

Reports of the Planning and Environment Committee Meeting held at 7.30pm on Tuesday, 3 September 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 3 September 2013

Present

- Councillor G Greiss (Chairperson)
- Councillor R Kolkman
- Councillor D Lound
- Councillor A Matheson
- Councillor M Oates
- Councillor T Rowell
- Councillor R Thompson
- General Manager - Mr P Tosi
- Director Planning and Environment - Mr J Lawrence
- Manager Community Resources and Development - Mr B McCausland
- Acting Manager Compliance Services - Mr P Curley
- Manager Cultural Services - Mr M Dagostino
- Manager Development Services - Mr J Baldwin
- Manager Information Management and Technology - Mrs S Peroumal
- Manager Sustainable City and Environment - Mr A Spooner
- Corporate Support Coordinator - Mr T Rouen
- Executive Assistant - Mrs D Taylor

Apology Nil

Also in Attendance

Councillor C Mead

Acknowledgement of Land

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

DECLARATIONS OF INTEREST

There were no Declarations of Interest at this meeting.

Pecuniary Interests

Nil

Non Pecuniary – Significant Interests

Nil

Non Pecuniary – Less than Significant Interests

Nil

1. WASTE AND RECYCLING SERVICES

1.1 Outcome of the 2013 Chemical CleanOut event

Reporting Officer

Acting Manager Waste and Recycling Services

Attachments

Nil

Purpose

To provide Council with an update on the results of the 2013 Household Chemical CleanOut event.

History

Council, in partnership with the NSW Environment Protection Authority (EPA), hosts an annual Household Chemical CleanOut event. This event provides residents with the opportunity to drop off hazardous household items for safe disposal and recycling free of charge.

Report

The Household Chemical CleanOut event was held on 20 and 21 July 2013 at Council's Waste Depot at Junction Road, Leumeah. As in previous years, the collection and recycling of the chemicals dropped off by residents during the event was facilitated by Toxfree (formerly known as Chemsal), a contractor appointed by the EPA.

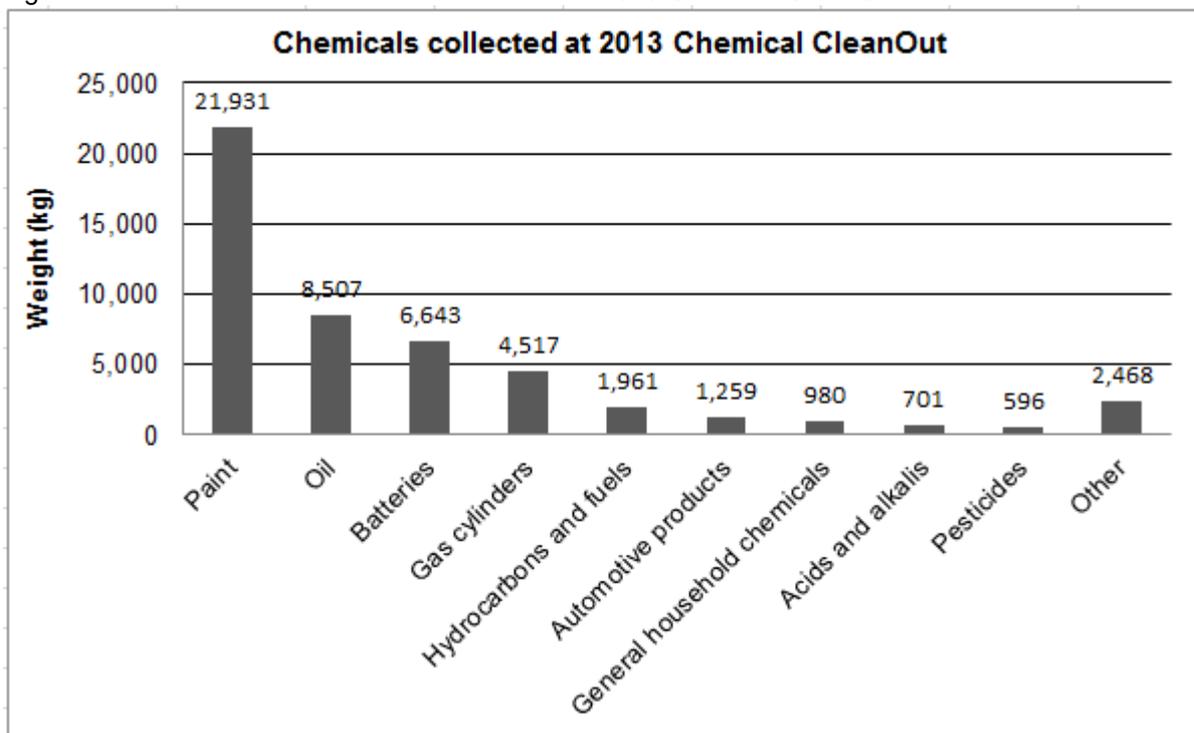
Council supported the event in several ways, the first of which was to coordinate the promotion of the event throughout the Campbelltown Local Government Area. This promotion included advertising in local newspapers, inclusion on Council's website, insertion of a flyer in Council's rates mailout, inclusion in the winter edition of Compass and providing brochures and posters to Council's facilities.

Council was also responsible for coordinating the Traffic Management Plan required for the changed traffic conditions in place along Junction Road for the duration of the event. In this regard, two qualified traffic marshals were provided by Council to ensure compliance with the Traffic Management Plan during the event, and to monitor traffic flow into and out of the site. An additional staff member was also provided to liaise with members of the public and Toxfree staff, and to provide assistance where necessary.

The 2013 event saw 1231 residents utilise the service, which is a slight decrease from last year's record participation rate. However, the quantity of chemicals dropped off at the 2013 event increased slightly from last year, with 49,557kg of chemicals collected in 2013. It follows that the average load for attendees also increased, with an average of 40.3kg of chemicals per attendee (up from an average of 38.4kg of chemicals per attendee in 2012).

Figure 1 illustrates the breakdown of chemicals collected at the 2013 event. For the purposes of this graph, the individual chemical types accounting for 1.2 per cent or less of the total have been combined and are represented by the 'Other' category. This category also includes 'unknown' chemicals, which accounted for 639kg of the total chemicals collected.

Figure 1: Breakdown of chemicals collected at the 2013 Chemical CleanOut event.



As in previous years, the most common chemicals dropped off at the event were paints, oils and batteries. The combined total of these items accounted for 75% of the total chemicals collected (by weight). Paints alone accounted for almost half of all chemicals collected in 2013, representing 44% of the total quantity.

It is interesting to note that while the Chemical CleanOut continues to attract significant participation rates, a large proportion of participants utilising the service each year are new to the event. Of the 1231 residents who attended the 2013 event, 47% had not used the service before, which suggests that residents are becoming increasingly conscious of the importance of disposing household chemicals responsibly.

Officer's Recommendation

That the information be noted.

Committee's Recommendation: (Kolkman/Thompson)

That the Officer's Recommendation be adopted.

CARRIED

Council Meeting 10 September 2013 (Greiss/Matheson)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 194

That the Officer's Recommendation be adopted.

1.2 Reducing dumped rubbish at vacated properties

Reporting Officer

Acting Manager Waste and Recycling Services

Attachments

Nil

Purpose

To outline an education campaign that will be undertaken to reduce the incidence of rubbish dumping outside vacated properties.

History

Council at its meeting on 18 June 2013 resolved that a report be presented to Council on establishing a system which reduces the occurrence of excess rubbish being dumped at the front of properties once the occupants vacate the premises.

Report

As part of the domestic waste service that is provided to residents, Council provides a kerbside clean up service that allows residents to dispose of bulky items (such as furniture, old toys, mattresses and whitegoods) that are not suitable for disposal in domestic waste bins. Residents are entitled to place one cubic metre of materials for collection at each clean up, and these materials must meet the collection guidelines in order for them to be collected.

Residents are entitled to four kerbside clean up services per calendar year, and the service is provided 'on-call' so that each clean up can be booked as it is required. Residents are required to book in their clean up prior to putting any materials on the kerbside, and clean ups booked prior to 4.30pm on a Friday afternoon will be collected the following week.

In the instance of residents moving house, it is preferred that kerbside clean up bookings be made prior to the house being vacated, so that the resident is able to monitor their items to reduce the likelihood of illegal dumping being added to the booked clean up. However, if the resident intends to vacate the property prior to their materials being collected, a forwarding address is obtained from the resident so that they can be contacted in the event of any issues arising from their clean up.

In the event that additional materials are added to booked clean ups, Council's contractor removes the allowed amount (one cubic metre) and reports these addresses to Council on a daily basis. Council staff then contact the customer and instruct them to remove the additional materials from the kerbside to avoid the possibility of receiving a fine for illegal dumping. Depending on the circumstances, Council's Rangers may become involved in this process.

Anecdotal evidence suggests that there are a number of factors that can increase the likelihood of illegal dumping being added to booked clean ups. These factors include the location of a property, the length of time that materials remain on the kerbside and the level of supervision given to the clean up by the resident responsible, as well as neighbouring properties. As a result, it follows that a clean up considered more likely to attract illegal dumping is one that is booked by residents who will have vacated the property before it is due for collection.

To reduce the number of clean ups that are booked under these circumstances, it is proposed that Council undertake an educational campaign in conjunction with local real estate agents, Housing NSW offices, other community housing providers and strata managers to raise awareness of the kerbside clean up service. This targeted approach would help ensure that information about the clean up service is made available to residents at an appropriate time; that is, while they are arranging to either move into or vacate a property.

