

Reports of the Planning and Environment Committee Meeting held at 7.30pm on Tuesday, 9 July 2013.

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 9 July 2013

Present

- Councillor G Greiss (Chairperson)
- Councillor R Kolkman
- Councillor D Lound
- Councillor M Oates
- Councillor T Rowell
- Councillor R Thompson
- Acting General Manager - Mrs L Deitz
- Director Planning and Environment - Mr J Lawrence
- Acting Manager Compliance Services - Mr P Curley
- Manager Cultural Services - Mr M Dagostino
- Acting Manager Customer Service - Mr P Macdonald
- Manager Development Services - Mr J Baldwin
- Acting Manager Information Management and Technology - Mrs S Peroumal
- Manager Library Services - Mr G White
- Manager Sustainable City and Environment - Mr A Spooner
- Corporate Support Coordinator - Mr T Rouen
- Executive Assistant - Mrs D Taylor

Apology (Thompson/Rowell)

That the apology from Councillor Matheson be received and accepted.

CARRIED

Acknowledgement of Land

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

DECLARATIONS OF INTEREST

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

Pecuniary Interests

Nil

Non Pecuniary – Significant Interests

Nil

Non Pecuniary – Less than Significant Interests

Councillor Rowell - Item 3.4 - No.9 St Agnes Way, Blair Athol - Construction of a carport and conversion of an existing dwelling to a permanent group home - Councillor Rowell advised that one the applicants was a previous employer of his.

1. WASTE AND RECYCLING SERVICES

No reports this round

2. SUSTAINABLE CITY AND ENVIRONMENT

2.1 Relocation of Government Services

Reporting Officer

Director Planning and Environment

Attachments

Letter to the Premier of NSW, Hon Barry O'Farrell - Relocation of Government Services

Purpose

The purpose of this report is to present for Council's consideration a submission to the Premier of NSW regarding the re-location of Government services to Campbelltown.

History

Council at its meeting held 23 April 2013, Council resolved:

1. That Council lodge a submission the NSW Premier requesting him to consider relocating appropriate Government services to the Campbelltown area to stimulate economic and employment opportunities.
 2. That the above submission demonstrate the strategic advantages that the Campbelltown Local Government Area possesses as a centre for public sector agencies.
 3. That the submission highlight how the relocation of Government agencies to Campbelltown would benefit both parties (agency and Council).
 4. That the submission be presented to a full Council meeting for comment before being submitted to the Government.
 5. That once approved by Council, a copy of the report be forwarded to the four local State Members of Parliament.
-

Report

Attached to this report is the draft submission prepared on behalf of Council to the Premier. The submission highlights the strategic advantages that Campbelltown offers as a potential hub of Government services to help activate private sector investment, and discusses the ongoing work to develop and finalise a planning and delivery framework for the Campbelltown – Macarthur Regional City Centre. It also discusses the need for Council to take on a partnership role with the NSW Government to drive this change.

Officer's Recommendation

That Council endorse the submission to the Premier of NSW in regards to re-location of Government services to Campbelltown.

Committee's Recommendation: (Kolkman/Lound)

That the Officer's Recommendation be adopted.

CARRIED

Council Meeting 16 July 2013 (Greiss/Rowell)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 145

That the Officer's Recommendation be adopted.

ATTACHMENT 1

ATTACHMENT 1: DRAFT SUBMISSION TO THE PREMIER

28 June 2013

The Hon Barry O'Farrell, MP
Premier of NSW
GPO Box 5341
SYDNEY NSW 2001

Dear Mr O'Farrell

Relocation of Government Services

Campbelltown has reached an important stage in its development as a major urban and important regional centre servicing the Macarthur. The development of Campbelltown over the past 30 years has been shaped by partnerships between successive Federal, State and Local Governments. These partnerships have seen the Campbelltown – Macarthur business centre in particular, emerge as the hub of cultural, economic and residential growth in the Macarthur region.

Campbelltown is now a vibrant urban centre, providing a wide range of services, facilities and housing choices bounded by a unique natural environment. It is well connected via the City Rail network with direct services to 55 stations across Sydney, and is well positioned as the “Southern Gateway to Sydney” with direct access to the M5 and M31 Motorways. It is home to the University of Western Sydney, including the UWS School of Medicine and the expanding Campbelltown Public Hospital. The Campbelltown Arts Centre is recognised as a leading regional arts facility particularly in regard to contemporary art and culture. Macarthur Square provides for the higher order retail needs of residents within the region and beyond. These key pieces of infrastructure provide a strong foundation to drive future growth and population expansion in South West Sydney.

To advance the development of Campbelltown, Council at its meeting on 23 April 2013 resolved (in part):

That Council lodge a submission the NSW Premier requesting him to consider relocating appropriate Government services to the Campbelltown area to stimulate economic and employment opportunities.

In the near future, Council will have in place a suite of planning initiatives that will guide and help facilitate the development of the Campbelltown – Macarthur business centre over the next 25 years. This includes allowing for the development of over 10,000 new dwellings and the creation of the potential for 10,000 additional jobs. This is consistent with the State Government's growth targets outlined in the draft Metropolitan Strategy 2031.

In terms of the creation of new employment opportunities to serve the extent of new housing development proposed for the Macarthur Region (as outlined in the recently exhibited draft Metropolitan Strategy) the Council would urge the NSW Government to now grant serious consideration to the relocation of existing government services and facilities to Campbelltown in addition to the creation of new initiatives to address the needs of the newly expanding regional population.

Council acknowledges the recent MACROC submission to the draft Metropolitan Strategy and recognises the critical importance that submission places on the need for the Government to address the impending jobs deficit likely to impact on the Macarthur Region, in light of the population growth earmarked for South West Sydney. Below is an excerpt from that submission which confirms the need for the NSW Government to initiate new job creation initiatives for the Macarthur Region.

Council believes that this impending jobs deficit can be offset by the creation of new employment opportunities associated with the location of Government Services in Campbelltown.

Population Growth and Employment Creation

In 2008 MACROC commissioned a study by Hill PDA¹ that reviewed employment prospects for the South West Subregion of Sydney. The Study reviewed the targets established by the State Government at that time for employment growth. It found that whilst the South West was forecast to receive 23% of Sydney's population growth over the plan period, it was only forecast to receive 13% of its job growth, resulting in the lowest ratio of residents to jobs across the Greater Metropolitan area. This was considered a notable mismatch that would exacerbate existing inequalities in the South West Subregion creating a "two Sydney" phenomenon.

Since 2008, the State Government has released two subsequent reviews of employment and housing targets for Sydney, the most recent being the Draft Metropolitan Strategy for Sydney to 2031.

In April 2013 MACROC engaged Hill PDA to review the employment targets established in the Draft Metropolitan Strategy for Sydney to 2031 for the MACROC Region², as well as the broader South West Subregion, as defined in the Draft Strategy. Hill PDA was asked to review the Draft Metropolitan Strategy to see whether the Draft Strategy and its revised targets sufficiently address the job to housing mismatch identified in 2008.

'**Employment Prospects for South West Sydney, 2013**'³, analyses the most recently released employment targets and their apparent basis in order to better understand their assumptions and alignment with other targets for the MACROC Region and broader South West Subregion. The key findings of this analysis are:

Job Growth - Proportion of Forecast Share: The South West Subregion is forecast to experience 21% of all job growth in Sydney (128,170 jobs according to the BTS) which is the third largest growth of any Subregion. Notwithstanding this, it is forecast to achieve 37% of population growth (+449,610 people) which represents the largest single component of population growth of any Sydney Subregion (according to the BTS).

¹ Employment Prospects for South West Sydney. Hill PDA. 2008

² The MACROC Region in both Hill PDA studies refers to the LGAs of Camden, Campbelltown and Wollondilly as well as the LGA of Liverpool

³ Employment Prospects for South West Sydney. Hill PDA. 2013. Attachment A

On this basis, the South West Subregion would only achieve a job to population growth ratio of 57% - the lowest of any Subregion. The ratio further reduces to 51% when the MACROC Region is considered on its own (i.e. the South West Subregion excluding Bankstown and Fairfield LGA's). This compares to the figures in Hill PDA's 2008 Study of 55%, showing that on a population basis, the forecast number of jobs in the region has declined further in the Draft Strategy compared to earlier Government targets for the same area.

As of 2031 the South West Subregion is forecast to generate 0.28 jobs per person. For the MACROC Region this would reduce to 0.26 jobs per person which would compare unfavourably to the rate of 0.286 by 2031 calculated in 2008 by Hill PDA.

Share of Job Growth in Centres: Despite the Draft Strategy's focus on job growth in centres, only 6 of Sydney's existing or proposed centres are located within the South West Subregion (13% of forecast job growth).

The South West Subregion is also poorly represented with respect to Specialised Employment Precincts with only 1 of the 11 Specialised Employment Precincts (2% of forecast job growth). This is considered symptomatic of the disproportionate share of knowledge sector jobs to other Subregions in Sydney.

Share of Overall Population and Jobs: As of 2011 the South West Subregion comprised 15% of Sydney's population. By 2031 this is projected to increase to 18%, yet the share of jobs in the Subregion will only grow from 11% to 12% over the same period.

For the MACROC Region, the resident population is forecast to increase from 8% to 12%, yet the overall share of jobs is only anticipated to grow from 6% to 7% of Sydney's jobs.

Fair Market Share: Given the South West Subregion is forecast to provide 37% of Metropolitan Sydney's population growth between 2011 and 2031, the South West Subregion should aim to capture 37% of Metropolitan Sydney's employment growth. That would increase the current South West Subregion employment target from 134,000 to 229,125 jobs.

The Draft Metropolitan Strategy for Sydney to 2031 identifies targets to support growth across Sydney. In doing this it recognises that "Planning for this growth in the right way will help to boost our economy and make Sydney a great place to work and live." To achieve this objective, the Draft Strategy recognises the importance of creating jobs close to where people live.

While the Draft Strategy seeks to achieve these objectives by significantly increasing the targeted number of jobs to be generated in the South West Subregion, compared to earlier strategies and plans, as a proportion of population growth and by Subregion, the ratio of jobs has declined. In addition there has been no corresponding shift in planning to achieve this significant additional growth, relatively limited review or addition to the number of centres, employment areas or Government policies to refocus business into the South West Subregion other than the ambition for the area to become an even more significant location for housing growth. The Draft Strategy lacks a targeted approach to specific forms of employment generation, to building a workforce that better match the skill set of the residents and that has a greater resilience to the changing economic futures of industries such as manufacturing.

The employment targets for the South West Subregion continue to be grounded on the BTS forecasts that are based on long term trends by industry and the historical trends of employment growth and industry profiles in the South West Subregion. MACROC believes however that to achieve real and positive change, the NSW Government must plan to readdress the reliance of the South West Subregion on sunset industries (old industries in decline) to sunrise (new industries expanding) that better align with the predominant skill set of the South West Subregion's growing resident population.

MACROC's primary concern with the Draft Metropolitan Strategy for Sydney to 2031 is the significant issue of the mismatch between population growth, housing targets and employment growth; however MACROC would also like to comment on the following issues.

The Draft Metropolitan Strategy for Sydney to 2031 identifies targets and strategies to support growth across Sydney and acknowledges the importance of creating jobs close to where people live. However the focus of the Draft Strategy is on concentrating business investment, job creation and infrastructure provision within more established and central areas of Sydney, while merely setting housing and employment targets for the South West Subregion. This planning imbalance is not acceptable and the Strategy needs to be redrafted to provide real strategies to support job creation for the region.

The Draft Strategy identifies nine '**City Shapers**' to promote economic outcomes:

- Global Sydney
- Sydney Harbour
- Global Economic Corridor
- Parramatta
- Parramatta Road corridor
- Anzac Parade corridor
- North West Rail Link corridor
- Western Sydney Employment Area
- Sydney's Metropolitan Rural Area

Seven of these 'City Shapers', designated to receive public investment to help revitalise existing urban areas under the State Government's Urban Activation Precinct program, are focussed on established areas. **In fact there are no 'City Shapers' for South West Sydney.** There is no recognition of the South West Growth Centre or the South West Rail Link, as well as the proposed Outer Sydney Orbital (M9) Corridor, as having 'City Shaper' status. MACROC would suggest that this is a serious omission.

The Draft Strategy also identifies **specialised employment precincts**. These specialised precincts have been identified for the promotion of growth and investment opportunities in places that 'play an economic and employment role of metropolitan significance, sometimes associated with a hospital or university or an important business or office cluster'. **There are no specialised employment precincts identified for South West Sydney**, despite the fact that the Campbelltown/Macarthur region clearly satisfies the eligibility criteria having a strong cluster of the University of Western Sydney, Campbelltown TAFE, Campbelltown Public Hospital as well as rail and motorway access. The Draft Strategy undervalues the urban status of Campbelltown/Macarthur and MACROC considers that Campbelltown/Macarthur should be acknowledged as a regional city.

These inadequacies must be addressed by all levels of Government to maximise the creation of new employment opportunities in the same areas where further extensive population growth and urban development is proposed to occur. These jobs should primarily be located at business centres and places with good road and public transport accessibility, and seek to minimise the generation of employment based traffic across the

Metropolitan area, thereby working towards minimising congestion and delay. This is a clear planning principle which is articulated in the Government's Draft Metropolitan Strategy.

Accordingly, Council urges the Government to assist in the achievement of this principle by actively directing the location of new or relocation of existing government services/departments to within the Campbelltown area. Indeed, the Campbelltown – Macarthur City CBD precinct has many strategic attributes that qualify it for the Government's worthy consideration as a key hub for government services supplying the wider Macarthur Region.

These strategic attributes include the location of the following extensive list of facilities within the Campbelltown-Macarthur CBD precinct:

- The presence of two major railway stations as well as bus-rail interchanges at Macarthur and Campbelltown which complement regional bus access, all located within the precinct
- The presence of extensive retail facilities including the Macarthur Square Retail Shopping Centre (almost 95,000m² of retail floor space) within the CBD precinct
- The location of the University of Western Sydney Campbelltown Campus (including the recently established School of Medicine) within the Campbelltown Macarthur CBD precinct
- The location of the Campbelltown Public and Private Hospitals within the Campbelltown-Macarthur CBD precinct
- The potential availability of floor space for occupation by government administration and shop front services either in a traditional street frontage setting or within retail shopping mall premises
- The location of a range of recreational and cultural facilities within or in close proximity to the CBD precinct including the Campbelltown Arts Centre, Marsden and Mawson Parks, and the Campbelltown Stadium,

In addition, the Campbelltown – Macarthur CBD precinct has significant capacity to grow, both in terms of redevelopment at higher densities and by increasing CBD building heights, as well as through the redevelopment of brownfield sites on the northern side of the railway line (opposite Campbelltown Station) that are currently either vacant or occupied by less intensive land uses. This area is the subject of part of a current nomination by Council to the Department of Planning and Infrastructure establish an Urban Activation Precinct.

These elements, coupled with the Campbelltown-Macarthur CBD's close proximity to major industrial areas at Campbelltown, Leumeah, Minto, Ingleburn, and Smeaton Grange, including a developing freight hub in the vicinity of Minto (served by the Southern Sydney Freight Line which runs through the Campbelltown Local Government Area) are important contributors to the City's potential to grow into a major enterprise and employment hub.

In accordance with the Government's Draft Metropolitan Strategy, to achieve the Government's proposed employment targets, and to assist in the task of offsetting the likely growing jobs deficit in the Macarthur Region, Council recognises that as an organisation, **it** must take on a leadership role in partnership with the State Government.

Campbelltown City Council urges the NSW Government to forge new employment growth and ensure that the role of the Campbelltown-Macarthur CBD in being the primary centre to

service the higher order business and commercial needs of the Macarthur Region is sustained into the future

This will ensure that not only will the NSW Government's employment targets be realistically addressed, but that the Campbelltown – Macarthur CBD continues to grow in a sustainable way, for the betterment of the Macarthur Region and metropolitan Sydney as a whole.

Council is, acutely aware that a whole of government approach is needed to create the parameters for future economic growth in the Macarthur region. Without any significant degree of certainty surrounding planning for and investing in growth and supporting infrastructure in and around the Campbelltown – Macarthur CBD in particular, the private sector investment needed to achieve the vision for greater and more sustainable economic growth and employment development will not likely be forthcoming.

To take advantage of the geographical positioning of the Campbelltown – Macarthur CBD as well as the level of existing Council and Government investment in infrastructure in the area, and in addition to the availability of regional road and public transport access, attention and action must be paid to improving and integrating development and infrastructure planning, funding and delivery.

In addition, with the recent release of the Phase 2 Report for the High Speed Rail Project, Council needs to work closely with the Government to examine the potential economic growth benefits that could be harnessed from the location of a peripheral station near Glenfield (as indicated in the report) or an alternative location such as in proximity to the Campbelltown/Macarthur CBD. These strategic opportunities cannot be ignored.

From Council's perspective these types of outcomes must be key deliverables from the partnership between Council and the NSW Government.

In conclusion, the Macarthur, and in particular the Campbelltown – Macarthur CBD precinct, have reached a pivotal point in their development. There is an identified capacity to grow both the region and the CBD precinct and take advantage of the many significant services and facilities that are presently located within the City. Council now wishes to work with the State Government to ensure that these opportunities are capitalised upon.

