

Reports of the Planning and Environment Committee Meeting held at 7.30pm on Tuesday, 26 June 2012.

APOLOGIES

ACKNOWLEDGEMENT OF LAND

DECLARATIONS OF INTEREST

Pecuniary Interests

Non Pecuniary – Significant Interests

Non Pecuniary – Less than Significant Interests

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Minutes of the Planning and Environment Committee held on 26 June 2012

Present

- Councillor R Kolkman (Chairperson)
- Councillor J Bourke
- Councillor G Greiss
- Councillor P Hawker
- Councillor M Oates
- Councillor R Thompson
- General Manager - Mr P Tosi
- Director Planning and Environment - Mr J Lawrence
- Acting Manager Sustainable City and Environment - Mr A Spooner
- Manager Development Services - Mr J Baldwin
- Acting Manager Compliance Services - Mr P Curley
- Manager Cultural Services - Mr M Dagostino
- Manager Community Resources and Development - Mr B McCausland
- Corporate Support Coordinator - Mr T Rouen
- Senior Waste Management Officer - Mr L Atkinson
- Senior Strategic Environmental Planner - Mrs F Saunders
- Senior Development Planner - Mr S Lee
- Senior Development Planner - Mr L Joseph
- Student Planner - Mr D Timmins
- Executive Assistant - Ms B Buckley

Apology (Hawker/Greiss)

That the apology from Councillor Matheson be received and accepted.

CARRIED

Acknowledgement of Land

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

DECLARATIONS OF INTEREST

There were no Declarations of Interest at this meeting.

1. WASTE AND RECYCLING SERVICES

1.1 CD and DVD Recycling Pilot

Reporting Officer

Manager Waste and Recycling Services

Attachments

Nil

Purpose

To propose the introduction of a pilot recycling program for CDs and DVDs.

History

Councillors have recently expressed an interest in the prospect of offering a service to residents to enable the recycling of unwanted CDs and DVDs. As CDs and DVDs are not able to be placed in yellow-lid recycling bins, the current practice for disposal of these items is to place them in the general waste bin, which would ultimately result in the items being sent to landfill.

Report

Council currently conducts a number of free recycling programs for residents that allow specific items to be dropped off at various Council facilities for recycling. Currently, mobile phones, chargers and accessories may be dropped off at Council's Civic Centre and libraries for recycling under the MobileMuster program, and fluorescent tubes and globes may be left at the Civic Centre for recycling.

It is proposed that, this range of items be extended to include CDs and DVDs, for a pilot period of six months. During this pilot period, residents would be able to drop off CDs and DVDs at Council's Civic Centre for recycling free of charge.

The CD and DVD recycling pilot would be promoted in local newspapers and on Council's website during the pilot period, and an article would be included in the Spring edition of Compass.

Council has identified a company that will accept CDs, DVDs, their cases and paper inserts for recycling free of charge. There would, however, be a small cost associated with sending the CDs and DVDs to the company periodically, and a cost to promote the service to residents.

It is anticipated that the cost to provide this service to residents would be minimal. The majority of the costs are likely to be incurred in the promotion of the service, and this promotion would be funded from the existing advertising budget for waste education.

Officer's Recommendation

1. That a pilot CD and DVD recycling program be offered to residents for a period of six months.
2. That the pilot program be promoted in local newspapers, on Council's website and in the Spring edition of Compass.
3. That a further report on the results of the pilot program be provided to Council.

Committee's Recommendation: (Bourke/Kolkman)

1. That a pilot CD and DVD recycling program be offered to residents for a period of six months and that the residents be able to drop off CDs and DVDs to Council's Civic Centre and libraries for recycling free of charge.
2. That the pilot program be promoted in local newspapers, on Council's website and in the Spring edition of Compass.
3. That a further report on the results of the pilot program be provided to Council.

CARRIED

Council Meeting 3 July 2012 (Kolkman/Bourke)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 112

That the Officer's Recommendation be adopted.

2. ENVIRONMENTAL PLANNING

2.1 2012 Macarthur Nature Photography Competition

Reporting Officer

Acting Manager Environmental Planning

Attachments

1. Copy of correspondence from Camden Council in response to Council's request for an increase in contribution toward the competition
2. Copy of correspondence from Wollondilly Council in response to Council's request for an increase in contribution toward the competition

Purpose

To request approval for the proposed budget for the 2012 Macarthur Nature Photography Competition and to advise Council of the increased contribution from Camden and Wollondilly Councils.

History

At its meeting on 14 February 2012 Council considered a report on the outcomes of the 2011 Macarthur Nature Photography Competition and resolved:

1. *That a report be presented to Council on the proposed budget for 2012 and submitted to Council for approval.*
2. *That Council seek an increase in the contribution made to the Macarthur Nature Photo Competition by Wollondilly Shire and Camden Councils and the response from both Councils be included in the report to Council.*

Report

As outlined in the previous report to Council, the competition is experiencing increasing costs as a result of significant participation over recent years, particularly in relation to equipment and catering requirements. Since 2008 Council has contributed \$6,000 annually toward the competition with neighbouring councils contributing \$1,000 each in addition to highly valuable in-kind support.

In 2011 a 60% increase in entries resulted in an overspend of \$1,719 associated with the competition. This overspend was funded from Council's environmental education budget. However in anticipation of the continued growth of the competition the 2012/13 program budget adopted by Council has an allocation of \$8,900.

Further, in response to the above resolution, correspondence was sent to both Camden and Wollondilly Councils requesting an increase in their respective contributions toward the competition. Council has subsequently received responses from both Councils, copies of which are provided in Attachments 1 & 2. Camden Council have agreed to increase their contribution to \$2000, whilst Wollondilly Shire Council have agreed to increase their contribution to \$1500.

The increased contributions together with Council's draft budget allocation bring the total budget for the 2012 competition to \$12,400, to be distributed across line items as proposed below:

Item	Budget allocation
Gifts/Souvenirs	\$200
Prize Money	\$3,600
Catering/Meals	\$2,600
Equip Hire	\$3,500
Marketing/Prom	\$1,000
Advertising	\$500
Contingency Fees	\$1,000
Total	\$12,400

Conclusion

The Macarthur Nature Photography Competition is a successful and high profile regional environmental education initiative generating significant interest from residents of the Macarthur region, with the number of participants and observers growing consistently and substantially in recent years. It is considered that increased costs associated with delivery of the competition are likely to continue to occur as the competition continues to grow.

Officer's Recommendation

That Council endorse the allocation of \$12,400 for the 2012 Macarthur Nature Photography Competition.

Committee's Recommendation: (Oates/Hawker)

That the Officer's Recommendation be adopted.

CARRIED

Council Meeting 3 July 2012 (Kolkman/Bourke)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 112

That the Officer's Recommendation be adopted.

ATTACHMENT 1



Camden Council
37 John Street, Camden NSW 2570 DX 25807
PO Box 183, Camden 2570 ABN: 31 117 341 764
Telephone: 02 4654 7777 Fax: 02 4654 7829
Email: mail@camden.nsw.gov.au

8 June 2012

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

Dear Mr Tosi,

RE: LIVING MACARTHUR NATURE PHOTOGRAPHY COMPETITION & EXHIBITION 2012

Thank you for inviting Camden Council to once again partner with Campbelltown City Council in conducting the Living Macarthur Nature Photography Competition & Exhibition.

Given the positive results achieved by the initiative held during the last six years, including its preliminary workshops, field visits and touring exhibition, Council believes that it is a valuable tool to promote the region's biodiversity and community involvement in environmental initiatives.

I advise that Council can commit \$2,000 towards 'Our Waterways' theme of the 2012 Macarthur Nature Photography Competition and Exhibition.

Further, as per previous years, Council will support the initiative by providing space in both the Narellan and Camden Libraries, which are already fitted with the appropriate display systems, for the touring exhibition that follows the competition and Awards night and administrative and promotional support to ensure the success of this initiative.

If you require further information or assistance, please contact Camden Council's Environmental Education Officer and representative for the Living Macarthur Nature Photography Competition, Denise Franovich on phone 4645 5007.

Yours sincerely,

Greg Wright
GENERAL MANAGER

ATTACHMENT 2



Our ref: 3775 # 275. AS:AS

Mr Phil Jemison
Campbelltown City Council
PO Box 57
Campbelltown NSW 2580

4 June 2012

Dear Mr Jemison

2012 MACARTHUR NATURE PHOTOGRAPHY COMPETITION

I refer to your correspondence regarding the Macarthur Photographic Competition. Wollondilly Council also regarded the Macarthur photographic competition a success over the past years.

Council has undertaken a review of the 2012-2013 Environmental Education budget and has identified \$1500 that can be allocated to the annual event. In addition to this cash amount Council will continue to support the competition through in kind resources of Council staff.

Should you wish to discuss this further please contact Ms Alexandra Stengl, Team Leader Environmental Services on 4677 1177 or alexandra.stengl@wollondilly.nsw.gov.au

Regards,

On Behalf Of
Alexandra Stengl
Environment Section
Team Leader

2.2 Employment Lands in South West Sydney

Reporting Officer

Acting Manager Environmental Planning

Attachments

Map showing the location and type (by zone) of employment lands available within the south west subregion of Sydney. (Distributed under separate cover)

Purpose

To inform Council about progress that has been made in investigating opportunities for future industrial and business park based employment lands within the Campbelltown Local Government Area (LGA) and the broader south west Sydney subregion.

History

At its meeting on 31 May 2011, Council considered a report on the Draft Campbelltown Employment Lands Review that was prepared for Council by Strategic Economics and Cox Richardson. The report recommended:

“That Council notes the findings of the draft Campbelltown Employment Lands Review and undertakes the following actions:

- i. That Council request the State Government to formally recognise the Campbelltown-Macarthur Business Centre as the Regional City Centre for South West Sydney.
 - ii. That Council write to the State and Federal Governments requesting support for economic and employment growth in the Campbelltown LGA and South West Sydney, and to adopt higher employment targets for both Campbelltown and the South West Subregion.
 - iii. That Council recognise a target of 106,000 jobs to be provided within the Campbelltown LGA by 2036 to be distributed spatially as proposed in Recommendation 4 of the draft Campbelltown Employment Lands Review.
 - iv. That Council recognise a target of a total 1,000 hectares of non-business park employment land within the Campbelltown LGA by 2036.
 - v. That as part of the preparation of the new comprehensive LEP for the Campbelltown LGA, Council investigates the appropriateness of placing large minimum lot sizes over employment lands that are located along major road and rail corridors or that have good access to the F5 and the Sydney-Melbourne Rail Line to preserve opportunities for the development of transport and logistics based enterprises.
-

- vi. That Council forward a copy of the Campbelltown Employment Lands Review to the NSW Government's Employment Lands Development Program Division for its consideration in the identification of sites for new employment lands and business parks for the Campbelltown LGA and the South West Subregion.
- vii. That Council write to the NSW Minister for Planning and Infrastructure:
 - (a) Seeking recognition of the Campbelltown-Macarthur CBD as a Regional City, and requesting an increase in the job target for the centre to 35,000 jobs by 2036; and,
 - (b) Requesting that the NSW Government adopt and fund priority infrastructure projects to strengthen access to and from Campbelltown's employment areas.
- viii. That Council examine in further detail the feasibility of the establishment of a business park facility in the vicinity of the Hurlstone Agricultural High School, UWS and the Bethlehem Monastery Site at Campbelltown.
- ix. That Council write to the Premier requesting the NSW Government to urgently consider relocating government departments and agencies to the Campbelltown Local Government Area to stimulate and provide employment to the local economy.
- x. That Council write to the Federal Government seeking ways in which Council can access the \$100m fund to help attract employment hubs for city councils with high jobless rates."

The above recommendations were adopted subject to the removal of the references to Hurlstone Agricultural High School and the Bethlehem Monastery Site in item viii.

At its meeting on 18 October 2011, Council adopted the following Notice of Motion:

"That following consideration of the Draft Campbelltown Employment Lands Review, which was presented to Council on 31 May 2011 in conjunction with the preparation of the Consolidated Planning Instrument, a sub committee of appropriate staff be formed to identify and review potential sites for employment generating opportunities in the Campbelltown Local Government Area and surrounding districts."

Report

The Sub Committee

An initial meeting to discuss the establishment of an Employment Lands Sub Committee was held between representatives from Council and the Macarthur Regional Organisation of Councils (MACROC) on 23 January 2012.

The first meeting of the Sub Committee was held on 2 April 2012. The Sub Committee resolved to review both the 2008 Hill PDA report titled *Employment Prospects for South West Sydney* (the Employment Prospects Study), that was prepared on behalf of MACROC, and the *Campbelltown Employment Lands Review* that was prepared for Council by Strategic Economics and Cox Richardson.

The Sub Committee also undertook to obtain information from Camden, Liverpool and Wollondilly Councils in respect to those Council's current and future employment opportunities. A summary of the information obtained from the adjoining Councils is provided in the following sections of this report.

Before discussing the outcomes of the work undertaken by the Sub Committee to date, this report examines the broader metropolitan and subregional context of employment lands planning for the Sydney and south west Sydney subregions.

Metropolitan and Subregional Strategy Context

The Metropolitan Plan 2036 (the Plan) acknowledges the importance of identifying, retaining and protecting important employment lands within the Sydney region and sets out specific objectives and actions aimed at securing current and future opportunities for job creation. The specific objectives include:

- to ensure an adequate land supply for economic activity, investment and jobs in the right locations
- to focus Sydney's economic growth and renewal, employment and education in centres
- to provide employment lands to support the economy's freight and industry needs
- to provide for a broad range of local employment types in dispersed locations
- to increase and diversify the jobs and skills base of western Sydney and
- to support Sydney's nationally significant economic gateways.

The Plan includes an action (Action E2.3) that addresses the need to establish business parks to service Sydney's future employment needs. This action is aimed at addressing the future demand for business parks by establishing a framework to identify suitable sites in subregional strategies for both metropolitan and subregional scale business parks. Further, the Plan reinforces that business parks should have a relationship to adjoining economic infrastructure such as hospitals, universities, educational facilities, research institutes or clusters of knowledge-based activities and be able to capitalise on existing or proposed major transport including both road and rail infrastructure.

The Metropolitan Plan states that the Department of Planning and Infrastructure (DP&I) will work closely with relevant state and local government agencies to identify business park locations, especially in proximity to strategic centres in Western Sydney exhibiting the demands and prospects for a successful business model and potential for significant employment generation.

The Metropolitan Plan, the South West Subregion Draft Subregional Strategy (the Draft SW Strategy), the Employment Prospects Study, and the Draft Campbelltown Employment Lands Review all acknowledge the need for strategically located business park opportunities in south west Sydney to be realised.

Business (and technology) parks can contain a mixture of research, manufacturing, distribution and office activities, or can be aligned with nearby facilities to create areas that specialise in a particular field such as medical research or food technology.

In addition, the Draft SW Strategy sets the following employment capacity targets for South West Sydney to 2031:

Liverpool	35,000
Camden	26,000
Campbelltown	26,000
Wollondilly	2,000
Total	89,000

It is anticipated that at least some of these job targets will be achieved by the creation of strategically located business parks.

The Draft SW Strategy puts forward criteria for consideration when determining where to locate strategic employment lands such as business and technology parks. These attributes include:

- good access to gateway infrastructure (such as ports/airports and freight rail)
- good access to public transport
- large un-fragmented sites that are buffered from residential uses
- potential to service a large and growing population catchment
- significant government land holdings
- sufficient power and water servicing, and
- potential to complement and support strategic centres.

The possibility of establishing a business park facility within the Campbelltown LGA is discussed in the latter sections of this report, but it is important to set this idea within the context of the work on employment lands that is currently being undertaken by the Department of Planning and Infrastructure (DP&I).

Work being undertaken by the Department of Planning and Infrastructure

The DP&I has established an Employment Lands Development Program (ELDP) as the NSW Government's key program for managing the supply of employment lands for the Sydney Region and the integrated provision of transport. The ELDP is also actively involved in monitoring the supply of industrial lands within the Sydney Region and the Central Coast. Part of the work of the EDLP is to understand the capacity of existing zoned industrial land to meet the future needs of industry, and to investigate the need to release and service new industrial lands over time.

The Department's Employment Lands Team is currently undertaking an audit of existing employment land. The project is seeking to highlight, amongst other things, the remaining capacity for growth within these lands and the potential need for additional lands. As an extension to such work, Senior Council Staff recently met with representatives from DP&I to expressly discuss the remaining availability of land within the Ingleburn, Minto and Campbelltown industrial areas, the opportunities and constraints for future employment growth within these precincts and inference for future employment lands supply. Matters including vacancy rates, ownership patterns and methods of encouraging the redevelopment of both older and underutilised sites are currently being reviewed.

On 13 June 2012, the DP&I released the Draft NSW Urban Activation Precincts Guideline (the draft Guideline) and Facts Sheets for public comment. Submissions relating to the draft documents need to be made by 4 July 2012. The draft Guideline sets out the NSW Government's proposal to establish a process whereby government departments, local councils and other stakeholders would be able nominate strategic sites for consideration as Urban Activation Precincts (UAPs). The NSW Government is aiming to use the UAP Program to substantially increase the supply of land that is well serviced by transport to increase the supply of housing and employment opportunities. If the NSW Government agrees that a nominated site meets the selection criteria for UAPs, the site will be identified in a State Environmental Planning Policy (SEPP) and the Minister for Planning and Infrastructure will have the discretion to decide if the land will be zoned via a SEPP or a Local Environmental Plan.

The DP&I is also proposing to introduce Growth Infrastructure Plans (GIPs) to assist with the coordinated delivery of infrastructure in UAPs. GIPs will be prepared by the DP&I in consultation with local councils and State agencies to better align identified infrastructure needs with government agency asset management plans and to achieve better coordination between agencies. In addition, it is proposed that local councils will be able to access funds from the \$50m Precinct Support Scheme (PSS) if they partner with the NSW Government in the development of UAPs. The funding will be in addition to local development levies collected within a precinct and will be provided to fund both social and economic local infrastructure.

The exhibition material also states that the DP&I will work with local government on the nomination and identification of precincts that meet the criteria set out in the guidelines.

The Department is also looking to identify a site in South West Sydney that is suitable for the establishment of a significant business park located in close proximity to an existing centre, with higher order accessibility (good public transport and road access), and preferably the capacity to leverage off an existing urban centre and a knowledge or research anchor such as a major educational establishment, a university or a hospital.

The Campbelltown Employment Lands Review (the Review) identified the Glenfield Waste Disposal site and the Glenlee Coal Plant as possible future employment lands. It also identified two major opportunities for the creation of business parks within the Campbelltown LGA:

- land in the vicinity of the Hurlstone Agricultural High School, with the ability to link and augment the activities of the existing school and
- residual University of Western Sydney and TAFE land, and the Bethlehem Monastery site.

However, as stated earlier in this report, Council previously resolved not to pursue these ideas further to investigate their feasibility. The DP&I is aware of the findings of the Review and of Council's resolution.

Subregional Employment Lands

The following tables provide an overview of existing and future employment lands opportunities located within the Campbelltown, Camden, Liverpool and Wollondilly Local Government Areas. The map provided at Attachment 1 shows the location, distribution and type (by zone) of employment lands that exist within the south west Sydney subregion.

Campbelltown

Location	Size/Area	Existing Zoning	Status
Campbelltown	139.9 ha in total/ Approx, 48.42 ha is vacant	Industrial	A mix of light and general industrial uses and bulky goods retailing.
Glenfield (proposed)	Approx. 160 ha in total/ Approx. 63.66 ha in the Campbelltown LGA.	Rural Possible future employment land.	Glenfield Waste Disposal Site.
Glenlee (proposed) (Campbelltown and Camden LGAs)	Approx. 75.25 ha in total/ Approx. 67.58 ha in the Campbelltown LGA.	Rural Possible future employment land.	Glenlee Coal Washery Plant.
Ingleburn	Approx. 317.5 ha in total/ Approx. 17.59 ha is vacant.	Industrial	A mix of industrial uses.
Leumeah	Approx. 18.75 ha in total/ Approx. 1.68 ha vacant.	Industrial	Some industrial uses and bulky goods retailing.
Minto	Approx. 256.3 ha in total/ Approx. 4.98 ha is vacant.	Industrial	A mix of industrial uses.

Camden

Location	Size/Area	Zoning	Status
Glenlee (Proposed) (Campbelltown and Camden LGAs)	Approx. 75.25 ha in total/ Approx. 7.67 ha in the Camden LGA.	Rural Being considered for future employment purposes.	Subject to ongoing environmental investigations.
Little Street (Camden)	Approx. 3ha	Light Industrial	Developed.
Narellan	41 ha	General Industrial Light Industrial Local Centre	90% developed, 10% vacant.
Smeaton Grange	230 ha	Light Industrial	Development is well advanced.
Leppington (Proposed)	464 ha (total release area)	Rural	Part of SW Growth Centre. Includes some employment lands. Precinct planning has commenced.
Marylands (Proposed)	Not known at this stage.	Rural	Part of SW Growth Centre. Includes provision for some future employment lands.
Turner Road	96 ha (employment land)	General Industrial	Part of SW Growth Centre. Proposed future service and light industrial and business park (office/warehouse uses).
Oran Park	19 ha (employment land)	General Industrial	Part of SW Growth Centre. Future employment uses.

Liverpool

Location	Size/Area	Zoning	Status
Prestons Industrial/ Yarrunga	437 ha, approx. 10% developed	General Industrial Light Industrial Heavy Industrial Enterprise Corridor	Proposed general industrial, logistics and warehousing. Yarrunga approx. 10% developed and more development underway.
Len Waters Estate (former Hoxton Park Aerodrome)	88 ha	General Industrial Light Industrial Business Development (proposed 3.47ha)	Mostly developed. Main uses are logistics and warehousing. Current planning proposal for a hardware store.
South West Growth Centre (Proposed) (Austral, Rossmore, Kemps Creek, Leppington, Bringelly and Badgery's Creek)	1310 ha (Bringelly Industrial Precinct) 40 ha (Austral Industrial Precinct)	Rural Small Holdings Rezoning underway for the East Leppington, Austral and Leppington North Precincts.	Precinct planning still to be done for the other areas. Bringelly and part of Kemps Creek are expected to accommodate various industrial uses that will link to the Western Sydney Employment Hub.
Costco (Crossroads Precinct Casula)	59,910 sqm	Business Development	Current planning proposal to include Costco (a warehouse-based discount retailer) as an additional use.
Masters Warwick Farm	2.9 ha	Business Development	Current development application for a Masters Hardware Store.

Coopers Paddock (Proposed)	Approx. 44 ha	Private Recreation Current proposal to rezone the land as Light Industrial awaiting gazettal.	A mix of light industrial uses is proposed.
Flower Power Site (Moorebank)	3.85ha	Enterprise Corridor Private Recreation	Developed and being developed for retailing, bulky goods, office space and residential uses. Developer seeking to rezone and fill more of the site to facilitate further development but no planning proposal lodged.
Moorebank Intermodal Terminal Sites (Proposed)	88 ha (SIMTA) 98ha (Federal Government)	General Industrial (SIMTA) Special Uses-Military (Federal Government)	Environmental impact assessments underway for both sites. Each site is proposed to be used as a freight intermodal terminal to transfer freight from Port Botany and interstate to trucks.
Orange Grove (Warwick Farm)	40 ha	Business Development Enterprise Corridor General Industrial	Mostly developed but potential for redevelopment and intensification. Future uses could include logistics, manufacturing, bulky goods, and retail.
Badgery's Creek Airport Site (Proposed)	1700 ha	Special uses - Airport	Most of the land could be used for industrial purposes if a decision is made not to proceed with the airport in this location.

Wollondilly

Location	Size/Area	Zoning	Status
Maldon Employment Generating Lands (Proposed)	80 ha proposed for industrial uses	Rural Landscape Proposed to be rezoned General Industrial.	Possible uses include storage, warehousing, transport and manufacturing. Planning proposal ready for public exhibition.
Moreton Park Employment Lands (Proposed)	Approx. 297 ha (employment uses)	Primary Production Rural Landscape Environmental Conservation Proposed rezoning to General Industrial and Business Park, subject to JRPP approval.	Possible uses include office/light industrial, warehousing, logistics, and wholesale/trade sales uses.
Tahmoor South Business Development Lands (Proposed)	Approx. 6 ha	Rural Landscape Draft planning proposal to rezone the land Business Development.	Proposed uses include business and large floor retail such as bulky goods and warehouses.
Appin Industrial Area	2.23 ha vacant	Light Industrial	Small scale industrial units and brickworks on the developed part of the site.
Maldon Industrial Area	34 ha approx. vacant, but approx. half of the available land contains ecologically important vegetation and riparian land.	Heavy Industrial	Large scale manufacturing.

Picton Industrial Area	5.4 ha approx. vacant land.	Light Industrial	Large scale manufacturing.
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Summary of Subregional Opportunities for Employment Growth

The information about Campbelltown's employment lands and that provided by Camden, Liverpool and Wollondilly councils illustrates that while significant provision has been made within the south west subregion for land to accommodate light, general and heavy industry, and for business development activities and enterprise corridors, only two areas of land have the potential to accommodate business park uses. These possible opportunities are located at Turner Road, in the Camden Local Government Area, and at Moreton Park within the Wollondilly Local Government Area. Camden Council has advised that there may be a possibility of some land within the Turner Road area, that is zoned for General Industrial purposes, being used for business park uses including offices and warehouses. Wollondilly Council has advised that land at Moreton Park is being considered as a future business park. While Council refused the planning proposal in 2010, the applicants took the matter to the Minister for Planning and it has been referred to the Joint Regional Planning Panel (JRPP) for consideration. It is not clear at this stage whether the proposal will be approved, and if approval is granted, the possible timeframe for developing the business park. Wollondilly Council has indicated that the use of this business park is likely to be largely for logistics and warehousing rather than for technology or a specific issue/opportunity based use.

Therefore, it is clear that limited land has been zoned or proposed for the development of business parks in the near future. This provides a unique opportunity for the Campbelltown LGA to reinforce its strategic importance as the emerging Regional Centre for south west Sydney, and to capitalise on its significant transport linkages and unique multi-function higher order education and medical precincts, by nominating suitable sites for possible future business park development.

There are two locations that are considered suitable for business parks. These are consistent with the sites that were identified in Council's original Review. The most suitable site is the Blaxland-Gilchrist Gateway, comprising the UWS/TAFE land potentially in conjunction with the Bethlehem Monastery site (or part thereof) and the Council owned land located at the intersection of Blaxland and Narellan Roads, Campbelltown. This land is a well-located strategic site that is serviced by good road and rail infrastructure, and with strong linkages to higher order educational and medical facilities. It is also located in close proximity to, and can be serviced by, the existing Campbelltown-Macarthur business and retail centre. The relative close proximity of two railway stations and the F5 Freeway cannot be understated in terms of the economic development opportunity this site presents to consolidate the future of the Campbelltown/Macarthur Centre as an important focus for jobs growth and economic investment for the future.

The second site is the Hurlstone Agricultural Precinct encompassing the existing school and the adjoining NSW Government owned land. A business park in this location could coexist with the Agricultural High School and provide further incentives to both reinforce the status of the school and to expand its educational repertoire. The site is extremely well located in terms of strategic access and well-serviced by existing and future rail linkages and the Glenfield Town Centre, which itself will change and expand due to the establishment of the South West Rail Link. The close physical relationships between the Hurlstone site and the future Glenfield Town Centre (intensified) presents as an important strategic opportunity to develop the precinct into an educational/employment and transport hub.

At the next meeting of the Employment Lands Sub Committee, the date of which is yet to be determined, discussion will focus on the information provided by Camden, Liverpool and Wollondilly Councils and the additional scoping work that is being undertaken by the DP&I to identify additional land within the Sydney Region, and particularly south west Sydney, for future employment lands and the development of future job opportunities. It is anticipated that the Sub Committee develop a set of recommendations for Council's consideration at a future date and that these recommendations will include ones that specifically support further investigation of the business park opportunities discussed above.

It should be noted that if the NSW Government's current proposal to identify UAPs proceeds, Council may be in a position to nominate the Blaxland-Gilchrist Gateway site, and the Hurlstone Agricultural Precinct as suitable sites for inclusion. In the event that either or both of the sites are formally identified as UAPs, Council will be able to access funding for infrastructure to support the development of future employment opportunities at these locations.

Conclusion

This report has provided a brief overview of the work undertaken to date by Council's Employment Lands Sub Committee, the work that is currently being undertaken by the DP&I to identify additional employment lands for Sydney, and the current and future employment lands prospects in the Camden, Liverpool and Wollondilly local government areas. It has also reinforced the NSW Government's quest for a well located business park to be developed in south west Sydney.

In order for Campbelltown to establish itself as a Regional City for South West Sydney, every opportunity to provide additional employment within the LGA needs to be proactively pursued. Business parks that are well-connected with existing infrastructure and facilities and that become destinations in their own right are an important mechanism through which Council, in partnership with the NSW Government and the private sector, can achieve additional employment opportunities at economically strategic locations.

In particular, it is believed that Council should promote the Blaxland-Gilchrist Gateway precinct as a candidate for a Subregional Business Park, leveraging off the University of Western Sydney and TAFE campuses and the expanding hospital and medical precincts. This opportunity should integrate opportunities to develop the Council owned land located at the corner of Blaxland and Narellan Roads and any future redevelopment of the Maryfields Monastery site, in order to make an entry statement into the Campbelltown/Macarthur Regional City Centre as the progressive and modern economic hub for South Western Sydney.

The opportunity to capitalise on the strategic significance of Hurlstone Agricultural High School, via the potential co-location of a business park that integrates with the functions of the school, could also be pursued, given the current investment in transport infrastructure in Glenfield.

Embracing the opportunity for high quality business parks in Campbelltown that focus on clean industry and research and development will also assist the LGA in becoming increasingly self-sufficient in the provision of employment opportunities for local residents. Accordingly, if the NSW Government's current proposal to identify UAPs proceeds and Council is able to nominate strategic sites for the DP&I's consideration, it is considered that the Blaxland-Gilchrist Gateway and the overall Glenfield Precinct should be nominated as strategic opportunities for local employment generation.

Officer's Recommendation

That the information be noted.

Committee's Recommendation: (Thompson/Bourke)

That the Officer's Recommendation be adopted.

CARRIED

Council Meeting 3 July 2012 (Kolkman/Bourke)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 112

That the Officer's Recommendation be adopted.

2.3 Discussion Paper - Sydney over the next 20 Years

Reporting Officer

Acting Manager Environmental Planning

Attachments

1. Discussion Paper - Sydney over the next 20 Years (distributed under separate cover)
2. Council's draft submission on the Discussion Paper – Sydney over the next 20 years (distributed under separate cover)

Purpose

To seek Council's endorsement of a draft submission on the Discussion Paper – Sydney over the next 20 years.

History

In 2005, the former NSW Government released the "Metropolitan Strategy 'City of Cities – A Plan for Sydney's Future'" to secure Sydney's place in the global economy by promoting and managing growth.

On 17 March 2010, the Department of Planning released a discussion paper 'Metropolitan Strategy Review – Sydney Towards 2036', as a first step in reviewing the 2005 metropolitan strategy.

In December 2010, the former NSW Government released the 'Metropolitan Plan for Sydney 2036'. This latest plan superseded the 2005 Metropolitan Strategy 'City of Cities – A Plan for Sydney's Future'.

Report

Introduction

In September 2011, the newly elected NSW Government released a 10 year plan for NSW entitled 'NSW 2021, A Plan to Make NSW Number One' (2021 Plan). The 2021 Plan aims to rebuild the state economy, provide quality services, renovate infrastructure, restore Government accountability and strengthen the local environment.

Following from the 2021 Plan, the Government will be developing three main strategies:

- A new Metropolitan Strategy for Sydney (the Strategy)
 - A State Infrastructure Strategy and
 - A Long Term Transport Master Plan.
-

The above three plans will be finalised toward the end of this year and will inform the priorities of the NSW Government's next Budget.

As a first step in developing a new Metropolitan Strategy for Sydney, the Government has released 'A Discussion Paper- Sydney over the next 20 Years' (the Discussion Paper). The Discussion Paper is seeking feedback from the public on how best to accommodate and plan for Sydney's growth.

The Discussion Paper will be followed by a draft metropolitan strategy for consultation and a final strategy by the end of this year.

Key Predictions of the Discussion Paper

- Sydney's population is growing and is predicted to reach 5.62m in 2031 compared to 4.26m in 2010 – (1.4m more people)
- Sydney will need 570,000 more homes
- Sydney will need 600,000 more jobs
- The percentage of population over 65 will increase to 16% compared to 12% in 2010.

The above forecasts for Sydney in 2031 are similar to those predicted in 2010 by the 'Metropolitan Plan for Sydney 2036'.

Summary of the main matters raised by the Discussion Paper

The Discussion Paper outlines nine challenges/issues that the Department is seeking feedback on as follows:

1. Housing our growing population
2. Providing jobs and economic opportunities
3. Providing efficient transport networks
4. Providing the infrastructure we need
5. Providing equitable access to a great lifestyle
6. Protecting our environment and building resilience to natural hazards
7. Protecting productive rural and resource lands
8. Connecting with the regions
9. Delivering the strategy

The Discussion Paper includes one main question on each of above matters followed by a number of subsequent questions, totalling 63 questions. A draft submission has been prepared that includes responses to all questions raised. This report concludes by seeking Council's endorsement of the submission for lodgement with the Department.

The Government's current focus on each matter (as detailed in the Discussion Paper), the main question raised on the matter and a proposed draft response by Council are presented below:

1. Housing our Growing Population

Current Government Focus

- Improve housing affordability and availability by facilitating the delivery of 25,000 new dwellings in the metropolitan region each year and maintaining the number of available greenfield 'zoned and trunk serviced' lots above 50,000
- Accelerating delivery to market of 10,000 blocks by Landcom over four years
- Setting dwelling targets and working with local government to reflect these targets in Local Environmental Plans (LEPs) and relevant planning proposals
- Providing five and 10 year forecasts of dwelling production to infrastructure funders and providers and aligning delivery of water, roads, electricity and sewer infrastructure with new housing in greenfield areas
- Aiming to locate 80 per cent of new dwellings within the walking catchments of centres well served by public transport
- Reviewing potential housing opportunities on landowner nominated sites
- Identifying underutilised land in walking distance of shops and public transport for energy efficient multi-dwelling housing
- Reviewing the NSW planning system to facilitate a streamlined development system.

Main Question Raised on this Matter

What can the Metropolitan Strategy do to provide more housing in the right places?

Proposed Response by Council

- To provide housing in greenfield areas:
 - Give priority funding for the provision of infrastructure for the South West Subregion as it is expected to be the highest area of future population growth in Sydney
 - Deliver infrastructure in a coordinated and timely manner
 - To provide infill residential development:
 - Identify opportunities for renewal and urban consolidation within existing local town centres that are serviced by rail and bus transport, efficient road network and where adequate infrastructure capacity exists
 - Upgrade the rail network capacity, prior to facilitating higher densities around existing railway stations, as carriages in peak hours are usually full by the time they arrive at Glenfield Station (when travelling to the city)
 - Set housing goals for each local government area based on accessibility and local infrastructure capacity, in agreement with local councils
 - Shift the priorities of Landcom to strategically implement the Government's land and housing supply and affordability strategy.
-

2. Providing Jobs and Economic Opportunities

Current Government Focus

- Build business confidence and attract investment.
- Tackling measures to promote business confidence and investment by prioritising infrastructure investment through Infrastructure NSW and setting a sound basis for planning for housing growth via the Metropolitan and Subregional Strategies.
- Continue to focus on clustered economic activity in Sydney's Strategic Centres.

Main Question Raised on this Matter

What can the Metropolitan Strategy do to provide the right environment for industry growth while supporting a range of job opportunities?

Proposed Response by Council

- Decentralise Government offices from the Sydney Central Business District (CBD) to regional and major centres (as anchors for growth) to provide jobs near people and encourage other businesses to relocate from Sydney CBD to other centres This would improve the movement around the City, so that the majority of people do not travel in one direction to Sydney CBD for work
- Protect employment land from being developed for other purposes
- Plan and deliver a Business Park (similar to Macquarie University) in the Campbelltown LGA at a suitable location
- Improve road and rail access to employment land to encourage manufacturing and investment, on an accelerated priority basis.

3. Providing Efficient Transport Networks

Current Government Focus

- Delivering important transport projects across Sydney, including:
 - the North West Rail Link
 - the South West Rail Link
 - widening the M5 and M2 motorways
 - extending the light rail network and looking into light rail extensions in the Sydney CBD to the University of NSW and the University of Sydney;
 - upgrading train stations and ferry wharves
 - constructing the Southern Sydney Freight Line and
 - Improving the Northern Sydney Freight Corridor.
-

Main Question Raised on this Matter

What can the Metropolitan Strategy and NSW's other strategies do to integrate transport and land use planning?

Proposed Response by Council

- Upgrade major road corridors/linkages within Macarthur region including the upgrade to Narellan Road, the extension of Badgally Road and other essential road, rail and other public transport infrastructure to support the high levels of growth expected in South West Sydney
- Identify potential renewal projects in existing suburbs that are serviced by a railway network. This should be accompanied by state government funding for the upgrade of infrastructure and services to encourage private investment and renewal
- Provide the public and Council with a clear direction on the future of the Georges River Parkway (currently a road reservation that could provide another important road link and an alternative route to the M5 for at least part of the journey through the Campbelltown Local Government Area). The Parkway will be an essential piece of transport infrastructure servicing future urban development in Macarthur South.
- Upgrade vehicular access to the Campbelltown/Macarthur Regional City Centre by undertaking key regional road network enhancements including upgrades to Badgally Road and extension to the CBD. Grade separation at Kellicar Road and Narellan Road intersection; the Spring Farm Arterial in addition to upgraded access to the University of Western Sydney Campus at Campbelltown, particularly from Narellan Road.

4. Providing the Infrastructure We Need

Current Government Focus

Providing new infrastructure or augmenting existing infrastructure to meet demand as development occurs.

- Using various tools to improve infrastructure planning and achieve better value for money for infrastructure projects, including cost benefit analyses and the Better Value Infrastructure Plan for the Council of Australian Governments (COAG) to consider reform options across the infrastructure delivery chain
 - Delivering existing commitments, such as the North West Rail Link and South West Rail Link; Sydney International Convention, Exhibition and Entertainment Precinct; Northern Beaches Hospital; and the light rail program.
-

Main Question Raised on this Matter

What can the Metropolitan Strategy do to influence the timing, location and nature of investment in infrastructure, and the arrangement of supporting land uses?

Proposed Response by Council

- Prioritise and manage the number and extent of development fronts on the metropolitan fringe to align with infrastructure priorities, commitments and available resources
- Ensure the availability of funds by state Government to enable a timely delivery or upgrade of the needed infrastructure to integrate with the delivery of development, as identified by the Metropolitan Strategy
- Where funds are not available, the NSW Government should lead public-private partnership agreements to ensure a timely delivery of key infrastructure projects.
- Identify potential projects for partnership with the private sector
- Provide greater certainty for investors by providing the anticipated timing for the implementation of the Metropolitan Strategy.

5. Providing Equitable Access to a Great Lifestyle

Current Government Focus

- Increasing opportunities for people to look after their neighbourhoods, get involved in their communities and participate in cultural, sporting and recreation activities
 - Providing new housing in areas with adequate transport, services and facilities to encourage social inclusion at the earliest possible time
 - Developing guidelines that assist local councils design and plan for healthy, safe, culturally vibrant and inclusive places
 - Auditing the local infrastructure backlog in Sydney's local government areas to establish priorities for open space and recreation investments
 - Funding programs that help to protect and enhance open space
 - Providing a framework for local government to plan, fund and deliver open space
 - Partnering with a greater number of Aboriginal communities to improve local outcomes, and supporting opportunities to strengthen Aboriginal culture, country and identity
 - Delivering important cultural events throughout Sydney, such as the Sydney Festival in Parramatta.
-

Main Question Raised on this Matter

What can the Metropolitan Strategy do to provide greater access to a diversity of lifestyle opportunities across Sydney?

Proposed Response by Council

- Provide free public transport for major cultural events.
- Ensure the protection of valued public open spaces across Sydney.
- Enhance linkages to regional parks.
- Work in collaboration with each local government to understand community needs.
- Redistribute resources as demography changes.
- Do not create isolated communities with limited access to health, education and recreation.
- Promote regionally based self containment/sufficiency by planning and the delivery of integrated housing, employment and servicing outcomes.

6. Protecting our Environment and Building Resilience to Natural Hazards

Current Government Focus

- The NSW Government is aiming to protect the environment through initiatives such as:
 - The climate change adaptation strategy for Sydney, developed in collaboration with councils
 - Biodiversity certification and strategic assessment processes in the Growth Centres
 - Encouraging sustainable building design, especially in terms of housing, through the Building Sustainability Index (BASIX)
 - Establishing a strong protected areas network in Sydney
 - Developing high resolution climate projections for Sydney and NSW to better understand the likely changes to our climate and likely natural hazards
 - Implementing plans and strategies to protect our environment, including the Sydney Metropolitan and Hawkesbury-Nepean catchment action plans, Action for Air, NSW Biodiversity Strategy and Metropolitan Water Plan.
-

Main Question Raised on this Matter

What can the Metropolitan Strategy do to protect the natural environment and improve Sydney's resilience to natural hazards?

Proposed Response by Council

- Focus on achieving a balance between the provision of housing and protection of key environmental assets at a higher policy level
- Expand BASIX to accommodate for all types of developments
- Mandate the application of sustainable development principles for all greenfield and brownfield developments
- Prepare emergency evacuation plans for areas of high to medium risk of environmental disasters such as flooding and bushfire hazards.

7. Protecting Productive Rural and Resource Lands

Current Government focus

- The NSW government is aiming to:
 - Increase the value of primary industries and mining production by 30 per cent by 2020
 - Protect Sydney's drinking water catchments
 - Lift exports from NSW through the New Frontiers program to attract petroleum and mineral exploration investment in underexplored areas of NSW
 - Protect strategic agricultural land and improve agricultural productivity.
 - Improve productivity on NSW farms
 - Balance development with the sustainable management of natural resources
 - Map strategic agricultural lands and develop agricultural industry sector strategic plans
 - See benefits from the new NSW Office of Food Security and Agricultural Sustainability.

The main question raised on this matter

What can the Metropolitan Strategy do to strike the balance between land for a growing population and land for agriculture and resources?

Proposed Response by Council

- Protect agricultural land that is currently or has the potential to deliver agricultural resources
 - Provide incentives for agricultural land to be used for agricultural purposes
 - Do not increase Sydney's urban development foot print into areas of valuable agricultural land
-

- Facilitate the provision of housing at higher densities in existing areas where capacity exists, within close proximity to railway stations, as a balance to greenfield development on the metropolitan fringe.

8. Connecting with the Regions

Current Government Focus

- The NSW Government aims to drive economic growth in regional NSW by:
 - Offering regional relocation grants to encourage population growth in NSW
 - Delivering the Jobs Action Plan to assist business investment in NSW
 - Preparing new strategic land use plans in regional NSW
 - Improving connections between Sydney and regional NSW, including the Northern Sydney Freight Corridor and the Great Western Highway through the Blue Mountains, as well as major road upgrades in regional NSW such as the Pacific Highway.

The main question raised on this matter

What can the Metropolitan Strategy do to improve connections between Sydney and the regions?

Proposed Response by Council

- Provide incentives for business' relocation and colocation
- Provide fast train from Newcastle to Sydney CBD.

9. Delivering the Strategy

Current Government focus

- The new Strategy will:
 - Be based on a commitment to restore accountability to Government
 - Have firm Commitment from Government that proposed activities will be delivered on time
 - Restore confidence and integrity in the planning system
 - Provide greater certainty for communities and investors
 - Set out a clear strategic vision to guide and inform local government in local level planning
 - Establish the shared responsibility for delivering Sydney's growth and change over the next 20 years.

The main question raised on this matter

What can the Metropolitan Strategy do to ensure its policies and actions are delivered in a transparent and timely way?

Proposed Response by Council

- Ensure bi-annual reporting on the progress of all proposed infrastructure projects; all reports are to be made publicly available
- Prioritise each project with milestones indicated
- Establish responsibilities and accountabilities for all stakeholders
- Identify key performance indicators with realistic time frames for the implementation of proposed infrastructure

Final Comments

The NSW Government will be preparing a new Metropolitan Strategy to guide the planning for Sydney's growth for the next 20 years.

Sydney is growing and will continue to grow; without proper timely investment in infrastructure, education, services and health, the City's current issues of congestion, air quality, shortage in housing and access to services will be exacerbated.

