

Reports of the Planning and Environment Committee Meeting held at 7.30pm on Tuesday, 1 May 2012.

APOLOGIES

ACKNOWLEDGEMENT OF LAND

DECLARATIONS OF INTEREST

Pecuniary Interests

Non Pecuniary – Significant Interests

Non Pecuniary – Less than Significant Interests

ITEM	TITLE	PAGE
1.	WASTE AND RECYCLING SERVICES	3
	No reports this round	3
2.	ENVIRONMENTAL PLANNING	3
2.1	Outcomes of the public exhibition of stage four of Campbelltown (Sustainable City) DCP 2011	3
2.2	New Policy - Pesticide Use Notification	15
2.3	Water Quality Monitoring Strategy	20
2.4	New South Wales Government - Strategic Land Use Policy relating to coal seam gas extraction activities	24
2.5	Development Application 2263/2011/DA-RA: Mixed Use (Residential and Retail) - Queen Street, Campbelltown	33
3.	DEVELOPMENT SERVICES	38
3.1	Development Services Section Statistics - March 2012	38
3.2	Council's monitoring and reporting obligations of variations to Development Standards allowed under State Environmental Planning Policy No.1 - Development Standards (SEPP 1)	39
3.3	Building Code of Australia - Prevention of falls from windows in high rise buildings	41
4.	COMPLIANCE SERVICES	44
4.1	Legal Status Report	44
5.	GENERAL BUSINESS	49
18.	CONFIDENTIAL ITEMS	49
	No reports this round	49

Minutes of the Planning and Environment Committee held on 1 May 2012

Present

- Councillor R Kolkman (Chairperson)
- Councillor J Bourke
- Councillor G Greiss
- Councillor P Hawker
- Councillor M Oates
- General Manager - Mr P Tosi
- Director Planning and Environment - Mr J Lawrence
- Acting Manager Sustainable City and Environment - Mr A Spooner
- Acting Manager Development Services - Mr B Leo
- Manager Community Resources and Development - Mr B McCausland
- Corporate Support Coordinator - Mr T Rouen
- Executive Assistant - Mrs K Peters

Apology (Hawker/Greiss)

That the apologies from Councillors Matheson and Thompson be received and accepted.

CARRIED

Acknowledgement of Land

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

DECLARATIONS OF INTEREST

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

Pecuniary Interests

Nil

Non Pecuniary – Significant Interests

Councillor Hawker - Item 2.5 - Development Application 2263/2011/DA-RA: Mixed Use (Residential and Retail) - Queen Street, Campbelltown - Councillor Hawker advised that he is a member of the Joint Regional Planning Committee (JRPP) and that he will leave the Chamber and not take part in debate nor vote on the matter.

Councillor Kolkman - Item 2.5 - Development Application 2263/2011/DA-RA: Mixed Use (Residential and Retail) - Queen Street, Campbelltown - Councillor Kolkman advised that he is a member of the Joint Regional Planning Committee (JRPP) and noted that he will remain in the Chamber unless any items of substance are to be discussed in relation to this item.

Non Pecuniary – Less than Significant Interests

Nil

1. WASTE AND RECYCLING SERVICES

No reports this round

2. ENVIRONMENTAL PLANNING

2.1 Outcomes of the public exhibition of stage four of Campbelltown (Sustainable City) DCP 2011

Reporting Officer

Acting Manager Environmental Planning

Attachments

1. Copy of the submissions received (distributed under separate cover)
2. Copy of the draft Campbelltown (Sustainable City) DCP 2012 (Volume one) (distributed under separate cover)
3. Summary of the external submissions received from the general public and public authorities, including officer's comments and recommended actions (distributed under separate cover)
4. Detailed discussion and recommendations on the main issues raised in the internal and external submissions (distributed under separate cover)

Purpose

The purpose of this report is to:

1. Inform Council of the outcomes of the public exhibition of the draft Campbelltown (Sustainable City) Development Control Plan 2011 (Volume one) (draft SCDCP)
 2. Advise Council of the recommended changes to the draft SCDCP 2011 in light of issues raised during the public exhibition period and further review by Council staff
 3. Recommend that Council place the revised draft SCDCP 2011 (now draft SCDCP 2012) on public exhibition, given the number and nature of the recommended changes
 5. Seek Council's endorsement to proceed with the repeal of DCP 81 which applies to the site previously known as No.118 Pembroke Road, Leumeah.
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History

On 12 April, 2011 Council considered a report on the draft SCDCP 2011 and resolved in part as follows:

1. That Council publicly exhibit Volume one Draft Campbelltown (Sustainable City) Development Control Plan 2011 for a period of 28 days in accordance with the provisions of the *Environmental Planning and Assessment Regulation 2000*.
2. That Council endorse the proposed restructure of the SCDCP to include the previously adopted site specific DCPs comprising One Minto DCP, Glenfield Road Urban Release Area and DCP104 (Link Site) under Volume two Site Specific DCPs and the Engineering Design for Development under Volume three of the draft SCDCP 2011 as outlined in this report.
5. That a report be presented to Council following the exhibition period detailing all submissions and the outcomes of the public information session.
6. That the period of notification for all developments be extended from 10 to 30 days.

In accordance with Item 1 of the above resolution, the draft SCDCP was publicly exhibited for a period of 31 days from Wednesday 4 May until Friday 3 June 2011.

Copies of the draft SCDCP were made available at Council's Customer Service Centre, on Council's website and at all Council's public libraries.

Report

1) Draft Campbelltown (Sustainable City) Development Control Plan 2011 (Volume 1)

a) Outcome of the public exhibition of Draft SCDCP

Council received a total of ten written submissions regarding the draft SCDCP 2011. Seven submissions were received from public authorities, as follows:

- The Office of Environment and Heritage
- Tharawal Local Aboriginal Land Council
- The NSW Health/Population Health
- The former Roads and Traffic Authority (RTA) now Roads and Maritime Services
- The NSW Rural Fire Services
- Camden Council
- Liverpool City Council.

The remaining three submissions were received individually from the Ingleburn Community Association (ICA) and two residents.

Officer's from Council's Planning and Environment Division subsequently completed a comprehensive internal review of the draft SCDCP in light of:

2.1 Outcomes Of The Public Exhibition Of Stage Four Of Campbelltown (Sustainable City) DCP 2011

- External Submissions received
- Amendments to NSW planning legislation
- Matters identified by staff that primarily address minor shortcomings with the Campbelltown (Sustainable City) DCP 2009 (SCDCP 2009) that have become apparent in its day-to-day implementation as well as experience with the Joint Regional Planning Panel (JRPP), applicants and residents.

As a result of the above comprehensive review by staff, the exhibited draft SCDCP is proposed to be substantially amended. As such, it is recommended that Council not proceed with SCDCP 2011, however place an amended document, to be known as draft SCDCP 2012, on public exhibition.

A summary of all of the issues raised in the external submissions received from the general public and public authorities including staff comments on matters/issues raised, and subsequent recommended amendments to the draft SCDCP, is provided as Attachment 3 to this report.

b) Review of Draft SCDCP 2011

Following a review of the comments received on the exhibited draft SCDCP 2011 a copy of a preliminary revised draft SCDCP 2012- Volume One was distributed to all Councillors in December 2011 for review and comment. Staff received verbal comments from a Councillor requesting provisions within the SCDCP to reduce the risk of children falling from balconies and windows of residential buildings. This matter has been addressed as part of this report. In addition, this same matter was raised at Council’s Planning and Environment Committee meeting on 6 March 2012 and a separate report on this matter is provided in Item 3.3 of the Planning and Environment Committee.

i) Main issues raised and recommended approach/changes

The main issues raised in the submissions and the review by staff, including the proposed changes to the draft SCDCP, are discussed in detail in Attachment 4 to this Report.

An executive summary of the main issues raised and proposed changes in response is provided below:

General Comments

General comments - Issues/suggestions raised	Recommended changes (refer to Attachment 4 for detailed discussion)
There is a need to include a title for Volume one.	Name Volume one as: Volume one: Development controls for all types of development.

Draft Part 1 Preliminary (Part 1)

Part 1 – Issues/suggestions raised	Recommended changes (refer to Attachment 4 for detailed discussion)
References to Part 3A of the Environmental Planning and Assessment Act 1979 (the Act), should be removed because it is no longer valid.	Delete any reference to Part 3A of the Act from the draft SCDCP.
Clarification of the term ‘Building Height’ is needed.	Reword the definition of ‘building height’ to be consistent with the definition under the Standard Instrument (Local Environmental Plans) Order 2006 (SI LEP).

Draft Part 2 Requirements applying to all types of development (Part 2)

Part 2 – Issues/suggestions raised	Recommended changes (refer to Attachment 4 for detailed discussion)
Controls for retaining walls need to be revised to ensure consistency with the retaining wall provisions under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (E&CDC SEPP).	Revise retaining walls provisions to ensure consistency with the E&CDC SEPP.
The draft SCDCP (Clause 2.12.b) requires retaining walls that are greater than 0.8 metres in height to be designed by a suitably qualified person. In this regard, it is not clear how Council will ensure compliance with this requirement, given that under the same section of the draft SCDCP a development application is only required where retaining walls are higher than 1.0 metre .	Delete Clause 2.12.b) to remove the inconsistency.
The draft SCDCP should include provisions to reduce the risk of children falling from windows and balconies of apartment buildings above ground floor.	Add a note at the beginning of the SCDCP to ensure that all development proposals comply with the Building Code of Australia.
There is a need for an additional development control that addresses the integrity of existing structures, where excavation or filling work is proposed within the zone of influence of any existing structure.	Add a new Clause (Clause 2.12g) to address this matter.
Section 2.6 Flora, Fauna and Weed Management needs to be revised to clarify and strengthen the development controls in relation to biodiversity management.	Revise Flora and Fauna Provisions to address this matter.
Section 2.6.1 Flora and Fauna needs to be moved to Part 11 Vegetation Management to ensure that all vegetation management controls are located under	Move Section 2.6.1 Flora and Fauna to Part 11 Vegetation Management. Rename draft Part 11 from Vegetation

2.1 Outcomes Of The Public Exhibition Of Stage Four Of Campbelltown (Sustainable City) DCP 2011

Part 2 – Issues/suggestions raised	Recommended changes (refer to Attachment 4 for detailed discussion)
the same Part.	Management to Vegetation and Wildlife Management.
It is recommended that water reserved for fire fighting purposes be located no more than 20 to 30 metres from the proposed development. The water reserved for fire fighting purposes should also be within four metres reach of a Category one Tanker (Medium Rigid Vehicle).	Reword the note under Clause 2.16.1 Water so that water reserved for fire fighting proposes is stored no more than 30 metres from the proposed development and is within a four metre reach of a Category one tanker.

