

Reports of the Planning and Environment Committee Meeting held at 7.30pm on Tuesday, 24 July 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 24 July 2012

Present His Worship the Mayor, Councillor A Chanthivong
Councillor R Kolkman (Chairperson)
Councillor G Greiss
Councillor P Hawker
Councillor R Thompson
General Manager - Mr P Tosi
Director Planning and Environment - Mr J Lawrence
Acting Manager Environmental Planning - Mr A Spooner
Manager Development Services - Mr J Baldwin
Manager Waste and Recycling Services - Mr P Macdonald
Manager Community Resources and Development - Mr B McCausland
Manager Cultural Services – Mr M Dagostino
Corporate Support Coordinator - Mr T Rouen
Executive Assistant - Mrs K Peters

Apology (Hawker/Greiss)

That the apologies from Councillors Bourke, Matheson and Oates be received and accepted.

CARRIED

Acknowledgement of Land

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

DECLARATIONS OF INTEREST

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

Pecuniary Interests

Nil.

Non Pecuniary – Significant Interests

Councillor Hawker - Item 3.2 - No.1 Honeyeater Place, Ingleburn - Use of dwelling's garage as a commercial kitchen for food catering purposes - Councillor Hawker advised that an objector is known to him and that he will leave the Chamber and not take part in debate nor vote on the matter.

Non Pecuniary – Less than Significant Interests

Councillor Chanthivong - Item 3.2 - No.1 Honeyeater Place, Ingleburn - Use of dwelling's garage as a commercial kitchen for food catering purposes - Councillor Chanthivong advised that he has met with a number of persons in relation to this development.

1. WASTE AND RECYCLING SERVICES

1.1 Proposed Container Deposit Scheme

Reporting Officer

Manager Waste and Recycling Services

Attachments

Nil

Purpose

To provide an outline of the Container Deposit Scheme proposed under the *Waste Avoidance (Beverage Containers) Bill 2012*.

History

At its meeting on 5 June 2012, Council resolved that a report be presented on the proposed Container Deposit Scheme outlining the current status of the Scheme and the potential impacts this may have on the current recycling service provided by Council's contractor including the potential impact on costs to ratepayers through the Domestic Waste Management Charge.

Report

The *Waste Avoidance (Beverage Containers) Bill 2012* (the Bill) proposes the establishment of a Container Deposit Scheme in NSW that would refund consumers 10 cents for beverage containers they return to a collection depot or reverse vending machine.

The proposed scheme would apply to containers for beverages including soft drinks, alcoholic drinks, juice, water, milk and milk drinks. Containers sold in New South Wales covered by the proposed scheme would be required to display a label informing consumers of the availability of the 10 cent refund.

The scheme itself would be developed and implemented by a 'Beverage Container Deposit Scheme Coordinator' (BCDSC), to be established by beverage producers with the agreement of the Minister. The BCDSC would be managed by a Board with mixed stakeholder representation, and would be responsible for providing cost effective, accessible and convenient facilities to allow consumers to return their beverage containers.

The scheme would be funded by beverage producers, with all deposit funds collected by producers being provided to the BCDSC to cover the cost of the scheme.

At this stage, the cost implications for local councils are unclear. The Local Government and Shires Association of NSW is currently commissioning a study into the costs and benefits of a Container Deposit Scheme, which is expected to provide greater insight into what the impacts for councils are likely to be.

Similarly, the cost implications for Council remain unknown until such a time as Council's waste processing contractor submits a claim for a change in the composition, and therefore the value of the contents of an average household recycling bin.

The Bill is currently before NSW Parliament. More information about the progress of the Bill and its impacts will be provided to Council when it becomes available.

Officer's Recommendation

That further information about the progress of the *Waste Avoidance (Beverage Containers) Bill 2012* and its impacts be provided to Council when it becomes available.

Committee's Recommendation: (Greiss/Thompson)

That the Officer's Recommendation be adopted.

CARRIED

Council Meeting 31 July 2012 (Kolkman/Greiss)

That the Officer's Recommendation be adopted.

Council Minute Resolution Number 133

That the Officer's Recommendation be adopted.

2. ENVIRONMENTAL PLANNING

2.1 Strategic Regional Land Use Plan for the Southern Highlands

Reporting Officer

Acting Manager Sustainable City and Environment

Attachments

Nil

Purpose

1. To update Council on the development of a Strategic Regional Land Use Plan (SRLUP) that will apply to the Campbelltown Local Government Area.
2. To seek Council's support for correspondence to be sent to the Department of Planning and Infrastructure (DPI) requesting that the Campbelltown LGA be included in a future SRLUP for the southern coalfields.

History

At its meeting on 8 May 2012, Council considered a report regarding the NSW Government's Strategic Regional Land Use Policy and associated documents including Strategic Regional Land Use Plans (SRLUP). This report referred to advice received from the Local Government representative on the Multi Government Agency Reference Group (coordinated by the DPI), that the next scheduled region for the preparation of a SRLUP was the Southern Highlands, and that this Plan would incorporate the Campbelltown LGA.

At the Planning and Environment Committee meeting on 26 June 2012 a community representative advised the Committee that, based on advice from the NSW Department of Planning and Infrastructure (DPI), she understood the SRLUP for the Southern Highlands would not apply to the Campbelltown LGA.

A Planning and Environment Division Councillor Weekly Memo (CWM) item (dated 29 June 2012), advised that a report on this matter would be provided to the Planning and Environment Committee at its meeting on 24 July 2012.

Report

Council staff have consulted with the DPI to clarify this matter. A DPI representative initially advised that the current proposal is for the Southern Highlands SRLUP to apply to the Wingecarribee LGA and that issues relating to Mining and Coal Seam Gas Extraction in the Campbelltown LGA will be addressed as part of the revised Sydney-Canberra Corridor Strategy.

Upon further consultation the DPI have amended their advice and now suggest that the issue of conflicts between land use and mining within the Campbelltown and Wollondilly LGAs will be addressed as either part of the review of the draft South-West Subregional Strategy or through their inclusion in the Southern Highlands SRLUP.

Preliminary studies are currently being undertaken as part of the preparation of the Southern Highlands SRLUP and priority for these studies is being given to the Wingecarribee LGA as this LGA is not covered by a Subregional Strategy. The DPI has not yet determined the full scope and application of the Southern Highlands SRLUP.

Council staff consider it preferable and more appropriate that conflicts between land use and mining within the Campbelltown LGA be addressed by a SRLUP as opposed to a revised Sub-Regional Strategy for a number of reasons, including:

- The current draft South West Sub-Regional Strategy requires substantial modification to adequately address these issues
- Council has not received any formal advice concerning a timeframe for the completion of the draft South-West Subregional Strategy
- A SRLUP which applies to the entire coal and gas resource in the southern coalfields, including the Campbelltown, Wollondilly, Camden and Wingecarribee LGAs, would provide a more holistic and strategic approach to management of coal and gas resources and associated extraction activities
- The SRLUP would sit within the overall framework of the NSW Government's Strategic Regional Land Use Policy and other associated documents, such as the Aquifer Interference Policy, which are relevant to gas and coal extraction and
- The application of a SRLUP to the Campbelltown LGA would be consistent with the statement in the draft SRLUPs for the Upper Hunter and North West regions of NSW that the Plans represent the proposed framework of the NSW Government to support the growth of the mining sector, protect the environment and respond to competing land uses.

It is therefore considered pertinent that Council send correspondence to the NSW DPI requesting that a SRLUP be developed to apply to the Campbelltown LGA and that it is preferable that this SRLUP apply to all LGAs within the southern coalfields. Further, it is also considered appropriate that Council requests that interim measures for resolving conflicts between land use and mining operations be established and enforced until such time as a SRLUP is developed and implemented for the area.

Officer's Recommendation

That Council send correspondence to the Department of Planning and Infrastructure requesting that:

- a. a Strategic Regional Land Use Plan be developed to apply to all Local Government Areas within the southern coalfields.
 - b. interim measures for resolving conflicts between land use and mining operations be established and enforced until such time as a Strategic Regional Land Use Plan is developed and implemented for the area.
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Committee's Recommendation: (Greiss/Thompson)

That the Officer's Recommendation be adopted.

CARRIED

Council Meeting 31 July 2012 (Kolkman/Greiss)

That the Officer's Recommendation be adopted.

Council Minute Resolution Number 133

That the Officer's Recommendation be adopted.

2.2 Minutes of the Camden Gas Community Consultation Committee

Reporting Officer

Acting Manager Sustainable City and Environment

Attachments

Minutes of the Camden Gas Community Consultation Committee Meeting held on Thursday 16 February 2012

Purpose

To provide Council with an update on the outcomes of the Camden Gas Community Consultation Committee meeting held on Thursday 16 February 2012.

History

The Camden Gas Community Consultation Committee (CGCCC) is comprised of representatives of Campbelltown, Camden and Wollondilly councils as well as community representatives associated with each of the stages of the Camden Gas Project (CGP). The Committee was established as a condition of consent for the CGP to provide a forum for discussion between AGL Upstream Investment (AGL) (the proponent) and the community.

The General Manager was appointed as Council's representative to the CGCCC on 31 May 2011 and the Director of Planning and Environment as his formal delegate.

Report

A meeting of the CGCCC was held at the Rosalind Park Gas Processing Plant on Thursday 5 February 2012. A summary of the major issues raised at the meeting was provided to Council via the Planning and Environment Division's Councillor Weekly Memo on 9 March 2012. The minutes of this meeting, which were formally endorsed at the meeting of the CGCCC held on Thursday 17 May 2012, are provided as Attachment 1. Copies of presentations referred to in the minutes are available from the Acting Manager Environmental Planning.

This report provides a broad summary of the outcomes of the meeting and highlights issues of relevance to Council.

1. Monitoring of the Rosalind Park Processing Plant and operation of wells

An AGL representative provided a summary of emission and noise monitoring being undertaken on the performance of the Rosalind Park Processing Plant, by AGL. This monitoring identified full compliance by the facility with the licence conditions issued by the Environment Protection Authority (EPA). An EPA representative in attendance at the meeting advised that impromptu monitoring by the EPA can be undertaken at any time but was unaware of any recent monitoring, in relation to the Camden Gas Project, being undertaken by the EPA.

2. Incident at a Spring Farm well site

A presentation by an AGL representative provided details on an incident that occurred at a coal seam gas extraction well in the Spring Farm area, within the Camden LGA, on Monday 14 November 2011. The incident involved the leakage of approximately 1,000 litres of wastewater from the well as part of a maintenance procedure during a period between 12:00 midnight and 1:00am, before it was detected by a security guard. The AGL representative advised that the incident had been determined to have been caused by the use of an incorrect sized locking mechanism around the well head.

The EPA representative in attendance at the meeting advised that the ensuing investigation concluded that the incident was minor, did not cause any significant environmental impact and did not warrant any regulatory action. The AGL representative acknowledged at the meeting however that the discharge could have potentially overflowed the bunding and impacted on watercourses if the incident had not been detected so quickly.

A community representative requested that details of all incidents (including outcomes of any investigations), be made available for interested parties. The Committee subsequently resolved that a summary of the current methods used to report incidents to the community be provided by AGL at the next meeting of the Committee.

3. Pollution Reduction Programs

A presentation by an AGL representative provided details on a series of Pollution Reduction Programs required by the EPA, primarily in relation to stormwater and groundwater issues. The EPA representative has subsequently advised Council officers that the Plans were required due to the considered view of the EPA that the overall environmental performance of the Camden Gas Project required enhancement. Details of the completed Plans will be provided to Council as they are made publicly available by the EPA.

4. Update on Stage 2 of the Camden Gas Project

(a) Modification application at Mt Taurus

A presentation provided by an AGL representative summarised the key issues raised by Council and relevant NSW Government agencies regarding the application lodged by AGL to modify an existing condition of consent to allow for the installation of an additional well within the Mt Taurus Gas Field at Menangle Park. The issues raised by the New South Wales Office of Water (NoW) were largely similar to those contained in Council's submission in terms of insufficient description and assessment of impacts on the groundwater system and the adjacent Nepean River.

Council forwarded a letter to the NSW Department of Planning and Infrastructure (DPI), on 1 June 2012, in response to a request to comment on the draft conditions of Approval. Council's correspondence expressed dissatisfaction with the proposed consent conditions in addressing issues raised in Council's previous submission. A DPI representative advised during a recent meeting with the Director of Planning and Environment it was his understanding that the NoW were satisfied with the proposed consent conditions in addressing issues raised in its submission.

A Planning Assessment Commission was established to determine the application and was forwarded application for consideration. Members of the Commission met with Council's General Manager and Director Planning and Environment on Friday 6 July 2012 to discuss the matter. Discussions focussed on Council's objection to the modification and the reasons relating thereto.

On 10 July 2012, Council received notice that the modification had been approved subject to conditions. A copy of the approval is available from the Director Planning and Environment.

(b) Operation and maintenance of well sites

An AGL representative advised that there has not been any coal seam gas drilling since August 2011 and no future drilling was scheduled at the time of the meeting. The representative further provided details of completed rehabilitation works following the completion of drilling operations at a well site adjacent to the F5 Freeway.

5. Update on Stage 3 of the Camden Gas Project

(a) Groundwater Investigation Study

This Study forms part of the response by AGL to submissions received on the Camden Gas Stage 3 Project Application. An AGL representative provided an update on groundwater monitoring undertaken at Denham Court as part of the Study, and reiterated the previous invitation for the nomination of groundwater sampling sites by members of the Committee. The representative further advised that the completed Study would be made publicly available as part of the Response to Submissions Report.

In relation to this matter, a presentation provided to Council at its Briefing session on 19 June 2012 advised that a peer review of this Study is considered the most cost-effective approach for Council to assess the environmental risk to ground and surface waters by the Camden Gas Project Stage 3 Application. Further details on the proposed peer review is provided in a separate report within this agenda.

(b) Referral of the Camden Gas Stage 3 Application to the Commonwealth Government

The AGL representative advised that the referral of the Camden Gas Stage 3 Project to the Commonwealth Government under the *Environment Protection and Biodiversity Conservation Act 1999* is currently being prepared. This application has not been lodged at the time of the finalisation of this report and further information regarding this matter will be provided to Council when available.

6. General Business

A community representative enquired as to the expected increase in overall gas production for the Camden Gas Project as a consequence of Stage 3. An AGL representative advised that a precise figure was difficult to calculate and would be dependent on supply and demand, however a 10% increase in production was the desired outcome.

Next meeting

The next meeting of the CGCCC is scheduled to be held on Thursday 16 August 2012 at the Rosalind Park Gas Processing Plant where the minutes for the meeting held on 17 May 2012 are proposed to be endorsed.

A report providing a summary of the minutes of the 17 May 2012 meeting will be presented to the next available Council meeting following their endorsement.

Officer's Recommendation

That the information be noted.

Committee's Recommendation: (Hawker/Kolkman)

That the Officer's Recommendation be adopted.

CARRIED

Council Meeting 31 July 2012 (Kolkman/Greiss)

That the Officer's Recommendation be adopted.

Council Minute Resolution Number 133

That the Officer's Recommendation be adopted.

