

PART THREE

Reports from the Planning and Environment Committee Meeting held at 7.30pm on Tuesday, 27 April 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

1.1 Outcome of Clean Up Australia Day 2010

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2. ENVIRONMENTAL PLANNING

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3. DEVELOPMENT SERVICES

3.1 Development Services Section Application Statistics - March 2010

3.2 Accreditation of Council's Building Surveyors in Accordance with the Building Professionals Board's Accreditation Scheme

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PART TWO

- 3.4 No. 7 Westland Close Raby - Construction of seven single storey multi dwellings and the demolition of an existing dwelling house**

PART THREE

- 3.5 Lot 229 Kellicar Road, Campbelltown - Construction of 235 senior living housing dwellings, a community centre, use of 6 dwellings temporarily as a display village and associated landscaping, roads, parking, infrastructure and earthworks**

4. COMPLIANCE SERVICES

- 4.1 Legal Status Report**

5. GENERAL BUSINESS

10. CONFIDENTIAL ITEMS

- 10.1 Confidential Information relating to the Planning and Environment Committee
- 27 April 2010**
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Minutes of the Planning and Environment Committee held on 27 April 2010

Present

- Councillor R Matheson (Chairperson)
- Councillor J Bourke
- Councillor G Greiss
- Councillor R Kolkman
- Councillor M Oates
- Councillor J Rowell
- General Manager - Mr P Tosi
- Director Planning and Environment - Mr J Lawrence
- Manager Development Services - Mr J Baldwin
- Manager Compliance Services - Mr A Spooner
- Manager Waste and Recycling Services - Mr P Macdonald
- Acting Manager Communications and Marketing - Ms J Uluibau
- Manager Community Resources and Development - Mr B McCausland
- Environmental Planning Coordinator - Renee Winsor
- Corporate Support Coordinator - Mr T Rouen
- Executive Assistant - Mrs D Taylor

Apology (Rowell/Kolkman)

That the apology from Councillor Thompson 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:

Non Pecuniary – Less than Significant Interests

Councillor Greiss - Item 4.1 - Legal Status Report, Pope Shenouda III Coptic Christian Centre - Councillor Greiss advised that he attends the Church in question on average on a fortnightly basis. He is not on the board nor does he receive remuneration.

3.5 Lot 229 Kellicar Road, Campbelltown - Construction Of 235 Senior Living Housing Dwellings, A Community Centre, Use Of 6 Dwellings Temporarily As A Display Village And Associated Landscaping, Roads, Parking, Infrastructure And Earthworks

3.5 Lot 229 Kellicar Road, Campbelltown - Construction of 235 senior living housing dwellings, a community centre, use of 6 dwellings temporarily as a display village and associated landscaping, roads, parking, infrastructure and earthworks

Reporting Officer

Manager Development Services

Attachments

1. Recommended Conditions of Consent
2. Locality plan
3. Site analysis plan
4. Site plan
5. Site staging plan
6. Macarthur Regional Centre Masterplan Extract - Key Community Infrastructure (under separate cover)
7. Masterplan Consent (F540/2003 & G111/2003) (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*.

Property Description	Lot 4 DP 800736, Lot 39 DP 1082896, Lots 3701, 3702, 3704, 3707, 3711 & 3713 DP 1127973, Kellicar Road, Campbelltown (Known as Lot 229, Kellicar Road)
Application No	1318/2009/DA-SL
Applicant	Stockland Development Pty Ltd
Owner	Landcom
Statutory Provisions	Campbelltown (Urban Area) Local Environmental Plan 2002 State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 Campbelltown (Sustainable City) Development Control Plan 2009
Other Provisions	Campbelltown 2025 - <i>Looking Forward</i>
Date Received	30 June 2009

3.5 Lot 229 Kellicar Road, Campbelltown - Construction Of 235 Senior Living Housing Dwellings, A Community Centre, Use Of 6 Dwellings Temporarily As A Display Village And Associated Landscaping, Roads, Parking, Infrastructure And Earthworks

Preamble

In a joint venture partnership, Landcom and Stockland (the Applicant) approached Council in June 2002 with a vision to establish a Master Plan for the development of 50 hectares of land at the Macarthur Regional Centre. The Master Plan would provide the planning framework for the development of a major new urban development comprising residential, commercial, open space and community infrastructure within a strategically important parcel of land within the Macarthur region. Council agreed to establish a Project Control Group (PCG) with the Applicant and together with input from a number of public and private sector stakeholders as well as the wider community, commenced the planning process.

Over the subsequent 18 months under the guidance of the PCG, the Applicant made a number of presentations to Council and conducted a series of community and stakeholder workshops. These meetings culminated in a presentation to Council on 6 May 2003, whereby the Applicant made a joint presentation on the preferred Master Plan to be formally presented to Council and the community.

On 16 June 2003, the Applicant lodged an integrated development application for the Master Plan known as 'Macarthur Regional Centre Master Plan'. Following lodgement of the application, the proponent commenced marketing the development as "Macarthur Gardens".

On 25 July 2003, the Minister for Housing, The Honourable Carl Scully officially launched the Master Plan for the development of the Macarthur Regional Centre.

Key Features of The Master Plan

The Master Plan provides for the future development of mixed density housing, commercial development and open space. A key principle that underpins the Master Plan is the adoption of 'social' 'economic' and 'environmental' principles to achieve a sustainable outcome.

The Master Plan identified the need to connect the development to its surrounds at multiple points. Walking/cycling links, road links, and connections to bus and train routes form part of the overall Master Plan. The Master Plan provides a clear urban structure to create easy movement and help people find their way around. The main routes of Kellicar Road, Gilchrist Drive and Menangle Road and Narellan Road are linked to internal connector boulevards, which give access to local streets. Larger streets will convey buses and cyclists as well as cars and pedestrians.

Design guidelines and development controls have been prepared alongside the Master Plan to guide the future built form that will comprise a variety of housing choices. The residential types provided for within the Master Plan comprise of mixed use housing, park front apartments, mansion apartments, attached houses, compact houses/duplexes, courtyard houses and detached houses. The key characteristics of each residential type are detailed in the Master Plan document.

3.5 Lot 229 Kellicar Road, Campbelltown - Construction Of 235 Senior Living Housing Dwellings, A Community Centre, Use Of 6 Dwellings Temporarily As A Display Village And Associated Landscaping, Roads, Parking, Infrastructure And Earthworks

History

Council approved development applications F540/2003 and G111/2003 on 16 December 2003 for the Master Plan for the Macarthur Regional Centre and closure of certain roads within the Master Plan area. The approved master plan relates to two parcels of land, being located north of the Southern Railway adjacent to the Campbelltown campus of the University of Western Sydney and south of the Southern Railway adjacent to Macarthur Square.

Condition 1 of the Master Plan development consent requires the submission of separate development applications for each stage of construction. Stages 1 and 2 have been approved with construction of residential dwellings ongoing. Stages 3, 4 & 5 all have subdivision development consents granted by Council. The proposed seniors living residential development would be located within Stages 4, 5, 6 and part of stage 7 of the master plan. The subdivision development consents for Stages 4 & 5 provide for 107 residential lots.

The originally approved Macarthur Gardens Master Plan also provided for certain densities to be achieved within the area being a minimum of 40 dwellings per hectare on the southern side of the rail line and a minimum of 60 dwellings per hectare on the northern side of the rail line.

Report

Introduction

Council is in receipt of a development application for the construction of two hundred and thirty five (235) senior living housing dwellings, a community centre, use of six proposed dwellings temporarily as a display village and associated landscaping, roads, parking, infrastructure and earthworks at Lot 229 Kellicar Road, Campbelltown.

The Site

The subject site is an irregular shaped allotment with a total area of approximately 10.16 hectares and will occupy the areas of Stages 4, 5, 6 and part of 7 of the approved Macarthur Gardens Master Plan. The site currently has road frontage to the formed section of Gilchrist Drive between the roundabouts at Therry Road and Englorie Park Drive.

The site has a ridge that runs in a northeast/southwest direction creating two catchments. The eastern catchment slopes towards the Macarthur Square Shopping Centre and the western catchment slopes towards the unnamed creek which is a tributary of Bow Bowing Creek. The southern catchment has a slope of approximately 5% towards the ridge, increasing to 25% at the south eastern boundary. The northern catchment has an even slope of approximately 10%.

The south eastern corner of the site has been cleared and bulk earthworks have commenced in accordance with a previous development consent. The remainder of the site contains scattered vegetation and informal tracks located randomly across the site.

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The subject site is within close proximity to major regional infrastructure and services such as Macarthur Square shopping centre, Campbelltown Hospital, Campbelltown Business Centre and railway station, the Campbelltown Golf Course, the University of Western Sydney, Campbelltown TAFE College and the Macarthur Railway Station. The subject site is characterised by low and medium density residential development located to the west and northwest of the site, which incorporates the earlier stages of the Macarthur Gardens Master Plan development.

The Development

The proposed development comprises of the following:

- Construction of two hundred and thirty five (235) self contained seniors living residential dwellings;
 - Use of six dwellings in the first construction stage as a display village;
 - A community centre located in the centre of the retirement village providing facilities for the residents of the seniors living development including reception and staff rooms, hall, lounge, small cinema, indoor pool, gym, salon, medical consulting rooms, meeting rooms and amenities over two levels;
 - Private internal roads;
 - Two hundred and ninety four (294) car parking spaces for residents provided in the form of garages and carports, and forty visitor car parking spaces with sixteen located around the community centre and the remainder provided in parking bays distributed throughout the site;
 - Provision of an RV parking area specifically designed for larger vehicles such as "Winnebago" style vehicles and caravans;
 - Infrastructure within the retirement village including stormwater and utilities;
 - Open space areas, communal gardens and landscaping throughout the village;
 - Cut and fill including a retaining wall along the eastern boundary; and
 - Perimeter fencing and recessed entry gates from Gilchrist Drive.
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The development would consist of a mix of nine different housing types comprising of two bedroom, two bedroom plus study and three bedroom dwellings of varying sizes and floor plans as detailed in the table below:

House Type	Number	Bedrooms	Floor Area (ex. Garage)	Garage per dwelling	Carport per dwelling	Visitor Spaces per house type	Private Open Space
A	30	2	96sqm		1	5	54sqm
B	21	2	96sqm		1	6	70sqm
D	31	2	101sqm	1		2	41sqm
F	29	2 plus study	111sqm	1		12	40sqm
M	37	2 plus study	118sqm	2		2	66.4sqm
N	22	2 plus study	126sqm	2		1	46.5sqm
Over	22	2	99sqm	1		12	17sqm
Under	22	2	109sqm	1			38sqm
Z	21	2	91sqm		1		28sqm

The dwellings are to be constructed utilising a variety of materials depending on house type and style. The community centre is also proposed to be constructed using similar materials to that of the dwellings in order to provide a consistent design approach throughout the retirement village. A schedule of external colours and building materials has been submitted with the proposed application.

The main vehicular access to the development is via the existing roundabout located at the intersection of Gilchrist Drive and Englorie Park Drive. The previously approved Master Plan provided for a north-south road which connected with other future internal roads linking with the surrounding area. This principle has been retained with the provision of a secondary entry to the site along the eastern boundary. This secondary entrance can be constructed when the adjoining land is redeveloped and the future road is constructed in accordance with the approved Master Plan. The future Gilchrist Drive extension running along the south western border of the site is to be retained and would be constructed in tandem with this development. The main entrance to the retirement village has been designed so that the gates are recessed back from the street and a vehicular circulation loop has been provided on the "outside" of the gates to enable cars that have inadvertently entered the site to return to Gilchrist Drive without reversing.

The proposal would be built in nine stages (see attachment 5 for staging details). The community centre is proposed to be constructed once stages 1 and 2 have been completed.

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The display village would comprise of six self contained dwellings located in Stage 1 of the development. The dwellings proposed to be used for the display village are located close to the entrance into the retirement village fronting Gilchrist Drive. The display homes would operate on a temporary basis and would cease use after an occupation certificate has been issued for Stage 1 of the development. The dwellings would then be offered for lease in the same manner as the other dwellings within the retirement village. Details concerning the operation of the retirement village are set out below.

Operation of the Retirement Village

A report on the operation and management of the retirement village was submitted as part of the proposed development application. The report provides a brief overview of the management of the retirement village as well as the services to be provided to residents.

Village Management

The proposed retirement village including all of the dwellings, communal areas and buildings would form a private development owned and managed by Stockland. The development would occupy one site (being on one title) and would not be individually subdivided into residential allotments. Stockland will take all necessary steps to register the one allotment as a retirement village under the provisions of the Retirement Villages Amendment Bill 2006 and, upon completion of the retirement village, Stockland would enter into village contracts with residents, as those terms are defined under the Retirement Villages Act 1999.

The contractual arrangements for the tenancy of residents at the retirement village would be by way of a 'loan/lease' arrangement whereby Stockland grants a lease to occupy a dwelling to the resident. All areas within the village including open space and roads would be private property and shall be constructed by Stockland and maintained by the Village Service Association, for the exclusive use of the village residents and their guests.

The retirement village would be managed by a not-for-profit Service Association established and operated under the Associations Incorporation Act 1984 (NSW). There are two classes of members of the Service Association, the permanent members (who would be from Stockland) and the resident members (residents entitled for the time being to possession of a dwelling at the village and admitted to membership). The Service Association would be managed by a Committee of Management that may comprise up to seven resident members and three Stockland members.

The Committee of Management would have a wide range of functions that include:

- Calling and conducting meetings of residents to consider and vote on matters relating to the functions of the retirement village and services provided;
 - Reporting to the operator decisions made by residents on matters requiring residents' consent'
 - Receiving financial accounts;
 - Forming sub-committees;
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- Proposing amendments to village rules or to the level of village services and facilities;
- Acting as another contact point for prospective residents; and
- Employment of staff such as the Manger and a nurse.

At the commencement of the new village, Stockland would undertake the lease of the dwellings and the administration of the Service Association during the "settling in" period. Until the village is completed, a Manager is employed and Resident Members elected to the Committee of Management, Stockland would carry out the management role. The role of Stockland is summarised as follows:

- To refurbish, upgrade and lease dwellings with the assistance of the Manager, who for these purposes is under Stockland's direction and control;
- To provide administrative support to the Resident Committee Members;
- To have a representation at Committee and General Meetings of the Service Association;
- To disseminate appropriate relevant information to the Resident Committee Members;
- To give advice on industrial relations issues the Resident Committee Members;
- To give advice to residents and families; and
- To assist the Manager with the creation of financial budgets.

The village would have an on site manger who would be responsible for the day to day operation of the village. The onsite manager would be responsible for the employment and management of any other staff as required.

The village would also have a full time resident nurse on call Monday to Fridays, 9am - 5pm with an after hours medical emergency call system. The primary role of the nurse is to facilitate appointments by consultants in the community centre building, control the dispensing of prescriptions and medication, as well as be the point of contact in case of an emergency.

The proposed village would also provide the following services to residents:

- Extensive social programs;
 - Village bus;
 - Religious services;
 - Hairdresser and beauty services;
 - Emergency call system for medical assistance in each dwelling;
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- Intercom system for entry gates; and
- Access to support services such as home cleaning and the provision of meals if required. These services are not provided as a standard daily service as the majority of residents would live independently.

These services are provided exclusively for the residents with the provision of these services covered by the weekly fees that the residents pay. Members of the public may use some of these services but only if invited by a resident as a guest and at the discretion of the village management.

The community centre would be a centrally located hub for activities for the residents. The community centre has been designed to allow for pedestrian friendly access through landscaped paths. The community centre would provide facilities such as café and dining areas, dance floor, craft/multi purpose room, library, cinema, indoor bowls, outdoor bowls, billiards, meeting rooms, village hall, indoor swimming pool, gym, medical consulting rooms, outdoor terrace and BBQ areas and a men's workshop.

Each resident would be responsible for the payment of Council rates attributed to their individual dwelling. As the village falls under the Retirement Villages Act, the village upon completion is exempt from land tax and as such residents would not be liable to pay land tax.

Residents would pay a weekly service levy which covers the cost of maintaining the village and salaries of the village manager, nurse and other associated staff.

The retirement village would be targeted at independent retirees who are currently living in private residences. The majority of residents would still be active, independent, medically fit and it is expected that many would still drive. Should residents require higher levels of care, the retirement village would provide access to support services should they be required. However, should residents require a higher level of care than is able to be provided by the retirement village, the village Manager and Nurse would work with the local Aged Care Assessment Teams (ACAT), established under the Federal Government, to find appropriate accommodation in a facility better suited to providing higher levels of care. It is noted that there is a high and low care residential aged care facility located within Park Central (Illawarra Retirement Village) which is expected to be the preferred facility for residents of Macarthur Gardens should the availability exists. Furthermore, there is an additional six other aged care facilities currently operating in the Campbelltown region.

