

# Reports of the Planning and Environment Committee Meeting held at 7.30pm on Tuesday, 5 November 2013.

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## APOLOGIES

## ACKNOWLEDGEMENT OF LAND

## DECLARATIONS OF INTEREST

### Pecuniary Interests

### Non Pecuniary – Significant Interests

### Non Pecuniary – Less than Significant Interests

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**Minutes of the Planning and Environment Committee held on 5 November 2013**

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**Present**

His Worship the Mayor, Councillor C Mead  
Councillor G Greiss (Chairperson)  
Councillor R Kolkman  
Councillor D Lound  
Councillor T Rowell  
General Manager - Mr P Tosi  
Director Planning and Environment - Mr J Lawrence  
Manager Community Resources and Development - Mr B McCausland  
Manager Development Services - Mr J Baldwin  
Manager Sustainable City and Environment - Mr A Spooner  
Corporate Support Coordinator - Mr T Rouen  
Executive Assistant - Mrs K Peters

**Also in Attendance**

Following the conclusion of the City Works Committee meeting the following Councillors attended the remainder of the Planning and Environment Committee meeting:

Councillor Borg  
Councillor Brticevic  
Councillor Hawker

**Apology (Kolkman/Rowell)**

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

**CARRIED**

**Acknowledgement of Land**

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

**DECLARATIONS OF INTEREST**

There were no Declarations of Interest at this meeting.

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## **1. WASTE AND RECYCLING SERVICES**

**No reports this round**

## **2. SUSTAINABLE CITY AND ENVIRONMENT**

### **2.1 2013 Threatened Species Art Competition**

#### **Reporting Officer**

Manager Sustainable City and Environment

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#### **Attachments**

Nil

#### **Purpose**

To update Council on the outcomes of the 2013 Threatened Species Art Competition.

#### **History**

The Campbelltown Local Government Area (LGA) and broader Macarthur region is fortunate in that it is home to natural waterways and vast areas of native vegetation. These areas support a high level of biodiversity including a diverse range of threatened species. Within the Campbelltown LGA alone 64 threatened species are currently known to occur. To assist with the conservation of these species, it is important for Council to educate the community about these species and the threats to their survival. In this regard, a range of educational initiatives focused on threatened species and biodiversity in general have been implemented as part of Council's adopted Environmental Education Strategy. The Threatened Species Art Competition is one of these initiatives.

Council has held and managed the Threatened Species Art Competition annually with support from Camden and Wollondilly Councils during the month of September, since 2008 in celebration of Threatened Species Day and Biodiversity Month. The competition aims to educate children about local threatened species and threats to their survival. The competition is open to all children within the Macarthur region aged 5-12 years. Participants are required to research a threatened species from the Macarthur region and prepare a drawing, painting or collage relating to that threatened species.

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## Report

The 2013 Threatened Species Art Competition was launched on 8 August 2013 and concluded on 5 September 2013. The competition was promoted through a range of avenues including:

- the distribution of posters, flyers and threatened species fact sheets to Council's libraries
- the distribution of information packages to all primary schools within the Macarthur region
- the inclusion of information on each of the Macarthur Councils websites
- a media release in local newspapers.

A total of 332 entries were received. The entries featured a variety of local threatened species including the Powerful Owl, Eastern Quoll, Cumberland Plain Land Snail and the Spiked Rice Flower. All entries were displayed at the HJ Daley Library from 9 to 16 October 2013. Entries were then displayed at the Narellan Library and selected entries were displayed at the Wollondilly Administration Building, Picton.

The submitted entries were judged by staff from the Campbelltown Arts Centre in the following age categories:

- 5-6 years
- 7-9 years
- 10-12 years.

Environmentally themed educational prizes were awarded to first, second and third place winners in each age category. The school with the highest participation rate (Wilton Public School) received an environmental education prize package. The runner up school (Warragamba Public School) also received an environmental education prize package. The winning entries are being compiled into a 2014 calendar which will be distributed to all place winners and interested Macarthur residents. Details of all category winners are located on Council's website at: [www.campbelltown.nsw.gov.au/ThreatenedSpeciesArtCompetition](http://www.campbelltown.nsw.gov.au/ThreatenedSpeciesArtCompetition).

In accordance with the 2012 Threatened Species Art Competition Council report, Council staff explored opportunities to reduce the cost of this competition, seeking and successfully securing financial contributions from Camden and Wollondilly Councils. Both Councils contributed one third each of the prize pool expenditure plus in-kind support which equalled approximately \$500. The total cost to Council (excluding in kind/salary costs) was \$436.95

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Overall the Threatened Species Art Competition has been a successful annual community event since its launch in 2008. It challenges local children to research themes of relevance to local biodiversity, threatened species and the protection of the environment, while engaging them in a creative way. It is therefore recommended that Council continues to run this event on an annual basis.

**Officer's Recommendation**

That the information be noted.

**Committee's Recommendation: (Kolkman/Rowell)**

That the Officer's Recommendation be adopted.

**CARRIED**

**Council Meeting 12 November 2013 (Greiss/Kolkman)**

That the Officer's Recommendation be adopted.

**Council Resolution Minute Number 246**

That the Officer's Recommendation be adopted.

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## **2.2 Georges River Combined Councils Committee - Riverkeeper Program Report Card 2012-2013**

### **Reporting Officer**

Manager Sustainable City and Environment

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### **Attachments**

Riverkeeper Program Report Card 2012-2013 (distributed under separate cover - to view a copy of this attachment, contact Council's Corporate Support Coordinator on 4645 4405)

### **Purpose**

To provide Council with an update on the Georges River Combined Council's Committee (GRCCC) Riverkeeper Program Report Card 2012-2013.

### **History**

The Riverkeeper Program was established by the GRCCC and NSW Maritime in 1999 with the aim of improving the health and amenity of the Georges River. Activities undertaken under the Program include a range of works being rubbish removal, bushland regeneration, control and management of terrestrial and aquatic weeds and monitoring of the Georges River for illegal activities and river health. The Program also assists in raising community awareness and appreciation of the natural environment along the Georges River.

The GRCCC primarily partners with Corrective Services NSW using work teams comprised of individuals subject to Intensive Correction Orders, for assistance in delivering the Riverkeeper Program. The Program also operates with teams of volunteers sourced from organisations such as the National Parks Association, National Green Job Corps Program and other interested community groups.

The Riverkeeper Program is focused on undertaking on-ground restoration works for member councils along the River. The projects that are undertaken in each Local Government Area (LGA) are agreed upon in collaboration with member councils and are subject to compliance with Work Health and Safety procedures and access conditions for Corrective Services NSW.

The Riverkeeper Program has developed a catchment-level approach for the delivery of the works program. For this purpose, the River is divided into three sub-catchments:

- Upper Georges River Sub-catchment
  - Mid Georges River Sub-catchment
  - Lower Georges River Sub-catchment.
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## Report

In an effort to inform stakeholders about the Program and its outcomes, the GRCCC periodically produces a Riverkeeper Program Report Card. The Riverkeeper Program Report Card 2012-13 (see Attachment) was released on 2 October 2013 and demonstrates the cleanup and bush regeneration results of the Riverkeeper Program for the 2012-13 financial year. The Report Card also profiles a number of local river users, and their hobbies and initiatives.

### Rubbish Collection

The Upper Georges River catchment is characterised by numerous creeks and tributaries which carry large volumes of water during rain events and seasonal flows. These creeks and tributaries drain urban and industrial areas, transporting large amounts of rubbish into the River, which accumulates along the foreshore, degrading the natural environment and impacting on natural ecosystems.

Riverkeeper Program rubbish collection teams undertake large-scale removal of rubbish from the River's foreshores, creeks and tributaries. Member councils identify rubbish 'hotspots' on the River for inclusion in the Riverkeeper work plan.

Types of rubbish removed include:

- plastics (including plastic bags, drink bottles and packaging)
- building and construction materials
- green waste
- rubber tyres
- furniture and household items
- trolleys
- auto parts.

A large amount of time is spent by the Riverkeeper teams removing micro-rubbish. Micro-rubbish includes items such as: small pieces of polystyrene, plastic bits, bottle tops and cigarette butts which can be harmful to aquatic ecosystems and the animals that live within them.

The Program routinely undertakes rubbish removal from the following sites located within the Campbelltown LGA:

- Bow Bowing Creek, Airds Road, Leumeah
  - Bow Bowing Creek GPT, Minto
  - Kyngmount Reserve, Minto
  - Tree Gully Reserve, Blair Athol
  - Mount Erin Road, Blair Athol
  - Park Central, Campbelltown
  - St Helens Park GPT
  - Pembroke Park, Minto
  - Fisher's Ghost Creek, Bradbury
  - St Andrews Park, St Andrews
  - Rose Park, Minto
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- Mansfield Creek GPT, St Helens Park
- Lower Mansfield Creek, St Helens Park
- Cleopatra Reserve, Ambarvale.

Table 1 shows the quantity of rubbish removed through the Program during the reporting period across the two major sub-catchments within the Campbelltown LGA and the entire Georges River catchment and as well as the corresponding volunteer hours.

Table 1. Rubbish removal for the Campbelltown LGA and whole of Georges River - 2012-2013

Catchment	Rubbish removed (kg)	Volunteer hours
Upper Reach – Georges River	5518	1237
Bunbury Curran Creek	14,700	3077
Georges River (overall)	103,638	28,332

### Bush Regeneration

The bush regeneration component of the Program aims to increase the biodiversity and quality of remnant bushland and riparian vegetation along foreshores, creeks and tributaries, through the targeted removal of weeds, revegetation works and natural regeneration of native vegetation. Increasing species diversity and restoring natural levels of ground cover within riparian areas is important to maintain a healthy waterway. Dense, healthy riparian areas prevent erosion and filter stormwater runoff and therefore ultimately prevent pollutants entering the waterway.

Bush regeneration teams predominately target the removal of African Olive, African Boxthorn and Privet from high value ecological communities across the catchment, such as areas of remnant Cumberland Plain Woodland.

During the reporting period the Program conducted bush regeneration activities at two sites within the Campbelltown LGA, across an area of 4566m<sup>2</sup> using 413 volunteer hours. Over the whole Georges River catchment the Program conducted bush regeneration across 18,406m<sup>2</sup> using 1979 volunteer hours.

### Program Recognition

The results of the Riverkeeper Program have been recognised through their receipt of a number of awards in 2011 and 2012. The GRCCC was also a finalist in the 2013 Banksia Awards in the Water Category.

More recently, the GRCCC has been awarded \$1.78 million of funding for the Riverkeeper Program from the Australian Government to help restore high priority bushland and establish ecological connectivity across 150 hectares of the catchment. The 'Building Indigenous Knowledge and Skills to Restore Urban Waterways' project involves restoration work to improve biodiversity at key sites, selected by the member councils for their importance. Some of the works will be performed by an Aboriginal Bush Regeneration Team, who will work towards the attainment of qualifications in Conservation Land Management. Work is expected to commence in March 2014. The sites are primarily located in urban areas and represent a full range of high value and critical estuarine and riparian areas across the catchment.



### **Conclusion**

The Riverkeeper Program Report Card 2012-13 was released on 2 October 2013. The card provides a snapshot of the outcomes of activities undertaken by the Program during 2012-2013, including rubbish removal and bush regeneration. The Riverkeeper Program contributed a total of 4727 volunteer hours towards environmental protection and restoration works within the Campbelltown LGA for the 2012-2013 reporting year and removed a total of 20,218kg of rubbish.

### **Officer's Recommendation**

That the information be noted.

### **Committee's Recommendation: (Lound/Rowell)**

That the Officer's Recommendation be adopted.

### **CARRIED**

### **Council Meeting 12 November 2013 (Greiss/Kolkman)**

That the Officer's Recommendation be adopted.

### **Council Resolution Minute Number 246**

That the Officer's Recommendation be adopted.

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### **3. DEVELOPMENT SERVICES**

#### **3.1 Development Services Section Statistics - September 2013**

##### **Reporting Officer**

Manager Development Services

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##### **Attachments**

Development Services application statistics for September 2013 (contained within this report)

##### **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 September 2013 as they affect the Development Services section.

##### **Officer's Recommendation**

That the information be noted.

##### **Committee's Recommendation: (Kolkman/Lound)**

That the Officer's Recommendation be adopted.

##### **CARRIED**

##### **Council Meeting 12 November 2013 (Greiss/Kolkman)**

That the Officer's Recommendation be adopted.

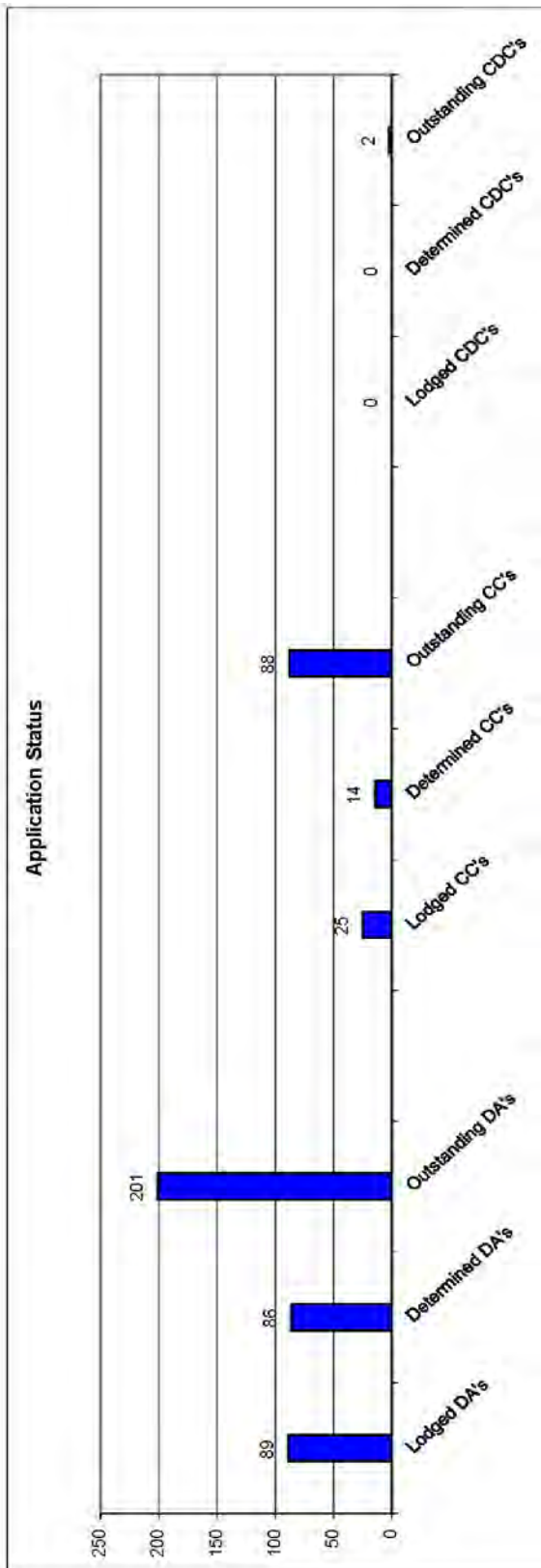
##### **Council Resolution Minute Number 246**

That the Officer's Recommendation be adopted.

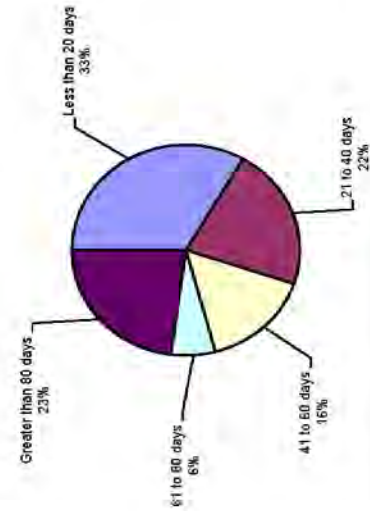
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# ATTACHMENT 1

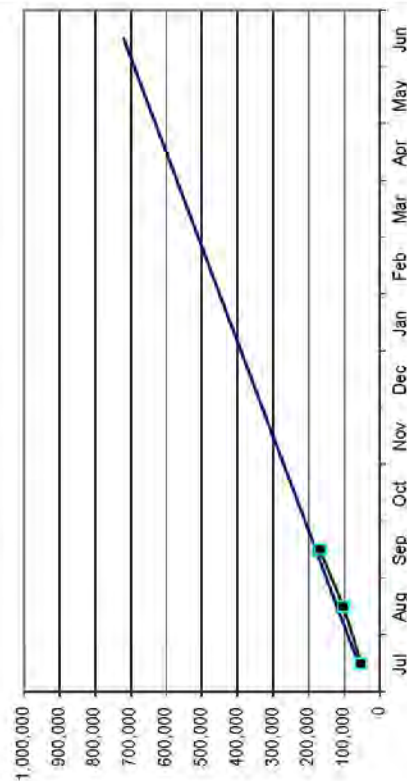
**DEVELOPMENT SERVICES SECTION  
 MONTH AT A GLANCE - September 2013**



**Development Application  
 Monthly Processing Times**



**Development Application Income**



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

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**3.2 Council's Monitoring and Reporting obligations of Variations to Development Standards allowed under State Environmental Planning Policy No.1 - Development Standards (SEPP 1)**

**Reporting Officer**

Manager Development Services

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**Attachments**

SEPP 1 variations approved for the period July – September 2013 (contained within this report)

**Purpose**

To advise Council of development applications approved for the period 1 July 2013 to 30 September 2013, that involved a variation of a development standard allowed under the relevant provisions of the State Environmental Planning Policy No. 1 – Development Standards (SEPP 1 applications).

**Report**

In accordance with the Department of Planning and Infrastructure's (DPI) requirement for all SEPP 1 applications to be reported to Council, the attachment to this report provides details of all SEPP 1 applications that were determined within the period stated above.

Further to the above, a copy of the attachment to this report was included in the quarterly report to the DPI and the information is also made available to the public under the SEPP 1 register on Council's website. It is noted that no SEPP 1 applications were determined for the reporting period.

**Officer's Recommendation**

That the information be noted.

