

# **Reports of the Planning and Environment Committee Meeting held at 7.30pm on Tuesday, 16 April 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 16 April 2013**

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**Present**

Councillor G Greiss (Chairperson)  
Councillor R Kolkman  
Councillor D Lound  
Councillor A Matheson  
Councillor M Oates  
Councillor T Rowell  
Councillor R Thompson  
Director Planning and Environment - Mr J Lawrence  
Manager Community Resources and Development - Mr B McCausland  
Acting Manager Customer Service - Mr P MacDonald  
Manager Development Services - Mr J Baldwin  
Manager Sustainable City and Environment - Mr A Spooner  
Senior Strategic Environmental Planner - Mr M Egan  
Corporate Support Coordinator - Mr T Rouen  
Executive Assistant - Mrs K Peters

**Apology** Nil

**Also in Attendance**

Following the completion of the City Works Committee the following Councillors and staff attended the remainder of the Planning and Environment meeting.

Councillor C Mead  
Councillor P Hawker  
General Manager  
Director City Works  
Acting Director Business Services

**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 Draft Campbelltown City Centre Plan**

#### **Reporting Officer**

Manager Sustainable City and Environment

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#### **Attachments**

1. Draft Campbelltown City Centre Plan (under separate cover)
2. Campbelltown City Centre Locality Map (under separate cover)
3. Campbelltown City Centre Urban Structure Plan (under separate cover)
4. Campbelltown City Centre Height Map (under separate cover)

#### **Purpose**

To present to Council the draft Campbelltown City Centre Plan for consideration and endorsement for public exhibition.

#### **History**

In May 2004, the (then) NSW Premier announced funding to assist 11 councils with town centre expansion and revitalisation planning. The Centres Planning and Development Program (CPDP) aimed to support council efforts to achieve city centres that possess the following attributes:

- enhanced quality of city places and spaces
- places and locations for all types of employment
- increased residential densities around railway stations with improved liveability
- minimised private vehicle use
- maximised utilisation of public and community infrastructure and access to services
- innovation and economic development.

Under this program, Campbelltown City Council received funding to develop a Structure Plan for the Campbelltown/Macarthur and the Ingleburn City Centre Precincts. This recognised Campbelltown as one of the key centres for residential and economic growth within the Sydney Metropolitan Region.

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In 2006, the NSW Government released 'City of Cities – the NSW Government Metropolitan Strategy'. The strategy introduced a hierarchy of centres under which Campbelltown was nominated as a Major Centre (behind Global Cities and Regional Cities). The subsequent draft South West Sub-Regional Strategy (SRS) nominated Campbelltown to accommodate in excess of 25,000 new dwellings within the LGA and allow for the creation of 4500 new jobs. These targets reaffirmed Campbelltown's role as an important regional hub for population growth, transport, employment, goods and services in the Macarthur.

In 2011, the then updated Metropolitan Strategy – Metropolitan Plan for Sydney 2036 nominated Campbelltown as a potential Regional City along with Blacktown. This was based on the assumption that significant sustainable growth would occur over the next 25 year period. The strategy highlighted several actions which were identified as being critical to the emergence of Campbelltown as a regional city centre including:

- promote intensification of office, retail, entertainment, cultural, public administration and services development in a potential commercial core
- encourage stronger integration with Campbelltown Hospital, University of Western Sydney Campbelltown campus, and South Western Sydney Institute of TAFE
- promote residential intensification where it does not preclude employment growth
- improve connectivity between Macarthur and Queen Street precincts
- promote higher order retail and service facilities and greater shopping diversity within Queen Street precinct.

The Campbelltown/Macarthur Structure Plan, which was under development during this time, became the first step in the process of creating a framework under which this growth could be accommodated. The Structure Plan, which was adopted by Council in 2009, set out a range of specific land uses that in combination could accommodate the planned growth both in terms of the residential population and employment opportunities. Following the adoption of the structure plan, Council staff began developing a Campbelltown City Centre Plan to respond to the unique challenges that faces each of the centres. Supplementary work was also undertaken on a Macarthur Precinct Development Control Plan which will be reported separately to Council in the near future.

Council has previously been briefed on the Draft Campbelltown City Centre Plan (draft CCCP) first by Urbis (June 2011) and Council staff (April 2012). Feedback from both of these briefing sessions has been incorporated into the current proposal. A briefing on the current proposal was provided to Council in February 2013 as part of the Campbelltown consolidated Local Environmental Plan briefing night. It should be noted that following Council's resolution to nominate the Campbelltown-Macarthur Regional City Centre (North Side) Precinct as an Urban Activation Precinct, this area has been removed from the draft CCCP at this time.

By way of a regional comparison, information requested at the Planning and Environment Committee at its meeting on 24 July 2012 is provided as part of this report. At this meeting Council resolved:

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

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## **Report**

To guide future development of the City Centre, a comprehensive plan has been developed. The draft Campbelltown City Centre Plan (draft CCCP) is structured in such a way as to provide a strategic framework which incorporates a Vision, Strategic Plan and DCP for the City Centre. In doing this, the draft CCCP provides a holistic approach to the consideration of the future development of the City Centre.

This plan has been developed to ensure consistency with the State Government's Metropolitan Strategy and the targets set out for Campbelltown, including the most recently released Draft Metropolitan Strategy for Sydney. The Draft Metropolitan Strategy for Sydney indicated that Campbelltown CBD should "continue as the focus for office, retail, entertainment, cultural, public administration and services development in a potential commercial core and provide capacity for at least an additional 10,000 jobs to 2031." This is in addition to the approximately 10,000 dwellings planned for the wider Campbelltown and Macarthur City Centre.

The draft CCCP creates the potential to achieve both the dwelling and employment targets set out in the Metropolitan Strategy. In doing so, it is envisaged that the Campbelltown and Macarthur City Centre will ultimately develop into a Regional City which provides for all the needs of the Macarthur region.

The draft CCCP applies to land bounded by the southern rail line, Moore Oxley Bypass and Narellan Road. A map showing the extent of the area is attached (see Attachment No. 2).

## **The Vision**

The controls within the draft Campbelltown City Centre Plan are anchored in the establishment of a clear Vision for the City Centre which sets out the aspirations of the City. The vision focuses on four key aspects of the City Centre:

- economic development
- the environment
- transport
- community wellbeing.

Following on from the key aspects of the Vision, the CBD is broken down into a series of Precincts, with each defined by their distinct qualities, built form, land uses and desired future character. The respective character statements provide description of the intended future character of each precinct which can be interpreted and translated into the Masterplan and DCP. For example:

### **Residential/Supporting Commercial and Retail**

This area, bordered by Moore Oxley Bypass to the east, the rail line to the north and adjacent to the Civic/Administrative/Commercial/Residential Character Area, will be developed for high density residential apartments and a range of commercial and retail uses to support the residential development. Queen Street will be the primary focal point of the area, with an active edge on either side of the street.

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## **The Strategic Plan**

The Strategic Plan articulates the vision for the City Centre into a clear plan for the future in a formative sense. It presents a visual representation of the intended outcomes of the subsequent draft development controls. The Strategic Plan also seeks to address some of the broader issues which are relevant to the whole of the centre.

Of the issues addressed by the Strategic Plan, there are considered to be four key elements worthy of highlighting. They are urban structure, built form, access and movement and open space.

### **a) Urban structure**

The draft CCCP builds on and incorporates the work undertaken on the Campbelltown Structure Plan. Essentially, the urban structure component is the formally adopted Campbelltown Structure Plan with some amendments. As part of the most recent briefing Councillors were advised that it was proposed to shift the focus on the CBD core from retail/commercial to mixed use. This was proposed for two reasons. First and foremost was to encourage new development that would support and activate the CBD core. The introduction of mixed use development allows for the creation of a 'living centre'. The introduction of new residential apartment development within the CBD core would support the development of new retail/commercial business, as well as potentially encourage the revitalisation of the existing Queen Street main street. The second reason was in relation to the viability of developing retail/commercial development. Advice provided by industry experts suggests that the development of a retail/commercial core, without the support of residential development, is unviable in the existing market. It is expected that this form of development, at a scale previously nominated within the Campbelltown Structure Plan, would not be viable for at least 10 and possibly up to 20 years.

A copy of the Urban Structure Plan (amending the Campbelltown Structure Plan) is attached (see Attachment No.3).

### **b) Build form (building heights)**

One key built form outcome that is immediately evident to the community is the height of a building. While controls on Floor Space (FSR), building setbacks and/or landscape area all play an equally important role in the way a development is interpreted from the street, it is the height which the community is most aware. For this reason, it is critically important that the Strategic Plan (and subsequent DCP) propose building heights which are well considered, feasible and broadly supported.

The proposal put forward as part of the Strategic Plan is to move away from the existing six/10 storey height limits (as set out in Council's current Sustainable City DCP) to a palette of heights ranging from six storeys through to 14 storeys. This palette responds to the desired future character statements and market viability. Generally speaking, the palette provides for five primary types of development. Attachment No. 4 graphically presents the areas which the different built form types would apply.

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- 6 storey residential apartment buildings – this type is restricted to areas that are generally in excess of 800m distance from the Campbelltown rail station, set back from retailing streets and/or opposite existing low density residential development areas, which fall outside the boundaries of the Campbelltown City Centre
- 8 storey residential apartment buildings – this type is proposed for areas that are within 800m of the rail station, within close proximity to the Queen Street retail area and not opposite existing low density residential development areas, which fall outside the boundaries of the Campbelltown City Centre
- 8 storey mixed use developments – this type is proposed for areas along Queen Street where it is proposed to activate the street edge incorporating a minimum of one floor of retail/commercial at ground level
- 12 storey mixed use developments – this type is proposed for certain areas along Queen Street adjacent to the rail line. These sites are typically existing retail/commercial premises and offer additional development potential with minimal impact on surrounding lands
- 14 storey Mixed Use Developments – This type is proposed for sites within the core of the CBD area. The sites nominated essentially are limited to Council owned sites along Hurley Street opposite the rail line. These sites represent the key to unlocking the potential that exists within the CBD and the Queen Street retail area in particular, and are seen as a potential catalyst to the redevelopment and rejuvenation of the Campbelltown CBD.

The heights and building configurations nominated above have been developed following careful consideration of the feasibility of and market trends involving high rise development in Western Sydney, in particular. This should provide greater certainty that the types proposed, fit not only within the context of Campbelltown, but are also economically viable. This will in turn ensure the intended design outcomes are achievable.

### **c) Access and movement**

The functionality of the City Centre is to no small degree defined by the ability of people to access and move around the CBD space. As such, ensuring that both pedestrian and vehicles can access and move around the CBD space in an efficient and convenient manner is critical to the CBD's ongoing success.

The Strategic Plan has adopted the Access and Movement Plan that was created as part of the Campbelltown/Macarthur Structure Plan which was adopted by Council in 2009. This plan created a ring road network around the CBD, incorporating Narellan, Moore Oxley and Blaxland Roads intersected by the proposed Broughton/Badgally Road Bridge. The purpose, of the ring road network was to encourage all vehicles to move efficiently around the centre rather than traversing through it. In removing much of the through traffic from the CBD, pedestrian amenity is improved and extra capacity is available for local traffic distribution.

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#### **d) Open space**

With the proposed increase in housing density, it is critically important to provide suitable and easily accessible areas of public open space. The draft CCCP incorporates requirements for communal open/recreational space within individual developments, however, from a community perspective, the value of public open space cannot be understated.

The CBD provides a number of areas of public open space at present. Koshigaya and Mawson Parks and the Campbelltown Show Ground all provide the opportunity for formal and informal recreation. Moving forward, Council may need to identify further opportunities for additional areas of public space. The Strategic Plan proposes a number of new urban spaces within the CBD, in addition to the possible utilisation of certain land within the Campbelltown Performing Arts High School. It is these kinds of creative opportunities that will need to be considered by Council to ensure the continued provision of sufficient and appropriately treated public spaces within the Campbelltown City Centre. Further discussion and consultation will need to be undertaken to refine particular proposals for Council's future detailed consideration. The proposed public exhibition process will assist in that regard.

#### **The Development Control Plan**

The proposed City Centre DCP takes the elements from the Vision and Strategic Plan and transposes these into a package of development controls that ensure the intended outcomes can be achieved. Focusing on delivering design excellence and ensuring the highest standards of design, amenity and quality are achieved, the DCP will guide the development within the City Centre for the next 20 years.

The proposed DCP adopts elements from Council's Sustainable City Development Control Plan where they were considered appropriate. In a number of other instances, the City Centre DCP has sought to develop new controls that reflect the centre's unique sense of place. Some of the key changes include:

- increasing the minimum apartment sizes to be consistent with the Residential Flat Design Code (NSW Department of Planning & Infrastructure) – this will improve the overall quality of the apartments on offer
  - require a minimum of 10% of all apartments to be either studio or one bedroom apartments – this will insure that there is adequate provision of smaller apartments to meet the needs of the community, particularly for single person households, students and/or seniors
  - discounted parking generation rates for areas within walking distance to the rail station – this is similar to the controls proposed as in the draft Macarthur DCP which seek to recognise Campbelltown Centre's role as a regional transport hub. Apartments within 400m of the station would receive a 20% discount on the prescribed parking generation rates. Apartments within 800m would receive a 10% discount. As a minimum, every apartment would require a 1 car parking space
  - solar access control – these controls would ensure that key areas of open space are protected from overshadowing at certain times of the day via additional controls on the height and setback of adjoining developments.
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## **Regional context**

At the Planning and Environment Committee on 24 July 2012, a question without notice was raised requesting:

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

Given the matters discussed in this report, it was considered appropriate to incorporate the response to this question as part of the consideration of the draft City Centre Plan and in doing so, provide some level of regional context to the proposed controls outlined previously.

Excluding stations within the Campbelltown LGA, a direct service is available from Campbelltown to 48 stations within the City Rail Network. This includes stations at Parramatta and Liverpool, but also includes stations such as East Hills and Narwee. As such, and in order to provide a more meaningful comparison of planning controls, only centres of an equivalent status to Campbelltown (Major Centre) as identified in the recently released draft Metropolitan Strategy for Sydney 2031 have been reviewed.

In addition to Campbelltown, other centres also nominated under the plan as major centres along major rail links to the Sydney CBD include:

- Bankstown
- Hurstville
- Burwood
- Blacktown.

Under the plan, Campbelltown is nominated as a higher order Major Centre, intended to function as the urban core for the surrounding district and provide for higher density commercial and residential development. It is noted that under the strategic hierarchy of urban centres in the Metro Plan, Major Centres are only exceeded by the three Regional Cities (Liverpool, Parramatta and Penrith) and the North Sydney / Sydney CBD.

A review of the main planning controls that are applicable under the respective Local Environmental Plans (LEPs) for these centres has been undertaken and is summarised in the following table. The controls for Parramatta, Liverpool and Penrith (Regional Cities) have also been included for the purpose of comparison. The review focused on:

- height – principally implies the overall scale of the development
  - Floor Space Ratio (FSR) – principally implies the overall bulk of a development
  - distance from station – indicates the proximity of development to the centre's hub.
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Table 1 – Strategic Centre Comparison

Strategic Centre	Max. height	Max. FSR	Distance from station
Parramatta (Regional City)	200m (approx. 61 storeys <sup>#</sup> )	10.0:1	Adjacent
Liverpool (Regional City)	100m (approx. 30 storeys <sup>#</sup> )	5.0:1	100m
Penrith (Regional City)	80m (approx. 24 storeys <sup>#</sup> )	4:1	100m
Bankstown	36m (approx. 11 storeys <sup>#</sup> )	4.5:1	50m
Hurstville	60m (approx. 18 storeys <sup>#</sup> )	7.0 – 9.0:1	Adjacent
Burwood (Proposed)	70m (approx. 21 storeys <sup>#</sup> )	6.0:1	Adjacent
Blacktown (Proposed)	16 Stories (approx. 50m)	5.0:1	Adjacent

# Overall building height is dependent on the prescribed requirements for floor to ceiling height. These vary. In this instance, an average of 3.25 metres for each storey has been chosen as a basis for comparison.

At present, Campbelltown has a maximum height limit of 10 storeys for development in proximity to the Campbelltown and Macarthur Railway Stations (under the Sustainable City DCP). This equates to approximately 32.5m in height. The bulk of the building is currently controlled through the use of a variety of building setbacks rather than an FSR. Building setbacks create a building envelope or space within which a development may be constructed. This is typically more restrictive in terms of the built form outcomes compared to the use of the more simple FSR control.

A comparison of the primary built form controls within the other regional and major centres in Table 1, indicates that the current controls for development within the Campbelltown City Centre, at present, are at the lower end of the scale. The proposal to raise the maximum permissible height limit to 14 storeys (46m) would see Campbelltown remain, comparatively, at the lower end of the scale with building heights lower than Burwood, Hurstville and Blacktown.

## Conclusion

The draft Campbelltown City Centre Plan presents a comprehensive and holistic consideration of the City Centre. It clearly articulates the desired outcomes for the continued growth of the City and if implemented, would put into place controls to ensure that this growth is achieved in a form that is in fitting with the local context.

The plan proposes to change a number of the existing controls that apply to the area, most notably maximum permissible building heights. These changes have been proposed after careful consideration of potential impacts. In developing these proposed heights, Council staff have also sought advice from external experts as to the feasibility and market trends to ensure that the development types proposed are economically viable.

Given the scope of the draft CCCP, it would be beneficial to provide an extended public exhibition period. In addition, two workshops could be held with the community and key stakeholders to discuss the draft CCCP.

The draft plan represents the aspirations of a growing City that is increasingly being recognised for its crucial role within the Sydney Metropolitan Region. Having adopted the Campbelltown/Macarthur Structure Plan, the exhibition and future finalisation of the Campbelltown City Centre Plan is the next step. The draft Campbelltown City Centre Plan is designed to guide the growth and emergence of Campbelltown as a Regional City.

### **Officer's Recommendation**

1. That Council adopt the draft Campbelltown City Centre Plan for the purpose of public exhibition.
2. That Council exhibit the draft Campbelltown City Centre Plan for a minimum of 60 days.
3. That Council undertake a minimum of two community/stakeholder workshops during the exhibition period.

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

That the Officer's Recommendation be adopted.

**CARRIED**

### **Council Meeting 23 April 2013 (Greiss/Rowell)**

That the Officer's Recommendation be adopted.

### **Council Resolution Minute Number 56**

That the Officer's Recommendation be adopted.

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## **2.2 Final NSW Long Term Transport Master Plan**

### **Reporting Officer**

Manager Sustainable City and Environment

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### **Attachments**

1. Council's submission on the draft NSW Long Term Transport Master plan
2. Summary of the NSW Long Term Transport Master Plan – December 2012 (provided as a web link: <http://engage.haveyoursay.nsw.gov.au/document/show/602> and distributed under separate cover)

### **Purpose**

1. To inform Council of the release of the State Government's NSW Long Term Transport Master Plan.
2. To seek Council's endorsement of a draft response to the Transport for NSW Department, expressing Council's concerns.

### **History**

The finalised NSW Long Term Transport Master Plan was released by the NSW Government on 13 December 2012. The Master Plan provides an overview of transport challenges and requirements for NSW metropolitan and regional areas over the next 20 years, generally relating to forecast population growth and associated economic activity. Importantly, the Master Plan prescribes a range of commitments for the NSW Government to improve land use and transport planning outcomes through the strategic delivery of critical infrastructure.

In 2012, the NSW Government publicly exhibited its draft NSW Long Term Master Plan. During this exhibition period, Campbelltown City Council provided a submission raising a number of issues with respect to the planned investment decisions for transport infrastructure for the Macarthur region, a copy of which is provided in Attachment 1.

This report provides an overview of the plan and its response in addressing Council's Concerns.

### **Report**

On 22 October 2012, Council provided a submission to the NSW Government on the NSW Long Term Transport Master Plan, outlining a range of concerns relating to transport and land use planning for the Campbelltown/Macarthur region. The submission identified a number of deficiencies within the plan, which generally related to an imbalance between the NSW Government's priority commitment for urban growth within the South West Sydney region and investment in key transport infrastructure.

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The key concerns identified by Council in its submission to the NSW Government on the draft Master Plan are summarised as follows:

- the transport impacts resulting from planned residential and employment growth that is scheduled to take place in the Macarthur Region over the next 20 years appears to be understated
- lack of specific commitments and detail relating to future government investment into a number of critical transport items within the Campbelltown LGA
- recent developments in the freight and logistics sector which will impact upon on road infrastructure within the region do not appear to be properly considered
- planning assumptions relating to future transport planning and investment decisions do not reflect the major significance of the Macarthur/Campbelltown Business Centre as a key destination hub for the South West Sydney Region and Growth Centre
- planning for and provision of efficient access from surrounding residential communities to Campbelltown Local Government Area railway stations must be provided. This includes road connection construction and upgrades, public transport provision, and mode interchange facilities (bus/rail and commuter carparking facilities)
- consideration be given to the extension of the South West Rail Link through to Narellan
- greater focus on the proper planning and development within the region of transit oriented centre based residential and employment hubs, such as promoted by the Department of Planning's Urban Activation Precincts Program;
- no specific detail or commitment made to address traffic congestion and pinch point management along key corridors such as Narellan Road, Badgally Road, Raby Road, Denham Court Road and Menangle Road.

A review of the final Master Plan has been undertaken, and it is the view of Council staff that there have been no significant amendments made to address these matters above. In many respects, the plan retains its emphasis on Campbelltown in a subservient role to Liverpool, with infrastructure improvements generally focusing on the promotion of the Liverpool CBD as the regional centre for business and employment growth.

While the Master Plan does provide partial recognition of some of the concerns identified by Council, there is no identifiable commitment made to specifically mentioned infrastructure improvements within a specified time frame. An example includes the future upgrade of Campbelltown Road from Campbelltown to the Cross Roads, where studies have been completed to inform priorities for targeted improvements.

Future provision of bus services between Campbelltown and the South West Growth Centre through the 'Bus Head Start Program' has been mentioned, however there is no detail provided on timeframes or infrastructure provision.

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In this respect, the only real infrastructure commitments made that would benefit the Campbelltown LGA relate to the finalisation of existing projects, such as the completion of the South West Rail Link from Glenfield to Leppington by 2016 and associated increases in railway services. The Southern Sydney Freight Line has also been identified as being under construction and will establish a dedicated rail link between Port Botany and Macarthur.

It is considered that there have been no significant amendments to the final Master Plan to appease the transport and land use planning concerns raised by Council. Given the importance of effective transport planning in underpinning sustainable development for the planned population and employment growth in the South West Region, serious concerns remain that the NSW Government's Transport Master Plan will not provide for the timely delivery of required infrastructure.

The NSW Government's commitment to the timely provision of transport infrastructure to serve the planned population growth for the South West Region is considered critical to ensure a sustainable land use outcome. This includes continued access for residents to housing and services, in addition to encouraging investment and the creation of employment opportunities. Without this commitment, residents of the Campbelltown/Macarthur region will be at risk of suffering further social and economic inequity with excessive travel times and associated reduction in lifestyle quality. This is a different outcome likely to be experienced in some other parts of Sydney, particularly areas located closer to the Sydney CBD.

