fees have been prepaid.

3.3 Erection Of 18 'Adshel' Bus Shelters At 11 Separate Sites Throughout The Campbelltown Local Government Area

Booking Inspections

Inspections may be booked up to 9.00 am on the day that they are required by calling (02) 4645 4608.

Please quote the construction certificate, or complying development certificate number when you book.

INSPECTION SCHEDULE

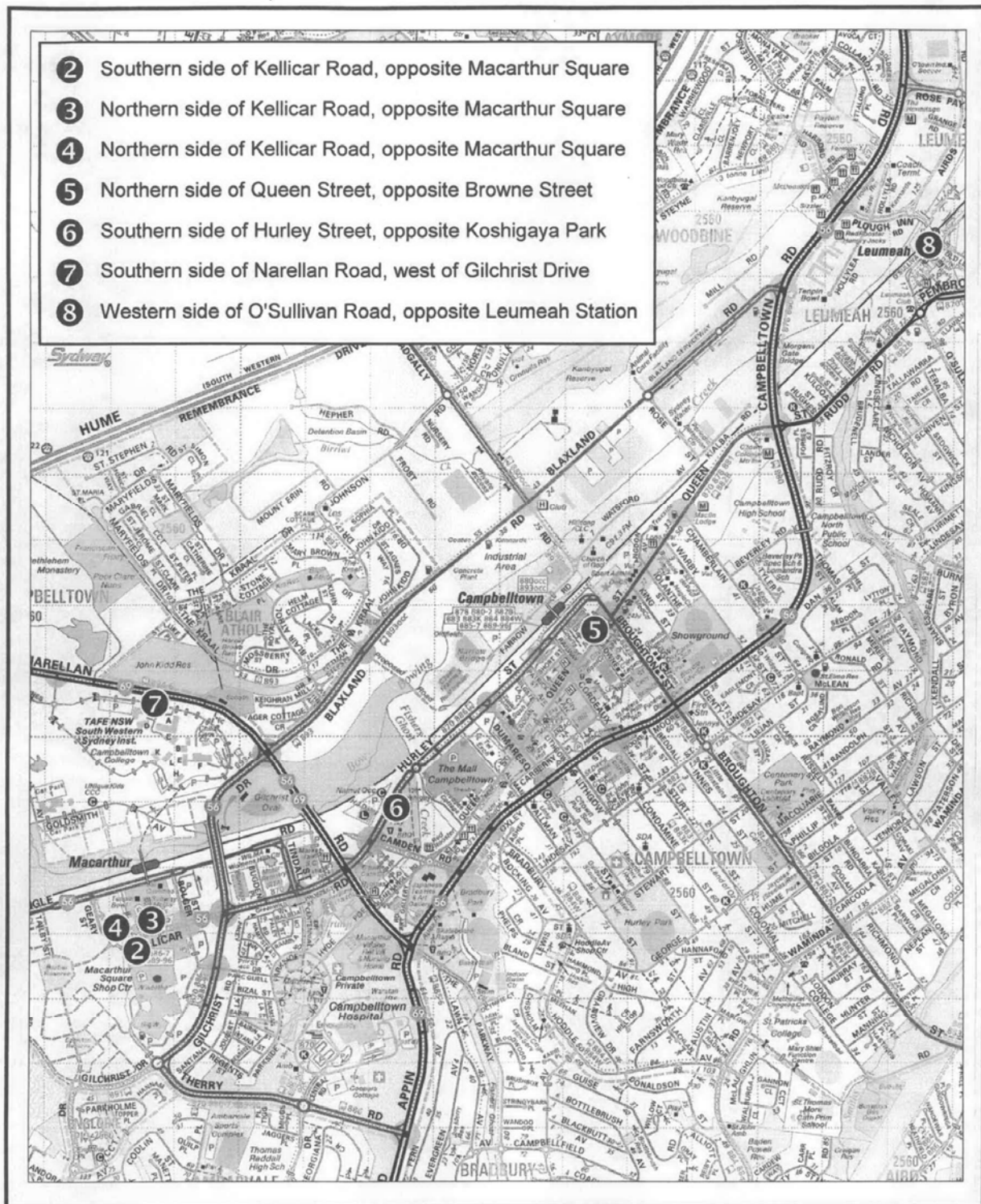
- At the commencement of the building work.
- Excavation, pier holes and footings prior to placement, or the pouring of concrete, or the placement of prefabricated structures.
- Reinforced concrete steelwork prior to pouring concrete (footings, floors, beams, panels, pool coping, swimming pools).
- Framework (timber or steel) for any wall, roof or other building element prior to internal cladding.
- Bearers and joist (timber or steel) including antcapping, prior to flooring.
- Water proofing of wet areas prior to covering.
- Stormwater drainage connections prior to backfilling.
- Final/completion prior to occupation of the structure.
- Fencing of swimming pools prior to filling.