To discourage the practice of booking clean up services for collection after a property has been vacated, the campaign would also focus on the importance of booking clean ups far enough in advance so that they are collected while the property remains occupied. This is the preferred practice as it lessens the risk of attracting illegal dumping, which creates issues for both Council and the resident, and can result in enforcement action being taken if Council's Rangers become involved.

In addition to writing to real estate agents, Housing NSW offices and other property managers in the Campbelltown Local Government Area to advise them of the availability of the kerbside clean up service, it is also proposed that advertisements be placed in the Macarthur Chronicle and Macarthur Advertiser to further promote the service and its correct usage. It should be noted that information about the correct use of Council's clean up service is provided on Council's website.

Officer's Recommendation

1. That Council write to real estate agents, NSW Housing offices and other property managers in the Campbelltown Local Government Area requesting their cooperation with promoting the use of the kerbside clean up service to their clients.
2. That advertisements be placed in the Macarthur Chronicle and Macarthur Advertiser to promote the use of the kerbside clean up service to residents who are moving house.

Committee's Recommendation: (Lound/Kolkman)

That a decision in this matter be deferred and the item be listed for discussion at a future briefing evening.

CARRIED

Council Meeting 10 September 2013 (Greiss/Matheson)

That the Committee's Recommendation be adopted.

Council Resolution Minute Number 194

That the Committee's Recommendation be adopted.

2. SUSTAINABLE CITY AND ENVIRONMENT

2.1 Minutes of the Camden Gas Community Consultation Committee

Reporting Officer

Manager Sustainable City and Environment

Attachments

Minutes of the Camden Gas Community Consultation Committee Meeting, held on 14 March 2013 (contained within this report)

Purpose

To provide Council with an update on the outcomes of the Camden Gas Community Consultation Committee held on 14 March 2013.

History

Stage 1 of the Camden Gas Project is located to the south of the Campbelltown Local Government Area (LGA) and was approved by the NSW Government in July 2002. Stage 2 of this project includes sections of the southern portion of the Campbelltown LGA and is comprised of a series of applications approved by the NSW Government between June 2004 and September 2008. The NSW Department of Planning and Infrastructure (DPI) accepted a request from AGL Upstream Investment (AGL) on 11 February 2013 to indefinitely suspend its assessment of the Stage 3 Application for this project (the northern extension).

The Camden Gas Project Community Consultation Committee (the Committee) was established in 2001 as a condition of consent for the Camden Gas Project, to provide a forum for discussion between AGL and the community. The General Manager was appointed as Council's representative to the Committee on 31 May 2011 with the Director of Planning and Environment as his formal delegate.

Report

A meeting of the Committee was held at the Rosalind Park Gas Processing Plant on 14 March 2013. Council was represented by the Manager for Sustainable City and Environment and Senior Environmental Officer (Environment Protection and Management). A representative from the Environment Protection Authority (EPA) attended in an observer capacity. The Land and Water Commissioner also attended the meeting at the invitation of the Chair of the Committee.

This report provides a broad summary of the outcomes of the Committee meeting and highlights issues of relevance to Council. The minutes were formally endorsed at the meeting held on 27 June 2013 and are provided as an attachment to this report. Copies of presentations referred to in the minutes are available from the Manager Sustainable City and Environment on request.

Minutes of the meeting held on 14 March 2013

1) Update on regulatory action by the EPA

A Planning and Environment Councillor Weekly Memo Item (dated 15 March 2013) advised that the EPA was in the process of finalising its regulatory response to the failure of AGL to carry out continuous monitoring of emissions from the Rosalind Park Plant (the facility) between 2009 and 2012. The EPA representative sought the views of the Committee at the meeting on the concept of an Enforceable Undertaking (EU) that was being considered as part of the regulatory response. The representative advised that:

- the EU would be comprised of a legally enforceable public document that would require AGL to fully disclose the details of the non-compliance and remediation action taken
- the EU would be in addition to previous regulatory action taken by the EPA regarding this matter including requiring the installation of continuous monitoring equipment
- the EPA was exploring the option of requiring AGL to contribute to local projects that would benefit the local community (across the Camden Gas Project Area) as a means of addressing the loss of community confidence that had occurred as part of the EU.

The AGL Group General Manager subsequently sought the feedback from the Committee on seven localised project proposals received in relation to the EU proposed by the EPA. The Committee subsequently determined not to provide comment or select preferred proposals as this was outside the scope of its functions and responsibilities.

Note, the EPA representative advised at the Committee meeting held on 27 June 2013 that the finalised details of the proposed regulatory response (including any EU), would be provided at the Committee meeting scheduled for 26 September 2013.

2) Presentations from AGL

i) Operations summary

There were no drilling activities at gas extraction well sites within the Camden Gas Project Area between November 2012 and March 2013. Maintenance work was carried out at a number of well sites including Menangle Park and within the Mt Taurus gas field (near Menangle Park) in the Campbelltown LGA during this period.

Quarterly monitoring of air emissions and noise levels at the Rosalind Park Processing Plant was undertaken between November 2012 and March 2013. All collected data complied with the permitted levels specified in the EPA licence for the facility.

ii) Flooding of the MP 25 site

The adequacy of the current procedure used by AGL to predict the likelihood of inundation of this site by monitoring upstream flood levels of the Nepean River was questioned by a community representative. An AGL representative advised in response that new technology to replace this current procedure was being investigated and would be reported to a future meeting of the Committee.

iii) Community engagement by AGL

The AGL Community Relations Manager expressed appreciation to Council for the coal seam gas community forums held in February 2013 and the invitation extended to AGL to participate at them. The Manager stated that a clear observed outcome of the forums was the lack of trust held in AGL by the local community. The Manager advised that options to achieve cooperation with key industry and government representatives to demonstrate responsibility and transparency in the operations of AGL to address this lack of trust were being examined.

(iv) Update on the CGP Stage 3 application

An AGL representative advised that any decision regarding the future of this application or activities associated with the application was dependent on the finalised details of the NSW Government's proposed coal seam gas exclusion zones.

3) Invited speakers

i) Land and Water Commissioner

The Land and Water Commissioner (the Commissioner) provided an informal overview of his responsibilities and the relationship of these responsibilities to aspects of the NSW Government's Strategic Regional Land Use Policy. Key points made by the Commissioner during the ensuing discussion included the need for the NSW Government to engage with councils and the local community and for industry to adequately explain issues associated with the coal seam gas industry to the local community.

ii) Worth Recycling

The activities of this company in the treatment, disposal as well as reuse or recycle of wastewater and produced water (from dewatering of well sites) collected from AGL was outlined in a presentation at the meeting. Key issues raised with company representatives during the ensuing discussion included procedures for the sampling and analysis of the received waste and produced water and procedures for the reuse or recycling of this water.

4) Next meeting

The next meeting of the Committee will be held on 26 September 2013, where the minutes for the meeting held on 27 June 2013 are scheduled to be endorsed. A report providing a summary of the minutes of the 27 June 2013 meeting will be presented to the next available Council meeting following their endorsement.

Officer's Recommendation

That the information be noted.

Committee's Recommendation: (Oates/Matheson)

That the Officer's Recommendation be adopted.

CARRIED

Council Meeting 10 September 2013 (Greiss/Matheson)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 194

That the Officer's Recommendation be adopted.

ATTACHMENT 1

COMMUNITY CONSULTATIVE COMMITTEE AGL – CAMDEN GAS PROJECT

MEETING NO.35

Held in the RGP Conference Room, Menangle on 14 March 2013 2012 at 5.30pm

MINUTES

Member / Guest	Attendance Type
Mrs Margaret MacDonald-Hill (MM) Chair	Present
Mr Brad Staggs (BS)	Present
Mr David Henry (DH)	Present
Mrs Diane Gordon (DG)	Present
Mr Fred Anderson (FA)	Present
Ms Jacqui Kirkby (JK)	Present - arrived at 5.45pm
Mr Michael Hingley (MH)	Apology
Mr Peter Bloem (PB)	Present
Mr Simon Hennings (SH)	Present
Mr Troy Platten (TP)	Apology
Mr Jeff Lawrence (JL)	apology
Ms Nicole Magurren (NM)	apology
Mr Paul Reynolds (PR)	Present
Cr Lou Amato (LA)	Apology
Cr Lara Symkowiak (LS)	apology
Mr George Cooper (GC)	Present - left meeting at 6:30pm
Mr Jason Evans (JE)	Present - left meeting at 6:30pm
Mr Jock Laurie (JoL)	Present – left meeting at 6:30pm
Mr Aaron Clifton (AC)	Present
Ms Jenny O'Brien (JO)	Present
Mr Adam Lollback (AL)	Present
Mr Mike Moraza (MZ)	Present
Ms Michala Lander (ML)	Present
Mr Andrew Spooner (AS)	Present
Ms Nicola Fry (NF)	Present
Ms Julia Delvecchio (JD)	Present

Meeting Opened at: 5:30 pm

ITEM	ACTION
<p>1.0 Welcome</p> <p>Welcome and Introductions by Chair – MM.</p> <p>Welcomed invited guests to the meeting:</p> <ul style="list-style-type: none"> • Jock Laurie - NSW Land and Water Commissioner • George Cooper – Worth Recycling • Jason Evans – Worth Recycling <p>Margaret advised committee members that she is engaged by AGL as an independent chair, approved by the Director of General Planning and</p>	