Accordingly, it is considered that Council should reiterate the concerns expressed in its earlier submission to the NSW Government, and request that the Final NSW Long Term Transport Master Plan be amended to address these matters.

### **Officer's Recommendation**

1. That the information in this report be noted.
2. That Council send correspondence to Transport for NSW expressing continued concern over the adequacy of the NSW Long Term Master Plan to meet the strategic transport needs of Campbelltown and Macarthur.

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

That the Officer's Recommendation be adopted.

**CARRIED**

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### **Council Meeting 23 April 2013**

Having declared an interest in regard to Item 2.2, Councillor Chanthivong left the Chamber and did not take part in debate nor vote on this item.

### **Council Meeting 23 April 2013 (Greiss/Rowell)**

That the Officer's Recommendation be adopted.

### **Addendum: (Borg/Brticevic)**

3. That Council forward a letter to the Minister for Transport asking her to put on the future transport agenda, the electrification of the railway line from Macarthur to Menangle Park.
4. That a copy of Council's letter be forwarded to the four local NSW State Members of Parliament seeking their support on this issue.

### **Council Resolution Minute Number 58**

That the Officer's Recommendation incorporating the above addendum be adopted.

At the conclusion of the discussion regarding Item 2.2, Councillor Chanthivong returned to the Chamber for the remainder of the meeting.

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## ATTACHMENT 1



22 October 2012

NSW Long Term Transport Masterplan Team  
Transport for NSW  
GPO Box K659  
HAYMARKET NSW 1240

Dear Sir/Madam

### **Draft NSW Long Term Transport Masterplan**

Campbelltown City Council welcomes the preparation of the Draft Long Term Transport Masterplan for NSW by the State Government.

May I take this opportunity on behalf of the Council to express Council's appreciation for the recent briefing on the draft Masterplan by Mr Steve Enticott and other senior officers of Transport for NSW, provided to representatives of the Macarthur Regional Organisation of Councils at Campbelltown on 9 October 2012.

You may also be aware that Council made a detailed submission to Transport NSW on the Discussion Paper that preceded the release of the draft Masterplan, in addition to sending senior staff representatives to a community stakeholder workshop held at St Marys earlier this year.

Whilst there is clearly an extensive range of policy proposals, strategies and initiatives included in the draft Masterplan, this submission will concentrate on a number of key concerns that Council holds with the draft Masterplan. Those concerns are not inconsistent with previous representations made by this Council to:

- Transport for NSW;
- Other government agencies including the Department of Planning and Infrastructure; as well as to
- Elected State Government representatives.

There is little doubt that successful transport systems owe much of their success to the integration of transport and land use planning and the subsequent commitment to the delivery of those plans. As with any plan, the assumptions must be robust and governments must demonstrate a willingness to commit to the implementation of a plan with investment in the delivery of critical infrastructure.

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Council holds a firm belief that collaboration between all levels of government (and between multiple agencies within government) is essential in the decision making framework that will allocate planning and delivery resources to the implementation of Land Use and Transport Policy in New South Wales. Campbelltown City Council requests to be part of that collaboration.

Overall, Campbelltown City Council is concerned that the draft Masterplan does not translate the significance of the extent of residential and employment growth that is scheduled to take place in the Macarthur Region over the next 20 years (as expressed in housing and employment targets published by the Department of Planning and Infrastructure) in the identified critical infrastructure upgrades listed in the draft Masterplan.

Council notes and supports the policies of better connectivity between new urban release areas and places of employment and services/facilities. However, Council is disappointed at the absence of any noticeable detail contained within the draft Masterplan, as far as specific commitments that relate to future government investment into a number of critical transport infrastructure items (within the Campbelltown Local Government Area) that deal with what are seen by Council to be regional transport imperatives.

Further, Council believes that the draft Masterplan does not take appropriate account of recent developments in the freight and logistics sector that are likely to have significant ramifications for intermodal activity (and attendant transport implications particularly on regional and local roads). Council is aware of a change in ownership of the MIST terminal at Ingleburn and a projected 'tripling' of associated container movements and a recent approval granted by Council for a new rail siding at Minto, servicing a major industrial zoned site that is at present underdeveloped and used for vehicle storage and distribution. The implications of these 'industry sector movements' for assumptions about freight transfer elsewhere in South West Sydney (e.g. Moorebank) need to be more fully understood, as do the potential impacts on local road networks. These issues must be dealt with appropriately by the draft Masterplan, both in terms of transport planning and investment in critical infrastructure.

The key specific matters that Council has identified as being relevant to the Government's finalisation of the draft Plan relate to the following items:

- Proper recognition must be paid in the draft Masterplan of the Campbelltown/Macarthur Business Centre as a major *destination* for the South Western Sydney regional community (including South West Growth Centre) as a key hub of retail, higher education, regional health and medical, commercial and cultural as well as recreation services. For example, the NSW Government is currently investing substantially in the future expansion of Campbelltown Public Hospital (\$140 million) and a further \$500 million is understood to be allocated in the next two-three years. Further, the University of Western Sydney is intending to increase its own campus student population by 50% from 6000 to 9000 from now up until 2026.

The Campbelltown/Macarthur Regional City Centre is an emerging regional employment hub for the Macarthur Region, with more jobs being created in this centre than many others elsewhere in metropolitan Sydney over recent years

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The Draft Masterplan fails to appropriately acknowledge the significance of the Campbelltown/Macarthur Regional Centre. The suggestion that better links be established between the Liverpool Health precinct and existing education facilities at the Macarthur/Campbelltown Centre to make Liverpool CBD an attractive place for specialist businesses supporting employment growth and research, cannot be supported.

The Campbelltown/Macarthur Centre is an employment 'destination' in its own right and should be supported by appropriate transport planning and investment. This is seen by Council as a major shortcoming in the current planning assumptions underpinning future transport planning and investment decisions affecting the Macarthur Region.

- The Campbelltown Local Government Area has seven electrified rail stations and one diesel station along the Great Southern Railway Corridor, providing direct public transport access to the Sydney CBD and other key destinations such as Sydney Airport. These stations are accessible to existing and major planned future residential growth areas including:
    - South West Growth Centre (e.g. Oran Park, Turner Road, East Leppington, Menangle Park, Gilead, Campbelltown South); and the
    - Spring Farm Urban Release Area
  - The planning for and provision of unobstructed and efficient corridor access to key destinations such as the Campbelltown/Macarthur Regional Centre and the railway stations, from the extensive suburban residential communities across the Macarthur region must be a priority for the Government. This involves the:
    - Construction of new connecting links such as the Spring Farm Parkway;
    - Enhancement and extension of existing links to the South west Growth Centre by increasing the capacity of:
      - Narellan Road, (including widening and intersection capacity upgrades),
      - Badgally Road (through to the Campbelltown Railway station initially and across to Broughton Street direct to the Campbelltown CBD in the longer term) and including intersection upgrades,
      - Raby Road intersection upgrades,
      - Denham Court Road realignment, widening and intersection upgrades, and
      - Menangle Road upgrades
  - Corridor access to key destinations must be dual mode (bus priority and private vehicle) but delivery in the short term needs to focus on more convenient, reliable, safe, comfortable and efficient public transport connections.
  - Railway stations (and especially railway stations that are geographically proximate to new residential release areas) in the Camden and Campbelltown Local Government Areas, must be provided with mode interchange facilities including bus/rail and commuter car parking facilities. To maximise the take-up of public transport in new Greenfield communities, park and ride facilities need to become essential features of new urban release areas that are remote from stations.
  - There needs to be consideration granted to an extension of the South West Rail Link through to Narellan in the longer timer
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- Substantial effort needs to be directed into the planning and development of transit oriented centre based residential and employment hubs. The Department of Planning's Urban Activation Precincts program appears to be a model with significant potential. Campbelltown City Council is currently considering the promotion of both the Glenfield Business Centre and part of the Campbelltown/Macarthur Regional City Centre as opportunities under this program.
- Unfortunately, no specific mention is made in the draft Masterplan, of the following critical infrastructure needs (with regional significance), to address major regional transport imperatives:
  - Upgrades to commuter parking at any stations within the Campbelltown Local Government Area;
  - Upgrades to interchange facilities and commuter carparking at any stations within the Campbelltown Local Government Area;
  - Priority Bus Network initiatives in the short term;
  - Congestion and pinch point management along key corridors such as Narellan Road, Badgally Road, Raby Road, Denham Court Road, and Menangle Road; and
  - Measures to deal with congestion in and around the Campbelltown/Macarthur Regional City Centre such as grade separation at the intersection of Narellan Road and Blaxland/Gilchrist and the intersection of Narellan Road and Hurley Street
- More integrated solutions need to be developed with the Department of Planning and Infrastructure in so far as addressing 'value capture' from development that take a benefit from government investment in transport. Any discussion must recognise current Government policy to restrain the extent of charges on development, as has been identified for example by the current Green Paper into the review of the NSW Planning System. .

In conclusion, Campbelltown City Council would seek to encourage the Government to refine the Long Term Transport Masterplan to demonstrate more clearly the NSW Government's priority commitment to matching planning for housing and employment with planning and investment in key transport infrastructure in the Macarthur Region.

Council looks forward to reviewing the soon to be released revised Metropolitan Strategy, and being able to be satisfied that the significant imposition upon South Western Sydney, and in particular the Macarthur Region, to absorb extraordinary numbers of new houses and jobs (more than any other region in metropolitan Sydney) will be ably serviced by a commensurate investment in critical transport infrastructure. Council would hope that the level of planned investment in transport enhancements in areas where housing and jobs targets are less than those proposed for Macarthur, is exceeded by infrastructure commitments by the Government for our region.

Such an approach would be welcomed by Council and the community, in contrast with historical planning and delivery mechanisms put into place in South Western Sydney.

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Those processes have had the result where the needs of a geographically isolated community have converted into social disadvantage, most obviously in the form of deprived accessibility to employment opportunities as well as accessibility to services and facilities, supplemented by often lower standards of amenity brought about by traffic congestion and a poor public transport 'offer'.

Should you require any further information concerning Council's position on the Draft Masterplan, please do not hesitate to contact Council's Director Planning and Environment Jeff Lawrence on (02) 4645 4575.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Paul Tosi', with a stylized flourish at the end.

Paul Tosi  
General Manager



## **2.3 Draft State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) Amendment (Coal Seam Gas Exclusion Zones) 2013**

### **Reporting Officer**

Manager Sustainable City and Environment

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### **Attachments**

1. Correspondence from the NSW Premier regarding changes to the regulatory framework for the coal seam gas industry
2. Draft submission on the draft State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) Amendment (Coal Seam Gas Exclusion Zones) 2013
3. Map showing the proposed exclusion zones in relation to the Camden Gas Project (provided under separate cover)

### **Purpose**

1. To inform Council on the draft amendments to the State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) (SEPP Amendment).
2. To seek Council's endorsement of a draft submission to the NSW Department of Planning and Infrastructure (DPI) on the proposed amendments.

### **History**

At its Ordinary Meeting on 26 February 2013, Council considered a report that (in part) outlined proposed changes to the regulatory framework for the coal seam gas industry, announced by the NSW Government on 18 February 2013. In particular, one of the proposed changes was the imposition of a two kilometre exclusion zone around residential areas, which is anticipated to have major implications for the Camden Gas Project (CGP), primarily the Stage 3 application.

### **Report**

#### **Introduction**

The NSW Department of Planning and Infrastructure (DPI) has placed a proposed SEPP Amendment on public exhibition until 12 April 2013. The amendment specifically relates to the establishment of coal seam gas exclusion zones around existing residential areas and future residential growth areas. Correspondence received from the NSW Premier (dated 25 February 2013) providing formal notification to Council of the proposed SEPP Amendment is provided in Attachment 1.

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## 2.3 Draft State Environmental Planning Policy (Mining, Petroleum Production And Extractive Industries) Amendment (Coal Seam Gas Exclusion Zones) 2013

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A review of the proposed SEPP Amendment by Council staff has identified a number of issues of concern to Council that warrant the lodgement of a submission to the DPI. A draft submission has been prepared for Council's consideration and endorsement, a copy of which is provided in Attachment 2.

The DPI has granted Council an extension to the public exhibition period to enable the matter to be considered by Council at its meeting on 23 April 2013. However, as a condition of this extension, Council was required to submit the draft submission to the DPI for its records prior to 12 April 2013.

### **State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) Amendment (Coal Seam Gas Exclusion Zones) 2013**

The major features of the proposed SEPP Amendment placed on public exhibition are as follows:

- the imposition of a two kilometre exclusion zone for coal seam gas development activities (including exploration and production) around land currently zoned as residential, as well as future residential growth areas
- the proposed amendment applies to future applications as well as those currently lodged (but not approved) and modifications to existing approvals
- the proposed amendment prohibits exploration activities from expanding or transitioning into the production stage
- the proposed amendment does not apply to gas drainage activities associated with longwall mining operations, such as the Bulli Seam Project
- councils may be able to 'opt-out' of the amendment should they wish to do so, however, this would not guarantee approval for coal seam gas projects.

### **Implications for the CGP and recommended Council response**

#### **1) CGP Stage 2**

The proposed exclusion zones will not apply to existing coal seam gas extraction activities within the approved CGP Stage 2, as they do not apply retrospectively. This will include the eight well sites already approved within the Campbelltown LGA where drilling is yet to commence.

Currently, under the proposed SEPP Amendment, future residential growth areas are identified on a Future Residential Growth Areas Land Map and only include the North West Growth Centre and the South West Growth Centre. However, the NSW Government have advised that this map will be revised following the exhibition period to include other future residential growth areas in consultation with local councils. This action will consequently impact on the definition of exclusion zones relating to the Menangle Park and Gilead Urban Release Area (URA) footprints. In this regard, the proposed amendment may not prohibit future coal seam gas activities within the CGP Stage 2 area, depending on the final determination of these boundaries.

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**Recommended Council response**

It is recommended that Council require that the SEPP Amendment apply to approved wells within the CGP Stage 2 area that are yet to be drilled. This includes two sites at Menangle Park, which at its meeting on 12 April 2011 Council resolved, to decline to enter into an access agreement with AGL.

It is further recommended that Council require the Menangle Park and Gilead URA footprints be classified as a future residential growth areas, and that Council be given the opportunity to comment on the boundaries of these areas prior to the gazettal of the SEPP Amendment.

**2) CGP Stage 3**

It is anticipated that the imposition of a two kilometre exclusion zone around residential areas (existing and proposed under the SEPP Amendment as exhibited), will prevent any coal seam gas extraction or exploration activity from occurring within approximately 99 per cent of the proposed surface project area and 100 per cent of the subsurface project area, as shown on Map 1 (Attachment 3). However, coal seam gas production and exploration activity would still be permissible in areas that are more than two kilometres from existing residential areas and future residential growth areas. This includes environmentally sensitive areas, as well as drinking water catchment areas.

**Recommended Council response**

It is recommended that Council welcome the SEPP Amendment in restricting coal seam gas activities in proximity to residential areas and future residential growth areas. However, Council has concerns that the proposed SEPP Amendment does not adequately protect certain environmentally sensitive areas, nor does it currently cover all future residential, growth areas. Therefore, it is recommended that Council continues to oppose these activities in these areas and requests that amendments be made to the proposed SEPP Amendment that appropriately protect these areas.

**Officer's Recommendation**

That Council endorse the attached submission on the proposed State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) Amendment (Coal Seam Gas Exclusion Zones) 2013 and forward it to the NSW Department of Planning and Infrastructure.

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

1. That Council endorse the attached submission on the proposed State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) Amendment (Coal Seam Gas Exclusion Zones) 2013 and forward it to the NSW Department of Planning and Infrastructure.
2. That the Department of Planning and Infrastructure be asked to ensure that Menangle Park and Gilead future land releases are also included in the Coal Seam Gas exclusion zones.

**CARRIED**

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### **Council Meeting 23 April 2013 (Greiss/Rowell)**

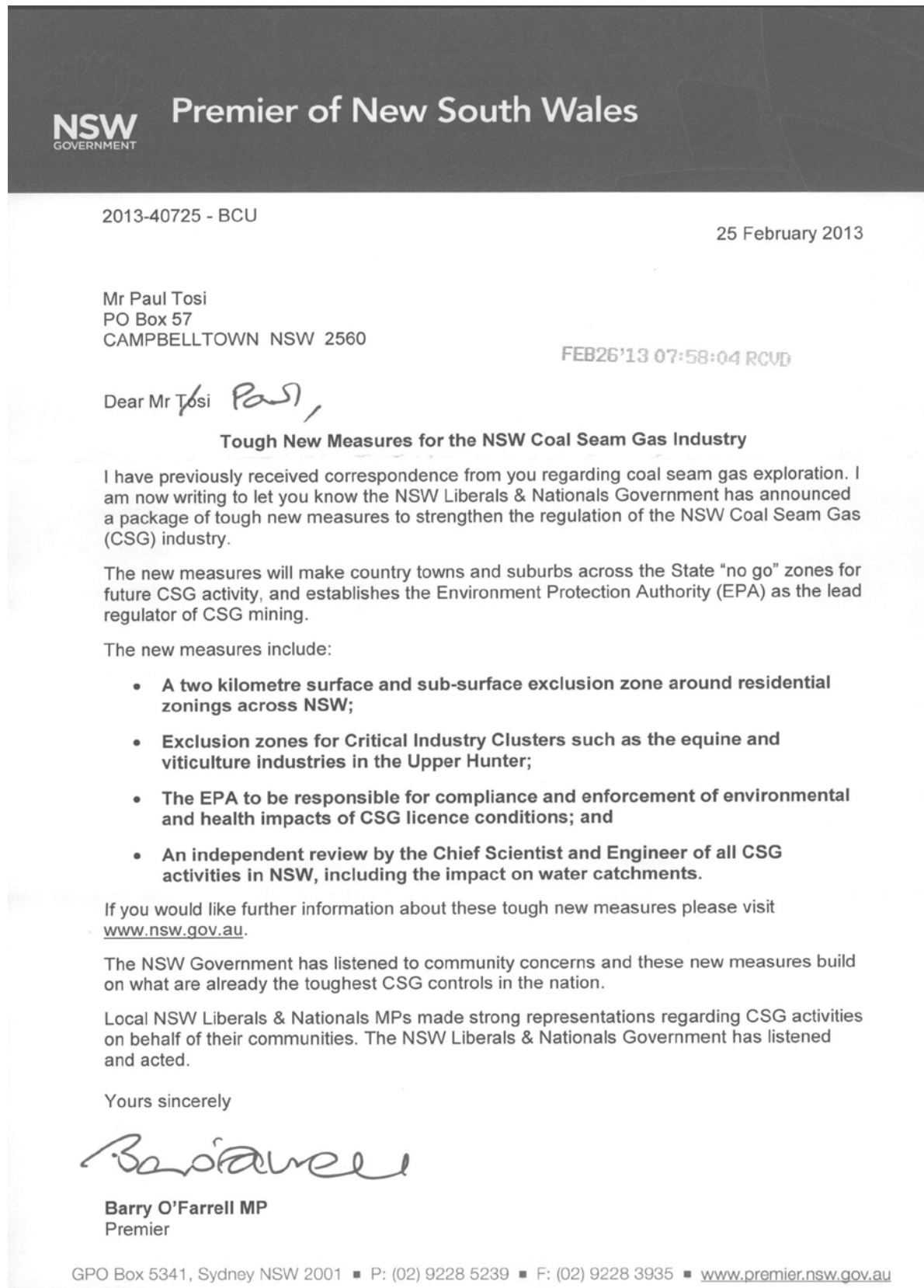
That the Committee's Recommendation be adopted.

### **Council Resolution Minute Number 56**

That the Committee's Recommendation be adopted.

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## ATTACHMENT 1



## ATTACHMENT 2

### **Submission on the State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) Amendment (Coal Seam Gas Exclusion Zones) 2013**

#### **1. Background**

The Camden Gas Project (CGP), Project Area lies (in part) within the Campbelltown Local Government Area (LGA). Council has continued to comment on issues associated with the CGP, including Stage 2 and 3 project applications, in endeavouring to protect both the Campbelltown community and its natural assets.

Council has noted with concern a number of research studies, both nationally and internationally, that have identified deficiencies in scientific knowledge regarding potential health and environmental impacts associated with coal seam gas extraction activities. In response to these concerns, at its meeting on 20 November 2012 Council resolved to:

Request the Minister for Energy and Resources not to issue any more exploration or mining applications until such time as scientific evidence guarantees that such activities do not compromise the environment or health of the community.

Additionally at its meeting on 18 December 2012 Council resolved:

That Council states its opposition to Coal Seam Gas exploration and mining in the Campbelltown Local Government Area.

The proposed State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) Amendment (Coal Seam Gas Exclusion Zones) 2013, which establishes coal seam gas exclusion zones within two kilometres of existing and future residential areas has been acknowledged and welcomed by Council as a means of addressing a number of Council's concerns. However, a review by Council officers has identified a number of aspects requiring clarification or amendment prior to formal gazettal of the SEPP.

#### **2. Comments on SEPP Amendment**

##### **i) Proposed boundaries of future residential growth areas**

The *Frequently Asked Questions, Coal Seam Gas Exclusion Zones* guide released by the NSW Government states that the NSW DP&I is currently compiling information on all future growth areas across NSW in consultation with local councils and that a map detailing these areas will be produced prior to the finalisation the SEPP Amendment.

Menangle Park, which lies within the southern portion of the LGA, is earmarked for future release of approximately 3500 residential lots. The draft planning proposal and Development Control Plan for the Urban Release Area (URA) have been publicly exhibited and are due for completion in mid-2013. The URA is not part of an identified 'growth centre'.

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Additionally Gilead, which also lies within the southern portion of the LGA, is earmarked for future release of approximately 1500 residential lots. The planning proposal for the URA has been determined through the Gateway process and completion of the planning process is projected for May 2014. The URA is not part of an identified 'growth centre' and does not fall within the exclusion zones currently defined under the SEPP Amendment.

Potential implications of coal seam gas extraction activities to both these URAs would be the same as those acknowledged as affecting existing residential communities.

**Accordingly, Council strongly requests that the entire Menangle Park and Gilead URAs (as indicated on the attached maps marked A and B) be identified as a future growth area under the SEPP Amendment. This action will assist in effectively protecting the future community within this area.**

#### **ii) Establishment of exclusion zones around existing residential areas**

The proposed establishment of a two kilometre exclusion zone is anticipated to have significant (prohibitive) limiting implications for the CGP Stage 3 Application given its close proximity to existing and future residential areas. This action is therefore supported by Council as a means of addressing a number of Council's concerns associated with the coal seam gas industry, highlighted in its previous submissions and resolutions.