Draft Part 3 Dwelling houses, narrow lot dwellings, multi dwellings and residential subdivision (Part 3)

Part 3 – Issues/suggestions raised	Recommended changes (refer to Attachment 4 for full discussion)
The requirement for narrow lot dwellings (under Clause 3.8k) i), that no more than 30% of the area forward of the building alignment be surfaced with impervious materials is considered impracticable, given the narrow width of these allotments.	Amend Clause 3.8 k) so that the area forward of the front building line remains permeable other than the driveway and the access to the main entry door to the dwelling.
Where an increase in residential density is proposed, roads should provide a satisfactory level of service for evacuation of occupants in the event of a bushfire emergency.	Insert a new clause under Section 3.10 Residential Subdivision and Section 4.7.4 Road Construction to address this matter.

Draft Part 4 rural residential developments (Part 4)

Issues/Suggestions Raised	Recommended Changes (refer to Attachment 4 for detailed discussion)
Fencing controls for residential development on non-urban land need to be consistent with the E&CDC SEPP.	Revise all fencing standards to ensure consistency with E&CDC SEPP.
Given that fencing controls vary depending on the type of development, it is suggested that the fencing controls be moved from Part 2 to the respective draft Part relating to the relevant development type.	Move fencing controls from Part two to each relevant Part of the SCDCP.

Draft Part 5 Residential apartment buildings and mixed use developments (Part 5)

Part 5 – Issues/suggestions raised	Recommended changes (refer to Attachment 4 for detailed discussion)
The rationale behind the proposed minimum site area requirement of 2,500 sqm for Residential Apartment Buildings (RABs) is not clear.	Remove the restriction on the minimum site area of 2,500sqm for the development of RABs.
It is requested that Council provides the following controls for Residential Apartment Buildings in Ingleburn: <ol style="list-style-type: none"> 1. Maximum height to be documented in metres and not just in storeys 2. Maximum Floor Space Ratio (FSR) of 1:1 to 1.2:1 3. Maximum building depth of 18 metres 4. Maximum site coverage of 45% to 50 % 5. Minimum Deep Soil Planting of 25% to 30% of the site area 	No additional controls are recommended at this stage. These matters will be fully investigated as part of the comprehensive LEP and in consideration of Masterplanning and separate development controls for Campbelltown / Macarthur Centre and Ingleburn Centre.
The floor areas for individual apartments (under Clause 5.4.3) are too small.	Revise the minimum floor areas of individual apartments for consistency with the SEPP65 Residential Flat Design Code (RFDC) (Clause 5.43.C).
The draft SCDCP should include a requirement to mandate the use of double glazing for windows of RABs and the residential component of mixed use development.	Include an additional clause under Part 5 to ensure that RABs and mixed use developments that are proposed on sites located near railway stations and other noise sources, are designed to minimise noise penetration to bedrooms and living areas. Include an additional Clause under Part 5 to encourage new RAB and mixed use developments to be designed to maximise thermal comfort of the occupants through the use of appropriate building materials such as double glazing for windows and the like.
The draft SCDCP should limit the number/scale of high rise developments in areas with limited infrastructure capacity.	Include additional development controls under Part 5 Residential Apartment Buildings and Mixed - Use <i>development</i> to ensure that proposed RABs and mixed use development are located where the road network is capable of providing efficient access to and from the proposed development and the stormwater infrastructure is available or upgraded by the developer. These controls are included as Clause 5.3.5 Vehicular Access and Clause 5.3.6 Stormwater Drainage.

Draft Part 6 Commercial development (Part 6)

Part 6 – Issues/suggestions raised	Recommended changes (refer to Attachment 4 for detailed discussion)
The percentage of car parking spaces for people with a disability should be reviewed to reflect the disability rate within the community compared to the number of people that are expected to use the proposed facility.	Noted. No changes are recommended to the current requirements in relation to car parking rates for people with disabilities for the reasons outlined in Attachment 4.
It is suggested that the term ‘lettable floor space’ be used instead of ‘leasable floor space’ for commercial and industrial development.	Substitute the term of “leasable floor area” with the term “gross floor area” throughout the draft SCDCP document consistent with the Standard Instrument, Principle Local Environmental Plan (SI PLEP).
It is suggested that Section 6.6 Landscaping be revised to address a number of matters including: <ul style="list-style-type: none"> • Clearer development controls for the required landscaped areas • Additional controls to mandate the use of wheel stoppers to ensure the protection of landscaped bays within car parking areas. 	Revise the landscaping controls for improved clarification. Add a new development control (Clause 6.6d) to mandate the use of wheel stoppers to protect vegetation from being damaged by parking vehicles.
It is suggested to prohibit smoking on Council land/footpaths for outdoor dining.	This matter is currently being considered by the NSW State Government with Legislation expected to be introduced into the Parliament in 2012.
It is suggested that Section 6.1 Discount Retail Premises be deleted from the Part six, because it has been overridden by the E&CDC SEPP.	Delete Section 6.1 Discount Retail Premises from the draft SCDCP.

Draft Part 7 Industrial development (Part 7)

Part 7 – Issues/suggestions raised	Recommended changes (refer to Attachment 4 for detailed discussion)
The requirements for car parking rates of one space per 30 square metres for the office area within industrial developments are low.	No changes to be made to the requirements of car parking rates for office areas within industrial development, for the reasons outlined in Attachment 4.

Draft Part 8 Child care centres (Part 8)

Part 8 – Issues/suggestions raised	Recommended changes (refer to Attachment 4 for full discussion)
The prohibition of the operation of child care centres on Sundays for centres that are located within residential and non urban areas is not supported.	It is recommended that no changes be made to the hours and days of operations for child care centres within residential areas, for the reasons outlined in Attachment 4.

Draft Part 9 Public consultation (Part 9)

Part 9 – Issues/Suggestions Raised:	Recommended Changes (refer to Attachment 4 for detailed discussion)
The proposal that Council publicly notifies development applications (DAs) that involve external work on heritage items having a value greater than \$10,000, is not supported.	Amend Clause 9.4.1 Public Notification of DAs to require all DAs for significant external works to heritage items to be publicly exhibited.
Council should notify proposed residential developments that are less than two storeys in height.	No changes to be made to the proposed notification procedure in relation to notification of proposed residential buildings less than two storeys in height, for the reasons outlined in Attachment 4.
The proposed 30 days notification for all types of developments is not practicable, given Council’s statutory responsibilities to determine certain DAs within 40 days.	Amend Clause 9.5.1.5 Period for Notification and Clause 9.5.2.4 Period for Public Exhibition so that the DAs are publicly notified and exhibited for 14 calendar days unless otherwise prescribed in the Act or <i>Environmental Planning and Assessment Regulation 2000</i> (Regulation).
It is suggested that notification and public exhibition periods for DAs, draft statutory planning documents and DCPs be increased when these periods fall within the Christmas/New Year holiday period.	Include additional clauses to enable an extension in time for public notification and public consultation for DAs, draft statutory planning documents and DCPs during the Christmas holiday period in accordance with Council’s current protocol.

Draft Part 10 Religious establishments (Part 10)

Part 10 – Issues/suggestions raised	Recommended changes (refer to Attachment 4 for detailed discussion)
A definition for the term “religious establishments” needs to be provided.	Include a definition for religious establishment that is consistent with the current definition under LEP 2002.
It is suggested that the acoustic privacy section be revised to clearly indicate that the use of church bells and calling for prayers by amplifiers are restricted within religious establishments.	Add an additional control under Clause 10.2.3 b) to prohibit the use of external amplified sound including public address systems, amplified bells and amplified calls for prayers
It is suggested that a new section be included under draft Part 10, to limit the hours of operation to ensure that residential amenity is maintained.	Limit hours of operations for religious establishments located within residential areas to: 1. 7:00am to 7:00pm Monday to Friday 2. 7:00am to 6:00pm on Saturdays and Sundays
The restriction on the number of users of religious establishments within non-urban land is not necessary, as allotments within non-urban lands are large and can	Delete the sub clause that limits the size of a congregation within non-urban land from Clause 10.2.1 Locality Requirements. These issues would then be considered on a merits basis as

2.1 Outcomes Of The Public Exhibition Of Stage Four Of Campbelltown (Sustainable City) DCP 2011

Part 10 – Issues/suggestions raised	Recommended changes (refer to Attachment 4 for detailed discussion)
accommodate larger establishments.	part of the DA assessment.

Draft Part 11 Vegetation management (Part 11)

Part 11 – Issues/suggestions raised	Recommended changes (refer to Attachment 4 for detailed discussion)
The term “Minor pruning” is given a definition and the term “Pruning” is defined as ‘any pruning that is not minor pruning’. Isn’t this already covered by the definition of Lopping?	Revise the definitions for pruning and minor pruning for consistency with the Australian Standard No. 4373 Pruning of Amenity Trees.