The success of a Metropolitan Strategy for Sydney depends largely on the timely delivery of identified key infrastructure projects. Funds need to be made available and responsibilities need to be allocated. Consultation with local governments is also essential to enable the NSW Government to understand and address constraints facing local councils. Conversely, local government needs to recognise its role and responsibilities in the planning and delivery of essential Metropolitan and State priorities. Fundamental to the success of any Metropolitan Strategy to deliver on key outcomes such as housing, new employment, infrastructure and lifestyle will be collaboration between councils and Government to represent a genuine 'whole of government' approach that focuses on integrated planning, funding and delivery. The State Government should encourage more strategic participation in the 'market place' by agencies such as Landcom, to facilitate more effective development outcomes, through land assembly and wholesaling as well as price discounting.

The comments provided in this report and detailed answers to questions raised by the Discussion paper have been collated into a draft submission which is provided as Attachment 2 to this report.

Officer's Recommendation

That Council endorse the draft submission on the Discussion Paper – Sydney over the next 20 years as contained in Attachment 2 for submission to the NSW Department of Planning and Infrastructure.

Committee's Recommendation: (Greiss/Bourke)

That the Officer's Recommendation be adopted.

CARRIED

Council Meeting 3 July 2012 (Kolkman/Bourke)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 112

That the Officer's Recommendation be adopted.

2.4 Proposed Rezoning Mount Gilead

Reporting Officer

Acting Manager Environmental Planning

Attachments

1. Location map
2. Draft Planning proposal for referral to the Department of Planning and Infrastructure (Distributed under separate cover)

Purpose

To advise Council of a planning proposal for the rezoning of certain land at Mount Gilead for residential development, and request Council's approval to forward the proposal to the NSW Department of Planning and Infrastructure for determination by the Gateway Panel.

History

Consultants acting on behalf of the property owners of land at Mount Gilead advised Councillors at the briefing session held on Tuesday 21 February 2012 of a proposal to rezone part Lot 1 and part Lot 2 DP 807555 and Lots 59 and 61 DP 752042 Appin Road, Mount Gilead, to permit the development of the site for residential purposes. A location map of the proposed site is provided in Attachment 1.

This site has been listed on the NSW State Government's Metropolitan Development Program for a number of years, as an area worthy of consideration for the development of approximately 1500 residential allotments.

Report

Property Description: Part Lot 1 and Part Lot 2 DP 807555 and Lot 59 DP 752042.

Owner: Mount Gilead Pty Ltd

Property Description: Lot 61 DP 752042

Owner: S and A Dzwonnik

Applicant: Old Mill Properties Pty Limited and Brown Consulting (NSW) Pty Ltd

Council has received a preliminary planning proposal, on behalf of the two property owners, to rezone land at Mount Gilead, to permit the development of the site for urban residential purposes.

The Site

The subject site includes part Lot 1 and part Lot 2 DP 807555 and Lot 59 DP 752042 Appin Road, Mount Gilead, owned by Mount Gilead Pty Ltd, and Lot 61 DP 752042 Appin Road, Mount Gilead, owned by Mr S and Mrs A Dzwonnik. It is located directly south of Noorumba Reserve, and directly north of the historic Beulah property. The site of the proposed gas fired electricity generating peaking power station at Leaf's Gully is located approximately 3 kilometres from the subject land's southern boundary.

The total area of the subject site is 210 hectares, approximately half of which is considered to be able to be developed for residential purposes. Historically the site has been predominantly used for agricultural purposes, and contains a number of drainage lines and farm dams, with pockets of remnant native vegetation. Whilst a hill with steep slopes is located within the north western corner of the subject site, the rest of the land is generally gently sloping.

Zoning

The current zoning of the subject site is Non Urban under the provisions of *Interim Development Order No 15*, with a minimum subdivision standard of 100 hectares. The preliminary planning proposal aims to rezone the subject land predominantly to an urban residential zone to provide for subdivision into approximately 1500 residential allotments with an average allotment size of 700m².

Key Planning Issues

The NSW State Government's Metropolitan Development Program (MDP) provides for the management of land and housing supply, and assists in infrastructure coordination throughout the State. The subject site is noted in the MDP as having potential for the development of approximately 1500 residential allotments.

Flora and Fauna

Whilst the site has been used for agricultural purposes for many years, and particularly for cattle grazing, there are still small areas occupied by endangered ecological communities (being Shale Sandstone Transition Forest and Cumberland Plain Woodland). It is proposed to retain as much existing significant vegetation as possible. As the subject site is located between two significant bushland areas (being the Noorumba Reserve and Beulah (which is now a bio-banking site) and forms part of the ecological corridor between the Georges River and Nepean River catchments, it is considered appropriate to ensure that any proposed development of the site addresses the issue of maintaining, as well as enhancing, these connections. It will also be necessary to ensure that appropriate bushfire asset protection zones are provided, particularly along the boundaries of Noorumba Reserve and Beulah. Such asset protection zones would need to be provided for on the subject land.

Transport and Access

Appin Road forms the eastern boundary of the subject site and provides its main vehicular access. It is recognised that Appin Road is classified as a State Road, under the care and control of NSW Department of Roads and Maritime Services, and is the main road link between Campbelltown and Wollongong. The location of Appin Road creates a number of issues that will need to be addressed prior to the rezoning of the subject land. These include not only vehicular and pedestrian access to the site from Appin Road, but also the visual impact of the development as seen from the road, and related road noise and air quality issues, as well as adequate provision being made to address fauna movement across the road as part of mobility along the Nepean/Georges River wildlife corridor connections.

Heritage – Non Indigenous

There are a number of heritage items listed under the provisions of *Interim Development Order No 15*, that are either located on land adjoining, or in the vicinity of, the subject site. These include a section of the Sydney Water Supply Upper Canal, Beulah Estate, Humewood Forest, Meadowvale and the Mount Gilead group including the homestead, outbuildings, dam and mill. Whilst the items of the Mount Gilead group are generally located outside the boundaries of the area proposed to be rezoned, a small portion of the dam does encroach on the western boundary of the subject site but is not proposed to be developed. However, any rezoning or development of the subject land must address any likely impact on all these heritage items.

Heritage – Indigenous

Some indigenous relics have been identified within the subject site, but further investigation and consultation with Aboriginal stakeholders would be required as part of the preparation of documentation to support the proposed rezoning of the site, should Council decide to support the proposal.

Coal and Gas Resources

The subject site falls within the boundaries of the South Campbelltown Mine Subsidence District, and therefore consultation with the Mine Subsidence Board and Department of Primary Industries – Minerals and Petroleum would be required to ascertain the likelihood of any future coal extraction.

It is important to note that there has been no extraction of coal seam gas on the site, and to date there has been no indication of any interest for such extraction.

Servicing

Initial investigations have indicated that the subject site can be serviced with water, sewer, stormwater drainage, electricity and gas. However, further confirmation would be required prior to the rezoning of the subject land.

Community Infrastructure

The quantum of community infrastructure required for the subject site would need to be determined on completion of relevant technical studies. Such investigations should assess the capability of existing community services/facilities in adjoining suburbs (eg schools and playing fields) and the level of facilities that need to be provided within the subject site.

Conclusion

In recognition of the fact that the subject land has been listed on the NSW State Government's Metropolitan Development Program for a number of years, and that the current position of the NSW State Government with regard to encouraging the release of rural land on the fringes of urban areas for future residential development, it is considered that the subject site presents an opportunity for additional residential land within the Campbelltown LGA.

It is noted in the applicant's preliminary planning proposal that detailed technical studies will need to be prepared to inform a draft zoning plan (LEP) for the subject site. These studies need to address the key planning issues as discussed in this report, other relevant matters, eg contamination, soil and geotechnical issues, salinity, and any additional matters requested by the Department of Planning and Infrastructure's Gateway Panel.

Council has prepared a draft planning proposal based on the information provided by the applicant, for Council's consideration for endorsement and subsequent lodgement with the Department of Planning and Infrastructure for determination by the Gateway Panel. Please see a copy of draft planning proposal marked Attachment 2.

On receipt of a draft planning proposal that has been endorsed by Council, the Department of Planning and Infrastructure's Gateway Panel will issue a determination which will specify whether the proposal should proceed, and if so under what circumstances. Generally, if the proposal is supported by the Panel then the determination will advise what studies will be required, which State or Commonwealth Public Authorities will need to be consulted, and the times within which the various stages of the procedure for the making of the proposed rezoning plan (LEP) are to be completed. As such if the draft planning proposal is supported by both the Council and the Gateway Panel, then a further report will be prepared for Council's consideration prior to the public exhibition of any planning documentation for this proposed rezoning.

Officer's Recommendation

1. That Council endorse the draft planning proposal for the rezoning of part Lot 1 and part Lot 2 DP 807555 and Lots 59 and 61 DP 752042 Appin Road, Mount Gilead to permit the development of the site for urban residential purposes, and lodge with the Department of Planning and Infrastructure for determination by the Gateway Panel.
2. That Council advise the applicant of Council's decision.

Committee Note: Ms Katrina Hobhouse addressed the Committee in opposition to the recommendation.

Committee's Recommendation: (Bourke/Thompson)

1. That Council endorse the draft planning proposal which seeks the rezoning of part Lot 1 and part Lot 2 DP 807555 and Lots 59 and 61 DP 752042 Appin Road, Mount Gilead to permit the development of the site for urban residential purposes, and lodge with the Department of Planning and Infrastructure for determination by the Gateway Panel.
-

2. That in its proposal to the Department of Planning and Infrastructure regarding the rezoning of this land, Council request that the technical studies include an investigation of the feasibility of its use for food production, and that the Department consider how this land fits with the stated focus of securing agricultural land as expressed in the Discussion Paper - Sydney Over the Next 20 Years.
3. That in its proposal to the Department of Planning and Infrastructure regarding rezoning of this land, Council request that the technical studies include an investigation of the heritage characteristics of the subject land and of adjoining and nearby lands taking account of the heritage related matters raised in an appeal to the Land and Environment Court - judgement on 16/06/04 (10297/04 and 10272/04). Such investigations should identify the nature and extent of any impacts on the significance of items of heritage, including their setting, and identify appropriate mitigation measures.
4. That Council advise the applicant of Council's decision.

CARRIED

Council Meeting 3 July 2012 (Kolkman/Bourke)

That the Officer's Recommendation be adopted.

Amendment (Borg/Kolkman)

1. That Council endorse the draft planning proposal which seeks the rezoning of part Lot 1 and part Lot 2 DP 807555 and Lots 59 and 61 DP 752042 Appin Road, Mount Gilead to permit the development of the site for urban residential purposes, and lodge with the Department of Planning and Infrastructure for determination by the Gateway Panel.
 2. That in its proposal to the Department of Planning and Infrastructure regarding the rezoning of this land, Council request that the technical studies include an investigation of the feasibility of its use for food production, and that the Department consider how this land fits with the stated focus of securing agricultural land as expressed in the Discussion Paper - Sydney Over the Next 20 Years.
 3. That in its proposal to the Department of Planning and Infrastructure regarding rezoning of this land, Council request that the technical studies include an investigation of the heritage characteristics of the subject land and of adjoining and nearby lands taking account of the heritage related matters raised in an appeal to the Land and Environment Court - judgement on 16/06/04 (10297/04 and 10272/04). Such investigations should identify the nature and extent of any impacts on the significance of items of heritage, including their setting, and identify appropriate mitigation measures.
 4. That in its proposal to the Department of Planning and Infrastructure regarding the rezoning of this land, Council request that the technical studies include a detailed investigation of infrastructure needs and impacts generated by the future development, and include specifically any impacts on Appin Road and any required upgrading and/or widening.
-

5. That Council advise the applicant of Council's decision.

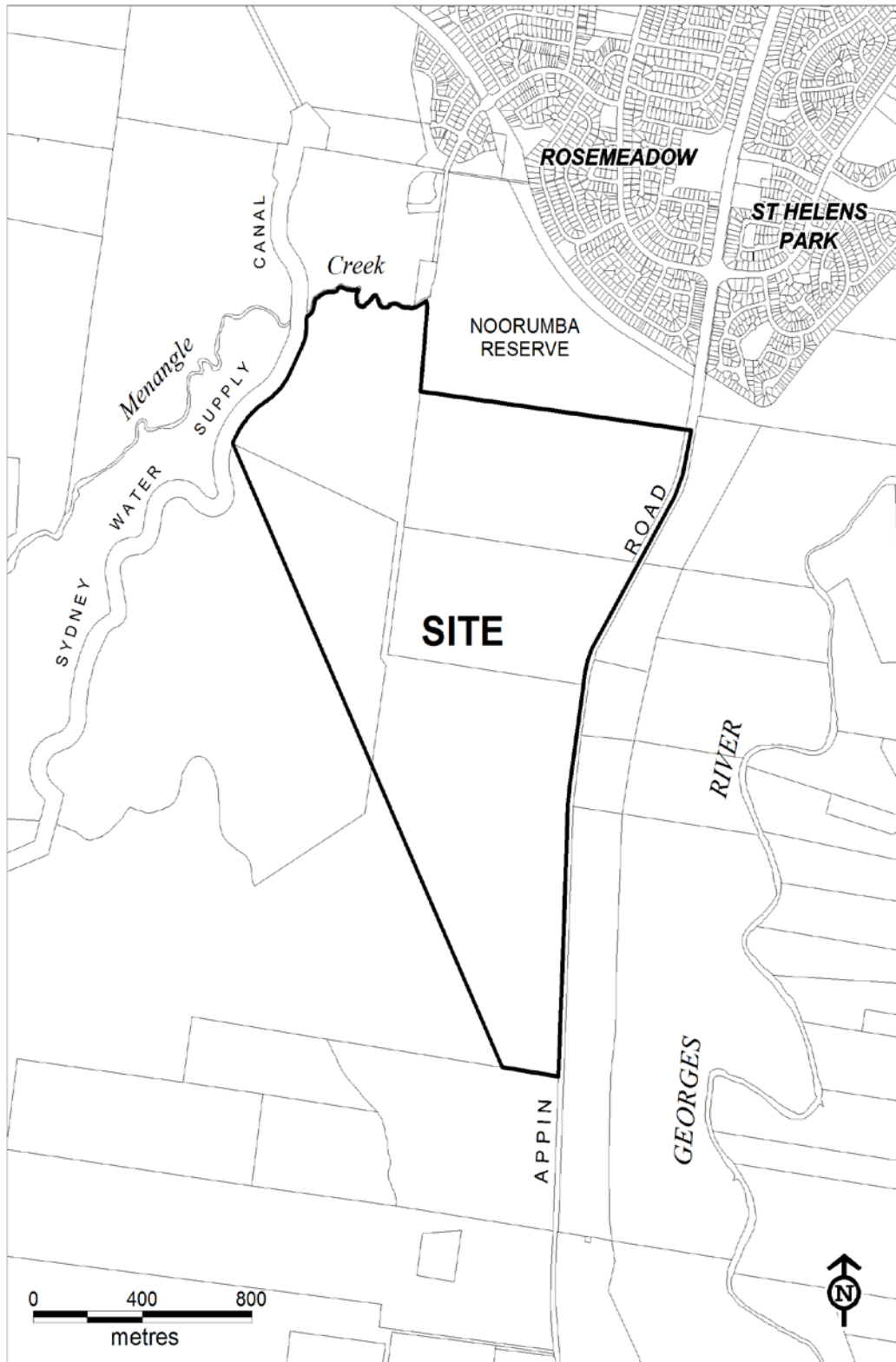
Addendum (Bourke/Glynn)

6. That in its proposal to the Department of Planning and Infrastructure regarding the rezoning of this land, Council requests that the technical studies include an investigation of the value of this land as a fauna corridor between the Nepean and Georges River.

Council Resolution Minute Number 112

That the amendment incorporating the addendum be adopted.

ATTACHMENT 1



2.5 Waste and Sustainability Improvement Payment Program Reporting Requirements

Reporting Officer

Manager Environmental Planning

Attachments

Climate Change Risk Assessment Adaptation Report (distributed under separate cover)

Purpose

To seek Council's endorsement of the submission of information to the NSW Office of Environment and Heritage concerning Grant Funding received under the Waste and Sustainability Improvement Payment Program.

History

At its meeting on the 18 October 2011, Council considered a report which provided information on the feasibility of undertaking a climate change risk assessment. That report advised that in accordance with the funding conditions of Council's annual Waste and Sustainability Improvement Payment (WASIP) program, Council is required to submit a completed climate change risk assessment adaptation report to the Office of Environment and Heritage (OEH). That report further advised that Council officers had confirmed that a climate change risk assessment adaptation plan could be undertaken free of charge by Echelon, a consulting agency working in partnership with Council's insurer, Statewide Mutual. The risk assessment has now been completed.

Report

As part of the process of satisfying the funding requirements of the WASIP Program, a Council staff working party was formed to undertake the risk assessment.

The working party participated in a workshop facilitated by the consultant (Echelon) in February 2012. The aim of the workshop was to guide participants through a collaborative process utilising the Australian Standard for risk management, current climate change projections developed by the Commonwealth Scientific and Industrial Research Organisation (CSIRO) and various State and Federal Government guidelines. This process involved a series of steps which involved assigning climate change risks associated with six climate change scenarios against the various areas of Council's responsibility and five long term objectives.

2.5 Waste And Sustainability Improvement Payment Program Reporting Requirements

The risk management work addressed climate change impacts based on CSIRO projections for:

- An increase in ambient temperature
- An increase in the number of hot days over 35 degrees celsius
- A decrease in average rainfall
- An increase in the average wind speed
- An increase in the number of Forest Fire Danger Index days above very high and extreme
- An increase in the frequency of rain intensity.

Aspects of Council's operations identified as having potential to be affected by the CSIRO climate change projections included:

- Infrastructure and Property
- Recreational Facilities
- Health Services
- Planning and Development
- Natural Resource Management
- Water and Sewage (Including drainage).

In identifying parameters to assist Council in preparing for the identified risks associated with Climate Change the working party recognised Council's responsibilities to:

- Maintain public safety
- Protect and enhance the local economy
- Protect existing community structures and the lifestyle enjoyed by the people in the region
- Sustain and enhance the natural environment
- Ensure public administration and sound governance.

A number of risks potentially relevant to Council's operations and infrastructure assets were identified. Of those risks identified, 25 were considered to be of medium risk and 42 considered to be of high risk.

Council currently has a number of adaptation approaches in place in the form of strategic plans and routine maintenance programs which already deal with these risks. Where Council's response has been identified as requiring further attention, recommendations have been prepared relating to:

- The investigation, procurement and allocation of funding
- The preparation of strategic plans
- Development and implementation of community awareness programs
- Review and update of current programs and plans.

Importantly, the high risk items are already being addressed through ongoing and routine Council programs, and should be enhanced through the awareness and implementation of additional opportunities including community education. The Risk Assessment Process has allowed Council to identify potential risks and assess these against current operating procedures.

This process has found that Council's current procedures are generally sufficient to address the risks identified although some minor additional enhancements would be to Council's and the community's benefit. Therefore it is recommended that Council endorse the Climate Change Risk Assessment Adaptation Report for submission to the Office of Environment and Heritage in order to satisfy its Waste and Sustainability Improvement Payment Program reporting requirements.

Officer's Recommendation

That Council endorse the Campbelltown City Council Climate Change Risk Assessment Adaptation Report, (contained in Attachment 1), for submission to the Office of Environment and Heritage to demonstrate its compliance with the conditions of its 2011-2012 Waste and Sustainability Improvement Payment program.

Committee's Recommendation: (Bourke/Oates)

1. That Council endorse the Campbelltown City Council Climate Change Risk Assessment Adaptation Report, (contained in Attachment 1), for submission to the Office of Environment and Heritage to demonstrate its compliance with the conditions of its 2011-2012 Waste and Sustainability Improvement Payment program.
2. That Council give consideration to the provision of a safe place for the elderly and babies to retreat to on days of excessive heat.

CARRIED

Council Meeting 3 July 2012 (Kolkman/Bourke)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 112

That the Officer's Recommendation be adopted.

2.6 Legislative Council Standing Committee Report - Coal Seam Gas

Reporting Officer

Acting Manager Environmental Planning

Attachments

Nil

Purpose

To provide Council with a summary of the key issues and recommendations contained within the Legislative Council's report on Coal Seam Gas and recommend that Council write to specific members of the NSW Government urging them to adopt the reports recommendations.

History

The Committee commenced when its Terms of Reference were adopted on 5 August 2011 which required the Committee to examine the environmental, health, economic and social impacts of coal seam gas activities, as well as the role of coal seam gas in meeting the future energy needs of New South Wales.

Issues for consideration included the impact of coal seam gas activities on ground and surface water systems, greenhouse gas and other emissions, air quality, food security and agricultural activity. Regulatory issues were also considered, including the legal rights of property owners, and the capacity of current legislation, notably the *Petroleum (Onshore) Act 1991*, to provide adequate regulation for the coal seam gas industry.

The Committee received 911 written submissions during the public consultation period from the 10 August to 7 September 2011. The Committee also held seven public hearings across the state during the months of September to December 2011 including one at Mittagong on 9 December where the Director Planning and Environment presented Council's Submission.

A total of five site visits were conducted by the Committee including a visit to the Camden Gas Fields with representatives of AGL Energy.

On 1 May 2012 the General Purpose Standing Committee No 5 of the NSW Legislative Council released Report 35 entitled 'Coal Seam Gas' (the Report) which will be discussed below.

Report

The 330 page report (including Appendices) of the Committee contains discussion on 11 key issues and makes 35 recommendations for the NSW Government to consider. A copy of the full report can be downloaded from www.parliament.nsw.gov.au/gpsc5.

The summary of the findings and recommendations are of considerable importance to Campbelltown as the report states that “the AGL owned Camden Gas Project is the largest producer of Coal Seam Gas in NSW. In 2009 it produced 5.6PJ and is aiming to supply around 6 % of the NSW domestic gas market.”

Summary of Key Issues

A key theme throughout the report is the level of uncertainty surrounding the potential impacts of the coal seam gas industry. The many unanswered questions include: Will the industry threaten the quality and quantity of water resources? How dangerous is fracking? Are there other potential health and environmental impacts? Is coal seam gas a cleaner energy source than other fossil fuels and what are the economic benefits for New South Wales?

More data needs to be gathered to assess the potential impacts of the coal seam gas industry.

The key issues considered in the report included Water Resources; Fracking; Remediation; Community Engagement; Land Access and Compensation; Agriculture; Economic Benefits; Energy Security, Prices and Greenhouse Gas Emissions; Breaches of Environmental Regulations; Regulation and Moratorium on Production Approvals.

Recommendations

The Report’s recommendations are listed below along with a comment on Council’s position and any action by Council or the State Government to date:

Recommendation 1

That the NSW Government request the Commonwealth Government’s Independent Expert Scientific Committee to:

- Work closely with the coal seam gas industry to overcome barriers to data-sharing and
- Fund the conduct of regional-scale water assessments in New South Wales and the development of models of cumulative water impacts as a matter of priority.

Council Comment:

This recommendation is complementary to council’s resolution at its meeting on 13 March 2012 in response to a report on the Bulli Seam Project approval:

That Council write to the Commonwealth Minister for the Environment requesting that the Interim Independent Expert Scientific Committee identify the Bulli Seam Project as a priority mining project for investigation and that the project be commissioned by the Committee (when established) to investigate the impacts of the approved development on water resources.

Council has continued to raise the issue of the lack of data and evidence regarding impacts in its submissions to the Legislative Council's Inquiry into Coal Seam Gas (the Inquiry) and on the Aquifer Interference Policy (AIP). Council has highlighted that the only publicly available data on the Camden Gas Project is limited to that provided in a study completed on behalf of AGL and that the responsibility for collection of baseline data is that of the NSW State Government. Council's submission on the draft AIP also requested that the NSW Office of Water address the cumulative impacts of the industry on aquifers within a catchment context. This recommendation by the Legislative Council is therefore supported.

Recommendation 2

That the NSW Government consider tightening the *Draft Code of Practice for Coal Seam Gas Exploration* so that the suggested measures around water testing and monitoring, including documenting existing water bores, drilling monitoring bores, regularly monitoring water impacts and paying for independent water testing, are *required* rather than *optional*.

Council Comment:

The current Draft Code of Practice for Coal Seam Gas exploration, recently placed on public exhibition, is noted to state that:

The Government requires CSG companies to undertake baseline assessment of aquifers and the potential impacts of CSG development on water resources before project approval and development.

Water monitoring, management and disposal must be a key feature of the (access) agreement. The explorer should offer to document the status of existing water bores on the property and test the quality and quantity of shallow groundwater on the property before pilot production (or any other activity that will involve moving or removing ground water). Laboratory results from these surveys plus other groundwater monitoring data collected during the exploration program should be made available to the landholder... Regular water monitoring should continue during the lifetime of the project (including production should it occur).

Whilst the Draft Code goes some way to addressing the recommendation, it is considered that where the word 'should' occurs in the above excerpt it be replaced with the word 'must'.

Recommendation 3

That the NSW Government amend the Draft Code of Practice for Coal Seam Gas Exploration to require information on baseline data to be made publicly available.

Council comment:

This recommendation is supported, and it is further recommended that the Draft Code as quoted above, should be amended to read:

Laboratory results from these surveys plus other groundwater monitoring data collected during the exploration program must be made available to the landholder and the public via publishing on the explorer's website.

Recommendation 4

That the NSW Government progress as a priority the project being undertaken by the Office of Water to assess the potential volume of produced water from the coal seam gas industry.

Council comment:

As raised in Council's submission to the Inquiry, council is specifically concerned over the volume of water used during the coal seam gas extraction process, in particular hydraulic fracturing and maintenance activities, as well as the storage and disposal of significant volumes of saline wastewater.

Council requested that the Committee consider the economic and social implications of coal seam gas activities related to the volume of water required given the significant projected increase in the industry, in light of the following:

- The social and economic implications of Water Sharing Plans prepared by the New South Wales Office of Water on coal seam gas activities relating to both surface and ground waters in terms of water availability for environmental flows and water drawing activities and
- The social and economic implications on the supply of potable water for general domestic and industrial consumption purposes given the predicted growth in population (and associated demand), and predicted high variation in rainfall as a consequence of global warming over the next 50 to 60 years.

Recommendation 5

That the NSW Government not approve any coal seam gas activity without a solid waste management plan included in the relevant approval.

Council comment:

Whilst Council's submission to the Inquiry did not address solid waste issues, this recommendation is supported.

Recommendation 6

That the NSW Government ensure that aquifer interference requirements are introduced for any wells drilled into coal seams, including exploration wells.

Council comment:

The Draft AIP, recently placed on public exhibition, requires approvals and access licences for aquifer interference activities. In its submission on the AIP Council has requested that the policy apply to:

Activities associated with open cut works, underground longwall mining and coal seam gas extraction and other extractive industries that interact with aquifers and receiving waters.

This recommendation is therefore supported however the requirements should apply to all industries as outlined in Council's submission.

Recommendation 7

That the NSW Government consider expanding the monitoring of decommissioned wells. This could extend to inspections at intervals of five years up to twenty years.

Council comment:

Whilst Council's previous submissions relating to coal seam gas have not addressed this specific issue, this recommendation is supported on the basis of such monitoring being undertaken by independent experts reporting directly to the appropriate authority such as the NSW Office of Water.

Recommendation 8

That the NSW Government ban the open storage of produced water.

Council comment:

In July 2011 the NSW State Government banned the use of evaporation ponds relating to coal seam gas activities at well sites.

In Council's submission to the Inquiry, Council noted that AGL had advised that only enclosed storage tanks are used as part of the Camden Gas Project but that potential impacts associated with the storage and disposal of the significant volumes of saline wastewater generated by coal seam gas activities remained a concern to Council. Further that the aforementioned ban did not allay Council's concerns regarding potential impacts on nearby watercourses associated with the storage of chemicals at well sites. Therefore whilst Council supports this recommendation, Council would request that controls be introduced for storage of water and chemicals at well sites.

Recommendation 9

That the NSW Government continue the current ban on fracking until the National Industrial Chemicals Notification and Assessment Scheme assesses fracking chemicals for their intended use and toxicity according to international standards, and the NSW Government considers any finding of this assessment.

Council comment:

As outlined in Council's submission to the Inquiry, Council's submission on the Camden Gas Project requested the assessment of potential impacts on urban areas as a consequence of the fracking processes. Recent studies have indicated scientific uncertainty regarding the process and several countries have either banned or enacted moratoriums on the use of the hydrological fracturing process. Council requested that the Inquiry consider:

- Potential impacts associated with all chemicals (not just BTEX chemicals) that may be used as part of the fracking process or other activities, as part of coal seam gas activities such as drilling additives.

Council continues to maintain its request for a moratorium on further coal seam gas mining until conclusive evidence emerges that coal seam gas extraction processes do not damage groundwater sources.

Recommendation 10

That the NSW Government ban the open storage of fracking fluids, and require coal seam gas companies to store fracking fluids securely prior to treatment and disposal.

Council comment:

As mentioned above, Council has concerns regarding potential impacts on nearby watercourses associated with the storage of chemicals at well sites and thus this recommendation is supported.

Recommendation 11

That the NSW Government develop an effective model to ensure that coal seam gas companies are held responsible for covering the full costs of remediating any environmental impacts, particularly any long-term environmental damage.

Council comment:

As outlined in Council's submission to the Inquiry, Council has concerns over the remediation of wells and surrounding areas following the conclusion of production and requested that the Committee consider the effectiveness of the *Environmental Planning and Assessment Act 1979* in ensuring remediation. This recommendation is therefore supported.

Recommendation 12

That the NSW Government require, in the preparation of a Review of Environmental Factors, referral to the Office of Environment and Heritage.

Council comment:

Council's submission to the Inquiry highlighted concerns over a lack of consideration of biodiversity impacts associated with coal seam gas activities, it is envisaged that the enacting of this recommendation would assist in addressing this issue and is therefore supported.

Recommendation 13

That the NSW Government establish 'shop fronts' to provide information and advice in the regions most affected by coal seam gas development.

Council comment:

The NSW Government has now made effective engagement with the community a condition of all exploration licences. The Community Consultation Guidelines for coal seam gas and mining projects, recently placed on public exhibition, require the development of a Community Consultation Plan to be tailored to the project and the community. The Guidelines suggest a range of consultation methods for inclusion in the Plan including 'shop front displays'. As per its submission on the Guidelines Council is in support of the development of tailored Community Consultation Plans, however with a focus on public meetings, public dissemination of information and close consultation with Local Government.

Recommendation 14

That the NSW Government require the Department of Trade and Investment, Regional Infrastructure and Services to notify relevant local councils as soon as a petroleum exploration licence application is made over their local government areas.

Council comment:

As per Council's submission on the Community Consultation Guidelines, this recommendation is supported. However Council's submission to the Inquiry also requests a right of appeal (based on project merit) to the NSW Land and Environment Court for Councils and local communities in all circumstances, concerning the determination of project approvals.

Recommendation 15

That the NSW Government implement the community consultation process as outlined in the Draft Code of Practice for Coal Seam Gas Exploration at the point of exploration licence application and on renewal.

Council comment:

As per Council's submission on the Draft Code of Practice, Council is in support of this recommendation.

Recommendation 16

That the NSW Government review the *Petroleum (Onshore) Act 1991* with a view to strengthening landholder rights and achieving a fair balance between the rights of landholders and coal seam gas operators in relation to land access, and considering harmonisation with the *Mining Act 1992* if possible.

Council comment:

Council's submission to the Inquiry requested that the Committee consider:

- The rights of property owners in regard to the negotiation of access agreements associated with wells
- The long-term implications on property values as a consequence of the sterilisation of land over the lifespan of the wells and beyond and
- The adequacy of existing legislation in providing short and long-term compensation to landholders regarding implications associated with all components of coal seam gas activities.

Council's submission on the Code of Practice further requests that landholders be provided with access to easy-to-understand information on their rights and that compensation for the commercial occupation of land be payable to landholders under a separate agreement for both direct and indirect coal seam gas exploration actions.

Recommendation 17

That the NSW Government amend the *Petroleum (Onshore) Act 1991* to require a licence holder to enter into an access agreement with a landholder for coal seam gas production.

Council comment:

As outlined above Council is in support of this recommendation.

Recommendation 18

That the NSW Government lead the development of a template access agreement in conjunction with the NSW Farmers' Association and the Australian Petroleum Production and Exploration Association, as a matter of priority. The template access agreement should:

- be comprehensive and cover both the exploration and production of coal seam gas, and
 - include a clear statement about the right of landholders to seek legal advice.
-

Council comment:

Council's submission on the Draft Code of Practice identified concerns over the lack of detail and information surrounding Access Agreements. Council requested that the Draft Code of Practice be amended to contain a comprehensive but non-technical description of the requirements and implications of Access Agreements in regard to both exploration and any subsequent production activities.

For the information of both landholders and proponents.

Recommendation 19

That the NSW Government require coal seam gas operators to reimburse landholders for reasonable legal costs incurred in the review of an access agreement.

Council comment:

Whilst Council's previous submissions relating to coal seam gas have not addressed this issue, this recommendation is supported.

Recommendation 20

That the NSW Government recruit officers to inform landholders of their rights and responsibilities when dealing with coal seam gas companies and locate these officers in regional 'shop fronts'.

Council comment:

As per its submission on the community consultation guidelines, Council is in support of the development of tailored Community Consultation Plans which may include 'shop fronts' and the recruitment of NSW Government officers.

Recommendation 21

That the NSW Government require coal seam gas companies to reimburse landholders for the reasonable costs of arbitration to resolve disputes about access agreements.

Council comment:

Whilst Council's previous submissions relating to coal seam gas have not addressed this issue, this recommendation is supported.

Recommendation 22

That the NSW Government ensure that the template access agreement for exploration and production take a default position whereby the landholder be compensated in the sum of \$5,000 per well head per annum.

Council comment:

Whilst Council's previous submissions relating to coal seam gas have not addressed this issue, this recommendation is supported providing alternative compensation can be negotiated where warranted.

Recommendation 23

That the NSW Government require an Agricultural Impact Statement to be prepared for all exploration licence applications.

Council comment:

Whilst Council's previous submissions relating to coal seam gas have not addressed this issue, this recommendation is supported in regard to areas identified as being of agricultural significance.

Recommendation 24

That the NSW Government expedite the development of the remaining Strategic Regional Land Use Plans for the Central West, Southern Highlands, Murrumbidgee, Alpine, Western and coastal regions.

Council comment:

This recommendation is supported, however as stipulated in Council's submission to the Inquiry, in the interim it is considered preferable and appropriate view that the Committee provide recommendations in its report that can be adapted to individual projects in the absence of the strategic regional land use plans.

Recommendation 25

That the NSW Government prepare and publish projections of the employment opportunities that could be created by the coal seam gas industry in regional areas.

Council comment:

Whilst Council's previous submissions relating to coal seam gas have not addressed this issue, this recommendation is supported, however Council further recommends that Employment Impact Statement be prepared for all exploration licence applications to protect employment opportunity variations throughout the duration of the project.

Recommendation 26

That the NSW Government continue to publish forward estimates of the royalties expected to be paid by the coal seam gas industry.

Council comment:

As per Council's submission to the Inquiry, Council is awaiting the outcome of a feasibility analysis on royalties scheme, however Council supports the reimbursement of expenses incurred by local government in the provision and maintenance of local infrastructure, as a consequence of mining operations, in principle. Council requested that the Committee consider and present recommendations regarding appropriate means of distributing collected royalty funds to local government.

Recommendation 27

That should the coal seam gas industry proceed in New South Wales, the NSW Government should require coal seam gas companies to pay the full royalty rate from the first date of production under a petroleum title, and that coal seam gas companies be advised of this at the time of their exploration licence application or renewal.

Council comment:

As outlined above, a royalty scheme needs to be drafted and analysed prior to inception. Should council be amenable to the scheme, the recommendation would be supported.

Recommendation 28

That should the coal seam gas industry proceed in New South Wales, the NSW Government should collaborate with the Local Government and Shires Associations of NSW to develop a 'Royalties for Regions' program similar to that operating in Western Australia.

Council comment:

As per the above comments, Council is in principle in support of cost recovery for Local Governments for the provision and maintenance of infrastructure as a consequence of mining operations, however further study and consultation on the scheme including a distribution formula for funds is required.

Recommendation 29

That should the coal seam gas industry proceed in New South Wales, the NSW Government should implement a domestic gas reservation policy, under which a proportion of the coal seam gas produced in New South Wales would be reserved for domestic use, similar to the policy in Western Australia.

Council comment:

Whilst Council's previous submissions relating to coal seam gas have not addressed this issue, this recommendation is supported.

Recommendation 30

That the NSW Government include in all conditions of consent a requirement for petroleum production to minimise fugitive emissions and to comply with an upper limit of 0.1 per cent fugitive emissions.

Council comment:

As per Council's submission to the Inquiry, Council is concerned that the rapid growth of the coal seam industry appears to be occurring without sufficiently adequate scientific analysis regarding the whole-of-lifecycle emissions of methane and the potential for escaping methane gas. Council has suggested that experts in this field in Australia and internationally, be requested to provide information at the Inquiry to ensure that the recommendations of the Committee are based on the latest available scientific research. Council does not have the expertise to comment on the quantitative figure recommended, however should support a cap based on scientific information.

Recommendation 31

That the NSW Government establish a position for a Petroleum Ombudsman.

Council comment:

Whilst Council's previous submissions relating to coal seam gas have not addressed this issue, this recommendation is supported.

Recommendation 32

That the NSW Government establish an Industry Unit within the Division of Resources and Energy in the Department of Trade and Investment, Regional Infrastructure and Services to provide a coordinated response to coal seam gas developments in New South Wales. The Unit should:

- issue licences for coal seam gas development
- drive policy development on the coal seam gas industry and
- provide a repository of knowledge within Government about coal seam gas issues.

Council comment:

Whilst Council's previous submissions relating to coal seam gas have not addressed this issue, this recommendation is supported.

Recommendation 33

That the NSW Government establish a Compliance Unit within the Environment Protection Authority. The Unit should:

- undertake regular monitoring of coal seam gas operations
- address community complaints, investigate incidents and take enforcement action where required
- be comprised of specialist compliance officers, as many of whom as possible should be located in regional 'shop fronts'.

Council comment:

Whilst Council's previous submissions relating to coal seam gas have not specifically recommended this action, this recommendation is supported.

Recommendation 34

That the NSW Government establish a dedicated Complaints Hotline within the Compliance Unit. The Hotline should:

- answer calls from community members seeking to report concerns about potential environmental pollution or the behaviour of coal seam gas companies
- refer complaints to the Compliance Unit for investigation and possible action.

Council comment:

As outlined above Council is supportive of increased community consultation and would support this recommendation.

Recommendation 35

That the NSW Government issue no further production licences until a comprehensive framework for the regulation of the coal seam gas industry is implemented.

Council comment:

This recommendation is consistent with Council's request for a moratorium on coal seam gas mining and thus is supported.

While many of the recommendations of the Committee are consistent with Council's concerns which have been raised in previous submissions (Camden Gas Project, Draft Aquifer Interference Policy, Draft Code of Practice for Coal Seam Gas Exploration and associated Guidelines for Community Consultation) in particular recommendation numbers 1, 2, 6, 9, 11, 14, 15, 16, 17, 19, 21, 24 and 35 are the recommendations are considered worthy of specific support by Council.

The NSW Government now has six months to respond to the recommendations. Therefore it is considered appropriate that Council write to the Premier, Minister for Planning and Infrastructure, Minister for Resources and Energy and all State local members represented within the Campbelltown Local Government Area urging their support of the 35 recommendations contained within Report 35 titled 'Coal Seam Gas' of the General Purpose Standing Committee No 5 of the NSW Legislative Council.

Officer's Recommendation

That Council write to the Premier, Minister for Planning and Infrastructure, Minister for Resources and Energy and all State local members within the Campbelltown Local Government Area urging their support of the 35 recommendations contained within Report 35 titled 'Coal Seam Gas' of the General Purpose Standing Committee No 5 of the NSW Legislative Council.

Committee Note: Ms Jacqui Kirby addressed the Committee in opposition to the recommendation.

Committee's Recommendation: (Bourke/Kolkman)

That Council write to the Premier, Minister for Planning and Infrastructure, Minister for Resources and Energy and all State local members within the Campbelltown Local Government Area urging their support of the 35 recommendations contained within Report 35 titled 'Coal Seam Gas' of the General Purpose Standing Committee No 5 of the NSW Legislative Council subject to:

- i. These recommendations being considered by the Government in conjunction with all the other submissions made by this Council on Coal Seam Gas extraction.
- ii. The Government making appropriate provision for Councils to appeal determinations made for all coal seam gas extraction activity proposals, including exploration.
- iii. The Government making appropriate provision for all approvals for coal seam gas extraction activities, including for exploration, mandating the complete rehabilitation of coal seam gas extraction sites by the proponent, following the completion of exploration or extraction activities.

CARRIED

Councillor Rowell addressed Council in regard to Item 2.6 then declared an interest in this item and left the Chamber and did not vote on this item.

Council Meeting 3 July 2012 (Kolkman/Bourke)

That the Committee's Recommendation be adopted.

Amendment (Borg/Rule)

That Council write to the Premier, Minister for Planning and Infrastructure, Minister for Resources and Energy and all State local members within the Campbelltown Local Government Area urging their support of the 35 recommendations contained within Report 35 titled 'Coal Seam Gas' of the General Purpose Standing Committee No 5 of the NSW Legislative Council subject to:

- i. Council requesting the Government to impose a moratorium on all coal seam gas activity approvals including approvals for exploration licences, development consents and production licences until such time as conclusive evidence emerges that confirms that these activities do not have a negative impact on the environment including water resources, both groundwater and surface waters.
- ii. These recommendations being considered by the Government in conjunction with all the other submissions made by this Council on Coal Seam Gas extraction.
- ii. The Government making appropriate provision for Councils to appeal determinations made for all coal seam gas extraction activity proposals, including exploration.
- iii. The Government making appropriate provision for all approvals for coal seam gas extraction activities, including for exploration, mandating the complete rehabilitation of coal seam gas extraction sites by the proponent, following the completion of exploration or extraction activities.

Council Resolution Minute Number 113

That the above amendment be adopted.

At the conclusion of the voting regarding Item 2.6, Councillor Rowell returned to the Chamber.

3. DEVELOPMENT SERVICES

3.1 Development Services Section Statistics - May 2012

Reporting Officer

Manager Development Services

Attachments

Development Services Application Statistics for May 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 May 2012 as they affect the Development Services Section.

Officer's Recommendation

That the information be noted.

Committee's Recommendation: (Hawker/Oates)

That the Officer's Recommendation be adopted.

CARRIED

Council Meeting 3 July 2012 (Kolkman/Bourke)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 112

That the Officer's Recommendation be adopted.

3.2 No. 13 Watsford Road, Campbelltown - Fitout and use of premises for the bulky goods retailing of guns, ammunition and associated products

Reporting Officer

Manager Development Services

Attachments

1. Recommended Conditions of Consent
2. Locality plan
3. Site plan
4. Floor plan

Purpose

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

Property Description	Lot 22 DP 880897, No. 13 Watsford Road, Campbelltown
Application No	426/2012/DA-U
Applicant	Abelas Gunshop Pty Ltd
Owner	Kamika Pty Ltd
Provisions	Campbelltown (Urban Area) Local Environmental Plan 2002 Campbelltown (Sustainable City) Development Control Plan 2002
Other Provisions	Campbelltown 2025 – Looking Forward
Date Received	14 March 2012

Report

Introduction

Council has received a development application for the fit out and use of the premises for the bulky goods retailing of guns, ammunition and associated products at the abovementioned address.

The Site

The subject site is located on the northern side of Watsford Road and has a primary frontage to Watsford Road of 26.10 metres with an overall area of approximately 2,308 square metres. There is a single storey factory building located on the site that was previously used as a vehicle repair workshop.

Adjoining and adjacent land uses include a mix of uses including pet produce, motor vehicle repairs and warehouse (Pedders), paint retailers, a radio station as well as three religious establishments.

The subject land is located within a predominantly industrial setting. The range of development types in the vicinity of the land includes standalone factory buildings and factory unit complexes as well as bulky goods retailing.

The Proposal

The proposed development consists of the following:

- Bulky goods retailing of guns, ammunition and associated products such as gun safes, tents and other camping equipment, racks, stands, cases and refrigerators
- Construction of counters, display racks and a store room.

The proposed hours of operation are Monday to Wednesday & Friday – 9:00am to 5:00pm, Thursday – 9:00am to 9:00pm and Saturday – 9:00am to 3:00pm.

The proposed use would employ five staff. Amenities are to be provided as per the existing facilities.

No advertising signage has been proposed at this stage.

It is envisaged that approximately two deliveries would be made to the site per week with the delivered items being sold directly to the public from the site. It is also expected that there would be in the order of five dispatches from the site per week, delivering bulk sales of the various products (ie. firearms, ammunition etc) to gun clubs throughout New South Wales as and when required. Two loading areas currently exist with bollards in place when no loading or unloading is required.