<p>Infrastructure. She is also a Member of the Mine Subsidence Board and the Minister's Arbitration Panel.</p>	
<p>2.0 Apologies As above.</p>	
<p>3.0 Confirmation of Previous Minutes</p> <p>Summary approach was unanimously adopted for the taking of future meeting minutes. MM included some amendments received to the minutes indicated in track changes and these were distributed to the CCC.</p> <p>The minutes incorporating the amendments were accepted by the Committee.</p> <p>Moved: Simon Hennings Seconded: Fred Anderson</p>	
<p>4.0 Business Arising JK – Status of production wells and an explanation for private vs public land.</p> <p>AL to provide clarification on status of the wells</p> <p>AL and AC to provide a simplified breakdown of the infrastructure on public vs private land.</p> <p>PB – Minor licence noncompliance. Press release from EPA on Monday that a Penalty Infringement Notice (PIN) had been issued to AGL. The PIN is a statement that AGL has breached its licence in failing to maintain and operate equipment. There was no environmental consequence of the nitrogen oxides exceedances but it does raise concerns about AGL's systems. AGL have rectified the systems and as a result were given a PIN.</p> <p>PB – Enforceable Undertaking (EU) as a consequence for the continuous emissions monitoring system licence breach. An Enforceable Undertaking is a written, legally enforceable document where AGL provide a full disclosure on the non compliance, how they addressed the behaviour and consequences of the non compliance. In addition AGL, have to go beyond compliance and make good the consequences that came out of the breach. The document is signed by the EPA's Chief Regulator. There are examples on the EPA website of what EUs are. Once finalised, it is a public document and is on the public record and the EPA register.</p> <p>PB – The EU is a concept the EPA would like to explore with AGL. AGL need to prepare the EU, sign off on it and present it to EPA. The EU has</p>	<p>AL to provide clarification on status of the wells</p> <p>AL to provide a simplified breakdown of the infrastructure on public vs private land.</p>

<p>to also address any consequences of the conduct. Although there weren't any environmental effects, there has been a loss of confidence in the community. AGL have to make good on that concern. For example contributing to local projects. This group could make recommendations to AGL to consider that aspect to be included as part of the Enforceable Undertaking.</p> <p>General discussion by the Committee on the pros and cons of the EU involvement ensued.</p> <p>JK - in relation to the discussion about the pros and cons of EU, JK objected to EU as an appropriate regulated response and queried why the EPA was not prosecuting AGL for its breach.</p> <p>MZ – AGL are currently considering seven proposals that will benefit all three Councils, for example proposals have been received from UWS and the State Library. AGL would appreciate feedback from the CCC on these proposals. The proposals can be circulated to the CCC for consideration although as each proposal contains sensitive information (names and costs) it is requested that the proposals themselves remain confidential.</p> <p>JK - in relation to the proposals being tabled as part of the EU, JK agreed with the Chair that the selection of the proposals was not the role of the CCC.</p> <p>AS - We first need to obtain a more detailed understanding of the regulatory action by the EPA including the monetary value of the enforceable action prior to the Committee considering proposals. It is also unlikely that agreement will be reached between the three councils.”</p> <p>DG – Are AGL going to make good their systems so it doesn't happen again and what time frames?</p> <p>MZ – The new continuous emission monitoring system which has been bought for Compressor 1 enables a continuous reading of what the emissions are. This was available as of 5 March 2013. AGL took urgent steps when the breach was discovered and made to rectify the situation.</p>	<p>JO – Will review proposals and pass on information to the Chair.</p>
<p>5.0 Correspondence</p> <p><u>OUT</u></p> <p>28/11/12 – letter to DoPI updating committee representation 1/2/13 – email invitation to Jock Laurie to attend CCC</p> <p><u>IN</u></p> <p>In - all members 15/11/12 - email from AGL advising of amendments to Camden Northern Expansion project (typographical errors)</p>	<p>JO to distribute EPA Media release to CCC.</p>

<p>23/11/12 - email from AGL on Channel 7 News media notification 23/11/12 - email from AGL on well surface locations 18/12/12 - email from AGL on Minister Hazzard extending public exhibition period for Northern Expansion project 14/1/13 - email invitation from AGL to attend open day 17/1/13 - email from AGL on explanation of drilling proposals for Northern expansion 4/1/13 - email from AGL on expanded monitoring program at Camden Gas Project 29/1/13 - email from AGL on statement regarding rainfall event at MP16&MP25 30/1/13 - email from AGL update, image & invitation to site visit 31/1/13 - email from AGL update on MP25 & MP16 8/2/13 - email from AGL advice on suspension of northern expansion 19/2/13 - email from AGL response to NSW Government announcement 1/3/13 - email from AGL update on new monitoring program & statement from EPA on no risk to gas wells from heavy rain 12/3/13 - email invitation from AGL to community forum on new air & expanded water monitoring program 13/3/13 - email from AGL - EPA fine on emissions incident</p>	
<p>6.0 AGL Update</p> <p><u>AL – Northern Expansion</u></p> <p>AL gave powerpoint presentation on progress with the Northern Expansion. This was provided to CCC as a Handout.</p> <p><u>JO – Community Update</u></p> <p>JO gave powerpoint presentation containing the Community Update. This was provided to CCC as a Handout.</p> <p>Community complaints</p> <p>JO - During the Christmas period, a community member from Glen Alpine reported a sound similar to that of wood chopping to AGL and believed to be occurring at the MPO3 site. AGL reviewed the MP03 work plan and no works were programmed for the dates that the complaint was reported. There was work in the Botanical Gardens at the time. AGL met with the landowner a number of times to investigate their concerns and believes the noise may have been coming from the Botanical Gardens. AGL has not received any further complaints.</p> <p>JO –A complaint was made at the Campbelltown Community Forum in Varroville from a resident who lives in Menangle Park who expressed</p>	

concern about more truck movement and dust from AGL's nearby access road. She stated she had previously made a complaint to both AGL and Council. JO was not aware of the complaint and followed up on when the complaint was received. According to AGL's records the complaint was received in 2010 and there have been no complaints since then. JO visited the site the following day and observed Council undertaking road works. JO has since made a number of follow up phone calls and emails to the complainant to find out more information and has not received any further information.

AC – Operations and HSE Update

AC gave powerpoint presentation containing the Operations and HSC Update. This was provided to CCC as a Handout.

AC – Expecting release of the Annual Environmental Performance Report next week. There are some final corrections being made before the report is issued. The two yearly Independent Environmental Audit will be released next month. It is a very thorough audit, it goes back to the Sydney Gas days and we are locating information to support this.

AC – Demonstrated fugitive emissions monitoring equipment that arrived two days ago. The equipment is an isotopic analyser for CO2 and Methane. It has been purchased as part of the new expanded air monitoring program.

JO – Have invited members from each of the LGAs, as well as a local MP and the CCC. We have also invited some community members who have previously attended the community open days. This consultation is not for the broader community rather the intent is to invite all of the organisations who have contributed to what has been done so far, representatives from the CCC, local LGA's MP's and some community representatives. Information obtained from the recent Campbelltown Community Forums indicate that the community have a lack of trust in AGL. One way AGL is looking to overcome this is by working with key representatives across industry and government to ensure that AGL is operating responsibly and transparently and 100% confident in the results before they are distributed to the broader community.

AC – **MP 25 Floodings.** It happened twice in January and February due to significant rainfall. EPA and DTIRIS visited the site and investigations were conducted by AGL. Findings were consistent – the bubbling observed were a naturally occurring process that was not caused by AGL's activities. DTIRIS spoke to the adjoining quarry managers and made the statement that this bubbling had been observed for decades.

BS – Expressed concern that flood monitoring was a bit lax. Questioned how AGL monitor water levels and if there is a flood response plan?

AC to provide flood response plan

<p>AC – There is a flood response plan which assesses the risk of each of the wells. To date the flood monitoring is based on the Nepean River levels at the Menangle Bridge. However, AGL have realised that more is required and they are investigating new technology. Ideally the information obtained from the new technology should also be made available to the general community and the SES.</p> <p>AGL has engaged external consultants to undertake an Environmental Health Risk Assessment. Results will be shared with the community.</p> <p>AC – New Mobile Security Trailer – A self enclosed trailer with a mast, 2 security cameras. This is to be taken to the well sites when work is being undertaken. It is operated during the day and records information sent back to the main office. The trailer has night vision, so in areas with higher residential development there is after hour’s security. Currently in the process of also installing fixed security cameras on high security risk wells. These are wells that since being installed are now in close proximity to residential development and have a risk of vandalism.</p>	
<p>7.0 Invited Speakers and General Business</p> <p><u>JoL - NSW Land and Water Commissioner</u></p> <p>JoL – NSW Government made changes at the end of last year to introduce the Land and Water Commissioner Role to make sure the community have confidence and opportunity for robust debate about the facts on mining and coal seam gas. There are major changes in many pieces of legislation – gateway process, well integrity etc. The objective is to try to have more rigour in the process. Projects will soon start to go through the process and these will be heavily scrutinised by the community. Issues and concerns not meeting the intent of the policy will be reviewed by the Government.</p> <p>From the Committee - Is the role an ongoing job? JoL - Three years. Need to understand what are the areas that we need to find answers for. Role is not to sell the industry but identify the problems.</p> <p>PB - Will information be specific to Camden? JoL - The role is evolving. At the moment he is the middle man between the government and the communities and the gas companies. Every area has strong justifiable reasons for why it shouldn’t be in their area. However we need to work out what we can do. How do we balance it with agriculture and communities so that it is not one at the expense of another? How can the concerns of Camden and other areas be taken into consideration? The government needs to go to areas and start to address problems by engaging properly with Councils so that they have an understanding of the legislation. Need to take Council’s concerns into consideration.</p> <p>MM - SH, BS & DG were original members of the CCC over a decade ago in Sydney Gas days. SH was a member of the gas action group and has remained on the CCC. The issues were about dams, water</p>	

