

PART TWO

**Reports of the Planning and Environment Committee Meeting
held at 7.30pm on Tuesday, 6 March 2012.**

APOLOGIES

ACKNOWLEDGEMENT OF LAND

DECLARATIONS OF INTEREST

Pecuniary Interests

Non Pecuniary – Significant Interests

Non Pecuniary – Less than Significant Interests

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PART TWO

3. DEVELOPMENT SERVICES

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3.2 Lot 10 DP 1022204, Racecourse Avenue, Menangle Park - Construction of extensions to existing grandstands and club facilities

3.3 Lot 4036 DP 790757 Rizal Park, Anthony drive, Rosemeadow - Construction of a Plinth, Wall and Landscaping for the Erection of a Five Metre Brass Statue of Dr Jose Rizal (1861 - 1896)

4. COMPLIANCE SERVICES

4.1 Legal Status Report

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4.3 2012 Swimming Pools Act 1992 - Review

4.4 Establishment of Alcohol Free Zones around Schools, Amendment to an Existing Zone and the Creation of a New Alcohol Free Zone

5. GENERAL BUSINESS

18. CONFIDENTIAL ITEMS

18.1 Confidential information relating to items on the Planning and Environment Agenda 6 March 2012

18.2 2012 Heritage Medallion

Minutes of the Planning and Environment Committee held on 6 March 2012

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

Apology (Greiss/Thompson)

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

CARRIED

Chairperson

In the absence of the Chairperson Councillor Kolkman, His Worship the Mayor, Councillor Chanthivong Chaired the meeting.

Acknowledgement of Land

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

DECLARATIONS OF INTEREST

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

Pecuniary Interests - Non Significant

Councillor Chanthivong - Item 2.3 - Approval of the Bulli Seam Project - Councillor Chanthivong advised that he holds a small number of shares in BHP Billiton.

Non Pecuniary – Significant Interests - Nil

Non Pecuniary – Less than Significant Interests

Councillor Hawker - Item 2.8 - Joint Regional Planning Panel - Proposed Amendments to Policies, Procedures and Code of Conduct - Councillor Hawker advised that he is a member of the Joint Regional Planning Panel however this report relates to procedural matters and that he will remain in the Chamber.

3. DEVELOPMENT SERVICES

3.1 Development Services Section Statistics - December 2011 to February 2012

Reporting Officer

Manager Development Services

Attachments

Development Services Application Statistics for December 2011 to February 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 December 2011 to February 2012 as they affect the Development Services Section.

Officer's Recommendation

That the information be noted.

Committee's Recommendation: (Greiss/Hawker)

That the Officer's Recommendation be adopted.

CARRIED

Council Meeting 13 March 2012 (Chanthivong/Greiss)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 26

That the Officer's Recommendation be adopted.

3.2 Lot 10 DP 1022204, Racecourse Avenue, Menangle Park - Construction of extensions to existing grandstands and club facilities

Reporting Officer

Manager Development Services

Attachments

1. Recommended conditions of development consent
2. Locality plan
3. Site plan
4. Floor plans
5. Elevation plans
6. Landscaping plan

Purpose

The purpose of this report is to assist Council in its determination of the subject development application in accordance with the provisions of the *Environmental Planning and Assessment Act 1979*.

Property Description	Lot 10 DP 1022204, Racecourse Avenue, Menangle Park
Application No	2124/2011/DA-C
Applicant	NSW Harness Racing Club Limited
Owner	NSW Harness Racing Club Limited
Statutory Provisions	Sydney Regional Environmental Plan No. 20 - Hawkesbury-Nepean River Interim Development Order No. 15 Campbelltown Local Environmental Plan No. 193 Campbelltown (Sustainable City) Development Control Plan 2009 Development Control Plan No. 83 - Heritage Policy
Other Provisions	Campbelltown 2025 - Looking Forward
Date Received	November 2011

History

The subject site has been used as a venue for harness racing since 1953. Several development applications have been received and determined since the early 1970s at the subject site that relate to its use as a harness racing track, the site for Campbelltown Show, Menangle Markets and for sand extraction works.

Council's earliest record of a development application at the site is D73/173 for extensions and renovations to a paceway, which was approved in 1973. Since that time, various development applications for additional stables, shedding and amenities have been received for the paceway track and surrounds. Applications in 1982, 1990 and 1991 provided for the covered areas at the site that are presently used to host the Campbelltown Show and Menangle Markets.

Council issued two major development consents for the excavation and removal of sand and soil from the site in 1984 and 2001. The sand extraction authorised by the consents has been completed to the immediate west and south west of the existing paceway track. The sand extraction and site rehabilitation permitted by the most recent development consent was completed by mid 2008.

In December 2006, Council granted its development consent for a major redevelopment of the harness racing track itself, which involved the construction of a 1,400 metre long oval track and associated site works, including some flood mitigation earthworks. More recent development consents have also been issued at the site for works such as track lighting, installation of an elevator in one of the grandstands and most recently, construction of new offices for use in conjunction with the track and the management of Harness Racing NSW.

Since that time, Council has also approved works relating to the installation of lighting at the track, a new office/administration building and most recently in December 2011, development consent was granted for a large new horse stalls building that would be constructed to house and display race horses at the track during meets.

Report

Introduction

A development application has been received to construct significant additions to existing grandstands at the Menangle Park harness racing track (now known as Tabcorp Park Menangle).

The extensions include additional seating, function room areas and amenities as well as site works such as additional sealed car parking, driveways and elevators. Two existing grandstand structures, known as the Keith Conroy Stand and the Macarthur Pavilion would be joined as part of the works.

The development proposal is valued at approximately \$15m.

The Site

The site is known as Lot 10 DP 1022204, Racecourse Avenue, Menangle Park and is located to the west of the Menangle Park township. The site is bounded to the east by the Main Southern Railway and to the west by the Nepean River. To the north of the site is property under the control of Landcom, known as the National Equestrian Centre and to the south is land owned by Council. The subject property is owned by the NSW Harness Racing Club Limited.

The site has an area of approximately 106.1 hectares and is accessed via an existing road that runs parallel to Racecourse Road on the eastern side of the Main Southern Railway. The site is accessed via a single point, under an elevated railway bridge to the south west of the Menangle Park village, which also serves as a means to direct overland flow waters during periods of flooding. The property's entrance road is sealed to the existing stables area and undercover car parking area, which was previously used for the Menangle Markets on Sundays and Campbelltown Show around Easter each year.

Existing structures on the property include a large covered area, used for car parking during harness racing meetings; existing grandstand buildings; race day stalls for horse preparation; and associated small shedding. The 1,400 metre prepared gravel track is located to the west of grandstand buildings and a training track is located in the south east corner of the site. The property also contains a dwelling to the north and a small airstrip used by model aircraft enthusiasts located in its north western corner.

Sand extraction has occurred on the site since the mid 1980s, generally along the Nepean River to the west of the existing track and facilities. The extraction has resulted in a reduction in ground levels along the western portion of the site of between three and six metres in some parts (compared to the natural ground level on which the existing track/facilities are located).

Regular harness race meetings are held at the site, particularly following the closure and sale of Harold Park Paceway at Forest Lodge (Glebe) in December 2010. Tabcorp Park Menangle, as the site is commercially known, is now the premier harness racing venue in Sydney, in terms of its on and off-track facilities, the number of meetings and it is also the headquarters of the NSW Harness Racing Club.

The Proposal

The development application includes the following works:

- Awning
 - Demolition of the remainder of the existing awning over sealed area (previously used for Menangle Markets and Campbelltown Show).
- Macarthur Pavilion Undercroft Area
 - Demolish designated walls
 - Remove parts of existing fast food services area.
- Extension under Macarthur Pavilion
 - Provision of at-grade undercroft area
 - New entry foyer to grandstands, which would be joined to form one larger building, including porte cochere area and access road and pathways
 - New ticket office
 - Central plant area
 - Storage/plant room

- Relocation of existing lift to northern side of the building. The relocation would provide a dedicated access for stewards and other officials to the broadcast area located on top of this grandstand.
- First floor of Macarthur Pavilion
 - Demolition of the upper level of the registered club area
 - Refurbishment of existing toilet facilities
 - Enclosure of open area between grandstands
 - Extension of public bar area to provide a sports lounge and relocation of the registered club area
 - New stairway to broadcast box.
- Upper level of Macarthur Pavilion
 - Partial removal of existing broadcasting box and replacement at lower level.
- Ground Floor of Keith Conroy Stand
 - Refurbishment of existing toilet facilities and race day administration room and conversion into storage and connections room, respectively
 - New kitchen facilities, with enclosed (screened) delivery area
 - Museum display area within breezeway area (undercroft area)
 - New lobby area
 - New outside seating area, with area underneath to be used for storage.
- First floor of Keith Conroy Stand
 - Extension of building to provide seating/function areas
 - New kitchen serving area
 - New toilet facilities
 - Access to outside seating area.
- Second Floor of Keith Conroy Stand
 - New outside upper level seating area
 - Members bar (76 seats)
 - Reserved dining area (seating capacity 154 seats)
 - Private suites (80 seats)
 - Kitchen serving areas
 - Bar areas
 - Toilet facilities.

The works also include significant changes to the external appearance of the grandstands, such that they would appear as one building. Attractive glazed and masonry facades would be constructed, which would convey the track's position as the premier facility of its type in Australia. The materials and colours used would ensure that a coordinated appearance is provided to the building.

The applicant states that the Keith Conroy Stand may be utilised for functions other than for race meetings, such as weddings, corporate functions and similar uses. Notwithstanding, this building would primarily mainly be used for race meeting (Saturday evening meetings) catering.

On ordinary Saturday evening race meetings, the first floor restaurant area would be open to the public for dining, whilst the second floor would be for NSW Harness Racing Club members and guests.

The applicant intends to operate the building for functions outside race meetings. The sports bar (located in the present Macarthur Stand building) would be open for race meetings and other times (up to seven days per week), however, this is more likely to occur in the future once the Menangle Park Urban Release Area is developed.

The existing asphalt area will be re-line marked to set out car parking spaces. This area is currently used for parking purposes during mid-week race meetings by the general public. At other race meetings, it is intended to be used by officials and dignitaries, with regular patrons parking on the substantial grassed areas surrounding the existing track. Outside race meetings, the sealed area would be available to the general public attending functions, the sports bar or other facilities on site, free of charge.

It is also proposed to landscape the grounds in accordance with a landscape master plan. The master plan provides for a theme of landscaping for the entire site, including the entrance via the viaduct area and site access road (to which Council granted its development consent at the Ordinary Meeting held in December 2011).

Floor plans, elevations and the landscape master plan are attached to this report.

1. Vision

Campbelltown 2025 - Looking Forward

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

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

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

The strategic directions relevant to this application are:

- Growing the Regional City
- Building and maintaining quality public infrastructure

- Building a distinctive Campbelltown sense of place
- Creating employment and entrepreneurial opportunities.

The proposed development has been considered in accordance with these strategies and is consistent with these directions.

Relevant desired outcomes identified in 'Campbelltown 2025 Looking Forward' include:

- Distinctive and engaging architecture
- Urban environments that are safe, healthy, exhibit a high standard of urban design and are environmentally sustainable
- Ongoing investment by the private and public sectors in new enterprises and public infrastructure, with regional catchments, to assure the longer term sustainability of high order retail, commercial, community, education and cultural amenities and job growth.

The proposed development is considered to be consistent with these desired outcomes.

Further to Campbelltown 2025 - Looking Forward, Council has undertaken significant investigations relating to the Menangle Park Urban Release Area. This work suggests that there may be potential for approximately 3,500 residential allotments, although this figure is subject to further refinement.

2. Planning Provisions

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

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

2.1 Sydney Regional Environmental Plan No. 20 - Hawkesbury-Nepean River (No. 2 1997)

Sydney Regional Environmental Plan No. 20 - Hawkesbury-Nepean River (No. 2 1997) (SREP 20) applies to the site. The Plan aims to "to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context".

Part 3, Clause 11 of SREP 20 contains development controls for certain land uses occurring on land to which the Plan applies. The application is consistent with one of the land uses, which requires Council's consent in order to occur. It is detailed in the extract below:

(14) Recreational facilities

Definition:

Development for the purpose of a building, work or place used (whether or not for commercial gain) for sporting activities, recreation or leisure activities, being a building, work or place that is situated within the river or on land:

- (a) that adjoins the river or a tributary of the river
- (b) that is flood prone land.

Consent required.

The Plan lists several objectives and policy directions for matters such as water quality, catchment management, flora and fauna management and riverine scenic quality. The development is not likely to affect the matters detailed for further policy and strategic planning under the SREP due to its nature and size.

The proposal is consistent with the controls detailed in the Plan and its objectives for development in the vicinity of the Hawkesbury-Nepean system.

2.2 Interim Development Order No. 15

The subject property is within land affected by the provisions of Interim Development Order No. 15 (IDO 15). Under IDO 15, the site is zoned 1 - Non Urban (40 hectare minimum). Under Clause 4 of the IDO the development of the site as proposed is not specifically prohibited, and is therefore permissible with Council's consent.

Several additional clauses of the IDO relate to the application. They are discussed in detail below.

Clause 6

Clause 6(a) requires Council to take into consideration the probable aesthetic appearance of a development when it is viewed from a waterway, main road, railway or public reserve. The subject site is adjacent to the Nepean River and the Main Southern Railway.

The development would be screened from the River, given the variations in ground level and water level as well as the existing riparian vegetation present along the majority of the property's western boundary, as well as the track and grandstands. The proposed building and associated works would be visible from the Main Southern Rail Line, which is located a short distance away. The appearance of the new development is not considered to be out of character with the existing structures at the site and features an attractive material and colour palette. Extensive use of glazing would add to the proposal's visual merit, making it an interesting and beneficial part of the local built landscape. The development is not considered to pose a loss of aesthetic appeal from relevant vantage points of the Nepean River or Main Southern Railway.

Clause 6(c) requires Council to consider whether:

- (i) adequate areas are provided on site for the parking of vehicles
- (ii) adequate vehicular entry and exit points are provided to ensure that persons or vehicles accessing the site are not endangered
- (iii) adequate space has been provided on site for the loading and unloading of vehicles.

The proposed grandstand works are not considered likely to significantly increase the amount of visitors to the site other than that which would ordinarily attend both small, regular track meetings and large quarterly race functions. Car parking for small, regular use of the club buildings and track facilities would be provided on the sealed area near to the proposed works, while large quarterly meetings would have car parking provided within the ample grassed areas across the site.

In considering recent applications at the site (such as the 2006 track extension and more recent track lighting and grandstand upgrade proposals), Council's staff have assessed the development's cumulative impact, in terms of traffic and access. To this end, it is considered that vehicles relating to the site's use as a harness racing facility could be accommodated on the site, with horse floats parked around to the north of the track. Most visitors to the site on weeknights arrive in these vehicles.

Clause 13

Clause 13 relates to tree preservation on land subject to the provisions of IDO 15. The development does not require the removal of any existing trees.

Clause 19

Clause 19 relates to the protection of environmental heritage. Further discussion of the site's heritage significance is contained within the sections of the report discussing Campbelltown Local Environmental Plan No. 193 and Development Control Plan No. 83 - Heritage Policy. Briefly, the heritage listing of the site relates to the entry structure adjacent to Menangle Park Station, which is not affected by the subject application. The remainder of the structures on the site have been constructed in the last 30 years.

The site was used during World War II as a campsite for German Australians, the army and air force. Prior to that it had been used as a horse racing track as early as 1914.

Having regard to the above discussion, the application is considered to be compliant with the relevant requirements contained within IDO 15 and is therefore a permissible development with Council's consent.

2.3 Campbelltown Local Environmental Plan No. 193

Campbelltown Local Environmental Plan No. 193 (CLEP 193) applies to the site as "Menangle Park Paceway" Lot 3 DP 593211 (now part of Lot 10 DP 1022204), Racecourse Avenue, Menangle Park is listed as an item of environmental heritage, with local significance. The exact reason for the listing of the site as a whole is not documented, however, the listing is most likely to relate to the site's use as a recreation and community meeting place for many years, its use during World War II as an army and air force training and storage facility and the gate house/entry building that exists on the site adjacent to Menangle Park railway station.

The gate structure would be utilised as an integral part of a new building recently approved for the construction of permanent offices and meeting space on the track site. The gate structure is to be restored and maintained as a feature of the new office building and would maintain its ongoing visual link to nearby Menangle Park railway station. Work on this new office building has commenced at the site.

Notwithstanding, the works proposed in the subject application do not affect the entry structure or its setting due to their separation distance and would complement the new office building in terms of materials and finishes.

The listing of the site due to its cultural significance as a meeting place for the community is not likely to be significantly altered as a result of the application. The proposal is likely to further enhance the site's amenity for visitors, staff and the animals..

2.4 Campbelltown (Sustainable City) Development Control Plan

Campbelltown (Sustainable City) Development Control Plan (SCDCP) applies to the development site and type. The relevant general provisions of Part 2 of the Plan, applying to all types of development and the requirements of Part 5 – Commercial Development, have been considered and are discussed as follows:

Part 2 – Requirements applying to all types of development

Views and Vistas (DCP Clause 2.3)

The Plan requires that development appropriately responds to important views to certain land features within the City. Of particular relevance to this application is the SCDCP's mention of the Nepean River corridor as being of visual and environmental significance. As detailed in the discussion of IDO 15, the new building would not be visible from the Nepean River owing to the difference in ground and river levels, as well as the large intact riparian vegetation corridor that acts as a buffer between the River and development area of the site.

Flora, Fauna and Weed Management (DCP Clause 2.5)

The development site has largely been cleared of vegetation. According to the plans submitted with the application, no trees would be removed as part of the development. Fauna species are not likely to be impacted by the development. Additional tree planting and landscaping would be provided around the finished building in accordance with the submitted landscaping plan, found at Attachment 7 to this report.

Erosion and Sediment Control (DCP Clause 2.6)

A detailed sediment and erosion control plan would be required to be submitted to Council prior to work commencing on site should development consent be granted. An appropriate recommended condition of consent is included in Attachment 1 to ensure that sediment does not leave the site and enter the Nepean River or road network during construction of the facility.

Cut and Fill (DCP Clause 2.7)

The buildings that would be joined under the proposal are located in an area that is relatively flat, meaning that only minor cutting and filling of the site would be required. A discussion on the development's proposed floor levels as they relate to flooding of the site is provided later in this report.

Water Cycle Management (DCP Clause 2.10)

The application does not propose additional on site water storage, however, it would be connected to existing and proposed underground stormwater storage tanks, recently approved by Council as part of an application to construct a large horse stall building (see 1612/2011/DA-C). Captured water would be utilised on the site for landscaping irrigation, horse washing and track watering purposes.

Risk Management (DCP Clause 2.13)

The SCDCP requires Council to consider several items relating to the management of potential risks at a development site, including contaminated land, salinity, bushfire and mine subsidence.

The land is classified as being bushfire prone, however the proposed development is not located within established fire prone or buffer areas.

The proposal was considered at the Mine Subsidence Board's meeting held in Newcastle on 28 September 2011. The Board provided its conditional approval of the proposal on 30 September 2011. The Board's requirements have been included as appropriate in the list of recommended conditions of consent in Attachment 1 to this report.

Part 5 – Commercial Development

Relevant portions of the SC DCP's Part 5 are discussed below:

Building Form and Character (DCP Clause 5.3.1)

The SC DCP requires that large buildings incorporate architectural features to minimise the appearance of their mass and scale and also addresses other matters to increase a building's visual appeal and functionality.

The development is considered to respond favourably to the SCDCP's requirements. It contains an interesting palette of materials, finishes and colours and relates sympathetically to existing "horse related" structures on the property. The building would appear as a large recreational building, which given its location immediately adjacent to the harness racing track, is considered to be appropriate. The building is of a scale that complements the site's existing and likely future development. The building has been designed to allow access for those with disabilities, via ramps and elevators that would allow less mobile people to access all publicly accessible parts of the building.