Advice 4. Dial 1100 Before you Dig

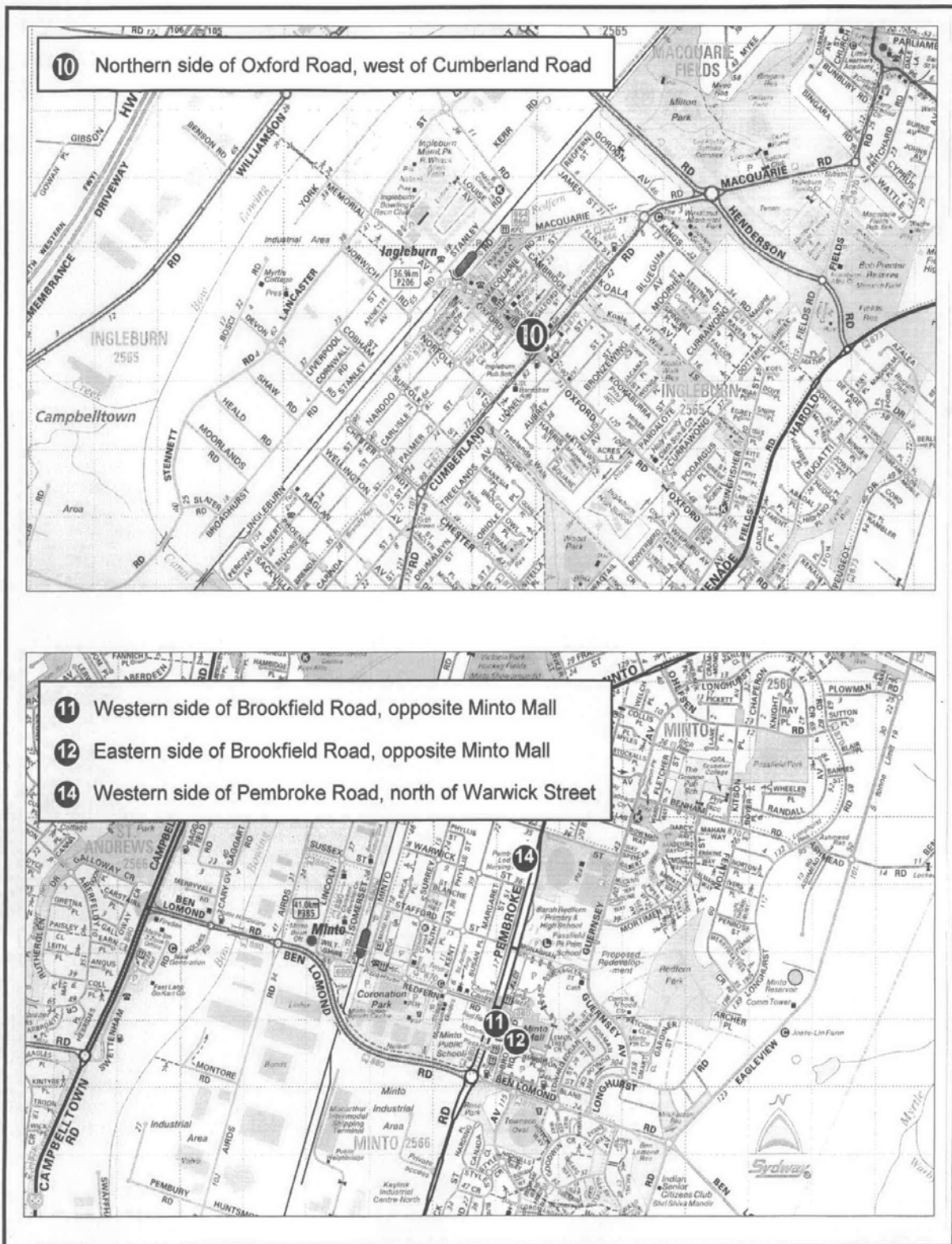
Underground cable and pipes may exist in the area. In your own interest and for safety, telephone 1100 before excavation or erection of structures. Information on the location of underground pipes and cables can also be obtained by fax on 1300 652 077 or through the following website - www.dialbeforeyoudig.com.au.