<p>and property values, and access rights, as well as the previous company.</p> <p>JoL - Developing the code of conduct for how CSGs will be done and this will go into access agreements. It's important that the Companies develop a relationship with the people they are making an agreement with.</p> <p>BS Access is more than the property owner themselves. It is about informing the neighbours and the whole community about the project.</p> <p>JoL - Community see Council as a protector of their assets and assume that Council know what is going on. When State Government moved decisions away from Local Government, Councils started to feel ignored and lost access to a lot of information. Engaging with Councils is absolutely crucial. The State Government is trying to work through this problem. In some cases for Councillors the CSG issue might be the first thing they have to deal with in their role in the public sphere.</p> <p>SH - Camden ten years on, is a good example that demonstrates how agriculture and CSG can coexist. It is an opportunity for people to look at.</p> <p>JoL - Agree, the industry has to go out and explain their industry. The facts aren't getting out there. Nothing should be hidden and it shouldn't be us vs them. State Government has been in power for 2 years and there was an expectation that they would solve the problem. They are just as overwhelmed as most.</p> <p>SH - What is the email address of the NSW Land and Water Commissioner? MM will distribute it.</p> <p>JK - The issue is that there is no evidence to substantiate the claims made by AGL at Camden. Any accountability has to be through the science and not the perceptions. Reference should be made to Gavin Mudd at Monash Uni</p> <p>NF - Studies have been done by AGL and have been peer reviewed by the hydrogeologists at the NSW Office of Water the EPA, and independent hydrogeologists. AGL are confident with what we are doing and how we understand the groundwater systems. Although there may not be dedicated groundwater monitoring bores for the last 10 years, there is proxy data that provides evidence to support the negligible impact of the project.</p> <p><u>George Cooper and Jason Evans: Worth Recycling –</u></p> <p>JE gave powerpoint presentation Worth Recycling. This was provided to CCC as a Handout</p> <p>JK – When the produced water comes to Worth are you given a list of chemicals to test for?</p> <p>GC – We take samples on the job and testing across a full gamut not just hydrocarbons. We can then confirm if we accept or reject that sample. If accepted it goes into a register as acknowledged that we approve that it</p>	<p>MM to distribute.</p>
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<p>complies with the EPA.</p> <p>BS – What is the process in summary? GC – We test our own sample to confirm AGL’s results. After that is it a random sample, but we generally test every second load. These tests occur before it is decanted with the rest of the water. If there are any issues with the tests then the load is isolated. If we reject a load it gets returned back to the Contractor (AGL), it is also stated on the EPA register.</p> <p>AS – You mention Council and EPA licences what is Council’s role? GC – we need a licence to discharge to sewer. It is a Hawkesbury Council SDP, a trade waste licence. It is outside Sydney Water. We have to supply data to Hawkesbury Council every 7 days on what we discharge to sewer</p> <p>JK – What does the water get reused for? GC – all in the building materials industry. AGL has inspected those sites. There are three brick factories that take the product and CSR Bradford at Ingleburn use it as a cooling agent. CSR Bradford have strict requirements for how they use the water and it is tightly controlled AC – noted correction on slide; company also serving the Hunter.</p>	
<p>8.0 Next Meeting Date</p> <p>MZ – suggested an abridged meeting in one month’s time to discuss EU. MM - noting committee's hesitation, suggested that could be achieved via email ranking preference. Proposed a meeting TBA midyear, once NSW Government's changes were fully understood.</p>	

Meeting Closed at: 7:55 pm

Acronym Index

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

2.2 Review of Development Control Plans

Reporting Officer

Manager Sustainable City and Environment

Attachments

1. A summary of each development control plan that is proposed to be repealed and the reason(s) for repeal (contained within this report)
2. A summary of each draft development control plan that is proposed to be revoked and the reason(s) for its discontinuation (contained within this report)

Purpose

1. To inform Council of the outcome of a review into the status of all current Development Control Plans that have been prepared by Council since 1979
2. To seek Council's endorsement to repeal a number of Council's Development Control Plans that are out-dated or have been superseded by other regulations and/or the Campbelltown (Sustainable City) Development Control Plan 2012
3. To seek Council's endorsement to revoke a number of draft Development Control Plans that were placed on public exhibition, but were never adopted by Council for various reasons.

History

Development Control Plans (DCPs) are prepared by Council and apply to specific types of development or areas of land. DCPs provide detailed development guidelines and requirements for all types of development within the Campbelltown Local Government Area (LGA).

During the 1970s, DCPs were prepared under Interim Development Orders (IDOs) before the *Environmental Planning and Assessment Act 1979* (the Act) commenced. The Act provided local councils with powers to prepare development control plans without the need to refer them to the Department of Planning for concurrence.

In the period between 1979 to 2002, Council prepared and endorsed more than 125 DCPs. This large number of DCPs proved to be cumbersome to administer for Council and sometimes confusing for the public.

To address the above issue, Council at its meeting on 19 November 2002 resolved to review all of Council's DCPs that were in place and to consolidate them into one comprehensive document. Given the large number of DCPs that needed to be reviewed and consolidated, the consolidation process was implemented in stages.

To date, four stages of the consolidation process have been finalised and have resulted in the adoption of Campbelltown (Sustainable City) DCP 2012 (SCDCP) on 18 June 2013. The staged preparation of SCDCP has involved the review and repeal of approximately 80 DCPs and policies to date.

Report

Council has, in the last eight years, repealed more than 80 DCPs. Despite this, a large number of individual DCPs are still in existence either in draft or adopted form. The status of a number of these DCPs is unclear and need to be verified.

Council staff have undertaken a comprehensive review to ascertain the status of all Council's DCPs. The review involved:

- a review of more than 100 files
- a review of all minutes from Council's meetings since 1979 (the year the *Environmental Planning and Assessment Act 1979* commenced).

This review is considered timely for the following reasons:

1. to identify all current DCPs that need to be revised and incorporated into the final stage of the consolidated DCP ie. SCDCP Stage 5
2. to identify all DCPs that need to be repealed
3. to identify all draft DCPs that need to be revoked
4. to ensure that Council meets its legislative requirement under section 74C of the Act that requires only one DCP to apply to the same land.

Legislative context

Section 74C 'Preparation of development control plans' of the Act states:

- '(2) Only one development control plan made by the same relevant planning authority may apply in respect of the same land. This subsection does not apply to:
- a) a plan prepared for the purposes of subsection (1)(d) or for any other purpose prescribed by the regulations
 - b) a plan prepared for the purpose of amending an existing plan.

If this subsection is not complied with, all the development control plans concerned have no effect.'

As such, Council must have one development control plan for any one site, otherwise all of its development control plans would have no effect.

Under Clause 289A of the *Environmental Planning and Assessment Regulation 2000* (the Regulation), the above provisions of the Act would only apply six months after the date of the gazettal of Council's Principal Local Environmental Plan (LEP).

Council's Principal LEP is progressing to public exhibition and is anticipated to be gazetted sometime in early 2014. It is therefore important that Council finalise the consolidation of all remaining DCPs no later than June 2014.

Outcome of the review

As a result of this review, it is proposed that:

1. a number of development control plans be repealed. A summary of those DCPs is shown as attachment 1 of this report. The summary explains the reasons why the DCPs should be repealed.
2. a number of draft development controls plans be revoked. A summary of those draft DCPs are shown as attachment 2 of this report. The summary explains the reasons why Council should not proceed with these draft DCPs.
3. a number of development control plans be reviewed as part of Stage 5 of SCDCP.

1. DCPs that are proposed to be repealed

A number of DCPs are proposed to be repealed for one or more of the following reasons:

1. the DCP is no longer required as it relates to a subdivision of certain land that has now been completed, or relates to certain road layouts that have been constructed.
2. the DCP has been superseded by:
 - a. new State Regulations
 - b. Campbelltown (Urban Area) Local Environmental Plan 2002
 - c. the SCDCP.

The DCPs proposed to be repealed are:

- DCP No. 9 Child Care Centre in Minto
 - DCP No.13 Kearns Neighbourhood
 - DCP No. 14 Certain Land at Crispsparkle Drive and Copperfield Drive, Ambarvale
 - DCP No. 18 Applies to land in the vicinity of Spitfire and Thunderbolt Drives, Raby
 - DCP No. 39 Caversham and other Heritage Items
 - DCP No. 45 Hotels/Taverns in Urban Areas
 - DCP No. 29 Applies to certain land at the corner of Dumaresq Street and Hurley Street (Lot 50, D.P. 747928), Campbelltown
 - DCP No. 56 Eagle Vale District Centre
 - DCP No. 58 Ingleburn Industrial Estate
 - DCP No. 59 Access to Rose Street and to Blaxland Road via Farrow Road
 - DCP No. 60 Ingleburn Industrial Area - Section 94 Contributions
 - DCP No. 69 Englorie Park
 - DCP No. 76 Schematic road layout for Astelia Street and Groundsel Avenue, Macquarie Fields
 - DCP No. 92 Applies to certain land at Bradbury to enable the development of two lot integrated housing
 - DCP No. 105 Laccocke Reserve Airds
 - DCP No. 124 Waste Management Centre at Lynwood Road, St Helens Park.
-

Administratively, the outdated and superseded DCPs should be repealed so that the provisions of these documents are not required to be considered during the development assessment process for an application applying to the nominated land.

The repeal process, as specified under section 23 of the Regulation, has two steps:

Firstly: A notice must be placed in a local newspaper, stating Council's intention to repeal the DCPs, and stating reasons for doing so. This notice must appear 14 days prior to the final notice of repeal

Secondly: A final notice of repeal must be placed in a locally circulating newspaper.

Following the repeal of these DCPs, Council's property information will need to be updated so that future section 149 (2) certificates do not make any reference to the repealed DCPs. This will ensure less confusion among the recipients of future section 149 (2) certificates.