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

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**Committee's Recommendation: (Lound/Kolkman)**

That the Officer's Recommendation be adopted.

**CARRIED**

**Council Meeting 12 November 2013 (Greiss/Kolkman)**

That the Officer's Recommendation be adopted.

**Council Resolution Minute Number 246**

That the Officer's Recommendation be adopted.

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

## ATTACHMENT 1

Council DA reference number	Lot number	DP number	Apartment/Unit number	Street number	Street name	Suburb/Town	Postcode	Category of development	Environmental planning instrument	Zoning of land	Development standard to be varied	Justification of variation	Extent of variation	Consenting authority	Date DA determined (dd/mm/yyyy)

3.3 Macquarie Fields Park, Fourth Avenue, Macquarie Fields - Removal Of An Existing Telecommunications Facility, Erection Of A New Telecommunications Facility, The Relocation Of Floodlights And The Relocation Of An Existing Associated Equipment Shelter

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**3.3 Macquarie Fields Park, Fourth Avenue, Macquarie Fields - Removal of an existing telecommunications facility, erection of a new telecommunications facility, the relocation of floodlights and the relocation of an existing associated equipment shelter**

**Reporting Officer**

Manager Development Services

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**Attachments**

1. Recommended conditions of consent (contained within this report)
2. Locality plan (contained within this report)
3. Site plans (contained within this report)
4. Elevation plan (contained within this report)
5. Photomontages (contained within this report)
6. Responses to the NSW Telecommunications Facilities Guideline including Broadband principles (contained within this report)

**Purpose**

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

<b>Property Description</b>	Lots 22 & 23, Section 31, DP 1391 – Macquarie Fields Park, Fourth Avenue, Macquarie Fields
<b>Application No</b>	1575/2013/DA-O
<b>Applicant</b>	Service Stream Mobile Communications
<b>Owner</b>	Campbelltown City Council
<b>Provisions</b>	Campbelltown 2025 Looking Forward State Environmental Planning Policy (Infrastructure) 2007 Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment Campbelltown (Urban Area) Local Environmental Plan 2002 Campbelltown (Sustainable City) Development Control Plan 2012 Campbelltown City Council Section 94A Development Contributions Plan
<b>Date Received</b>	25 July 2013

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### 3.3 Macquarie Fields Park, Fourth Avenue, Macquarie Fields - Removal Of An Existing Telecommunications Facility, Erection Of A New Telecommunications Facility, The Relocation Of Floodlights And The Relocation Of An Existing Associated Equipment Shelter

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## Report

Development Consent is sought for the removal of an existing telecommunications facility, consisting of a timber monopole accommodating three panel antennas (overall height approximately 18m), and the erection of a new telecommunications facility consisting of a 30m high monopole accommodating nine panel antennas (overall height of 34.22m) and the relocation of an existing associated equipment shelter at Macquarie Fields Park (the Park). As part of the works, it is also proposed to relocate the two existing floodlights from the redundant timber monopole to the new monopole and add one additional floodlight as part of the works.

The Park is a typical neighbourhood sporting complex, currently utilised for soccer and cricket purposes, with playing fields, practice facilities and an amenities building. The complex is located over 32 separate allotments and is bounded on all four sides by Road Reserve. The proposed development relates only to two of the allotments and is located centrally within the Macquarie Fields Park, adjacent to the existing amenities building.

The Park is located in a residential area that consists predominately of low density detached dwellings. Additionally there are a number of medium density townhouse type developments and two child care centres within proximity of the Park.

The monopole is located approximately 70m from the closest residential properties in Fourth Avenue (to the south), approximately 110m from the closest residential properties in Third Avenue (to the north), approximately 150m from the closest residential properties in Harold Street (to the east), approximately 215m from the closest residential properties adjacent to Brooks Street (to the west) and approximately 85m from the closest child care centre.

The application outlines that given the penetration of smartphone and tablet devices into the community, that networking demands are doubling every year and existing infrastructure is not sufficient to provide quality and consistent service. Accordingly, in order to satisfy the additional demands, it is proposed to replace the existing telecommunications facility, with a larger facility.

In accordance with the requirements of Section 9.5.1 (a) of the Campbelltown (Sustainable City) Development Control Plan 2012, it is required that the application (being a high impact telecommunications facility) be referred to Council for its determination.

## Campbelltown 2025 Looking Forward

'Campbelltown 2025 Looking Forward' is a vision 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.
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### 3.3 Macquarie Fields Park, Fourth Avenue, Macquarie Fields - Removal Of An Existing Telecommunications Facility, Erection Of A New Telecommunications Facility, The Relocation Of Floodlights And The Relocation Of An Existing Associated Equipment Shelter

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

The strategic directions relevant to this application are:

- growing the Regional City
- creating employment and entrepreneurial opportunities.

The proposed development is generally consistent with these directions.

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

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

The proposed development has been assessed giving regard to Campbelltown 2025 Looking Forward. It is considered that the Development Application is generally consistent with the Vision's desired outcomes when giving regard to the design and level of impact on adjoining development and the locality.

## 2. Planning Provisions

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

### 2.1 State Environmental Planning Policy (Infrastructure) 2007

Pursuant to sub-clause 115 (1) of State Environmental Planning Policy (Infrastructure) 2007, development for the purpose of telecommunications facilities, may be carried out with development consent on any land, except for certain telecommunications facilities which are permitted without consent. The proposed telecommunications facility is not permitted without consent.

Sub-clause 115 (3) of State Environmental Planning Policy (Infrastructure) 2007, requires consideration to be given to any guidelines concerning, site selection, design, construction or operating principles for telecommunications facilities, that are issued by the Director-General for the purposes of this clause.

The NSW Telecommunications Facilities Guideline including Broadband, have been issued by the Director-General. The Guideline requires that consideration be given to the following Principles:

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### 3.3 Macquarie Fields Park, Fourth Avenue, Macquarie Fields - Removal Of An Existing Telecommunications Facility, Erection Of A New Telecommunications Facility, The Relocation Of Floodlights And The Relocation Of An Existing Associated Equipment Shelter

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Principle 1: A telecommunications facility is to be designed and sited to minimise visual impact.

Principle 2: Telecommunications facilities should be co-located wherever practical.

Principle 3: Health standards for exposure to radio emissions will be met.

Principle 4: Minimise disturbance and risk, and maximise compliance.

The application was accompanied by a detailed response to each of the above Principles (attachment 5).

The applicant's response to Principle 1 outlined that the proposal involves the replacement of an existing facility, and that it has been designed and sited to respond to its surrounds, thereby minimising visual impact.

Whilst the proposed monopole is almost twice as high as the existing monopole facility, it is considered that due to its slender dimensions, and the surrounding tree cover within and at the perimeter of the Park, the proposed monopole is unlikely to have significantly adverse impact on the visual amenity of the surrounding neighbourhood. In order to further reduce the potential for adverse visual impact, a draft condition has been included at attachment 1 that requires the surface of the proposed monopole to be finished in a non-reflective and recessive colour / texture. Discussions with the proponent reveal that a grey concrete pole would be the most suitable colour/finish. Accordingly, it is considered that the proposal will be able to satisfy Principle 1.

The applicant's response to Principle 2 outlined that there are no viable co-location opportunities in the local area.

The application has been accompanied by a local network masterplan showing that there are no suitable locations for co-location. Although technically the proposal is not for co-location, the proposal involves the relocation of an existing facility and the provision of additional panel antennas on a new monopole located only a few metres from the location of the existing redundant telecommunications monopole. Accordingly, it is considered that the proposal has satisfied Principle 2.

The applicant's response to Principle 3 outlined that the proposal satisfies the relevant public exposure limits permitted by Australian Radiation Protection and Nuclear Safety Agency.

The application has been accompanied by a report detailing the maximum projected electromagnetic energy radiation (EMR) emission levels at 1.5m above ground level. In this regard, it is stated that the projected estimated EMR at the 1.5m height would only be in the order of 0.25% of the public exposure limits permitted by Australian Radiation Protection and Nuclear Safety Agency (ARPANSA). Based on this information it is considered that the proposal satisfies Principle 3.

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### 3.3 Macquarie Fields Park, Fourth Avenue, Macquarie Fields - Removal Of An Existing Telecommunications Facility, Erection Of A New Telecommunications Facility, The Relocation Of Floodlights And The Relocation Of An Existing Associated Equipment Shelter

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The applicant's response to Principle 4 outlined that the proposal is not within the Obstacle Limitation Surfaces (OLS) of any airport and that the facility is to be operated in accordance with the frequencies assigned to the operator, thereby minimising disturbance and risk associated with the facility.

The proposal has been reviewed against the OLS requirements, and subject to compliance with the draft conditions included at attachment 1, it is considered that the proposal facility is unlikely to cause a disturbance or risk to the operations of any airport or aircraft flying in the proximity. Accordingly, it is considered that the proposal satisfies Principle 4.

In light of the above, it is considered that the proposal satisfies the provisions of Clause 115 of State Environmental Planning Policy (Infrastructure) 2007.

## **2.2 Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment**

The proposal does not conflict with any of the relevant provisions of Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment, and is therefore considered acceptable in this regard.

## **2.3 Campbelltown (Urban Area) Local Environmental Plan 2002**

The subject site is zoned 6 (a) Local Open Space, under the provisions of Campbelltown (Urban Area) Local Environmental Plan 2002.

It is considered that the proposal is best defined as a 'communication facility', which means a building, structure, work or place used primarily for transmitting or receiving signals for the purposes of communication and includes radio masts and towers, but does not include a satellite dish.

While a 'communication facility' is prohibited in the 6 (a) Local Open Space zone, as previously outlined, pursuant to sub-clause 115 (1) of State Environmental Planning Policy (Infrastructure) 2007, development for the purposes of telecommunications facilities, may be carried out, by any person, with development consent on any land. In this regard, pursuant to Clause 8 of State Environmental Planning Policy (Infrastructure) 2007, if there is an inconsistency between this Policy and any other Environmental Planning Instrument, this Policy prevails to the extent of the inconsistency.

Furthermore, it is noted that the proposal is consistent with the following objective of the zone:

- (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,

Consequently the proposed development is permissible with development consent and council is able to grant approval to the application should it deem appropriate to do so.

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3.3 Macquarie Fields Park, Fourth Avenue, Macquarie Fields - Removal Of An Existing Telecommunications Facility, Erection Of A New Telecommunications Facility, The Relocation Of Floodlights And The Relocation Of An Existing Associated Equipment Shelter

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Sub-clause 54 (a) of Campbelltown (Urban Area) Local Environmental Plan 2002, requires that consideration be given to the need for the proposed development. The application details that the proposal seeks to provide high quality, consistent, long term service, to the large population and penetration of mobile devices in the community. It is considered that these are satisfactory reasons and that such is likely to contribute towards a reduction in the need for the proliferation of telecommunication facilities in the area.

Sub-clause 54 (b) of Campbelltown (Urban Area) Local Environmental Plan 2002, requires that consideration be given to the impact of the proposed development on the existing or likely future use of the land. The proposal involves the replacement of a single pole facility and the relocation of an existing equipment shelter. Furthermore, the infrastructure is to be sited as to not impact upon the existing or future likely use of the land.

Sub-clause 54 (c) of Campbelltown (Urban Area) Local Environmental Plan 2002, requires that consideration be given to the need to retain the land for its existing or likely future use. The proposal involves the replacement of a single pole facility and the relocation of an existing equipment shelter, and will not unduly compromise the use of the land for its existing or likely future use. The land is not considered to be required to be retained.

Consequently the proposed development satisfies the provisions of Clause 54 of Campbelltown (Urban Area) Local Environmental Plan 2002.

**2.4 Campbelltown (Sustainable City) Development Control Plan 2012**

The following compliance table details the assessment of the proposal in accordance with the relevant requirements of the Campbelltown (Sustainable City) Development Control Plan 2012.

Section	Control	Requirement	Proposed	Compliance
12.3 (a)	Telecommunication Facilities	A network masterplan shall be provided by the applicant showing the proposal in the context of all other similar infrastructure types in order to identify opportunities for co-location or sharing of facilities.	A network masterplan accompanied the application examining opportunities for co-location and the sharing of facilities.	Yes
12.3 (b)	Telecommunication	The applicant shall demonstrate that co-location opportunities have been adequately pursued where new standalone telecommunication facilities are proposed.	The proposal relates to the replacement of an existing standalone facility.	NA
12.3 (c)	Telecommunication	Transmitting roof top antennas and towers should preferably be located in industrial or	The proposed monopole (tower) facility is located in an Open Space	Yes

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3.3 Macquarie Fields Park, Fourth Avenue, Macquarie Fields - Removal Of An Existing Telecommunications Facility, Erection Of A New Telecommunications Facility, The Relocation Of Floodlights And The Relocation Of An Existing Associated Equipment Shelter

Section	Control	Requirement	Proposed	Compliance
		business zones, rather than residential zones or areas that include dwellings.	zone, which does not contain dwellings.	
12.3 (d)	Telecommunication Facilities	Telecommunication facilities are to be sited to avoid locations which are visually prominent in the landscape, particularly when viewed from the public domain.	The proposal involves the erection of a new monopole telecommunication facility, the removal of an existing monopole facility and the relocation of an existing equipment shelter.	Yes. The proposal is considered to result in a built form and scale that is not inconsistent with the scale of other infrastructure associated with existing sporting facilities (eg light towers, amenity buildings) that would exist on similar sites. Furthermore, a draft condition has been included at attachment 1 requiring the surface of the monopole to be of a non-reflective finish with a texture that recedes into the background and for the equipment building to be screened with appropriate landscaping.
12.3 (e)	Telecommunication Facilities	For new towers a photomontage of the proposal must be submitted to assist with the assessment of visual impact.	The application has been accompanied by a series of photomontages, depicting the visual context of the proposed monopole from various points of view from the surrounding area.	Yes
12.3 (f)	Telecommunication Facilities	The applicant must demonstrate that all reasonable measures to reduce the visual impact of the proposal have	The application demonstrates that there are no suitable locations for co-location. The	Yes. Furthermore, a draft condition has been included at attachment 1

3.3 Macquarie Fields Park, Fourth Avenue, Macquarie Fields - Removal Of An Existing Telecommunications Facility, Erection Of A New Telecommunications Facility, The Relocation Of Floodlights And The Relocation Of An Existing Associated Equipment Shelter

Section	Control	Requirement	Proposed	Compliance
		been examined.	proposed monopole is of a slim line design and to further reduce the pole's visual impact the proponent suggests that a grey colour provides for the least visual impact for a monopole.	requiring the surface of the monopole to be of a non-reflective finish with a texture that recedes into the background (eg sky blue/light grey colour) and for the equipment building to be screened with appropriate landscaping.
12.3 (g)	Telecommunication Facilities	No advertising signs shall be permitted	The proposal does not include any advertising signage.	Yes
12.4 (a)	Electromagnetic Radiation	The applicant in selecting a site for telecommunication facilities shall demonstrate to Council that a precautionary approach has been adopted with respect to minimising electromagnetic radiation exposures to sensitive land uses, such as residential areas, schools, child care centres, hospitals, aged care accommodation or areas regularly frequented by groups of children.	The application has been accompanied by a report detailing the maximum projected electromagnetic energy (EMR) levels expected at 1.5m above ground level, at any point is estimated to be no more than 0.25% of the public exposure limits permitted by Australian Radiation Protection and Nuclear Safety Agency (ARPANSA). Further to this, the maximum projected EMR levels expected between 0m and 3m above ground level, within either of the nearby child care centres is estimated to be 0.018% of the ARPANSA standard. Similarly, within any of the nearby residential premises it is estimated that the maximum projected EMR levels expected would be 0.029% of the public	Yes. Based on the technical studies provided, the proposal satisfies clause 12.4(a). Further to this, although the Park is regularly used for the purpose of training of various sporting types (eg up to six days per week) the individual teams or team members do not attend the site up to six days per week (ie. Not considered to use the site regularly for the purposes of this clause). It is expected that senior teams may train up to twice a week for approx. 1.5hrs per each training session (juniors generally train once per week for an hour). Weekend use is variable dependant on the playing field

3.3 Macquarie Fields Park, Fourth Avenue, Macquarie Fields - Removal Of An Existing Telecommunications Facility, Erection Of A New Telecommunications Facility, The Relocation Of Floodlights And The Relocation Of An Existing Associated Equipment Shelter

Section	Control	Requirement	Proposed	Compliance
			exposure limits permitted by ARPANSA.	roster for the season.
12.4 (b)	Electromagnetic Radiation	Where possible, electromagnetic emitting telecommunication facilities, including mobile base stations, shall be located in either, industrial areas, rural areas or low-use open space.	The facility is located in an Open Space zone, which does not contain dwellings.	Yes
12.4 (c)	Electromagnetic Radiation	Where telecommunication facilities are proposed within 300m of a sensitive land use, the applicant shall demonstrate that no viable alternative sites are available.	A local network masterplan accompanied the application examining opportunities for co-location. Based on this the applicant argues that to provide the required telecommunication service upgrades for the Macquarie Fields community, co-locating on other nearby sites is not a viable proposition as co-locating in those areas would not provide any real benefit to the people of Macquarie Fields in terms of speed of data transfer and mobile phone reception throughout the wider area. Further to this, the maximum projected EMR levels expected between 0m and 3m above ground level, within either of the nearby child care centres (100m away) is estimated to be 0.018% of the ARPANSA standard. Similarly, within any of the nearby residential premises (70m away) it is	Yes. Given the strategic location of the facility with respect to other existing facilities in the locality, the benefits in terms of providing higher grade servicing to the local community, and that the proposal is for the upgrade of an existing facility (ie this site is already carrying a telco facility. Further to this, given the expected EMR levels are 0.25% (at a height of 1.5m high measured at the source) of the allowable energy limits set by ARPANSA, this requirement is considered to have been satisfactorily addressed.