ATTACHMENT 1

COMMUNITY CONSULTATIVE COMMITTEE AGL – CAMDEN GAS PROJECT

MEETING NO.31

Held in the RPGP Conference Room, Menangle on 16 February 2012 at 5.30pm

MINUTES

Member / Guest	Attendance Type
Mrs Margaret MacDonald-Hill (MM) Chair	Present
Mr Brad Staggs (BS)	Present
Mr David Henry (DH)	Present
Mrs Diane Gordon (DG)	Present
Cr Fred Anderson (FA)	Present
Ms Jacqui Kirkby (JK)	Present
Mr Jeff Lawrence (JL)	Apology
Mr Michael Banasik (MB)	Absent
Mr Michael Hingley (MH)	Present
Mr Paul Hourigan (PH)	Absent
Mr Peter Bloem (PB)	Present
Mr Simon Hennings (SH)	Apology
Mr Troy Platten (TP)	Present
Mr Aaron Clifton (AC)	Present
Mr Adam Lollback (AL)	Present
Ms Naomi Rowe (NR)	Apology
Miss Wendy Thompson (WT)	Present

Meeting Opened at: 5.35pm

ITEM	ACTION
<p>1.0 Welcome</p> <p>Welcome and Introductions by Chair – MM.</p> <p>Welcomed, Troy Platten, Brad Staggs and Peter Bloem to meeting.</p> <p>Margaret advised committee members that she is engaged by AGL as an independent chair, approved by the Director of General Planning and Infrastructure.</p> <p>Margaret declared to committee members that she is also a member of the Mine Subsidence Board and the Minister’s Arbitration panel.</p>	
<p>2.0 Apologies</p> <p>As above</p>	

<p>3.0 Confirmation of Previous Minutes</p> <p>MM – Previous June minutes distributed to members prior to the meeting with suggested amendments from JK. MM advised JK was an observer to that meeting pending approval from DoPI. Minutes had been moved and seconded by committee members. She proposed JK’s June minute amendments be added as an addendum to the previous meeting minutes.</p> <p>September minutes.</p> <p>JK – Concern that the minutes would not be understood by community members reading them from the AGL website.</p> <p>JK – Page 1, regarding who reviews minutes for accuracy. <i>AC comment amended to “AGL advised that minutes are reviewed.....”</i></p> <p>JK – Page 2, regarding audio recording of meeting minutes. Understood that SH and JL were also included in the discussion around recording of minutes. <i>Above FA Cited his concern..... insert comment “SH suggested compromise possibility of meeting minutes being taped. General consensus was no.”</i></p> <p>JK – Page 3, regarding moratorium on fracking. <i>Add note that “AGL has not undertaken fracking processes during the moratorium period.”</i></p> <p>MM – read out her email response to JK to the meeting (attached)</p> <p>TP – Suggested pertinent information be recorded to use for clarification.</p> <p>MM – Reconfirmed that if there are any major concerns they were to be addressed to MM as soon as practical after distribution to members.</p> <p>JK - Page 4, Regarding report used. <i>Clarified to “baseline data collected in 2001 by SGO cannot be used for the Northern Expansion area because the consultants made it specific for the Cawdor area”</i></p> <p>JK – Page 4, JK – Amended <i>“She had been given information.....”</i></p> <p>JK – Page 5, Report in UEH. Amended to <i>“Mary Lou Pott's submission on the Camden Gas Project”</i></p> <p>JK – Page 5, regarding Varo Ville House comment. JK recalls JR responded advising exploration wells included in the Phase 1 Groundwater Assessment Report for the Northern Expansion were only those which gave useful information.</p> <p>JK – Page 6, Mike Moraza's advertorial statement. Clarify that homes can be built within 20m of existing wells, but new wells cannot be drilled within 200m. This was the reason that AGL’s advertorial was considered misleading.</p> <p>JK – Page 6, JK comment for committee visit. Amended <i>“Requested the Camden committee.....”</i></p> <p>FA – Raised concern that the minutes are being amended adding comments that were not part of the original minutes written.</p> <p>Discussion held with all members regarding minutes. Process will be to review 'live' minutes on screen for early confirmation.</p> <p>Moved: David Henry Seconded: Jacqui Kirkby</p>	<p>AL to seek clarification from JR</p>
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<p>4.0 Business Arising</p> <p>JK – RA01, Thanked Aaron for sending report, however no appendices and requested confirmation of a report from the community that water was seen erupting from the well. AC – Believed appendices/other information withheld due to commercial in confidence - will check. Requested further clarification or information on the event. JK – Understood at the time the well had been capped. AC – Clarified that this well was drilled back in 2006/2007. It was not bought to AGL’s attention at the time so will seek previous information.</p> <p>AC informed members that fracking is now termed fracture stimulation.</p> <p>MM – tabled response from DOP&I to members Invitation to DOP&I to attend future meeting in August. Hunter CCC meeting at Camden held on 8/11. DH, JK & FA met informally with Hunter CCC. AL arranged water monitoring inspection on 3/11. JK attended.</p>	<p>AC and JK to seek further information</p>
<p>5.0 Correspondence</p> <p><u>IN</u></p> <ul style="list-style-type: none"> – email 6/10 from Peter Bloem following email from JK (30/9) issue with June minutes – email 6/10 from JK on fracking – letter 8/10 from Howard Reed on compliance activities – email 10/10 from Howard Reed on attendance – email 12/10 from JK issues with June minutes & cc to AL (letter 23/6) on water monitoring – email 28/10 from AL advertisement for replacement members & advice on water monitoring/sampling inspection on 3/11 – email 11/11 from JK advising issues with September minutes – email 23/12 acknowledgement from JK <p><u>OUT</u></p> <ul style="list-style-type: none"> – email 4/10 invitation to Howard Reed to attend future CCC meeting – email 7/10 response to Peter Bloem – email 7/10 response to JK on fracking – email 12/10 acknowledging JK email – email 17/10 response from DoPI to DH & JL – email 11/11 & 23/12 responses to JK – email 9/12 to Peter Bloem confirming invitation to attend Feb meeting 	
<p>6.0 Reports</p> <p>AC – Operations and HSE Update <i>See Slides</i> Slide 2: AC – Explained to members workover and completions operations and the activities associated with those operations.</p>	

Slide 3: JK – Understood that the noise monitoring had been removed from Mt Gillead.
AC – Confirmed that the continuous noise monitoring has been removed, however attended noise monitoring still occurs in consultation with the landowners knowledge.
JK – Queried if any surprise monitoring was being undertaken
PB – Advised that monitoring can be undertaken by EPA at any time under an independent audit, although he was not aware of any monitoring or compliance audit done by the EPA recently.
Discussion held by members with the noise monitoring examples and process used.
PB – Advised the Industrial Noise policy sets out the standards and guidelines that are used for monitoring.
TP – Suggested as an option the independent monitoring companies can provide the dates to AGL that they monitor.
AC – Continued consultation with the landowners still needs to be maintained. AC to follow up options to continue transparency.
FA – Noted that anyone can contact EPA should they have any queries or concerns with regards to noise. This would eliminate the questioning of AGL’s integrity.
PB – Noted that he is unaware of any recent issues regarding noise.
AC – Noted that safety still needs to be considered for parties on any AGL operational site.
Noted: EPA 24 hour line 131 555, can be contacted at any time for submission of any complaints of this nature.
Slide 4: JK Queried the cause of the leak
AC – Advised that the ram blocks on the BOP were the incorrect size for the pipe in the well.
JK Queried if security were not present on site if the leak would have been detected.
AC – Confirmed that employee’s would attend site at approximately 6am, the leak was intermittent, approximately 1000L was leaked over approximately a 1 hour period. This does not confirm though that 6 hours would mean 6000L.
FA – How was the volume of water calculated?
AC- Educated estimate based on the surface covered and water present.

Slide 5: AL – Advised that the Land and Compliance Officer (Kevin Rofe) for AGL attends to sites where activities are being undertaken to check that the operators are aware of AGL’s gathering line network in the areas where they may be working.
FA – Queried if this was the first time this had happened, and if lessons learnt can assist prevention.
AC – Thinks it may have occurred before but it is rare. Investigation undertaken and areas of improvement noted, such as response time. Suggestions being reviewed for quicker response opportunities. Requests from the EPA also received for follow up.
BS – Suggested Telstra could be advised of the importance of DBYD process.
JK – Queried if there is a summary of incidents, provided example of finding by chance application for re-routing of gathering line due to a landslide rupturing of an existing line at Glenlee.
AC – Advised that this forum is used to bring reportable incidents to the

<p>community members. JK – Noted that there is not one place that provides a summary of all incidents that can be viewed BS – Noted that this has caused concern. AC – Understands that these are provided in this forum PB – All reportable incidents, that result in licence non-compliance, are made public in the NSW public register on the EPA website. JK – Suggested one place for the full performance to be available to interested parties.</p> <p>Slide 7: PB – Suggested all members review the new licence requirements on the EPA website. JK – Asked PB if there is going to be a central point for all complaints to be made. PB – Specific to environmental incidents, there are new requirements, but this would not cover other areas of incidents, such as safety. JK – Provided example of salty water in a clear water creek and raising this issue to see if it was related to coal seam gas. PB – Suggested that any concerns that are held can be directed through the Environment Line. BS – Suggested AGL also could provide information to the local government authorities when an incident has been report to other regulatory bodies. JK – Asked if this was the only producing gas project in NSW AC – Confirmed correct. JK – In Australia where does it rate for longest running. AC/AL – Do not have this information, but first in NSW. Suggested APPEA may have further records.</p> <p>DG – Queried how proud AGL is of the reporting information. AC – Not ideal to have any complaints, Confirmed highest number of complaints in recent years, but mindful of the sensitive areas that we are moving into.</p> <p>AL – Community and Government Update Slide 9: MH Queried the gathering line on council land AL/AC – Showed the route of gathering line on the map</p> <p>Slide 12: JK – Noted that SHA oppose this monitoring. Provided that the reason is that the data will not support a “go” or “no-go” decision by the DOP&I. Campbelltown Council has also removed its support for this water monitoring. Believes that this is progressing the Camden Gas Project before approval. Concerned that landowners may give access for this without understanding further consequences for CSM. AL – The purpose is to do a full environmental assessment of the area to provide coverage of all bases. JK – Noted this information was not made available during the Public Exhibition period. JK – Understands three late submissions have been received, and those submissions state they have only been made aware of the Northern Expansion proposal recently. Raises conflict of accounts with regards to full consultation by AGL in the EA. AL – Can confirm that he personally spoke to those landowners noted in the late submissions, and the detailed</p>	<p>AC to provide summary of the current methods AGL use to report incidents to the community</p>
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<p>information regarding consultation will be included in the response to submissions. AL - Advised that AGL invited nomination of sites for groundwater sampling and that offer still stands, and that AGL are looking for an extra site so that the whole of the stage 3 project area is covered. DH – Questioned if the additional groundwater report be distributed for comment. AL – Advised No, it will go in the Response to Submission Report. DH – Queried if the EPBC referral application been lodged or is it in the process of being prepared AL – Advised that it is in the process of being prepared.</p> <p>JK – SHA raising concern that land and home packages may be being sold to unsuspecting public members in the Camden Northern Expansion area, where it is not noted that coal seam gas wells are proposed. FA – Noted that people purchasing property should be well aware of the expected developments that may impose on their amenity. Suggested that where the intended well sites are proposed to be, are made aware to sellers of those properties, to pass the information on to buyers. No legal obligation is current, but his Council is looking at ways to advise buyers.</p>	
<p>7.0 General Business PB – New requirements on POEO for incident reporting.</p> <p>JK – In the Upper House Inquiry, AGL stated 138 wells drilled in CGP. Does this include exploration wells? Of the 138 wells drilled, 52 are not producing gas. Have these been plugged and abandoned?</p> <p>AL – 138 includes production wells only, not exploration wells. Of the wells which are not producing gas, these are suspended and may be plugged and abandoned or brought back into production.</p> <p>JK – What is the increment for gas production increase for the Northern Expansion expected to be?</p> <p>AL – Would hope for 10% but it is based on supply and demand. This is very difficult to calculate due to numerous reasons. JK – Advised AGL could supply assumptions with its predictions so they can be tested by others.</p> <p>FA – Suggestion that minutes include a list of acronyms such as EPA, NOW etc</p> <p>BS – Agreed but suggested extend to include explanations of common technical terms</p>	<p>This could be done as a list/index at beginning of minutes</p>
<p>8.0 Next Meeting Date 17 May 2012 16 August 2012 (proposed) 15 November 2012 (proposed)</p>	

Meeting Closed at: 8.40pm

2.3 Proposed Renaming of Alyan Place, St Helens Park

Reporting Officer

Acting Manager Sustainable City and Environment

Attachments

Copies of written submissions and a petition objecting to the renaming proposal (distributed under separate cover)

Purpose

To advise Council of submissions received following the exhibition and notification of the proposal to rename Alyan Place, St Helens Park to Alyandabu Place and to outline the options available to Council with regards to this renaming proposal.

History

Council at its meeting on 10 April 2012, Planning and Environment Committee Item 2.5 – Proposed Renaming of Alyan Place, St Helens Park, resolved:

1. That Council resolves to rename Alyan Place at St Helens Park to Alyandabu Place.
2. That Council notifies and exhibits this proposed renaming in accordance with Clause 7 of the *Roads Regulation 2008*.
3. That if the street name change is endorsed following the public exhibition, Council erect additional signage underneath the new street name acknowledging that this street was named in honour of Aboriginal elder Alyandabu and was formerly named Alyan Place.

Report

In accordance with Council's resolution and Clause 7 of the *Roads Regulation 2008*, notice of the proposal to rename Alyan Place to Alyandabu Place was published in local newspapers on the 22 and 23 May 2012. The authorities prescribed by Clause 7 of the Regulation (Australia Post, the Registrar-General, the Surveyor-General, the Chief Executive of the Ambulance Service of NSW, NSW Fire Brigades, the NSW Rural Fire Service, the NSW Police Force, the State Emergency Service and the NSW Volunteer Rescue Association Incorporated) were notified of this proposal by letter on 11 May 2012. A letter advising of the renaming proposed was sent to each of the owners of 22 properties in Alyan Place on 11 May 2012. Any submissions were required to be received by Council before close of business on 15 June 2012.

One submission was received from the prescribed authorities. A letter from Land and Property Information NSW on behalf of the Geographical Names Board (GNB), the Surveyor General and the Registrar General stated that the proposed name of Alyandabu Place had been reviewed under the GNB Guidelines for the Naming of Roads and that there was no objection to the use of this name. It should be noted that this submission only related to the suitability of the proposed road name rather than to the renaming proposal itself.

Four separate written submissions objecting to the proposal were received from residents and property owners in Alyan Place. A petition including a form letter was signed by a further 24 residents of Alyan Place objecting to the renaming of this street, was also received. In addition, Council had previously received two letters from residents objecting to the proposal before it had been formally notified and exhibited. Copies of these written submissions, petition and form letters are included as Attachment 1 to this report (distributed under separate cover). Of the 22 properties in Alyan Place, Council has received an indication of objection from residents of 18 of these properties, which equates to 82% of properties in Alyan Place.

The primary objection to the proposed renaming proposal raised in all submissions was the inconvenience and cost which would be suffered by residents in having to change their address details with a number of different agencies and other contacts. Further concerns were raised with regards to problems pronouncing the proposed new road name and also the potential for disruption to the delivery of services to residents in the period before the new street name appeared in street directories and satellite navigation systems.

In relation to the potential cost to residents in changing their address details, the issue of a claim for compensation against Council was raised in two of the submissions. Previous renaming proposals considered by Council have generally arisen as a result of changes in the layout or alignment of roads and as such any claim would need to be considered on its merit as a separate process.

Having completed the exhibition and notification requirements outlined in Clause 7 of the *Roads Regulation 2008*, Council now has the following options available with regards to this renaming proposal:

Option 1 – Council can resolve to rename the road

This would be in accordance with the wishes of the family of Alyandabu and would depict the full name of the person it was meant to honour. However, the submissions received during the exhibition period indicate that the majority of the residents of Alyan Place object to this proposal, primarily on the grounds that they would suffer inconvenience and expense if the road was renamed.

It should also be noted that at its meeting on the 12 April 2011, Council resolved not to rename Mortimer Street at Minto following consideration of a report that addressed issues including similar objections from the residents of the four properties affected by that proposal.

Option 2 – Council can resolve not to rename the road

This would result in no inconvenience to residents and would also be in accordance with the Geographical Names Board's guidelines which state that, 'where names have been changed by long established local usage, it is not usually advisable to attempt to restore the original form'.

However, this would be contrary to the family's wishes and the road name would continue not to depict the full name of the person it was meant to honour.

Option 3 – a compromise involving the erection of additional signage

With this renaming proposal, Council also has a third option available which was suggested by a resident in their letter of objection. This involves Council resolving not to rename the road but erecting additional signage underneath the current street name sign acknowledging that this road was named in honour of Aboriginal elder Alyandabu.

This would result in no inconvenience and expense to the residents and would ensure that the origins of the street name are acknowledged. However, it is possible that this option may not fully satisfy the family's wish for this street to be completely renamed.

Conclusion

Council's records do not detail why the name Alyan was chosen over the full name Alyandabu at the time of the original street naming proposal in 1991.

Since that time, Alyan Place has continued to be used. Following representations by family members of Alyandabu to a Councillor a formal request was received by Council on 16 July 2011 to rename Alyan Place to Alyandabu.

Councillors were provided with a briefing on this matter on 31 January 2012 and a report to Council's meeting on 13 March 2012 was deferred to the 10 April meeting where Council resolved to proceed with the renaming process.

The subsequent public notification process has resulted in a 24 signature petition including a form letter signed by each petition signatory and four separate written submissions. These along with two written submissions received prior to the public notification process equates to 82% of all properties in Alyan Place, indicating an objection to Council's renaming proposal.