2. Draft DCPs that are proposed to be revoked

A number of draft DCPs have been prepared by Council and placed on public exhibition, however, a formal decision by Council to proceed or not proceed with these draft DCPs was never made.

The draft DCPs are proposed to be revoked because they have been superseded by the Building Code of Australia, or Campbelltown (Urban Area) Local Environmental Plan 2002 or Council's current SCDCP.

The DCPs proposed to be revoked are:

- Draft DCP No. 7 Certain Properties Fronting Moore Oxley By-Pass
- Draft DCP No. 53 Heritage Items under IDO No. 15 ('Beulah' and 'Mt Gilead')
- Draft DCP No. 64 Wedderburn
- Draft DCP No. 66 Menangle Park
- Draft DCP No. 102 Non Urban Subdivision and Development Standards
- Draft DCP No. 106 Termite Policy
- Draft DCP No. 115 Energy Smart Home-Land Subdivision.

The process for Council to revoke a development control plan is specified under division 3 of the Regulation.

The Regulation requires Council to give a public notice of its decision not to proceed with a development control plan in a local newspaper within 28 days after the decision is made. A notice of a decision to revoke a development control plan must include Council's reasons for the decision.

3. DCPs that are proposed to be revised and incorporated into Stage 5 of SCDCP

A number of DCPs are proposed to be revised and incorporated into Stage 5 of the SCDCP. These include the following DCPs:

- DCP No. 32 Retail Plant Nurseries within Scenic Protection/Non-Urban and Rural Zones
- DCP No. 63 Macquarie Field House
- DCP No. 83 Heritage Policy
- DCP No. 99 Advertising Signs
- DCP No. 108 Landscaping Setback on Blaxland Road
- DCP No. 120 Truck Parking in Residential, Scenic Protection and Rural Areas.

It is anticipated that Stage 5 of the SCDCP will be submitted to Council for consideration in early 2014. At the completion of Stage 5 of the SCDCP, Council will have one DCP in accordance with the Act.

Conclusion

Council officers have undertaken an extensive review of the status of all the DCPs that were prepared by Council since 1979. The review is considered timely given that Council would have six months, from the date of the gazettal of its Principal LEP, to comply with the 'one DCP' requirement, under section 74C of the Act.

As a result of this review, a number of recommendations are presented to Council to repeal, revoke or review the remaining DCPs not already incorporated into the SCDCP.

Officer's Recommendation

1. That in accordance with section 23 of the Environmental Planning and Assessment Regulation 2000, Council repeal the following Development Control Plans:
 - DCP No. 9 Child Care Centre in Minto
 - DCP No.13 Kearns Neighbourhood
 - DCP No. 14 Certain Land at Crispsparkle Drive and Copperfield Drive, Ambarvale
 - DCP No. 18 Applies to land in the vicinity of Spitfire and Thunderbolt Drives, Raby
 - DCP No. 29 Applies to certain land at the corner of Dumaresq Street and Hurley Street (Lot 50, D.P. 747928), Campbelltown
 - DCP No. 39 Caversham and other Heritage Items
 - DCP No. 45 Hotels/Taverns in Urban Areas
 - DCP No. 56 Eagle Vale District Centre
 - DCP No. 58 Ingleburn Industrial Estate
 - DCP No. 59 Access to Rose Street and to Blaxland Road via Farrow Road
 - DCP No. 60 Ingleburn Industrial Area - section 94 Contributions
 - DCP No. 69 Englorie Park
 - DCP No. 76 Schematic road layout for Astelia Street and Groundsel Avenue, Macquarie Fields
 - DCP No. 92 Applies to certain land at Bradbury to enable the development of two lot integrated housing
 - DCP No. 105 Laccocke Reserve Airs
 - DCP No. 124 Waste Management Centre at Lynwood Road, St Helens Park.
 2. That in accordance with section 22 of the Environmental Planning and Assessment Regulation 2000, Council not proceed with the following draft Development Control Plans:
 - Draft DCP No. 7 Certain Properties Fronting Moore Oxley By-Pass
 - Draft DCP No. 53 Heritage Items under IDO No. 15 ('Beulah' and 'Mt Gilead')
 - Draft DCP No. 64 Wedderburn
 - Draft DCP No. 66 Menangle Park
 - Draft DCP No. 102 Non Urban Subdivision and Development Standards
 - Draft DCP No. 106 Termite Policy
 - Draft DCP No. 115 Energy Smart Home-Land Subdivision.
 3. That a notice be published in the local newspaper advising of Council's intention to repeal the DCPs listed in Recommendation 1 and stating reasons for their repeal.
 4. That a final notice of repeal (after 14 days of the public notice) of the DCPs listed in Recommendation 1 be published in a locally circulated newspaper.
 5. That a notice be published in the local newspaper advising of Council's intention not to proceed with the DCPs listed under recommendation 2 and stating the reasons for their revocation.
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Committee's Recommendation: (Oates/Rowell)

That the Officer's Recommendation be adopted.

CARRIED

Council Meeting 10 September 2013 (Greiss/Matheson)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 194

That the Officer's Recommendation be adopted.

ATTACHMENT 1

Development Control Plans that are recommended for repeal

1. DCP No. 9 - Child Care Centre in Minto

DCP No. 9 was adopted by Council on 02 November 1982. This DCP applies to Lot 102 DP 717129 (Kabbarli Child Care Centre, 32 Guernsey Avenue, and Minto).

This aim of the DCP is to allow the land to be used for child care purposes.

The land is currently zoned Residential 2(b) under LEP 2002, where child care centres are permissible. As such this DCP is not required.

It is recommended that DCP No. 9 be repealed.

2. DCP No. 13 - Kearns Neighbourhood

DCP No. 13 was adopted by Council on 09 April 1984 and applies to the suburb of Kearns.

This DCP sets out the road layout and the subdivision pattern for Kearns.

The subject land has been subdivided and the roads have been constructed and therefore, this DCP is no longer required.

It is recommended that DCP No. 13 be repealed.

3. DCP No. 14 - Certain Land at Crispsparkle Drive and Copperfield Drive, Ambarvale

DCP No. 14 was adopted by Council on 22 May 1984 and applies to certain Land located in the vicinity of Crispsparkle Drive and Copperfield Drive, Ambarvale.

DCP No.14 provides road layout for residential purposes. It also provides zoning provisions to enable a school and a neighbourhood centre.

The subject land has been subdivided and assigned appropriate zoning under LEP 2002. Therefore, this DCP is no longer required.

It is recommended that DCP No. 14 be repealed.

4. DCP No. 18 - Applies to land in the vicinity of Spitfire and Thunderbolt Drives, Raby.

DCP No.18 was adopted by Council on 22 May 1984 and applies to certain land located in the vicinity of Spitfire and Thunderbolt Drives, Raby.

This DCP provides residential road layout guidelines for the subject land.

The roads have now been constructed and the land has been subsequently subdivided and therefore, this DCP is no longer required.

It is recommended that DCP No. 18 be repealed.

5. DCP No. 29 - Applies to certain land at the corner of Dumaresq Street and Hurley Street (Lot 50, D.P. 747928) , Campbelltown

DCP No. 29 was adopted by Council on 15 October 1985 and applies to land located at the corner of Dumaresq Street and Hurley Street (Lot 50, D.P. 747928), Campbelltown

This DCP requires that the subject land be used for public car parking.

The subject land is currently used for public car parking and therefore this DCP is no longer required. Notably, the subject land is owned by Council.

It is recommended that DCP No. 29 be repealed.

6. DCP No. 39 - Caversham and other Heritage Items

DCP No. 39 was adopted by Council on 21 July 1990. This DCP lists a number of heritage items under IDO 26.

All the heritage items that are currently listed under this DCP have been included under LEP 2002. Therefore, this DCP is no longer required.

It is recommended that DCP No. 39 be repealed.

7. DCP No. 45 - Hotels/Taverns in Urban Areas

DCP No. 45 was adopted by Council on 15 September 1987. This DCP aims to control the location, design and operation of hotels/taverns to maintain the amenity of the neighbourhood and provide guidelines for the development of hotels/taverns.

The permissibility of hotels/taverns within urban areas is now controlled by LEP 2002. Hours of operation for hotels/taverns are usually included as part of the "Conditions of Consent" and vary depending on the location and nature of the proposed development.

Given the above, this DCP is no longer required.

It is recommended that DCP No. 45 be repealed.

8. DCP No. 56 - Eagle Vale District Centre

DCP No. 56 was adopted by Council on 14 February 1989 and applies to land bounded by Aquamarine Drive, Emerald Drive, Eagle Vale Drive, Raby Road and the Freeway.

This DCP provides guidelines for the residential road layout and land uses for the Eagle Vale business centre.

This DCP has been superseded by LEP 2002. The subject land has been subdivided and developed and therefore, this DCP is no longer required.

It is recommended that DCP No. 56 be repealed.

9. DCP No. 58 - Ingleburn Industrial Estate

DCP No. 58 was adopted by Council on 22 August 1989 and applies to the area of the land in the vicinity of Devon Road and Williamson Road.

This DCP provides the main road layout for this area and the construction of a bridge over the drainage channel and a roundabout at Williamson Road.

The road including the bridge have been constructed (Stennet Road, Ingleburn), therefore this DCP is no longer required.

It is recommended that DCP No. 58 be repealed.

10. DCP No. 59 - Access to Rose Street and Blaxland Road via Farrow Road

DCP No. 59 was adopted by Council on 11 July 1989. This DCP provided for a connection from Blaxland Road to Rose Road via Farrow Road.