3.3 Macquarie Fields Park, Fourth Avenue, Macquarie Fields - Removal Of An Existing Telecommunications Facility, Erection Of A New Telecommunications Facility, The Relocation Of Floodlights And The Relocation Of An Existing Associated Equipment Shelter

Section	Control	Requirement	Proposed	Compliance
			estimated that the maximum projected EMR levels expected would be 0.029% of the public exposure limits permitted by ARPANSA.	
12.4 (d)	Electromagnetic Radiation	For all electromagnetic emitting telecommunication facilities, documentary evidence is required from a suitably qualified person which analyses the cumulative effect of the proposal and demonstrates compliance with the relevant Australian exposure standard.	A report estimating the cumulative radiofrequency electromagnetic energy levels accompanied the application, demonstrating compliance with the relevant standards.	Yes
12.4 (e)	Electromagnetic Radiation	Development applications for telecommunication facilities shall include measures to restrict public access. Approaches to the facility must contain appropriate signs warning of electromagnetic and provide contact details for the site owner and / or site manager.	No details have been provided of warning signs.	No (see discussion below)
12.5 (a)	Landscaping	For standalone telecommunication facilities, a landscape plan must be submitted to Council that provides plantings of a suitable scale to reduce the visual impact of the proposal, and where possible screen the facility from public view.	The proposal does not include any landscaping.	No (see discussion below)
12.6 (a)	Heritage	No telecommunication facilities shall be permitted where the heritage significance of a heritage item may be adversely impacted.	The site does not contain nor is it located near any heritage items.	Yes
12.6 (b)	Heritage	Where a telecommunication	The site does not contain nor is it	Yes



### 3.3 Macquarie Fields Park, Fourth Avenue, Macquarie Fields - Removal Of An Existing Telecommunications Facility, Erection Of A New Telecommunications Facility, The Relocation Of Floodlights And The Relocation Of An Existing Associated Equipment Shelter

Section	Control	Requirement	Proposed	Compliance
		facility is proposed on a site occupied by or in the vicinity of a listed heritage item, a Heritage Impact Statement shall be prepared and submitted to Council.	located near any heritage items.	

#### Warning Signs for Electromagnetic Radiation

As identified above, the proposal does not satisfy the requirements of Section 12.4 (e) of the Campbelltown (Sustainable City) Development Control Plan 2012, as no details have been provided of warning signs. Accordingly, a condition has been included within the recommendation requiring the provision of warning signs.

However, it is noted that the expected level of electromagnetic radiation emitted from the proposed facility is very low being estimated to be 0.25% of the public exposure limits permitted by Australian Radiation Protection and Nuclear Safety Agency.

#### Landscaping

As identified above, the proposal does not satisfy the requirements of Section 12.5 (a) of the Campbelltown (Sustainable City) Development Control Plan 2012, as no landscaping is proposed. It is understandably difficult to fully screen by way of landscaping such a tall and slender facility. However, given the mature height of the native (evergreen) treed vegetation existing close by and along the perimeter of the Park (in addition to the application of a suitably recessive finish to the surface of the monopole), the visual impact of the monopole on the wider neighbourhood is expected to be low. Notwithstanding this, a draft condition has been included at attachment 1 that requires the landscaped screening of the relocated equipment shelter to Council's satisfaction.

Consequently, it is considered that the proposal generally satisfies the relevant requirements of the Campbelltown (Sustainable City) Development Control Plan 2012.

#### 2.5 Campbelltown City Council Section 94A Development Contributions Plan

Development contributions are not applicable pursuant to the provisions of the Campbelltown City Council Section 94A Development Contributions Plan and accordingly a condition has not been included within the recommendation.

### 3. Planning Assessment

The proposal is not expected to have significantly adverse impact on the operation, use, surrounding environment and amenity, of Macquarie Fields Park or the surrounding locality.

The application has been accompanied by a report detailing the estimated cumulative radiofrequency electromagnetic energy levels generated by the facility and a detailed response to provisions of the Communications Alliance Ltd Industry Code, which both address potential health related impacts and concerns.

### 3.3 Macquarie Fields Park, Fourth Avenue, Macquarie Fields - Removal Of An Existing Telecommunications Facility, Erection Of A New Telecommunications Facility, The Relocation Of Floodlights And The Relocation Of An Existing Associated Equipment Shelter

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The report provides calculated estimations on the expected cumulative radiofrequency electromagnetic energy levels generated by the proposal, and concludes that the maximum electromagnetic energy levels at 1.5m above ground level is estimated to be only 0.25% of the public exposure limits permitted by Australian Radiation Protection and Nuclear Safety Agency.

In relation to the relocation of the existing floodlighting and the provision of one additional floodlight, it is noted that the relocated floodlighting will be positioned so as to provide lighting for the same area of which it currently provides lighting for. As such, there is expected to be no perceivable change in impact on neighbouring residents due to light spill.

Having regard to the provision of and location of the new floodlight, this additional light has been requested by Council's property and healthy lifestyles staff during negotiations with Telstra and prior to the lodging of the application. The proposed single floodlight is to be positioned so as to provide lighting to the eastern side of the Park over existing playing fields that are currently unlit. A general assessment of the site, the area to be lit and the surrounding neighbourhood has been undertaken and as a result, the proposed single light is not expected to cause any adverse impact on nearby residential areas (closest receiver approx. 150m to the east across Harold Street) by way of overspill lighting.

Notwithstanding this, a draft condition has been included at attachment 1 requiring compliance with the relevant Australian Standard, for light spillage.

#### **4. Public Participation**

The application was publicly notified and exhibited by Council, in accordance with the requirements of Section 9.4.2.1 (a) of the Campbelltown (Sustainable City) Development Control Plan 2012, from 8 October 2013 until 23 October 2013. No submissions were received.

Additionally, it is noted that as required under the relevant Telecommunications Act, the proponent carried out its own substantial public consultation process (both public exhibition and local notification) which directly involved both residents and other habitants in proximity of the Park (including child care centres and the like) as well as users of the Park which included the Scouts, Ingleburn RSL and others. This consultation was undertaken prior to the lodgement of the subject application with the proponent advising that no submissions were received as a result of the consultation process.

#### **5. Conclusion**

It is considered that the proposal generally complies with the relevant planning provisions and is unlikely to result in a significantly adverse impact on the users of the site or occupants in the surrounding area.

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### 3.3 Macquarie Fields Park, Fourth Avenue, Macquarie Fields - Removal Of An Existing Telecommunications Facility, Erection Of A New Telecommunications Facility, The Relocation Of Floodlights And The Relocation Of An Existing Associated Equipment Shelter

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The proposed monopole replacement and associated upgrade of the existing telecommunications facility will provide improved services in the locality and is likely to reduce the need for the proliferation of telecommunication facilities in the area in the future. Furthermore, and with respect to the matter of generation of electromagnetic energy from the facility (based on the technical reports provided by the applicant), the proposed facility is expected to generate energy levels of only up to 0.25% of the allowable standard (measured 1.5m high at the source) and in the order of 0.029% and 0.018% at the nearest residential and child care receivers, respectively. These levels are well below the allowable public exposure limits permitted by the Australian Radiation Protection and Nuclear Safety Agency.

In addition to the above, the provision of one additional floodlight to light the eastern end of the Park, is not expected to cause any adverse impact on the amenity of the surrounding residential premises given the large distance (150m) between the nearest home and the direction of the floodlight, nor is it expected to have an adverse impact on local vehicular traffic.

Having regard to the matters for consideration under Section 79C of the *Environmental Planning and Assessment Act 1979* and the matters discussed within this report, it is considered that the development application is worthy of approval.

#### **Officer's Recommendation**

That Development Application No. 1575/2013/DA-O, for the removal of an existing telecommunications facility and the erection of a new telecommunications facility (with nine panel antennas), the relocation of two existing floodlights and the provision of one additional floodlight, the relocation of an existing associated equipment shelter, at Macquarie Fields Park, Fourth Avenue, Macquarie Fields, be approved, subject to the attached draft conditions.

#### **Committee's Recommendation: (Kolkman/Lound)**

That the Officer's Recommendation be adopted.

#### **CARRIED**

Voting for the Committee's Recommendation were Councillors: Greiss, Kolkman, Lound, Mead and Rowell.

Voting against the Committee's Recommendation: nil.

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3.3 Macquarie Fields Park, Fourth Avenue, Macquarie Fields - Removal Of An Existing Telecommunications Facility, Erection Of A New Telecommunications Facility, The Relocation Of Floodlights And The Relocation Of An Existing Associated Equipment Shelter

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### **Council Meeting 12 November 2013 (Greiss/Kolkman)**

That the Officer's Recommendation be adopted.

### **Council Resolution Minute Number 247**

That the Officer's Recommendation be adopted.

Voting for the Council Resolution were Councillors: Borg, Brticevic, Dobson, Glynn, Greiss, Hawker, Kolkman, Lake, Lound, Matheson, Mead, Oates, Rowell and Thompson.

Voting against the Council Resolution: Nil

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## **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 be carried out in accordance with the approved plans, and all associated documentation supporting this consent, except as modified in red by Council and / or any conditions within.

Sheet No. (Drawing No. N27739)	Date Received by Council
G1 (Issue: 1)	25 July 2013
G2 (Issue: 1)	25 July 2013
S3-1 (Issue: 6)	26 September 2013
S1 (Issue: 6)	26 September 2013

#### **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. 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 days prior to the commencement of any works

#### **4. External Finishes**

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

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### 3.3 Macquarie Fields Park, Fourth Avenue, Macquarie Fields - Removal Of An Existing Telecommunications Facility, Erection Of A New Telecommunications Facility, The Relocation Of Floodlights And The Relocation Of An Existing Associated Equipment Shelter

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The surface of the monopole is to be finished with a non-reflective surface and is to be designed so as to recede (not be dominant) into the surrounding landscape. The applicant is to provide the Council with a proposed colour (eg sky blue/light grey) and surface finish chart, and obtain its approval prior to the erection of the monopole.

#### **5. Graffiti Removal**

- a. In accordance with the environmental maintenance objectives of 'Crime Prevention Through Environmental Design', the owner/lessee of the building shall be responsible for the removal of any graffiti which appears on the buildings, fences, signs and other surfaces of the property within 48 hours of its application.
- b. The surfaces of the monopole and equipment building are to be coated with an anti-graffiti coating to a minimum height of 3m above the surrounding ground level.

#### **6. Signage**

Signage is to be appropriately erected at the base of the monopole and displayed at all times, warning the public to the electromagnetic radiation hazard and providing contact details of the site manager.

#### **6. Floodlights**

- a. The lighting shall be operated at all times in accordance with the provisions of Australian Standard 4282 – Control of the obtrusive effects of outdoor lighting (as amended).
- b. Any lighting on the site shall not cause nuisance to residences in the area or to motorists on nearby roads, and to ensure no adverse impact on the amenity of the surrounding area by light overspill.
- c. The lights are to be turned off at all times that the associated playing field is not in use.

### **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.

#### **7. Landscaping**

Prior to Council or an accredited certifier issuing a Construction Certificate, a landscape plan including landscaping around the equipment shelter, is to be approved by Council's Manager Development Services.

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3.3 Macquarie Fields Park, Fourth Avenue, Macquarie Fields - Removal Of An Existing Telecommunications Facility, Erection Of A New Telecommunications Facility, The Relocation Of Floodlights And The Relocation Of An Existing Associated Equipment Shelter

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## **8. Utility Servicing Provisions**

Prior to Council or an accredited certifier issuing a construction certificate, the applicant shall obtain a letter from the relevant electricity authority stating that satisfactory arrangements have been made to service the proposed development.

## **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.

## **10. Airspace**

The Principal Certifying Authority must, prior to the release of the Construction Certificate, be given a report:

- a. showing compliance with any relevant site and height requirements specified by the Civil Aviation Regulations 1988 and the Airports (Protection of Airspace) Regulations 1996 of the Commonwealth, and
- b. showing that it does not penetrate any obstacle limitation surface shown on any relevant Obstacle Limitation Surface Plan that has been prepared by the operator of an aerodrome or airport operating within 30km of the proposed development and reported to the Civil Aviation Safety Authority Australia.

**Note:** See the Advisory Circular 139-08(0) entitled Reporting of Tall Structures issued by the Civil Aviation Safety Authority Australia in 2005 concerning these conditions.

## **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.

## **11. 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.

## **12. 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;
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### 3.3 Macquarie Fields Park, Fourth Avenue, Macquarie Fields - Removal Of An Existing Telecommunications Facility, Erection Of A New Telecommunications Facility, The Relocation Of Floodlights And The Relocation Of An Existing Associated Equipment Shelter

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- 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.

#### **13. 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.

#### **14. 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.

#### **15. Vehicular Access during Construction**

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

#### **16. Public Property**

Prior to the commencement of any works on site, the applicant shall advise Council of any damage to property which is controlled by Council which adjoins the site, including kerbs, gutters, footpaths, and the like. Failure to identify existing damage may result in all damage detected after completion of the development being repaired at the applicant's expense.

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## 17. Demolition Works

Demolition works shall be carried out in accordance with the following:

- a. Prior to the commencement of any works on the land, a detailed demolition work plan designed in accordance with Clause 1.7.3 of Australian Standard AS 2601-2001 – The Demolition of Structures, prepared by a suitably qualified person with suitable expertise or experience, shall be submitted to and approved by Council and shall include the identification of any hazardous materials, method of demolition, precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials.
- b. Prior to commencement of any works on the land, the demolition Contractor(s) licence details must be provided to Council.
- c. The handling or removal of any asbestos product from the building/site must be carried out by a NSW Work Cover licensed contractor irrespective of the size or nature of the works. Under no circumstances shall any asbestos on site be handled or removed by a non-licensed person. The licensed contractor shall carry out all works in accordance with NSW Work Cover requirements.
- d. An appropriate fence preventing public access to the site shall be erected for the duration of demolition works
- e. Immediately prior to the commencement of the demolition or handling of any building or structure that contains asbestos, the applicant shall request that the principal certifying authority attend the site to ensure that all appropriate safety measures are in place. The applicant shall also notify the occupants of the adjoining premises and WorkCover NSW prior to the commencement of any works.

## 18. 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.

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3.3 Macquarie Fields Park, Fourth Avenue, Macquarie Fields - Removal Of An Existing Telecommunications Facility, Erection Of A New Telecommunications Facility, The Relocation Of Floodlights And The Relocation Of An Existing Associated Equipment Shelter

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## 19. Sydney Water

Prior to the commencement of any works on the land, the approved plans must be submitted to a Sydney Water Quick Check agent to determine whether the development will affect any Sydney Water wastewater and water mains, stormwater drains and/or easements, and if any requirements need to be met. Plans will be appropriately stamped.

Please refer to the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) for:

- Quick Check agents details - see Building and Developing then Quick Check and
- Guidelines for Building Over/Adjacent to Sydney Water Assets - see Building and Developing then Building and Renovating

or telephone 13 20 92.

## 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.

## 20. Construction Work Hours

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

Monday to Friday	7.00am to 3.00pm
Saturday	No Work
Sunday and public holidays	No Work.

## 21. 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.

## 22. Work Zones

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

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### 3.3 Macquarie Fields Park, Fourth Avenue, Macquarie Fields - Removal Of An Existing Telecommunications Facility, Erection Of A New Telecommunications Facility, The Relocation Of Floodlights And The Relocation Of An Existing Associated Equipment Shelter

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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.

#### **23. 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.

#### **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".

#### **24. Completion of Works**

Prior to the Principal Certifying Authority issuing an Occupation Certificate, all works, are to be completed to the satisfaction of the Principal Certifying Authority.

#### **25. Council Fees and Charges**

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

#### **ADVISORY NOTES**

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

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**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 three 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 three metres or has a trunk diameter more than 150mm measured one metre above ground level, and excludes any tree declared under the *Noxious Weeds Act* (NSW).

**Advice 3. 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 4. 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:

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[www.environment.nsw.gov.au](http://www.environment.nsw.gov.au)  
[www.nsw.gov.au/fibro](http://www.nsw.gov.au/fibro)  
[www.adfa.org.au](http://www.adfa.org.au)  
[www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au)

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

**Advice 5. Dial before you Dig**

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial before you dig at [www.1100.com.au](http://www.1100.com.au) or telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before you dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities.

**Advice 6. Telecommunications Act 1997 (Commonwealth)**

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any persons interfering with a facility or installation owned by Telstra is committing an offence under the *Criminal Code Act 1995* (Cth) and is liable for prosecution.

Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on phone number 1800 810 443.