In this regard, Council would welcome the opportunity for the Mayor and General Manager to discuss with yourself, how the NSW Government and Campbelltown City Council could partner to deliver enhanced opportunities for future economic investment to lead to new job creation that this region will need in the future, and in support of the Government's desire to make Sydney a strong global city, and a liveable local city.

If you require any further information please contact me on 4645 4659.

Yours sincerely

Paul Tosi
General Manager

3. DEVELOPMENT SERVICES

3.1 Development Services Section Statistics - May 2013

Reporting Officer

Manager Development Services

Attachments

Development Services application statistics for May 2013

Purpose

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

Report

In accordance with Council's resolution of 23 August 2005, that Councillors be provided with regular information regarding the status of development applications, the attachment to this report provides details of key statistics for May 2013 as they affect the Development Services section.

Officer's Recommendation

That the information be noted.

Committee's Recommendation: (Thompson/Rowell)

That the Officer's Recommendation be adopted.

CARRIED

Council Meeting 16 July 2013 (Greiss/Rowell)

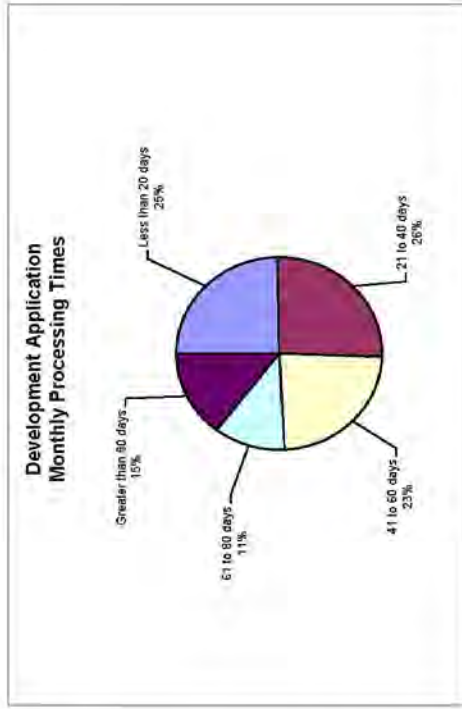
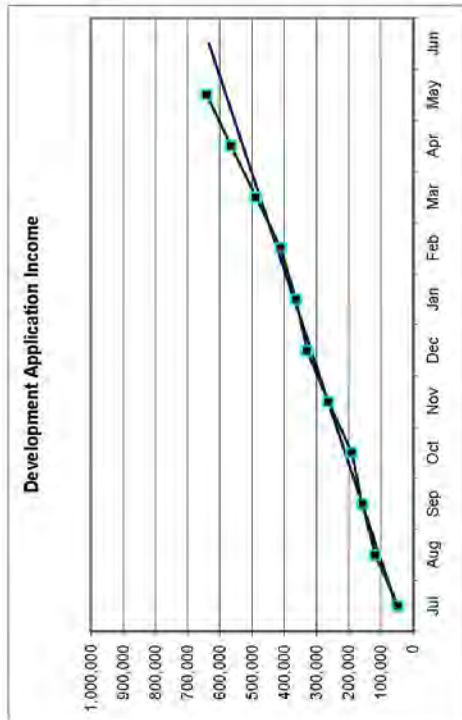
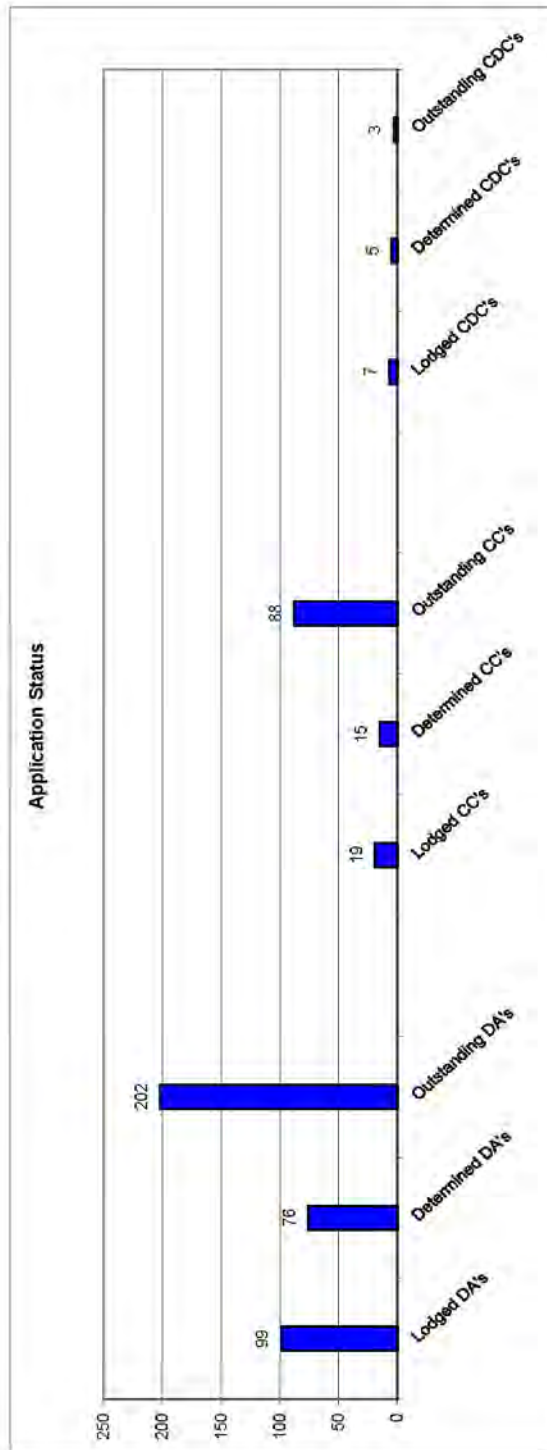
That the Officer's Recommendation be adopted.

Council Resolution Minute Number 145

That the Officer's Recommendation be adopted.

ATTACHMENT 1

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



3.2 No. 15 Nepean Towers Avenue, Glen Alpine - Construction of a Dual Occupancy with Torrens Title Subdivision

Reporting Officer

Manager Development Services

Attachments

1. Recommended conditions of consent
2. Locality plan
3. Site plan
4. Floor plans
5. Elevation plans
6. Landscape plan
7. Shadow plans

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).

Property Description	Lot 2736 DP 811889, No.15 Nepean Towers Avenue, Glen Alpine
Application No	2159/2012/DA-RS
Applicant	Mr Yeugen Kyselov
Owner	Mr Yeugen Kyselov
Provisions	Campbelltown (Urban Area) Local Environmental Plan 2002 Campbelltown (Sustainable City) Development Control Plan 2009 Campbelltown City Council Section 94A Development Contributions Plan
Other Provisions	Campbelltown 2025 – Looking Forward
Date Received	31 October 2012

History

This development application was previously tabled before the Council at its normal meeting of 18 June 2013. At that meeting, the Council resolved to uphold the recommendation of the Planning and Environment Committee of the previous week, being:

‘That a decision in this matter be deferred and the property be listed for an inspection at a future briefing evening.’

As per the resolution of the Council, a site inspection was subsequently carried out on 2 July 2013 at which both the applicant and objectors to the application were present.

The following report is tabled once again for Council's consideration and determination. The body of the report and the officer's recommendation remains unchanged from that previously tabled with Council on 18 June 2013.

Report

The Site

The subject site is located on the north eastern side of Nepean Towers Avenue, Glen Alpine and has a site area of 1,005 square metres. The subject site has a frontage of 21.8 metres to Nepean Towers Avenue and is currently a vacant site. The subject allotment has a significant upslope from the front property boundary to the rear property boundary.

The subject site is surrounded by a mix of single storey and double storey residential dwellings with a vacant block of land adjacent to the north of the site. The site is currently devoid of any trees and/or shrubs. There is an existing colourbond fence to the rear of the site with no fencing on either side of the property.

The Proposal

The proposed development consists of the construction of a detached dual occupancy development with Torrens Title subdivision. The proposed dwellings would be two storey dwellings that would be stepped from the front to the rear having regards to the significant upslope of the site.

The proposed dwelling on Lot 15A would contain a double garage with storerooms at the ground floor with five bedrooms, media room, rumpus room, laundry, lounge room, kitchen and dining room on the upper levels. The dwelling also has two balconies, one off the main bedroom and one off the lounge area with a rear deck adjacent to the kitchen/dining room.

The proposed dwelling on Lot 15B would contain a double garage with storerooms at the ground floor with four bedrooms, bathroom, sitting area kitchen, family room, lounge room and laundry on the upper levels. A balcony is provided off the lounge room with a rear deck off the family room. A balcony has also been provided for bedroom 2 of the dwelling as well as bedroom 1.

Landscaping is proposed within the front setback area of each dwelling as well as to the sides and rear yards of both dwellings.

The proposed subdivision would create two allotments with areas of 503 square metres and 502 square metres.

1. Vision

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

- responds to what Council understands people want the City of Campbelltown to look, feel and function like
- 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
- creating education, employment and entrepreneurial opportunities.

The application is consistent with the above strategic directions as the proposal would provide a housing product that would enable the city to grow by providing housing opportunities, as well as providing employment opportunities within the construction industry.

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

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

The proposed development is consistent with desired outcomes within Campbelltown 2025 specifically in relation to providing a development that is functional and of a high quality design, and one that matches the environmental capacity and capability of the site.

2. Planning Provisions

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. The proposed development is defined as a 'dual occupancy' and is permissible with Council's development consent within the zone.

The definition of a dual occupancy is as follows:

‘Dual occupancy means two dwellings on the same lot.’

The objectives of the 2(b) Residential B zone, of relevance to the proposed development are:

- a) To make general provision for land to be used for housing and associated purposes
- b) To permit the development of a range of housing types
- c) To 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 the residential intent of the zone
 - iv) does not place demands on services beyond the level reasonably required for residential use.

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

It is a requirement of CLEP that development must be consistent with at least one of the zone objectives in order that Council can grant development consent. It is considered that the proposed development would allow a range of housing types and provides a high quality standard of development which is functional and relates to nearby and adjoining development.

Clause 34 - Dual Occupancies in Certain Zones

Clause 34 states:

- 1) If two dwellings are situated on the same lot within Zone 2 (b):
 - (a) the separate occupation of the lots illustrated by a proposed strata plan relating to the dwellings is prohibited
 - (b) subdivision of the land under the *Conveyancing Act 1919* or the *Community Land Development Act 1989* is prohibited

unless the area of each lot that will be the subject of a separate title for a dwelling when the plan is registered is not less than 350 square metres.

The proposed development would create two lots with areas of 503 square metres and 502 square metres and as such complies with Clause 34.

2.2 Campbelltown (Sustainable City) Development Control Plan 2009

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

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

It is considered that the development is consistent with the relevant aims of the SDCDP as it would facilitate development of a high quality design and would provide a variety of housing choices within the Campbelltown Local Government Area.

Part 2 - Requirements applying to all types of Development

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

Views and vistas - The proposed development appropriately responds to Campbelltown's important views and vistas to and from public places through the stepping of both buildings.

Sustainable building design - Basix certificates were submitted for the proposed dwellings with all relevant requirements detailed on the plans.

Landscaping – There are no existing trees on the subject site. New landscaping is proposed for the front setback area as well as along the side and rear boundaries of the rear yards. All landscaping species have been chosen from the Basix website with a mix of large trees, small trees and shrubs.

Flora and fauna - A flora and fauna assessment was not required to be undertaken as the subject site does not contain any native vegetation and/or habitat for threatened biodiversity.

Erosion and sediment control - An erosion and sediment control plan has been submitted for the proposed development and is considered to be satisfactory.

Cut and fill – A cut and fill management plan was submitted as part of the development application and is considered to be satisfactory.

Demolition – Demolition is not required as part of the proposed development.

Water cycle management - A Water Cycle Management Plan was not required to be submitted as part of the proposed development.

Heritage conservation - The subject site is not located within a zone of archaeological sensitivity nor are there any heritage items located on or within the surrounding locality of the subject site.

Fencing and retaining walls - A 1.8 metre high colourbond fence would be provided on the side boundaries with a colourbond fence already existing along the rear boundary. Retaining walls would be required and would be constructed in accordance with Council's requirements.

Security - The proposed development has been designed to minimise opportunities for crime and enhance security.

Risk management - The subject site falls within a mines subsidence area with a set of plans submitted with the Mines Subsidence Board approval stamp.

Waste management - A Waste Management Plan for demolition and construction works has been submitted and is considered to be satisfactory.

Part 3 - Dwelling houses, narrow lot dwellings, multi dwellings and residential subdivision

Part 3 - Dwelling Houses, Narrow Lot Dwellings, Multi Dwellings and Residential Subdivision of the SCDCP sets out development standards for certain residential development within the City of Campbelltown. As the proposed development is for multi dwellings and subdivision, it is considered that an assessment against the development standards contained within the SCDCP is required and is detailed below:

		Campbelltown (Sustainable City) Development Control Plan 2009	
Control	Proposed	Requirement	Complies
Building form and character	Design complements streetscape via use of building materials and colours	Building design to complement scale of development, character and qualities of desired streetscape	Yes
	Double garage widths are greater than 50%	Garages not to be wider than 50% of the width of the building	No
	Garages are located 11m from primary street	No carports or garages to be located within 6m of primary street boundary	Yes
Building height	Double storey	Not exceed two storey	Yes
	Maximum ceiling height is 6.7m (Dwelling on Lot 15B)	Height not exceeding 7.2m at upper most ceiling	
	Roof heights are 7.6m for each dwelling	Height not exceeding 9.5m at upper roof height	
Car parking and access	Internal dimensions are 6.7 x 6m for both	Internal dimension of garage shall be 3m x 6m	Yes
	No intersection 2.8m width at kerb	Locate 6m from intersection 2.5m width at kerb	
Acoustic and visual privacy	All windows on Level 3 overlooking adjoining properties have frosted glazing	No window of a habitable room or balcony shall directly face another window, balcony or overlook private open space of another dwelling	Yes
	All balconies front public street therefore no overlooking issues		
	Rear decks are at ground level		
Minimum lot size	Proposed lot 15A: 503sqm	700sqm	Yes
	Proposed lot 15B: 502sqm		
	Total: 1,005sqm		

3.2 No. 15 Nepean Towers Avenue, Glen Alpine - Construction Of A Dual Occupancy With Torrens Title Subdivision

		Campbelltown (Sustainable City) Development Control Plan 2009	
Control	Proposed	Requirement	Complies
Density	Two dwellings Provided: 1,005sqm	Two dwellings for first 700sqm and one dwelling for each 300sqm thereafter Required 700sqm	Yes
Minimum width	21.8m	15m	Yes
Floor space ratio	0.45:1	0.45:1	Yes
Front setback	Both: 6m	5.5m	Yes
Side setback	Both 0.9m / 1.5m	0.9m ground level, 1.5m all upper levels	Yes
Rear setback	10m for ground and first floor	5m ground level, 10m all upper levels	Yes
Garage setback	Both: 6m	6m	Yes
Garage	Double garage for each dwelling No visitor space required as both dwellings have direct frontage to street	Minimum of one single garage per dwelling One addition visitor space for every two dwellings unless all dwellings have direct frontage to a public street	Yes
Bedroom floor area ratio	Dwelling 15A: 25% Dwelling 15B: 30%	Must not exceed 35% of the total floor space of the dwelling	Yes

3.2 No. 15 Nepean Towers Avenue, Glen Alpine - Construction Of A Dual Occupancy With Torrens Title Subdivision

		Campbelltown (Sustainable City) Development Control Plan 2009	
Control	Proposed	Requirement	Complies
Private open space	<p>Not within primary street setback</p> <p>Lot 15A: 60.9sqm Lot 15B: 64.75sqm</p> <p>Minimum width 8.1m</p> <p>Minimum 5m x 5m area for both dwellings</p> <p>Directly accessible from family room</p> <p>Min. 20sqm receives 3hrs of continuous direct sunlight</p>	<p>Not located within primary street setback</p> <p>Minimum area of 60sqm</p> <p>Minimum width of 3m</p> <p>Minimum levelled area of 5m x 5m</p> <p>Directly accessible via the living room</p> <p>Min. 20sqm area shall receive 3hrs of continuous direct sunlight</p>	Yes
Streetscape	<p>Front facades have varying roof forms and balconies for articulation</p> <p>Dwelling 15A: 24% Dwelling 15B: 25%</p>	<p>Architectural features incorporated into front façade</p> <p>No more than 30% of the area forward of building to be impervious materials</p>	Yes
Architectural design	<p>Roof form is varied</p> <p>Dwelling facades provide articulation varied materials and colours</p>	<p>Roof variations and wall planes</p> <p>Façade shafts and articulation, varied materials and colours</p>	Yes
Landscaping	<p>20% provided for deep soil planting</p>	<p>Minimum of 20% of site area shall be for deep soil planting</p>	Yes
Garbage storage	<p>Garbage storage down side of house behind gates</p>	<p>Provision for individual waste storage, allocated behind primary and secondary building alignment out of public view</p>	Yes
Minimum area of Torrens title lots	<p>Proposed lot 15A: 503sqm</p> <p>Proposed lot 15B7: 502sqm</p>	300sqm	Yes

		Campbelltown (Sustainable City) Development Control Plan 2009	
Control	Proposed	Requirement	Complies
Access	Both dwellings have access to public street	All allotments to have access to public street	Yes

The proposed development generally complies with the requirements of the SCDCP with exception to the width of the garages which is discussed below.