In contrast to these objections are the wishes of the descendants of Alyandabu who wish to see the full name of the person whom the street is named in honour of used.

Having considered the considerable number of submissions received and the merits of these three options, it is recommended that Council adopts Option 3 as a reasonable and balanced outcome.

Officer's Recommendation

That Council resolves to maintain the existing name of Alyan Place at St Helens Park and erects additional signage underneath the current street name sign acknowledging that this road was named in honour of Aboriginal elder Alyandabu.

Committee Note: Mr Morley addressed the Committee.

Committee's Recommendation: (Greiss/Hawker)

That a decision in this matter be deferred pending investigation and a further report detailing:

- a. The full costs to residents associated with the renaming of their street.
- b. Receipt of legal advice regarding any potential liability of Council to meet the costs incurred by residents arising from an alteration to the existing street name and advice concerning any additional relevant matters concerning this proposal.
- c. the outcome of consultation with local Aboriginal elders, Councils Aboriginal Advisory Sub Committee and the Aboriginal Land Council concerning an alteration to the existing street name.

CARRIED

Council Meeting 31 July 2012 (Kolkman/Greiss)

That the Committee's Recommendation be adopted.

Council Minute Resolution Number 133

That the Committee's Recommendation be adopted.

2.4 Georges River Combined Councils Committee Meeting Update

Reporting Officer

Acting Manager Sustainable City and Environment

Attachments

Copy of the Minutes from the Ordinary Meeting of the Georges River Combined Councils Committee, held on 26 April 2012 (distributed under separate cover)

Purpose

To provide Council with an update on the outcomes of the Georges River Combined Councils Committee (GRCCC) Ordinary Meeting held on Thursday 26 April 2012.

History

The Georges River Combined Councils Committee (GRCCC) represents local governments in the Georges River Catchment of NSW. Members include nine local councils: Rockdale City, Sutherland Shire, Kogarah City, Hurstville City, Bankstown City, Liverpool City, Fairfield City, Campbelltown City and Wollondilly Shire councils. It is an incorporated association of local councils working in partnership with State and Federal government agencies and community representatives within the Georges River Catchment.

Formed in 1979 the GRCCC's mission is to advocate for the protection, conservation and enhancement of the health of the Georges River, by developing programs and partnerships and by lobbying government organisations and other stakeholders.

Report

An Ordinary Meeting of the GRCCC was held at the offices of Kogarah City Council on Thursday, 26 April 2012. The draft minutes from the meeting were received by Council on 18 June 2012. A copy of the minutes of the meeting are provided as Attachment 1. The following sections of this report provide a summary of those minutes, while the respective program and reports can be found on the GRCCC website at www.georgesriver.org.au.

i) Presentation by guest speaker, Mr John Brannon, Illawarra Coal

Mr John Brannon, Head of External Affairs, Illawarra Coal (IC) provided a presentation on the proposed use of the two parcels of land designated as 'operational' adjacent to the recently established Dharawal National Park (DNP).

Mr Brannon presented maps showing historical and current Bulli Seam operations areas as well as a map showing operational areas within the DNP. This map identified that whilst there are access ways and shafts that relate to the North Cliff mining project within the DNP they are no longer in operation and IC is responsible for their rehabilitation.

Two areas within the former Dharawal State Conservation Area have been excluded from the DNP at the request of IC as they are required to maintain existing operations as both areas provide access to other areas of the mine.

Brennans Creek

Under the conditions of the Environmental Protection Licence for the coal emplacement area the pH range of water discharge is required to be between 6.5 to 9.0 units. Recent tests have measured the pH of discharge water as 8.58 units which is within the prescribed range. The licence does not prescribe a range or limit for salinity however IC is required to undertake a Pollution Reduction Program to manage water quality including salinity.

Under the Program, IC are completing a study on effluent toxicity which is due for completion on 26 July 2012. Following the study, evaluation and control measures will be established for any identified toxins.

In addition IC has continued to progress with the development of initiatives that address water efficiency and salinity. IC is currently developing a water management strategy for the Bulli Seam Operations Project.

Coal wash emplacement

A scoping study is currently being undertaken for an underground coal wash emplacement trial project. IC is continuing to investigate opportunities and alternatives for coal wash emplacement.

IC has also developed an environmental education program in association with the Illawarra Environmental Education Centre and the Douglas Park Primary School which includes revegetation projects and environmental monitoring.

Q&A

In response to a question requesting GRCCC input into the establishment of a salinity target level, Mr Brannon advised post-meeting that IC is working with the NSW Office of Environment and Heritage in regard to the pollution reduction program and due to the impending deadline for its development, it is not possible to involve the GRCCC.

In response to a question regarding the level of subsidence resulting from the project, Mr Brannon advised that the current mapping indicated that the general magnitude of subsidence was one metre, however the level was affected by variables including differential settling conditions. Illawarra Coal have responded by putting in place mechanisms that minimise the potential impact and directly respond to the impacts on the built and natural environment.

Another member asked about whether ongoing monitoring and remediation was still occurring in regard to an incident that shattered the Georges River riverbed in 2009. Mr Brannon conceded that cracking and resulting water loss had occurred and that Illawarra coal remains committed to undertaking remediation and monitoring. The remediation works however remain on hold until such time as mining activities have ceased in the area lest they cause further damage or reduce the effectiveness of remediation works.

ii) GRCCC reports

Reports for the Riverkeeper, River Health, Estuary Management and Communications Programs are available on the Georges River website.

There was some discussion concerning the proposed Georges River Festival a festival which would promote the environmental, sustainability and recreational values of the Georges River through partnership with the Bankstown Arts Centre's Cross Currents Program. The GRCCC Executive Officer advised that the Festival is in its preliminary planning phase at present through the Communications Program Cluster Group. The Festival is anticipated to be held in early November 2012.

Reports for the Lower Georges River Urban Sustainability Program, Upper Georges River Urban Sustainability Program and Improving Prospect Creek Project are available on the Georges River website.

iii) Program fee review

Based on recommendations from the Program Fee Review Cluster Group the Committee resolved to fund the Communications Program, beyond the current grant period, in the 2012-2013 financial year. Recommendations on funding options for the River Health and Communications Program beyond the 2012-2013 financial year will be tabled at the next meeting.

iv) General Business

A representative from the Sydney Metropolitan Catchment Management Authority updated the Committee on the process being undertaken to develop the new Catchment Action Plan (CAP). Workshops are being held for key stakeholders and surveys are being conducted. The draft CAP is anticipated to be placed on public exhibition around September 2012.

A Committee member raised the issue of recent sewerage overflows into the mid-Georges River. The Committee resolved to invite both Sydney Water and the Environment Protection Authority to a future meeting to discuss these types of events and their response.

The next meeting will be held at Hurstville City Council on 28 June 2012.

Officer's Recommendation

That the information be noted.

Committee's Recommendation: (Greiss/Hawker)

That the Officer's Recommendation be adopted.

CARRIED

Council Meeting 31 July 2012 (Kolkman/Greiss)

That the Officer's Recommendation be adopted.

Council Minute Resolution Number 133

That the Officer's Recommendation be adopted.

2.5 Minutes of the Heritage Protection Sub Committee Meeting held on 21 June 2012

Reporting Officer

Manager Sustainable City and Environment

Attachments

Minutes of the Heritage Protection Sub Committee meeting held on 21 June 2012

Purpose

To seek Council's endorsement of the Minutes of the Heritage Protection Sub Committee meeting held on 21 June 2012.

Report

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

Recommendations of the Heritage Protection Sub Committee

Reports listed for consideration

7.1 South West Rail Link - Unearthing of Sandstone and Brick Relics

1. That the information be noted.
 2. That further information be presented updating the Sub Committee on the status of the gatehouse foundation bricks and the feasibility of using them in a way that allows public access.
 3. That Council be requested to write to the proponent requesting that consideration be given to ensuring that appropriate heritage interpretation and signage accompany any display or use of the Macquarie Fields House gatehouse foundation bricks on other projects.
-

7.2 Development Application for Fitout and Use of 'Caversham' (Local Heritage Item) as a Funeral Parlour

That in relation to Development Application 794/2012/DA-C for the construction of a fitout and use of 'Caversham' as a Funeral Parlour Office at 26 Oxley Street, Campbelltown, the Heritage Protection Sub Committee recommends that:

1. Council request the applicant to provide a timeframe to complete all works, both recommended and optional, identified in the Schedule of Conservation Works.
2. That signage be in accordance with the recommendations of the Statement of Heritage Impact prepared by Rappoport Pty Ltd - January 2012.

8.1 Application for Local Heritage Funding - The Kraal, 29 Blair Athol Drive, Blair Athol

1. That Council approve the Local Heritage Fund (2011-2012) application for \$1,250 from Melissa and Michael Plummer for timber boundary fencing and maintenance of verandah iron lace work at The Kraal, 29 Blair Athol Drive, Blair Athol.
2. That Council write to the applicant to advise the outcome of this matter.

8.2 Recognition of Social Heritage Events

That the information be noted.

8.3 Proposed Ten Storey Building - Old Campbelltown RSL Site

That the information be noted.

8.4 Privacy issues

That the information be noted.

8.5 Former Fisher's Ghost Restaurant Site

That the information be noted.

8.6 Heritage Fund

That the information be noted.

8.7 Aboriginal Representative - Heritage Protection Sub Committee

That the information be noted.

Officer's Recommendation

1. That the Minutes be noted.
2. That in regard to item 7.1 - South West Rail Link - Unearthing of Sandstone and Brick Relics a letter be written to the proponent requesting that consideration be given to ensuring that appropriate heritage interpretation and signage accompany any display or use of the Macquarie Fields House gatehouse foundation bricks on other projects.
3. That in regard to item 7.2 - Development Application 794/2012/DA-C for the construction of a fitout and use of 'Caversham' as a Funeral Parlour Office at 26 Oxley Street, Campbelltown, Council request the applicant:
 - (i) to provide a timeframe to complete all works, both recommended and optional, identified in the Schedule of Conservation Works.
 - (ii) to ensure that signage be in accordance with the recommendations of the Statement of Heritage Impact prepared by Rappoport Pty Ltd - January 2012.
4. That in regard to item 8.1 - Application for Local Heritage Funding - The Kraal, 29 Blair Athol Drive, Blair Athol, Council:
 - (i) approve the Local Heritage Fund (2011-2012) application for \$1,250 from Melissa and Michael Plummer for timber boundary fencing and maintenance of verandah iron lace work at The Kraal, 29 Blair Athol Drive, Blair Athol.
 - (ii) write to the applicant and advise them of the outcome in this matter.

Committee's Recommendation: (Thompson/Kolkman)

That the Officer's Recommendation be adopted.

CARRIED

Council Meeting 31 July 2012 (Kolkman/Greiss)

That the Officer's Recommendation be adopted.

Council Minute Resolution Number 133

That the Officer's Recommendation be adopted.

ATTACHMENT 1

Minutes of the Heritage Protection Sub Committee

Held Thursday 21 June 2012 in Committee Room 3

Meeting Commenced: 6.05pm

1. Acknowledgement of Land

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

2. Attendance and Apologies

Attendance: Councillor Julie Bourke (Chairperson) - Campbelltown City Council
Jenny Goodfellow - Campbelltown Airs Historical Society
Jacqueline Green - Campbelltown Airs Historical Society
Robert Wheeler - National Parks Association
Mario Majorich - Qualified Person
Melissa Plummer - Heritage Owner

Also in Attendance: Andrew Spooner - Acting Manager Environmental Planning
Jim Baldwin - Manager Development Services
Brian Willott - Campbelltown Airs Historical Society
Jeff Burton - Senior Strategic Environmental Planner
Kristy Peters - Executive Support

Apologies: Learna Coupe - Campbelltown Airs Historical Society
Councillor Meg Oates - Campbelltown City Council
James Gardner - Qualified Person
Michael Dagastino – Manager Cultural Services

Sub Committee's Recommendation: (Green/Majorich)

That the above apologies be accepted.

CARRIED

3. Declarations of Interest

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

Pecuniary Interest

Melissa Plummer - Item 8.1 - Application for Local Heritage Funding - The Kraal, 29 Blair Athol Drive, Blair Athol. Melissa Plummer advised that as the owner of The Kraal, she would vacate the room during discussion on this item.

4. Minutes of the Previous Meeting

Report

The Minutes of the Heritage Protection Sub Committee Meeting held on 12 April 2012, copies of which were circulated to each Sub Committee Member, were presented to Council for adoption at its meeting held on 5 June 2012.

Council resolved as follows:

1. That the Minutes be noted other than in respect of items 7.2 and 8.5 which are dealt with separately below.
2. That in regard to item 7.2 - Local Heritage Fund:
 - (i) That the Local Heritage Fund Guidelines be amended to permit a maximum of \$2,000 to be allocated for each successful Local Heritage Fund Application.
 - (ii) That supplementary funds of up to \$3,000 to be sourced from the General Heritage Fund, to provide a total allocation of up to \$8,000 for the payment of successful Local Heritage Fund applications in any financial year subject to the additional funds being available.
3. That in regard to Item 8.5 Condition of "Raith" Local Heritage Item:
 - (i) That Council write to the NSW Department of Community Services in regard to the local heritage item 'Raith' which is currently in a state of disrepair, and to request that necessary action be undertaken by the Department to fulfil its obligations as the owner of the heritage item.
 - (ii) That in the case of no response, or an inadequate response, being received from the NSW Department of Community Services, Council write to the Minister for Environment and Heritage seeking assistance in this matter.

Officer's Recommendation

That the information be noted.

Sub Committee's Recommendation: (Green/Bourke)

That the information be noted.

CARRIED

5. Business Arising from Previous Minutes

Purpose

To report on business arising from the Minutes of the Heritage Protection Sub Committee Meeting held on 12 April 2012.

Report

The Minutes of the Heritage Protection Sub Committee meeting (held on 12 April 2012) were considered and endorsed by Council on 5 June 2012.

The matters of business arising from the previous Minutes relate to the following relevant items as detailed below:

7.2 - Local Heritage Fund

The Local Heritage Fund Guidelines have been amended in accordance with the endorsed recommendation to permit a maximum of \$2,000 to be allocated for each successful Local Heritage Fund Application. As detailed in the report on the matter, supplementary funds of up to \$3,000 will be sourced from the general heritage account as required to provide a total allocation of up to \$8,000.

Council is in the process of writing to all private owners of heritage items within the Campbelltown LGA to inform them of the increased funding opportunities, and to invite applications under the Local Heritage Fund for the 2012/2013 financial year.

8.5 Condition of "Raith" Local Heritage Item

Council's investigations revealed that the subject property was put to auction on 24 May 2012, however was passed in. The Real Estate Agent acting on behalf of the Department of Community Services (DOCS) was contacted by Council on the 28 May 2012, and confirmed that negotiations were continuing with interested parties with a view to finalising the sale of the property.

The *Heritage Act 1977* provides an obligation for Government Agencies, which includes the DOCS, to appropriately manage the use and maintenance of heritage assets under its control. Given that the sale of the property to a private purchaser would potentially extinguish the obligations of DOCS to manage the property under the *Heritage Act*, Council contacted the Office of Environment and Heritage (Heritage Branch) requesting assistance in the matter.

Council has provided relevant information to the Heritage Branch to facilitate its direct involvement in the matter given the immediate timeframe of DOCS to sell the property. The Heritage Branch has advised that for DOCS to fulfil its obligations under the *Heritage Act*, an asset management plan and transfer strategy may be required to ensure that the sale process does not compromise the heritage values of the property. It is likely that this would require some basic maintenance of the subject building to ensure that it is of an appropriate standard to be occupied by a suitable user.

Due to the deadline for the agenda for this meeting to be finalised and distributed, a verbal update on this matter will be provided at the Sub Committee meeting on 21 June 2012.

Officer's Recommendation

That the information be noted.

Sub Committee Note:

Council's Senior Strategic Environmental Planner advised the Sub Committee that the subject property had not been sold. DOCS had advised Council that the NSW State Property Authority were now administering the sale process, and this included liaison with the NSW Heritage Branch to ensure an appropriate conservation management strategy was implemented as part of any sale.

Sub Committee's Recommendation: (Goodfellow/Plummer)

That the information be noted.