**END OF CONDITIONS**

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3.3 Macquarie Fields Park, Fourth Avenue, Macquarie Fields - Removal Of An Existing Telecommunications Facility, Erection Of A New Telecommunications Facility, The Relocation Of Floodlights And The Relocation Of An Existing Associated Equipment Shelter

**ATTACHMENT 2**



**LOCALITY PLAN**



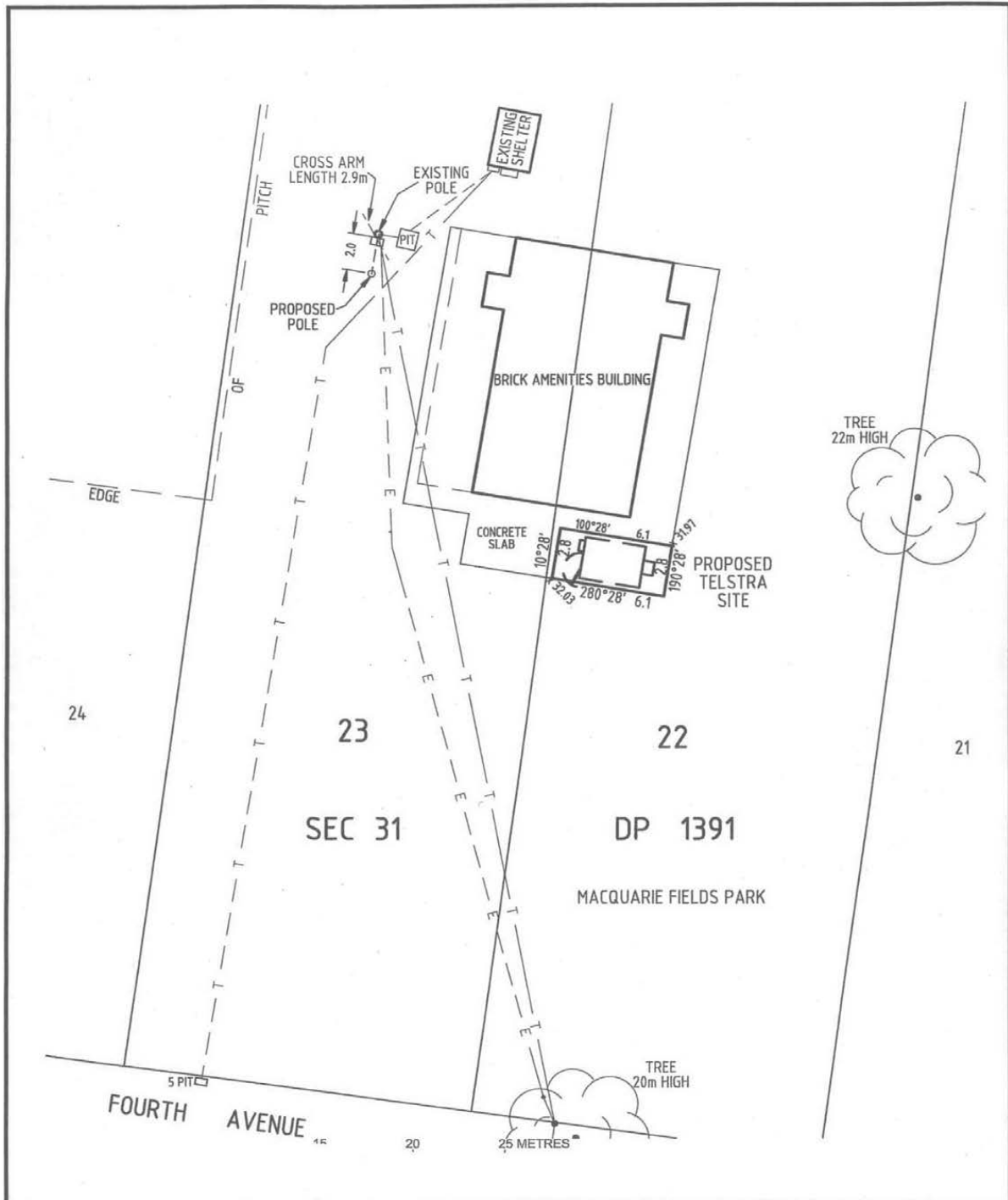
**SUBJECT:**

TELECOMMUNICATIONS FACILITY.

LOTS 22 & 23 SEC 31 DP 1391 "MACQUARIE FIELDS PARK" FOURTH AVENUE MACQUARIE FIELDS.

3.3 Macquarie Fields Park, Fourth Avenue, Macquarie Fields - Removal Of An Existing Telecommunications Facility, Erection Of A New Telecommunications Facility, The Relocation Of Floodlights And The Relocation Of An Existing Associated Equipment Shelter

**ATTACHMENT 3**



**SITE PLAN**

**SUBJECT:**

TELECOMMUNICATIONS FACILITY.

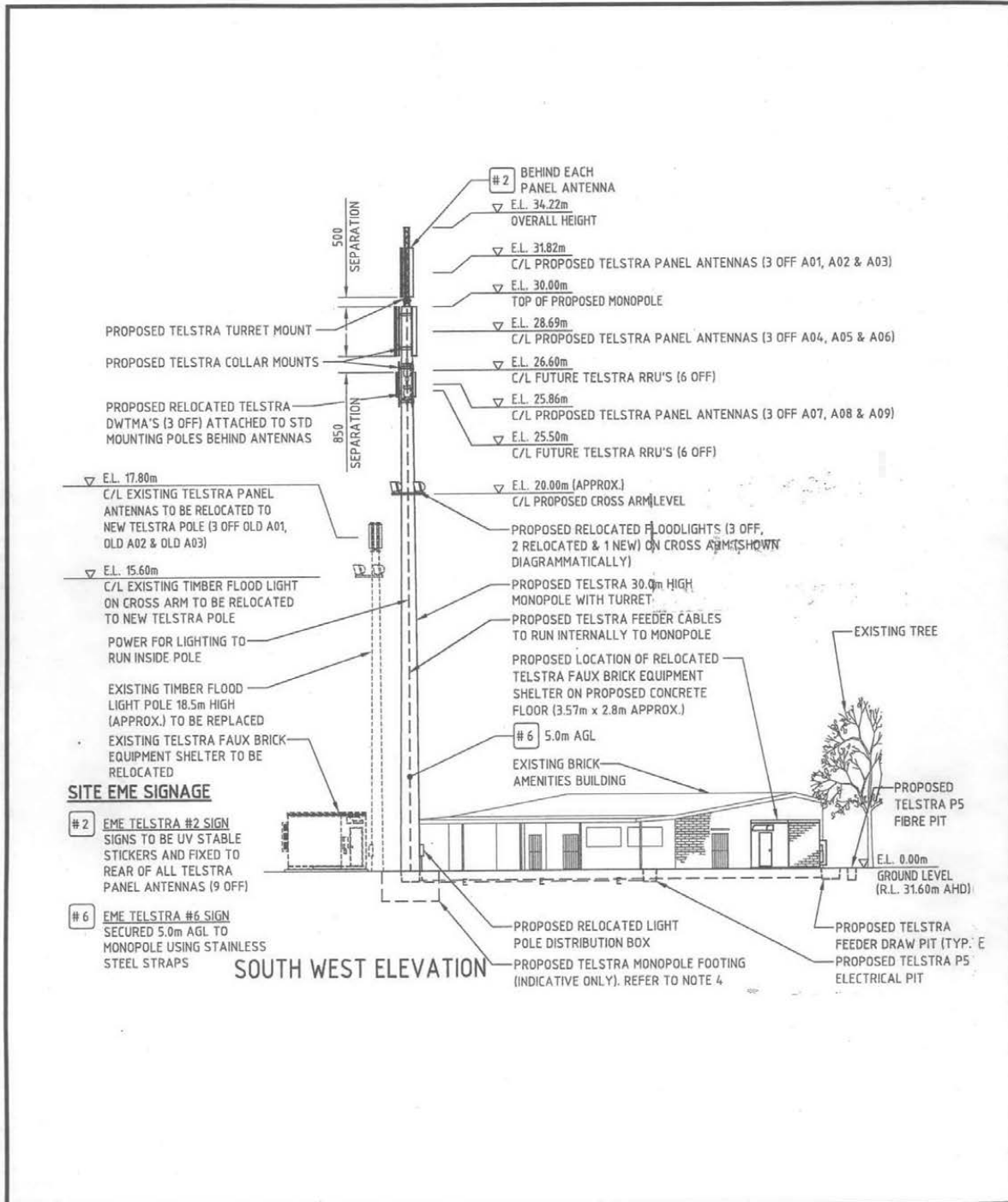
LOTS 22 & 23 SEC 31 DP 1391 "MACQUARIE FIELDS PARK" FOURTH AVENUE MACQUARIE FIELDS.





3.3 Macquarie Fields Park, Fourth Avenue, Macquarie Fields - Removal Of An Existing Telecommunications Facility, Erection Of A New Telecommunications Facility, The Relocation Of Floodlights And The Relocation Of An Existing Associated Equipment Shelter

**ATTACHMENT 4**



**ELEVATIONS**

**SUBJECT:**

TELECOMMUNICATIONS FACILITY.

LOTS 22 & 23 SEC 31 DP 1391 "MACQUARIE FIELDS PARK" FOURTH AVENUE MACQUARIE FIELDS.

3.3 Macquarie Fields Park, Fourth Avenue, Macquarie Fields - Removal Of An Existing Telecommunications Facility, Erection Of A New Telecommunications Facility, The Relocation Of Floodlights And The Relocation Of An Existing Associated Equipment Shelter

# ATTACHMENT 5

## Photomontages



**Before**



**After**

PROPOSED TELSTRA FACILITY

This is a representation only. The final installation may vary slightly in size, shape and/or colour.

		 <p style="font-size: x-small;">403 Morton St Woolloomooloo P +61 2 9450 2019 F +61 2 9450 1973 www.pixelwise.com.au</p>	 <p style="font-size: x-small;">Level 1, 29 Christie Street, St Leonards, NSW 2056 T 02 9476 6669   F 02 9476 9600   www.servicestream.com.au</p>	<p style="font-size: x-small;">Copyright The information on this drawing is subject to copyright and is not to be copied in whole or in part without the written approval of Pixelwise Pty Ltd.</p>	<p style="font-size: x-small;">Site Address <b>Lot 1, DP1391 Fourth Ave Macquarie Fields NSW 2564</b></p>	<p style="font-size: x-small;">BTS Site Name <b>Macquarie Fields</b></p> <p style="font-size: x-small;">Site Number: <b>NZ7739</b></p> <p style="font-size: x-small;">Drawing No.: <b>M01</b></p>	<p style="font-size: x-small;">Photographer: <b>Telstra</b></p> <p style="font-size: x-small;">Checker: <b>REV</b></p> <p style="font-size: x-small;">Date: <b>03.10.11</b></p> <p style="font-size: x-small;">Approved <b>B</b></p>
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Rev.	Date	Created	Revision Description
B	15.03.13	ZV	Flood lights amended
A	03.10.11	ZV	Preliminary

3.3 Macquarie Fields Park, Fourth Avenue, Macquarie Fields - Removal Of An Existing Telecommunications Facility, Erection Of A New Telecommunications Facility, The Relocation Of Floodlights And The Relocation Of An Existing Associated Equipment Shelter



PROPOSED TELSTRA FACILITY



**Before**

**After**

This is a representation only. The final installation may vary slightly in size, shape and/or colour.

	 <p>403 Morton St Wollstonecraft NSW 2055 P +61 2 9550 1013 F +61 2 9550 1013 www.pixelwise.com.au</p>	 <p>Level 1, 29 Christie Street, 28 Leonards NSW 2055 T 02 8478 9559   F 02 8478 9500   www.servicestream.com.au</p>	<p>Copyright The information on this drawing is the property of ServiceStream Pty Ltd and is not to be copied in whole or in part without the written approval of PixelWise Pty Ltd.</p>		
Rev	Date	Created	Revision Description		
B	15.03.13	ZV	Flood lights amended		
A	03.10.11	ZV	Preliminary		

BTS Site Name	Macquarie Fields	Site Address	Lot 1, DP1391 Fourth Ave Macquarie Fields NSW 2564	Approved	
Site Numbers	N27739	Photographer		Date	03.10.11
Drawing No.	M02	Checker		REV.	B



3.3 Macquarie Fields Park, Fourth Avenue, Macquarie Fields - Removal Of An Existing Telecommunications Facility, Erection Of A New Telecommunications Facility, The Relocation Of Floodlights And The Relocation Of An Existing Associated Equipment Shelter

Rev. Date B 15.03.13 A 03.10.11	ZV ZV Created	Flood lights amended Preliminary Revision Description	Copyright The information on this drawing is subject to copyright and is not to be copied, reproduced or used without the written approval of Pixelwise Pty Ltd.	 405 Merton St Wollstonecraft NSW 2065 P +61 2 9450 2919 F +61 2 9450 1613 www.pixelwise.com.au	 Lot 1, 28 Christie Street, St Leonards, NSW 2065 T 02 9478 9999   F 02 9478 9600   www.servicestream.com.au	Site Address Lot 1, DP1391 Fourth Ave Macquarie Fields NSW 2564 Drawing title Photomontage View 3	BTS Site Name Macquarie Fields Site Number N27739 Drawing No. M03	 Approved: Date: 03.10.11 REV. Checker: B
		Before			After	This is a representation only. The final installation may vary slightly in size, shape and/or colour.		



3.3 Macquarie Fields Park, Fourth Avenue, Macquarie Fields - Removal Of An Existing Telecommunications Facility, Erection Of A New Telecommunications Facility, The Relocation Of Floodlights And The Relocation Of An Existing Associated Equipment Shelter

PROPOSED TELSTRA FACILITY



**After**




**Before**


This is a representation only. The final installation may vary slightly in size, shape and/or colour.

Rev.	Date	Created	Revision Description				
B	15.03.13	ZV	Flood lights amended				
A	03.10.11	ZV	Preliminary				
				<p><b>pixelwise</b> 4035 Merton St Wentworth NSW 2065 P +61 2 9460 2919 F +61 2 9460 1673 www.pixelwise.com.au</p>		<p><b>servicestream</b> ESSENTIAL TELECOM SERVICES Level 1, 29 Christie Street, St Leonards, NSW 2055 02 9476 8699   F 02 9476 9600   www.servicestream.com.au</p>	
				<p>Site Address <b>Lot 1, DP1391 Fourth Ave Macquarie Fields NSW 2564</b></p> <p>Drawing title <b>Photomontage View 4</b></p>		<p>BTS Site Name : <b>Macquarie Fields</b></p> <p>Site Number : <b>NZ7739</b></p> <p>Drawing No. : <b>M04</b></p>	
				<p>Photographer : <b>Celstra</b></p> <p>Checker : REV.</p>		<p>Approved : B</p> <p>Date : 03.10.11</p>	

3.3 Macquarie Fields Park, Fourth Avenue, Macquarie Fields - Removal Of An Existing Telecommunications Facility, Erection Of A New Telecommunications Facility, The Relocation Of Floodlights And The Relocation Of An Existing Associated Equipment Shelter





**Before**



**After**

This is a representation only. The final installation may vary slightly in size, shape and/or colour.

	 <p><b>pixelwise</b> 435 Morton St Wollstonecraft NSW 2065 P +61 2 9460 1673 F +61 2 9460 1673 www.pixelwise.com.au</p>	 <p><b>servicestream</b> Level 1, 29 Christie Street, St Leonards, NSW 2065 T 02 9478 9999   F 02 9478 9920   www.servicestream.com.au</p>	<p>Copyright The information on this drawing is the property of Pixelwise Pty Ltd. It is to be copied in whole or in part without the written approval of Pixelwise Pty Ltd.</p>		
B	ZV	Flood lights amended			
A	ZV	Preliminary			
Rev.	Date	Created	Revision Description		

	<p>Site Address <b>Lot 1, DP1391 Fourth Ave Macquarie Fields NSW 2564</b></p>	<p>BTS Site Name <b>Macquarie Fields</b></p>	 <p><b>Telstra</b></p>	<p>Approved:</p>
	<p>Site Number: <b>N27739</b></p>		<p>Photographer:</p>	<p>Date: <b>03.10.11</b></p>
	<p>Drawing No.: <b>M05</b></p>		<p>Checker:</p>	<p>REV. <b>B</b></p>



3.3 Macquarie Fields Park, Fourth Avenue, Macquarie Fields - Removal Of An Existing Telecommunications Facility, Erection Of A New Telecommunications Facility, The Relocation Of Floodlights And The Relocation Of An Existing Associated Equipment Shelter

PROPOSED TELSTRA FACILITY



After



Before

This is a representation only. The final installation may vary slightly in size, shape and/or colour.

B	15.03.13	ZV	Flood lights amended				
A	03.10.11	ZV	Preliminary				
Rev	Date	Created	Revision Description				

<b>pixxelwise</b> 425 Marion St Wollstonecraft NSW 2065 P +61 2 9460 2919 F +61 2 9460 1673 www.pixxelwise.com.au	<b>servicestream</b> Lot 1, 29 Curdie Street, St Leonards, NSW 2065 T 02 9478 9999   F 02 9478 9900   www.servicestream.com.au	Site Address: <b>Lot 1, DP1391 Fourth Ave                  Macquarie Fields                  NSW 2564</b>	BTS Site Name: <b>Macquarie Fields</b>	Site Number: <b>N27739</b>	Drawing No.: <b>M06</b>	Drawing Title: <b>Photomontage View 6</b>	Photographer: <b>Telstra</b>	Date: <b>03.10.11</b>	Checker: <b>B</b>	Approved: <b>B</b>
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3.3 Macquarie Fields Park, Fourth Avenue, Macquarie Fields - Removal Of An Existing Telecommunications Facility, Erection Of A New Telecommunications Facility, The Relocation Of Floodlights And The Relocation Of An Existing Associated Equipment Shelter

## ATTACHMENT 6

**Table 5.2: Responses to principles 1- 4 Section 2.2 of the NSW Telecommunications Facilities Guideline including Broadband**

Principal	Response
<b>Principle 1: A telecommunications facility is to be designed and sited to minimise visual impact.</b>	
<p>(a) <i>As far as practical, a telecommunications facility that is to be mounted on an existing building or structure should be integrated with the design and appearance of the building or structure.</i></p> <p>(b) <i>The visual impact of telecommunications facilities should be minimised, visual clutter is to be reduced particularly on tops of buildings, and their physical dimensions (including support mounts) should be sympathetic to the scale and height of the building to which it is to be attached, and sympathetic to adjacent buildings.</i></p> <p>(c) <i>Where telecommunications facilities protrude from a building or structure and are predominantly backgrounded against the sky, the facility and their support mounts should be either the same as the prevailing colour of the host building or structure, or a neutral colour such as grey should be used.</i></p> <p>(d) <i>Ancillary facilities associated with the telecommunications facility should be screened or housed, using the same colour as the prevailing background to reduce its visibility, including the use of existing vegetation where available, or new landscaping where possible and practical.</i></p> <p>(e) <i>A telecommunications facility should be located and designed to respond appropriately to its rural landscape setting.</i></p> <p>(f) <i>A telecommunications facility located on, or adjacent to, a State or local heritage item or within a heritage conservation area, should be sited and designed with</i></p>	<p>(a) (b) and (c) These principles relate to facilities that are located on an existing building or structure and are not directly applicable to a new freestanding monopole such as proposed in this instance</p> <p>(d) The proposed ancillary shelter is located adjoining an existing amenities building and is separated from residential dwellings by the surrounding park. The pole, antennas and shelter are to replace an existing facility and will not significantly detract from the surrounding area.</p> <p>(e) The facility has been designed and sited to respond to its surrounding landscape context. It replaces an existing facility and is in close proximity to additional telecommunications infrastructure.</p> <p>(f) The proposed site is not within any heritage conservation area and is not in close proximity to any heritage items identified by the heritage branch of NSW or the Campbelltown (Urban Area) LEP 2002.</p>