The two mezzanine levels as well as the hardstand area located outside of the rear of the building would be used for storage purposes, however would not contain stock that would be required to be secured. The outdoor area to the rear of the building would be used for storage only when goods are being unloaded/loaded (throughout the day only) and would be cleared of any stock at the end of each day.

3.2 No. 13 Watsford Road, Campbelltown - Fitout And Use Of Premises For The Bulky Goods Retailing Of Guns, Ammunition And Associated Products

The proposed use would abide by the relevant requirements stated within the Firearms Act and the Firearms Regulation with regard to fit out, design and security installation. The proposal would incorporate the safe display of guns in accordance with the requirements within the Act and the Regulations more specifically, by providing two types of display to cater for a range of firearms. All guns and ammunition would be safely secured to either racks or within display cases. All ammunition would be stored separately to the firearms. No ammunition would be loaded inside the firearms that are displayed nor would any firearms be discharged at the site.

Entry to the premises would be through a one-way double door system located on the south eastern part of the building (see Attachment 4). People would not be able to exit via these doors. The display area would contain racks no higher than 1.5 metres above floor level to ensure that staff can monitor the racks and ensure stock is not being removed. The racks would be mobile which means they could move around the premises and would only contain associated products such as clothing, safety gear etc and would not contain firearms or ammunition. The process of customers leaving the store would require them to pass through checkouts and through anti-theft doors before being 'buzzed' through magnetically locked doors. Existing emergency doors would be upgraded to meet legislative requirements for egress safety.

Security for the proposed premises would be installed in accordance with the Firearms Act 1996 and the Firearms Regulations 2006. The premises would be surrounded by 'curtain sensors' to detect persons approaching the immediate vicinity of the premises, outside of business hours. If the detectors are tripped, the area would be illuminated by floodlights with video cameras recording constantly. Signage would be erected on the outside of the building warning that the premise is alarmed and video cameras are recording.

Glass areas located at the front of the building would have steel bars and grates installed to cover the entire area. The glass entry doors would be fitted with sliding gates (incorporating steel bars and grates) and be padlocked at all times outside of trading hours. Sky lights in the roof would also be covered with steel bars and grates.

All access areas would be fitted with sensors to detect tampering and attempts to enter. Motion and infrared detectors would cover internal areas that would activate lighting, thereby allowing cameras to record clear images of any intruder. Smoke/fog machines would also be installed as further security counter measures should intruders be able to overcome the main security control measures detailed above. The smoke/fog machines produce a dense non-toxic white fog/vapour which obscures vision and presents a confrontational barrier to any intruders.

It is understood that where the intruder/s was able to breach the initial security measures outside of normal trading hours, the smoke/fog would disorientate the intruder/s and the chance of arrest is improved as the intruder/s take longer to find their way out of the premises.

Where the system was activated during normal work hours, to ensure the safety of the genuine customers and staff, it is understood that the system is activated in way that initially shrouds the areas containing the firearms and related paraphernalia and then forces people towards the building exits.

Assessment

The application has been assessed having regard to the matters for consideration prescribed under the Environmental Planning and Assessment Act 1979. Subsequently, the following matters have been identified for further consideration and discussion.

1. Vision

1.1 Campbelltown 2025 Looking Forward

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

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

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

The strategic direction relevant to this application is:

- Creating education, employment and entrepreneurial opportunities

The application is consistent with the above strategic direction as the proposal would provide employment and entrepreneurial opportunities.

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

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

The proposed development is considered to be consistent with the relevant desired outcomes within Campbelltown 2025 specifically in relation to providing a development that matches the environmental capacity and capability of the site and as such, would not have an adverse impact on the surrounding locality.

2. Planning Provisions and Assessment

Section 79C(1)(a) requires Council to consider any relevant environmental planning instrument, draft environmental planning instrument or development control plan.

2.1 Campbelltown (Urban Area) Local Environmental Plan 2002

The subject site is zoned 4(b) Industry B under the provisions of Campbelltown (Urban Area) Local Environmental Plan 2002. The proposed development is defined as 'Bulky Goods Retailing' and is permissible with Council's development consent within the zone.

Under the provisions of the CLEP 2002, bulky goods retailing is defined as follows:

'Bulky goods retailing' means use of a building or place for the sale by retail of items which:

- (a) are of such a size, shape or range as to require:
 - (i) a large area for handling, storage and display, and
 - (ii) direct vehicular access for customers vehicles to and from the site on which the goods are sold for the purpose of loading and unloading of the goods onto and from vehicles, or
- (b) are, in the opinion of the Council, of such a kind:
 - (i) as are required to be displayed in premises not easily accommodated in traditional commercial centres, and
 - (ii) as a person using them is unlikely to purchase frequently, including consumer durables (such as refrigerators, washing machines and stoves) and home improvement and hardware supplies.

The objectives of the 4(b) Industry B zone are:

- (a) To encourage activity that will contribute to economic and employment growth in the City of Campbelltown; and
 - (b) to encourage a high quality standard of development which is aesthetically pleasing, functional and relates sympathetically to nearby and adjoining development, and
 - (c) to protect the viability of the commercial centres in the City of Campbelltown by limiting commercial activities to those associated with permitted industrial, storage and allied development or primarily intended to provide a professional facility to serve people employed or occupied in land uses permitted in the industrial zones, and
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3.2 No. 13 Watsford Road, Campbelltown - Fitout And Use Of Premises For The Bulky Goods Retailing Of Guns, Ammunition And Associated Products

- (d) to permit the display and sale by retail of bulky goods only if such activities cannot appropriately be located in, or would not adversely affect the viability of development in, the business or comprehensive centre zones, and
- (e) to ensure development will not be carried out if the processes to be carried on, the transportation to be involved or the plant, machinery or materials to be used interfere unreasonably with the amenity of the area.

It is a requirement of CLEP that development must be consistent with at least one of the zone objectives in order that Council can grant development consent. It is considered that the proposed development that would contribute to employment and economic growth and would permit the display and sale by retail of bulky goods which cannot be appropriately located within the business or comprehensive centre zones.

2.2 Campbelltown Sustainable City Development Control Plan (SCDCP)

Campbelltown (Sustainable City) Development Control Plan 2009 applies to the subject land. The aims of the SCDCP are:

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

It is considered that the development is consistent with the relevant aims of the SCDCP.

Part 5 – Commercial Development

Part 5 – Commercial Development of the SCDCP sets out development requirements for certain commercial development within the City of Campbelltown. The proposed development has been assessed against the relevant development standards and is detailed below:

		Campbelltown (Sustainable City) Development Control Plan	
Control	Proposed	Requirement	Complies
Car Parking	Provided: 15 spaces	1 space per 60 square metres of leasable floor area Required: 15 spaces	Yes

The proposed use complies with the required car parking spaces as set out in the SCDCP.

2.3 NSW Police Force Comment

The subject development application was referred to the Campbelltown Police Local Area Command. Police provided a response to Council on 5 June 2012 stating that they object to the proposed development. The grounds for the objection are that the proposed use is deemed to be a high risk business given the intended purpose and nature of the products sold at the location. Accordingly, in the view of the Police, it is considered to be in the best interest of the community and public safety for the proposed development application to be refused.

The Police have provided evidence and statistics to support their objection and refusal of the application by Council:

- Given the nature of the products to be sold at the premises, it is deemed to be high risk location and even though there are strict requirements they need to abide by, they are not exempt from criminal activity occurring. An example of these, is the robbery of a gun shop located elsewhere in western Sydney where firearms that were sold at the premises were stolen and linked to some of the current drive by shootings
 - The Campbelltown local area has 586 registered firearms owners. It is predominately a residential area with only a few rural areas and as such is well under represented in terms of firearms ownership when compared to other rural communities in the vicinity of Campbelltown. These low numbers of registered firearms owners in the Campbelltown area does not warrant such a premises to be situated in the area, and would be better situated at a location that is more appropriate to the demographics of licensed firearm owners and users
 - Statistics show that over the past five years there have been approximately 388 firearms related incidents in the Campbelltown Local Government Area ranging from homicide, intimidation, discharge, possession and other offences.
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3.2 No. 13 Watsford Road, Campbelltown - Fitout And Use Of Premises For The Bulky Goods Retailing Of Guns, Ammunition And Associated Products

The Police further state that should Council choose to waive the expressed concerns of the Police and grant approval for the proposed development, that the following conditions be imposed on any development consent:

- a) Hours of operation be 9:00am to 5:00pm, Monday to Saturday. The Police do not support the operation of the premises until 9:00pm on Thursday evenings.
 - b) All external walls of the premises are to be of solid construction consisting of concrete, brick or steel.
 - c) All perimeter doors are of solid construction (ie, solid core doors) and are securely hinged in steel framework and fitted with mortise locks or deadlocks.
 - d) All perimeter windows and roof skylights are fitted with either external or internal security grills.
 - e) Ensure that the perimeter of the building cannot be easily accessed by vehicles (ie, to deter ram raids). The entire perimeter of the premises must have bollards or similar in place to prevent such incidences.
 - f) Ensure that the premises from which the business operates is fitted with an intruder alarm system which is activated at all times when the premises is unattended.
 - g) Notify the Local Area Commander and/or their delegate, within two hours of the intruder alarm system is faulty.
 - h) Take all reasonable steps to repair any faulty intruder alarm system.
 - i) Must make a written record of any steps taken to repair a faulty intruder alarm system. This record must include as a minimum the date and time, and name of the authorised repair person and/or company contacted.
 - j) The consent holder must ensure that all gun racks are made of metal, and secured to the premises by the ways of masonry anchor bolts no less than 100mm in length and that all firearms on display in the gun racks are secured in accordance with legislative requirements.
 - k) Any power tools on the premises that are capable of cutting through any safes or cables utilised for the safe storage of firearms are to be securely locked away when business is not trading.
 - l) All firearms on display to the general public must be removed from display and stored in an approved firearm safe, vault or strong room overnight.
 - m) The consent holder must ensure that empty ammunition boxes are used for display purposes only.
 - n) All live ammunition must be stores in a locked safe or secure storage room out of public view and not accessible to members of the general public.
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3.2 No. 13 Watsford Road, Campbelltown - Fitout And Use Of Premises For The Bulky Goods Retailing Of Guns, Ammunition And Associated Products

- o) The consent holder is required to notify the Local Area Commander or their representatives of the details of any member of the public who produces unregistered firearm to the firearms dealer or an employee.
- p) The consent holder must ensure any vault or strongrooms are wholly enclosed within the firearms dealer premises.
- q) The consent holder must ensure that any vault or strongroom must meet the following requirements:
 - i. There must be a single entry point to the vault, and
 - ii. The door must be at least 75mm thick, and
 - iii. The door must be manufactured from steel with hardened plate over all lock areas, and
 - iv. The door frame must be of at least 6mm steel and fixed to the structure of the room and floor by a minimum of six expanding bolts 90mm long and 10mm in diameter; and
 - v. Locks to the vault and/or strong room must be constructed of solid metal secured by a six lever lock or other equivalent mechanism or a keyless lock.

3. Public Participation

The application was notified and publicly exhibited between 23 April 2012 and 15 May 2012 in accordance with Council's Notification Policy. During this period, Council received the following submissions:

- Fifteen letters/emails in support of the application
- One letter opposing the application

3.1 Letters in support of the proposed development

A total of 15 letters/emails were received by Council from people in support of the application. Two of these letters/emails were from people located within the Campbelltown Local Government Area, eight were from people outside of the Campbelltown Local Government Area, two were from people from other States and four letters were from people whose address was not supplied.

The reasons given in support of the gun shop outlined in the submissions are as follows:

- The requirements for owning, purchasing and selling firearms is heavily monitored and regulated such that they cannot be used and/or sold in an illegal manner
 - There are legitimate groups and hobbyists that enjoy the sport of shooting in a legal manner
 - Firearms are needed for the eradication of pests and vermin on rural properties
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3.2 No. 13 Watsford Road, Campbelltown - Fitout And Use Of Premises For The Bulky Goods Retailing Of Guns, Ammunition And Associated Products

- The shop would mean that people would be investing their money in the local economy and supporting a local business instead of going outside of the Campbelltown area to purchase firearms and ammunition. It would also mean other businesses would be investing in the local area by buying supplies etc from this shop
- There are other gun shops operating in western Sydney that have not had any problems or adversely affected the local community
- The use of firearms in crimes are usually from people who have not purchased the firearms legally nor have a license to use them.

3.2 Letter opposing the proposed development

Only one letter was received by Council in opposition to the proposed development. This letter was from a resident within the Campbelltown Local Government Area whose only concern was that the proposed sale of guns would lead to an increase in gun related crime due to the increased accessibility of guns.

Comment – given that the proposed gun shop/licensee is required to adhere to strict regulations in terms of operation and security, it is considered that the operation of a gun shop is unlikely to directly lead to an increase in gun related crime. The sale by retail of firearms and ammunition is a legal activity that is heavily regulated under the provisions of the Firearms Act and Regulation.

It is noted that any firearms dealer must be appropriately licensed by Workcover as well as complying with the requirements of the Firearms Act 1996 and the Firearms Regulation 2006. The restrictions contained within the Workcover licence, Firearms Act and Firearms Regulation make specific provision for the storage and handling of guns as well as for security measures that are required to be installed. If a gun shop/licensee does not comply with these legislative requirements, then a licence will not be issued. If a licence has been issued and the licensee/gun shop is found to be not complying with the various legislative requirements, the licence can be revoked. The applicant has stated that they would comply with all the relevant requirements for them to operate the business in a safe manner.

In addition, the Firearms Act states that firearms cannot be purchased unless the person wanting to purchase a firearm has a firearms licence. The Act also states that a firearms dealer must record the licence number of any person purchasing a firearm. This would help to minimise the potential for any crime related act given that the licence details can be passed on to the Police or be requested by the Police at any time. It is considered that the legal sale and purchase of guns would not result directly in firearm related crime considering that information can be tracked. This is different to firearm crime that occurs as a result of people illegally obtaining and illegally using firearms.

Giving regard to the submission made by the Local Police, it is important to note that there is no specific power available to Council under planning law that would allow the Council to reject any proposal on the basis of there being a relative “under-representation” of ‘user’ numbers that may otherwise be considered to represent a pool of customers for this particular commercial business.

3.2 No. 13 Watsford Road, Campbelltown - Fitout And Use Of Premises For The Bulky Goods Retailing Of Guns, Ammunition And Associated Products

In other words, the fact that the Campbelltown area represents a relatively small proportion of the States or regional area's registered firearms owners, is not a reason that Council can reasonably rely upon to refuse the application.

Further to this, it is also important to note that the Police submission does not provide an explanation or otherwise justify why it deems the subject site to be a "high risk location".

4. Conclusion

Development application 426/2012/DA-U has been lodged seeking development consent for the fit out and use of the premises for the bulky goods retailing of guns, ammunition and associated products at No. 13 Watsford Road, Campbelltown.

Having regard to the issues discussed in this report and compliance with the relevant licence and legislation relating to firearms dealers requirements, it is considered that the development is unlikely to have any significant adverse impact on adjoining and nearby land users, and is considered appropriate for the site.

Officer's Recommendation

That consent be granted to development application 426/2012/DA-U for the fit out and use of premises for the bulky goods retailing of guns, ammunition and other associate products at Lot 22 DP 880897 No. 13 Watsford Road, Campbelltown subject to conditions listed in Attachment 1.

Committee Note: Mr David Abela, the owner/applicant addressed the Committee in support of the application.

Committee's Recommendation: (Hawker/Bourke)

That the Officer's Recommendation be adopted.

1. That consent be granted to development application 426/2012/DA-U for the fit out and use of premises for the bulky goods retailing of guns, ammunition and other associate products at Lot 22 DP 880897 No. 13 Watsford Road, Campbelltown subject to conditions listed in Attachment 1 and with Condition 18 - CCTV Requirements, being amended to also include the following:
 - i. That the CCTV cameras must be at a suitable height to eliminate tampering
 - ii. That the CCTV back up be extended to 60 minutes
 - iii. That the CCTV be fitted with an audible alarm so that when the system fails it is drawn to the occupant's attention.

CARRIED

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

Voting against the Committee's Recommendation was Councillor Oates.

Council Meeting 3 July 2012 (Kolkman/Bourke)

That the Committee's Recommendation be adopted.

Council Resolution Minute Number 114

That the committee's Recommendation be adopted.

Voting for the Council's Resolution were Councillors: Borg, Bourke, Dobson, Glynn, Greiss, Hawker, Kolkman and Thompson.

Voting against the Council's Resolution were Councillors: Chanthivong, Lake, Matheson, Oates, Rowell and Rule.

A copy of the attachments to this report are available separately on Council's website.

3.3 Lots 91 - 92 Campbelltown Road, Minto - Construction Of A Factory Building With Associated Landscaping And Car Parking And Extension Of An Existing Service Road

3.3 Lots 91 - 92 Campbelltown Road, Minto - Construction of a factory building with associated landscaping and car parking and extension of an existing service road

Reporting Officer

Manager Development Services

Attachments

1. Recommended Conditions of Consent
2. Locality Plan
3. Site Plan and Basement Floor Plan
4. Site Plan and Ground Floor Plan
5. Upper Floor Plan
6. Elevations
7. Landscape Plan

Purpose

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

This development application is required to be reported to Council due to an objection to a development standard under Clause 37 – Setbacks within Industrial Areas, of Campbelltown (Urban Area) Local Environmental Plan 2002. An objection to a development standard, pursuant to State Environmental Planning Policy 1 – Development Standards, has been submitted with the application. Despite the fact that this type of development could be determined under delegated authority, the decision on whether to allow a variation to a development standard included in an environmental planning instrument can only be made by the full Council.

Property Description	Lots 91-92 DP 752043, Campbelltown Road, Minto
Application No	2150/2011/DA-I
Applicant	Mr Paul Tilocca
Owner	Mr Gavino Tilocca and Mrs Rosina Tilocca
Statutory Provisions	State Environmental Planning Policy 1 – Development Standards Campbelltown (Urban Area) Local Environmental Plan 2002 Campbelltown (Sustainable City) Development Control Plan 2009
Other Provisions	Campbelltown 2025 - Looking Forward
Date Received	9 November 2011

3.3 Lots 91 - 92 Campbelltown Road, Minto - Construction Of A Factory Building With Associated Landscaping And Car Parking And Extension Of An Existing Service Road

History

Previously approved industrial developments located on the eastern side of Campbelltown Road north of Ben Lomond Road that have sought to have vehicular access or egress on to Campbelltown Road have been required to construct sections of a service road adjacent to Campbelltown Road. The purpose of this service road is to prevent direct vehicular access to and from Campbelltown Road and thereby improve safety as well as prevent the obstruction of traffic flow along Campbelltown Road from vehicles accessing/egressing the various properties that have access to Campbelltown Road. Two developments to the north of the subject site are accessed from the service road, and one development to the south of the subject site has vehicular egress on to Campbelltown Road via a separate section of the service road. The proposed development involves the extension of the service road for the full width of the subject site and the relocation of the existing vehicular egress point giving access to Campbelltown Road, further to the south.

Report

This application proposes the construction of a factory building with associated landscaping and car parking and the extension of an existing service road adjacent to Campbelltown Road. The extension of the existing service road would provide vehicular access to the proposed development as well access to Campbelltown Road. The land upon which the service road extension would be constructed is to be dedicated to Council as a public road.

The subject site is located on the eastern side of Campbelltown Road, between Ben Lomond Road and a tributary that feeds into Bow Bowling Creek. The site is irregular in shape and consists of two allotments. The combined area of the site is 2,485m², and the site has a frontage of 50.7 metres to Campbelltown Road. The site slopes approximately two metres from south to north. The site is currently vacant and contains grass and some small shrubs. The site is adjoined by a petrol station to the north, Campbelltown Road to the west, a factory to the east, and a vacant site to the south.

The proposed factory building is to have three levels. Due to the slope of the site and the proposed reconfiguring of ground levels, the proposed building would present as a two-storey building in the southern part of the site and a three-storey building in the northern part of the site. The lowest level, which is to have the form of a basement in the southern part of the site, contains an enclosed car parking area and a loading bay. The second level is to have industrial/warehouse and office space, and makes provision for a separate tenancy for a future café. Ground level car parking and landscaping areas are proposed in the southern part of the site, between the proposed building and the street. The upper level is to have industrial/warehouse and office space and an outdoor terrace. With the exception of the possible use of part of the second level as a café, no intended use of the building has been specified at this stage. Use of any part of the building will be subject to further development consent. The proposed development is to have two vehicular access/egress points from the proposed service road extension.

3.3 Lots 91 - 92 Campbelltown Road, Minto - Construction Of A Factory Building With Associated Landscaping And Car Parking And Extension Of An Existing Service Road

1. Vision

Campbelltown 2025 - Looking Forward

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

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

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

The strategic direction relevant to this application is:

- Creating education, employment and entrepreneurial opportunities

The application is consistent with the above strategic direction as the proposal would provide employment opportunities within the construction industry, and would permit the construction of industrial floor space that would support the creation of employment opportunities as part of the operation of businesses that will operate within the proposed factory development in the future.

The relevant desired outcome of the strategic directions included in Campbelltown 2025 is:

- Development and land use that matches environmental capacity and capability

The application is consistent with the above desired outcome as the proposed building's built form responds well to the site's context and constraints, and the proposed development including the service road extension would not result in any unreasonable impacts on surrounding road network safety and efficiency.

2. Planning Provisions

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

3.3 Lots 91 - 92 Campbelltown Road, Minto - Construction Of A Factory Building With Associated Landscaping And Car Parking And Extension Of An Existing Service Road

2.1 State Environmental Planning Policy 1 – Development Standards (SEPP 1)

SEPP 1 provides flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objectives specified in section 5(a)(i) and (ii) of the *Environmental Planning and Assessment Act, 1979*.

SEPP 1 applies to this application, as the applicant seeks to vary Clause 37 of Campbelltown (Urban Area) Local Environmental Plan 2002 (CLEP), which states that consent must not be granted to development, other than the use of land for landscaping, for access roads and for off street parking, on any land within Zone 4(a) or 4(b) which is within 30 metres of Campbelltown Road. The subject site is zoned 4(a) and the application proposes building works within 30 metres of the site's property boundary with Campbelltown Road, and therefore fails to comply with Clause 37 of the CLEP. The proposed building has a setback to the site's property boundary with Campbelltown Road that varies between 23.98 metres and 37.86 metres. The part of the proposed building that fails to comply with the 30 metre setback standard is generally the north-western portion of the building, consisting of part of the lower level car parking area, part of the ground and first floor office space, part of the ground level entry foyer and part of the upper level outdoor terrace. A very small section of the proposed café tenancy is also proposed within the 30 metre setback area.

Clause 6 of SEPP 1 states that where development could, but for any development standard, be carried out under the Act, the person intending to carry out that development may make a development application in respect of that development, supported by a written objection that compliance with that development standard is unreasonable or unnecessary in the circumstances of the case, and specifying the grounds of that objection.

The applicant has submitted a written objection pursuant to State Environmental Planning Policy 1 – Development Standards, arguing that compliance with the 30 metre setback control in question would be unreasonable and unnecessary. The arguments made by the applicant in this regard are the following:

- The part of the building that encroaches within the 30 metre setback standard (as well as the entire façade of the building) is articulated with extensive use of glazing and vertical and horizontal elements to provide a well-designed building that reflects its prominence to Campbelltown Road
 - The proposed encroachment would not be discernable from Campbelltown Road, particularly as there would be a service road between the building and Campbelltown Road
 - The angulation and shape of the allotment constrains the site from providing a built form that is both economically feasible and compliant with Council's development standards
-

3.3 Lots 91 - 92 Campbelltown Road, Minto - Construction Of A Factory Building With Associated Landscaping And Car Parking And Extension Of An Existing Service Road

- The proposed siting of the building has been selected to respond to the site's constraints (which include the large required setback to Campbelltown Road and the need for the existing service road to be extended) as well as the need to provide landscaping and adequate vehicular access to the development
- Compliance with the 30 metre setback standard would result in a poor design outcome that is inconsistent with Clause 12(2)(c) of the CLEP 2002, which requires industrial development to be of a high quality standard
- The depth of the building (which is the factor that causes the north-western portion of the building to breach the 30 metre setback standard) is required to enable the proper function of the building for car parking purposes and the operation of the loading dock area
- The proposed building provides a better response to the site's constraints and achieves a higher quality standard than would be achieved by strictly complying with the 30 metre setback standard. A building that complies with the numerical standard could be achieved, but it would not result in the most orderly and efficient use of the land and would not result in a building with maximum architectural and planning merit.

Under Clause 7 of SEPP 1, where the consent authority is satisfied that a SEPP 1 objection is well founded and is also of the opinion that granting of consent to that development application is consistent with the aims of the SEPP (outlined in the first paragraph of this section), it may, with the concurrence of the Director General of the Department of Planning and Infrastructure, grant consent to that development application notwithstanding the development standard the subject of the objection. It should be noted that consent authorities may assume the Director General's concurrence in relation to all development applications except for some dwelling and subdivision proposals on rural and non-urban land. In this regard, Council can assume the Director General's concurrence in respect of the SEPP 1 objection in this instance.

Clause 8 of SEPP 1 stipulates that the matters which shall be taken into consideration in deciding whether concurrence should be granted (or assumed) are:

- (a) whether non-compliance with the development standard raises any matter of significance for State or regional environmental planning, and
 - (b) the public benefit of maintaining the planning controls adopted by the environmental planning instrument
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3.3 Lots 91 - 92 Campbelltown Road, Minto - Construction Of A Factory Building With Associated Landscaping And Car Parking And Extension Of An Existing Service Road

In regard to point (a), the non-compliance does not raise any matters of state or regional planning significance. In regard to point (b), the public benefit of maintaining the 30 metre setback control outlined by CLEP 2002 would be minimal, considering that if the 30 metre setback control was to be strictly enforced, the building would have an awkward appearance when viewed from Campbelltown Road, as it would have a highly staggered setback, making its massing uneven. In addition, enforcing strict compliance with the 30 metre setback control would detrimentally affect the functionality of the building, by forcing it to have a narrow depth (12 metres) that would prevent the proper functioning of the lower level car parking and loading areas. It is considered that the proposed (non-compliant) setback would achieve a better aesthetic and functional outcome for the development than if the setback for the building was increased to 30 metres, and therefore, the greatest public benefit would be achieved by varying the control.

Guidelines for varying development standards prepared by the Department of Planning outline a five part test issued by the Land and Environment Court for consent authorities to consider when assessing an application to vary a standard to determine whether the objection to the development standard is well founded. An assessment of the objection against this five part test is outlined below. It should be noted that not all of the points are necessarily applicable to an application.

1. The objectives of the standard are achieved notwithstanding non-compliance with the standard

In this case, there are no specific objectives that relate to the standard in question; however the relevant zone objective for the 4(a) zone to which the setback standard is considered to relate is the following:

“To encourage a high quality standard of development which is aesthetically pleasing, functional and relates sympathetically to nearby and adjoining development”

It is considered that this objective is satisfied despite the proposed setback non-compliance, as the reduced setback does not prevent the building from having a high quality design that addresses the streetscape well. The proposed finishes would give the building a modern appearance, and the building would be sympathetic to the adjoining development in the sense that the building would not have unreasonable bulk or obscure any important views or vistas, and would present positively when viewed from nearby and adjoining developments and public spaces. The functionality of the building would be greatest if the setback standard were to be varied, and in fact the building's functionality is dependent on the proposed variation to the setback. Therefore the objective most relevant to the standard being varied is considered to be satisfied.

3.3 Lots 91 - 92 Campbelltown Road, Minto - Construction Of A Factory Building With Associated Landscaping And Car Parking And Extension Of An Existing Service Road

2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary.

The understood purpose of the standard, being to encourage a high quality standard of development, is relevant to the development, however as discussed above, the zone objective most relevant to the standard is considered to be satisfied despite the numerical non-compliance.

3. The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable.

It is considered that the underlying object or purpose of the 30 metre setback development standard is to encourage a high quality standard of development which is aesthetically pleasing, functional and relates sympathetically to nearby and adjoining development. If the 30 metre setback control was to be strictly enforced, the building would have an awkward appearance when viewed from Campbelltown Road, as it would have a highly staggered setback, making its massing uneven. In addition, enforcing strict compliance with the 30 metre setback control would detrimentally affect the functionality of the building, by forcing it to have a narrow depth (12 metres) that would prevent the proper functioning of the lower level car parking and loading areas. It is considered that the proposed non-compliant setback would achieve a better aesthetic and functional outcome for the development than if the setback for the building was increased to 30 metres. Therefore, the objective most relevant to the standard, being to encourage high quality and functional development, would be thwarted if compliance was strictly enforced, and as such, given the circumstances of the case, compliance with this standard may be reasonably argued to be unreasonable.

4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.

It is not considered that the setback standard has been abandoned by continually allowing variations to the standard in question. Council has on occasion granted variations to the setback standards stipulated under Clause 37 of the CLEP where the variation has been justified by a sound objection submitted under SEPP 1. The setback of the proposed building would be reasonably consistent with that of two developments to the north of the site, which have setbacks of less than 30 metres to the alignment of their former front boundaries that existed prior to the construction of the service road. These two developments were approved under the now repealed Interim Development Order 24, and were not subject to the setback standards under clause 37 of the CLEP. In the present case, the proposed variation is justified by the site's unique shape and site constraints, and the high quality and functional building design proposed. Supporting the applicant's objection would not undermine Council's ability to consistently enforce the CLEP's setback controls.

5. Compliance with the development standard is unreasonable or inappropriate due to the existing use of land and the current environmental character or the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.
-

3.3 Lots 91 - 92 Campbelltown Road, Minto - Construction Of A Factory Building With Associated Landscaping And Car Parking And Extension Of An Existing Service Road

The existing use of land and the environmental character of the land is not a relevant factor in the consideration of this objection.

In consideration of the five part test for evaluation of the objection to the setback development standard in question, it is considered that the circumstances of the case warrant the variation of the standard, and that the reduced setback should be accepted.

2.2 Campbelltown (Urban Area) Local Environmental Plan 2002 (CLEP)

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

The proposal is consistent with several zone objectives, particularly:

- (a) to encourage activities that will contribute to the economic and employment growth of the City of Campbelltown, and
- (b) to allow a range of industrial, storage and allied activities, together with ancillary uses, the opportunity to locate within the City of Campbelltown, and
- (c) to encourage a high quality standard of development which is aesthetically pleasing, functional and relates sympathetically to nearby and adjoining development, and
- (d) to protect the viability of the commercial centres in the City of Campbelltown by limiting commercial activities to those associated with permitted industrial, storage and allied development, and

The proposed development would contribute to economic and employment growth by providing employment opportunities during construction and as part of the operation of businesses within the building. The proposed building has a high quality aesthetically pleasing design and relates sympathetically to nearby and adjoining development.

The provision made for a future café within the development would not impact the viability of the nearby St Andrews and Minto commercial centres, as the café would primarily serve the Minto industrial precinct within the vicinity of Campbelltown Road and Ben Lomond Road. Due to its small size, it is unlikely to draw customers from areas outside of the immediate industrial area.

Although the subject site is located in close proximity to residential areas within the suburb of St Andrews, no dwellings within St Andrews have direct vehicular access to Campbelltown Road, and it would be far more convenient for residents of St Andrews to access the shops in Ballantrae Drive, St Andrews than to access a café on the subject site.

3.3 Lots 91 - 92 Campbelltown Road, Minto - Construction Of A Factory Building With Associated Landscaping And Car Parking And Extension Of An Existing Service Road

Accordingly, it is considered that the application is consistent with the objectives of the 4(a) – General Industry Zone.

Clause 37 of the CLEP states that consent must not be granted to development, other than the use of land for landscaping, for access roads and for off street parking, on any land within Zone 4(a) or 4(b) which is within 30 metres of Campbelltown Road. The subject site is zoned 4(a) and the application proposes building works within 30 metres of the site's property boundary with Campbelltown Road, and therefore fails to comply with Clause 37 of the CLEP 2002. The proposed building has a setback to the site's property boundary with Campbelltown Road that varies between 23.98 metres and 37.86 metres. The part of the proposed building that fails to comply with the 30 metre setback standard is generally the north-western portion of the building, consisting of part of the lower level car parking area, part of the ground and first floor office space, part of the ground level entry foyer and part of the upper level outdoor terrace. A very small section of the proposed café tenancy is also proposed within the 30 metre setback area.

The applicant has submitted an objection pursuant to State Environmental Planning Policy 1 – Development Standards, arguing that compliance with the 30 metre setback control in question would be unreasonable and unnecessary. This aspect of the application has been discussed in detail in a previous part of this report, and is briefly discussed below. The arguments outlined within the applicant's SEPP 1 objection are the following:

- The part of the building that encroaches within the 30 metre setback standard (as well as the entire façade of the building) is articulated with extensive use of glazing and vertical and horizontal elements to provide a well designed building that reflects its prominence to Campbelltown Road
 - The proposed encroachment would not be discernable from Campbelltown Road, particularly as there would be a service road between the building and Campbelltown Road
 - The angulation and shape of the allotment constrains the site from providing a built form that is both economically feasible and compliant with Council's development standards
 - The proposed siting of the building has been selected to respond to the site's constraints (which include the large required setback to Campbelltown Road and the need for the existing service road to be extended) as well as the need to provide landscaping and adequate vehicular access to the development
 - Compliance with the 30 metre setback standard would result in a poor design outcome that is inconsistent with Clause 12(2)(c) of the CLEP 2002, which requires industrial development to be of a high quality standard
 - The depth of the building (which is the factor that causes the north-western portion of the building to breach the 30 metre setback standard) is required to enable the proper function of the building for car parking purposes and the operation of the loading dock area
-

3.3 Lots 91 - 92 Campbelltown Road, Minto - Construction Of A Factory Building With Associated Landscaping And Car Parking And Extension Of An Existing Service Road

- The proposed building provides a better response to the site's constraints and achieves a higher quality standard than would be achieved by strictly complying with the 30 metre setback standard. A building that complies with the numerical standard could be achieved, but it would not result in the most orderly and efficient use of the land and would not result in a building with maximum architectural and planning merit.

Assessment of the applicant's objection to the development standard against the relevant parts of SEPP 1 and the associated guidelines as outlined above has revealed the following outcomes:

- Council can assume the Director General's concurrence in respect of the SEPP 1 objection in this instance
- The non-compliance does not raise any matters of state or regional planning significance
- The public benefit of maintaining the 30 metre setback control outlined by CLEP 2002 would be minimal, and a greater public benefit would be achieved by varying the control
- In consideration of the five part test for evaluation of the objection to the setback development standard in question, it is considered that the circumstances of the case warrant the variation of the standard, and that the reduced setback should be accepted.

Clause 42 of the CLEP (Restrictions on access to or from roads within Zones 5(b) and 5(c)) applies to the application. An assessment of the application against the provisions of Clause 42 is provided below:

- (1) A road or other means of access to an existing public road must not be opened without development consent.

The application proposes the extension of an existing public service road, and the relocation of the service road's egress point to Campbelltown road. Development consent has therefore been sought for access to a public road.

- (2) Subject to subclause (3), development must not be carried out on land adjoining a road within Zone 5 (b) unless all vehicular access to the land from that road is by way of another road which is not in Zone 5 (b).

All vehicular access to the subject site would be from the extended service road that is proposed to be built as part of the development. Therefore, there would be no direct vehicular access from Campbelltown Road to the subject development and the provision is satisfied.

- (3) Where, except for this clause, development may be carried out on land adjoining a road within Zone 5 (b), the consent authority may allow permanent vehicular access to and from the development by that road if:
-

3.3 Lots 91 - 92 Campbelltown Road, Minto - Construction Of A Factory Building With Associated Landscaping And Car Parking And Extension Of An Existing Service Road

- (a) in the opinion of the consent authority, alternative access to the development is neither practicable nor provided by another existing road or a proposed road identified in a development control plan

This sub-clause is not applicable, as direct vehicular access/egress to Campbelltown Road has not been proposed under this application.

- (4) Before granting a development application which makes provision for vehicular access to or from a road within Zone 5 (b) or 5 (c) the consent authority must take into consideration:
 - (a) the treatment of the access and its location, and

The vehicular access to the existing service road will not change as a result of this application. The existing egress point to Campbelltown Road from the service road will be closed and a new egress point will be constructed to the south of the existing egress point.

- (b) the effect of opening the access on traffic flow and traffic safety on the road within Zone 5 (b) or 5 (c)

A traffic impact statement prepared by a qualified traffic consultant has been submitted with the application. This report has found that the proposed development is likely to generate in the order of 15 peak hour vehicle trips to and from the site, equating to one additional vehicle movement every four minutes. The report concludes that this level of additional traffic generation is unlikely to have any noticeable impacts on surrounding traffic conditions.

The report notes that southbound traffic on the section of Campbelltown Road adjoining the site is staggered by the operation of the roundabout intersection control at St Andrews Road and Bouddi Street to the north, resulting in regular gaps in traffic flow to allow vehicles to exit the service road with a good level of efficiency. The consistent vertical and horizontal alignment of Campbelltown Road in the immediate vicinity of the site provides motorists exiting the service road with good sight distance, allowing service road egress movements to be undertaken in a safe manner.

The report concludes that the proposed development including the service road extension would not result in any unreasonable impacts on surrounding road network safety and efficiency. The outcomes of the traffic impact statement are considered to be sound. The report was forwarded to NSW Roads and Maritime Services and Council's Traffic Investigations, Traffic and Road Design Unit, who found the report acceptable. It is therefore considered that the provisions of this sub-clause have been satisfied.

2.3 Campbelltown (Sustainable City) Development Control Plan (SCDCP) 2009

The proposed development has been assessed having regard to the relevant numerical and design standards within Council's Sustainable City Development Control Plan 2009 (SCDCP). The following sets out the proposal's compliance with the relevant requirements of the Plan:

3.3 Lots 91 - 92 Campbelltown Road, Minto - Construction Of A Factory Building With Associated Landscaping And Car Parking And Extension Of An Existing Service Road

Part 2 - Requirements Applying to All Types of Development

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

Views and vistas – The proposed development would not obscure any important views and would improve the appearance of the Minto industrial area when viewed from St Andrews Park.

Sustainable building design – A rainwater tank of 5,000 litres in size is required to be provided for the development, as the proposed building has a roof area of between 201m² and 1,000m². A 5,000 litre rainwater tank has been incorporated into the proposal, to be located underneath the building.

Landscaping – The landscaping opportunities at the site are limited by the site's depth and the need to construct a service road. However, the proposal incorporates as much landscaping as could reasonably be expected from such a development, incorporating a variety of shrubs as well as five trees.

Flora, fauna and weed management – The site contains no existing vegetation apart from grass and some small insignificant shrubs, which are to be removed as part of the proposal.

Cut, fill and floor levels – The application proposes a significant amount of cut and fill, as a basement car parking area is proposed and the site contains a substantial slope. A dilapidation report would be required as the proposed building would be located within the zone of influence of adjoining buildings on other sites. The design of the basement would need to comply with Volume 2 of the Campbelltown Sustainable City DCP 2009.

Fencing and retaining walls – The proposed retaining walls supporting the excavation on the site required for the proposed basement are greater than 0.45 metres from the property boundary, as required by the SCDCP. The setback for most of the eastern edge of the basement is 1.65 metres.

With regard to fencing, no front fencing is proposed. However, should Council decide to support the application, it would be recommended that a condition of consent be imposed to ensure that any side boundary fencing complies with Part 6 of the SCDCP, and indicate that any front fencing requires the consent of Council unless it is exempt development.

Waste Management – A Waste Management Plan has been submitted and is considered to be satisfactory.

Stormwater – The application proposes to drain the development to Council's existing stormwater system within Campbelltown Road. The application was referred to Council's Development Engineer, who advised that the proposed drainage configuration is satisfactory.

3.3 Lots 91 - 92 Campbelltown Road, Minto - Construction Of A Factory Building With Associated Landscaping And Car Parking And Extension Of An Existing Service Road

Part 6 – Industrial development

The application has been assessed against the relevant parts of Part 6 of Campbelltown Sustainable City DCP 2009 (SCDCP).

Standard	Required	Proposed	Compliance
Height	Predominantly single storey, excluding offices and mezzanines	2-3 stories	No
Building design	Vertical/horizontal offsets in wall surfaces	Vertical/horizontal offsets in wall surfaces provided	Yes
	Articulated windows/doors/roof/entrances	Windows/ doors/roof /entrances articulated	Yes
	Walls to be articulated using texture, colour, materials	Walls articulated – different materials and colours	Yes
	Minimum of 50% of total surface area of front elevation to be constructed of masonry material	56%	Yes
	Mezzanines/offices to be no more than 30% of leasable floor area	No mezzanine levels proposed, only stories. Offices to be 27% of leasable floor area	Yes
	Main entry to be identifiable from street	Main entry would be identifiable from street	Yes
Setbacks	30 metres to Campbelltown Road	Between 23.98 metres and 37.86 metres	No

3.3 Lots 91 - 92 Campbelltown Road, Minto - Construction Of A Factory Building With Associated Landscaping And Car Parking And Extension Of An Existing Service Road

Standard	Required	Proposed	Compliance
Car parking	<p>Industrial/warehouse space: Minimum two spaces plus:</p> <p>One space for every 100m² of leasable floor area up to 2,000m² (11 required based on 1,102m² of LFA), plus</p> <p>One space per 35m² for office areas, lunch rooms, office storage areas, etc. (8.57 required based on 300m² of LFA)</p> <p>Café: 1.5 spaces per 10m² of leasable floor area (11.58 based on 77.2m² of LFA)</p> <p>Total required = 31 spaces</p> <p>Car parking spaces and manoeuvring areas are not to occupy more than 50% of the required front setback area</p> <p>10% of required car spaces, including disabled spaces, located close to main pedestrian entry</p>	<p>31 spaces</p> <p>Car parking spaces and manoeuvring areas (including service road extension) occupy 87% of the required front setback area</p> <p>>10% of spaces, including an accessible parking space, are located close to the main pedestrian entry</p>	<p>Yes</p> <p>No</p> <p>Yes</p>
Manoeuvring and Loading	<p>All vehicles shall be able to enter and leave the site in a forward direction with a maximum of a three point turn</p> <p>A loading bay for a medium rigid vehicle is to be provided for development with between 400m² and 1,500m² LFA</p>	<p>All vehicles including trucks are able to enter and leave the site in a forward direction with a maximum of a three point turn</p> <p>A loading bay sufficient for a medium rigid vehicle has been provided</p>	<p>Yes</p> <p>Yes</p>
Landscaping	<p>Landscaping is to be provided to a minimum of 50% of each required setback area</p> <p>Landscaping to be provided along the full width of street frontages, other than driveways</p>	<p>Landscaping is to be provided to 13% of the required front setback area</p> <p>Landscaping provided along full width of street frontage apart from driveway areas</p>	<p>No</p> <p>Yes</p>
Fencing	<p>Maximum height of 2.4 metres</p> <p>Palisade design required</p>	<p>No front fencing proposed</p> <p>Condition to be imposed requiring any side boundary fencing to comply</p>	<p>Yes</p>

3.3 Lots 91 - 92 Campbelltown Road, Minto - Construction Of A Factory Building With Associated Landscaping And Car Parking And Extension Of An Existing Service Road

A range of matters have been identified where the proposed development does not comply with the SCDCP. These issues are discussed in detail below.

Building height

Part 6 of Campbelltown Sustainable City DCP 2009 requires industrial buildings to be predominantly single storey. The proposed building is to be partly two stories and partly three stories, and therefore fails to comply with the DCP's standard. The proposed building is to contain three levels over the majority of the building footprint, however due to the slope of the site, the southern part of the lowest level of the building is proposed to be constructed as a basement, which is not visible from the street. This configuration minimises the amount of excavation needed.

The applicant has made a written submission requesting that the single storey height limit control be varied. The arguments made in support of this request are the following:

- The site is constrained by the large required setback to Campbelltown Road and the need for the existing service road to be extended. In order for the proposal to be viable (and therefore to have a reasonable amount of floor space), constructing the proposed building over three levels is required
- The proposed development has an attractive and functional design. Its visual impact upon the streetscape is positive, as the building is articulated with extensive use of glazing, vertical and horizontal elements, and use of a variety of colour and materials.

In addition to the above, and despite the number of floors, it is noted that the proposed building's bulk and scale would not be inconsistent with that expected for any normal industrial building. Further to this, as the massing of the building is broken up by a slightly staggered setback and differing heights of building elements, the existence of multiple floors would be difficult to read when viewing the building from outside. The two storey component of the building has a height of approximately 11 metres above natural ground level, which is consistent with the height of many industrial buildings within the City of Campbelltown, in particular many located within the suburb of Minto. Industrial buildings of at least 11 metres in height can be found at 96 and 98 Airds Road, Minto, 3 Pembroke Road, Minto and 1 and 9 Hopher Road Campbelltown. The three storey component of the proposed building is broken up by the upper level outdoor terrace area, and would not have an imposing appearance when viewed from the street or adjoining properties. In consideration of these factors, it is considered that the proposed variation to Council's building height control should be accepted in this instance.