Draft Part 12 Telecommunication facilities (Part 12)

Part 12 Issues/suggestions raised	Recommended changes (refer to Attachment 4 for detailed discussion)
Limit the time period for Development Consents issued for telecommunication facilities.	No changes proposed as beyond legal scope of a DCP to impose a mandatory time period on development consents.

Draft Part 13 Sex industry premises (Part 13)

Part 13 – Issues/suggestions raised	Recommended changes (refer to Attachment 4 for detailed discussion)
Locational restrictions should not relate to unauthorised premises	DCP amended to delete distance separation to unauthorised premises.
Car parking rates to include consideration of occupancy levels.	DCP amended to require car parking of 2 spaces per client room.

c) Proposed re-exhibition of Stage four of Campbelltown (Sustainable City) DCP

Draft SCDCP 2012, (Attachment 2 to this report) has been substantially amended in comparison to the previously exhibited version (draft SCDCP 2011).

Clause 21(1) of the Regulation, stipulates the approval process/options of development control plans by Councils, and reads:

21 Approval of development control plans

- (1) After considering any submissions about the draft development control plan that have been duly made, the council:
 - (a) may approve the plan in the form in which it was publicly exhibited, or
 - (b) may approve the plan with such alterations as the council thinks fit, or
 - (c) may decide not to proceed with the plan.

2.1 Outcomes Of The Public Exhibition Of Stage Four Of Campbelltown (Sustainable City) DCP 2011

Accordingly, in accordance with Clause 21 (c) above, it is recommended that Council not proceed with the draft SCDCP 2011 that was publicly exhibited from 4 May to 3 June 2011 and instead resolve to endorse the revised draft SCDCP 2012 for public exhibition.

In this regard it is recommended that draft SCDCP 2012 be publicly exhibited for 28 days in accordance with the requirements of the Act and Regulation.

d) Structure of SCDCP 2012

Council at its meeting on 12 April 2011 approved a new structure for the SCDCP 2011. Given the comments received in relation to the need for Volume one to have a title, the structure of the SCDCP will now be:

Volume one: Development Controls for all Types of Development

Volume two: Site Specific Development Control Plans Requirements

Volume three: Council Engineering Design Guidelines for Development

Subsequent to Council's resolution on 12 April 2011, Council at its meeting on 31 May 2011 adopted the Bardia Sub-Precinct Development Control Plan (Bardia DCP) as Part 8 of the Campbelltown Sustainable City Development Control Plan 2009 (SCDCP 2009).

As the structure of the SCDCP has changed, it is recommended that Part 8 Bardia DCP of the SCDCP 2009 be now included as Part 4 Bardia DCP' under Volume two: Site Specific DCP Requirements to be consistent with the newly proposed structure of the draft SCDCP.

Draft Volume two (Site Specific DCPs) is not included as an attachment to this report, given that there are no proposed changes to the content of any of the DCPs that are proposed to be included as part of draft Volume two Site Specific DCP Requirements. The same applies to the proposed draft Volume three Engineering Design for Development.

2. Repeal of Development Control Plan No. 81 – No. 118 Pembroke Road, Leumeah

DCP 81 came into effect on 21 January 1996 and applies to certain land (Lots A & B, DP 376289), previously known as No. 118 Pembroke Road, Leumeah.

The purpose of DCP 81 was to establish development measures to ensure the orderly development of and appropriate vehicle access to, the subject land.

In 2004, Mirvac Homes lodged a development application for the redevelopment of the subject site. The development application involved the creation of a 92-lot community title subdivision and the construction of a dwelling house on each of the lots created. The proposal also involved the construction of a new road from Parkhill Avenue to the development site and the embellishment of existing open space.

At its meeting on 18 October 2005, Council endorsed Mirvac Homes development application and at the same meeting resolved to repeal DCP 81 (in accordance with the provisions of the Act) upon the issue of a subdivision certificate and occupation certificates for all the (then proposed) residential dwellings on the site.

2.1 Outcomes Of The Public Exhibition Of Stage Four Of Campbelltown (Sustainable City) DCP 2011

The site has now been fully developed and occupied. As such, DCP 81 has become redundant and Council is now able to proceed with the repeal of DCP 81.

The repeal process, as specified under section 23 of the Regulation, has two steps:

Firstly: A notice must be placed in a local newspaper, stating Council's intention to repeal the DCP, and stating reasons for doing so. This notice must appear 14 days prior to the final notice of repeal

Secondly: A final notice of repeal must be placed in a locally circulating newspaper.

It is recommended that Council place a notice of its intention to repeal DCP 81 and publish a subsequent final notice after 14 days, in the two locally circulated newspapers (Macarthur Chronicle and Macarthur Advertiser) as per the provisions of Act and Regulation as detailed above.

Conclusion

The draft SCDCP (Volume one) was publicly exhibited for a period of 31 days from 4 May to 3 June 2011. The draft document was made publicly available and Council received a total of ten written submissions from external consultation. The document was also subject to an internal review by staff. As a result of the public exhibition and the review, the draft SCDCP is proposed to be substantially amended.

In this regard, it is recommended that Council not proceed with the draft SCDCP 2011 that was publicly exhibited from 4 May to 3 June 2011 and instead resolve to endorse the revised draft SCDCP 2012 (shown as Attachment 2 of this report) for public exhibition for 28 days in accordance with the Regulation.

Officer's Recommendation

1. That Council not proceed with the previously publicly exhibited draft Campbelltown (Sustainable City) Development Control Plan 2011 (Volume One).
 2. That Council publicly exhibit Draft Campbelltown (Sustainable City) Development Control Plan 2012, Volume One Development Controls for all Types of Development, as generally contained within Attachment 2 for a period of 28 days in accordance with the provisions of the *Environmental Planning and Assessment Regulation 2000*.
 3. That the Bardia Sub-Precinct Development Control Plan (Bardia DCP) be included as Part 4 in Volume Two of the Campbelltown (Sustainable City) Development Control Plan 2012.
 4. That Council give public notice of its intention to repeal Development Control Plan No. 81 in the prescribed manner and in accordance with the *Environmental Planning and Assessment Regulations 2000*.
 5. That Council write to all persons whom made a submission on the previously exhibited draft SCDCP 2011 advising of Council's decision.
-

Committee Note: Ms Pacione addressed the Committee.

Committee's Recommendation: (Hawker/Greiss)

That the Officer's Recommendation be adopted subject to Draft Part 10 Religious establishments being altered to reflect that:

the hours of operation for religious establishments located within residential areas be determined on individual merit.

LOST

Committee's Recommendation: (Bourke/Kolkman)

That the Officer's Recommendation be adopted.

CARRIED

Council Meeting 8 May 2012 (Kolkman/Bourke)

That the Officer's Recommendation be adopted.

Amendment: (Hawker/Borg)

That the Officer's Recommendation be adopted subject to Draft Part 10 Religious establishments being altered to reflect that:

the hours of operation for religious establishments located within residential areas be determined on their individual merit.

Council Resolution Minute Number 75

That the above amendment be adopted.

2.2 New Policy - Pesticide Use Notification

Reporting Officer

Acting Manager Environmental Planning

Attachments

1. Pesticides Use Notification Plan 2012 for prescribed public spaces (distributed under separate cover)
2. Location Map of Parks/Reserves adjacent to 'sensitive places' (distributed under separate cover)
3. Draft Pesticide Use Notification Policy.

Purpose

1. To seek Council's endorsement of the (revised) Pesticide Use Notification Plan 2012 for pesticide use in prescribed public spaces
2. To seek Council's endorsement of the Pesticide Use Notification Policy.

History

In 2007 the then Department of Environment and Climate Change (now the Office of Environment and Heritage (OEH)) introduced new regulations for the notification and record keeping associated with the use of pesticides in prescribed public places. In response to the legislation Council was required to develop a Pesticide Use Notification Plan for the use of pesticides in prescribed public places.

The Pesticide Use Notification Plan is a procedural document which specifies actions in regard to notifying the public about details of planned pesticide application. The document is particularly relevant when the use of pesticides is scheduled on land adjacent to pre-defined 'sensitive places'.

Recent amendments to the legislation have facilitated a review of the Plan and a proposal for its adoption into a Council policy.

Report

The *Pesticides Act 1999* regulates the use of pesticides after the point of sale and promotes the protection of human health, the environment, property and trade by minimising risks from pesticide use.

Since February 2007 the *Pesticides Regulation (1995 & 2007)* has required public authorities, such as local councils and government agencies, to notify the community, in accordance with a notification plan, when they use or allow the use of pesticides in prescribed public places that are owned or controlled by the public authority.

Regulatory Amendments 2006 - 2012

In 2009 the *Pesticides Regulation 1995* was replaced with the *Pesticides Regulation 2009*.

The updated Regulation aimed to streamline its operation and promote efficiency, whilst preserving legal intent and functionality. Overall the implications for Council following the above changes to the regulation have been minor and are outlined below:

- Part 3-Pesticides to be used by qualified persons: Council will continue the engagement of suitably qualified and nationally accredited spray contractors, ensuring pesticides are only used by qualified persons. Council's Pesticide Use Program delivered by operational staff operates as an exemption to the training requirements given the minor nature and scale of this spray program and the schedule of pesticides used.
- Part 4-Records relating to use of pesticides: The situations in which records must be kept and the information to be recorded by Council will remain the same. However there has been an increase in penalties for non-compliance. In the event that Council fails to comply with certain recording-keeping provisions, the organisation may be subject to a penalty of up to \$1500, an increase from \$400.