3.3 Erection Of 18 'Adshel' Bus Shelters At 11 Separate Sites Throughout The Campbelltown Local Government Area

ATTACHMENT 2

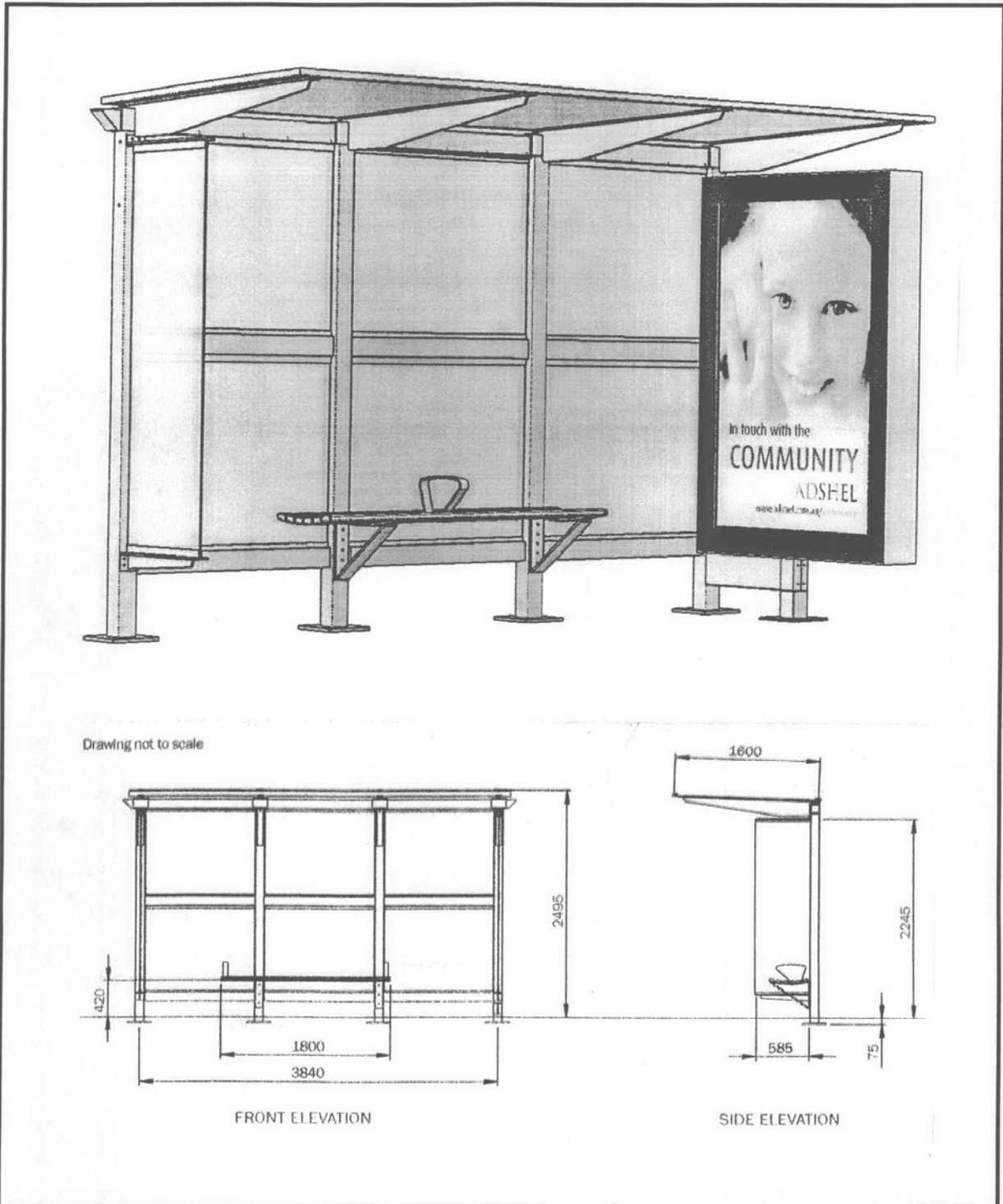


3.3 Erection Of 18 'Adshel' Bus Shelters At 11 Separate Sites Throughout The Campbelltown Local Government Area



3.3 Erection Of 18 'Adshel' Bus Shelters At 11 Separate Sites Throughout The Campbelltown Local Government Area

ATTACHMENT 3



FLOOR PLANS AND ELEVATIONS

3.4 No. 36 Fraser Street, Macquarie Fields - 2 Lot Strata Subdivision

Reporting Officer

Manager Development Services

Attachments

1. Recommended Conditions of Consent
2. Locality Plan
3. Proposed Strata Subdivision Plan

Purpose

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

Property Description	Lot 7 DP 259571 No.36 Fraser Street, Macquarie Fields NSW 2564
Application No	1570/2010/DA-S
Applicant	Lean Lackenby & Hayward
Owner	Mr Peter Greco and Ms Lucia D'Angelo and Mr Steven Theodoridis
Statutory Provisions	Campbelltown (Urban Area) Local Environmental Plan 2002 State Environmental Planning Policy No. 1 – Development Standards
Other Provisions	Campbelltown (Sustainable City) Development Control Plan 2009 Campbelltown 2025 Looking Forward
Date Received	22 July 2010

History

The following is a chronology of events relating to the subject Development Application.

- 2 February 2007 – Development Application (203/2007/DA-RS) lodged with Council for 2 lot Torrens title subdivision.
 - 2 April 2007 – Letter issued by Council to applicant advising non compliance with minimum lot sizes.
 - 16 April 2007 – SEPP 1 Objection lodged by applicant addressing non compliance.
 - 25 February 2008 – SEPP 1 Objection allowed and Consent for Development Application 203/2007/DA-RS granted under delegated authority for Torrens title subdivision.
 - 25 February 2010 – Consent for Development Application 203/2007/DA-RS lapsed.
-

- 22 July 2010 – Subject Development Application for 2 lot strata subdivision lodged with council, by applicant.
- 10 August 2010 – Letter issued by Council to applicant advising of non compliance with minimum lot sizes.
- 20 August 2010 – SEPP 1 Objection received from applicant via email addressing non compliance.

Report

Introduction

Council has received an application for the strata subdivision of Lot 7 DP 259571.

On 25 February 2008 Council approved a similar development proposal for this property by way of a two lot Torrens title subdivision (203/2007/DA-RS). That application included a SEPP1 objection (which Council allowed) based on grounds similar to those lodged with this application. The Torrens title consent has since lapsed and as such, a new application for the strata subdivision of the land has been lodged.

The Site

The subject land has a total area of 600m² and is rectangular in shape. It exists on the corner of Adrian and Fraser Streets, Macquarie Fields. The site has access and frontage onto Adrian Street and contains a brick dual occupancy dwelling with two separate garages and a shared, central driveway.

The site is located in a residential area and is immediately surrounded by lots and dwellings of similar size and style. Further to the east of the site lies Bunbury Curran Park and to the west of the site is a primary school.

The Proposal

Development consent is sought for the strata subdivision of existing Lot 7, DP 259571 into two separate strata allotments.

The proposed subdivision includes the division of the existing lot into two strata lots with areas of 265m² and 280m². The remaining 55m² is shown as common property and is located where the existing common driveway lies.