CARRIED

6. Correspondence - Nil

7. Reports

7.1 South West Rail Link – Unearthing of Sandstone and Brick Relics

Purpose

To inform the Heritage Protection Sub Committee of brick relics unearthed during excavation works associated with the South West Rail Link (SWRL) Project near Glenfield Railway Station and Campbelltown Road.

Report

The SWRL Project is a State Government Project, comprising of upgrades to Glenfield Station and rail-bus interchange, in addition to new rail line construction between Glenfield and Leppington. Works on the project are being undertaken by the Glenfield Junction Alliance (GJA).

Contractors working for GJA have recently advised Council of two separate incidents of historical bricks being unearthed during excavation works. The first incident occurred near Glenfield Station during road construction works along Railway Parade, and the second unearthing occurred during roadworks at a separate location on the eastern side of Campbelltown Road, near the northern alignment of Macquarie Links Drive.

In both instances, GJA contractors ceased works to undertake the appropriate investigations by qualified heritage consultants in accordance with the requirements of the Office of Environment and Heritage (OEH).

Sandstone Blocks – Railway Parade

The first archaeological find occurred in mid-April and comprised a number of sandstone blocks exposed by contractors during road excavation works within Railway Parade, adjacent to Glenfield Railway Station. The sandstone blocks each measure approximately 1 metre long, 300mm wide and deep, and were found in two rows approximately 2 metres apart. A number of smaller building elements (minor bricks and wood remnants) were also excavated nearby.

The archaeological report prepared for this site is inconclusive about the origin of the blocks, however their alignment and location indicates that they may be wall footings associated with an old sawmill. The report indicates that the sawmill was operated by Cleary Bros near the Glenfield Station until it burnt down in 1937.

Given the need to excavate for road construction, these blocks have been excavated (with approval by the OEH) and are being considered for future use in new footpath construction with appropriate interpretive signage.

Macquarie Fields House – Gatehouse Foundations

The second archaeological find was unearthed during preliminary works by GJA contractors on the intersection upgrade at Macquarie Links Drive and Campbelltown Road, opposite Beech Road. Work commenced on the site in mid-May, which had been earlier identified as the potential location of the former entrance gates and gatehouse of the Macquarie Fields Estate.

Machine clearance of the location exposed the structural remains of the lodge/gatehouse and the brick footings for the piers and splayed entrance of the gatehouse which was originally constructed around 1817. Archival investigation and recording is being undertaken in accordance with approval granted by the OEH, which includes permission to excavate and remove the bricks. It is noted that the OEH Permit identifies that GJA (as applicant) are responsible for the safekeeping of artefacts recovered from the site. In this respect, it is considered desirable that the applicant examines options to retain and/or re-use these bricks on the Macquarie Fields House site so their association with the property is not lost.

Council is continuing to liaise with the State Government appointed contractors involved with the SWRL project to ensure that any archaeological deposits unearthed during construction works are appropriately investigated and recorded in line with the requirements of the OEH. This includes exploring suitable re-use options within the Glenfield locality, and the installation of appropriate interpretative signage to convey the heritage significance of any findings.

Officer's Recommendation

That the information be noted.

Sub Committee Note:

Council staff advised the Sub Committee that unlike the sandstone blocks in Railway Parade, the bricks associated with the Macquarie Fields House gatehouse foundations are located on private land. Whilst it would be preferable for the proponent to maintain the association of these bricks with Macquarie Fields House, the final destination or use of the bricks is unknown at this stage.

Sub Committee's Recommendation: (Green/Wheeler)

1. That the information be noted.
2. That further information be presented updating the Sub Committee on the status of the gatehouse foundation bricks and the feasibility of using them in a way that allows public access.
3. That Council be requested to write to the proponent requesting that consideration be given to ensuring that appropriate Heritage Interpretation and signage accompany any display or use of the Macquarie Fields House gatehouse foundation bricks on other projects.

CARRIED**7.2 Development Application for Fitout and Use of 'Caversham' (Local Heritage Item) as a Funeral Parlour Office****Purpose**

The purpose of this report is to seek comments from the Heritage Protection Sub Committee with respect to Development Application 794/2012/DA-C for the fitout and use of an existing heritage listed building (Caverhsam) as a funeral parlour office at No.26 Oxley Street, Campbelltown.

Property Description	Lot 1, DP 1043456 No. 26 Oxley Street, Campbelltown
Application No	794/2012/DA-C
Applicant	Mr R Newport
Owner	Mrs June Anne Clayton and Mr Albert Edward Clayton
Statutory Provisions	Campbelltown (Urban Area) Local Environmental Plan 2002 Campbelltown (Sustainable City) Development Control Plan 2009 Campbelltown Development Control Plan No.83 – Heritage Policy
Date Received	2 May 2012

Report

The Site

The subject property is occupied by 'Caversham' and is listed as a heritage item of local significance under Schedule 1 of *Campbelltown (Urban Area) Local Environmental Plan 2002* (LEP 2002).

The land has direct frontage to Oxley Street with approximate dimensions of 20 metres width at the street boundary, depth of 45 metres and a rear width of 14 metres. The total site area is 764.3 sq. metres. Driveway access is provided along the southern side of the building to a bitumen carparking area located at the rear.

Campbelltown Public School adjoins at the rear of the allotment, and single and double storey buildings occupy land either side. The local heritage listed 'Braefield' Cottage (commercial use) occupies the adjacent property on the northern side, including a right of way along part of the common side boundary.

Caversham is a single storey brick house with a simple galvanised steel hipped roof and a face brick parapet wall to Oxley Street with rendered and lined walls to side elevations. A skillion addition is attached to the rear façade. The building is presently used as an office for a home lender.

Council's assessment of the property indicates that the current building most likely dates from c1890, with a new front wall that was built in the 1930s, along with part of the rear skillion (shown in 1948 plans) and possibly the front verandah. The rear skillion was further extended in the c1960s, possibly resulting in the demolition of a stables building.

In the early 1980s a side skillion was added and new rough openings cut into the south west side wall, possibly at the same time the building was converted to the current commercial use (home lender office). Council's records indicate that development consent was given for the use of the premises as an accountant's office in 1986, with a later approval for commercial signs on the building in 1996. There is no formal conservation management plan for the current use of the building.

Proposed Development

The proposed use involves the fitout and use of the existing building for offices associated with a funeral parlour business.

The works proposed under the application include:

- Removal of non-original internal partition walls
 - Site landscaping (and tree removal)
 - Expansion of existing bitumen area at rear (currently unmarked) to accommodate 7 cars
 - Internal construction of disabled access toilet
 - New signage (and removal of existing signage).
-

A Statement of Heritage Impact and Schedule of Conservation Works have also been provided with the application (attached under separate cover). The Schedule outlines a program of basic maintenance works recommended for the restoration of the building. In addition, there are a number of more substantial conservation works identified by the applicant as 'optional', including:

- Replacement of metal sheet roofing for the front verandah
- Repainting façade, windows and external roof features
- Rebuilding of rear wall of rear skillion addition
- Replacement of selected windows and doors
- Removal of metal frame awning on the north-east façade (and possible replacement)
- New fencing
- Reinstatement of floor boards

Assessment

An assessment of the application has been undertaken having regard to the relevant heritage considerations for the proposed use. The following matters are provided for consideration by the Heritage Protection Sub Committee.

Commercial Premises and Permissibility

The land is zoned 2(b) – Residential B zone under the provisions of LEP 2002. The proposed development is defined as a 'commercial premises', which is a prohibited development type within the zone (Clause 9).

Notwithstanding the zoning prohibition under LEP 2002, Council's records indicate that Development Consent 376/1986 was issued by Council on 21 November 1986 for the use of the subject property for commercial premises (accountant's office). This pre-dates LEP 2002 and the associated zoning prohibition.

As such, the preliminary assessment of the application indicates that Council may be able to consent to the proposed development as a continuation of a prohibited use under the 'existing use rights' provisions of the *Environmental Planning and Assessment Act 1979* (Section 107). The matter is under more detailed consideration by Council's Development Services Section, as part of the usual assessment process.

It is also relevantly noted that Clause 50 of LEP 2002 provides appropriate conservation incentives to allow the use and development of heritage listed properties, even though the use would otherwise not be allowed by the Plan (LEP 2002). This Clause provides the opportunity for Council to consent to the application, should the detailed assessment of the application determine that 'existing use rights' do not apply.

Clause 50 provides as follows:

The consent authority may grant consent to the use for any purpose of a building that is a heritage item, or of the land on which such a building is erected, even though the use would otherwise not be allowed by this plan, if:

- (a) it is satisfied that the retention of the heritage item depends on the granting of consent
-

- (b) the proposed use is in accordance with a conservation management plan which has been endorsed by the consent authority
- (c) the granting of consent to the proposed use would ensure that all necessary conservation work identified in the conservation management plan is carried out
- (d) the proposed use would not adversely affect the heritage significance of the heritage item or its setting
- (e) the proposed use would not adversely affect the amenity of the surrounding area otherwise than to an insignificant extent.

In this regard, for Council to consent to the application under Clause 50, a formal Conservation Management Plan (CMP) would be required. However, as outlined above, it is likely that the application is permissible under the benefit of 'existing use rights' and therefore does not need to strictly comply with the CMP requirements of Clause 50. This matter is subject to further detailed investigation by Council as part of the usual development assessment process.

Notwithstanding, the application has been considered with respect to promoting the maintenance and conservation of the heritage values of 'Caversham', as detailed below.

Heritage Conservation Considerations

The application has been considered in accordance with the relevant heritage provisions of Council's LEP 2002, Sustainable City Development Control Plan 2009 (SCDCP) and Campbelltown Development Control Plan No.83 – Heritage Policy (DCP 83).

The proposal is for the continued adaptive re-use of a listed heritage building which is consistent with Council's LEP objectives relating to the conservation of listed heritage items. A Statement of Heritage Impact prepared by a suitable qualified consultant has been submitted in accordance with the requirements of the SCDCP and DCP 83, and in conjunction with the Schedule of Works, adequately demonstrates that the proposal could be undertaken in a manner that would achieve beneficial outcomes for conserving the heritage values of the property.

The immediate benefits of the proposal would be to enhance the street appeal of the building by removing the intrusive above awning signs, basic maintenance to the interior and exterior of the building, and site improvement works associated with the external landscaping plan. The longer term benefits would relate to the sustainable use and retention of the property as a heritage asset which is consistent with the intent of the heritage incentives under LEP 2002.

It is noted that four trees near the rear boundary are proposed for removal, and one near the side boundary (identified by the applicant as a Conifer, Forest Red Gum, Privet, Olive Tree at the rear, and Privet near the side boundary). It would appear that these trees postdate the construction of the building and thus have not been identified as forming the original heritage setting for the property. As part of the planned landscaping of the site with more appropriate species, there does not appear to be any issue on heritage grounds to object to the removal of these trees. Notwithstanding, the removal of these trees is being considered as part of the usual development assessment process.

An important aspect of the proposal is that the proposed user is an established and viable business, which brings with it some greater level of certainty of a sustainable use for the property and the attainment of the proposed conservation works. Should Council consent to the application, the opportunity arises for Council to implement an appropriate program of maintenance works as part of the conditions of approval. For this purpose, it is considered that the Schedule of Conservation Works (including those identified as 'optional') proposed by the applicant would significantly improve the condition of the building, which is a positive heritage outcome that is supported.

Conclusion

'Caversham' is an item of local heritage significance listed under the provisions of Campbelltown (Urban Area) Local Environmental Plan 2002. The building is currently used for commercial offices (home lender), however it is noted that there is no formal conservation management plan associated with the current use of the building.

The subject application is for the continued adaptive re-use of the building to facilitate the relocation of an established commercial business, with the main works comprising internal renovations, extension of the rear car parking area, and site landscaping.

The proposal has included an appropriate level of heritage impact assessment to demonstrate that the proposed works could be undertaken in a manner which is sympathetic to the heritage values of the property. The application includes a Schedule of Conservation Works, which would allow for an orderly program of remediation works to be implemented as part of any consent issued.

The application has been assessed in accordance with the relevant statutory requirements, and from a heritage perspective, it is considered that the application is worthy of support subject to appropriate conditions being imposed on any consent issued by Council.

Given the heritage significance of the subject site, the application has been referred to the Heritage Protection Sub Committee for information and comment prior to Council's determination of the application.

Officer's Recommendation

That the Heritage Protection Sub Committee consider Development Application 794/2012/DA-C for the construction of a fitout and use of 'Caversham' as a Funeral Parlour Office at 26 Oxley Street, Campbelltown, and provide comments to assist Council in its determination of the application.

Sub Committee's Recommendation: (Goodfellow/Plummer)

That in relation to Development Application 794/2012/DA-C for the construction of a fitout and use of 'Caversham' as a Funeral Parlour Office at 26 Oxley Street, Campbelltown, the Heritage Protection Sub Committee recommends that:

1. Council request the applicant to provide a timeframe to complete all works, both recommended and optional, identified in the Schedule of Conservation Works.
2. That signage be in accordance with the recommendations of the Statement of Heritage Impact prepared by Rappoport Pty Ltd - January 2012.

CARRIED

8. General Business

8.1 Application for Local Heritage Funding - The Kraal, 29 Blair Athol Drive, Blair Athol

On 31 May 2012, Council received an application for \$1,250 under the 2011-2012 Local Heritage Fund as described below:

Applicant/Owner:	Melissa and Michael Plummer
Heritage Item:	The Kraal (Local Heritage Item - Schedule 1 of LEP 2002)
Cost of Works:	\$2,676.26
Description of works:	Timber Post and Rail Boundary Fence, Sandblasting / Painting of Verandah Iron Lace Work
Works Completed:	May 2012

Due to the timing of the submission, and the deadline for the agenda for this meeting to be finalised and distributed, the application has been included as an item of General Business to allow the matter to be considered by the Heritage Protection Sub Committee in the 2011-2012 Financial Year.

In this regard, a copy of the application has been circulated to Sub Committee members under separate cover for consideration.

The application has been assessed in accordance with the 2011-2012 Local Heritage Fund Guidelines, and it is considered that the subject works generally comply with the eligibility criteria for financial assistance and may be approved for the maximum \$1,250 in local heritage funding.

Officer's Recommendation

1. That the Heritage Protection Sub Committee request that Council approve the Local Heritage Fund (2011-2012) application for \$1,250 from Melissa and Michael Plummer for timber boundary fencing and maintenance of verandah iron lace work at the Kraal, 29 Blair Athol Drive, Blair Athol.
2. That the applicant be advised in writing of Council's decision with respect to this matter.

Having declared an interest in regard to Item 8.1, Melissa Plummer left the Meeting and did not take part in debate nor vote on this item.

Sub Committee's Recommendation: (Wheeler/Majarich)

1. That Council approve the Local Heritage Fund (2011-2012) application for \$1,250 from Melissa and Michael Plummer for timber boundary fencing and maintenance of verandah iron lace work at the Kraal, 29 Blair Athol Drive, Blair Athol.
2. That Council write to the applicant to advise the outcome of this matter.

At the conclusion of the discussion regarding Item 8.1, Melissa Plummer returned to the Meeting.

8.2 Recognition of Social Heritage Events

At its meeting of 12 April 2012, the Heritage Protection Sub Committee requested that Council's Local Information Services Librarian and the Manager Cultural Services be invited to attend the next meeting of the Heritage Protection Sub Committee to assist in exploring options for recognising significant cultural and social events and movements within the Campbelltown Local Government Area.

This matter has been added to the agenda for the next Heritage Protection Sub Committee meeting scheduled for 9 August 2012.

Sub Committee's Recommendation: (Goodfellow/Majarich)

That the information be noted.

CARRIED

8.3 Proposed Ten Storey Building - Old Campbelltown RSL Site

It was noted that speculation is circulating regarding a proposal to develop a ten storey building on the old Campbelltown RSL site.

Council's Manager Development Services advised that a development application for this site has not been received by Council.

Sub Committee's Recommendation: (Goodfellow/Green)

That the information be noted.

CARRIED

8.4 Privacy Issues

A question was raised about Council providing public access to consultant reports and whether or not Council was in fact allowed to display the material without breaching copyright laws.

The Manager Development Services advised that both the *Government Information Privacy Act* and the *Environmental Planning & Assessment Act* requires (for similar reasons) that Council make available to the public for its viewing, consultant reports relating to development applications and the like. The provision of such information in accordance with these laws is not considered to cause a breach of copyright law.

However, it is considered that the person viewing the information could be in breach of copyright law if they were to copy or use the information provided by Council for other purposes without the express permission of the owner of the documents or intellectual property.