Car Parking (DCP Clause 5.4.1)

The SCDCP contains controls regarding land use/building type and the number of car spaces that should be provided on a site. In this instance, the most applicable development type would be a combination of 'indoor recreation facility' which requires one car parking space for every 25 square metres of floor area and club or function centre which requires 1.5 car parking space for every 10 square metres of floor area.

Using the DCP figure, the number of additional spaces required at the site is 152. Seventy eight would be provided, meaning a shortfall of 64 spaces. However, as discussed throughout the report, it is considered that ample spaces are provided on grassed areas near to the building for use when visitors to the site exceed the number of sealed spots. The applicant has nominated almost 200 spaces nearby on the grassed area near the Main Southern Railway, which would be available for regular use and owing to the site's sandy soil, are unlikely to become unusable or dangerous during wet weather.

Having regard to the building and its intended use, the size of the site and the existing car parking facilities provided therein, the proposal is considered to be compliant with Council's controls. Several major events (with in excess of 10,000 visitors) have been held at the site since the completion of the enlarged track's construction in 2008. The applicant has previously liaised with the Local Area Command (Highway Patrol) and Council, following which, a car park entry and exit strategy has been developed and successfully implemented. Sufficient on site car parking has been provided by the applicants at these past events. Council has not previously or since received any written complaints regarding the provision of car parking at the site.

The proposal is not considered likely to significantly increase traffic attending the site, above that which presently attends the regular (and special) race meetings being held. Provision of function facilities and their use (for weddings and other celebrations for example) is most likely to occur at times when race meetings are not being held, meaning that car parking would be available in good supply quite near to the building (see the car parking shown on the site plan at Attachment 3 to this report).

The Menangle Park Draft Transport Management and Accessibility Plan, prepared as part of Council and the State Government's ongoing assessment of future land uses in the Menangle Park area, has considered the potential levels of traffic generated by the track activities and has been informed by track management with regard to the extent of future development plans at the site.

Further to the above, the potential traffic impact generated by the racing activities was considered as part of a development application to install floodlighting, as the erection/installation of floodlighting, was considered likely to both increase the frequency of meetings and the number of people attending. The traffic impact of the existing development is considered to be within environmental tolerances.

The intent of the works proposed are to provide "world class" facilities for Harness Racing NSW members, their guests, the general public, horse owners, drivers and trainers involved in the sport.

In this regard, despite the SCDCP requiring additional parking for a development of this size, in the circumstances of the case and when considering the specialist nature of the development and the low risk in terms of any future potential change in use at the site that may have a greater need for parking, the grandstand redevelopment is not expected to generate the need for parking significantly beyond that which is proposed with this application.

Notwithstanding, with any future application that may intensify patronage at the site including the extension or upgrade of facilities for members, employees or other visitors, the need for additional parking would be assessed at that time.

2.5 Development Control Plan No. 83 - Heritage Policy

Due to the listing of the site as an item of environmental heritage, Development Control Plan No. 83 - Heritage Policy (DCP 83) applies to the development. DCP 83 contains requirements for development on or adjacent to heritage items. The heritage significance of the site has been discussed in earlier sections of the report and the subject development is not considered to adversely affect that significance.

3. Planning Assessment

3.1 Environmental (Natural and Built) Impacts

Section 79C(1)(b) requires Council to consider the likely impact that the development would have on the natural and built environment, as well as its potential social and economic impacts.

3.2 Flooding

The development site is located on flood liable land. As part of Council's detailed assessment of the track extension application in 2006, significant flood modelling was undertaken for the track site and surrounding areas in order to gauge the impacts (if any) of that development. More recently, further flood investigation work has been undertaken as part of the range of studies forming part of the Menangle Park Urban Release Area proposal.

The existing and proposed building has floor heights beginning at 76.15 metres AHD, which is below the current model's predicted 1% annual exceedence probability flood height (ie. a 1 in 100 year), which is approximately 77.00 metres AHD. The building would be subject to inundation by water during a flood event up to 5% annual exceedence probability (ie. a 1 in 20 year flood). The applicant and harness racing club are fully aware of this inundation potential. Areas on the lower floors susceptible to inundation include a kitchen, plant room, open bar area, storage rooms and a small museum area.

A recommended condition of consent requires that the building's sewage reticulation system be designed to withstand flooding. This may include the provision of valves and/or solenoid actuators designed to shut off the waste water treatment system in the event of a flood so that flood waters do not enter the wastewater holding tanks. This would prevent the holding tanks from overflowing and surcharging in a flood, as such, preventing effluent from entering the adjacent stormwater system. Further, the kitchen will be required to be 'flood-proofed', to the extent that food would be protected and/or removed from the site (noting that in excess of 24 hours is provided notifying that a flood is advancing) so as not to allow spoilage and potential bacterial contamination of flood waters.

3.3 Surface Water

The proposal is not considered likely to significantly alter existing surface water flow patterns in the immediate vicinity. A large proportion of the development site is already impermeable.

3.4 Other Impacts

Other impacts of the development are considered to be positive, including the social and economic impact of the development. The embellished grandstand, club and function facilities would further enhance the site's position as the premier facility of its type in NSW and would assist in ensuring its long term viability.

3.5 Suitability of the Site

Section 79C(1)(c) of the Act requires Council to consider the suitability of the site for the development.

The site presently contains existing facilities and infrastructure associated with the harness racing industry and has been an integral part of the Menangle Park village for over 50 years. Access to the site is provided via an established entry and exit point. Opportunities for a secondary access point to the south of the development site are being investigated as a means of reducing the need for general traffic to access the site through the existing point of access and through the Menangle Park village, and consequently reduce the overall traffic impact on the local road network. This would be particularly so during major racing events.

The development would not cause the destruction of significant native vegetation, loss of heritage significance of the site nor significantly impact the drainage and flooding regime of the locality.

Given the site's history of use for the purpose proposed in the application and its limited environmental impact, the site is considered to be suitable for the development.

4. Public Participation

4.1 Submissions

Section 79C(1)(d) of the Act requires Council to consider submissions made by the public or other agencies to the application.

Having regard to Council's Notification Policy and the existing development on the site, the proposal was not notified.

Council did inform the Department of Planning about the proposal as it is valued at more than \$10m, pursuant to a Ministerial circular requiring such following changes to Part 2A of the *Environmental Planning and Assessment Act 1979*, which relates to the appointment of Joint Regional Planning Panels.

4.2 The Public Interest

Section 79C(1)(e) of the Act requires Council to consider the public interest when determining an application.

The public interest is an overarching assessment of the benefits or otherwise that a development may have for the immediate area and/or a community in general. Having regard to the development's compliance with relevant planning controls, its minimal impact on the environment and potential to further enhance one of the City's key recreation facilities, its approval is considered to be in the public interest.

5. Conclusion

A development application has been received for the construction of additions to existing grandstands (including upgrading of existing and increasing the provision of catering/function areas), landscaping, car parking and other associated site works at Lot 10 DP 1022204, Racecourse Avenue, Menangle Park.

The proposal incorporates the construction of additions to two grandstand structures, such that they would appear as one large building joined by a glazed open void from outside the site. The building would be finished in an attractive palette of materials and colours.

The development would add another element to the 'on track' experience for visitors to the site. The building's appearance is considered to be of a high architectural value, noting the various materials and finishes proposed and its complementary nature to existing buildings on the site. The proposal also envisages that the site could be used for functions and other activities outside track meeting times, where it could be argued the facilities are presently under-utilised.

The proposal has been assessed against the matters for consideration under Section 79C of the *Environmental Planning and Assessment Act 1979* and is not considered likely to detrimentally affect the environment or be outside the public interest.

Officer's Recommendation

That development application 2124/2011/DA-C for the construction extensions to existing grandstands and club facilities at Lot 10 DP 1022204, Racecourse Road, Menangle Park be approved subject to the conditions listed in Attachment 1.

Committee Note: Mr John Dumesney and Mr Michael Brown addressed the Committee in support of the application.

Committee's Recommendation: (Greiss/Hawker)

That pending receipt of a further submission and presentation of a report by the Director Planning and Environment a decision in this matter be deferred to the Council Meeting to be held 13 March 2012.

CARRIED

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

Voting against the Committee's Recommendation: nil.

Council Meeting 13 March 2012 (Chanthivong/Greiss)

It was **Moved** Councillor Kolkman **Seconded** Councillor Bourke that Directors Report - Item 12.1 - Amended Development Proposal - Racecourse Avenue, Menangle Park be brought forward and dealt with in conjunction with Item 3.2 of the Planning and Environment Committee Reports

The Motion on being Put was **CARRIED**.

Council Meeting 13 March 2012 (Kolkman/Bourke)

1. That development application 2124/2011/DA-C for the construction extensions to existing grandstands and club facilities at Lot 10 DP 1022204, Racecourse Road, Menangle Park be approved subject to the conditions listed in Attachment 2 and plans contained in Attachments 3 to 6 of the report prepared for and submitted to the 6 March Planning and Environment Committee meeting.
2. That amended floor plans for the Macarthur Stand be accepted and approved by Council as part of the development application.

Council Resolution Minute Number 28

1. That development application 2124/2011/DA-C for the construction extensions to existing grandstands and club facilities at Lot 10 DP 1022204, Racecourse Road, Menangle Park be approved subject to the conditions listed in Attachment 2 and plans contained in Attachments 3 to 6 of the report prepared for and submitted to the 6 March Planning and Environment Committee meeting.
2. That amended floor plans for the Macarthur Stand be accepted and approved by Council as part of the development application.

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

Voting against the Council Resolution: nil.

ATTACHMENT 1

Recommended Conditions of Consent

GENERAL CONDITIONS

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

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

1. Approved Development

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

2. Building Code of Australia

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

3. External Finishes

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

4. Advertising Signs – Separate DA Required

This consent does not permit the erection or display of any advertising signs.

Most advertising signs or structures require development consent. You should make separate enquiries with Council prior to erecting or displaying any advertising or signage.

5. Rain Water Tank(s)

Rain water tank/s shall be installed on site for the collection and storage of stormwater for irrigation and reuse purposes (eg the flushing of toilets), in accordance with the approved plans.

6. Construction Certificate

Prior to the commencement of any works that require a construction certificate:

- a. The applicant shall obtain a construction certificate for the particular works;
- b. The applicant shall appoint a principal certifying authority; and
- c. The private certifying authority shall notify Council of their appointment no less than two (2) days prior to the commencement of any works

7. Landscaping

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

8. Engineering Design Works

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

9. Flood Level Controls

This site is located within an area that has been identified as being at the risk of being affected by the 1% ARI flood. The fill level control which affects this land is RL 76.80 metres AHD. The floor level control, which affects this land is RL 77.30 metres AHD. Parts of the new and existing building are below this level and would be subject to inundation by floodwater.

Openings to buildings below the minimum floor level stated above are to be protected with suitably designed flood water protection systems, which may include moveable flood screens.

10. Licensed Premises

The operation of the premises shall be carried out in accordance with the following requirements:

- a. The operation of the premises shall be carried out in accordance with a security management, liquor licensing restrictions and any other Police requirements
- b. The installation of CCTV surveillance cameras in and around the premises, placed in strategic places such as the external entrance and exit doors. The surveillance tapes shall be kept for a minimum period of 14 days for viewing by the Police upon request
- c. Footpath lighting shall be provided for areas accessible to patrons at night. The location, design and illumination of such lighting shall ensure pedestrian safety and shall be at a minimum level of 10 lux in the horizontal and vertical plane

- d. The management / licensee shall ensure that the behaviour of patrons entering and leaving the premises does not detrimentally affect the amenity of the neighbourhood. In this regard, the management shall be responsible for the control of noise, loitering and litter generated by patrons of the premises and shall ensure that people leave the premises and area in an orderly manner. If so directed by the Police or Council, the management is to employ private security staff to ensure that this condition is complied with to the satisfaction of Council
- e. The management/licensee shall prevent patrons removing glasses, opened cans, bottles or alcohol from the premises
- f. In addition to the sign showing the licensee's name, there shall be affixed alongside, details of the maximum number of persons permitted in the premises, in letters not less than 25mm, displayed at the main front entrance of the premises. The overall size of both signs shall not exceed 600mm in height or width in total
- g. A public telephone and a breathalyser shall be installed inside the premises for patrons to use at all times.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

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

11. Flood Preparation Plan

Prior to Council or an accredited certifier issuing a construction certificate for the development, the applicant shall prepare and submit a "flood preparation plan" to Council for its written approval.

The plan shall detail the management of the development site upon receipt of advice from Council or another Government agency that flooding of the subject land may occur. The plan shall include (but is not limited to) the following information:

- Evacuation procedures for staff, visitors, food stores and sensitive equipment
- Preparation of the site's sewage treatment system for inundation, including the isolation of underground tanks by way of automatic valves or solenoid actuators to ensure flood waters do not enter sewage holding/treatment tanks
- Preparation of the site's rainwater capture and storage system for inundation, including the isolation of underground tanks by way of automatic valves or solenoid actuators to ensure flood waters do not enter storage tanks
- Security of the grandstand/club building during the flood event.

12. Flood Protection Management Plan

Prior to Council or an accredited certifier issuing a construction certificate, a Flood Protection Management Plan (FPM plan) is to be provided to Council for its written approval. The FPM plan is to provide instructions and methods of response for all people responsible for the protection and management of the site in the case of a flood. Copies of the FPM plan are to be located at each of the major points of flood water entry to the building.

In addition, flood protection devices/systems required in accordance with Condition 9 of this consent are to be approved in writing by Council prior to installation.

13. Electricity and Water Utility Services

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

- a. Endeavour Energy - A letter of consent demonstrating that satisfactory arrangements have been made to service the proposed development
- b. Sydney Water - The submission of written evidence that discussions have taken place in regards to the provision of potable water to the development.

14. On-site Waste Water Treatment

Prior to Council or an accredited certifier issuing a construction certificate, the applicant shall prepare and submit to Council for its written approval a detailed waste water treatment plan for the development. The plan shall detail any soil testing, system design and sizing, flood protection and effluent disposal calculations undertaken as part of its design. Upon receipt of Council's approval for the system's design, the applicant shall submit an application pursuant to the *Local Government Act 1993* for the system's installation and operation.

15. Telecommunications Utility Services

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

16. Waste Management Plan

Prior to Council or an accredited certifier issuing a construction certificate, the relevant provisions of Council's Waste Management Plan is to be completed to the satisfaction of Council.

17. Stormwater Management Plan (Development)

Prior to Council or an accredited certifier issuing a construction certificate, a plan indicating all engineering details and calculations relevant to site regrading and the collection and disposal of stormwater from the site, building/s and adjacent catchment, shall be submitted to Council for its written approval.

The proposal shall comply with the Campbelltown (Sustainable City) DCP 2009 - Volumes 1 and 2 (as amended).

18. Section 94A Developer Contribution - Community Facilities and Services

Prior to Council or an accredited certifier issuing a Complying Development Certificate or a Construction Certificate (or where a Construction Certificate is not required, a Subdivision Certificate), the applicant shall provide a receipt for the payment to Council of a community facilities and services contribution in accordance with the provisions of the Campbelltown City Council Section 94A Development Contributions Plan.

For the purposes of calculating the required S94A contribution, where the value of the total development cost exceeds \$100,000, the applicant is required to include with the application for the respective certificate, a report setting out a cost estimate of the proposed development in accordance with the following:

- where the value of the proposed development is greater than \$100,000 but less than \$500,000, provide a Cost Summary Report by a person who, in the opinion of the Council, is suitably qualified to provide a Cost Summary Report (Cost Summary Report Template 1). All Cost Summaries will be subject to indexation on a quarterly basis relative to the Consumer Price Index - All Groups (Sydney) where the contribution amount will be based on the indexed value of the development applicable at the time of payment; or
- where the value of the proposed development is \$500,000 or more, provide a detailed development cost report completed by a quantity surveyor who is a registered member of the Australian Institute of Quantity Surveyors (Quantity Surveyors Estimate Report Template 2). Payment of contribution fees will not be accepted unless the amount being paid is based on a Quantity Surveyors Estimate Report (QS Report) that has been issued within 90 days of the date of payment. Where the QS Report is older than 90 days, the applicant shall provide an updated QS Report that has been indexed in accordance with clause 25J(4) of the Environmental Planning and Assessment Regulation 2000 to ensure quarterly variations in the Consumer Price Index All Group Index Number for Sydney have been incorporated in the updated QS Report.

Copies of the Cost Summary Report - Template 1 and the Quantity Surveyors Estimate Report - Template 2 are located under "Developer Contributions" on Council's web site (www.campbelltown.nsw.gov.au) or can be collected from Council's Planning and Environment Division during normal business hours.

On calculation of the applicable contributions, all amounts payable will be confirmed by Council in writing.

Payment of Section 94A Developer Contributions will only be accepted by way of Cash, Credit Card or Bank Cheque issued by an Australian bank. Payment by any other means will not be accepted unless otherwise approved in writing by Council.

Note: This condition is only applicable where the total development value exceeds \$100,000.

19. Design for Access and Mobility

Prior to Council or an accredited certifier issuing a Construction Certificate, the applicant shall demonstrate by way of detailed design, compliance with the relevant access requirements of the BCA and AS 1428 – Design for Access and Mobility.

PRIOR TO THE COMMENCEMENT OF ANY WORKS

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

20. Erosion and Sediment Control

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

21. Erection of Construction Sign

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

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

- e. Showing the name, address and telephone number of the principal certifying authority for the work.

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

22. Toilet on Construction Site

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

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

23. Trade Waste

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

24. Structural Engineer Details

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

25. Hoarding / Fence

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

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

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

DEVELOPMENT REQUIREMENTS DURING CONSTRUCTION

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

26. Construction Work Hours

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

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

27. Erosion and Sediment Control

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

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

28. Work Zones

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

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

29. Dust Nuisance

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

30. Completion of Construction Works

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

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

PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

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

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

31. Completion of External Works Onsite

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

32. Car Parking Areas

Prior to an occupation certificate being issued by Council or an accredited certifier, the following car parking works shall be completed:

- The sealed car parking area as detailed on the approved car parking plan shall be completed and available to users of the site
- Formation and fencing of the 185 car parking spaces identified on the approved "Grandstand Precinct Plan", between the existing road, the Main Southern Railway and the approved office and administration building. The spaces shall be formed/prepared such that they are available for use at all times that the site is operating and in all weather conditions. The spaces shall be fenced in a manner that identifies the car parking area to persons visiting the site (the suggested fencing is of timber post and rail type, in order to complement the equine usage of the site and the adjacent rail line).

33. Structural Engineering Certificate

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

34. Public Utilities

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

35. Registration of Levels

Prior to the principal certifying authority issuing an occupation certificate, a qualified practicing surveyor shall certify the finished floor and finished surface levels of the horse stall building for Council's records. An electronic copy of this work as executed information shall also be submitted to Council, complying with the following provisions:

1. MGA 94 (Map Grid of Australia 1994) Zone 56 - Coordinate System.
2. DXF and/or MID/MIF file format(s), and
3. Datum to be AHD (Australian Height Datum)

36. Waste Water System

Prior to occupation of the building, the applicant shall obtain approval for the waste water treatment system referred to earlier in this consent.

37. Council Fees and Charges

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

FOOD CONSTRUCTION CONDITIONS

The following conditions have been applied to ensure that the use of the building is carried out in such a manner that is consistent with the *Food Act 2003*, *Food Regulation 2004* *Local Government Act 1993* and associated technical standards.

38. Registration and Inspection

REGISTRATION - The premise is required to be registered with Council so that regular inspections can be carried out to ensure health standards are maintained. A business registration form is available on Council's website which must be completed and submitted to Council prior to the release of the occupation certificate.

INSPECTION - Prior to the release of the occupation certificate, Council's Environmental Health Officer is to be contacted (Phone 4645 4604) to undertake for an inspection of the premises. An inspection fee will be charged in accordance with Council's current schedule of fees and charges.