The proposal does not include any works or alterations as all dwellings, fencing etc exist on the site.

Campbelltown 2025 Looking Forward

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

- *Responds to what Council understands people want the City of Campbelltown to look, feel and function like;*
-

-
- *Recognises likely future government policies and social and economic trends; and*
 - *Sets down the foundations for a new town plan that will help achieve that future.*

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

The strategic directions relevant to this application are:

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

The proposed development is generally consistent with these directions.

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

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

The proposed development has been assessed giving regard to Campbelltown 2025 *Looking Forward*. It is considered that the Development Application is generally consistent with the Vision's desired outcomes when giving regard to the design and level of impact on adjoining development and the locality.

Assessment

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

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

The subject site is zoned 2(b) - Residential B under the provisions of Campbelltown (Urban Area) Local Environmental Plan 2002. The proposed development is defined as subdivision and is permissible with Council's development consent.

The proposal is consistent with several zone objectives, particularly:

- (a) *to make general provisions for land to be used for housing and associated purposes, and*
-

-
- (b) *to permit the development of a range of housing types, and*
 - (c) *to encourage a variety of forms of housing that are higher in density than traditional dwelling houses, including accommodation for older people and people with disabilities, in locations which are accessible to public transport, employment, retail, commercial and service facilities*

Clause 34 of the Campbelltown (Urban Area) Local Environment Plan 2002 relates to dual occupancies and in particular Clause 34 (1) states:

- (1) *If two dwellings are situated on the same lot within Zone 2 (b):*
 - (a) *the separate occupation of the lots illustrated by a proposed strata plan relating to the dwellings is prohibited, and*
 - (b) *subdivision of the land under the Conveyancing Act 1919 or the Community Land Development Act 1989 is prohibited,*

Unless the area of each lot that will be the subject of a separate title for a dwelling when the plan is registered is not less than 350 square metres.

The proposed subdivision does not comply with the minimum strata lot sizes outlined above.

Subsequently, an application pursuant to State Environmental Planning Policy No. 1 – Development Standards was lodged by the applicant.

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

State Environmental Planning Policy No. 1 – Development Standards (SEPP 1) aims to provide flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary. The SEPP 1 allows for objections to Council's development standards, which in this instance is the minimum allotment size of strata subdivided lots under Clause 34 of the LEP 2002.

An objection under the SEPP 1 has been lodged in regard to the proposal's non compliance with Clause 34 of the Campbelltown (Urban Area) Local Environmental Plan 2002.

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

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

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

-
- (ii) *the promotion and co-ordination of the orderly and economic use and development of land;*"

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

The purpose of the SEPP 1 objection relates specifically to Clause 34(1) of the LEP 2002, which is as follows:

- (1) *If two dwellings are situated on the same lot within Zone 2 (b):*
- (a) *the separate occupation of the lots illustrated by a proposed strata plan relating to the dwellings is prohibited, and*
- (b) *subdivision of the land under the Conveyancing Act 1919 or the Community Land Development Act 1989 is prohibited,*

Unless the area of each lot that will be the subject of a separate title for a dwelling when the plan is registered is not less than 350m².

The subject application seeks to vary the provisions of Clause 34(1) of LEP 2002, to allow the subdivision of an existing lot with an area of 600m² into 2 allotments, with areas of 265m² and 280m² respectively. The remaining area of 55m² is proposed as common property.

The dual occupancy dwelling on the subject site was approved by Council in 1993 and the site has previously been granted consent for a Torrens title subdivision of similar proportions in 2007. This consent has since lapsed and a new development application was lodged for the strata subdivision of the subject allotment. The area of the subject allotment being only 600m² is less than the 700m² minimum necessary to fulfill the requirements of Clause 34(1). That application was also subject of a SEPP 1 objection, which Council allowed in the circumstances of the case.

The SEPP 1 objection submitted for this application, details and argues that Clause 34 of LEP 2002 is a "development standard" and therefore is a relevant item of consideration pursuant to the Environmental Planning and Assessment Act 1979. This is outlined below:

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

- (a) *the area, shape or frontage of any land, the dimensions of any land, buildings or works, or the distance of any land, building or work from any specified point,*
- (b) *the proportion or percentage of the area of a site which a building or work may occupy,*
- (c) *the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work,*
- (d) *The cubic content of floor space of a building*
- (e) *the intensity or density of the use of any land, building or work,*
-

and as the development application is proposing a variation to the minimum lot size then, it is argued by virtue of paragraph (e) above, Clause 34 contains a development standard and hence the controls contained within SEPP No 1 apply.

The basis for the SEPP 1 objection is outlined below:

- The proposed development will not unreasonably impact upon the surrounding residential area
- The shortfall in proposed lot sizes is not perceivable when visually considering the property on site

Comments:

The proposed development will not unreasonably impact upon the surrounding residential area

It is considered that the proposed subdivision is unlikely to impact on the amenity of the property or the surrounding area as all buildings on the site are existing (and have been so for some 17 years). The development is not expected to increase traffic to the area and accordingly, compliance with the development standard is considered unreasonable and unnecessary in the circumstance of this case.