3.3 Macquarie Fields Park, Fourth Avenue, Macquarie Fields - Removal Of An Existing Telecommunications Facility, Erection Of A New Telecommunications Facility, The Relocation Of Floodlights And The Relocation Of An Existing Associated Equipment Shelter

Principal	Response
<p><i>external colours, finishes and scale sympathetic to those of the heritage item or conservation area.</i></p> <p><i>(g) A telecommunications facility should be located so as to minimise or avoid the obstruction of a significant view of a heritage item or place, a landmark, a streetscape, vista to minimise or avoid the obstruction of a significant view of a heritage item or place, a landmark, a streetscape, vista or a panorama, whether viewed from public or private land.</i></p>	<p>(g) The proposed facility does not occupy a position that is in any public or private sightline to any heritage item or place</p>
<p><i>(h) The relevant local government authority must be consulted where the pruning, lopping, or removal of any tree or other vegetation would contravene a Tree Preservation Order applying to the land or where a permit or development consent is required.</i></p> <p><i>(i) A telecommunications facility that is no longer required is to be removed and the site restored, to a condition that is similar to its condition before the facility was constructed.</i></p> <p><i>(j) The siting and design of telecommunications facilities should be in accordance with any relevant Industry Design Guides</i></p>	<p>(h) Construction of the proposed facility does not involve the removal of any vegetation.</p> <p>(i) This aspect could be implemented by a condition of consent if the Council considers it appropriate</p> <p>(j) The proposal will comply with the BCA and Deployment Code</p>
<p><b>Principle 2: Telecommunications facilities should be co-located wherever practical.</b></p>	
<p><i>(a) Telecommunications lines are to be located, as far as practical, underground or within an existing underground conduit or duct.</i></p> <p><i>(b) Overhead lines, antennas and ancillary Telecommunications facilities should, where practical, be co-located or attached to existing structures such as buildings, public utility structures, poles, towers or other radio communications equipment to minimise the proliferation of telecommunication facilities and unnecessary clutter.</i></p> <p><i>(c) Towers may be extended for the purposes of co-location.</i></p> <p><i>(d) The extension of an existing tower must be considered as a practical co-location solution prior to building new towers.</i></p> <p><i>(e) If a facility is proposed not to be co-located the proponent must demonstrate that co-location is not practicable.</i></p> <p><i>(f) If the development is for a co-location purpose, then any new telecommunications facility must be designed, installed and operated so that the resultant cumulative levels of radio frequency emissions of the co-located telecommunications facilities are within the maximum human exposure levels set out in the Radiation Protection Standard.</i></p>	<p>(a) The fibre and power network connections to the facility will be installed in existing conduits or in new underground conduits wherever feasible or possible</p> <p>(b) Co-location on other communications towers has been considered. No existing facilities or structures in the local area were deemed appropriate or in a location to provide sufficient network coverage capacity, as such a new monopole is proposed (see Section 3)</p> <p>(c) N/A</p> <p>(d) N/A</p> <p>(e) As outlined in Section 3 there are no viable colocation opportunities in the area</p> <p>(f) N/A</p>



3.3 Macquarie Fields Park, Fourth Avenue, Macquarie Fields - Removal Of An Existing Telecommunications Facility, Erection Of A New Telecommunications Facility, The Relocation Of Floodlights And The Relocation Of An Existing Associated Equipment Shelter

Principle 3: Health Standards for exposure to radio emissions will be met	
Principal	Response
<p>(a) A telecommunications facility must be designed, installed and operated so that the maximum human exposure levels to radiofrequency emissions comply with Radiation Protection Standard.</p> <p>(b) An EME Environmental Report shall be produced by the proponent of development to which the Mobile Phone Network Code applies in terms of design, siting of facilities and notifications. The Report is to be in the format required by the Australian Radiation Protection Nuclear Safety Agency (ARPANSA). It is to show the predicted levels of electromagnetic energy surrounding the development comply with the safety limits imposed by the Australian Communications and Media Authority and the Electromagnetic Radiation Standard, and demonstrate compliance with the Mobile Phone Networks Code.</p>	<p>(a) The proposed facility will comply with the ARPANSA standard in relation to human exposure to EME. An EME report has been completed and is found in <b>Appendix B</b>. This report demonstrates compliance with the ARPANSA standard for the operation of a radio communications facility in Australia</p> <p>(b) The proposal is for a mobile phone network and is subject to the requirements of the Industry Code C564:2011 Mobile Phone Base Station Deployment with regard to the design, siting and notification. An EME report has been completed as per the required ARPANSA format and is found in <b>Appendix B</b>.</p>
Principle 4: Minimise disturbance and risk, and maximise compliance	
<p>(a) The siting and height of any telecommunications facility must comply with any relevant site and height requirements specified by the Civil Aviation Regulations 1988 and the Airports (Protection of Airspace) Regulations 1996 of the Commonwealth. It must not penetrate any obstacle limitation surface shown on any relevant Obstacle Limitation Surface Plan that has been prepared by the operator of an aerodrome or airport operating within 30 kilometres of the proposed development and reported to the Civil Aviation Safety Authority Australia.</p> <p>(b) The telecommunications facility is not to cause adverse radio frequency interference with any airport, port or Commonwealth Defence navigational or communications equipment, including the Morundah Communication Facility, Riverina.</p> <p>(c) The telecommunications facility and ancillary facilities are to be carried out in accordance with the applicable specifications (if any) of the manufacturers for the installation of such equipment.</p> <p>(d) The telecommunications facility is not to affect the structural integrity of any building on which it is erected.</p> <p>(e) The telecommunications facility is to be erected wholly within the boundaries of a property where the landowner has agreed to the facility being located on the land.</p> <p>(f) The carrying out of construction of the telecommunications facilities must be in accordance with all relevant regulations of the Blue Book – ‘Managing Urban Storm water: Soils and Construction’ (Landcom</p>	<p>(a) The provisions of the Civil Aviation Regulations 1988 and the Airports (Protection of Airspace) Regulations 1996 were considered during the design and siting process. The proposed location is not within the OLS for any airport. The site is 11km from Bankstown Airport.</p> <p>(b) Telstra will operate the radio facility within its own frequency spectrums and the facility will not cause any interference with other networks. All operating antennas will use the frequencies assigned to Telstra</p> <p>(c) The facility will be established and operated within the applicable specifications (if any) of the manufacturers</p> <p>(d) N/A</p> <p>(e) The proposed facility will be erected wholly within the boundaries of the property where the landowner has agreed the facility shall be located</p>



3.3 Macquarie Fields Park, Fourth Avenue, Macquarie Fields - Removal Of An Existing Telecommunications Facility, Erection Of A New Telecommunications Facility, The Relocation Of Floodlights And The Relocation Of An Existing Associated Equipment Shelter

Principal	Response
<p>2004), or its replacement.</p> <p>(g) Obstruction or risks to pedestrians or vehicles caused by the location of the facility, construction activity or materials used in construction are to be mitigated.</p> <p>(h) Where practical, work is to be carried out during times that cause minimum disruption to adjoining properties and public access. Hours of work are to be restricted to between 7.00am and 6.00pm, Mondays to Saturdays, with no work on Sundays and public holidays.</p> <p>(i) Traffic control measures are to be taken during construction in accordance with Australian Standard AS1742.3-2002 Manual of uniform traffic control devices – Traffic control devices on roads.</p> <p>(j) Open trenching should be guarded in accordance with Australian Standard Section 93.080 – Road Engineering AS1165 – 1982 – Traffic hazard warning lamps.</p> <p>(k) Disturbance to flora and fauna should be minimised and the land is to be restored to a condition that is similar to its condition before the work was carried out.</p> <p>(l) The likelihood of impacting on threatened species and communities should be identified in consultation with relevant state or local government authorities and disturbance to identified species and communities avoided wherever possible.</p> <p>(m) The likelihood of harming an Aboriginal Place and / or Aboriginal object should be identified. Approvals from the Office of Environment &amp; Heritage (OEH) must be obtained where impact is likely, or Aboriginal objects are found.</p> <p>(n) Street furniture, paving or other existing facilities removed or damaged during construction should be reinstated (at the telecommunications carrier's expense) to at least the same condition as that which existed prior to the telecommunications facility being installed.</p>	<p>(f) The activities associated with construction and installation will be conducted in accordance with sediment controls, erosion controls, stormwater controls and other controls outlined in the Blue Book (refer <b>Section 6.6</b>)</p>
	<p>(g) Construction activities will take place on an existing area of open space adjacent to the park. Significant changes to traffic and park access are not expected. There are no risks to traffic or pedestrians during the operation of the proposal</p>
	<p>(h) All work associated with the development and installation of the facility will be between 7.00am and 6.00pm, Mondays to Saturdays, with no work on Sundays and public holidays and/or as conditioned in the consent by Council</p>
	<p>(i) Where required, a Traffic Management Plan will be developed and implemented during construction and installation activities. The procedures and mitigation measures in the plan will ensure compliance with Australian Standard AS1742.3-2002 Manual of uniform traffic control devices – Traffic control devices on roads.</p>
	<p>(j) Any required trenching associated with the proposal will be covered or filled so that it is not open overnight</p>
	<p>(k) No vegetation is to be removed for the purposes of establishing the proposal. All land will be restored to a condition that is similar to its condition before the work was carried out. No threatened species were identified through the search tools (<b>Appendix E</b>)</p>
	<p>(l) The proposed activities do not require the removal of vegetation. A search of threatened species has been completed (<b>Appendix E</b>) and no threatened species were identified at the proposed location</p>

3.3 Macquarie Fields Park, Fourth Avenue, Macquarie Fields - Removal Of An Existing Telecommunications Facility, Erection Of A New Telecommunications Facility, The Relocation Of Floodlights And The Relocation Of An Existing Associated Equipment Shelter

Principal	Response
	<p>(m) A search of the AHIMS has been completed and there are no known items or places of archaeological significance on the site or in the immediate surrounding area (<b>Appendix E</b>). If any suspicious items or objects are found during excavation, work will cease immediately and the OEH will be consulted and works will not re-commence until OEH have granted their consent.</p>
	<p>(n) If disturbed, all street furniture, paving and walkways will be reinstated at the end of construction to at least the same condition they were in before work began</p>

3.4 No. 1 Blomfield Road, Denham Court - Modification Of Existing Development Consent For The Construction And Operation Of A Child Care Centre

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### **3.4 No. 1 Blomfield Road, Denham Court - Modification of existing development consent for the construction and operation of a child care centre**

#### **Reporting Officer**

Manager Development Services

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#### **Attachments**

1. Recommended reasons of refusal (contained within this report)
2. Locality Plan (contained within this report)
3. Copy of Roads and Maritime June 2013 correspondence (contained within this report)

#### **Purpose**

To assist Council in its determination of an application to modify an existing development consent, pursuant to the requirements of the *Environmental Planning and Assessment Act 1979*.

<b>Property Description</b>	Pt Lot 101 DP 602622, No. 1 Blomfield Road, Denham Court
<b>Application No</b>	610/2004/DA-C/A
<b>Applicant</b>	ARPL – Planning Consultants
<b>Owner</b>	J F Galluzzo
<b>Provisions</b>	State Environmental Planning Policy (Infrastructure) 2007 Campbelltown (Urban Area) Local Environmental Plan 2002
<b>Date Received</b>	December 2012

#### **Background**

The subject development application was initially reported to the last Planning and Environment Committee meeting of 8 October 2013. On the night of the Committee meeting, following representations made by Ms Painter and Mr Hawie objecting to the application and Mr Galluzzo (owner), the Committee recommended that the matter be deferred and that the item be relisted for consideration in the Planning and Environment Committee meeting to be held on 5 November 2013. The Council at its meeting of 15 October 2013 resolved to defer the item to the next round of Council as recommended by the Committee.

Subsequent to Council's decision to defer the item, the applicant made contact with Council officers by email on 28 October 2013. In that email it was requested that, due to time constraints, the matter be further deferred to allow traffic experts time to conference and resolve any outstanding matters. There has been no further technical information provided by the applicant supporting a variation to the report and/or its recommendation since the item was deferred by the Council, nor has an expert conference been held as suggested.

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Having regard to the above, the following report is resubmitted for the consideration of Council as required by the resolution of Council on 15 October 2013. It is to be noted that both the report and recommendations within remain unchanged from that previously tabled at the Planning and Environment Committee meeting of 8 October 2013.

## History

Council resolved to refuse a development application for the construction and operation of a child care centre at the subject site at its meeting held on 3 May 2005.

Immediately prior to that decision by Council, the land owner appealed to the Land and Environment Court (the Court) on the grounds that Council had failed to determine the application within the prescribed period of time.

After receipt of amended plans and expert witness opinion from several professionals, the Court granted development consent for the construction and operation of the child care centre in September 2005.

The consent from the Court was issued with 61 conditions of consent, which addressed a wide range of issues including the building's construction, provision of car parking, on-site effluent treatment and operational matters for the centre, construction of a commercial kitchen and traffic safety.

In December 2012, Council issued a 'Notice of Proposed Order', which required the owner to comply with the requirements of Condition 19 of the consent. At the time, Council received advice from the RMS which supported the Notice's intention, that being, construction of an upgraded intersection adjacent to the child care centre site and in accordance with the Court's condition.

Extracts from RMS correspondence at the time reads:

"RMS has reviewed the information submitted and advises that once enrolments at the child care centre reach above 50, the warrant is met to upgrade the intersection of Blomfield Road and Campbelltown Road to a Type AUR intersection treatment at full cost to the operator of the child care centre."

"If the abovementioned intersection is not upgraded to a Type AUR intersection treatment, concern is raised with regard to non-frangible fixed objects being located within the clear zone on the northern side of Campbelltown Road at the intersection, which poses a road safety hazard."

"As a result of all the above, RMS fully supports Council in enforcing Condition No. 19 of the development consent."

Following receipt of the RMS advice, Council issued an Order to undertake the works in January 2013, which was subsequently appealed by the owner in the Land and Environment Court.

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## Report

An application to modify the Court issued development consent has been received. The application has been made pursuant to Section 96AA of the *Environmental Planning and Assessment Act 1979* (the Act). Section 96AA of the Act allows the Council to determine modification requests, even though the original consent was issued by the Court.

The subject application specifically requests the deletion of Condition 19 of the original Court approved consent. The Condition relates to the construction of certain works at the intersection of Campbelltown and Blomfield Roads, adjacent to which the child care centre is located. The condition applied by the Court is repeated in its entirety and as laid out in the consent below:

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

Upgrade the intersection to type A intersection (as contained within Austroads ‘The Guide to Traffic Engineering Practice, Intersections at Grade, Part 5’), comprising creation of a 4 m wide Clear Zone on the northern side of Campbelltown Road, directly opposite Blomfield Road. The Clear Zone would be achieved by the relocation of a light pole, the removal of 2-3 trees (if required) and minor road should(sic) improvement works to the RTA’s satisfaction prior to the commence(sic) of the centre, where the enrolment of children does not exceed 50 places. The intersection shall be upgraded to type B intersection (as contained within Austroads ‘The Guide to Traffic Engineering Practise, Intersections at Grade, Part 5’) where enrolment exceeds 50 children to a maximum of 74 children.

Details of Type A & B construction design details to be provided prior to the issue of a Construction Certificate.

The applicant shall liaise with the Roads and Traffic Authority (RTA) Project Services Manager, Traffic Projects Section, Blacktown (ph. 8814 2144) in preparation of the intersection design. Prior to issue of a construction certificate, the written approval of the RTA as to the intersection design is required to be provided to Council.

All works shall be to the sole cost of the applicant. The applicant may be required to pay a plan checking fee and lodge a performance bond with the RTA prior to release of the approved road design from the RTA.

The applicant shall advise council in writing a minimum of three months prior to commencement of operation of the centre with more than 50 children.”

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### 3.4 No. 1 Blomfield Road, Denham Court - Modification Of Existing Development Consent For The Construction And Operation Of A Child Care Centre

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The letter from McLaren Traffic Engineering (MTE) dated 14 December 2012 lodged in support of the Section 96AA modification application provides the results of traffic counts undertaken from Monday 3 September until Friday 7 September 2012, covering the intersection of Campbelltown and Blomfield Roads, plus the driveway into the subject child care centre. The survey results were then compared with the intersection treatment warrants in the RMS (formerly RTA) Road Design Guide, May 1999. To quote part of the McLaren report:

“In summary, it is evident that for the child care centre to operate above 50 children, the Type B intersection design as outlined in Condition of Consent is still a valid condition, however, there is extenuating circumstance in this particular instance for Council to waive the requirement...”

The extenuating circumstances can be summarised:

1. The warrants are for a rural situation.
2. A SIDRA analysis of the delays at the intersection show a Level of Service of A, which represents good performance in an urban environment.
3. In the five year period from July 2006 until June 2011 the only recorded accident at this intersection occurred on a Sunday, when the child care centre was not operating.
4. The RMS are to widen Campbelltown Road, with Blomfield Road to become left in and out only. This work is envisaged in 2013/2014. Any intersection upgrade would thus be short lived.

The applicant's submission notes that the 'Type A' intersection treatment referred to in the Condition was undertaken prior to the issue of a construction certificate. Comments regarding this statement are made later in this report.

Council's own independent enquiries with the child care centre operator (who is independent of the applicant and owner of the site) have revealed that current daily attendance is in the order of 90 children. This attendance rate greatly exceeds the design criteria for the intersection (especially at 'Type A' or a "modified Type A") and also exceeds the maximum permitted by the Court's consent, which capped enrolment at 74. It is also higher than the attendance figure quoted by the owner's traffic engineering expert, who prepared the majority of the modification application's supporting information.

Pursuant to the requirements of State Environmental Planning Policy (Infrastructure), Council forwarded the modification application to NSW Roads and Maritime Services (RMS) for its consideration and concurrence, as Campbelltown Road is a classified road that falls under RMS control.

In forming its response to the modification application, the RMS requested additional information from the applicant. The information included:

- a survey indicating the extent of works undertaken in order to achieve compliance with Condition 19 and its requirement to achieve a 'Type A' intersection
-



### 3.4 No. 1 Blomfield Road, Denham Court - Modification Of Existing Development Consent For The Construction And Operation Of A Child Care Centre

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- electronic SIDRA intersection modelling files
- a road safety audit based on the intersection treatment on-site and proposed.