3.3 Lots 91 - 92 Campbelltown Road, Minto - Construction Of A Factory Building With Associated Landscaping And Car Parking And Extension Of An Existing Service Road

Setback

Consistent with the relevant provisions of the CLEP, Part 6 of the SCDCP specifies that a building must be set back a minimum of 30 metres from Campbelltown Road. The non-compliance with the setback standard has been discussed earlier in this report, and is considered to be satisfactory for the following reasons:

- The part of the building that encroaches within the 30 metre setback standard (as well as the entire façade of the building) is articulated with extensive use of glazing and vertical and horizontal elements to provide a well-designed building that reflects its prominence to Campbelltown Road
- The proposed encroachment would not be discernable from Campbelltown Road, particularly as there would be a service road between the building and Campbelltown Road
- The angulation and shape of the allotment constrains the site from providing a built form that is both economically feasible and compliant with Council's development standards
- The proposed siting of the building has been selected to respond to the site's constraints (which include the large required setback to Campbelltown Road and the need for the existing service road to be extended) as well as the need to provide landscaping and adequate vehicular access to the development
- Compliance with the 30 metre setback standard would result in a poor design outcome that is inconsistent with Clause 12(2)(c) of the CLEP 2002, which requires industrial development to be of a high quality standard
- The depth of the building (which is the factor that causes the north-western portion of the building to breach the 30 metre setback standard) is required to enable the proper function of the building for car parking purposes and the operation of the loading dock area
- The proposed building provides a better response to the site's constraints and achieves a higher quality standard than would be achieved by strictly complying with the 30 metre setback standard. A building that complies with the numerical standard could be achieved, but it would not result in the most orderly and efficient use of the land and would not result in a building with maximum architectural and planning merit.

It is considered that the proposed variation would not detrimentally affect the amenity of the surrounding locality, and accordingly, it is recommended that the variation to Council's setback control be supported.

3.3 Lots 91 - 92 Campbelltown Road, Minto - Construction Of A Factory Building With Associated Landscaping And Car Parking And Extension Of An Existing Service Road

Car parking/landscaping within front setback area

Part 6 of Campbelltown Sustainable City DCP 2009 specifies that no required car parking spaces or manoeuvring areas shall occupy more than 50% of the required front setback area, and that landscaping must be provided to a minimum of 50% of the required setback area. The proposed development fails to comply with these standards, as the proposed car parking and manoeuvring areas (including the proposed service road extension) occupy 87% of the required 30 metre setback area, and the proposed landscaping occupies only 13% of the required 30 metre setback area.

The applicant has made a written submission requesting that these development standards be varied. The arguments made in support of this request are the following:

- The requirement to construct an extension of the existing service road adjacent to Campbelltown Road makes it difficult to comply with the development standard, as the service road will occupy a large portion of the site and setback area
- Despite the proposed variation to the landscaping requirements, the proposed landscaping would provide an effective screen between the proposed building and the street, helping to soften the building's visual impact
- The proposed landscaping is very comprehensive, consisting of a variety of native plants and trees.

In addition to the above, it is considered that the proposed manoeuvring and car parking areas are not excessive, but instead are of a reasonable size that is needed to comply with Council's parking and loading standards and Australian Standards for car parking and manoeuvring. When viewed from either Campbelltown Road or the proposed service road extension, the car parking and manoeuvring areas would not appear to be excessive, and the development would not appear to have excessive amounts of hardstand surfacing. It is noted that were it not for the proposed service road extension, the proposed landscaping would occupy only 20% of the required setback area. In addition, the area to be occupied by the proposed service road extension would ordinarily be landscaped, and therefore without the proposed service road, the development would be able to comfortably comply with the development standard in question.

The proposed landscaping is considered to be comprehensive and well-designed, despite the constraints inherent in a site such as this. The extent of the proposed landscaping is considered to be sufficient to adequately screen and complement the proposed building, and despite the proposed variation to Council's landscaping/hardstand controls, it is recommended that the proposed landscaping/hardstand configuration be supported.

3.3 Lots 91 - 92 Campbelltown Road, Minto - Construction Of A Factory Building With Associated Landscaping And Car Parking And Extension Of An Existing Service Road

3. Planning Assessment

3.1 Traffic Assessment

The application was referred to NSW Roads and Maritime Services (RMS) due to the proposed extension to the Campbelltown Road service road and the resulting relocation of the service road's egress point to Campbelltown Road. RMS requested that the applicant provide a traffic impact statement in respect of the proposed development, containing the following information:

- Daily and peak traffic movements likely to be generated by the proposed development including the impact on nearby intersections
- Details of the proposed accesses and the parking provisions associated with the proposed development
- Proposed number of car parking spaces and compliance with the appropriate parking codes
- The swept path analysis plans of the longest vehicle entering and exiting the subject site and the loading dock, as well as manoeuvrability through the site and car parking area.

The applicant provided a traffic impact statement prepared by a qualified traffic consultant, which arrived at the following conclusions:

- The proposed development is likely to generate in the order of 15 peak hour vehicle trips to and from the site, equating to one additional vehicle movement every four minutes. The report concludes that this level of additional traffic generation is unlikely to have any noticeable impacts on surrounding traffic conditions
 - Southbound traffic on the section of Campbelltown Road adjoining the site is punctuated by the operation of the roundabout intersection control at St Andrews Road and Bouddi Street to the north, resulting in regular gaps in traffic flow to allow vehicles to exit the service road with a good level of efficiency. The consistent vertical and horizontal alignment of Campbelltown Road in the immediate vicinity of the site provides motorists exiting the service road with good sight distance, allowing service road egress movements to be undertaken in a safe manner
 - Provision of car parking complies with Campbelltown (Sustainable City) DCP 2009
-

3.3 Lots 91 - 92 Campbelltown Road, Minto - Construction Of A Factory Building With Associated Landscaping And Car Parking And Extension Of An Existing Service Road

- Swept path analysis plans for cars as well as a 12.5 metre long Heavy Rigid Vehicle (HRV) demonstrate that all vehicles can enter and leave the site in a forward direction and satisfactorily manoeuvre on site. The report notes that AS2890.2-2002 specifies that any driveway required to accommodate HRVs should be 12.5 metres wide, while the driveway for HRV access within the subject development will be 8.5 metres wide. The report notes that a HRV would require almost total occupation of the driveway width, however the low volume of vehicle traffic that will be accessing the site (and therefore the low risk of vehicular conflict) and the demonstrated ability of a HRV to satisfactorily manoeuvre on the site deem the variation to the standard acceptable.

Comment: Given that the service road is one-way, the whole of the road can be used by a HRV for the purpose of manoeuvring in and out of the site. When considering the available width of road with the width of the proposed driveway, Council's Development Engineers consider that the area allowing for the safe ingress of a HRV is satisfactory and would provide a similar level of accessibility to that of the driveways servicing the adjacent properties that gain access from the service road.

The report concludes that the proposed development including the service road extension would not result in any unreasonable impacts on surrounding road network safety and efficiency.

The report was forwarded to the RMS for review. The RMS granted concurrence to the proposed vehicular access arrangements, subject to conditions relating to the design and construction of the proposed service road extension, which have been included in the recommended conditions of consent in Attachment 1.

The application was referred to Council's Traffic Investigations Unit, which provided the following requirements:

- The entire service road is to become a One-Way road. "No parking" restrictions will be required along the western kerb of the service road to allow adequate movement of vehicles turning left out of the site. Plans shall be prepared for the Local Traffic Committee for the approval of signs and markings along the whole service road
- The development must make provision for a footpath, nature strip and street lighting within the portion of the land to be dedicated to Council, between the proposed service road extension and the new front property boundary.

Accordingly, recommended conditions of consent have been included in Attachment 1 to give effect to the above requirements.

3.3 Lots 91 - 92 Campbelltown Road, Minto - Construction Of A Factory Building With Associated Landscaping And Car Parking And Extension Of An Existing Service Road

3.2 Land Dedication

The application was referred to Council's Property and Support Services Unit, in respect of the proposed extension of an existing public road (the service road adjacent to Campbelltown Road). The existing service road is owned by Council, having been dedicated to Council during the development of the allotments located on the eastern side of Campbelltown Road. Council's Property and Support Services Unit advised that the land comprising the proposed service road extension is to be dedicated to Council as a public road at nil cost to Council. Plans and documentation submitted with the application indicate the applicant's intention to dedicate the land comprising the proposed service road extension to Council as a public road at nil cost to Council. Accordingly, a condition requiring the land that will be occupied by the proposed service road extension and associated works to be dedicated to Council as a public road at nil cost to Council, has been included within the recommended conditions of consent in Attachment 1.

4. Public Participation

Under Development Control Plan 87 – Public Notification and Exhibition Policy, the application was not required to be notified or exhibited.

5. Conclusion

The application is generally consistent with the applicable environmental planning legislation and Council's Development Control Plans, with the exception of the proposed variations to building setback, height and landscaped area.

The proposed setback variation is considered to be justified on the basis that the proposed siting of the building responds well to the site's constraints by providing a well-articulated and functional building, and that strict compliance with the 30 metre setback standard would result in a building with reduced architectural merit and functionality.

The proposed building height variation is considered to be justified on the basis that the proposed development has an attractive and functional design, which does not have unreasonable bulk and scale. The site's constraints, which include the large required setback to Campbelltown Road and the need for the existing service road to be extended necessitate constructing the proposed building over three levels in order for the proposal to have a reasonable amount of floor space and therefore be economically viable.

The proposed landscaping variation is considered to be justified on the basis of the site's unique constraints, i.e. the requirement to construct an extension of the existing service road and provide a large building setback, which make it virtually impossible to comply with the development standard when attempting to provide a viable and orderly planning outcome. The proposed landscaping is very comprehensive, consisting of a variety of native plants and trees, which would provide an effective screen between the proposed building and the street, helping to soften the building's visual impact.

3.3 Lots 91 - 92 Campbelltown Road, Minto - Construction Of A Factory Building With Associated Landscaping And Car Parking And Extension Of An Existing Service Road

Having regard to the matters for consideration under Section 79C of the *Environmental Planning and Assessment Act 1979* and the issues raised above, it is considered that the proposed development is satisfactory and should be approved subject to the recommended conditions contained in Attachment 1.

Officer's Recommendation

1. That Council allows the applicant's objection pursuant to State Environmental Planning Policy 1 – Development Standards, in relation to the non-compliant setback from the Campbelltown Road property boundary (23.98 metres as opposed to 30 metres required under CLEP 2002).
2. That Development Application No. 2150/2011/DA-I, proposing Construction of a factory building with associated landscaping and car parking and extension of an existing service road, be approved subject to the recommended conditions contained in Attachment 1.

Committee's Recommendation: (Oates/Bourke)

That the Officer's Recommendation be adopted.

CARRIED

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

Voting against the Committee's Recommendation: Nil

Council Meeting 3 July 2012 (Borg/Greiss)

1. That Council allows the applicant's objection pursuant to State Environmental Planning Policy 1 – Development Standards, in relation to the non-compliant setback from the Campbelltown Road property boundary (23.98 metres as opposed to 30 metres required under CLEP 2002).
2. That Development Application No. 2150/2011/DA-I, proposing Construction of a factory building with associated landscaping and car parking and extension of an existing service road, be approved subject to the recommended conditions contained in Attachment 1.

Council Resolution Minute Number 115

That the Officer's recommendation be adopted.

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

Voting against the Council's Resolution: Nil

A copy of the attachments to this report are available separately on Council's website.

3.4 No. 59 Blaxland Road, Campbelltown - Expansion Of An Existing Restricted Premises Including The Construction Of Internal Alterations And Additions And The Extension Of Operating Hours

3.4 No. 59 Blaxland Road, Campbelltown - Expansion of an existing restricted premises including the construction of internal alterations and additions and the extension of operating hours

Reporting Officer

Manager Development Services

Attachments

1. Recommended Conditions of Consent
2. Locality Plan
3. Site Plan
4. Existing Floor Plan
5. Proposed Floor Plan

Purpose

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

Property Description	Lot 103 DP 585459, No. 59 Blaxland Road, Campbelltown
Application No	2231/2011/DA-C
Applicant	Michael Brown Planning Strategies
Owner	Johnson Bros Investment Pty Ltd
Provisions	Campbelltown 2025 - Looking Forward Campbelltown (Urban Area) Local Environmental Plan 2002 Campbelltown (Sustainable City) Development Control Plan 2009 Campbelltown Sex Industry Development Control Plan 2003
Date Received	17 November 2011

History

A development application was lodged in September 2004 for the change of use to a restricted premises at No. 59 Blaxland Road, Campbelltown. Council at its meeting on 1 March 2005 approved the application, subject to conditions, to use the building as a restricted premises.

The above premises is currently being used in accordance with the development consent issued in March 2005.

3.4 No. 59 Blaxland Road, Campbelltown - Expansion Of An Existing Restricted Premises Including The Construction Of Internal Alterations And Additions And The Extension Of Operating Hours

Report

Introduction

Council has received a development application for the expansion of the restricted premises including the construction of internal alterations and additions and the extension of operating hours.

The development seeks to provide an updated appearance to the building, expanding into the adjoining warehouse as well as making internal modifications to suit the business need.

The Site

The subject site is located on the north western side of Blaxland Road and has a primary frontage to Blaxland Road of 25.14 metres with an overall area of 2,023 square metres. There are two single storey factory buildings located on the site that are currently used as the subject restricted premises (with an adjoining 79 square metre tenancy used as a warehouse) and a motor vehicle repair workshop.

Adjoining land uses include a bulky goods (furniture) retailer to the west of the land, a motor showroom (Europcar vehicle hirer) and Dunlop tyre service store to the east, a service station (Caltex) and Kennards storage facility to the south.

The subject land is located within a predominantly industrial setting. The range of development types in the vicinity of the land includes stand alone factory buildings and factory unit complexes.

The nearest residential property from the subject land is approximately 165 metres to the west in a straight line.

The Proposal

The premises are currently used as a restricted premises in accordance with development consent 5044/2004/DA-U issued in March 2005. The proposed development is seeking the continuance of that use with the below alterations and additions:

- Increase the size of tenancy by expanding into adjoining unit/warehouse that has an area of 79 square metres
 - Removal of internal walls, internal stairs, relocation of reception/front desk area
 - Relocate entry from front façade to side of building adjacent to car parking areas
 - Remove side facing roller doors and replace with panels to match existing finish
 - New kitchenette and WC facilities
 - Extension of hours of operation.
-

3.4 No. 59 Blaxland Road, Campbelltown - Expansion Of An Existing Restricted Premises Including The Construction Of Internal Alterations And Additions And The Extension Of Operating Hours

The existing approved hours of operation for the restricted premises are:

- Monday to Saturday 10.00am to 10.00pm
- Sunday 12.00pm to 9.00pm
- Warehouse component 8.00am to 5.00pm daily.

The proposed hours of operation are:

- Monday to Wednesday 9.00am to 10.00pm
- Thursday to Saturday 9.00am to 11.30pm
- Sunday 10.00am to 10.00pm.

The business employs four persons on a shift basis.

The application has been assessed having regard to the matters for consideration prescribed under the *Environmental Planning and Assessment Act 1979*. Subsequently, the following matters have been identified for further consideration and discussion.

1. Vision

1.1 Campbelltown 2025 Looking Forward

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

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

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

The strategic direction relevant to this application is:

- Growing the Regional City

The proposed development is considered to be consistent with the relevant strategic direction.

3.4 No. 59 Blaxland Road, Campbelltown - Expansion Of An Existing Restricted Premises Including The Construction Of Internal Alterations And Additions And The Extension Of Operating Hours

Some of the desired outcomes of Council's Vision include:

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

The development and use of the land is considered consistent with Campbelltown 2025 Looking Forward as it provides access to lawful retail and commercial opportunities in an appropriate location as well as providing opportunities for employment and economic growth.

2. Planning Provisions and Assessment

Section 79C(1)(a) requires Council to consider any relevant environmental planning instrument, draft environmental planning instrument or development control plan.

2.1 Campbelltown (Urban Area) Local Environmental Plan 2002

Pursuant to Campbelltown (Urban Area) Local Environmental Plan 2002 (CLEP), the site is zoned 4(b) Industry B zone. The proposed development is defined as a 'restricted premises' under Clause 61 of CLEP:

Restricted premises means a building or place, other than a newsagency or pharmacy, where:

- (a) Publications classified Category 1 restricted, Category 2 restricted or RC under the *Classification (Publications, Films and Computer Games) Act 1995* of the Commonwealth are exposed, exhibited, displayed or sold or otherwise made accessible or available to the public, or
- (b) A business is conducted to which section 578E (Offences relating to advertising or displaying products associated with sexual behaviour) of the *Crimes Act 1900* applies, or
- (c) A business is conducted, an object of which is the display or exhibition of any article that is primarily concerned with, or is used or intended to be used in connection with, sexual behaviour, but which is not printed matter.

The zone objectives include:

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

3.4 No. 59 Blaxland Road, Campbelltown - Expansion Of An Existing Restricted Premises Including The Construction Of Internal Alterations And Additions And The Extension Of Operating Hours

- (c) To protect the viability of the commercial centres in the City of Campbelltown by limiting commercial activities to those associated with permitted industrial, storage and allied development or primarily intended to provide a professional facility to serve people employed or occupied in land uses permitted in the industrial zones, and
- (d) To permit the display and sale by retail of bulky goods only if such activities cannot appropriately be located in, or would not adversely affect the viability of development in, the business or comprehensive centre zones, and
- (e) To ensure development will not be carried out if the processes to be carried on, the transportation to be involved or the plant, machinery or materials to be used interfere unreasonably with the amenity of the area.

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

The proposed development is considered to be consistent with one or more of the above objectives, particularly (a) and (c), and subsequently Council can grant consent should it deem appropriate.

Separately, Clause 61(2) of the CLEP prescribes that a restricted premises can only be carried out subject to Council approval on lands zoned 4(a), 4(b) and 4(c).

2.2 Campbelltown Sustainable City Development Control Plan (SCDCP) 2009

Campbelltown (Sustainable City) Development Control Plan (SCDCP) applies to the subject land. The aims of the SCDCP are:

- Ensure that the aims and objectives of any relevant EPI including Campbelltown's LEPs and IDOs are complemented by the Plan
 - Ensure that the principles of ecological sustainability are incorporated into the design, construction and ongoing operation of development
 - Facilitate innovative development of high quality design and construction in the City of Campbelltown
 - Ensure that new development maintains or enhances the character and quality of the natural and built environment
 - Ensure that new development takes place on land that is capable of supporting development
 - Encourage the creation of safe, secure and liveable environments
-

3.4 No. 59 Blaxland Road, Campbelltown - Expansion Of An Existing Restricted Premises Including The Construction Of Internal Alterations And Additions And The Extension Of Operating Hours

- Ensure that new development minimises the consumption of energy and other finite resources, to conserve environmental assets and to reduce greenhouse gas emissions
- Provide for a variety of housing choices within the City of Campbelltown.

It is considered that the proposed development is generally consistent with the aims of SCDCP.

Part 6 – Industrial Development

Part 6 sets out development standards for industrial development within the City of Campbelltown. As the development already exists and the proposed changes are considered minor in nature, the industrial development standards are not relevant as the use as a restricted premises is currently being undertaken. However the proposed use of the premises still needs to consider operating hours, car parking, waste management, conflicting land uses, and crime risk. These matters are encapsulated in the Campbelltown Sex Industry Development Control Plan 2003, which is discussed separately in the next section of this report.

2.3 Campbelltown Sex Industry Development Control Plan 2003 (CSIDCP)

The CSIDCP 2003 came into effect on the 18th March 2003. The CSIDCP's Aims and Objectives are as follows:

- (a) To provide guidelines for the determination of applications for sex industries in the City of Campbelltown;
- (b) To acknowledge that sex industry premises are permitted in appropriate locations within Campbelltown;
- (c) To locate sex industry premises so that they do not create adverse social or economic impacts, do not result in any adverse effects on the amenity of an area and do not become a prominent feature in the streetscape;
- (d) To control the location of sex industry premises to avoid a concentration of these uses in a particular location and to minimise any cumulative impact of the industry;
- (e) To ensure that all sex industry premises are appropriately regulated under the *Environmental Planning and Assessment Act 1979*; and
- (f) To safeguard public health and safety for sex industry workers and their clients by providing appropriate health and hygiene standards and safety guidelines for premises.

The development currently operates as a restricted premises and has done so for approximately eight years. There is no authorised or known unauthorised restricted premises operating in close proximity of the site.

3.4 No. 59 Blaxland Road, Campbelltown - Expansion Of An Existing Restricted Premises Including The Construction Of Internal Alterations And Additions And The Extension Of Operating Hours

The development standards of CSIDCP are discussed in the sections below:

2.3.1 Location requirements for restricted premises (section 6.1 of CSIDCP)

In order to minimise the impact of restricted premises on sensitive land uses, a restricted premises must not be located within a 150m radius (as measured from any point(s) of client access and egress at the building proposed to be so used) of child care centres, churches, community facilities, residences, hospitals, medical centres, schools, places regularly frequented by children for recreational or cultural activities, licensed premises and major transport nodes.

In assessing a development application for restricted premises, Council is required to consider the proximity of other sex industry premises, such as brothels, sex-on-premises establishments and the like, both within or outside the local government area, including existing unauthorized premises. Restricted premises must not be located within a 150m radius (as measured from any point(s) of client access and egress at the building proposed to be so used) of another sex industry premises.

Restricted premises are to be sensitively located so that they do not create adverse social impacts, and do not result in any other adverse effects with regard to the amenity of the area.

The Table below details the name and address of relevant sensitive land uses as outlined in CSIDCP. Also noted is the distance by road or likely pedestrian route, whether the site is within a 150m radius of a sensitive land use and whether the restricted premises is visible from a nominated sensitive land use.

Sensitive Land Use	Name	Address	Distance (by Road, or likely pedestrian route)*	Is within 150m radius**	Is proposal visible?
Child care centre	Nil	-	-	-	-
Place of worship	Nil	-	-	-	-
Community facilities	Nil	-	-	-	-
Residences	-	37 John Kidd Drive, Blair Athol	1.3km	No 165m	No
Hospital	Nil	-	-	-	-
Medical Centre	Nil	-	-	-	-
Schools	Nil	-	-	-	-
Places regularly frequented by children for recreational or cultural activities	Nil	-	-	-	-

3.4 No. 59 Blaxland Road, Campbelltown - Expansion Of An Existing Restricted Premises Including The Construction Of Internal Alterations And Additions And The Extension Of Operating Hours

Sensitive Land Use	Name	Address	Distance (by Road, or likely pedestrian route)*	Is within 150m radius**	Is proposal visible?
Licensed premises	Club Hotel	Corner Blaxland Road and Badgally Road	220m	No 220m	No
Major transport node	Campbelltown Rail Station		800 metres by vehicle	No	No
Other	nil	-	-	-	-

Legal or known illegal sex premises	Name	Address	Distance	Is within 150m radius	Is proposal visible?
Brothel	-	15 Blaxland Road, Campbelltown	610 metres	No	No
Sex-on-premises	Nil	-	-	-	-
Restricted premises	Nil	-	-	-	-

* As measured from any point(s) of client access and egress at the building proposed to be so used

** As measured in a straight line

The above tables are considerations for locational requirements for restricted premises. It should be noted however, that the current application is for an existing restricted premises. Locational requirements would have been considered in the assessment of the original application by Council.

2.3.2 Design requirements for restricted premises (section 6.2)

Restricted premises must meet the following design requirements:

- (a) The building design for restricted premises is to be compatible with the surrounding built form;
- (b) Only one separate street level access, with no other internal access to any other tenancy, is to be provided to a restricted premises;
- (c) The entrances, exits and external appearance of sex industry premises shall be well lit but not to the extent where it becomes a prominent feature in the streetscape. Flashing lights shall not be permitted;

3.4 No. 59 Blaxland Road, Campbelltown - Expansion Of An Existing Restricted Premises Including The Construction Of Internal Alterations And Additions And The Extension Of Operating Hours

- (d) Merchandise displayed in the restricted premises must not be displayed in the doors or windows and must not be visible from outside the premises;
- (e) No signs shall be permitted which, in the opinion of Council, are lewd, sexually explicit or offensive. "A" frame signs and signs with flashing lights will not be permitted. Signage shall, however, clearly identify the building so as to minimise nuisance to neighbours;
- (f) Restricted premises shall minimise nuisance to neighbours in the street by displaying the building number in a manner that is clearly visible from the street;
- (g) The paint finishes on external walls of brothels should not be such that they become a prominent feature in the streetscape (e.g. fluorescent or excessively bright colours); and
- (h) The premises must comply with the requirements of the Building Code of Australia and disabled access requirements.

The existing restricted premises is considered to satisfy these requirements. The proposal to extend the hours of operation and increase the floor area would not interfere or bring into conflict the design requirements of the CSIDCP.

2.3.3 Car parking (section 6.3)

Off-street parking must be provided at the rate of one space per 35 square metres of floor space. Car parks should be well lit and easy for staff and customers to locate.

The restricted premises is being extended by 79 square metres and would ultimately have a total floor area of 314.4 square metres, excluding amenities area. Using the car parking rate applicable, the development is required to provide 8.98 (say nine) car parking spaces. The development provides 10 car parking spaces including one disabled space.

2.3.4 Protection of neighbourhood amenity (section 6.4)

The premises should not affect the amenity of the neighbourhood as a result of its size, any noise generated and operating hours, number of employees or clients. Operators are to implement measures to avoid nuisance to neighbours through mistaken identity (for example, customers knocking on doors asking for directions, or driving through the street looking for the premises). The operation of restricted premises must not include live performances or the showing of movies or videos in either theatre or private booth environments.

The restricted premises has been operating for approximately eight years. Council has no record of complaints arising from mistaken identity or driving slowly through the street. Immediate land uses adjoining the restricted premises comprise of industrial type uses.

3.4 No. 59 Blaxland Road, Campbelltown - Expansion Of An Existing Restricted Premises Including The Construction Of Internal Alterations And Additions And The Extension Of Operating Hours

2.3.5 Ancillary activities (section 6.5)

The operation of the restricted premises must not include live performances or the showing of movies or videos in either theatre or private booth environments.

The current and proposed use do not include any live performances or the showing of movies.

2.3.6 Waste disposal and collection (section 6.6)

Campbelltown Council does not collect trade waste. Restricted premises operators are to make their own arrangements for trade waste collection, and ensure that any potentially hazardous waste is collected by a clinical waste contractor. Waste containers are to be stored and collected from within the site.

The existing private waste collection service is to remain in place.

2.4 NSW Police Force Comment

The current development application was not referred to the NSW Police Force for comment having regard to Crime Prevention Through Environmental Design (CPTED) principles given the original application for the restricted premises was referred to Campbelltown LAC for comment.

The Police Force offered recommendations that were included in the original development consent.

Those recommendations have been considered in the assessment of this development application and include:

- Use of anti-graffiti resistant paint
- A door beeper located that the entry to alert staff of persons entering or leaving the premises
- Use of one-way windows.

Should Council approve the proposed alterations and additions to the building and increase to hours of operation, it is recommended conditions be included in the development consent that respond to the request of the NSW Police Force that are consistent with comments provided for the original development application for the use of premises as a restricted premises (DA 5044/2004/DA-U).

3. Public Participation

The application was notified between 5 December 2011 and 19 December 2011. The application was re-notified and placed on public exhibition in accordance with Council's Notification Policy from 31 January 2012 until 15 February 2012.

3.4 No. 59 Blaxland Road, Campbelltown - Expansion Of An Existing Restricted Premises Including The Construction Of Internal Alterations And Additions And The Extension Of Operating Hours

During these periods, Council did not receive any submissions objecting to the proposed development.

4. Conclusion

Development application 2231/2011/DA-C has been lodged seeking development consent for the expansion of the restricted premises including the construction of internal alterations and additions and the extension of operating hours.

The development seeks to provide an updated appearance to the building, expanding into the adjoining warehouse as well as making internal modifications to suit the business need.

Giving regard to the existing use being undertaken at the site, it is considered unlikely that the proposed development would cause a significant impact on adjoining and nearby land users, and is therefore considered appropriate for the site.

Officer's Recommendation

That consent be granted to development application 2231/2011/DA-C for the expansion of the restricted premises including the construction of internal alterations and additions and the extension of operating hours at the premises Lot 103 DP 585459 No. 59 Blaxland Road, Campbelltown be approved subject to conditions listed in Attachment 1.

Committee's Recommendation: (Oates/Bourke)

That the Officer's Recommendation be adopted.

CARRIED

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

Voting against the Committee's Recommendation: Nil

Council Meeting 3 July 2012 (Bourke/Kolkman)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 116

That the Officer's Recommendation be adopted.

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

Voting against the Council's Resolution were Councillors: Matheson and Rowell

A copy of the attachments to this report are available separately on Council's website.

3.5 Concept Plan Application for the Claymore Renewal Project

Reporting Officer

Manager Development Services

Attachments

1. Proposed draft conditions of consent for inclusion in the Concept Plan approval
2. Project location map
3. Existing urban form plan
4. Proposed Concept Plan
5. Proposed Staging Plan
6. Plan of existing bus route and proposed bus route options
7. Concept Plan for new Town Centre
8. Statement of Commitments
9. Detailed Planning Assessment Report in compliance with Department of Planning and Infrastructure Guidelines to be submitted to the Department of Planning and Infrastructure (distributed under separate cover)

Purpose

To assist Council in its assessment of a Concept Plan (masterplan) for the Claymore Renewal Project

Property Description	Claymore Public Housing Estate
Application No	2128/2011/DA-MP
Applicant	NSW Land and Housing Corporation
Owner	NSW Land and Housing Corporation
Provisions	Campbelltown 2025 Looking Forward <i>Environmental Planning and Assessment Act 1979 - Part 3A (now repealed)</i> Numerous State Environmental Planning Policies Campbelltown LEP (Urban Area) 2002 Campbelltown (Sustainable City) Development Control Plan 2009
Date Received	4 November 2011

History

The Claymore public housing estate was developed on Radburn planning principles, during the 1970s and early 1980s. The Radburn style, which was first implemented in the United States of America, has proven to be an unsustainable form of residential development in Australian public housing estates. This is primarily due to the “back the front” design of the housing and poorly connected and isolated walkways and open space areas. The Renewal project seeks to de-Radburnise the estate whilst at the same time incorporating contemporary and sustainable planning principles.

The renewal strategy for Claymore is based on the same principles that have been utilised for other urban renewal projects, such as Minto, Airds/Bradbury and Bonnyrigg (which is located in the Fairfield Local Government Area). These principles are based on the Government’s Living Communities Model, which is a model of estate renewal that pursues three distinct aims:

- Improve the housing and public spaces
- Improve services and provide residents with better opportunities
- Support the local community to build its strengths, skills and overall capacity.

Report

Introduction

This report provides an overview of the proposed Claymore Renewal Project and identifies key issues for Councils consideration. The Claymore Renewal Project Application has been lodged by NSW Land and Housing Corporation (formerly Housing NSW) under the transitional arrangements of the former Part 3A of the *Environmental Planning and Assessment Act 1979*. Approval is being sought from the Department of Planning and Infrastructure (DP&I) for a Concept Plan (or Masterplan). Council has been delegated the responsibility to carry out the necessary planning assessment of the Concept Plan, whilst the Minister for Planning retains the consent authority role.

Whilst the application is technically referred to as a ‘Concept Plan’, the proposal in essence provides a Masterplan for the Claymore housing estate, which identifies land uses, indicative built forms and provision of physical and social infrastructure to support redevelopment.

Attached to this report is a further detailed planning assessment, which has been prepared in accordance with the Department of Planning and Infrastructure (DP&I) Guidelines. Both reports will be forwarded to the DP&I for its consideration should Council deem appropriate.

This report recommends Council support for the Claymore Renewal Project.

Site Location

The site is located approximately 2 kms from the city centre of Campbelltown on the western side of the Hume Highway. Claymore is an established urban area with the suburb of Eagle Vale immediately adjoining to the north. The site is generally disconnected from other residential areas east of the Hume Highway. Badgally Road, which runs under the Hume Highway, provides vehicular access to the Campbelltown regional city centre and there is also a bus service which runs along Badgally Rd/Dobell Rd and links Claymore and Eagle Vale with both the Campbelltown and Minto train stations.

Land Ownership

The majority of the 125 hectare site is owned by the NSW Land and Housing Corporation (formally Housing NSW) and represents one of the largest public housing estates in south western Sydney.

There are a small number of private land owners within the area, including the Department of Education, the Anglican Church Trust, the owners of the Claymore Shopping Centre and private home owners, however no development is proposed on the home sites which are privately owned and they do not form part of the land to which the Concept Plan application relates.

However, it is important to note that to be consistent with the Concept Plan, subsequent changes to land use zonings are required. This is particularly important in relation to the existing Claymore shopping centre site because it changes to a residential zoning under the Concept Plan. This matter is discussed in more detail in Section 3.2 of the report.

The Proposal

The NSW Land and Housing Corporation proposes to undertake an urban renewal project within Claymore, through the demolition of the majority of existing public housing stock, the creation of a new urban form with a new street and subdivision layout and the construction of new dwellings.

The number of dwellings will increase from the current 1,151 to approximately 1,490 and significantly, will ultimately consist of 70% privately owned dwellings and 30% public housing. Seniors Living housing will be constructed. A new town centre will be created which will cater for new retail and community services adjacent to Badgally Road and upgraded urban infrastructure such as pathways, open space and drainage systems are also proposed.

It is envisaged the Renewal Project will be delivered in 12 stages over a 15 year period.

1. Vision

1.1 Campbelltown 2025 Looking Forward

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

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

The document establishes a set of broad strategic directions to guide decision making and development outcomes. The relevant strategic directions to this application are:

- Growing the regional city
- Building a distinctive Campbelltown sense of place
- Creating employment and entrepreneurial opportunities

The Claymore Renewal Project contributes to the growth of the regional city of Campbelltown with increased residential development and a new town centre. The development promotes positive social and economic outcomes with the introduction of a balanced mix of public and private housing.

Some of the more relevant desired outcomes relating to the above strategic directions include:

- An urban environment that is safe, healthy, exhibits a high standard of design and is environmentally sustainable
- Architecture that engages its environmental context in a sustainable way
- Development and land use that matches environmental capacity and capability
- A range of sustainable and high quality lifestyle opportunities across a framework of liveable neighbourhoods
- A sustainable system of local infrastructure that has the capacity and capability to satisfy the demands of the existing and future community

The proposed Renewal Project would achieve these outcomes.

2. Planning Provisions

The Director General's requirements issued for this project identified relevant Environmental Planning Instruments, policies and guidelines to be addressed within the Environmental Assessment report. The following is a summary of the plans, policies and guidelines considered within the submitted assessment report.

2.1 Environmental Planning and Assessment Act 1979

In broad terms, the objects of the *EPA Act* are to encourage the proper management and coordination of land use, the protection of the environment and ensure sustainable social outcomes. It is considered that the development envisaged by the Claymore Renewal Project is consistent with these objects.

2.2 Water Management Act 2000

Groundwater and riparian lands are managed by the Office of Water through the *Water Management Act 2000* (the *Water Act 1912* is being phased out). The object of the Act is sustainable and integrated management of the State's water resources and the Claymore project is not inconsistent with this.

2.3 State Environmental Planning Policy (Major Development) 2005 (MDSEPP)

State Environmental Planning Policy (Major Development) 2005 outlines the types of development that can be declared a 'major project' for the purposes of Part 3A of the *Environmental Planning and Assessment Act (EPA Act)*.

The Minister for Planning declared the Claymore Renewal Project to be a major project under Part 3A of the *EPA Act* because it is development for the purpose of residential, commercial or retail development with a construction value of more than \$100M, pursuant to Clause 13, Schedule 1 of the MDSEPP. The Minister also authorised the proponent to submit a concept plan for the project. Although there have been subsequent changes to Part 3A of the Act, this project is being dealt with under the transitional arrangements put in place for certain projects; that is, Council is responsible for conducting the public consultation and assessment processes and the Minister for Planning will assume the consent authority role.

2.4 State Environmental Planning Policy (Infrastructure) 2007 (the Infrastructure SEPP)

The Infrastructure SEPP provides for the effective delivery of infrastructure across the State, including in some cases, special provisions for developments by or on behalf of the Crown, including housing.

The Infrastructure SEPP also sets out requirements for referrals for traffic generating development. The Concept Plan envisages more than 200 allotments with access to Badgally Road and therefore the proposal was referred to the Roads and Maritime Service. The proposal was also referred to Transport NSW for consideration.

2.5 State Environmental Planning Policy No. 55 – Remediation of Land

SEPP 55 promotes the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. The Policy states that land must not be developed if it is unsuitable for a proposed use because of its contamination.

The Environmental Assessment submitted to support the project contains a preliminary contamination assessment to ascertain whether the site is likely to present a risk of harm to human health and/or the environment. The conclusions of this report were that the site is suitable for the proposed residential development subject to detailed sampling in the vicinity of certain identified locations, development of a Remedial Action Plan, additional inspections following demolition of existing structures and an Unexpected Finds Protocol to be in place throughout the project. This is a standard approach to developments of this type.

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

The Seniors Living SEPP aims to encourage housing that will increase the supply and diversity of dwellings that meet the needs of seniors or people with a disability. This can be achieved through both the appropriate location of developments and the appropriate design of dwellings within these developments.

The Concept Plan provides opportunities for seniors living development in appropriate locations.

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

The Georges River REP applies to the Georges River catchment and sets out planning principles to be considered when dealing with land rezonings or development applications. Relevant principles relate to acid sulphate soils, bank disturbances, flooding, urban stormwater, vegetated buffer areas and water quality.

The Concept Plan includes appropriate water sensitive urban design infrastructure which will ensure outcomes consistent with the principles of the REP.

2.8 State Environmental Planning Policy (Affordable Rental Housing) 2009

The Affordable Rental Housing SEPP promotes the development of new affordable rental housing by providing development and design controls that assist with the delivery of housing stock for low and middle income earners and homeless and other disadvantaged people who may require support services, including group homes and supportive accommodation. The Concept Plan is not inconsistent with this SEPP.

2.9 NSW State Plan

The NSW State Plan is a long term, broad based plan that covers issues as diverse as education, health, transport, policing, planning, environmental protection and community services.

The Plan aims to deliver 9,000 new homes for social housing through partnership with the Federal Government and the Housing NSW Building Plan. It states the following:

The importance of social inclusion was also consistently raised, with a focus on better linking appropriate and affordable housing with public transport and community infrastructure to engage disadvantaged and marginalized communities.

Priority groups include Aboriginal communities, ethnic communities, young people, women, elderly, people with a disability or mental illness, the homeless and low income earners.

Our immediate efforts are focused on enabling an orderly supply of land for housing and employment uses in high growth regional areas of NSW.

The Claymore Renewal Project is consistent with the State Plan.

2.10 Metropolitan Plan for Sydney 2036

This plan aims to guide Sydney's growth and coordinate efforts by State and local councils to integrate land use and transport planning. The Plan acknowledges the ageing population and the changing demand for smaller more affordable homes.

The Claymore Renewal project aims to provide new housing, and renew some of the existing housing across the site. It increases the overall number of dwellings and provides greater flexibility in housing type to reflect the population's changing needs.

In relation to renewing social housing stock, the Metropolitan Plan states:

Many older dwellings are no longer appropriate for current tenants. Redevelopment of estates presents an opportunity to renew housing stock, build more homes and help achieve Metropolitan Plan objectives and housing targets.

The Concept Plan addresses issues of urban structure, housing quality and social mix. The Renewal Project will improve the efficiency of the use of land, services and infrastructure.

2.11 South West Subregion Draft Subregional Strategy

The South West Subregion Draft Subregional Strategy includes specific directions that aim to improve affordability of housing and to redevelop and regenerate Housing NSW stock that is no longer considered as appropriate for the needs of current and future tenants. The Claymore Renewal Project is directly related to achieving these outcomes.

2.12 Campbelltown (Urban Area) Local Environmental Plan 2002

The existing zoning of the Claymore locality generally reflects the current pattern of physical development. The predominant zoning is 2(b) Residential B covering the existing residential development, the shopping centre is zoned 10(c) Local Comprehensive Centre and the existing public recreation areas are zoned 6(a) Local Open Space.

The Concept Plan is not constrained by the existing zone boundaries and consequently it envisages development that would ordinarily be prohibited within certain zones. This situation is catered for by the *EPA Act* and Regulations, but it is recommended that the zoning ultimately be amended as part of the Campbelltown's Comprehensive LEP process. In the meantime it is likely that the Minister for Planning will make a determination to the effect that approval to carry out the different stages of the project will be subject to the lodgement of Development Applications under Part 4 of the Act. He may then also direct that the provisions of Campbelltown LEP, that would prohibit or restrict development proposed under the Concept Plan, would not have effect. This would enable early stages of the project to be assessed and approved prior to amending the land use zonings.

Other provisions of Campbelltown LEP that have been taken into account include:

- Clause 42 which deals with access to arterial or sub-arterial roads
- Clause 49 which deals with development in the vicinity of a heritage item
- Clause 54 which deals with development upon land zoned 6(a) Open Space
- Clause 62 which deals with development on land that may be affected by salinity

2.13 Campbelltown (Sustainable City) Development Control Plan 2009 (SCDCP)

The Renewal Project requires new streets and land uses to integrate into a combination of new and existing built fabric, including street patterns, that will unavoidably result in some restrictions in block patterns. As a result, the Concept Plan proposes a range of housing types on lot sizes that in some circumstances differ from some of the controls under the Campbelltown SCDCP. Allotment sizes and layout are consistent with the State Housing Code.

An Urban Design and Landscape Report has been submitted to support the Concept Plan with this report specifying controls across a comprehensive range of matters including street hierarchy, pedestrian and cycle links, street tree plantings, allotment orientation, dwelling envelopes, streetscapes and fencing. The outcomes that will arise in response to the Urban Design and Landscape Report are sound and worthy of Council's support.

3. Planning Assessment

3.1 Proposed Concept Plan Assessment

The key issues which are relevant to Council's consideration of the proposed Concept Plan include:

- Urban design
 - Biodiversity
 - Traffic, transport and accessibility
 - Social infrastructure and services
 - Provision and embellishment of open space
 - Indigenous and non-indigenous heritage
 - Water cycle management
 - Future subdivision
-

Urban Design

The application has been supported by an Urban Design and Landscape Report. The Renewal Project aims to fundamentally alter the existing urban structure away from the unsustainable Radburn design towards a more traditional grid street pattern with houses and front yards addressing the street. There will be a well defined street hierarchy with unifying street tree planting and a street fencing strategy.

The majority of new dwellings would be one and two storey, consistent with residential development in adjoining suburbs. Examples of dwelling typologies have been provided, but rather than adopt the Campbelltown SDCP provisions, alternative Guidelines have been proposed which can form part of any approval to the Concept Plan. The alternate Guidelines are generally consistent with those included in the Exempt and Complying State Codes and are consistent with those used successfully in the Minto Renewal project. They cover a range of matters such as allotment sizes, setbacks, building heights, site coverage, private open space and car parking. Adherence to the Guidelines in subsequent development applications could be assured through the inclusion of a condition of consent in any approval issued by the Minister for the Concept Plan.

The other significant issue relating to urban design is the proposed development of a new town centre for retail, community facilities and town park on a main road location. The new centre would provide a key entry statement to the redeveloped Claymore neighbourhood, and would be accessible to residents of both Claymore and surrounding localities. The existing Claymore shopping centre, which is considered to be poorly located, is earmarked for residential redevelopment under the Concept Plan. The centre is privately owned and the owner has made submissions objecting to the proposed new town centre. This issue is discussed in more detail later in this report.

Biodiversity

Potential impacts on biodiversity have been considered and a comprehensive report was submitted in support of the application. The report concluded that notwithstanding the high degree of modification of the landscape, there are the remains of two low quality examples of listed threatened vegetation types:

- River-flat Eucalypt Forest (*Threatened Species Conservation (TSC) Act*)
- Cumberland Plain Woodland (*TSC Act and Environment Protection and Biodiversity Conservation Act*)

The vegetation that does occur in the precinct forms scattered patches within reserves including Badgally Reserve, Dimeny Park, Fullwood Reserve and the riparian land and parkland west of Fullwood Reserve. A Vegetation Management Plan would be implemented including major off-set plantings within the locality, seeking to integrate areas in order to create more sustainable vegetation communities. With this Management Plan in place the biodiversity result would be positive.