**However, Council continues to strongly oppose coal seam gas activities within the Campbelltown LGA. In particular Council opposes coal seam gas activities in environmentally sensitive areas such as the Scenic Hills, given the inconsistencies that exist between these activities and the values and planning objectives for these areas. Consequently, Council requests that the SEPP Amendment be altered to prohibit any coal seam gas activity in land zoned for environmental protection and drinking water catchment purposes in addition to within 2km of any residential area.**

### **3. Application of the proposed exclusion zones**

Currently there are eight gas extraction wells within the Campbelltown LGA that have been approved where drilling has not commenced. Council requests that the SEPP Amendment needs to apply to these eight approved gas extraction wells thereby prohibiting their construction, on the following considerations:

- All of these wells are located within two kilometres of existing residential zones within the Campbelltown LGA and therefore would be within in future exclusion zone areas proposed under the SEPP Amendment
- The apparent view of the NSW Government that coal seam gas activity should not occur within two kilometres of existing residential areas as well as defined areas of future residential growth based on its 18 February 2013 announcement
- Consistency with Council's resolutions opposing coal seam gas mining within the Campbelltown LGA and requesting production licences for such mining not be renewed until such time as scientific evidence guarantees that such activities do not compromise the environment or health of the community.

**Consequently, Council requests an urgent response from the NSW DPI in regard to this issue. Council also requests that the SEPP Amendment be amended to prohibit approved wells yet to be drilled.**

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2.3 Draft State Environmental Planning Policy (Mining, Petroleum Production And Extractive Industries) Amendment (Coal Seam Gas Exclusion Zones) 2013



DRAFT SUBMISSION -ATTACHMENT B  
PROPOSED GILEAD URBAN RELEASE AREA FOOTPRINT

## **2.4 Minutes of the Camden Gas Community Consultation Committee**

### **Reporting Officer**

Manager Sustainable City and Environment

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### **Attachments**

Minutes of the Camden Gas Community Consultation Committee Meeting, held on 15 November 2012

### **Purpose**

To provide Council with an update on the outcomes of the Camden Gas Community Consultation Committee held on 15 November 2012.

### **History**

Stages 1 and 2 of the Camden Gas Project (CGP), within the southern portion of the Campbelltown Local Government Area (LGA), were approved by the NSW Government in July 2002 and September 2008 respectively. In February 2009, AGL lodged an application with the NSW Department of Planning and Infrastructure (DPI) for Stage 3 of the CGP, which applied to the western and north western sections of the Campbelltown LGA. This application was publicly exhibited during October and December 2010. On 11 March 2013, the DPI accepted a request from AGL that the application for Stage 3 of the CGP be suspended indefinitely.

The Camden Gas Project Community Consultation Committee (CGP CCC) was established in 2001 as a condition of consent for the CGP, to provide a forum for discussion between AGL Upstream Investment (AGL) and the community. The CGP CCC is comprised of representatives of Campbelltown, Camden and Wollondilly Councils, as well as community representatives associated with each stage of the CGP.

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

### **Report**

A meeting of the CGP CCC was held at the Rosalind Park Gas Processing Plant on 15 November 2012. Council was represented by the Director of Planning and Environment and Senior Environmental Officer (Environment Protection and Management). Of note, a representative from the Environment Protection Authority (EPA) attended in an observer capacity and the Manager of the Mining Projects Division DPI attended at the invitation of the Chair of the CGP CCC.

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This report provides a broad summary of the outcomes of the meeting and highlights issues of relevance to Council. The minutes were formally endorsed at the meeting of the CGP CCC held on 14 March 2013 and are provided as an attachment to this report. Copies of presentations referred to in the minutes are available from the Manager Sustainable City and Environment on request.

### **Minutes of the meeting held on 15 November 2012**

#### **1) Business arising from the minutes of the previous meeting**

The EPA representative advised that a detailed report had been received from AGL regarding the breach of a condition in the licence for the operation of the Rosalind Park Gas Processing Plant, requiring the continuous monitoring of emissions. The representative advised that the outcomes of the investigation and response to the breach of the licence condition would be provided to a subsequent meeting of the CGP CCC, following further discussions with AGL.

#### **2) Presentations from AGL**

##### **i) Operations summary**

The drilling of the well bore at the Mt Taurus site, which was approved by a Planning and Assessment Commission in June 2012, was completed in September 2012. Maintenance work has been carried out at a number of well sites within the existing Mt Taurus and Spring Farm gas well fields between September and November 2012.

Quarterly monitoring of air emissions and noise levels at the Rosalind Park Processing Plant has been undertaken and all data collected has complied with the permitted levels specified in the EPA licence for the facility.

##### **(ii) Monitoring of fugitive methane emissions**

An external consultant has been engaged to carry out a desktop investigation into available technology, for the monitoring of fugitive methane emissions potentially attributable to coal seam gas extraction activities. At the time of the meeting, no actual monitoring of fugitive emissions within the CGP area was proposed as part of this investigation.

Note: Correspondence, dated 14 January 2013, was sent to AGL requesting that the intended investigation occur across Stages 1 and 2 of the CGP area in accordance with Council's resolution at its meeting on 18 December 2012. Council's resolution will be pursued by staff in any discussions with AGL regarding its fugitive methane emission monitoring program (announced on 1 March 2013), as well as through the CGP CCC.

##### **(iii) Applicability of the NSW Government's Strategic Regional Land Use Policy to the Camden Gas Project**

An AGL representative provided an overview of NSW Government coal seam gas and mining policy initiatives announced during 2012, including the finalised Strategic Regional Land Use Policy (SRLUP) which was reported to Council at its meeting on 20 November 2012. The representative advised that a Fracturing Management Plan was intended to be prepared prior to any hydraulic fracturing activities under the CGP, in accordance with the Code of Practice for Coal Seam Gas Stimulation which forms part of the SRLUP.

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(iv) Update on the CGP Stage 3 application

A summary of the changes in the amended project application was provided, including the removal of two gas wells and replacement of a new well site in the Varroville district within the Campbelltown LGA. Groundwater monitoring has commenced at a site in Denham Court and the location of two other groundwater monitoring sites in the vicinity of Varroville and Currans Hill (within the Camden LGA) was confirmed.

Note: An expanded groundwater monitoring program was announced by AGL on 1 March 2013. Details of this program including locations of monitoring sites and sampling parameters will be provided to Councillors when available.

**3) Function and administration of CCCs**

A summary of the Guidelines for Community Consultation Committees produced by the DPI in 2007 was provided to the CGP CCC. The DP&I representative also suggested options to enhance the operation and effectiveness of the meetings, particularly in regard to the format of the minutes. The broad consensus of the CGP CCC was for the style of future minutes to be amended to provide a summary of the major outcomes of meetings.

**4) Next meeting**

The date for the next meeting of the CGP CCC is yet to be determined but is likely to be in either May or June 2013, where the minutes for the meeting held on 14 March 2013 are scheduled to be endorsed. A report providing a summary of the minutes of the 14 March 2013 meeting will be presented to the next available Council meeting following their endorsement.

**Officer's Recommendation**

That the information be noted.

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

That the Officer's Recommendation be adopted.

**CARRIED**

**Council Meeting 23 April 2013 (Greiss/Rowell)**

That the Officer's Recommendation be adopted.

**Council Resolution Minute Number 56**

That the Officer's Recommendation be adopted.

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## ATTACHMENT 1

### COMMUNITY CONSULTATIVE COMMITTEE AGL – CAMDEN GAS PROJECT

#### MEETING NO.34

Held in the RGP Conference Room, Menangle on 15 November 2012 at 5.30pm

#### MINUTES

Member / Guest	Attendance Type
Mrs Margaret MacDonald-Hill (MM) <b>Chair</b>	Present
Mr Brad Staggs (BS)	Apology
Mr David Henry (DH)	Present
Mrs Diane Gordon (DG)	Apology
Mr Fred Anderson (FA)	Present
Ms Jacqui Kirkby (JK)	Present
Mr Michael Hingley (MH)	Apology
Mr Peter Bloem (PB)	Present
Mr Simon Hennings (SH)	Present
Mr Troy Platten (TP)	Present
Mr Jeff Lawrence (JL)	Present
Ms Nicole Magurren (NM)	Present
Mr Paul Reynolds (PR)	Present
Cr Lou Amato (LA)	Present
Cr Lara Symkowiak (LS)	Apology
Mr Howard Reed (HR)	Present
Mr Aaron Clifton (AC)	Present
Ms Jenny O'Brien (JO)	Present
Mr Adam Lollback (AL)	Present
Miss Wendy Thompson (WT)	Present

#### Meeting Opened at: 5.35pm

ITEM	ACTION
<b>1.0 Welcome</b>  Welcome and Introductions by Chair – MM.  Welcomed guests and new members to the meeting: <ul style="list-style-type: none"> <li>• Lou Amato – Wollondilly Council</li> <li>• Nicole Magurren – Camden Council</li> <li>• Paul Reynolds – Camden Council</li> <li>• Howard Reed – Department of Planning and Infrastructure</li> </ul> MM advised committee members that she is engaged by AGL as an independent chair, approved by the Director General of Planning and Infrastructure. She is also a Member of the Mine Subsidence Board and the Minister's Arbitration Panel.	
<b>2.0 Apologies</b>  As above.	

<p><b>3.0 Confirmation of Previous Minutes</b></p> <p>Lengthy discussion on format and content of minutes by Committee. Majority consensus that current situation is onerous and unacceptable. Various compromises put forward with strong support to revert back to previous summary practice.</p> <p><b>Moved: Simon Hennings</b>  <b>Seconded: Fred Anderson</b></p> <p>Minutes moved with following amendments:  <b>Business Arising</b>  4th paragraph: Delete JK sentence beginning with “<i>requested that permission.....</i>” and replace with “Noted differential treatment in tabling email correspondence with CCC members and that with government contacts.”</p> <p><b>6 Reports</b>  1. Slide 2 final paragraph replace the word ‘decided’ with sentiment. JK stated her disagreement, acknowledged by CCC.</p>	
<p><b>4.0 Business Arising</b></p> <p>AC – <b>Video on the Water Lifecycle.</b> Updated committee that this is still work in progress, which will show how produced water is managed on this project.</p> <p>PB – <b>EPA licence non compliance for CEMS.</b> EPA requested and received incident investigation on monitoring. Further meeting to be held on Monday with AGL and EPA to clarify licence requirements</p> <p>AL – Advised committee that maps for project area showing all well locations are on the AGL website for viewing.</p> <p>JK – Repeated request for further information on distance and breakup of private and public land.</p>	<p>AL to provide when available</p>
<p><b>5.0 Correspondence</b></p> <p><b><u>IN</u></b>  5/11 – Email from JO on Northern Expansion Project Submissions Report  15/11 - Email from JO on Northern Expansion Submissions report</p> <p><b><u>OUT</u></b>  Nil</p>	
<p><b>6.0 Reports</b></p> <p><b><u>AC – Operations and HSE Update</u></b></p> <p>AC – Provided the committee with relevant points of AGL’s RPPG</p>	<p>JO – to upload presentations with minutes to AGL website</p>



<p>Visitor Induction to ensure committee members and AGL employee's remain safe at all times. Reminded all members that there are a number of Open Days which members are welcome to attend, further information available from JO.</p> <p><b>AC gave presentation on Operations and HSE update as provided to CCC in handout.</b></p> <p>In response to question from JK, AC explained as part of a Pollution Reduction Program (PRP) that AGL has engaged an external consultant to do a desk top investigation into fugitive emissions monitoring and quantification technology. The report will be submitted to the EPA. No monitoring is currently proposed.</p> <p>JK referred to research at the Tara Estate in Queensland which identified high levels of toxic gases and asked if the EPA would be conducting independent monitoring of fugitive emissions</p> <p>PB – Noted media reports on fugitive CSG leaks in Queensland and confirmed the PRP included leak detection and repair, which was important in controlling emissions of this kind. The EPA will look at all information and can introduce further licence requirements if necessary.</p> <p><b><u>AL – Project and Government Update</u></b></p> <p><b>AL gave presentation as provided to CCC in handout on:</b></p> <ul style="list-style-type: none"> <li>• Strategic Regional Land Use updates</li> <li>• Codes of Practice</li> <li>• Northern Expansion</li> </ul> <p>PR – Queried if the standard of well integrity held higher standards.</p> <p>AL – Unaware of the rating, but understands there are petroleum standards to adhere to. Can provide information on the standards that AGL adheres to.</p> <p>JK - asked for confirmation that the Gateway Process will not apply to the Camden Gas Project.</p> <p>AL - confirmed this.</p> <p>JK – queried when the PAC public hearings will be held</p> <p>HR – Did not have the information on public hearing dates, but thought it would most likely to be held next year.</p> <p>MM – Suggested JK contact the PAC secretariat direct for this information.</p> <p><b><u>JO – Community Update</u></b></p> <p>JO provided community update as provided to CCC in handout and responded to JL question which Ministers were attending MP visit, advising Minister Hartcher's office is arranging the attendees and Russell Matheson has expressed an interest to attend</p>	<p>AC – Advise CCC when AEPR and Independent Environmental Audit uploaded to website</p> <p>AC - provide an update on fugitive emissions report at next meeting</p> <p>AL – to follow up</p> <p>AL – to provide relevant agencies with copies of the latest maps</p>
<p>MM confirmed at the request of CCC in September 2011, an invitation had been extended to HR to provide guidance on committee meetings.</p>	

<p>HR – Provided committee members with his background and experience in community consultation. He referred to the Department Guidelines issued in 2007, which he developed in consultation with others, including MM. HR referred to the purpose of the committee as indicated in the guidelines and the intent of community consultative committees to foster opportunities for better information exchange between all parties. He also referred to the responsibility of the company to provide timely information to the CCC. He suggested all present should familiarise themselves with what is expected and carry out their responsibilities in accordance with the guidelines. He reiterated they are not intended to be set in stone, but offer guidance. JK Raised concerns that AGL was not transparent and forthright in its dealing with the community and withheld information. Referred to water disposal and chemical information requested at previous meetings.</p> <p>HR – Suggested that AGL continue to provide timely and accurate information as requested by the Committee through the Chair.</p> <p>TP – stated that this information has been supplied at the open days.</p> <p>AC – Advised that this information had been supplied in previous meetings.</p> <p>HR suggested rather than provide this information in a video, a compilation table would be sufficient to which AC agreed. HR offered some options to improve the operation of the CCC, particularly with the style of minutes. He understood the committee's frustration with the amount of time spent in confirmation of the minutes and business arising, which are simply procedural matters and should not be the main focus of meetings. The Committee thanked HR for his attendance and most welcome suggestions.</p> <p><b>7.0 General Business</b></p> <p>AL – sought clarification from DH on a Council minute which referred to the CCC being established in 2011.</p> <p>DH – Noted it was a typing error.</p> <p>AL – referred to incidents of trespass on AGL drilling construction sites and reminded Committee members that it is private property and should not be accessed. If information is required, this should be sought through AGL.</p>	<p>MM to provide new members with copy of Department guidelines with distribution of minutes</p> <p>AC – to provide presentation on water disposal at next meeting</p>
<p><b>8.0 Next Meeting Date</b></p> <p>14 March 2012</p>	

**Meeting Closed at: 8.00pm**

Acronym Index

AEPR	Annual Environmental Performance Report
CCC	Community Consultative Committee
PAC	Planning Assessment Commission
SRLUP	Strategic Regional Land Use Policy



## 2.5 Heritage Protection Sub Committee

### Reporting Officer

Manager Sustainable City and Environment

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### Attachments

Nil

### Purpose

To seek Council's agreement to appoint community members to the Heritage Protection Sub Committee.

### Report

In accordance with the *Local Government Act 1993*, membership to the Heritage Protection Sub Committee lapsed at the end of the Council term on 8 September 2012.

Council considered a report at the extraordinary meeting held on 18 September 2012 seeking nominations for the two Councillor positions on the Heritage Protection Sub Committee. Only one nomination was received, that being for Councillor Rowell who was appointed as a member of the sub committee.

An advertisement was placed in the Macarthur Advertiser and Macarthur Chronicle seeking nominations from interested community members to fill the following vacancies:

- one person who owns a built heritage item
- two persons who, in the opinion of Council, possess suitable qualifications relating to the conservation of the built and natural environments.

Council also contacted the Campbelltown and Airds Historical Society asking that they nominate two representatives to the sub committee and the National Parks Association (Macarthur Branch) asking them to nominate one representative.

Council received the following nominations:

Owner of heritage item	Nil
Qualified person	Mr James Gardiner
Campbelltown and Airds Historical Society:	M/s Kay Hayes, Ms Learna Coupe and M/s Sue Kijurina (Alternate)
National Parks Association	M/s Mr Robert Wheeler and Mr Mario Marjarich (Alternate)

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It is recommended that Council appoint the abovementioned people to the Heritage Protection Sub Committee for the term of the Council.

With these appointments the current committee has a membership of five including Councillor Rowell. The Heritage Protection Sub Committee Guidelines which govern the operation of the sub committee, indicate that the committee shall have a membership of eight and a quorum is half the membership plus one (or five members).

As the current sub committee membership is only five it may be difficult for the committee to achieve a quorum on a regular basis making the sub committee less effective. Therefore, it is proposed to seek Council's support to amend the guidelines to reflect the membership to be a maximum of eight with a quorum of half of the appointed members plus one. This will provide greater flexibility for the sub committee by reducing the number of members required to form a quorum to four, which should assist in the ongoing operation of the sub committee until such time as additional members are appointed.

Council staff will continue to seek an additional qualified person, as well as an owner of a heritage item, to fill the remaining vacancies on the Heritage Protection Sub Committee.

### **Officer's Recommendation**

1. That the persons detailed below be appointed the Heritage Protection Sub Committee for the term of the Council:

Mr James Gardiner (qualified person)  
M/s Kay Hayes (Campbelltown and Airds Historical Society)  
M/s Learna Coupe (Campbelltown and Airds Historical Society)  
M/s Sue Kijurina (Alternate) Campbelltown and Airds Historical Society  
Mr Robert Wheeler (National Parks Association)  
Mr Mario Marjarich (Alternate) National Parks Association.

2. That Council continue to endeavour to fill the remaining positions on the Heritage Protection Sub Committee.
3. That the Heritage Protection Sub Committee Guidelines be amended to reflect a maximum membership of eight and a quorum of half the appointed members plus one.

### **Committee's Recommendation: (Oates/Thompson)**

That the Officer's Recommendation be adopted.

**CARRIED**

### **Council Meeting 23 April 2013 (Greiss/Rowell)**

That the Officer's Recommendation be adopted.

### **Council Resolution Minute Number 56**

That the Officer's Recommendation be adopted.

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### **3. DEVELOPMENT SERVICES**

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

##### **Reporting Officer**

Manager Development Services

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##### **Attachments**

Development services application statistics for February 2013 (distributed under separate cover)

##### **Purpose**

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

##### **Report**

In accordance with Council's resolution of 23 August 2005 that Councillors be provided with regular information regarding the status of development applications, the attachment to this report provides details of key statistics for February 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 23 April 2013 (Greiss/Rowell)**

That the Officer's Recommendation be adopted.

##### **Council Resolution Minute Number 56**

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)

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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 January – March 2013

**Purpose**

To advise Council of development applications approved for the period 1 January 2013 to 31 March 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.

**Officer's Recommendation**

That the information be noted.

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

That the Officer's Recommendation be adopted.

**CARRIED**

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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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**Council Meeting 23 April 2013 (Greiss/Rowell)**

That the Officer's Recommendation be adopted.

**Council Resolution Minute Number 56**

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

SEPP 1 Variations 1 January 2013 to 31 March 2013

Council DA reference number	Lot number	CP 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)
Nil															

### 3.3 No. 6 Glen Alpine Drive, Glen Alpine - Construction Of Alterations And Additions To An Existing Dwelling And Use Of Premises As A Church Meeting Hall

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### 3.3 No. 6 Glen Alpine Drive, Glen Alpine - Construction of Alterations and Additions to an Existing Dwelling and Use of Premises as a Church Meeting Hall

#### Reporting Officer

Manager Development Services

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#### Attachments

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

#### Purpose

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

<b>Property Description</b>	Lot 101 DP 738284, No.6 Glen Alpine Drive, Glen Alpine
<b>Application No</b>	408/2012/DA-C
<b>Applicant</b>	Essential Planning Pty Ltd
<b>Owner</b>	Lloyd Bird, Alan Slater, Dean Wilson
<b>Provisions</b>	Campbelltown 2025 – Looking Forward Campbelltown (Urban Area) Local Environmental Plan 2002 Campbelltown (Sustainable City) Development Control Plan 2009 Development Control Plan No.82 – Religious Establishments Development Control Plan No.87 – Public Notification and Public Exhibition Policy
<b>Date Received</b>	12 March 2012

#### Report

##### Introduction

Council has received a development application to use a current dwelling as a church meeting hall (religious establishment), internal alterations to the existing building, demolition of part of the dwelling, construction of car parking area and landscaping at Lot 101 DP 738284, No. 6 Glen Alpine Drive, Glen Alpine.

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### 3.3 No. 6 Glen Alpine Drive, Glen Alpine - Construction Of Alterations And Additions To An Existing Dwelling And Use Of Premises As A Church Meeting Hall

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#### **The site**

The subject land is located on the southern side of Glen Alpine Drive to the west of the intersection with Heritage Way and Mount Huon Circuit and to the east of the intersection with Menangle Road.

The land has an area of 1163 square metres and has an irregular shape. The allotment has a street frontage of 40.0 metres with Glen Alpine Drive, has an average depth of 31.2 metres and a rear boundary length of 37.4 metres.

Adjoining and nearby land uses include a dwelling house to the east of the subject land (No. 8 Glen Alpine Drive) and Campbelltown Golf Course to the south, west and north of the land.

The land presently contains a single story brick veneer dwelling with an attached double garage.

#### **The proposal**

The proposed development includes alterations and partial demolition of the existing dwelling, construction of a driveway around the dwelling, 10 car parking spaces and landscaping, prior to the use of the premises as a religious establishment.

The proposed religious establishment will have the following maximum numbers of attendees at meetings:

- Sunday morning 6.00am to 7.00am - 40 persons
- Sunday evening 4.30pm to 6.30pm - 80 persons (17 per year - once every three weeks)
- Monday evening 6.15pm to 7.00pm - 40 persons.

Seating is proposed to be provided by way of stackable chairs that are to be arranged on commencement of the meetings and stored away at the completion.

The demolition would include 60 square metres of the eastern portion of the dwelling to allow for the construction of a second driveway providing vehicular access around the building and the construction of 10 car parking spaces, including one disabled parking space and associated landscaping.

The auditorium will not be used for functions or hired for use by others for functions. Should Council support the proposed development, an appropriate condition of consent shall be included to ensure the use of the building as a religious establishment only.

#### **1. Other Provisions - Vision**

'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
-



### 3.3 No. 6 Glen Alpine Drive, Glen Alpine - Construction Of Alterations And Additions To An Existing Dwelling And Use Of Premises As A Church Meeting Hall

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- recognises likely future government policies and social and economic trends
- sets down the foundations for a new town plan that will help achieve that future.

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

The strategic directions relevant to this application are:

- growing the regional city
- building a distinctive Campbelltown sense of place
- creating employment and entrepreneurial opportunities.

The proposed development is generally consistent with these directions.

The relevant desired outcomes associated with Council's vision, included in Campbelltown 2025 include:

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

It is considered that the proposed development is generally consistent with the vision's desired outcomes having regard to the proposed scale, function and design of the proposed development.

## **2. Planning provisions**

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

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

The subject site is zoned 2(b) Residential B under the provisions of Campbelltown (Urban Area) Local Environmental Plan 2002.