Campbelltown 2025 Looking Forward

'Campbelltown 2025 Looking Forward' is a 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.*
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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,*
- *Creating employment and entrepreneurial opportunities.*

The proposed development is considered to be generally consistent with these directions.

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 environmental sustainable; and*
- *Development and land use that matches environmental capacity and capability.*

The development is considered to be generally consistent with the relevant desired outcomes within Campbelltown 2025 as the proposed development and land use matches the environmental capacity of the site and the overall residential intent of the general area as originally set out in the Council approved Master Plan for Macarthur Gardens. Accordingly, it is considered that the development would not have an adverse impact on the surrounding locality and is located on a site that is considered suitable for the proposed use.

Assessment

The development has been assessed having regard to the matters for 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 (CLEP 2002)

The subject site is zoned 10(a) Regional Comprehensive Centre under the provisions of Campbelltown (Urban Area) Local Environmental Plan 2002. The proposed development is defined as *'self contained seniors housing'* and is permissible within the zone.

The objectives of the 10(a) Regional Comprehensive Centre zone, of relevance to the proposed development are:

- a) *To encourage a variety of forms of higher density housing, including accommodation for older people and people with disabilities in locations which are accessible to public transport, employment, retail, commercial and service facilities.*

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

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It is a requirement of the CLEP that development must be consistent with at least one of the zone objectives in order that Council can grant development consent. It is considered that the proposal would provide a range of housing choices for older people and people with disabilities in an area that is located within close proximity to public transport, employment, retail, commercial and service facilities. In addition, the proposal would encourage a high quality standard of development that is aesthetically pleasing and functional. Therefore, it is considered that the development is consistent with the relevant zone objectives as required by CLEP and Council is able to grant development consent to the proposal should it deem appropriate.

2. State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 provides development standards for developments that are for the purposes of housing for seniors or people with a disability. The aims of the SEPP are:

- (1) *To encourage the provision of housing (including residential care facilities) that will:*
 - (a) *increase the supply and diversity of residences that meet the needs of seniors or people with a disability, and*
 - (b) *make efficient use of existing infrastructure and services, and*
 - (c) *be of good design.*
- (2) *These aims will be achieved by:*
 - (a) *setting aside local planning controls that would prevent the development of housing for seniors or people with a disability that meets the development criteria and standards specified in this Policy, and*
 - (b) *setting out design principles that should be followed to achieve built form that responds to the characteristics of its site and form, and*
 - (c) *ensuring that applicants provide support services for seniors or people with a disability for developments on land adjoining land zoned primarily for urban purposes.*

The proposed development satisfies the aims of the SEPP as it provides a development that would encourage the supply and diversity of residences to meet the needs of seniors as well as be of good design and utilising the existing infrastructure and services in close proximity to the site.

Clause 10 - Seniors Housing

Under the provisions of Clause 10 of the SEPP, the proposed development is considered to be seniors housing as it comprises a group of self contained dwellings. Self contained dwellings for the purposes of seniors living is defined as:

13 *Self-contained dwellings*

(a) *General term: "self-contained dwelling"*

In this Policy, a self-contained dwelling is a dwelling or part of a building (other than a hostel), whether attached to another dwelling or not, housing seniors or people with a disability, where private facilities for significant cooking, sleeping and washing are included in the dwelling or part of the building, but where clothes washing facilities or other facilities for use in connection with the dwelling or part of the building may be provided on a shared basis.

(b) *Example: "in-fill self-care housing"*

In this Policy, in-fill self-care housing is seniors housing on land zoned primarily for urban purposes that consists of 2 or more self-contained dwellings where none of the following services are provided on site as part of the development: meals, cleaning services, personal care, nursing care.

(c) *Example: "serviced self-care housing"*

In this Policy, serviced self-care housing is seniors housing that consists of self-contained dwellings where the following services are available on the site: meals, cleaning services, personal care, nursing care.

In addition to the self contained dwellings, a community centre is proposed as part of the village development which will provide other facilities to complement the self contained dwellings including administration areas, community rooms, swimming pool, gym, activity rooms, hairdressing salons and consulting rooms. These facilities would be provided for the exclusive use and convenience of residents of the proposed development.

Clause 24 - Site Compatibility Certificate

Clause 24 - Site Compatibility Certificate states the following:

- (1) *This clause applies to a development application made pursuant to this Chapter in respect of development for the purposes of seniors housing (other than dual occupancy) if:*
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- (a) *the development is proposed to be carried out on any of the following land to which this Policy applies:*
 - (i) *land that adjoins land zoned primarily for urban purposes,*
 - (ii) *land that is within a zone that is identified as "special uses" under another environmental planning instrument (other than land on which development for the purposes of hospitals is permitted),*
 - (iii) *land that is used for the purposes of an existing registered club, or*
- (b) *the development application involves buildings having a floor space ratio that would require the consent authority to grant consent under clause 45.*

(1A) *Despite subclause (1), this clause does not apply to a development application made pursuant to this Chapter in respect of development for the purposes of seniors housing if the proposed development is permissible with consent on the land concerned under the zoning of another environmental planning instrument.*

The subject site on which the proposed retirement village would be located is zoned 10(a) Regional Comprehensive Centre zone where seniors living developments are permissible subject to development consent. The subject site is considered to be land zoned primarily for urban purposes as well as the proposed seniors living being permissible within the zone, and as such a site compatibility certificate is not required.

Part 2 - Site Related Requirements

Part 2 of the SEPP sets out certain requirements relating to the site of a proposed seniors housing development. An assessment against the standards within Part 2 is detailed below:

SEPP 2004 Provision	Requirement	Proposal	Complies
Location and access to Facilities	<p>Written evidence that the proposal would have access to shops, banks, retail, commercial, community services and recreation facilities</p> <p>Access is to be either direct access within 400m or access to public transport service within 400m</p>	<p>Accessibility report provided that details pedestrian access from the boundary of the site to the boundary of Macarthur Square being 50 metres and a further 170 metres to the doors of Big W where there is then a continuous path of travel to the whole of the Macarthur Square shopping centre</p> <p>Public transport is also provided via "Busways" services operating during the week and on weekends. The following services are provided:</p>	Yes

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SEPP 2004 Provision	Requirement	Proposal	Complies
		<p>- Bus route 886 leads south to Glen Alpine and surrounding areas;</p> <p>- Bus route 887 leads to Appin and Wollongong and surrounding areas;</p> <p>- Bus 888 leads to Ambarvale, Rosemeadow and St Helens Park</p> <p>- Bus route 889 leads south to Menangle Park and surrounding areas.</p> <p>Macarthur Railway Station is located approximately 700m to the north</p>	
Bushfire Prone Land	Consent not to be granted on bushfire prone land unless an assessment has been undertaken in accordance with <i>Planning for Bushfire Protection</i>	Subject site is not identified as being bushfire prone land	Yes
Water and Sewer	Consent not to be granted unless satisfactory evidence of access to reticulated water system and adequate removal or disposal of sewage	Utilities and infrastructure are already available for site connection. Engineering report submitted detailing servicing requirements for the site	Yes
Compatibility criteria	<p>Proposal to consider:</p> <ul style="list-style-type: none"> - natural environment - services and infrastructure that are or will be available to service the site - bulk, scale, built form and character of the proposal 	<p>Impact of the proposal on the natural environment discussed later in this report.</p> <p>Services and infrastructure requirements are discussed in engineering report submitted and are considered to be satisfactory</p> <p>Impact of built form is addressed later in this report.</p>	Yes

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Part 3 - Design Requirements

Part 3 of the SEPP sets out certain requirements relating to the design of seniors living proposals and are detailed below:

SEPP 2004 Provision	Requirement	Proposal	Complies
Site Analysis	Site analysis to identify site dimensions, topography, services, vegetation, micro climates, location of buildings and structures on adjoining land, views, overshadowing, privacy, varying site levels, views, solar access, trees, street frontage features, heritage, built form of adjoining buildings, open space areas, access to facilities and sources of nuisance	Site analysis plan has been submitted that details the relevant requirements	Yes
Neighbourhood Amenity and Streetscape	Development should take into consideration location character, retain any heritage conservation areas, maintain reasonable neighbourhood amenity, retain existing trees and not build within a riparian zone	Proposal complements the character of the locality, maintains reasonable neighbourhood amenity and does not propose any buildings in a riparian zone Conservation heritage and retention/removal of trees are discussed later in this report	Yes
Visual and Acoustic Privacy	Consider visual and acoustic provision in site planning, design of dwellings and location of dwellings	Proposed dwellings would not be adversely affected by noise and/or adverse privacy impacts	Yes
Solar access and climate	Ensure adequate daylight in private open space areas and main living areas	Proposed dwellings are single storey in nature and located to maximise solar access	Yes
Stormwater	Minimise impacts of stormwater runoff	Stormwater has been addressed in engineering report and is considered a satisfactory solution	Yes
Crime Prevention	Provide surveillance to approach paths of dwellings as well as to open space areas surrounding dwellings	Crime prevention discussed later in this report	Yes

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SEPP 2004 Provision	Requirement	Proposal	Complies
Accessibility	Have safe pedestrian and vehicular links throughout the site and to external areas of the site	Accessibility report provided with satisfactory arrangements to be put in place	Yes
Waste Management	Provision of waste facilities and recycling facilities	Waste and recycling facilities provided. A waste management plan was submitted and assessed by Council's Senior Waste Management Officer. No issues raised	Yes

Part 4 - Development Standards

Part 4 of the SEPP sets out the required development standards to be complied with and are detailed below

SEPP 2004 Provision	Requirement	Proposal	Complies
Minimum Site Area	Site must be at least 1,000 square metres	101,595.87 square metres	Yes
Minimum Site Frontage	20 metres wide measured at the building line	Site frontage to Gilchrist drive is well in excess of 20 metres	Yes
Height	8 metres or less in zones where residential flat buildings are not permitted	Residential flat buildings are permissible in 10(a) zone so height limit not applicable It is noted that Council's SCDCP limits height within the precinct to be two storeys. All proposed dwellings are single storeys	Yes

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SEPP 2004 Provision	Requirement	Proposal	Complies
Siting Standards	<p>If the whole of the site has a gradient of less than 1:10, 100% of the dwellings must have wheel chair access by a continuous accessible path of travel to an adjoining road</p> <p>If the whole of the site does not have a gradient of less than 1:10, the percentage of dwellings to have wheelchair access to be proportionate or 50% whichever is greater and wheel chair access by a continuous path of travel</p> <p>Access must be provided in accordance with Australian standards for all common areas and/or common facilities</p>	<p>The whole of the site does not have a gradient of less than 1:10 with 27% of the site having a gradient of greater than 1:10. Therefore, 73% of the dwellings must have wheelchair access.</p> <p>Accessibility report confirms that the proposal achieves accessible paths of travel to 80% of the dwellings</p> <p>Accessibility report confirms that accessible paths are provided so that 80% of the dwellings have access to common areas via paths in accordance with Australian Standards</p>	Yes
Security	Pathway lighting to avoid glare for pedestrians and adjacent dwellings and have at least 20 lux at ground level	Pathway lighting can be designed to comply and confirmed with construction certificate application and a condition of consent would be required to comply with the SEPP standard	Yes
Letterboxes	Must be accessible, lockable and located together in a central location	Letterboxes will be located in the mailroom in the community centre which is accessible	Yes
Private Car Accommodation	<p>Car spaces must comply with Australian standards for people with a disability</p> <p>5% of the total number of spaces provided must be designed to enable the width to be increased to 3.8m</p> <p>Must have power operated door or be able to be converted to a power operated door</p>	<p>All car parking spaces have width of 3.8m or able to achieve 3.8m width (accessibility report)</p> <p>Garages can be provided with power operated doors and have been conditioned accordingly</p>	Yes
Accessible Entry	All dwelling entries to comply with relevant Australian Standards	All dwellings have an entrance compliant with the Australian Standards	Yes

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SEPP 2004 Provision	Requirement	Proposal	Complies
Interior	Internal doorways must have minimum clear opening in accordance with Australian Standards Internal corridors must have a minimum unobstructed width of 1,000mm	All internal doorways comply with Australian Standards All internal corridors are minimum of 1,000mm	Yes
Bedroom	One bedroom in each dwelling must be able to accommodate a queen size bed, wardrobe, 1.2m wide clear area at the end of the bed and 1m wide between the bed and wall or other obstruction	Main bedroom in all dwellings comply with requirements	Yes
Bathroom	One bathroom within the dwelling must be located on the ground floor and have facilities arranged within an area that provides for circulation space in accordance with Australian Standards	All bathrooms have sufficient internal dimensions to comply with Australian Standards	Yes
Toilet	Must have one toilet located on the ground floor and comply with relevant Australian Standards	Toilet has been provided within all dwellings located on the ground floor thus complies with Australian Standards	Yes
Surface Finishes	Balconies and external hard stand areas must have slip resistant surfaces	Can be complied with. Details to be provided at construction certificate stage and is conditioned accordingly	Yes
Door Hardware	Door handles and hardware to comply with Australian Standards	Can be complied with. Details provided at construction certificate stage and is conditioned accordingly	Yes
Ancillary Items	Switches and power points must be provided to comply with Australian Standards	Can be complied with. Details provided at construction certificate stage and is conditioned accordingly	Yes
Living Room and Dining Room	Appropriate circulation space, telephone and illumination level of at least 300 Lux	All dwellings have appropriate circulation space. Lighting details to be provided at construction certificate stage and is conditioned accordingly	Yes

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SEPP 2004 Provision	Requirement	Proposal	Complies
Kitchen	Circulation space, fittings and hardware in accordance with Australian Standards	Size and layout of kitchens comply with required Australian Standards	Yes
Access	Kitchen, main bedroom, bathroom and toilet must be located on the ground level of multi storey building	Dwellings are single storey	Yes
Lifts	Lifts must be provided in multi storey buildings	All dwellings are on one level so no lifts are required	Yes
Laundry	Laundries must have required circulation space and room for a washing machine and dryer	Laundries have been provided with required circulation space and clothes drying and washing facilities	Yes
Linen Storage	Linen storage to be provided in accordance with Australian Standards	Linen storage will be provided in accordance with Australian Standards and is conditioned accordingly	Yes
Garbage	Garbage area provided in an accessible area	All dwellings have been provided with a garbage storage area within the courtyard areas of the dwellings	Yes

Part 7 - Development Standards that cannot be used as grounds to refuse Consent

Part 7 of the SEPP contains development standards that cannot be used as grounds for refusal if the proposed development meets the requirements set out in the relevant section. The table below assesses the proposal against the development standards in Clause 50 which relate to self contained dwellings.

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SEPP 2004 Provision	Requirement	Proposal	Complies
Building Height	8m or less in height	All self contained dwellings are less than 8m in height including over and under dwellings	Yes
Density and Scale	Floor space ratio of 0.5:1	The total gross floor area of the dwellings and the community centre is 27,144sqm based on site area of 101,595.87sqm, floor space ratio is 0.27:1	Yes
Landscaped Area	Minimum of 30% of the area of the site to be landscaped	Landscaped area is 43%	Yes
Deep Soil Zones	Not less than 15% of the site area to be deep soil	100% of the landscaped area will be deep soil zones	Yes
Solar Access	Minimum of 70% of the dwellings to receive 3 hours sunlight between 9am and 3pm	93% of the dwellings would achieve at least 3 hours of solar access to living rooms and private open space areas	Yes
Private Open Space	Wholly or partly at ground level for single storey dwellings minimum 15sqm and minimum dimension of 3m Other dwellings to provide balcony of not less than 2m	All single storey dwellings have satisfy a minimum area of 15sqm and minimum dimension of 3m Upper level dwellings (over and under types) have balconies with an area of 12sqm	Yes
Car Parking	0.5 spaces for each bedroom	Each 2 bedroom dwelling is provided with a minimum of 1 space	Yes

On the basis of the assessment provided within the table above, it is considered that the proposed development complies with the relevant development standards of the SEPP and provide no grounds for which Council can refuse the application.

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

Even though Campbelltown (Sustainable City) Development Control Plan does not apply to the subject site given that it falls within the Macarthur Gardens Master Plan area, it is considered that an assessment against the aims of the SCDCP is relevant. The aims of the SCDCP are as follows:

- *Ensure that the aims and objectives of any relevant EPI including Campbelltown's LEPs and IDOs are complemented by the Plan;*
- *Ensure that the principles of ecological sustainability are incorporated into the design, construction and ongoing operation of development;*
- *Facilitate innovative development of high quality design and construction in the City of Campbelltown;*
- *Ensure that new development maintains or enhances the character and quality of the natural and built environment;*
- *Ensure that new development takes place on land that is capable of supporting development;*
- *Encourage the creation of safe, secure and liveable environments;*
- *Ensure that new development minimises the consumption of energy and other finite resources, to conserve environmental assets and to reduce greenhouse gas emissions; and*
- *Provide for a variety of housing choices within the City of Campbelltown.*

It is considered that the development is generally consistent with several of the relevant aims of the SCDCP in that the subject site can support the proposed development and would further enhance the character and quality of the surrounding environment.