39. Food Business Notification Requirement

The proprietor of the premises is required to notify their business details to the NSW Food Authority prior to operations commencing. An application can be made by accessing the dedicated website www.foodnotify.nsw.gov.au or by submitting a notification form and making the required fee payment to Council or the NSW Food Authority (Food Safety Standard 3.2.2). The notification number is to be submitted to Council.

Routine Food Premises Inspections

Council's Environmental Health Officers will inspect your food premises on a regular basis. All inspections are unannounced to assess compliance with health and safety requirements. A service charge for each inspection applies and the proprietor of the business will be invoiced a short time after the inspection.

Food Safety Supervisor

Businesses selling potentially hazardous foods are required by law to appoint a Food Safety Supervisor that has undertaken food safety training at a registered training organisation approved by the NSW Food Authority. The Food Safety Supervisors details must be submitted to Council. Notification forms are available from Council or online at www.campbelltown.nsw.gov.au

40. Floor Construction

The floor construction within all food preparation areas and food service areas must be finished to a smooth, even non-slip surface, graded and drained a floor waste (AS4674-2004 – Section 3.).

41. Floor Wastes

Floor wastes in all the food preparation areas must be fitted with a sump removable basket and grate, a minimum 200mm in diameter, in all stainless steel finish (AS4674 2004 – Section 4.1.8).

42. Coving

Approved, recessed coving must be provided at all intersections of the floor with the walls/plinths within all food preparation, service, and storage areas. All coving must:

- a) have a minimum concave radius of 25mm, or
- b) be tiled 50mm minimum in width and splayed at 45°.

The coving must be installed so as to be integral to the surface finish of both floor and wall in such a manner as to form a continuous, uninterrupted surface. "Feather edge skirting" and non-rebated coving are not permitted (AS4674-2004 – Section 3.1.5).

43. Penetrations

All service pipes and electrical conduit must be contained in the floor, walls and plinths or ceiling (AS4674-2004 – Section 3.2.9).

44. Wall Requirements

All walls in the food premises, including all new and existing partition walls, must be of solid construction and finished to a smooth, impervious surface that can be easily cleaned, as specified in table 3.2 of AS4674-2004. Cavity walls are not permitted (AS4674-2004 - Section 3.2).

45. Ceiling Construction

The ceiling with all food preparation areas and food service areas must be constructed with a rigid, non-absorbent, smooth faced material free from open joints, cracks and crevices and be painted with a light coloured washable paint. The intersection of the walls and ceiling must be tight-joined, sealed and dustproofed. Drop-in panel style ceilings are not permitted.

46. Light Fittings

All fluorescent light fittings within the food preparation areas and food service areas must be fitted with a smooth faced diffuser. The light fittings must be either:

- a. Recessed so that the diffuser is flush with the ceiling; or
- b. Designed to ensure that no horizontal surface exists that would allow dust and grease to accumulate (AS4674-2004 – Section 2.6.2).

47. Hand Basins

A suitable number of hand basins must be provided in convenient and accessible locations within the food preparation areas and food service areas.

The hand basins must be provided in an accessible and convenient location no more than 5 metres from any place where food handlers are handling open food. The basins must be freestanding, serviced with hot and cold water through a single outlet, able to be mixed at a temperature of at least 40°C and fitted with a hands-off type tap set (AS4674-2004 – Section 4.4).

Disposable paper hand towels and soap must be provided and serviced from a dispenser adjacent to the hand basin (AS4674-2004 – Section 4.4).

48. Dishwashing Machines

The dishwashing/glass washing machine must be designed and able to operate in accordance with AS4674-2004 and the Food Standards Code. All utensils and equipment must undergo a washing, sanitising and rinsing cycle. The sanitizing rinse cycle must achieve a water temperature of 80°C for 2 minutes or 75°C for 10 minutes (AS4674-2004 – Section 4.1.6).

Appropriate ventilation must be provided over the dishwashing system and be designed and installed in accordance with Australian Standard 1668.2 – 1991 – ‘The use of mechanical ventilation and air conditioning in buildings – Part 2: Mechanical ventilation for acceptable indoor-air quality.

49. Food Preparation Sink

All food preparation sinks must be used only for the preparation and cleaning of food. The sink is in addition to the hand basin and equipment wash sink (AS4674-2004 – Section 4.1).

Equipment Wash Sinks

A double bowl wash sink must be installed and serviced with hot and cold water through a single outlet (AS4674-2004 – Section 4.1). The double bowl sink is in addition to the hand basin or

A triple bowl sink must be installed and serviced with hot and cold water through a single outlet (AS4674-2004 – Section 4.1) where rinsing is required before or after sanitising e.g. wash, rinse, sanitise procedure or wash, rinse/sanitise, rinse procedure.

50. Cleaner’s Sink and/or Tap Fittings

A cleaner’s sink is to be installed in a location outside of the food preparation areas and must be serviced with hot and cold water through taps fitted with hose connectors. (AS4674-2004 – Section 4.1.8).

and /or

Hot and cold wall mounted taps must be installed fitted with hose connectors and positioned at least 600mm above the floor in a convenient and accessible location within the food preparation areas adjacent to the floor waste (AS4674-2004 – Section 4.1.8).

51. Fittings and Fixtures

All fixtures, fittings and equipment must be provided with smooth and impervious surfaces, free from cracks and crevices to enable easy cleaning (AS4674-2004 Section 4).

All fittings and fixtures must be built into the wall and floor so to be free from joints, gaps and cavities to enable easy cleaning or alternatively, supported on one of the following in accordance with Table 4.5 of AS4674-2004:

- **PLINTHS** - Plinths must be an integral part of the floor, constructed of solid materials similar to the floor at least 75mm in height and coved at the intersection with the floor. All plinths must have a smooth and impervious finish. All fittings and fixtures must be properly sealed to the plinth so to be free from gaps, cracks and cavities

- **WHEELS OR CASTORS** – Fittings and fixtures can be supported on wheels or castors. The wheels and castors must be capable of supporting and easily moving a full loaded fitting. All wheels and castors must be provided with a restraining device
- **LEGS** – Fittings and fixtures can be supported on legs but must be constructed of non-corrosive, smooth metal or moulded plastic. All legs must be free from cracks and crevices. All legs must have a clearance space between the floor and the underside of the fitting of at least 150mm.

False bottoms under fittings are not permitted (AS4674-2004 Section 4.2 & 4.3).

52. Dumb Waiter

The dumb waiter compartment holding the food must be made of smooth impervious surfaces, free from crevices and open joints.

The walls of the shaft of vertical conveyors must be made of smooth materials, free of crevices and cracks.

Access must be provided for cleaning. (Table 4.3 AS4674-2004)

53. Food Preparation Benches

All food preparation benches must be constructed in stainless steel. All food contact surfaces are to be smooth, continuous and flush so as to avoid any exposed screw fixtures.

54. Benches

The top and exposed edges of all benches and counters must be finished in a smooth and non-absorbent material, free of joints (AS4674-2004 – Section 4.2).

55. Storage Cabinets

The storage cabinets both internally and externally must be finished in a smooth and non-absorbent material, free of joints (AS4674-2004 – Section 4.2).

56. Shelving

All shelving must be located at least 25mm off the wall. Alternatively, the intersection of the shelf and the wall is to be completely sealed to the satisfaction of Council (AS4674-2004 – Section 4.2).

57. Display Units

All food display units must be enclosed to prevent the possibility of contamination by customer's breath, handling, or from flies, dust, etc (Food Regulation 2004, AS4674-2004 – Section 4.2).

58. Food Storage

Any appliance used for the storage of hot and cold food must be provided with a numerically scaled indicating thermometer or recording thermometer accurate to the nearest degree Celsius or an alarm system for continuous monitoring of the temperature of the appliance (Food Regulation 2004).

59. Coolroom and Freezer Room

COOLROOM AND FREEZER ROOM FLOOR – All coolroom and /or freezer room floor must be finished with a smooth even surface and graded to the door. A sanitary floor waste must be located outside the coolroom and freezer room adjacent to the door.

METAL WORK – All metal work in the coolroom and freezer room must be treated to resist corrosion.

COOL ROOM AND FREEZER CONDENSATION COLLECTION – Condensation from the refrigeration units/coolroom/freezer room motors must be directed to a tundish, installed in accordance with Sydney Water requirements.

COOLROOM AND FREEZER ROOM– The coolroom and freezer room must be provided with:

- a. a door which can at all times be opened from inside without a key; and
- b. an approved alarm device located outside the room, but controllable only from inside.

60. Mechanical Exhaust Ventilation

The mechanical ventilation must be provided above cooking appliances and constructed in accordance with Australian Standard 1668.2 – 1991 – ‘The use of mechanical ventilation and air conditioning in buildings – Part 2: Mechanical ventilation for acceptable indoor-air quality’.

An exhaust hood must completely cover the equipment to be ventilated and extended at least 200mm beyond the perimeter of the equipment (Australian Standard 1668.2 – 1991).

The exhaust hood must be provided with a condensation gutter around its base. The gutter must be at least 50mm wide by 25mm deep. Where abutting walls, the hood must be constructed so as to finish flat against the wall surface (Australian Standard 1668.2 – 1991).

The low edge of a canopy type exhaust hood must be at least 2000mm above floor level (Australian Standard 1668.2 – 1991).

Documentation from a qualified mechanical engineer must be submitted to Council certifying that the mechanical exhaust ventilation system, as installed, complies with the Australian Standard 1668.2-1991.

61. Food Storage Rooms

All food storage rooms must be constructed in accordance with AS4674-2004 by providing the following:

- a. a smooth, even, non-slip floor surface
- b. Coving at all intersections of the floor and walls with approved, recessed coving to a minimum concave radius of 25 mm, so as to be integral to the surface finish of both floor and wall in such a manner as to form a continuous, uninterrupted surface. "Feather edge skirting" and non-rebated coving are not permitted
- c. Walls must be provided with a smooth even surface and painted with a light coloured washable paint to enable easy cleaning
- d. Ceiling must be constructed with a rigid, non-absorbent, smooth faced material free from open joints, cracks and crevices and be painted with a light coloured washable paint. The intersections of the walls and ceiling must be tight-jointed, sealed and dustproof. Drop in panel style ceilings are not permitted
- e. Shelving or storage racks must be designed and constructed to enable easy cleaning
- f. Appropriate ventilation must be provided (ducted to the external air) within the store room to allow for the escape heat and odour that can be produced from refrigeration and freezer motor units.

62. Locker Storage

Sufficient lockers must be provided in the food preparation areas specifically for the storage of cleaning materials or employees' clothing and personal belongings (AS4674-2004 – Section 5.2).

63. Water Supply

All water used for any activities involved in the preparation of food, personal hygiene, cleaning and sanitizing must be potable. (Section 2.2 AS4674-2004).

64. Condensation Collection

Condensation from the refrigeration units, freezer units and coffee machines must be directed to a tundish, installed in accordance with Sydney Water requirements.

65. Staff Toilets

A toilet for staff must be provided on the premises.

The toilet cubicle must be separated from areas where open food is handled, displayed or stored by one of the following:

- a. an intervening ventilated space fitted with self closing doors; or
- b. self closing doors and mechanical exhaust systems that operate when the sanitary compartment is in use for at least 30 seconds after the cubicle is vacated (AS4674-2004 – Section 5.2).

STAFF TOILET HAND BASIN - A hand basin must be located within the toilet cubicle. The basin must be freestanding, serviced with hot and cold water through a single outlet, able to be mixed to a temperature of at least 40°C and fitted with a hands-off type tap set (AS4674-2004 – Section 4.4). The basin must be provided with soap and disposable paper towels from a dispenser.

66. Hot Water Service

The hot water service must be positioned at least 150mm clear of the adjacent wall surfaces, and mounted at a minimum 150mm above the floor level on a non-corrosive metal stand. The hot water system must be of adequate size to enable a sufficient amount of hot water to all washing facilities throughout the working day (AS4674-2004 – Section 4.3).

67. Grease Arrestors

All grease arrestors must be located outside of where food and equipment is handled or kept. Please contact Sydney Water for information and requirements for grease arrestors by calling 132092. Documentation supplied by Sydney Water regarding evidence of the trade waste agreement must be provided to Council prior to commencement of business operations.

68. Eating Areas

Any enclosed eating area must be smoke free. “No Smoking” signs must be displayed within the eating areas to ensure all patrons comply with this requirement (*Smoke Free Environment Act 2000*).

69. Pest Protection

Flyscreens and/or other approved means of excluding the entry of pests must be provided to all window and door openings in accordance with Section 2.1.5 of AS4674-2004.

Where pipe work, drains, cables and ducts penetrate walls, ceilings and roofs, holes shall be sealed, filled and finished to prevent the entry of pests.

Spaces between adjoining structures, such as between coolroom walls and premises walls, shall be accessible for inspection and cleaning or sealed with a suitable compound so that they are inaccessible to pests.

Spaces between the top surface of equipment or structures such as coolrooms shall be accessible for inspection and cleaning or sealed or boxed in so that they are inaccessible to pests.

70. Waste Storage Areas and Rooms

The Waste Storage area /room must be provided with smooth and impervious surfaces (walls and floors). Floor areas must be graded and drained to a floor waste gully connected to the sewer. Open waste storage areas must be appropriately covered and bunded to avoid stormwater entering the sewer.

Waste storage rooms must be well ventilated and proofed against pests. The area or room must be provided with water service hose connectors to enable easy cleaning (AS4674-2004 Section 5.1).

71. Office Materials

Facilities for storing paperwork and other materials associated with the administration of business must be in a designated room for office use or enclosed cupboard or drawer dedicated for that use (AS4674-2004 Section 5.1.3).

PUBLIC HEALTH CONDITIONS

The following conditions have been applied to ensure that the use of the building is carried out in such a manner that is consistent with the *Public Health Act 1991*, Regulations *Local Government Act 1993* and associated technical standards.

72. Cooling Towers

Any regulated system on the premises must comply and operate in accordance with the *Public Health Act 1991*, Public Health (Microbial Control) Regulation 2000 and AS/NZS 3666.2:2002 Air-handling and water systems of buildings—Microbial control—Operation and maintenance.

REGISTRATION - The cooling tower/s is required to be registered with Council so that regular inspections can be carried out to ensure health standards are maintained. A business registration form is available on Council's website which must be completed and submitted to Council prior to the release of the occupation certificate.

INSPECTION - Prior to the release of the occupation certificate, Council's Environmental Health Officer is to be contacted (Phone 4645 4604) to undertake for an inspection of the premises. An inspection fee will be charged in accordance with Council's current schedule of fees and charges.

ROUTINE FOOD PREMISES INSPECTIONS - Council's Environmental Health Officers will inspect your cooling tower/s on a regular basis. All inspections are unannounced to assess compliance with health and safety requirements. A service charge for each inspection applies and the proprietor of the business will be invoiced a short time after the inspection.

NOTE: The provisions of the *Public Health Act 1991* may change over time and irrespective of this condition compliance with this Act, regulations, Australian Standards and other standards adopted under the *Public Health Act* (as amended) are mandatory.

ADVISORY NOTES

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

Advice 1. Environmental Planning and Assessment Act 1979 Requirements

The *Environmental Planning and Assessment Act 1979* requires you to:

- a. Obtain a construction certificate prior to the commencement of any works. Enquiries regarding the issue of a construction certificate can be made to Council's Customer Service Centre on 4645 4000.
- b. Nominate a principal certifying authority and notify Council of that appointment prior to the commencement of any works.
- c. Give Council at least two days notice prior to the commencement of any works.
- d. Have mandatory inspections of nominated stages of the construction inspected.
- e. Obtain an occupation certificate before occupying any building or commencing the use of the land.

Advice 2. Inspections – Civil Works

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

- a. EROSION AND SEDIMENT CONTROL –
 - i. Direction/confirmation of required measures.
 - i. After installation and prior to commencement of earthworks.
 - ii. As necessary until completion of work.
- b. STORMWATER PIPES – Laid, jointed and prior to backfill.
- c. DRAINAGE CHANNEL – As required following acceptance of detailed design.
- d. FINAL INSPECTION – All outstanding work.

Advice 3. Salinity

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

Advice 4. Rain Water Tank

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

Advice 5. Tree Preservation Order

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

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

Advice 6. Provision of Equitable Access

Nothing in this consent is to be taken to imply that the development meets the requirements of the *Disability Discrimination Act 1992 (DDA1992)* or Disability (Access to Premises – Buildings) Standards 2010 (Premises Standards).

Where a Construction Certificate is required for the approved works, due regard is to be given to the requirements of the Building Code of Australia (BCA) & the Premises Standards. In this regard it is the sole responsibility of the certifier, building developer and building manager to ensure compliance with the Premises Standards.

Where no building works are proposed and a Construction Certificate is not required, it is the sole responsibility of the applicant and building owner to ensure compliance with the DDA1992.

Advice 7. Smoke Free Environment Act

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

Advice 8. Dial 1100 Before you Dig

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

Advice 9. Asbestos Warning

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

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

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

END OF CONDITIONS

ATTACHMENT 2



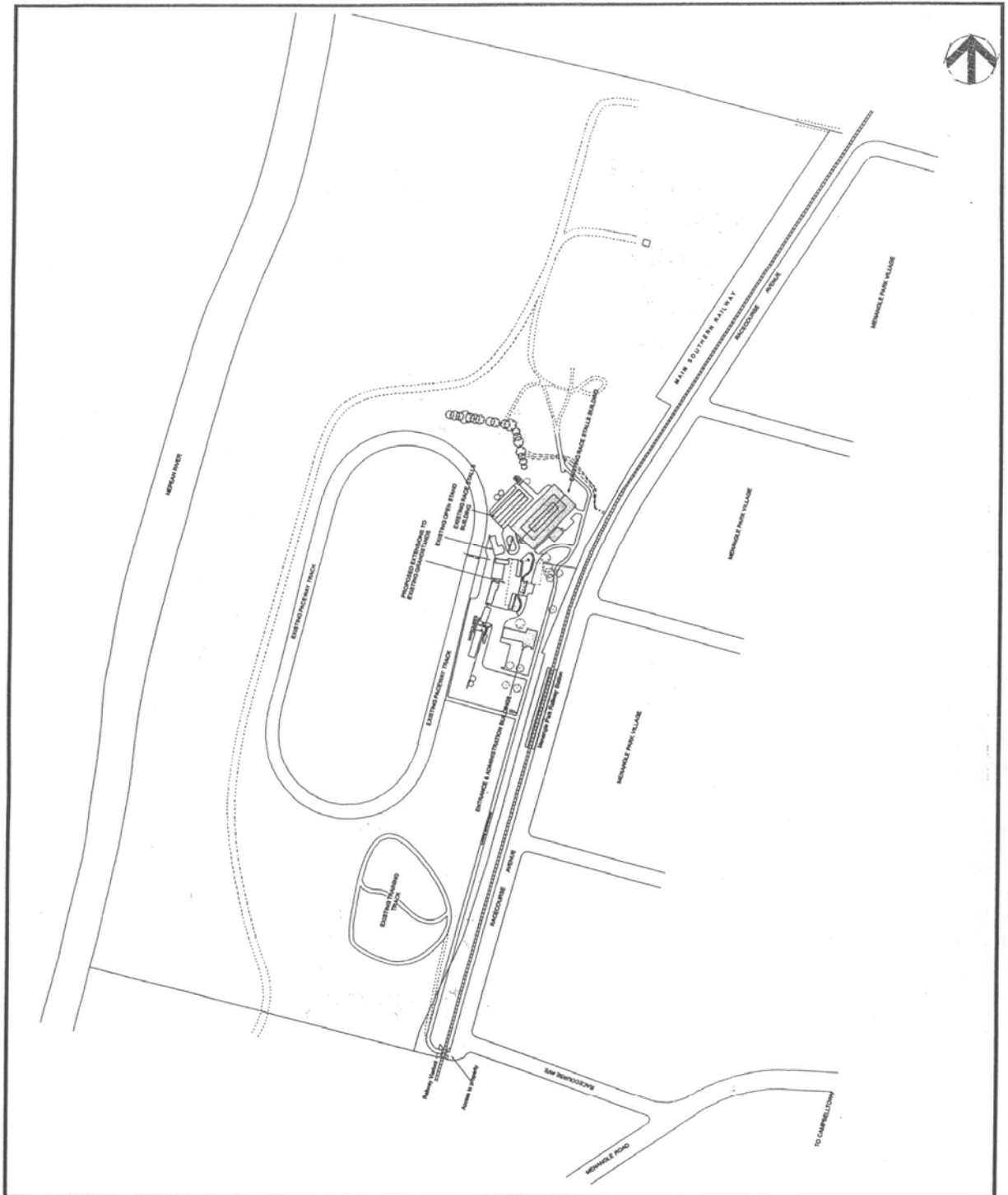
LOCALITY PLAN



SUBJECT: CONSTRUCTION OF EXTENSIONS TO EXISTING GRANDSTAND AND CLUB FACILITIES.