Traffic, Transport and Accessibility

The existing road pattern is convoluted and offers poor connectivity and legibility through the precinct. There are no direct north-south links and Dobell Road offers the only east-west link. This route is indirect and circuitous. The road pattern is typical of the Radburn style with an over reliance upon cul-de-sacs and pedestrian pathways that perpetuate poor accessibility outcomes.

A transport and accessibility study was undertaken to support the application which identified Badgally Road and Eagle Vale Road as performing the sub-arterial functions and Dobell Road and Gould Road to serve a collector road function. The Concept Plan provides a more inter-connective street system with improved access from the surrounding main road network. A key to this is improving Dobell Road and providing a new north/south through road that intersects with Badgally Road at the existing roundabout at Blairmount Public School. This intersection is proposed to be signalised. Both public transport (the bus route) and pedestrian/cycleways would benefit from the improved connectivity of the street system. Road designs have taken into account all users (cars, buses, cyclists and pedestrians) and are designed to be fit for purpose. Roadwidths are sufficient to cater for on-street parking on both sides of the road.

The location of the new proposed town centre takes advantage of the existing road system (Badgally Road) and the new road system (new north/south through road) and would be served by a new bus route.

Social Infrastructure and Services

The provision of community services and the social impacts of the development have been the subject of an Integrated Social Sustainability and Health Impact Assessment and Plan. In relation to social impacts, the Statement of Commitments includes the preparation of a Strategic Social Plan to coordinate future service planning and delivery, implementation of a rehousing process for those residents who would be dislocated, and implementation of a communications strategy to keep people informed throughout the lengthy development process.

The Renewal Project provides the opportunity to rationalise and improve the community facilities that currently exist, many of which are targeted at the existing tenants of the public housing estate. As a result of the Renewal Project there would be a reduced demand on existing local services and it is expected that there would be more use of LGA and regional level services. As part of the project, a new multi-purpose community centre and child care centre are proposed to be developed as part of the new town centre.

Key findings of the Social and Health Impact Assessment are:

- Population make-up is to change substantially, moving away from the very high dependency levels. Currently household incomes are very low, there is a high proportion of single parent families, employment rates are low, health issues and the incidence of disabilities is high, as is reliance upon intensive service support. Following implementation of the Renewal Project, the characteristics of the population would more closely resemble those of surrounding areas
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- The two main cultural groups within Claymore, Aboriginal people and those from a Pacific Island background will need assistance through the proposed rehousing process in order to maintain social and cultural links
- The distribution of social housing tenancies throughout the Renewal Project is important, as is the fact that architecturally, these homes will be indistinguishable from the privately owned homes. Seniors living units will be provided in clusters adding further to the mix between private and public housing
- A sign of success of the Renewal Project will be the reduced need for services in Claymore, in particular, intensive health and welfare services. It is intended that the needs of the new community will be met through the neighbourhood centre and district level services similar to the scenario applicable in other housing precincts. The implementation of the required Strategic Social Plan will monitor and manage the transition from existing services
- Maintaining communication with the residents of Claymore is critical. A Regeneration Team based in Claymore continues to carry out consultation in regard to the Renewal Project and in particular the rehousing process, to ensure that the preferences of individuals or families can be considered. Some residents will wish to stay in Claymore while others may choose to live elsewhere taking into account social links, service needs and employment.

Provision and Embellishment of Open Space

The existing public open space areas within Claymore do not provide a high level of utility. There is a lack of appropriate public surveillance and an indeterminate sense of ownership/occupancy of the spaces. Therefore they suffer from anti-social behaviour, including being littered and unsafe. Although there are a large number of parks covering a substantial area, they are not well connected to other areas of activity such as schools and shops and there is little or no sense of the open spaces having a defined role or function.

Currently, Claymore includes approximately 15 hectares of Council owned public open space. There are six distinct parks – Davis Park, Fullwood Reserve, Dimeny Park, Claymore Park, Highfield Park and Badgally Reserve. As a result of the implementation of the Renewal Project, the total area of Council owned public open space would be approximately 20 hectares. It should be noted that the level of embellishment to existing parks is mixed, and that the Renewal Project would seek the removal of some open space areas, as well as the reconfiguration and extension of others. The area of Badgally Reserve is proposed to be reduced and Highfield and Claymore Parks removed. These areas currently have no identified or recognisable recreation purpose.

It is intended to improve the public open space provision within Claymore by:

- Providing more focused areas with a defined role and function
 - Relocation of some open space to encourage better community use of land, particularly around the town centre
 - Improving casual surveillance to improve safety
 - Improving accessibility to destinations such as schools and shops
 - Linking public open space to the broader open space network in the district
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The level of embellishment of the public open space will be assured through the execution of the Voluntary Planning Agreement. Davis Park, Dimeny Park and Fullwood Park are all intended to receive substantial improvements, reflecting their role as either passive/informal recreation areas or formalised sporting fields. The new town park to be located adjacent to the proposed commercial/community precinct is intended to be designed and developed to be a key entry statement and focal point for the area. Brady Linear Park will be enhanced by better defining the open space all the way across the northern part of the site, emphasising the shared pedestrian/cycle path and supporting new plantings of threatened ecological communities.

The design of all public open space will address Crime Prevention through Environmental Design (CPTED) principles to ensure they not only look attractive but are safe. This will ensure they become places that people feel comfortable visiting and over time become focal points for the community. The designs facilitate good surveillance, access and territorial reinforcement by:

- Providing a clear distinction between public and private domains with parks surrounded by streets in most cases
- Opportunities for passive surveillance from adjoining streets and from clearly delineated pedestrian/cycle paths
- Appropriate plantings that afford good visibility and do not afford hiding or entrapment places
- Clearly delineated access points including from the surrounding road network
- Lighting at night
- A lack of fencing and obstructions to movement along the defined corridors
- Boundaries to parks
- Co-location of some facilities to ensure more active spaces
- Landscaping and park furniture that clearly delineates the public open space function.

Indigenous and Non-Indigenous Heritage

An assessment of aboriginal heritage has been undertaken with the proposed development assessed as likely to have only a minor detrimental impact to the aboriginal cultural landscape values of the area. Only one artefact site was identified and it is recommended that there could be relocation of artefacts to elsewhere within the subject site to a complementary site that currently exists. An Aboriginal Cultural Heritage Management Plan should be developed to guide treatment of matters through the implementation of the project, including further archaeological investigations.

In relation to European heritage, the site does not contain any listed items of local heritage significance. Glenroy and Hillcrest are listed homesteads that immediately adjoin the site. Additional assessment work was undertaken to ensure that proposed subdivision in the vicinity of these homes, in particular Glenroy, would not encroach upon the reasonable curtilage of the homes and that important view corridors to and from the homes were not impeded.

Water Cycle Management

The development is located within an established urban area however a Water Cycle Management Plan has been prepared. This Plan covers management of both the quantity and quality of stormwater.

In relation to stormwater quantity there will be a combination of minor/major stormwater infrastructure. The minor piped system is designed to manage general flows and convey nuisance flooding up to 5 year ARI. The major system incorporates overland flow routes through proposed roads and has been assessed against the 100 year ARI design storm event. An additional 'offline' detention basin and associated controls are proposed at Fullwood Park in order to decrease peak flows arising from the redevelopment.

In relation to stormwater quality, it is proposed to provide:

- Rainwater tanks for dwellings for at "source treatment" and re-use of roof water
- Gross pollutant traps and trash racks to capture larger pollutants and sediments before discharge into watercourses
- Native grass infiltration swales to provide on-line treatment for the effective removal of fine sediments and nutrients.

It is expected that the quality of stormwater discharged from the site will be improved post development.

Subdivision

The Concept Plan does not seek specific approval for the subdivision of the land into individual housing allotments. A series of Development Applications, consistent with the Concept Plan, are intended to be lodged as the area is developed in stages over the next 12-15 years.

An indicative subdivision plan has been provided as part of the Concept Plan, with allotments generally in the range of 300 – 500 square metres in area. Within the town centre precinct, allotments could be as small as 200 square metres and some sites are to be nominated for integrated seniors living units.

3.2 Preferred Project Report

The Preferred Project Report (PPR) sets out the proponent's final position in relation to their application after taking into account issues that had been raised through the public exhibition and assessment process. Some modifications to the original project are proposed and the commitments of the proponent are confirmed.

The main issues arising from the PPR are:

- Claymore Shopping Centre
 - Westside Baptist Church and Guardian Angels Pre-school
 - Biodiversity off-set strategy
 - European Heritage
 - Bus route
 - Open space embellishment
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- Town Centre layout.

Claymore Shopping Centre

Notwithstanding the objections from the owner of the existing Claymore Shopping Centre, the applicant (Landcom) has reconfirmed a preference for a new retail centre located on Badgally Road for the following planning reasons:

- The new site provides for a recognisable entry point and location for the provision of local retail and professional services
- The site would have a more sustainable catchment by being able to service Blairmount and parts of Woodbine
- The greater catchment and high volumes of passing traffic would sustain a greater range of retail and professional services and therefore improve local employment opportunities and business facilities
- The site is integrated into the Claymore Concept Plan being surrounded by higher density residential development, new community facilities and a new town park
- Independent retail analysis supports the proposed new site as a location for a town centre.

As part of the Concept Plan, the existing shopping centre land is identified for future residential development with a yield estimated to be approximately 25 residential dwellings.

The owner of the shopping centre land made a detailed submission to Council during the public exhibition process to object to the rezoning of his land and the development of a new retail precinct, notwithstanding his support for the concept of renewing Claymore. Despite some negotiations with Landcom for the purchase of his land, the objection remains unresolved. On 31 May the owner provided another submission to Council via the Public Officer, reiterating his objections.

The submissions contain the following broad objections:

- Economic impacts and commercial viability
- Retail hierarchy
- Urban design
- Restriction on ability to make improvements to existing centre.

Economic Impacts and Commercial Viability

The retail assessment report prepared by Hill PDA, submitted in support of the Claymore Renewal Project and Concept Plan, concludes that:

- Claymore could support a centre of 5,000 – 6,000 square metres including a supermarket
 - The existing shopping centre location is inferior and the proposed new town centre location is appropriate
 - The impacts of the operation of a new alternative town centre on the existing centre are likely to undermine its viability to the point where it would cease to trade.
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Council commissioned a review of the Hill PDA report to ensure it was well informed on this contentious issue. The review was conducted by specialist retail planning consultant Leyshon Consulting, and it reiterated the findings of the Hill PDA report.

In terms of economic impact and commercial viability, the argument put forward from the owner of the existing centre has two strands. Firstly, the Concept Plan undermines the value of his asset through the establishment of a new centre and removes his ability to substantially expand and improve the existing centre. Secondly, the economic viability and value to the local community of the proposed new site is significantly overstated if a major supermarket cannot be secured.

It is important that Council be aware of the potential economic impacts to the existing centre, however in making a decision it is considered that determining weight should be given to the best long term urban structure outcome for the whole suburb. This Renewal Project has come about as a result of the need to address well documented shortcomings in the planning and current layout and urban form of Claymore. The current state of the shopping centre is a case in point. The preference to relocate the retail centre to Badgally Road is well founded and supported by two reports (Hill PDA and Leyshon). It is also important to note that planning legislation has been drafted that denies consent authorities the ability to use economic competition as a reason to refuse a proposal that would, on all other grounds, have merit (see Draft State Environmental Planning Policy (Competition)2010). In this case, the establishment of a new retail centre as part of the concept plan has merit and the fact that it would compete with the existing centre should not be grounds to refuse it, especially in light of a superior community outcome being achieved.

Retail Hierarchy

The submission from the owner of the existing Claymore shopping centre questions the role of the proposed new centre in the retail hierarchy. Under Campbelltown (Urban Area) Local Environmental Plan 2002, the existing centre is zoned 10(c) Local Comprehensive Centre. By comparison, Eagle Vale is zoned 10(b) District Comprehensive Centre. The submission makes the point that retention of the existing centre in its current location at the heart of the existing suburb would be consistent with its zoning.

Despite the existing zoning difference, both centres were classified as neighbourhood centres in the document Campbelltown Business Centres Strategy prepared for Council in 2005. The extreme differential in current trading performance of the two centres must therefore be put down to a combination of location, convenience, design, management and socio-demographics of the catchments. The Claymore Renewal Project is aimed at addressing the current deficiencies of the area, which include a poorly sited retail centre. There are strong justifications, supported by both the original retail study by Hill PDA and the subsequent review by Leyshon Consulting, to re-establish a retail and community focus on a different site within Claymore, without disruption to the surrounding retail hierarchy that exists. The status of a retail centre is not only influenced by its location but also by the scale of development and in this regard the new retail centre site is modest in scale and consistent with a local centre. This would maintain the current retail hierarchy. The focus for Council in dealing with this Renewal Project should be about securing the best future outcomes for a town centre in Claymore and in this regard, the Concept Plan can be supported.

Urban Design

The submission also questions the urban design merit of “decentralising” the retail centre and moving it away from other existing community uses such as the school, child care centre and open space. Concern is raised that the new centre is sited to attract trade from a greater catchment to the detriment of the local primary catchment. By way of comment however, the proposed location will be adjacent to a proposed new town park, new community centre and across the road from the existing Blairmount Public School. It is also necessary to consider that the fundamental objective of renewal is to avoid Claymore being isolated or inward looking and therefore perceived as being separate from other communities of Campbelltown. Allowing Claymore residents to look outside of Claymore, and residents of other areas to look in, should be seen as a positive outcome of the Renewal Project. It is also relevant that the Renewal Project seeks to shift the socio economic status of the Claymore population from one of disadvantage to one more aligned with neighbouring suburbs. Greater mobility is likely to be a characteristic of the new population, therefore offsetting the need for the new town centre site to be geographically central to Claymore. The new road pattern and the public transport available would ensure the new centre is accessible. This is an acceptable urban design outcome.

Restriction on Ability to make Improvements to Existing Centre

The owners of the existing shopping centre claim that it is their wish to improve and expand their centre. At this point in time, no discussions with Council have been held or Development Applications lodged. Under the Concept Plan, the site would eventually be rezoned to residential and any future redevelopment plans would not only be inconsistent with the concept plan but would be reliant upon existing use rights for Council consideration of any Development Application. Such rights would place restrictions upon the scale and scope of future expansion plans. Given the current state of the centre, it is conceivable that the owner does have legitimate plans to improve it to a scale which may not be possible if the Renewal Concept Plan is approved. To some extent this leads to the conclusion that the longer term value of the site may now be established by the future residential yield under the Concept Plan (approximately 25 lots). Negotiations have been taking place between Landcom and the owner, but Council is not privy to these.

In summary, the primary objective of the Claymore Renewal Project is to address obvious shortcomings in the urban design of Claymore. It provides an opportunity for a fresh canvas upon which to re-arrange land use and access arrangements to maximise community benefit. The existing Claymore Shopping Centre is not ideally located, a view supported by the retail studies commissioned by the applicant and independently by Council to test the Concept Plan. Relocation of the town centre is seen as a fundamental piece of the renewal puzzle and is worthy of support, notwithstanding the potential implications for the existing shopping centre, whose location is best suited to future residential development. This support however is on the basis of the new site actually providing the appropriate types of uses, being a supermarket and specialty shops and not other uses solely reliant upon high volumes of passing trade.

Westside Baptist Church and Guardian Angels Pre-school

Concern was raised that the existing Westside Baptist Church and pre-school would be lost to the community as part of the Renewal Project. Landcom have confirmed through the PPR that they will both remain and will continue to provide services to the community. Negotiations with the Church are currently being undertaken by Landcom although specific details have not been provided to Council. It is important to note that these uses do not become prohibited as a result of a residential zoning under the concept plan and can continue as permissible uses.

Biodiversity Off-Set Strategy

In situations where native vegetation will be removed as a result of development, it is accepted that appropriate re-vegetation programs can be undertaken to "off-set" the loss. It is also accepted that such off-sets should be, as far as possible, undertaken within the general locality and should result in a beneficial, or at worse, neutral environmental outcome. This is the case with the Claymore Renewal project.

In relation to the Critically Endangered Ecological Community of Cumberland Plain Woodland, a total of 1.15 hectares of the existing 2.75 hectares (42%) is intended to be removed. This is made up of isolated fragments of degraded woodland and its removal is not expected to have a significant impact upon the ecological community within the locality whereas the opportunity for the re-establishment of significant off-set planting areas will be beneficial to the longevity of the community in this area. None of the 0.33 hectares of River Flat Eucalyptus Forest is to be removed.

Sites that are suitable for the required off-set plantings are being identified with Brady Park and Fullwood Park both having potential. The off-set strategy would ensure that the plantings are undertaken within the locality and not dislocated from it as originally proposed. This is a positive outcome.

As was done with the Airds-Bradbury project, the Concept Plan can be conditioned that the no subsequent subdivision application can be approved until the final biodiversity off-set package is in place. This can also be linked with the required Voluntary Planning Agreement.

European Heritage

A study of the view corridors and curtilages associated with both Glenroy cottage, and Hillcrest cottage identified that the most significant historic view corridors towards the properties are from Badgally Road. These views would not be altered by the Renewal Project. Dobell Road would remain as the physical barrier between these properties and most of the urban development. The PPR recommends that the entire Glenroy property (Lot 2 DP703539) be retained and excluded from any subdivision, as part of the Concept Plan. This would ensure view corridors are not compromised. This is considered to be an appropriate outcome for this element of the Concept Plan.

Bus Route

The Renewal Project, with its emphasis on improving street hierarchy and connectivity, would force a change to the existing bus route.

The existing bus route, utilising Dobell Road would provide for all dwellings to be within 400 metres from the route, however it would not service the proposed new retail and community centre on Badgally Road. This would be an unacceptable outcome in the context of 'sustainable' neighbourhood outcomes.

Busways, supported by Transport for NSW (TfNSW) have suggested an alternative route that would service the new retail/community centre but only provide 400 metre coverage to 95% of dwellings within the project and bypass one of the designated seniors living sites. This route would require the upgrading of a proposed local street to collector standard and potentially affect the subdivision layout in four stages of the development. This route is approximately 90 metres shorter than the existing route and by excluding the north eastern end of Dobell Road, is a more direct route.

The PPR sets out Landcom's proposed route. It is approximately 500 metres longer than the Busways option, however it would service the proposed new retail/community centre, all of the seniors living sites and 100% of dwellings would be within 400 metres of the route. Landcom believe that any additional cost incurred by Busways from the longer travel distance would be off-set by the increased patronage this route would generate.

This issue has been considered and commented upon by TfNSW, which makes the following points:

- To be effective, a bus route must at least be perceived as being direct if not actually being direct. A disincentive for through passengers is that the route will be seen to be circuitous
- Our guidelines do not aim for total coverage of 400 metres, but 90%. This avoids introducing bus routes that cover the area, but which no one uses because they are too slow. The proposed Busways route better the 90% goal, which is in fact for the region as a whole and not individual parts
- It takes about three minutes per km when operating bus routes. A 500 metre longer route will add around four minutes to a return trip which has impacts on schedules and the maximum number of trips that a driver can operate in a shift. It also tends to impact on train connections especially on a route such as the 880 which has connections at Minto and Campbelltown
- Wherever possible TfNSW seeks to avoid operating a bus route around the edges of a suburb where buses only have a catchment along one side of the route. Instead we operate buses through the centre of the suburb to minimise bus travel times
- We understand that Busways only operate the current route because there is no other way through the suburb. In this regard making the route faster is considered a positive outcome of the redevelopment and not a negative outcome.

Both the Landcom and Busways preference have benefits and both would provide a high level of service. The distinguishing factor comes down to Landcom's 100% coverage against Busways' shorter route.

Although TfNSW have provided some reasonable arguments in support of the Busways route, an important aim of the Renewal Project should be maximum accessibility for the maximum number of residents. On this basis, the Landcom route is preferred. On the other hand, the transport experts (TfNSW) agree with the transport provider (Busways), that 95% coverage coupled with a more direct and efficient route provides an overall superior public transport package.

Ideally the PPR would set out a route that is supported by all parties. Despite a review by all parties, a difference of opinion remains on this issue. In a situation such as this, Council, in its assessment role, is obliged to make a recommendation, recognising that the Minister for Planning will ultimately decide.

It is recommended that Council support the Landcom preferred route on the basis of its superior coverage for all residents across the project area.

Open Space Embellishment

As previously noted, the Renewal Project incorporates improvements to public open space areas and intends to provide certain upgraded facilities. As a result of the public exhibition and assessment process, questions were raised about both Davis Park and Fullwood Park.

Davis Park has been used as a sports field by the Claymore Primary School, however it is not formally recognised as such by Council. Following discussions with the school, outcomes expected at Davis Park include:

- Realigned playing field suitable for juniors only but used in an informal way
- Inclusion of a basketball court and playground
- Toilet block, pedestrian path and perimeter fencing removed
- Additional landscaping.

Fullwood Park would undergo improvements commensurate with its role as a formal active sporting location. Outcomes expected at Fullwood Park include:

- Two large formal playing fields with irrigation, lighting and fencing
- Informal field/kick about/warm up area
- Paved car parking for 80 vehicles
- Amenities building retained and extended to provide two change rooms and one referee room.

Town Centre Layout

The Town Centre is envisaged as a focal point where shopping, working, leisure and community activities can take place. It would also provide a site for seniors living located close to all amenities. It would provide for a key entry statement and would be accessible to both residents of Claymore as well as those from surrounding areas.

There has been extensive discussion between Council and the proponent in relation to the preferred layout of this precinct, to balance the needs of the different land uses – retail, community, residential and open space. As it is intended for the Town Centre to provide space for a new community centre and child care centre, it is imperative that the layout satisfies the needs of Council. One of the critical issues is whether the community/child care centre should adjoin the proposed park on the eastern side of the new entry road or sit behind the shopping precinct on the western side of the road, with one of the seniors living sites adjoining the park. The PPR shows the latter arrangement. This layout does provide for the community uses to be located on a separate allotment with a separate vehicle access point and car parking for the exclusive use of the community facilities. It is important for these 'independent' site attributes to be retained in any option. It arguably provides a higher level of residential amenity for the future seniors living site.

Although the Concept Plan is a significant step towards delivering the final Renewal Project, separate Development Applications will be required for each of the stages. Given the importance to Council of the town centre layout, it would be prudent to ensure that Council retains the right to negotiate the final layout before those specific Development Applications are prepared. In terms of land use zoning, the concept plan would result in an open space zone for the park, a residential zone for the seniors living site and a commercial/retail zone for the proposed shopping and community uses site. These zones would allow sufficient flexibility to amend the layout as proposed in the PPR, if that was deemed necessary or desirable at a later date. An appropriate condition of consent should be included in any approval of the Concept Plan that final agreement be reached prior to the lodgement of any future Development Application. As Council would be assuming ownership of and responsibility for the community facilities, the required VPA would be the mechanism to document the final agreement.

3.3 Voluntary Planning Agreement

It is intended that Council and the proponent enter into a Voluntary Planning Agreement (VPA) for the payment of local infrastructure contributions. The VPA would set out the dollar value of contributions and the nature of any land dedications or works in kind. Considerable negotiation has already occurred between the parties and similar to the Airs Bradbury project, a condition of consent is to be imposed upon the concept plan approval that requires a VPA to be executed prior to approval of any subsequent subdivision of land within the project area. It is anticipated that a draft VPA will be available shortly for public exhibition and Council's consideration.

4. Public Participation

There has been extensive consultation with Claymore residents over a number of years coordinated by the Claymore Community Regeneration Team. Since 2005-6 engagement has been carried out under the NSW Government's Building Stronger Communities program.

A Community Information Group was established, with nominated precinct representatives and regular updates are provided to residents. The Environmental Assessment Report lists recent consultation activities undertaken over the past two years.

The Concept Plan was publicly exhibited over the period of November 2011 until February 2012. Local residents, local community groups and relevant government agencies were notified in writing and information was made available at a number of locations including the Council's administration building, the HJ Daley Library, Eagle Vale Central Library and on site at the NSW Land and Housing Corporation office at Claymore.

Council received a total of 20 submissions, six from public authorities and 14 from the general public and interest groups. Two of the submissions were in the form of petitions, containing approximately 420 signatures.

One petition (109 signatures) was concerned with the proposed removal of native vegetation. There was a significant number of signatories from Blairmount, although a number of suburbs were represented. The other petition (300 signatures) was concerned with the possible removal of the Baptist Church and Guardian Angels Preschool. Signatories on this petition represented a large number of suburbs from across the district.

The submissions did not raise outright objections to the proposal. Rather, they raised questions and concerns and in some cases, sought amendment to the Concept Plan. In brief, the main issues raised in the submissions received were:

- Impacts on native vegetation and ecological communities
- Displacement of existing non-Council community facilities such as the Baptist Church and Guardian Angel Pre-School
- Location of the new town centre and the impact upon the existing Claymore Shopping Centre
- Provision of suitable new community facilities and public open space areas
- Provision of adequate bus services and route
- Impact of development on adjoining heritage items

Interestingly, there were submissions both for and against the retention of the name, Claymore.

Comments on these issues have been included earlier in this report.

On 30 May 2012, the proponent submitted their Preferred Project Report (PPR). The PPR takes into account issues raised during the public exhibition phase and by Council and/or government agencies and is intended to provide a transparent response from the proponent to the community engagement process. It sets out any proposed amendments to the original Concept Plan and provides a Statement of Commitments which bind the proponent to future actions and/or responsibilities arising from any approval of the concept plan.

5. Conclusion

The Claymore Renewal Project will result in a greater social mix within the suburb with 70% of the housing stock to be privately owned and 30% being retained as public housing. The original development of Claymore, based on Radburn town planning principles, has proven to be unsuccessful and has left a poor planning legacy.

Given the age and condition of the public housing stock and the depressed state of the existing town centre, Claymore is in critical need of redevelopment and it is important that Council support the Claymore Renewal Project. It is therefore recommended that Council support the Concept Plan.

Officer's Recommendation

1. That Council support the approval of the Concept Plan (Master Plan) for the Claymore Renewal Project, noting in particular the following:
 - a. Council must be satisfied of the biodiversity off-set package proposed in the Statement of Commitments prior to the determination of any Development Application under the Concept Plan.
 - b. Council and the proponent must agree on the final land use layout for the proposed town centre prior to the determination of any Development Application under the concept plan.
 - c. All roads that form part of the final bus route shall be of at least minor collector road standard.
 - d. Council support for the relocation of the retail centre to Badgally Road is on the basis of providing a new opportunity for a supermarket and speciality shops for local needs, not for uses reliant upon high volumes of passing trade.
 - e. Provision must be made for the continued presence of the existing Baptist Church and Guardian Angels Child Care Centre.
2. That Council endorse the attached planning assessment report and advise the Department of Planning and Infrastructure accordingly.
3. That Council acknowledge the need to receive a further report in order to endorse the final terms and conditions of the draft Voluntary Planning Agreement for the Claymore Renewal Project prior to placing the Voluntary Planning Agreement on Public Exhibition.
4. That Council, once a determination has been made by the Department of Planning and Infrastructure, notify in writing, those persons who made a submission in respect of the Claymore Renewal Project.

Committee Note: Mr Paul Hourigan, the applicant addressed the Committee in favour of the recommendation. Ms Jacqui Kirby, Mr Tony Robb, Mr Tom Zeremis and Ms Nea Makowski addressed the Committee in opposition of the recommendation or part thereof.

Committee's Recommendation: (Bourke/Oates)

1. That Council support the approval of the Concept Plan (Master Plan) for the Claymore Renewal Project, noting in particular the following:
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- a. Council must be satisfied of the biodiversity off-set package proposed in the Statement of Commitments prior to the determination of any Development Application under the Concept Plan.
 - b. Council and the proponent must agree on the final land use layout for the proposed town centre prior to the determination of any Development Application under the concept plan.
 - c. All roads that form part of the final bus route shall be of at least minor collector road standard.
 - d. Council support for the relocation of the retail centre to Badgally Road is on the basis of providing a new opportunity for a supermarket and speciality shops for local needs, not for uses reliant upon high volumes of passing trade.
 - e. Provision must be made for the continued presence of the existing Baptist Church and Guardian Angels Child Care Centre.
2. That Council seek communication with the Department before next Tuesday to discuss ways to address the issue of rear fencing abutting the public domain, in accordance with Council's preferred position.
 3. That Council endorse the attached planning assessment report and advise the Department of Planning and Infrastructure accordingly.
 4. That Council acknowledge the need to receive a further report in order to endorse the final terms and conditions of the draft Voluntary Planning Agreement for the Claymore Renewal Project prior to placing the Voluntary Planning Agreement on Public Exhibition.
 5. That Council, once a determination has been made by the Department of Planning and Infrastructure, notify in writing, those persons who made a submission in respect of the Claymore Renewal Project.

CARRIED

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

Voting against the Committee's Recommendation were Councillors: Greiss, Hawker and Thompson

This item was CARRIED on the casting vote of the Chairperson.

Council Meeting 3 July 2012 (Kolkman/Bourke)

That the Committee's Recommendation be adopted.

Amendment (Dobson/Kolkman)

That a decision in this matter be deferred to allow further consultation between Council and representatives of Landcom and the NSW Land and Housing Corporation to completely clarify the issues with regard to the existing Claymore Shopping Centre.

Council Resolution Minute Number 117

That the above amendment be adopted.

A copy of the attachments to this report are available separately on Council's website.

3.6 No. 15 Stafford Street, Minto - Demolition of existing garage and construction of a detached garden flat

Reporting Officer

Manager Development Services

Attachments

1. Recommended Conditions of Consent
2. Locality Plan
3. Zoning Plan
4. Site Plan
5. Floor Plan
6. Elevations
7. Landscaping Plan

Purpose

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

Property Description	Lot B DP 391518, No. 15 Stafford Street, Minto
Application No	392/2012/DA-M
Applicant	Mr Srinivasa Srinivasa
Owner	Mr Srinivasa Srinivasa and Ms Kavitha Subramanyam Naidu
Provisions	State Environmental Planning Policy (Affordable Rental Housing) 2009 State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 Campbelltown (Urban Area) Local Environmental Plan 2002 Campbelltown (Sustainable City) Development Control Plan 2009 Campbelltown City Council Section 94A Levy Development Contributions Plan Development Control Plan No. 87 - Public Notification & Public Exhibition Policy
Date Received	7 March 2012

History

The Campbelltown (Sustainable City) Development Control Plan 2009 (SCDCP 2009) permits the construction of detached garden flats with a maximum floor area of 40m². The State Environmental Planning Policy (Affordable Housing) 2009 (AHSEPP 2009) contains provisions for secondary dwellings (garden flats) in which it allows Council to consider applications for garden flats with a floor area of up to 60m², whether attached or detached.

Council's control which limits detached garden flats to a maximum floor area of 40m² is consistent with the State Policy as it does not exceed 60m². It must be noted that the State Policy does not specifically override Council's Development Control Plan; however, Council is required to consider the provisions of the State Policy as part of the assessment of the application.

Report

Introduction

Council has received a development application for the construction of a detached garden flat with a proposed floor area of 60m².

The floor area of the proposed garden flat exceeds Council's requirement for detached garden flats by 20m². Council's SCDCP 2009 limits the floor area of detached garden flats to a maximum of 40m². The applicant seeks approval for the maximum floor area of the detached garden flat to be increased to 60m².

Notwithstanding the above, the relevant provisions of the AHSEPP 2009 allow the development of detached gardens flats up to 60m². However, despite the AHSEPP 2009 being a higher order instrument of statutory weight, the AHSEPP 2009 does not override the floor area provisions of the SCDCP 2009.

As such, Council can consider the request to vary the maximum floor area provision and has the power to either vary the floor area provision to 60m² as proposed, or uphold the 40m² provision specified within the SCDCP 2009. However, it is considered that if Council were to vary the floor area limit of the SCDCP 2009 from 40m² to 60m², it could be argued that a variation to the floor area provision of the SCDCP 2009 would set a precedent for future development applications proposing similar types of development.

With respect to the above issue, in addition to the assessment of the subject application, given the floor area provisions of the AHSEPP 2009, this report also provides discussion as to whether Council should maintain its maximum floor area requirement for detached garden flats, or consider approving Development Applications for detached garden flats which comply with the maximum floor area allowed by AHSEPP 2009. If the Council was to approve a variation to the maximum floor area provision, an amendment to the relevant provisions of Council's SCDCP 2009 would also need to be considered.

The Site

The subject site is a corner allotment with a total area of approximately 751m². The site contains an existing residential dwelling, single carport and single fibro garage.

The external materials of the dwelling comprise light coloured brickwork and a red tiled roof. The carport is integrated within the same roof as the dwelling and is located forward of the front building façade. The single fibro garage is detached from the dwelling and is situated in the area to be occupied by the proposed garden flat.

The western part of the allotment adjoining Ruth Place is zoned for road widening. The area of the allotment affected by road widening is approximately 97m².

In any normal circumstance, the proposal could have been considered as Complying Development under the provisions of the AHSEPP 2009 which allows the construction of a garden flat up to 60m²; however, as the site includes land designated for road widening a Development Application is required to be submitted to Council for determination.

The Proposal

The proposed development involves the construction of a detached garden flat.

Details of the proposed development include the following:

- Demolition of the existing single fibro garage
- Construction of a detached garden flat with a floor area of 59.42m². The internal composition of the proposed garden flat consists of 2 x bedrooms, living/dining area, kitchen and bathroom
- The proposed garden flat is to incorporate similar bricks and roof tiles to match the appearance of the principal dwelling
- The proposed garden flat is to be connected to the existing dwelling's stormwater drainage system which will dispose of runoff to the kerb
- Proposed landscaping located to the front of the proposed garden flat
- Installation of a 2500L rainwater tank and solar hot water system to satisfy BASIX requirements
- Retention of the existing front driveway.

It should be noted that on lodgement of the application, the applicant made it aware to Council staff that it was his preference for the proposal to be assessed as Complying Development under the relevant provisions of the AHSEPP 2009. However, due to the fact that a portion of the subject site is zoned for future road widening, the proposal could not be assessed as Complying Development. As such, the application is required to be assessed in accordance with the relevant provisions of Council's SCDCP 2009, while having regard to the provisions of the AHSEPP 2009.

1. Vision

Campbelltown 2025 - Looking Forward

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

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

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

The strategic directions relevant to this application are:

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

The application has been considered in accordance with these strategic directions and is consistent with them.

Some of the relevant desired outcomes in Campbelltown 2025 Looking Forward include:

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

The proposal is considered to be generally consistent with the relevant desired outcomes within Campbelltown 2025 as the proposed development and land use matches the environmental capacity of the site. It is considered that the development would not have an adverse impact on the surrounding locality and is located on a site that is suitable for the proposed development.

2. Planning Provisions

The development has been assessed in accordance with the matters for consideration under Section 79C of the *Environmental Planning and Assessment Act 1979*.

Section 79C(1)(a) requires Council to consider the provisions of relevant environmental planning instruments and development control plans. The relevant planning instruments are discussed below.

2.1 State Environmental Planning Policy (Affordable Rental Housing) 2009 (AHSEPP 2009)

The proposed garden flat is permissible by virtue of the AHSEPP 2009, which defines the proposal as:

Secondary dwelling means a self-contained dwelling that:

- (a) Is established in conjunction with another dwelling (the principal dwelling), and
- (b) Is on the same lot of land (not being an individual lot in a strata plan or community title scheme) as the principal dwelling, and
- (c) Is located within, or is attached to, or is separate from, the principal dwelling.

The proposed secondary dwelling will be located on the same lot of land as the existing dwelling and is separate from the principal dwelling.

Clause 22 of the AHSEPP 2009 identifies the standards to which a secondary dwelling may be carried out within the prescribed zones and relevantly includes:

- (22) Development may be carried out with consent
 - (1) Development to which this Division applies may be carried out with consent.
 - (2) A consent authority must not consent to development to which this Division applies if there is on the land, or if the development would result in there being on the land, any dwelling other than the principal dwelling and the secondary dwelling.
 - (3) A consent authority must not consent to development to which this Division applies unless:
 - (a) the total floor area of the principal dwelling and the secondary dwelling is no more than the maximum floor area allowed for a dwelling house on the land under another environmental planning instrument, and

- (b) the total floor area of the secondary dwelling is no more than 60 square metres or, if a greater floor area is permitted in respect of a secondary dwelling on the land under another environmental planning instrument, that greater floor area.
- (4) A consent authority must not refuse consent to development to which this Division applies on either of the following grounds:
- (a) site area
 - if:
 - (i) the secondary dwelling is located within, or is attached to, the principal dwelling, or
 - (ii) the site area is at least 450 square metres,
 - (b) parking
 - if no additional parking is to be provided on the site.
- (5) A consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in subclause (4).

The proposed secondary dwelling (garden flat) is consistent with these provisions; specifically the site would contain no other dwelling other than the principal dwelling and the secondary dwelling. The proposed secondary dwelling would not have an area greater than 60m² and would be located on a site that has an area of 654m² (exceeding the minimum requirement of 450m²). No subdivision has been proposed as part of the development application. Under the provisions of this Policy no additional car parking is required for the secondary dwelling. It is considered that the requirements of the AHSEPP 2009 have been satisfied.

The AHSEPP 2009 does not contain detailed development standards except those being for development identified as Complying Development. As a result of Complying Development provisions not applying to the subject land, the application has been assessed against the numerical standards within the SCDCP 2009.

2.2 Campbelltown (Urban Area) Local Environmental Plan 2002 (CLEP 2002)

The subject land is covered by Zone '2 (b) - Residential B' and '5 (d) - Special Uses Local Roads Zone' under the provisions of CLEP 2002. The site is predominantly zoned for residential purposes. A small portion of the site is zoned for road widening, of which the proposed development has no impact on.

The proposed development is defined as a 'dwelling' and as such, is deemed a permissible development subject to the provisions of Clause 9 of CLEP 2002.

A 'dwelling' is defined as follows:

Dwelling means a room or suite of rooms occupied or used, or so constructed or adapted as to be capable of being occupied or used, as a separate domicile.

It is considered the proposed garden flat falls within the definition of a 'dwelling' as stated in CLEP 2002.

Zone: 2 (b) - Residential B

What are the zone objectives and what effect do they have?

The objectives of the zone are:

- (a) to make general provision for land to be used for housing and associated purposes
- (b) to permit the development of a range of housing types
- (c) to encourage a variety of forms of housing that are higher in density than traditional dwelling houses, including accommodation for older people and people with disabilities, in locations which are accessible to public transport, employment, retail, commercial and service facilities
- (d) to allow the carrying out of a reasonable range of activities from dwellings, where such activities are not likely to adversely affect the amenity of the locality
- (e) to allow development which:
 - (i) is compatible with residential use
 - (ii) is capable of visual integration with the surrounding buildings
 - (iii) serves the needs of the surrounding population without conflicting with the residential intent of the zone
 - (iv) does not place demands on services beyond the level reasonably required for residential use.

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

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

3.6 No. 15 Stafford Street, Minto - Demolition Of Existing Garage And Construction Of A Detached Garden Flat

It is considered that the proposal satisfies objectives (a), (b), (c) and (e). Accordingly, Council is able to approve the proposed development should it deem appropriate to do so.

Zone: 5 (d) - Special Uses Local Roads Zone

What are the zone objectives and what effect do they have?

The objectives of this zone are:

- (a) to identify land required for proposed local roads (including the widening of existing roads)
- (b) to allow for the development of such land prior to its acquisition or dedication for use for roads.

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

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

The western boundary of the allotment falls within zone '5 (d) - Special Uses Local Roads Zone' under the provisions of CLEP 2002. The part of the subject land designated under this zone is unaffected by the proposed garden flat.

2.3 State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP)

Section 1.19 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 states that Complying Development may not be carried out on:

'Land that is reserved for a public purpose in an environmental planning instrument'.

As noted previously, the land subject of this development application is dual zoned under the CLEP 2002 with a portion of the land being reserved for a public purpose (road widening).

As a consequence, the presence of the road zone within the subject land effectively prohibits the proposal being assessed as Complying Development. As such, the proposal must be lodged as a standard development application and be assessed under the provisions of SDCDP 2009.

It should be noted, that it is only due to the existence of area zoned for road widening that the application needed to be lodged as a full Development Application.

Where the land was not subject to road widening, the proposal would have been assessed under the Codes SEPP as complying development. In this regard, the proposed 60m² floor area could have been approved by a Private Certifying Authority in accordance with the relevant provisions of the AHSEPP 2009.

2.4 Campbelltown (Sustainable City) Development Control Plan 2009 (SCDCP 2009)

The application has been assessed having regard to SCDCP 2009. The aims of this plan include the following:

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

The proposal has been considered against the relevant aims listed above. In this regard, the proposed garden flat is considered to enhance the character of the surrounding built environment as the proposed garden flat is to replace an aged fibro garage. Furthermore, the proposed garden flat is considered to maintain the character of the built environment as it will be constructed of materials/colours which are similar to that of the existing principal dwelling. It is considered that the subject land is capable of supporting the proposed development as the total area of the allotment is approximately 751m² and the area of developable land excluding road widening is approximately 654m². The proposed garden flat is considered to increase the variety of housing choices within the City of Campbelltown as the proposed garden flat is another form of housing which is ancillary to the principal dwelling. Given the above, the proposal is considered to generally comply with the aims of the SCDCP 2009.

The proposal has been assessed with regard to the relevant criteria contained within Part 2 and Part 3 of SCDCP 2009.

2.4.1 Part 2 - Requirements Applying to All Types of Development

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

- a) Sustainable building design – A BASIX certificate has been submitted with the application which demonstrates that the proposal will achieve the required water, thermal comfort and energy targets. A rainwater tank and solar hot water system is to be installed as part of the garden flat.
- b) Landscaping – The proposal includes minor landscaping works located in front of the proposed garden flat.
- c) Demolition – The existing single fibro garage is to be demolished.
- d) Water cycle management – The development proposes to drain stormwater to the kerb.
- e) Security – The proposed garden flat has 2 bedroom windows facing the street which is considered to adequately address street surveillance.
- f) Waste management – A waste management plan has been submitted and is considered to be satisfactory.

2.4.2 Part 3 - Dwelling Houses, Narrow Lot Dwellings, Multi Dwellings and Residential Subdivision

The proposed garden flat has been assessed against the relevant design criteria within Part 3 of SCDCP 2009. A summary of results are presented as follows:

Table 1: Proposed Garden Flat - Requirements

		Campbelltown (Sustainable City) Development Control Plan	
Control	Proposed	Requirement	Complies
Design	Complementary design to the principal dwelling – brick exterior and tiled roof	Similar or complementary design to the principal dwelling	Yes
	Side entrance – not directly visible from the public street	Entry not to be visible from the public street	Yes
	BASIX submitted	BASIX Certificate	Yes
Maximum floor area – detached garden flat	59.42m ² (60m ²)	40m ²	No
Front setback	6.64m	5.5m	Yes
Side setback	0.9m	0.9m	Yes
Rear setback	4.03m	5.0m	No

3.6 No. 15 Stafford Street, Minto - Demolition Of Existing Garage And Construction Of A Detached Garden Flat

		Campbelltown (Sustainable City) Development Control Plan	
Control	Proposed	Requirement	Complies
Maximum height	Single storey Located at ground level	Single storey Located at ground level	Yes Yes
Car parking	Separate car parking space available on existing driveway in front of proposed garden flat	One separate car parking space located behind the primary building alignment	No

The following section discusses the three non-compliances with SCDCP 2009. The issues to be discussed are listed below.

2.4.3 Maximum floor area – detached garden flat

Comment –The SCDCP 2009 restricts the floor area of detached garden flats to a maximum of 40m², whereas the AHSEPP 2009 allows detached garden flats with an area of up to 60m². Although the proposal does not comply with the SCDCP 2009 (the controlling policy), the provisions of the AHSEPP 2009 are required to be considered as part of the assessment of the subject application.

Due to the allotment being subject to road widening (although without influence on the garden flat), the proposal (something that would usually be dealt with as Complying Development under the AHSEPP 2009) is required to be lodged as a standard Development Application. As such, the application is subject to the provisions of Council's SCDCP 2009 and not the AHSEPP 2009.

Where the site was not subject to road widening, it is likely that the proposal would have been considered under the AHSEPP 2009 as Complying Development and by a Private Certifying Authority. In this case, the proposed floor area of 60m² could be approved.

It is important to note that the area of the allotment affected by road widening (prohibiting Complying Development) is situated on the opposite side of the subject site and does not affect the proposal whatsoever. Further to this, if the area designated for road widening had already been acquired by Council, Complying Development would be permitted on the residue allotment which would in turn permit a detached garden flat with a floor area of 60m². It is therefore considered unreasonable in the circumstances, to restrict the floor area of the proposed garden flat to 40m² based on the single reason that the site is affected by road widening.