Sub Committee's Recommendation: (Majorich/Plummer)

That the information be noted.

CARRIED

8.5 Former Fisher's Ghost Restaurant Site

It was noted that the site of the former Fisher's Ghost Restaurant will be auctioned on Saturday 23 June 2012.

Whilst the future of the building is unknown at this stage, the Sub Committee asked that if Council were to receive a Development Application for demolition of the building, that consideration be given to the imposition of a condition of consent to ensure that the sandstone and bricks are appropriately recycled.

Sub Committee's Recommendation: (Goodfellow/Wheeler)

That the information be noted.

CARRIED

8.6 Heritage Fund

It was noted that at a previous Heritage Protection Sub Committee meeting discussions took place regarding the feasibility of investing the funds allocated in the General Heritage Fund to provide an additional revenue stream for heritage projects.

Council's Acting Manager Environmental Planning advised that all of Council's general funds, including the General Heritage Fund are collectively invested to ensure optimum returns. Council's Financial Policy states that any interest received from such investments goes towards Council's general revenue and operational budget, and it is therefore not possible to proportionally allocate specific investment returns for heritage projects as requested.

Sub Committee's Recommendation: (Wheeler/Majorich)

That the information be noted.

CARRIED

8.7 Aboriginal Representative - Heritage Protection Sub Committee

It was noted that as there is no Aboriginal representative on the Heritage Protection Sub Committee. Sub Committee members asked that consideration be given to increasing the Sub Committee membership to allow for an Aboriginal representative.

Council's Acting Manager Environmental Planning advised that Council has an Aboriginal Advisory Sub Committee and that if any items are presented to Council which may affect the Aboriginal Community; these items are presented to the Aboriginal Advisory Sub Committee for comment. In this regard, the current structure of Council's Heritage Protection Sub Committee was considered to be adequate.

Sub Committee's Recommendation: (Plummer/Majarich)

That the information be noted.

CARRIED

8.8 Next meeting of the Heritage Protection Sub Committee

That the next meeting of the Heritage Protection Sub Committee will be held on 9 August 2012 at 6.00pm in Committee Room 3.

Cr Julie Bourke
Chairperson

Meeting closed at 7.40pm.

3. DEVELOPMENT SERVICES

3.1 Development Services Section Statistics - June 2012

Reporting Officer

Manager Development Services

Attachments

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

Officer's Recommendation

That the information be noted.

Committee's Recommendation: (Hawker/Greiss)

That the Officer's Recommendation be adopted.

CARRIED

Council Meeting 31 July 2012 (Kolkman/Greiss)

That the Officer's Recommendation be adopted.

Council Minute Resolution Number 133

That the Officer's Recommendation be adopted.

3.2 No. 1 Honeyeater Place, Ingleburn - Use Of Dwelling's Garage As A Commercial Kitchen For Food Catering Purposes

3.2 No. 1 Honeyeater Place, Ingleburn - Use of dwelling's garage as a commercial kitchen for food catering purposes

Reporting Officer

Manager Development Services

Attachments

1. Recommended Reasons for Refusal
2. Locality Plan
3. Site Plan
4. Floor Plan
5. Internal Elevations
6. Shop and Sign Elevations

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.

Property Description	Lot 425 DP 253071 No. 1 Honeyeater Place, Ingleburn
Application No	452/2012/DA-U
Applicant	Mr H M Habibur Rahman
Owner	Mr H M Habibur Rahman and Mrs Nazma Rahman
Provisions	Campbelltown (Urban Area) Local Environmental Plan 2002 Campbelltown Sustainable City Development Control Plan 2009 Campbelltown Development Control Plan No. 87 - Public Notification and Public Exhibition Policy
Other provisions	Campbelltown 2025 - Looking Forward
Date Received	16 March 2012

History

In August 2011, a written complaint was received by Council, alleging that the subject premises was being used as a commercial kitchen for a catering business and that the premises was in an unhealthy state. Attached to the complaint was a brochure advertising a catering business, specifying that the business caters for a minimum of 50 people and a maximum of 200 people, and offers a variety of food types, including Indian, Bangladeshi, Thai, Chinese and barbeque. The brochure contains the contact details of H. M. Habibur Rahman, who is the applicant for this proposal.

3.2 No. 1 Honeyeater Place, Ingleburn - Use Of Dwelling's Garage As A Commercial Kitchen For Food Catering Purposes

Council's Compliance Officers made contact with Mr Rahman, who advised that he had not been running a business from his home, but was intending to do so. A subsequent inspection of the premises by Council's Compliance officers revealed that the premises were being used for cooking purposes. The garage contained an accumulation of bain-marie food warmers and very large pots, and cooking was taking place at the premises. Evidence was found that cooking oil had been poured down the stormwater drain near the garage.

An Emergency Order was served on the owner of the premises to immediately cease the use as a commercial kitchen. In September 2011, reinspection of the premises by Council officers revealed that the commercial kitchen equipment had been removed from the garage and the unauthorised catering business had ceased trading from the site.

On 16 March 2012, the subject Development Application was lodged for the use of the premises as a commercial kitchen.

Report

Site

The subject site is located on the corner of Honeyeater Place and Bowerbird Avenue in Ingleburn. It contains a single dwelling with an attached single garage. The site also contains a carport, which is attached to the garage. The site is surrounded by single detached dwellings.

Proposal

This application proposes the use of the existing garage as a commercial kitchen for catering purposes. The proposed kitchen would occupy the entire area of the garage, being an area of approximately 18m² in size.

The application indicates that the catering business would be run by two permanent residents of the dwelling, without any additional employees. The proposed hours of operation are 9:00am to 7:00pm Monday to Saturday and 9:00am to 5:00pm Sunday. Meals cooked at the site would be collected by customers from the site. The applicant advises that there would be approximately one pickup per weekday and three to four per day during the weekend.

The proposed kitchen would contain a fridge, sinks, a four burner cook top, and a stainless steel preparation bench. A business identification sign is proposed to be attached to the external wall of the garage. The proposed sign is a projecting wall sign with an area of 0.18m².

1. Vision

'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
-

3.2 No. 1 Honeyeater Place, Ingleburn - Use Of Dwelling's Garage As A Commercial Kitchen For Food Catering Purposes

- 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

It is considered that the application is consistent with the above strategic direction as the proposal would provide employment opportunities for the residents who reside in the dwelling located on the site.

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

- A high proportion of new enterprises that adopt cleaner production techniques
- Development and land use matches environmental capacity and capability

The application is consistent with the first desired outcome specified above as the dwelling in which the proposed business would operate contains solar panels on its roof and thereby reduces the amount of electricity used at the premises.

The application is considered to be inconsistent with the second desired outcome specified above as the proposed operation is considered to be beyond that normally expected within a residential environment.

2. Planning Provisions

2.1 Campbelltown (Urban Area) Local Environmental Plan 2002

Zoning

The subject site is zoned 2(b) - Residential B Zone under the provisions of Campbelltown (Urban Area) Local Environmental Plan 2002. Development for the purpose of a home activity is permissible with Council's development consent within the zone. A home activity is defined as:

A use that is carried on by the permanent residents of a dwelling in the dwelling, or in a building with a floor area not greater than 30 square metres that is erected on the same lot as the dwelling, but which does not involve:

3.2 No. 1 Honeyeater Place, Ingleburn - Use Of Dwelling's Garage As A Commercial Kitchen For Food Catering Purposes

- (a) interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil or otherwise
- (b) employment of persons other than permanent residents of the dwelling
- (c) the display of goods or materials in a window or otherwise
- (d) the display of any advertisement or advertising structure other than an advertisement displayed on an advertising structure indicating the name and occupation of the residents
- (e) exposure to view from any adjacent premises or from any public place of any unsightly matter
- (f) the provision of any essential service main of a greater capacity than that available in the locality
- (g) the use of the site for the purposes of prostitution.

To determine whether the proposed development is permissible in the 2(b) - Residential B Zone, an assessment of the proposal against the definition of home activity is presented below:

A use that is carried on by the permanent residents of a dwelling in the dwelling, or in a building with a floor area not greater than 30 square metres that is erected on the same lot as the dwelling

The application proposes the use of part of the dwelling for the purposes of a commercial kitchen. The application indicates that only the permanent residents of the site would work at the premises. The proposal therefore satisfies this aspect of the 'home activity' definition.

A home activity does not involve:

- (a) interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil or otherwise

As the proposal involves the cooking of food, an environmental health assessment was undertaken. A number of issues were raised regarding the proposal in respect of likely interference with the neighbourhood:

Odour

Several objections and complaints have been received concerning an odour nuisance generated by the prior (unauthorised) operation of the business from the site. Without proper mechanical ventilation being installed, a significant odour nuisance is likely to be generated by the proposed use from cooking of food and storage of food waste awaiting collection. The plans indicate that a commercial exhaust system will be installed in accordance with Australian Standard AS1668.1-1991, however no detailed information has been provided regarding the specifics of the equipment, how it is proposed to be installed or how effective the device would be in preventing an odour nuisance to neighbouring properties. Even if the proposed commercial exhaust system was to be installed satisfactorily, and in accordance with relevant Australian Standards, there is no guarantee that potential odour impacts would be effectively mitigated. The applicant was requested to submit information to demonstrate that the proposal would not cause odour that is detectable outside of the garage. The applicant's response indicated that a commercial exhaust system would be installed (and

3.2 No. 1 Honeyeater Place, Ingleburn - Use Of Dwelling's Garage As A Commercial Kitchen For Food Catering Purposes

some details of the system were provided) and that the issue of odour would be considered at the construction stage. However, no further information has been provided to demonstrate conclusively that the proposed commercial exhaust system would prevent the emission of odour into adjoining properties. Given the lack of detail provided to date it is considered that there is insufficient information to adequately determine that the proposal would not generate a significant odour nuisance for the surrounding neighbourhood.

Noise from mechanical ventilation

The proposed commercial exhaust system (which is proposed as a method of mitigating any potential odour impacts) would be likely to generate a significant amount of noise, well above the ambient background noise levels generally experienced by a residential area. The proposed hours of operation of the use (9:00am to 7:00pm Monday to Saturday and 9:00am to 5:00pm Sunday) are very broad, and therefore the noise impact of any mechanical ventilation system on the surrounding community may be significant. No information has been submitted with the application to indicate whether any noise impacts associated with the proposed commercial exhaust system would be mitigated.

Vermin

The proposed food business would require the provision of commercial waste bins to store food waste awaiting collection. The presence of commercial waste bins containing food waste on the premises (at a scale not commonly found in residential zoned areas) has the potential to attract vermin to the site.

In addition, due to the nature of the proposed food business, a grease trap would be required to prevent food solids and liquids from entering the sewer system. The applicant was requested to incorporate a grease trap into the proposal. The plans indicate that a grease trap would be provided, however its location has not been identified and details of the device have not been provided, and therefore an assessment of its adequacy was not able to be made. The presence of a grease trap (which is not commonly found in residential areas) has the potential to attract vermin to the site as it collects food solids and liquids.

In addition to the environmental health issues identified the following issue requires consideration having regard to the potential for the operation of the kitchen to have an adverse effect on the amenity of the neighbourhood:

Traffic generation and noise

The proposed catering business would introduce several additional vehicle movements to the neighbourhood, associated with the collection of food by customers and the collection of food waste by waste contractors. The application indicates that only one collection of food would take place on each week day. This alone would not have a noticeable effect on traffic generation and noise. However the application indicates that up to four customers per day would attend the site to collect meals during weekends. Council typically restricts weekend operation of home businesses to 9:00am to 1:00pm on Saturdays and no operation on Sundays, however the application indicates that weekends are likely to be the time of peak demand for the business's services due the need for weekend functions and parties to be catered for. The weekend vehicle movements associated with the business would have a noticeable effect on total traffic volumes and noise in the neighbourhood, as the site is located in a cul-de-sac that usually experiences low traffic volumes.

3.2 No. 1 Honeyeater Place, Ingleburn - Use Of Dwelling's Garage As A Commercial Kitchen For Food Catering Purposes

Accordingly, in consideration of the above factors, it is considered that this aspect of the 'home activity' definition (the requirement that a home activity not interfere with the amenity of the neighbourhood) has not been satisfied.

- (b) employment of persons other than permanent residents of the dwelling

The application indicates that only the permanent residents of the site would work at the premises. The proposal therefore satisfies this aspect of the 'home activity' definition.

- (c) the display of goods or materials in a window or otherwise

No display of goods or materials is proposed. The proposal therefore satisfies this aspect of the 'home activity' definition.

- (d) the display of any advertisement or advertising structure other than an advertisement displayed on an advertising structure indicating the name and occupation of the residents

A business identification sign is proposed to be attached to the external wall of the garage. The proposed sign is a projecting wall sign with an area of 0.18m², containing the name of the business. It is considered that this aspect of the 'home activity' definition has been satisfied.

- (e) exposure to view from any adjacent premises or from any public place of any unsightly matter

The application indicates that the proposed commercial exhaust system would be ducted through the side window of the dwelling's garage. This window directly faces Bowerbird Avenue, and the proposed commercial exhaust system would be visible from the street. A commercial exhaust system is not commonly found in residential areas and is not considered to be a device that adds value to the built form or the amenity of the streetscape. An exhaust system in this location would detract from the residential nature of the area. Elevations/pictures of the proposed commercial exhaust system have not been provided by the applicant.

The collection of commercial waste bins containing food waste is also a sight that is not commonly seen in residential areas and is considered to be unsightly.

The proposal therefore does not satisfy this aspect of the 'home activity' definition as it would expose occupants of adjacent premises to unsightly items and materials.

- (f) the provision of any essential service main of a greater capacity than that available in the locality, or

The proposed business does not involve the provision of an essential service main and therefore the proposal satisfies this aspect of the 'home activity' definition.

- (g) the use of the site for the purposes of prostitution.

The site will not be used for prostitution. The proposal therefore satisfies this aspect of the 'home activity' definition.

3.2 No. 1 Honeyeater Place, Ingleburn - Use Of Dwelling's Garage As A Commercial Kitchen For Food Catering Purposes

As the proposal fails to comply with clauses (a) and (e) of the CLEP's definition of 'home activity', it is considered that the proposal would not be defined as a 'home activity'. Accordingly, it is considered that the proposal would be defined as an 'industry', which is a prohibited land use in the 2(b) - Residential B Zone. Therefore it is considered that the proposal should not be supported by Council.

Objectives of the 2(b) – Residential B Zone

The relevant objectives of the 2(b) - Residential B Zone several zone are:

- (a) 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
- (b) 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.

The proposal is considered to be inconsistent with several of the objectives of the 2(b) - Residential B Zone. Assessment of the proposal against these objectives is discussed below:

- (a) 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

Council often grants consent for residents to operate businesses from their dwellings, where these businesses are small in scale and would have no noticeable impact on surrounding residential properties. In this case, the operation of a kitchen first came to the attention of Council staff as a result of a neighbour complaint concerning health issues associated with the catering business. When the subject application to operate a commercial kitchen from the site was notified to surrounding residents, Council received further complaints and objections to this application concerning the adverse impact of the strong odour emanating from the site during its prior (unauthorised) use as a catering business. These factors alone suggest that the proposed catering business is likely to have an adverse impact of the amenity of the locality. When other likely and potential amenity issues are considered in conjunction with these factors, including noise from mechanical ventilation, the potential for vermin to be attracted to the site and additional traffic generation and noise, which would be exacerbated by the proposed broad operating hours, it is considered likely that the proposal would have an adverse amenity impact on the locality.

3.2 No. 1 Honeyeater Place, Ingleburn - Use Of Dwelling's Garage As A Commercial Kitchen For Food Catering Purposes

(b) to allow development which:

(i) is compatible with residential use,

Given the likely amenity impacts on the surrounding locality described above, it is considered that the proposed catering business would be incompatible with surrounding residential uses. Businesses that locate within a residential zone as a home activity are required to be small in scale and have no noticeable impact on the amenity of the neighbourhood. Residential zones generally tend to be quiet areas with minimal activity, and this character is reinforced by the objectives of the residential zones and the types of development permissible therein. Due to the likely amenity impacts of the proposed development, it is considered to be more suited to land within an industrial zone, and is considered to be incompatible with the prevailing residential character of the area.