LOT 10 DP 1022204 "MENANGLE PARK PACEWAY" RACECOURSE AVENUE, MENANGLE PARK.

ATTACHMENT 3

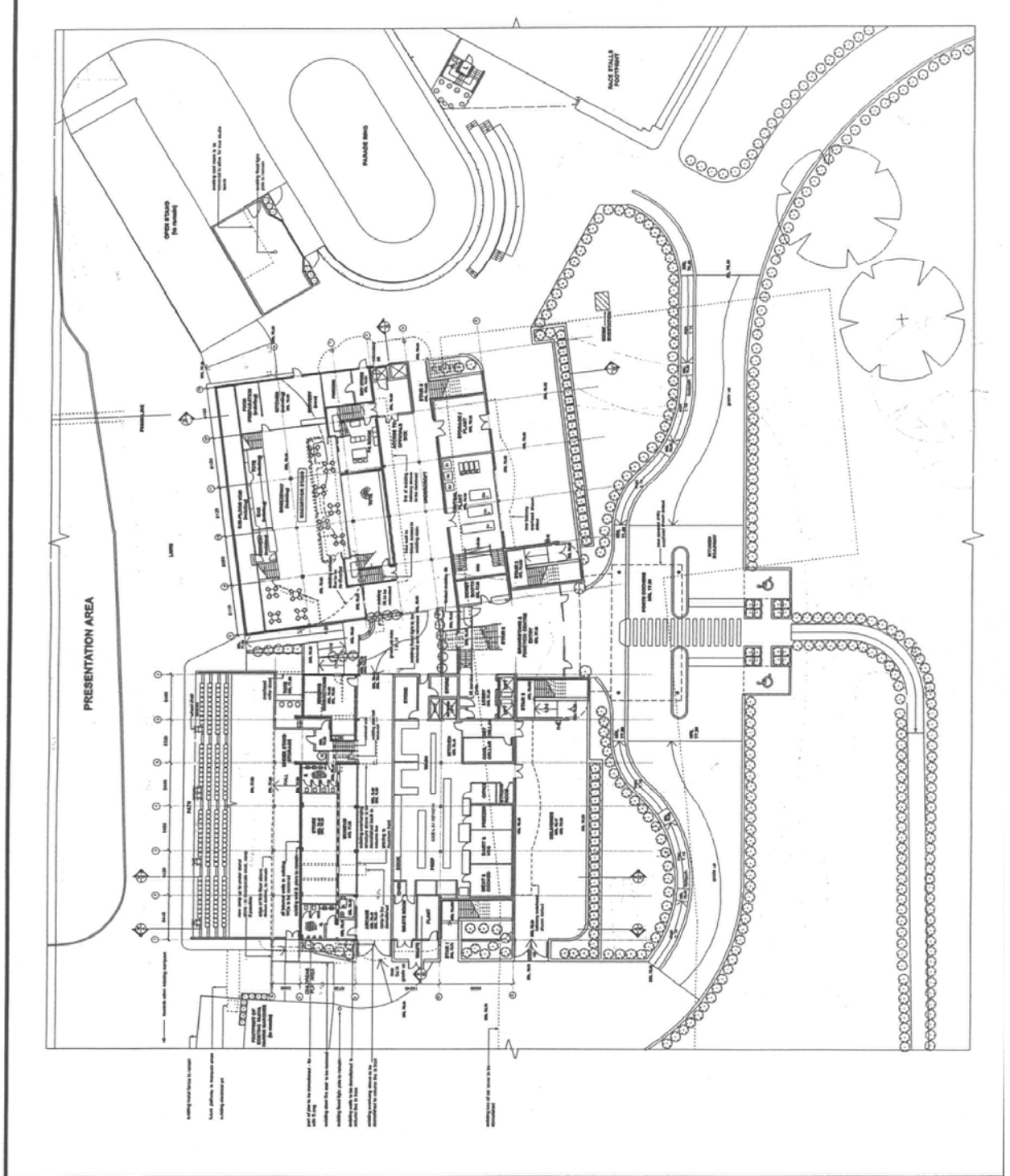


SITE PLAN

SUBJECT: CONSTRUCTION OF EXTENSIONS TO EXISTING GRANDSTAND AND CLUB FACILITIES.

LOT 10 DP 1022204 "MENANGLE PARK PACEWAY" RACECOURSE AVENUE, MENANGLE PARK.

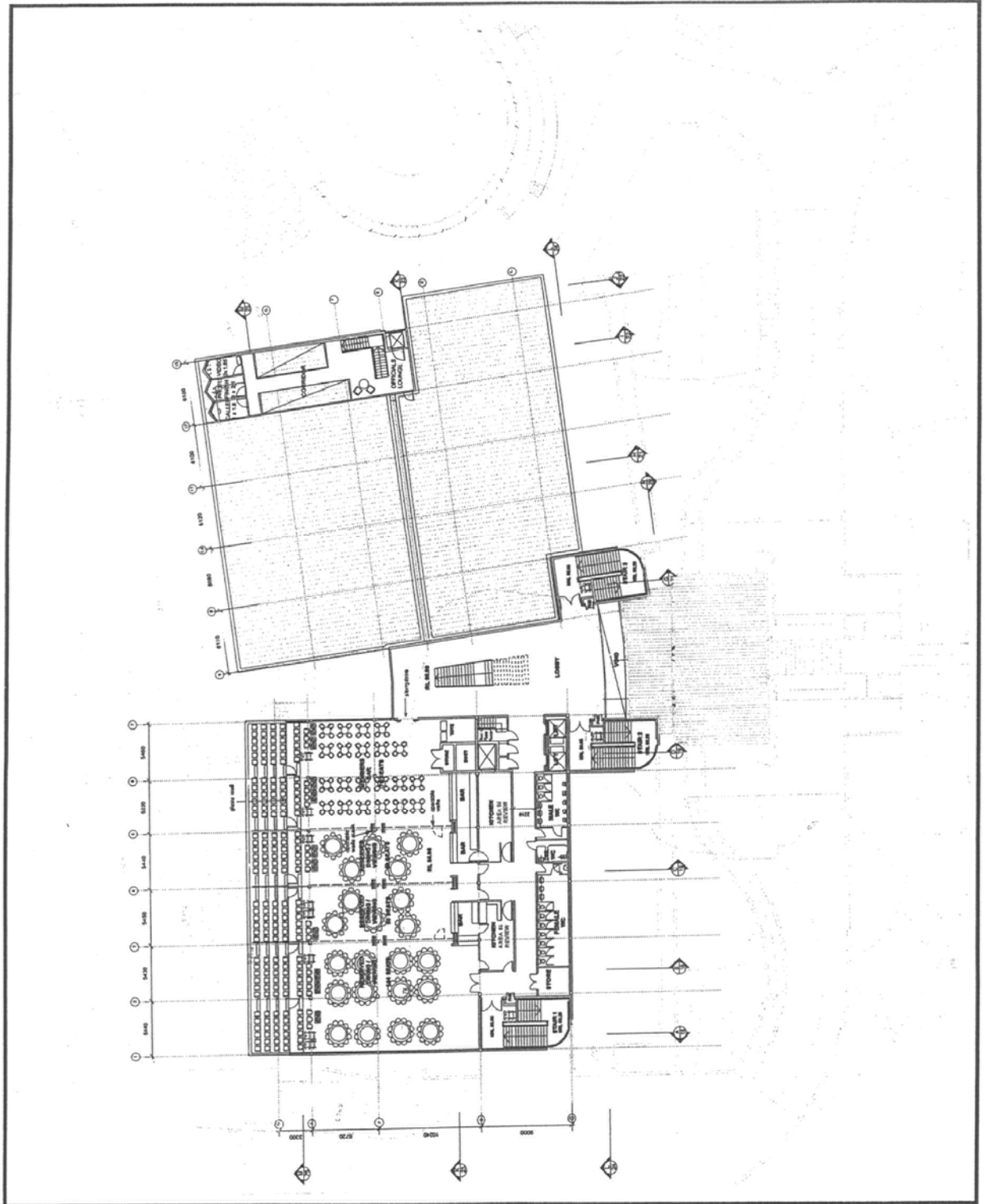
ATTACHMENT 4



GROUND FLOOR PLAN

SUBJECT: CONSTRUCTION OF EXTENSIONS TO EXISTING GRANDSTAND AND CLUB FACILITIES.

LOT 10 DP 1022204 "MENANGLE PARK PACEWAY" RACECOURSE AVENUE, MENANGLE PARK.

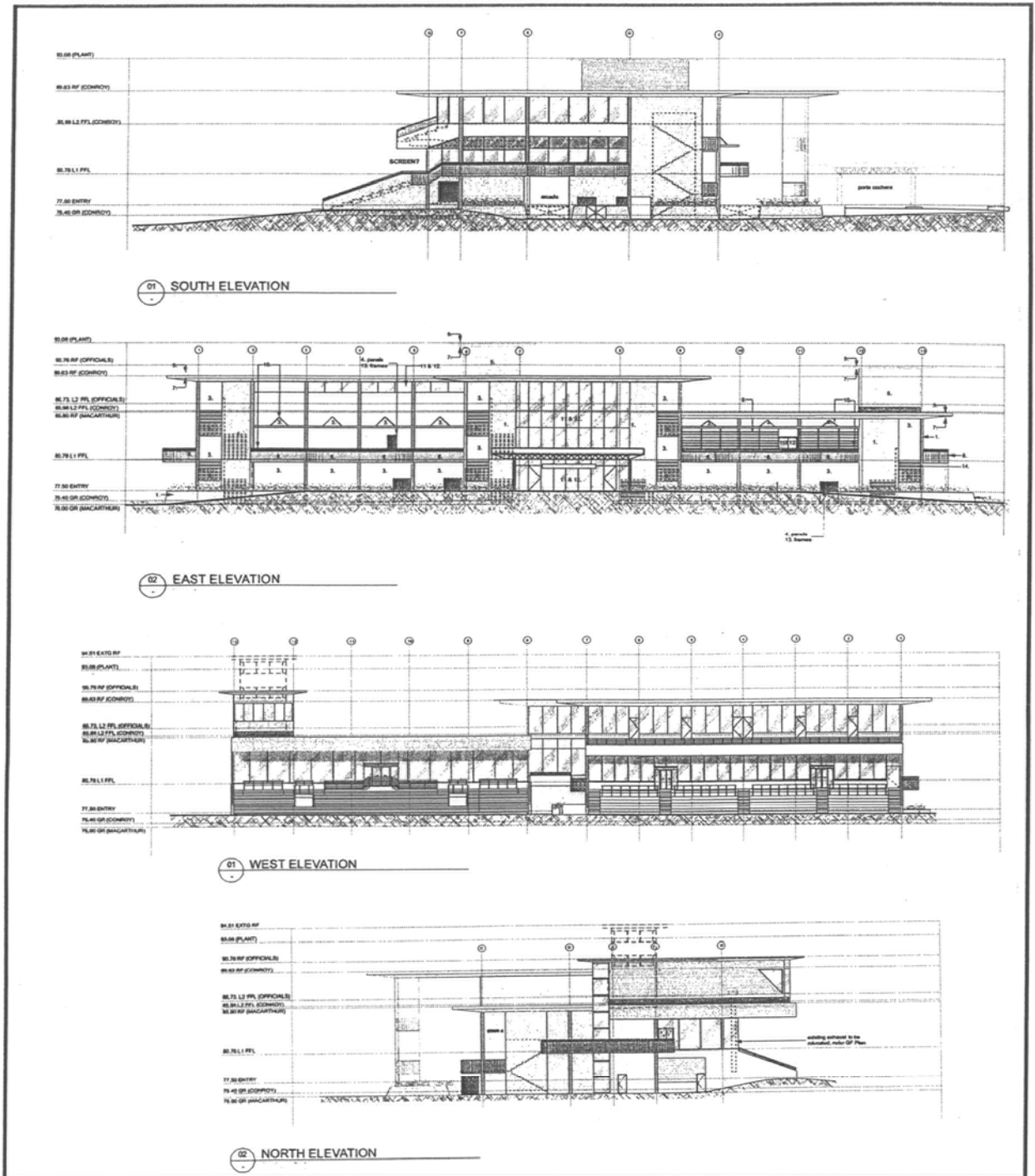


SECOND FLOOR PLAN

SUBJECT: CONSTRUCTION OF EXTENSIONS TO EXISTING GRANDSTAND AND CLUB FACILITIES.

LOT 10 DP 1022204 "MENANGLE PARK PACEWAY" RACECOURSE AVENUE, MENANGLE PARK.

ATTACHMENT 5

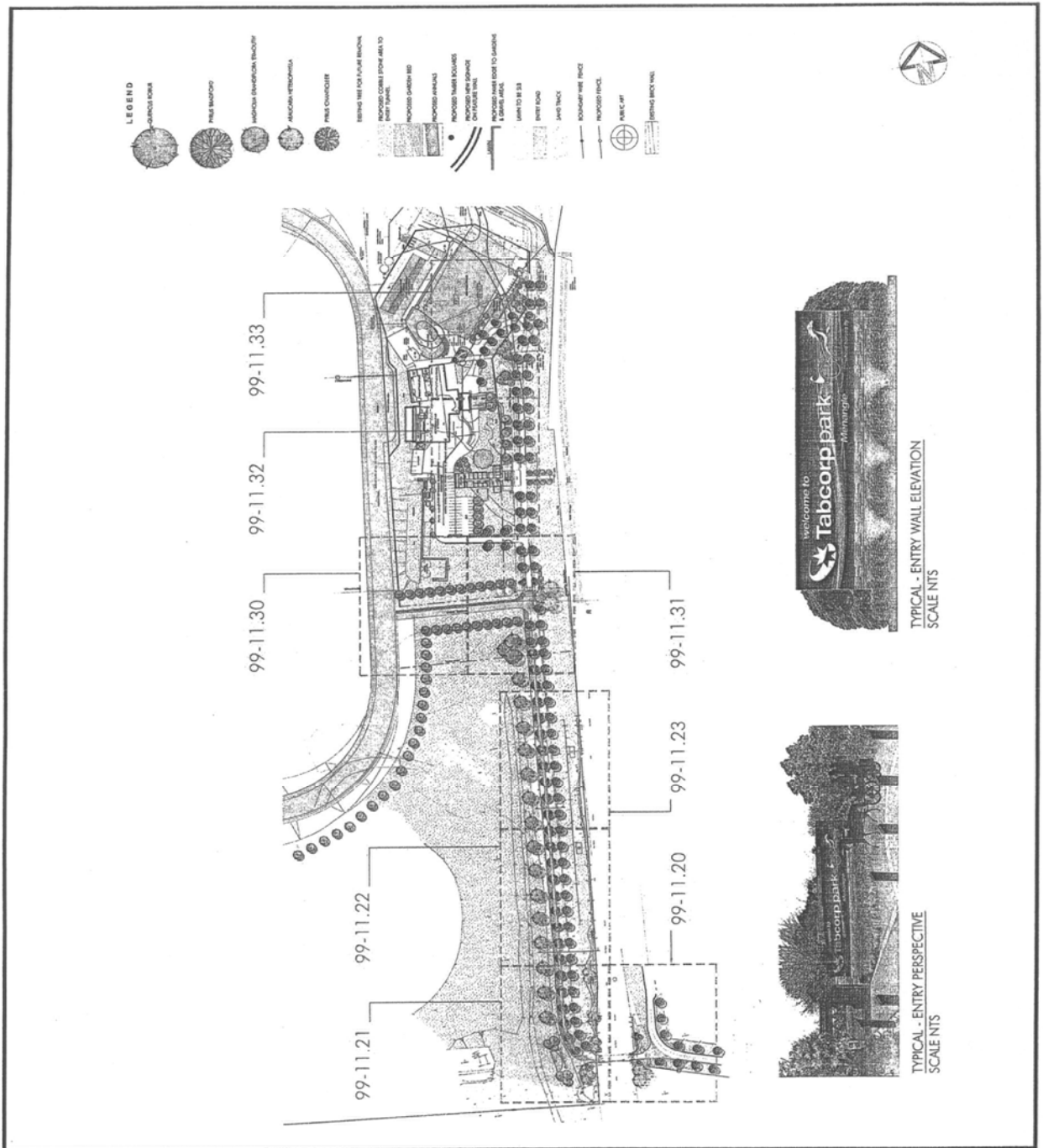


ELEVATION PLANS

SUBJECT: CONSTRUCTION OF EXTENSIONS TO EXISTING GRANDSTAND AND CLUB FACILITIES.

LOT 10 DP 1022204 "MENANGLE PARK PACEWAY" RACECOURSE AVENUE, MENANGLE PARK.

ATTACHMENT 6



LANDSCAPE PLAN

SUBJECT: CONSTRUCTION OF EXTENSIONS TO EXISTING GRANDSTAND AND CLUB FACILITIES.

LOT 10 DP 1022204 "MENANGLE PARK PACEWAY" RACECOURSE AVENUE, MENANGLE PARK.

3.3 Lot 4036 DP 790757 Rizal Park, Anthony drive, Rosemeadow - Construction of a Plinth, Wall and Landscaping for the Erection of a Five Metre Brass Statue of Dr Jose Rizal (1861 - 1896)

Reporting Officer

Manager Development Services

Attachments

1. Recommended Conditions of Consent
2. Locality Plan
3. Site Plan
4. Layout Plan
5. Elevation Plan

Purpose

The purpose of this report is to assist Council in its determination of the subject development application in accordance with the provisions of the *Environmental Planning and Assessment Act 1979*.

Property Description	Lot 4036 DP 790757 Rizal Park, Anthony Drive, Rosemeadow
Application No	2346/2011/DA-O
Applicant	Campbelltown City Council
Owner	Campbelltown City Council
Provisions	Campbelltown (Urban Area) Local Environmental Plan 2002 Campbelltown (Sustainable City) Development Control Plan 2009 Development Control Plan No. 87 – Public Notification and Public Exhibition Policy
Date Received	28 November 2011

History

A Masterplan for Rizal Park was adopted by Council in 2008 and was developed in conjunction with the local Filipino community. The aim of the Masterplan is to acknowledge the contribution of the Filipino community to Campbelltown and reflect the design of the original Rizal Park which is located in the Philippine capital, Manila. Rizal Park is named after the Filipino national hero, Dr Jose Rizal.

Key features of the Masterplan include the following:

- A multi-use playground facility
- BBQ facilities, shade structures, tables and seating
- Toilet facilities
- A brass statue of the Philippine national hero (Dr Jose Rizal) and associated works
- An informal grassed 'kick-about' area
- Landscaped areas
- Car park and entry structure
- Pathways and cycle ways to link the various elements of the Masterplan.

Playground facilities recently constructed at Rizal Park formed the first stage of the Masterplan project. The proposed brass statue of Dr Jose Rizal is the next stage of the works and forms a key feature of the Masterplan.

The proposed statue of Dr Jose Rizal is a donation from the Philippine Government and was sourced through the Philippine Ambassador to Australia. The statue is to be fabricated by an award winning Filipino sculptor – Eduardo Castrillo.

Report

Introduction

A development application has been lodged seeking approval to commence stage 2 of the Rizal Park Masterplan. The application involves the installation of a five metre high brass statue of the Philippine national hero Dr Jose Rizal and associated landscaping works.