Garage Width

The proposed dwellings each provide a double garage which exceeds the 50% garage width requirement due to the constraints of the subject allotment. The subject site slopes significantly from the front property boundary up towards the rear of the block. To minimise the amount of cut and fill required as well as to minimise the overall bulk and mass of the proposed dwellings, the dwellings have been designed so as to step up towards the rear to follow the natural topography of the site. The double garage with internal storage is located at street level as one single level before the dwelling steps up to the next level, becoming double storey in height as it ascends up the slope. The only component on the ground floor is the double garage which naturally exceeds the 50% garage width requirement. It is considered that the design of the dwellings to step up the slope is a better planning outcome than having to either cut and/or fill substantially to create a flat building envelope to then put a double storey dwelling on top of which would mean that the height of the actual dwellings would be higher than the design as proposed. This would then also have far greater overlooking and overshadowing issues.

Furthermore, there is existing evidence within Glen Alpine of single dwellings already exceeding this requirement with the provision of double and triple garages and as such a precedent has already been set.

In the circumstances of this case, it is considered that the proposed variation is supported and the proposed development be approved.

2.3 Campbelltown City Council Section 94A Development Contributions Plan

It is considered that the proposed development is subject to Council's Section 94A Development Contribution Plan.

The subject allotment, when originally created by way of subdivision, was subject to the provisions of the Glen Alpine – Section 94 Contributions Plan. This Plan allowed Council to levy contributions against each of the allotments created specifically within the Glen Alpine subdivision so as to help pay for the various levels of public infrastructure within Glen Alpine that families would depend upon and use into the future. The Glen Alpine – Section 94 Contribution Plan has since been repealed and Council no longer takes contributions under that plan.

However, when having regard to the levying of Section 94A contributions, various parts of the *Environmental Planning and Assessment Act 1979* (EP&A Act), and specific directions from the Planning Minister, prohibit the levying of S94A contributions on allotments that had already been subject of S94 contributions levied under a separate plan.

As such and with respect to the allotment subject of this application, without further subdivision of the allotment, Council would not be able to levy s94A contributions as the original allotment would remain the same as that originally levied under the Glen Alpine s94 contributions plan in the 1990s.

Notwithstanding the above, the Ministers directions do not go as far as to say (nor does the EP&A Act) that where the original allotment is further subdivided into two or more additional allotments, that the levying of S94A against the additional allotments is also prohibited. Given the nexus for the levying of contributions is directly related to the provision of an adequate level of infrastructure and services to a given population, it is considered that the levying of additional contributions against additional allotments that were not considered under a previous S94 contributions plan (in this case, one additional allotment), will provide Council with extra funds in which to cater for the needs of new families and that of a population increasing beyond that which was originally envisaged. In this regard, as the development subject of this report proposes to create an additional allotment (one that has not previously been levied), it is considered appropriate that S94A contributions be levied against the proposed development at an apportioned rate.

It is also important to remember that the existing allotment is one that was originally developed for the purpose of only supporting a single dwelling and family, rather than two houses and two families.

Following on from the above, whilst the existing allotment has already been the subject of S94 development contributions, in applying S94A levies it is considered fair and reasonable to give regard to the contribution already paid under the previous S94 contributions plan and as such, apply an reduced/apportioned S94A levy.

With respect to determining the value of the apportioned levy, it is again considered reasonable (given the type of development) to only apply the S94A levy against the additional allotment/dwelling. This is on the basis that S94 levies have already been taken for a single dwelling on the parent allotment.

The payment of an apportioned S94A levy would provide Council with additional funds to help maintain adequate levels of infrastructure and services to not only the base population, but to an increasing population resulting from developments similar to the one subject of this report.

Therefore, to provide equity in application, it is considered appropriate to both acknowledge the S94 contributions taken under the previous Glen Alpine Section 94 Development Control Plan for the parent allotment (i.e. the contributions taken to support one house / one family), and apply an apportioned S94A levy against the additional dwelling/allotment (i.e. contributions taken to support the additional house / additional family). In this regard, the apportioned S94A contributions would be based on the Capital Investment Value (development cost) of the additional dwelling and its ancillary structures.

Recommended condition 24 has been included within the draft conditions and is consistent with the above.

3. Planning assessment

3.1 Mines subsidence

The subject site falls within a mines subsidence area. A copy of the plans have been stamped by the Mines Subsidence Board and submitted as part of the development application.

4. Public participation

The subject development application was referred to adjoining residents during the period of 1 November 2012 until 15 November 2012. During this time, Council received two submissions and one petition containing 41 signatures objecting to the proposed development. The submission raised the following concerns:

a. Overshadowing

Concern was raised regarding potential impacts associated with overshadowing.

Shadow diagrams were submitted with the development application which demonstrate that the adjoining property to the south east of the site would receive some overshadowing to the private open space area from 3pm onwards. There would be no overshadowing in the morning period and as such the adjoining property's private open space area would receive the require three hours of continuous solar access as required by the SCDCP.

b. Privacy

Concern was raised regarding privacy impacts as a result of the proposed development.

An issue with privacy and overlooking was raised with the applicant with amended plans submitted detailing that all side windows on Level 3 of each dwelling would be of frosted glazing to minimise the overlooking issues. A condition of consent would also reinforce these windows to be of frosted glazing.

c. Noise

Concern was raised regarding an increase in noise as a result of the proposed development.

The proposal is for the construction of two residential dwellings in an existing residential area. It is considered that given the nature of the residential development the potential for adverse impacts would be confined only to the period of construction of the dwellings, should the proposal be approved, which would be subject to specific hours during the week and on Saturdays only. It is considered that the proposed development would not adversely affect the amenity of the surrounding locality with regard to any noise impacts.

d. Height

Concern was raised in regard to the proposed height of the development given the slope of the allotment.

The proposed dwellings have been designed to respond to the significant slope of the site from the front boundary up to the rear boundary. Even though the front elevation plan details the dwellings to present as four storeys, at no point do the proposed dwellings exceed the two storey height limit due to the dwellings being stepped as they rise up the slope as required by the SCDCP. As such, it is considered that the proposed development is satisfactory in terms of the height proposed.

e. Permissibility of multi dwelling developments

Concern was raised regarding the concept of a multi dwelling (dual occupancy) type development in Glen Alpine and such being contrary to covenants that relate to the land.

Clause 40 of LEP 2002 outlines that, if any agreement, covenant or other similar instrument prohibits development allowed by this plan, then it will not apply to that development, to the extent necessary to allow that development. Accordingly, as 'multi dwelling housing' is permissible pursuant to the provisions of Clause 9 of LEP 2002, Council as the Consent Authority, cannot refuse the application on the grounds that a covenant, or the like, prevents that development from taking place.

f. Traffic and parking impacts

Concern was raised that the proposed development would increase the traffic and parking in the area.

The proposed development is for the construction of two dwellings on a vacant allotment with each being provided with a double garage. The parking spaces provided comply with Council's requirements in accordance with the SCDCP with an additional space being provided within the driveway if required. Given the nature of the development, being for residential dwellings, it is considered that the potential for any adverse traffic and/or parking issues in the immediate locality would be minor.

5. Conclusion

Council has received an application for the construction of a dual occupancy with Torrens title subdivision at Lot 2736 DP 811889, No. 15 Nepean Towers Avenue, Glen Alpine.

The proposed development generally conforms to the requirements of LEP 2002 and the aims of Council's Sustainable City DCP. It is considered the proposal results in acceptable planning outcomes for the site.

The building incorporates design features in various facades to promote visual interest and has sufficient architectural merit to be considered as a favourable outcome for the land.

It is considered that the development proposed forms a reasonable balance between the existing surrounding development and land uses and Council's desired likely future character and development density.

Officer's Recommendation

That development application 2159/2012/DA-RS for the construction of a dual occupancy with Torrens title subdivision at No. 15 Nepean Towers Avenue, Glen Alpine be approved, subject to the conditions detailed in Attachment 1.

Note: Mr and Mrs Pizarro addressed the Committee in opposition to the development.

Mr Anderson addressed the Committee on behalf of the applicant.

Committee's Recommendation: (Kolkman/Oates)

That development application 2159/2012/DA-RS for the construction of a dual occupancy with Torrens title subdivision at No. 15 Nepean Towers Avenue, Glen Alpine be approved, subject to the conditions detailed in Attachment 1 noting that condition number 15 be amended to specify fixed and/or hopper style windows with translucent/frosted glazing to level 3 of both buildings.

CARRIED

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

Voting against the Committee's Recommendation were Councillors: Lound, Rowell and Thompson.

The Committee's Recommendation was carried on the casting vote of the Chairperson, Councillor Greiss.

Council Meeting 16 July 2013 (Kolkman/Oates)

That development application 2159/2012/DA-RS for the construction of a dual occupancy with Torrens title subdivision at No. 15 Nepean Towers Avenue, Glen Alpine be approved, subject to the conditions detailed in Attachment 1 noting that condition number 15 be amended to specify fixed and/or awning style windows with translucent/frosted glazing to level 3 of both buildings.

LOST

Voting for the motion were Councillors: Borg, Glynn, Kolkman, Lake and Mead, Oates.

Voting against the motion were Councillors: Brticevic, Chanthivong, Greiss, Hawker, Lound, Matheson, Rowell and Thompson.

Council Meeting 16 July 2013 (Thompson/Rowell)

That development application 2159/2012/DA-RS for the construction of a dual occupancy with Torrens title subdivision at No. 15 Nepean Towers Avenue, Glen Alpine be rejected as the development is out of character with other buildings in the street and would not be in the public interest.

Council Resolution Minute Number 146

That the Council recommendation Moved Councillor Thompson, Seconded Councillor Rowell be adopted.

Voting for the Council Resolution were Councillors: Brticevic, Greiss, Hawker, Lound, Matheson, Rowell and Thompson.

Voting against the Council Resolution were Councillors: Borg, Chanthivong, Glynn, Kolkman, Lake, Mead and Oates.

The Council Resolution was **CARRIED** on the casting vote of the Chairperson.

ATTACHMENT 1

Recommended Conditions of Approval

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. Contract of Insurance (residential building work)

In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

This clause does not apply:

- a. To the extent to which an exemption is in force under Clause 187 or 188 of the Environmental Planning and Assessment Regulation 2000, subject to the terms of any condition or requirement referred to in Clause 187(6) or 188(4) of that regulation, or
- b. To the erection of a temporary building.

4. Notification of *Home Building Act 1989* Requirements

Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the principal certifying authority for the development to which the work relates (not being Council) has given Council written notice of the following information:

3.2 No. 15 Nepean Towers Avenue, Glen Alpine - Construction Of A Dual Occupancy With Torrens Title Subdivision

- a. In the case of work for which a principal contractor is required to be appointed:
 - i. The name and licence number of the principal contractor, and
 - ii. The name of the insurer by which the work is insured under Part 6 of that Act.
- b. In the case of work to be done by an owner-builder:
 - i. The name of the owner-builder, and
 - ii. If the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being Council) has given Council written notification of the updated information.

5. 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 consistent with BASIX requirements.

6. External Finishes

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

7. Fencing

A 1.8 metre high fence shall be erected on the site's side and rear boundaries behind the front building alignment and between each required courtyard at the sole cost of the developer. 'Colorbond' style metal fences that face a public space are not permitted.

8. Switchboards/Utilities

Switchboards, garbage storage areas 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.

9. Driveway

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.

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.

10. Graffiti Removal

In accordance with the environmental maintenance objectives of 'Crime Prevention Through Environmental Design', the owner/lessee of the building shall be responsible for the removal of any graffiti which appears on the buildings, fences, signs and other surfaces of the property within 48 hours of its application.

11. 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.

12. Shoring and Adequacy of Adjoining Property

If the development referred to in this development consent involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must at the person's own expense:

- a. Protect and support the adjoining premises from possible damage from the excavation, and
- b. Where necessary, underpin the adjoining premises to prevent any such damage.

This condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

13. Rain Water Tank(s)

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

14. Construction Certificate

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

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

15. Side Windows

All side windows on Level 3 of both dwellings shall be of frosted glazing.

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.

16. Utility Servicing Provisions

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

Note: The applicant should also contact the relevant water servicing authority to determine whether the development will affect the authorities water or sewer infrastructure.

17. Sydney Water Stamped Plans

Prior to Council or an accredited certifier issuing a construction certificate, the approved plans must be submitted to a Sydney Water Quick Check agent to determine whether the development will affect any Sydney Water wastewater and water mains, stormwater drains and/or easements, and if any requirements need to be met. Plans will be appropriately stamped.

Please refer to the web site www.sydneywater.com.au for:

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

or telephone 13 20 92.

18. Geotechnical Report

Prior to Council or an accredited certifier issuing a construction certificate, a geotechnical report prepared by a NATA registered lab shall be submitted which indicates that the land will not be subject to subsidence, slip, slope failure or erosion where excavation and/or filling exceeds 900mm in depth or identified as filled land.

19. Soil and Water Management Plan

Prior to Council or an accredited certifier issuing a construction certificate, a detailed soil and water management plan shall be submitted for approval.

20. 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 pipe drainage system under Council's control. All proposals shall comply with the Campbelltown (Sustainable City) DCP 2009 - Volumes 1 and 2.

21. Alignment of New Works

Prior to Council or an accredited certifier issuing a construction certificate, the applicant shall liaise with Council and the adjoining land owners regarding the alignment and construction of new roads.

22. Work on Public Land

Prior to Council or an accredited certifier issuing a construction certificate, the applicant shall obtain written approval from Council for any proposed work on public land. Inspection of this work shall be undertaken by Council at the applicant's expense and a compliance certificate, approving the works, shall be obtained from Council prior to the principal certifying authority issuing an occupation certificate.

23. 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.

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

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

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

3.2 No. 15 Nepean Towers Avenue, Glen Alpine - Construction Of A Dual Occupancy With Torrens Title Subdivision

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

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

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

Payment of Section 94A Developer Contributions will only be accepted by way of cash, credit card or bank cheque issued by an Australian bank. Payment by any other means will not be accepted unless otherwise approved in writing by Council.

Note: This condition is only applicable where the total development value exceeds \$100,000. For the purposes of calculating the contributions required under this development consent, the applicant is only required to pay an amount calculated against the Capital Investment Value of half of the project being equal to the cost of works to develop one dwelling and all structures associated with that dwelling.

25. Telecommunications Infrastructure

- a. If the development is likely to disturb or impact upon telecommunications infrastructure, written confirmation from the service provider that they have agreed to proposed works must be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate or any works commencing, whichever occurs first; and
 - b. The arrangements and costs associated with any adjustment to telecommunications infrastructure shall be borne in full by the applicant/developer.
-

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.

26. 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.

27. 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
- 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.

28. 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
 - b. If connection to a public sewer is not practicable, to an accredited sewage management facility approved by Council
 - c. If connection to a public sewer or an accredited sewage management facility is not practicable, to some other management facility approved by Council.
-

29. 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.

30. 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.

31. 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.

32. 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.

33. Hoarding/Fence

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

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

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

34. Sydney Water

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

Please refer to the web site www.sydneywater.com.au for:

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

or telephone 13 20 92.

35. Geotechnical Reference

Prior to the commencement of any works, a certificate prepared by the designing structural engineer certifying that the design is in accordance with the geotechnical investigation of the site shall be submitted to the PCA. The designing structural engineer shall also nominate a site classification in accordance with AS2870 – Residential Slabs and Footings.

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.

36. 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.

37. 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 \$1500 will be issued for any non-compliance with this requirement without any further notification or warning.

38. 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.

39. 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.

40. Floor Level

The floor level of all habitable rooms shall be a minimum 300mm above finished ground level, when measured 1 metre clear of the external wall.

All regraded areas shall be free draining with a minimum grade of 2% falling away from the dwelling. Regraded areas shall not direct flows into adjoining lots.

41. 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.

42. Public Safety

Any works undertaken in a public place are to be maintained in a safe condition at all times. In this regard, the applicant shall ensure that a safe, fully signposted passage, minimum 1.2 metres wide, separated from the works and moving vehicles by suitable barriers and lights, is maintained for pedestrians, including disabled pedestrians, at all times. The applicant shall ensure that traffic control is undertaken and maintained strictly in accordance with AS 1742.3, the requirements set out in the State Roads Authority manual "Traffic Control at Work Sites" (as amended), all applicable Traffic Management and/or Traffic Control Plans. The contractor shall also ensure that all Work Cover Authority requirements are complied with. Council may at any time and without prior notification make safe any such works that be considered to be unsafe, and recover all reasonable costs incurred from the applicant.