(ii) is capable of visual integration with the surrounding buildings

The proposed development would involve the ducting of a commercial exhaust system through the side window of the garage of the dwelling (in which the proposed food preparation business is to operate). This window directly faces Bowerbird Avenue, and the proposed commercial exhaust system would be highly visible from the street. A commercial exhaust system is not commonly found in residential areas and is likely to be unsightly in the context of a residential area occupied entirely by single dwellings, and is likely to be noticeably inconsistent with the prevailing built form. Elevations/pictures of the proposed commercial exhaust system have not been provided by the applicant, and therefore the applicant has not demonstrated that the addition of the proposed commercial exhaust system to the dwelling's exterior would achieve visual integration with the surrounding buildings in the locality.

(iii) serves the needs of the surrounding population without conflicting with the residential intent of the zone

A petition received by Council in support of the application suggests that many of the applicant's customers reside within the suburb of Ingleburn and the suburbs nearby. Therefore it is evident that the proposed business would serve the needs of the surrounding population. However, the proposed use of the garage for commercial cooking purposes is considered to conflict with the residential intent of the zone, given the amenity impacts likely to be experienced by surrounding residents, as discussed above.

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 proposal is not considered to be capable of relating sympathetically to nearby and adjoining development due to potential odour issues, noise likely to be generated by the proposed commercial exhaust system, increased traffic volumes and noise, and the potential for the site to attract vermin.

3.2 No. 1 Honeyeater Place, Ingleburn - Use Of Dwelling's Garage As A Commercial Kitchen For Food Catering Purposes

It is considered that the proposed development would not result in a high quality, aesthetically pleasing outcome, as the proposed ducting of the commercial exhaust system through the window of the garage in a location that would be highly visible from public areas would be unsightly in the context of a residential area occupied entirely by single dwellings.

Signage

Clause 31(2)(b) of the CLEP specifies that consent is not required for business identification signage. A business identification sign is proposed to be attached to the external wall of the garage. The proposed sign is a projecting wall sign with an area of 0.18m². Consent is not required for the proposed sign.

2.2 Campbelltown (Sustainable City) Development Control Plan 2009

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 development within the City of Campbelltown. An assessment of the proposed development against the relevant development standards (those relating to car parking for a dwelling house) is detailed below:

Standard	Required	Proposed	Compliance
Car parking for a dwelling	One covered car parking space required for a dwelling	Notwithstanding conversion of the garage to accommodate the proposed use, the dwelling has an existing carport attached to it, which provides one covered car parking space	Yes

3. Public Participation

The application was notified to nine nearby and adjoining residents. Council has received four submissions, including a petition with seven signatures, raising the following issues:

Issue: Strong odour has been emanating from the premises during its unauthorised use as a commercial kitchen. Residents have had to close windows in their homes and rewash clothes.

3.2 No. 1 Honeyeater Place, Ingleburn - Use Of Dwelling's Garage As A Commercial Kitchen For Food Catering Purposes

Comment: These concerns are considered to be valid, and the applicant has not satisfactorily addressed this matter. Without proper mechanical ventilation being installed, a significant odour nuisance is likely to be generated by the proposed use, from cooking of food, storage of food waste awaiting collection, and the required grease trap. The plans indicate that a commercial exhaust system will be installed in accordance with Australian Standard AS1668.1-1991, however no detailed information has been provided regarding the specifics of the equipment, how it is proposed to be installed or how effective the device would be in preventing an odour nuisance to neighbouring properties. Even if the proposed commercial exhaust system was to be installed satisfactorily, and in accordance with relevant Australian Standards, there is no guarantee that potential odour impacts would be effectively mitigated. The applicant was requested to submit information to demonstrate that the proposal would not cause odour that is detectable outside of the garage. The applicant's response indicated that a commercial exhaust system would be installed (and some details of the system were provided) and that the issue of odour would be considered at the construction stage. However, no further information has been provided to demonstrate conclusively that the proposed commercial exhaust system would prevent the emission of odour into adjoining properties. Given the lack of detail provided to date it is considered that there is insufficient information to adequately determine that the proposal would not generate a significant odour nuisance for the surrounding neighbourhood.

Issue: The possibility of an increase in traffic movements associated with the premises.

Comment: This concern is considered to be valid, as the proposed catering business would introduce several additional vehicle movements to the neighbourhood, associated with the collection of food by customers and the collection of food waste by waste contractors. The application indicates that only one collection of food would take place on each week day. This alone would not have a noticeable effect on traffic generation and noise. However the application indicates that up to four customers per day would attend the site to collect meals during weekends. Council typically restricts weekend operation of home businesses to 9:00am to 1:00pm on Saturdays and no operation on Sundays, however the application indicates that weekends are likely to be the time of peak demand for the business's services due the need for weekend functions and parties to be catered for. The weekend vehicle movements associated with the business would have a noticeable effect on total traffic volumes and noise in the neighbourhood, as the site is located in a cul-de-sac and experiences low traffic volumes. It should be noted that the additional eight vehicle movements per day (from four customers collecting food) that the proposal would be likely to generate would not cause problems relating to traffic volumes and safety. However, the peak in traffic movements generated by the business would occur on weekends, which coincides with times of low traffic volumes in residential areas. Accordingly, the proposal's traffic generation characteristics would not be compatible with that of the surrounding residential area. In addition to this, limiting the number of pickups in response to this issue is not considered to be a practical option, as this is likely to result in an unreasonable restriction of trade.

Issue: Possible noise impacts resulting from the need for commercial grade exhaust and refrigeration equipment.

3.2 No. 1 Honeyeater Place, Ingleburn - Use Of Dwelling's Garage As A Commercial Kitchen For Food Catering Purposes

Comment: This concern is considered to be valid. The mechanical ventilation system that would be required to mitigate any potential odour impacts would be likely to generate a significant amount of noise, well above the ambient background noise levels generally experienced by a residential area. The proposed hours of operation of the use would be very broad, and therefore the noise impact of any mechanical ventilation system is likely to be significant. No information has been submitted with the application to indicate whether any noise impacts associated with the proposed commercial exhaust system would be mitigated.

Petition

Following the closure of the notification period, Council received a petition in support of the application containing 130 signatures. A letter attached to the petition stated that the applicant has been providing a valuable service to the Bangladeshi community within Campbelltown, and the refusal of this application would result in the loss of this service.

Comment: While it is acknowledged that the business may provide a valuable service to the Bangladeshi community, the location and impacts of the proposal must be considered in Council's overall assessment of the application.

5. Conclusion

Council often grants consent for residents to operate businesses from their dwellings (home activities), where these businesses are small in scale and would have no noticeable impact on surrounding residential properties. The installation of a commercial-scale kitchen for the operation of a catering business running 10 hours per day from Monday to Saturday and 8 hours per day on Sunday is considered to be beyond the scale of businesses envisaged by the CLEP's definition of 'home activity'.

Assessment of the proposal against the CLEP's definition of 'home activity' has shown that the proposed food catering business cannot be defined as a home activity, due to the detrimental impacts that the business is likely to have upon surrounding residential properties. These impacts include an increase in noise associated with mechanical ventilation, possible odour issues associated with food preparation and storage of food waste, the possible attraction of vermin resulting from the bulk storage of food waste. Of equal importance is the potential issues associated with an increase in traffic volumes within the area on weekends, and associated impacts including traffic noise. The cumulative impact of the issues raised within this report would be exacerbated by the broad operating hours proposed for the business, beyond that which would normally be expected in a residential neighbourhood. Accordingly, based on the information supplied by the applicant concerning the proposed use, the proposal is considered to be defined as an "industry", which the CLEP lists as a prohibited land use in the residential zones.

The unsuitability of the residential zones for a food catering business is demonstrated by the inability of the application to clearly show, satisfactory mitigation of the potentially detrimental impacts of the operation of a commercial kitchen. Attempts to mitigate the impact of the use on surrounding properties, is likely to result in additional amenity issues. For example, the inclusion of a commercial exhaust system for the purpose of odour removal is likely to result in unreasonable noise impacts upon neighbouring dwellings.

3.2 No. 1 Honeyeater Place, Ingleburn - Use Of Dwelling's Garage As A Commercial Kitchen For Food Catering Purposes

Based on the information supplied by the applicant concerning the proposed use, the objections received through the assessment process and the complaints received by Council concerning the prior (unauthorised) use of the dwelling as a commercial food preparation business, it is considered that the proposed use would be more suited to an industrial zone, and that approval of this application would be likely to create a precedent for the operation of larger scale businesses within the residential zones. It is considered that the proposed development would detrimentally affect the amenity of the surrounding residents, and accordingly, the development application is recommended for refusal.

Officer's Recommendation

That 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 recommended that the proposed development be refused for the reasons stated in Attachment 1 of this report.

Having declared an interest in regard to Item 3.2, Councillor Hawker left the Chamber and did not take part in debate nor vote on this item.

Committee Note: Mr B Smith, Ms S Hughes and Mr T Ahmed addressed the Committee.

Committee's Recommendation: (Thompson/Greiss)

That the Officer's Recommendation be adopted.

CARRIED

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

Voting against the Committee's Recommendation: Nil.

At the conclusion of the discussion regarding Item 3.2, Councillor Hawker returned to the Chamber for the remainder of the meeting.

Council Meeting 31 July 2012

Having declared an interest in regard to Item 3.2, Councillors Hawker and Rule left the Chamber and did not take part in debate nor vote on this item.

Council Meeting 31 July 2012 (Kolkman/Greiss)

That the Officer's Recommendation be adopted.

Council Minute Resolution Number 134

That the Officer's Recommendation be adopted.

3.2 No. 1 Honeyeater Place, Ingleburn - Use Of Dwelling's Garage As A Commercial Kitchen For Food Catering Purposes

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

Voting against the Council Resolution: Nil.

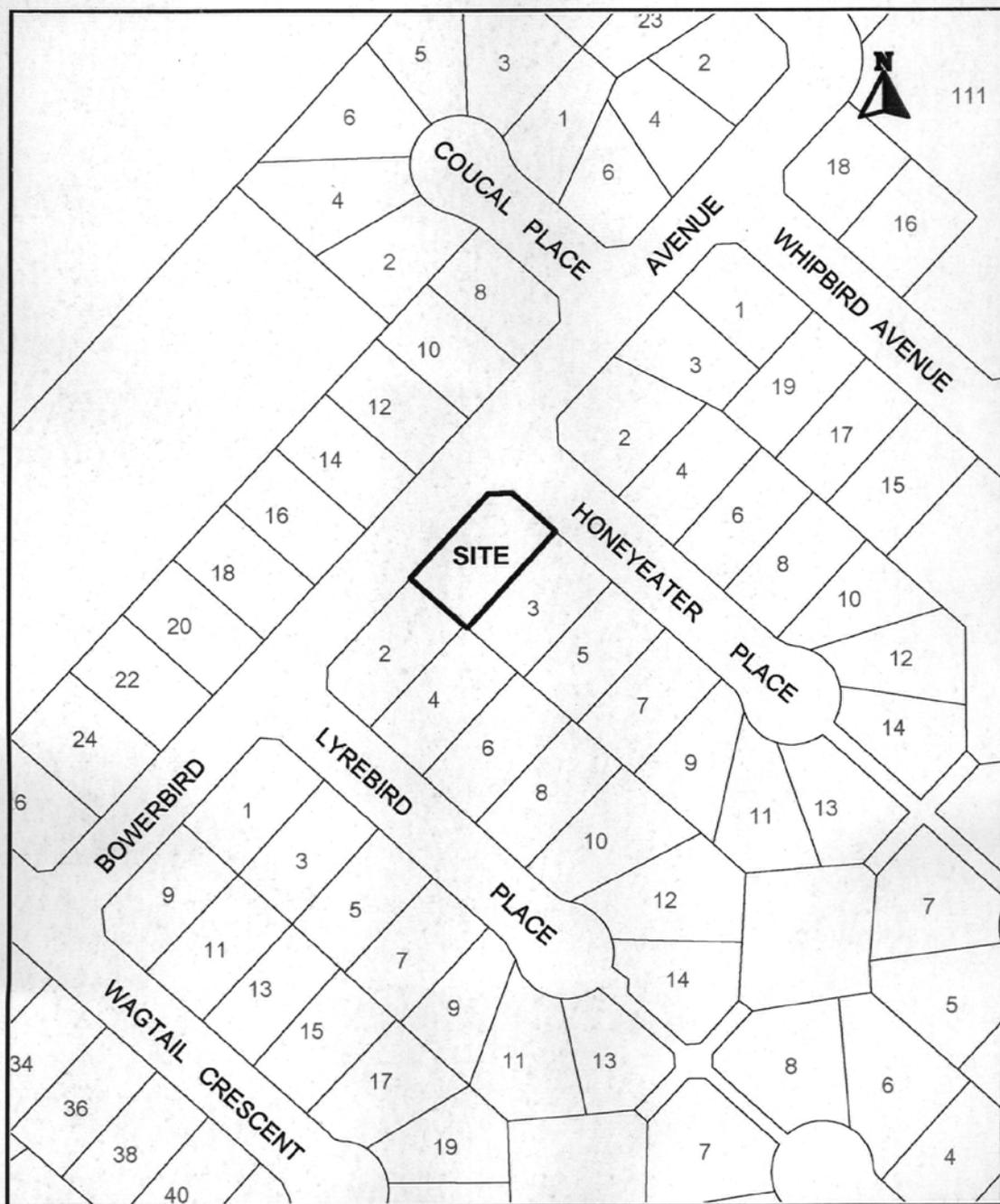
At the conclusion of the discussion regarding Item 3.2, Councillors Hawker and Rule returned to the Chamber for the remainder of the meeting.

ATTACHMENT 1

Recommended Reasons for Refusal

1. Pursuant to the provisions of Section 79C(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, it is considered that the proposed development is inconsistent with Campbelltown (Urban Area) Local Environmental Plan 2002 with respect to permissibility. It is considered that the proposed development would be defined as an industry and is therefore not permissible in the 2(b) – Residential B Zone.
 2. Pursuant to the provisions of Section 79C(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, it is considered that the proposed development is inconsistent with the objectives of the 2(b) – Residential B Zone under Campbelltown (Urban Area) Local Environmental Plan 2002, as the proposed development would adversely affect the amenity of the locality, would be incompatible with residential use, conflicts with the residential intent of the zone, and does not relate sympathetically to nearby and adjoining development.
 3. Pursuant to the provisions of Section 79C(1)(b) of the *Environmental Planning and Assessment Act 1979*, it is considered that the proposed development fails to demonstrate sufficient detail concerning the proposed commercial exhaust system, which would be highly visible from the street, and fails to provide sufficient information to demonstrate that the proposed development would achieve a high quality design and would not adversely impact upon the existing and future desired streetscape has not been submitted.
 4. Pursuant to the provisions of Section 79C(1)(b) of the *Environmental Planning and Assessment Act 1979*, it is considered that the proposed development fails to demonstrate that it would not have an adverse impact upon the environment with respect to odour from food preparation and food waste, noise from mechanical ventilation and traffic, the potential attraction of vermin to the site, and the broad operating hours of the premises.
 5. Pursuant to the provisions of Section 79C(1)(b) of the *Environmental Planning and Assessment Act 1979*, it is considered that the proposed development would have an adverse social impact upon the locality, as the odour and noise likely to be generated by the proposed development would adversely impact upon the amenity of surrounding residents.
 6. Pursuant to the provisions of Section 79C(1)(c) of the *Environmental Planning and Assessment Act 1979*, it is considered that the site is not suitable for the proposed development due to its location within an established residential area.
 7. Pursuant to the provisions of Section 79C(1)(d) of the *Environmental Planning and Assessment Act 1979*, it is considered that having regard for public submissions, the development is unsuitable with respect to the impact that it would have upon surrounding properties in terms of noise and odour.
 8. Pursuant to the provisions of Section 79C(1)(e) of the *Environmental Planning and Assessment Act 1979*, it is considered that in the circumstances of the case, approval of the development would set an undesirable precedent for similar inappropriate development and is therefore not in the public interest.
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ATTACHMENT 2