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### 3.3 No. 6 Glen Alpine Drive, Glen Alpine - Construction Of Alterations And Additions To An Existing Dwelling And Use Of Premises As A Church Meeting Hall

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Under the plan, the proposed development is defined as a religious establishment. The definition provided by the plan is as follows:

**religious establishment** means a building or place used primarily for the purpose of religious worship, instruction or training, whether or not it is also used for ancillary purposes such as counselling, recreation or social events, and includes any building or place formerly described or granted consent as a place of public worship.

Religious establishments are permissible with Council's consent in the 2(b) Residential B zone.

The zone objectives include:

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

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

The proposed development is considered to be consistent with (a), (d) and (e) and hence development consent can be granted, should Council deem it appropriate to do so.

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## **2.2 Campbelltown Sustainable City Development Control Plan (SCDCP)**

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

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

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

The SCDCP currently does not contain any prescribed development standards for the development of religious establishments with the exception of car parking generation rates.

The SCDCP prescribes that religious establishments are to provide one car parking space per 10 square metres of leasable floor area. The leasable floor area in this instance includes the auditorium and has a total area of 86 square metres. The development is therefore required to provide 8.6 car parking spaces. The proposed development provides 10 car parking spaces located on-site and as such, satisfies the parking requirements of the SCDCP.

Additional assessment of the proposal's parking and traffic impact is addressed later in this report.

## **2.3 Development Control Plan No. 82 - Religious Establishments**

Development Control Plan No. 82 - Religious Establishments (DCP 82) applies to the subject development type. The plan contains Council's objectives and controls for the development of religious establishment premises throughout the City.

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### 3.3 No. 6 Glen Alpine Drive, Glen Alpine - Construction Of Alterations And Additions To An Existing Dwelling And Use Of Premises As A Church Meeting Hall

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DCP 82 establishes a set of criteria that should be investigated as part of the selection of a site where an applicant wishes to establish a religious establishment. The DCP states:

Locations should be deemed suitable not only on the basis of their zoning, but also their capacity to meet the needs and expectations of the religious groups' current and future requirements. It is also desirable that sites allow harmonious co-existence with adjoining land owners.

With respect to above statement, the site is considered to be generally suitable for the proposed development. It is a relatively modest building, with a scale and appearance similar to that of the buildings in the immediate vicinity. Car parking is to be provided on the site at a rate in compliance with Council's SCDCP.

Other relevant matters contained in DCP 82 are discussed as follows:

#### **a) Design of buildings**

The DCP requires that religious establishment buildings in residential areas be set back from boundaries the same or greater distance than adjoining residential buildings.

The proposed religious establishment would be 8.0 metres from the side boundary adjacent to the adjoining dwelling. The front setback will remain the same at 7.5 metres.

#### **b) Landscaping**

DCP 82 requires that religious establishment sites be well landscaped, particularly along boundaries in order to reduce their impact on residential area streetscapes. The DCP also recommends that existing trees be retained where possible.

The proposed development includes new landscaping that is considered suitable and adequate for the scale of development.

#### **c) Operation of the establishment**

DCP 82 requires the applicant and Council to take into account the impact of the establishment on adjoining neighbours by considering matters such as the number of visitors, hours of use, noise levels and the types of activities undertaken at the site.

As detailed earlier in this report, the proposed operating hours and likely number of visitors is as follows:

- Sunday morning 6.00am to 7.00am - 40 persons
- Sunday evening 4.30pm to 6.30pm - 80 persons (17 per year - once every three weeks)
- Monday evening 6.15pm to 7.00pm - 40 persons

No amplified services nor music is to be played during the meeting times.

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### 3.3 No. 6 Glen Alpine Drive, Glen Alpine - Construction Of Alterations And Additions To An Existing Dwelling And Use Of Premises As A Church Meeting Hall

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It is generally considered that the hours of operation proposed during the evening periods are unlikely to cause a significant adverse impact on the amenity of surrounding neighbours due to noise generated by the proposed use of the site. However, it is considered not unreasonable to restrict the morning hours of operation for the Sunday service to after 8.00am to ensure that the use of the site does not adversely impact the amenity of neighbourhood during the early morning hours of a Sunday.

Having regard to the above, recommended conditions of development consent would require that the use of the site not disturb adjoining and nearby land users at any time; the use of the site on Sunday be restricted to after 8.00am; and that the hall shall not be privately hired for functions, should Council decide to support the application.

#### **d) Car parking provision**

DCP 82 requires that car parking be provided on site at the rate of one space per 10 seats. The DCP goes further and states that:

car parking should be able to accommodate normal use of the development, but it should not necessarily be designed to accommodate all vehicles associated with a limited number of 'special' religious days.

Having regard to the size of the congregation using the main room of the church building, the applicant states that a maximum of 80 people would use the space during Sunday meetings. Utilising that figure and the controls in DCP 82, the development would require eight car parking spaces to be provided on-site.

The development provides for 10 sealed and line marked car parking spaces. Having regard to the controls contained within DCP 82, the proposed use of the building as a religious establishment would comply with the car parking requirement, providing the maximum number of worshippers on Sundays remains at 80.

However, and notwithstanding the ability of the proposal to comply with the onsite parking requirements, when giving regard to the location of the site in relation to its proximity to the existing roundabout located at the intersection of Menangle Road and Glen Alpine Drive (being the main entry to the suburb of Glen Alpine and other southern suburbs), the management of the parking of cars and movement of patrons of the church within the road area, requires further consideration.

It is considered probable that a number of patrons of the church, particularly at times of high use, will be likely to choose to park on the street rather than in the onsite parking area provided. It is also the case that where the onsite parking is full, patrons will have no alternative other than to park on the street. This situation would be normal and no different to that experienced at any other similar establishment throughout Campbelltown.

With respect to the above, due consideration has been given to a number of points of concern that are considered likely to have a potentially adverse influence on the safety of patrons and other road users at this location. These points of concern include:

- the close proximity of the site (higher than normal generator of traffic) to the Menangle Road intersection
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### 3.3 No. 6 Glen Alpine Drive, Glen Alpine - Construction Of Alterations And Additions To An Existing Dwelling And Use Of Premises As A Church Meeting Hall

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- likely higher vehicle speeds when drivers leave the regional road (Menangle Road) and enter the local road (Glen Alpine Drive)
- the higher traffic volumes experienced at this location as Glen Alpine Drive acts as a collector road linking Menangle Road to the southern suburbs
- the potential for a number of cars to be parked along Glen Alpine Drive during church functions
- an increase in vehicles parked on-street also increase the number of people in the local road area including children and people with disabilities
- the relatively unsafe environment for pedestrians and in particular those who have to cross the road from the north side of Glen Alpine Drive to the church
- parked cars impeding sight lines for drivers leaving the site
- increase in vehicular movements above that which would be normally generated from a residential dwelling premises
- the impact that the increase in uncontrolled vehicular movements would potentially have on the free and safe movement of vehicles and pedestrians along Glen Alpine Drive.

Having regard to the above points of consideration, it is believed appropriate to introduce a number of on road safety measures to reduce the impact that higher volumes of vehicular and pedestrian traffic would potentially have at this location. These include:

- creating a “No Parking” zone along the northern side of Glen Alpine Drive extending from the Menangle Road roundabout to the start of the right hand bend in the road when heading east along Glen Alpine Drive. This would:
    - prevent drivers from parking on the northern side of Glen Alpine Drive and walking across Glen Alpine Drive in proximity to an intersection with a regional road
    - prevent children and people with disabilities from having to negotiate a road at such a location
    - remove the potential for people related to the church from attempting to find refuge on the small central median island within Glen Alpine Drive
    - remove patrons of the church from the higher speed area of Glen Alpine Drive
    - prevent conflict between parking cars and those vehicles leaving the regional road at higher speed
    - maintain clear sight lines in the vicinity of the proposed development for traffic leaving Menangle Road and into Glen Alpine Drive.
-

### 3.3 No. 6 Glen Alpine Drive, Glen Alpine - Construction Of Alterations And Additions To An Existing Dwelling And Use Of Premises As A Church Meeting Hall

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- extending the concrete central median island along the centre of Glen Alpine Drive for the full length of the subject property. This would:
  - prevent drivers from turning right into the premises
  - prevent conflict with higher speed vehicles and those vehicles attempting to turn right into the premises
  - prevent right turning out of the premises and further reduce conflict
  - ‘Force’ the use of the two roundabouts existing in close proximity to the premises, being the safer alternative
  - provide a safer traffic environment with left in/left out opportunities only.
- creating a “No Parking” zone 6.0m either side of the exit driveway (western driveway). This would:
  - ensure driver sight lines for vehicles exiting the site were not impeded by the parking of vehicles in close proximity to the exit driveway
  - ensure driver sight lines to the exit driveway for vehicles travelling along Glen Alpine Drive were not impeded
  - provide for an easier and safer turning path for drivers leaving the site into Glen Alpine Drive.

Following on from this and to ensure the continued safety of local road users and the safety of the patrons of the proposed church, it is considered appropriate to include the above as conditions of any consent that the Council may issue. In this regard, conditions have been included in the draft consent at Attachment 1 which generally require:

- the creation of a “No Parking” zone along the north side of Glen Alpine Drive
- the extension of the central median island along the centre line of Glen Alpine Drive
- the creation of a “No Parking” zone which extends 6.0m either side of the proposed exit driveway servicing the premises.

#### **e) Noise**

The DCP requires that building and site design take into consideration the impact that the development may have on noise transmission in the neighbourhood and further requires that the noise level from activities undertaken at the religious establishment shall not exceed background noise levels by more than 5db(A).

The applicant has submitted an assessment of potential noise impact of the use of the subject land as a religious establishment. The findings are assessed later in this report.

#### **f) Religious establishments evolving from dwellings**

The DCP recognises that religious groups may meet in private dwellings. There is no numerical limit placed on establishments evolving from houses.

In this instance, it is considered that the numerical limits indicated by the applicant (80 persons maximum) are suitable and appropriate for the size of the auditorium space that has an area of 86 square metres.

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### 3.3 No. 6 Glen Alpine Drive, Glen Alpine - Construction Of Alterations And Additions To An Existing Dwelling And Use Of Premises As A Church Meeting Hall

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## 3. Other planning matters for consideration

### 3.1 Noise

The applicant has submitted an assessment of potential noise impact associated with the development prepared by SLR Global Environmental Solutions (Report No.610.07939.05900 dated 27 February 2012 and addendum provided dated 30 October 2012).

The reports considered the use of the proposed building as a religious establishment and vehicles entering and exiting the site with assessment and acoustic forecasting carried out, using a worst-case scenario with the premises operating at maximum capacity (80 persons in auditorium).

SLR has carried out an assessment of the noise impact associated with the proposed use in accordance with NSW regulatory requirements. The noise logger was situated on the site's eastern boundary adjacent to No. 8 Glen Alpine Drive.

The noise impact assessment report concludes that Council's and the State Industrial Noise Policy noise goals can be achieved at the nearest potentially sensitive receiver location at the eastern boundary of the site under typical (and worst case) operational scenario for the auditorium.

However, and notwithstanding the above, it is not considered unreasonable to restrict the use of the site on Sundays so that the site cannot be used until after 8.00am, in order to ensure the early morning amenity of the neighbourhood is not unnecessarily and adversely affected by noise generated by a congregation meeting at the site before 8.00am.

In this regard, a condition has been included in the draft consent restricting the use of the site on Sunday's until after 8.00am. Council may recall that the same morning hours' time restriction was placed on a similar consent issued by the full Council in 2009 for a religious establishment located adjacent to the Denfield property in St Helens Park. A recent search of Council's records did not reveal any complaints received from the public relating to noise generated from the use of the Denfield site as a religious establishment after the hours of 8.00am.

The road traffic generated by the development is considered to be acoustically insignificant.

### 3.2 Traffic

The applicant has submitted a traffic and parking assessment report prepared by Varga Traffic and Planning (Reference 12244 dated 8 November 2012) to accompany the development application.

The report has considered:

- review of the road network in the vicinity of the development
  - estimates of the traffic generation of the development
  - traffic implications of the proposal in terms of road network and capacity
  - review of the geometric design of car parking
  - assessment of the adequacy and suitability of the off-street car parking provided.
-



### 3.3 No. 6 Glen Alpine Drive, Glen Alpine - Construction Of Alterations And Additions To An Existing Dwelling And Use Of Premises As A Church Meeting Hall

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The report concludes that the development's projected increase as a consequence of the use of the site as a religious establishment of the size proposed is statistically insignificant, and would not have any unacceptable traffic implications in terms of road network capacity.

The proposed parking facilities have been designed to comply with the relevant requirements as specified in AS2890.1 – Parking Facilities Part 1, Off Street Car Parking having respect to parking bay and aisle widths. It is anticipated that the proposed development will not have any unacceptable parking implications.

With respect to the above, it is not disputed that the increase in traffic generated by the proposal is likely to be insignificant in terms of the environmental capacity of Glen Alpine Drive (by itself) to cater for the increase in the volume of traffic generated by the proposal.

However, what is of concern (and as discussed previously in this report), is the matter of pedestrian safety within the road area and the ability of pedestrians including children and the disabled, to safely negotiate Glen Alpine Drive from its northern side, at a location close to the intersection of a regional road. Further weight is given to this concern as there is no central median island of suitable width to provide safe refuge to pedestrians crossing at this location.

In addition to this, despite the environmental capacity of Glen Alpine Drive, the extension of the (small width) central median island for the length of the subject property, as well as introducing parking restrictions to both sides of Glen Alpine Drive (as previously discussed), would ensure the ongoing safety of patrons of the church and other road users into the future.

#### 4. Public participation

The proposed development was notified to adjoining land owners in accordance with the provisions of Development Control Plan No.87 – Public Notification and Public Exhibition Policy for a period of 14 days from 26 March 2013 to 10 March 2013. The notification period was extended a further 14 days until 23 April 2013.

During this period, Council received eight submissions objecting to the proposed development.

The submissions objecting to the proposed development are addressed below:

**Concern:** Unsuitable development and land use in the locality

**Comment:** The land is zoned 2(b) Residential B. The use of land as a religious establishment is not a prohibited land use under the zone. It is considered that a religious establishment is an appropriate land use in a residential zone given its proximity to parishioners, provided the impact on adjoining land not unacceptable.

**Concern:** Parking and access in Glen Alpine Drive is not suitable for the development

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### 3.3 No. 6 Glen Alpine Drive, Glen Alpine - Construction Of Alterations And Additions To An Existing Dwelling And Use Of Premises As A Church Meeting Hall

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**Comment:** The applicant has provided a traffic and parking assessment undertaken by a suitably qualified consultant who forms an opinion that the impact of this development on the environmental capacity of Glen Alpine Drive would be insignificant. Although the proposed onsite parking arrangement satisfies Council's parking requirements and the capacity of Glen Alpine Drive in terms of its ability to accept higher volumes of traffic is not disputed, the location of the site and the lack of on-road pedestrian controls or on-road parking restrictions in proximity to Menangle Road raises concerns. In this regard, additional traffic safety measures have been included in the draft conditions of consent that require the creation of specified "No Parking" zones and the extension of the central median island in Glen Alpine Drive. This is considered an appropriate response to the matter of traffic and pedestrian safety.

**Concern:** 6am start on Sundays will create a disturbance

**Comment:** A maximum of 40 persons are anticipated at the Sunday morning service that is proposed to commence at 6.00am. The applicant is aware of potential issues having regard to noise and the adjoining occupiers, and the proper management of the religious establishment would help ensure the congregation is fully cognisant of its obligations to minimise noise. However, so as to ensure the early morning amenity of surrounding neighbours is not adversely affected by noise generated by the use of the site, a condition has been included in the draft consent which restricts the use of the site on a Sunday until after 8.00am.

**Concern:** Number of parishioners

**Comment:** Having regard to the size of the religious establishment, particularly the auditorium, it is considered that a maximum of 80 persons once per week is suitable and appropriate. Other times used by the religious establishment would have a maximum of 40 persons.

**Concern:** Development will devalue property prices

**Comment:** There is no evidence to suggest that the proposed development would impact on property values in the locality. A development's impact on land value is not a relevant matter for consideration under Section 79C of the *Environmental Planning and Assessment Act 1979*.

**Concern:** Number of traffic movements at nearby roundabout

**Comment:** As stated above, the development is considered appropriate having regard to the number of vehicles attending the site and its impact on the surrounding road network. The environmental capacity of the roundabout is considered sufficient.

**Concern:** Parking area at rear of building

**Comment:** The parking at the rear of the building has been designed in accordance with the relevant Australian Standards in terms of dimensions and manoeuvrability. Vehicles are able to enter and exit the site on a forward motion. A condition has been included in the draft consent at Attachment 1 requiring a "No Parking" zone be created 6.0m either side of the exit driveway to improve sight distance to and from the driveway.

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### 3.3 No. 6 Glen Alpine Drive, Glen Alpine - Construction Of Alterations And Additions To An Existing Dwelling And Use Of Premises As A Church Meeting Hall

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**Concern:** Out of character with the locality

**Comment:** Part of the existing building will be demolished to make available a driveway to enter the parking area. The building will essentially remain in appearance as a dwelling house that can be converted to a domestic use should the land no longer be required as a religious establishment. The land's zoning permits the use of the land as a religious establishment and it is considered to be at an appropriate scale.

**Concern:** Use of hall by others

**Comment:** The auditorium will not be used for functions by the proponent of other users. The auditorium is to be used for prayer meetings, bible readings, gospel preaching and commune meetings.

## 5. Conclusion

The application for the construction of alterations and to dwellings and use of premises as a church meeting hall (religious establishment) at No. 6 Glen Alpine Drive, Glen Alpine has been assessed against the relevant matters for consideration within environmental planning legislation and Council's development controls.

The use of the religious establishment would be undertaken within an existing dwelling that would require partial demolition to allow for an additional driveway, internal alterations and an entry from the car parking area.

A number of on-road traffic safety measures have been included as recommended conditions of consent for the purpose of maintaining pedestrian and vehicular safety in and around the site. These include "No Parking" restrictions and the extension of the central median island in Glen Alpine Drive.

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

## Officer's Recommendation

That development application No. 408/2012/DA-C, proposing construction of alterations and to dwellings and use of premises as a church meeting hall (religious establishment) at No. 6 Glen Alpine Drive, Glen Alpine, be approved subject to the recommended conditions contained in Attachment 1.

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**Committee Note:** Mr Bradd addressed the Committee in opposition to the application.

Mr Salerni and Mr Slater addressed the Committee in support of the application.

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

That development application No. 408/2012/DA-C, proposing construction of alterations and to dwellings and use of premises as a church meeting hall (religious establishment) at No. 6 Glen Alpine Drive, Glen Alpine, be approved, subject to condition 13 of the recommended conditions, being amended to allow a 6.00am start on a Sunday.

**CARRIED**

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

Voting against the Committee's Recommendation were Councillors: Kolkman and Oates.

**Council Meeting 23 April 2013 (Greiss/Rowell)**

That the Committee's Recommendation be adopted.

**Council Resolution Minute Number 57**

That the Committee's Recommendation be adopted.

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

Voting against the Council Resolution were Councillors: Brticevic, Kolkman and Oates.

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

#### **2. Building Code of Australia**

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

#### **3. Landscaping**

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

#### **4. Switchboards/Utilities/Air Conditioning Units**

Switchboards, garbage storage areas, air conditioning units and storage for other utilities shall not be attached to the front elevations of the building or side elevations that can be seen from a public place.

#### **5. Driveways**

The gradients of driveways and manoeuvring areas shall be designed in accordance with Australian Standard AS 2890.1 and AS 2890.2 (as amended).

Driveways shall be constructed using decorative paving materials such as pattern stencilled concrete, coloured stamped concrete or paving bricks. The finishes of the paving surfaces are to be non-slip and plain concrete is not acceptable.

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### 3.3 No. 6 Glen Alpine Drive, Glen Alpine - Construction Of Alterations And Additions To An Existing Dwelling And Use Of Premises As A Church Meeting Hall

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All driveways in excess of 20 metres in length shall be separated from the landscaped areas by the construction of a minimum 150mm high kerb, dwarf wall or barrier fencing.

All new driveways shall be designed and constructed perpendicular to the roadway.

The eastern driveway shall be sign posted with a standard 'Entry Only' sign (facing Glen Alpine Drive) of suitable proportions and located immediately behind the front boundary of the subject property.

The western driveway shall be sign posted with a standard 'No Entry' sign (facing Glen Alpine Drive) of suitable proportions and located immediately behind the front boundary of the subject property.

All on-site directional signage shall be replaced or repaired within 48 hours of being damaged, stolen, vandalised or the like.

Future driveways that conflict with existing infrastructure shall obtain that authority's permission for the location of the driveway prior to issue of a Construction Certificate by Council or an accredited certifier.

## **6. Advertising Signs – Separate DA Required**

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

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

## **7. Storage of Goods**

All works, storage and display of goods, materials and any other item associated with the premises shall be contained wholly within the building.

## **8. Engineering Design Works**

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

## **9. Car Parking Spaces**

10 car parking spaces shall be designed, sealed, line marked and made available to all users of the site in accordance with Australian Standards 2890 (as amended).

## **10. Rubbish/Recycling Bin Storage**

The rubbish and recycling bins shall not be stored within vehicle parking, vehicle manoeuvring areas or landscaped areas.

The bin(s) shall only be stored in accordance with the approved plans.

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## **11. Construction Certificate**

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

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

## **12. Acoustic Amelioration**

The recommendations contained within Acoustic Assessment Reports 610.07939.05900 R1 and R2, prepared by SLR Global Environmental Solutions, dated 27 February 2012 and 30 October 2012, shall be implemented prior to issue of occupation certificate for the development

## **13. Use as a Religious Establishment**

Hours of operation and maximum occupancy shall be in accordance with the following schedule:

- (a) Sunday 8.00am to 9.00am – maximum 40 persons
- (b) Sunday 4.30pm to 6.30pm – maximum 80 persons
- (c) Monday 6.15pm to 7.00pm – 40 persons

The building shall be used as a religious establishment and for ancillary purposes. The building shall not be used for secular education, accommodation or for conventions. The building shall not be sub-leased, rented or hired for any purpose.

## **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.

## **14. 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.

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### 3.3 No. 6 Glen Alpine Drive, Glen Alpine - Construction Of Alterations And Additions To An Existing Dwelling And Use Of Premises As A Church Meeting Hall

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#### **15. No Parking Zone**

Prior to Council or an accredited certifier issuing a construction certificate, the applicant shall submit plans of a 'no parking zone' on the northern side of Glen Alpine Drive extending from its intersection with Menangle Road to the projection of the boundary with No. 8 Glen Alpine Drive. A separate 'No Parking' zone shall be created 6.0 metres either side of the exit driveway for the development.

#### **16. Median Island Construction (New)**

Prior to Council or an accredited certifier issuing a construction certificate, the applicant shall submit engineering details of the required median island construction described below:

Full construction of all new median islands to Council's Specification for Construction of Subdivisional Road and Drainage Works (as amended) and with the design requirements of the Campbelltown (Sustainable) City DCP 2009 - Volumes 1 and 2.