The Site

The site is known as Rizal Park and is named after the Filipino national hero, Dr Jose Rizal. The site is located at the intersection of Anthony Drive and Fitzgibbon Lane, Rosemeadow and over two separate allotments with a combined area of approximately 27,000m².

The site is currently used as open space and is largely cleared apart from some scattered trees and a strip of vegetation adjoining the south-eastern boundary. Existing structures at Rizal Park include a multi-use playground facility, shade structures, BBQ facilities, tables and seating.

Surrounding non-residential land uses include an Endeavour Energy substation to the north and the John Therry Catholic High School to the west. Residential dwellings adjoin the sites northern, eastern and southern boundaries.

The site is owned by Campbelltown City Council and owners consent has been received in respect of lodgement of the development application.

The Proposal

The proposed statue is shown to rise approximately five metres above natural ground level and is composed of brass. The statue will be placed on a 0.3 metre high plinth, surrounded on three sides by a low height wall varying in height from 0.9 to 1.2 metres.

It is proposed to landscape the area outside of the wall with the Philippine national flower (Sampaguita) which is commonly known as Jasmine. The flower features a white, star shaped blossom and a sweet fragrance. The planting of Australian native trees and shrubs surrounding the proposed statue are also included within the application.

1. Vision

Campbelltown 2025 - Looking Forward

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

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

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

The strategic directions relevant to this application are:

- Growing the Regional City
- Building and maintaining quality public infrastructure
- Building a distinctive Campbelltown sense of place.

The proposed development has been considered in accordance with these strategies and is consistent with these directions.

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

- Urban environments that are safe, healthy, exhibit a high standard of design, and are environmentally sustainable

- An impression of architecture that engages its environmental context in a sustainable way
- Development and land use that matches environmental capacity and capability.

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

2. Planning Provisions

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

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

2.1 Campbelltown (Urban Area) Local Environmental Plan 2002

The subject site is zoned '6 (a) – Local Open Space Zone' under the provisions of Campbelltown (Urban Area) Local Environmental Plan 2002. The proposed development is considered 'ancillary' to the 'recreation area' and as such, is deemed a permissible development subject to the provisions of Clause 20 of Campbelltown (Urban Area) Local Environmental Plan 2002.

A 'recreation area' is defined as follows:

- (a) a children's playground
- (b) an area used for sporting activities or sporting facilities
- (c) an area used to provide facilities for recreational activities which promote the physical, cultural or intellectual welfare of persons within the community, being facilities provided by:
 - (i) the Council
 - (ii) a body of persons associated together for the purpose of promoting the physical, cultural or intellectual welfare of persons within the community.

but does not include a racecourse or a showground.

It is considered the proposed statue and associated works are 'ancillary' to the definition of a 'recreation area' as stated in Campbelltown (Urban Area) Local Environmental Plan 2002. It is considered Campbelltown City Council and the local Filipino community worked together to develop a Masterplan for Rizal Park with a desire to promote cultural and intellectual welfare for the residents of Campbelltown, while also providing recreational activities for those who use Rizal Park.

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

The objectives of the zone are:

- (a) To ensure there is provision of adequate open space to meet the existing and future needs of residents and to provide opportunities to enhance the environmental quality of the City of Campbelltown
- (b) To identify land which is owned, or proposed to be owned, by the Council and to provide for the acquisition or dedication of this land for open space or public recreational purposes
- (c) To identify land which is owned by the Crown and is under the care, control and management of the Council as public open space
- (d) To protect and preserve areas of urban bushland which are considered valuable because of their natural heritage significance or recreational, educational, aesthetic or scientific values
- (e) To provide opportunities for recreation and the provision of community facilities on publicly owned land.

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.

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

2.2 Campbelltown (Sustainable City) Development Control Plan 2002

The application has been assessed having regard to Councils Campbelltown (Sustainable City) Development Control Plan 2009 (SCDCP). The aims of this Plan include the following:

- Ensure that the aims and objectives of any relevant EPI including Campbelltown's LEPs and IDOs are complemented by the Plan
- Ensure that the principles of ecological sustainability are incorporated into the design, construction and ongoing operation of development
- Facilitate innovative development of high quality design and construction in the City of Campbelltown
- Ensure that new development maintains or enhances the character and quality of the natural and built environment

- Ensure that new development takes place on land that is capable of supporting development
- Encourage the creation of safe, secure and liveable environments
- Ensure that new development minimises the consumption of energy and other finite resources, to conserve environmental assets and to reduce greenhouse gas emissions
- Provide for a variety of housing choices within the City of Campbelltown.

Although the SCDCP does not specifically discuss the erection of statues of this scale, the development can be considered against the various aims listed above that may be considered relevant to this type of development. In this regard, the proposed statue is not considered to be of low quality given its designer is an award winning Filipino sculptor, and the materials to be used in the fabrication of the statue (brass), are of high quality.

Given the proposed location of the statue, it is also considered highly unlikely that the statue would pose an unsatisfactory or significant visual impact on surrounding residential premises.

Additionally, the proposed works are not considered likely to detract from the character and quality of the surrounding natural environment, and further, given the size of the open space land on which the statue is proposed to be constructed, it is considered that the land is capable of supporting the proposed development.

Given the above, the proposal is considered to generally comply with the aims/objectives of the Campbelltown (Sustainable City) Development Control Plan 2002.

3. Planning Assessment

Section 79C(1)(b) of the *Environmental Planning and Assessment Act 1979* requires Council to consider the likely impact that the development would have on the natural and built environments, as well as its potential social and economic impacts.

3.1 Built and Natural Environments

The site is considered appropriate for the erection of the proposed statue and associated works given the extensive setbacks from residential areas. It is considered the proposed statue would not be visible from surrounding residential frontages and the associated landscaping would assist in minimising any form of visual impact on neighbouring properties. Through the retention of existing vegetation, the statue would be screened from the view of residential properties adjoining Rizal Park to the south and west. The removal of vegetation has not been included in this proposal.

Whilst the installation of the statue could be argued to be higher than the general scale of development in the locality, it is considered that when giving regard to the surrounding vegetative screening, the erection of the statue as proposed, would not result in significant additional and adverse visual impacts.

Further to this, the planting of appropriate vegetation in accordance with the approved Masterplan would assist in relieving the structure's prominence upon the landscape.

3.2 Social Impacts

Statistics obtained from the 2006 census indicate there are approximately 3,057 people residing in the Campbelltown LGA who were born in the Philippines. Following England and New Zealand (ABS 2006), the Filipino community represents the 3rd largest non-Australian born nationality residing in Campbelltown. The prominence of the Filipino community is a major reason behind the creation of the Rizal Park Masterplan and the acknowledgment of the Filipino national hero, Dr Jose Rizal.

Dr Jose Rizal was a prominent 19th century Filipino philosopher/scholar/revolutionary living during the period of Spanish rule over the Philippines. Dr Rizal placed strong emphasis on education as being the foundation of society and held strong aspirations for the development of human rights within the Philippines and held strong views that a conquered country should not be taken advantage of, but rather should be developed, educated, civilised and trained in self-governance.

Dr Rizal believed that through greater education the Philippines could be freed from Spanish domination. Dr Jose Rizal was ultimately executed after he was charged with conspiracy, sedition and rebellion.

Dr Rizal's execution is noted as being one of the causes of the Philippine revolution. The day of his execution (30 December) is remembered as Rizal Day and is a Philippine national holiday.

Giving regard to the above, it is not considered unreasonable to acknowledge Campbelltown's large Filipino population by way of the provision of relevant cultural and recreational facilities. The proposed statue of Dr Jose Rizal is considered to be an item of particular significance and relevance that will reinforce the contribution of the Filipino culture to the Campbelltown Local Government Area.

As detailed, Dr Rizal is a symbolic national figure relevant to the heritage of the Filipino people and the installation of the proposed statue of Dr Rizal is a key component in the continued delivery of the Rizal Park Masterplan.

4. Public Participation

4.1 Submissions

The development proposal was publicly exhibited at the Civic Centre and the HJ Daley Library from 13 December 2011 to 20 January 2012 in accordance with the requirements of DCP 87 - Public Notification and Public Exhibition Policy. Notices were mailed to the local community (both owners and occupiers) and the proposal was advertised in the local news paper.

Council received four submissions from the public, objecting to the proposal, of which the submissions collectively raised the following issues:

- The proposed statue is not recognised by the wider community of Campbelltown

Comment: The proposed statue may not be recognised by the wider community of Campbelltown, as Filipino culture does not form an extensive part of the wider Australian history. Notwithstanding, the proposed statue is considered appropriate, given the high population and heritage of Filipino residents inhabiting Campbelltown. Furthermore, the statue is considered to have the potential to increase public insight and awareness of Dr Jose Rizal and the importance of this figure to the local Filipino population.

- The proposed statue may become a target for vandalism and climbing

Comment: Vandalism such as graffiti attack within public areas is known to be difficult to control or prevent. In this regard, and similar with all structures within the public domain, it is acknowledged that the proposed statue may potentially become a target for vandalism.

Although this may be the case, it is not considered reasonable for the potential for graffiti attack to hinder the erection of the proposed statue and the progression of the Masterplan. Furthermore, the benefits of the proposal for the local Filipino community could be considered to outweigh the potential for issues arising due to graffiti attack. It is not considered likely that the statue (by itself) would be an attractor of illegal behaviour. It is considered that the statue has similar potential for attack to that of all other structures within the park.

Further to the above, Council has an effective graffiti prevention and response policy in order to help eliminate graffiti attack. If vandalism became a constant problem to the proposed statue, appropriate strategies would need to be put into place.

- Funding could be better spent on other community works

Comment: It is considered the proposal would not significantly detract from funds which could be spent on other community facilities. The proposal is estimated to cost approximately \$5000 and the expenditure of Council resources is a matter for Council's fiscal consideration. It should be noted that the statue structure itself is being donated to Council. Council funds are to be expended on ancillary works. The proposed statue is a donation from the Philippine government and is a crucial asset in the Masterplan. Following completion of the Masterplan, Rizal Park will provide a range of cultural and recreational facilities available for use by the entire Campbelltown community, such as: playground equipment, male/female amenities, shade structures, table/seats, BBQ facilities, grassed kick about areas, cycle/pathways, car parking facilities and landscaping. Alternate facilities suggested in submissions such as basketball courts, synthetic soccer fields, roads and footpaths bring with them a higher cost and would also face potential vandalism.

- Unaware of the identity of Dr Jose Rizal

Comment: It is understood that when the Rizal Park Masterplan was originally developed and publicly exhibited, the Filipino community was notified and engaged as part of the master-planning process. In this regard, it is expected that with the erection of the statue, people who use the park will become more aware of the significance of Dr Jose Rizal and his actions. To provide a clearer understanding of Dr Rizal and his significance to the Filipino community, it is recommended that in conjunction with the erection of the statue, that a suitable information plaque/sign be installed beside the proposed statue informing the public of Dr Rizal's biographical and national significance.

- The Filipino community does not use the park

Comment: As the Rizal Park Masterplan was developed in conjunction with members of the local Filipino community, it is expected the Filipino community would utilise Rizal Park in greater proportions as implementation of the Masterplan progresses.

- The size of proposed statue is excessive and confronting

Comment: The size of the statue is considered to be not insignificant at approximately five metres in height. However, the statue would be setback approximately 50 metres from the rear of the closest residential allotment and would not be visible from adjoining residential frontages.

- Initial visual impression presented by the statue

Comment: Examination of the physical form of the proposed statue indicates that there could be some ambiguity regarding the background of the statue

It is recommended that should Council decide to support the application a condition be included in any consent which requires the installation of an interpretive plaque in the vicinity of the statue, which explains the community and historical significance of Dr. Jose Rizal.

- Could set an example for the erection of any statue

Comment: It is considered that through proper planning and liaison with local communities any future statues would be relevant to a particular need or demographic. In this regard, it is considered that the proposed statue would not create an open precedent for the erection of statues which are inappropriate for a particular area.

- Increase in non-local traffic within the area

Comment: The proposed statue may generate a slight increase in non-local traffic to the area; however, this can be expected for any public facility and the general objective of any park is to encourage greater open space interaction. Traffic generated by the proposed statue is considered likely to be minor and would be sufficiently accommodated through the provision of 19 on-site car parking spaces once the Masterplan is complete.

4.2 The Public Interest

Section 79C(1)(e) of the Act requires Council to consider the public interest when determining an application.

The public interest is an overarching assessment of the benefits or otherwise that a development may have for the immediate area and/or a community in general. Having regard to the development's compliance with relevant planning controls, its minimal impact on the environment and potential to further enhance the City's cultural and recreational facilities, its approval is considered to be in the public interest.

5. Conclusion

The submissions received as a result of the public notification process have identified a variety of issues which have been considered within this report. These issues have been discussed in depth and it is considered that the proposed development would present no adverse impacts, is suitable for the site and approval would be in the public interest.

With this, it is considered that the proposal is relevant to the City of Campbelltown as the area comprises a relatively large Filipino population/community. Dr Jose Rizal is considered to have significant meaning to the heritage/values of the Filipino community and the proposal is considered to encourage greater appreciation/acceptance of Filipino culture and identity within Campbelltown.

The progression of the Masterplan is considered important as it will provide a range of facilities for both the Filipino and wider community of the Campbelltown area.

Officer's Recommendation

That Development Application 2346/2011/DA-O for the construction of a brass statue, concrete plinth, wall and landscaping at Lot 4036 DP 790757 Rizal Park, Anthony Drive, Rosemeadow, be approved subject to the conditions listed in Attachment 1.

Committee's Recommendation: (Oates/Greiss)

That the Officer's Recommendation be adopted.

CARRIED

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

Voting against the Committee's Recommendation was Councillor Thompson.

Council Meeting 13 March 2012 (Lake/Kolkman)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 29

That the Officer's Recommendation be adopted.

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

Voting against the Council Resolution: nil.

ATTACHMENT 1

Recommended Conditions of Consent GENERAL CONDITIONS

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

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

1. **Approved Development**

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

2. **Building Code of Australia**

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

3. **Landscaping**

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

4. **External Finishes**

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

5. **Information Plaque/Sign**

It is required that an information plaque/sign of suitably high quality design and finish be installed beside the statue to inform the public of Dr Jose Rizal's biographical and national significance.

6. Graffiti Removal

In accordance with the environmental maintenance objectives of 'Crime Prevention Through Environmental Design', graffiti which appears on the statue, buildings, fences, signs and other surfaces of the property is to be removed within 48 hours of its application.

7. Construction Certificate

Prior to the commencement of any works that require a construction certificate:

- a. The applicant shall obtain a construction certificate for the particular works;
- b. The applicant shall appoint a principal certifying authority; and
- c. The private certifying authority shall notify Council of their appointment no less than two (2) days prior to the commencement of any works

8. Structural Engineering Certificate

The erected statue must be structurally certified prior to the public being provided direct access to the statue. Pedestrian/construction safety fencing is to remain at the perimeter of the construction site until structural certification of the statue has been obtained from an appropriately qualified engineer.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

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

9. Waste Management Plan

Prior to Council or an accredited certifier issuing a construction certificate, the relevant provisions of Council's *Waste Management Plan* is to be completed to the satisfaction of Council.

PRIOR TO THE COMMENCEMENT OF ANY WORKS

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

10. Erection of Construction Sign

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

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

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

11. Toilet on Construction Site

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

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

12. Fencing

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

13. Structural Engineer Details

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

DEVELOPMENT REQUIREMENTS DURING CONSTRUCTION

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

14. Construction Work Hours

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

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

15. Protection of Existing Trees

During construction, no trees are to be cut down, lopped, destroyed or removed without the separate written approval of Council unless those trees are within three (3) metres of the footprint of a building that has been approved by Council.

All trees that are to be retained are to be protected by fencing, firmly staked within the drip line/ canopy of the tree and maintained during the duration of the works. The area within the fencing must not be used for stockpiling of any material, nor for vehicle or pedestrian convenience.

All useable trees and shrubs shall be salvaged for re-use, either in log form, or as woodchip mulch for erosion control or garden beds or site rehabilitation. Non-salvable materials such as roots and stumps shall be disposed of to a waste management centre or other approved form.

16. Public Safety

Any works undertaken in a public place are to be maintained in a safe condition at all times in accordance with AS 1742.3.

ADVISORY NOTES

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

Advice 1. *Environmental Planning and Assessment Act 1979* Requirements

The *Environmental Planning and Assessment Act 1979* requires you to:

- a. Obtain a construction certificate prior to the commencement of any works. Enquiries regarding the issue of a construction certificate can be made to Council's Customer Service Centre on 4645 4000.
- b. Nominate a principal certifying authority and notify Council of that appointment prior to the commencement of any works.
- c. Give Council at least two days notice prior to the commencement of any works.

- d. Have mandatory inspections of nominated stages of the construction inspected.
- e. Obtain an occupation certificate before occupying any building or commencing the use of the land.

Advice 2. Tree Preservation Order

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

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

Advice 3. Provision of Equitable Access

Nothing in this consent is to be taken to imply that the development meets the requirements of the *Disability Discrimination Act 1992 (DDA1992)* or *Disability (Access to Premises – Buildings) Standards 2010 (Premises Standards)*.

Where a Construction Certificate is required for the approved works, due regard is to be given to the requirements of the *Building Code of Australia (BCA)* & the Premises Standards. In this regard it is the sole responsibility of the certifier, building developer and building manager to ensure compliance with the Premises Standards.

Where no building works are proposed and a Construction Certificate is not required, it is the sole responsibility of the applicant and building owner to ensure compliance with the DDA1992.

Advice 4. Covenants

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

Advice 5. Dial 1100 Before you Dig

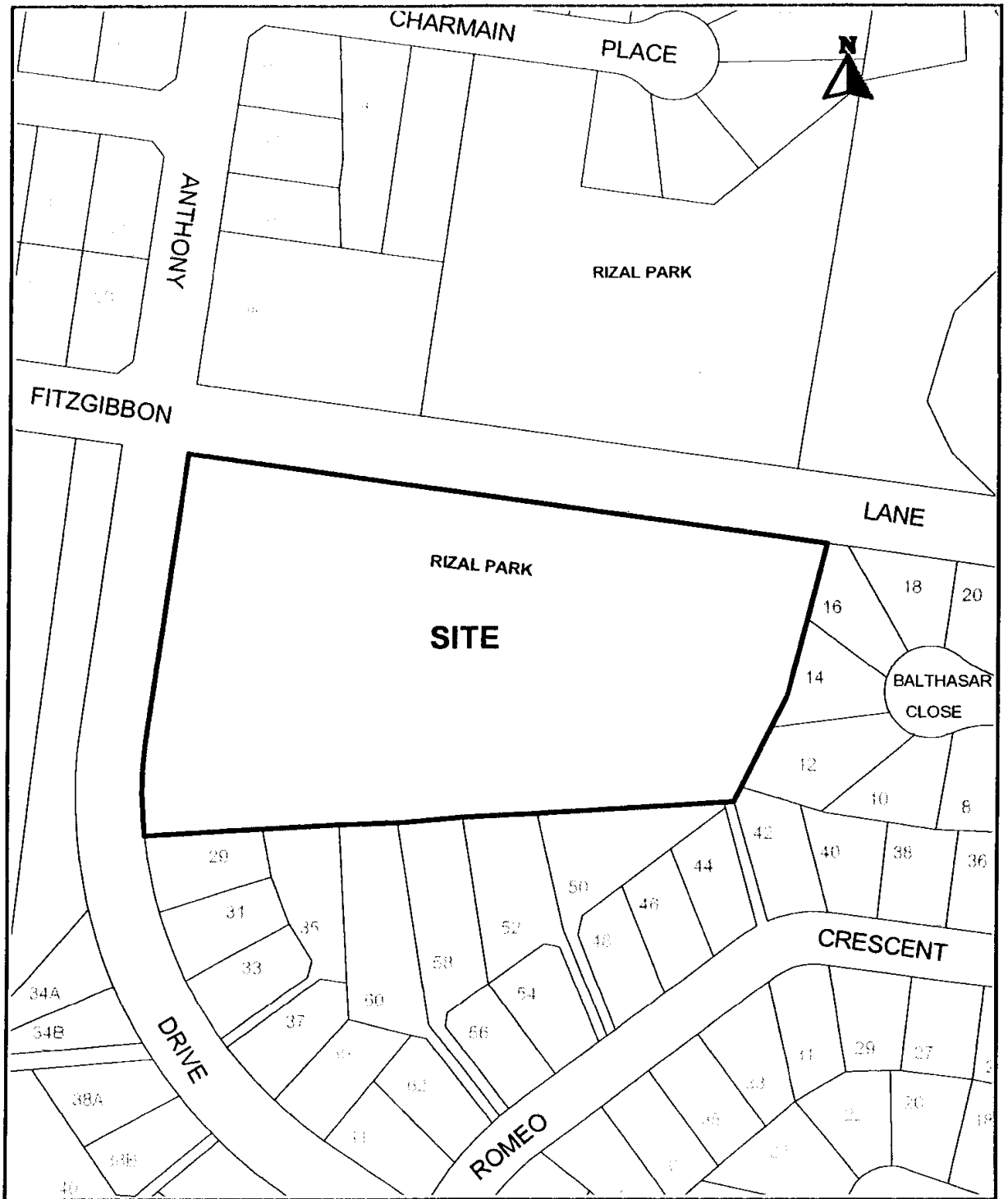
Underground cable and pipes may exist in the area. In your own interest and for safety, telephone 1100 before excavation or erection of structures. Information on the location of underground pipes and cables can also be obtained by fax on 1300 652 077 or through the following website - www.dialbeforeyoudig.com.au

Advice 6. Telecommunications Act 1997 (Commonwealth)

Please note that under the *Telecommunications Act 1997* (Commonwealth) Telstra's written authorisation is required before any person can enter land or undertake work on any Telstra's assets. Any person caught interfering with a facility or installation owned or operated by Telstra is committing an offence under the *Criminal Code Act 1995* (Commonwealth) and is liable for prosecution. If you are aware of any works or proposed works which may affect or may impact on Telstra's assets in any way please contact Telstra's Network Integrity Team on phone number 1800 810 443.