Notwithstanding the above, it is considered that the proposed garden flat is of high quality design and incorporates complementary building materials/colours to that of the principal dwelling. The proposed garden flat would not be supported if it was constructed of less desirable materials, such as a prefabricated demountable building. Additionally, the proposal includes some minor landscaping located in front of the proposed garden flat which is not required under the provisions of SCDCP 2009 or BASIX.

It is considered that the site (with or without the area designated for road widening) is capable of supporting the proposed garden flat. It is also important to note that the principal dwelling remains in compliance with the minimum design requirements of the SCDCP 2009, such as Council's floor space ratio, minimum open space requirements, deep soil planting, visual privacy, solar access and car parking requirements.

Furthermore, with an increase to the maximum floor area, the proposed garden flat is considered to provide a more comfortable living environment for its future occupants. The proposed increase in floor area is considered to increase the functionality of the site without creating any negative aesthetic, amenity or privacy impacts.

2.4.4 Rear setback

Comment – The SCDCP 2009 requires a 5m rear setback for garden flats and dwellings. The AHSEPP 2009 does not have any controls in respect to rear setback for secondary dwellings, except in the case of the development being Complying Development, which requires a minimum 3m rear setback.

The nature of the property, being a corner allotment is considered to mitigate the impact of the proposed development having a 4m rear setback. The property at the rear, being No. 3 Ruth Place is located approximately 1m from the rear boundary of the subject site. The existing dwelling located on the subject property is also located up to 1m from the rear boundary. The relationship of the two dwellings is that they are more consistent with that of a side boundary interface. The net result being that the proposed garden flat and adjoining property at No. 3 Ruth Place will be separated by approximately 5m.

In any normal circumstance, the variation to the rear setback is considered acceptable for the proposed garden flat given the relationship between the proposed flat and the adjoining property at No. 3 Ruth Place. In a physical sense the two dwellings have a side setback relationship, which poses no adverse amenity impacts in terms of privacy/overlooking, overshadowing or visual appearance.

Furthermore, as a guide, the proposal is consistent with the Complying Development provisions of the AHSEPP 2009 which allows a 3m rear setback.

In this regard it is not considered unreasonable for consideration to be given to accepting a 1m encroachment within the 5m rear setback area specified in SCDCP 2009.

2.4.5 Car parking

Comment – The SCDCP 2009 requires one separate car parking space for the proposed garden flat which is to be located behind the primary building alignment. The proposed garden flat does not provide a separate car parking space located behind the primary building alignment; however, a car parking space is available on the existing driveway located in front of the proposed garden flat. This is considered satisfactory as an additional car can be situated on the existing driveway.

This is not considered an unreasonable proposal given that this arrangement already exists and in turn, would create no discernible impact on the streetscape or that of the amenity of the surrounding neighbourhood.

3.6 No. 15 Stafford Street, Minto - Demolition Of Existing Garage And Construction Of A Detached Garden Flat

Notwithstanding the above, under the provisions of the AHSEPP 2009, Council cannot refuse consent to the proposed garden flat based on the grounds that no additional car parking is provided.

Table 2: Existing Dwelling House - Requirements

		Campbelltown (Sustainable City) Development Control Plan	
Control	Proposed	Requirement	Complies
Deep soil planting	>20% of the site will remain for deep soil planting	Minimum 20% of the site to remain available for deep soil planting	Yes
Floor space ratio for house and garden flat	0.43:1 – excluding area affected by road widening	0.55:1	Yes
	0.37:1 – including area affected by road widening		Yes
Private open space for existing dwelling	Located behind primary building setback	Located behind primary building setback	Yes
	>75m ²	Minimum area of 75m ²	Yes
	Minimum width >3m	Minimum width of 3m	Yes
	Minimum levelled area >5m x 5m	Minimum levelled area of 5m x 5m	Yes
	Minimum unfragmented area of >60m ²	Minimum unfragmented area of 60m ²	Yes
	Direct access from living room	Direct access from living room	Yes
Visual privacy	No overlooking	Windows of habitable room/balcony shall not directly face neighbouring habitable windows/balcony/open space within 6m	Yes
Solar access	Living area has north-western facing window	Living area to have northern orientation	Yes
	>20m ² of private open space to receive 3 hours of solar access on 21 June between 9.00am and 3.00pm	20m ² of private open space to receive 3 hours of solar access on 21 June between 9.00am and 3.00pm	Yes
Carport	1 existing carport available for dwelling	A dwelling house shall have one undercover car parking space	Yes

It is considered that the principal dwelling would maintain its minimum site requirements.

3. Planning Assessment

Section 79C of the *Environmental Planning and Assessment Act 1979*, states that when determining a development application, Council must take into consideration the provisions of any relevant environmental planning instrument and any relevant development control plan. As a result, it is required that Council considers the provisions of the AHSEPP 2009 when determining this development application.

3.1 Limit of Council's powers in maintaining the SCDCP 2009 detached floor area requirement of 40m²

The NSW Department of Planning & Infrastructure has issued a fact sheet to assist consent authorities when considering proposals 'supporting secondary dwellings (granny flats)'. Within the fact sheet the following clauses reinforce the fact that the AHSEPP 2009 does not override the provisions found within a Development Control Plan such as SCDCP 2009.

These clauses are presented in the following table:

Page	Clause in Fact Sheet
2	Development application: You may lodge a development application with your local council where your proposal is not able to meet complying development provision in the AHSEPP. In this case, council assesses and determines the proposal in accordance with the AHSEPP and any relevant council policies.
4	Council controls: Any relevant council policy that applies to a secondary dwelling will continue to apply.
5	Q. Do other local council planning controls continue to apply? A. If the AHSEPP does not explicitly override a local council planning control, then the local council planning control continues to apply.

Further to the above, Section 8 of the AHSEPP 2009 states the policies relationship with other environmental planning instruments, as per the following:

If there is an inconsistency between this Policy [AHSEPP 2009] and any other environmental planning instrument [CLEP 2002], whether made before or after the commencement of this Policy, this Policy [the AHSEPP 2009] prevails to the extent of the inconsistency.

The *Environmental Planning and Assessment Act 1979*, defines an environmental planning instrument as per the following:

Environmental planning instrument: means an environmental planning instrument (including a SEPP or LEP but not including a DCP) made, or taken to have been made, under Part 3 and in force.

It is considered that as SCDCP 2009 is not defined as an environmental planning instrument the AHSEPP 2009 cannot strictly override its provisions.

3.6 No. 15 Stafford Street, Minto - Demolition Of Existing Garage And Construction Of A Detached Garden Flat

Council has consistently applied the numerical standards of SCDCP 2009 for detached garden flats. It cannot be argued that Council has taken an inconsistent approach in approving detached garden flats with a floor area greater than 40m². While detached garden flats with a floor area between 40m² - 60m² are frequent throughout the Campbelltown Local Government Area, these have been approved as Complying Development through the private certification process. A garden flat assessed as Complying Development and in accordance with the AHSEPP 2009 can be approved with a floor area of up to 60m².

Despite the numerical differences between the subject policies, all previous standard development applications lodged with Council, and assessed in accordance with the provisions of SCDCP 2009, have had the 40m² maximum floor area consistently applied.

3.2 Applicant's argument for varying the SCDCP 2009 detached floor area of 40m² to 60m²

The applicant has engaged a town planning consultant to argue for a variation to the 40m² detached floor area requirement. The argument relates to the Planning Principles adopted by the NSW Land and Environment Court after determining the case 'Stockland Development Pty Ltd v Manly Council [2004] NSWLEC 472 revised - 01/10/2004' which deals with 'weight to be given to Development Control Plans and to policies which had been adopted by Councils although not embodied in DCPs'.

The response discusses five Planning Principles, of which the following principle is considered to be most relevant to Council's consideration of the subject application:

A development control plan which can be demonstrated, either inherently or perhaps by the passing of time, to bring about an inappropriate planning solution, especially an outcome which conflicts with other policy outcomes adopted at a State, regional or local level, will be given less weight than a development control plan which provides a sensible planning outcome consistent with other policies.

Council's SCDCP 2009 was endorsed by Council on the 24 June 2009 in which it decided to limit the floor area of detached garden flats to 40m². With the passing of time, the AHSEPP 2009 (last modified 6 January 2012) permits detached garden flats with a floor area up to 60m². Therefore, it could be argued that the SCDCP 2009 is (in a comparative sense) outdated when considered against the recent changes to the AHSEPP 2009 and brings about planning outcome that is inconsistent with the AHSEPP 2009.

It is stated that SCDCP 2009 hinders the attainment of the 60m² floor area provision contained within AHSEPP 2009. It is stated that SCDCP 2009 fails to work in partnership with the State Government by limiting the maximum floor area permissible under AHSEPP 2009.

It is stated that the detached floor area of 40m² within SCDCP 2009 does not encourage affordable rental housing stock as encouraged by the AHSEPP 2009, especially when Sydney is enduring a period of high housing prices and low availability of affordable housing.

3.6 No. 15 Stafford Street, Minto - Demolition Of Existing Garage And Construction Of A Detached Garden Flat

3.3 Internal Referrals

The proposal was referred to Council's Building Certification Unit, where it was advised that the proposed garden flat can achieve compliance with the Building Code of Australia and relevant fire safety standards.

The proposal was referred to Council's Development Engineers, where it was considered that the proposed garden flat can adequately dispose of stormwater to the kerb.

The proposal was referred to Council's Technical Services Section, where it was determined the proposed garden flat would not be affected by flooding.

3.4 Section 94A Development Contributions

The estimated value of the complete development is \$81,000. As the proposed works are less than \$100,000, Section 94A Development Contributions do not apply to the proposal.

4. Public Participation

In accordance with Development Control Plan No. 87 - Public Notification & Public Exhibition Policy, the proposed garden flat requires public notification to owners of adjoining land. Accordingly, the application was notified to adjoining residents and no objections were received by Council.

5. Amendment to SCDCP 2009 – wider considerations

Where Council was of a mind to allow the proposed variation to the maximum floor area provisions for detached garden flats, it may be argued that the variation would set a precedent for any future development applications of a similar type. As such, if a variation was allowed, Council would also need to consider whether or not to amend the development control within SCDCP 2009, which currently restricts the maximum detached floor area for garden flats to 40m².

It should be noted that with any approval of development applications for detached garden flats with floor areas between 40m² - 60 m², those applications would only be considered on the basis that the proposal satisfies the minimum design requirements of the SCDCP 2009 for detached garden flats; while also maintaining the dwelling's minimum site requirements, adhering to Council's prescribed floor space ratio, open space requirements, deep soil planting, visual privacy, solar access and car parking requirements.

As is usual with any development proposal, any variation to these development standards would have to be strongly justified and would only be considered based on the proposal's individual merits. For example, the variation of the rear setback for this current application is considered to have minimal environmental impact on surrounding land uses.

3.6 No. 15 Stafford Street, Minto - Demolition Of Existing Garage And Construction Of A Detached Garden Flat

A change to the SCDCP 2009 to allow a detached garden flat floor area up to 60m² is likely to increase the number of development applications for garden flats seeking floor areas between 40m² - 60m². Such a change to the SCDCP 2009 would bring Campbelltown's Development Control Plan into line with the State Government's standards and the maximum floor area provisions for Complying Development provided within the AHSEPP 2009.

6. Conclusion

The proposed development is permissible within the zone; however, the assessment has found that the proposed development is inconsistent with some provisions of the SCDCP 2009. Notwithstanding, it is considered that the proposal would have a negligible impact on the surrounding environment, and for the reasons discussed within the report, it is recommended that the variation to the 40m² numerical standard be allowed.

To approve the development proposal Council would need to allow for a variation to its maximum floor area for detached garden flats (as set down by SCDCP 2009), which may be seen as a precedent for future development proposals for garden flats.

Where an application is lodged as a Complying Development, the AHSEPP 2009 allows the consent authority to consider a garden flat up to 60m², whether attached or detached from the principal dwelling. It is only due to the fact that a section of the subject site is zoned for road widening, that the application could not be assessed as complying development under the AHSEPP 2009 and is therefore subject to the more restrictive standards found within Council's SCDCP 2009.

The minor non-compliance with the rear setback is considered to result in an insignificant impact on the amenity of neighbours and is considered satisfactory, given the corner configuration of the allotment and the relationship between the subject site and the adjoining property at No. 3 Ruth Place.

Despite the variations sought, the proposed development is considered generally consistent with the overall built character of the area.

Having regard to the heads of consideration under S79C of the *Environmental Planning and Assessment Act 1979*, as well as matters raised in this report, the proposed development is not considered to result in any significant environmental impacts and should be approved.

Officer's Recommendation

1. That Development Application No. 392/2012/DA-M, at Lot B in DP 391518, No. 15 Stafford Street, Minto, proposing the demolition of an existing garage and the construction of a detached garden flat be approved, subject to the draft conditions at Attachment 1.
2. That the development controls within the SCDCP 2009, which restrict the maximum detached floor area for garden flats to 40m², be increased to 60m² and that such amendment be included in the next SCDCP review.
3. That subject to compliance with other relevant provisions of the SCDCP 2009, future development applications for detached garden flats with a maximum floor area of up to 60m² be approved under delegated authority.

Committee's Recommendation: (Oates/Kolkman)

That the Officer's Recommendation be adopted.

CARRIED

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

Voting against the Committee's Recommendation: Nil

Council Meeting 3 July 2012 (Greiss/Borg)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 118

That the Officer's Recommendation be adopted.

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

Voting against the Council's Resolution: Nil

A copy of the attachments to this report are available separately on Council's website.

3.7 Nos. 73-77 Thunderbolt Drive, Raby - Consolidation Of Two Allotments, Construction Of Internal Fitout Of Existing Dwelling, Reconfiguration Of Car Parking And Landscaping And Use As A Childcare Centre

3.7 Nos. 73-77 Thunderbolt Drive, Raby - Consolidation of two allotments, construction of internal fitout of existing dwelling, reconfiguration of car parking and landscaping and use as a childcare centre

Reporting Officer

Manager Development Services

Attachments

1. Recommended Conditions of Consent
2. Locality Plan
3. Site Plan
4. Floor Plan
5. Landscape Plan

Purpose

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

Property Description	Nos. 73-77 Thunderbolt Drive, Raby
Application No	2446/2011/DA-C
Applicant	Andrew Waite Architecture
Owner	Taul's Properties Pty Ltd
Provisions	Children (Education and Care Services) Supplementary Provisions Regulation 2004 Campbelltown (Urban Area) Local Environmental Plan 2002 Campbelltown (Sustainable City) Development Control Plan 2009
Other Provisions	Campbelltown 2025 – Looking Forward
Date Received	9 December 2011

History

The original development application for the child care centre at Nos. 75-77 Thunderbolt Drive was approved by Council in 1986 which also included the consolidation of two allotments (one lot fronting Zeppelin Street, the second lot fronting Thunderbolt Drive).

3.7 Nos. 73-77 Thunderbolt Drive, Raby - Consolidation Of Two Allotments, Construction Of Internal Fitout Of Existing Dwelling, Reconfiguration Of Car Parking And Landscaping And Use As A Childcare Centre

A development application was also lodged with Council on 27 June 2008 for the fit out and use of the premises at No. 73 Thunderbolt Drive, Raby as an after school care facility, however was understood to have been withdrawn on 12 May 2009 in response to the following issues:

1. Compliance with the Building Code of Australia

Council has undertaken a brief assessment of the proposed building changes against the requirements of the Building Code of Australia. That assessment revealed several matters that will need to be addressed prior to further work being undertaken on the proposal. Briefly, some matters identified are below:

- Openings in walls within three metres of a property boundary will need to be protected to reduce the transmission of fire
- Walls within 1.5 metres of boundary are to achieve a minimum 90 minute fire rating. The existing brick veneer may not achieve this
- Disabled access is required throughout the building required, ie min. 870mm doors and no steps
- Disabled toilet required
- Disabled car parking space required.

2. Statement of Environmental Effects

You are requested to submit a revised Statement of Environmental Effects that considers Council's relevant development control plans, having particular regard to matters such as car parking and landscaping.

Council's Development Control Plan No. 52 requires that car parking be provided on the subject property at the following rate:

- One space per employee, plus
- Three pick up and drop off spaces, plus
- One space per 20 children or part thereof.

Further, Council's Sustainable City Development Control Plan, which also applies to the site, contains controls relating to car parking and landscaping for the development of commercial buildings throughout the City.

The car parking 'options' and landscaping plan submitted to Council with the application does not adequately demonstrate compliance with the relevant controls in the Plans detailed above.

The Statement of Environmental Effects shall also detail the proposed number of children that would be accommodated at the centre and detail any discussions/advice provided to date by the Department of Community Services.

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3. Traffic impacts

You are requested to supply additional information regarding the potential traffic impact that the development may have. The traffic impact assessment shall include details regarding the peak number of vehicles that would enter and leave the site during normal operations, the existing traffic situation in the immediate vicinity (having particular regard to the existing child care centre operating on the adjoining property) and car parking provision at the site.

4. Noise impacts

You are requested to supply an assessment of the potential noise impacts of the proposed centre, having regard to its residential location and the cumulative impacts of noise from children playing and vehicles.

It is further noted that issues were raised in respect of traffic and car parking impacts when an application was lodged in 1993 to expand the existing childcare centre. Council's then Traffic Committee engaged the services of the Police to determine whether there were issues in relation to vehicles parking on the footpath when accessing the childcare centre and what could be done about the issues. A recommendation was made from Council that a condition of development consent require that signage be installed advising clients and visitors that there shall be no parking on the footpath anywhere in the vicinity of the childcare centre.

A site inspection was carried out on 30 January 2012. During this site visit it was noted that cars were parked in the street either side of Thunderbolt Drive with only one vehicle and the childcare centre bus parked on the actual site.

Report

Council has received a development application for the expansion of an existing childcare centre by amalgamation with an adjoining residential building, construction of an internal fit out and reconfiguration of car parking and landscaping at Nos. 73-77 Thunderbolt Drive, Raby.

The Site

The existing Pied Piper Kindergarten Child Care Centre is located at Nos. 75-77 Thunderbolt Drive, Raby. The owner of the site has also acquired the adjoining dwelling at No. 73 Thunderbolt Drive with the intention to amalgamate both properties into one in order to operate a larger child care centre.

The site is situated on the northern side of Thunderbolt Drive and is an irregular shaped configuration currently accommodating two residential properties with a total site area of 2,358 square metres. The site has a northern frontage of 17.8 metres to Zeppelin Street and a southern frontage of 56.1 metres to Thunderbolt Drive. The site is surrounded by residential properties.

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The Proposal

The proposal is to amalgamate the two sites and to expand the existing child care centre. The proposal consists of:

- Internal demolition and fit out of the existing dwelling at No. 73 Thunderbolt Drive Raby for use as a child care centre
- Construction of a metal framed awning over a concrete paved area at the rear of the dwelling to provide a covered outdoor play area as well as a covered access between the dwelling (proposed to be converted) and the existing child care buildings on land known as Nos. 75-77 Thunderbolt Drive
- Reconfiguration of the existing car park area at Nos. 75-77 and integration with new car parking at No. 73 to increase the numbers of car parking spaces from seven spaces to 15
- Additional 25 children to be accommodated between both sites
- New landscaping and fencing.

The child care centre is proposed to increase the number of children from 75 to 100 ranging between the ages of 0-12 (after school care is included as well as). The breakdown of ages proposed comprises of 16 children between the ages of 0 to 2 years, 16 children between the ages of 2 to 3 years and 43 children between the ages of 3 to 6 years with a total of 18 staff to be employed. The child care centre in its expanded form is to continue to operate under the existing operating hours which are 6.30am to 6.30pm Monday to Friday.

Assessment

The application has been assessed having regard to the matters for consideration prescribed under the *Environmental Planning and Assessment Act 1979*. Subsequently, the following matters have been identified for further consideration and discussion.

1. Vision

1.1 Campbelltown 2025 - Looking Forward

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

- Responds to what Council understands people want the City of Campbelltown to look, feel and function like
 - Recognises likely future government policies and social and economic trends
-

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- Sets down the foundations for a new town plan that will help achieve that future.

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

The strategic direction relevant to this application is:

- Creating education, employment and entrepreneurial opportunities.

The application is consistent with the above strategic direction as an increased level of local childcare services within Campbelltown is considered to be beneficial in facilitating the City's orderly development and operation, particularly with respect to satisfying the demands of the existing and future populations as well as providing employment opportunities.

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

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

Although there are some aspects of this proposal that might be considered to be in excess of that which the people of Campbelltown City want the City to look, feel and function like, the development appears to be not inconsistent with the relevant desired outcomes within Campbelltown 2025 specifically in relation to providing a proposed development that can function satisfactorily and one that does not exceed the environmental capacity and capability of the site.

2. Planning Provisions and Assessment

Section 79C(1)(a) requires Council to consider any relevant environmental planning instrument, draft environmental planning instrument or development control plan.

2.1 Campbelltown (Urban Area) Local Environmental Plan 2002

The site is located within a 2(b) Residential B zone, under the provisions of Campbelltown (Urban Area) Local Environmental Plan (CLEP). The proposal is defined as a "childcare centre" and is permissible with Council's development consent.

The objectives of this zone are:

- a) to make general provision for land to be used for housing and associated purposes
-

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- b) to permit the development of a range of housing types
- c) to encourage a variety of forms of housing that are higher in density than traditional dwelling houses, including accommodation for older people and people with disabilities, in locations which are accessible to public transport, employment, retail, commercial and service facilities
- d) to allow the carrying out of a reasonable range of activities from dwellings, where such activities are not likely to adversely affect the amenity of the locality, and
- e) to allow development which:
 - i. is compatible with residential use, and
 - ii. is capable of visual integration with the surrounding buildings, and
 - iii. serves the needs of the surrounding population without conflicting with the residential intent of the zone, and
 - iv. does not place demands on services beyond the level reasonably required for residential use.

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

Consent must not be granted for development on land within the 2(b) residential zone unless the consent authority is of the opinion that carrying out the proposed development would be consistent with one or more of the objectives of this zone.

It is considered that the proposal is consistent with at least one objective of the zone, being objective (a) and hence, Council is able to approve the application should it deem appropriate to do so.

However, and notwithstanding the above, the proposal could in part be argued to be inconsistent with the relevant objective (e) of the zone in that the even though the proposed development is permissible within the zone, the increased size of the child care centre has a potential to adversely affect the amenity of the locality in respect to noise and traffic issues. The proposal increases the intensity of an existing lawful commercial business, being the childcare centre, in an area that is generally zoned for residential purposes.

2.2 Campbelltown (Sustainable City) Development Control Plan 2009

Campbelltown (Sustainable City) Development Control Plan 2009 applies to the subject land. The aims of the SCDCP are:

- Ensure that the aims and objectives of any relevant EPI including Campbelltown's LEPs and IDOs are complemented by the Plan
-

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

It is considered that the development is not inconsistent with a number of the relevant aims of the SCDCP as it can be shown to uphold the relevant aims and objectives of the CLEP as well as being development on land that is considered to generally capable of supporting the development.

2.2.1 Part 2 - Requirements Applying to all Types of Development

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

- a) **Views and Vistas** - The proposed development appropriately responds to Campbelltown's important views and vistas to and from public places.
 - b) **Landscaping** – A landscape plan prepared by a landscape architect has been submitted which details new landscaping within the front setback and along the side boundaries of the site in front of both buildings. The proposed landscaping in the front setback are is minimal and does not necessarily comply with the requirements of the SCDCP as detailed below. However, if the Council was to approve the subject application, a condition of consent could be included that required the applicant to provide an updated landscaping plan for Council's approval, that showed substantial planting of suitable species along the front of the property so as to improve the current limited landscaping as well as reduce the impact of the carpark on the streetscape by way of landscaped screening between the carpark and the road boundary. This could be required prior to the issue of a Construction Certificate with all landscaping to be installed prior to the occupation of the new facility.
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- c) **Flora and Fauna** - A flora and fauna assessment was not required to be undertaken as the subject site does not contain any native vegetation and/or habitat for threatened biodiversity.
- d) **Erosion and Sediment Control** - An erosion and sediment control plan has not been submitted however would be conditioned as part of any approval granted by Council.
- e) **Cut and Fill** - No cut and/or fill is required for the proposed development.
- f) **Demolition** - A demolition plan was submitted detailing all proposed demolition works and is considered to be satisfactory.
- g) **Water Cycle Management** - A Water Cycle Management Plan was not required to be submitted as part of the proposed development. Council's Development Engineers have assessed the stormwater details where no issues were raised.
- h) **Heritage Conservation** - The subject site is not located within a zone of archaeological sensitivity nor are there any heritage items located on or within the surrounding locality of the subject site.
- i) **Fencing and Retaining walls** - A new lapped and capped or colourbond fence 1.8 metres high would be provided along the site's side and rear boundary. No retaining walls are proposed to be constructed.
- j) **Security** - The proposed development has been designed to minimise opportunities for crime and enhance security.
- k) **Risk Management** - The proposal does not have any adverse impacts nor is it any significant risk as the subject site is not bushfire prone land nor is it located in a mine subsidence area.
- l) **Waste Management** - A Waste Management Plan for demolition and construction works has been submitted and is considered to be satisfactory.

2.2.2 Part 7 Child Care Centres

Part 7 - Child Care Centres sets out the requirements for child care centres within the Campbelltown Local Government Area. A thorough assessment of the proposed development is detailed below.

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		Campbelltown (Sustainable City) Development Control Plan 2009	
Control	Proposed	Requirement	Complies
Design Requirements	Not accessed from a State road	Not accessed from a State road	Yes
	Not located within 100m of the intersection of a State road	Not located within 100m of the intersection of a State road	Yes
	Not located on an allotment within a no through road	Not located on an allotment within a no through road	Yes
	The carriageway for the building to be converted to a child care centre is 6m in width	Not located on a lot where the carriageway is less than 6.5m in width	Yes
	Existing building is to be converted into a childcare centre so any asbestos or lead paint would be removed	Not located within a building that is constructed of materials containing asbestos or lead paint	Yes
	Is not located adjacent to/near a potentially hazardous industry, hazardous industry, potentially offensive industry; offensive industry, intensive horticulture, intensive livestock keeping or a waste management facility	Must not be located adjacent to a potentially hazardous industry, hazardous industry, potentially offensive industry; offensive industry, intensive horticulture, intensive livestock keeping or a waste management facility.	Yes
	Not located within a 150m radius of a sex industry premises	Not located within a 150m radius of a sex industry premises	Yes
	Vehicles manoeuvring to/from the enclosed garage introduces a safety risk to unsighted people walking in the vicinity of the garage.	Not located on an allotment that has a potential safety hazard for vehicle and pedestrian traffic unless it is demonstrated there would be no conflict	No
	Not located within a basement	Not within a basement	Yes
	Has not fully demonstrated that there would be no adverse impacts relating to vehicle manoeuvrability on site.	Not located on a local street unless it is demonstrated that there are no adverse traffic, onsite parking and manoeuvrability and amenity impacts	No
Site Requirements	Area is 2,358sqm (Consolidated allotments)	Minimum area of 800sqm	Yes
	Overall width is 55.63m (consolidated allotments)	Minimum width 20m	

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		Campbelltown (Sustainable City) Development Control Plan 2009	
Control	Proposed	Requirement	Complies
Streetscape	<p>Proposal is single storey in keeping with existing houses nearby</p> <p>Air conditioning units are located to the side of the building behind a fence that is suitably landscaped to screen</p> <p>Outdoor play area is located directly adjacent to indoor play area in a covered and uncovered area as well as the use of existing play areas</p>	<p>Buildings shall complement the scale of existing development</p> <p>Clothes lines and air conditioning units shall be screened and not visible from a public street</p> <p>Design and layout of outdoor play areas shall relate to the land ensuring amenity of adjoining properties is protected.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
Fencing	<p>No fencing has been proposed alongside the primary and secondary street frontage for either site</p> <p>Fencing to the western and northern boundary is 1.8m high either lapped and capped or colourbond</p> <p>No bonded sheet metal fencing has been proposed in front of the main building line</p>	<p>Fencing along primary and secondary street frontages shall not be bonded sheet metal, not be higher than 1.2m and shall be articulated, incorporate landscape treatments and complement the building</p> <p>Fencing to the rear and side boundaries shall be located behind required setbacks and a maximum of 2.1m in height</p> <p>Bonded sheet metal fencing shall only be permitted located behind a 1.5m wide landscape buffer and behind the building line of all street frontages</p>	<p>Yes</p>
Hours and Days of Operation	<p>6.30am - 6.30pm Monday to Friday</p> <p>No Saturday</p> <p>No Sunday or public holidays</p>	<p>7am - 7pm, Monday to Friday</p> <p>7am - 6pm on Saturday</p> <p>No Sunday or public holiday</p>	<p>Yes</p>
Visual and Acoustic Privacy	<p>Acoustic report has been submitted by a qualified person with an argument that background noise levels can be exceeded by more than 5 dB(A) but not by 10dB(A)</p> <p>Views to and from neighbouring properties minimised</p>	<p>Acoustic report prepared by a suitably qualified person to be submitted with background noise level not exceeding 5dB(A)</p> <p>Views to and from neighbouring properties to be minimised</p>	<p>No</p> <p>Yes</p>

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		Campbelltown (Sustainable City) Development Control Plan 2009	
Control	Proposed	Requirement	Complies
Waste Management	Screened by way of fence and landscaping Waste management plan submitted	Waste areas to be screened from public view Waste management plan submitted	Yes
Residential Zones	Maximum of 100 children Located on ground floor Front setback is 8m due to the driveway and location of car spaces, side setback is 1.2m (existing building other side) and 17.6m to the rear	Maximum of 50 children Located on ground floor Setback a minimum of 5.5m from primary street frontage, 5m to the rear, 3m from any secondary street boundary and 3m from the side	No Yes No (side boundary only)
Car Parking and Access	Parking area setback for whole site ranges from 0.9m to 2.5m from front boundary Eight additional car parking spaces provided (25 additional children) Generally designed in accordance with Australian Standards 2890.1 No stacked spaces Separate pedestrian access has been provided Minimum 6m wide for double driveway Driveway is located more than 6m from the tangent point of the nearest unsignalled intersection All cars can manoeuvre without the need to undertake more than a three-point-turn. Traffic Impact Statement has been submitted for the proposal	Parking area setback a minimum of 3m from front boundary Minimum of one for every four children = six spaces Designed in accordance with Australian Standards No stacked Separate pedestrian access required Minimum 3m for one way, minimum 6m for two way Driveways shall be located a minimum distance of 6m from the tangent point of an unsignalled intersection No car shall be required to make more than a three-point turn. Traffic Impact Statement required for 20 or more children	No Yes Yes Yes Yes Yes Yes Yes
Access and Mobility	Proposal complies with relevant Australian Standards and BCA	Must comply with relevant Australian Standards and BCA	Yes

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		Campbelltown (Sustainable City) Development Control Plan 2009	
Control	Proposed	Requirement	Complies
Emergency Evacuation Plan	Emergency evacuation plan submitted	Emergency evacuation plan required for 20 or more children	Yes
Landscaping	A variable width (0.9m to 2.5m) landscape strip is proposed between the primary street boundary and the carpark.	3m wide strip along primary and secondary street frontage (if applicable).	No
	2.2m strip along small portions of side setbacks	1.5m wide strip alongside setbacks	Yes
	Two trees on site are proposed to be removed	Native mature trees to be retained	Yes
	Landscape plan drawn by a suitably qualified person has been submitted	Landscape plan by a suitably qualified person to be submitted for proposal	Yes
Play Areas	Indoor play area does not comply	Shall comply with Children (Education and Care Services) Supplementary Provisions Regulation 2004	No
	Outdoor play area complies		Yes
Advertising Signs	No advertising sign proposed just relocation of exiting sign	One business identification sign with a maximum of 1sqm in area	N/A

The proposed development fails to strictly comply with a number of requirements contained within the SCDCP, specifically in relation to design requirements, streetscape, visual and acoustic requirements, maximum number of children, car parking and access and landscaping.

2.2.3 Design Requirements

The development as proposed is not considered to provide a safe pedestrian linkage between the non-staff carpark (northern carpark) and the new building. Pedestrian safety is considered to be compromised where the footpath crosses the front of the garage in the new building. It is also the case, that when all spaces in the staff carpark are occupied, any vehicle reversing from the garage would be forced to reverse through the staff carpark and directly onto the street. Although it is considered that by itself, the reversing of a vehicle from the garage to the street is a low risk event, the reversing of a vehicle over a pedestrian area is considered to present a high risk to the safety of parents and their children.

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It should be noted that the proposed number of carparking spaces to be provided on the site to accommodate the additional 25 children, exceeds that required by Councils standards by two spaces when giving regard to the fact that the existing facility was only required to provide seven parking spaces. The proposed additional facility generates the need for six additional spaces, whereas the proposal provides an additional eight spaces including the garage.

With respect to the above, the applicant has argued that the Director of the centre would be the only person utilising the garage space. Further to this, the Director would be the first to arrive and the last to leave resulting in no pedestrian safety concerns. Notwithstanding, it cannot be guaranteed that the need to move the garaged car during the day would not arise, and as such, the potential for pedestrian/vehicle conflict would remain.

In this regard, it is considered that the only suitable response to this issue is for the garage not to be used for the purpose of parking vehicles, or for the pedestrian accessway between the two buildings to be altered so as to physically remove the need for parents and children to walk through the staff carpark and/or past the garage. As the proposal provides for two parking spaces in addition to that required by Council's standards, in order to remove the identified pedestrian safety risk it would appear that the most simple of solutions would be for the garage not to be used for the purpose of parking a vehicle. Given the proposal provides two additional parking spaces, the loss of the garage parking space would not be critical to the orderly operation of the childcare centre.

Where the Council was of a mind to approve the subject application, a condition of consent could be included prohibiting the use of the garage for the purpose of parking a vehicle while the child care centre is in operation.

2.2.4 Maximum Number of Children

The proposed development seeks to increase the number of children attending the centre from the approved 75 children to 100 children. The current childcare centre is licensed to accommodate a maximum of 75 children, with the new centre building proposed to accommodate an additional 25 children.

The current standard within the SCDCP allows a maximum of 50 children to occupy any one childcare centre at any time. The objective of this requirement is to limit the potential noise and traffic issues childcare centres may have on adjoining residents where the predominant surrounding uses would mainly be for residential living. When considering the proposal against the base numerical standard of 50 children, it would not be unreasonable to form an opinion that increasing the current approved population by another 25 children (up to 100 children), would have an impact of some level on the surrounding environment.

It is also reasonable to expect that increasing the number of children at any given childcare centre (without a physical expansion of the area in which the children are to be contained within), would in most cases, result in an increase in noise levels experienced by adjoining neighbours.

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However, in the case of this proposal, the additional 25 children are not to be located in the same complex as that which contains the existing 75 children. As such, it may be more reasonable to consider the two buildings/play areas separately, despite the need to consolidate the two existing allotments into one allotment. The need to consolidate the two allotments is in order to satisfy the fire safety regulations of the Building Codes of Australia, not for any reason relating to the proposed number of children.

When considering the subject application against an example of two separately run childcare facilities in close proximity or adjacent to each other, subject to compliance with all other standards, Council's policies would allow up to 50 children in each of those facilities. The running of a 50 place childcare facility within a residential neighbourhood is not considered to be an operation that would result in an unreasonable impact in the amenity of the local communities and is consistent with the objectives of a residential zone.

With respect to the above, and a relevant point worth considering in the case of this development proposal, is that if the two buildings were considered as two separate facilities, the actual increase in the number of children to the existing complex is effectively zero. The additional 25 children are to be placed within the new building, and the placement of those children is physically separated from the existing childcare centre operations.

So in terms of any potential for neighbourhood impact, as the area currently licenced to cater for up to 75 children is not proposed to carry any additional children, it would not be unreasonable to expect that the impact on the surrounding community from the activities run in the existing facility would remain unchanged.

When considering the new building and outdoor facility as a separate entity to that of the existing childcare centre (given that it is currently and physically a separate property), and the fact that this facility is proposed to only carry up to 25 children, any impact resulting from the operation of a childcare facility within the new building and outdoor area should be well below that expected from the operation of a standard 50 place childcare facility.

As a consequence of an increase in the number of children, an increase in the provision of car parking spaces is also required, and this has the potential to affect traffic within the local road network. Although, given the width of Thunderbolt Drive, the impact of additional traffic generated by the proposed development on the free movement of traffic within and along Thunderbolt Drive should be negligible, and is considered not to further affect the environmental capacity of Thunderbolt Drive in terms of its vehicle carrying capacity.

3.7 Nos. 73-77 Thunderbolt Drive, Raby - Consolidation Of Two Allotments, Construction Of Internal Fitout Of Existing Dwelling, Reconfiguration Of Car Parking And Landscaping And Use As A Childcare Centre

Despite this however, anecdotal evidence has been provided by the objectors that the parking of vehicles related to the operation of the existing childcare centre, is causing problems for local residents who are finding it difficult at certain times of the day to access their property due to the number of vehicles parked on Thunderbolt Drive. It is noted that as a public road, drivers of registered vehicles are entitled to park along Thunderbolt Drive in accordance with any regulatory sign posting or other road rule relating to the parking of vehicles. As long the vehicle does not obstruct vehicular/pedestrian traffic, there is no rule that prevents anyone from parking a car in front of another person's property for any length of time. In this regard, although it is accepted that the Child Care Centre will increase the number of vehicles attending the site, the parking of vehicles along Thunderbolt Drive cannot be taken to be a reason for refusing this application, especially if recognition is paid to the fact that the proposed expansion in enrolment numbers will be accommodated with additional on-site parking in accordance with the numerical requirements of the SCDCP.

In responding to this issue, it is expected that where Council was of a mind to issue consent to this proposal, the outcome in terms of on street parking may in fact be improved as the proposal provides a separate staff off-street parking area. It is understood that the current informal arrangement for the parking of staff cars at the site, is to have staff to park on the road so as to keep free as many parking spaces as possible on site for the parents of children to park within. This is used as a safety measure so that children are not required to walk near Thunderbolt Drive when going to or leaving their car.

In this regard, although the combined total child placement for the proposed facility will be in the order of double that allowable under the Council's current policies when considered as one facility, when considering the specific and physical nature of the development, increasing the current approved child population by another 25 children is not expected to result in a significant adverse impact on the current amenity of the local community.

2.2.5 Setbacks and Landscaping

The proposed development does not comply with the required side setback of the building located on No. 73 Thunderbolt Drive, as well as not complying with the required setback for car park areas and landscaping requirements.

The existing building is setback 1.2 metres from the western boundary instead of being the minimum three metres as required by the SCDCP. The intent of the three metre side setback requirement is to ensure that noise sources within the buildings are appropriately set back from adjoining premises such that noise impacts are reduced.

Notwithstanding this requirement, it is the case that in order to respond to the intent of the 3.0m setback requirement, the applicant proposes to remove the only window that exists along the western wall of the existing dwelling, as well as carrying out the cladding of the western wall to improve the sound suppressions properties of the wall and building. The amended plans lodged with Council detail that the proposed renovations to the existing dwelling would comply with the Building Code of Australia.

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To further reduce the potential for impact of noise on the neighbours to the west of the new facility, the applicant proposes to place a series of formal garden beds up to a distance of 3.0m from the western boundary. In addition, it is proposed to place a garden shed in the north western corner of the dwelling site for the purpose of equipment storage. This is considered to be a proactive arrangement which should result in the further reduction of any noise impact on the adjoining neighbours.

In order to ensure that this arrangement is maintained while ever the childcare centre is in operation, it is considered appropriate for a condition to be included with any consent Council may issue that requires the creation and maintenance of a 3.0m wide permanent "quiet area" along the western boundary which would allow for the location of such things as vegetable gardens and sheds, but prohibit the use of the area for play gyms and play areas.

In regard to street setbacks, the SCDCP states that the car park areas should be setback three metres from the street boundary to be able to provide a landscaping strip that would in turn, reduce the impact of the hardstand areas and present a streetscape that is more akin to a residential setting. The car park for the new childcare building is proposed to be constructed with a variable setback ranging from 0.9m through to 1.5m with minimal landscaping proposed within this setback area.

It is also the case that parking area for the existing childcare centre does not comply with the setback requirement in Council's current SCDCP of which the proposed carpark design has been generally aligned with. However, the current childcare centre was approved prior to the provisions relating parking setbacks being incorporated into the SCDCP.

Notwithstanding, the current streetscape amenity of the existing childcare centre is considered poor and by way of the submission of a landscaping plan, the applicant has shown a commitment to improve the landscaping to the front of the property and to regularise the landscaping over the frontage of the development site. It is considered that the landscaping to the front of the existing site is dated and detracts from the value of the streetscape along Thunderbolt Drive. With the planting of screening plants of appropriate species, any visual impact that the parking of cars forward of the building line (or the parking hardstand area) may have on the streetscape along Thunderbolt Drive, would be reduced, with the added advantage of a consistent and modern landscape theme being provided along the forward edge of the development site.

2.3 Children (Education and Care Services) Supplementary Provisions Regulations 2004

The operation of childcare centres in New South Wales is regulated by the Department of Community Services, the *Children (Education and Care Services) Supplementary Provisions Act 2011* and the Children (Education and Care Services) Supplementary provisions Regulations 2004. The Regulation nominates requirements for enrolment, staffing, fencing, indoor and outdoor space requirements. Compliance with the provisions of the Act and Regulation is required in order to obtain an operating licence from the NSW Department of Community Services. Council reinforces this arrangement by applying a condition of consent in childcare centre approvals, requiring an operating licence prior to the issue of an occupation certificate under the *Environmental Planning and Assessment Act, 1979*.

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The number of children permitted at a childcare centre in NSW must not exceed the number allowed under the relevant service approval granted for the use by the Department of Community Services.

The proposal seeks to employ 18 staff, which is consistent with Council's interpretation of the staff to children ratios for each age group, provided by the Regulation which is as follows:

- 1:4 for all children aged under the age of two years
 - requires four staff for 16 children – current occupation
- 1:8 for all children two or more years of age but under three years of age
 - requires two staff for 16 children – current occupation
 - requires three staff for 24 children – proposed occupation
- 1:10 for all children three or more years of age but under six years of age
 - requires five staff for 43 children – current occupation
 - requires six staff for 60 children – proposed occupation

Play space requirements for each child are specified in the Regulations. Schedule 1 of the Regulations states that each child requires 3.25 square metres of unencumbered indoor play space per child, and seven square metres of useable outdoor play space per child. Therefore, the proposal requires a total of 81.25 square metres of unencumbered indoor play area (25 children x 3.25sqm = 81.25sqm) and 175 square metres of outdoor play area. With respect to the above, Clause 30 provides the following definitions:

"For the purposes of calculating unencumbered indoor play space, items such as any passage way or thoroughfare, door swing areas, kitchen, cot rooms, toilet or shower areas located in the building or any other facility such as cupboards and areas set aside as referred to in subclause (1) are to be excluded."

"For the purposes of calculating useable outdoor play space, items such as car parking areas, storage sheds and other fixed items that prevent children from using the space or that obstruct the view of staff supervising children in the space are to be excluded."

A calculation of the unencumbered indoor play space within the new building reveals that an area in the order of 73.65 square metres is available, which is less than the 81.25 square metres required to cater for 25 children. The shortfall equates to approximately 2.5 children less than that proposed, and therefore the maximum capacity of the new building would be set at 22 children. Where Council was of a mind to issue consent for this proposal, in order to ensure compliance with the unencumbered indoor play area provisions, a condition could be included within any consent restricting the maximum number of children within the new building to be compliant with the relevant regulation.

In addition to the above, the useable outdoor play space area is approximately 252.56 square metres, which exceeds the respective outdoor space requirement of 175 square metres.

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Other relevant requirements of the Regulations include the provision of:

- a nappy change area and secure fencing at childcare centres - The plans submitted detail a change table facility within the accessible toilet as well as providing nappy change facilities within the existing childcare centre
- boundary fencing - The application details either a colourbond fence or a timber lapped and capped fence on the site's side and rear boundaries, which is in accordance with the Regulation requirements as well as Council's requirements under the SCDCP 2009

The plans also show the provision of the required kitchen, office areas, staff room, nappy change facilities, laundry, craft preparation areas, sleeping areas and storage areas either within the new building or within the existing childcare centre next door.

3. Environmental Assessment

An assessment of the proposal pursuant to the remaining matters for consideration under Section 79C of the *Environmental Planning and Assessment Act, 1979* has been undertaken with matters requiring further assessment detailed below.

3.1 Streetscape and Scale

Although there is no intention to undertake major changes to the façade of the existing dwelling (therefore keeping the building of at a similar scale and form), with the addition of the carpark and other ancillary built items such as internal fences and footpaths, the proposal may present as a single storey non-residential building complex when viewed from Thunderbolt Drive. Most of the frontage to Thunderbolt Drive would be of hardstand area with only minimal landscaping within the front setback and along the side boundaries. It is considered that without proper and effective landscaping treatment, the hardstand area within the front building setback could be considered to be visually excessive and would detract from the amenity of the streetscape.