Council's existing Notification Plan, contains requirements that comply with the amended *Pesticide Regulation 2009*, including the following key features:

- Procedures Council will adopt to notify the community before pesticides are applied in prescribed public spaces located adjacent to 'sensitive places,' are defined in the Regulation to include schools, kindergartens, childcare centres, nursing homes or hospitals. A map identifying the location of sensitive places within the Campbelltown LGA is provided in Attachment 2
- Instances when notification of the use of pesticides will not be required (e.g. non-spray application of pesticides)
- Provision for the emergency use of pesticides (e.g. the treatment of problematic wasp nests)
- Procedures Council will adopt to notify the community about proposed pesticide use in other prescribed public spaces.

Public exhibition

Details in the original Plan, prepared in 2006, outlined requirements for periodic reviews with public consultation. As the only changes to the original document are of a formatting nature, public consultation is not considered necessary.

Policy framework

With consideration to the Plan's use in regard to both Council operations and those undertaken by contractors on behalf of Council it is considered appropriate that the updated Plan be incorporated into Council's policy framework. As a specific plan is a legislative requirement, the draft policy has been developed to refer to and ensure the Plan's implementation. A copy of the draft policy is provided in Attachment 3. The abovementioned policy has been developed in accordance with Council's Record Management Policy and the adopted procedure for Policy Development and Review.

Conclusion

Council's Pesticide Use Notification Plan has been reviewed following legislative amendments. The legislative amendments are considered to have minimal impact on Council's Plan and as a result no material changes have been made to the document. The review has also facilitated the incorporation of the Plan into Council's policy framework and a draft Pesticide Notification Policy which directs the use of the Plan has been developed for Council's consideration. Council officers will continue to implement Council's Pesticide Use Notification Plan for pesticide use in prescribed public spaces.

Officer's Recommendation

1. That the Pesticide Use Notification Plan 2012, contained in Attachment 1 to this report, be endorsed by Council.
2. That the Pesticide Use Notification Policy, contained in Attachment 3 to this report, be adopted by Council.
3. That the Policy review date be set at 30 June 2014.

Committee's Recommendation: (Oates/Hawker)

That the Officer's Recommendation be adopted.

CARRIED


Council Meeting 8 May 2012 (Kolkman/Bourke)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 75

That the Officer's Recommendation be adopted.

ATTACHMENT 3

		POLICY
Policy Title	Pesticide Use Notification	
Related Documentation	Pesticide Use Notification Plan Location Map of Reserves adjacent to Sensitive Places	
Relevant Legislation/ Corporate Plan	<i>Pesticides Act 1999</i> <i>Pesticides Regulation 2009</i>	
Responsible Officer	Manager Environmental Planning	

Policy details may change prior to review date due to legislative changes, therefore this document is uncontrolled when printed.

Objectives

To ensure Council uses pesticides in prescribed public spaces in a safe and effective manner and in accordance with relevant legislation and policy.

Policy Statement

Council is committed to the safe and effective use of pesticides that minimises risks to human health, the environment, property and trade.

1. Council will follow the guidelines set out in its Pesticide Use Notification Plan for the use of pesticides in prescribed public spaces.
2. Council will undertake appropriate record keeping and training in regard to the use of pesticides in prescribed public spaces.

This policy supports the Pesticides Use Notification Plan for prescribed public spaces and aims to assisting Council's Environmental Planning Section and Operational Services Section in notifying the public about details of planned pesticide application. The policy is particularly relevant when the use of pesticides is scheduled adjacent to pre-defined 'sensitive places'.

Scope

The Policy applies to Council operational and environmental works which require the application of pesticides.

Definitions

'Pesticide' as per the definition within the *Pesticides Act 1999* or as amended.

'Pesticide Use Notification Plan' as per the definition within the *Pesticides Regulation 2009* or as amended.

'Prescribed public space' as per the definition within the *Pesticides Regulation 2009* or as amended.

'Sensitive places' as per the definition within the *Pesticides Regulation 2009* or as amended.

Legislative Context

The *Pesticides Act 1999* regulates the use of pesticides after the point of sale and promotes the protection of human health, the environment, property and trade by minimising risks from pesticide use.

The *Pesticides Regulation 2009* prescribes measures required for the notification and record keeping of the use of pesticides in public places. In response Council was required to develop a Pesticide Use Notification Plan for pesticide use in prescribed public places.

Principles

Procedures outlining measures taken to comply with the policy are detailed in the Notification Plan for the use of Pesticides in Public Spaces.

Responsibility

This policy is provided for implementation by all Council's Environmental Planning and Operational Services Sections involved in the planning and/or application of pesticides. The Manager of Environmental Planning is responsible for its monitoring and review.

Effectiveness of this Policy

This policy will be reviewed in accordance with Council's adopted procedure for policy development.

END OF POLICY STATEMENT

DOCUMENT HISTORY AND VERSION CONTROL RECORD

Contact for inquiries and proposed changes

Name	Andrew Spooner
Position/Section	Acting Manager Environmental Planning
Contact Number	

Version Number	Revised Date	Authorised Officer	Amendment Details

2.3 Water Quality Monitoring Strategy

Reporting Officer

Acting Manager Environmental Planning

Attachments

Campbelltown City Council Water Quality Monitoring Strategy 2012 (distributed under separate cover)

Purpose

To seek Council endorsement of Council's updated Water Quality Monitoring Strategy.

History

The Campbelltown LGA is located within the catchments of two principal Sydney waterways, the Georges and Nepean river systems. These waterways support a diverse variety of plants and animals, as well as provide for community amenity and recreation opportunities.

Due to the recreational and aquatic significance of both waterways, Council has monitored water quality within the LGA since 1973 through a range of programs. The current water quality monitoring program (WQMP) was initiated in 2005 and includes the regular monitoring of eight sites along the Georges River, Nepean River and the Bow Bowing – Bunbury Curran Creek. These sites were selected in accordance with the objectives of Council's Water Quality Monitoring Strategy (WQMS) 2005 and were considered to be representative of land uses in both catchments. In 2009 an additional six sites were added to the monitoring program which were identified as areas that would assist in achieving water management and efficiency outcomes. This included monitoring water quality following the construction of water quality improvement devices and the desire to harvest treated water for irrigation re-use near these sites.

A review of the WQMP was recently commissioned by Council and subsequently undertaken by the consultant BMT WBM. The review recommended some changes to Council's WQMP in regard to the location of sampling sites and analysis against relevant water quality guidelines.

Council at its meeting, 10 April 2012, considered a report on the above review and resolved to update Council's Water Quality Monitoring Strategy.

Report

This report provides Council with an overview of the updated WQMS 2012 (see Attachment 1) which will guide the delivery of Council's WQMP.

More specifically, the objectives of the Strategy are to:

- Undertake long term monitoring of the waterways within the Campbelltown LGA to assess trends in water quality over time from point and non point pollution sources and understand the causes and effects of elevated nutrient and microbial problems
- Compare water quality results between sites across the LGA, including urban and non-urban landscapes
- Monitor microbial levels at popular recreational sites
- Use water quality data to assist in the development of stormwater management programs.

The main proposed changes to be incorporated into the WQMS 2012 include the alteration to the guidelines used for water quality analysis at some sites and modifications to the sampling site locations.

Under the WQMS 2005 Council has analysed water quality against the Australian and New Zealand Environmental and Conservation Council (ANZECC) guidelines, for both ecosystem health and recreational contact. However, as noted in the Review (previously reported to Council), these guidelines have been superseded by the National and Health Medical Research Council's Guidelines for Managing Risks in Recreational Water (NHMRC guidelines) for recreational use sites. The updated Strategy therefore proposes the use of the NHMRC guidelines where they are applicable to the needs of the environment and the community. However, Council officers will also continue to analyse the results against the ANZECC Guidelines for 'Primary Recreation' for historical data comparison purposes and to identify any underlying trends.

Modifications to the sampling sites are also proposed to be made. This includes the addition of a sampling site at Cambridge Avenue (Glenfield), the cessation of sampling at Burrendah Dam (Raby) and a reduction in the number of sampling sites at Park Central from three to two. Additionally more extensive microbial sampling will be conducted at various locations to better assist in the detection and source of pollutants. It is envisaged that these changes will assist in the future management and understanding of stormwater and the natural processes within waterways across the Campbelltown LGA.

Table 1 shows the location of each sampling site, the frequency of sampling and the guidelines for analysis as per the WQMS 2012.

Table 1: Site location, frequency of sampling and guidelines for analysis.

Site	Description	Frequency	Guidelines for Analysis
1	Nepean River: Menangle Bridge	5/month (Dec – April) 1/month (May – Nov)	ANZECC Aquatic Ecosystems ANZECC Primary Contact Recreation NHMRC Risks in Recreational Water
2	Georges River: Wedderburn Gorge, Wedderburn	1/month (all year)	ANZECC Aquatic Ecosystems
3	O’Hares Creek: The Woolwash, Airds	1/month (all year)	ANZECC Aquatic Ecosystems ANZECC Primary Contact Recreation ANZECC Secondary Contact Recreation NHMRC Risks in Recreational Water
4	Georges River; Frere’s Crossing, Kentlyn	1/month (all year)	ANZECC Aquatic Ecosystems ANZECC Secondary Contact Recreation
5	Georges River: Simmo’s Beach, Macquarie Fields	5/month (Dec – April) 1/month (May – Nov)	ANZECC Aquatic Ecosystems ANZECC Primary Contact Recreation NHMRC Risks in Recreational Water
6	Bow Bowling Creek: Harold Street Bridge, Macquarie Fields	1/month (all year)	ANZECC Aquatic Ecosystems ANZECC Secondary Contact Recreation
7	Bow Bowling Creek - Minto Gross Pollutant Trap	1/month (all year)	ANZECC Aquatic Ecosystems ANZECC Secondary Contact Recreation
8	Kooringa Reserve Wetland: Raby Detention Basin	1/month (all year)	ANZECC Aquatic Ecosystems ANZECC Secondary Contact Recreation
9a	Park Central – Upper Basin	1/month (all year)	ANZECC Aquatic Ecosystems ANZECC Secondary Contact Recreation
9b	Park Central – Ornamental Pond	1/month (all year)	ANZECC Aquatic Ecosystems ANZECC Secondary Contact Recreation
10	Mandurama Reserve, Rosemeadow	1/month (all year)	ANZECC Aquatic Ecosystems ANZECC Secondary Contact Recreation
11	Georges River: Cambridge Avenue, Glenfield	1/month (all year)	ANZECC Aquatic Ecosystems ANZECC Secondary Contact Recreation
12	Fisher’s Ghost Creek, Bradbury	1/month (all year)	ANZECC Aquatic Ecosystems

Based on the number of sampling sites and sampling frequency, analytical and sampling costs for the proposed strategy will remain similar to the current program and would continue to be funded from Council’s Stormwater Levy.