The median island shall be extended from the existing median to the projection of the site's common boundary with No. 8 Glen Alpine Drive.

All inspections are to be undertaken by Council and principal certifying authority shall not issue an occupation certificate until Council has issued a compliance certificate for the median island construction.

#### **17. Traffic Committee**

Prior to Council or an accredited certifier issuing a construction certificate, the applicant shall submit plans and obtain approval from Council's Local Traffic Committee for any proposals for the construction of prescribed traffic control devices and traffic control facilities and all associated line marking and/or sign posting.

#### **18. Traffic Control Plans**

Prior to Council or an accredited certifier issuing a construction certificate, the applicant shall prepare and obtain approval from an accredited person, a Traffic Control Plan (TCP) in accordance with the State Roads Authority manual "Traffic Control at Work Sites" and Australian Standard AS 1742.3 (as amended). A copy of the approved TCP shall be kept on site for the duration of the works in accordance with Work Cover Authority requirements. A copy shall be submitted to Council for its records.

#### **19. Stormwater Management Plan (Development)**

Prior to Council or an accredited certifier issuing a construction certificate, a plan indicating all engineering details and calculations relevant to site regrading and the collection and disposal of stormwater from the site, building/s and adjacent catchment, shall be submitted for approval. Floor levels of all buildings shall be a minimum of 150mm above the adjacent finished site levels and stormwater shall be conveyed from the site to the nearest system under Council's control. All proposals shall comply with the Campbelltown (Sustainable City) DCP 2009 - Volumes 1 and 2.

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**20. Work outside the Site Boundary**

Prior to Council or an accredited certifier issuing a construction certificate, engineering plans for any work outside the site boundary to be submitted to Council for approval. All works shall comply with Council's Campbelltown (Sustainable City) DCP 2009 volume 2 and shall be inspected by Council at all stages of construction.

A compliance certificate for the work shall be obtained from Council prior to the principal certifying authority issuing an occupation certificate.

Council assessment and inspection fees, apply to the above requirements.

**21. Section 94A Developer Contribution - Community Facilities and Services**

Prior to Council or an accredited certifier issuing a Construction Certificate, the applicant shall provide a receipt for the payment to Council of a community facilities and services contribution in accordance with the provisions of the Campbelltown City Council Section 94A Development Contributions Plan.

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

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

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

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

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3.3 No. 6 Glen Alpine Drive, Glen Alpine - Construction Of Alterations And Additions To An Existing Dwelling And Use Of Premises As A Church Meeting Hall

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

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

## **22. Design for Access and Mobility**

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

## **PRIOR TO THE COMMENCEMENT OF ANY WORKS**

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

## **23. 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.

## **24. Erection of Construction Sign**

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

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

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

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**25. 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.

**26. 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.

**27. 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.

**28. 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.

**29. Footpath and Vehicular Crossing Levels**

Prior to the commencement of any work, footpath and vehicular crossing levels are to be obtained from Council by lodging an application on the prescribed form.

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### **30. 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.

### **31. Fencing**

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

## **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.

### **32. Construction Work Hours**

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

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

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### 3.3 No. 6 Glen Alpine Drive, Glen Alpine - Construction Of Alterations And Additions To An Existing Dwelling And Use Of Premises As A Church Meeting Hall

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#### **33. 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.

#### **34. Work Zones**

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

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

#### **35. 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.

#### **36. Excess Material**

All excess material is to be removed from the site. The spreading of excess material or stockpiling on site will not be permitted without prior written approval from Council.

#### **37. Public Safety**

Any works undertaken in a public place are to be maintained in a safe condition at all times in accordance with AS 1742.3. Council may at any time and without prior notification make safe any such works Council considers to be unsafe, and recover all reasonable costs incurred from the applicant.

#### **38. Medium Density Driveway and Layback Crossing**

The applicant shall provide a reinforced concrete driveway and layback crossing/s to Council's Medium Density Vehicle Crossing Specification.

A separate application for this work, which will be subject to a crossing inspection fee, fixing of levels and inspections by Council, must be lodged with Council. Conduits must be provided to service authority requirements.

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3.3 No. 6 Glen Alpine Drive, Glen Alpine - Construction Of Alterations And Additions To An Existing Dwelling And Use Of Premises As A Church Meeting Hall

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### **39. Associated Works**

The applicant shall undertake any works external to the development, that are made necessary by the development, including additional road and drainage works or any civil works directed by Council, to make a smooth junction with existing work.

### **40. Completion of Construction Works**

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

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

## **PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE**

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

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

### **41. Completion of External Works Onsite**

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

### **42. Final Inspection – Works as Executed Plans**

Prior to the principal certifying authority issuing an occupation certificate, the applicant shall submit to Council the following documents:

- a. Two complete sets of fully marked up and certified work as executed plans in accordance with Council's Specification for Construction of Subdivisional Road and Drainage Works (as amended) and with the design requirements of the Campbelltown (Sustainable City) DCP 2009 - Volumes 1 and 2 and one additional separate fully marked up copy of the plan sheet(s) and the line marking/signposting plan(s).
  - b. Two copies of lot classification reports, geotechnical stability reports, dispersion tests, earthworks and fill placement reports, concrete core tests, sub grade and pavement density reports, structural and all other testing undertaken.
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### 3.3 No. 6 Glen Alpine Drive, Glen Alpine - Construction Of Alterations And Additions To An Existing Dwelling And Use Of Premises As A Church Meeting Hall

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- c. Two copies of all compliance certificates in accordance with consent authority requirements, including supply of pipes and precast units, supply of sub-base material, supply of base course material, supply of concrete, and supply of bituminous materials.

All reports/certificates shall be prepared by a N.A.T.A. registered laboratory or qualified engineer in accordance with Council's Specification for Construction of Subdivisional Road and Drainage Works (as amended) and with the design requirements of the Campbelltown (Sustainable City) DCP 2009 - Volumes 1 and 2 and shall list the relevant compliance standard(s) and certify that the whole of the area of works or materials tested comply with the above specification. All reports/certificates shall be complete, fully referenced, clearly indicate the area or material tested, the location and required/actual values of all tests and retesting, and be collated and suitably bound.

#### **43. Restoration of Public Roads**

Prior to the principal certifying authority issuing an occupation certificate, the restoration of public road and associated works required as a result of the development shall be carried out by Council and all costs shall be paid by the applicant.

#### **44. Public Utilities**

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

#### **45. Line Marking / Sign Posting Documentation (development)**

Prior to the principal certifying authority issuing an occupation certificate, the applicant shall submit to Council for Local Traffic Committee records two copies of work as executed plans of the line marking / sign posting approved by the Traffic Committee for the development. The plans shall show all works undertaken and the date of installation.

#### **46. Termite Protection**

Prior to the principal certifying authority issuing an occupation certificate, certification from a licensed pest controller shall be submitted certifying that the termite treatment has been installed in accordance with AS3660.1.

#### **47. 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.

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**ADVISORY NOTES**

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

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

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

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

**Advice 2. Tree Preservation Order**

To ensure the maintenance and protection of the existing natural environment, you are not permitted to ringbark, cut down, top, lop, remove, wilfully injure or destroy a tree outside 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. Provision of Equitable Access**

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

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

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### 3.3 No. 6 Glen Alpine Drive, Glen Alpine - Construction Of Alterations And Additions To An Existing Dwelling And Use Of Premises As A Church Meeting Hall

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

#### **Advice 4. Retaining Walls**

A separate development application shall be submitted and approved for any retaining walls that exceed 0.9 metres in height.

#### **Advice 5. 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 6. Inspection within Public Areas**

All works within public areas are required to be inspected at all stages of construction and approved by Council prior to the principal certifying authority releasing the Occupation Certificate.

#### **Advice 7. Adjustment to Public Utilities**

Adjustment to any public utilities necessitated by the development is required to be completed prior to the occupation of the premises and in accordance with the requirements of the relevant Authority. Any costs associated with these adjustments are to be borne by the applicant.

#### **Advice 8. Asbestos Warning**

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

[www.environment.nsw.gov.au](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 WorkCover Asbestos and Demolition Team on 8260 5885.

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**Advice 9. Smoke Free Environment Act**

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

**Advice 10. 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 11. 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.

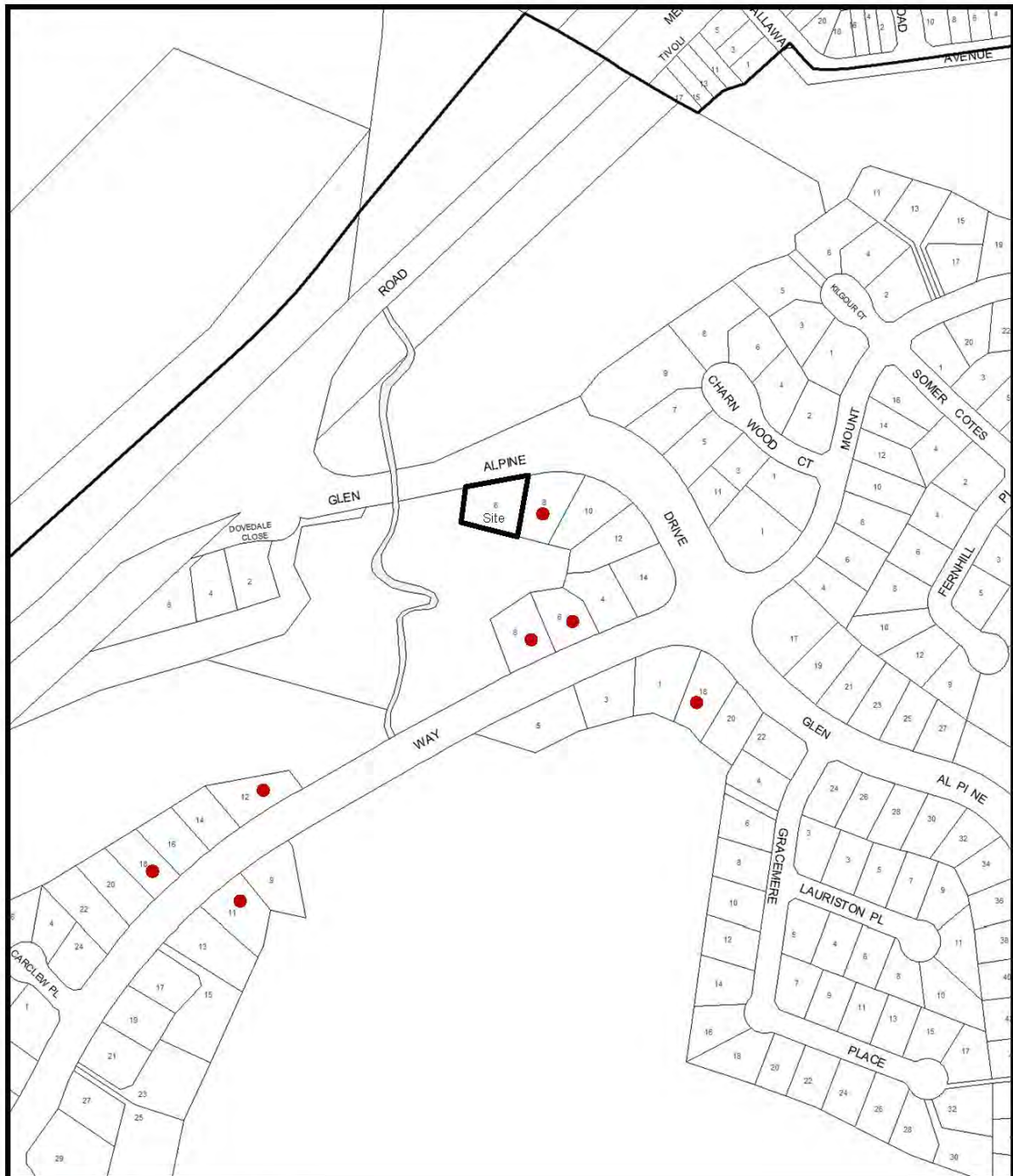
**END OF CONDITIONS**

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3.3 No. 6 Glen Alpine Drive, Glen Alpine - Construction Of Alterations And Additions To An Existing Dwelling And Use Of Premises As A Church Meeting Hall

## ATTACHMENT 2

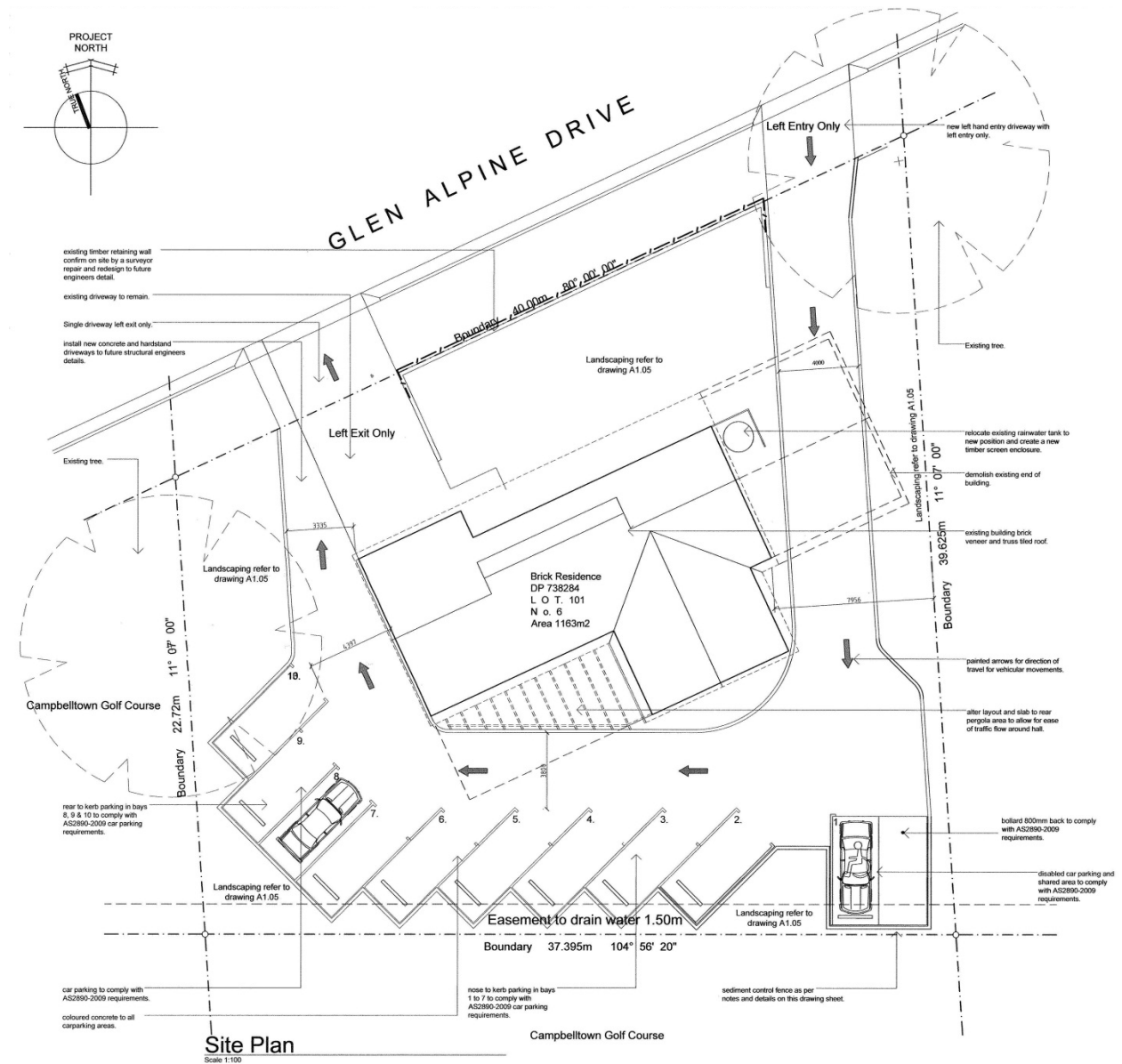
### Locality Plan



● - Submissions Received

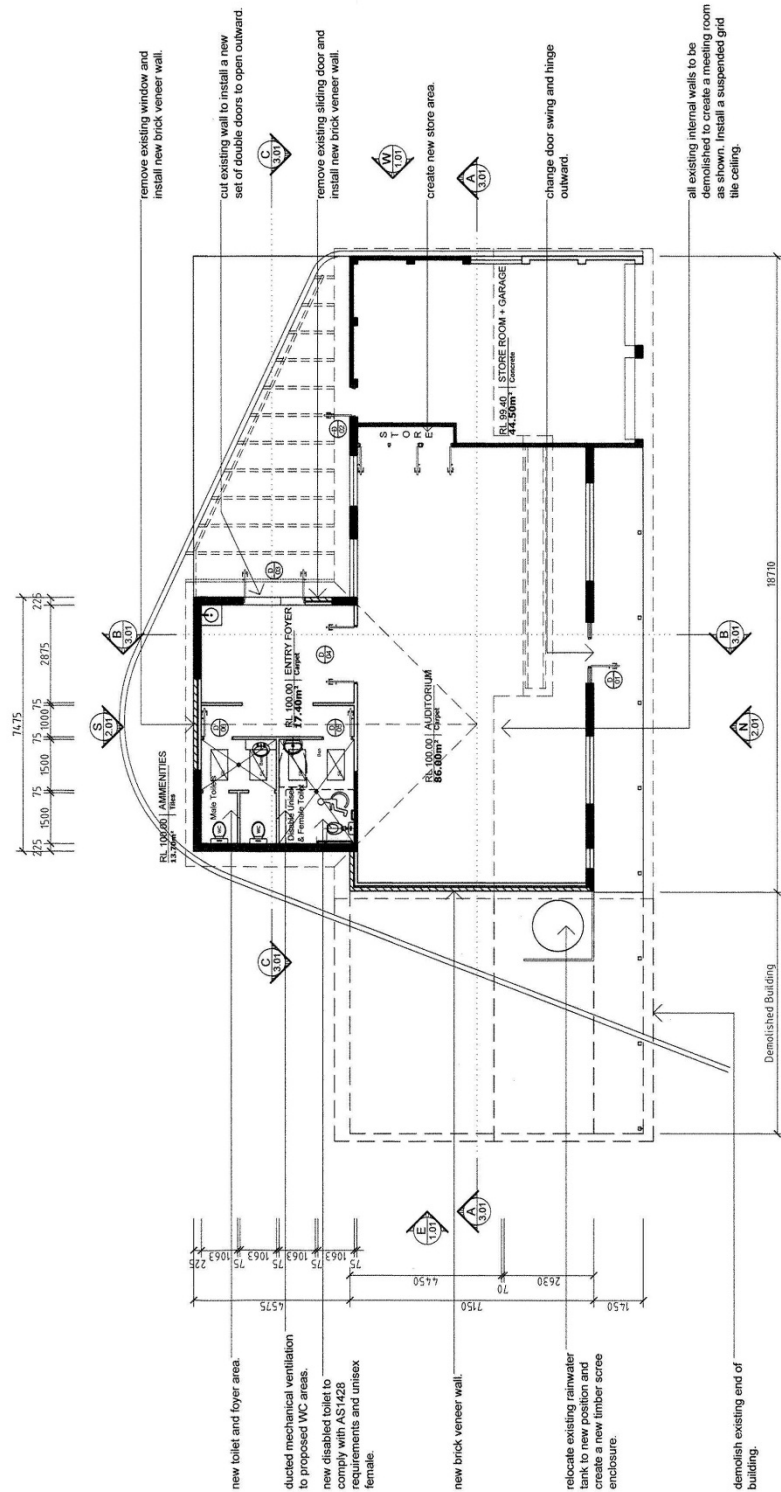
## ATTACHMENT 3

## Site Plan



## ATTACHMENT 4

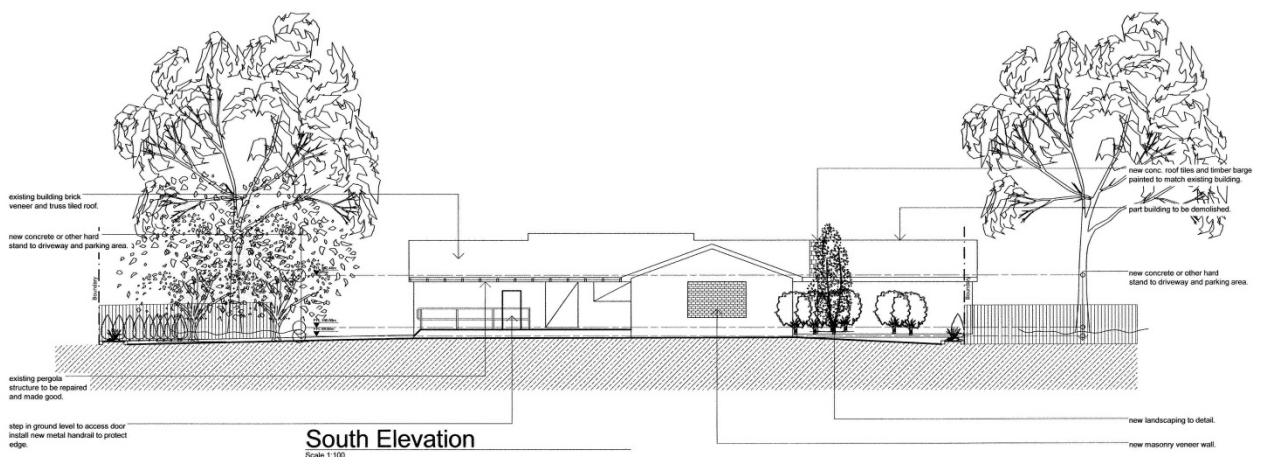
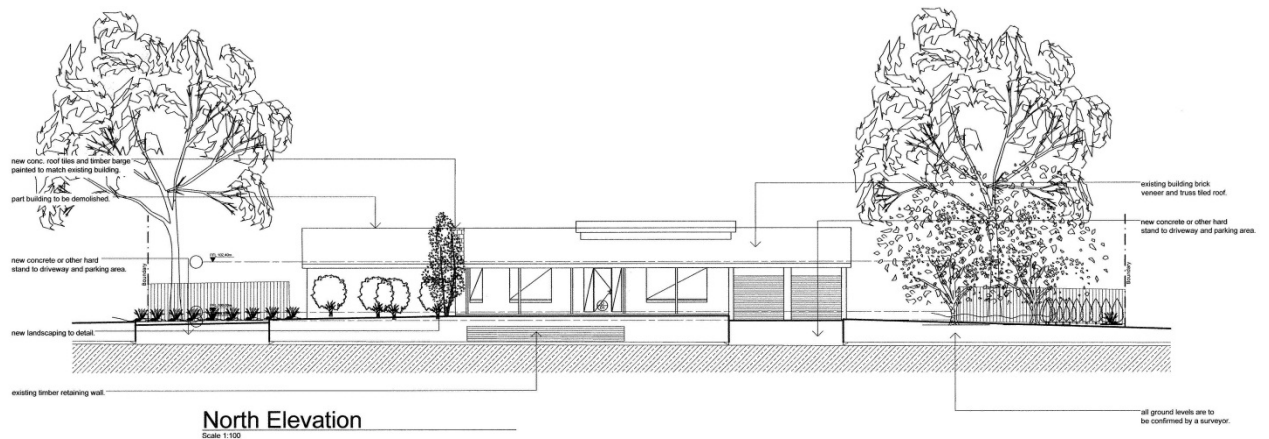
## Floor Plan