A 2013 survey undertaken on behalf of the applicant concluded that works have been undertaken at the intersection to move it towards compliance with a 'modified Type A' intersection standard. The works undertaken have included removal of certain trees, extension of the road pavement in the shoulder and relocation of a light pole away from the road. The street light was supposed to be relocated to the opposite side of Campbelltown Road according to a plan prepared in 2005 as part of the child care centre's preparations for construction certification, however, this work has not been undertaken.

The works provide for an additional 'clear zone' which provides space for vehicles moving in a northerly direction along Campbelltown Road to overtake a stationary vehicle that is waiting to turn right into Blomfield Road.

Notably, the RMS has also created an extra seal in the area as part of construction of a bicycle lane, which was undertaken during relatively recent works to widen the Hume Highway/M5, during which time, the road shoulder used by cyclists was removed and therefore, cyclists were directed to use Campbelltown Road (and others) as a safer alternative.

In response to the additional information being received, the RMS responded to Council's referral on 21 June 2013 advising that it does not object to the modification of the consent, provided that certain nominated requirements are still met relating to traffic safety. This is in contrast to its correspondence to Council in December 2012.

Importantly, the RMS noted that the Austroads Guideline referred to in the Condition (and hence the intersection construction types) are now superseded.

The letter continued:

"RMS does not support the proposed substandard right-turn treatment as these pavement works may encourage vehicles to travel at a higher speed when passing a right turning vehicle into Blomfield Road, which may pose a road safety hazard. The existing arrangement makes the intersection look tight which forces vehicles to drive slower whilst passing a right turning vehicle."

The comment relates to the applicant's proposed minor increase to the pavement width at the intersection site.

For Council's information, a copy of the letter from the RMS is attached to this report.

Following receipt of the RMS correspondence, the applicant was advised that the application to completely delete Condition 19 would not be agreed to as the RMS still required traffic safety considerations/infrastructure to be installed at the site. As such, the applicant requested that Condition 19 instead be amended to comply with the RMS's requirements.

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### 3.4 No. 1 Blomfield Road, Denham Court - Modification Of Existing Development Consent For The Construction And Operation Of A Child Care Centre

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Accordingly, Condition 19 could be amended to be consistent with the latest position of the RMS as set out in its letter to Council dated 21 June 2013. Accordingly, it could read as follows:

**“19. Intersection Construction**

The intersection of Campbelltown and Blomfield Roads shall be upgraded to comply with the requirements of the RMS and those detailed in the Stage 2 Road Safety Audit, prepared by J Wyndham Prince, dated May 2013 and its accompanying drawing No. 12103 prepared by McLaren Traffic Engineering, dated 22 March 2013, with the exception of the proposed guard rail.

All trees and poles shall be removed from the ‘clear zone’ at the applicant’s cost. It is noted that this will require alternative street lighting to be provided at the intersection.

A ‘No Stopping’ zone shall be implemented on the northern side of Campbelltown Road to RMS requirements. Prior to implementing the ‘No Stopping’ restriction, the applicant shall obtain a ‘Work Instruction’ from the RMS. Further details can be obtained by contacting the RMS on (02) 8849 2172.

The works shall be physically completed to the written satisfaction of the RMS within 6 months of the date on which the modification to the development consent issued pursuant to Section 96AA of the *Environmental Planning and Assessment Act 1979*, was issued.”

In addition, it is noted that a minor amendment to Condition 12 would also be required to be undertaken if Council approved the modification, as it makes a specific reference to Condition 19.

#### **Independent Assessment**

Whilst the modification application was under consideration by the RMS, Council’s officers sought independent advice from a traffic engineering and safety expert. The brief to the independent expert was to undertake a “peer review” of the information submitted in support of the application to remove/modify Condition 19.

The independent expert was provided with a copy of the information forming part of the application and was also privy to the additional information provided to the RMS by the applicant after its request and the expert also visited the site as part of the review’s preparation.

After reviewing the submitted information and forming an opinion about the intersection and its environs, the independent expert made the following comments and observations (amongst others) in his report on the proposal to delete Condition 19:

- as at March 2013, the Type A works for the operation of the child care centre with up to 50 children have not been fully undertaken
-

### 3.4 No. 1 Blomfield Road, Denham Court - Modification Of Existing Development Consent For The Construction And Operation Of A Child Care Centre

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- the Section 96 Application is to delete the requirement for the construction of an Austroads Type B junction when the number of children exceeds 50. The MTE letter refers to this alternative layout as a 'modified Type A layout'. It involves additional bitumen on the passing lane, the relocation of a power pole to the north and the placement of a guard rail between the edge of the western shoulder and the power pole that is opposite Blomfield Road. MTE do not suggest that this is a Type B (AUR) layout, but is just a modified Type A layout which they consider to be adequate for the situation
- it is relevant to note that in the current Austroads Guidelines, the Type B (Type AUR) intersection treatment is no longer used, and is replaced by a Type CHR(S), which is a reduced version of the standard CHR right turn bay treatment. The version for urban areas is very similar. It is safer than the B/AUR treatment.

In response to the applicant's basis for not upgrading the intersection further,

- as initial comments on these extenuating circumstances, we do not agree that this is an urban situation. It is clearly rural, with large lots and with a speed limit on Campbelltown Road of 70 km/hr
- while it is fortunate that there have been no recorded accidents on weekdays at this intersection in the period July 2006 until June 2011, this is not sufficient reason to not require an intersection upgrade when the children enrolled exceeds 50
- the only comment on the timing of the Campbelltown Road upgrade works provided by the applicant is a comment: "Due to issues elsewhere arising from site constraints, the concept plan of the road is not due out for public discussion until late 2012." There is no basis for the statement by MTE that the construction work is envisaged in 2013/2014.

Consideration of the proposal put forward by the applicant:

- as the applicant's traffic consultant has recommended an alternative form of intersection treatment, it was considered reasonable to review the proposed design. Key differences between the CHR(S) and the 'modified Type A' proposed are:
  1. Lengths of approach and departure tapers, and central parallel section of passing lane
  2. Provision of adequate clear zone.

MTE recommend the provision of a clear zone of 4.0m outside the carriageway. However they leave the power pole opposite Blomfield Road in place, and place a guard rail between the edge of the carriageway and the power pole. The distance between the edge of the carriageway and the power pole is shown as 2.9m, which is less than the required 4.0m.

The guard rail clearly reduces the "safety zone", which is what the clear zone is used for. The RTA (RMS) Road Design Guide states on page 3.37:

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3.4 No. 1 Blomfield Road, Denham Court - Modification Of Existing Development Consent For The Construction And Operation Of A Child Care Centre

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“Where it is not possible to provide an adequate clear zone, free of non-frangible obstacles for the appropriate distance, a safety barrier should be provided...

...The provision of a clear zone is often better practice than the erection of a safety barrier (due to the length of the safety barrier generally necessary).”

There does not appear to be any reason why the power pole cannot be removed and an alternative form of intersection lighting provided, instead of providing a more sub-standard layout with a guard rail.

- with the lengths of the passing lane, the Type B (AUR) standard is integrally related to the warrants set out (warrants being an expression of the main road's traffic volume and the number of vehicles turning from that road).

That is, when the probability of a conflict reaches a threshold, the higher order treatment is provided, for better traffic safety. The current traffic flows, with about 50 children at the centre are such that the higher order intersection treatment is warranted. With this number increased to up to 74 children, there will be a commensurate increase in potential conflicts.

The independent expert concluded:

1. We recommend that Council refuse the S96 Application to delete Consent Condition 19.
2. We recommend that the modified Type A treatment (as proposed by the applicant) not be accepted as an adequate replacement of the required Type B layout.
3. If this refusal is appealed, we recommend that the argument be made that the current RMS/Austrroads guidelines be applied, and subsequently that a higher level treatment than the Type B (AUR) be applied, with the Type CHR(S) being the minimum desirable treatment.

The independent review and its conclusions were supplied by Council to the RMS prior to it finalising its position in relation to the application.

### **Public Consultation**

Council notified the modification proposal in accordance with the requirements of Section 96AA of the *Environmental Planning and Assessment Act 1979*. All thirteen properties in Blomfield Road were notified. Two submissions objecting to the modification were received. Matters raised in the submissions are detailed below:

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### 3.4 No. 1 Blomfield Road, Denham Court - Modification Of Existing Development Consent For The Construction And Operation Of A Child Care Centre

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- Safety at the intersection:

Submissions noted that there have been “near misses” at the intersection, sometimes arising from access to Blomfield Road being restricted by vehicles leaving the existing child care centre. Other incidents appear to have been related to driver inattention while moving towards a vehicle that is waiting on Campbelltown Road to turn into Blomfield Road.

- The Land and Environment Court’s decision:

A submission notes the wording used in the Court’s determination of the application, with specific reference to Condition 19 (which was included as part of this report). The submission states:

“ . . . at least the equivalent of a type B intersection should have been constructed prior to permitting the centre to operate beyond enrolments for 50 children. Type B is the minimum standard that is to be applied. Hence if the Type B standard is no longer available, or has been superseded, the next higher standard above that known in 2005 as Type B must be applied in order to be ‘at least the equivalent of a type B intersection’.”

The submission argues that the Court’s requirement was for a ‘Type B’ or its equivalent intersection should be constructed at the site, regardless of the requirements of the relevant authority today as the child care centre’s owner should have already built a ‘better’ intersection prior to the application to modify the consent. It is the case that the applicant exceeded the 50-enrolment requirement for the new intersection’s construction, hence Council placed an Order for its construction as per the Condition.

It was the appeal of this Order to the Land and Environment Court and the subsequent modification application which caused Council to forward the proposal to the RMS for its comment.

The RMS states in its response letter:

“ . . . I wish to advise that this type (Type B) of intersection treatment is no longer supported by current Australian Standards. The only type of right turn treatment deemed acceptable according to the current standards specific in Austroads is a channelised right turn treatment. However, the applicant cannot achieve a channelised right turn treatment due to site constraints at the subject intersection.”

Notwithstanding the Court’s reliance upon the standards at the time of its decision and the applicant’s position in not undertaking the work as required, the RMS has responded with its opinion of the current situation.

As mentioned earlier in the report, an independent expert engaged by Council to review the proposal holds a different position on the matter compared to that of the RMS and advocates that an Austroads Type CHR(S) intersection be constructed at the site to reduce the risk of vehicle accidents.

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### 3.4 No. 1 Blomfield Road, Denham Court - Modification Of Existing Development Consent For The Construction And Operation Of A Child Care Centre

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- Ongoing non-compliance issues at the child care centre

The submissions cite several instances of non-compliance with the Court's approval, not specifically related to the matter-at-hand, such as placement of advertising signage and parking outside and inside the site not being in accordance with approved plans and conditions. The submission also relates some instances where the non-compliances (such as the use of the site for regular "functions" and the placement of advertising banners) has impacted, or has the potential to impact on, traffic safety at the subject intersection.

Council's Compliance Services branch is following-up on the matters raised in the submissions and other correspondence. In response, a meeting is to be held with the new lessees of the child care centre (including representatives from the company's head office in Melbourne) and Council's Local Traffic Committee has considered and made recommendations on a proposal to install additional 'No Stopping' signage in Blomfield Road.

Notwithstanding, compliance related matters are not subject of Council's consideration of the current application.

## **Conclusion**

An application to modify an existing development consent issued by the Land and Environment Court to construct and operate a child care centre has been received.

The modification application proposed the removal of a condition that requires the upgrade of the intersection of Campbelltown and Blomfield Roads for traffic safety purposes. The traffic safety issue predominantly relates to the safe turning of vehicles waiting on Campbelltown Road (for traffic to pass) before they turn right into Blomfield Road, and subsequently the child care centre's car parking area.

Council forwarded the proposal to NSW Roads and Maritime Services for its comment, as Campbelltown Road is a classified road under the control of the RMS. Notwithstanding, Council is the consent authority.

Additional information was received from the applicant as requested by the RMS and based on updated guidelines and site-specific evidence, although not approving the amendment to the condition as requested, the RMS granted its acceptance of a revised intersection layout which does not achieve the standard of intersection construction originally required by the Court's condition on the development consent.

Council sought an independent expert review of the application, which utilised all the information submitted to the applicant originally, as well as the additional information requested by the RMS. The independent review concluded that the higher-grade (Type B, or CHR(S)) intersection should be constructed in order to increase vehicle safety on Campbelltown and Blomfield Roads. This is on the grounds that the number of vehicles attending the child care centre has exceeded the warrant threshold as identified in the Austroads Guideline, which goes on to recommend a better standard intersection to increase safety.

As mentioned previously, the RMS was supplied with Council's expert advice prior to finalising its position in relation to the application.

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3.4 No. 1 Blomfield Road, Denham Court - Modification Of Existing Development Consent For The Construction And Operation Of A Child Care Centre

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It would appear that non-compliance with the requirements of the Court's development consent, including to properly construct a Type A intersection and notify Council when enrolments increase above 50 children, result in a potential safety risk for people travelling on Campbelltown and Blomfield Roads. As noted by the independent expert engaged by Council:

"While it is fortunate that there have been no recorded accidents on weekdays at this intersection in the period July 2006 until June 2011, this is not sufficient reason to not require an intersection upgrade when the children enrolled exceeds 50."

The enrolment at the centre is significantly higher than 50 children. Very recently, Council was informed that daily enrolments are in the order of 90 children, which not only exceeds that Court's cap on enrolments, but also highlights a degree of concern in terms of ongoing compliance with the Court's conditions in relation to traffic safety.

It is concluded that approval of the application would not be in the public interest and hence Council is urged to issue a refusal.

### **Officer's Recommendation**

1. That the application to modify existing development consent 610/2004/DA-C be refused, for the reasons detailed in attachment 1 of this report.
2. That those members of the public that made a submission on the proposal be notified of Council's decision.

**Committee Note:** Mr Howie and Ms Painter addressed the Committee.

Mr Rowan – Consultant Planner, addressed the Committee on behalf of the applicant.

### **Committee's Recommendation: (Rowell/Kolkman)**

That the Officer's Recommendation be adopted.

### **CARRIED**

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

Voting against the Committee's Recommendation was Councillor: Mead.

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### **Council Meeting 12 November 2013 (Greiss/Kolkman)**

That the Officer's Recommendation be adopted.

### **Council Resolution Minute Number 248**

That the Officer's Recommendation be adopted.

Voting for the Council Resolution were Councillors: Borg, Brticevic, Dobson, Glynn, Greiss, Hawker, Kolkman, Lake, Lound, Matheson, Oates, Rowell and Thompson.

Voting against the Council Resolution was Councillor: Mead.

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## ATTACHMENT 1

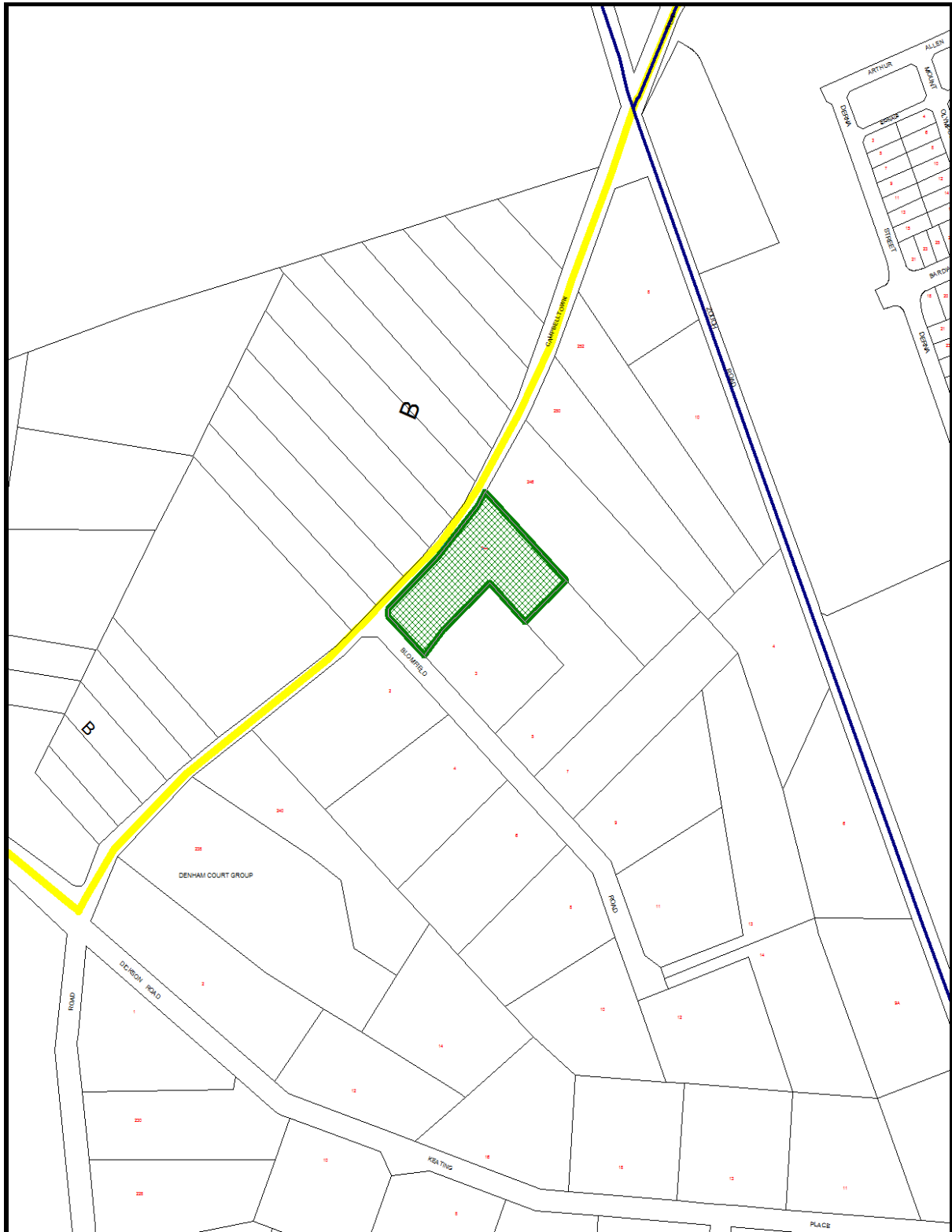
### Recommended reasons of refusal

The application to delete or modify Condition 19 of Land and Environment Court appeal No. 10285 of 2005 (NSWLEC 522) is refused for the following reasons:

1. The application to modify or delete the condition may impact on:
    - a. the maintenance of safe and unobstructed traffic conditions to provide for northbound traffic on Campbelltown Road, Denham Court
    - b. the maintenance of safe traffic conditions to provide for northbound client vehicles b. turning right into Blomfield Road from Campbelltown Road, Denham Court
    - c. the maintenance of safe traffic conditions to provide for northbound client vehicles turning right and merging onto Campbelltown Road from Blomfield Road, Denham Court
    - d. the maintenance of unobstructed traffic conditions to provide for northbound and southbound client vehicles turning onto Campbelltown Road from Blomfield Road, Denham Court.
  2. The Type B ( and therefore, its Austroads 2009 equivalent or higher) intersection works are necessary to ensure that the amenity of the local area is not unduly impacted through traffic congestion at the intersection of Campbelltown Road and Blomfield Road, Denham Court, particularly during the peak child drop-off and pick-up times at the childcare centre, in respect of:
    - a. traffic obstruction caused by northbound and southbound client vehicles waiting to turn onto Campbelltown Road from the existing single lane road of Blomfield Road, Denham Court
    - b. traffic obstruction caused by client vehicles being hindered from entering or leaving the childcare centre premises because of northbound and southbound vehicles waiting to turn onto Campbelltown Road from the existing single lane road of Blomfield Road, Denham Court
    - c. traffic hindrance on Blomfield Road, Denham Court caused by traffic congestion in the vicinity of the childcare centre premises.
  3. The enrolment of the child care centre has significantly exceeded the thresholds described in Condition 19.
  4. It is considered that in the circumstances of the case, approval of the development would set an undesirable precedent for similar inappropriate development and is therefore not in the public interest.
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## ATTACHMENT 2

### Locality Plan



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## ATTACHMENT 3



21 June 2013

RMS Ref: SYD13/00404  
Council Ref: 206/2013/DA-I

James Baldwin  
Manager Development Services  
Campbelltown City Council  
PO Box 57  
CAMPBELLTOWN NSW 2560

Attention: Andrew MacGee

**SECTION 96 MODIFICATION TO DEVELOPMENT APPLICATION (610/2004/DA-C/A)  
NO. 1 BLOMFIELD ROAD, DENHAM COURT**

Dear Mr Baldwin,

Reference is made to Council's correspondence dated 13 February 2013 and the relevant supporting documents submitted by the developer's traffic consultant (McLaren Traffic Engineering) on 20 May 2013 with regard to the abovementioned section 96 modification, which was referred to Roads and Maritime Services (RMS) for consideration.

RMS has reviewed the submitted application and notes that the development consent requires the applicant to construct a Type B right turn treatment at the intersection of Campbelltown Road and Blomfield Road once enrolments exceed 50 children. However, I wish to advise that this type of intersection treatment is no longer supported by current Australian Standards (AUSTROADS). The only type of right turn treatment deemed acceptable according to the current standards specified in AUSTROADS is a channelised right turn treatment. However, the applicant cannot achieve a channelised right turn treatment due to site constraints at the subject intersection.

RMS does not support the proposed sub standard right turn treatment as these pavement works may encourage vehicles to travel at a higher speed when passing a right turning vehicle into Blomfield Road, which may pose a road safety hazard. The existing arrangement makes the intersection look tight which forces vehicles to drive slower whilst passing a right turning vehicle.

In this regard, RMS raises no objection to the subject Section 96 application, subject to the following requirements:

1. All trees and poles within the clear zone shall be removed at the developer's cost. This will require the applicant to provide alternative measures for street lighting at the intersection.

RMS does not favour a safety barrier as it will be difficult to provide a leading end terminal as it will be very close to the existing brick fence and cannot be extended past the brick fence due to the service station driveway.

**Roads & Maritime Services**

3.4 No. 1 Blomfield Road, Denham Court - Modification Of Existing Development Consent  
For The Construction And Operation Of A Child Care Centre

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2. No Stopping Zone shall be implemented on the northern side of Campbelltown Road to RMS requirements. Prior implementing the No Stopping restriction, the applicant shall obtain a 'Work Instruction'. Further details can be obtained from RMS on 8849 2172.
3. The enrolment of children on the site shall not exceed 74 children.

Should you require any further clarification in this matter, please do not hesitate to contact Stella Qu on 8849 2520 or via email at Stella.Qu@rms.nsw.gov.au.

Yours faithfully



James Hall  
**Senior Land Use Planner**  
**Transport Planning, Sydney Region**

CC McLaren Traffic Engineering

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## 4. COMPLIANCE SERVICES

### 4.1 Legal Status Report

#### Reporting Officer

Acting Manager Compliance Services

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#### 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 for the 2013-2014 period as they relate 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 matters is also included.

<b>1. Land and Environment Court Class 1 Matters – Appeals Against Council's Determination of Development Applications</b>
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<b>Total ongoing Class 1 DA appeal matters (as at 25/10/2013)</b>	<b>1</b>
<b>Total completed Class 1 DA appeal matters (as at 25/10/2013)</b>	<b>1</b>
<b>Costs from 1 July 2013 for Class 1 DA appeal matters:</b>	<b>\$16,684.65</b>

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1 (a)

Ray JARDINE

Issue:

Appeal against Council's deemed refusal of Building Certificate Application No. 772/2012/BC-UW seeking to regularise unauthorised building works (two mezzanine floors and addition of access doors) which have impacted on the structural aspects and fire safety provisions of the building.

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<b>Property:</b>	Lot 26 DP 28853 No. 2 Somerset Street, Minto
<b>Property Owner:</b>	Mr. Ray Jardine and Mrs. Precilla Eva Jardine
<b>Council File:</b>	No. 772/2012/BC-UW
<b>Court Application:</b>	Filed on 21 February 2013 - File No. 10120/2019
<b>Applicant:</b>	Ray Jardine
<b>Costs Estimate:</b>	\$11,000 (exclusive of Barristers, Court Appointed Experts or disbursement fees)
<b>Costs to date:</b>	\$11,777.05
<b>Status:</b>	Ongoing – listed for mention on 31 October 2013.
<b>Progress:</b>	On 17 October 2013 the matter was before the Court at on-site mention where it was revealed that the outstanding matters noted at Council's inspection of 9 October 2013 had been satisfactorily completed. Accordingly Senior Commissioner Moore made a direction that the proceeding be listed for further mention on 31 October 2013 for determination of the consent orders, which are to be filed with the Court by midday 30 October 2013.

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<b>2. Land and Environment Court Class 1 Matters – Appeals Against Council's issued Orders / Notices</b>
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<b>Total ongoing Class 1 Order/Notice appeal matters (as at 25/10/2013)</b>	<b>0</b>
<b>Total completed Class 1 Order/Notice appeal matters (as at 25/10/2013)</b>	<b>0</b>
<b>Costs from 1 July 2013 for Class 1 Order/Notices appeal matters:</b>	<b>\$0.00</b>

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<b>3. Land and Environment Court Class 4 Matters – Civil Enforcement in respect of non-compliance with Planning Law or Orders issued by Council</b>
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<b>Total ongoing Class 4 matters before the Court (as at 25/10/2013)</b>	<b>0</b>
<b>Total completed Class 4 matters (as at 25/10/2013)</b>	<b>1</b>
<b>Costs from 1 July 2013 for Class 4 matters</b>	<b>\$9,274.62</b>

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3 (a)	Precision Logistics Pty Ltd & Robert Andrew Tebb & Annette Margaret Tebb
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Issue:	Enforcement action initiated by Council to restrain the
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	respondents from conducting unauthorised trucking activities on the property.
Property:	Lot 7 DP 1008057 and Lot 92 DP 1004803 No 20 Frost Road Campbelltown
Property Owner:	Robert Andrew Tebb and Annette Margaret Tebb
Council File:	No. 845/2012/DA-I
Court Application:	Filed on 20 December 2012 - File No. 12/41261
Respondents:	Precision Logistics Pty Ltd & Robert Andrew Tebb and Annette Margaret Tebb
Costs Estimate:	\$30,000 (exclusive of Barristers, Court Appointed Experts or disbursement fees)
Costs to date:	\$32,427.98
Status:	Completed – awaiting solicitor’s final invoice.
Progress:	<p>On 23 September 2013, the matter was set down for mediation before a Court appointed mediator where draft orders were agreed to by the parties. The draft consent orders noted agreement to alter the description of the hours of operation of existing allowable business operations on the premises, made under development consent 845/2012/DA-I, to permit minor work on Sundays and Public Holidays consisting of office work and the collection of tools and equipment within the workshop by service vehicles only for emergency off site repairs prior to the construction of the acoustic wall.</p> <p>The proceedings also clarified that activities involving the transfer of loads for transshipment by other trucks on site was not permitted under the consent, relating to the use of the premises as a truck maintenance facility, and that trucks may only be unloaded specifically for maintenance and repair purposes.</p> <p>On 27 September, 2013, the Court made orders as agreed between the parties. The proceedings are now concluded and Council is able to effectively regulate operations on the premises in accordance with the orders made by the Court and the conditions of development consent 845/2012/DA-I.</p> <p>The outcome of the proceedings was communicated to the adjoining neighbourhood objectors.</p>

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

<b>Total ongoing Class 5 matters before the Court (as at 25/10/2013)</b>	<b>0</b>
<b>Total completed Class 5 matters (as at 25/10/2013)</b>	<b>0</b>
<b>Costs from 1 July 2013 for Class 5 matters</b>	<b>\$0.00</b>

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

<b>Total ongoing Class 6 matters (as at 25/10/2013)</b>	<b>0</b>
<b>Total completed Class 6 matters (as at 25/10/2013)</b>	<b>0</b>
<b>Costs from 1 July 2013 for Class 6 matters</b>	<b>\$0.00</b>

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

<b>Total ongoing Appeal matters before the Court (as at 25/10/2013)</b>	<b>0</b>
<b>Total completed Appeal matters (as at 25/10/2013)</b>	<b>0</b>
<b>Costs from 1 July 2013 for District Court matters</b>	<b>\$0.00</b>

**7. Local Court prosecution matters**

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

<b>Total ongoing Local Court Matters (as at 25/10/2013)</b>	<b>1</b>
<b>Total completed Local Court Matters (as at 25/10/2013)</b>	<b>14</b>
<b>Costs from 1 July 2013 for Local Court Matters</b>	<b>\$2,200.00</b>

**File No:** LP24/13 – Penalty Notice Court Election  
**Offence:** Stop in bus zone – school zone  
**Act:** *Road Rules 2008*

**Final Costs:** \$0.00

**Status:** New matter.

**Progress:** Listed for first mention on 5 November 2013.



**8. Matters referred to Council's solicitor for advice**

Matters referred to Council's solicitors for advice on questions of law, the likelihood of appeal or prosecution proceedings being initiated, and/or Council liability.

**Total Advice Matters (as at 25/10/2013) 4**  
**Costs from 1 July 2013 for advice matters \$7,209.50**

**9. Legal Costs Summary**

The following summary lists the Planning and Environment Division's net legal costs for the 2012/2013 period.

<b>Relevant attachments or tables</b>	<b>Costs Debit</b>	<b>Costs Credit</b>
Class 1 Land and Environment Court - appeals against Council's determination of Development Applications	\$16,684.65	\$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	\$9274.62	\$0.00
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	\$0.00	\$0.00
Local Court prosecution matters	\$2,200.00	\$0.00
Matters referred to Council's solicitor for legal advice	\$7,209.50	\$0.00
Miscellaneous costs not shown elsewhere in this table	\$0.00	\$0.00
Costs Sub-Total	\$35,768.77	\$0.00
<b>Overall Net Costs Total (GST exclusive)</b>	<b>\$35,768.77</b>	

**Officer's Recommendation**

That the information be noted.

**Committee's Recommendation: (Rowell/Lound)**

That the Officer's Recommendation be adopted.

**CARRIED**

**Council Meeting 12 November 2013 (Greiss/Kolkman)**

That the Officer's Recommendation be adopted.

**Council Resolution Minute Number 246**

That the Officer's Recommendation be adopted.

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## **4.2 Annual Report on the Planning and Environment Division's Legal Proceedings**

### **Reporting Officer**

Acting Manager Compliance Services

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### **Attachments**

Planning and Environment Division's legal proceedings for the period 1 July 2012 to 30 June 2013 (contained within this report)

### **Purpose**

To update Council on the status of the Planning and Environment Division's legal proceedings for the period 1 July 2012 to 30 June 2013.

### **Report**

Marked as Attachment 1 to this report are Tables indicating particulars relating to all legal proceedings undertaken, together with costs incurred for the period 1 July 2012 to 30 June 2013.

The Tables provide details of:

Table 1 – Class 1 proceedings in the Land and Environment Court NSW (L&EC) dealing with appeals against Council's determination of development applications.

Table 2 – Class 1 proceedings in the L&EC dealing with appeals against the terms of Orders or Notices issued by Council.

Table 3 – Class 4 proceedings in the L&EC dealing with civil enforcement for non-compliance with Orders or Notices issued by Council.

Table 4 – Class 5 proceedings in the L&EC dealing with criminal prosecution of alleged pollution offences and various breaches of environmental planning and laws.

Table 5 – Class 6 proceedings in the L&EC dealing with appeals for convictions relating to environmental matters.

Table 6 – Proceedings in the District Court NSW dealing with appeals from convictions in the Local Court not being environmental offences.

Table 7 – Proceedings in the Consumer, Trader and Tenancy Tribunal – civil disputes of a commercial nature between Council and its customers.

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Table 8 – Proceedings in the Local Court dealing with prosecution matters in response to various offences under the legislation specified in column 2 of the table.

Table 9 – Cost of advice obtained from Council's contracted panel of Solicitors that relates to various matters that may also include proposed Court proceedings.

Table 10 – Summary of 2012/2013 net costs.

Table 11 – Comparison with previous financial years costs.

### **Officer's Recommendation**

That the information be noted.

### **Committee's Recommendation: (Kolkman/Lound)**

That the Officer's Recommendation be adopted.

### **CARRIED**

### **Council Meeting 12 November 2013 (Greiss/Kolkman)**

That the Officer's Recommendation be adopted.

### **Council Resolution Minute Number 246**

That the Officer's Recommendation be adopted.

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## ATTACHMENT 1

### Planning and Environment Division Legal Proceedings for the period 1 July 2012 to 30 June 2013

#### Land and Environment Court Matters

<b>TABLE 1 - Class 1 Appeals against Council's determination of Development Applications (DA)</b>			
<b>Case No.</b>	<b>Matter</b>	<b>Status</b>	<b>Costs Incurred</b>
11207/2012	DA 2052/2012/DA-C, appeal against Council's deemed refusal of the development application seeking consent for use of part of a building for a liquor store and associated building modifications and advertising signage. Lot 1 DP 1165316 No.4 Rennie Road, Campbelltown.	Appeal dismissed and development application refused. Proceedings completed.	Final Costs \$49,366.40
10084/2013	DA 124/2012/DA-C, appeal against Council's refusal of the development application seeking variation to use conditions and alterations and additions to an existing brothel. Lot 2 DP 519337 No. 15 Blaxland Road, Campbelltown.	Appeal upheld and conditional development consent granted. Proceedings completed.	Final Costs \$26,563.89
10120/2013	BC 772/2012/BC-UW, appeal against Council's deemed refusal of the building certificate application seeking to regularise unauthorised building works to a place of public worship, which had impacted on the structural aspects and fire safety requirements for the building. Lot 26 DP 28853 No. 2 Somerset Street, Minto.	Appeal ongoing into the 2013/14 reporting period. Proceedings ongoing.	Progressive Costs \$24,730.07
10120/2013	DA 763/2008/DA-IA, appeal against Council's deemed refusal of the development application seeking modification to existing development consents including a new shop addition. Lot 26 DP 28853 No. 2 Somerset Street, Minto.	Appeal dismissed and development application refused. Proceedings completed.	Final Costs \$24,730.07

<b>TABLE 2 - Class 1 Appeals against Orders or Notices issued by Council</b>			
<b>Case No.</b>	<b>Matter</b>	<b>Status</b>	<b>Costs Incurred</b>
10080/2013	Appeal by applicant against Council's Order 15 given under the Environmental Planning and Assessment Act 1979 requiring compliance with certain conditions of development consent 610/2004/DA-C relating to the operation of a childcare centre at the premises. Pt Lot 1 DP 602622 No. 1 Blomfield Road, Denham Court.	Appeal discontinued, as the applicant had filed the application with the court outside the statutory time for filing such appeal. Proceedings completed.	Final Costs \$2,039.10

<b>TABLE 3 - Class 4 – Civil Enforcement for Non-compliance with Council Orders or Notices</b>			
<b>Case No.</b>	<b>Matter</b>	<b>Status</b>	<b>Costs Incurred</b>
41261/2012	Action initiated by Council to restrain the respondents from conducting unauthorised activities on the premises associated with transport logistics and vehicle repairs and servicing. Lot 7 DP 1008057 and Lot 92 DP 1004803 No. 20 Frost Road, Campbelltown.	Action ongoing into the 2013/14 reporting period. Proceedings ongoing.	Progressive Costs \$26,564.16

<b>TABLE 4 - Class 5– Criminal prosecution of alleged pollution offences and various breaches of environmental and planning laws.</b>			
<b>Case No.</b>	<b>Matter</b>	<b>Status</b>	<b>Costs Incurred</b>
N/A	Nil matters during 2012/2013 period.	N/A	\$0.00

<b>TABLE 5 - Class 6 - Appeals from convictions relating to environmental offences.</b>			
<b>Case No.</b>	<b>Matter</b>	<b>Status</b>	<b>Costs Incurred</b>
N/A	Nil matters during 2012/2013 period.	N/A	\$0.00