It is anticipated that the new Strategy would also allow for a more targeted management response to quality water monitoring results. Targeted management response projects will be budgeted for separately.

Conclusion

The Water Quality Management Strategy has been updated to incorporate recommendations from the Water Quality Management Program Review, in particular the use of National and Health Medical Research Council's guidelines and minor changes to the sampling locations.

Officer's Recommendation

That Council endorse the Water Quality Management Strategy 2012 to guide the delivery of the Water Quality Management Program.

Committee's Recommendation: (Bourke/Hawker)

That the Officer's Recommendation be adopted.

CARRIED

Council Meeting 8 May 2012 (Kolkman/Bourke)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 75

That the Officer's Recommendation be adopted.

2.4 New South Wales Government - Strategic Land Use Policy relating to coal seam gas extraction activities

Reporting Officer

Acting Manager Environmental Planning

Attachments

1. Draft submission on Stage 1 of the draft Aquifer Interference Policy (distributed under separate cover)
2. Comments on the proposed high risk aquifer interference activities to be addressed by the draft Policy (distributed under separate cover)
3. Draft Guidelines for Community Consultation Requirements for the Exploration of Coal and Petroleum, including Coal Seam Gas (distributed under separate cover)
4. Draft submission on the Code of Practice for Coal Seam Gas Exploration and associated Community Consultation Guidelines (distributed under separate cover)

Purpose

To advise Council of key aspects of relevant documents (relating to mining and coal seam gas extraction) placed on public exhibition by the NSW Government associated with the preparation of a Strategic Land Use Policy and to seek the endorsement of submissions to the NSW Office of Water and the Department of Trade and Investment in regard to those documents that have implications for Council.

History

The NSW State Government, in a Press Release dated 13 May 2011, announced transition arrangements associated with the repeal of Part 3A of the *Environmental Planning and Assessment Act 1979*. These arrangements included the preparation of a Strategic Land Use Policy to provide protection for land of high agricultural and biodiversity significance within NSW from the impacts associated with coal seam gas and mining operations. The Strategic Land Use Policy comprises the following documents.

- A draft Aquifer Interference Policy
- A draft Code of Practice for Coal Seam Gas
- Strategic Land Use Plans
- A draft Code of Practice for Coal Seam Gas Exploration
- Guidelines for Agricultural Impact Statements

These documents were publicly exhibited by the NSW Government for a period of eight weeks commencing on 7 March 2012. Council has been successful in obtaining an extension to the deadline for submissions to enable the consideration of this report and accompanying draft submission on these documents, until 10 May 2012.

The publicly exhibited documents that have particular implications for projects that have been the subject of previous submissions by Council are the draft Aquifer Interference Policy and the Draft Code of Practice for Coal Seam Gas Exploration (with accompanying Community Consultation Guidelines).

The projects within the Campbelltown LGA of relevance to these documents are the Camden Gas Project (coal seam gas extraction), and the Bulli Seam Project (longwall mining). In addition, Council has previously provided a submission to the NSW Office of Water (NoW) on the Water Sharing Plans applying to Ground and Surface Water Resources in the Greater Metropolitan Region (dated 30 July 2010), which included reference to the preparation of a draft Aquifer Interference Policy or equivalent by NoW.

This report provides an analysis of these documents, in particular their adequacy in addressing issues raised previously by Council.

Report

1) Draft Aquifer Interference Policy

(i) Background information

a) Legislative framework associated with the draft Policy

The draft Aquifer Interference Policy (AIP) has been prepared under the provisions of the *Water Management Act 2000*. This Act requires that proponents conducting certain (defined) aquifer interference activities in water sources covered by Water Sharing Plans obtain an "aquifer access" licence unless exempt under specified criteria (such as for example the construction of residential dwellings). On 1 July 2011 the NoW introduced an interim regulation that (for the first time) required mining activities that extract more than 3ml of groundwater per year to obtain a licence. The draft AIP has been prepared by NoW to comply with the requirements of the *Water Management Act 2000* (WMA) and provide guidance to proponents of aquifer interference activities, in relation to these requirements.

b) Comments relating to the preparation of the draft AIP

The NSW Government has adopted a two staged approach for the preparation of the AIP. The exhibited draft AIP (forming the first stage) specifically applies to activities that underlie Biophysical Strategic Agricultural Land (BSA land) located in the Upper Hunter and North West regions of NSW that were identified during the preparation of Strategic Regional Land Use Plans (SLUP) for these regions. The next scheduled region for the preparation of a SLUP is the Southern Highlands (which incorporates the Campbelltown LGA).

NoW has advised that the exhibited Stage 1 of the AIP will be utilised as a basis for the preparation of Stage two of the AIP, which will consequently have relevance to mining operations in the Campbelltown LGA. NoW has also advised that the document will be publicly released approximately 12 to 18 months after the finalisation of Stage one of the AIP. Consequently there is an absence of measures for the protection of groundwaters from impacts associated with mining operations outside the area covered by Stage one during this period.

2.4 New South Wales Government - Strategic Land Use Policy Relating To Coal Seam Gas Extraction Activities

Whilst Stage one of the draft Policy does not apply to the Campbelltown LGA, its exhibition provides an opportunity for Council to request that any identified deficiencies raised in previous submissions must be taken into account as part of the preparation of the subsequent Stage two of the AIP. Consequently, a draft submission (presented in Attachment 1) has been prepared for Council's consideration.

Recommended Council response

- That Council request the NSW Office of Water to specify interim requirements for the assessment of aquifer interference applications relevant to areas located outside Stage one of the Aquifer Interference Policy, including the Campbelltown Local Government Area.
- That Council lodge a submission on the exhibited Stage one as a means of raising issues of importance to Council that should be taken into account for the preparation of Stage two of the Aquifer Interference Policy.

(ii) Review of the draft AIP

The draft Stage one of the AIP has been reviewed by staff from Council's Planning and Environment and City Works divisions. The review concluded that it would be appropriate for Council to acknowledge the preparation and release of the draft AIP as a means of obtaining a more comprehensive assessment and regulation of potential impacts on water sources associated with mining projects, than has previously occurred. However, the review also identified deficiencies in relation to a number of issues raised in Council's previous submissions.

The review identified that in broad terms the draft AIP has insufficient:

- requirements and guidance for licence applicants regarding the protection of the biodiversity component of the identified Strategic Biophysical Agricultural land
- protection for impacts on groundwaters and all potentially affected ecosystems as well as impacts associated with the interconnection between ground and surface waters
- details on cumulative impacts in terms of existing similar aquifer interference activities in close proximity and in an overall water catchment context.

The following outlines deficiencies relating to specific sections of the exhibited draft AIP (Stage one).

a) Application of the draft AIP

The draft AIP applies to identified high risk aquifer interference activities that are consistent with those activities outlined in the *Water Management Act 2000* that require a licence. The relevance of each of these activities to mining operations in the Campbelltown LGA are outlined in Table 2 (Attachment 2). A key concern is the absence of any reference to the use of chemicals and additives in coal seam gas extraction and maintenance activities in the high risk activities addressed by the AIP.

The draft AIP also applies to a range of low risk aquifer interference activities (such as foundation works for commercial buildings) that do not satisfy licence exemption criteria. In this regard, it is recommended that Council seek clarification on the potential implications to its Sustainable City Development Control Plan in the event that Stage two of the AIP also applies to low risk activities.

2.4 New South Wales Government - Strategic Land Use Policy Relating To Coal Seam Gas Extraction Activities

Council's City Works Division has advised that Council does not currently hold any licences to extract groundwater and is highly unlikely to lodge an application in the future as its existing licences to extract surface waters are considered appropriate to meet water supply needs. In addition, the draft AIP does not specifically apply to the 16 licenced private bores in the Campbelltown LGA which are covered by a Regulation that came into force on 1 July 2011.

The draft AIP includes a list of general exemptions from the need to hold an aquifer interference Licence in Stage one. In this regard, the review identified shortcomings in relation to certain proposed exemptions that require consideration during the finalisation of Stage 1 and preparation of the subsequent Stage two. A summary of these shortcomings and a recommended Council response, as detailed in Attachment 1 is outlined below:

- State Significant Developments granted consent under the former Part 3A of the *Environmental Planning and Assessment Act 1979*

It is considered that approved State Significant Developments, (such as the approved Bulli Seam Project), should not be exempt from requiring an aquifer interference approval by either Stage 1 or the subsequent Stage 2. This consideration is based on the significant deficiencies in the assessment of water related impacts outlined in previous Council submissions on mining applications and inadequacies of the Bulli Seam approval reported to Council at its meeting on 6 March 2012. In this regard, it is considered the groundwater investigation study required by the approval for this project must be conducted in accordance with the requirements for licences outlined in the draft AIP.

In addition, staff have been advised by NoW that the NSW Department of Planning and Infrastructure is currently examining whether the AIP will apply to applications lodged under the former Part 3A (yet to be approved), or whether an alternate process will be adopted. It is considered imperative that the Camden Gas and Bulli Seam Projects be subject to the requirements of the AIP irrespective of their approval status:

- Mineral, coal and coal seam gas exploration activities that cause or enhance interconnectivity of aquifers

Exploration activities associated with both coal seam gas and mining activities that can potentially impact on surface and groundwaters should be subject to the requirements of the AIP rather than the current process under Part 5 of the *Environmental Planning and Assessment Act 1979*.