The shortfall in proposed lot sizes is not perceivable when visually considering the property on site

The shortfall in lot area is unlikely to be perceptible and therefore the allowance of the non compliance with Clause 34 is unlikely to impact negatively on the streetscape or surrounding area. In this regard, compliance with the development standard is considered unreasonable and unnecessary in the circumstance of this case. As such, it is considered that the SEPP 1 objection is well founded and acceptable in this instance

Further to the above, despite the non-compliance with the relevant “minimum land area” development standard found under Clause 34 of the LEP 2002, the proposal complies with the relevant provisions of the Campbelltown (Sustainable City) Development Control Plan 2009 (SCDCP). In this regard, the LEP 2002 defines the proposal as a “Dual Occupancy” development and separately defines “multi-dwelling” developments as those that include 3 dwellings or more, whereas, the SCDCP defines the proposal as “multi-dwelling” development being the erection of two or more dwellings on a single block of land.

In respect to the above, whilst the proposal does not satisfy the requirements of the LEP 2002, the proposal satisfies the requirements of the SCDCP.

Despite this anomaly, the SEPP 1 objection to the development standard found at Clause 34 of the LEP 2002, is appropriate and is considered well founded.

3. Campbelltown (Sustainable City) Development Control Plan 2009 (SCDCP)

The application has been considered in accordance with the specific requirements of the Campbelltown (Sustainable City) Development Control Plan 2009, as per the following table:

Section	Control	Requirement	Proposed	Compliance
3.9.2 b)	General Requirements for Multi Dwellings	Each multi dwelling unit shall be provided with a minimum of one single garage.	Each proposed lot has one (1) single garage car parking space.	Yes
3.9.2 c)	General Requirements for Multi Dwellings	One (1) external additional visitor car parking space shall be provided for every two (2) units (or part thereof), unless all dwellings within the development have direct frontage to a public street.	No visitor parking is provided as both units have direct frontage to a public street.	Yes
3.10.3 a)	Subdivision of Multi Dwelling Housing	For the purpose of the subdivision of multi dwellings incorporating 2 dwellings (being the only dwellings in the development), each allotment to be created shall be part of a strata title scheme.	The proposed development seeks to include both allotments in the strata title.	Yes

Public Participation

The application was not notified pursuant to Development Control Plan No. 87 – Public Notification and Public Exhibition Policy.

Conclusion

An application has been received to strata subdivide an existing dual occupancy development in Macquarie Fields. The dwellings located on the allotment were constructed in 1994, with Council's development consent.

The proposed lot areas do not comply with Council's strata subdivision standard contained within Campbelltown (Urban Area) Local Environmental Plan 2002 (LEP 2002), which was gazetted some eight years following construction of the dwellings. Despite this however, the proposal satisfies the relevant subdivision controls found within the Campbelltown (Sustainable City) Development Control Plan 2009.

Consequently, due to the non-compliance with LEP 2002, an objection to the development standard was made pursuant to State Environmental Planning Policy No. 1 - Development Standards. The objection argued that compliance with the development standard (minimum lot area) was unreasonable and unjustified in this instance due to the pre-existence of the dwellings, their compliance with Council's controls at the time and the minimal impact that the subdivision would have on the neighbourhood's character or future development.

The proposal complies with the relevant standards contained in the Campbelltown (Sustainable City) Development Control Plan 2009.

Given the merits of the case (including the pre-existence of the dwellings and the minimal impact the subdivision would have on the neighbourhood), it is considered that the proposal is permissible with consent and is worthy of support.

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

Officer's Recommendation

1. That Council allow the SEPP 1 objection in respect to Clause 34 of LEP 2002;
2. That Council seek the concurrence of the Director General of Planning to the approval of DA 1570/2010/DA-S for the strata subdivision of the land into two (2) strata allotments;
3. That Development Application 1570/2010/DA-S, for the strata subdivision of the land into two (2) allotments, at No.36 Fraser Street, Macquarie Fields (Lot 7, DP 259571), be APPROVED, subject to the conditions at Attachment 1, upon receipt of the Director General's concurrence.

Committee's Recommendation: (Kolkman/Rowell)

That the Officer's Recommendation be adopted.

CARRIED

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

Voting against the Committee's Recommendation: nil.

Council Meeting 21 September 2010 (Matheson/Kolkman)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 181

That the Officer's Recommendation be adopted.

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

Voting against the Council Resolution: Nil.

ATTACHMENT 1

Recommended Conditions of Consent

GENERAL CONDITIONS

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

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

1. Approved Development

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

PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE

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

2. Section 73 Certificate

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

3. Integral Energy

Prior to the principal certifying authority issuing a subdivision certificate, the applicant shall satisfy the requirements of Integral Energy. A "Notice of Connection Requirements" shall be submitted to the principal certifying authority with the application for a subdivision certificate.

4. Public Utilities

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

5. Council Fees and Charges

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

ADVISORY NOTES

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

Advice 1. Environmental Planning and Assessment Act 1979 Requirements

The Environmental Planning and Assessment Act 1979 require you to:

- a. Obtain a subdivision certificate prior to lodgement of subdivision plans with the NSW Land Titles Office.