END OF CONDITIONS

ATTACHMENT 2



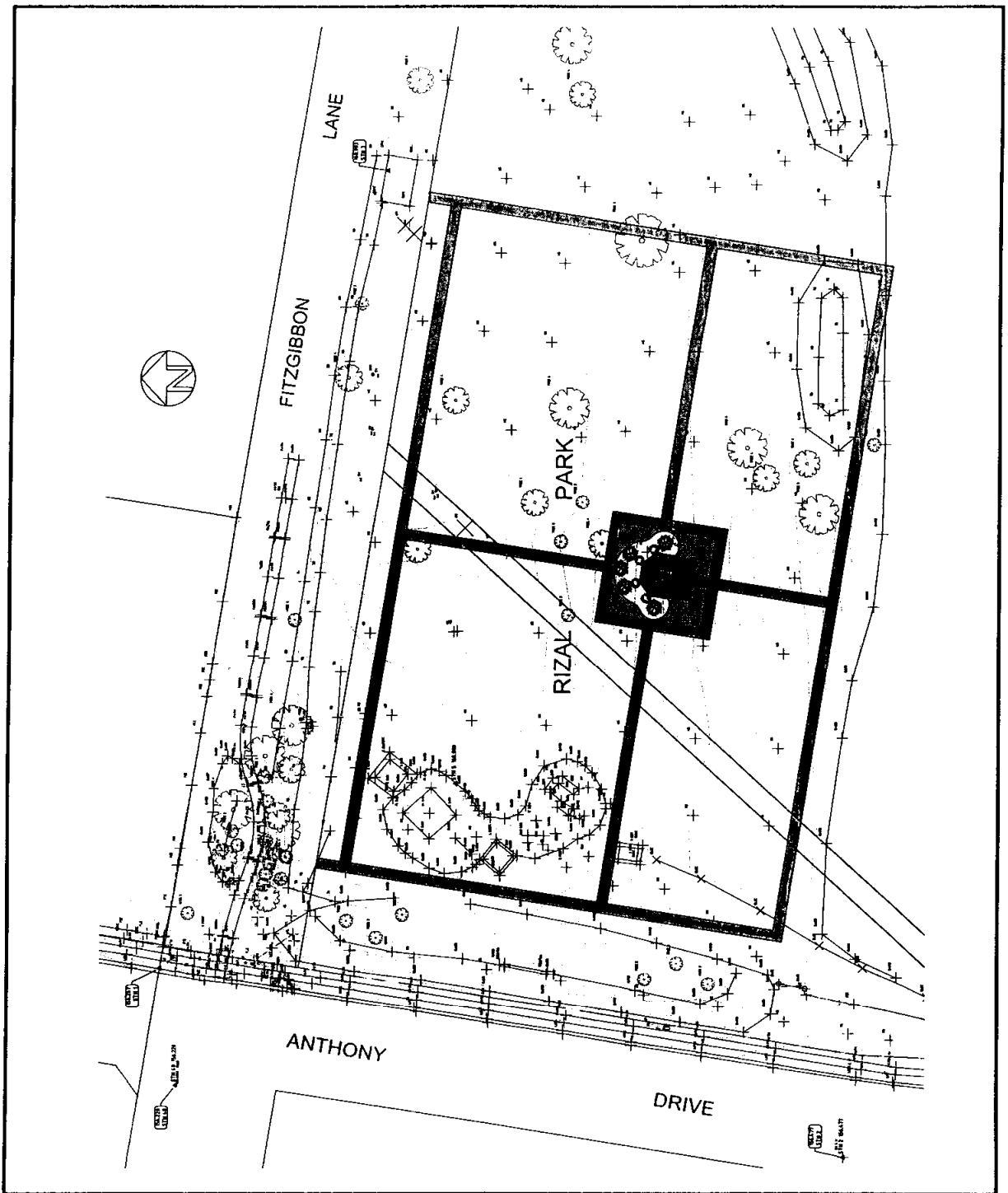
LOCALITY PLAN



SUBJECT:

CONSTRUCTION OF A PLINTH, WALL AND LANDSCAPING FOR THE
ERECTION OF A FIVE METER TALL BRASS STATUE OF DR. JOSE RIZAL (1861-1896).
LOT 4036 DP 790757 "RIZAL PARK" ANTHONY DRIVE, ROSEMEADOW.

ATTACHMENT 3

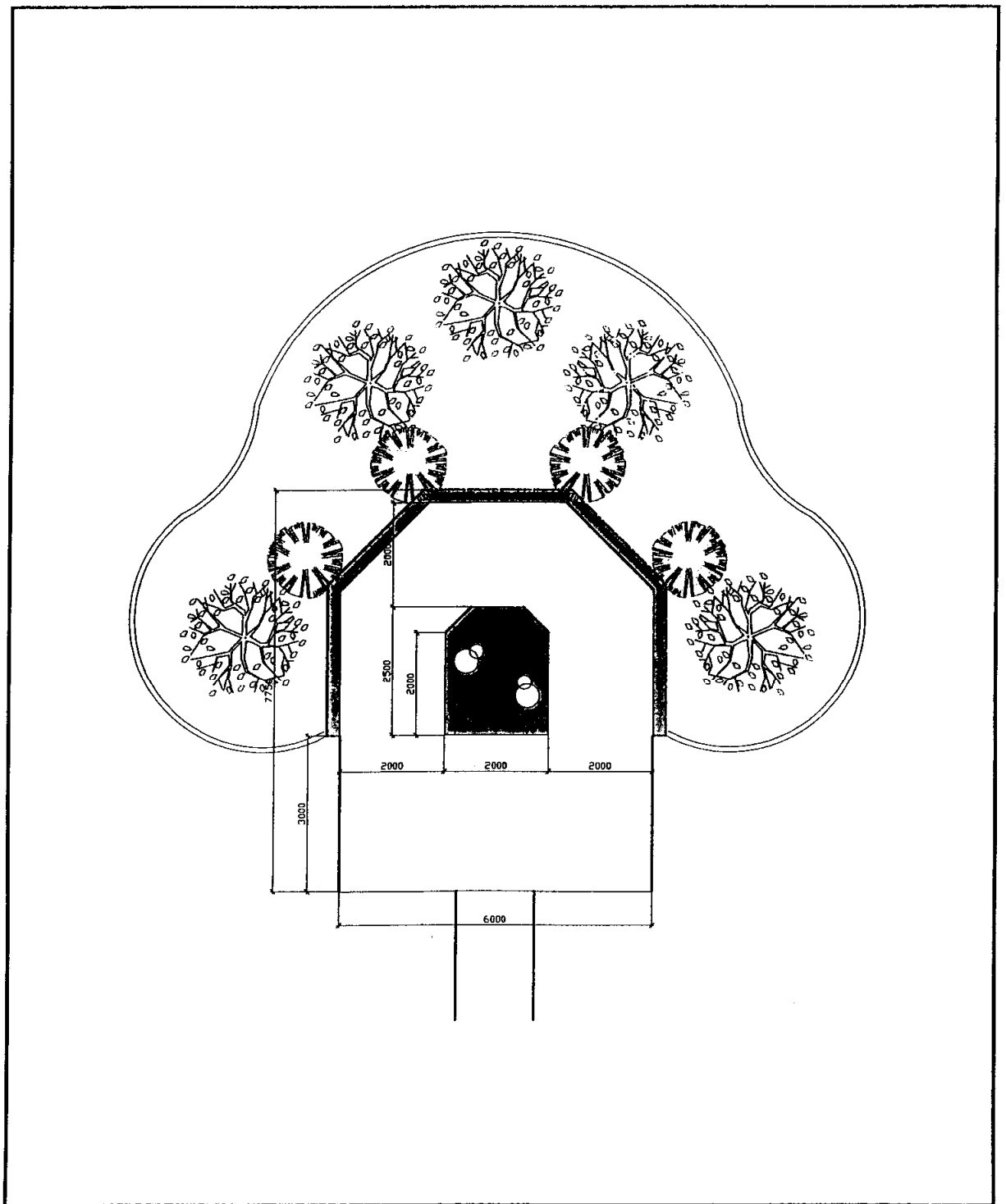


SITE PLAN

SUBJECT:

CONSTRUCTION OF A PLINTH, WALL AND LANDSCAPING FOR THE
ERECTION OF A FIVE METER TALL BRASS STATUE OF DR. JOSE RIZAL (1861-1896).
LOT 4036 DP 790757 "RIZAL PARK" ANTHONY DRIVE, ROSEMEADOW.

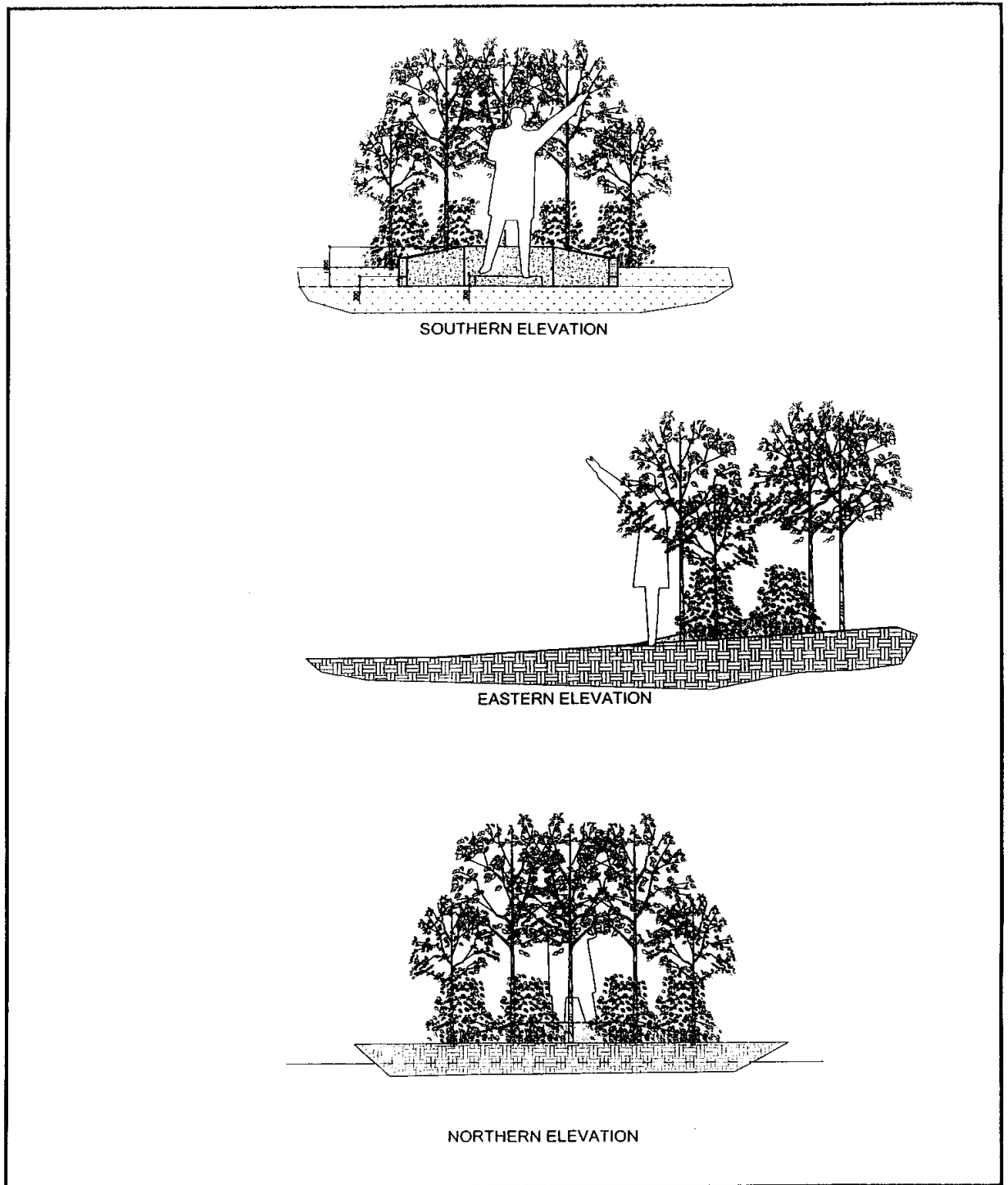
ATTACHMENT 4



LAYOUT PLAN

SUBJECT: CONSTRUCTION OF A PLINTH, WALL AND LANDSCAPING FOR THE
ERECTION OF A FIVE METER TALL BRASS STATUE OF DR. JOSE RIZAL (1861-1896).
LOT 4036 DP 790757 "RIZAL PARK" ANTHONY DRIVE, ROSEMEADOW.

ATTACHMENT 5



ELEVATIONS

SUBJECT:

CONSTRUCTION OF A PLINTH, WALL AND LANDSCAPING FOR THE
ERECTION OF A FIVE METER TALL BRASS STATUE OF DR. JOSE RIZAL (1861-1896).
LOT 4036 DP 790757 "RIZAL PARK" ANTHONY DRIVE, ROSEMEADOW.

4. COMPLIANCE SERVICES

4.1 Legal Status Report

Reporting Officer

Manager Compliance Services

Attachments

Nil

Purpose

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

Report

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

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

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

1. Land and Environment Court Class 1 Matters – Appeals Against Council's Determination of Development Applications
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Total ongoing Class 1 DA Appeal Matters (as at 24/02/2012)	1
Total completed Class 1 DA Appeal Matters (as at 24/02/2012)	5
Costs from 1 July 2011 for Class 1 DA Appeal Matters:	\$58,957.81

1 (a)	Nick Skagias
Issue:	Appeal against condition 55 of Development Application No. 1416/2011/DA-C for construction of a commercial building with associated car-parking.
Property:	Lot 6 Section 4 DP 2913 No. 34 Carlisle Street, Ingleburn NSW 2565.
Property Owner:	Mr Angelo Skagias and Mr Nick Skagias
File No:	1416/2011/DA-C (Court File 10985 of 2011)
Court Application Filed:	31 October 2011

Applicant:	Mr Nick Skagias
Costs Estimate:	\$20,000 (exclusive of Barristers, Court Appointed Experts or disbursement fees)
Final Costs:	\$7,743.30
Status:	Completed.

Action Since Last Meeting	The matter was before the Court for consent orders hearing on 31 January 2012 where the appeal against condition 55 (road widening) was upheld and the Court amended DA 1416/2011/DA-C by deleting condition 55 and amending condition 1 to incorporate the plans which were the subject of the original development consent.
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1 (b)

Andrew Osborne

Issue:	Appeal against deemed refusal of Development Application No. 1863/2011/DA-C seeking consent for use of a building for as a liquor store and associated building modifications and advertising signage.
Property:	Lot 1 DP 1165316 No. 4 Rennie Road, Campbelltown.
Property Owner:	Andrew Osborne as trustee for AKO No. 2 Trust.
File No:	1863/2011/DA-C (Court File 11139 of 2011)
Court Application Filed:	1 December 2011
Applicant:	Andrew Osborne
Section 34 Conference date:	29 February 2012
Costs Estimate:	\$25,000 (exclusive of Barristers, Court Appointed Experts or disbursement fees)
Costs to date:	\$0.00
Status:	Ongoing - listed for Section 34 (conciliation) conference on 29 February 2012.

Action Since Last Meeting	The applicant has filed a Class 1 application in the Land and Environment Court NSW against Council's deemed refusal of Development Application No. 1863/2011/DA-C seeking consent for use of a building as a liquor store and associated building modifications and advertising signage. At the first mention on 11 January 2012 the Court adjourned the proceedings to 29 February 2012 for Section 34 (conciliation) conference.
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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 24/02/2012)	0
Total completed Class 1 Order/Notice Appeal Matters (as at 24/02/2012)	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 24/02/2012)	0
Total completed Class 4 matters (as at 24/02/2012)	1
Total ongoing Class 4 matters in respect of costs recovery (as at 24/02/2012) these matters will be further reported on completion	4
Costs from 1 July 2011 for Class 4 matters	\$1,248.38

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 24/02/2012)	0
Total completed Class 5 matters (as at 24/02/2012)	0
Total ongoing Class 5 matters in respect of costs recovery (as at 24/02/2012) these matter will be further reported on completion	2
Costs from 1 July 2011 for Class 5 matters	\$0.00

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

Total ongoing Class 6 Matters (as at 24/02/2012)	0
Total completed Class 6 Matters (as at 24/02/2012)	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 24/02/2012)	0
Total completed Appeal matters (as at 24/02/2012)	1
Total ongoing Appeal matters in respect of costs recovery (as at 24/02/2012) these matters will be further reported on completion	0
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 24/02/2012)	15
Total completed Local Court Matters (as at 24/02/2012)	114
Costs from 1 July 2011 for Local Court Matters	\$1,196.50

File No: LP18/11 – Charge Matters x 5
Offence: Not comply with section 56 control requirements (restricted dog) for offences on 19 October 2010.
Act: *Companion Animals Act 1998*
Costs to date: \$0.00
Status – Ongoing: The matters were before the Court for further mention on 9 November 2011, where the defendant maintained their not guilty pleas to all matters. The Magistrate directed that Council serve the defendant with the complete brief of evidence by 21 December and adjourned the proceedings to 9 March 2012 for hearing.

File No: LP19/11 – Charge Matters x 5
Offence: Not comply with section 56 control requirements (restricted dog) for offences on 24 February 2011.
Act: *Companion Animals Act 1998*
Costs to date: \$0.00
Status – Ongoing: The matters were before the Court for further mention on 9 November 2011, where the defendant maintained their not guilty pleas to all matters. The Magistrate directed that Council serve the defendant with the complete brief of evidence by 21 December and adjourned the proceedings to 9 March 2012 for hearing.