3.3 No. 6 Glen Alpine Drive, Glen Alpine - Construction Of Alterations And Additions To An Existing Dwelling And Use Of Premises As A Church Meeting Hall

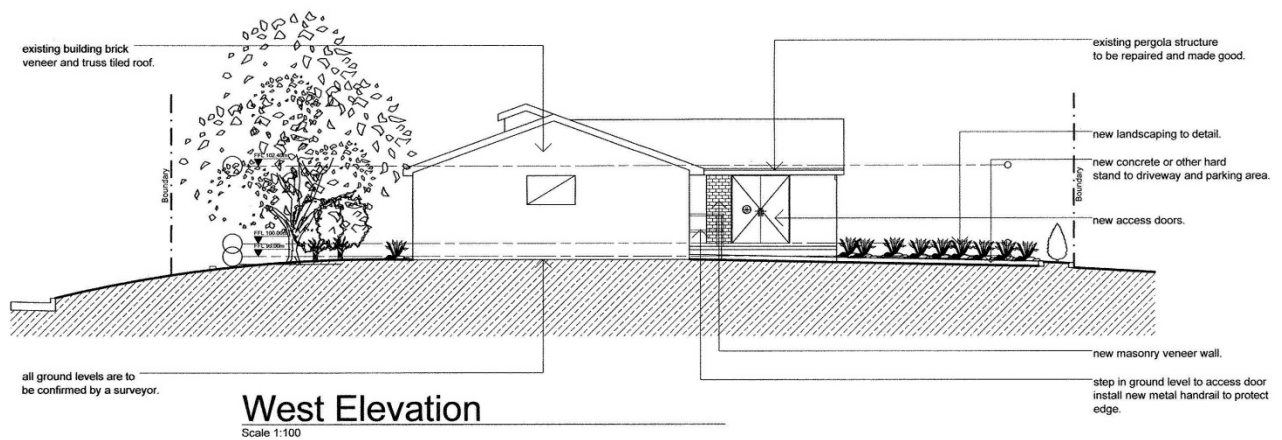
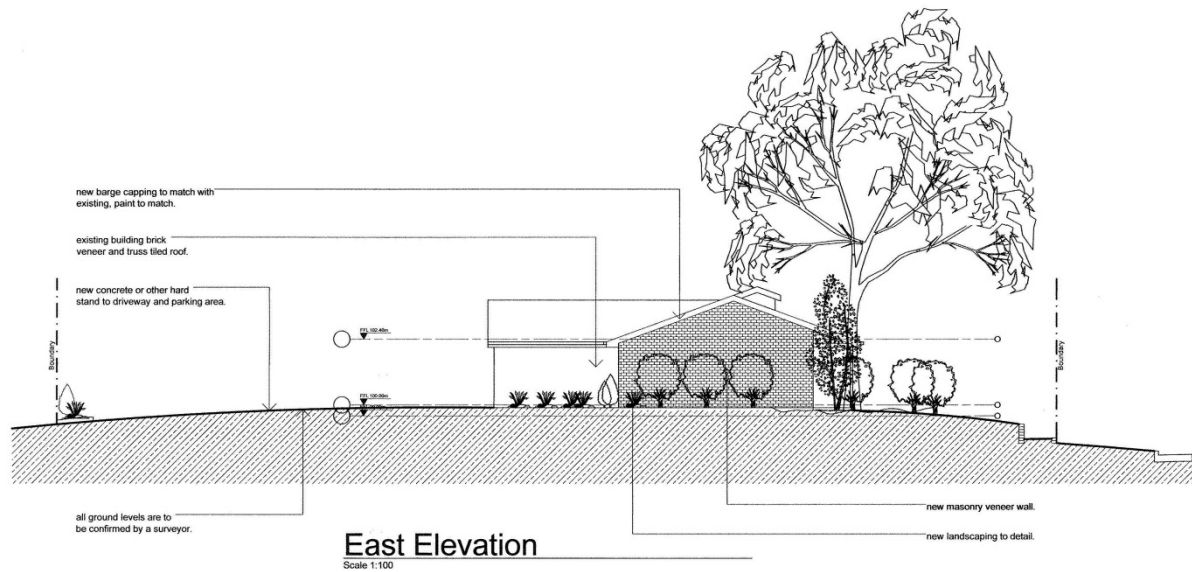
## ATTACHMENT 5

### Elevations



3.3 No. 6 Glen Alpine Drive, Glen Alpine - Construction Of Alterations And Additions To An Existing Dwelling And Use Of Premises As A Church Meeting Hall

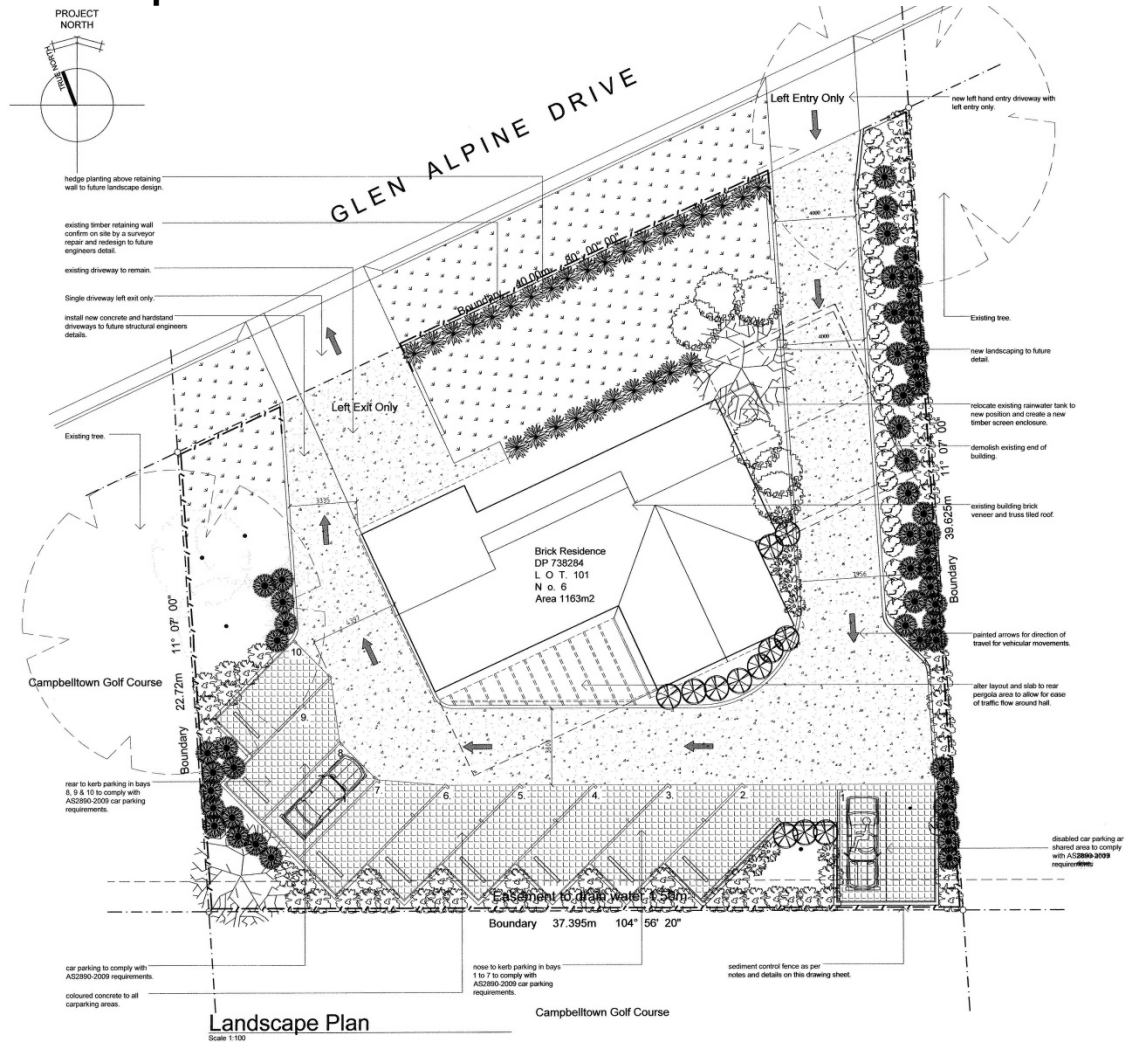
## Elevations



### 3.3 No. 6 Glen Alpine Drive, Glen Alpine - Construction Of Alterations And Additions To An Existing Dwelling And Use Of Premises As A Church Meeting Hall

## ATTACHMENT 6

### Landscape Plan

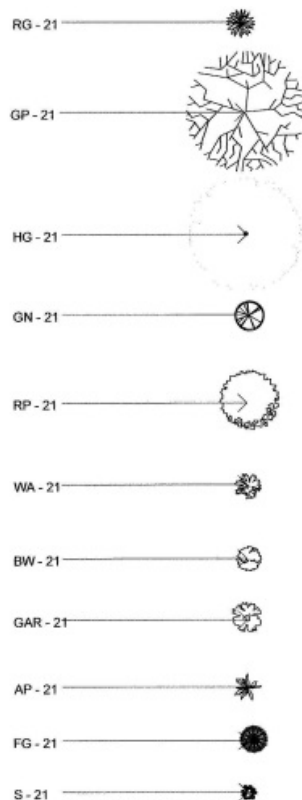




### 3.3 No. 6 Glen Alpine Drive, Glen Alpine - Construction Of Alterations And Additions To An Existing Dwelling And Use Of Premises As A Church Meeting Hall

Plant Schedule								
No.	Common Name		Botanic Name	Colour	Radius	Height	Pot Size	Qty
Ground Covers								
1.	Sunburst	S	Brachycome	Yellow	0.45m	0.3m	0.5ltr	30
2.	Fountain Grass	FG	Pennisium aiopecuroides	Green	0.6m	0.6m	0.5ltr	25
3.	Rock gardenia	GAR	Gardenia augusta 'radicans'	Yellow	0.3m	0.3m	2.0ltr	12
Shrubs								
1.		AP	Agapanthus praecox	Blue	1.0m	1.0m	5.0ltr	15
2.	Robyn Gordan	RG	Grevillea	Red	1.8m	1.0m	5.0ltr	8
3.	Boomerang Wattle	BW	Acacia amoena	Yellow	1.8m	3.0m	5.0ltr	12
4.	White Anzac	WA	Callistemon citrinus	White	3.0m	3.0m	10.0ltr	15
5.	Reeves Pink	RP	Callistemon citrinus	Pink	3.0m	3.0m	10.0ltr	10
6.	Goodby Neighbours	GN	Acmena smithii (lilly Pilly)	White	1.0m	2.0m	10.0ltr	15
Small Trees								
1.	Honey Gem	HG	Grevillea	Orange	1.8m	3.5m	15.0ltr	5
2.	Golden paperback	GP	Melaleuca bracteata	Yellow	4.0m	4.0m	15.0ltr	1
Large Trees								

Quantities are APPROX. ONLY and will be calculated for landscape CC submission



## **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 2012-2013 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>
--

<b>Total ongoing Class 1 DA appeal matters (as at 02/04/2013)</b>	<b>4</b>
<b>Total completed Class 1 DA appeal matters (as at 02/04/2013)</b>	<b>1</b>
<b>Costs from 1 July 2012 for Class 1 DA appeal matters:</b>	<b>\$10,372.83</b>

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**1 (a) CARDNO (NSW/ACT) PTY LIMITED**

**Issue:** Appeal against Council's deemed refusal of Development Application No. 2052/2012/DA-C for the use of approved retail premises as a liquor store.

**Property:** SP 85424, 4 Rennie Road, Campbelltown

**Property Owner:** Andrew Osborne ATF AKO No. 2 Trust

**Council File:** No. 2052/2012/DA-C

**Court Application:** Filed on 6 December 2012 - File No. 11207/2012

**Applicant:** Cardno (NSW/ACT) Pty Limited

**Costs Estimate:** \$25,000 (exclusive of Barristers, Court Appointed Experts or disbursement fees)

**Costs to date:** \$10,253.43

**Status:** Ongoing – Awaiting judgement.

**Progress:** Matter heard on 14 and 15 March 2013 where at the completion the Commissioner reserved judgement to a date to be notified by the Court.

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**1 (b) Frank ASSAD**

**Issue:** Appeal against Council's refusal of Development Application No. 124/2012/DA-C for variation to conditions of use, and alterations and additions to an existing brothel.

**Property:** Lot 2 DP 519337 No. 15 Blaxland Road, Campbelltown

**Property Owner:** Mr. Zhi Hua Yan and Ms. Cui Li Wang

**Council File:** No. 124/2012/DA-C

**Court Application:** Filed on 8 February 2013 - File No. 10084/2013

**Applicant:** Frank Assad

**Costs Estimate:** \$20,000 (exclusive of Barristers, Court Appointed Experts or disbursement fees)

**Costs to date:** \$0.00

**Status:** Ongoing – Listed for conciliation conference on 9 April 2013.

**Progress:** Matter was before the Court for first mention on 15 March 2013 where directions were made that the parties enter into a Court assisted conciliation conference on 9 April 2013.

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**1 (c) Ray JARDINE**

<b>Issue:</b>	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.
<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>	\$0.00
<b>Status:</b>	Ongoing – Listed for conciliation conference on 23 April 2013.
<b>Progress:</b>	Matter was before the Court for first mention on 15 March 2013 where directions were made that the parties enter into an onsite Court assisted conciliation conference on 23 April 2013.

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**1 (d) Ray JARDINE**

<b>Issue:</b>	Appeal against Council's deemed refusal of Development Application No. 763/2008/DA-IB seeking modification (alterations to the existing building including the addition of a takeaway shop) to existing consent No's. 763/2008/DA-I and 763/2008/DA-IA for demolition of a dwelling, conversion of existing industrial building as place of public worship and associated car parking; and modification to front of building (replace window with entrance doorway).
<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. 763/2008/DA-IA
<b>Court Application:</b>	Filed on 21 February 2013 - File No. 10120/2013
<b>Applicant:</b>	Ray Jardine
<b>Costs Estimate:</b>	\$11,000 (exclusive of Barristers, Court Appointed Experts or disbursement fees)

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<b>Costs to date:</b>	\$0.00
<b>Status:</b>	Ongoing – Listed for conciliation conference on 23 April 2013
<b>Progress:</b>	Matter was before the Court for first mention on 15 March 2013 where directions were made that the parties enter into an onsite Court assisted conciliation conference on 23 April 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 02/04/2013)</b>	<b>1</b>
<b>Total completed Class 1 Order/Notice appeal matters (as at 02/04/2013)</b>	<b>0</b>
<b>Costs from 1 July 2012 for Class 1 Order/Notices appeal matters:</b>	<b>\$145.60</b>

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<b>2 (a)</b>	<b>John Frank GALLUZZO</b>
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<b>Issue:</b>	Appeal against Council's Order 15 given under the <i>Environmental Planning and Assessment Act 1979</i> requiring compliance with conditions 19 and 48 of development consent 610/2004/DA-C (construction of a Type 'B' intersection at the intersection with Campbelltown Road and Blomfield Road, Denham Court) relating to the childcare centre development at No. 1 Blomfield Road, Denham Court.
<b>Property:</b>	Pt Lot 1 DP 602622 No. 1 Blomfield Road, Denham Court
<b>Property Owner:</b>	John Frank Galluzzo
<b>Council File:</b>	No. 610/2004/DA-C
<b>Court Application:</b>	Filed on 6 February 2013 - File No. 10080/2013
<b>Applicant:</b>	John Frank Galluzzo
<b>Costs Estimate:</b>	\$20,000 (exclusive of Barristers, Court Appointed Experts or disbursement fees)
<b>Costs to date:</b>	\$145.60
<b>Status:</b>	Ongoing – Listed for further mention on 17 April 2013
<b>Progress:</b>	The matter was before the Court for first mention on 6 March 2013 where by consent the proceedings were adjourned to 17 April 2013 for further mention given that a Section 96 development application to vary the relevant conditions of consent is currently being assessed by Council.

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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 02/04/2013)</b>	<b>1</b>
<b>Total completed Class 4 matters (as at 02/04/2013)</b>	<b>0</b>
<b>Costs from 1 July 2012 for Class 4 matters</b>	<b>\$18,801.14</b>

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<b>3 (a)</b>	<b>Precision Logistics Pty Ltd &amp; Robert Andrew Tebb &amp; Annette Margaret Tebb</b>
<b>Issue:</b>	Enforcement action initiated by Council to restrain the respondents from conducting unauthorised trucking activities on the property.
<b>Property:</b>	Lot 7 DP 1008057 and Lot 92 DP 1004803 No 20 Frost Road Campbelltown
<b>Property Owner:</b>	Robert Andrew Tebb and Annette Margaret Tebb
<b>Council File:</b>	No. 845/2012/DA-I
<b>Court Application:</b>	Filed on 20 December 2012 - File No. 12/41261
<b>Respondents:</b>	Precision Logistics Pty Ltd & Robert Andrew Tebb and Annette Margaret Tebb
<b>Costs Estimate:</b>	\$30,000 (exclusive of Barristers, Court Appointed Experts or disbursement fees)
<b>Costs to date:</b>	\$14,656.84
<b>Status:</b>	Ongoing - Adjourned to 12 April 2013 for further mention
<b>Progress:</b>	On 15 March 2013, the proceedings were adjourned to 12 April 2013 pending the Respondent's submission to Council of a concept package for the proposed amended development application which seeks to address the issues discussed at a recent meeting with Council officers and raised in Council's assessment of the original application, to regularise the use for certain truck maintenance and transport distribution operations on the property.

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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**

Total ongoing Class 5 matters before the Court (as at 02/04/2013)	0
Total completed Class 5 matters (as at 02/04/2013)	0
Costs from 1 July 2012 for Class 5 matters	\$0.00

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

Total ongoing Class 6 matters (as at 02/04/2013)	0
Total completed Class 6 matters (as at 02/04/2013)	0
Costs from 1 July 2012 for Class 6 matters	\$0.00

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

Total ongoing Appeal matters before the Court (as at 02/04/2013)	0
Total completed Appeal matters (as at 02/04/2013)	0
Costs from 1 July 2012 for District Court matters	\$0.00

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## 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 02/04/2013)</b>	<b>4</b>
<b>Total completed Local Court Matters (as at 02/04/2013)</b>	<b>15</b>
<b>Costs from 1 July 2012 for Local Court Matters</b>	<b>\$3,616.00</b>

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<b>File No:</b>	LP01/13 – Court Election of Penalty Notice
<b>Offence:</b>	Deposit litter (cigarette) from vehicle.
<b>Act:</b>	<i>Protection of the Environment Operations Act 1997</i>
<b>Final Costs:</b>	\$0.00

<b>Status:</b>	Completed
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<b>Progress:</b>	The matter was listed for defended hearing on 25 March 2013 where the defendant, James Kinross, did not appear. The Court noted the defendant's written notice of change of plea to guilty and granted Council's application for the matter to be heard in the defendant's absence. After considering the facts and submissions by Council, the Magistrate found the offence proved and convicted the defendant imposing a fine of \$350 and an order for \$83 Court costs.
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<b>File No:</b>	LP02/13 – Penalty Notice Court Election
<b>Offence:</b>	Own dog that attacks (rush at, harass, or chase) person.
<b>Act:</b>	<i>Companion Animals Act 1998</i>
<b>Final Costs:</b>	\$0.00

<b>Status:</b>	Completed
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<b>Progress:</b>	On 11 March 2013, the presiding Magistrate made an order that the hearing listed for 26 March 2013 be vacated and that Council's application to vacate the hearing on grounds that the Council sought to withdraw and have dismissed the Court Attendance Notice issued to the defendant be granted. Council's application was necessitated as the principal witnesses in the proceedings (two children) were not available to give evidence because their parents did not consent to the childrens' appearance at Court for reason that they were concerned that the experience of giving evidence and having to relive the dog attack incident would be too traumatic; and further, that the dog, the subject of the attack, had been relocated to another Council area. Council's assurances that the Court would be most responsive to the welfare of the children did not alter the position of the parents.
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<b>File No:</b>	LP03/13 – Penalty Notice Court Election
<b>Offence:</b>	Development not in accordance with consent - corporation.
<b>Act:</b>	<i>Environmental Planning and Assessment Act 1979</i>
<b>Costs to date:</b>	\$0.00
<b>Status:</b>	Ongoing
<b>Progress:</b>	Not guilty plea entered. Listed for defended hearing on 8 April 2013.

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<b>File No:</b>	LP04/13 – Penalty Notice Court Election
<b>Offence:</b>	Fail to Comply with Pollution Prevention Notice - corporation.
<b>Act:</b>	<i>Protection of the Environment Operations Act 1997</i>
<b>Costs to date:</b>	\$0.00
<b>Status:</b>	Ongoing
<b>Progress:</b>	Listed for plea/mention on 9 April 2013. Further representations by the defendant are being considered.

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<b>File No:</b>	LP05/13 & LP06/13 – Charge Matters
<b>Offence:</b>	Not comply with nuisance dog notice.
<b>Act:</b>	<i>Companion Animals Act 1998</i>
<b>Final Costs:</b>	\$0.00
<b>Costs to date:</b>	New matters
<b>Progress:</b>	Listed for first mention 16 April 2013.

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<b>File No:</b>	LP07/13 – Penalty Notice Court Election
<b>Offence:</b>	Stand vehicle in disabled persons parking space without authority displayed on the vehicle.
<b>Act:</b>	<i>Local Government Act 1993</i>
<b>Final Costs:</b>	\$0.00
<b>Status:</b>	Completed
<b>Progress:</b>	The matter was listed for first mention on 19 March 2013 where the defendant, Valissa Evelyn McBride, entered a guilty plea by written notice. After considering the facts and submissions, the Magistrate found the offence proved and convicted the defendant imposing a fine of \$150 and an order for \$83 Court costs.

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<b>File No:</b>	LP08/13 – Penalty Notice Court Election
<b>Offence:</b>	Own dog uncontrolled in public place.
<b>Act:</b>	<i>Companion Animals Act 1998</i>
<b>Final Costs:</b>	\$0.00
<b>Status:</b>	Completed
<b>Progress:</b>	The matter was before the Court for first mention on 12 March 2013 where the defendant appeared and entered a guilty plea with explanation. Having considered the facts and submissions, the Magistrate found the offence proved and ordered that no conviction be recorded and the offence be dismissed without penalty under section 10(1)(a) of the <i>Crimes (Sentencing and Procedure) Act 1999</i> .

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#### **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.