43. Compliance with Council Specification

All design and construction work, shall be in accordance with:

- a. Council's specification for Construction of Subdivisional Road and Drainage Works (as amended)
- b. Campbelltown (Sustainable City) DCP 2009 - Volumes 1 and 2
- c. 'Soils and Construction (2004) (Bluebook)
- d. Relevant Australian standards and State Government publications.

44. Residential Driveway and Layback Crossing

The applicant shall provide a reinforced concrete driveway and layback crossing to Council's Residential Vehicle Crossing Specification to the dwelling.

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.

45. 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.

46. Redundant Laybacks

All redundant layback/s shall be reinstated to conventional kerb and gutter 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.

47. 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".

PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE

The following conditions of consent must be complied with prior to the issue of a subdivision 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 a subdivision certificate.

48. Section 73 Certificate

Prior to the principal certifying authority issuing an occupation certificate, a Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water Corporation. Early application for the certificate is suggested as this can also impact on other services and building, driveway or landscape design.

Application must be made through an authorised Water Servicing Coordinator.

For help either visit www.sydneywater.com.au > Building and developing > Developing your Land > Water Servicing Coordinator or telephone 13 20 92.

The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to the issue of an occupation certificate.

49. 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.

50. Subdivision Certificate

Prior to the principal certifying authority issuing a subdivision certificate, an occupation certificate is required to be issued for all buildings on the land.

51. Restoration of Public Roads

Prior to the principal certifying authority issuing a subdivision 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.

52. 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.

53. Service Authorities

Prior to the principal certifying authority issuing a subdivision certificate, two copies of all servicing plans shall be forwarded to Council in accordance with the following:

Written advice from Sydney Water, Integral Energy and where applicable the relevant gas company, shall be submitted, stating that satisfactory arrangements have been made for the installation of either service conduits or street mains in road crossings, prior to the construction of the road pavement. All construction work shall conform to the relevant authorities specification/s.

The final seal shall be deferred pending installation of all services. In this regard the applicant shall provide a temporary seal and lodge with Council as security, the amount to be determined by Council, to cover the cost of trench restoration by Council and the placement of the final asphaltic concrete seal.

54. House Numbers

Prior to the principal certifying authority issuing an subdivision certificate all house numbers shall be stencilled onto the kerb at appropriate locations with black letters/numbers 75mm high on a white background using approved pavement marking grade paint.

55. Retaining

Prior to the principal certifying authority issuing an occupation certificate, all excavated and filled areas shall be battered to a slope of not greater than 1:2 or similarly be retained in accordance with the approved retaining wall.

56. BASIX

Prior to the principal certifying authority issuing an occupation certificate, completion of all requirements listed in the relevant BASIX certificate for the subject development shall be completed/installed.

57. Council Fees and Charges

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

ADVISORY NOTES

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

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. Smoke Alarms

From 1 May 2006 all NSW residents must have at least one working smoke alarm installed on each level of their home. This includes owner occupier, rental properties, relocatable homes and any other residential building where people sleep.

The installation of smoke alarms is required to be carried out in accordance with AS 3786. The licensed electrical contractor is required to submit to the Principal Certifying Authority a certificate certifying compliance with AS 3000 and AS 3786.

Advice 3. Retaining Walls

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

Advice 4. Buried Waste

Should buried materials/wastes or the like be uncovered during the excavation of footings or trenches on site works, Council is to be contacted immediately for advice on the treatment/removal methods required to be implemented.

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. Principal Certifying Authority – Subdivision

Council is the principal certifying authority for the construction of the proposed subdivision and issue of the subdivision certificate and Council shall carry out all inspections required by the development consent. Work must not proceed past any inspection point until Council has approved the work inspected.

Advice 9. Linen Plan and Copies

A linen plan and if required an original 88B Instrument together with thirteen copies shall be submitted to Council prior to the release of the subdivision certificate.

Advice 10. Linen Plan Checking Fee

Where Council is the principal certifying authority a linen plan checking fee is payable on submission of the linen plan of subdivision to Council. The exact amount will be calculated at the rate applicable at the time of release of the linen plans.

Advice 11. Salinity

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

Advice 12. HOW Insurance or Owner Builders Permits

Must be submitted to Council prior to the commencement of works. Failure to do so will prevent council from inspecting works.

Advice 13. Asbestos Warning

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

www.environment.nsw.gov.au

www.nsw.gov.au/fibro

www.adfa.org.au

www.workcover.nsw.gov.au

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

Advice 14. Rain Water Tank

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

Advice 15. Bonds and Bank Guarantees

All bonds are to be provided in the form of Cash or a written Bank Guarantee from an Australian Banking Institution. Bonds will not be accepted in any other form or from any other institution.

Advice 16. 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 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 17. 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

3.3 No. 137 Heritage Way, Glen Alpine - Glen Alpine Shopping Centre - Fit Out Of Shop 5
For Use As A Liquor Store

3.3 No. 137 Heritage Way, Glen Alpine - Glen Alpine Shopping Centre - Fit out of Shop 5 for use as a liquor store

Reporting Officer

Manager Development Services

Attachments

1. Recommended conditions of consent
2. Locality plan
3. Site plan
4. Floor plan
5. Elevations

Purpose

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

This development application is required to be reported to Council due to the nature of the proposal being the retailing of liquor. Furthermore, eight submissions were received in response to the public exhibition and notification of the proposed development.

Property Description	Lot 3131 DP 873530 Glen Alpine Shopping Centre, 137 Heritage Way, Glen Alpine
Application No	379/2013/DA-C
Applicant	Ms Melanie Mona Tanja Khalife
Owner	Mr John Sarlas and Mr Alexander Sarlas and Mrs Vasiliki Sarlas
Statutory Provisions	Campbelltown (Urban Area) Local Environmental Plan 2002
Other Provisions	Campbelltown (Sustainable City) Development Control Plan 2009 Campbelltown Development Control Plan No. 87 - Public Notification and Public Exhibition Policy Campbelltown 2025 – <i>Looking forward</i>
Date Received	5 March 2013

Report

This application proposes the fit out of Shop 5 within the Glen Alpine Shopping Centre and its use as a liquor store. The proposed hours of operation of the liquor store are:

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For Use As A Liquor Store

Monday, Tuesday and Wednesday: 10:00am to 8:00pm
Thursday, Friday and Saturday: 9:00am to 8:00pm

The application indicates that the business would have one staff member.

The Glen Alpine Shopping Centre is located on the corner of Heritage Way and Glen Alpine Drive. It contains six shops with two residential units above the shops, and a car parking area at the front of the site. It is adjoined to the east by Council owned land containing the Glen Alpine Community Hall, tennis courts and a car park. The site is adjoined to the north, south and west by residential dwellings.

The applicant is required to obtain a liquor license in addition to any development consent issued by Council, and at this time a Community Impact Statement will be prepared by the applicant and reviewed by Council and the Police.

1. Vision

Campbelltown 2025 - Looking Forward

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

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

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

The strategic direction relevant to this application is:

- Creating education, employment and entrepreneurial opportunities

The application is consistent with the above strategic direction as the proposal would support the creation of employment opportunities as part of the operation of the business that will operate within the subject tenancy.

2. Planning Provisions

2.1 Campbelltown (Urban Area) Local Environmental Plan 2002

The subject site is zoned 3(c) - Neighbourhood Business Zone under the provisions of Campbelltown (Urban Area) Local Environmental Plan 2002. The proposed development is defined as a liquor store and is permissible with Council's development consent within the zone.

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For Use As A Liquor Store

The proposal is consistent with several zone objectives, particularly:

- (a) to provide conveniently located land for a range of shops, commercial premises and professional services that are of a domestic scale, compatible with residential development, and which serve the needs of the local community, and
- (b) to accommodate a restricted range of facilities required in the local community but which are not appropriate on land within Zone 2(b).

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

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

a. Part 2 - Requirements applying to all types of development

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

Waste management – A Waste Management Plan for the proposed liquor store has been submitted with the application, and is considered to be satisfactory. The premises is expected to generate only a small amount of cardboard, plastic and glass waste.

Security – Due to the nature of the proposed development, the application was referred to the Crime Prevention Officer and Licensing Officer within the Campbelltown Local Area Command of the NSW Police Force, as well as Council's Community Services section. The responses received are discussed below:

Response from Crime Prevention Officer – Campbelltown Police

The Crime Prevention Officer conducted an assessment of the application against Safer by Design Evaluation principles and Crime Prevention Through Environmental Design (CPTED) principles, and provided Council with a response in this regard. The key outcomes of the Crime Prevention Officer's report can be summarised as follows:

The key outcomes of the Crime Prevention Officer's report can be summarised as follows:

- The site was found to have a site risk rating of **medium crime risk**. This rating was identified based on several evaluation measures, including crime likelihood (statistical probability), consequence (crime outcome), distributions of reported crime (hotspot analysis), socio-economic conditions (relative disadvantage), situational hazards and crime opportunity
 - General comments and recommendations were provided by the Police with respect to several aspects of CPTED, including surveillance, lighting, landscaping, territorial reinforcement, environmental maintenance, space/activity management and access control. The recommendations have been incorporated into the recommended conditions of development consent, shown in Attachment 1 of this report
-

3.3 No. 137 Heritage Way, Glen Alpine - Glen Alpine Shopping Centre - Fit Out Of Shop 5
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- The Police met with the applicant and gave recommendations in relation to the placement of Closed Circuit Television Cameras
- One of the recommendations made by the Police in relation to access control involves a minor reconfiguration of the proposed fitout, so that the proposed cool room only has one access point, and the tea room is accessed directly from the sales area via a hallway. This recommendation has been incorporated as a recommended condition of development consent.

Based on the Safer by Design Evaluation/CPTED assessment carried out by Police, it is considered that the proposal is satisfactory with regard to security. No matter was raised by the Police's Crime Prevention Officer that would warrant refusal of the application. It is considered that provided that the recommendations given by the Police are imposed as conditions of development consent, the proposed liquor store will be able to operate in a satisfactory manner with respect to security.

Response from Licensing Officer – Campbelltown Police

The Police's Licensing Officer provided a written submission to Council with the key outcomes of the Licensing Officer's report summarised as follows:

The key outcomes of the Licensing Officer's report can be summarised as follows:

- Clarification was requested about the nature of the store, in particular whether products other than alcoholic beverages would be available for sale, meaning that children would frequent the store. (The applicant has advised that the premises will solely be a packaged liquor outlet)
 - Concern was raised with the fact that the proposed licensee of the proposed liquor license has advised that she will be unavailable for several weeks at a time in the near future. Therefore the licensee will not be available for consultation for an extended period. (The applicant's solicitor has advised that an application for an approved manager would be made to manage and supervise the store in her absence)
 - Concern was raised with the configuration of the proposed cool room (the Crime Prevention Officer also raised this concern, and this matter is to be addressed by a condition of development consent)
 - There are already several packaged liquor licenses within the Campbelltown Local Government Area, however the subject premises is not within the immediate vicinity of any of these packaged liquor outlets
 - There is potential for a sharp rise in the instances of public place drinking and subsequent offending to occur, given the number of parks and recreational facilities within the vicinity of the site
 - The risk of public place drinking and subsequent offending occurring can be adequately addressed by the introduction of an Alcohol Free Zone incorporating several of the nearby streets and public places within the vicinity of the site.
-

Response from Council’s Community Services section

Council’s Community Services section provided the following advice in relation to the proposal:

- The proposed liquor store is situated near a recreational tennis facility and community centre. There may be problems with people using these facilities (including children and young people) being exposed to people drinking and/or malicious damage after hours
- The location of the liquor store is also close to a number of other alcohol distribution outlets, which increases the density of liquor stores in the local area. Campbelltown Golf Club, Macarthur Tavern, Ambarvale Hotel, Aldi Ambarvale, Macarthur Square Woolworths and Coles liquor stores are licensed premises/takeaway alcohol outlets and are all located in close proximity to the proposed development.

Council’s Community Services section did not support the proposal, however indicated that an Alcohol Free Zone in the vicinity of the Glen Alpine Shopping Centre would assist in resolving their concerns.

Given that the establishment of an Alcohol Free Zone has been raised as an issue that is critical to the mitigation of potential social impacts arising from the proposal, this report recommends that Council consider the establishment of such an Alcohol Free Zone, and that a separate report be prepared for the consideration of Council in relation to this matter.

b. Part 5 – Commercial Development

The application has been assessed against the relevant parts of Part 5 of Campbelltown Sustainable City DCP 2009 (SCDCP).

Standard	Required	Proposed	Compliance
Car parking	Commercial premises (Ground level) – one space per 25m ² of LFA	Shop 5 has a leasable floor area of 68m ² and generates demand for three car parking spaces. The complex has 21 existing car parking spaces. The proposed liquor store is not expected to generate demand for car parking that cannot be adequately catered for by the existing car parking spaces.	Yes
Access/loading	Commercial development shall be designed to accommodate all related vehicle movements on site such that: - all vehicles shall enter and exit the site in a forward direction	Customer’s and commercial vehicles are able to enter and leave the site in a forward direction. A small rigid vehicle	Yes

3.3 No. 137 Heritage Way, Glen Alpine - Glen Alpine Shopping Centre - Fit Out Of Shop 5 For Use As A Liquor Store

Standard	Required	Proposed	Compliance
	- the area for maneuvering of delivery and service vehicles is separate from vehicle parking areas, and preferably accessed via a rear service lane.	(SRV) is proposed to be used for deliveries, which is capable of maneuvering on site and exiting the site in a forward direction, without using parking areas or the roadway.	Yes
	All loading and unloading shall take place wholly within the site. No loading or unloading shall be carried out across parking spaces, landscaped areas pedestrian aisles or on roadways.		Yes

As the table above shows, the application is consistent with the provisions of Part 5 of Campbelltown Sustainable City DCP 2009.

4. Public Participation

The application was publicly exhibited and notified to nearby and adjoining residents. Council has received eight submissions (two in support of the proposal, five against, and one in support that raised some concerns). The concerns raised are discussed below:

Objection - The closing time of the liquor store should be 8pm, because people using the adjacent Glen Alpine Community Hall for parties often consume alcohol in the hall's car park, and may seek to purchase alcohol from the liquor store during the late-night trading period.

Comment - The application originally proposed a closing time of 10.00pm, but the applicant has amended this to 8.00pm, for all trading days. Therefore, alcohol will not be able to be purchased from the store during the late night period. Under the *Local Government Act 1993*, Council is able to declare a public car park to be an Alcohol Free Zone. In this regard, the Glen Alpine Community Hall car park could be declared an Alcohol Free Zone to help reduce the likelihood of alcohol consumption taking place in this area.

Objection - A liquor store is not needed in Glen Alpine, as there are already liquor stores in Macarthur Square, Ambarvale and Rosemeadow.

Comment - The proposed liquor store is permissible on the subject site, and the proposal cannot be refused solely on the basis that there is already a liquor store elsewhere in the district. The proposed liquor store will provide a more convenient option than travelling to Macarthur Square for residents of Glen Alpine wishing the purchase alcohol.

Objection - Alcohol fuels crime, of which there is too much at present in the area. There are regular disturbances at the Glen Alpine Shopping Centre in the early hours of the morning requiring Police action. A liquor store in the locality will only cause more loitering and violence.

3.3 No. 137 Heritage Way, Glen Alpine - Glen Alpine Shopping Centre - Fit Out Of Shop 5
For Use As A Liquor Store

Comment - The proposed use of the premises is for a liquor store, and the consumption of liquor will not be permitted to take place on the premises. Given this, and the proposed closing time of 8.00pm each night, loitering and violence directly associated with the proposed liquor store is considered to be an unlikely occurrence. However, the Police have advised that there is potential for a sharp rise in the instances of public place drinking and subsequent offending to occur, given the number of parks and recreational facilities within the vicinity of the site. Importantly, however, the Police have advised that the risk of this occurring can be adequately addressed by the introduction of an Alcohol Free Zone incorporating several streets and public places within the vicinity of the site. This report recommends that the establishment of an Alcohol Free Zone at Glen Alpine be the subject of a future report to Council.

Objection - The proposed liquor store will lead to an increase in traffic in the surrounding residential area, and an increased risk of traffic incidents caused by intoxicated drivers.

Comment - The number of traffic movements generated by the proposed liquor store is not likely to be substantially greater than that generated by any other type of retail premises. The liquor store may have times of peak patronage where a higher number of trips to and from the store take place, however overall there is no evidence to suggest that the proposed liquor store will generate more traffic than that which has been generated historically by the shops within the Glen Alpine Shopping Centre.

In addition, as on-site consumption of alcohol will not be permitted at the proposed liquor store, there is no evidence to suggest that the proposed liquor store will lead to an increased risk of traffic incidents caused by intoxicated drivers.

Objection - The proposed liquor store will lead to an increase in noise levels.

Comment - There is no reason that the proposed liquor store itself would lead to an increase in noise levels at the premises. The risk of an increase in noise levels arising from drinking in public places and associated loitering/anti-social behaviour is expected to be largely mitigated by the implementation of an Alcohol Free Zone within the vicinity of the Glen Alpine Shopping Centre, which this report recommends be the subject of a future report to Council.