File No:	LP20/11 – Charge Matters x 2
Offence:	Not notify that dog found after being lost; and, not notify that dog relocated to another Council area where it is now ordinarily kept (restricted dog).
Act:	<i>Companion Animals Act 1998</i>
Costs to date:	\$0.00
Status – Ongoing:	The matters were before the Court for further mention on 9 November 2011, where the defendant maintained their not guilty pleas to all matters. The Magistrate directed that Council serve the defendant with the complete brief of evidence by 21 December and adjourned the proceedings to 9 March 2012 for hearing.
File No:	LP21/11 – Charge Matters x 2
Offence:	Not notify that dog found after being lost; and, not notify that dog relocated to another Council area where it is now ordinarily kept (not restricted dog).
Act:	<i>Companion Animals Act 1998</i>
Costs to date:	\$0.00
Status – Ongoing:	The matters were before the Court for further mention on 9 November 2011, where the defendant maintained their not guilty pleas to all matters. The Magistrate directed that Council serve the defendant with the complete brief of evidence by 21 December and adjourned the proceedings to 9 March 2012 for hearing.
File No:	LP22/11 – Penalty Notice Court Election
Offence:	Development (dwelling additions) undertaken without development consent.
Act:	<i>Environmental Planning and Assessment Act 1979</i>
Costs to date:	\$1250.00
Status – Ongoing:	Matter was before the Court for mention on 24 February 2012 where the defendant did not appear and entered a guilty plea by written notice. After considering the evidence and submissions, the Magistrate found the offence proved and determined that the charge be dismissed without penalty under Section 10(1)(a) of the <i>Crimes (Sentencing) Procedure Act</i> however an order for Council's legal costs in the sum of \$1250.00 was imposed and a further mention date listed for 23 March 2012 in order that the defendant can be heard in respect of the costs order if so desired.
File No:	LP53/11 – Penalty Notice Court Election
Offence:	Disobey no-stopping sign – school zone.
Act:	<i>Road Rules 2008</i>
Final Costs:	\$0.00
Status – Completed:	The matter was before the Court for first hearing on 10 February 2012 where the defendant, Aaron John Skinner, entered a guilty plea with explanation. The Magistrate after considering the evidence and submissions found the offence proved, convicted the defendant and imposed a \$200 fine and an order for \$81 Court costs.

File No: LP55/11 – Penalty Notice Court Election
Offence: Not parallel park near left.
Act: *Road Rules 2008*
Final Costs: \$0.00
Status – Completed: The matter was before the Court for first mention on 24 January 2012, where the defendant entered a guilty plea with explanation. After considering the evidence and submissions the Magistrate found the offence proved; however, having regard to the circumstances of the offence a determination was made that the charge be dismissed without penalty or costs under section 10(1)(a) of the Crimes (Sentencing Procedure) Act 1999.

File No: LP01/12 – Penalty Notice Court Election
Offence: Stop in bus zone – school zone.
Act: Road Rules 2008
Final Costs: \$0.00
Status – Completed: The matter was before the Court for mention on 14 February 2012 where the defendant, Kim Ellen Leighton, entered a guilty plea with explanation. The Magistrate after considering the evidence and submissions found the offence proved, convicted the defendant and imposed a \$265 fine and an order for \$81 Court costs.

File No: LP02/12 – Penalty Notice Court Election
Offence: Stop on path/strip in built-up area.
Act: Road Rules 2008
Final Costs: \$0.00
Status – Completed: The matter was before the Court for mention on 14 February 2012 where the defendant, Kristy Lee Bell, made no appearance. The magistrate granted an application for the matter to be heard in the absence of the defendant and after considering the evidence and submissions found the offence proved, convicted the defendant and imposed a \$147 fine and an order for \$81 Court costs.

File No: LP03/12 – Penalty Notice Court Election
Offence: Stand vehicle in area longer than allowed.
Act: Local Government Act
Costs to date: \$0.00
Status – New Matter: Listed for first mention on 28 February 2012.

8. Matters Referred to Council's Solicitor for Advice

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

Total Advice Matters (as at 24/02/2012)
Costs from 1 July 2011 for Advice Matters

9
\$15,368.47

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	\$58,957.81	\$0.00
Class 1 Land and Environment Court - appeals against Orders or Notices issued by Council	\$0.00	\$0.00
Class 4 Land and Environment Court matters - non-compliance with Council Orders, Notices or Prosecutions	\$1,248.38	\$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	\$1,196.50	\$1,415.00
Matters referred to Council's solicitor for legal advice	\$15,368.47	\$0.00
Miscellaneous costs not shown elsewhere in this table	\$0.00	\$0.00
Costs Sub-Total	\$77,871.16	\$12,619.44
Overall Net Costs Total (GST exclusive)	\$65,251.72	

Officer's Recommendation

That the information be noted.

Committee's Recommendation: (Greiss/Thompson)

That the Officer's Recommendation be adopted.

CARRIED

Council Meeting 13 March 2012 (Chanthivong/Greiss)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 26

That the Officer's Recommendation be adopted.

4.2 Compliance Services Quarterly Statistics - October to December 2011

Reporting Officer

Manager Compliance Services

Attachments

Compliance Services Quarterly Activity Summary Table

Purpose

To provide Council with a quarterly report of activities for the Compliance Services Section.

Report

This report summarises key section activities and operational results for the reporting period October to December 2011.

1. Regulated Premises Inspections

Regulated premises inspection statistics presented in the Activity Summary Statistics Table in the Attachment are divided into Food, Public Health and Wastewater Management System inspections.

All regulated premises are placed in a risk category. The frequency of inspections varies according to the risk classification. Additional inspections (i.e. reinspections) are sometimes undertaken when premises are found to be unsatisfactory and there is an identified need to follow up on outstanding matters.

a. Food Premises

Within Campbelltown there are approximately 754 regulated food premises separated into three categories requiring 1,120 scheduled inspections per annum as follows:

Low Risk Premises (inspected as required for food recalls or customer complaint) – includes food businesses such as pre-packaged food outlets, variety stores, confectionary shops, chemists, video stores, newsagents, teaching kitchens and tobacconists.

Medium Risk Premises (inspected once per year) – includes fruit and vegetable stores, service stations and convenience stores (serving unpackaged food), general grocery stores, charities and minimal food preparation stores.

High Risk Premises (inspected twice per year) – includes restaurants, takeaway shops, bakeries, cafes, clubs, childcare centres, supermarkets, unprepared fish shops, delicatessens, school canteens, mobile food vendors, boarding houses and charcoal chicken outlets.

Food Premises Category	No. of Premises	No. of Annual Inspections
Low Risk	147	when required
Medium Risk	94	94
High Risk	513	1026
TOTAL	754	1120

Amendments to the *Food Act 2003* and the establishment of the Food Regulation Partnership between the NSW Food Authority and NSW councils in 2008 resulted in a mandated and more consistent role for Local Government in food regulation.

As a result Council reviewed its food premises categories and inspection frequency in order to be consistent with other NSW councils.

A total of 266 food premise inspections were conducted for the reporting period, which is consistent with quarterly average inspection statistics. Of the 266 inspections undertaken, 36 (13%) food premise inspections were recorded as unsatisfactory. Follow up reinspections are undertaken where premises are found to be unsatisfactory at the time of initial inspection, to ensure they reach a satisfactory standard. In certain situations, Improvement Notices or Penalty Notices are issued under the *Food Act 2003* when necessary to encourage compliance.

b. Public Health

Within Campbelltown there are approximately 251 regulated premises separated into three risk categories requiring 275 scheduled inspections per annum.

- **Category 1 Premises** (inspected once per year) – beauty salons (low risk), boarding houses, funeral parlours, skin penetration (low risk procedure, i.e. waxing), hairdressers, nail artists.
- **Category 2 Premises** (inspected twice per year) – brothels, skin penetration (high risk procedure - body piercing).
- **Category 3 Premises** (inspected once per year) – *Legionella* microbial control (air-conditioning cooling towers).

Health Premises Category	No. of Premises	No. of Annual Inspections
Category 1	160	160
Category 2	24	48
Category 3	67	67
TOTAL	251	275

A total of 47 health premises inspections were conducted for the reporting period being consistent with inspections undertaken during the corresponding quarter (43) in 2010-2011.

Of the 47 regulated health premise inspections conducted during the reporting period, four (8%) of the premises inspected were recorded as unsatisfactory.

Follow up (reinspections) are undertaken where premises are found to be unsatisfactory at the time of initial inspection to ensure the premises reach a satisfactory standard.

c. Wastewater Management Systems

The effective regulation and management of on-site wastewater management systems is necessary to ensure these systems operate properly and as a consequence do not cause a threat to the environment or human health.

As part of its effort to more effectively manage and regulate wastewater management systems, Council revised its Wastewater Management Strategy which was formally adopted by Council on 7 July 2009.

The implementation of the revised strategy has commenced and is to be staged, with various unsewered locations throughout the City being addressed progressively.

A total of 56 system inspections were conducted during the reporting period, being higher than the number of inspections conducted in the previous quarter (43). This was due to an influx of new applications received during the quarter.

2. Notices/Orders Issued

Food Act 2003 Notices are usually issued where there is repeated failure by a proprietor to meet appropriate standards or where serious breaches are identified. A total of nine *Food Act 2003* Notices were issued during the reporting period, which is relatively consistent with quarterly averages for 2010-2011.

Local Government Act 1993 Notices and Orders are issued for a range of matters including overgrown, unhealthy, unsafe or unsightly conditions. The number of *Local Government Act 1993* Notices and Orders issued during the reporting period was 83 which was higher than (62) issued for the previous reporting period. The increase is due to a large number of Notices/Orders being issued during the October to December quarter for overgrown properties and is consistent with seasonal trends.

The number of *Swimming Pools Act 1992* Directions issued (14) requiring the erection of pool fencing or fencing repairs was consistent with quarterly averages in the previous year.

Environmental Planning and Assessment Act 1979 Notices and Orders are issued by Land Use and Environmental Compliance staff, primarily to ensure that premises comply with conditions of development consent and to regulate unauthorised land use. A total of 44 Notices and Orders were served during the reporting period which is consistent with quarterly averages for 2010-11.

Protection of the Environment Operations Act 1997 (POEO) Notices are issued for a variety of pollution matters including water pollution and waste dumping. The number of POEO Notices issued for the reporting period (18) was consistent with quarterly averages for 2010-2011.

Companion Animals Act Notices are issued to ensure owners of dogs and cats keep their animals in accordance with the *Companion Animals Act 1998* requirements. A total of six Notices/Orders were issued during the reporting period, which is consistent with the number issued in the corresponding quarter (five) in 2010-2011.

3. Customer Service Requests

The Compliance Services Section receives a significant number of customer service requests across a broad range of issues as represented in Attachment 1. A total of 768 customer service requests were received for the reporting period. Significant complaint categories were barking dogs (103 requests), parking, (including heavy vehicles) (96 requests), illegal construction/development (78 requests), overgrown land (67 requests), health (non regulated premises) (67 requests), rubbish dumping/litter (65 requests), abandoned motor vehicles (60 requests), pollution (51 requests) and dogs straying (49 requests).

4. Applications

Building Certificate Applications relate to certificates issued under section 149A of the *Environmental Planning and Assessment Act 1979* and provide assurance to applicants upon issue that Council will not take action to require the demolition or upgrade of the respective structure for a period of seven years after the date of issue of the certificate. These certificates are generally sought upon sale of property.

The number of Building Certificate Applications (17) received during the reporting period was higher than the number of applications (seven) received in the previous quarter however was lower than the quarterly average (35) experienced in the 2010-2011 period. It is considered that this was due to a continuation of a decline in residential property sales experienced during the period.

Staff have commenced seeking applications for an approval to operate a system of waste water management, from system owners on a risk category basis. Forty applications for approval to operate a wastewater management system were received during the reporting period being higher than the average number of applications (21) received per quarter for 2010-2011. This was due to a bulk mail out seeking applications from owners of high risk systems and low/moderate risk systems in the Long Point and Varroville area.

Eight Section 68 (*Local Government Act 1993*) Event Approvals were issued. These were for Harmony Day, Family Fun Day, Sounds of the Nations Carols, Carols in the Park at Koshigaya Park, Carols in the Park at Thomas Acre Reserve, Festival of Fisher's Ghost and One Deadly Step Events.

5. Impounding

The number of dogs impounded during this reporting period was 431, being relatively consistent when compared to 445 dogs for the corresponding quarter in 2010-2011. The percentage of dogs microchipped at the time of impounding was 78% which is consistent with quarterly averages.

A total of 244 cats were impounded throughout the reporting period which is consistent with annual trends (cat breeding season) with 294 cats impounded in the corresponding quarter in 2010-2011. The number of cats that are microchipped at the time they were impounded is typically lower than for dogs and for this reporting period, 7% were microchipped.

The number of abandoned vehicles impounded for this quarter was nine. None of these vehicles were released back to their owners. Seven of these vehicles were disposed of by Council. Council is currently holding two abandoned vehicles.

Eight shopping trolleys were impounded during the quarter being relatively consistent with the number of trolleys (10) impounded in the corresponding quarter for 2010-2011.

6. Penalty Notices

Council issues a range of penalty notices relating to various matters including parking offences (on street, Council car parks, school zones), companion animal registration, dog straying, littering, fail to comply with orders, food safety and fail to obtain or comply with development consent. Refer to the table at Attachment 1 for the number of penalty notices issued under the various offence categories.

The number of penalty notices issued for parking offences in Council carparks (530) was consistent in comparison with the corresponding quarter (506) in 2010-2011. The number issued for on-street offences (770) was also consistent with the corresponding quarter (742) in 2010-2011.

7. Compliance/Education Programs

Compliance programs are an integral component of the Section's activities and represent a coordinated proactive approach to targeting specific community concerns. Resources are deployed strategically on a local or citywide basis as an alternative to addressing complaints on an individual basis.

A summary of Compliance Programs undertaken during the reporting period follows:

a. Illegal Parking in School Zones

During the reporting period, 35 school locations were patrolled resulting in the issue of 78 penalty notices.

b. Illegal Sign Statistics

A summary of sign statistics for the quarter can be located in Attachment 1.

c. Illegal Trail Bike Riding

During the reporting period one joint patrol with Police was undertaken.

A number of single agency (Council) patrols were undertaken in response to 21 complaints received during the reporting period.

d. Litter from Vehicles

For the reporting period one operation was undertaken which resulted in six penalty notices being issued.

e. Shopping Trolleys

Three coordinated programs were conducted during the reporting period and this resulted in the tagging of 87 trolleys and eight trolleys being impounded.

f. Truck Parking

Three truck parking patrols were undertaken during the reporting period resulting in the issue of 28 parking penalty notices.

8. Other Activities

A summary of other activities or initiatives implemented within the reporting period are listed below:

- Council continues to conduct surveillance of construction sites for sediment and erosion control compliance
- Active participation in the Food Regulation partnership, incorporating activity reporting and the review of inspection procedures and related documentation
- Continued participation in the Sydney South West Area Health Service Public Health Unit Skin Penetration Working Group to improve industry practice and compliance
- Patrols (by way of formalised agreement) of disabled parking at Campbelltown Mall continued through the reporting period
- Periodic (three yearly) review of risk identification documents for various environmental health, building, land use and ranger activities
- Ongoing review and development of Standard Operating Procedures relating to Section activities, tasks and programs
- Re-Establishment of Alcohol Free Zones in the northern region of the Campbelltown Local Government Area, as well as the commencement of the process for establishment of Alcohol Free Zones within school zones.

Officer's Recommendation

That the information be noted.

Committee's Recommendation: (Oates/Hawker)

That the Officer's Recommendation be adopted.

CARRIED

Council Meeting 13 March 2012 (Chanthivong/Greiss)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 26

That the Officer's Recommendation be adopted.

ATTACHMENT 1

Compliance Quarterly Activity Summary Statistics

Activity	2011-2012 Quarter Result				YTD
	1	2	3	4	
Regulated Premises Inspections					
Food	307	266			573
Public Health	46	47			93
Wastewater Management Systems	43	56			99
Total	396	369			765
Notices/Orders Issued					
<i>Food Act 2003</i>	6	9			15
<i>Local Government Act 1993</i>	62	83			145
<i>Swimming Pool Act 1992</i>	22	14			36
<i>Protection of Environment Operations Act 1997</i>	12	18			30
<i>Environmental Planning and Assessment Act 1979</i>	54	44			98
<i>Companion Animals Act 1998</i>	3	6			9
Total	159	174			333
Customer Requests					
Abandoned Motor Vehicles	56	60			116
Animals (other)	26	20			46
Barking Dogs	103	103			206
Dog Attacks	24	11			35
Dog Straying	71	49			120
Food/Health (regulated)	29	32			61
Footpath Obstruction	4	10			14
Health (other)	73	67			140
Heavy Vehicle Parking	24	24			48
Illegal Construction/Development	64	78			142
Misuse of Council Park	11	4			15
Overgrown Land	28	67			95
Parking (General)	78	72			150
Pollution	56	51			107
Rubbish Dumping/Litter	54	65			119

Shopping Trolley	8	15			23
Signs	7	2			9
Swimming Pool Fencing	5	13			18
Trail Bikes	28	21			49
Tree Removal/Dangerous	11	4			15
Total	760	768			1528

Compliance Quarterly Activity Summary Statistics

Activity	2011-2012 Quarter Result				YTD
	1	2	3	4	
Applications					
Building Certificates	7	17			24
Approval to Operate Effluent Disposal System Section 68 (<i>Local Government Act 1993</i>)	20	40			60
Event Approvals Section 68 <i>Local Government Act 1993</i>	3	8			11
Total	30	65			95
Impounding					
Abandoned Vehicles	2	9			11
Shopping Trolleys	0	8			8
Total	2	17			19
Impounding Animals					
Dogs (Incoming)					
Impounded	410	431			841
Surrendered	194	171			365
Total	604	602			1206
Dogs (Outgoing)					
Released to Owner	196	195			391
Sold	82	92			174
Euthanaised - Surrendered by Owner	132	80			212
Euthanaised - Restricted Dog	10	10			20
Euthanaised - health/temperament	135	174			309
Euthanaised - Unable to re-home	36	13			49
Total	591	564			1155
Cats (Incoming)					

Activity	2011-2012 Quarter Result				YTD
	1	2	3	4	
Impounded	142	244			386
Surrendered	18	120			138
Total	160	364			524
Cats (Outgoing)					
Released to Owner	9	2			11
Sold	6	39			45
Euthanaised - Surrendered by Owner	13	64			77
Euthanaised - health/temperament	112	243			355
Euthanaised - Unable to re-home	16	16			32
Total	156	364			520
Penalty Notices					
Companion Animals	310	274			584
Environmental - includes litter and waste dumping	55	48			103
General - includes Public Health and Food Safety	18	33			51
Land Use	3	9			12
Parking (car parks)	995	530			1525
Parking (on street)	1015	770			1785
Total	2396	1664			4060
Compliance Programs					
Illegal Parking in School Zones					
Patrols	93	35			128
Warnings	11	0			11
Penalty Notices	103	78			181
Illegal Signs					
Complaints - Council property	7	0			7
Complaints - private property	0	0			0
Letters sent	0	0			0
Cautions issued	0	0			0
Fines issued	0	0			0
Removed (posters from poles)	231	74			305
Illegal Trail Bike Riding					
Joint Patrols	0	1			1

Activity	2011-2012 Quarter Result				YTD
	1	2	3	4	
Bikes Seized	0	0			0
Penalty Notices (Police)	0	0			0
Penalty Notices (Council)	0	24			24
Charges	0	6			6
Juvenile Cautions	0	0			0
Litter From Vehicles					
Patrols	1	1			2
Penalty Notices	7	6			13
Shopping Trolleys					
Patrols	1	3			4
Trolleys Tagged	28	87			115
Trolleys Impounded	0	8			8
Contractor Notified	0	0			0
Truck Parking					
Patrols	6	3			9
Penalty Notices	56	28			84

4.3 2012 *Swimming Pools Act 1992* - Review

Reporting Officer

Manager Compliance Services

Attachments

1. Division of Local Government - Circular No.12-03 Release of *Swimming Pools Act 1992* Review Discussion Paper
2. Division of Local Government - *Swimming Pools Act 1992* Review Discussion Paper January 2012
3. Submission to Division of Local Government – *Swimming Pools Act 1992* review under covering letter enclosing the required feedback form and additional comments

Purpose

The purpose of this report is to further update Council of the 2012 review of the *Swimming Pools Act 1992* (the Act) and seek endorsement of the submission made to the Division of Local Government in response to the Review Discussion Paper.