LOCALITY PLAN

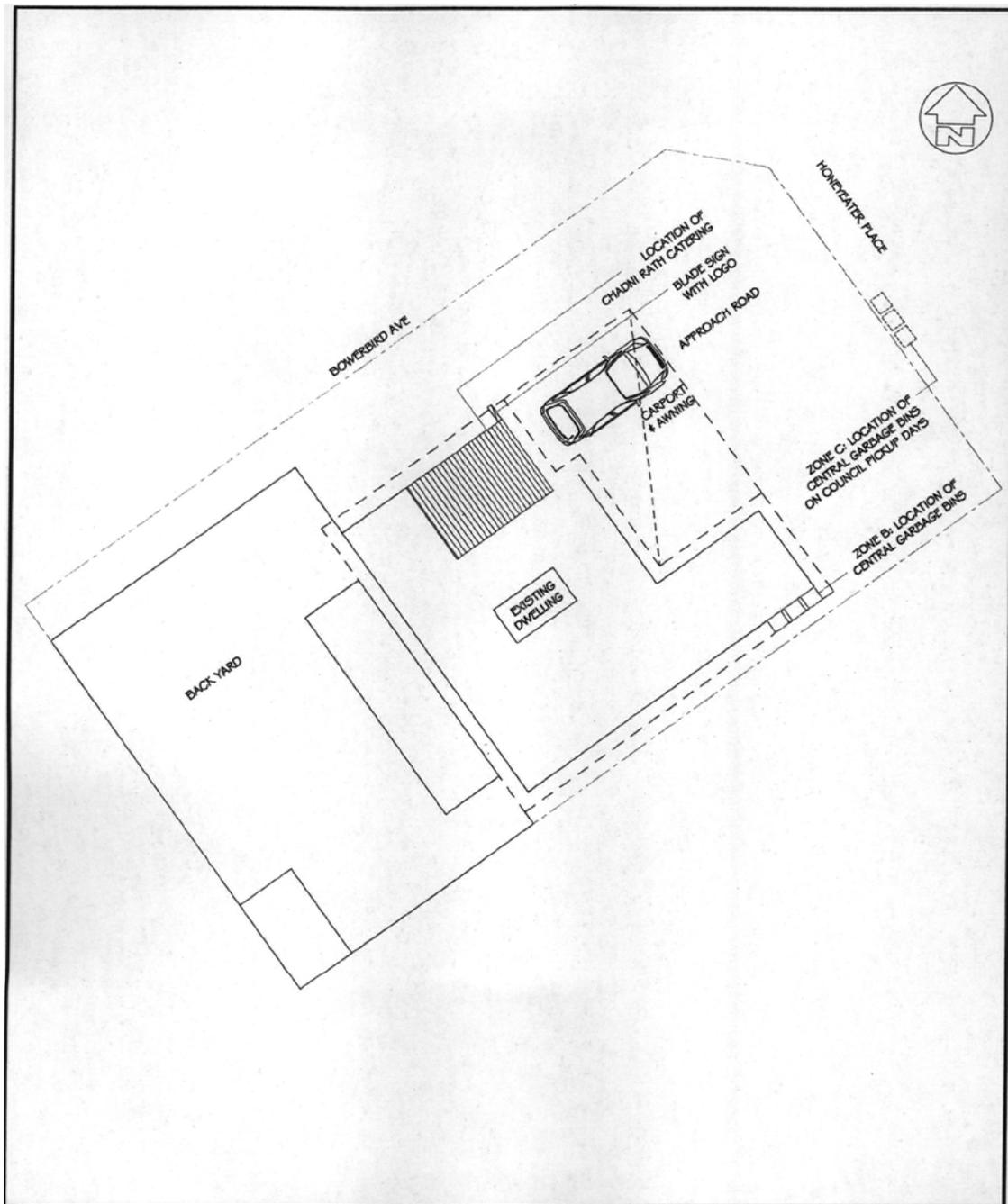


SUBJECT:

USE OF DWELLING'S GARAGE AS A COMMERCIAL
KITCHEN FOR FOOD CATERING PURPOSES.
LOT 425 DP 253071 - No. 1 HONEYEATER PLACE, INGLEBURN.

3.2 No. 1 Honeyeater Place, Ingleburn - Use Of Dwelling's Garage As A Commercial Kitchen For Food Catering Purposes

ATTACHMENT 3



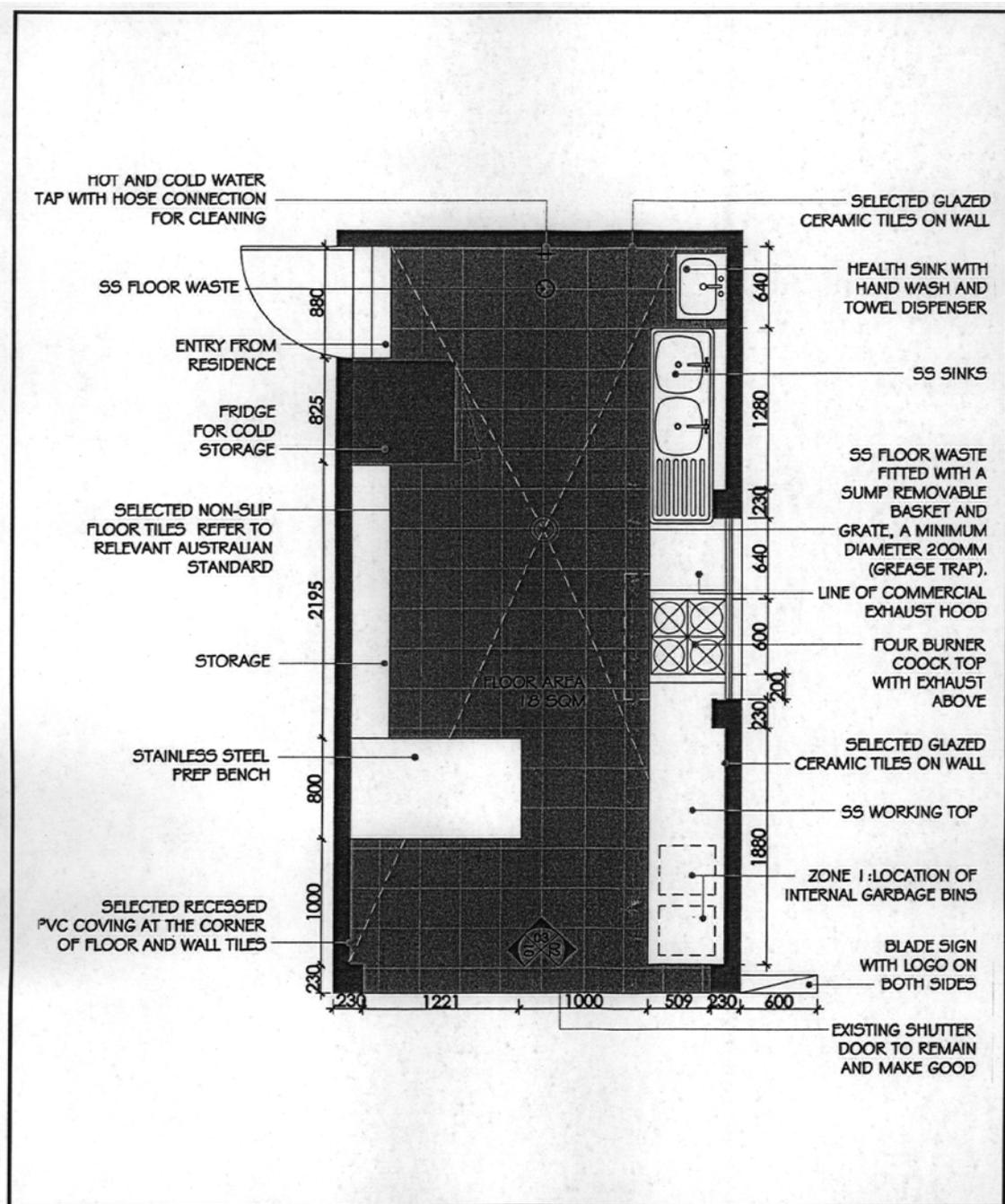
SITE PLAN

SUBJECT:

USE OF DWELLING'S GARAGE AS A COMMERCIAL
KITCHEN FOR FOOD CATERING PURPOSES.
LOT 425 DP 253071 - No. 1 HONEYEATER PLACE, INGLEBURN.

3.2 No. 1 Honeyeater Place, Ingleburn - Use Of Dwelling's Garage As A Commercial Kitchen For Food Catering Purposes

ATTACHMENT 4



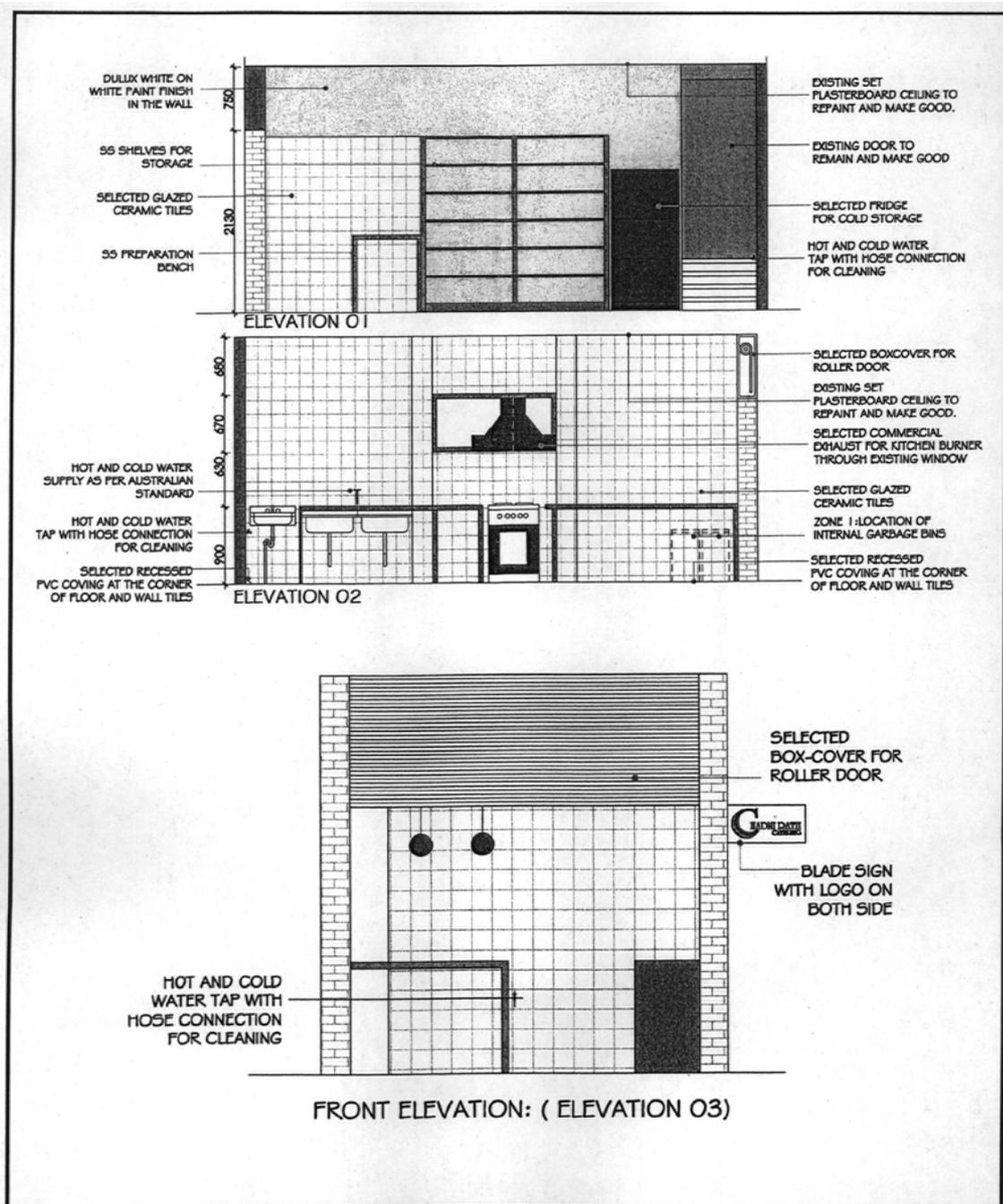
FLOOR PLAN

SUBJECT:

USE OF DWELLING'S GARAGE AS A COMMERCIAL KITCHEN FOR FOOD CATERING PURPOSES.
 LOT 425 DP 253071 - No. 1 HONEYEATER PLACE, INGLEBURN.

3.2 No. 1 Honeyeater Place, Ingleburn - Use Of Dwelling's Garage As A Commercial Kitchen For Food Catering Purposes

ATTACHMENT 5



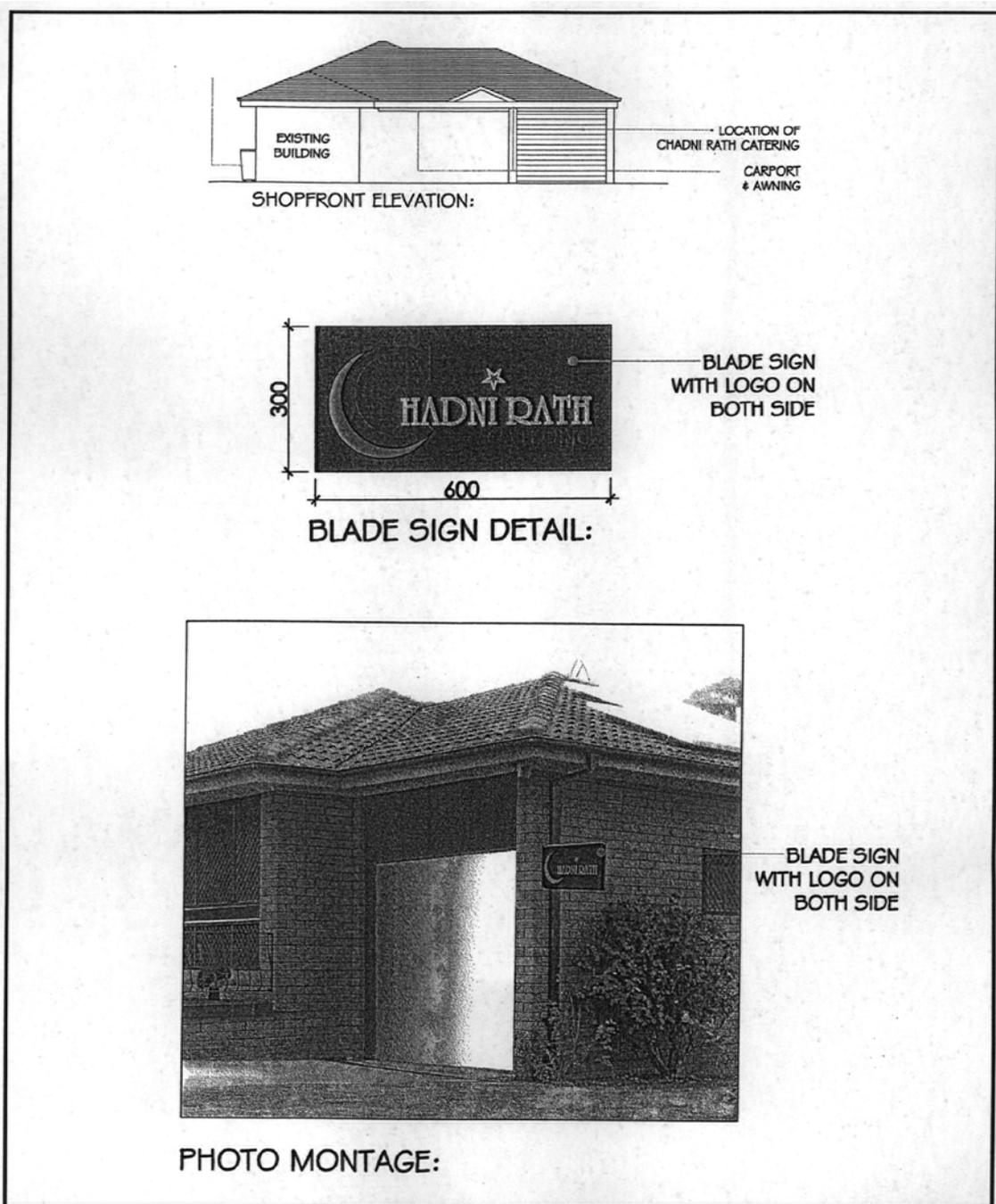
INTERNAL ELEVATIONS

SUBJECT:

USE OF DWELLING'S GARAGE AS A COMMERCIAL KITCHEN FOR FOOD CATERING PURPOSES.
 LOT 425 DP 253071 - No. 1 HONEYEATER PLACE, INGLEBURN.

3.2 No. 1 Honeyeater Place, Ingleburn - Use Of Dwelling's Garage As A Commercial Kitchen For Food Catering Purposes

ATTACHMENT 6



SHOP & SIGN ELEVATIONS

SUBJECT:

USE OF DWELLING'S GARAGE AS A COMMERCIAL
KITCHEN FOR FOOD CATERING PURPOSES.
LOT 425 DP 253071 - No. 1 HONEYEATER PLACE, INGLEBURN.