3.2 Character

The proposed development seeks to expand the operation of an existing childcare centre by way of utilising an adjacent existing dwelling. The character of this area is a mix of low-density detached, single and two storey dwellings. Whilst the established land use activity in the vicinity is predominantly residential, it is noted that childcare centres are permissible and prevalent within many residential zones across the City. In this regard, it is considered that subject to satisfying design and development standard criteria, a childcare centre within the locality is an acceptable addition to the street.

3.3 Noise Intensity Impacts

Childcare centres are a relatively intense form of development permissible in residential zones. Issues common to a use such as this, relate to the noise levels generated by the intermittent noise of vehicles entering and leaving the site and the noise of children occupying playground space.

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In acknowledgment of this issue, the applicant submitted an 'Acoustical Assessment' prepared in support of the application. The writer of the report notes Council's requirement for noise levels not to exceed the background noise by more than 5dB(A), however argues that this criteria is impracticable when applied to the assessment of a childcare centre.

The report writer instead uses the standards set by the Association of Australian Acoustical Consultants (AAAC) which provides that in the circumstances of a childcare centre, the LAeq15 noise level (the equivalent average background noise level occurring over a 15 minute period) should not be exceeded by more than 10dB(A) at the assessment location.

The argument provided by the AAAC is twofold: firstly, as the duration of time that children are allowed to play outside is usually limited, it is not unreasonable to allow a higher level of noise for the shorter period of play. Secondly, the LAeq15 + 5dB(A) standard specified within Council's SCDCP is considered too low for the period of measure specified, in that it is normal for the 5dB(A) standard to be applied to noise levels that are constant or are emitted over a long period of time (e.g. air-conditioner or similar), and not intermittent noises such as that generated by children when playing or when measured over a 15min period.

The AAAC believes that a total time limit of 2 to 3 hours of outdoor play per day (e.g. 1 hour in the morning and 1 hour in the afternoon) should be allowed an additional 5dB(A) noise impact over the 5dB(A) limit usually set for continuous noise generators. That is to say where there is up to 2 to 3 hours (total) play outdoor per day - the average noise level emitted for any 15min period from the outdoor play area should not exceed the background noise level by more than 10dB(A) at the assessment location. Whereas if play is allowed for more than 2 to 3 hours per day - the average noise level emitted from the outdoor play area should not exceed the background noise level by more than 5dB(A) at the assessment location.

Notwithstanding the above, the acoustic assessment provides that the existing background noise level for the land is between 31dB(A) and 42dB(A) during the day, 37dB(A) - 45dB(A) during the evening and 30dB(A) - 42dB(A) during the night. When applying the Council's standard 5dB(A) maximum background noise exceedance level to these results, the maximum acceptable noise level during the operation of the childcare centre would be between 36dB(A) to 47dB(A) during the day, 42dB(A) - 50dB(A) during the evening and 35dB(A) - 47dB(A) during the night.

Although the SCDCP does not specifically state in what scenario the 5dB(A) noise control level should be applied, it does provide a generalised background noise exceedance level for the purpose of guiding all development types where acoustic issues may be raised.

The report also considers other noise generators at the development including mechanical plant, activity noise, car park noise and road traffic noise. The report states that the noise levels for emissions from mechanical plant and equipment, noise from outdoor play areas and from the car park, would all satisfy the AAAC requirements.

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Despite the above, the applicant was requested to provide an amended Acoustic Assessment using Council's 5dB(A) development standard for background noise, instead of using the AAAC 10dB(A) standard. A response from the applicant's Acoustic Consultant has argued that using Council's criteria is not practicable as it only relates to noise sources that operate on a continuous basis and although not entirely incorrect, is not particularly relevant to childcare centres and the noise generated from these facilities. It goes further to say that as outdoor play areas are not used continuously throughout the whole day, it is considered unreasonable to apply a restrictive standard that is usually only applied to continuous noise generators such as that found within industrial operations or domestic air-conditioners and the like.

Further research by Council Officers of relevant acoustic publications and that of recent determinations by the NSW Land & Environment Court, has revealed that although the 5dB(A) background limit specified under the SDCDP is a useful noise criteria to be generally used for industrial and commercial operations, where external playtime within a childcare centre is limited to a few hours a day, the application of the '5dB(A) over background noise' development standard may be overly restrictive.

The sound from children at play can be relatively pleasant with the child's voice only usually audible at intermittent periods during the time the child plays outside. Hence, in situations where outdoor play times are relatively short (2 to 3 hours per day), a '10dB(A) over background noise' level measured over a 15min period could be considered more appropriate than the 5dB(A) exceedance level specified under the SDCDP.

Having regard to the above, where Council is of a mind to approve this application on the basis of allowing the 10dB(A) over background noise levels (in line with the recent NSW Land & Environment Court determinations as well as that of the recommendations of the AAAC), it is considered reasonable to allow the 10dB(A) background noise exceedance limit in conjunction with a limitation on the length of time children can play outside. In this regard, a condition of consent could require that where outdoor play is restricted to up to 3 hours per day, the background noise can be exceeded by up to LAeq15 + 10dB(A). Where outdoor play is to extend beyond 3hrs in any day, the noise generated by the centre must comply with Council's LAeq15 + 5dB(A) limit.

With respect to the above, and given the complex nature of the assessment and control of noise generating uses, the issue of applying different noise limits for various types of development and whether or not there is an ability to allow a variance of noise limits based on varying types of development and locations, will be addressed in the next review of Council's SDCDP.

3.4 Air Pollution

The generation of likely air pollution associated with the development is not considered to be excessive. Whilst it is unavoidable that there would be some emissions from vehicles attending the childcare centre, the duration of engine running times (while on the premises) and the open air nature of the car park, mean that emissions would likely be within acceptable limits.

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4. Public Submissions

The proposed development was notified between 13 December 2011 and 28 December 2011 to residents adjoining and in close proximity to the subject site in accordance with Council's Notification policy. During this time, Council received two formal objections with no objections or submissions received from owners/tenants of properties directly adjoining the subject site. The submissions made by the objectors raised the following concerns:

- a) **Operating hours** - Concern was expressed at the lack of providing what the operating hours would be for the additional childcare centre.

Comment: The applicant has provided information that the new childcare centre would operate within the same hours of the existing childcare centre which is 6:30am - 6:30pm. Monday to Friday. These hours of operation are considered to be acceptable.

- b) **Demand for increase in capacity as well as having two centres directly adjacent to each other** - Concern was raised as to why another child care centre was needed in the area given the number that already exist as well as if Council has any regulations on building two centres next to each other.

Comment: Council has no standards limiting the number of childcare centres within a locality nor does it have any standards relating to building childcare centres next to other childcare centres.

- c) **Environmental effects** - Concern was raised in relation to the application not assessing the environmental effects of the development on nearby residents.

Comment: The proposed development application addresses the requirements in relation to Section 79C of the EP&A Act 1979 evidenced by the submission of a Statement of Environmental Effects, an acoustic assessment as well as a Traffic Impact Assessment in support of the proposal. As discussed within the report, Council has considered a number of issues in relation to access and manoeuvring on site as well as the potential for noise impacts.

- d) **No statistical information for child care places or car parking** - Concern was raised with regard to no information being provided for the number of childcare spaces provided as well as car parking spaces.

Comment: The required number of car parking spaces and their location was detailed on the submitted architectural plans as well as discussed within the Traffic Impact Assessment. The expansion of the childcare centre to cater for an additional 25 children requires the addition of a number of car parking spaces. The proposal has provided car parking in accordance with the requirements of the SCDCP.

In respect of the number of children and their age groups, the applicant detailed this information within the Statement of Environmental Effects submitted with the application.

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- e) **Traffic and parking** - Concern was expressed at the potential increased traffic flows on Thunderbolt Drive in relation to the location of the centre complex being on a bend in the road and safety to children and pedestrians in the street. Concern was also expressed in relation to visitors and staff parking on Thunderbolt Drive, therefore increasing congestion, reducing on-street parking and reducing visibility for egress movements by residents. It was also raised that the number of parking spaces provided for the proposal was inadequate, which would lead to further traffic congestion on Thunderbolt Drive.

Comment: The proposed expansion of the childcare centre includes the provision of the required number of car parking spaces specified under Council's SCDCP for this type of development.

In accordance with the relevant provisions of the policies under which the existing childcare centre was approved at the time, a total of seven car parking spaces exist on site in order to cater for the existing 75 child capacity.

With the proposed expansion, the additional 25 children will generate the need for six additional car parking spaces when applying the rates under the SCDCP. Despite the minimum requirement for an additional six spaces, the applicant proposes to provide eight additional parking spaces. As such, a total of 15 spaces (including the garage) will be provided on site (7 existing + 8 additional), with only 13 spaces required in order to satisfy Council's policies.

In responding to the issue of staff parking on Thunderbolt Drive, although a development such as this is required to provide a specified number of staff parking spaces on site, there is no power for Council to mandate that staff must park within those parking spaces, instead of on the public road. However, in the case of this development, as it is proposed to provide a second separate carparking area for staff only, the issue of staff parking on the street should be improved. In order to maintain the provision of onsite staff parking, a condition of consent can be included requiring the same where Council was of a mind to approve the application.

Further to the above, any impact caused by the proposed development on the free movement of traffic within and along Thunderbolt Drive is not expected to be of any significance, and is considered to not further affect the environmental capacity of Thunderbolt Drive when having regard to its vehicle carrying capacity and constructed width.

- f) **Noise** - Residents expressed concern regarding the potential for adverse noise impacts as a result of the proposed development.

Comment: An acoustic report was submitted with the development application concluding that should all noise mitigation measures as recommended within the report be adopted, there would be no adverse noise impacts on the surrounding locality. It is considered that the findings and recommendations of the acoustic report are not unreasonable.

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5. The Public Interest

The public interest is an overarching requirement that includes the consideration of all the matters discussed above. Implicit to the public interest is the achievement of future built outcomes consistent with the desired future outcomes expressed in environmental planning instruments.

The proposal is permissible on land within the CLEP 2(b) Residential B zone subject to the Council's development consent. The proposal generally complies with the strategic directions contained within Council's 'Campbelltown 2025- Looking Forward' policy and while not necessarily consistent with all of the desired outcomes, can be shown to be generally consistent with the overall intent of the policy.

The proposed development does not comply with a number of requirements for child care centres as contained within the SCDCP as well as not complying with the Children (Education and Care Services) Supplementary Provisions Regulations 2004 specifically in relation to the required indoor play area. However, as discussed within this report, a number of avenues/measures can be employed in order to satisfy the relevant requirements and these measures can be included as conditions where Council was of a mind to issue consent for this development.

The application demonstrates that the proposal can provide adequate access and vehicular manoeuvring on site. It is expected that with the provision of a dedicated on site staff car parking area, the impact of staff parking on Thunderbolt Drive may be reduced.

It is also considered that with appropriate landscaped screening placed between the carparking area and the front boundary, the impact of the development on the streetscape would be positive in that the opportunity to upgrade the current unattractive landscaped area to the front of the existing childcare centre would be realised, as well as the opportunity to provide new and consistent landscaping screening to the front of the new allotment.

Given the above, it is considered that approval of this development would not necessarily set an undesirable precedent and would generally be in the public interest.

6. Conclusion

Consent is sought for the expansion of an existing childcare centre by amalgamation with an adjoining residence, construction of an internal fit out and reconfiguration of car parking and landscaping at Nos. 73 -77 Thunderbolt Drive, Raby.

The proposed development is considered generally consistent with a number of the objectives and requirements of CLEP as well as with the SCDCP specifically in relation to the design requirements, site requirements, streetscape, fencing, acoustic privacy, access to car parking and landscaping for childcare centres.

All objections to the proposal have been considered as part of the assessment of the development application with all concerns raised satisfactorily responded to.

3.7 Nos. 73-77 Thunderbolt Drive, Raby - Consolidation Of Two Allotments, Construction Of Internal Fitout Of Existing Dwelling, Reconfiguration Of Car Parking And Landscaping And Use As A Childcare Centre

The applicant has submitted a Traffic & Parking Impact Report in support of the application. The report concludes that the proposal can accommodate the required number of car parking spaces on site and that the traffic associated with the childcare centre would have minimal impact on nearby intersections. Council's assessment concurs with these conclusions.

Although it is accepted that the parking configuration generally satisfies the requirements of Australian Standard 2890.1 (Parking Facilities: Off Street Carparking), the garage space provided for the centre Director (within the existing dwelling that is to be converted), is not deemed suitable for use as a vehicular garage due to the potential for conflict with parents and children walking between the two buildings. As noted previously, as the proposal provides two additional parking spaces above that required by Council's SDCDP, the removal of the garage as a parking space would resolve this issue.

Further to the above, the issue of noise impact has also been assessed and it is considered that with the inclusion of a number of specific noise abatement measures, the impact of noise on the surrounding community is unlikely to be significantly changed.

Having regard to those matters for consideration under Section 79C of the Act, it is recommended that the development application be approved subject to the draft conditions at Attachment 1.

Officer's Recommendation

That development application 2446/2011/DA-C for the expansion of an existing childcare centre by amalgamation with an adjoining residence, construction of an internal fit out and reconfiguration of car parking and landscaping at Nos. 73 -77 Thunderbolt Drive, Raby be approved subject to the draft condition at Attachment 1.

Committee Note: Mr Andrew Wiate, the applicant addressed the Committee in support of the application.

Committee's Recommendation: (Hawker/Greiss)

That the Officer's Recommendation be adopted.

CARRIED

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

Voting against the Committee's Recommendation: Nil

Council Meeting 3 July 2012 (Lake/Glynn)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 119

That the Officer's Recommendation be adopted.

3.7 Nos. 73-77 Thunderbolt Drive, Raby - Consolidation Of Two Allotments, Construction Of Internal Fitout Of Existing Dwelling, Reconfiguration Of Car Parking And Landscaping And Use As A Childcare Centre

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

Voting against the Council's Resolution: Nil

A copy of the attachments to this report are available separately on Council's website.

3.8 Nos. 13-17 Eagleview Road, Minto - Construction Of An Outbuilding And Use Of The Outbuilding As A Craft Studio

3.8 Nos. 13-17 Eagleview Road, Minto - Construction of an outbuilding and use of the outbuilding as a craft studio

Reporting Officer

Manager Development Services

Attachments

1. Recommended Conditions of Consent
2. Locality Plan
3. Site Plan
4. Floor Plan
5. Elevations
6. Perspective

Property Description	Lot 7 DP 39165, Nos. 13-17 Eagleview Road, Minto
Application No	2118/2011/DA-O
Applicant	Mr Mohammad Abul Kashem
Owner	Australian Muslim Welfare Centre Incorporated
Statutory Provisions	Campbelltown (Urban Area) Local Environmental Plan 2002 Campbelltown (Sustainable City) Development Control Plan 2009
Other Provisions	Campbelltown 2025 - Looking Forward
Date Received	3 November 2011

Purpose

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

This development application is required to be reported to Council due to the number of objections received in response to the public notification of the application to residents adjacent to and nearby the subject site.

History

Council's records indicate that the subject site was purchased by the Australian Muslim Welfare Centre Incorporated in November 2010. In late 2010, leaflets were distributed to properties adjacent to and nearby the subject site, depicting a redevelopment of the site for the purpose of an Islamic Centre, including a mosque, multipurpose hall, library, gymnasium, classrooms, funeral services room, education centre, playground and car parking. The leaflets contained the details and logo of the Australian Muslim Welfare Centre, and invited members of the community to make donations to fund the project.

3.8 Nos. 13-17 Eagleview Road, Minto - Construction Of An Outbuilding And Use Of The Outbuilding As A Craft Studio

On 6 December 2010, Council wrote to the Australian Muslim Welfare Centre, advising that the proposed Islamic Centre depicted in the leaflet is prohibited under Campbelltown (Urban Area) LEP 2002.

In recent times Council has received complaints from residents residing nearby the site, alleging that the subject site was being used for religious activities. Photographs were provided to Council by residents, showing large numbers of people and vehicles at the site. Council staff inspected the site in July 2011 and were satisfied at the time that the site was not being used for religious activities.

Report

This application proposes the construction of an outbuilding and use of the outbuilding as a craft studio. The proposed outbuilding has an area of 190m², a height of 4.5 metres, and is located approximately in the middle of the subject site. The floor plan of the proposed building indicates that the proposed craft studio would have areas designated for the following activities:

- Traditional hand-woven fabric
- Batik print preparation
- Pottery making
- Traditional hand-painted fabric
- Stacking and storage of craft studio products
- Handloom
- Sewing
- Batik block print/colouring

The proposed building would also contain a garden storage room and a unisex toilet, both accessed externally, and an internal garage car parking space. Five external car parking spaces are proposed.

The application initially indicated that the proposed building would be used by the resident of the existing dwelling located on the site. However, the application has since been modified, and now proposes that five staff will work at the premises, with hours of operation of 9am to 9pm, seven days a week. The application indicates that the main purpose of the proposed craft studio is to maintain and enhance Bangladeshi culture, and that no retailing of goods produced will take place from the site, however approximately 10-20% of the products made will be sold at stalls at other locations remote from the land.

The initial plans and information submitted with the application indicated that the proposed building would have an area of 360m² and would contain male and female toilets, however the application was modified following concerns raised by Council staff regarding the size and scale of the development.

1. Vision

Campbelltown 2025 - Looking Forward

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

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

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

The strategic direction relevant to this application is:

- Creating education, employment and entrepreneurial opportunities

The application is consistent with the above strategic direction as the proposal would provide employment opportunities within the construction industry during the construction of the building and to some limited extent, facilitate culturally based entrepreneurial opportunities.

The relevant desired outcome of the strategic directions included in Campbelltown 2025 is:

- A high proportion of new enterprises that adopt cleaner production techniques
- Urban environments are safe, healthy, exhibit a high standard of urban design, and are environmentally sustainable.

The application is consistent with the above desired outcomes as the proposed building would contain solar panels on its roof and thereby reduce the amount of electricity used at the premises, and the proposed development and use can be accommodated on the site without significant adverse impact on the environment or the amenity of the neighbourhood.

2. Planning Provisions

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

2.1 Campbelltown (Urban Area) Local Environmental Plan 2002 (CLEP)

The subject site is zoned 7(d4) - Environmental Protection 2ha minimum and 7(d6) - Environmental Protection 0.4ha minimum under the provisions of Campbelltown (Urban Area) Local Environmental Plan 2002. The part of the site upon which the craft studio is proposed to be constructed is zoned 7(d6) - Environmental Protection 0.4ha minimum.

In the 7(d6) - Environmental Protection 0.4ha minimum zone, industries are prohibited, other than those carried on in craft studios. Therefore, an industry carried on in a craft studio is a permissible (with Council's consent) land use in the zone. In order for the proposed development to be permissible, it must be defined as an industry and be carried on in a craft studio. The CLEP does not define 'craft studio', however the proposed building is considered to be a craft studio, as the proposed floor plan indicates that various types of craft activities are to take place inside the building, and is also considered to be of a scale commensurate with a reasonable interpretation of what a craft studio would be.

The CLEP defines an 'industry' as the manufacturing, assembling, altering, repairing, renovating, ornamenting, finishing, cleaning, washing, dismantling, processing or adapting of any goods or articles for commercial purposes. The proposed craft studio would only fall under this definition if it were to be used for commercial purposes, i.e. if the products produced at the craft studio would be sold. Information supplied by the applicant indicates that approximately 10-20% of the products made would be sold off site at stalls and by other means. There is no intent to sell items directly from the site.

It should be noted that the proposed development does not meet the CLEP's definition of a 'home activity', as a home activity may only locate in a building other than a dwelling if that building has a floor area of 30 square metres or less.

The objectives of the 7(d6) - Environmental Protection 0.4ha minimum zone are:

- (a) to permit intensive rural-residential living on land which can be provided with sewage reticulation (but, because of scenic quality or for other reasons, has not been zoned residential) by allowing a minimum lot size of 0.4 hectare, and
- (b) to allow some diversity of development, but only where it is unlikely to have a detrimental effect on the quality or character of the locality or the amenity of any existing or proposed development in the locality.

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

It is considered that the proposed development would be able to satisfy the objectives of the zone, subject to the provision of appropriate vehicular access and car parking facilities, and the limitation of the craft studio's hours of operation to 9:00am to 5:00pm Monday to Friday and 9am to 1pm on Saturdays, with no operation on Sundays.

2.2 Campbelltown (Sustainable City) Development Control Plan 2009

The proposed development has been assessed having regard to the relevant numerical and design standards within Council's Sustainable City Development Control Plan 2009 (SCDCP). The following sets out the proposal's compliance with the relevant requirements of the Plan:

Part 2 - Requirements Applying to All Types of Development

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

Views and vistas – The proposed building would not obscure any important views or vistas.

Sustainable building design – Two rainwater tanks are proposed to be provided adjacent to the building, and solar panels are to be provided on the roof of the building.

Landscaping – A landscape plan has not been provided with the application. Should Council decide to approve the application, it is recommended that a condition be imposed requiring the submission of a landscape plan to the Principal Certifying Authority prior to the issue of a Construction Certificate.

Stormwater – A concept stormwater plan has not been submitted with the application. Should Council decide to approve the application, it is recommended that a condition be imposed requiring the submission of a concept stormwater plan to the Principal Certifying Authority prior to the issue of a Construction Certificate.

Waste Management – The subject site is not connected to the reticulated sewerage system, and no details of any wastewater disposal system have been submitted with the application. Should Council decide to approve the application, it is recommended that a condition be imposed requiring the submission of details of wastewater disposal to the satisfaction of Council's Compliance Services Unit to the Principal Certifying Authority prior to the issue of a Construction Certificate.

Part 3 - Dwelling Houses, Narrow Lot Dwellings, Multi Dwellings and Residential Subdivision

Part 3 - Dwelling Houses, Narrow Lot Dwellings, Multi Dwellings and Residential Subdivision of the SCDCP sets out development standards for certain residential type development within the City of Campbelltown. An assessment of the proposed development against the relevant development standards (those relating to outbuildings) is detailed below:

3.8 Nos. 13-17 Eagleview Road, Minto - Construction Of An Outbuilding And Use Of The Outbuilding As A Craft Studio

Standard	Required	Proposed	Compliance
Outbuilding Design	<p>Must incorporate similar or complementary design features, finishes, materials and colours to those of the principal dwelling</p> <p>Must not contain any other sanitary fixtures other than a toilet and a hand basin</p>	<p>Does not incorporate similar or complementary design features, finishes, materials and colours to those of the principal dwelling</p> <p>Unisex toilet proposed – no layout shown. Condition can be imposed to limit sanitary facilities to a toilet and a hand basin.</p>	<p>No</p> <p>Yes</p>
Maximum Total Floor Area of Outbuildings	<p>Combined areas of all detached domestic outbuildings – maximum of 250m² for non-urban land greater than 2 hectares</p>	<p>Existing fibro outbuilding to remain - 60m²</p> <p>New outbuilding – 190m²</p> <p>Total area of outbuildings = 250m²</p>	<p>Yes</p>
Maximum height of an outbuilding on non-urban land	<p>4.5m in the case of a property on non-urban land</p>	<p>4.5m</p>	<p>Yes</p>
Setbacks for outbuildings on non-urban land	<p>50m from primary street boundary, or in line with front elevation of an existing dwelling, whichever is less</p> <p>5m from side and rear boundaries</p>	<p>129m front setback</p> <p>10.045m from nearest boundary</p>	<p>Yes</p> <p>Yes</p>

A range of matters have been assessed and the proposed development has been found to not strictly comply with the SCDCP in terms of being of materials and of a built form consistent with that of the principal dwelling that exists on the land. This issue is discussed in detail below.

Domestic Outbuilding Design

Part 3 of the SCDCP states that an outbuilding must incorporate similar or complementary design features, finishes, materials and colours to those of the principal dwelling. The existing dwelling on the site is quite old and is not in good condition. Therefore, to require the proposed outbuilding to have a similar design to this dwelling would result in a poor quality building being constructed. Accordingly, it is considered that the modern design of the proposed outbuilding is acceptable and this variation to the SCDCP requirement is worthy of Council's support.

3. Planning Assessment

Traffic Movements and Car Parking

The application indicates that vehicles will access the site via an existing driveway at the eastern end of the site. Within the site's boundaries, the driveway is unsealed, and it appears that the proposed car parking and manoeuvring areas would also be unsealed. This is considered to be unsatisfactory, as the additional vehicles would be likely to cause a dust and/or sedimentation nuisance for adjoining properties. It is also highly likely that in times of wet weather, vehicles leaving the site would be likely to transport mud and dirt throughout the public road system. Should Council decide to approve the application, it is recommended that a condition be imposed requiring the provision of an all-weather driveway and an all-weather car parking facility.

4. Public Participation

The application was notified to nearby and adjoining residents in accordance with Council's Notification Policy. During the notification period, Council received 10 submissions, raising the following issues:

- a) The likelihood that the proposed building would be used for religious activities.

Comment - The claim that the proposed building is likely to be used for religious activities cannot be conclusively substantiated. However, the following facts are considered to be relevant in this regard:

- Council has received multiple complaints from surrounding residents claiming that the site was being used for religious activities, and at the very least that large groupings of people were gathering at the site
- Council has received photographs from residents showing large numbers of vehicles being parked at the site
- The site (Nos. 13-17 Eagleview Road) is currently listed on a website called "Australian Mosque Finder" as the "Ingleburn Islamic Centre" (as at 30 March 2012), with the subject site's address given as its location
- The website of the Australian Muslim Welfare Centre (which is the owner of the site) is currently advertising the group's intention to construct an Islamic Centre including a mosque at the site, and inviting the community to contribute financially towards this cause
- Various websites have advertised that donations have been received (\$615,000) for the purpose of purchasing the subject site with the intention being to construct an Islamic Centre including a mosque at the site, and that donations are still sought for this purpose.

However, despite these facts, Council cannot conclude that the proposed building (subject of this development application) will be used for religious activities, and this issue cannot form the basis of a refusal of the application.

3.8 Nos. 13-17 Eagleview Road, Minto - Construction Of An Outbuilding And Use Of The Outbuilding As A Craft Studio

Where the craft studio (in the event of Council approving the application) was used for the purpose of religious activities or any other unauthorised use in the future, Council would be able to commence legal action in order to have the unauthorised use ceased.

- b) The vehicular access to the property is from a roundabout, making it dangerous to enter and exit the property.

Comment - The site's existing vehicular ingress and egress point is via the existing roundabout at the intersection of Eagleview Road and Plowman Road. Although not ideal, it is considered to be the safest location for an access point to the site as vehicle speeds will be slow at the round-a-bout and as such, the potential for a collision with another vehicle is extremely low.

- c) Traffic in Eagleview Road will increase as a result of the proposal.

Comment - Given that the proposed craft studio is to have only five staff, and that no retailing is to occur on the site, the proposed development is unlikely to cause a significant increase in traffic volumes in Eagleview Road.

- d) The proposal will lead to an increase in people parking on Eagleview Road.

Comment - Given that the proposed craft studio is to have only five staff, and that no retailing is to occur on the site, five on-site car parking spaces would be provided. It is highly unlikely that the proposed development would result in an increase in vehicles parking on Eagleview Road.

- e) Headlight glare from vehicles leaving the site late at night has been experienced by adjoining residents.

Comment - Glare from headlights is unlikely to cause amenity issues if the hours of operation of the proposed craft studio are limited to 9:00am to 5:00pm Monday to Friday, 9:00am to 1:00pm Saturdays and no operation on Sundays. Should Council decide to approve the application, it is recommended that a condition be imposed, limiting the use of the craft studio to these hours.

- f) The property is not connected to the reticulated sewerage system.

Comment - It is correct that the site is not connected to the reticulated sewerage system, and no details of any wastewater disposal system have been submitted with the application. However, should Council decide to approve the application, it is recommended that a condition be imposed requiring the submission of details of wastewater disposal to the satisfaction of Council's Compliance Services Unit to the Principal Certifying Authority prior to the issue of a Construction Certificate. Accordingly, it is considered that this matter is capable of being addressed by means of an appropriately condition of development consent.

- g) The proposed development will increase noise in the area.

Comment - The activities proposed to be carried out within the proposed building are unlikely to generate significant levels of noise. An increase in noise generated by staff vehicles entering and exiting the site is likely to be experienced, however this is not considered to be significant enough to cause amenity concerns.

3.8 Nos. 13-17 Eagleview Road, Minto - Construction Of An Outbuilding And Use Of The Outbuilding As A Craft Studio

5. Conclusion

Development application 2118/2011/DA-O has been lodged seeking development consent for the construction of an outbuilding and use of the outbuilding as a craft studio at Lot 7 DP39165, Nos. 13-17 Eagleview Road, Minto.

Craft industries are permitted to operate in the 7(d6) - Environmental Protection 0.4ha minimum zone, subject to Council approval. The applicant has advised Council that the subject craft studio will be operated partially for commercial purposes, and partially for community purposes. The applicant has advised that approximately 10-20% of the products made at the craft studio will be sold at off-site stalls, however the main purpose of the craft studio would be to maintain and enhance Bangladeshi culture. Given the above and the fact that there is an intention to sell some of the product to the public, the development is considered to have a commercial component and therefore can be defined as an industry being carried out within a craft studio.

It is important to note that the definition of a commercial activity or that of industry is not based on the quantity of product created or whether other product (in addition to the commercial activity) is created for personal use. Further to this, the definition does not rely upon the commercial component being the dominant or main portion of the activity.

As such, and having regard to the issues discussed in this report, it is considered that the development can be approved and is unlikely to have any significant adverse impact on adjoining and nearby land users, and is considered appropriate for the site.

Having regard to the issues discussed in this report, it is considered that the development can be approved, is unlikely to have any significant adverse impact on adjoining and nearby land users, and is considered appropriate for the site.

Officer's Recommendation

That consent be granted to development application 2118/2011/DA-O for the construction of an outbuilding and use of the outbuilding as a craft studio at Lot 7 DP39165, Nos. 13-17 Eagleview Road, Minto subject to conditions listed in Attachment 1.

Committee Note: Mr Anisul Afsar, the owner addressed the Committee in support of the application.

Committee's Recommendation: (Hawker/Bourke)

That consent be granted to development application 2118/2011/DA-O for the construction of an outbuilding and use of the outbuilding as a craft studio at Lot 7 DP39165, Nos. 13-17 Eagleview Road, Minto subject to conditions listed in Attachment 1 subject to paragraph 2 in Condition 1 being amended to read:

Approval is given to construct and use the building for the purposes of a craft studio and associated storage only. This consent does not authorise the use of the building for any other purposes.

Amendment: (Oates/Thompson)

That consent be granted to development application 2118/2011/DA-O for the construction of an outbuilding and use of the outbuilding as a craft studio at Lot 7 DP39165, Nos. 13-17 Eagleview Road, Minto subject to conditions listed in Attachment 1 subject to paragraph 2 in Condition 1 being amended to read:

Approval is given to construct and use the building for the purposes of a craft studio and associated storage only. This consent does not authorise the use of the building for any other purposes including religious establishments.

WON and became the Motion.

CARRIED

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

Voting against the Committee's Recommendation: Nil

Having declared an interest in regard to Item 3.8, Councillor Rule left the Chamber and did not take part in debate nor vote on this item.

Council Meeting 3 July 2012 (Bourke/Oates)

That the Committee's Recommendation be adopted.

Council Resolution Minute Number 120

That the Committee's Recommendation be adopted.

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

Voting against the Council's Resolution: Nil

At the conclusion of the discussion regarding Item 3.8, Councillor Rule returned to the Chamber.

A copy of the attachments to this report are available separately on Council's website.

3.9 Concept Plan Application for the Airds Bradbury Renewal Project

Reporting Officer

Manager Development Services

Attachments

1. Copy of Council's letter to Director General of the Department of Infrastructure and Planning dated 16 December 2011 (distributed under separate cover)
2. Copy of letter from Landcom dated 21 June 2012 which includes amended Concept Plan proposal for Baden Powell Reserve and Merino Reserve (distributed under separate cover)
3. Letter from Department of Planning and Infrastructure requesting Council to finalise its position in relation to the Baden Powell Reserve (distributed under separate cover)
4. Plan of existing Baden Powell Reserve (distributed under separate cover)
5. Photographs of Baden Powell Reserve (distributed under separate cover)
6. Location Plan of properties objecting to the potential loss of Baden Powell Reserve (distributed under separate cover)
7. Plan of Baden Powell Reserve proposed by Landcom letter of 21 June 2012 (distributed under separate cover)

Purpose

The purpose of this report is to assist Council in making a determination as to how it may advise the Department of Planning and Infrastructure and the Minister for Planning concerning the inclusion of Baden Powell Reserve in the Airds Bradbury Renewal Project.

Property Description	Airds Bradbury Public Housing Estate
Application No	1007/2011/DA-MP
Applicant	NSW Land and Housing Corporation
Owner	NSW Land and Housing Corporation
Date Received	7 June 2011

History

At its meeting on 13 December 2011 following consideration of a detailed report, Council decided to support Concept Plan for the Airds-Bradbury Urban Renewal Project.

Council resolved:

- (i) Support approval of the concept plan (master plan) for the Airds/Bradbury Renewal Project and endorse the attached planning assessment report except the area of the master plan currently occupied by Baden Powell Reserve.
-

- (ii) Request the Department of planning to defer determination of that part of the master plan applying to the land occupied by Baden Powell Reserve pending further discussions between Council, NSW Housing and Landcom concerning land ownership issues.
- (iii) Notify in writing, once the determination of the application has been made by the Department of Planning and Infrastructure, those persons who made a submission in respect to the Airds/Bradbury Renewal Project.
- (iv) That Council request the Department of Planning and Infrastructure as part of its project determination to require that a landscape buffer of endemic species be planted along the perimeter of the project area along Georges River Road through to the intersection with the Georges River Parkway reservation to effectively screen rear fences and discourage graffiti.

This decision was conveyed to the Director General of the Department of Planning and Infrastructure by the General Manager's letter dated 16 December 2011. A copy of that letter is shown as Attachment 1 to this report.

Since that time, the General Manager and senior Council staff have been involved in discussion and negotiation with senior representatives of both Landcom and Housing NSW with a view to seek to resolve issues surrounding Council's concerns over the proposed incorporation of Baden Powell Reserve into the Renewal Project and in particular, the proposal to provide for its future redevelopment into residential housing.

Councillors have been advised at recent briefing sessions over progress made in those discussions, including proposals tabled by Housing NSW and Landcom in response to Council's concerns over Baden Powell Reserve, conveyed to those agencies by the General Manager.

Most recently, Council has received correspondence and a plan, formalising an offer by the project applicant (Landcom) concerning Baden Powell Reserve. That matter is the focus of this report. A copy of the letter from Landcom is shown as Attachment 2 to this report.

The letter also raises certain other matters relating to the issue of community facilities which will be considered in detail as part of a future report to Council on a proposed draft Voluntary Planning Agreement for the Airds-Bradbury Renewal Project.

Council has also recently received a letter from the Department of Planning and Infrastructure, seeking advice from Council over the issues relating to Baden Powell Reserve. A copy of that letter is shown as Attachment 3 to this report.

Background and overall planning rationale for the Airds-Bradbury Renewal Project

The NSW Land and Housing Corporation and Landcom are seeking approval from the Minister for Planning to carry out a comprehensive urban renewal project that would revitalise the Airds-Bradbury public housing estate that was mostly established in the 1970s.

The precinct was developed generally in accordance with “Radburn” planning principles where dwelling houses, including medium density dwellings, front areas of public or communal open space and gain vehicular access from the rear, often via cul-de-sacs. Most commonly, each dwelling and its accompanying private open space area is separated off from the street with a high fence to provide for privacy and security.

A common characteristic of the Radburn subdivision pattern in Airds-Bradbury is the prevalence of pedestrian pathways that link the rear accessways/streets and the open space areas. These pathways commonly run between dwellings. In essence, the dwelling/street relationship is “turned inside out”.

Another common feature of the Radburn style of development relates to poor neighbourhood accessibility (often as a result of the prevalence of cul-de-sacs), and circuitous ‘through’ road connectivity. This combines to establish a neighbourhood form that appears to lack cohesiveness and legibility and often presents public open spaces with no clear or readily identifiable community use or function.

Often, public domain spaces have not developed as active places of community interaction, that might otherwise be more readily apparent in more conventionally designed neighbourhoods , where for example, a more formal grid like street pattern maximises accessibility and drives better use (often informal) of public domain spaces.

Much social commentary has been made over the Radburn planning model of development, including criticism relating to the lack of casual surveillance of public street and pathway areas available from dwelling houses, often being considered as conducive to anti-social behaviour and a threat to community security. The Radburn model can be argued to contribute little (in so far as spatial planning is concerned) towards the longer term social sustainability of disadvantaged communities.

Combined with the fact that much of the physical fabric of many buildings within the Airds-Bradbury public housing estate is approaching a point of economic demise, there exists a strong case to support the overall aim of the renewal project to help to create better overall accessibility and spatial planning outcomes that will drive improved social sustainability in the longer term.

An essential element of the Renewal Project was to revise the extent, distribution, accessibility to and embellishment of public open space areas throughout Airds-Bradbury in order to:

- achieve a higher standard of community and user amenity
- encourage greater community use
- diminish the potential for open space areas to facilitate anti-social behaviour
- protect the highest value ecological areas and
- provide for the ongoing sustainable and cost effective management of public recreation areas by Council.

In order to facilitate these types of ‘public open space’ related outcomes (within the overall context of the urban renewal of the Airds-Bradbury public housing precinct, and importantly incorporating the ‘de-Radburnisation’ of the pattern of development) Council staff have sought to ensure that the project reconfigures the existing Council owned public open space resources across the neighbourhood, without diminishing the overall supply of Council owned public open space.

Council should note that the Renewal Project model relies upon the 'input' of Council landholdings within Airds-Bradbury, as well as lands currently owned by Housing NSW and the Department of Planning and Infrastructure, into the overall land resource which has been made available for project planning. The same can be said of certain roads currently held under Council's ownership.

The incorporation of such Council owned land resources into the Renewal Project is critical to the success of the project, not only in relation to Council achieving improved public open space outcomes for itself and the community, as outlined above, but also in respect of achieving a more cohesive neighbourhood layout and form and the 'de-Radburnisation' of Airds-Bradbury overall.

By resolution, Council has confirmed its support for the overall concept of the Renewal Project and has formally endorsed the planning assessment report for the consideration of the Department of Planning and Infrastructure and the Minister for Planning.

Issues surrounding Baden Powell Reserve and how this parcel of public open space is 'treated' by the Renewal Project Concept Plan remain outstanding, and the purpose of this report is to assist Council in coming to a final resolution on these matters so that the Department and Minister can be advised of Council's position, in order that the Minister can make a final determination of the Concept plan application.

Report

As stated in the History section of this report, Council has previously resolved to support the Concept Plan for the Airds-Bradbury Renewal Project, and endorsed the planning assessment report prepared by Council's officers, excepting for the area of the master plan currently occupied by Baden Powell Reserve.

The Concept Plan for the Airds-Bradbury Renewal Project that was presented to Council at its meeting on 13 December 2011 (including the conversion of Baden Powell Reserve to future residential use) would deliver the provision of a total of 19.11 hectares of public open space throughout a redeveloped Airds-Bradbury, in Council's ownership. This compares to a total of 18.96 hectares of public open space across Airds-Bradbury held in Council's ownership today.

Baden Powell Reserve

The plan shown as Attachment 4 to this report describes the current allotment configuration of Baden Powell Reserve.

Council acquired (by dedication) Lot H in DP31302 in association with the subdivision of land located to the west of St Johns Road. Council currently holds this land in fee simple and has authority under the Local Government Act to dispose of this land (should it deem appropriate to do so) without restriction.

This land (Lot H) is adjoined by land immediately to the east, classified as a road. This road is no longer required and Council has the authority under the Local Government Act and the Roads Act to also dispose of this land without restriction.

The land as shown on Attachment 4 that adjoins the road to the east (Lot 133 DP253937), is owned by the Department of Housing but was dedicated to Council previously by the Department of Housing in 1979 in association with the original development of the Airds-Bradbury Public Housing Estate but ownership to Council was never transferred.

The area of land known as Baden Powell Reserve (comprising the land described above and shown in Attachment 4) occupies a total area of approximately 2.1 hectares. The open space has no formal recreation purpose and remains without embellishment, excepting for some limited tree cover and areas of landscape bedding with semi-mature vegetation scattered around the perimeter. Baden Powell Reserve is otherwise, predominantly grassed.

Baden Powell Reserve provides for an open space outlook:

- for three dwellings overlooking from their frontage, the northern edge of the Reserve (Walburga Close)
- for five dwellings overlooking from their frontage, the western edge of Baden Powell Reserve (located on the western side of St Johns Road).

No other private dwellings retain an outlook to or across Baden Powell Reserve.

Photographs of these outlooks and a plan nominating the locations from which photographs have been taken is shown as Attachment 5 to this report.

It is of relevance to recall that when Council publicly exhibited the Concept plan in June, July and August 2011, it received a total of four objections from residents of three properties that called up opposition to the loss of Baden Powell Reserve to future residential development. One of these submissions was supported by a petition containing another 38 signatories. The majority of these were from Walburga Close and McLaughlin Circuit as depicted on the Plan marked as Attachment 6 "Confidential".

Alternative Proposal for Baden Powell Reserve

The formal proposal for the area known as Baden Powell Reserve now presented to Council by Landcom and endorsed by Housing NSW, involves the retention of almost 5000 square metres of the Reserve in Council's ownership. The location and configuration of the public open space proposed to be retained in Council's ownership is described on the plan shown as Attachment 7 to this report.

The area of public open space proposed to be retained is located on the north western portion of Baden Powell Reserve adjacent to private dwellings (Walburga Close) and contiguous with a small undeveloped parcel of remnant public open space fronting McLaughlin Circuit (to the north east).

The area of public open space proposed to be retained also retains frontage to St Johns Road of approximately 100 metres running south from existing cottages adjoining the Reserve to the north.

The proposal also involves the:

- retention of the existing copse of trees and landscape bedding located in the vicinity of Walburga Close
- embellishment of the retained portion of Baden Powell Reserve including a small playground and bench seating
- landscape embellishment of the McLaughlin Circuit remnant open space area.

Merino Park

As discussed previously between Landcom and Housing NSW representatives with the General Manager, the applicants have indicated that in order to economically sustain the retention of part of Baden Powell Reserve as public open space in Council's ownership, some minor adjustments will need to be made concerning the size, configuration and level of embellishment of Merino Park. These amendments are considered by Council staff to be of minor significance given:

- the area of public open space to be retained in Merino Park is still significant at approximately 7,400m²
- the retention of the originally proposed embellishment program including features such as a playground, picnic setting and half court
- the re-orientation of the retained public open space at Merino Reserve provides for an improved urban design outcome in so far that the amended allotment layout avoids having dwellings immediately 'backing onto' the Reiby JJC facility
- the Merino Reserve is surrounded by dwellings owned by Housing NSW and no private dwellings overlook the Reserve.

Implications of the Alternative Proposal for Baden Powell Reserve

Taking account of the implications arising from a decision by Council to accept the abovementioned alternative proposal concerning Baden Powell Reserve, the following observations could be made concerning the proposed overall public open space scenario:

- The total overall public open space area to be held in Council's ownership, (as amended to take account of the alternative) would amount to 19.31 hectares. This compares to 18.96 hectares held in Council's ownership today
-

- Based on an average estimated dwelling occupancy rate of 3.0 persons per dwelling, the population of the Airds-Bradbury Renewal Project Area can be estimated to be approximately 6300 people. According to the common practice open space planning standard of 2.83 hectares/1000 population for urban areas, this population would ordinarily expect to be provided with approximately 18 hectares of public open space. The proposed overall supply rate of 1.3 hectares more than satisfies this standard. In addition, the proposed open space inventory provides for a diversity of active and passive open space uses including four playing fields, 4 playgrounds, a significant developed urban water feature as well as a major natural bushland area that preserves and enhances high quality Cumberland Plain Woodland – a critically endangered ecological community
- Dwellings fronting Walburga Close retain their outlook over public open space and would remain separated from dwellings located opposite, by distances ranging approximately from 50 -100 metres and
- Baden Powell Reserve is embellished with additional landscaping and a small children's playground thereby encouraging additional community use of an existing undeveloped parcel of open space.

Conclusion

These outcomes are considered to have considerable merit, especially when taken into account in the overall context of community improvements generated by the Renewal Project in terms of improving neighbourhood accessibility, enhancing the built and natural environments, and providing for enhanced social sustainability in Airds-Bradbury.

It is believed Council can have confidence that the planning outcomes of the Renewal Project will be positive, indeed similar in nature to those that have been achieved to date with the Minto One Renewal Project.