Objection - Consumption of alcohol may take place on-site. Those who may consume alcohol on-site may engage in unruly and noisy behaviour, vandalism, and violence towards each other and residents.

Comment - The application proposes the retail of liquor only, not on-site consumption. However, the Police have advised that there is potential for a sharp rise in the instances of public place drinking and subsequent offending to occur, given the number of parks and recreational facilities within the vicinity of the site. Importantly, however, the Police have advised that the risk of this occurring can be adequately addressed by the introduction of an Alcohol Free Zone incorporating several streets and public places within the vicinity of the site. This report recommends that the establishment of an Alcohol Free Zone at Glen Alpine be the subject of a future report to Council.

Objection - Request for the Glen Alpine Shopping Centre car park and the areas surrounding the Glen Alpine Community Hall to be declared an Alcohol Free Zone.

3.3 No. 137 Heritage Way, Glen Alpine - Glen Alpine Shopping Centre - Fit Out Of Shop 5
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Comment - This request is acknowledged and supported, given the advice received from the Licensing Officer at Campbelltown Police. The Police have advised that there is potential for a sharp rise in the instances of public place drinking and subsequent offending to occur, given the number of parks and recreational facilities within the vicinity of the site. Importantly, however, the Police have advised that the risk of this occurring can be adequately addressed by the introduction of an Alcohol Free Zone incorporating several streets and public places within the vicinity of the site. This report recommends that the establishment of an Alcohol Free Zone at Glen Alpine be the subject of a future report to Council.

Objection - The proximity of the proposed liquor store to the Glen Alpine Community Hall presents a risk to children and teenagers who use the hall.

Comment - There is no reason to believe that the proximity of the proposed liquor store to the Glen Alpine Community Hall presents a specific risk to children and teenagers who use the hall. It is noted that the consumption of alcohol is permitted at the Glen Alpine Community Hall under certain circumstances. Under the *Local Government Act 1993*, Council is able to declare a public car park to be an Alcohol Free Zone, and it is considered that this should be done in regards to the car park of the Glen Alpine Community Hall to reduce the likelihood of alcohol consumption taking place in this area. This report recommends that the establishment of an Alcohol Free Zone at Glen Alpine be the subject of a future report to Council.

Objection - The proximity of the proposed liquor store to the nearby tennis courts presents a risk to children and teenagers who use the tennis courts.

Comment - There is no reason to believe that the proximity of the proposed liquor store to the nearby tennis courts presents a specific risk to children and teenagers who use the tennis courts, unless the proposed liquor store will lead to a sharp rise in public place drinking and associated violence and anti-social behaviour. The Police have advised that there is potential for a sharp rise in the instances of public place drinking and subsequent offending to occur, given the number of parks and recreational facilities within the vicinity of the site. Importantly, however, the Police have advised that the risk of this occurring can be adequately addressed by the introduction of an Alcohol Free Zone incorporating several streets and public places within the vicinity of the site. This report recommends that the establishment of an Alcohol Free Zone at Glen Alpine be the subject of a future report to Council.

Objection - The car parks of the Glen Alpine Shopping Centre and the Glen Alpine Community Hall may be used by patrons of the liquor store for the consumption of alcohol.

Comment - The application proposes the retail of liquor only, not on-site consumption. Under the *Local Government Act*, Council is able to declare a public car park to be an Alcohol Free Zone, and it is considered that this should be done in regards to the car park of the Glen Alpine Community Hall to reduce the likelihood of alcohol consumption taking place in this area. This report recommends that the establishment of an Alcohol Free Zone at Glen Alpine be the subject of a future report to Council.

Objection - Consumption of drugs and distribution of drugs to intoxicated persons may take place in the vicinity of the liquor store.

Comment - There is no evidence to suggest that the proposed liquor store will increase the likelihood of drugs being consumed or distributed in the vicinity of the store.

Objection - The proposed liquor store may lead to alcohol-related litter being strewn throughout the vicinity of the site, including broken glass bottles.

Comment - The risk of alcohol-related litter occurring derives from the risk of drinking in public places, which the Police have advised is a specific risk associated with this application. Importantly, however, the Police have advised that the risk of this public place drinking occurring can be adequately addressed by the introduction of an Alcohol Free Zone incorporating several streets and public places within the vicinity of the site. This report recommends that the establishment of an Alcohol Free Zone at Glen Alpine be the subject of a future report to Council.

Objection - Risk of harm to children and teenagers while walking to school and using surrounding parks from intoxicated persons.

Comment - The risk of harm to children and teenagers while walking to school and using surrounding parks derives from the risk of drinking in public places, which the Police have advised is a specific risk associated with this application. Importantly, however, the Police have advised that the risk of this public place drinking occurring can be adequately addressed by the introduction of an Alcohol Free Zone incorporating several streets and public places within the vicinity of the site. This report recommends that the establishment of an Alcohol Free Zone at Glen Alpine be the subject of a future report to Council.

Objection - Risk of harm to residents resulting from possible armed robberies at the proposed liquor store.

Comment - Whilst harm to residents may result in the event of an armed robbery at the proposed liquor store, this would also be the case for any other shop within the Glen Alpine Shopping Centre. It is not a risk that is unique to the proposed liquor store, and does not justify refusal of the application.

5. Conclusion

A liquor store is a permissible land use with development consent within the 3(c) - Neighbourhood Business Zone that the subject site is located within. The proposal is compliant with all of the relevant provisions of the Campbelltown (Sustainable City) Development Control Plan 2009.

It is noted that due to the nature of the proposal being the retailing of packaged alcoholic beverages, factors other than permissibility and numerical compliance with development standards must be considered. In this regard, the proposed liquor store has the potential to have considerable social impacts, due to a potential increase in public place drinking and associated offences and anti-social behaviour, arising from alcohol purchases made at the store. The immediate locality within which the subject site is located has several places that are conducive to the opportunistic public consumption of alcohol, in particular, the car park of the adjoining Glen Alpine Community Hall. In this regard, it is considered that an Alcohol Free Zone should be established within the vicinity of the Glen Alpine Shopping Centre, incorporating the car park of the Glen Alpine Community Hall, to reduce the likelihood of public place drinking occurring.

3.3 No. 137 Heritage Way, Glen Alpine - Glen Alpine Shopping Centre - Fit Out Of Shop 5
For Use As A Liquor Store

The application was referred to both the Crime Prevention Officer and the Licensing Officer at Campbelltown Police, and neither officer recommended that the application be refused. However, the Police did make several recommendations, which have been incorporated as recommended conditions of consent. In addition, the Police have recommended the establishment of an Alcohol Free Zone in the vicinity of the Glen Alpine Shopping Centre. Accordingly, this report recommends that Council consider the establishment of such an Alcohol Free Zone, and that a report be prepared for the consideration of Council in relation to this matter.

In conclusion, it is considered that the proposed liquor store can operate without detrimental social impact to the community. Additional protection and reduction of any potential for alcohol related crime can be introduced separately by a way of establishing an Alcohol Free Zone in the public areas within the vicinity of the Glen Alpine Shopping Centre.

Officer's Recommendation

1. That the proposed development be approved subject to the recommended conditions contained in Attachment 1.
2. That a separate report be prepared relating to the establishment of an Alcohol Free Zone in the vicinity of the Glen Alpine Shopping Centre for the consideration of Council.

Note: Mr Mooreheb addressed the Committee on behalf of the applicant.

Committee's Recommendation: (Kolkman/Oates)

That the Officer's Recommendation be adopted.

CARRIED

Voting for the Council Resolution were Councillors: Greiss, Kolkman, Lound, Oates and Thompson.

Voting against the Council Resolution was Councillor Rowell.

Council Meeting 16 July 2013 (Oates/Kolkman)

That the Officer's Recommendation be adopted.

LOST

Voting for the motion were Councillors: Chanthivong, Greiss, Kolkman, Lound, Mead and Oates.

Voting against the motion were Councillors: Borg, Brticevic, Glynn, Hawker, Lake, Matheson, Rowell and Thompson.

Council Meeting 16 July 2013 (Hawker/Borg)

That the proposed development at No.137 Heritage Way, Glen Alpine - Glen Alpine Shopping Centre - Fit out of Shop 5 for use as a liquor store be rejected as it is not in the public interest and would create an inappropriate social impact.

Council Resolution Minute Number 147

That the Council recommendation Moved Councillor Hawker, Seconded Councillor Borg be adopted.

Voting for the Council Resolution were Councillors: Borg, Brticevic, Glynn, Hawker, Lake, Matheson, Rowell and Thompson.

Voting against the Council Resolution were Councillors: Chanthivong, Greiss, Kolkman, Lound, Mead and Oates.

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. Amended Plans

The development is to incorporate the following amendments and the amended plans are to be endorsed by Council, then submitted to the Principal Certifying Authority, prior to the issuing of a Construction Certificate:

- The configuration of the cool room shall be amended so that it has one access point only, and is not a thoroughfare to the tea room
- The configuration of racking and liquor storage areas shall be redesigned so that they do not obscure views into and out of the premises from all front windows. Graphics and advertising signage shall not obscure views into and out of the premises.

3. 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.

4. External Finishes

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

5. Deliveries

Vehicles servicing the site shall comply with the following requirements:

- a. All vehicular entries and exits shall be made in a forward direction
- b. All vehicles awaiting loading, unloading or servicing shall be parked on site and not on adjacent or nearby public roads
- c. All deliveries to the premises shall be made to the loading bay/s provided.

A traffic sign shall be placed adjacent to the driveway at the entrance of the property advising drivers of the above information. Should the sign be damaged or removed, it shall be replaced within 48 hours.

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. Graffiti Removal

In accordance with the environmental maintenance objectives of 'Crime Prevention Through Environmental Design', the owner/lessee of the building shall be responsible for the removal of any graffiti which appears on the buildings, fences, signs and other surfaces of the property within 48 hours of its application.

9. Operating Hours

The use of the premises/business shall be limited to:

Monday, Tuesday, Wednesday and Sunday	10.00am – 8.00pm
Thursday, Friday and Saturday	9.00am – 8.00pm

10. Rubbish/Recycling Bin Storage

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

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
- c. The private certifying authority shall notify Council of their appointment no less than two days prior to the commencement of any works.

12. Consumption of Liquor Prohibited

The consumption of liquor on the premises (including promotional tasting) is prohibited at all times.

13. Surveillance Equipment

Surveillance equipment shall be installed to enhance the physical security of the premises and assist in the identification of people involved in anti-social or criminal behaviour, specifically:

- Cameras shall be installed both within and around the business to maximise surveillance opportunities
- Cameras shall monitor the cashier's area, and any high cost merchandise areas with poor natural supervision
- TV monitors shall enable staff to monitor activities on the camera
- Recording equipment shall be installed away from the counter area to avoid tampering
- Once installed, staff shall be trained in the operating procedures of the equipment.

14. Lighting

Illumination of the site is to be arranged to provide an appropriate level of lighting and in accordance with the requirements of Australian Standard 4282 (as amended) so as not to impact upon the amenity of the occupants of adjoining and nearby residential premises or traffic.

A lighting maintenance policy for the premises shall be established.

15. Landscaping

- Landscaping shall be maintained and regularly trimmed to reduce concealment opportunities and increase visibility to and from the business
 - The property shall be kept free of obstacles and rubbish to restrict concealment of offenders.
-

16. Access Control

- The main entry/exit points for this development shall be fitted with single cylinder locksets (Australia and New Zealand Standards – Locksets), which comply with the Building Code of Australia
- Windows shall be reinforced to restrict unauthorised access by applying a shatter resistant film
- A “buzzer” shall be installed at the entry doors to alert staff of customers entering and exiting the store.

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.

17. 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.

18. 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.

19. 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.
-

3.3 No. 137 Heritage Way, Glen Alpine - Glen Alpine Shopping Centre - Fit Out Of Shop 5
For Use As A Liquor Store

- 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.

20. 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.

21. 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.

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.

22. 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.

23. Work Zones

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

24. 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.

25. 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.

26. 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".

27. 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.

28. 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.

29. Council Fees and Charges

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

ADVISORY NOTES

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

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. Provision of Equitable Access

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

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

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

Advice 3. Covenants

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

Advice 4. 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.

END OF CONDITIONS

3.4 No. 9 St Agnes Way, Blair Athol - Construction Of A Carport And Conversion Of An Existing Dwelling To A Permanent Group Home

3.4 No. 9 St Agnes Way, Blair Athol - Construction of a carport and conversion of an existing dwelling to a permanent group home

Reporting Officer

Manager Development Services

Attachments

1. Recommended conditions of consent
2. Locality plan
3. Site plan
4. Floor plan
5. External elevations

Purpose

The intent of this report is to assist Council in the determination of the subject development application pursuant to the requirements of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

Property Description	Lot 657 DP 1015950 No. 9 St Agnes Way, Blair Athol
Application No	1110/2013/DA-GH
Applicant	Mr Peter Mahoney
Owner	Civic Disability Services Ltd
Provisions	Campbelltown 2025 - Looking Forward State Environmental Planning Policy (Affordable Rental Housing) 2009 Campbelltown (Urban Area) Local Environmental Plan 2002 Campbelltown Sustainable City Development Control Plan 2009 Draft Campbelltown Sustainable City Development Control Plan 2012
Date Received	27 May 2013

History

The subject property was purchased by Civic Disability Services Limited in 2012. It was discovered by the new owners that unauthorised work had been undertaken prior to their purchase, consisting of the unauthorised conversion of the existing two car garage into two additional bedrooms and the replacement of the garage door with a brick wall and two windows.

3.4 No. 9 St Agnes Way, Blair Athol - Construction Of A Carport And Conversion Of An Existing Dwelling To A Permanent Group Home

A Building Certificate application was lodged with Campbelltown City Council (491/2013/BC) on 12 March 2013 seeking retrospective approval for the unauthorised works. A letter was issued by Council on 25 March 2013 advising the applicant that the finalisation of the Building Certificate application will be held, subject to the following:

- a) The provision of evidence verifying that a separate development application has been lodged for an undercover car parking facility in accordance with the provisions of the *Environmental Planning and Assessment Act 1979*, and the Campbelltown City Council Development Control Plan 2009 (Volume 1)
- b) The installation of adequate weatherproofing measures, including flashing to all external windows and doors serving bedrooms 5 and 6, and associated hallways in accordance with P 2.2.2 of the Building Code of Australia Volume 2
- c) The installation of smoke detectors to serve bedrooms 5 and 6 in accordance with P 2.3.2 of the Building Code of Australia Volume 2
- d) The provision of a certificate of installation verifying that the smoke detectors have been installed in accordance with P 2.3.2 of the Building Code of Australia Volume 2
- e) The Provision of evidence verifying that adequate termite barriers have been installed in accordance with the requirements of Part 3.1.3 of the Building Code of Australia Volume 2.

With regard to the above, Council can issue consent for the use of the dwelling for the purposes of a group home, however the use the unauthorised bedrooms for the purposes of a group home is subject to the applicant obtaining separate planning approval for the unauthorised works by way of lodging a separate s96 modification application to modify the terms of the original consent issued for the dwelling house.

In this regard, and notwithstanding any consent that may be issued by the Council for a group home, the use of the unauthorised bedrooms as habitable rooms cannot commence until separate planning approval for the garage conversion has been obtained and a Building Certificate has been issued for the unauthorised works.

Report

A development application has been received proposing the construction of a carport and conversion of an existing dwelling to a permanent group home. The application has been made pursuant to State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP), which prevails over any other environmental planning instrument to the extent of any inconsistency with any other Environmental Planning Instrument.

The application was notified to adjoining and nearby owners for a period of two weeks. During this period, Council received a number of objections have been received, including a petition containing 86 signatures, and as per Council's Policy relating to significant objections, the application is now being reported to Council for its determination.

The Site

The subject site is legally described as Lot 657 DP 1015950 and has an area of approximately 760m². The allotment has an irregular shape, with a moderate fall to the rear of the property. The land presently contains a single storey dwelling primarily of brick and tile construction similar to the existing character of surrounding development.

3.4 No. 9 St Agnes Way, Blair Athol - Construction Of A Carport And Conversion Of An Existing Dwelling To A Permanent Group Home

Proposal

The development application proposes the construction of a colourbond carport located in front of an approved double garage which has since been converted into two bedrooms without prior approval. The proposed carport is to be constructed with a pitched roof with a similar pitch of that of the roof lines of the existing dwelling. The carport will stand 3.4m in height and will cover an area of approximately 25m².

The second component of the development application seeks consent for the use of the dwelling as a permanent group home under the operation of Civic Disability Services Limited. The organisation provides accommodation, respite services and day programs to support people with disabilities and/or mental illness.

The application proposes the following internal alterations with minor external additions:

- Construction of a carport
- Access ramps
- Handrail
- Expansion of the existing ensuite
- Renovation of the existing bathroom.

The proposed group home shall have the following facilities:

- Four bedrooms (with an additional two bedrooms, subject to a successful s96 modification of 54/2002, which has yet to be received)
- Two toilets
- Two bathrooms, each with a toilet
- Living areas
- Kitchen
- Private open space.

1. Vision

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

- Responds to what Council understands people want the City of Campbelltown to look, feel and function like
- 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.