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 06/07/2012)	0
Total completed Class 1 DA appeal matters (as at 06/07/2012)	6
Costs from 1 July 2011 for Class 1 DA appeal matters:	\$71,946.41

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

Total ongoing Class 1 Order/Notice appeal matters (as at 06/07/2012)	0
Total completed Class 1 Order/Notice appeal matters (as at 06/07/2012)	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 06/07/2012)	0
Total completed Class 4 matters (as at 06/07/2012)	1
Total ongoing Class 4 matters in respect of costs recovery (as at 06/07/2012) 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 06/07/2012)	0
Total completed Class 5 matters (as at 06/07/2012)	0
Total ongoing Class 5 matters in respect of costs recovery (as at 06/07/2012) these matter will be further reported on completion	2
Costs from 1 July 2011 for Class 5 matters	\$143.20

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

Total ongoing Class 6 Matters (as at 06/07/2012)	0
Total completed Class 6 Matters (as at 06/07/2012)	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 06/07/2012)	0
Total completed Appeal matters (as at 06/07/2012)	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 06/07/2012)	6
Total completed Local Court Matters (as at 06/07/2012)	134
Costs from 1 July 2011 for Local Court Matters	\$7,471.09

File No: LP08/12 – Penalty Notice Court Election
Offence: Not stand vehicle in marked parking space.
Act: *Local Government Act 1993*
Final Costs: \$0.00

Status: Completed

The matter was before the Court for hearing on 28 June 2012 where the Court granted Council's application to withdraw the proceedings.

Following the first mention appearance, the defendant made written representation to Council in which it was submitted that the area where the vehicle was parked was not adequately signposted or line-marked to indicate that parking in that area was not permitted. 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 and that a written caution was appropriate in this instance.

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*
Costs to Date: \$0.00

Status: New matters

Listed for first mention on 24 July 2012.

File No: LP13/12 – Annulment of Penalty Notice Enforcement Order
Offence: Transport Waste to Unauthorised Facility
Act: *Protection of the Environment Operations Act 1997*
Costs to Date: \$0.00

Status: Ongoing

The matter was before the Court on 25 June 2012 for hearing of Council's application to vacate the hearing date due to the unavailability of Council's principal witness who was on extended sick leave. After hearing Council's submissions the Magistrate granted Council's application and re-listed the matter to 3 September 2012 for hearing.

File No: LP14/12 – Annulment of Penalty Notice Enforcement Order
Offence: Not comply with Clean-up Notice.
Act: *Protection of the Environment Operations Act 1997*
Costs to Date: \$0.00

Status: Ongoing

The matter was before the Court on 25 June 2012 for hearing of Council's application to vacate the hearing date due to the unavailability of Council's principal witness who was on extended sick leave. After hearing Council's submissions the Magistrate granted Council's application and re-listed the matter to 3 September 2012 for hearing.

File No: LP15/12 – Court Election of Penalty Notice
Offence: Stop heavy vehicle for longer than 1 hour.
Act: *Road Rules 2008*
Costs to Date: \$0.00

Status: New matter

Listed for first mention on 24 July 2012.

File No: LP16/12 – Penalty Notice Court Election
Offence: Not register 6-month old companion animal.
Act: *Companion Animals Act 1998*
Costs to date: \$0.00

Status: New matter

Listed for first mention on 17 July 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 06/07/2012)	19
Costs from 1 July 2011 for advice matters	\$31,529.93

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	\$990.00
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	\$6,570.67
Matters referred to Council's solicitor for legal advice	\$31,529.93	\$0.00
Miscellaneous costs not shown elsewhere in this table	\$0.00	\$0.00
Costs Sub-Total	\$113,582.21	\$18,765.11
Overall Net Costs Total (GST exclusive)	\$94,817.10	

Officer's Recommendation

That the information be noted.

Committee's Recommendation: (Greiss/Hawker)

That the Officer's Recommendation be adopted.

CARRIED

Council Meeting 31 July 2012 (Kolkman/Greiss)

That the Officer's Recommendation be adopted.

Council Minute Resolution Number 133

That the Officer's Recommendation be adopted.

4.2 Animal Care Facility Male Dog Desexing Trial

Reporting Officer

Acting Manager Compliance Services

Attachments

Nil

Purpose

To report on the Animal Care Facility Male Dog Desexing Trial conducted between 1 February 2012 and 30 June 2012.

History

Council at its Ordinary Meeting on 13 December 2012 considered a report regarding the operation of Council's Animal Care Facility (ACF). The report contained discussion on a range of matters raised through representations made by POUNDCC and other members of the community concerning the operation of the ACF. One of the issues raised related to the desexing of impounded animals, noting potential funding implications.

Council adopted as one of 28 recommended actions relating to the operation of the ACF the following:

That the price of male dogs sold from the Pound include desexing as a trial until June 30, 2012.

It was also determined that the additional cost of desexing not be passed on to purchasers due to concerns that it may potentially adversely impact on male dog sales.

As a result the trial commenced in February 2012 and has continued up to and beyond 30 June 2012.

Report

A total of 61 male dogs have been sold during the male dog desexing trial period between 1 February 2012 and 30 June 2012, of which 31 dogs were sold and desexed during the period. The remaining 30 dogs were male puppies or dogs that were already desexed.

Sales averages for male dogs during the trial period (61) were reasonably consistent with sales averages in the February – June periods in 2010 (77) and 2011 (57).

Council elected not to pass on the additional cost of desexing during the trial period. This meant Council absorbed the veterinarian desexing costs (\$119 for each dog) into the sale price which was offset by the reduction in registration fee (ie. from \$150 to \$40 for a desexed animal), resulting in a \$110 cost saving and a net cost of \$9 per animal. In addition, Council incurred a reduction in registration revenue of \$93.50 per dog.

The cost implications as a result of the trial are as follows:

Additional cost per dog desexed (\$9 per dog for 31 dogs)	\$279.00
Loss in Registration revenue (\$93.50 per dog for 31 dogs)	\$2899.00
Total	\$3178.00

The cost implications based on the five month term of the trial, when extrapolated over a 12 month period, would indicate an annual additional cost to Council of approximately \$7600 which can be accommodated within Council's current budget.

The trial has operated for a very short term and it is considered appropriate to continue the trial at least until the end of the year given that Council is acting responsibly to reduce the number of 'entire' male dogs released back into the community, which should ultimately contribute to a reduction in the number of unwanted animals.

The continuation of this initiative would also complement Council's current achievements through the CAWS (subsidised dog and cat desexing) program. To date, after the first three months of the CAWS program, a total of 55 dogs and 28 cats have been desexed.

An extension of the male dog desexing trial until the end of 2012 would provide further opportunity to obtain a more meaningful result to be reported back to Council in conjunction with the 12 month ACF operations report review in March 2013. Therefore, an extension of the male dog desexing trial until 30 December 2012 is recommended.

Officer's Recommendation

1. That Council endorse the extension of the male dog desexing trial at the Animal Care Facility until 30 December 2012.
2. That an evaluation of the trial referred to in 1 above be undertaken and reported to Council upon its conclusion.

Committee's Recommendation: (Thompson/Greiss)

That the Officer's Recommendation be adopted.

CARRIED

Council Meeting 31 July 2012 (Kolkman/Greiss)

That the Officer's Recommendation be adopted.

Council Minute Resolution Number 133

That the Officer's Recommendation be adopted.

4.3 Abandoned Shopping Trolley Cost Recovery

Reporting Officer

Acting Manager Compliance Services

Attachments

Nil

Purpose

To discuss remedies available to Council for the recovery of costs associated with the collection, retrieval and disposal of abandoned trolleys.

History

Council at its meeting on 15 November 2011 requested a report detailing:

Arrangements that could be put in place to ensure that the costs to Council involved in the collection and disposal of abandoned shopping trolleys are recovered by the immediate issue of an invoice to the owners of such trolleys.

Report

The remedies available to Council for the recovery of costs associated with the collection, retrieval and disposal of abandoned shopping trolleys, including trolleys dumped in locations where a pollution risk is posed (i.e. in creeks or other waterways), is provided for under the *Impounding Act 1993* in respect of abandoned articles generally and under the *Protection of the Environment Operations Act 1997* in respect of articles causing a pollution incident.

Cost Recovery under the *Impounding Act 1993 (the Act)*

Section 15 of the Act provides that an impounding officer may impound an article found in the officer's area of operations if the officer believes on reasonable grounds that the article has been abandoned or left unattended.

Section 20 (3) of the Act provides that if the impounding authority knows or finds out the name and address of the owner, the authority must cause notice of the impounding to be given to the owner of an impounded item as soon as practicable after becoming aware of the name or address.

A notice under Section 20 must be in writing addressed to the person to be given the notice. It must clearly indicate that the item has been impounded and will be sold or otherwise disposed of if not claimed within a stated period (not less than 28 days in the case of an article such as a shopping trolley).

Section 23 of the Act provides that an application may be made to an impounding authority for the release of an impounded item. The application may be made at any time before the item is sold or disposed of.

The impounding authority must release the item to the applicant if:

- (a) The authority is satisfied on reasonable grounds that the applicant is the owner of the item, is authorised to claim the item on the owner's behalf or is otherwise entitled to lawful possession of the item
- (b) All fees and charges payable in respect of the impounding, holding and disposing of the item are paid to the impounding authority
- (c) The authority is satisfied that all penalties imposed in connection with the event that gave rise to the impounding (including any collection or recovery costs) have been paid
- (d) The applicant signs a receipt for the release of the item.

It should be noted that Council's Fees and Charges Policy provides for fees to be charged for impounding (currently \$75/trolley), holding/release (currently \$35/trolley) and holding/disposal if shopping trolley unclaimed (currently \$45/trolley) in accordance with the Act.

In addition, provision is also made for specialised handling (for extraordinary costs eg for retrieval or transport of trolleys) where the actual costs incurred by Council may also be charged.

These fees are routinely applied to shopping trolley owners in respect of impounded shopping trolleys. An invoice for the fees owing is generated and sent with the Notice of Impounding immediately after the trolleys are impounded.

Importantly, Section 24 (1) of the Act provides that an impounding authority must cause an impounded item to be offered for sale if the item is not released. The sale is to be by public auction or public tender.

Section 24 (2) also provides the item may be disposed of otherwise than by sale if the impounding authority believes on reasonable grounds that the item has no monetary value or that the proceeds of sale would be unlikely to exceed the costs of sale.

If an impounded item offered for sale is not sold, the impounding authority may dispose of the item otherwise than by sale.

Section 27(1) of the Act provides that an impounding authority may recover the fees and charges payable in respect of the impounding, holding and disposing of the item as a debt from the person responsible for the impounded item.

Amounts recoverable under Section 27 can be recovered only if they have not already been paid, or deducted from proceeds of sale. Such amount may be recovered from the owner or persons responsible as a debt in a court of competent jurisdiction.

Cost Recovery under the *Protection of the Environment Operations Act 1997* for Pollution Incidents

Section 92 (2) of the *Protection of the Environment Operations Act 1997* (POEO) provides that if a public authority reasonably suspects that a pollution incident has occurred or is occurring (eg. the dumping of trolleys in a creek or waterway) the public authority (ie Council) may take such clean-up action as it considers necessary.

A public authority may take clean-up action by itself or by its employees, agents or contractors.

Section 104 (2) of the *POEO Act* provides that a public authority that takes clean-up action under section 92 may, by notice in writing (by way of serving a compliance cost notice) require:

- (a) The occupier of the premises at or from which the authority reasonably suspects that the pollution incident occurred
- (b) The person who is reasonably suspected by the authority of having caused the pollution incident

or both (a) and (b), to pay all or any reasonable costs and expenses incurred by it in connection with the clean-up action.

Under the provisions of Section 105 of the *POEO Act 1997* a regulatory authority or public authority may recover any unpaid amounts specified in a compliance cost notice as a debt in a court of competent jurisdiction.

Conclusion

It is apparent that the costs to Council for recovery of shopping trolleys can be achieved either by means of impounding action taken under the *Impounding Act 1993* or clean-up action undertaken by Council under *Section 92 of the POEO Act 1997*, providing the owner of the shopping trolleys or other responsible persons are able to be identified. In both instances, unpaid costs are recoverable through the Court as a debt due to Council.

In both respects it is appropriate for an invoice to accompany either the Section 20 Notice of Impounding or the Section 104 Compliance Cost Notice issued to the person responsible for the pollution incident (dumped shopping trolley) under the *POEO Act 1997*.

Under the *POEO Act 1997*, cost recovery is subject to Council identifying either:

- (a) The occupier of the premises at or from which Council reasonably suspects that the pollution incident occurred
 - (b) The person who is reasonably suspected by Council of having caused the pollution incident.
-

Whilst there seems no doubt that the dumping of shopping trolleys constitutes a pollution incident, the difficulty arises in linking the incident to a responsible entity.

Essentially Council would be relying on subparagraph (a) in a general context, for instance Woolworths Limited as the exact store location from where the trolley/s originated inevitably will not be able to be established. Reliance on subparagraph (b) "person who caused the pollution incident" would in most cases not be an option, as that person will not be known.

In view of the above considerations it seems apparent that the appropriate means in dealing with abandoned shopping trolleys in terms of cost recovery, is via the provisions of the *Impounding Act 1993* particularly as Council's scheduled fees and charges provide for cost recovery for special handling of shopping trolleys, which may be applied to the costs involved in the recovery of shopping trolleys abandoned in remote or awkward locations.

It should be noted that Council has a standard operating procedure entitled Abandoned Shopping Trolley Investigation which details the process for investigation, impounding release and disposal of abandoned shopping trolleys.

This procedure does not currently discuss in detail provisions, as outlined in the body of this report, pertaining to cost recovery. In the interests of promoting awareness of appropriate cost recovery provisions to relevant staff, it is recommended the Abandoned Shopping Trolley Investigation procedure document be reviewed to incorporate appropriate information on cost recovery provisions available under the *Impounding Act 1993*.

Officer's Recommendation

1. That Council's Procedure document titled Abandoned Shopping Trolley Investigation be reviewed to incorporate appropriate information to guide staff in the application of cost recovery provisions of the *Impounding Act 1993*.
2. That Council endorse the active application of cost recovery provisions of the *Impounding Act 1993* by authorised staff with respect to impounded shopping trolleys, to encourage retailers to be vigilant in implementing effective strategies to minimise the incidence of abandoned shopping trolleys within the City of Campbelltown.

Committee's Recommendation: (Hawker/Kolkman)

That the Officer's Recommendation be adopted.

CARRIED

Council Meeting 31 July 2012 (Kolkman/Greiss)

That the Officer's Recommendation be adopted.

Council Minute Resolution Number 133

That the Officer's Recommendation be adopted.

5. GENERAL BUSINESS

5.1 Proposed Wilton Airport

Committee's Recommendation: (Greiss/Hawker)

That Council, in reference to the Federal Labor Government's proposal to develop an Airport at Wilton, establish a fighting fund to support the anti Wilton Airport campaign.

CARRIED

Council Meeting 31 July 2012 (Kolkman/Greiss)

That the Committee's Recommendation be adopted.

LOST

5.2 Control Plans for Major Rail Links

Committee's Recommendation: (Greiss/Hawker)

That a report be presented detailing planning controls for centres located along major rail links from Campbelltown to Sydney CBD.

CARRIED

Council Meeting 31 July 2012 (Kolkman/Greiss)

That the Officer's Recommendation be adopted.

Council Minute Resolution Number 133

That the Officer's Recommendation be adopted.

5.3 External Storage Facility and Rock Climbing Wall - Community Centre - Ambarvale

Councillor Kolkman noted that the Cadet Corp and the Muru Nangi Mai Indigenous Group who utilise the Community Centre at Ambarvale, wish to build an external storage and rock wall climbing facility at the Centre.

Committee's Recommendation: (Kolkman/Thompson)

That a report be presented examining the feasibility of constructing an external storage and rock climbing facility at the Ambarvale Community Centre.

CARRIED

Council Meeting 31 July 2012 (Kolkman/Greiss)

That the Officer's Recommendation be adopted.

Council Minute Resolution Number 133

That the Officer's Recommendation be adopted.

18. CONFIDENTIAL ITEMS

No reports this round

There being no further business the meeting closed at 9.02pm.

R Kolkman
CHAIRPERSON