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<b>Total Advice Matters (as at 02/04/2013)</b>	<b>7</b>
<b>Costs from 1 July 2012 for advice matters</b>	<b>\$13,617.80</b>

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<b>9. Legal Costs Summary</b>		
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	\$10,372.83	\$0.00
Class 1 Land and Environment Court - appeals against Orders or Notices issued by Council	\$145.60	\$0.00
Class 4 Land and Environment Court matters - non-compliance with Council Orders, Notices or prosecutions	\$18,801.14	\$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	\$3,616.00	\$940.00
Matters referred to Council's solicitor for legal advice	\$13,617.80	\$0.00
Miscellaneous costs not shown elsewhere in this table	\$0.00	\$0.00
Costs Sub-Total	\$46,553.37	\$940.00
<b>Overall Net Costs Total (GST exclusive)</b>	<b>\$45,613.37</b>	

### **Officer's Recommendation**

That the information be noted.

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

That the Officer's Recommendation be adopted.

### **CARRIED**

### **Council Meeting 23 April 2013 (Greiss/Rowell)**

That the Officer's Recommendation be adopted.

### **Council Resolution Minute Number 56**

That the Officer's Recommendation be adopted.

## 4.2 Swimming Pool Barrier Inspection Program

### Reporting Officer

Acting Manager Compliance Services

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### Attachments

1. Report on Review of *Swimming Pools Act, 1992* – Implications for Council (submitted to Council's Planning and Environment Committee Meeting 13 November 2012)
2. Draft Swimming Pool Barrier Inspection Program
3. Inspection Program cost estimates

### Purpose

The purpose of this report is to outline details of a proposed swimming pool inspection program for consideration by Council in accordance with its resolution of 20 November 2012.

### History

Legislation pertaining to swimming pools in NSW comprises the *Swimming Pools Act 1992* (the Act) and the *Swimming Pools Regulation 2008* (the Regulation), which were introduced to require four sided child resistant barriers complying with a prescribed standard to surround privately owned pools.

The amended Act, which commenced on 14 December 2009, provides a legislative framework for a high standard of four-sided, child resistant pool barriers to be consistently applied to all newly constructed, private pools in NSW together with appropriate additional mechanisms (including Notice, Direction and penalty notice provisions) to encourage compliance with the legislation.

The NSW Government proposed further amendments to the Act to address safety concerns and sought comment from stakeholders and the community by way of the 2012 Discussion Paper. Council made a submission to the 2012 Discussion Paper which was endorsed by Council at its Ordinary Meeting on 13 March 2012.

In addition, Council at its Ordinary Meeting on 16 October 2012 adopted the following recommendations of the Corporate Governance Committee:

1. That a report be presented outlining recent amendments to the legislation regarding backyard swimming pools.
  2. That a report also examine the feasibility and potential costs associated to both Council and/or local pool owners if Council was to undertake regular inspections of all backyard swimming pools in the Local Government Area.
-

Subsequent to the Government's review of submissions to the 2012 Discussion Paper, it introduced the Swimming Pools Amendment Bill, 2012 which was passed by Parliament on 23 October 2012.

In summary, the amended Act requires:

- the development of a state wide swimming pool register which is administered and maintained by the Department of Local Government
- compulsory registration of privately owned swimming pools
- a swimming pool compliance certificate to be obtained by owners before the sale or lease of a property that contains a swimming pool
- the mandatory inspection by councils of pools associated with tourist or visitor accommodation and multi-occupancy developments at three year intervals
- the development and implementation of a swimming pool barrier inspection program by councils.

The legislative changes have been introduced as a result of the comprehensive review of the legislation, the high non-compliance rate of pool barriers and continuing incidents of preventable drowning events in NSW. It is noted that two childhood drownings have occurred in the Campbelltown Local Government Area within the past 12 months.

In response to Council's resolution on 16 October 2012 and the introduction of the *Swimming Pools Amendment Bill, 2012*, Council's Planning and Environment Committee considered a report on the Amendment Bill at its meeting on 13 November 2012 (see Attachment 1) and adopted the following recommendation:

"That a draft swimming pool barrier inspection program and policy be developed for consideration by Council".

The above recommendation was adopted as a resolution by Council at its Ordinary Meeting on 20 November 2012.

## Report

The amended legislation requires each council to consult its community in developing and adopting a locally appropriate program for the mandatory inspection of regulated swimming pools in its area to ensure compliance with the requirements of the *Swimming Pools Act*. The local authority is then required to inspect swimming pools in accordance with its adopted program.

Within 12 months of the commencement of the legislation (by November 2013), the inspection program must make provision for the inspection of all swimming pools that are associated with tourist or visitor accommodation and properties occupied by more than two dwellings (eg unit/townhouse developments), at least once every three years.

The *Swimming Pool Act* amendments also amend the *Conveyancing (Sale of Land) Regulation 2012* and the *Residential Tenancies Regulation 2010* to prevent the sale or lease of residential premises with a swimming pool, unless the pool is registered and there is a valid certificate of compliance or occupation certificate for the pool. Local authorities or private certifiers will be required to undertake inspections and issue certificates of compliance as a result of the above legislative amendments which will take effect 18 months after the date of commencement of the legislation (by May 2014).

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In view of the abovementioned legislative amendments, Council is mandated to inspect all registered swimming pools that are associated with tourist or visitor accommodation and properties with more than two dwellings (eg townhouse/multi-unit developments) at least once every three years. In addition, the *Swimming Pools Act* amendments also mandate that Council inspect any other residential property where an owner of a registered pool seeks a certificate of compliance or occupation certificate from Council in respect of a swimming pool.

Furthermore, Council may elect to expand the inspection program to incorporate the inspection of other (non-mandatory) residential properties within its Local Government Area, as part of a proactive effort to improve the level of compliance of pool safety barriers and reduce the incidence of childhood drownings. The proactive component of the program has been incorporated in a draft inspection program (Attachment 2) that is proposed by Council staff.

A search of Council's records has indicated that approximately 8500 pools (that are known to Council) exist within the Campbelltown Local Government Area. This estimate does not account for any unauthorised swimming pools that may be existing that Council is currently unaware of and therefore the number of swimming pools in the Campbelltown LGA could exceed 10,000.

In addition, data from Census 2011 has indicated that there are 49,486 private residential dwellings and 14,374 rented residential properties within the Campbelltown LGA and it is estimated that many (approximately 20% of these) would contain a swimming pool.

The amended Act enables private certifiers to undertake voluntary swimming pool inspections (eg. for leased or sold properties) at the request of the property owner. They will not be involved in the mandatory inspection regime to be undertaken by Council. While it is acknowledged that a number of inspections and certificates will be dealt with by private certifiers, it is anticipated the majority will be attended to by Council.

Given the number of swimming pools that exist within the Local Government Area is significant, it is evident that the inspection requirements will not be able to be accommodated within existing Council resources and will require the engagement of additional staff.

In order to effectively respond to the legislative requirement to implement an inspection program, a minimum of two Pool Safety Officers should be appointed to address the mandatory inspection component. However, it is recommended a minimum of three Pool Safety Officers be appointed to accommodate a proactive inspection program which involves the random inspection of other (non-mandatory) residential properties that contain registered swimming pools. Details of the proposed cost and income estimates associated with the implementation of the inspection program are outlined in Attachment 3.

In addition, it is anticipated the program would generate significant administrative workload with inspection requests, processing of compliance certificates and related correspondence and enquiries. It is intended at this stage that this workload be accommodated within existing resources, at least until the program can be subject of periodic review and the impact of the program is known.

It should be noted that the legislation provides that Council may charge a fee for inspections and this would offset inspection program costs.

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The proposed draft inspection program and policy (Attachment 2) outlines relevant program details including inspection requirements and fees, pool safety officer roles, community awareness initiatives and enforcement.

Provision was made in the initial draft 2013-2014 budget for implementation of the inspection program, based on the appointment of two Pool Safety Officers. As further information on the estimated numbers of swimming pools within the Local Government Area has become available, it has been realised the number of Pool Safety Officers recommended to implement an effective program is understated and it is considered that three Pool Safety Officers would be more appropriate.

The total estimated cost of implementing the program is \$286,500, being based on the appointment of three Pool Safety Officers. It is estimated that these costs will be totally offset from inspection fees and other supplementary income generated under the program (refer Attachment 3).

In order to best meet the identified objectives of the inspection policy/program, a program incorporating a pro-active inspection regime for registered residential pools is recommended to Council for endorsement and public consultation. A timeline for periodic review of program implementation will also be recommended when a further report is presented to adopt the program following public exhibition.

### **Officer's Recommendation**

1. That the draft swimming pool inspection program and associated fees as outlined in Attachment 2, be placed on public exhibition for a minimum of 28 days.
2. That a further report to Council to consider adoption and periodic review of the Draft Swimming Pool Barrier Inspection Program, associated fees and resourcing implications and commenting on any submission received, be submitted at the conclusion of the public exhibition period.

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

That the Officer's Recommendation be adopted.

### **CARRIED**

### **Council Meeting 23 April 2013 (Hawker/Borg)**

That Corporate Governance Item 8.1 - Swimming Pool Regulations in Compass Magazine be bought forward and dealt with in conjunction with Item 4.2 - Swimming Pool Barrier Inspection Program.

### **Council Meeting 23 April 2013 (Greiss/Rowell)**

That the Officer's Recommendation be adopted.

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**Amendment: (Hawker/Borg)**

1. That the draft swimming pool inspection program and associated fees as outlined in Attachment 2, be placed on public exhibition for a minimum of 28 days.
2. That a further report to Council to consider adoption and periodic review of the Draft Swimming Pool Barrier Inspection Program, associated fees and resourcing implications and commenting on any submission received, be submitted at the conclusion of the public exhibition period.
3. That an edition of the Compass magazine be exclusively reserved for advising residents of the *Swimming Pools Acts 1992* new regulations for swimming pool barriers, and to also address water safety and general pool use.

**Council Resolution Minute Number 56**

That the above amendment be adopted.

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## ATTACHMENT 1



Planning and Environment Committee Meeting 13/11/12

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### **TITLE    Review of the Swimming Pool Act 1992 - Implications for Council**

#### **Reporting Officer**

Acting Manager Compliance Services

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#### **Attachments**

1. Copy of Council's submission to a review of the *Swimming Pools Act 1992* pursuant to Council's resolution of 8 July 2008
2. Copy of Council's submission to the 2012 Discussion Paper
3. Cost Estimates for Implementation of a Swimming Pool Barrier Inspection Program.

#### **Purpose**

The purpose of this report is to update Council on the review of the *Swimming Pools Act 1992* and the consequential provisions of the *Swimming Pools Amendment Bill 2012*. The report recommends that Council prepare a swimming pool barrier inspection program and policy for Council's further consideration.

#### **History**

Legislation pertaining to swimming pools in NSW comprises the *Swimming Pools Act 1992* (the Act) and the *Swimming Pools Regulation 2008* (the Regulation) which were introduced to require four-sided child resistant barriers complying with a prescribed standard to surround privately owned pools.

A review of the Act was undertaken in 2008 by the then Department of Local Government to identify appropriate amendments to enhance the safety of children under the age of five in proximity of private swimming pools. Council made a submission to this review which was endorsed by Council at its Ordinary Meeting on 8 July 2008. A copy of Council's submission is shown as Attachment 1.

The amended Act, which commenced on 14 December 2009 remains in place today and provides a legislative framework for a high standard of four-sided, child-resistant pool barriers to be consistently applied to all newly constructed private pools in NSW together with appropriate additional mechanisms (including Notice, Direction and penalty notice provisions) to encourage compliance with the legislation.

The subsequent amended Regulation adopted an updated version of the Australian Standard AS1926.1 -2007- *Swimming Pool Safety: Part 1 Safety Barriers for Swimming Pools*, which incorporated a number of new performance requirements for pool fencing, including the concept of a minimum 900mm non climbable zone which is measured from the top of the inside of a boundary fence, (or a minimum 900mm from the top of the outside of internal pool fence), which was designed to further restrict access over boundary and internal pool fences.

Since 2009, the NSW Deputy State Coroner, the NSW Child Death Review Team and a range of pool safety advocacy organisations have consistently called for a further strengthening of the Act. As a consequence, a Cross Agency Working Group met in 2010 and 2011 to develop a coordinated response to repeated calls for strengthened legislation.

The NSW Government proposed further amendments to the Act to address the safety concerns raised and sought comment from key stakeholders and the community by way of the 2012 Review Discussion Paper.

Council made a further submission to the 2012 Discussion Paper which was endorsed by Council at its Ordinary Meeting on 13 March 2012. A copy of that submission is shown as Attachment 2.

Subsequent to the Government's review of submissions to the Discussion Paper it has recently introduced into the NSW Parliament, the Swimming Pools Amendment Bill 2012.

In addition, Council at its Ordinary Meeting on 16 October 2012 adopted the following recommendations of the Corporate Governance Committee:

1. That a report be presented outlining recent amendments to the legislation regarding backyard swimming pools
2. That the report also examine the feasibility and potential costs associated to both Council and/or local pool owners if Council was to undertake regular inspections of all backyard swimming pools in the Local Government Area.

## **Report**

*The Swimming Pools Amendment Bill 2012* was passed by both houses of Parliament on 23 October 2012 and is awaiting assent.

The object of the Swimming Pool Amendment Bill 2012 (the Bill) is to amend the *Swimming Pools Act 1992* to strengthen its provisions. A summary of the provisions of the Bill are outlined below:

### **1. State Wide Swimming Pool Register**

Swimming pool owners are required to ensure details of their swimming pools are entered onto a state wide register which is administered by the Division of Local Government. As and from 12 months after the date of commencement of the legislation, registration details are to be provided by pool owners either directly to the Division of Local Government, or alternatively, to the relevant local authority (i.e. Council).

This requirement will have an administrative impact on Council in having to enter pool owner details onto the register which will be accommodated within existing resources. The forthcoming Regulation may make provision for the form of the Register, the information to be entered and the fees (if any) payable for lodging the information.

Pool owners who fail to register their pools may face fines of up to \$2,200.00. It is envisaged that Council will have the responsibility of enforcing this requirement.

### **2. Mandatory Swimming Pool Inspection Program**

The Bill requires each local authority (within 6 months after commencement of the legislation), to develop and adopt a program for the mandatory inspection of regulated swimming pools in its area to ensure compliance with requirements of the Act. The local authority (Council) is required to inspect swimming pools in accordance with the program.

The application of the Act is also extended to cover tourist and visitor accommodation (temporary or short term commercial accommodation establishments such as backpacker, bed and breakfast or farm stay accommodation or serviced apartments), as opposed to just hotels or motels, as was the case previously. However, the legislation does provide an exemption for the outdoor pool fencing requirements for existing pools within visitor or tourist accommodation (that are not associated with hotels or motels) and for any of these types of pools constructed or installed before 1 May 2013.

Within 12 months of the commencement of the legislation, the mandatory inspection program (by Councils) must make provision for the inspection of all swimming pools that are associated with tourist or visitor accommodation and properties with more than 2 dwellings (eg unit/townhouse developments) at least once every 3 years.

The Bill also amends the *Conveyancing (Sale of Land) Regulation 2012* and the *Residential Tenancies Regulation 2010* to prevent the sale or lease of residential premises with a swimming pool unless the pool is registered and there is a valid certificate of compliance or occupation certificate for the pool. Local Authorities or Private Certifiers will be required to undertake inspections and issue certificates of compliance as a result of the above legislative amendments which will take effect 18 months after the date of commencement of the legislation.

Council's role has historically been reactive, responding only to complaint situations. The Bill mandates the implementation of a proactive inspection program incorporating visitor and tourist accommodation as well as multi-dwelling developments and a 'locally appropriate' residential pool inspection program for single dwelling premises. Although the number of premises to be included in the inspection program will not be known until the register is fully established, it is evident the number of pools will be significant and that the mandatory inspection program (including the 'locally appropriate' single dwelling pool inspection program) will not be able to be accommodated within existing Council resources and will require the engagement of additional staff.

In order to effectively respond to the mandatory swimming pool inspection program promulgated by the newly introduced legislation, it is proposed that Council initially employ two specialist pool safety officers, being qualified building surveyors, (due to the risk and liability associated with the inspection role). These officers would have the principal responsibility of carrying out inspections of pools associated with visitor tourist and multi-dwelling developments as well as developing and implementing a 'locally appropriate' inspection program for single dwelling pools based on an audit approach that meets the requirements of the Bill. Council would also need to extend its community education and awareness strategy. Details of proposed additional resources required to implement an inspection program and estimated costs are outlined in Attachment 3.

Should Council take a decision to inspect every 'regulated' pool within the Campbelltown Local Government Area further staff resources would need to be employed. The extent of extra resourcing would depend upon how many pools are identified as requiring inspection and how often inspections would be required by Council to be carried out.

In this regard it should be noted that section 22B (3) of the amended Act states that 'the program is not to require the inspection of a swimming pool in respect of which there is a valid certificate of compliance or a relevant occupation certificate'. This suggests an inspection frequency (excluding reinspections) of not greater than one inspection each three years as a minimum, which would generally align with the statutory period that a swimming pool occupation certificate or compliance certificate is valid for.

Legislation provides that a local authority may charge a fee for an inspection, being a fee that is not greater than the maximum fee (if any) that is prescribed by the Regulation, but it may not charge a separate fee for issuing a certificate of compliance. In addition, a council must include details of inspections it undertakes as part of its annual report.

### 3. Certificates of Compliance

Upon undertaking an inspection as part of a mandatory inspection program, (including a 'locally appropriate' single dwelling pool inspection program), or a voluntary inspection that is requested prior to the sale or lease of a property and if Council or an accredited certifier is satisfied that the requirements for the issue of a certificate of compliance are satisfied, (i.e. the pool is registered and complies with the requirements the *Swimming Pools Act 1992*), a Council or private certifier must issue a certificate of compliance. A certificate of compliance remains valid for 3 years unless a Direction under Section 23 of the *Swimming Pools Act* is issued. Once a certificate of compliance is issued the details are required to be entered onto the register.

A certificate of compliance issued under the Act before the repeal by the 2012 amending Act (i.e. an existing certificate of compliance) is taken to be a valid certificate of compliance under the 2012 amending Act and remains valid for a period of three years from the date it was issued, or until 6 months after the commencement of the 2012 amending Act (whichever is the later).

If an accredited certifier carries out an inspection of a swimming pool at the request of the owner of the premises and finds that the requirements for the issue of a certificate of compliance have not been met, the certifier must give a written notice to the owner setting out (amongst other things) the reasons why the requirements have not been met and whether the accredited certifier is of the opinion that the swimming pool poses a significant risk to public safety.

If the accredited certifier is of the opinion that the pool poses a significant risk to public safety, the accredited certifier must immediately forward a copy of the notice to the relevant local authority (Council). If the accredited certifier is not of the opinion that the pool is a significant risk to public safety, the notice is to be forwarded to the relevant local authority only if a certificate of compliance is not issued in respect of the swimming pool within six weeks after the accredited certifiers inspection. The local authority (Council) is then able to use its existing powers under the *Swimming Pools Act 1992* to ensure that the swimming pool is brought into compliance through issue and enforcement of Notices and Directions issued under the Act.

A local authority is taken to have refused to issue a certificate of compliance in relation to a swimming pool if the local authority has failed to issue either a certificate of compliance or a Direction under section 23 in respect of a swimming pool within 6 weeks of undertaking an inspection or a written request is made in respect of the proposed sale or lease of a property.

#### **4. Definition of a Swimming Pool**

The Bill also makes a minor amendment to bring the definition of a swimming pool in the Act in line with the definition used in the Australian Standard 1926.1 – 2007 and to promote consistency with the requirements of other States to help achieve increased national uniformity.

A swimming pool is now defined as:-

'Any excavation or structure containing water to a depth greater than 300mm and used primarily for swimming, wading, paddling or the like including a bathing or wading pool, or spa'

The definition extends to include various temporary, or less expensive pools, including small inflatable or above ground pools providing they contain water to a depth greater than 300mm and are used mainly for wading, paddling, swimming or the like.

#### **5. Swimming Pool Barrier Inspection Program and Policy**

The Bill provides that a local authority must, within 6 months after the commencement of the respective provision, develop and adopt a program for the inspection of swimming pools within its area. Accordingly it is recommended that a Swimming Pool Barrier Inspection Program and Policy be developed to set out Councils response to the amended legislation as defined in the Bill.

Given the large number of pools that would require inspection within the Campbelltown LGA it may be feasible to adopt an audit based approach whereby a defined percentage of registered pools are inspected each financial year. It should be noted however, that this approach may not result in the inspection of all registered pools, nor the identification and inspection of all pools that are required to be registered. It is envisaged that each pool safety officer would conduct approximately 4-5 inspections per day (not including reinspections). Council would be able to charge inspection fees to offset costs of implementing a locally appropriate inspection program.

The inspection program and policy would outline details of inspection and enforcement requirements, inspection fees and details of an integrated and complementary community education and awareness strategy.

In view of the above, it is considered appropriate that these details be incorporated into a draft policy that is submitted to Council for endorsement for public consultation. (A briefing to Councillors in this matter would also be undertaken).

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

That a draft swimming pool barrier inspection program and policy be developed for consideration by Council.

## ATTACHMENT 1



17 June 2008

Swimming Pools Act and Regulation Review  
Department of Local Government  
Locked Bag 3015  
NOWRA NSW 2541

**Attention: Mr Wayne Trudgen - Principal Policy Officer**

Dear Mr Trudgen

**Swimming Pools Act Review - Call for Submissions on Swimming Pools Regulation and Regulatory Impact Statement (RIS)**

In refer to your Circular 08-26 of 12 May 2008 concerning the above matter and Council's previous correspondence of 4 January 2007 incorporating a detailed response to the Swimming Pools Act review discussion paper.

I advise a review of the Draft Regulation and RIS has been undertaken taking into account prior concerns expressed in our previous submission to the discussion paper.

In this regard please find outlined below, comments in response to the proposed draft Regulation and RIS.

- **Existing Exemptions**

Council's initial submission advocated that the current exemptions for waterfront, small and large properties and existing pools (ie in respect of unauthorised or legal pools) be removed. Council maintains this view and its support for immediate implementation.

It is acknowledged however, the draft regulation, although accommodating provisions for continuation of exemptions, does serve to improve current requirements for restricting access from a dwelling through "child resistant" (rather than "child safe") doors and windows.

- **Dividing Fences used as part of the Swimming Pool Barrier**

Our 4 January 2007 submission advocated that provision and maintenance of dividing fence pool barriers should be the responsibility of the pool owner.

The intent of the proposed regulation does address this concern by calling up AS1926.1 - 2007. AS1926.1 provides that the non climbable zone be maintained on

Civic Centre Queen Street Campbelltown PO Box 57 Campbelltown NSW 2560 DX5114  
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the inside of the pool barrier for a dividing fence provided that the fence is no less than 1.8 metres high and therefore, the responsibility for maintaining the integrity of the pool fence barrier in such circumstances will be placed on the pool owner.

- **Spa Requirements**

Our initial submission advocated the current standard permitting the use of spa covers with child safe lockable devices as a barrier option was too lenient. This requirement remains unchanged under the draft regulation and therefore our concern remains. Council requests that further consideration be given to addressing this concern in the draft legislation.

- **Compliance Certificates**

Our initial submission advocated support for mandating requirements to obtain compliance certificates for all new pools and on a periodic basis for existing pools.