Road connection work has been completed and therefore this DCP is no longer required.

It is recommended that DCP No. 59 be repealed.

11. DCP No. 60 - Ingleburn Industrial Area - Section 94 Contributions

DCP No 60 was adopted by Council on 30 May 1989 for public exhibition, and subject to no representations being received during the public exhibition period, that the Draft Plan be deemed approved by Council.

This DCP was prepared to enable Council to collect development contributions from the subdivision of Industrial land at Ingleburn to repay the then Department of Housing for land dedicated to Council for a detention basin at Minto.

Council's records shows that the DCP was not implemented/enforced as no contributions were collected under this DCP.

It is recommended that DCP No. 60 be repealed.

12. DCP No. 69 - Englorie Park

DCP No 69 was adopted by Council on 06 July 1993. This DCP applies to Englorie Park. It sets out the residential subdivision.

Englorie Park has been developed in accordance with this DCP; therefore this DCP is no longer required.

It is recommended that DCP No. 69 be repealed.

13. DCP No. 76 - Schematic road layout for Astelia Street and Groundsel Avenue, Macquarie Fields

DCP No. 76 was adopted by Council on 05 May 1994. This DCP provides for the design and construction of Astelia Street and Groundsel Avenue to provide for safe and efficient traffic movement.

The road improvement works have been constructed and therefore this DCP is no longer required.

It is recommended that DCP No. 76 be repealed.

14. DCP No. 92 - Applies to certain land at Bradbury to enable the development of two lot integrated housing

DCP No. 92 was adopted by Council on 03 July 1999 and applies to land in the vicinity of Johns Road, Bradbury.

The purpose of the DCP is to clearly show those lots that may be developed for two lot integrated housing on the subject land.

The subject land has been developed for residential development and this DCP has been superseded by LEP 2002, therefore this DCP is no longer required.

It is recommended that DCP No. 92 be repealed.

15. DCP No. 105 - Laccocke Reserve Airds

DCP No. 105 was adopted by Council on 30 April 1996 and applies to Part of Lot 42 DP 261258, Greengate Road and Merino Crescent, Airds.

This DCP sets out road connections.

Airds is subject to a new master plan and therefore this DCP is no longer required.

It is recommended that DCP No. 105 be repealed.

16. DCP No. 124 - Waste Management Centre at Lynwood Road, St Helens Park

DCP No. 124 was adopted by Council on 04 February 2003 and applies to part Lot 288 and part Lot 290 DP752062, Lynwood Road, St Helens Park. This site is Council's previous Lynwood Road Landfill Facility.

Council's Landfill Facility at Lynwood Road, St Helen Park has been closed, therefore this DCP is no longer required.

It is recommended that DCP No. 124 be repealed.

ATTACHMENT 2

Draft Development Control Plans that that are proposed to be revoked.

1. Draft DCP No. 7 - Certain Properties Fronting Moore Oxley By-Pass

Draft DCP No. 7 Moore Oxley By-Pass was considered by Council on 18 May 1982 and 23 November 1982. The DCP was publicly exhibited from 17 August to 14 September 1982.

The aim of the draft DCP is to restrict direct access for a number of properties fronting Moore Oxley By-Pass.

No reference to the adoption of this DCP was found in any of Council's Committee meetings or full Council meetings (since 1979) that indicates that this DCP was formally adopted by Council.

Similar provisions to restrict frontage access to Moore Oxley By-Pass for those properties are provided under LEP 2002.

Given the above it is recommended that Council revoke draft DCP No. 7.

2. Draft DCP No. 53 - Heritage Items under IDO No. 15 ('Beulah' and 'Mt Gilead')

Draft DCP No. 53 was placed on public exhibition from 18 May to 1 June 1988. Council resolved on 5 July 1988 to defer a decision on the adoption of this draft DCP.

This draft DCP aims to add 'Beulah' and 'Mt Gilead' as heritage items of Campbelltown under IDO No. 15.

These items have been included as heritage items under Schedule 2 of IDO No. 15, and therefore this DCP is no longer required.

Given the above it is recommended that Council revoke draft DCP No. 53

3. Draft DCP No. 64 - Wedderburn

Draft DCP No 64 was placed on public exhibition from 4 March 1992 to 6 May 1992.

The draft DCP was prepared in conjunction with draft LEP No. 127.

However, a decision was made by the then Minister for Planning not to make the draft LEP No. 27. As such, Council did not formally adopted draft DCP No. 64. As such this draft DCP is out-dated.

Given the above it is recommended that Council revoke draft DCP No. 64.

4. Draft DCP No. 66 - Menangle Park

Draft DCP No. 66 was placed on public exhibition from 20 November 1991 to 11 December 1991.

The draft DCP was prepared in conjunction with draft LEP No. 90 that proposed to rezone the land within Menangle Park village area to Residential 2(d) to enable a minimum subdivision of allotments of 1000sqm.

However, due to State Government concerns regarding air and water quality issues associated with the proposal, a decision was made by the then Minister for Planning not to make the draft LEP. As such, Council did not formally adopt draft DCP No. 66.

Menangle Park is currently subject to a new draft LEP and a draft DCP.

Given the above it is recommended that Council revoke draft DCP No. 66.

5. Draft DCP No. 102 – Non Urban Subdivision and Development Standards

Draft DCP No. 102 was placed on public exhibition from 5 September 2001 to 5 October 2001.

Part 4 *Dwelling houses, Rural Worker's Dwellings, Dual Occupancies and Residential Subdivision* of Volume 1 of Campbelltown (Sustainable City) DCP 2012 supersedes this draft DCP, therefore this draft DCP is no longer required.

It is recommended that Council revoke draft DCP No. 102.

6. Draft DCP No. 106 – Termite Policy

Draft DCP No. 106 was prepared and submitted to Council for consideration on 30 April 1996, where Council resolved to place this DCP on public exhibition and adopt it subject to no submissions received during the public exhibition period.

Termite protection standards are now included under the Building Code of Australia. As such this draft DCP is no longer required.

It is recommended that Council revoke draft DCP No. 106.

7. Draft DCP No. 115 – Energy Smart Home - Land Subdivision

Draft DCP No. 115 was placed on public exhibition in April, May and early June 2000. On 4 July 2000, Council resolved to defer the approval of Draft DCP No. 115 pending the review of the assessment model "Solar Access for Lots".

Solar access development requirements have been included under SCDCP. As such, this draft DCP is no longer required.

It is recommended that Council revoke draft DCP No. 115.

2.3 Proposal for Park Central to become a Suburb

Reporting Officer

Manager Sustainable City and Environment

Attachments

Nil

Purpose

To advise Council of the outcome of the public exhibition for the proposal to create Park Central as a suburb in its own right and recommend the next steps Council should take with regards to this proposal.

History

Council at its meeting on 26 March 2013, Planning and Environment Committee Item 2.1 – Proposal for Park Central to become a suburb, resolved:

1. that Council exhibit and advertise the proposal to create Park Central as a suburb for a period of one month for public comment
2. that Council notify all residents and property owners within the area of the proposed suburb by letter of the proposal
3. that a further report be provided to Council on the outcome of the public exhibition of this proposal.

Report

Outcome of the public exhibition of the proposal

In accordance with Council's resolution, the proposal to create Park Central as a suburb was exhibited from 20 May 2013 at Council's Civic Centre, the HJ Daley Library and on Council's website. Notice of this proposal was also published in the Campbelltown Macarthur Chronicle on 21 May 2013 and in the Campbelltown Macarthur Advertiser on 22 May 2013. A total of 1075 letters were sent to affected residents and property owners notifying them of the proposal. Any submissions were required to be received by 28 June 2013.

Fourteen submissions were received by Council, eight in support and six opposing the proposal.

The submissions received supporting the proposal cited the common usage of the name when identifying the area and also the unique character of the development, making it distinguishable from other parts of the suburb of Campbelltown, as reasons for creating Park Central as a separate suburb.

The submissions received objecting to the proposal predominantly cited the cost and inconvenience that would be incurred by residents in changing numerous contact details. Some residents also stated that the desire to retain the address of Campbelltown was a consideration in moving into the development.

Conclusion

It is recommended that Council does not endorse the proposal to create Park Central as a suburb for the following reasons:

1. it is considered that the submissions received during the period of public exhibition do not indicate widespread community acceptance of this proposal.
2. the proposal does not fully meet the Geographical Names Board's (GNB) criteria to be used when determining whether an area comprises a new suburb. It is considered that the proposed suburb lacks a number of elements usually found in a new, separate community, such as a school or a community centre. It also does not represent a significant change of land use and, given the pedestrian and vehicular links provided, is not sufficiently physically isolated from the surrounding areas to be considered as a separate part of the existing suburb of Campbelltown.
3. approval of this proposal by Council may lead to further requests by residents to have other developer's marketing estate names (such as Macarthur Gardens or Panorama at Glenfield) also created as suburbs in their own right, and the GNB has indicated that it is generally opposed to the break-up of existing suburbs into smaller localities for administrative reasons.

However, it is also accepted that the name Park Central has become associated with this area and is now in common usage. It is therefore recommended that Council submits an application to the GNB to have Park Central recorded in the Geographical Names Register as an urban place rather than a suburb. An urban place is defined by the GNB as 'a place, site or precinct in an urban landscape, the name of which is in current use, but the limits of which have not been defined under the address locality program.' Other examples of urban places currently recorded in the Geographical Names Register are Broadway (part of the suburb of Ultimo), Macdonaldtown (part of the suburb of Newtown) and Dunheved (part of the suburb of St Marys).