3.4 No. 9 St Agnes Way, Blair Athol - Construction Of A Carport And Conversion Of An Existing Dwelling To A Permanent Group Home

The proposed development is considered most consistent with Strategic Direction 6.1: Growing the Regional City. Campbelltown 2025 has outlined relevant desired outcomes of the strategic direction, and it is considered that the below is most relevant to the proposed development:

- Development and land use that matches environmental capacity and capability.

The proposed development provides the region with an alternative housing option which serves the needs of particular groups within the local community. The location of the proposed group home is advantageous, given its proximity to the centre of Campbelltown, which provides the facilities and support networks required by future residents. The use of the dwelling is not considered to be commercial, with its primary objective being to assist disabled persons to develop everyday living skills.

The external works proposed will not result in a development which is inconsistent with the residential character of the locality. The scope of the proposed external works shall not alter the façade of the dwelling to make it incompatible surrounding built form. The internal works involved shall not alter the configuration of the dwelling so much as to conflict with the residential intent of the locality.

The development application has been assessed with regard to the desired outcomes and objectives identified within Campbelltown 2025. It is considered that the proposed development is generally consistent with the long term vision for the Campbelltown and Macarthur Region having regard to the proposed density, character and impact on adjoining development and the locality.

2. Planning Provisions

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

2.1 State Environmental Planning Policy (Affordable Rental Housing) 2009

State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP) aims to provide a consistent planning regime for the provision of affordable rental housing by providing incentives by way of expanded zoning permissibility. It also facilitates an expanded role for not-for-profit providers of affordable rental housing. Furthermore it seeks to facilitate the development of housing for the homeless and other disadvantaged people who may require support services, including group homes and supportive accommodation.

The policy is applicable across New South Wales within the following prescribed zones:

Zone R1	General Residential
Zone R2	Low Density Residential
Zone R3	Medium Density Residential
Zone R4	High Density Residential'
Zone B4	Mixed Use
Zone SP1	Special Activities
Zone SP2	Infrastructure

3.4 No. 9 St Agnes Way, Blair Athol - Construction Of A Carport And Conversion Of An Existing Dwelling To A Permanent Group Home

The subject site is zoned 2(b) Residential B Zone by Campbelltown (Urban Area) Local Environmental Plan (CLEP 2002), which is deemed equivalent to the R1 General Residential zone under the Standard Instrument – Principal Local Environmental Plan (Standard Instrument).

Under CLEP 2002, the proposed land use would be defined as an “institution”. “Institutions” are prohibited land uses in the 2(b) zoning, however the proposed development is deemed permissible within the zone under the provisions of the ARH SEPP which is a higher order planning instrument. Clause 8 of the ARH SEPP specifically considers the relationship between the State Environmental Planning Policy and other environmental planning instruments (eg CLEP 2002) and provides that in the case of an inconsistency between the ARH SEPP and any other environmental planning instrument, the ARH SEPP prevails to the extent of the inconsistency.

The ARH SEPP also defines a permanent group home as:

A dwelling:

- a) that is occupied by persons as a single household with or without paid supervision or care and whether or not those persons are related or payment for board and lodging is required
- b) that is used to provided permanent household accommodation for people with a disability or people who are socially disadvantages, but does not include development to which State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 applies.

The ARH SEPP also outlines the conditions under which development for the purposes of a group home can be conducted as Complying Development. In this regard, the ARH SEPP provided that such a use may be commenced as Complying Development provided that the development shall not:

- result in more than 10 bedrooms being within one or more group homes on a site
- occur on land that does not satisfy the requirements for complying development specified in clauses 1.18 and 1.19 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

The proposal has been lodged with Council as a Development Application rather than a Complying Development Certificate due to non-compliance issue in relation to the boundary setback of the proposed carport.

Notwithstanding the above, and for the purposes of comparison with the Campbelltown (Sustainable City) Development Control Plan 2009, a more detailed assessment against the relevant development standards contained in Schedule 2 of the ARH SEPP for Complying Development of a group home has been tabulated below.

3.4 No. 9 St Agnes Way, Blair Athol - Construction Of A Carport And Conversion Of An Existing Dwelling To A Permanent Group Home

State Environmental Planning Policy (Affordable Rental Housing) 2009			
Standard	Requirement	Proposed	Complies
Site Requirements			
Schedule 2, 2(a) Site Area	Development may only be carried out on a site that has an area of at least 450m ² (excluding the area of the access laneway if it is a battle-axe lot).	The site has an area 760m ² of and is not a battle-axe allotment.	Yes
Schedule 2, 2(b) Access to Public Road	Development may only be carried out on a site that has a boundary with, or lawful access to, a public road.	The site has direct access to St Agnes Way.	Yes
Schedule 2, 2(c) Street Frontage	Development may only be carried out on a site that if it is not a battle-axe lot, has a boundary with a primary road of at least 12m.	The site is not a battle-axe allotment with a primary road frontage of approximately 15m.	Yes
Schedule 2, 2(e) Minimum Area	Development may only be carried out on a site that has at least one area on the site that measures at least 12x12m (excluding the access laneway if it is a battle-axe lot).	The site satisfies this requirement.	Yes
Maximum Site Coverage of all Development			
Schedule 2, 3(1) Maximum Site Coverage	The group home and all ancillary development must not cover more than 70% of the site area.	The site area has been calculated as 760m ² . The existing dwelling has an approximate area of 320m ² . The proposed carport has an approximate area of 25m ² . Using the above figures, it has been calculated that the total site coverage is approximately 45%.	Yes
Schedule 2, (4) Maximum Height	Any building used for the purposes of a group home must not have a building height of more than 8.5m above ground level (existing).	The building at its highest point is measured to be 5.4m above ground level (existing).	Yes
Schedule 2, (9)	A group home and all ancillary development on a site must	The proposed carport has a height of 3.4m and a setback of	No

3.4 No. 9 St Agnes Way, Blair Athol - Construction Of A Carport And Conversion Of An Existing Dwelling To A Permanent Group Home

State Environmental Planning Policy (Affordable Rental Housing) 2009			
Standard	Requirement	Proposed	Complies
Side and Rear Setbacks	have a setback from the side boundary of at least the following: a) in relation to a group home with a building height up to 3.8m – 0.9m.	0.716m from the side boundary at its closest point. The minimum setback should be 0.9m.	
Schedule 2, 14(2) Landscaped Area	At least 50% of the landscaped area must be located behind the building line to the primary road boundary.	A majority of the site's landscaped area is located behind the building line to the primary road boundary.	Yes
Schedule 2, 14(3) Landscaped Area Width	The landscaped area must be at least 2.5m wide.	The landscaped area is 18m in width at its widest point.	Yes
Schedule 2, 16(2) Requirement to Provide Car Parking	At least two off-street car parking spaces must be retained on a site on which alterations or additions to an existing off-street car parking space are carried out.	The proposed carport and driveway can accommodate two vehicles.	Yes
Schedule 2, 16(3) Requirement to Provide Car Parking	A car parking space under this clause may be an open hard stand space or a carport or garage, whether attached or detached from the group home.	The proposed off-street car parking facility takes the form of a carport.	Yes
Schedule 2, 17(1) Garage, Carport & Car Parking Spaces	A garage, carport or car parking space must be no more than 1 metre forward of the front building setback.	The proposed carport lies behind the front building setback.	Yes

The proposed carport encroaches within the required 0.9m side boundary setback as outlined in Schedule 2 of the ARH SEPP, and as a result, the development as a whole is unable to proceed as complying development. Notwithstanding the above, the site and existing dwelling are considered to be not inconsistent with the development standards for group homes provided under the complying development provisions of the ARH SEPP.

When putting the matter of the carport to one side, the use of the dwelling could have proceeded as complying development without Council's approval, however, the applicant has lodged the subject development application in order to gain approval for the carport in the location proposed.

2.2 Campbelltown (Urban Area) Local Environmental Plan 2002

Zoning

The subject site is zoned 2(b) – Residential B under the provisions of Campbelltown (Urban Area) Local Environmental Plan 2002 (CLEP 2002). The work proposed by the development application best fits the definition of “development” and the use of the dwelling is most consistent with the definition of “institution” as prescribed by the *Environmental Planning and Assessment Act 1979*, and CLEP 2002 respectively. The definitions have been replicated below.

Development means:

- a) the use of land
- b) the subdivision of land
- c) the erection of a building
- d) the carrying out of a work
- e) the demolition of a building or work

- f) any other act, matter or thing referred to in section 26 that is controlled by an environmental planning instrument, but does not include any development of a class or description prescribed by regulations for the purposes of this definition.

Institution means:

- a) a building used wholly or principally as a home or other establishment for developmentally disabled persons
- b) a hospital within the meaning of the *Mental Health Act 1990*
- c) a penal or reformatory establishment.

The proposed use of the property is considered to be most consistent with part a) of the definition of an “institution” as prescribed by the instrument.

While the proposed use of the dwelling as an “institution” is prohibited within the 2(b) zoning as prescribed by Clause 9(5) of CLEP 2002, the ARH SEPP allows development for the purpose of a “permanent group home” to occur in a prescribed zone as discussed above in this report.

Zone Objectives

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 within this zone would be consistent with one or more of the objectives of this zone.

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- 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.

It is considered that the development remains generally consistent with the residential character of the area, and the alterations conducted shall not impede its ability to revert back to use as a residential dwelling if required in the future.

The development is considered to serve the needs of the community in accordance with the objectives of the NSW Department of Family & Community Services for Ageing, Disability & Home Care, whilst remaining consistent with the residential intent of the zone. It is not expected that the development will place undue demand on services beyond the level reasonably required for residential use. Accordingly, it is considered that the development is consistent with at least one of the 2(b) zone objectives outlined in CLEP 2002.

2.3 Campbelltown (Sustainable City) Development Control Plan 2009

The purpose of Campbelltown (Sustainable City) Development Control Plan 2009 (SCDCP 2009) is to provide more detailed guidance to development.

An assessment of the development application has been undertaken, and is outlined below. Any variations sought, or inconsistencies with the development application and relevant controls are discussed below.

Campbelltown (Sustainable City) Development Control Plan			
Standard	Requirement	Proposed	Complies
2.15 Waste Management Plan			
2.15.1 a) Waste Management Plan	A detailed 'Waste Management Plan' (WMP) shall accompany a development application for a commercial building fit out with regard to the proposed construction and ongoing use of the building.	A waste management plan has been submitted in support of the development application with regard to the construction and ongoing waste management of the premises.	Yes
3.7 Dwelling Houses, Domestic Outbuildings, Swimming Pools/Spas and Garden Flats			
3.7.1 a) Floor Space Ratio	The total (FSR) applicable to the sum of all buildings undertaken on a residential allotment including a dwelling house, domestic outbuildings and a garden flat shall not	The site has an area of 760m2. The existing dwelling has an approximate area of 320m2. The proposed carport has an approximate area of 25m2.	Yes

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Campbelltown (Sustainable City) Development Control Plan			
Standard	Requirement	Proposed	Complies
	exceed 0.55:1.	Using the above figures, it has been calculated that site's FSR is approximately 0.45:1.	
3.7.2 Dwelling Houses			
3.7.2.3 a) Car Parking Rates	A dwelling house shall be provided with a minimum of one undercover garage space.	The development application seeks consent for an undercover car parking space to replace the double garage that has been converted into bedrooms.	No
3.7.3 Domestic Outbuildings			
3.7.3.1 a) i) Colours and Finishes	Domestic outbuildings shall incorporate similar or complementary design features, finishes, materials and colours to those of the principal dwelling house.	It shall be conditioned that the applicant is to provide a schedule of colours and finishes with the manufacturer's specifications of the proposed carport prior to the release of a Construction Certificate.	Yes
3.7.3.1 a) ii) Sanitary Fixtures	Domestic outbuildings shall not contain any other sanitary fixtures other than a toilet and a hand basin.	The proposed outbuilding is for the purpose of a carport and includes no sanitary fixtures.	Yes
3.7.3.1 a) iii) Use of Outbuildings	Domestic outbuildings shall not be used for any habitable, commercial or industrial purpose.	The proposed carport shall not be habitable, or used for an industrial or commercial purpose.	Yes
3.7.3.3 a) i) Maximum Height	The maximum roof height for outbuildings (including carports and garages) shall be 3.6m in the case of a property on urban land.	The proposed carport has a roof height of 3.4m at its highest point.	Yes
3.7.3.4 a) i) Primary Street Boundary Setback	Domestic outbuildings on urban land shall be setback by a minimum of 6m from the primary street boundary.	The proposed carport lies 8.77m from the primary street boundary at its closest point.	Yes
3.7.3.4 a) iv) Side Boundary Setback	Domestic outbuildings on urban land shall be setback by a minimum of 0.45m from the side boundaries.	Given the location of the proposed carport, approval for the carport cannot be obtained by a Complying Development Certificate. The proposed carport lies 0.716m from the side boundary	Yes

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Campbelltown (Sustainable City) Development Control Plan			
Standard	Requirement	Proposed	Complies
		at its closest point, which complies with the requirements of the SCDCP 2009.	
3.7.3.4 a) vi) Rear Boundary Setback	Domestic outbuildings on urban land shall be setback by a minimum of 5m from the rear boundary.	The proposed carport exceeds the minimum rear boundary setback.	Yes

3.7.2.3 a) – Car Parking Rates

Section 3.7.2.3 a) of SCDCP 2009 requires an undercover garage space be provided for each dwelling.

Comment: The development application seeks a variation of the above development standard, by providing an undercover car parking space (carport) in lieu of an undercover garage space. It is considered that given the constraints of the site, the construction of a garage forward of the main building line (to uphold the requirement for an undercover garage space) would have an adverse impact upon the streetscape due to the bulk and scale of the double garage when viewed from the street. The construction of a new garage would result in the new structure being built forward of the primary building line.

As an alternative, it is considered that the proposed carport would have a minimal impact on the streetscape due to it being an open structure, as well as it being constructed at a similar set back to the dwelling. The proposed carport is not inconsistent with the development standards outlined within SCDCP 2009 in relation to domestic outbuildings as discussed above and as such could be considered favourably as a suitable alternative to the required garage.

With regard to the above assessment of the subject development application against SCDCP 2009, it is considered that the proposed carport is consistent with the development standards for outbuildings as outlined. The works proposed are not considered to impact upon the site's compatibility with residential use, taking into consideration scale and setbacks.

2.4 Draft Campbelltown (Sustainable City) Development Control Plan 2012

Council's at its meeting held 18 June 2013, Council resolved to adopt a new version of the Sustainable City Development Control of which has not yet been formally gazetted in the local paper. As there is no legislative requirement for Council's to give regard to any draft versions of development control plans, the proposed development was not assessed against the draft version of the SCDCP. Notwithstanding, there are no changes within the new version that would apply to the subject proposal and as such it is considered that the proposed development would still comply with Council's requirements.

3. Planning Assessment

3.1 Consultation

The development application was referred to Council's Compliance Services Unit, Community Resources and Development Section and Council's Building Certification Unit for comment.

a. Compliance

A response was received from Council's Environmental Health Officers on stating that the application contained insufficient information to properly assess the proposed development's compliance with the Australia New Zealand Food Standards Code and AS 4674 – 2004: Design, construction and fit out of food premises.

Further information is required in regard to the operation of the group home, particularly clarifying if the staff members are responsible for cooking for the residents. It has been determined that if the staff shall be providing meals for the residents, the following information is required to conduct proper assessment of the kitchen facilities:

- A detailed description of the types of food related procedures and practices that will take place such as: preparation, handling, storage, packaging, cleaning etc
- A detailed floor plan containing the following information:
 - proposed layout and use of each room/area within the food preparation/handling area
 - details of all construction materials and other materials that will be used within the premises (ie. finishes of all floors, coving, walls and ceilings)
 - proposed locations and design details of proposed hand washing facilities
 - proposed locations and design details of proposed washing facilities and any floor wastes
 - proposed location and details of all fixtures, fittings and appliances (including the proposed method of installation and specifications for mechanical ventilation)
 - details showing location, capacity and clearance of hot water services
 - design and construction details of cool rooms and/or freezer rooms, including condensation collection and disposal
 - proposed location and details of storage facilities for cleaning equipment and staff personal belongings
 - elevations of the walls and floor finish, showing the type and method of installation of coving to be used
 - proposed location and details of all waste storage areas
 - plans shall be prepared by a suitably qualified person, accurate and drawn to scale.

The above requirements have been included as a condition of the draft consent in attachment 1.

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b. Community Resources and Access

Feedback was received from Council officers in regard to personal accessibility matters and it is suggested that following be taken into consideration:

- handrails be provided in the bathrooms to accommodate for potential residents with mobility issues
- provision of sliding doors in the bathroom to allow for greater manoeuvrability for potential residents with mobility issues
- provision of a cover between the carport to the main entrance of the dwelling to provide comfort to residents awaiting to be assisted into the vehicle or into the dwelling.

The above suggestions have been included as advisory notes attached to the draft conditions within attachment 1. These matters will be subject to compliance with the *Disability Discrimination Act 1992*, Building Code of Australia and AS 1428 – Design for Access and Mobility.

c. Building Certification Unit

Council's Building Certification Unit raised no concerns from a Building Code of Australia perspective to the issue of development consent. More detailed assessment shall occur during the assessment of the Construction Certificate.