Part 2 - Requirements Applying to All Types of Development

The general provisions of Part 2 of the SCDCP apply to all types of development. Compliance with the relevant provisions of Part 2 of the Plan is discussed as follows:

Views and Vistas – The proposal allows for passive surveillance over the adjoining riparian zone and maximises the outlook over the surrounding open space areas. It is considered that the development would not impact upon any significant views and vistas.

Landscaping – A detailed landscape plan and design report has been submitted with the proposal and thoroughly details landscaping to all the open space areas with the retirement village as well as provides information pedestrian and vehicle links throughout the site and connections to areas surrounding the subject site. The additional landscaping proposed includes native tree, shrub and groundcover species, some of which are identified in Council's Native Gardening Guide.

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Waste Management - A Waste Management Plan for construction works and for the ongoing use of the retirement village has been submitted and is considered to be satisfactory.

Sustainable Building Design - Basix certificates have been provided for each dwelling type of the proposal which demonstrates how each dwelling type would satisfy the NSW Government's requirements for sustainability.

4. Roads and Traffic Authority (RTA)

Under the provision of the State Environmental Planning Policy (Infrastructure) 2007, the application required the concurrence of the Roads and Traffic Authority given that the proposal provides for in excess of 200 vehicles and was deemed to be a 'Traffic Generating Development'. The RTA raised no issues with the proposed development.

5. Natural and Built Environmental Impacts

Crime Prevention Through Environmental Design (CPTED)

The proposed development was assessed against the CPTED principles specifically in relation to surveillance, access control and territorial reinforcement.

All dwellings are provided with living rooms, bedrooms or verandahs facing internal streets. Dwellings to be facing Gilchrist Drive and the riparian corridor have a second balcony or bedroom window overlooking these spaces which command adequate levels of passive surveillance. All dwellings would be clearly visible from the street or pedestrian pathways which also facilitate passive surveillance from public areas to the dwellings.

In order to provide residents with a secure environment, perimeter fencing would be installed around the retirement village. Vehicular entry will initially be from Gilchrist Drive before a secondary vehicular access point is constructed to the east. Gates would be installed at both these access points. The gates would remain open during the day and closed during the evening as a means of access control. Stockland have advised that the gates would be open from 8am and closed at 6pm. Visitors to the site would be able to use an intercom system to gain access to the retirement village in the evening. All pedestrian access points would be controlled points to provide a secure environment.

Perimeter fencing would define the retirement village from public streets and would be softened via the use of landscaping. The fencing proposed along the Gilchrist Drive and north eastern boundaries would be masonry piers with open rod pool type fencing inserts at a height of 1.2 metres. The proposed fencing along the riparian zone would be 1.8 metre high open rod pool type fencing. The proposed fencing along the south eastern boundary adjacent to the land on the corner of the Therry Road and Gilchrist Drive roundabout would be 1.8 metre high colorbond fencing given that the parcel of land directly adjoining this boundary would be developed for commercial uses at a later stage.

The main entrance would create a controlled access point with a clear avenue to the community centre. The narrower local streets would create "closer" neighbourhoods confining the more public areas to the main road from Gilchrist Drive and around the community centre building. No fencing is proposed around the individual dwellings with landscaping and privacy screens provide as a means to define private spaces for each dwelling.

Flora and Fauna

An arborist report was submitted as part of the proposed given that the proposal requires the removal of all but one major tree. The arborist report detailed an assessment of all trees or groups of trees for their potential life expectancy. Given that the current gradients on the site are not suitable for residential development, significant amounts of cut and fill are required across the majority of the site and as such trees are required to be removed. The species of trees that would be removed are all native species of the gum and ironbark species. The arborist report details that no trees on the site are listed on Council's Significant Tree Register. The arborist report makes the following recommendations that would be incorporated into conditions of consent:

1. *The Chinese Weeping Elm are mature but could be transplanted elsewhere within the site as they are a hardy species that will tolerate mature relocation.*
2. *Trees 8 and 11 are to be retained and require tree protection measures. A condition can be imposed on the development consent to adopt the tree protection measures documented in the Arborist Report.*
3. *Fencing is to be provided along the western boundary to protect the trees within the riparian corridor which do not form part of the retirement village site.*

Cumberland Plain Woodland

The arborist report identifies individual Forest Red Gum in various locations across the site which are a species found within the Cumberland Plain Woodland Ecological Community. As part of the previously Council approved Master Plan, specialist environmental consultancy "Hayes Environmental" undertook a Biodiversity Assessment Report (dated August 2003). Part 5A of the EPA Act requires an assessment of the proposal to determine whether there is likely to be a significant impact on threatened species, populations or ecological communities and their habitats. Hayes Environmental concluded that no flora species listed as threatened species were recorded on the site, no flora species being part of an endangered population were recorded on the site, the Shale Hills Woodland being a component of the Cumberland Plain Woodland is listed as an endangered ecological community and thirteen weed species are listed as noxious weeds.

A key outcome of the Biodiversity Assessment was the retention of the Shale Hills Woodland and Alluvial Woodland along the north-south tributary to Bow Bowing Creek. These vegetation communities are unaffected by the retirement village proposal.

Vegetation has in part already been cleared from the site under a development consent previously issued by Council. The riparian corridor is retained as part of the retirement village proposal which is consistent with the approved Master Plan.

Archaeology

An Aboriginal Archaeological Survey and Assessment Report was carried out as part of the approved Master Plan development application back in 2002. The assessment found archaeological remains within the study area and recommended conservation of a Potential Archaeological Deposit (PAD) within Stage 4 of the approved master plan.

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Stockland commissioned an Aboriginal archaeological test excavation of the PAD in November 2006 which was carried out by Mary Dallas Archaeologists with the appropriate Section 87 permit from the then NSW Department of Environment and Conservation. The excavations were intended to determine the presence/absence, nature and extent of any aboriginal cultural remains within the subject area and recommended appropriate strategies for any remains uncovered. The report concluded that:

"The Aboriginal archaeological test excavation of the identified Aboriginal site Macarthur Square IF3 (AHIMS #52-2-3222) and associated area of the Potential Archaeological Deposit (PAD) at Macarthur Gardens have not resulted in the identification of any Aboriginal cultural material in addition to the stone axe fragment which was originally identified during the initial archaeological assessment of the area in 2002. This fragment was collected as part of the test excavation program.

In general, the area of the PAD was found to be impacted upon by past land use and erosion, such that original topsoils were either absent or highly truncated. Consequently, it is not considered likely that undisturbed or significant artefact bearing deposit will be present within the PAD.

Therefore, there are considered to be no outstanding archaeological issues with respect to the investigated area."

As such, a condition of consent would be imposed to state that should any Aboriginal cultural material be located during site works, all works must cease until the extent and significance of the remains can be ascertained.

Site Contamination

A preliminary site investigation was carried out in 2002 for the approved Master Plan area which identified five "areas of environmental concern" one of which is located within the retirement village site.

A Site Audit Statement (SAS) was issued on 24 July 2004 for the entire Macarthur Gardens Master Plan area including the site of the retirement village. The SAS confirmed that the land is suitable for a range of residential uses as well as for childcare centres, preschools, primary schools, recreational uses and commercial uses.

A Contaminated Land Management Plan (CLMP) was prepared by specialist environmental consultancy "Environmental and Earth Sciences" in October 2006 which documented certain procedures to be followed to ensure that the site is assessed in accordance with State Environmental Planning Policy No.55 - Remediation of Land and the relevant NSW Environmental Protection Authority (EPA) of NSW Guidelines. The CLMP also contains procedures to be followed should suspected contaminated and/or hazardous material be uncovered during bulk earthworks. The procedures outlined in this report would be conditioned accordingly as part of consent for the retirement village development.

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Public Participation

The application was notified to publicly exhibited and notified to nearby and adjoining owners in the period between 2 July 2009 and 4 September 2009 in accordance with Council's Development Control Plan No.87 - Notification Policy. During this period, Council received two individual submissions and six "form" letters. A petition containing 59 signatures was also received signed by residents of Macarthur Gardens requesting that the notification period be extended such that enough time was given for the residents to properly assess the proposal. Council granted an additional 14 day extension.

The issues raised in the submissions are as follows:

Devaluation of Property

Concerns were raised that the proposed retirement village would result in a reduction in the value of residential homes within Macarthur Gardens given that there is already another retirement village located in Park Central.

Comment – The proposed retirement village is permissible development within the zone and complies with the requirements of the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004. The proposal incorporates two hundred and thirty five self-contained dwellings within the retirement village area. The location of the retirement village is separate to the existing residential dwellings and approved subdivisions and has been designed to clearly be defined separately to the residential dwellings existing and those under construction. As such, it is considered that there is no evidence to suggest that approving the retirement village would lead to a "devaluation" in the surrounding residential dwellings given the location of the retirement village. In addition, there are no development standards that restrict the number of retirement villages that can be developed in area. Importantly, no evidence was submitted in the submissions which substantiate the claim of "devaluation".

Gating of the Retirement Village

Concerns were raised relating to the "gating" of the retirement village leading to isolation of the Macarthur Gardens Estate.

Comment – The proposed gates for the retirement village have been recessed further back into the village such that the gates are not clearly identified from Gilchrist Drive and are located approximately 23 metres from the site boundary at the roundabout. The proposal has provided a loop in the main entrance of Gilchrist Drive such that people who have inadvertently driven into the estate and see the gates have enough room to exit the site in a loop configuration. The areas surrounding the loop and in the middle of the loop are heavily landscaped such that the gates are not able to be seen from Gilchrist Drive. The gates to the retirement village would only be closed during the evening/night time to provide security for the residents of the retirement village. In addition, it is proposed that a second entrance may be constructed at a later stage along Gilchrist Drive closer to the Therry Road roundabout that would also provide a road connection to the northern most corner of the site.

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Furthermore, all proposed roads as approved under the original Master Plan linking Macarthur Gardens to Macarthur Square would be retained which would allow residents of the entire Macarthur Gardens Estate area to access Macarthur Square and other areas of the Campbelltown city centre.

As such, it is considered that the proposal would not lead to an isolation of the rest of the Macarthur Gardens Estate.

Retirement Village not included in original Master plan

Concerns were raised that there was no mention of a retirement village as part of the approved Macarthur Gardens Master Plan area and that it would result in less residential housing.

Comment – The retirement village proposes the construction of two hundred and thirty five self contained residential dwellings. The proposed dwellings are single storey and residential in nature however are targeted to a specific population. The proposal is consistent with the requirements of the approved Master Plan in that the development provides greater densities and remains residential. In addition, the proposal provides more residential dwellings to be constructed to that which was approved under the previous subdivision approvals for Stages 4 - 7.

Construction of open spaces and pedestrian walkways prior to the retirement village being constructed.

Concerns were raised in relation to all open space areas and pedestrian walkways to be constructed prior to the retirement village being constructed. Concern was also raised about the retirement village reducing the size of the open space areas that were approved within the original Master Plan.

Comment – The retirement village proposal provides open space and pedestrian walkways within the village itself. All other open space and pedestrian walkways have been approved as part of previous development consents issued by Council and would be constructed in accordance with those approvals. Council cannot enforce the completion of all open space and pedestrian walkways approved under separate development consents given that the proposal as submitted does not include these areas.

In regards to the net impact of the residential village on the open space areas approved under the original Master Plan, Stages 4 - 7 included 3,450sqm of public park area and in contrast, the proposed retirement village provides communal open space areas both within the village and surrounding the community centre with a total area of 11,747sqm which is 8,297 square metres more than originally proposed. All other park (public open space) areas approved under the earlier stages would be retained and constructed as per the development consents that they were approved under. The communal open space areas provided as part of the retirement village will be in the care and control of Stockland. The major open space areas remaining within the Macarthur Gardens Estate area would remain for full public use.

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Traffic

Concerns were raised suggesting that the proposal will provide for an unacceptable and unsafe level of traffic within the Macarthur Gardens Estate area as well as insufficient car parking being provided for the proposal.

Comment – The proposed development complies with the SEPP requirements in relation to the number of car parking spaces to be provided based on the number of bedrooms provided within the development. There is no SEPP requirement in terms of providing visitor car parking spaces, however the proposal incorporates 40 visitor spaces located around the community centre and in parking bays scattered throughout the retirement village. Most of the dwellings also provide sufficient space for vehicles to park either behind garages/carports as well as there being a specific area nominated for the parking of larger recreational vehicles.

It is considered that given the location of the main entry and the future second entrance, traffic would be centralised along Gilchrist Drive instead of within the local roads of the Macarthur Gardens estate. It is further considered that traffic movements in and out of the site at peak times would be less than if the subject site was developed as a more traditional residential area given the nature of the retirement village. There are also facilities provided by the retirement village to transport people to and from the site via minibus which would reduce the number vehicular movements generated by further developments.

A Traffic Impact Assessment was submitted in support of the proposal and was carried out by specialist consultant firm "Halcrow MWT". The Traffic Impact Assessment examined the implications of the proposed development on the external road system, the proposed layout of the roads within the retirement village and car parking provided for the proposed development. The Traffic Assessment Report made the following conclusions:

- *The expected traffic generation of the proposed development would be significantly lower than that allowed for in previous traffic planning work which assumed that the subject site would generate higher volumes of traffic than the present proposal.*
 - *The impact of the proposal would be positive compared with previous planning for the region.*
 - *The proposed access intersections would satisfactorily cater for the anticipated traffic volumes.*
 - *The proposed carriageway widths are considered appropriate for the functions the roads would fulfil, and the road system design ensures that generated traffic would be spread throughout the site, such that traffic volumes on any one road would be very low.*
 - *Satisfactory provision is proposed for pedestrians and cyclists, and for the movement of service vehicles within the site.*
 - *The design of the road system is proposed to minimise the potential for use by through traffic through various aspects including road widths, traffic calming measures and pavement treatments.*
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- *The proposed road system is somewhat modified from that of the Macarthur Gardens master plan, however would achieve the same objectives, whilst protecting the retirement village from excessive through traffic.*
- *The proposed provision of car parking on the site exceeds the requirements of the SEPP. Parking would be designed in accordance with the relevant Australian Standards.*

Council's Development Engineers have considered the traffic report with their assessment of the overall proposal and concur with the conclusions of the consultant.

In conclusion, it is considered that the proposed retirement village would not have an adverse impact on traffic or parking within the surrounding locality.

Campbelltown Section 94A Development Contributions Plan and the Draft Planning Agreement– Comment by the Director Planning and Environment

Council's Section 94A Development Contributions Plan ordinarily applies to the application for Seniors Living subject of this report.

In 2007, Council approved the Campbelltown Section 94A Development Contribution Plan. The overall purpose of the Plan is to assist Council in the funding of a range of infrastructure (to a total value of approximately \$31M). Some of the key items of infrastructure included in the Plan are:

- A range of road and traffic management improvement works including the upgrading of major intersections such as Narellan/Blaxland Roads; Narellan/Kellicar Roads; Gilchrist/Kellicar Roads; Campbelltown/Blaxland Roads and Gilchrist/Therry Roads at Campbelltown;
- The construction of the Ingleburn Centre Library and Community Centre Upgrade; and
- The construction of a pedestrian overbridge across Narellan Road located between the Catholic Club and the Illawarra Retirement Village at Campbelltown.

To date, Council has collected approximately \$1m in contributions under this Plan.

The Section 94A Development Contributions Plan applies to certain development types across the whole of the Campbelltown Local Government area with some exceptions as they relate to certain neighbourhoods. Development in these areas are exempted (by statute) from paying the Section 94A Development Contribution under the relevant statutory provisions given that neighbourhood based Section 94 Plans still apply to these areas. They include the Glenfield Road Urban Release Area, Blair Athol, Blairmount, parts of Kearns and Raby, and St. Helens Park.

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The Plan provides for the payment of Section 94A contributions for new residential development with some exceptions including items such as replacement dwellings, alterations and or extensions to existing dwellings, and certain minor development including garages and carports. The Plan also requires the payment of Section 94A contributions for certain new non-residential development.