Recommended Council response

- That Council express its concern to the NSW Office of Water that impacts associated with the use of chemicals and other liquids as part of the operation, maintenance and fracking components of coal seam gas extraction are not included in the list of high risk aquifer interference activities (to be addressed by the draft Aquifer Interference Policy)
 - That Council write to the Minister for Planning and Infrastructure recommending that all State Significant Developments be subject to the full requirements of the Aquifer Interference Policy
 - That Council request the NSW Office of Water not to exempt any exploration activities associated with both mining and coal seam gas projects, from the requirements of the Aquifer Interference Policy.
-

2.4 New South Wales Government - Strategic Land Use Policy Relating To Coal Seam Gas Extraction Activities

b) Proposed review and determining process relating to licence applications

The draft AIP contains a section that outlines in detail the proposed process to deal with the assessment and determination of Aquifer Interference Licence applications. This framework, (amongst other matters) requires applicants to demonstrate that the 'proposal includes strategies to prevent any more than minimal harm occurring to any water source, their dependent ecosystems or other water'. The Section also contains detailed criteria and guidance for proponents in determining if an activity causes 'minimal harm'.

The determining framework is noted to require two year baseline data and a detailed knowledge of the groundwater environment and its behaviour. In this respect, it is further considered that the current limited knowledge regarding the local groundwater environment and impacts of mining operations on this environment would need to be significantly enhanced to allow for the preparation of an adequate licence application and its review by NoW. Consequently, it is appropriate that Council adopt the position that the approval of an aquifer interference licence is not warranted until there is further scientific certainty regarding the impacts of coal seam gas activities on groundwaters.

The concept of requiring applicants to demonstrate 'minimal harm' has some merit given that the AIP technically applies to a wide range of activities that present a low risk to aquifers. However, the review identified a number of deficiencies relating to issues raised in connection to mining projects as well as a review of recent research relating to aquifer flow and behaviour. These deficiencies include an inadequate assessment of cumulative impacts, impacts on the condition of groundwaters and the interconnectivity between surface and groundwaters. Consequently, it is considered appropriate that Council request that the draft Stage one AIP be amended by NoW to address these deficiencies and that they also be taken into account during the preparation of the subsequent Stage two.

Recommended Council response

- That Council advise the NSW Office of Water that in principle it supports the preparation and release of the draft Policy as a means of obtaining an enhanced assessment and regulation of impacts on water sources associated with mining projects than has previously occurred under Part 3A of the *EP&A Act 1979*
 - That Council advise the NSW Office of Water that the granting of licences is not currently warranted and that Council reaffirm its request for a moratorium on further coal seam gas extraction until there is more complete scientific certainty regarding the impacts of coal seam gas activities on groundwaters
 - That Council insist that activities underlying land not identified as Strategic Biophysical Agricultural also be subject to a detailed aquifer interference licence application/assessment process
 - That Council advise the NSW Office of Water that the proposed assessment framework of Aquifer Interference Licence applications is considered generally suitable for inclusion into Stage two of the AIP subject to the following amendments:
 - Inclusion of requirements for proponents to assess potential impacts (within a cumulative context) of the proposed activity on groundwaters that takes into account the interconnectivity between groundwater sources as well as the interconnectivity between these sources and surface waters
-

2.4 New South Wales Government - Strategic Land Use Policy Relating To Coal Seam Gas Extraction Activities

- Inclusion of a requirement that all coal seam gas and longwall mining related licence applications contain computerised modelling of groundwater behaviour and that such modelling be independently validated by the NSW Office of Water.

2) **Draft Code of Practice for Coal Seam Gas Exploration and associated Community Consultation Guidelines**

Council should note that in contrast to the exhibited draft AIP, both of these documents apply to all mining districts of New South Wales and therefore have direct relevance to mining operations undertaken within the Campbelltown LGA. The Code of Practice (CoP) can be viewed on the website of the Department of Planning and Infrastructure at www.planning.nsw.gov.au while the Community Consultation Guidelines (Guidelines) are presented in Attachment 3. These Guidelines are related to the Code of Practice in terms of providing guidance for the consultation required for coal seam gas exploration activities.

A review by Council staff identified both documents as being positive in relation to matters associated with coal seam gas exploration and mining, experienced by both Council and the local community. However, the review also identified inadequacies in addressing concerns raised in Council's previous submissions on specific mining projects and consultation with both Council and the local community. Consequently a draft submission on both documents has been prepared that is presented in Attachment 4. The following provides an overview of the features, deficiencies and recommended Council response in regard to each of these documents.

(i) Code of Practice

The Code of Practice would have relevance to exploratory drilling conducted as part of the approved Stage two of the Camden Gas Project as well as any exploration conducted as part of Stage three of this project. The Code of Practice also has relevance to the installation of groundwater monitoring bores that form part of the Groundwater Investigation Study, which will be the subject of a further report to Council. It is considered appropriate that the document be expanded to also apply to coal mining exploration activities given the similarities in issues associated with coal seam gas and mining exploration.

The Code of Practice has primarily been reviewed by staff from Council's Property Section, due to their experience in relation to property access issues associated with gas gathering pipelines and proposed gas wells on Council owned land at Menangle Park. The review identified that the Code of Practice places a heavy emphasis on the rights of the proponent in regard to coal seam gas exploration that needs to be addressed by providing an equal description of the rights of property owners. The review also identified deficiencies regarding issues associated with access agreements between landholders and exploration companies that have been experienced by Council.

Recommended Council response

- That Council advise the NSW Department of Trade and Investment that the preparation of the Code of Practice is considered a positive initiative in relation to issues experienced by both Council and the local community relating to coal seam gas exploration however request that the Code of Practice be expanded to also apply to coal mining exploration.
-

2.4 New South Wales Government - Strategic Land Use Policy Relating To Coal Seam Gas Extraction Activities

- That Council request the Code of Practice be amended to specify:
 - that agreed fees (for the use of land at the well site) are payable when the well site maximises its land take (usually during well construction - approximately 1 ha) as well as the smaller area during operation
 - that the access agreement only relates to the exploration of the land and does not grant any rights for the establishment of a well site on the land, which requires a separate agreement
 - appropriate reference to the compensation payment for impacts directly related to the management of the land subject to access agreements.
- ii) Guideline for Community Consultation Requirements for the Exploration of Coal and Petroleum, including Coal Seam Gas

This Guideline provides guidance for community consultation requirements that are of relevance to the Bulli Seam Project as well as the Camden Gas Project. In this regard, it is understood that BHP has conducted some exploratory drilling in the Wedderburn district however the current status and level of completion is unknown. Staff also understand that BHP conducted underground and aerial exploration in response to none of the approached landholders being willing to enter into an access agreement.

The review of the Guideline identified that it was appropriate for Council to consider the development of it as a positive step given Council's experience in relation to the lack of community consultation associated with mining projects. However, the adoption of this viewpoint is dependent upon the implementation of all the activities and events referred to in the Guidelines. In addition, the review also identified deficiencies relating to the requirements for consultation with both local government and the community that require rectification as outlined in the draft submission and summarised below:

Consultation with local government: It is noted that the Guideline proposes to require that councils be consulted within 28 days of an exploration licence being issued as currently occurs. The retention of this requirement will not adequately address the current significant issues experienced by Council over the inadequate and less than meaningful consultation during the preparation of a licence application by companies and only receiving notification immediately prior to exploration commencing.

Consultation with the community: It is the experience of staff that the highest level of expressed community dissatisfaction relates to the provision of feedback on the response to comments provided in relation to mining applications. It is noted that the Guideline state that it is '*preferable*' for public meetings to have independent facilitators. In this regard, it is the experience of staff that the Public Meetings must have a suitably qualified and knowledgeable independent facilitator to be successful as a community consultation event.

Recommended Council response

- That Council advise the NSW Department of Trade and Investment that the preparation of the Code of Practice has merit in light of the community consultation issues experienced by both Council and the local community concerning coal seam gas exploration
 - That Council request the Community Consultation Requirements be amended to address the following:
-

2.4 New South Wales Government - Strategic Land Use Policy Relating To Coal Seam Gas Extraction Activities

- Councils must be consulted during the preparation of the exploration licence application as opposed to the proposed 28 days subsequent to the licence being issued
- Public Meetings must have an independent facilitator, and this facilitator must be suitably qualified and experienced in the subject matter.
- Include additional requirements that would address the issue of community disengagement associated with mining applications.

Conclusion

The documents released by the NSW State Government form part of the preparation of its Strategic Land Use Policy relating to mining and like activities. They are of relevance to mining projects in the Campbelltown Local Government Area. These documents have been prepared within the overall aim to "balance strong economic growth in regional NSW with the sustainable management of natural resources and the protection of agricultural land".

This report recommends that Council view the preparation of the draft Aquifer Interference Policy as a welcome initiative in response to the issues and deficiencies relating to the assessment of potential impacts on water resources raised in Council's previous submissions on both the Camden Gas Project and the Bulli Seam Project.

However, the exhibited draft Policy technically only applies to land of identified biophysical and agricultural significance located in the Hunter and North West regions of NSW. Consequently, this report has outlined a number of amendments that are considered necessary in order for Council to be assured that the subsequent second Stage of the Policy (which will apply to the Campbelltown LGA) will satisfactorily address its relevant concerns. The major amendments relate to changing the determination process for aquifer interference licence applications to include an assessment of potential impacts on the condition of groundwaters and receiving surface waters. Correspondence should be sent to the NSW Minister for Planning and Infrastructure requesting that proposals for State Significant Developments (either current or future) not be exempt from the requirements of the Policy.