4. Public Participation

The development application was required to be notified to adjoining and surrounding owners in accordance with the provisions of DCP No.87: Public Notification and Public Exhibition Policy. Recipients were allocated a period of 10 working days between 30 May 2013 and 13 June 2013 to provide comment in relation to the proposed application. One written submission and one petition bearing 86 signatures were submitted to Council during this period.

Both petition and the other formal submission raised the following concerns:

a. Safety of Surrounding Residents

The submissions raised concerns in regard to the safety of residents of St Agnes Way and its surrounds.

Comment: It has been advised that there are no mandated resident to carer ratios for in-house disabled care. Care plans are constructed to cater the needs of each individual. The adequacy of the staffing arrangements shall be assessed by Civic Disability Services Limited on a case by case basis with regard to the organisation's Risk Management Policy and Procedures.

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b. Supervision

Concern was also raised in regard to the adequacy of the supervision and security arrangements of the proposed group home. The objectors recognise that there are staffing arrangements in place that ensure that residents shall be supervised at all times by a qualified person but concern has been raised in regard to the staff member's ability to ensure no harm comes to the residents of the group home, and people within the surrounding dwellings if an incident occurs.

Comment: The proposed group home is currently equipped to house 3 residents and 1 staff member over night with a potential to house five residents and 1 staff member in the case that the unauthorised bedroom conversion was given approval. It is to be staffed on a 24x7 basis with supervision provided in accordance with the following roster with the group home being staffed with one person between the hours of 5:00pm and 7:00am and two to three staff members between the hours of 7:00am and 5:00pm:

Staff Member #1	7	8	9	10	11	12	1	2	3	4	5	6	7	8	9	10	11	12	1	2	3	4	5	6
Staff Member #2	7	8	9	10	11	12	1	2	3	4	5	6	7	8	9	10	11	12	1	2	3	4	5	6
Staff Member #3	7	8	9	10	11	12	1	2	3	4	5	6	7	8	9	10	11	12	1	2	3	4	5	6
Time	am						pm						pm						am					

The group home shall be staffed by three employees on different shifts with a greater staff to resident ratio in the mornings and afternoons. The applicant provides that it is at these times that the in house residents are more active and will accordingly, require more care and supervision. Activities and appointments are usually scheduled for before 5pm, allowing for additional supervision to be provided by the second staff member prior to that time.

Civic Disability Services Limited will be seeking home carers who hold a Certificate IV in Community Services, Disability Work or higher. The qualification covers units such as argumentative and alternative communication strategies, mediation, and supportive care. It is a requirement of this qualification for the candidate to undertake 120 hours of work placement within an organisation specialising in disabled care. The organisation supplements training gained through tertiary education by providing additional training in first aid, mental health first aid, epilepsy response, medication management and administration, crisis management and conflict resolution.

As previously discussed, it has been advised that there are no mandated resident to carer ratios for in-house disabled care. Civic Disability Services takes a person centric approach with the services they offer, aiming to promote good physical health and overall wellbeing; as well as helping to building individual confidence, self-esteem and personal skills. As a result, Civic group homes are staffed in a manner which supports the needs of the individual residents.

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Information provided by the applicant states that Civic Disability Services does not have a history of incidents involving antisocial behaviour or violence occurring, and it is considered that the supportive and individual based approach contributes to a positive atmosphere. Residents of the proposed group home who are intellectually and/or physically able to participate in community activities are encouraged to do so with an appropriate level of staff support.

It is considered that given the nature of the disability of the residents being limited to that of intellectual and/or developmental with minor ambulatory disabilities, the staffing arrangements are considered not unreasonable. It is expected that as the level of care required by residents of the home increase, there may be a need for staffing arrangements to be reviewed to reflect the expected demand.

c. Traffic Generation and Car Parking

Issues have been raised concerning the impact of the proposed group home on the existing nature of St Agnes Way. The issues identified revolve around traffic generation stemming from the number of proposed residents and staff members, additional kerbside car parking generated from staff members and as a result decreased lines of sight potentially endangering pedestrians, and young children who may be playing on or alongside the street.

It is expected that the staff members may generate in the order of six traffic movements throughout the day associated with the commencement and end of shifts. These movements are expected to occur at four separate occasions: 7.00am, 2.00pm, 3.00pm and 5.00pm. It is considered that the proposed traffic movements are consistent with general commuting and/or school times, reducing the impact upon the amenity of the street. However it should be noted that these times may be subject to change in line with the level of care required by the residents.

Additional vehicular movements generated by each of the individual residents is expected to be minimal given that each of the future residents will not have access to their own private transportation. Civic Disability Services has acquired a van to transport the residents to doctor's appointments, social activities and day programs. It is expected that the organisation will plan activities as efficiently as possible, minimising the traffic movements and disturbance to local residents.

As discussed previously, the proposed development complies with the minimum requirement of the provision of two off-street car parking spaces. It is considered the additional two car parking spaces generated by the additional staff members are able to be accommodated in the street (being a public parking area) without causing undue conflict with the residents' vehicles which may also be parked on the street. It is considered that the potential for kerbside car parking caused by the use of the dwelling as a group home is no greater than the demand created by some larger conventional residential uses.

Notwithstanding, the application complies with the standards set by State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP) and Council is unable to refuse the proposal on the grounds that the proposal does not contain enough on-site car parking spaces.

d. Future Residents

Concerns have been raised regarding the ability of the group home to be used for the purposes of housing people, other than those suffering from a mental disability. The objectors have raised concerns that whilst approval may be issued for a group home that is to house residents with mental impairments, the definition of a group home may extend to occupants with behavioural issues caused by drug dependency, or individuals who have had past trouble with the law.

Comment: As defined by the Standard Instrument – Principal Local Environmental Plan (Standard Instrument) and State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP), a group home can be used for the purpose of “permanent household accommodation for people with a disability or people who are socially disadvantaged”.

For the purposes of the ARH SEPP and other relevant instruments, a 'person with a disability can be a person of any age who, as a result of having an intellectual, psychiatric, sensory, physical or similar impairment, or a combination of such impairments, either permanently or for an extended period, have substantially limited opportunities to enjoy full and active lives”.

Separate to the above, a person who is considered to be socially disadvantaged (as referred to within the ARH SEPP), is a person/people who are "disadvantaged because of their alcohol or drug dependence, extreme poverty, psychological disorder or other similar disadvantage; or people who require protection because of domestic violence or upheaval”.

Whilst it is understood that the favourable determination of the proposed group home would result in a potential for the home to be used to house, what has been considered by some objectors as individuals who pose a greater risk to the locality, it is not considered practical to base assessment on speculation given the proposed development is permissible within the zone under the provisions of ARH SEPP, and remains compatible with the objectives of the 2(b) zoning as prescribed by CLEP 2002. Furthermore, only for the minor encroachment of the carport, the use could be approved as Complying Development without the involvement of the Council.

Further to this, in considering the application, Council must not prejudice what might happen in the future where no such use is proposed.

e. Property Value

The petition has raised concern over the potential to negatively impact upon the value of surrounding properties.

Comment: There is no empirical evidence to suggest that the proximity of a group home shall affect property values and is not considered as a valid matter of assessment under section 79C of the *Environmental Planning and Assessment Act 1979*.

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5. Conclusion

An application has been received proposing the construction of a carport and use of an existing dwelling as a permanent group home at No. 9 St Agnes Way, Blair Athol. The application has been assessed under the heads of consideration pursuant to Section 79C of the *Environmental Planning and Assessment Act 1979*.

The proposed permanent group home shall provide supportive care and accommodation for disabled persons. The scope of the development application involves the use of the dwelling as a group home, internal alterations to the existing building, the construction of ramps and handrails to assist residents with mobility issues, and the construction of a carport.

The development proposal is defined as an 'institution' under the Campbelltown (Urban Area) Local Environmental Plan 2002 (CLEP 2002) of which, an 'institution' is prohibited within the zone; however the State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP), being a higher order planning instrument, permits the development of group homes within this zone and as such, the proposal is permissible within the zone.

Notwithstanding local neighbour objections, the development is not considered to be inconsistent with the types of residential use expected within the locality in that it is consistent with the objectives of the NSW Department of Family and Community Services for Ageing, Disability and Home Care and the ARH SEPP. As there is no proposal to alter the exterior fabric of the building (other than for some minor works of a domestic scale) it is considered that the proposal is unlikely to detract from the residential nature of the zone.

As such, it is recommended that the proposed development be approved, subject to the conditions of consent contained in attachment 1.

Officer's Recommendation

1. That development application 1110/2013/DA-GH proposing the construction of a carport and conversion of an existing dwelling to a permanent group home at Lot 657 DP 1015950, No. 9 St Agnes Way, Blair Athol be approved subject to the conditions of consent contained in attachment 1.
2. That objectors to the proposal be advised of Council's decision.

Note: Mr Westbrook addressed the Committee on behalf of the applicant.

Committee's Recommendation: (Kolkman/Rowell)

That the Officer's Recommendation be adopted.

CARRIED

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

Voting against the Committee's Recommendation: Nil.

Council Meeting 16 July 2013 (Mead/Rowell)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 148

That the Officer's Recommendation be adopted.

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

Voting against the Council Resolution: Nil.

ATTACHMENT 1

Recommended Conditions of Consent

GENERAL CONDITIONS

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

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

1. Approved Development

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

2. Use of the Unauthorised Bedroom Conversion

The use of the unauthorised bedroom conversion within the existing garage for the purposes of habitation is not permitted until the following has been obtained:

- retrospective planning approval for the unauthorised garage conversion, by way of modifying the original dwelling consent issued by the Council
- a Building Certificate issued by Council for all unauthorised building works on the land
- an Occupation Certificate for the Group Home issued by the PCA

3. 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.

4. External Finishes

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

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5. 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
- c. The private certifying authority shall notify Council of their appointment no less than two days prior to the commencement of any works.

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.

6. 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.

7. Council Fees and Charges

Prior to Council or an accredited certifier issuing a Construction Certificate, the applicant shall ensure that all fees and charges in relation to the development application have been paid in full, inclusive of the Regulated Premise EHO Final Inspection of Fit Out fee of \$150.

8. Kitchen Upgrade

Pursuant to the requirements of the *Food Act 2003* in relation to food businesses, should the group home offer meals prepared on premises the kitchen shall be upgraded to meet the requirements of the Australia New Zealand Food Standards and AS 4674 – 2004: Design, construction and fitout of food premises.

In this regard, the applicant shall demonstrate the kitchen's compliance with relevant provisions of Australia New Zealand Food Standards and AS 674 – 2004: Design, construction and fitout of food premises by way of submission of amended plans and additional information to the Principal Certifying Authority, for approval, prior to the issuing of a Construction Certificate:

- a. A detailed description of the types of food related procedures and practices that will take place such as: preparation, handling, storage, packaging, cleaning etc.
 - b. A detailed floor plan containing the following information:
 - Proposed layout indicating the use of each room/area within the food preparation/handling area the use of each room/area wherever food preparation and handling shall occur
-

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- Location and design details of hand washing facilities
 - Location and design details of washing facilities and any floor wastes
 - Location and details of all fixtures, fittings and appliances (including the proposed method of installation and specifications for mechanical ventilation)
 - Proposed location and details of all waste storage areas
 - Proposed location and details of storage facilities for cleaning equipment and staff personal belongings
 - Details showing location, capacity and clearance of hot water services
 - Design and construction details of cool rooms and/or freezer rooms, including condensation collection and disposal
 - Details of all construction materials and other materials that will be used within the premises (ie. finishes of all floors, coving, walls and ceilings).
- c. Elevations of the walls and floor finish, showing the type and method of installation of coving to be used.

9. Building Specifications

Prior to Council or an accredited certifier issuing a Construction Certificate, building specifications for the proposed renovations to be conducted in the bathroom, and any other work proposed are to be provided to the Principal Certifying Authority for assessment.

10. Manufacturer's Specifications

Prior to Council or an accredited certifier issuing a Construction Certificate, the manufacturer's specifications for the proposed carport, inclusive of a schedule of proposed colours and finishes is to be submitted to the Principal Certifying Authority for assessment.

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.

11. 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.

12. 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.

13. 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".

14. 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.

15. 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.

16. Council Fees and Charges

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

FOOD CONSTRUCTION CONDITIONS

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

17. Construction

The internal construction of the food premise must be constructed in accordance with Australian Standard AS4674-2004: "Design, construction and fit out of food premises".

18. Registration and Inspections

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

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

19. Food Business Notification Requirement and Food Safety Supervisor

The proprietor of the premises is required to notify their business details to the NSW Food Authority prior to operations commencing. An application can be made via www.foodnotify.nsw.gov.au or by submitting a notification form and fee to Council or NSW Food Authority.

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

20. Floor Construction

The floor construction must be finished to a smooth, even non-slip surface, graded and drained to the waste (AS4674-2004 – Section 3).

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21. Coving

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

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

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

22. Penetrations

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

23. Wall Requirements

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

24. Window Sills

The windowsill must be located 450mm above the top of any bench/sink and tiled at a splayed angle of 45 degrees.

25. Ceiling Construction

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

26. Light Fittings

All fluorescent light fittings must be fitted with a smooth faced diffuser. The light fittings must be either:

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

27. Hand Basin and Hand Towels

A hand basin must be provided in an accessible and convenient location within the kitchen. The basin must be freestanding, serviced with hot and cold water through a single outlet, able to be mixed at a temperature of at least 40°C and fitted with a hands-off type tap set (AS4674-2004 – Section 4.4).

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

28. Dishwashing Machines

The dishwashing/glass washing machine must be designed and able to operate in accordance with AS4674-2004 and the Food Standards Code. All utensils and equipment must undergo a washing, sanitising and rinsing cycle. The sanitizing rinse cycle must achieve a water temperature of 80 ~~2004~~ for 2 minutes or 70 Section 4.1.6).

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

29. Wash Sinks

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

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

30. Cleaner’s Sink

A cleaner’s sink serviced with hot and cold water through taps fitted with hose connectors must be provided and located outside of areas where open food is handled (AS4674-2004 – Section 4.1.8).

31. Fittings

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

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

3.4 No. 9 St Agnes Way, Blair Athol - Construction Of A Carport And Conversion Of An Existing Dwelling To A Permanent Group Home

- **PLINTHS** - Plinths must be an integral part of the floor, constructed of solid materials similar to the floor at least 75mm in height and coved at the intersection with the floor. All plinths must have a smooth and impervious finish. All fittings and fixtures must be properly sealed to the plinth so to be free from gaps, cracks and cavities.
- **WHEELS OR CASTORS** – Fittings and fixtures can be supported on wheels or castors. The wheels and castors must be capable of supporting and easily moving a full loaded fitting. All wheels and castors must be provided with a restraining device.
- **LEGS** – Fittings and fixtures can be supported on legs but must be constructed of non-corrosive, smooth metal or moulded plastic. All legs must be free from cracks and crevices. All legs must have a clearance space between the floor and the underside of the fitting of at least 150mm.

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

32. Food Preparation Benches

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

33. Benches

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

34. Storage Cabinets

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

35. Shelving

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

36. Food Storage

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

37. Mechanical Exhaust

The mechanical ventilation must be provided above cooking appliances and constructed in accordance with Australian Standard 1668.2 – 2012 – 'The use of ventilation and air conditioning in buildings – Part 2: Mechanical ventilation in buildings'.

Documentation from a qualified mechanical engineer must be submitted to Council certifying that the mechanical exhaust ventilation system, as installed, complies with the Australian Standard 1668.2-2012.

38. Hot Water Service

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

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. Physical Access Considerations

The following shall be considered as part of the functional design of the bathrooms:

- a. Provision of handrails in the bathrooms to accommodate for potential residents with mobility issues.
- b. Provision of sliding doors in the bathroom to allow for greater manoeuvrability for potential residents with mobility issues.
- c. Provision of a cover between the carport to the main entrance for the dwelling to provide comfort to residents awaiting to be assisted into the vehicle or dwelling.

Advice 2. Provision of Equitable Access

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

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

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

Advice 3. Smoke Alarms

From 1 May 2006 all NSW residents must have at least one working smoke alarm installed on each level of their home. This includes owner occupier, rental properties, relocatable homes and any other residential building where people sleep.

The installation of smoke alarms is required to be carried out in accordance with AS 3786. The licensed electrical contractor is required to submit to the Principal Certifying Authority a certificate certifying compliance with AS 3000 and AS 3786.

Advice 4. Inspections – Building Works**REQUIRED INSPECTIONS**

You have appointed Campbelltown City Council as the Principal Certifying Authority for the purposes of certifying the works involved in the development.

The following scheduled inspections are mandatory and must be completed by Council prior to the approval of an occupation certificate or the issuing of any compliance certificates. All inspection fees have been prepaid.

Booking Inspections

Inspections may be booked up to 9.00am on the day that they are required by calling (02) 4645 4608.

Please quote the construction certificate, or complying development certificate number when you book.