The applicant for the proposed Seniors Living development (Stockland) have now presented Council with a letter of offer and a draft Planning Agreement which sets out the development contributions to be made and infrastructure to be constructed by Stockland in full and final satisfaction of all obligations on both Stockland and Landcom in relation to the development of the land at Macarthur Gardens covered by the draft Planning Agreement and as per the requirements of the original Masterplan development consent. In this regard, the letter states that Stockland agrees to the imposition of a condition on any development consent issued in relation to the Seniors Living development requiring the Planning Agreement to be executed by all interested parties. In this respect, a condition has been recommended for inclusion with any consent associated with this application that Council may deem worthy of supporting that requires the Planning Agreement to be executed prior to the issue of the construction certificate for the first stage of the development of the Seniors Living project.

The draft Planning Agreement is currently being reviewed. Importantly however, the draft Planning Agreement seeks exemption from the levying of a Section 94A contribution against the proposed Seniors Living Development.

Council has previously been approached by the developers of Park Central and Macarthur Gardens seeking exemption from making a payment of contributions under the Plan. The developer (Landcom) claims that the Park Central and Macarthur Gardens Developments have already been subject to Section 94 Contributions (either explicitly or implicitly) and therefore Section 94A cannot be applied by Council against those developments.

This argument is certainly invalid given that no Section 94 Contribution Plan applies, nor has ever applied to the Park Central or Macarthur Gardens Precincts. Council holds legal advice to sustain this position. In the strict legal sense, Council has the authority to impose conditions on new development within the Park Central and Macarthur Gardens precincts, in accordance with its Section 94A Development Contributions Plan.

Notwithstanding Council's statutory authority to collect section 94A contributions from development in these two precincts, Council may wish to consider the history of masterplanning that has previously been endorsed by Council and the development consents that have been issued by Council pursuant to such master planning, in further consideration of the request for exemption of the payment of Section 94A contributions. For the sake of the application currently before Council, the following discussion relates to the Macarthur Gardens precinct and specifically to the proposal for the Seniors Living Development. The matter of the Park Central precinct will be reported to Council separately in due course.

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a. History of Planning for Macarthur Gardens.

In December 2003, Council considered a report and granted approval for a Masterplan (Macarthur Regional Centre Masterplan) and Draft Development Control Plan for the Macarthur Gardens development - a joint venture partnership between Landcom and Stocklands.

Importantly, the Masterplan was approved by means of a formal development consent (DA No. F540/2003 and G111/2003) ISSUED BY Council on 17 December 2003.

As was reported to Council, that Master Plan made provision for:

- A wide range of development including detached dwellings, multi dwellings, multi storey apartments as well as some commercial/retail development. The Masterplan makes provision for in the order of 800-900 allotments/dwellings overall.
- Significant public infrastructure including the construction of roads, intersections, traffic management facilities, trunk stormwater drainage, a range recreation facilities, embellishments to public open space, major civic spaces/facilities, and the dedication of land to Council for public open space and stormwater drainage purposes.

A copy of extracts of key community infrastructure proposed with the approved Master Plan is shown as Attachment 6 to this report.

Some of the major elements of the approved Master Plan and “called up” by the respective development consent include:

- The upgrade of Menangle road for the length of the development site,
 - Construction of a dual lane roundabout at the intersection of Gilchrist Drive and Menangle Road,
 - Construction of a dual lane roundabout at the intersection of Tailby Street and Menangle Road,
 - Major upgrade and rehabilitation of the creek feeding into the Bow Bowing Creek system,
 - The creation of a number of public parks including the provision of play equipment and shelters (Open space commitments total 13.5 hectares out of a total precinct area of approximately 48 hectares),
 - Provision of on-road cycleways and off-road shared pedestrian paths/cycleways,
 - The construction of two road bridges traversing the creek that runs through the development site,
 - The construction of a signalised intersection at Gilchrist Drive/Goldsmith Avenue,
 - The construction of the extension of Gilchrist Drive from Englorie Park Drive to Menangle Road,
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- The construction of a pedestrian footbridge between Macarthur Station and the Macarthur Gardens Northern Precinct located north of the Macarthur Railway Station, and
- Payment of a monetary contribution to Council to be paid by Landcom/Stockland including:
 - \$105,000 towards the upgrade of the intersection of Narellan Road/Gilchrist Drive/Blaxland Road
 - \$25,000 towards the upgrade of the intersection of Kellicar Road/Gilchrist Drive and
 - \$10,000 towards the construction of pedestrian facilities bat Gilchrist Drive and Therry Road

It should be noted that these amounts have been paid to Council.

Not including the value of lands to be dedicated to Council for the purposes of public parks, the approximate value of these works is estimated (approximately) by Council's officers to be in the vicinity of \$10 million.

It is important to recognise that some of these proposed infrastructure works and land dedications would have community benefit that could be reasonably argued to extend beyond the boundaries of the Macarthur Gardens precinct, and in fact, will be likely to make a substantial contribution to the development of the Campbelltown/Macarthur Regional Centre as a whole and the level of public amenity enjoyed therein.

Particular reference is made to the following items:

- The construction of a signalised intersection at Gilchrist Drive and Goldsmith Avenue,
- The construction of an extension to Gilchrist Drive from Englorie Park Drive to Menangle Road which will ultimately link the Menangle Park Urban release area to the Campbelltown/Macarthur Regional Centre.
- The proposed civic square, the bridge connection (and elevator) from the Macarthur railway station linking with the University precinct, and
- The Main Park(Robinson Park) and the HUB.

The respective development consent (F540/2003 and G111/2003) "calls up" the requirement for future development in the Macarthur Gardens precinct to include the construction of these facilities and the dedication of certain lands for public purposes. This consent acts as a "parent consent" for all (then) future developments that are to take place in the precinct.

A copy of the development consent relating to the master plan is shown as Attachment 7 to this report.

Review of the endorsed Masterplan and the respective Development Consent suggests that it was the Council's intention to require the provision of extensive infrastructure works and land dedications as part of the Macarthur Gardens development, and at the time was sufficiently satisfied that the provision of these items would be assured through the development consent.

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The consent was taken to be the “mechanism” by which the precinct would be converted from semi-rural use to urban, to be provided with a full range of facilities to accommodate an urban standard of amenity.

To date, a series of development approvals have been issued for the development of a number of residential developments and subdivisions within the Macarthur Gardens precinct. They include:

- G79/2004 (Stage1) (west side of creek)
- DA 2114/2005 (Stage 2) (west side of creek)
- DA 78/2006 and DA 47/2007 (Stage 3) (east side of creek adjacent to Menangle Road and Macarthur Square and comprises of the area to be used for the “Macarthur 2” car park)
- DA 2125/2007 (Stage 4) (located off Gilchrist Drive - but now not to be taken up and within the area of the Seniors Living Project), and
- DA 2458/2008 (Stage 5) (located off Gilchrist Drive – but now not to be taken up and within the area of the Seniors Living project).

Consistent with the original “parent consent” for the Masterplan, a range of land dedications and infrastructure works have already been carried out and have either been transferred or are to be transferred to Council’s/RTA’s ownership. Items transferred include:

- Robinson Park (within Stage 1 – containing landscaping, recreational kick-around area, childrens playground, community shelter and bbq facilities),
- Sections of Gilchrist Drive constructed and dedicated to Council, and
- Menangle Road upgraded and dedicated to the Roads and Traffic Authority.

In addition to the above, other areas to be transferred to Council that are deemed integral to the success of the Masterplan include a series of “special places”, which will form key public domain assets. These include:

- *The Hub* – Located at the end of Kellicar Road at the intersection with Stowe Avenue. This will provide a secondary retail and business opportunities, culminating in the *Town Park* to the west of Kellicar Road,
 - *The Town Park* – Located between *The Hub* and the bushland within the creek valley. This facility will serve both the local residential community and create a gathering and amenity space for the whole centre,
 - *The Valley* – The existing Cumberland Plain Woodland and River Flat vegetation located within the creek valley is to be retained. Defined public access pathways both down the valley and along its edge including pedestrian bridges will, provide attractive linkages between the eastern and western sides of the valley,
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- *Bow Bowing Walk* – This area focuses on the northern precinct and is defined as an accessible environmental corridor located along the northern side of the railway, and
- *College Square* – The arrival place and centre of activity at the north side precinct. The pedestrian bridge from the railway station can be extended with a new connection across the water spaces of Bow Bowing Creek to College Square and to a new waterside plaza.

Despite the above, no neighbourhood based Section 94 plan for the Macarthur Gardens precinct nor the Macarthur/Campbelltown Regional Centre was subsequently considered nor adopted by Council. This pattern of securing infrastructure provision by means of conditions of a development consent subject to certain conditions has also been followed by Council at Park Central and at Ingleburn Gardens.

b. Providing for Infrastructure through a Neighbourhood Based Section 94 Plan

Ordinarily the provision of such key infrastructure, fundamental to the successful conversion of semi rural; land to an urban environment, and to the direct benefit of development in the Macarthur Gardens Precinct and more broadly to the Campbelltown/Macarthur Regional Centre, typically and might have otherwise been the subject of a separate neighbourhood based Section 94 Plan.

This was the case for instance, with the Glenfield Road Urban Release Area where Council prepared and adopted a neighbourhood based Section 94 Plan as the means by which to fund the provision of infrastructure for the development of that precinct, converting it from semi-rural use to urban.

The types of infrastructure items and land dedications sought by the Glenfield Road Urban Release area include for instance:

- Dedication of land for open space (environmental corridor and riparian/drainage) purposes,
- Embellishment of open space including bushland regeneration,
- Construction of recreation facilities including playgrounds and amenities,
- Construction of trunk drainage facilities including detention basins and gross pollutant traps ,
- Construction and dedication of road works and traffic management facilities including traffic signals, roundabouts, half road frontages to open space areas, cycleways and
- A contribution towards community facilities at Seddon Park Glenfield.

These works seek to facilitate the conversion of rural land into an urbanised neighbourhood with appropriate urban standard facilities and amenities.

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c. An alternative approach to providing for infrastructure

The Masterplan and related development consent for the Macarthur Gardens precinct seek to achieve a similar conversion of land from “semi rural to urban” with the provision of infrastructure similar in nature and purpose to that provided for by the Section 94 Plan for the Glenfield Road Urban Release Area.

Discussing this matter with planning staff engaged in the original Macarthur Gardens development has suggested that the Masterplanning/Development Consent approach was preferred over a neighbourhood Section 94 Plan given the benefit of dealing with only one/two landowners (as compared to fragmented ownership that exists in say for instance the Glenfield Road Urban Release Area); the resource savings to Council in having to administer a Section 94 Plan and the opportunity afforded to Council by not having to accommodate the financial risks associated with contributions collection and the funding of infrastructure.

These are certainly acknowledged as important benefits to the Council if it can be assured that the required infrastructure *will be* provided as part of the development.

Upon the review of various background information, it is evident that given the single land ownership of the Macarthur Gardens development site, and the longstanding relationship between Council and Landcom, at the issuing of development consent for the Masterplan in 2003, an agreement was reached between the parties to not prepare a Section 94 Plan, but to document the infrastructure arrangements via the Masterplan development consent. This arrangement could be interpreted to reflect the developer's willingness to be flexible in the infrastructure it is compelled to provide (i.e. over and above what is permissible under Section 94). However, by way of its inherent flexibility this arrangement also provides some degree of uncertainty for Council in the ultimate provision of this infrastructure. In the event that Landcom or Stockland were to on-sell their development rights for the land to another party, Council may be at some risk in terms of securing the delivery of infrastructure embodied in the respective development consent.

It is of worth to note that a development application recently put before Council relating to a proposed commercial development at Carlisle Street in Ingleburn proposed that Council legally, could not impose a condition on a development approval that seeks the dedication of land and the construction of road infrastructure, given that such requirements were not part of an adopted Section 94 Contributions Plan. That matter is now subject of an appeal in the NSW Land and Environment Court, and Council's legal advisors in that matter concur that Council cannot issue a development consent requiring the provision of infrastructure or dedication of land (without a covering Section 94 Plan) unless that infrastructure and dedication is clearly required for the specific development to function properly.

A mechanism does now exist under the provisions of the Environmental Planning and Assessment Act, 1979 to grant the Council an assurance that the infrastructure required of development is provided. This mechanism takes the form of a Planning Agreement. It must be remembered that such a Planning Agreement is voluntary and Council cannot compel a developer to enter into such an agreement.

d. Proposed Planning Agreement

As noted previously in this report, Stockland has now come forward to Council with a proposal to be considered as part of the development application currently before Council for the Seniors Living development to strike a Planning Agreement with Council that will embrace the originally proposed dedications and infrastructure construction in relation to the Macarthur Gardens development (excepting for a relatively minor variation that converts the originally proposed "Entry Park" (entry off the Gilchrist Drive/Englorie Park Drive roundabout) to a parcel of private community of open space within the Seniors Living Development for the use of the residents of the development). In light of other infrastructure and land dedication items in the precinct, this is considered to be acceptable variation and would reduce Council's ongoing open space maintenance commitment in the precinct.

Such a Planning Agreement would effectively stage the provision of infrastructure in accordance with an agreed timeframe (most likely related to the take up of different stages of development), but very importantly the Agreement would *strengthen* the provisions of the Council's previously issued development consent for the Masterplan as far as they relate to land dedication and infrastructure provision. In addition, such provision is "carried" with the land subject of the development approval, thereby giving the developer's commitment to provide the infrastructure more "weight" and enhanced opportunity for enforcement by Council under the provisions of the Environmental Planning and Assessment Act, 1979.

In accordance with statutory requirements, any draft Planning Agreement would need to be finalised and then placed upon public exhibition before being finally considered for adoption by Council.

e. Section 94 B of the Environmental Planning and Assessment Act.

As stated earlier in this report, Council has the statutory authority to levy Section 94A contributions in accordance with its approved Section 94A Development Contributions Plan on development such as dwelling houses, multi dwellings, apartments and certain non-residential development in Macarthur Gardens. This imposition is conveyed through conditions of development consent for dwellings and other types of developments.

Section 94B of the Act stipulates that a condition applied to any development consent as it relates to Council's Section 94A Plan, is allowed and cannot be subject to a court appeal.

As it applies to development within the Macarthur Gardens precinct, such a condition of consent would be allowed by the Court, as a condition under Section 94 of the Act has not been imposed under previous development consents applying to the land.

Therefore, Council can be confident that it has complete authority and can be satisfied that such a condition is valid and would receive the support of the Court, in the event of a legal challenge.

Council has accordingly, previously imposed relevant conditions on development consents for applicable development types in Macarthur Gardens but has sought to defer enforcement of payment of relevant contributions until such time that a position can be reached over Landcom's and Stockland's request that Council grant exemption from payment of such Section 94A contributions in light of the material public benefit (community value) of the infrastructure already required to be provided as part of the Macarthur Gardens Project.

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The importance of the opportunity afforded by the current development application for the Seniors Living development and in particular the proposal for a Planning Agreement to concurrently deal with the issue of infrastructure provision for the Macarthur Gardens precinct, and as a means of dealing with Landcom's and Stockland's claim for exemption from the Section 94A payment, is recognised.

f. Consideration of issues in determining whether to impose a Section 94A contribution on the proposed Seniors Living development

As noted previously in this report, Council can seek to levy development within the Macarthur Gardens precinct with a Section 94A contribution, should it choose to do so.

There is a view, and it is not unreasonable, that given the Council is confronting significant demands for infrastructure generated by new development across the whole of the Campbelltown Local Government Area, it should seek to maximise the opportunity afforded by its Section 94A Plan to collect revenue from new development to contribute towards that infrastructure provision. Some of this key infrastructure that new development will assist in generating a need for, is included in Council's Section 94A Plan and includes:

- The Ingleburn Library and Upgraded Community Centre
- The upgrading of major intersections in and around the Campbelltown/Macarthur Regional Centre such as Narellan/Blaxland Roads; Narellan/Kellicar Roads; Gilchrist/Kellicar Roads; Campbelltown/Blaxland Roads and Gilchrist/Therry Roads at Campbelltown.

Generating revenue to assist in the resourcing of new infrastructure, sourced from new development is legitimate, and must be considered by Council in light of other diminishing or constrained revenue streams, such as for example:

- restrictions placed by the State Government upon rate income increases,
- rises in government and statutory charges beyond CPI and
- continued cost shifting to local government by other levels of government.

Therefore, if Council has the statutory authority to collect such development levies to assist it to provide infrastructure then it can be argued that it is not unreasonable for Council to implement that authority to minimise the burden upon existing rate payers to subsidise the cost of Council providing such infrastructure.