**District Court Matters**

<b>TABLE 6 - District Court NSW – Appeals from convictions in the Local Court not being environmental offences.</b>			
<b>Case No.</b>	<b>Matter</b>	<b>Status</b>	<b>Costs Incurred</b>
N/A	Nil matters during 2012/2013 period.	N/A.	\$0.00

**Consumer, Trader and Tenancy Tribunal Matters**

**TABLE 7 – Consumer, Trader and Tenancy Tribunal – civil disputes of a commercial nature between Council and its customers.**

Case No.	Matter	Status	Costs Incurred
N/A	Nil matters during 2012/2013 period.	N/A	\$0.00

**Local Court Matters**

**TABLE 8 - Prosecution for various offences under nominated legislation.**

File No.	Act and Offence	Status	Fine imposed	Costs awarded to Council	Costs Incurred
LP09/12 to LP11/12	Environmental Planning and Assessment Act – development not in accordance with consent.	Plea – Guilty. Proved and convicted in respect of the principle offence. Proved and dismissed without penalty in respect of the remaining two offences. Proceedings completed	\$3000	\$0	Final Costs \$0.00
LP13/12	Protection of the Environment Operations Act – transport waste to unauthorised facility	Plea – Not Guilty. Not proved and dismissed. Proceedings completed	N/A	N/A	Final Costs \$1808.00
LP14/12	Protection of the Environment Operations Act – not comply with clean-up notice	Plea – Not Guilty. Proved and convicted Proceedings completed.	\$800	\$1,515	Final Costs \$1808.00
LP15/12	Road Rules 2008 – stop heavy vehicle for longer than 1-hour in built-up area.	Plea - Guilty. Proved and convicted Proceedings completed.	\$88.00	\$0	Final Costs \$0.00
LP16/12	Companion Animals Act – not register 6-month old companion animal – not dangerous dog.	Plea – Not Entered. Charge withdrawn. Proceedings completed.	N/A	N/A	Final Costs \$0.00
LP17/12	Road Rules 2008 – disobey no stopping sign - school zone.	Plea - Guilty. Proved. Dismissed without penalty. Proceedings completed.	N/A	N/A	Final Costs \$0.00
LP18/12 & LP19/12	Companion Animals Act – not register 6-month old companion animal – not dangerous dog.	Plea – Not Guilty. Charge withdrawn. Proceedings completed.	N/A	N/A	Final Costs \$0.00
LP20/12	Road Rules 2008 – disobey no stopping sign.	Plea - Guilty. Proved and convicted. Proceedings completed.	\$150	\$0	Final Costs \$0.00
LP21/12	Companion Animals Act	No Appearance.	\$400	\$0	Final Costs

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	- owner not comply with nuisance dog order – not dangerous dog.	Heard Ex parte Proved and convicted Proceedings completed.			\$0.00
LP01/13	Protection of the Environment Operations Act – deposit litter (cigarette) from vehicle.	Plea – Guilty. Proved and convicted. Proceedings completed	\$350	\$0	Final Costs \$0.00
LP02/13	Companion Animals Act – own dog that attacked person – not dangerous dog.	Plea – Not Guilty. Charge withdrawn. Proceedings completed.	N/A	N/A	Final Costs \$0.00
LP03/13	Environmental Planning and Assessment Act – development not in accordance with consent.	Plea – Not Guilty. Charge withdrawn. Proceedings completed.	N/A	N/A	Final Costs \$0.00
LP04/13	Protection of the Environment Operations Act – not comply with pollution prevention notice	Plea - Guilty. Proved. Dismissed without penalty. Proceedings completed.	N/A	N/A	Final Costs \$0.00
LP05/13 & LP06/13	Companion Animals Act – owner not comply with nuisance dog order – not dangerous dog.	No Appearance. Heard Ex parte Proved and convicted Order made disqualifying the defendant from owning a dog for a period of 5-years. Proceedings completed.	\$600	\$0	Final Costs \$0.00
LP07/13	Local Government Act – stop in parking area without disabled parking authority displayed.	Plea - Guilty. Proved and convicted. Proceedings completed.	\$150	\$0	Final Costs \$0.00
LP08/13	Companion Animals Act – own dog uncontrolled in public place – not dangerous dog.	Plea - Guilty. Proved. Dismissed without penalty. Proceedings completed.	N/A	N/A	Final Costs \$0.00
LP09/13	Road Rules 2008 – disobey no parking sign.	Plea – Not Guilty. Listed for hearing on 5 July 2013. Proceedings ongoing into 2013/14 reporting period.	N/A	N/A	Progressive Costs \$0.00
LP11/13	Companion Animals Act – not identify companion animal by 3-months of age – not dangerous dog.	Plea – Not Guilty. Listed for hearing on 5 August 2013. Proceedings ongoing into 2013/14 reporting period.	N/A	N/A	Progressive Costs \$0.00
LP12/13	Companion Animals Act – own dog that attacked animal – not dangerous dog.	Plea – Not Guilty. Listed for hearing on 5 August 2013. Proceedings ongoing into	N/A	N/A	Progressive Costs \$0.00



		2013/14 reporting period.			
LP13/13	Companion Animals Act – owner not prevent dog from escaping premises where kept – not dangerous dog.	Plea – Not Guilty. Listed for hearing on 5 August 2013. Proceedings ongoing into 2013/14 reporting period.	N/A	N/A	Progressive Costs \$0.00
<b>TOTAL</b>			<b>\$5,538</b>	<b>\$1,515</b>	<b>\$3,616.00</b>

**Legal Advice**

<b>TABLE 9 – LEGAL ADVICE NOT RELATING TO COURT PROCEEDINGS FOR PERIOD 1 JULY 2012 TO 30 JUNE 2013.</b>	
Costs for various advice sought from Council's Contracted Solicitor	<b>\$20,002.81</b>

**Costs Summary Table**

<b>TABLE 10 - SUMMARY OF 2012/2013 NET COSTS</b>	<b>DEBIT</b>	<b>CREDIT</b>
TABLE 1 - Class 1 Appeals against Council's determination of Development Applications	\$90,269.21	\$0.00
TABLE 2 - Class 1 Appeals against Council Orders or Notices	\$2,039.10	\$0.00
TABLE 3 - Class 4 Civil enforcement for non-compliance with Council Orders or Notices	\$33,292.86	\$0.00
TABLE 4 - Class 5 Criminal Prosecution for alleged pollution offences and various breaches of environmental and planning laws.	\$0.00	\$0.00
TABLE 5 - Class 6 Appeals from convictions relating to environmental offences non-compliance with Council Orders, Notices or Prosecutions	\$0.00	\$0.00
TABLE 6 - District Court NSW Appeals from convictions in the Local Court not being environmental offences.	\$0.00	\$0.00
TABLE 7 - Consumer, Trader and Tenancy Tribunal – civil disputes of a commercial nature between Council and its customers.	\$0.00	\$0.00
TABLE 8 - Local Court Prosecution matters	\$3,616.00	\$940.00
TABLE 9 - Legal Advice	\$20,002.81	\$0.00
Costs Sub-Total	\$149,219.98	\$940.00
<b>NET COSTS TOTAL (GST exclusive)</b>	<b>\$148,279.98</b>	

**Costs Comparison Table**

<b>TABLE 11 - COMPARISON WITH PREVIOUS FINANCIAL YEAR'S LEGAL COSTS</b>					
	<b>2008/09</b>	<b>2009/10</b>	<b>2010/11</b>	<b>2011/12</b>	<b>2012/13</b>
TABLE 1 - Class 1 appeals DAs	\$255,501.18	\$179,555.88	\$37,703.61	\$70,956.41	\$90,269.21
TABLE 2 - Class 1 appeals others	\$13,893.69	\$3,444.65	\$797.23	\$0.00	\$2,039.10
TABLE 3 - Class 4 proceedings	\$18,707.64	\$4,561.37	\$7,683.15	\$-4,103.02	\$33,292.86
TABLE 4 - Class 5 prosecution	\$22,924.62	\$34,256.47	\$18,902.84	\$143.2	\$0.00

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TABLE 5 - Class 6 appeals	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
TABLE 6 - District Court appeals	\$5,031.63	\$0.00	\$2,300.31	\$-4,609.84	\$0.00
TABLE 7 - CTTT civil disputes	\$902.70	\$0.00	\$0.00	\$0.00	\$0.00
TABLE 8 - Local Court proceedings	\$5,937.26	\$6,168.02	\$9,951.13	\$900.42	\$2,676
TABLE 9 - Legal advice	\$20,735.54	\$52,931.31	\$21,935.21	\$31,529.93	\$20,002.81
<b>OVERALL COSTS TOTAL</b>	<b>\$343,634.25</b>	<b>\$280,917.70</b>	<b>\$99,273.47</b>	<b>\$94,817.10</b>	<b>\$148,279.98</b>

## **4.3 Establishment of Alcohol Free Zones - Glen Alpine and Minto (Zone 2)**

### **Reporting Officer**

Acting Manager Compliance Services

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### **Attachments**

1. Map of proposed AFZ - Glen Alpine (distributed under separate cover)
2. Map of proposed AFZ - Minto (Zone 2) (distributed under separate cover)

To view copies of the attachments under separate cover, contact Council's Corporate Support Coordinator on 4645 4405.

### **Purpose**

To submit to Council a proposal to establish a new Alcohol Free Zone at Glen Alpine and at Minto (Zone 2).

### **History**

The *Local Government Act 1993* (the Act) provides Council with the ability to establish an Alcohol Free Zone (AFZ) to promote the safe use of roads, footpaths and public car parks including privately owned shopping centre car parks) and public reserves without interference from anti-social behaviour caused by public drinkers. The object of an AFZ is an early intervention measure to prevent the escalation of irresponsible street drinking to incidents involving serious crime.

Any person living or working within the Local Government Area (LGA), the local police or a local community group can make an application for an AFZ. Once established, an AFZ prohibits the drinking of alcohol within the specified zone. A proposal to establish an AFZ must, in all cases, be supported by evidence that street drinkers have compromised the public's use of those footpaths, roads or car parks. The maximum duration of an AFZ is four years although it may be re-established upon following the same procedure that was used to establish the zone.

On 4 June 2013, Campbelltown Police Local Area Command (LAC), wrote to Council in response to a proposed liquor licence (for "Little Bottler" retail outlet) at No. 137 Heritage Way, Glen Alpine recommending the establishment of an Alcohol Free Zone in the vicinity of the proposed bottle shop to reduce the incidents associated with public drinking in the area.

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## Report

Council when considering a report on the proposed fit out of Shop 5 Glen Alpine Shopping Centre for use as a liquor store at its Ordinary Meeting on 13 August 2013, resolved in part

“That a separate report be prepared relating to the establishment of an Alcohol Free Zone in the vicinity of the Glen Alpine Shopping Centre for the consideration of Council”.

Correspondence was forwarded to the Campbelltown Police Local Area Command (LAC) on 6 September 2013 concerning a proposed AFZ in the vicinity of the Glen Alpine Shopping Centre. Campbelltown LAC forwarded a written response on 11 September 2013 confirming their support for the proposed zone including the shopping centre car park. Subsequently the owner of the Glen Alpine shopping Centre submitted an Alcohol Free Zone application confirming support for the proposed zone to incorporate the shopping centre car park.

Furthermore, Council received a request in the form of a petition from local residents requesting that Redfern Park, Minto be declared an AFZ. In response, Council wrote to Macquarie Fields LAC on 26 August 2013 seeking their support for the establishment of a proposed AFZ in the vicinity of, and including, Redfern Park and also including the proposed Minto Market Place (formerly Minto Mall) car park areas.

Council received a written response from the Macquarie Fields LAC supporting the establishment of the proposed AFZ given the issues in the vicinity and the proposed BWS liquor outlet to be located within the Minto Marketplace. The proposed zone is also extended to include roads adjoining Sarah Redfern Primary and High Schools, based upon the recommendation of the Macquarie Fields LAC. The owner of the Minto Marketplace also confirmed support, by submitting an AFZ application to Council, for the zone to incorporate the Marketplace car park areas.

The management and operation of an AFZ is a collaborative approach between Council and Police Local Area Commands. Council's role has been to organise for the establishment and sign posting of the zones, while Police have been responsible for enforcement.

The procedure that Council must follow prior in resolving to declare an AFZ is outlined in the Local Government Act and is summarised as follows:

1. Publish a notice in one or more local newspapers advising of Council's intention to establish an alcohol free zone and inviting public submissions. The minimum period for lodging representations is 14 days after publication of the notice.
  2. Consider any submissions received, and where it is decided to declare the zone, advise:
    - The Anti Discrimination Board
    - The Officer in charge of the Police Station nearest to the zone
    - The liquor licensees and secretaries of registered clubs whose premises border on, adjoin or are adjacent to the proposed zone
    - Any known group that might be affected by the creation of the AFZ.
-

Council must give each of the abovementioned notified organisations or persons 30 days (except the Anti Discrimination Board, which has 40 days) to make a written submissions.

3. Consider any submissions received and where it is decided to proceed with the declaration, notify that decision (whether as originally proposed or as amended), in a local newspaper at least seven days in advance of the proposed date of commencement.
4. Signpost the area in accordance with the Act.

The specific streets covered by the zones are shown in Attachment 1 and 2 to this report and are listed below:

**Glen Alpine**

Copperfield Drive (from Crispsparkle Drive to Englorie Park Drive)  
Englorie Park Drive (from N0.79 to No.97)  
Heritage Way (from Englorie Park Drive to No. 144)  
Glen Alpine Drive (from Heritage Way to Rossville Place)  
Car Park Area of Glen Alpine Community Hall and Tennis Courts  
Car Park of Glen Alpine Shopping Centre (137 Heritage Way)

**Minto AFZ (Zone 2):**

Ben Lomond Road (from Pembroke Road to Selwyn Avenue)  
Selwyn Avenue  
Perisher Circuit  
Snowy Avenue  
Longhurst Road (from Selwyn Avenue to Ben Lomond Road)  
Curruthers Street  
Trickett Street  
Gawler Ave (from Trickett Street to Woodroffe Street)  
Glass House Street (from Trickett Street to Ellery Street)  
Gardiner Street  
Patching Close  
Smart Close  
Tate Place  
Edward Edgar Street  
Blane Street  
Norman Dunlop Crescent  
Jenner Street  
Lind Street  
Lemon Tree Crescent  
Harrison Place  
Ellery Street  
Woodroffe Street  
Guernsey Ave (from Longhurst Road to Durham Street)  
Durham Street (from Guernsey Street to Pembroke Road)  
Pembroke Road (from Durham Street to Ben Lomond Road)  
Monaghan Street  
Brookfield Road  
Car Parks of Minto Marketplace

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There are currently 21 AFZs in the Campbelltown LGA of which 14 are located in the southern region of the LGA. These zones within the southern region have just been renewed and will now lapse on 24 December 2017, while the remaining seven in the northern region will lapse on 24 December 2015.

Therefore it is recommended that Council proceed to publicly notify its intention to establish the Glen Alpine Zone (to expire in 24 December 2017) and the Minto Zone 2 (to expire in 24 December 2015) in accordance with the procedures outlined above in the body of the report.

### **Officer's Recommendation**

1. That a notice be placed in a local paper inviting submissions from any person or group, of Council's intention to establish Alcohol Free Zones over the reserves, car park areas, streets and footpaths detailed in Attachment 1 and 2 to this report for the proposed Glen Alpine and Minto (Zone 2) Alcohol Free Zones as outlined in the report.
  2. That all submissions received during the exhibition period be reported to Council.
  3. That should no submissions be received during the exhibition period advice be given that Council intends to establish Alcohol Free Zones over the areas specified in Recommendation 1 above to:
    - (a) The Anti Discrimination Board
    - (b) The officer in charge of the Police Station nearest the zones
    - (c) The liquor licensees and secretaries of registered clubs whose premises border on or adjoin or are adjacent to the proposed zones
    - (d) Any known group that might be affected by the creation of the AFZ's.
  4. That a further report be provided to Council on the establishment of the Alcohol Free Zones specified in Recommendation 1 upon completion of the period for comment by the organisations/groups listed in Recommendation 3 above.
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### **Committee's Recommendation: (Kolkman/Rowell)**

1. That a notice be placed in a local paper inviting submissions from any person or group, of Council's intention to establish Alcohol Free Zones over the reserves, car park areas, streets and footpaths detailed in Attachment 1 and 2 to this report for the proposed Glen Alpine and Minto (Zone 2) Alcohol Free Zones as outlined in the report.
2. That the proposed Minto (Zone 2) Alcohol Free Zone incorporate Redfern Park as an alcohol prohibited area as permitted under Section 632A of the *Local Government Act 1993*.
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 Alcohol Free Zones over the areas specified in Recommendation 1 above to:
  - (a) The Anti Discrimination Board
  - (b) The officer in charge of the Police Station nearest the zones
  - (c) The liquor licensees and secretaries of registered clubs whose premises border on or adjoin or are adjacent to the proposed zones
  - (d) Any known group that might be affected by the creation of the AFZ's.
5. That a further report be provided to Council on the establishment of the Alcohol Free Zones specified in Recommendation 1 upon completion of the period for comment by the organisations/groups listed in Recommendation 3 above.

**CARRIED**

### **Council Meeting 12 November 2013**

Having declared an interest in regard to Item 4.3, Councillor Brticevic left the Chamber and did not take part in debate nor vote on this item.

### **Council Meeting 12 November 2013 (Greiss/Kolkman)**

That the Committee's Recommendation be adopted.

### **Council Resolution Minute Number 246**

That the Committee's Recommendation be adopted.

At the conclusion of the discussion regarding Item 4.3, Councillor Brticevic returned to the Chamber for the remainder of the meeting.

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## **5. GENERAL BUSINESS**

Nil.

### **Confidentiality Motion: (Lound/Rowell)**

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 Report Directors of Companies**

#### **Reason for Confidentiality**

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

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

There being no further business the meeting closed at 8.06pm.

G Greiss  
CHAIRPERSON

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