This report also recommends that Council view the preparation of the Code of Practice and Community Consultation Guidelines as having merit in so far as dealing with issues previously raised by Council and the local community, subject to the adequate completion of all consultation activities contained within the documents. However, key requested amendments to address deficiencies in the Code of Practice include the placement of a greater emphasis on the rights of property owners as well as the appropriate payment of compensation for the use of land for coal seam gas exploration and mining activities. A further key requested amendment to the Community Consultation Guidelines outlined in the report is for councils to be notified as part of the exploration licence process instead of 28 days after being issued, as proposed.

Officer's Recommendation

1. That Council endorse the draft submission to NSW Office of Water on Stage one of the draft Aquifer Interference Policy as detailed in Attachment 1.
2. That Council write to the Minister for Planning and Infrastructure and strongly request that all State Significant Developments (including those not yet to be determined) be subject to the full requirements of the Aquifer Interference Policy.
3. That Council endorse the draft submission to the Department of Trade and Investment on the draft Code of Practice for Coal Seam Gas Exploration and associated Guidelines for Community Consultation Requirements for the Exploration of Coal and Petroleum, including Coal Seam Gas as detailed in Attachment 4.

Committee's Recommendation: (Oates/Bourke)

That the Officer's Recommendation be adopted.

CARRIED

Council Meeting 8 May 2012 (Kolkman/Bourke)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 75

That the Officer's Recommendation be adopted.

2.5 Development Application 2263/2011/DA-RA: Mixed Use (Residential and Retail) - Queen Street, Campbelltown

Reporting Officer

Director Planning and Environment

Attachments

1. Locality Plan (distributed under separate cover)
2. Ground Floor / Site Plan (distributed under separate cover)
3. Level 1/ Podium Floor Plan (distributed under separate cover)
4. Level 2 to 4 Floor Plan (distributed under separate cover)
5. Level 5 Floor Plan (distributed under separate cover)
6. Level 6 / Roof Plan (distributed under separate cover)
7. Elevations (distributed under separate cover)
8. Perspective view (distributed under separate cover)
9. Letter from applicant - 23 March 2012 (distributed under separate cover)

Purpose

To advise Council of amendments made to Development Application 2263/2011/DA-RA for a mixed use (retail and residential apartment), following Council's earlier consideration of the proposal at its meeting on 14 February 2012.

Council is also requested to authorise the Director Planning and Environment to make a supplementary submission to the Joint Regional Planning Panel (JRPP) having regard to the amendments made to the subject application.

Property Description	Lot 1 DP 600103 and Lot 10 DP 872091 No. 3 Queen Street, Campbelltown
Application No	2263/2011/DA-RA
Applicant	Grado P/L
Owners	Clintons Investments P/L
Statutory Provisions	State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development Campbelltown (Urban Area) Local Environmental Plan 2002 Campbelltown (Sustainable City) Development Control Plan 2009
Date Received	23 November 2011 (Additional Information 26 March 2012)

Report

The proposal is for the redevelopment of the Clintons Toyota caryard in the northern part of Queen Street for a mixed use (retail and residential apartment) development comprising two separate buildings and basement carparking.

The application has been referred to the Sydney West JRPP for determination in accordance with Part 2A of the *Environmental Planning and Assessment Act 1979*.

At its meeting on 14 February 2012, Council considered a comprehensive report on the application which provided an assessment of the proposal having regard to the relevant statutory considerations prescribed by the *Environmental Planning and Assessment Act 1979*. This included an assessment of the relevant planning controls for mixed use and residential apartment developments under the provisions of State Environmental Planning Policy No.65 (SEPP 65), the Residential Flat Design Code (RFDC) and Campbelltown (Sustainable City) Development Control Plan 2009.

Following consideration of these relevant matters, Council resolved as follows:

That Council's Director Planning and Environment forward a submission to the Joint Regional Planning Panel (JRPP) for the Sydney West Region objecting to the application and requesting that the development application (2263/2011/DA-RA) for the construction of a mixed use development (retail and residential apartment building) at 3 Queen Street, Campbelltown, not be approved unless the concerns and issues outlined in the body of this report are satisfactorily addressed through a detailed design review and appropriate amendments to the application.

The main issues and concerns identified under Council's initial assessment of the proposal related to the following matters:

- Building Design Non-compliance with the RFDC - Building depth, ventilation, solar access and internal circulation
- Improving the interface between the development and Queen Street, so as to promote an active and vibrant street frontage
- Improvements to the architectural contribution to the Queen Street streetscape.

In line with the Council resolution, a submission was forwarded to the JRPP objecting to the application and requesting that a comprehensive design review be undertaken to address the design issues raised by Council.

On 23 March 2012 the applicant submitted amended plans to the JRPP in response to the issues and concerns outlined in the submission on the application by Council. The written submission by the applicant outlining the proposed amendments is provided for Council's information as an attachment to this report.

A summary of the amendments made to the proposal by the applicant in response to Council's submission is provided in the following table:

Number of Units	Original: 162 residential apartments (16 x 1 bed, 127 x 2 bed, 19 x 3 bed) 3 Retail Units at Ground Level
	Amended: 165 Residential Units (23 x 1 bed, 129 x 2 bed, 13 x 3 bed) 2 Retail Units and 1 Community Room at Ground Level
Parking	Original: 246 cars (31 at grade, 108 - Basement 1, 107 - Basement 2)
	Amended: 249 cars (33 at grade, 103 - Basement 1, 113 - Basement 2)
Ground Floor	Tower 1 - entry lobby displaced by extended retail unit to wrap around full Queen Street frontage - loss of one residential unit
	Tower 1 - Retail unit and substation displaced by new Community Room adjacent to internal driveway
	Tower 2 - Reconfigured garbage room, undercover parking and tenant storage areas
	Tower 2 - Reconfigured entry point / lobby from Queen Street and repositioning of one residential unit
Levels 1 - 5	Tower 1 - Common Garbage room added off corridor
	Tower 2 - Reconfigured layout involving: <ul style="list-style-type: none"> • split length of common corridor to two sections • provision of two dual aspect units • revised stair and lift access • minor re-adjustment of number of one and three bed units
Level 6 / Roof	Tower 2 - Reconfigured lift / stairwell and provision of one additional two bedroom unit (total 3 units)

In addition to the above described amendments, the applicant has modified the external design of the proposal to improve the architectural presentation of the overall development. Council's earlier concerns regarding horizontal massing of the development have been responded to by including new vertical design elements, replacing solid balconies on the Queen Street elevation with glass, and increased articulation of the building facade.

Internal design and amenity considerations have also been improved by introducing some dual aspect apartments, providing additional windows to some units to increase opportunities for natural ventilation, and splitting the common corridor in the main building (Tower 2) into two components with separate building entry points. A new community room for the use of tenants has also been provided adjacent to the common driveway, in addition to reconfigured waste facilities to improve residential and retail waste management and collection.

Importantly, the amended plans have also responded to the concerns expressed by Council with respect to improving the interface of the development with Queen Street at ground level. As requested, the revised plans now provide for a greater length of retail frontage along Queen Street with changes to Tower 1 incorporating a new retail frontage along Queen Street which wraps around the building corner to the common driveway area.

Other design amendments along Queen Street which are considered to be desirable include new common pedestrian entrances for tenants so as to improve their visibility and general presentation to the street. Security gates have also been provided to the ground floor units of Tower 2 which immediately front Queen Street.

Conclusion

At its meeting of 14 February 2012 Council considered the subject application as exhibited by the JRPP, and resolved to object to the application on the basis of a number of design issues and concerns of non-compliance with relevant planning policies. Furthermore, Council requested that the JRPP undertake a comprehensive design review and assessment of relevant planning policies to ensure that any approval issued by the JRPP would achieve a high quality development outcome.

As part of the assessment process, the applicant has provided amended plans and details to the JRPP which generally respond to the issues and concerns raised in Council's submission. These amendment plans and details have been assessed, and are generally considered to provide a higher quality development outcome relative to the original application on which Council made its submission to the JRPP. The amended design improves the amenity for occupants, achieves a higher level of architectural merit and improves its presentation and interaction with Queen Street.

Whilst it is not the role of Council to continually review any modified plans or details submitted by the applicant for consideration by the JRPP, it is considered relevant in this instance given that the applicant has directly responded to the issues and concerns previously raised by Council.

Having regard to the design improvements in the amended plans as outlined in this report, it is considered appropriate to advise the JRPP that Council would be prepared to withdraw its initial objection to the application subject to the JRPP (in its role as the determining authority) undertaking a comprehensive assessment of the amended application to ensure compliance with all relevant planning policies and technical considerations.

Officer's Recommendation

That Council's Director Planning and Environment forward a supplementary submission to the Joint Regional Planning Panel (JRPP) for the Sydney West Region relating to the subject amended plans for Development Application 2263/2011/DA-RA for the construction of a mixed use development (retail and residential apartment building) at 3 Queen Street, Campbelltown, advising that Council has no objection to the revised plans submitted by the applicant, subject to the JRPP undertaking a detailed design review to ensure all relevant planning policies and technical considerations are appropriately addressed.

Having declared an interest in regard to Item 2.5, Councillor Hawker left the Chamber and did not take part in debate nor vote on this item.

Committee's Recommendation: (Greiss/Bourke)

That the Officer's Recommendation be adopted.

CARRIED

At the conclusion of the discussion regarding Item 2.5, Councillor Hawker returned to the Chamber for the remainder of the meeting.

Having declared an interest in regard to Item 2.5, Councillor Hawker left the Chamber and did not take part in debate nor vote on this item.

Council Meeting 8 May 2012 (Kolkman/Bourke)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 76

That the Officer's Recommendation be adopted.