This would mean that Park Central would be officially recorded as a geographical name under the provisions of the *Geographical Names Act 1966* and could be used on maps and in other documents. This would aid in the location of this area by the travelling public and also in the delivery of services to the residents. However, the official suburb for this area (that is, the legal name used in the last line of the property address with the postcode) would remain as Campbelltown. This would avoid the inconvenience and expense to residents in having to change their address details, although residents would be able to include Park Central as an additional item in the third from last line of their address if they wished (eg Mr & Mrs Resident, Park Central, 200 Parkside Crescent, Campbelltown NSW 2560).

Officer's Recommendation

1. That Council not endorse the proposal to create Park Central as a suburb.
2. That Council makes an application to the Geographical Names Board of NSW to have the name Park Central recorded as an urban place under the provisions of the *Geographical Names Act 1966*.
3. That Council notify all affected residents and property owners by letter of this resolution.

Committee's Recommendation: (Oates/Kolkman)

That the Officer's Recommendation be adopted.

CARRIED

Council Meeting 10 September 2013 (Greiss/Matheson)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 194

That the Officer's Recommendation be adopted.

2.4 Initial Report By The Office Of The Chief Scientist On The Review Of The Coal Seam Gas Industry In NSW

2.4 Initial Report by the Office of the Chief Scientist on the review of the Coal Seam Gas Industry in NSW

Reporting Officer

Manager Sustainable City and Environment

Attachments

1. Terms of Reference for the Review issued by the NSW Government (contained within this report)
2. Executive Summary of the Initial Report (contained within this report)
3. Recommendations of the Initial Report (contained within this report)
4. Draft letter to the NSW Premier requesting a prompt NSW Government response to the findings and recommendations of the Initial Report (contained within this report)
5. Draft letter to the Office of Chief Scientist expressing support to the Initial Report and seeking further discussions regarding its findings and recommendations (contained within this report)

Purpose

1. To provide Council with a summary of the key issues and recommendations of the Initial Report on the 'Independent Review of Coal Seam Gas Activities in NSW' (the Review) produced by the NSW Chief Scientist and Engineer.
2. To seek Council endorsement of a recommended response to the findings and recommendations of the Initial Report.

History

Council has adopted a strong position on both the Camden Gas Project and issues associated with the coal seam gas industry in general within the Campbelltown LGA in recent years. In this regard, Council at its Ordinary Meeting on 26 February 2013 considered a report (that in part) provided an overview of recent Council initiatives regarding this industry. The report also outlined the package of reforms announced by the NSW Government on 19 February 2013 on the regulation of the coal seam gas industry that included a request for the NSW Office of the Chief Scientist and Engineer (Chief Scientist) to carry out an independent review of all coal seam gas activities in NSW. This report also referred to a resolution of Council at its meeting on 18 December 2012 that 'Council lead, organise, support and promote a No Coal Seam Gas in Macarthur community protest rally'.

2.4 Initial Report By The Office Of The Chief Scientist On The Review Of The Coal Seam Gas Industry In NSW

Council resolved at this meeting:

'That Council's upcoming rally be deferred until the Chief Scientist's and Engineer's Report is published and further information is received in relation to Coal Seam Gas Regulations and what those proposed regulations mean in relation to the Environmental Protection Authority being the lead regulator of environmental and health impacts with responsibility for compliance and enforcement.'

A Planning and Environment Councillors Weekly Memo (dated 2 August 2013) advised that the Initial Report on the Review (the Initial Report) had been publicly released and would be the subject of a detailed report to Council. This report recommends that Council reaffirm its adopted position on both the Camden Gas Project and the coal seam gas industry in general, in response to the findings and recommendations of the Initial Report.

Report

Introduction

The Terms of Reference (ToR) for the Review issued by the NSW Government (presented in attachment 1) requested that the Chief Scientist focus on the impacts of coal seam gas activities on human health and the environment. The Review is comprised of a number of components including a review of existing literature, reports and research, case studies of coal seam gas projects (including the Camden Gas Project), consultation with stakeholders and commissioning of research papers. The Initial Report provides findings on completed components and a description of the status of the uncompleted components.

The Chief Scientist as well as staff members assisting in the Review (the Review Team) met with Council Officers on 1 July 2013 as advised in the presentation provided to Councillors at the briefing session held on 23 July 2013. Officers outlined the position and concerns of Council regarding coal seam gas extraction activities within the Campbelltown LGA at this meeting. A separate subsequent meeting with members of community groups organised by the Office of Scientist was held at Council's Civic Centre. Three on-site inspections of approved coal seam gas projects, including operations of the Camden Gas Project fields with representatives of AGL were carried out by the Review Team.

The Initial Report

The 160 page Initial Report (including Appendices) discusses 11 key issues associated with the coal seam gas industry in NSW. The Initial Report also provides a description of the controversy that has enveloped the coal seam gas industry in NSW in recent years, which it labels as 'the Perfect Storm'. A copy of the Executive Summary is presented in attachment 2, while a full copy of the Initial Report can be viewed on the website of the Chief Scientist at <http://www.chiefscientist.nsw.gov.au/coal-seam-gas-review/initial-report-july-2013>.

2.4 Initial Report By The Office Of The Chief Scientist On The Review Of The Coal Seam Gas Industry In NSW

The Initial Report (in essence), provides a succinct status report on current risks, issues and technology associated with the coal seam gas industry in NSW, from a scientific perspective. The Initial Report advises that subsequent stages of the Review will focus on principles that could underpin coal seam gas exclusion zones, international best practices, and research studies on the management and mitigation of risks associated with coal seam gas extraction activities. The Initial Report includes a number of references to the NSW Government's Strategic Regional Land Use Policy (SRLUP) but does not provide any specific findings on its adequacy as a regulatory environment for the coal seam gas industry in NSW.

a) Summary of key issues discussed in the Initial Report

The key issues considered in the Initial Report which have been previously raised by Council's submissions include land access and property issues, geology and CSG, CSG extraction processes and technologies, water, subsidence, fugitive emissions and air quality, health, safety, cumulative impacts and data. Earthquakes (potentially induced by coal seam gas extraction activities) and work safety issues associated with the coal seam gas industry are also discussed. The Initial Report also summarises a study commissioned by the Chief Scientist to analyse community concerns related to the coal seam gas industry in NSW.

A key theme of the discussion on these issues was the significant deficiencies that exist within the monitoring of the different components of coal seam gas operations and the imperativeness of this data being made publicly available in a suitable format for the community. A further key theme was the level of community distrust that existed regarding the coal seam gas industry overall, and the need for transparency within both the regulation and operation of the industry, to address this community distrust.

b) Summary of key findings and conclusions

The findings of the Initial Report provide an insight into the viewpoint of the Chief Scientist on the risks to the environment and community health from coal seam gas extraction activities as well as the adequacy of current technology, scientific knowledge and regulatory regimes in managing and mitigating these risks. The provision of findings on the adequacy of the AGL fugitive emissions and expanded groundwater program, which was reported to Council at its meeting on 21 May 2013, was not required by the issued ToR for the Review. However, the Initial Report does provide broad comments regarding the required design and scientific base for such programs.

It is appropriate that Council recognise that AGL has initiated activities that are consistent with certain findings of the Chief Scientist's Initial Report such as the commencement of a fugitive emissions monitoring program in the Camden Gas Project Area. However, the findings and conclusions of the Initial Report are noted to be consistent with related issues raised in Council submissions and associated resolutions on the Camden Gas Project and the coal seam gas industry in general. The findings of the Initial Report are therefore considered to have validated a wide range of Council actions and resolutions including those as summarised in Table 1.

2.4 Initial Report By The Office Of The Chief Scientist On The Review Of The Coal Seam Gas Industry In NSW

Table 1: Key findings and Council actions and resolutions validated by these findings

Initial Report Finding	Council action validated by the finding
The controversy surrounding the coal seam gas industry has been primarily fuelled by the failure of industry and government at all levels to adequately address community concerns before proceeding with the development.	Requested the NSW Government consider the issues raised by the community at the forums organised by Council in its deliberations regarding issues associated with the coal seam gas industry that are of relevance to the Campbelltown LGA.
Further research is required to build our understanding of risks to groundwaters associated with coal seam gas activities. Further work to understand health risks associated with these activities is also warranted.	Raised deficiencies in the assessment of potential impacts to groundwaters (based received specialist advice) as well as human health in particular by the Stage 3 Project Application as well as in regard to operations associated with Stage 2 of this Project.
There is a requirement for further research, baseline and ongoing monitoring to understand the level of fugitive methane emissions from the coal seam gas) industry.	Requested the NSW Government to establish an independent Inquiry into fugitive methane emissions from coal seam gas extraction activities.
The NSW Government has significant work to do in getting the policy settings right and building the trust of the public (in both government and industry).	Expressed strong opposition to the NSW Government's expressed view that the Strategic Regional Land Policy provides 'a comprehensive regulation for the coal seam gas industry'.
There is an absence of scientific guidelines for monitoring programs but such programs should be designed to achieve a comprehensive understanding of a groundwater system in a lateral and vertical context.	Requested the adequacy of the scientific base of the AGL expanded groundwater and fugitive methane emissions monitoring programs due to deficiencies in providing a comprehensive understanding of the groundwater system.

The Initial Report broadly concludes that the coal seam gas industry is a new industry that needs cooperation between government and the community to address outstanding areas of scientific uncertainty. The conclusion of the Initial Report is noted to state in this regard 'that the need for scientific and regulatory solutions of a high order to enable coal seam gas activities to achieve high standards of environmental care and human safety cannot be emphasised too strongly'. These conclusions are also considered to validate the actions and resolutions of Council summarised in Table 1.