Hence, it is considered that the alternative proposal for Baden Powell Reserve as set out in the above report is of sufficient merit to recommend to the Council that it is in the public's best interest to accept the offer of Landcom and Housing NSW as outlined in the letter to Council dated 21 June 2012.

Matters raised in the letter from Landcom concerning community facilities as part of the Renewal Project will be addressed in a further report to Council concerning the draft Voluntary Planning Agreement. It is anticipated that this report will be submitted to Council in October for consideration.

Officer's Recommendation

That Council:

1. Support an amendment to the Concept Plan for the Airds-Bradbury Urban Renewal Project as described in the letter from Landcom dated 21 June 2012.
2. Advise the Department of Planning and Infrastructure of its decision in this matter.
3. Forward to the Department of Planning and Infrastructure a final Director General's Environmental Assessment Report, Instrument of Delegation and Concept Approval, in accordance with the abovementioned letter received from Landcom and the matters raised in the above report.
4. Request that the NSW Land and Housing Corporation and Landcom immediately provide a draft copy of the Voluntary Planning Agreement for the Airds Bradbury Urban Renewal Project so that Council can receive a further report on the terms and conditions of the Agreement prior to placing it on public exhibition.

Committee Note: Mr Terry Hawes and Ms Glenys Hiezer addressed the Committee in opposition to the recommendation.

Committee's Recommendation: (Bourke/Greiss)

That the Officer's Recommendation be adopted.

CARRIED

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

Voting against the Committee's Recommendation was Councillor Thompson.

Council Meeting 3 July 2012 (Kolkman/Bourke)

That Council:

1. Support an amendment to the Concept Plan for the Airds-Bradbury Urban Renewal Project as described in the letter from Landcom dated 21 June 2012.
 2. Advise the Department of Planning and Infrastructure of its decision in this matter.
 3. Forward to the Department of Planning and Infrastructure a final Director General's Environmental Assessment Report, Instrument of Delegation and Concept Approval, in accordance with the abovementioned letter received from Landcom and the matters raised in the above report.
-

4. Request that the NSW Land and Housing Corporation and Landcom immediately provide a draft copy of the Voluntary Planning Agreement for the Airds Bradbury Urban Renewal Project so that Council can receive a further report on the terms and conditions of the Agreement prior to placing it on public exhibition.

Amendment (Dobson/Borg)

1. That all the community titled land in Airds/Bradbury be taken off the Draft Master Plan until at least every Councillor has a comprehensive understanding of what they are voting for.
2. That all the Cumberland Plain Woodland and all the Shale Sandstone Transition Forest including any degraded stock to remain as Regional Open Space and be fully restored at all costs to the NSW Government.
3. That the Mount Annan Botanical Gardens and Campbelltown TAFE be invited to assist in any restorations of the Cumberland Plain Woodland and Shale Sandstone Transition Forests in Airds/Bradbury.
4. That Council invite representatives of Landcom to visit Airds/Bradbury and explain their plans for the area.

LOST

Amendment (Borg/Thompson)

That Council:

- i. Retain its ownership of all that part of Baden Power Reserve that is vested in Council and not agree to the inclusion of this land as part of the Airds Bradbury Renewal Project.
- ii. Advise the Department of Planning and Infrastructure of its decision in this matter.
- iii. Forward to the Department of Planning and Infrastructure a final Director General's Environmental Assessment Report, Instrument of Delegation and Concept Approval, in accordance with the abovementioned letter received from Landcom and the matters raised in the above report.
- iv. Request that the NSW Land and Housing Corporation and Landcom immediately provide a draft copy of the Voluntary Planning Agreement for the Airds Bradbury Urban Renewal Project so that Council can receive a further report on the terms and conditions of the Agreement prior to placing it on public exhibition.

LOST

Council Resolution Minute Number 121

That Council:

1. Support an amendment to the Concept Plan for the Airds-Bradbury Urban Renewal Project as described in the letter from Landcom dated 21 June 2012.
-

2. Advise the Department of Planning and Infrastructure of its decision in this matter.
3. Forward to the Department of Planning and Infrastructure a final Director General's Environmental Assessment Report, Instrument of Delegation and Concept Approval, in accordance with the abovementioned letter received from Landcom and the matters raised in the above report.
4. Request that the NSW Land and Housing Corporation and Landcom immediately provide a draft copy of the Voluntary Planning Agreement for the Airds Bradbury Urban Renewal Project so that Council can receive a further report on the terms and conditions of the Agreement prior to placing it on public exhibition.

A **Division** was called in regard to the Resolution for Item 3.9 - Concept Plan Application for the Airds Bradbury Renewal Project with those voting for the Motion being Councillors: Bourke, Chanthivong, Greiss, Hawker, Kolkman, Lake, Matheson, Rule and Oates.

Voting against the Resolution were Councillors: Borg, Dobson, Glynn and Thompson.

At the conclusion of the discussion regarding Item 3.9, Councillor Rowell returned to the Chamber.

4. COMPLIANCE SERVICES

4.1 Legal Status Report

Reporting Officer

Acting 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 08/06/2012)	0
Total completed Class 1 DA appeal matters (as at 08/06/2012)	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 issued Orders / Notices

Total ongoing Class 1 Order/Notice appeal matters (as at 08/06/2012)	0
Total completed Class 1 Order/Notice appeal matters (as at 08/06/2012)	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 08/06/2012)	0
Total completed Class 4 matters (as at 08/06/2012)	1
Total ongoing Class 4 matters in respect of costs recovery (as at 08/06/2012) 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 08/06/2012)	0
Total completed Class 5 matters (as at 08/06/2012)	0
Total ongoing Class 5 matters in respect of costs recovery (as at 08/06/2012) 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 08/06/2012)	0
Total completed Class 6 Matters (as at 08/06/2012)	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 08/06/2012)	0
Total completed Appeal matters (as at 08/06/2012)	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 08/06/2012)	6
Total completed Local Court Matters (as at 08/06/2012)	133
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: Completed

Matter was before the Court for hearing on 25 May 2012 where the defendant, Ali Sammak, maintained a not guilty plea. After hearing the evidence and submissions the Magistrate found the offence proved and imposed a \$206 fine and an order for \$81 Court costs.

File No: LP08/12 – Penalty Notice Court Election
Offence: Not stand vehicle in marked parking space.
Act: *Local Government Act 1993*
Costs to date: \$0.00

Status: Ongoing

Listed for hearing on 28 June 2012.

File No: LP09/12 to LP11/12 – Annulment of Penalty Notices
Offence: Development not in accordance with consent.
Act: *Environmental Planning and Assessment Act 1979*
Final Costs: \$0.00

Status: New matters

Listed for first mention on 24 July 2012.

File No: LP12/12 – Penalty Notice Court Election
Offence: Stand vehicle in parking space for disabled without authority.
Act: *Local Government Act 1993*
Costs to date: \$0.00

Status: Completed

Matter was before the Court for hearing on 25 May 2012 where the Court granted Council's application to withdraw the proceedings.

In discussions prior to the hearing the defendant produced a valid parking permit for people with disability issued to his daughter and maintained that the permit had been displayed internally on the vehicle but had dislodged from the front windscreen and fallen out of sight of Council's Ranger/Parking Officer. Having regard to the defendant's submissions, Council's Legal and Policy Officer determined that it was not in the public interest to pursue the prosecution.

File No: LP13/12 – Annulment of Penalty Notice Enforcement Order
Offence: *Transport Waste to Unauthorised Facility*
Act: *Protection of the Environment Operations Act*
Final Costs: \$0.00

Status: Ongoing

Listed for hearing on 25 June 2012.

File No: LP14/12 – Annulment of Penalty Notice Enforcement Order
Offence: Not comply with Clean-up Notice.
Act: *Protection of the Environment Operations Act*
Final Costs: \$0.00

Status: Ongoing

Listed for hearing on 25 June 2012.

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 08/06/2012) **16**
Costs from 1 July 2011 for advice matters **\$28,669.91**

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	\$28,669.91	\$0.00
Miscellaneous costs not shown elsewhere in this table	\$0.00	\$0.00
Costs Sub-Total	\$110,578.99	\$12,619.44
Overall Net Costs Total (GST exclusive)	\$97,959.55	

Officer's Recommendation

That the information be noted.

Committee's Recommendation: (Oates/Thompson)

That the Officer's Recommendation be adopted.

CARRIED

Council Meeting 3 July 2012 (Kolkman/Bourke)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 112

That the Officer's Recommendation be adopted.

4.2 Compliance Services Quarterly Statistics January to March 2012

Reporting Officer

Acting Manager Compliance Services

Attachments

Compliance Services Quarterly Activity Summary Table

Purpose

To provide Council with a quarterly report of activities for the Compliance Services Section.

Report

This report summarises key section activities and operational results for the reporting period January to March 2012.

1. Regulated Premises Inspections

Regulated premises inspection statistics presented in the Activity Summary Statistics Table in the Attachment are divided into Food, Public Health and Wastewater Management System inspections.

All regulated premises are placed in a risk category. The frequency of inspections varies according to the risk classification. Additional inspections (i.e. reinspections) are sometimes undertaken when premises are found to be unsatisfactory and there is an identified need to follow up on outstanding matters.

a. Food Premises

Within Campbelltown there are approximately 751 regulated food premises separated into three categories requiring 1,118 scheduled inspections per annum as follows:

Low Risk Premises (inspected as required for food recalls or customer complaint) – includes food businesses such as pre-packaged food outlets, variety stores, confectionary shops, chemists, video stores, newsagents, teaching kitchens and tobacconists.

Medium Risk Premises (inspected once per year) – includes fruit and vegetable stores, service stations and convenience stores (serving unpackaged food), general grocery stores, charities and minimal food preparation stores.

High Risk Premises (inspected twice per year) – includes restaurants, takeaway shops, bakeries, cafes, clubs, childcare centres, supermarkets, unprepared fish shops, delicatessens, school canteens, mobile food vendors, boarding houses and charcoal chicken outlets.

Food Premises Category	No. of Premises	No. of Annual Inspections
Low Risk	147	when required
Medium Risk	90	90
High Risk	514	1028
TOTAL	751	1118

Amendments to the *Food Act 2003* and the establishment of the Food Regulation Partnership between the NSW Food Authority and NSW councils in 2008 resulted in a mandated and more consistent role for Local Government in food regulation.

As a result Council reviewed its food premises categories and inspection frequency in order to be consistent with other NSW councils.

A total of 364 food premise inspections were conducted for the reporting period, which is higher than quarterly average inspection numbers (312) for 2011-2012. Of the 364 inspections undertaken, 39(10%) food premise inspections were recorded as unsatisfactory. Follow up reinspections are undertaken where premises are found to be unsatisfactory at the time of initial inspection, to ensure they reach a satisfactory standard. In certain situations, Improvement Notices or Penalty Notices are issued under the *Food Act 2003* when necessary to encourage compliance.

b. Public Health

Within Campbelltown there are approximately 251 regulated premises separated into three risk categories requiring 279 scheduled inspections per annum.

- **Category 1 Premises** (inspected once per year) – beauty salons (low risk), boarding houses, funeral parlours, skin penetration (low risk procedure, i.e. waxing), hairdressers, nail artists.
- **Category 2 Premises** (inspected twice per year) – brothels, skin penetration (high risk procedure - body piercing).
- **Category 3 Premises** (inspected once per year) – *Legionella* microbial control (air-conditioning cooling towers).

Health Premises Category	No. of Premises	No. of Annual Inspections
Category 1	158	160
Category 2	26	52
Category 3	67	67
TOTAL	251	279

A total of 105 health premises inspections were conducted for the reporting period being above the number of inspections undertaken during the corresponding quarter (29) in 2010-2011 and quarterly averages (66) for 2011-2012 year. The increase in inspection numbers occurred as a higher than usual number of inspections were conducted on premises conducting skin penetration activities and that had cooling towers, during the period.

Of the 105 regulated health premise inspections conducted during the reporting period, 18 (17%) of the premises inspected were recorded as unsatisfactory.

Follow up (reinspections) are undertaken where premises are found to be unsatisfactory at the time of initial inspection to ensure the premises reach a satisfactory standard.

c. Wastewater Management Systems

The effective regulation and management of on-site wastewater management systems is necessary to ensure these systems operate properly and as a consequence do not cause a threat to the environment or human health.

As part of its effort to more effectively manage and regulate wastewater management systems, Council revised its Wastewater Management Strategy which was formally adopted by Council on 7 July 2009.

The implementation of the revised strategy has commenced and is to be staged, with various unsewered locations throughout the City being addressed progressively.

A total of 20 system inspections were conducted during the reporting period, being lower than the number of inspections conducted in the previous quarter (56). This corresponds with a decline in the number of applications received during the quarter.

2. Notices/Orders Issued

Food Act 2003 Notices are usually issued where there is repeated failure by a proprietor to meet appropriate standards or where serious breaches are identified. A total of 15 *Food Act 2003* Notices were issued during the reporting period, representing an increase on quarterly average *Food Act* notice numbers (8) for 2011-2012. This increase corresponds to an increase in the number of inspections conducted in the quarter.

Local Government Act 1993 Notices and Orders are issued for a range of matters including overgrown, unhealthy, unsafe or unsightly conditions. The number of *Local Government Act 1993* Notices and Orders issued during the reporting period was 98 being consistent with seasonal trends with 104 Notices issued in the corresponding quarter in 2010-2011.

The number of *Swimming Pools Act 1992* Directions issued (14) requiring the erection of pool fencing or fencing repairs was consistent with quarterly averages (16) in 2011-2012.

Environmental Planning and Assessment Act 1979 Notices and Orders are issued by Land Use and Environmental Compliance staff, primarily to ensure that premises comply with conditions of development consent and to regulate unauthorised land use. A total of 50 Notices and Orders were served during the reporting period which is relatively consistent with quarterly averages (40) for 2011-2012.

Protection of the Environment Operations Act 1997 (POEO) Notices are issued for a variety of pollution matters including water pollution and waste dumping. The number of POEO Notices issued for the reporting period (12) was relatively consistent with quarterly averages (14) for 2011-2012.

Companion Animals Act Notices are issued to ensure owners of dogs and cats keep their animals in accordance with the *Companion Animals Act 1998* requirements. A total of three Notices/Orders were issued during the reporting period, which is consistent with quarterly averages (four) for 2011-2012.

3. Customer Service Requests

The Compliance Services Section receives a significant number of customer service requests across a broad range of issues as represented in Attachment 1. A total of 932 customer service requests were received for the reporting period. Significant complaint categories were barking dogs (145 requests), health (other) 116, parking, (including heavy vehicles) (127 requests), illegal construction/development (58 requests), overgrown land (128 requests), health (non regulated premises) (116 requests), rubbish dumping/litter (58 requests), abandoned motor vehicles (67 requests), pollution (58 requests) and dogs straying (56 requests).

4. Applications

Building Certificate Applications relate to certificates issued under section 149A of the *Environmental Planning and Assessment Act 1979* and provide assurance to applicants upon issue that Council will not take action to require the demolition or upgrade of the respective structure for a period of seven years after the date of issue of the certificate. These certificates are generally sought upon sale of property.

The number of Building Certificate Applications (12) received during the reporting period was lower than the number of applications (17) received in the previous quarter and was lower than the quarterly average (35) experienced in the 2010-2011 period. It is considered that this was due to a continuation of a decline in residential property sales experienced during the period.

Staff have commenced seeking applications for an approval to operate a system of waste water management, from system owners on a risk category basis. Two applications for approval to operate a wastewater management system were received during the reporting period being lower than the average number of applications (21) received per quarter for 2011-2012.

The comparatively low application number was due to the tailing off of applications received following a mail out seeking applications from owners of high risk systems and low /moderate risk systems in the Long Point/Varroville area. As a result of the slowing of applications received further mail outs were initiated within the quarter which will result in an influx of applications for the ensuing quarter.

Two Section 68 (*Local Government Act 1993*) Event Approvals were issued. These were for Celebrating Independence Day, Seddon Park, Glenfield and for Ingleburn Alive.

5. Impounding

The number of dogs impounded during this reporting period was 440, being relatively consistent when compared to 415 dogs for the corresponding quarter in 2010-2011. The percentage of dogs microchipped at the time of impounding was 78% which is consistent with quarterly averages.

A total of 263 cats were impounded throughout the reporting period which is comparatively lower than the number of cats impounded (318) in the corresponding quarter in 2010-2011. The number of cats that are microchipped at the time they were impounded is typically lower than for dogs and for this reporting period, 8% were microchipped. This variation may have been due to a quieter breeding season and as a result fewer cats/kittens were impounded.

The number of abandoned vehicles impounded for this quarter was eight. None of these vehicles were released back to their owners. All of these vehicles were disposed of by Council. Council is currently holding no abandoned vehicles.

Two shopping trolleys were impounded during the quarter.

6. Penalty Notices

Council issues a range of penalty notices relating to various matters including parking offences (on street, Council car parks, school zones), companion animal registration, dog straying, littering, fail to comply with orders, food safety and fail to obtain or comply with development consent. Refer to the table at Attachment 1 for the number of penalty notices issued under the various offence categories.

The number of penalty notices issued for parking offences in Council carparks (655) was in excess of the number of penalty notices issued in the corresponding quarter (545) in 2010-2011. The number issued for on-street offences (683) was also relatively consistent with the corresponding quarter (637) in 2010-2011.

7. Compliance/Education Programs

Compliance programs are an integral component of the Section's activities and represent a coordinated proactive approach to targeting specific community concerns. Resources are deployed strategically on a local or citywide basis as an alternative to addressing complaints on an individual basis.

A summary of Compliance Programs undertaken during the reporting period follows:

a. Illegal Parking in School Zones

During the reporting period, 61 school locations were patrolled resulting in the issue of 103 penalty notices.

b. Illegal Sign Statistics

A summary of sign statistics for the quarter can be located in Attachment 1.

c. Illegal Trail Bike Riding

During the reporting period one joint patrol with Police was undertaken.

A number of single agency (Council) patrols were undertaken in response to 11 complaints received during the reporting period.

d. Litter from Vehicles

For the reporting period one operation was undertaken which resulted in six penalty notices being issued.

e. Shopping Trolleys

Two coordinated programs were conducted during the reporting period and this resulted in the tagging of 30 trolleys and two trolleys being impounded.

f. Truck Parking

Three truck parking patrols were undertaken during the reporting period resulting in the issue of 24 parking penalty notices.

8. Other Activities

A summary of other activities or initiatives implemented within the reporting period are listed below:

- Council continues to conduct surveillance of construction sites for sediment and erosion control compliance
 - Active participation in the Food Regulation partnership, incorporating activity reporting and the review of inspection procedures and related documentation
 - Continued participation in the Sydney South West Area Health Service Public Health Unit Skin Penetration Working Group to improve industry practice and compliance
 - Patrols (by way of formalised agreement) of disabled parking at Campbelltown Mall and Macarthur Square continued through the reporting period
 - Periodic (three yearly) review of risk identification documents for various environmental health, building, land use and ranger activities
 - Ongoing review and development of Standard Operating Procedures relating to Section activities, tasks and programs
 - Establishment of new Alcohol Free Zones around Schools within the south region of the LGA have now been gazetted and advertised in the local papers. The roll out of signage for the new zones has commenced and location maps will be forwarded to the Local Area Command for their reference.
-

- Commencement of participation in the CAWS subsidised desexing program for cats and dogs jointly with the RSPCA and Sydney University Veterinary Training Hospital Camden Campus. This program provides subsidised desexing in identified hot spot locations within the City for low income earning people.

Officer's Recommendation

That the information be noted.

Committee's Recommendation: (Oates/Bourke)

That the Officer's Recommendation be adopted.

CARRIED

Council Meeting 3 July 2012 (Kolkman/Bourke)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 112

That the Officer's Recommendation be adopted.

• **ATTACHMENT 1**

Compliance Quarterly Activity Summary Statistics

Activity	2011-2012 Quarter Result				YTD
	1	2	3	4	
Regulated Premises Inspections					
Food	307	266	364		937
Public Health	46	47	105		198
Wastewater Management Systems	43	56	20		119
Total	396	369	489		1254
Notices/Orders Issued					
<i>Food Act 2003</i>	6	9	15		30
<i>Local Government Act 1993</i>	62	83	98		243
<i>Swimming Pool Act 1992</i>	22	14	14		50
<i>Protection of Environment Operations Act 1997</i>	12	18	12		42
<i>Environmental Planning and Assessment Act 1979</i>	54	44	50		148
<i>Companion Animals Act 1998</i>	3	6	3		12
Total	159	174	192		525
Customer Requests					
Abandoned Motor Vehicles	56	60	67		183
Animals (other)	26	20	15		61
Barking Dogs	103	103	145		351
Dog Attacks	24	11	21		56
Dog Straying	71	49	56		176
Food/Health (regulated)	29	32	21		82
Footpath Obstruction	4	10	14		28
Health (other)	73	67	116		256
Heavy Vehicle Parking	24	24	29		77
Illegal Construction/Development	64	78	58		200
Misuse of Council Park	11	4	6		21
Overgrown Land	28	67	128		223
Parking (General)	78	72	98		248
Pollution	56	51	58		165
Rubbish Dumping/Litter	54	65	58		177
Shopping Trolley	8	15	9		32
Signs	7	2	1		10
Swimming Pool Fencing	5	13	14		32
Trail Bikes	28	21	11		60

Tree Removal/Dangerous	11	4	7		22
Total	760	768	932		2460

Compliance Quarterly Activity Summary Statistics

Activity	2011-2012 Quarter Result				YTD
	1	2	3	4	
Applications					
Building Certificates	7	17	12		36
Approval to Operate Effluent Disposal System Section 68 (<i>Local Government Act 1993</i>)	20	40	2		62
Event Approvals Section 68 <i>Local Government Act 1993</i>	3	8	2		13
Total	30	65	16		111
Impounding					
Abandoned Vehicles	2	9	8		19
Shopping Trolleys	0	8	2		10
Total	2	17			29
Impounding Animals					
Dogs (Incoming)					
Impounded	410	431	440		1281
Surrendered	194	171	118		483
Total	604	602	558		1764
Dogs (Outgoing)					
Released to Owner	196	195	227		618
Sold	82	92	67		241
Euthanased - Surrendered by Owner	132	80	79		291
Euthanased - Restricted Dog	10	10	2		22
Euthanased - health/temperament	135	174	122		431
Euthanased - Unable to re-home	36	13	49		98
Total	591	564	546		1701
Cats (Incoming)					
Impounded	142	244	263		649
Surrendered	18	120	75		213
Total	160	364	338		862
Cats (Outgoing)					

Activity	2011-2012 Quarter Result				YTD
	1	2	3	4	
Released to Owner	9	2	3		14
Sold	6	39	31		76
Euthanased - Surrendered by Owner	13	64	59		136
Euthanased - health/temperament	112	243	229		584
Euthanased - Unable to re-home	16	16	16		48
Total	156	364	338		858
Penalty Notices					
Companion Animals	310	274	185		769
Environmental - includes litter and waste dumping	55	48	35		138
General - includes Public Health and Food Safety	18	33	19		70
Land Use	3	9	3		15
Parking (car parks)	995	530	655		2180
Parking (on street)	1015	770	683		2468
Total	2396	1664	1580		5640
Compliance Programs					
Illegal Parking in School Zones					
Patrols	93	35	61		189
Warnings	11	0	0		11
Penalty Notices	103	78	103		284
Illegal Signs					
Complaints - Council property	7	0	0		7
Complaints - private property	0	0	1		1
Letters sent	0	0	0		0
Cautions issued	0	0	0		0
Fines issued	0	0	0		0
Removed (posters from poles)	231	74	34		339
Illegal Trail Bike Riding					
Joint Patrols	0	1	1		2
Bikes Seized	0	0	0		0
Penalty Notices (Police)	0	0	0		0
Penalty Notices (Council)	0	24	8		32

Activity	2011-2012 Quarter Result				YTD
	1	2	3	4	
Charges	0	6	0		6
Juvenile Cautions	0	0	3		3
Litter From Vehicles					
Patrols	1	1	1		3
Penalty Notices	7	6	6		19
Shopping Trolleys					
Patrols	1	3	2		6
Trolleys Tagged	28	87	30		145
Trolleys Impounded	0	8	2		10
Contractor Notified	0	0	2		2
Truck Parking					
Patrols	6	3	3		12
Penalty Notices	56	28	24		108

4.3 NSW Companion Animals Taskforce Discussion Paper

Reporting Officer

Acting Manager Compliance Services

Attachments

1. NSW Companion Animals Taskforce Discussion Paper (distributed under separate cover)
2. Companion Animals Taskforce Discussion Paper Feedback form (distributed under separate cover)

Purpose

To inform Council of the NSW Companion Animals Taskforce Discussion Paper, May 2012 and seek endorsement of a proposed submission to the Division of Local Government, NSW Department of Premier and Cabinet.

History

The Companion Animals Taskforce was established by the Minister for Local Government and the Minister for Primary Industries to provide advice on key companion animal issues and in particular strategies to reduce the current rate of companion animal euthanasia.

Specifically, the Ministers asked the Taskforce to inquire into:

- Euthanasia rates and re-homing options for surrendered or abandoned companion animals
- The breeding of companion animals including the practices of “puppy farms”
- The sale of companion animals
- The microchipping and desexing of companion animals
- Current education programs on “responsible pet ownership”

Any other high priority companion animal issues that become apparent to the Taskforce

The Taskforce is chaired by the Member for Charlestown, Mr Andrew Cornwell MP, and consists of representatives of the following organisations, invited by the Ministers to participate:

- Animal Welfare League NSW (AWL NSW)
- Australian Companion Animal Council (ACAC)
- Australian Institute of Local Government Rangers (AILGR)
- Australian Veterinary Association (AVA)
- Cat Protection Society of NSW (CPS)
- Local Government and Shires Associations of NSW (LGSA)
- Dogs NSW
- Pet Industry Association Australia (PIAA)
- Royal Society for the Prevention of Cruelty to Animals NSW (RSPCA)
- Representatives of the Division and DPI also participate on the Taskforce.

On 7 May 2012 the Division of Local Government, NSW Department of Premier and Cabinet issued a circular to Councils advising of the release of the NSW Companion Animals Taskforce Discussion Paper, May 2012 and inviting submissions from interested stakeholders, including industry and members of the wider community, by 1 July, 2012. A copy of the Discussion Paper has been referred to the POUNDCC group for its review and consideration.

The Taskforce has also identified the issue of dangerous and restricted dog management as one requiring further consideration. However, due to the complexity of this matter, the Taskforce has determined that this is best to be dealt with separately to the May 2012 Discussion Paper.

Report

Australia has one of the highest rates of pet ownership in the western world, with 36% and 23% of households owning a dog or cat respectively. NSW has the largest number of pets of all Australian States, with estimates indicating over 1.12 million pet dogs and over 765,000 pet cats.

The community expects that animals will be treated humanely and that Government will take action to ensure that animals are managed appropriately and that suitable standards of care and behaviour are prescribed and enforced.

The Discussion Paper canvasses a range of priority issues and sets out a series of options to address them. The Paper poses questions about each issue designed to promote discussion and feedback. After taking into account feedback on the Discussion Paper, the Taskforce will prepare a report providing recommendations for the consideration of the Ministers.

The purpose of the Discussion Paper is to seek an indication of the level of support from companion animal managers, animal professionals, animal welfare groups, the pet industry and the wider community for a range of proposed measures which aim to:

- reduce the current rate of euthanasia for cats and dogs
- refine the current regulatory framework around the breeding, sale and management of cats and dogs to improve welfare outcomes
- promote socially responsible pet ownership through community education

Comments are made in respect of each issue and option raised in the Discussion Paper as follows:-

Issue: Regulation of Breeders.

Many responsible dog and cat breeders operate within NSW, however there are concerns that there are a number of unethical breeders who contribute irresponsibly to the oversupply of unwanted and lost companion animals in various ways by over breeding, failing to comply with registration requirements and the failure to desex animals not intended for breeding.

Option 1 – Introduce a breeder licensing system.

A breeder licensing system could be developed to improve consistency and encourage breeders to be ethical sellers. Licence requirements could be based on enforceable standards as set out in the Animal Welfare Code of Practice – Breeding Dogs and Cats.

For such a system to be successful however, it would need to be appropriately resourced to ensure consistent application and enforcement of standards. It is intended that the breeder licensing system would be funded through breeder license fees. Fees could be paid into a centralised fund for distribution to enforcement agencies. The concept of a centralised fund may have merit as some Council areas, with a large number of illegal “backyard” or unethical breeders, may need to invest significant resources into enforcing compliance, without necessarily receiving a proportionate level of income from local breeder licence fees, particularly if many local breeders fail to obtain a licence.

An appropriate authority would need to be identified to manage and regulate the system. As the primary enforcement agencies of the Animal Welfare Code of Practice – Breeding Dogs and Cats are currently the RSPCA and Animal Welfare League, it is appropriate that they be the enforcement agencies, providing they are adequately resourced.

The imposition of a breeder licensing system would bring NSW into line with other states such as Victoria and Queensland. It is recommended that this option be supported to actively discourage irresponsible breeding practices which contribute to the oversupply of unwanted animals.

Option 2 - Revise the Breeding Code of Practice to make existing guidelines enforceable standards.

The above Option is considered necessary to effectively underpin the licensing system proposed at Option 1. Updating the Code of Practice to strongly encourage desexing of animals not intended for breeding could effectively reduce unwanted litters.

It is recommended that Option 2 be supported to provide enforceable standards for breeders and the proposed licensing system.

Option 3 - Clarify planning legislation requirements relating to the approval of commercial breeder, boarding and shelter premises

The Taskforce has identified that there are no consistent planning guidelines that apply to breeding, boarding or shelter developments across the state.

In the interests of achieving greater consistency in the application of development approval requirements for commercial breeding, boarding and shelter establishments and strengthening the link between these requirements and related Animal Welfare Codes of Practice it is recommended Option 3 be supported.

Issue: Advertising and Sale of Cats and Dogs.

Industry sources estimate that almost 450,000 dogs and 165,000 cats are sold in Australia each year. It is argued that ensuring cats and dogs are microchipped before sale will create an effective way of understanding the life cycle and pathway of cats and dogs which arrive in pounds and shelters. It is also argued that fewer animals may be euthanased if all cats and dogs arriving in a pound or shelter were microchipped.

Option 4 – Mandatory listing of an animal's microchip number or breeder number in all cat and dog advertisements.

NSW Companion Animal legislation requires that animals be microchipped prior to sale. The mandatory listing of an animal's microchip number in all advertisements would encourage compliance with microchipping requirements and would allow for the easier identification of unethical breeders. As this requirement may be onerous where significant size litters are being sold, the option of a breeder supplying their registration number is provided for.

For this initiative to be successful, legislation would need to extend to media and advertising agencies and web site providers to compel these agencies and web site providers to require advertisement compliance as a pre-requisite to advertising. Ability to enforce legislation would need to extend across LGA boundaries and therefore an enforcement authority, such as the NSW Department of Fair Trading, may be appropriate in the circumstances.

It is recommended that Option 4 be supported to encourage breeder compliance with microchipping requirements and traceability of all animals sold.

Option 5 - Issue guidelines on the advertising and sale of cats and dogs.

The availability of guidelines could raise buyer awareness and contribute to a reduction of animals surrendered due to animal incompatibility with owner situations and lifestyles. These guidelines would need to be enforceable. It is recommended that Option 5 be supported particularly in the interests of raising animal pre-purchase awareness.

Issue: Microchipping, Registration and Desexing.

Option 6 – Remove existing “two step” microchipping and registration process to require microchipping and registration of cats and dogs by 3 months of age.

It is recognised that enforcing the two step registration process is resource intensive as Council does follow-up on owners who have microchipped but not registered their cats and dogs. Despite extensive public education, concerns also remain about the level of understanding of the two-step process, as many people may remain unaware of their responsibility to lifetime register their animal, or are unwilling to do so.

This Option attempts to overcome the present administrative burden experienced by councils with cat and dog owners who fail to register their animals after having them microchipped. An analysis of lifetime registration statistics in 2011 shows that 62% of microchipped dogs and 44% of microchipped cats were lifetime registered in 2011.

Concerns regarding early age desexing could be addressed by the introduction of a registration fee rebate for owners who desex their animals within 3 months of registration (see Option 7).

The option to remove the existing two step registration process is supported as it would ensure that all microchipped animals are registered simultaneously, thereby removing the current administrative burden to follow up on owners to lifetime register their animals and bring NSW into line with registration requirements in Victoria and Queensland.

Option 7 - Provide a registration fee rebate for owners who desex their animals within 3 months of registration.

To encourage the uptake of desexing by the owners of such animals, a registration fee rebate system could be established for owners who desex their animal within a reasonable period (eg: 3 months) of it being registered.

The combined effect of Options 6 and 7 may result in a more effective registration process, that provides a desexing incentive, (including for those that have concerns about early desexing), whilst also increasing the number of animals registered.

This Option may result in an increase in administration, with Council's having to administer the rebate scheme and update changes to the Companion Animals Register which would be offset to some degree by administrative savings through the one step registration process (Option 6). As an alternative, the Taskforce could consider an option of a rebate being provided against the cost of desexing if an animal is desexed within 3 months of it being registered. Ultimately the increased uptake of desexing as a result of the rebate should also result in a decline in companion animal management costs (with less unwanted animals in the community). Therefore this option is supported.

Option 8 - Raise cat and dog registration fees to fund additional council and State Government cat and dog management programs.

Some may argue that as a consequence of increasing registration fees, the potential for non-compliance with animal identification and registration requirements also would increase. In addition any significant increase would increase the costs associated with the release and purchase of impounded animals that are required to be registered prior to their release from Council's Animal Care Facility. It is for these reasons that the option to increase fees beyond annual indexation for additional animal management programs is not supported.

Irrespective of the above, if any registration fee increase is to be considered it should aim to increase the gap between undesexed and desexed animals to provide additional financial incentive to desex animals not intended for breeding.

Option 9 - Establish new registration categories to encourage desexing.

The Discussion Paper suggests the introduction of two new registration categories to encourage animal desexing:-

1. Desexed animal purchased from pound
2. Desexed animal – post purchase consultation by owner

The new categories would attract a discounted registration fee for animals that are desexed as a result of being purchased from a pound or after attending a post purchase responsible pet ownership consultation.

This Option should encourage the purchase of surplus animals from council pounds and /or raise awareness of owners in the responsible care and management of their newly acquired animal and therefore this Option is supported. An eligibility timeframe for desexing should apply (for example within three months of animal purchase) to encourage timely desexing and reduce the potential for unwanted litters.

Option 10 - Introduce measures to improve compliance with companion animal legislation data entry requirements.

This Option discusses a number of strategies to improve compliance with the entry and updating of Companion Animal Register information, including encouraging breeder and animal welfare groups to become "registration agents", establishing a fee for service for registration agents and investigating self service data entry for animal owners to update their contact details.

Increased data entry by other registration agents would ease the current administrative burden on councils. Increased capacity for data entry by other agents would result in register information being more up to date increasing the likelihood that lost and stray animals can be reunited with their owners. Registration could also be completed more conveniently and this should result in increased registrations and an increase in revenue to councils and the Companion Animals Fund.

Privacy issues would need to be carefully considered. There may be some reservations regarding allowing self service data entry access to the register by owners for updating contact details as this would need to be strictly controlled for privacy and quality control purposes.

It is recommended that this Option be supported in part in so far as permitting authorised registration agents and the associated fee for service.

Option 11 - Establish a grant funding initiative for councils/partner organisations to deliver targeted microchipping, registration and desexing programs.

This Option could be used to provide grants to councils for the delivery of targeted microchipping, registration and desexing programs (such as the CAWS subsidised cat and dog desexing program currently being undertaken by council). Funding of up to \$10,000 for individual projects is proposed to be offered and therefore this Option is supported.

Issue: The Role of Education.

Option 12 - Develop a community-wide socially responsible pet ownership education campaign.

Comprehensive community education is considered beneficial in assisting to reduce the number of unwanted cats and dogs and such a campaign would be likely to improve community understanding of the consequences of irresponsible pet ownership.

The campaign may focus on key issues such as choosing an appropriate cat or dog, the importance of identification and registration, appropriate confinement and housing, the importance of exercise, training and socialising cats and dogs, the importance of early age desexing and the availability of discounted desexing services.

In conjunction with the campaign, the Division's existing Responsible Pet Ownership Schools Education Program could be expanded to reach pre-school children. Other companion animal industry groups could also be encouraged to target existing education programs to senior primary and high school students. This will mean that key socially responsible pet ownership messages are introduced to children and their families as early as possible and reinforced across their school life.

Effectively communicating relevant messages to the community over the long-term may lead to a reduction in the number of people purchasing unsuitable cats and dogs and increased microchipping, registration and desexing.

Irrespective of the above however, the Discussion Paper identifies that the availability of an adequate amount of funds to support an effective campaign is contingent upon an increase in registration fees (set out in Option 6). Therefore there exists an element of uncertainty as to whether sufficient funds would be available to support this initiative.

Option 13 - Develop mandatory standardised information on socially responsible pet ownership to be given out at point of sale and introduce initiatives to reinforce such information.

Standardised information provided at the point of sale of companion animals may prevent the purchase of unsuitable cats and dogs and ultimately reduce the number of unwanted cats and dogs surrendered at pounds and shelters.

Post-purchase vet consultations would reinforce socially responsible pet ownership messages.

This option is supported in the interests of promoting responsible pet ownership and reducing the number of unwanted cats and dogs surrendered at pounds and shelters.

Option 14 - Establish minimum qualification requirements for pet shop, breeding establishment and pound/shelter staff.

Updating the *Animal Welfare Code of Practice – Breeding Dogs and Cats* and *Animal Welfare Code of Practice – Animals in Pet Shops*, to require at least one staff member working in a pet shop, breeding establishment, pound or animal shelter to be trained to a minimum recognised level may result in better welfare outcomes for cats and dogs in such establishments.

The Discussion Paper suggests a Certificate Level II qualification as a minimum recognised level of training. Discussion with Council's contracted veterinarian suggests the training requirement should be higher.

It is recommended that this Option be supported with comment to suggest that consideration be given to increasing the minimum training requirement to a higher certificate level.

Option 15 - Provide more funding for research on key cat and dog issues.

A portion of the Companion Animals Fund could be set aside annually for the purpose of funding a grant program for research on key cat and dog issues. The Companion Animal Fund is resourced from the diversion of a small percentage of companion animal registration fees paid by animal owners.

The scope of applicable projects would need to be determined and resources required to develop guidelines, an application process and address other governance issues associated with grant administration.

As this initiative may potentially result in the diversion of limited funds from other areas of more immediate and greater need (as identified in the Discussion Paper) and the uncertainty surrounding the scope of projects that would be funded, it is recommended this option not be supported at this stage. In addition care should be taken to restrict the allocation of funded research programs to objective (and not self-interest) individuals or groups that are involved in dog and cat research.

Issue: Impounded Cats and Dogs

Option 16 - Encourage greater collaboration between councils and animal welfare organisations on impounding and re-homing services to reduce euthanasia rates.

Council has previously (December 2011) resolved to enter an agreement with approved rescue organisations to allow for the release of unclaimed or unsold animals from the Animal Care Facility into foster care arrangements to provide increased opportunity for rehoming of impounded animals.

Since Council's resolution in December, 2011 to work with approved rescue organisations, Council has written to all NSW Division of Local Government approved rescue organisations, inviting them to apply to enter an agreement to allow for the release of unclaimed animals into their care under foster care arrangements. Six rescue organisations have responded by submitting an application to Council and those applications are currently being assessed.

Such arrangements may potentially reduce facility operating costs and increase rehoming rates for impounded animals. Therefore this Option is supported.

Option 17 - Investigate the development of an integrated impounded animal management tool

A centralised impounded animal management tool, available to all councils, State agencies and animal welfare organisations would provide for consistent data collection across all agencies, meaning that all relevant data could be considered in the policy development process.

The Companion Animal Register may be a suitable platform for this purpose as it has the capacity to incorporate additional modules (such as the existing dog attack reporting module). The Companion Animal Register may be easier and less costly to adapt than the development of a new collection tool.

This Option would provide an opportunity for consistency in data collection across all impounding agencies and allow for standardised data entry and analysis of impounding data. This could allow more targeted and effective policy responses to reduce euthanasia rates and therefore this Option is supported.

Option 18 - Review barriers to cat and dog ownership in relation to residential tenancy laws

Pet-unfriendly accommodation and strata-titled housing (whether owned or rented) can contribute to the surrender of owned pets, and appear to be a factor inhibiting the adoption of companion animals from pounds and shelters.

Conversely, dogs and cats kept inappropriately in clustered or densely populated housing developments may cause nuisance to neighbours. Ultimately it is the property owner/managers decision whether to allow or keep animals on any given property and it is considered that the introduction of a pet bond system or a review of residential by laws, as proposed in the Discussion Paper, will do little to change animal surrender or adoption rates in relation to strata-titled housing or tenanted properties.

Option 19 - Introduce measures to encourage the confinement of cats to their owner's property

The confinement of cats, particularly at night, is considered to be central to responsible cat ownership as it can reduce the number of unwanted litters of kittens and the impact of cats on wildlife and social amenity.

However, mandatory confinement is considered to be an inappropriate regulatory response as it is difficult to enforce, particularly as councils already face competing demands for limited resources.

The Discussion Paper advises that consideration could be given to amending the Companion Animals Act to provide councils with the option to impose local orders on cat owners to confine their cats, where this approach is considered appropriate and enforceable. The Order provisions of the Local Government Act currently provide for an Order to be served on an occupier of premises to regulate the number or type of animals kept at a premises or the manner in which they are kept.

Irrespective of the above, local council orders on cat confinement would be difficult to enforce and therefore the effectiveness of this option, although supported, is uncertain.

Option 20 - Establish an ongoing reference group on cat and dog management and welfare issues

An ongoing reference group on cat and dog management and welfare issues could aid future policy and legislative development and review. As well as relevant government agencies, such a group could include representation from across all sectors of the companion animal industry, including councils, animal welfare and rescue groups, breeders, educators, and pet stores. However care would need to be taken to ensure that membership is balanced to ensure the effectiveness of the group.

This option is supported given the potential benefit in the ongoing development, monitoring and review of companion animal policy, codes of practice and legislation.

Conclusion

The content of this report has considered a range of priority issues and options raised in the Discussion Paper and has proposed feedback in the form of a submission as indicated in Attachment 2 of the report. Therefore it is recommended that Council endorse the proposed submission and write to Division of Local Government NSW Department of Premier and Cabinet advising them accordingly.

Officer's Recommendation

1. That Council endorse the Companion Animals Taskforce Discussion Paper May 2012 submission to the Division of Local Government, Department of Premier and Cabinet as indicated in Attachment 2 of this report.
2. That Council write to the Division of Local Government NSW Department of Premier and Cabinet enclosing a copy of the endorsed submission and advising it of Council's resolution as indicated in 1 above.

Committee's Recommendation: (Bourke/Greiss)

1. That Council endorse the Companion Animals Taskforce Discussion Paper May 2012 submission to the Division of Local Government, Department of Premier and Cabinet as indicated in Attachment 2 of this report subject to the inclusion in the submission of Council's concerns in regards to the impulse purchase of pets from pet shops.
2. That Council write to the Division of Local Government NSW Department of Premier and Cabinet enclosing a copy of the endorsed submission and advising it of Council's resolution as indicated in 1 above.

CARRIED

Council Meeting 3 July 2012 (Kolkman/Bourke)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 112

That the Officer's Recommendation be adopted.

5. GENERAL BUSINESS

5.1 Availability of Information to Members of the Public

Committee's Recommendation: (Bourke/Oates)

That a Draft Policy be prepared for consideration and adoption by Council in relation to the public availability of Council information that addresses, in particular:

- i. Reports submitted to Council and its Committees prepared by Council staff, including attachments to reports
- ii. Correspondence written on behalf of Council in association with a Council resolution, and responses received in reply to that correspondence
- iii. Appropriate confidentiality and privacy requirements
- iv. Preliminary draft maps, plans and other documents of policy significance that have not been endorsed by the Council for public exhibition.

CARRIED

Council Meeting 3 July 2012 (Kolkman/Bourke)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 112

That the Officer's Recommendation be adopted.

Confidentiality Motion: (Thompson/Oates)

That the Committee in accordance with Section 10 of the *Local Government Act 1993*, move to exclude the public from the meeting during discussions on the items in the Confidential Agenda, due to the confidential nature of the business and the Committee's opinion that the public proceedings of the Committee would be prejudicial to the public interest.

CARRIED

18. CONFIDENTIAL ITEMS

18.1 Confidential Information Relating to Items on the Planning and Environment Agenda 26 June 2012

Reason for Confidentiality

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

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

There being no further business the meeting closed at 10.17pm.

R Kolkman
CHAIRPERSON