Advice 2. Linen Plan Checking Fee

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

Advice 3. Strata Linen Plan and Copies

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

END OF CONDITIONS

ATTACHMENT 2

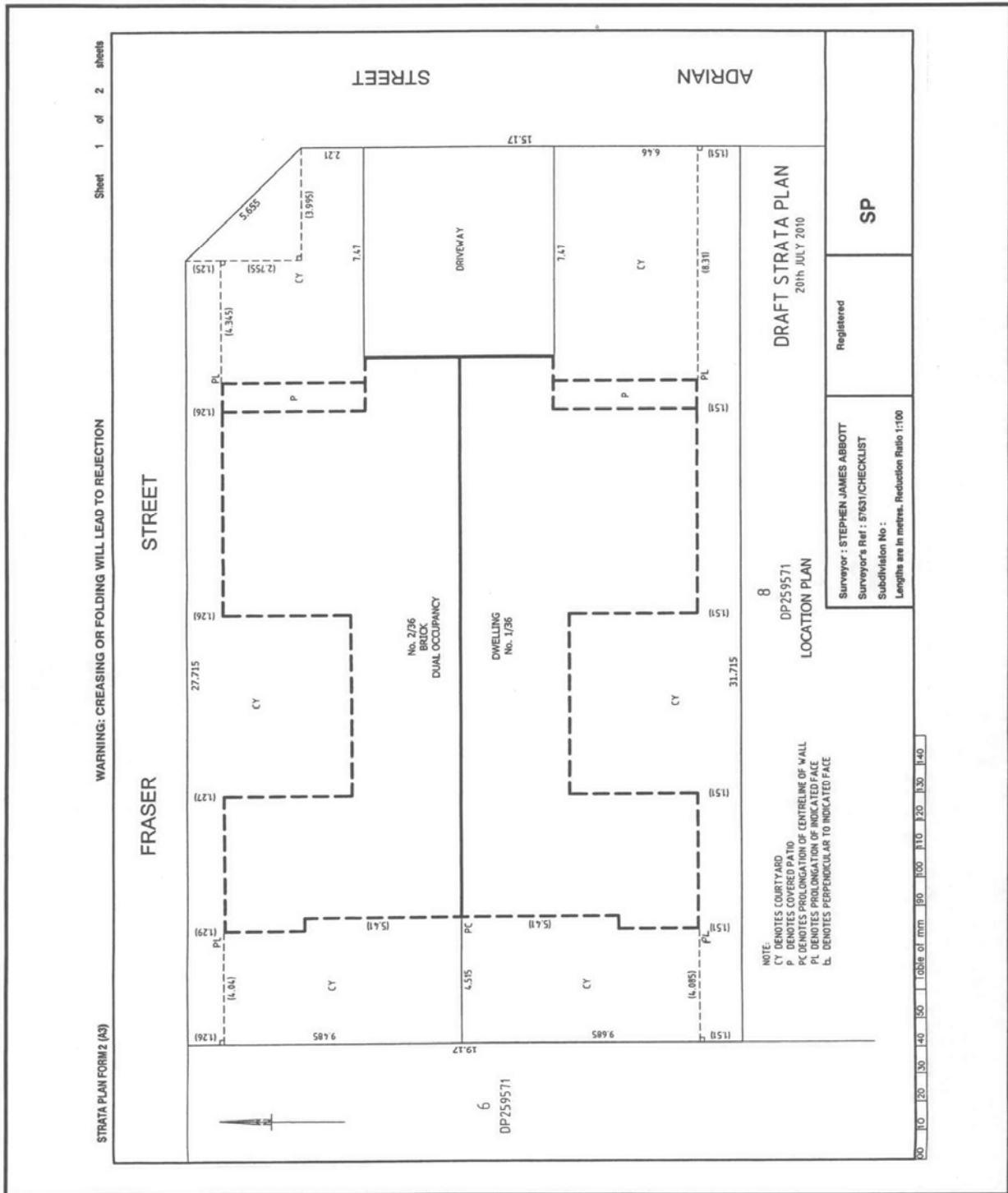


LOCALITY PLAN



SUBJECT: No. 36 FRASER STREET, MACQUARIE FIELDS -
2 LOT STRATA SUBDIVISION

ATTACHMENT 3



PROPOSED STRATA SUBDIVISION PLAN

SUBJECT: No. 36 FRASER STREET, MACQUARIE FIELDS -
 2 LOT STRATA SUBDIVISION

4. COMPLIANCE SERVICES

4.1 Legal Status Report

Reporting Officer

Manager Compliance Services

Attachments

Nil

Purpose

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

Report

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

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

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

1. <i>Land and Environment Court Class 1 Matters – Appeals Against Council's Determination of Development Applications</i>

Total ongoing Class 1 DA Appeal Matters (as at 31/08/2010)	1
Total completed Class 1 DA Appeal Matters (as at 31/08/2010)	0
Costs from 1 July 2010 for Class 1 DA Appeal Matters:	\$37,134.42

1 (a)

Angelo Skagias and Nick Skagias

Issue:

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

Property:

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

Property Owner:

Mr Angelo Skagias and Mr Nick Scagias

File No:

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

Court Application Filed: 9 March 2010
Applicant: Mr. Angelo Skagias and Mr. Nick Skagias
Hearing date: 12 and 13 July 2010
Costs Estimate: \$20,000.00 (exclusive of Barristers, Court Appointed Experts or disbursement fees)
Costs to date: \$37,002.07
Status: Proceedings completed. Awaiting solicitor's final costs.

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

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

Total ongoing Class 1 Order/Notice Appeal Matters (as at 31/08/2010) 1
Total completed Class 1 Order/Notice Appeal Matters (as at 31/08/2010) 0
Costs from 1 July 2010 for Class 1 Order/Notices Appeal Matters: \$0.00

2 (a)
Issue: **Lalita Devi Lal and Vivian Praveen Lal**
Appeal against terms of an Order 2 given by Council on 7 April 2010 under the Environmental Planning and Assessment Act 1979 requiring an unauthorised metal awning and timber deck to be demolished.
Property: Lot 306 DP 870579 No. 30 Blair Athol Drive, Blair Athol.
Property Owner: Miss Lalita Devi Lal and Mr. Vivian Praveen Lal
File No: Court File 10634 of 2010
Court Application Filed: 11 August 2010
Applicant: Miss Lalita Devi Lal and Mr. Vivian Praveen Lal
Callover date: 16 September 2010
Costs Estimate: \$5,000.00 (exclusive of Barristers, Court Appointed Experts or disbursement fees)
Costs to date: \$0.00
Status: New matter.