Notwithstanding this point of view, it is recommended that Council also take consideration of a range of factors, when it comes to decide whether to levy development within the Macarthur Gardens precinct (including the proposed Seniors Living development being the subject of this report) with a Section 94A contribution:

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- Council previously “signed off” on a master plan for the Macarthur Gardens precinct in 2003 by issuing development consent for that master plan subject to conditions, thereby endorsing the provision by the developer of a wide range of infrastructure, land dedications and monetary payments towards the construction of certain nominated infrastructure.
- Council approved and commenced the implementation of its Section 94A Plan in 2007, following a change in NSW legislation (3-4 years after Council had issued development consent for the Macarthur Gardens Masterplan).
- The developers for Macarthur Gardens had applied for and received approval for a number of stages of subdivision and residential development over the years prior to the commencement of Council’s Section 94A development Contributions Plan in 2007
- The developers for Macarthur Gardens had commenced construction of some of the precincts within Macarthur Gardens in accordance with the Master plan consent and other subsequent approvals over the years prior to the commencement of Council’s Section 94A development Contributions Plan in 2007
- The developers for Macarthur Gardens had commenced construction of some of the public infrastructure (in accordance with the Masterplan consent) over the years prior to the commencement of Council’s Section 94A development Contributions Plan in 2007
- In 2005/2006, the developers of Macarthur Gardens had made cash payments which were accepted by Council, towards the provision of road/traffic management infrastructure in accordance with the Masterplan consent prior to commencement of Council’s Section 94A development Contributions Plan in 2007

For all intents and purposes the design and more importantly, the development of the initial stages of the Macarthur Gardens project, including subdivision, infrastructure and dwelling construction, had commenced prior to the operation of Council’s Section 94A development Contributions Plan.

It is acknowledged that when the Masterplan was approved, Council endorsed its acceptance of the location, extent, nature and scale of development that was to occur in Macarthur Gardens. By issuing the development consent, Council also effectively acknowledged the infrastructure demands to be generated by the development that was to take place in Macarthur Gardens, and accepted the future provision of infrastructure and land dedications as well as certain cash contributions to Council in response to such demands (and beyond given that some of the proposed infrastructure would benefit a population extending beyond the Macarthur Gardens precinct).

Further, given the infrastructure construction, land dedications and cash contributions required by the development consent for the Masterplan would ordinarily be factored into the project as ‘development costs’, it would not be unreasonable to presume that such costs would be factored into the market price of subdivided land and other residential development (where separate approval for dwelling construction is required). Therefore, these costs would be effectively transferred to the end purchaser.

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This is similar in “purpose” to Section 94 charges levied under a Section 94 Plan (in places such as the Glenfield Road Urban Release Area for example), which are embodied into the price of new land and housing offered for sale on the market. i.e. The cost to the developer of the provision of new infrastructure and land dedications in the Glenfield Road Urban Release area are made through a Section 94 payment to Council (which are in turn embodied into the eventual sale price of subdivided land and residential development).

The only real variance between the two projects is that the infrastructure and land dedications are ‘delivered’ differently, one by Council (via a Section 94 Plan) in the case of Glenfield Road and one by the developer (via the Masterplan development consent) in the case of Macarthur Gardens.

Importantly though, and as stated earlier in this report, an anomaly exists in that new housing development in the Glenfield Urban Release Area, is exempted from paying a Section 94A levy given the statutory restrictions that apply to neighbourhoods where Section 94 Plans exist. This is also the case for a range of other neighbourhoods in the Campbelltown Local Government Area where other Section 94 Plans currently apply.

Therefore, the “not unreasonable” extension of this point raises the question as to why new homebuyers in Macarthur Gardens are required to make a Section 94A payment and those in the Glenfield Road Urban Release area are not.

One of the purposes of the introduction of Section 94A into the Environmental Planning and Assessment Act was related to the need for Councils to capture contributions from new development in the circumstances where developers of land had not previously been required to make or had not made development contributions to pay towards infrastructure, that their developments generated a need for.

The relevant point to be made here is that the Section 94A legislation benefits (through exemption of payment of a Section 94A contribution) those developments that pay a Section 94 contribution for infrastructure, against those developments that secure their required infrastructure through another means, such as for instance in the case of Macarthur Gardens, through a development consent, where no immunity from imposition of a Section 94A contribution is guaranteed by statute.

Notwithstanding, Council does have the statutory discretion not to levy a Section 94A contribution against development if it so chooses.

The imposition of Section 94A levies, since commencement of the Plan, has been applied to development consents for dwellings at the Macarthur Gardens precinct. It is understood that builders have been “building in” the respective Section 94A charges into the cost of new dwellings, thereby effectively passing the cost on to new home buyers. As stated earlier in this report, enforcement of that payment has been deferred until such time as Council reviews the Section 94A Plan in light of the request by Landcom and Stockland to exempt payment for the Macarthur Gardens and Park Central Precincts.

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g. Conclusions

Whilst Council clearly has the statutory power to apply conditions of consent on new dwelling houses and other types of development in Macarthur Gardens, it is not considered to be an unreasonable question as to consider whether Council should seek to apply such authority in the circumstance of Macarthur Gardens and in particular, the proposed Seniors Living Development, subject of this report.

From the information presented in the above comments a number of observations can be made:

Equity Considerations

The mechanism adopted by Council to facilitate the conversion of semi-rural “greenfields” land for urban occupation and the provision of the attendant urban standard of infrastructure at Macarthur Gardens was an adopted Masterplan articulated through a Development Consent. Work has commenced pursuant to that consent. A Section 94 Development Contributions Plan for the area was not adopted by Council.

Importantly, should Council have adopted a Section 94 Contributions Plan as a means to facilitate the collection of monies for it to co-ordinate the construction of urban infrastructure and acquire lands for open space, drainage, roads and other public purposes (similar to what it has done in respect of the Glenfield Road Urban Release Area) in Macarthur Gardens, it would have been prevented by the Environmental Planning and Assessment Act, 1979, from imposing a Section 94A levy on new development within the Macarthur Gardens precinct.

Council does not and cannot legally impose a Section 94A levy on development such as dwelling houses in the Glenfield Road Urban Release Area.

This then leads to the conclusion that there is a certain arguable “inequity” embodied in Council’s Section 94A Plan given that it does not apply to areas where a Section 94 Plan does apply (in accordance with statute) but it does not exempt payment of a Section 94A contribution for development in other areas (where a Section 94 Plan does not apply) despite Council having formally endorsed and commenced implementation of a formal arrangement (through a development consent) to secure infrastructure pursuant to the needs generated by that development, as is the case at Macarthur Gardens.

Then a further question remains:

Why should applicants seeking to build new dwellings in the Glenfield Road Urban Release Area be excused from paying a Section 94A contribution (as a result of a Council decision to facilitate infrastructure provision by means of a neighbourhood based Section 94 Plan) where applicants seeking to build their new dwellings in Macarthur Gardens are required to make such a Section 94A payment and inadvertently be penalised (because of a previous Council decision to facilitate infrastructure provision in that area by means of a Masterplan, supported through a Development Consent)?

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Discussions with senior Landcom officers and Council's General Manager and Director Planning and Environment has also indicated that the developer also believes that Council has previously considered and dealt with planning for the Macarthur Gardens precinct in 2003 through its determination of the Masterplan Development Application, and that for all intents and purposes, Council was satisfied with the arrangements for development and infrastructure that would proceed in the Macarthur Gardens precinct. It is claimed that property dealings and development scenarios undertaken by the developers accepted those outcomes and did not take into account additional development costs such as those which were later to be imposed by Council's Section 94A Development Contributions Plan.

Increased Certainty for Council

The discussion in the Director's comments within this report makes it clear that Council and the community would be benefited by the embodiment of the infrastructure requirements and land dedications, as well as the monetary contributions articulated in the Macarthur Gardens Masterplan and respective Development Consent, within a Planning Agreement. In this regard, an offer and proposal for a draft Planning Agreement has been lodged with Council by the applicant for the Seniors Living Development subject of this report.

Execution of a Planning Agreement on terms acceptable to Council, including, importantly, the appropriate commitment to the delivery of infrastructure "called up" by the approved Masterplan and associated Development Consent would provide Council with greater certainty than currently exists within that Consent. Such a Planning Agreement would subsequently be enforceable under the provisions of the Environmental Planning and Assessment Act, 1979.

This then would achieve considerable material public benefit to the Council and the community.

Value of Section 94A Contributions

It is estimated that the total value of Section 94A income that would be generated by development within the Macarthur Gardens precinct would be approximately \$2-3 million. This estimate is only approximate as the final Section 94A contribution levied would depend upon the value of development undertaken. Excluding the value of land dedications, this report estimates that the total value of constructed infrastructure to be transferred to the public and that will be achieved as part of the Macarthur Gardens overall development is in the vicinity of \$10million. Execution of the proposed Planning Agreement would ensure Council and the community that such infrastructure will be delivered, and strengthens existing arrangements expressed through the development consent for the Masterplan.

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Should the Council not enter into a Planning Agreement and seek to impose Section 94A contributions upon the subject development and other developments within Macarthur Gardens there may be an exposure to a challenge in the Land and Environment Court against the previously granted development consent for the Macarthur Garden's Masterplan and in particular conditions relating to the provision of infrastructure, land dedications and the payment of monetary contributions, to such an extent that may exceed the total monetary contribution it may otherwise receive under the Section 94A Plan.

Therefore, it is concluded fair and reasonable in the circumstances, that Council not seek a Section 94A contribution in respect of the development application for the Seniors Living Development subject of this report. The benefit to be derived for the Council and the community, in the incorporation of infrastructure works, land dedications and cash payments pursuant to the originally approved Masterplan, into a Planning Agreement that meets with Council's satisfaction for the delivery of infrastructure in the precinct, is considered to outweigh the benefit to be gained by levying the Seniors Living development proposal and other development with a Section 94A contribution.

Hence it is recommended that the offer of a Planning Agreement by Stockland be accepted by Council, including a provision being made in such Agreement that the Seniors Living Development and other development in the Macarthur Gardens precinct is not levied by Council with Section 94A contributions.

Accordingly, should Council determine to grant approval to the application subject of this report, it is recommended that the following condition be placed on any consent:

"In accordance with the offer made by the developer to prepare a Planning Agreement in connection with this development application, a Planning Agreement pursuant to section 93F of the Environmental Planning and Assessment Act 1979 shall be prepared by the applicant and submitted to Council for public exhibition.

The Planning Agreement shall articulate a commitment by the developer to complete all Development and Infrastructure Works, Dedications of Lands and the provision of all Monetary Contributions required in relation to the development of the Land described in the Macarthur Regional Centre (Macarthur Gardens) Master Plan and as required within Development Application F540/2003 and G111/2003 issued to the Developer and the Landowner by the Council dated 17 December 2003.

Prior to the Council or an accredited certifier issuing a Construction Certificate for the construction of any buildings (excluding buildings related to site works) within the Seniors Living Development, the Planning Agreement shall be executed to the satisfaction of the consent authority (Council).

Prior to the Council or the Principle Certifying Authority issuing an Occupation Certificate for the Final stage of the Seniors Living Development, all Development and Infrastructure Works, Land dedications or Monetary Contributions listed within the adopted Planning Agreement are to be finalised or otherwise guaranteed to the satisfaction of the consent authority (Council).

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Conclusion

A development application has been received for the construction of two hundred and thirty five (235) senior living housing dwellings, a community centre, use of six dwellings temporarily as a display village and associated landscaping, roads, parking, infrastructure and earthworks at Lot 229 Kellicar Road, Campbelltown.

A detailed assessment made pursuant to the heads of consideration contained in Section 79C(1) of the *Environmental Planning and Assessment Act 1979* has been undertaken in this report, with the proposal generally being compliant with Council's relative controls and objectives for development at the site. Furthermore, the proposed development also complies with the development standards required under the provisions of the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

The site is considered to be suitable for the development having regard to its location and design and would not have an adverse impact on the amenity of the surrounding locality.

The proposed development was notified to nearby landowners as well as being publicly exhibited. Council received several submissions opposing to the proposal. Having regard to the application's compliance with Council's relevant controls and objectives as well as the SEPP and likely minimal impact on the natural and built environment, the proposal is considered to be in the public's interest.

Officer's Recommendation

That development application 1318/2009/DA-SL at Lot 4 DP 800736, Lot 39 DP 1082896, Lots 3701, 3702, 3704, 3707, 3711 & 3713 DP 1127973, known as Lot 229 Kellicar Road, Campbelltown for the construction of two hundred and thirty five (235) senior living housing dwellings, a community centre, use of six dwellings temporarily as a display village and associated landscaping, roads, parking, infrastructure and earthworks be approved, subject to the conditions detailed in Attachment 1.

Committee's Recommendation: (Kolkman/Oates)

That development application 1318/2009/DA-SL at Lot 4 DP 800736, Lot 39 DP 1082896, Lots 3701, 3702, 3704, 3707, 3711 & 3713 DP 1127973, known as Lot 229 Kellicar Road, Campbelltown for the construction of two hundred and thirty five (235) senior living housing dwellings, a community centre, use of six dwellings temporarily as a display village and associated landscaping, roads, parking, infrastructure and earthworks be approved, subject to the conditions detailed in Attachment 1 with the addition of a condition requiring the installation of a rainwater tank for each dwelling.

CARRIED

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

Voting against the Committee's Recommendation: nil.

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Council Meeting 4 May 2010 (Kolkman/Bourke)

That the Committee's Recommendation be adopted.

Council Resolution Minute Number 75

That the Committee's Recommendation be adopted.

Voting for the Council Resolution were Councillors: Borg, Bourke, Chanthivong, 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.

Where required, and prior to construction, the applicant shall obtain from the Department of Water and Energy a Controlled Activity Approval for works within the vicinity of the adjacent creek in accordance with the provisions of the Water Management Act 2000

2. Building Code of Australia

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

3. Contract of Insurance (residential building work)

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

This clause does not apply:

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

4. Notification of Home Building Act 1989 Requirements

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

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

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

5. Landscaping

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

6. 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.

7. Swimming Pool

The construction and operation of the swimming pool shall comply with the following requirements:

- a. The pool shall not be filled with water nor be permitted to retain water until all required safety fencing has been erected in accordance with the provisions of the *Swimming Pool Act 1992*, *Swimming Pool Regulation 1998* and *Australian Standard 1926* and a compliance certificate issued for such by the principal certifying authority.
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- b. Filter backwash waters shall be discharged to the sewer mains of *Sydney Water* in accordance with *Sydney Water's* requirements. Where *Sydney Water* sewer mains are not available in rural areas, the backwash waters shall be discharged into a 5-metre absorption trench constructed within the confines of the property to the satisfaction of the principal certifying authority.
- c. A C.P.R. information resuscitation poster authorised by the *Life Saving Association* is to be displayed within the pool area. Such a poster may be obtained from Council for a prescribed fee.

Noise emissions from the filtration equipment must be maintained such that it does not cause a nuisance to adjoining residents.

8. Fencing

All fencing shall be erected in accordance with the approved plans and at the sole cost of the developer. 'Colorbond' style metal fences that face a public space are not permitted.

9. Switchboards/Utilities

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

10. Driveway

The gradients of driveways and manoeuvring areas shall be designed in accordance with *Australian Standard AS 2890.1 and AS 2890.2 (as amended)*.

Driveways shall be constructed using decorative paving materials such as stamped concrete, pattern stencilled concrete or paving bricks. The finishes of the paving surfaces are to be non-slip.

All driveways in excess of 20 metres in length shall be separated from the landscaped areas by the construction of a minimum 150mm high kerb, dwarf wall or barrier fencing.

11. Access Denied

Vehicular access to and from the proposed development shall be restricted to a single, Council approved connection point to the roundabout at the intersection of Gilchrist Drive and Englorie Park Drive.

This consent does not permit alternative vehicular access to the site via any other means other than for that specified within this consent.

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12. 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.

13. Engineering Design Works

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

14. Roundabout

A raised mountable roundabout minimum 3 metres in diameter shall be provided for safety and traffic calming purposes at the four way intersection at the common boundary of stages 4, 5 and 9.

15. Section 93F – Voluntary Planning Agreement

In accordance with the offer made by the developer to prepare a Planning Agreement in connection with this development application, a Planning Agreement pursuant to section 93F of the Environmental Planning and assessment Act 1979 shall be prepared by the applicant and submitted to Council for public exhibition.

The Planning Agreement shall articulate a commitment by the developer to complete all Development and Infrastructure Works, Dedications of Lands and the provision of all Monetary Contributions required in relation to the development of the Land described in the Macarthur Regional Centre (Macarthur Gardens) Master Plan and as required within Development Application F540/2003 and G111/2003 issued to the Developer and the Landowner by the Council dated 17 December 2003.

Prior to the Council or an accredited certifier issuing a Construction Certificate for the construction of any buildings (excluding buildings related to site works) within the Seniors Living Development, the Planning Agreement shall be executed to the satisfaction of the consent authority (Council).