At the conclusion of the discussion regarding Item 2.5, Councillor Hawker returned to the Chamber for the remainder of the meeting.

3. DEVELOPMENT SERVICES

3.1 Development Services Section Statistics - March 2012

Reporting Officer

Acting Manager Development Services

Attachments

Development Services Application Statistics for March 2012 (distributed under separate cover)

Purpose

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

Report

In accordance with Council's resolution of 23 August 2005 that Councillors be provided with regular information regarding the status of development applications, the attachment to this report provides details of key statistics for March 2012 as they affect the Development Services Section.

Officer's Recommendation

That the information be noted.

Committee's Recommendation: (Oates/Bourke)

That the Officer's Recommendation be adopted.

CARRIED

Council Meeting 8 May 2012 (Kolkman/Bourke)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 75

That the Officer's Recommendation be adopted.

3.2 Council's Monitoring And Reporting Obligations Of Variations To Development Standards Allowed Under State Environmental Planning Policy No.1 - Development Standards (SEPP 1)

3.2 Council's monitoring and reporting obligations of variations to Development Standards allowed under State Environmental Planning Policy No.1 - Development Standards (SEPP 1)

Reporting Officer

Acting Manager Development Services

Attachments

SEPP 1 variations approved for the period January 2012 – March 2012 (distributed under separate cover)

Purpose

The purpose of this report is to advise Council of development applications approved for the period 1 January 2012 to 31 March 2012 that involved a variation of a development standard allowed under the relevant provisions of the State Environmental Planning Policy No. 1 - Development Standards (SEPP 1 Applications).

Report

In accordance with the Department of Planning and Infrastructure's (DPI) requirement for all SEPP 1 Applications to be reported to Council, the attachment to this report indicates that there were no SEPP 1 Applications determined within the period stated above.

Further to the above, a copy of the attachment to this report was included in the quarterly report to the DPI and the information therein is also made available to the public under the "SEPP 1 Register" on Council's website.

Officer's Recommendation

That the information be noted.

Committee's Recommendation: (Bourke/Greiss)

That the Officer's Recommendation be adopted.

CARRIED

Council Meeting 8 May 2012 (Kolkman/Bourke)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 75

That the Officer's Recommendation be adopted.

3.3 Building Code of Australia - Prevention of falls from windows in high rise buildings

Reporting Officer

Acting Manager Development Services

Attachments

Nil

Purpose

To advise Council of the current provisions in the Building Code of Australia aimed at preventing children from falling from windows in high rise buildings.

History

Recent media reports have identified an alarming increase in the number of children falling from open windows and requiring hospitalisation. At the Planning and Environment Committee meeting held on 13 March 2012, Councillors requested a report detailing the protection that the Building Code of Australia provides to prevent children falling from windows in high rise buildings.

Report

Planning and building regulation in NSW is enabled under the *Environmental Planning and Assessment Act 1979* (EP&A Act) and through the *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation). The national construction code, the Building Code of Australia (BCA), is implemented in NSW through this legislation.

The BCA is a performance-based document that prescribes outcomes that must be achieved in a set of performance requirements. Compliance with the performance requirements can be achieved through several pathways: compliance with the Deemed-to-Satisfy (DTS) provisions (as listed in the BCA); development of an alternative solution; or a combination of alternative solution and DTS.

The BCA specifies in which circumstances a fall barrier must be provided and the standard that a barrier must meet. The relevant controls under Volume One (public, industrial, commercial and multi-unit high rise residential buildings) are set-out in Performance Requirement DP3 and in Part D2 of the Code which prescribes the minimum DTS provisions. Similar provisions are set out in Volume two of the Code which applies to single dwelling houses and minor structures.

Performance Requirements DP3 (Volume One) states:

Where people could fall:

- (b) 4m or more from a floor through an openable window,
-

a barrier must be provided which must be:

- (c) continuous and extend for the full extent of the hazard
- (d) of a height to protect people from accidentally falling through the opening
- (e) constructed to prevent people from falling through the barrier
- (f) capable of restricting the passage of children
- (g) of strength and rigidity to withstand:
 - (i) the foreseeable impact of people
 - (ii) where appropriate, the static pressure of people pressing against it.

The DTS provisions are summarised as follows:

Where a person, including a child, could fall through an openable window located more than four metres above a surface below, a barrier must be constructed with a height of not less than 865mm above the floor beneath the window and any opening in the barrier must not allow a 125mm sphere to pass through it. The barrier must not incorporate horizontal or near horizontal (climbing) elements between 150mm and 760mm above the floor surface. The barrier may consist of fixed glazing, a wall or balustrade.

The Australian Building Codes Board (ABCB) is currently working on a project, (Slips Trips and Falls), that in part addresses the fall risks for children. The project is based on a report, "The Relationship Between Slips, Trips and Falls and the Design and Construction of Buildings", produced by the Accident Research Centre at Monash University in 2008. A number of recommendations in the Monash Report dealing with fall issues are being considered by the ABCB for incorporation in BCA 2013. The ABCB expects to release proposed changes for the 2013 code for public comment in June 2012. One of the proposed changes is to reduce the four metre height provision requiring barriers to windows at least one metre above a surface below.

Council is currently reviewing its Sustainable City Development Control Policy and intends to add a note to this document drawing attention to the fact that all building work must comply with the relevant provisions of the BCA including the requirement to provide barriers to openable windows in certain circumstances.

Officer's Recommendation

That the information be noted.

Committee's Recommendation: (Bourke/Kolkman)

1. That the information be noted.
2. That Council write to the Minister of Planning seeking advice as to what measures the State Government may be taking to protect children from falling from existing high rise developments.

CARRIED

Council Meeting 8 May 2012 (Kolkman/Bourke)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 75

That the Officer's Recommendation be adopted.

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
- Matters referred to Council's solicitor for advice.

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

1. Land and Environment Court Class 1 Matters – Appeals Against Council's Determination of Development Applications
--

Total ongoing Class 1 DA appeal matters (as at 10/04/2012)	0
Total completed Class 1 DA appeal matters (as at 10/04/2012)	6
Costs from 1 July 2011 for Class 1 DA appeal matters:	\$71,946.41

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 10/04/2012)	0
Total completed Class 1 Order/Notice appeal matters (as at 10/04/2012)	2
Costs from 1 July 2011 for Class 1 Order/Notices appeal matters:	\$0.00

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

Total ongoing Class 4 matters before the Court (as at 10/04/2012)	0
Total completed Class 4 matters (as at 10/04/2012)	1
Total ongoing Class 4 matters in respect of costs recovery (as at 10/04/2012) these matters will be further reported on completion	4
Costs from 1 July 2011 for Class 4 matters	\$1,391.58

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

Total ongoing Class 5 matters before the Court (as at 10/04/2012)	0
Total completed Class 5 matters (as at 10/04/2012)	0
Total ongoing Class 5 matters in respect of costs recovery (as at 10/04/2012) these matter will be further reported on completion	2
Costs from 1 July 2011 for Class 5 matters	\$0.00

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

Total ongoing Class 6 Matters (as at 10/04/2012)	0
Total completed Class 6 Matters (as at 10/04/2012)	0
Costs from 1 July 2011 for Class 6 Matters	\$0.00

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

Total ongoing Appeal matters before the Court (as at 20/03/2012)	0
Total completed Appeal matters (as at 20/03/2012)	1
Costs from 1 July 2011 for District Court Matters	\$1,100.00

7. Local Court prosecution matters

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

Total ongoing Local Court Matters (as at 10/04/2012)	1
Total completed Local Court Matters (as at 10/04/2012)	131
Costs from 1 July 2011 for Local Court Matters	\$7,471.09

File No: LP05/12 – Penalty Notice Court Election
Offence: Double park.
Act: *Road Rules 2008*
Costs to date: \$0.00

Status: Ongoing

Matter was before the Court for further mention on 10 April 2012 where the defendant entered a not guilty plea. The Registrar adjourned the proceedings to 23 May 2012 for defended hearing.

File No: LP06/12 – Penalty Notice Court Election
Offence: Development not in accordance with consent.
Act: *Environmental Planning and Assessment Act 1979*
Final Costs: \$0.00

Status: Completed

Matter was before the Court for defended hearing on 10 April 2012 where the defendant, Mr Sandeep Kumar, entered a guilty plea with explanation. After considering the evidence and submissions the Magistrate found the offence proved and convicted the defendant imposing a fine of \$1,500 and order for Court costs in the sum of \$81.

8. Matters Referred to Council's solicitor for advice

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 20 March 2012)
Costs from 1 July 2011 for advice matters

11
\$19,144.55

9. Legal Costs Summary

The following summary lists the Planning and Environment Division's net legal costs for the 2011 - 2012 period.

Relevant attachments or tables	Costs Debit	Costs Credit
Class 1 Land and Environment Court - appeals against Council's determination of Development Applications	\$71,946.41	\$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	\$1,391.58	\$5,494.60
Class 5 Land and Environment Court - pollution and planning prosecution matters	\$0.00	\$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	\$1,100.00	\$5,709.84
Local Court prosecution matters	\$7,471.09	\$1,415.00
Matters referred to Council's solicitor for legal advice	\$19,144.55	\$0.00
Miscellaneous costs not shown elsewhere in this table	\$0.00	\$0.00
Costs Sub-Total	\$101,053.64	\$12,619.44
Overall Net Costs Total (GST exclusive)	\$88,434.20	

Officer's Recommendation

That the information be noted.

Committee's Recommendation: (Hawker/Greiss)

That the Officer's Recommendation be adopted.

CARRIED

Council Meeting 8 May 2012 (Kolkman/Bourke)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 75

That the Officer's Recommendation be adopted.

5. GENERAL BUSINESS

Nil.

18. CONFIDENTIAL ITEMS

No reports this round

There being no further business the meeting closed at 8.26pm.

R Kolkman
CHAIRPERSON