Action Since Last Meeting Council's solicitor has written to the applicants and put them on notice of Council's intention to file a notice of motion to dismiss the proceedings, as the application is outside the statutory time limit for filing of the appeal with the Court.

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

Total ongoing Class 4 matters before the Court (as at 31/08/2010)	0
Total completed Class 4 matters (as at 31/08/2010)	0
Total ongoing Class 4 matters in respect of costs recovery (as at 31/08/2010) these matters will be further reported on completion	4
Costs from 1 July 2010 for Class 4 matters	\$0.00

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

Total ongoing Class 5 matters before the Court (as at 31/08/2010)	0
Total completed Class 5 matters (as at 31/08/2010)	0
Total ongoing Class 5 matters in respect of costs recovery (as at 31/08/2010) these matter will be further reported on completion	2
Costs from 1 July 2010 for Class 5 matters	\$4,832.98

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

Total ongoing Class 6 Matters (as at 31/08/2010)	0
Total completed Class 6 Matters (as at 31/08/2010)	0
Costs from 1 July 2010 for Class 6 Matters	\$0.00

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

Total ongoing Appeal matters before the Court (as at 31/08/2010)	0
Total completed Appeal matters (as at 31/08/2010)	0
Total ongoing Appeal matters in respect of costs recovery (as at 31/08/2010) these matters will be further reported on completion	1
Costs from 1 July 2010 for District Court Matters	\$0.00

7. Local Court Prosecution Matters

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

Total ongoing Local Court Matters (as at 31/08/2010)	17
Total completed Local Court Matters (as at 31/08/2010)	13
Costs from 1 July 2010 for Local Court Matters	\$1,702.73

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

File No:	LP 29/10 – Penalty Notice Court Election
Offence:	Development undertaken without development consent
Act:	Environmental Planning and Assessment Act
Final Costs:	\$1,650.00
Status – Completed:	The matter was before the Court for hearing on 13 August 2010 where the defendant advised the Court that they were changing their plea to guilty with an explanation. After considering the evidence and submissions the Magistrate found the offence proved and directed that under Section 10A(1) of the Crimes (Sentencing Procedure) Act no conviction be recorded and made an order for \$500 costs.

File No:	LP 30/10 – Penalty Notice Court Election
Offence:	Pollute Waters - Corporation
Act:	Protection of the Environment Operations Act
Costs to date:	\$0.00
Status – Ongoing:	The matter was listed for first mention on 25 May 2010 where the accused entered a not guilty plea. The matter has been adjourned to 13 September 2010 for hearing.

File No:	LP 31/10 – Penalty Notice Court Election
Offence:	Pollute Waters - Corporation
Act:	Protection of the Environment Operations Act
Costs to date:	\$0.00
Status – Ongoing:	The matter was listed for first mention on 25 May 2010 where the accused entered a not guilty plea. The matter has been adjourned to 13 September 2010 for hearing.

File No: LP 32/10 – Penalty Notice Court Election
Offence: Pollute Waters - Corporation
Act: Protection of the Environment Operations Act
Costs to date: \$0.00
Status – Ongoing: The matter was listed for first mention on 25 May 2010 where the accused entered a not guilty plea. The matter has been adjourned to 13 September 2010 for hearing.

File No: LP 33/10 – Penalty Notice Court Election
Offence: Development not in accordance with development consent
Act: Environmental Planning and Assessment Act
Costs to date: \$0.00
Status – Ongoing: The matter was listed for first mention on 25 May 2010 where the accused entered a not guilty plea. The matter has been adjourned to 13 September 2010 for hearing.

File No: LP 34/10 – Penalty Notice Court Election
Offence: Development not in accordance with development consent
Act: Environmental Planning and Assessment Act
Costs to date: \$0.00
Status – Ongoing: The matter was listed for first mention on 25 May 2010 where the accused entered a not guilty plea. The matter has been adjourned to 13 September for hearing.

File No: LP 37/10 – Penalty Notice Court Election
Offence: Stop in/on bicycle lane
Act: Road Rules 2008
Costs to date: \$0.00
Status – Ongoing: The matter was before the Court for mention on 13 July 2010 where the Defendant entered a not guilty plea. The Court adjourned the matter to 9 September 2010 for hearing.

File No: LP 38/10 – Penalty Notice Court Election
Offence: Uncontrolled dog in a public place – not dangerous dog
Act: Companion Animals Act
Costs to date: \$0.00
Status – Ongoing: The matter was before the Court for mention on 6 July 2010 where the Defendant entered a not guilty plea. The Court adjourned the matter to 6 September for hearing.

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

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

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

File No: LP 48/10 – Penalty Notice Court Election
Offence: Fail to comply with Order (conduct development in accordance with consent)
Act: Environmental Planning and Assessment Act
Final Costs: \$0.00
Status – Completed: The matter was before the Court on 24 August 2010 for mention where the defendant, World Best Holdings Limited, made no appearance. The Magistrate granted an application by Council for the matter to proceed in the defendant's absence and after considering the evidence and submissions, the Magistrate found the offence proved and convicted the defendant imposing a \$3000 fine and an order for Court costs of \$79.