INSPECTION SCHEDULE

- At the commencement of the building work
 - Excavation, pier holes and footings prior to placement, or the pouring of concrete, or the placement of prefabricated structures
 - Reinforced concrete steelwork prior to pouring concrete (footings, floors, beams, panels, pool coping, swimming pools)
 - Framework (timber or steel) for any wall, roof or other building element prior to internal cladding
 - Bearers and joist (timber or steel) including antcapping, prior to flooring
 - Water proofing of wet areas prior to covering
 - Stormwater drainage connections prior to backfilling
 - Final/completion prior to occupation of the structure
 - Fencing of swimming pools prior to filling
-

Advice 5. 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.

END OF CONDITIONS

4. COMPLIANCE SERVICES

4.1 Legal Status Report

Reporting Officer

Acting Manager Compliance Services

Attachments

Nil

Purpose

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

Report

This report contains a summary of the current status of the Division's legal matters 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.

1. Land and Environment Court Class 1 Matters – Appeals Against Council’s Determination of Development Applications

Total ongoing Class 1 DA appeal matters (as at 21/06/2013)	3
Total completed Class 1 DA appeal matters (as at 21/06/2013)	2
Costs from 1 July 2012 for Class 1 DA appeal matters:	\$71,624.09

1 (a) 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: \$4,353.40

Status: Ongoing – Hearing completed and judgement reserved.

Progress: Matter was before the Court for hearing on 17 and 18 June 2013 where at the completion the Commissioner directed the applicant to submit to the Court properly drawn plans reflecting the amendments agreed to during the proceedings.

On 4 July 2013 the Court delivered judgement upholding the applicant’s appeal and granting conditional consent to Development Application No. 124/2012/DA-C.

1 (b) Ray JARDINE

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

Property: Lot 26 DP 28853 No. 2 Somerset Street, Minto

Property Owner: Mr. Ray Jardine and Mrs. Precilla Eva Jardine

Council File: No. 772/2012/BC-UW

Court Application: Filed on 21 February 2013 - File No. 10120/2019

Applicant: Ray Jardine

Costs Estimate: \$11,000 (exclusive of Barristers, Court Appointed Experts or disbursement fees)

Costs to date: \$5,603,01

Status: Ongoing – listed for hearing on 19 August 2013.

Progress: Matter was before the Court for further conciliation conference on 12 June 2013 where by consent the parties agreed to a schedule of works that once satisfactorily completed would enable the building certificate to be issued.

On 13 June 2013 the applicant advised the Court that, after reflection, he had no confidence in the conciliation outcome and sought to have the matter brought back before the Court to enable the matter to be listed for hearing.

On 17 June 2013 Council notified the Court that there appeared to be little utility in continuing the conciliation process and agreed that the matter should proceed to hearing.

On 18 June the Court terminated the conciliation process and listed the matter for directions hearing on 21 June 2013.

On 21 June 2013 the Court gave directions in respect of filing and service of amended contentions and expert evidence, and listed the matter for hearing on 19 August 2013.

1 (c) Ray JARDINE

Issue: 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, 763/2008/DA-IA and 763/2008/DA-IB for 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 and provision of a take-away kiosk).

Property: Lot 26 DP 28853 No. 2 Somerset Street, Minto

Property Owner: Mr. Ray Jardine and Mrs. Precilla Eva Jardine

Council File: No. 763/2008/DA-IB

Court Application: Filed on 21 February 2013 - File No. 10120/2013

Applicant: Ray Jardine

Costs Estimate: \$11,000 (exclusive of Barristers, Court Appointed Experts or disbursement fees)

Costs to date: \$5,603.01

Status: Completed – awaiting solicitor's final costs.

Progress: Matter was before the Court for hearing and completed on 20 June 2013.

On 21 June 2013 the Commissioner gave oral judgement dismissing the applicant's appeal and refusing application No. 763/2008/DA-IB.

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

Total ongoing Class 1 Order/Notice appeal matters (as at 21/06/2013)	0
Total completed Class 1 Order/Notice appeal matters (as at 21/06/2013)	1
Costs from 1 July 2012 for Class 1 Order/Notices appeal matters:	\$2,039.10

3. Land and Environment Court Class 4 Matters – Civil Enforcement in respect of non-compliance with Planning Law or Orders issued by Council

Total ongoing Class 4 matters before the Court (as at 21/06/2013)	1
Total completed Class 4 matters (as at 21/06/2013)	0
Costs from 1 July 2012 for Class 4 matters	\$33,292.86

3 (a)	Precision Logistics Pty Ltd & Robert Andrew Tebb & Annette Margaret Tebb
Issue:	Enforcement action initiated by Council to restrain the respondents from conducting unauthorised trucking activities on the property.
Property:	Lot 7 DP 1008057 and Lot 92 DP 1004803 No 20 Frost Road Campbelltown
Property Owner:	Robert Andrew Tebb and Annette Margaret Tebb
Council File:	No. 845/2012/DA-I
Court Application:	Filed on 20 December 2012 - File No. 12/41261
Respondents:	Precision Logistics Pty Ltd & Robert Andrew Tebb and Annette Margaret Tebb
Costs Estimate:	\$30,000 (exclusive of Barristers, Court Appointed Experts or disbursement fees)
Costs to date:	\$26,564.16
Status:	Ongoing – Listed for further directions hearing on 23 August 2013.
Progress:	On 28 June 2013, the Court, by consent of the parties, gave directions in respect of a revised timetable for filing and service by the respondents of their points of defence to Council’s fresh affidavits, and adjourned the proceedings to 23 August 2013 for further directions hearing.

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 21/06/2013)	0
Total completed Class 5 matters (as at 21/06/2013)	0
Costs from 1 July 2012 for Class 5 matters	\$0.00

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

Total ongoing Class 6 matters (as at 21/06/2013)	0
Total completed Class 6 matters (as at 21/06/2013)	0
Costs from 1 July 2012 for Class 6 matters	\$0.00

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

Total ongoing Appeal matters before the Court (as at 21/06/2013)	0
Total completed Appeal matters (as at 21/06/2013)	0
Costs from 1 July 2012 for District Court matters	\$0.00

7. Local Court prosecution matters

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

Total ongoing Local Court Matters (as at 21/06/2013)	6
Total completed Local Court Matters (as at 21/06/2013)	24
Costs from 1 July 2012 for Local Court Matters	\$3,616.00

File No: LP11/13 – Penalty Notice Court Election
Offence: Not identify companion animal – not dangerous dog.
Act: *Companion Animals Act 1998*

Costs to date: \$0.00

Status: Ongoing – listed for hearing on 5 August 2013.

Progress: The matter was before the Court for first mention on 28 May 2013, where the defendant entered a not guilty plea. The proceedings have been listed for defended hearing on 5 August 2013.

File No: LP12/13 – Penalty Notice Court Election
Offence: Own dog that rushes at, attacks, bites, harasses or chases person and animal – not dangerous dog.
Act: *Companion Animals Act 1998*

Costs to date: \$0.00

Status: Ongoing – listed for hearing on 5 August 2013.

Progress: The matter was before the Court for first mention on 28 May 2013, where the defendant entered a not guilty plea. The proceedings have been listed for defended hearing on 5 August 2013.

File No: LP13/13 – Penalty Notice Court Election
Offence: Owner not prevent dog escaping – not dangerous dog.
Act: *Companion Animals Act 1998*

Costs to date: \$0.00

Status: Ongoing – listed for hearing on 5 August 2013.

Progress: The matter was before the Court for first mention on 28 May 2013, where the defendant entered a not guilty plea. The proceedings have been listed for defended hearing on 5 August 2013.

File No: LP14/13 – Penalty Notice Court Election
Offence: Own dog uncontrolled in a public place – not dangerous dog.
Act: *Companion Animals Act 1998*

Costs to date: \$0.00

Status: New matter – listed for first mention on 3 September 2013.

Progress: Listed for first mention on 3 September 2013.

File No: LP09/13 – Penalty Notice Court Election
Offence: Disobey no parking sign.
Act: *Road Rules 2008*

Costs to date: \$0.00

Status: Ongoing – listed for hearing on 5 July 2013.

Progress: The matter was before the Court for first mention on 5 May 2013, where the defendant entered a not guilty plea. The proceedings have been listed for defended hearing on 5 July 2013.

File No: LP15/13 – Penalty Notice Court Election
Offence: Stop on path/strip in built-up area.
Act: *Road Rules 2008*

Costs to date: \$0.00

Status: New matter – listed for first mention on 9 July 2013.

Progress: Listed for first mention on 9 July 2013.

8. Matters referred to Council's solicitor for advice

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

Total Advice Matters (as at 21/06/2013) 8
Costs from 1 July 2012 for advice matters \$18,152.81

9. Legal Costs Summary

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

Relevant attachments or tables	Costs Debit	Costs Credit
Class 1 Land and Environment Court - appeals against Council's determination of Development Applications	\$71,624.09	\$0.00
Class 1 Land and Environment Court - appeals against Orders or Notices issued by Council	\$2,039.10	\$0.00
Class 4 Land and Environment Court matters - non-compliance with Council Orders, Notices or prosecutions	\$33,292.86	\$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	\$18,152.81	\$0.00
Miscellaneous costs not shown elsewhere in this table	\$0.00	\$0.00
Costs Sub-Total	\$128,724.86	\$940.00
Overall Net Costs Total (GST exclusive)	\$127,784.86	

Officer's Recommendation

That the information be noted.

Committee's Recommendation: (Thompson/Lound)

That the Officer's Recommendation be adopted.

CARRIED

Council Meeting 16 July 2013 (Greiss/Rowell)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 145

That the Officer's Recommendation be adopted.

4.2 Swimming Pool Barrier Inspection Program

Reporting Officer

Acting Manager Compliance Services

Attachments

1. Draft Swimming Pool Inspection Program Public Notice
2. Draft Swimming Pool Barrier Inspection Program
3. Inspection Program Cost Estimates

Purpose

The purpose of this report is to inform Council of the outcome of the public notification of Council's proposed swimming pool inspection program and to consider adoption (and periodic review) of the program and the associated inspection fees and consequential resourcing implications.

History

Legislation pertaining to swimming pools in NSW comprises the *Swimming Pools Act 1992* (the Act) and the *Swimming Pools Regulation 2008* (the Regulation). The amended *Swimming Pools 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.

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 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 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 Planning and Environment Committee considered a report at its meeting of 16 April 2013, outlining details of a proposed swimming pool inspection program that addressed the legislative requirements, in accordance with Council's resolution of 20 November 2012 and recommended:

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.'

The above recommendations were adopted as a resolution by Council at its Ordinary Meeting of 23 April, 2013, together with an additional resolution:

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.'

In accordance with Council's resolution, the proposed inspection program and fee schedule was placed on public exhibition from 14 May 2013 in local papers and on Council's website and submissions from the community were sought up until 14 June 2013. A copy of the public notice is shown as attachment 1.

In response to the exhibition, no submissions were received.

In addition, during the public exhibition period, an exclusive and comprehensive edition of Council's Compass Community Newsletter was distributed advising residents of their obligations under the new swimming pool legislation and also informing them of pool fencing requirements and other important pool safety information. A link to the special feature edition was also included in the June edition of Council's e-newsletter.

Given the number of swimming pools that exist within the Local Government Area is significant, (i.e. estimated to be between 10,000 and 15,000 swimming pools), it is evident that the inspection program requirements will not be able to be accommodated within existing Council resources and will require the engagement of additional staff.

The Draft Swimming Pools Inspection Program, as exhibited and outlined in attachment 2, proposes a minimum of three Pool Safety Officers be appointed, to provide capacity to accommodate a proactive inspection component which involves the random inspection of other (non-mandatory) residential properties that contain registered swimming pools.

The proposed Draft Swimming Pools Inspection Program (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 became 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 anticipated that these costs will be totally offset from inspection fees and other supplementary income generated under the program (refer attachment 3) and although cost and income estimates will need to increase to reflect the appointment of three Pool Safety Officers this will have no nett financial impact on the 2013-2014 budget.

In addition, the inspection program will generate significant administrative workload with inspection requests, processing of compliance certificates and related correspondence and enquiries. It is intended at this stage that this administrative workload be accommodated within existing resources, at least until the program can be subject of a post implementation review and when the actual impact of the program on resources is realised.

In order to best meet the identified objectives of the inspection program, the Draft Swimming Pool Inspection Program as outlined in attachment 2 is recommended. A timeline of 12 months for periodic review of program implementation is also recommended.

Officer's Recommendation

1. That the Draft Swimming Pool Inspection Program and associated inspection fees of \$150 for the initial inspection and \$100 for one follow up inspection (which includes the issue of a certificate of compliance) as outlined in attachment 2, be adopted.
2. That Council proceed to appoint three permanent full-time Pool Safety Officers to resource program implementation.
3. That a further report to review implementation of the Draft Swimming Pool Barrier Inspection Program, including program cost and resourcing implications be submitted to Council after 12 months of program implementation.

Committee's Recommendation: (Kolkman/Oates)

That the Officer's Recommendation be adopted.

CARRIED

Council Meeting 16 July 2013 (Greiss/Rowell)

That the Officer's Recommendation be adopted.

Amendment (Mead/Thompson)

1. That the Draft Swimming Pool Inspection Program and associated inspection fees of \$150 for the initial inspection and \$100 for one follow up inspection (which includes the issue of a certificate of compliance) as outlined in attachment 2, be adopted.
2. That Council proceed to appoint three permanent full-time Pool Safety Officers to resource program implementation.
3. That a further report to review implementation of the Draft Swimming Pool Barrier Inspection Program, including program cost and resourcing implications be submitted to Council after 12 months of program implementation.
4. That Council only charge fees for inspections mandated by state legislation or requested by the property owner.

LOST

Council Resolution Minute Number 145

That the Officer's Recommendation be adopted.

Councillor Thompson asked that his name be recorded in support of the amendment in regard to Item 4.2 - Swimming Pool Barrier Inspection Program.

Councillor Mead asked that his name be recorded in support of the amendment and in opposition to the resolution in regard to Item 4.2 - Swimming Pool Barrier Inspection Program.

ATTACHMENT 1

PUBLIC NOTICE

Swimming Pools Amendment Act 2012 – Swimming Pool Inspection Program

The Swimming Pools Amendment Act 2012 became effective on 29 October 2012 and represents the NSW Government's response to concerns about the rate of preventable drownings and near drownings in privately owned swimming pools and the high rate of non-compliant swimming pool barriers in NSW.

The Amendment Act introduces a number of key reforms including the compulsory registration of all privately owned swimming pools. Owners of properties that contain a swimming pool are required to register their pool using the online register (<http://www.swimmingpoolregister.nsw.gov.au/>) by 29 October 2013. Council can enter the relevant information onto the register on behalf of the owner; however the owner will need to complete a registration form and pay a \$10 fee for this service.

From 29 October 2013, Council proposes to commence an inspection program of residential properties that contain swimming pools as part of a proactive approach to improve the level of compliance and to reduce the incidence of infant drownings or near drownings. The program will incorporate a risk based approach whereby unauthorised and authorised swimming pools without final inspections will be given priority. The inspection program will not require the inspection of a swimming pool where a current certificate of compliance or occupation certificate has been issued.

From 29 April 2014, Council will inspect all swimming pools associated with tourist and visitor accommodation and multi occupancy developments at least every 3 years. Furthermore, owners of properties with swimming pools that are to be sold or leased are required to obtain a certificate of compliance which can be obtained from either Council or a suitably qualified Accredited Certifier.

Council proposes to charge a fee of \$150 for an initial swimming pool inspection (which includes the issue of a certificate of compliance) and \$100 for one follow up inspection. No additional fees will be charged for subsequent inspections needed to achieve compliance.

The swimming pool inspection program and fee proposal is currently on public exhibition and written public submissions are invited and will be received up until 4.30pm on 14 June 2013.

Submissions can be addressed to the: General Manager, Campbelltown City Council, PO Box 57 Campbelltown NSW 2560 or <http://www.campbelltown.nsw.gov.au/ContactForm>.

For further enquiries please contact Councils Customer Services Section on 02 4645 4000.

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 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.

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.

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.

Program Cost Estimates

The total annualised cost of the program is estimated to be \$286,500.

The estimated annual cost components of the program consist of normal salaries for three Pool Safety Officers as well as other on-cost award considerations such as leave provisions, superannuation, ongoing training and other ancillary costs related to the resourcing of the positions.

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.

5. GENERAL BUSINESS

5.1 Digger Black Reserve, Ingleburn

Councillor Lound noted that Digger Black Reserve, Ingleburn requires improvement and asked if there is any proposed future works or plans in place to be undertaken at this location.

Committee's Recommendation: (Lound/Kolkman)

That a report be presented detailing any proposed future works or plans in place to enhance Digger Black Reserve, Ingleburn.

CARRIED

Council Meeting 16 July 2013 (Greiss/Rowell)

That the Committee's Recommendation be adopted.

Council Resolution Minute Number 145

That the Committee's Recommendation be adopted.

Confidentiality Motion: (Kolkman/Thompson)

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

CARRIED

18. CONFIDENTIAL ITEMS

18.1 Confidential Report - Directors of Companies - July 2013

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 9.08pm.

G Greiss
CHAIRPERSON