Prior to the Council or the Principle Certifying Authority issuing an Occupation Certificate for the Final stage of the Seniors Living Development, all Development and Infrastructure Works, Land dedications or Monetary Contributions listed within the adopted Planning Agreement are to be finalised or otherwise guaranteed to the satisfaction of the consent authority (Council).

16. Car Parking Spaces

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

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17. Pathway Lighting

Pathway lighting must be designed and located to avoid glare for pedestrians and adjacent dwellings and must provide at least 20 lux at ground level.

18. Retaining Walls

Retaining walls adjoining public roads, public areas or other lots shall be constructed using only approved reinforced concrete, block work or concrete crib wall materials. Full details of all retaining walls shall be provided to the Principal Certifying Authority prior to the issue of the Construction Certificate.

19. Aboriginal Archaeology

Should any Aboriginal cultural material be located during any site works, all works must cease until the extent and significance of the remains can be ascertained.

20. Turning Area

The Stage 9 dwelling layout shall be amended and a turning area suitable for use by waste collection vehicles shall be designed and constructed at the northern end of the access way adjoining the future road on the NE boundary of the site. Turning areas for garbage trucks providing services for Stage 9 shall be approved by Council prior to the issue of the Construction Certificate for the construction of the roads in Stage 9.

21. Temporary Turning Area

A temporary sealed turning area suitable for use by waste collection vehicles shall be provided at the location of the future site entry at the NE boundary of the site between Stages 5 & 9.

22. Location of Bin Storage

Should the nominated storage points for garbage bins be in the garage for any dwelling, sufficient and permanent natural ventilation must be provided within the garage.

23. Parking of Vehicles During Waste Collection

No vehicles, trailers or other devices are to be parked/located on the streets within the retirement village during waste and recycling collection times.

24. Damage Caused During Waste Collection

Prior to the undertaking of any garbage collection services, Council and its waste and recycling contractors are to be indemnified against any property damage caused while carrying out waste and recycling collection services.

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25. Medical Waste in Community Centre

The community centre must be serviced by a separate medical waste service providing for the collection of medical and bio-hazard waste materials generated by the operation of the medical facility.

26. Site Manager

At all times, the site manager is responsible for the management of waste, relocating bins from the storage areas to the bin collection areas, moving bins for residents unable to do so and cleaning the bin storage areas for the retirement village.

27. Garage Doors

All garages must have a power-operated door and/or there must be a power point and an area for a motor or control rods to enable a power-operated door to be installed at a later date.

28. Occupation of Self Contained Dwellings

In accordance with the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 and the definitions therein, the occupation of the self contained dwellings within the retirement village is to be restricted to the following people:

- (a) seniors or people who have a disability,
- (b) people who live within the same household with seniors or people who have a disability,
- (c) staff employed to assist in the administration of and provision of services to housing provided under the SEPP.

29. Bedrooms

At least one bedroom within each dwelling must have:

- (a) an area sufficient to accommodate a wardrobe and a queen-size bed, and
 - (b) a clear area for the bed of at least:
 - (i) 1,200 millimetres wide at the foot of the bed, and
 - (ii) 1,000 millimetres wide beside the bed between it and the wall, wardrobe or any other obstruction, and
 - (c) 2 double general power outlets on the wall where the head of the bed is likely to be, and
 - (d) at least one general power outlet on the wall opposite the wall where the head of the bed is likely to be, and
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- (e) a telephone outlet next to the bed on the side closest to the door and a general power outlet beside the telephone outlet, and
- (f) wiring to allow a potential illumination level of at least 300 lux.

30. Bathrooms

At least one bathroom within a dwelling must be on the ground (or main) floor and have the following facilities arranged within an area that provides for circulation space for sanitary facilities in accordance with AS 1428.1:

- (a) a slip-resistant floor surface,
- (b) a washbasin with plumbing that would allow, either immediately or in the future, clearances that comply with AS 1428.1,
- (c) a shower that complies with AS 1428.1, except that the following must be accommodated either immediately or in the future:
 - (i) a grab rail,
 - (ii) portable shower head,
 - (iii) folding seat,
- (d) a wall cabinet that is sufficiently illuminated to be able to read the labels of items stored in it,
- (e) a double general power outlet beside the mirror.

31. Toilet

All dwellings must have at least one toilet that is visitable and that complies with the requirements for sanitary facilities of AS 4299.

32. Surface Finishes

All balconies and external paved areas must have slip-resistant surfaces.

33. Door Hardware

Door handles and hardware for all doors (including entry doors and other external doors) must be provided in accordance with AS 4299.

34. Ancillary Items

Switches and power points must be provided in accordance with AS 4299

35. Illumination in Living and Dining Room

All living rooms and dining rooms must have wiring to allow a potential illumination level of at least 300 lux.

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36. Linen Storage

All dwellings must be provided with a linen storage area in accordance with the relevant Australian Standards.

37. Garden Organics Service

Individual garden organics services will not to be provided by Council. In this regard, the retirement village shall employ staff to manage the storage, disposal and reuse of garden organics.

38. Opening and Closing of Front Gates

The front gates of the retirement village shall be opened at 8am and closed at 6pm seven days a week.

39. Contaminated Land Management Plan

All procedures and recommendations relating to site contamination and uncovering of suspected contaminated and/or hazardous material, contained within the Contaminated Land Management Plan prepared by Environmental and Earth Sciences, dated October 2006, shall be adhered to at all times during bulk earthworks and construction on the site.

40. Retention of Waste Dockets

On site retention of all construction and demolition waste dockets is required to confirm which facility received the material for recycling or disposal. This information is to be collated and provide to Council for its records prior to the issue of the final occupation certificate for that particular stage of construction.

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.

41. Additional Recycling Points

Prior to Council or an accredited certifier issuing a construction certificate, additional recycling points would need to be provided to Council's satisfaction. In this regard, the applicant shall liaise with Council's Waste Management Officer to determine the appropriate number of additional points and a suitable location for the additional points.

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42. Water/Electricity Utility Services

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

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

43. Sydney Water Stamped Plans

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

44. 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.

45. Geotechnical Report

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

46. Soil and Water Management Plan

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

47. Pollution Control

Prior to Council or an accredited certifier issuing a construction certificate, the applicant shall provide engineering details to Council for approval of a suitable gross pollutant trap(s) and/or water quality treatment in accordance with the relevant guidelines of the Department of Environment and Climate Change and Water (DECCW), Department of Water and Energy (DWE), and with the design requirements of the *Campbelltown (Sustainable) City DCP 2009 - Volumes 1 and 2* for the stormwater drainage system prior to discharge from the site.

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48. Road Construction (New)

Prior to Council or an accredited certifier issuing a construction certificate, the applicant shall submit engineering details of the required road construction described below:

Full construction of all new roads to Council's *Specification for Construction of Subdivisional Road and Drainage Works (as amended)* and with the design requirements of the *Campbelltown (Sustainable) City DCP 2009 - Volumes 1 and 2*. In this regard the applicant shall also undertake full construction of Gilchrist Drive from Englorie Park Drive to Hidcote Road.

All inspections are to be undertaken by Council and the Principal Certifying Authority shall not issue a subdivision certificate until Council has issued a compliance certificate for the road construction.

49. Road Bridge Structure

Prior to Council or an accredited certifier issuing a construction certificate, the applicant shall submit engineering details of the required road bridge structure described below:

The applicant shall design and construct a road bridge structure in Gilchrist Drive to span the tributary of Bow Bowing Creek adjoining Hidcote Road. The design shall meet relevant Australian standards and comply with the design requirements of the *Campbelltown (Sustainable) City DCP 2009 - Volumes 1 and 2* and be certified upon completion by a qualified structural engineer.

No works are to commence unless a current Controlled Activity Approval issued by the Department of Water and Energy exists for the construction of the bridge and road works in the vicinity of the creek.

50. Road Construction (Roundabout)

Prior to Council or an accredited certifier issuing a construction certificate, the applicant shall submit engineering details of required modifications to the roundabout at the junction of Gilchrist Drive and Englorie Park Drive.

Modifications shall be designed to *Austroads* and Council's current specifications and shall include all construction and reconstruction required, including SBS modified asphaltic concrete seal 60mm thick to the roundabout and approaches, signposting, thermoplastic line marking, reflectors, landscaping, the capital cost of street lighting to Integral Energy requirements, reinstatements, service relocations and adjustments, any work required to make a smooth connection to existing construction and any other associated costs.

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51. Traffic Committee

Prior to Council or an accredited certifier issuing a construction certificate for the construction of Stage 1, the applicant shall submit plans and obtain approval from Council's Local Traffic Committee for any proposals for the construction of prescribed traffic control devices and traffic control facilities and all associated line marking and/or sign posting.

52. Traffic Control Plans

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

53. Inundation by Flood Waters and Stormwater Management

Prior to Council or an accredited certifier issuing a construction certificate, the applicant shall submit plans and detailed hydrological and hydraulic calculations (all to AHD) prepared by an experienced practising hydraulics engineer in accordance with the design requirements of the *Campbelltown (Sustainable City) DCP 2009 - Volumes 1 and 2* including all engineering details and calculations relevant to site regrading and the collection and disposal of stormwater from the site, building/s and adjacent catchment, as it is considered that the subject development may be at risk of inundation by floodwaters due to overland flow affecting the property. The plans shall include details of:

- a. The calculated 100 year flows at this location and the extent of any inundation affecting the development;
- b. Any effect on adjacent properties, public or private, likely to be caused by the development; and
- c. Measures proposed to ensure compliance and with the design requirements of the *Campbelltown (Sustainable City) DCP 2009 - Volumes 1 and 2*.

In addition to the above:

- i. Site fill levels shall be at or above the calculated 100 year ARI level and habitable floor levels shall be in accordance with the freeboard requirements in accordance with the design requirements of the *Campbelltown (Sustainable City) DCP 2009 - Volumes 1 and 2*.
 - ii. Any filling required shall be undertaken in accordance with Council's 'Specification for Construction of Subdivision Road and Drainage Works' (as amended), AS3789 'guidelines for Earthworks for Commercial and Residential Development (as amended)', and the approved construction drawings.
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- iii. Where finished floor and surface levels related to flooding are specified as above, a 'work as executed' plan certified by a registered surveyor shall be submitted to Council for approval prior to release of the occupation certificate.
- iv. Floor levels of all buildings shall be a minimum of 150mm above the adjacent finished site levels.

54. Dilapidation Report

Prior to Council or an accredited certifier issuing a construction certificate, the applicant shall submit a dilapidation report for all buildings on lands that adjoin the subject works.

55. Alignment of New Works

Prior to Council or an accredited certifier issuing a construction certificate, the applicant shall liaise with Council and the adjoining land owners regarding the alignment and construction of new roads.

56. 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 applicant's expense and a compliance certificate, approving the works, shall be obtained from Council prior to the principal certifying authority issuing an occupation certificate.

PRIOR TO THE COMMENCEMENT OF ANY WORKS

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

57. Erosion and Sediment Control

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

58. 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);
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- 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.

59. Toilet on Construction Site

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

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

60. Trade Waste

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

61. Vehicular Access During Construction

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

All roads are to be swept at the end of each days work or as otherwise directed by Council's officers.

62. 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.

63. Footpath and Vehicular Crossing Levels

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

64. Hoarding / Fence

Prior to the commencement of any works, an appropriate hoarding/fence preventing public access to the site shall be erected for the duration of construction 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.

65. Fencing

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

66. Geotechnical Reference

Prior to the commencement of any works, a certificate prepared by the designing structural engineer certifying that the design is in accordance with the geotechnical investigation of the site. The designing structural engineer shall also nominate a site classification note *AS2870 – Residential Slabs and Footings*.

67. Structural Engineer Details

Prior to the commencement of any works, the submission to the principal certifying authority of all details prepared by a practicing structural engineer.

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.

68. Construction Work Hours

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

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

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69. 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.

70. 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.

71. Fill Compaction Requirements

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

Any lot filling operations carried out in accordance with this consent shall be tested to establish the field dry density every 300mm rise in vertical height. Test sites shall be located randomly across the fill site with 1 test per 500m² (minimum 1 test per 300mm layer) certified by a qualified geotechnical engineer.

72. Fill Contamination

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

73. Dust Nuisance

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

No dust generating works shall be undertaken or allowed to continue in windy conditions.

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74. Termite Control

The building shall be protected from subterranean termites in accordance with *Australian Standard 3660.1*. Certification of the treatment shall be submitted to the principal certifying authority prior to the issue of an occupation certificate.

75. Excess Material

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

76. Earth Works/Filling Works

All earthworks, including stripping, filling, and compaction shall be:

- a. Undertaken in accordance with Council's '*Specification for Construction of Subdivisional Roads and Drainage Works*' (as amended), AS 3798 '*Guidelines for Earthworks for Commercial and Residential Development*' (as amended), and approved construction drawings;
- b. Supervised, monitored, inspected, tested and reported in accordance with AS 3798 *Appendix B 2(a) Level 1 and Appendix C* by a NATA registered laboratory appointed by the applicant. Two collated copies of the report and fill plan shall be forwarded to Council; and
- c. Certified by the laboratory upon completion as complying, so far as it has been able to determine, with Council's specification and AS 3798.

77. Revegetation

Revegetation to the requirements of the manual – '*Soils and Construction (2004) (Bluebook)*' shall be applied to all disturbed areas within seven days after completion of earthworks, and shall be fully established prior to release of the maintenance security bond.

78. 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.

79. Compliance with Council Specification

All design and construction work, shall be in accordance with:

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

80. Footpath Kerb and Gutter

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

81. Footpath

The footpath in Gilchrist Drive from Englorie Park Drive to Hidcote Road adjoining the subject land shall be regraded in accordance with levels to be obtained from Council, and concrete foot paving 1.2 metres wide in accordance with Council's *Specification for Construction of Subdivisional Road and Drainage Works (as amended)* and with the design requirements of the *Campbelltown (Sustainable City) DCP 2009 - Volumes 1 and 2* shall be constructed to the satisfaction of Council. Areas not concreted shall be topsoiled and turfed. The footpath formation may need to be extended beyond the site boundary to provide an acceptable transition to existing footpath levels.

82. Pavement Thickness Determination

A road pavement design and pavement thickness report, from a N.A.T.A. registered laboratory appointed by the applicant, in accordance with Council's *Specification for Construction of Subdivisional Road and Drainage Works (as amended)* shall be forwarded to the principal certifying authority a minimum of 2 working days prior to the inspection of exposed subgrade for pavement thickness determination.

83. Associated Works

The applicant shall undertake any works external to the development, that are made necessary by the development, including additional road and drainage works or any civil works directed by Council, to make a smooth junction with existing work.

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84. Redundant Laybacks

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

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".

85. Section 73 Certificate

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

86. Structural Engineering Certificate

Prior to the principal certifying authority issuing an occupation certificate, the submission of certificates from a practising structural engineer certifying that all buildings, retaining walls and other structures have been erected in compliance with approved structural drawings and relevant *SAA Codes* and are structurally adequate.

87. Completion of External Works

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

88. Public Reserve Improvements

Prior to the principal certifying authority issuing an occupation certificate, the applicant shall obtain written approval from Council for any works carried out within public areas.

89. Restriction On The Use Of Land

Prior to the principal certifying authority issuing an occupation certificate, the applicant shall create the following restrictions on the use of land pursuant to the relevant provisions of the *Conveyancing Act*.

3.5 Lot 229 Kellicar Road, Campbelltown - Construction Of 235 Senior Living Housing Dwellings, A Community Centre, Use Of 6 Dwellings Temporarily As A Display Village And Associated Landscaping, Roads, Parking, Infrastructure And Earthworks

- a. Occupation of the self contained dwellings within the retirement village shall be for the following people only:
 - (a) seniors or people who have a disability,
 - (b) people who live within the same household with seniors or people who have a disability,
 - (c) staff employed to assist in the administration of and provision of services to housing provided under this Policy.
- b. Floor Level Controls (as required)
- c. No Alteration to Surface Levels (as required)
- d. Access Denied – Other than via the round-a-bout off Englorie Park Drive
- e. Drainage / Floor Level Control - 100yr flow, depressed (as required)

The applicant shall liaise with Council regarding the required wording. Any additional restrictions identified prior to the release of the occupation certificate shall also be applied to the site prior to the release of the occupation certificate. 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.

90. Bond (Outstanding Work in Public Areas)

The Principal Certifying Authority shall not issue an occupation certificate prior to receipt of a certificate from Council certifying that all work in public areas complies with the conditions of this consent.

In exceptional circumstances Council may agree to issue a compliance certificate prior to completion of works subject to receipt of a cash bond or a bank guarantee acceptable to Council from an Australian Banking Institution.