History

On 15 January 2012 the Department of Premier and Cabinet's Division of Local Government (DLG) issued a circular No. 12/03 to NSW Councils advising of a review of the Act provided as Attachment 1. The review sought the views of swimming pool owners, key water safety organisations, councils and the community about the level of support for proposed amendments to the Act (and relevant legislation) to increase the safety of very young children around privately owned swimming pools. A Review Discussion Paper (Attachment 2) accompanied the circular together with a feedback form returnable to the DLG by 24 February 2012.

On 20 January 2012 Councillors were advised of the review through the Planning and Environment Councillor's Weekly Memo and provided with a copy of the attached Review Discussion Paper. Councillors were further advised that, having regard to the short timeframe for submissions to be made, Council staff would prepare and lodge the submission which would be reported to Council for endorsement at its first meeting following the return date.

On 22 February 2012 the submission (in the form of the attached covering letter, required feedback form and additional comments as contained in Attachment 3) was made to the DLG.

Report

Legislation pertaining to swimming pools in NSW comprises the Act and the *Swimming Pools Regulation 2008* (the Regulation) which were introduced to require four-sided child resistant barriers complying with a prescribed standard to surround privately owned pools. The relevant standard called up under the Regulation is Australian Standard AS 1926-1986: Fences and Gates for Private Swimming Pools (AS1926-1986).

A review of the Act was undertaken in 2008 to identify appropriate amendments to enhance the safety of children under the age of five around private swimming pools. Council made a submission to this review which was endorsed by Council at its ordinary meeting on 8 July 2008.

The Amended Act, which commenced on 14 December 2009, provided a legislative framework for a high standard of four-sided, child-resistant pool barriers to be consistently applied to all newly constructed private pools in NSW together with appropriate additional mechanisms to encourage compliance with the legislation.

Since then the NSW Deputy State Coroner, the NSW Child Death Review Team and a range of pool safety advocacy organisations have consistently called for a further strengthening of the Act. As a consequence, a Cross Agency Working Group met in 2010 and 2011 to develop a coordinated response to these repeated calls for strengthened legislation, which included swimming pool safety initiatives being undertaken in other States.

The NSW Government is now proposing further amendments to strengthen the Act to address the safety concerns raised and is seeking comment from key stakeholders and the community by way of the 2012 Review Discussion Paper.

Key elements of the review of the Act include the:

1. Development and maintenance of an on-line, State-wide register of swimming pools, through the DLG, containing certain prescribed information about the pool including (but not limited to) address, type of pool, date of construction/installation as well as date of any inspection and result.
2. Requirement that each swimming pool owner register their swimming pool via the on-line, State-based register at no cost using a standard form approved under the Regulation. This includes swimming pools that form part of a tourist and visitor accommodation complex, and other multi-occupancy developments such as strata and company titles including town house and unit complexes. This would be a once-only registration process. Pool owners would be provided with the alternative of requesting that their local council complete the on-line registration process on their behalf using a standard form completed by the pool owner, at a proposed cost of no more than \$10.

3. Requirement that, as part of the registration process, pool owners undertake a 'self-certification' process of their pool by completing a safety checklist and a statement that, to the best of their knowledge, the barrier complies with the standard required by the Act at the time the pool was built. Pool owners would be provided with the option of requesting that their local council or a private certifier undertake the certification process on their behalf for a prescribed, maximum fee for local councils and at market cost for private certifiers.
4. Introduction of a new offence for failing to register a swimming pool attracting a proposed penalty notice amount of \$220, with a maximum penalty of \$2,200, with a transitional period of twelve months so that there is sufficient time for pool owners to be notified of the requirement to register the pool.
5. Requirement that councils, in consultation with their communities, develop and publish on their websites a swimming pool barrier inspection policy and program that is acceptable and affordable to their community.
6. Requirement for mandatory inspection by councils of pools associated with tourist and visitor accommodation and other multi-occupancy developments at a proposed period of no greater than three years for the same inspection fees outlined in 8 below.
7. Requirement that any property with a swimming pool must be inspected, and have a valid compliance certificate issued under the *Swimming Pools Regulation 2008*, before the property is leased or sold (parallel amendments to conveyancing, residential tenancy and land use planning legislation may also be required). The compliance certificate would be valid for a proposed period of two years, even if the property is sold or leased again in the interim.
8. Provision that councils may charge an inspection fee for each inspection undertaken to reflect the actual cost of the inspection to a proposed maximum of \$150 for the initial inspection and to a proposed maximum of \$100 for one additional re-inspection, should it be necessary as a result of the initial inspection. It is further proposed that no additional inspection fees could be charged for any subsequent re-inspections.
9. Requirement for councils to report annually on the number of swimming pool inspections undertaken and the level of compliance with the requirements of the Act.
10. Include a provision to clarify that, where an existing swimming pool that is exempt from the Act's fencing requirements is fenced voluntarily, such fencing must meet the Act's requirements for a compliant, four-sided barrier. This would effectively remove the exemption.
11. Clarify and make consistent with the *Local Government Act 1993* council powers of entry under the *Swimming Pools Act* to inspect private swimming pool barriers.

It is considered the proposed review of the Act is a further positive step toward achieving the principle object of the Act of enhancing the safety of children under the age of five around private swimming pools. Council's submission supports, in principle, the amendments to the Act proposed by the review and raises issues essentially pertaining to appropriate resourcing, suggested procedural and administrative improvements, and appropriate enforcement actions.

At this stage it is difficult to anticipate the additional resource needs of Council until such time as the Swimming Pool Barrier Inspection Policy (element 5) has been developed and the number of inspections required of premises sold or leased is known (element 6).

Currently there are no mandatory requirements to have pools inspected when premises are sold or leased and while a number of Building Certificate Applications issued by Council include swimming pools, there is no requirement to have a Building Certificate at the time of sale.

As a guide to costs, Council received 138 Building Certificates Applications during the last financial year compared to approximately 2,600 house sales (domain.com.au) during the same time, as 14% of house holds in NSW have pools (Australian Bureau of Statistics 2007), it is anticipated that an additional Building Surveyor would need to be employed to conduct inspections of those estimated 360 premises that had pools. The employment of an additional Building Surveyor, including all associated costs, would result in the expenditure of approximately \$96,500 per annum, which would be off set by approximately \$54,000 in inspection fees.

The requirement to inspect, on a three year basis, all pools associated with tourist, visitor accommodation and multi occupancy dwellings (element 7) could be undertaken within existing resources as there are only 14 of these types of pools currently registered with Council.

Therefore it is recommended that Council endorse the content of the submission made to the Division of Local Government dated 22 February 2012 shown at Attachment 3.

Officer's Recommendation

1. That Council endorse the submission made to the Division of Local Government dated 22 February 2012, shown as Attachment 3 of this report.
2. That Council write to the Division of Local Government advising of Council's resolution.

Committee's Recommendation: (Hawker/Thompson)

That the Officer's Recommendation be adopted.

Amendment: (Oates/Chanthivong)

1. That Council endorse the submission made to the Division of Local Government dated 22 February 2012, shown as Attachment 3 of this report.
2. That Council write to the Division of Local Government advising of Council's resolution.
3. That Council write to the State Government requesting that any additional costs incurred by Council in implementing the legislative changes at year end be met by the State Government.

CARRIED

Council Meeting 13 March 2012 (Chanthivong/Greiss)

That the Committee's Recommendation be adopted.

Council Resolution Minute Number 26

That the Committee's Recommendation be adopted.

The attachments to this report have been removed as they are over 6mb. Due to their size the downloading process would be significant.

If you require a hard copy of this attachment please contact Council's Planning and Environment Section on 02 4645 4614.

4.4 Establishment of Alcohol Free Zones around Schools, Amendment to an Existing Zone and the Creation of a New Alcohol Free Zone

Reporting Officer

Manager Compliance Services

Attachments

1. Maps of proposed Alcohol Free Zones around the following schools:
 - Broughton Anglican College – Menangle Park Alcohol Free Zone (distributed under separate cover)
 - Campbelltown East Public School – Campbelltown East 2 Alcohol Free Zone (distributed under separate cover)
 - John Therry High School – Rosemeadow 2 Alcohol Free Zone (distributed under separate cover)
 - Leumeah High School – Ruse Alcohol Free Zone (distributed under separate cover)
 - Ruse Public School – Ruse Alcohol Free Zone (distributed under separate cover)
 - St Helens Park Public School – St Helens Park 2 Alcohol Free Zone (distributed under separate cover)
 - St Patrick's College – Campbelltown East 2 Alcohol Free Zones (distributed under separate cover)
 - Woodland Road Public School – St Helens Park 1 - Alcohol Free Zone (distributed under separate cover)
2. Map of proposed amendment to the Campbelltown CBD-North Alcohol Free Zone (distributed under separate cover)
3. Map of proposed St Andrews Alcohol Free Zone (distributed under separate cover)

Purpose

To submit to Council for endorsement a proposal to: designate a number of School Zones as Alcohol Free Zones; amend an existing Alcohol Free Zone (Campbelltown CBD-North) and to establish a new Alcohol Free Zone at St Andrews.

History

Council at its meeting on 11 October 2011 considered a report on the: establishment of a number of School Zones as Alcohol Free Zones; amendment to an existing Alcohol Free Zone (Campbelltown CBD-North) and the establishment of a new Alcohol Free Zone at St Andrews and resolved:

1. That a notice be placed in a local paper inviting submissions from any person or group, regarding Council's intention to establish an Alcohol Free Zone over the streets, footpaths and car park areas detailed in Attachment 1 to this report, for the proposed Alcohol Free Zones of:
 - Campbelltown East 2 Alcohol Free Zone (expires 24 December 2013)
 - Menangle Park Alcohol Free Zone (expires 24 December 2013)
 - Rosemeadow 2 Alcohol Free Zone (expires 24 December 2013)
 - Ruse Alcohol Free Zone (expires 24 December 2013)
 - St Andrews Alcohol Free Zone (expires 24 December 2015)
 - St Helens Park 1 Alcohol Free Zone (expires 24 December 2013)
 - St Helens Park 2 Alcohol Free Zone (expires 24 December 2013).
2. That a notice be placed in the local paper inviting submissions from any persons or group, regarding Council's intention to amend an Alcohol Free Zone over the streets, car park area and footpaths detailed in Attachment 2 to this report, for the Alcohol Free Zone of Campbelltown CBD-North.
3. That all submissions received during the exhibition period be reported to Council.
4. That should no submissions be received during the exhibition period, advice be given that Council intends to establish or amend Alcohol Free Zones (AFZ) over the areas specified in Recommendations 1-2 above to:
 - (a) The Anti Discrimination Board
 - (b) The Officer in charge of the Police Station nearest to the zone
 - (c) The liquor licensees and secretaries of registered clubs whose premises border on or adjoin or are adjacent to the proposed or amended zone
 - (d) Any known group that might be affected by the creation or amendment of any affected AFZ.
5. That should no submissions be received, a further report be provided to Council on the amendment and/or re-establishment of the Alcohol Free Zones specified in Recommendations 1-2, at the completion of the period for comment by the organisations/groups listed in recommendation 4.

The consultation required by the above recommendations has now been completed and this report is provided to Council recommending the establishment of Alcohol Free Zones over the streets, footpaths and car park areas contained within the proposed Campbelltown East 2, Menangle Park, Rosemeadow 2, Ruse, St Andrews, St Helens Park 1 and St Helens Park 2 Alcohol Free Zones and the amendment of the Campbelltown CBD – North Alcohol Free Zone.

Report

In accordance with Council's previous resolutions, advertisements were placed in local newspapers on 1 and 2 November 2011 advising of Council's intention to establish/amend the above zones and seeking comments from the public. As no comments were received and in accordance with the Ministerial Guidelines and Council's previous resolution, Council wrote to the following organisations requesting written comment on the proposal:

- The Anti-Discrimination Board
- The Officer in Charge of the Campbelltown and Macquarie Fields Police Stations
- Liquor licensees and secretaries of registered clubs whose premises border on or adjoin or are adjacent to any of the affected zones
- Any known group that might be affected by the amendment or re-establishment of the Alcohol Free Zones.

Council received a written reply from the Anti-Discrimination Board on 9 December 2011 raising no concerns over Council's intention to establish/amend the above zones. A reply was also received on 13 December 2011 from Campbelltown Local Area Command requesting that the bus/taxi terminals at Campbelltown Railway Station be included as an Alcohol Free Zone, which was consistent with the proposed amendment to this zone.

Subsequent to this correspondence, the Police have contacted Council requesting that the zone be further amended by extending Camden Road from Hurley Street to its junction with the rail corridor, in order to deter street drinkers in this location.

Camden Road between Moore-Oxley Road and Hurley Street is currently within the Campbelltown CBD-North AFZ and the extension of the AFZ over this road to the rail corridor is considered appropriate.

Council is now in a position to declare the establishment of Alcohol Free Zones over the following streets and footpaths:

Campbelltown East 2 (St Patricks College and Campbelltown East Public School)

Valley Road
 Waminda Avenue (between Hobart Avenue and College Road)
 Broughton Street (between Hume Street and College Road)
 College Road
 St Johns Road (between College Road and Hoddle Avenue)

Menangle Park (Broughton Anglican College)

Menangle Road

Rosemeadow 2 (John Therry High School)

Demetrius Road (between Canidius Street and Anthony Drive)
 Anthony Drive (between Alexis Place and Othello Avenue)

Ruse (Leumeah High School and Ruse Public School)

Junction Road
 Wallaga Crescent
 Corunna Avenue
 Flinders Street
 Isaac Street
 Dawson Place
 Leichhardt Street (between Flinders Street and the cul-de-sac adjacent to Dawson Place)

St Helens Park 1 (Woodland Road Public School)

Woodland Road (between Quokka Place and Karrabul Road)
Karrabul Road (between Wintaroo Crescent and Rangers Road)
Woodlands Road Baseball Complex car park

St Helens Park 2 (St Helens Park Public School)

Kellerman Drive (between Anderson Street and Carbasse Crescent)
Crommelin Crescent (between Fiveash Street and Kellerman Drive)
Mary Brookes Park car park
Cameron Place
Benny Place

St Andrews

Ballantrae Drive (between Arisaig Place and St Andrews Road)
Stranraer Drive (between Ballantrae Drive and Aberfeldy Crescent)
Cupar Place
Deveron Place

Council is also in a position to declare the amendment of the Campbelltown CBD – North AFZ to include the following streets, carparks and footpath:

Campbelltown CBD - North

Allman Street (between Queen Street and Moore-Oxley Street)
Anzac Lane
Apey Lane
Bradbury Avenue (between Queen Street and Moore-Oxley Street)
Broughton Street (between Hurley Street and Howe Street)
Browne Street
Bolger Street
Camden Road (between Hurley Street and Moore-Oxley Street)
Cordeaux Road (between Queen Street and Moore-Oxley Street)
Coogan Lane
Dumaresq Street (between rail corridor and the Moore-Oxley Street)
Gilchrist Drive (between Kellicar Road and Parc Quell Drive)
Howe Street
Hurley Street (including bus/taxi terminal)
Kellicar Road
Lithgow Street (between Queen Street and Moore-Oxley Street)
Milgate Lane
Patrick Street
Queen Street (between Chamberlain Street and Camden Road)
Railway Street
Short Street
Unnamed lane 6.1w (Southern Side of Dumaresq Street)

The commencement date for the operation of the re-established zones must be specified at least seven days in advance, by publication in one or more newspapers circulating in the area. To satisfy this requirement, it is intended to advertise in the Macarthur Advertiser and Macarthur Chronicle in the week commencing 26 March 2012 thereby enabling the established zones to become effective from 5 April 2012.

These zones may be renewed in the future for terms of up to four years subject to justifying the need and compliance with guidelines accompanying the legislation.

The commencement and expiry dates and amended locations for all affected Alcohol Free Zone signs will be updated prior to their expiry. In addition a phone number of the appropriate Police Local Area Command will be added to the signs should members of the public require police assistance.

Officer's Recommendation

1. That Council establish Alcohol Free Zones over the streets, footpaths and carpark areas detailed in Attachment 1 to this report for the Alcohol Free Zones at:
 - Campbelltown East 2 Alcohol Free Zone (expires 24 December 2013)
 - Menangle Park Alcohol Free Zone (expires 24 December 2013)
 - Rosemeadow 2 Alcohol Free Zone (expires 24 December 2013)
 - Ruse Alcohol Free Zone (expires 24 December 2013)
 - St Andrews Alcohol Free Zone (expires 24 December 2015)
 - St Helens Park 1 Alcohol Free Zone (expires 24 December 2013)
 - St Helens Park 2 Alcohol Free Zone (expires 24 December 2013).
- 2.. That Council amend the Alcohol Free Zone over the streets, footpath and car park areas detailed in Attachment 2 to this report for the Alcohol Free Zone of Campbelltown CBD - North.
3. That the Alcohol Free Zones referred to in Recommendations 1 and 2 commence on 5 April 2012 and that an advertisement advising of Council's decision be placed in a local paper at least seven days in advance.
4. The that Alcohol Free Zones referred to in Recommendations 1 and 2 be sign posted in accordance with Council's standard Alcohol Free Zone sign template including a contact phone number of the appropriate Police Local Area Command.
5. That the Alcohol Free Zones referred to in Recommendations 1 and 2 be reviewed prior to the completion of their establishment period.

Committee's Recommendation: (Greiss/Thompson)

That the Officer's Recommendation be adopted.

CARRIED

Council Meeting 13 March 2012 (Chanthivong/Greiss)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 26

That the Officer's Recommendation be adopted.

5. GENERAL BUSINESS

5.1 Second Sydney Airport

Committee's Recommendation: (Oates/Thompson)

That Council maintain its opposition to the second Sydney Airport being located in the Sydney Basin.

CARRIED

Council Meeting 13 March 2012 (Chanthivong/Greiss)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 26

That the Officer's Recommendation be adopted.

5.2 High Rise Window Safety

Committee's Recommendation: (Oates/Thompson)

That as a result of the number of children that have tragically fallen out of windows in high rise buildings, Council revisit its Residential Development Control Plan to ensure that all appropriate Building Code of Australia Measures and Codes are incorporated into Councils documents.

CARRIED

Council Meeting 13 March 2012 (Chanthivong/Greiss)

That the Committee's Recommendation be adopted.

Amendment: (Kolkman/Thomas)

That as a result of the number of children that have tragically fallen out of windows in high rise buildings;

- a. That Council revisit, its Residential Development Control Plan to ensure that all appropriate Building Code of Australia Measures and Codes are incorporated into Councils documents.
- b. That a report be presented to Council on what protection the Building Code of Australia provides to prevent children falling out of windows in high rise buildings.

Council Resolution Minute Number 26

That the above amendment be adopted.

Confidentiality Motion: (Oates/Thompson)

That the Committee in accordance with Section 10 of the *Local Government Act 1993*, move to exclude the public from the meeting during discussions on the items in the Confidential Agenda, due to the confidential nature of the business and the Committee's opinion that the public proceedings of the Committee would be prejudicial to the public interest.

CARRIED

18. CONFIDENTIAL ITEMS

18.1 Confidential information relating to items on the Planning and Environment Agenda 6 March 2012

Reason for Confidentiality

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

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

18.2 2012 Heritage Medallion

Reason for Confidentiality

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

- (d) commercial information of a confidential nature that would if disclosed:
 - (iii) reveal a trade secret

There being no further business the meeting closed at 8.39pm.

A Chanthivong
CHAIRPERSON