File No: LP 50/10 – Penalty Notice Court Election
Offence: Uncontrolled dog in a public place – not dangerous dog
Act: Companion Animals Act
Final Costs: \$0.00
Status – Completed: The matter was before the Court on 17 August 2010 for mention where the defendant, Elias Grandy, entered a guilty plea with explanation. After hearing the evidence and submissions, the Magistrate found the offence proved and convicted the defendant imposing a \$100 fine and an order for Court costs of \$79.

File No: LP 51/10 – Penalty Notice Court Election
Offence: Disobey no stopping sign – school zone
Act: Road Rules 2008
Final Costs: \$0.00
Status – Completed: The matter was before the Court for mention on 17 August 2010 where the defendant entered a guilty with explanation. After considering the evidence and submissions the Magistrate found the offence proved and directed that under Section 10A(1) of the Crimes (Sentencing Procedure) Act no conviction be recorded and made an order for \$500 costs.

File No: LP 52/10 – Penalty Notice Court Election
Offence: Uncontrolled dog in a public place – not dangerous dog
Act: Companion Animals Act
Final Costs: \$0.00
Status – Completed: The matter was before the Court for mention on 24 August 2010 where the defendant entered a guilty plea with explanation. After considering the evidence and submissions the Magistrate found the offence proved and directed that under Section 10A(1) of the Crimes (Sentencing Procedure) Act no conviction be recorded.

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

File No: LP 54/10 – Penalty Notice Court Election
Offence: Uncontrolled dog in prohibited – not dangerous dog
Act: Companion Animals Act
Final Costs: \$0.00
Status – Completed: The matter was before the Court for mention on 24 August 2010 where the defendant entered a guilty plea with explanation. After considering the evidence and submissions the Magistrate found the offence proved and directed that under Section 10A(1) of the Crimes (Sentencing Procedure) Act no conviction be recorded.

File No: LP 55/10 – Penalty Notice Court Election
Offence: Not park parallel and in direction of travel
Act: Road Rules 2008
Costs to date: \$0.00
Status – New Matter: Listed for first mention on 7 September 2010.

File No: LP 56/10 – Penalty Notice Court Election
Offence: Uncontrolled dog in a public place – not dangerous dog
Act: Companion Animals Act
Costs to date: \$0.00
Status – New Matter: Listed for first mention on 7 September 2010.

File No: LP 57/10 – Penalty Notice Court Election
Offence: Unregistered dog – not dangerous dog
Act: Companion Animals Act
Costs to date: \$0.00
Status – New Matter: Listed for first mention on 14 September 2010.

File No: LP 58/10 – Penalty Notice Court Election
Offence: Uncontrolled dog in a public place – not dangerous dog
Act: Companion Animals Act
Costs to date: \$0.00
Status – New Matter: Listed for first mention on 21 September 2010.

File No: LP 59/10 – Penalty Notice Court Election
Offence: Stop on path/strip in built-up area
Act: Road Rules 2008
Costs to date: \$0.00
Status – New Matter: Listed for first mention on 14 September 2010.

8. Matters Referred to Council’s Solicitor for Advice

The following summary lists the status of matters referred to Council’s Solicitors for advice on questions of law, the likelihood of appeal or prosecution proceedings being initiated, and/or Council liability.

Total Advice Matters (as at 31/08/2010)	2
Costs from 1 July 2010 for Advice Matters	\$3,510.00

9. Legal Costs Summary		
The following summary lists the Planning and Environment Division's net Legal Costs for the 2010/2011 period.		
Relevant Attachments or Tables	Costs Debit	Costs Credit
Class 1 Land and Environment Court - appeals against Council's determination of Development Applications	\$37,134.42	\$0.00
Class 1 Land and Environment Court - appeals against Orders or Notices issued by Council	\$0.00	\$0.00
Class 4 Land and Environment Court matters - non-compliance with Council Orders, Notices or Prosecutions	\$0.00	\$0.00
Class 5 Land and Environment Court - Pollution and Planning prosecution matters	\$6,115.55	\$0.00
Class 6 Land and Environment Court - appeals from convictions relating to environmental matters	\$0.00	\$0.00
Land and Environment Court tree dispute between neighbours matters	\$0.00	\$0.00
District Court Appeal matters	\$0.00	\$0.00
Local Court Prosecution matters	\$2,046.61	\$0.00
Matters referred to Council's Solicitor for Legal Advice	\$3,510.00	\$0.00
Miscellaneous costs not shown elsewhere in this table	\$0.00	\$0.00
Costs Sub-Total	\$48,806.58	\$0.00
Overall Net Costs Total (GST exclusive)	\$48,806.58	

Officer's Recommendation

That the information be noted.

Committee's Recommendation: (Thompson/Greiss)

That the Officer's Recommendation be adopted.

CARRIED

Council Meeting 21 September 2010 (Matheson/Kolkman)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 177

That the Officer's Recommendation be adopted.

5. GENERAL BUSINESS

Nil.

18. CONFIDENTIAL ITEMS

18.1 Confidential Information Relating to Various Items on Planning and Environment Agenda 14 September 2010

Reason for Confidentiality

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

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

There being no further business the meeting closed at 7.59pm.

R Matheson
CHAIRPERSON