It is noted that this issue has not been addressed in the proposed regulation. It is argued that a requirement to obtain a compliance certificate as advocated would contribute to improved compliance rates, as acknowledged by the following comment contained within the RIS which states:

*"The research reported in van Weerdenburg et al (2003) demonstrates that there is substantial non-compliance with the Act.*

*The study also found convincing evidence that the actual level of non-compliance is determined in a large part by how zealous the council is in inspecting pools. For example, two councils in the study that had no active inspection programs recorded non-compliance rates in excess of 50%, while a third Council that had conducted routine inspections recorded non compliance rates below 5%.*

It is acknowledged however, that the cost/benefit analysis in the RIS indicates that the analysis does not support resources being allocated to improved inspection and Council related activities. However, it should be emphasised that this issue is primarily concerned with the loss or impairment of the lives of young children and the conclusion is based on cost estimates and assumptions of limited reliance. Perhaps further consideration should be given to relaxing the requirements relating the term of compliance certificate renewals to ease the economic burden in the interest of achieving improved compliance rates.

- **Penalty Notice Amounts**

Our current concern that the Penalty Notice amount of \$220 is inadequate has not been addressed and therefore has been reiterated in this submission. It is considered a penalty in the order of \$600 would be more in line with penalty amounts included in other legislation for serious offences enforced by Local Government.

- **Building Certificates**

Our initial submission indicated support for pool barriers to be included as part of considerations in the issue of building certificates. This has not been addressed and therefore is reiterated in this submission.

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- **Powers for Council to undertake rectification works.**

Our initial submission advocated for such powers in the event of non-compliance with a Swimming Pool Direction and as this has not been addressed our concern is reiterated.

**Additional Comments**

- **Treatment of existing pool fences**

It is considered the intention to require compliance with new or substantially altered fences (once the legislation is introduced) is reasonable. The application of the legislation retrospectively (except in the case of unauthorised pools) as indicated in the sub options within the RIS, is not supported.

The treatment of unauthorised or illegally constructed pools remains unclear with respect to the existing or proposed Swimming Pools legislation.

- **Alternative Options**

The proposed legislation as outlined is considered a preferred option over the alternative options 1-5 identified in the RIS.

Given the brevity of the draft Regulation and RIS consultation period, an opportunity has not been available to consult Council regarding the content of the above submission. It is intended to consult Council at its Ordinary meeting of 8 July 2008. Further details of Council's determination will follow the July Ordinary Meeting.

I take this opportunity to thank you in anticipation of your due consideration of the comments raised in our submission.

If you require any further clarification or information in relation to this submission please contact Mr Paul Curley of Council's Planning and Environment Division on 4645 4604.

Yours sincerely



Paul Tosi  
General Manager





23 February 2012

Swimming Pools Act Review  
Division of Local Government  
Department of Premier and Cabinet  
Locked Bag 3015  
NOWRA NSW 2541

**Attention: Mr Wayne Trudgen - Principal Policy Officer**

Dear Mr Trudgen

**Re: *Swimming Pools Act 1992* Review Discussion Paper - January 2012**

In refer to the Division's Circular 12-03 dated 15 January 2012 concerning the release of the *Swimming Pools Act 1992* Review Discussion Paper 2012.

Council, in principle, supports the NSW Government's proposed amendments to the Act (and related legislation) intended to increase the safety of young children around privately owned swimming pools, and accordingly, attached is our completed feedback form and additional comments.

Councillors have been advised of the Review and provided a copy of Circular 12-03 and discussion paper; unfortunately however, due to the restricted timeframe for submission of the review feedback form, Council has not had an opportunity to consider the attached submission. Consequently, a report will be presented to Council at its ordinary meeting on 13 March 2012 following which I will write and notify you of Council's resolution on this matter.

Should you require further clarification or information in relation to this submission please contact Council's Manager Compliance Services, Mr. Andrew Spooner 4645 4614.

Yours sincerely

A handwritten signature in black ink, appearing to read "Jeff Lawrence", followed by a horizontal line.

Jeff Lawrence  
Director Planning and Environment

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Premier & Cabinet  
Division of Local Government

Swimming Pools Act 1992 Review  
January 2012

FEEDBACK FORM

Name: CAMPBELLTOWN CITY COUNCIL

Organisation (please tick the applicable box below):

Pool owner ☐  
Council ☒  
Water safety advocacy organisation ☐  
Industry organisation ☐  
State agency ☐  
Other: ☐

If 'Other', please specify: \_\_\_\_\_

Postal Address: PO Box 57 Campbelltown NSW 2560

Email Address (if applicable): council@campbelltown.nsw.gov.au

Closing date: Friday 24 February 2012

Questions

Swimming Pool Register

1. Should the NSW Government develop and maintain an on-line, State-wide register of swimming pools containing certain prescribed information about the pool including (but not limited to) address, type of pool, date of construction/installation as well as date of any inspection and result.

Yes ☒  
No ☐  
Unsure ☐



Premier & Cabinet  
Division of Local Government

Swimming Pools Act 1992 Review  
January 2012

FEEDBACK FORM

Swimming Pool Barrier Inspection Program

5. Should councils be required to, in consultation with their communities, develop and publish on their websites a swimming pool barrier inspection policy and program that is acceptable and affordable to their community?
- Yes ☒
- No ☐
- Unsure ☐
6. Should councils be required to undertake mandatory, periodic inspections of pools associated with tourist and visitor accommodation and other multi-occupancy developments at least every 3 years?
- Yes ☒
- No ☐
- Unsure ☐
7. Should any property with a swimming pool be inspected, and have a valid compliance certificate issued under the Swimming Pools Regulation 2008, before the property is leased or sold (with appropriate parallel amendments made to conveyancing, residential tenancy and land use planning legislation made), with compliance certificates for pools on leased properties being valid for a period of 2 years, even if the pool is leased in the interim?
- Yes ☒
- No ☐
- Unsure ☐
8. Should councils be able to set an inspection fee, in consultation with their communities, and charge that fee for each inspection undertaken to reflect the actual cost of the inspection to a maximum of \$150 for the initial inspection and to a maximum of \$100 for one additional re-inspection, should it be necessary but with no additional inspection fees charged for any subsequent re-inspections?
- Yes ☒
- No ☐
- Unsure ☐



Premier & Cabinet  
Division of Local Government

Swimming Pools Act 1992 Review  
January 2012

FEEDBACK FORM

9. Should councils be required to report annually on the number of swimming pool inspections undertaken and the level of compliance with the requirements of the Swimming Pools Act?

Yes ☒  
No ☐  
Unsure ☐

Other Proposed Amendments

10. Should the Swimming Pools Act be amended to include a provision to clarify that, where an existing swimming pool that is exempt from the Act's fencing requirements is fenced voluntarily, such fencing must meet the Act's requirements for a compliant, four-sided barrier (effectively 'disapplying' or removing the exemption)?

Yes ☒  
No ☐  
Unsure ☐

11. Should the Swimming Pools Act be amended to clarify council powers of entry to inspect private swimming pool barriers and make these consistent with the Local Government Act 1993?

Yes ☒  
No ☐  
Unsure ☐

12. Should the definition of 'swimming pool' in the Swimming Pools Act be amended by replacing the words '300 mm or more' with 'greater than 300 mm' to increase national uniformity?

Yes ☒  
No ☐  
Unsure ☐



Premier & Cabinet  
Division of Local Government

Swimming Pools Act 1992 Review  
January 2012

FEEDBACK FORM

13. Should the term 'hotel or a motel' be replaced with the term 'tourist and visitor accommodation', wherever occurring in the Swimming Pools Act, to make it consistent with instruments called up through the Environmental Planning and Assessment Act?

Yes ☒

No ☐

Unsure ☐

14. Should there be a delayed commencement of a period of 12 months for the introduction of a new offence for failing to register a swimming pool and a delayed commencement of 6 months for all other proposed amendments to the Swimming Pools Act?

Yes ☒

No ☐

Unsure ☐

Please write down any additional comments you have.

See attached comments.

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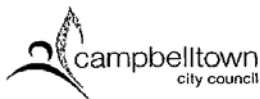
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Thank you for taking the time to provide this feedback. Details on the ways you may submit this form and the use of this information are provided on the final page of the Discussion Paper.

5.



23 February 2012

Swimming Pools Act Review  
Division of Local Government  
Department of Premier and Cabinet  
Locked Bag 3015  
NOWRA NSW 2541

**Swimming Pools Act 1992 Review Discussion Paper - January 2012**

**FEEDBACK FORM – ADDITIONAL COMMENTS**

**Swimming Pool Register**

- Question 1: The register should provide for restricted public access to enable on-line inquiries as to the accuracy and currency of the certification information held.
- Question 2: Dependent on the time required to process each registration application, the \$10 fee may be inadequate. Most councils would have on-line access available through their public library facilities, which swimming pool owners should be encouraged to utilise at first instance.
- Question 3: The reasoning for establishing a 'self-certification' process for pool owners to complete safety checklist and statement is supported from the point of view of encouraging awareness and vigilance of pool barrier adequacy and ongoing maintenance; however, the question of the pool owner's liability in making such certification will need to be considered and clarified.
- Question 4: The penalties for the proposed offence for failing to register a swimming pool is considered inadequate and should be increased to a penalty notice amount of \$550, with a maximum of \$5,500 to reflect the seriousness of offences relating to obligations in respect of pool ownership and maintain consistency of penalty amounts for the majority of such offences under the Act.

**Swimming Pool Barrier Inspection Program**

- Question 5: Agree, although see also comments at Questions 7 and 8.
- Question 6: Periodic inspections of pools associated with tourist and visitor accommodation and other multi-occupancy developments should be undertaken, however, the proposed mandatory inspection period should be reduced to 1 year.

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ABN 31 459 914 087

Question 7: There are a number of factors that can contribute to pool barrier fencing becoming defective, particularly in respect of the operation of self-closing gates, that give rise to concern about the compliance certificates remaining valid for a period of 2-years for leased properties. Concern is also raised that a new tenant taking occupation within the 2-year period may not be fully pool safety aware leading to inobservance of barrier fencing faults and unintended climbing encroachments. The validity of compliance certificates should be limited to a maximum of 1-year.

Council in its submission to the 2008 review of the *Swimming Pools Act 1992*, advocated support for mandating requirements for pool owners to obtain section 24 compliance certificates for all new pools and on a periodic basis for all existing pools. Whilst the amendments of the 2012 review go part way toward addressing this issue, Council remains of the view that a mandated compliance program under the compliance certificate provisions of the Act should be implemented for all pools to ensure that the impetus of the initial swimming pool ownership registration and education programs are maintained.

It seems incongruous that the proposed amendments will in effect create three processes by which certification of a pool can be sought, each with its own regulated or proposed and differing fee structures. I refer to a building certificate under section 149A of the *Environmental Planning and Assessment Act 1979*, a compliance certificate under section 24 of the *Swimming Pools Act 1992*, and the proposed mandatory pool inspections under the 2012 review. What is not apparent is: will a section 149A certificate application also suffice for a section 24 certificate where the building is in the process of sale; what is to prevent a pool owner applying for a section 24 certificate to circumvent the proposed mandatory inspection programs (see Question 8 comments regarding inconsistent fees). If it is the intention that section 24 certificates be issued in all situation where inspections are mandated then this needs to be spelled out and a consistent fee structure applied.

Question 8: It seems inconsistent that the proposed general swimming pool barrier inspection fees are to be calculated to reflect the actual cost of the inspection and allowed to be charged to a maximum of \$150 for the first inspection and a maximum of \$100 for the reinspection; whereas, the fee for a section 24 compliance certificate (including all inspections) is to remain a scheduled fee of \$70 under clause 17(1) of the regulation. Council is of the view that the swimming pool compliance certificate fee does not reflect the actual cost of the inspection and administrative costs involved and should be reviewed in line with the proposed fees for general swimming pool barrier inspections.

Question 9: The proposal to require annual reporting of the number of swimming pool inspections undertaken and level of compliance should not be made unduly onerous, essentially the report should reflect only the numerical statistics in respect of inspections and compliance rates, and be specified under section 428 of the *Local Government Act 1993* that such statistics be included in council's annual report

**Other Proposed Amendments**

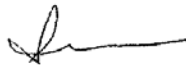
Question 10: Delaying the introduction of an amendment requiring that, where an existing swimming pool that is exempt from the Act's fencing requirements is fenced voluntarily, such fencing must meet the current requirements for a compliant, four-sided barrier (effectively removing the exemption) will, it is anticipated, provide an opportunity for voluntarily erected fences to be removed before the requirement commences.

Question 11: Strongly agree.

Question 14: Agree, except in respect of question 10, see above comments.

For clarification or further information in relation to this submission please contact Council's Manager Compliance Services, Mr. Andrew Spooner 4645 4614.

Yours sincerely



Jeff Lawrence  
Director Planning and Environment



### **Cost Estimates for Implementation of a Swimming Pool Barrier Inspection Program.**

#### **Introduction:**

Although the number of premises to be included in the inspection program will not be known until the register is fully established, it is evident the number of pools will be significant and therefore will require the engagement of additional staff.

It is proposed Council employ two specialist pool safety officers, being qualified building surveyors, due to the associated risk and liability associated with the inspection role. These officers would have the principal responsibility for developing and implementing a locally appropriate inspection program that meets the requirements of the Bill. It is estimated that each Pool Safety Officer would conduct 4-5 inspections per day (not including follow up reinspections).

In addition, the officers would be responsible for the development, review and implementation of the extended community education and awareness strategy as well as proactively identifying unregistered and unauthorised pools (which represent a high risk), investigating related customer requests and associated regulatory compliance.

#### **Itemised Cost Estimates**

<b>Annual Salary (Building Surveyor Grade 14)</b>	\$65,000
<b>30% Salary On costs (leave provisions, superannuation)</b>	\$19,500
<b>Leaseback Vehicle Expenses (excluding leaseback income) including maintenance and vehicle turnover costs</b>	\$11,000
<b>Total Annual Cost per Pool Safety Officers</b>	\$95,500
<b>Total Amount Cost for 2 Pool Safety Officers</b>	\$191,000

#### **Income**

The total cost of the program will be offset by income received for mandatory (inspection program) inspections and voluntary (property sale and lease) inspections.

Income is unable to be estimated with any certainty given the numbers of registered pools and the number of voluntary inspections (annual number of property sales and leased premises) are not currently known. This is complicated as Council will compete with private certifiers for a share of the voluntary inspection market.

In addition, details relating to prescribed inspection and possible owner registration fees are not yet known.

## ATTACHMENT 2

### Draft Swimming Pool Barrier Inspection Program

#### Program Objective

To implement an inspection program that effectively meets Council's obligations under the *Swimming Pools Act and Regulation*, increases pool safety awareness and reduces infant drowning and near drowning events within the Campbelltown Local Government Area.

#### Background

A comprehensive review of swimming pool legislation has been undertaken by the NSW Department of Local Government. The change in legislation has been brought about because of the rate of preventable drownings and near drownings in privately owned swimming pools and the high rate of non-compliance of swimming pool barriers in NSW.

The resulting amendments to the *Swimming Pools Act* require, in part, that NSW councils develop and implement a locally appropriate swimming pool barrier inspection program in consultation with the community, for privately owned swimming pools.

#### Definitions

**Certificate of Compliance** – in respect of swimming pools means a certificate issued under section 22D of the *Swimming Pools Act*.

**Multi-occupancy development** – a building, or buildings that is, or are, situated on premises that consist of two or more dwellings.

**Relevant occupation certificate** – in respect of a swimming pool, which means an occupation certificate issued under the Environmental Planning and Assessment Act 1979 1979 that is less than 3 years old and that authorises the use of the swimming pool.

**Swimming pool** means an excavation, structure or vessel:

- (a) that is capable of being filled with water to a depth greater than 300 millimetres, and
- (b) that is solely or principally used, or that is designed, manufactured or adapted to be solely or principally used, for the purpose of swimming, wading, paddling or any other human aquatic activity, and includes a spa pool, but does not include a spa bath, anything that is situated within a bathroom or anything declared by the regulations not to be a swimming pool for the purposes of this Act.

**Tourist and Visitor Accommodation** – means a building or place that provides temporary or short term accommodation on a commercial basis and includes back packers accommodation, bed and breakfast accommodation, farm stay accommodation and serviced apartments.

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#### **Inspection Program Requirements**

- a) As of and from 29 April 2014, Council shall inspect all swimming pools associated with tourist and visitor accommodation and multi-occupancy developments at a maximum of 3 yearly intervals.
- b) As of and from 29 April 2014, where requested by the property owner or on behalf of the property owner, Council shall inspect within reasonable time, all properties which have a swimming pool prior to their sale or lease.
- c) Council shall inspect any swimming pool within reasonable time that is subject of a customer, staff or owner request, to ensure the pool barrier is installed in accordance with *Swimming Pools Act* requirements.
- d) Council shall inspect and take appropriate regulatory action in respect of swimming pools that have been constructed without development consent, or that are installed or are being used in contravention of conditions of development consent or other legislative requirements.
- e) As of and from 29 October 2013, Council shall inspect other non-mandatory residential properties that contain swimming pools as part of a proactive program to improve the level of compliance of pool safety barriers and reduce the incidence of infant drownings or near drownings.

The proactive inspection program will incorporate a risk based approach whereby unauthorised pools and authorised pools with outstanding final inspections will have high priority.

- f) The program is not to require the inspection of a swimming pool in respect of which there is in force a valid certificate of compliance or a relevant occupation certificate which are generally considered valid for a period of 3 years.

#### **Inspection Fees**

The *Swimming Pools Act* provides that Council may charge a fee for inspection conducted by an authorised officer, being a fee that is not greater than the maximum fee prescribed by the *Swimming Pools Regulation*. In such cases Council may not charge a separate fee for issuing a certificate of compliance.

In addition, the *Swimming Pools Act* provides that Council may charge a fee for one reinspection.

Council will charge a fee of \$150 for an initial inspection (which includes the issue of a certificate of compliance for complying pool fences) and \$100 for one follow up inspection. Council will not charge additional fees for the conduct of subsequent inspections.

#### **Resourcing**

Council will engage appropriate staff to implement the inspection program and associated responsibilities including, but not necessarily limited to:

- Community education and awareness;
-

- Inspection of swimming pools in accordance with the adopted inspection program and its requirements;
- The identification of unregistered and unauthorised swimming pools;
- The enforcement of the requirements of the *Swimming Pools Act* where appropriate;
- The issue of certificates of compliance; and,
- Program reporting.

#### **Enforcement**

Council aims to achieve compliance through effective education and engagement of pool owners and the community. Council acknowledges the ultimate effectiveness of any pool safety barrier relies upon the awareness of the property owner and their willingness to ensure compliance and ongoing maintenance.

The *Swimming Pool Act* does provide mechanisms, such as Notices, Directions and penalty provisions which are used to actively encourage compliance where deemed necessary and appropriate.

#### **Education and Awareness**

Pool owner education and awareness is essential in contributing to the success of the inspection program.

An ongoing and complementary community education and awareness program will be delivered through community publications, media releases, web site information, owner self-assessment pool fence checklists and pool safety officer interaction with the public.

The importance of pool barrier maintenance and adult supervision are key messages to be delivered within the program.

The rates of pool barrier compliance are expected to progressively increase as a result of the inspection program and the gradual improvement of the level of community education and awareness.

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## ATTACHMENT 3

### Cost Estimates for Implementation of a Swimming Pool Barrier Inspection Program

#### Introduction

Although the number of premises to be included in the proposed inspection program will not be known until the swimming pool register is fully established, it is evident the number of pools will be significant and therefore will require the engagement of additional staff.

It is proposed Council employ three specialist pool safety officers, being qualified building surveyors, due to the associated risk and liability associated with the inspection role. These officers would have the principal responsibility for developing and implementing a locally appropriate inspection program that meets the requirements of the *Swimming Pools Act 2012*, as amended.

Based on estimates from other Council areas, such as Sutherland and the Blue Mountains, it is estimated that each Pool Safety Officer would conduct approximately 500 inspections per annum (not including follow up reinspections).

The officers would also be responsible for the development, review and implementation of the extended community education and awareness strategy as well as proactively identifying unregistered and unauthorised pools (which represent a high risk), investigating related customer requests and associated regulatory enforcement and compliance activities.

#### Itemised Cost Estimates

<b>Annual Salary (Building Surveyor Grade 14)</b>	<b>\$65,000</b>
<b>30% Salary On costs (leave provisions, superannuation)</b>	<b>\$19,500</b>
<b>Leaseback Vehicle Expenses (excluding leaseback income) including maintenance and vehicle turnover costs</b>	<b>\$11,000</b>
<b>Total Annual Cost per Pool Safety Officer</b>	<b>\$95,500</b>
<b>Total Annual Cost for 3 Pool Safety Officers</b>	<b>\$286,500</b>

#### Income

The total cost of the program will be offset by income received for programmed inspections and voluntary (property sale and lease) inspections. It is envisaged that income from programmed and requested inspections (1500 per annum) at \$150 per inspection will be approximately \$225,000. In addition supplementary income from reinspections and other income (ie penalty notices) is likely to ensure that program expenditure will be totally offset and the program will not be likely to have a significant cost impact, as forecast in the 2013/14 budget.

Income is unable to be estimated with any certainty given the numbers of registered pools and the number of voluntary inspections (annual number of property sales and leased premises) are not currently known. This is complicated as Council will compete with private certifiers for a share of the voluntary inspection market.

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## **5. GENERAL BUSINESS**

### **5.1 Macquarie Road, Ingleburn**

Councillor Thompson advised that he has received a number of representations regarding the shared zone in Macquarie Road, Ingleburn, which is not functioning as it should be.

It has been reported that pedestrians and vehicles continue to be confused, pedestrians are banging on the bonnets of vehicles as they don't give way.

It was further noted that the footpath landscaping (hedges) in Macquarie Road, adjacent to Oxford Road require maintenance to ensure pedestrians can be seen when crossing the road.

The Director City Works advised that the shared zone issue will be presented to the Traffic Committee for further investigation.

#### **Committee's Recommendation: (Thompson/Greiss)**

That a report be presented outlining appropriate options to improve the operation in the shared zone and landscaping maintenance in Macquarie Road, Ingleburn.

#### **CARRIED**

#### **Council Meeting 23 April 2013 (Greiss/Rowell)**

That the Committee's Recommendation be adopted.

#### **Council Resolution Minute Number 56**

That the Committee's Recommendation be adopted.

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## **5.2 Proposed Traffic Calming Devices**

Councillor Thompson advised that he has received representations from community members regarding speeding vehicles along Evelyn Street, Macquarie Fields, adjacent to The Zoo, Early Learning Centre.

### **Committee's Recommendation: (Thompson/Greiss)**

That a report be presented outlining the feasibility of providing traffic and pedestrian management facilities in the vicinity of the Early Learning Centre, in Evelyn Street, Macquarie Fields.

**CARRIED**

### **Council Meeting 23 April 2013 (Greiss/Rowell)**

That the Committee's Recommendation be adopted.

### **Council Resolution Minute Number 56**

That the Committee's Recommendation be adopted.

### **Confidentiality Motion: (Kolkman/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**

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## **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 8.39pm.

G Greiss  
CHAIRPERSON

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