Bonds will be held in full by Council for a period of six months from the date of release of the occupation certificate or until completion of all outstanding works and maintenance and full establishment of vegetation to the satisfaction of Council, whichever is the longer. Council may at any time call in the bond to complete outstanding works.

91. Soil Classification

Prior to the principal certifying authority issuing an occupation certificate, all lots/building pads are to be classified in accordance with guidelines contained in the Australian Standard for Residential Slabs and Footings - *AS2870.1996 (as amended)*.

3.5 Lot 229 Kellicar Road, Campbelltown - Construction Of 235 Senior Living Housing Dwellings, A Community Centre, Use Of 6 Dwellings Temporarily As A Display Village And Associated Landscaping, Roads, Parking, Infrastructure And Earthworks

92. Contaminated Land

Prior to the principal certifying authority issuing an occupation certificate, the applicant shall ensure by way of soil testing by a *N.A.T.A.* registered laboratory that the land and any imported filling are free from contamination in accordance with the *Environmental Health Form Health Based Soil Investigation Levels - Soil Series No. 1* and a copy of the laboratory report shall be submitted to Council.

93. Final Inspection – Works as Executed Plans

Prior to the principal certifying authority issuing an occupation certificate, the applicant shall submit to Council the following documents:

- a. Two complete sets of fully marked up and certified work as executed plans in accordance with Council's *Specification for Construction of Subdivisional Road and Drainage Works (as amended)* and with the design requirements of the *Campbelltown (Sustainable City) DCP 2009 - Volumes 1 and 2* and one additional separate fully marked up copy of the plan sheet(s) and the line marking/signposting plan(s).
- b. Two copies of lot classification reports, geotechnical stability reports, dispersion tests, earthworks and fill placement reports, concrete core tests, sub grade and pavement density reports, structural and all other testing undertaken.
- c. Two copies of all compliance certificates in accordance with consent authority requirements, including supply of pipes and precast units, supply of sub-base material, supply of base course material, supply of concrete, and supply of bituminous materials.

All reports/certificates shall be prepared by a *N.A.T.A.* registered laboratory or qualified engineer in accordance with Council's *Specification for Construction of Subdivisional Road and Drainage Works (as amended)* and with the design requirements of the *Campbelltown (Sustainable City) DCP 2009 - Volumes 1 and 2* and shall list the relevant compliance standard(s) and certify that the whole of the area of works or materials tested comply with the above specification. All reports/certificates shall be complete, fully referenced, clearly indicate the area or material tested, the location and required/actual values of all tests and retesting, and be collated and suitably bound.

94. Restoration of Public Roads

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

95. 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.

3.5 Lot 229 Kellicar Road, Campbelltown - Construction Of 235 Senior Living Housing Dwellings, A Community Centre, Use Of 6 Dwellings Temporarily As A Display Village And Associated Landscaping, Roads, Parking, Infrastructure And Earthworks

96. Service Authorities

Prior to the principal certifying authority issuing an occupation certificate, two copies of all servicing plans shall be forwarded to Council in accordance with the following:

Written advice from *Sydney Water*, *Integral Energy* and where applicable the relevant gas company, shall be submitted, stating that satisfactory arrangements have been made for the installation of either service conduits or street mains in road crossings, prior to the construction of the road pavement. All construction work shall conform to the relevant authorities specification/s.

The final seal shall be deferred pending installation of all services. In this regard the applicant shall provide a temporary seal and lodge with Council as security, the amount to be determined by Council, to cover the cost of trench restoration by Council and the placement of the final asphaltic concrete seal.

97. Line Marking / Sign Posting Documentation

Prior to the principal certifying authority issuing an occupation certificate, the applicant shall submit to Council for Local Traffic Committee records two copies of work as executed plans of the line marking/sign posting approved by the Traffic Committee for the development. The plans shall show all works undertaken and the date of installation.

98. Residential Inter-Allotment Drainage

Prior to the principal certifying authority issuing an occupation certificate, a work as executed plan for the drainage works shall be submitted to Council demonstrating that inter-allotment drainage and associated easements, in accordance with Council's *Specification for Construction of Subdivisional Road and Drainage Works (as amended)* and with the design requirements of the *Campbelltown (Sustainable City) DCP 2009 - Volumes 1 and 2* have been provided for any residential lots where all or part of the lots do not drain to a public road.

99. Retaining

Prior to the principal certifying authority issuing an occupation certificate, all excavated and filled areas shall be battered to a slope of not greater than 1:2 or similarly be retained in accordance with the approved retaining wall. Slope batters greater than 1:6 shall be adequately landscaped to reduce the need for mowing or other ongoing maintenance.

100. Termite Protection

Prior to the principal certifying authority issuing an occupation certificate, certification from a licensed pest controller shall be submitted certifying that the termite treatment has been installed in accordance with *AS3660.1*.

101. BASIX

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

102. Registering of Levels

Prior to the principal certifying authority issuing an occupation certificate, the applicant shall submit to Council "work as executed" plan/s certified by a registered surveyor. The "work as executed" plan/s shall also be supplied in an electronic format, which complies with the following requirements:

Survey Information

- Finished ground and building floor levels together with building outlines.
- Finished ground levels every ten (10) metres within the site area.
- Where there is a change in finished ground levels that are greater than 0.3 metres between adjacent points within the above-mentioned grid, intermediate levels will be required.
- A minimum of fifteen (15) site levels.
- If the floor level is uniform throughout, a single level is sufficient.
- Details of all stormwater infrastructure including pipe sizes and types as well as surface and invert levels of all existing and/or new pits/pipes associated with the development.
- All existing and/or new footpaths, kerb and guttering and road pavements to the centre line/s of the adjoining street/s
- The surface level of all other infrastructure.

Format

- MGA 94 (Map Grid of Australia 1994) Zone 56 - Coordinate System
- All level information to Australian Height Datum (AHD).

AutoCAD Option

- The "etransmit" (or similar) option in AutoCAD with the transmittal set-up to include as a minimum:

Package Type -	zip
File Format -	AutoCAD 2004 Drawing Format or later
Transmittal Options -	Include fonts Include textures from materials Include files from data links Include photometric web files Bind external references The drawing is not to be password protected.

3.5 Lot 229 Kellicar Road, Campbelltown - Construction Of 235 Senior Living Housing Dwellings, A Community Centre, Use Of 6 Dwellings Temporarily As A Display Village And Associated Landscaping, Roads, Parking, Infrastructure And Earthworks

MapInfo Option

- Council will also accept either MapInfo Native format (i.e. .tab file) or MapInfo mid/mif.

All surveyed points will **also** be required to be submitted in a point format (x,y,z) in either an Excel table or a comma separated text file format.

103. Council Fees and Charges

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

ADVISORY NOTES

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

Advice 1. Environmental Planning and Assessment Act 1979 Requirements

The Environmental Planning and Assessment Act 1979 requires you to:

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

Advice 2. Tree Preservation Order

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

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

Advice 3. Disability Discrimination Act

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

Advice 4. Smoke Alarms

From 1 May 2006 all NSW residents must have at least one working smoke alarm installed on each level of their home. This includes owner occupier, rental properties, relocatable homes and any other residential building where people sleep.

The installation of smoke alarms is required to be carried out in accordance with AS 3786. The licensed electrical contractor is required to submit to the Principal Certifying Authority a certificate certifying compliance with AS 3000 and AS 3786.

Advice 5. Retaining Walls

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

Advice 6. Buried Waste

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

Advice 7. 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 8. 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.

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 ant capping, 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 9. Inspections – Civil Works

Where Council is nominated as the principal certifying authority for civil works, the following stages of construction shall be inspected by Council.

- a. EROSION AND SEDIMENT CONTROL –
 - i. Direction/confirmation of required measures.
 - ii. After installation and prior to commencement of earthworks.
 - iii. As necessary until completion of work.
 - b. STORMWATER PIPES – Laid, jointed and prior to backfill.
 - c. VEHICLE CROSSINGS AND LAYBACKS – Prior to pouring concrete.
-

d FINAL INSPECTION – All outstanding work.

Advice 10. Inspection Within Public Areas

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

Advice 11. Adjustment to Public Utilities

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

Advice 12. Salinity

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

Advice 13. Swimming Pools

To limit evaporation and save water, Council encourages that you investigate placing a pool blanket over the swimming pool.

Advice 14. Asbestos Warning

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

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

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

Advice 15. Fire Risk Identification Sticker

A sticker prepared by the NSW Fire Brigade is attached to the approval documentation. The sticker provides a guide to fire fighters for the purposes of improving searches for occupants in the event of a fire, and to assist with fire fighter safety.

It is requested that the PCA or builder tick the appropriate boxes on the sticker and mount it in the electrical meter box.

Advice 16. Rain Water Tank

It is recommended that water collected within any rainwater tank as part of the development be limited to non-potable uses. NSW Health recommends that the use of rainwater tanks for drinking purposes not occur where a reticulated potable water supply is available.

Advice 17. Smoke Free Environment Act

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

END OF CONDITIONS

3.5 Lot 229 Kellicar Road, Campbelltown - Construction Of 235 Senior Living Housing Dwellings, A Community Centre, Use Of 6 Dwellings Temporarily As A Display Village And Associated Landscaping, Roads, Parking, Infrastructure And Earthworks

ATTACHMENT 2

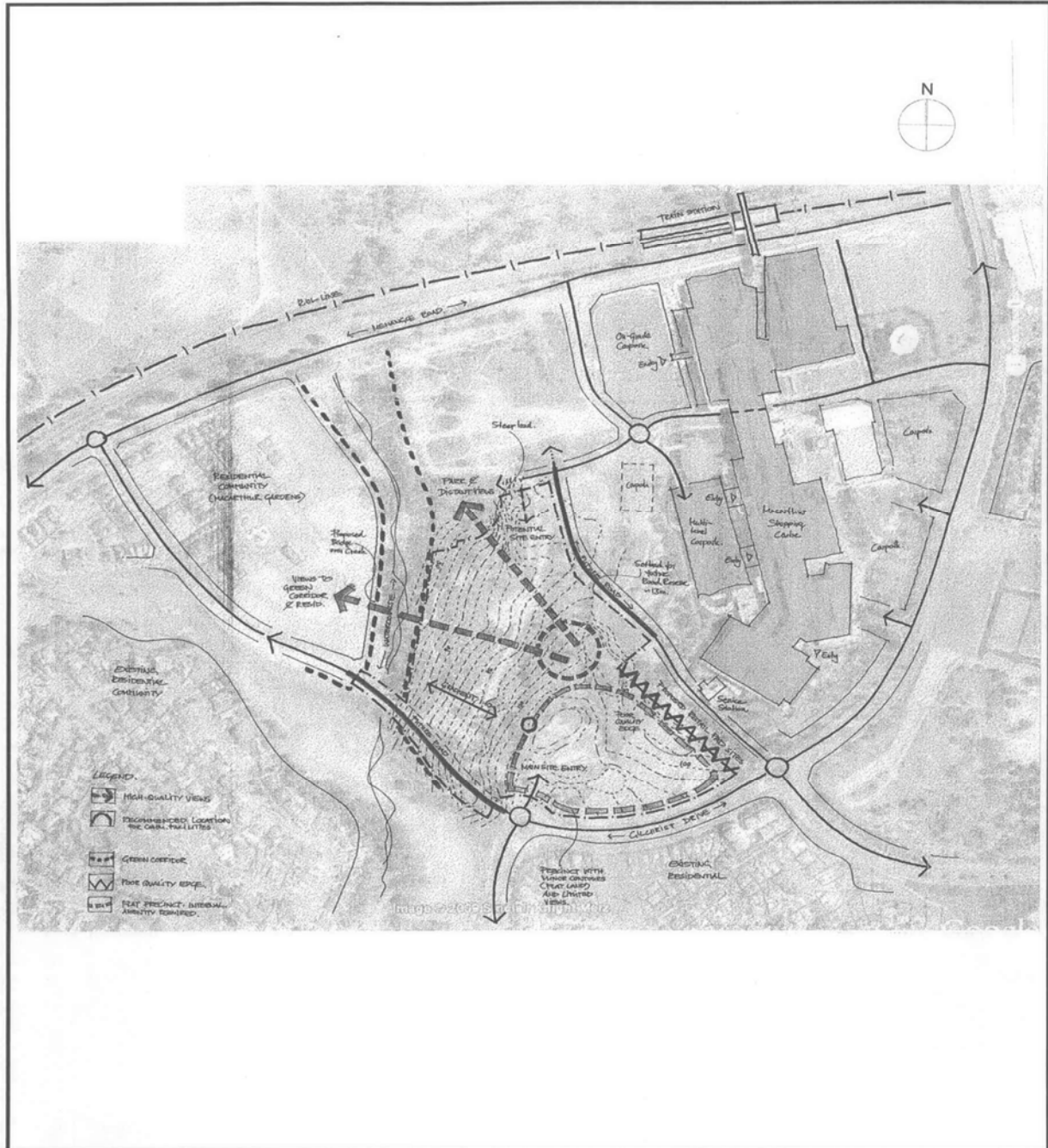


LOCALITY PLAN



SUBJECT: CONSTRUCTION OF TWO HUNDRED & THIRTY FIVE (235) SENIOR LIVING HOUSING DWELLINGS, COMMUNITY CENTRE, USE OF SIX (6) DWELLINGS TEMPORARILY AS A DISPLAY VILLAGE AND ASSOCIATED LANDSCAPING, ROADS, PARKING, INFRASTRUCTURE AND EARTHWORKS.
LOTS 3702, 3704, 3707, 3711 DP1127973, 4 DP800736 & 39 DP1082896 - KELLICAR RD, CAMPBELLTOWN

ATTACHMENT 3



SITE ANALYSIS PLAN

SUBJECT: CONSTRUCTION OF TWO HUNDRED & THIRTY FIVE (235) SENIOR LIVING HOUSING DWELLINGS, COMMUNITY CENTRE, USE OF SIX (6) DWELLINGS TEMPORARILY AS A DISPLAY VILLAGE AND ASSOCIATED LANDSCAPING, ROADS, PARKING, INFRASTRUCTURE AND EARTHWORKS. LOTS 3702, 3704, 3707, 3711 DP1127973, 4 DP800736 & 39 DP1082896 - KELLICAR RD, CAMPBELLTOWN.

3.5 Lot 229 Kellicar Road, Campbelltown - Construction Of 235 Senior Living Housing Dwellings, A Community Centre, Use Of 6 Dwellings Temporarily As A Display Village And Associated Landscaping, Roads, Parking, Infrastructure And Earthworks

ATTACHMENT 4



SITE MASTER PLAN

SUBJECT: CONSTRUCTION OF TWO HUNDRED & THIRTY FIVE (235) SENIOR LIVING HOUSING DWELLINGS, COMMUNITY CENTRE, USE OF SIX (6) DWELLINGS TEMPORARILY AS A DISPLAY VILLAGE AND ASSOCIATED LANDSCAPING, ROADS, PARKING, INFRASTRUCTURE AND EARTHWORKS. LOTS 3702, 3704, 3707, 3711 DP1127973, 4 DP800736 & 39 DP1082896 - KELLICAR RD, CAMPBELLTOWN.

3.5 Lot 229 Kellicar Road, Campbelltown - Construction Of 235 Senior Living Housing Dwellings, A Community Centre, Use Of 6 Dwellings Temporarily As A Display Village And Associated Landscaping, Roads, Parking, Infrastructure And Earthworks

ATTACHMENT 5



SITE STAGING PLAN

SUBJECT: CONSTRUCTION OF TWO HUNDRED & THIRTY FIVE (235) SENIOR LIVING HOUSING DWELLINGS, COMMUNITY CENTRE, USE OF SIX (6) DWELLINGS TEMPORARILY AS A DISPLAY VILLAGE AND ASSOCIATED LANDSCAPING, ROADS, PARKING, INFRASTRUCTURE AND EARTHWORKS. LOTS 3702, 3704, 3707, 3711 DP1127973, 4 DP800736 & 39 DP1082896 - KELLICAR RD, CAMPBELLTOWN.

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 19/04/2010)	4
Total completed Class 1 DA Appeal Matters (as at 19/04/2010)	5
Costs from 1 July 2009 for Class 1 DA Appeal Matters:	\$144,916.01

1 (a)

Pope Shenouda III Coptic Christian Centre

Issue:

Refusal of Development Application 3263/2005/DA-C for the demolition of existing buildings, alterations to church and construction of stadium, two residences, dormitory hall, playing field and car parking

Property:

Lots 315 - 318 DP 260797 No 2 Wills Road, Long Point.

Property owner:

Coptic Orthodox Church Property

File No:

3263/2005/DA-C (Court File 10700 of 2008)

Court Application filed:	21 July 2008
Applicant:	Pope Shenouda III Coptic Christian Centre
Costs Estimate:	\$25,000.00 (exclusive of Barristers, Court Appointed Experts or disbursements fees)
Final Costs:	\$104,952.24
Status:	Ongoing – Appeal upheld and Development Consent granted. Awaiting Solicitors final tax invoice.

Action Since Last Meeting	The Court confirmed its Judgement in this matter on 19 March 2010, upholding the applicants appeal and granting conditional consent for the modified Development Application 3263/2005/DA-C.
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1 (b)	Gabriel Vella and Betty Vella
Issue:	Deemed refusal of Development Applications 2406/2009/DA-DW (erection of a dwelling house) and 2873/2009/DA-SP (construction of an inground swimming pool).
Property:	Lot 8 DP 285774 No. 22 Macquarie Links Drive, Macquarie Links.
Property Owner:	Mr. Gabriel Joseph Vella and Mrs. Betty Vella
File No:	2406/2009/DA-DW and 2873/2009/DA-SP (Court File 10086 of 2010)
Court Application Filed:	12 February 2010
Applicant:	Gabriel Vella and Betty Vella
Costs Estimate:	\$20,000.00 (exclusive of Barristers, Court Appointed Experts or disbursement fees)
Costs to date:	No invoices submitted to date
Status:	Ongoing - listed for hearing.

Action Since Last Meeting	The matter was before the Court on 12 April 2010 for Hearing where the Court dismissed the Applicants appeal.
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1 (c)	John Galluzzo
Issue:	Appeal under Section 56A of the Land and Environment Court Act 1979 against Commissioner Bly's decision of 18 December 2009 to dismiss the applicant's appeal against Council's refusal of Development Application 1972/2007/DA-C for the extensions to a childcare centre.
Property:	Pt Lot 101 DP 602622 No.1 Bloomfield Road, Denham Court.
Property Owner:	John Galluzzo
File No:	1972/2007/DA-C (Court File 10/10099)
Court Application Filed:	

Applicant: 17 February 2010
Direction hearing: John Galluzzo
Costs Estimate: 23 April 2010
 \$20,000.00 (exclusive of Barristers, Court Appointed
Costs to date: Experts or disbursement fees)
 No invoices submitted to date
Status:
 New Matter

Action Since Last Meeting Listed for further direction hearing on 23 April 2010.

1 (d) Angelo Skagias and Nick Skagias

Issue: Deemed refusal of a Section 96 application to modify Development Applications 2334/2007/DA-C for the demolition of 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. Gabriel Joseph Vella and Mrs. Betty Vella
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
Direction hearing: 23 April 2010
Costs Estimate: \$20,000.00 (exclusive of Barristers, Court Appointed Experts or disbursement fees)
Costs to date: No invoices submitted to date
Status: New matter.

Action Since Last Meeting Listed for direction hearing on 23 April 2010.

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 19/04/2010)	1
Total completed Class 1 Order/Notice Appeal Matters (as at 19/04/2010)	0
Costs from 1 July 2009 for Class 1 Order/Notices Appeal Matters:	\$0.00

2 (a) Anthony Powell

Issue: Appeal against the terms of Council’s Order No’s. 1 and 12 served under Section 121B of the Environmental Planning and Assessment Act 1979, requiring the applicant to cease use of a garage being used for habitable purposes and reinstate the garage for its

Property: approved use.
Property Owner: Lot 105 DP 544373 No. 9 Aubrey Street, Ingleburn.
File No: Mr. Anthony Powell and Ms. Christine Lamont
 1359/2009/N-EPA (Court File 10138 of 2010)
Court Application Filed: 2 March 2010
Applicant: Mr. Anthony Powell
Directions hearing date: 20 April 2010
Costs Estimate: \$10,000.00 (exclusive of Barristers, Court Appointed
 Experts or disbursement fees)
Costs to date: No invoices submitted to date

Status: New matter.

Action Since Last Meeting Listed for further directions hearing on 20 April 2010.

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

Total ongoing Class 4 Matters (as at 19/04/2010)	4
Total completed Class 4 Matters (as at 19/04/2010)	0
Costs from 1 July 2009 for Class 4 Matters	\$4,561.37

3 (a) Khaled Alameddine

Issue: Non-compliance with Orders to rectify structurally inadequate outbuildings.
Property: Lot 14 DP 740774 No. 329 Wedderburn Road, Wedderburn
Property owner: Ms Susanna Rossi
File No: Court File No. 40778 of 2007
Applicant: Khaled Alameddine
Costs Estimate: \$20,000 (exclusive of Barristers, Court Appointed Experts or disbursements fees)
Costs to Date: \$9,859.71

Status: Ongoing – Council's Orders upheld and proceedings completed, cost recovery being pursued.

Action Since Last Meeting Resolution of costs in this matter has not been settled. Council is consulting with its solicitors as to the options for recovery of those costs.

3 (b) George Habra, Renee Habra and Trustees of the Estate of the Late Elia Habra

Issue: Non-compliance with Orders to rectify excavated and subsiding earth embankment located on either side of the common boundary of adjoining residential premises.

Property: Lot 1451 DP 703487 No. 2 Brownlow Place, Ambarvale

Property owner: George Habna Habra, Renee Habra and Elia Habra

File No: Court File No. 40024 of 2008

Respondent: George Habna Habra, Renee Habra and Elia Habra

Costs Estimate: \$20,000 (exclusive of Barristers, Court Appointed Experts or disbursements fees)

Costs to date: \$14,075.11

Status: Ongoing – Amended Orders made by the Court. Cost recovery Ongoing

Action Since Last Meeting Notice of Motion to amend the previous Orders of the Court to confirm the proposed remediation works that incorporate a retaining wall was made by the Court on 8 February 2009.

3 (c) Simon Simo and Emilia Simo

Issue: Non-compliance with Orders to rectify excavated and subsiding earth embankment located on either side of the common boundary of adjoining residential premises.

Property: Lot 1450 DP 703487 No. 4 Brownlow Place, Ambarvale

Property owner: Simon Simo and Emilia Simo

File No: Court File No. 40025 of 2008

Respondent: Simon Simo and Emilia Simo

Costs Estimate: \$20,000 (exclusive of Barristers, Court Appointed Experts or disbursements fees)

Costs to date: \$12,586.07

Status: Ongoing – Amended Orders made by the Court. Cost recovery Ongoing

Action Since Last Meeting Notice of Motion to amend the previous Orders of the Court to confirm the proposed remediation works that incorporate a retaining wall was made by the Court on 8 February 2009.

3 (d) Inderjit Singh T/as Multi Furniture

Issue: Non-compliance with Orders to cease use of premises for furniture manufacture and vacate the premises.
Property: Lot 2 DP739179, Unit 2 Erica Lane, Minto and Pt Lot 6 DP 703617 Unit 1 Erica Lane, Minto
Property owner: GLP Developments Pty Ltd and A and M Stavros respectively
File No: Court File No. 49166 of 2008
Respondent: Inderjit Singh T/as Multi Furniture
Costs Estimate: \$20,000 (exclusive of Barristers, Court Appointed Experts or disbursements fees)
\$12,751.21
Costs to Date:
Status: Ongoing – Council's Orders upheld and proceedings completed, cost recovery being pursued.

Action Since Last Meeting Resolution of costs in this matter has not been settled. Council is consulting with its solicitors as to the options for recovery of those costs.

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 (as at 19/04/2010)	3
Total completed Class 5 Matters (as at 19/04/2010)	0
Costs from 1 July 2009 for Class 5 Matters	\$21,853.78

4 (a) Cvetko Josevski

Issue: Development carried out (wilfully poison 6 mature eucalyptus trees) in contravention of the planning instruments that applied in respect of the property.
Property: Lot 4 DP 238982 No.74 Hansens Road, Minto Heights.
Property owner: Cvetko Josevski and Snezana Josevski
File No: Court File No. 50076 of 2008
Court Application Filed: 9 October 2008
Defendant: Cvetko Josevski
Costs Estimate: \$20,000 (exclusive of Barristers, Court Appointed Experts or disbursements fees)
\$24,163.37
Costs to Date:
Status: Ongoing – Prosecution successful and Court proceedings completed; cost recovery being pursued.

Action Since Last Meeting Negotiations with the Defendant regarding costs settlement are ongoing.

4 (b)

John Mhanna

Issue: Development carried out without the issue of a construction certificate and contrary to the conditions of development consent No. 2340/2005/DA-M comprising the demolition of three dwellings and the construction of fifteen dwellings and strata subdivision.

Property: Lot 2 DP 520114, Lot 9 DP 233072 and Lot 8 DP 2233072, No's 18 to 20 Myee Road, Macquarie Fields.

Property owner: Westcity Developments Pty Ltd

File No: 2340/2005/DA-M (Court File No's. 50050 of 2009 and 50051 of 2009)

Court Application Filed: 10 September 2009

Defendant: John Mhanna

Costs Estimate: \$25,000 (exclusive of Barristers, Court Appointed Experts or disbursements fees)

Costs to Date: \$18,328.49

Status: Ongoing – Court proceedings completed - cost recovery ongoing.

Action Since Last Meeting The matter was before the Court on 18 March 2010 for judgement where the defendant was fined \$3,000 and ordered to pay Councils costs.

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

Total ongoing Class 6 Matters (as at 19/04/2010)	0
Total completed Class 6 Matters (as at 19/04/2010)	0
Costs from 1 July 2009 for Class 6 Matters	\$0.00

6. Land and Environment Court Tree Dispute Matters – Applications filed under the Trees (Disputes Between Neighbours) Act 2006

Total ongoing Tree Dispute Matters (as at 19/04/2010)	0
Total completed Tree Dispute Matters (as at 19/04/2010)	0
Costs from 1 July 2009 for Tree Dispute Matters	\$0.00

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

Total ongoing Appeal Matters (as at 19/04/2010)	1
Total completed Appeal Matters (as at 19/04/2010)	0
Costs from 1 July 2009 for District Court Matters	\$0.00

7 (a) Michael Bruce Hall

Issue: Appeal against decision in Consumer, Trader and Tenancy Tribunal Case No GEN:08/45487 of BUILDINGPLANS.COM.AU (Michael Bruce Hall) v Ameerul Nisha Hussein.

File No: 2593/2007/DA-DW (Court File No. 08/10/2008)

Court Application filed: 9 October 2008

Appellant: Michael Bruce Hall

Costs Estimate: \$5,000 (exclusive of Barristers, Court Appointed Experts or disbursements fees)

Costs to date: \$5,031.63

Status: Ongoing – appeal dismissed and proceedings completed, cost recovery being pursued.

Action Since Last Meeting Awaiting determination of costs assessment.

8. 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 19/04/2010)	37
Total completed Local Court Matters (as at 19/04/2010)	97
Costs from 1 July 2009 for Local Court Matters	\$17,798.58

File No: LP 101/09 - Penalty Notice Court Election

Offence: Unregistered Dog - not dangerous dog

Act: Companion Animals Act

Final Costs: \$1,300.00

Status – Completed: The matter was before the Court for hearing on 19 April 2010 where the accused, Scott Batt, did not appear. The Court granted an application to hear the matter in the offender's absence and after considering the evidence and submissions found the offender proved and imposed a fine of \$200 and made an order for costs in the sum of \$1,376.00.

File No: LP 10/10 - Penalty Notice Court Election
Offence: Deposit litter (cigarette butt) from vehicle
Act: Protection of the Environment Operations Act
Costs to date: \$0.00
Status – Ongoing: The matter was before the Court for first mention on 2 March 2010 where the accused entered a not guilty plea. The matter has been adjourned to 14 May for hearing

File No: LP 12/10 - Penalty Notice Court Election
Offence: Not register 6-month old companion animal (dog)
Act: Companion Animals Act
Final Costs: \$0.00
Status – Completed: The matter was before the Court for further plea / mention on 9 April 2010 where the matter was withdrawn as consideration of representations made by the accused indicated the offence was not intentional, but rather a misunderstanding by the accused of their obligation under the Act to register the dog.

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 – New Matter: The matter is listed for first mention on 20 April 2010.

File No: LP 18/10 - 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 is listed for first mention on 16 March 2010 where the accused entered a not guilty plea. The proceedings have been adjourned to 18 May 2010 for hearing.

File No: LP 19/10 - Enforcement Order Court Election
Offence: Deposit litter (cigarette) from vehicle
Act: Protection of the Environment Operations Act
Costs to date: \$0.00
Status – Ongoing: The matter was before the Court for first mention on 13 April 2010 where the Defendant entered a not guilty plea. The proceedings were adjourned to 25 June for hearing.

File No: LP 20/10 – 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 first mention on 6 April 2010 where the accused entered a not guilty plea with explanation. After considering the evidence and submissions the Magistrate found the offence proved and directed that under Section 10 of the Crimes (Sentencing Procedure) Act no conviction be recorded.

File No: LP 21/10 – Penalty Notice Court Election
Offence: Stop on path/strip in built-up area – school zone
Act: Road Rules 2008
Final costs: \$0.00
Status – Completed: The matter was before the Court for first mention on 6 April 2010 where the accused entered a not guilty plea with explanation. After considering the evidence and submissions the Magistrate found the offence proved and directed that under Section 10 of the Crimes (Sentencing Procedure) Act no conviction be recorded.

File No: LP 22/10 - Penalty Notice Court Election
Offence: Fail to comply with prevention notice
Act: Protection of the Environment Operations Act
Costs to date: \$0.00
Status – Ongoing: The matter was before the Court for first mention on 13 April 2010 where by consent the proceedings were adjourned to 27 April for plea/mention.

File No: LP 23/10 - Penalty Notice Court Election
Offence: Fail to pay prevention notice administration fee
Act: Protection of the Environment Operations Act
Costs to date: \$0.00
Status – Ongoing: The matter was before the Court for first mention on 13 April 2010 where by consent the proceedings were adjourned to 27 April for plea/mention.

File No: LP 24/10 - Penalty Notice Court Election
Offence: Pollute waters (excavated material deposited on roadway)
Act: Protection of the Environment Operations Act
Costs to date: \$0.00
Status – Ongoing: The matter was before the Court for first mention on 13 April 2010 where the Defendant entered a not guilty plea. The proceedings were adjourned to 29 June for hearing.

File No: LP 25/10 – Penalty Notice Court Election
Offence: Stop on path/strip in built-up area
Act: Road Rules 2008
Costs to date: \$0.00
Status – Ongoing: The matter was listed for first mention on 13 April 2010 where the accused entered a not guilty plea. The matter has been adjourned to 17 June for hearing.

9. 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 19/04/2010) **6**
Costs from 1 July 2009 for Advice Matters **\$35,937.06**

10. Legal Costs Summary

The following summary lists the Planning and Environment Division’s net Legal Costs for the 2009/2010 period.

Relevant Attachments or Tables	Costs Debit	Costs Credit
Class 1 Land and Environment Court - appeals against Council's determination of Development Applications	\$144,916.01	\$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	\$4,561.37	\$0.00
Class 5 Land and Environment Court - Pollution and Planning prosecution matters	\$21,853.78	\$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	\$17,798.58	\$1,650.00
Matters referred to Council's Solicitor for Legal Advice	\$35,937.06	\$0.00
Miscellaneous costs not shown elsewhere in this table	\$0.00	\$0.00
Costs Sub-Total	\$225,066.81	\$1,650.00
Overall Net Costs Total (GST exclusive)	\$223,416.81	

Officer's Recommendation

That the information be noted.

Committee's Recommendation: (Oates/Kolkman)

That the Officer's Recommendation be adopted.

CARRIED

Council Meeting 4 May 2010 (Matheson/Rowell)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 71

That the Officer's Recommendation be adopted.

5. GENERAL BUSINESS

5.1 Camden Gas Project - Well Locations

Committee's Recommendation: (Rowell/Greiss)

1. That due to the receipt of additional information regarding the proposed locations of the AGL gas extraction wells Council extend its letterbox drop notifying residents of the proposed locations to include all suburbs from Denham Court to Glen Alpine.
2. That Council place an advertisement in the Campbelltown Local Newspapers advising the community of the proposed locations of the AGL gas extraction wells.
3. That the General Manager approach AGL requesting that AGL Representatives be invited to present a briefing to Councillors concerning the Camden Gas Project.

Council Meeting 4 May 2010 (Matheson/Rowell)

That the Committee's Recommendation be adopted.

Addendum: (Rowell/Hawker)

4. That Council write to the Minister for Water expressing Council's firm position in relation to this project.

Council Resolution Minute Number 71

That the Committee's Recommendation incorporating the Addendum be adopted.

10. CONFIDENTIAL ITEMS

10.1 Confidential Information relating to the Planning and Environment Committee - 27 April 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

R Matheson
CHAIRPERSON