Council comment:

It is considered the validation of a wide range of Council actions and resolutions by the findings and conclusions of the Initial Report will be of benefit to Council in its representations with the NSW Government, Government Agencies as well as AGL regarding issues associated with coal seam gas activity in the Campbelltown LGA. This benefit is considered to be enhanced as a consequence of the Initial Report being produced by an organisation appointed by the NSW Government to provide policy decisions requiring independent science and engineering input.

2.4 Initial Report By The Office Of The Chief Scientist On The Review Of The Coal Seam Gas Industry In NSW

c) Recommendations of the Initial Report

The stated overall philosophy behind the recommendations of the Initial Report is 'to assist the NSW Government in building trust in the wider community regarding its intention and capacity to oversee the coal seam gas industry'. Within this philosophy, the Initial Report contains one broad recommendation 'that the Government commits to establishing a regime for extraction of coal seam gas that is world class'. The Initial Report also contains four other subsidiary recommendations which have been identified by the Chief Scientist as being of relatively low expense and requiring implementation as a high priority to establish an adequate basis for this recommended regime.

The full recommendations and list of suggested components of the recommended regime as well as the characteristics of a recommended data repository by the Chief Scientist is presented in attachment 3. Officers understand from discussions with a representative of the Chief Scientist that the NSW Government is not legally compelled to provide a response to the Initial Report, however, it is expected that a response will be provided at a timeframe yet to be determined.

Council comment

The recommendations of the Initial Report are broadly consistent with Council's resolutions submissions regarding the Camden Gas Project and the coal seam gas industry in general and should therefore be broadly supported by Council. In addition, it could be inferred from the recommendation of the Initial Report that the Chief Scientist would appear to agree with Council's view that the NSW Government's Strategic Regional Land Use Policy does not provide an adequate scientific based regulation of the coal seam gas industry in NSW.

The suggested components of the regulatory regime (listed in attachment 4) are seen to have merit insofar as achieving an adequate regulatory regime for the coal seam gas industry. However, it is considered that a further meeting with the Office would be of benefit in enabling the specific issues and concerns of Council to be considered in the refinement of the suggested components of the regulatory regime during subsequent stages of the Review.

Such a meeting would also provide a suitable opportunity to discuss the views of the Chief Scientist specifically in regard to the AGL fugitive emissions and expanded groundwater monitoring programs. A representative of the Office has indicated a willingness to attend such a meeting with Council officers.

Recommended Council response to the findings and recommendations of the Initial Report

Council's previously adopted position on the coal seam gas industry is considered to be generally consistent with the findings and recommendations contained in the Chief Scientist's Initial Report. It is therefore recommended that Council reaffirm the following resolutions regarding this industry:

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

'That Council advise the NSW Government that Council continues to have the view that no licences for coal or mining applications be issued until such time as scientific evidence guarantees that such activities do not compromise the environment or health of the community'.

2.4 Initial Report By The Office Of The Chief Scientist On The Review Of The Coal Seam Gas Industry In NSW

It is further recommended that Council reaffirm the resolution made at its 26 February 2013 meeting (stated at the commencement of this report) to defer the holding of a 'No Coal Seam Gas Rally'. This recommended response is in light of the need for additional scientific research to be undertaken regarding aspects of the coal seam gas industry identified by the Initial Report as well as its recommendation that the NSW Government commit to establishing a regulatory regime that is world class.

It is also considered appropriate that Council communicate its support for the Report's findings and recommendations to the NSW Government. A draft letter to the NSW Premier has therefore been prepared (presented in attachment 4) which advises that Council has reaffirmed its position on the coal seam gas industry and requests a prompt response from the NSW Government to the findings and recommendations of the Initial Report.

In addition, a draft letter to the Chief Scientist has also been prepared and is presented in attachment 5. This draft letter expresses support to the findings and recommendations of the Initial Report and seeks further discussion regarding the refinement of suggested components of the recommended regulatory regime for the coal seam gas industry. It also seeks the views of the Chief Scientist on the AGL fugitive emissions and expanded groundwater monitoring programs.

4) Conclusion

The Initial Report produced by the Chief Scientist on the Review of the Coal Seam Gas Industry in NSW provides a succinct overview of current risks and issues associated with the coal seam gas industry as well as current research and technology from a scientific perspective. Subsequent stages of the review will focus on best practice principles and research studies regarding the management and mitigation of risks associated with coal seam gas extraction activities.

The Initial Report contains a number of key findings that are considered to validate issues that have been raised and associated resolutions by Council with regard to the Camden Gas Project, the regulatory regime introduced by the NSW Government for the coal seam gas industry, and the scientific uncertainty regarding potential risks to human health and the environment presented by this industry. It is considered this validation will be of high benefit to Council in its representations with the NSW Government, Government Agencies and AGL regarding issues associated with coal seam gas activity in the Campbelltown LGA. This report recommends that Council reaffirm previous resolutions that define its position regarding the coal seam gas industry as well as its resolution to defer the holding of a 'No Coal Seam Gas Rally' in response to the findings and recommendations of the Initial Report.

The recommendation of the Initial Report, 'that the NSW Government commits to establishing a regime for extraction is world class' should be supported. However, pursuant to the consideration of this report, it is recommended that Council endorse draft correspondence to the Chief Scientist that seeks further discussions regarding the suggested components of the recommended regulatory regime as well as the AGL monitoring programs. This report also recommends that Council endorse further draft correspondence to the NSW Premier that advises Council has reaffirmed its position regarding the coal seam gas industry and requests a prompt response from the NSW Government to the findings and recommendations of the Initial Report.

Officer's Recommendation

1. That Council reaffirm the following previous resolutions in response to the findings and recommendations of the Initial Report produced by the Chief Scientist:

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

‘That Council continues to have the view that no licences for coal or mining applications be issued until such time as scientific evidence guarantees that such activities do not compromise the environment or health of the community’

2. That Council reaffirm its resolution to defer holding a ‘No Coal Seam Gas Rally’ in response to the need for additional scientific research identified by the Initial Report as well as its recommendation that the NSW Government commit to establishing a regulatory regime that is world class.
3. That pursuant to Recommendation 1, Council endorse the attached correspondence to the NSW Premier (presented in attachment 4).
4. Council endorse the attached correspondence to the Chief Scientist (presented in attachment 5).

Committee’s Recommendation: (Rowell/Thompson)

That a decision in this matter be deferred to allow detailed discussion of this issue at a future briefing evening.

CARRIED

Council Meeting 10 September 2013 (Greiss/Matheson)

That the Committee’s Recommendation be adopted.

Council Resolution Minute Number 194

That the Committee’s Recommendation be adopted.

ATTACHMENT 1

APPENDICES

APPENDIX 1 TERMS OF REFERENCE

Review of coal seam gas activities in NSW

At the request of the NSW Government, the NSW Chief Scientist & Engineer will conduct a review of coal seam gas (CSG) related activities in NSW, with a focus on the impacts of these activities on human health and the environment.

The Chief Scientist & Engineer is to:

1. undertake a comprehensive study of industry compliance involving site visits and well inspections. The Chief Scientist's work will be informed by compliance audits undertaken by regulatory officers, such as the Environment Protection Authority and other government agencies
2. identify and assess any gaps in the identification and management of risk arising from coal seam gas exploration, assessment and production, particularly as they relate to human health, the environment and water catchments
3. identify best practice in relation to the management of CSG or similar unconventional gas projects in close proximity to residential properties and urban areas and consider appropriate ways to manage the interface between residences and CSG activity
4. explain how the characteristics of the NSW coal seam gas industry compare with the industry nationally and internationally
5. inspect and monitor current drilling activities including water extraction, hydraulic fracturing and aquifer protection techniques
6. produce a series of information papers on specific elements of CSG operation and impact, to inform policy development and to assist with public understanding. Topics should include:
 - operational processes
 - NSW geology
 - water management
 - horizontal drilling
 - hydraulic fracturing (fracking)
 - fugitive emissions
 - health impacts
 - wells and bores
 - subsidence.

The NSW Chief Scientist & Engineer will provide an initial report to the Premier and the Minister for Resources and Energy on her findings and observations by July 2013.

ATTACHMENT 2

EXECUTIVE SUMMARY

The independent review of coal seam gas (CSG) activities in NSW by the NSW Chief Scientist & Engineer commenced in late February 2013. This is the initial report of the Review, which was requested by July 2013.

Based on consultations and submissions to date, the Review makes a small number of recommendations aimed at improving the information available to the community and assisting the Government to build confidence that it has the intention and capacity to oversee a safe CSG industry.

CSG is a complex and multi-layered issue which has proven divisive chiefly because of the emotive nature of community concerns, the competing interests of the players, and a lack of publicly-available factual information.

The debate has been fuelled by unanswered concerns surrounding landholders' legal rights, land access and use; human health; the environment, particularly relating to impacts on water; engineering and operational processes; and industry regulation and compliance. These issues remain matters of contention.

The challenges faced by government and industry are considerable and a commitment from all parties will be required to improve the existing situation and build trust with the community.

From a technical and scientific standpoint, many challenges and risks associated with CSG are not dissimilar to those encountered in other energy and resource production, and water extraction and treatment.

Some challenges are well defined and can be effectively managed through high standards of engineering and rigorous monitoring and supervision of operations.

Other challenges relating to long-term and cumulative environmental impacts are less obvious and require a commitment to significant and ongoing research, as well as a consequent evolution of engineering practice.

This initial report aims to explore the many issues of community concern – drawing on material learned through listening to stakeholders and applying an evidence-based approach to problems.

Based on the work done to date by the Review, this report recommends the NSW Government commit to adopting a vigilant, transparent and effective regulatory and monitoring system to ensure the highest standards of compliance and performance by the CSG industry.

As a first step, the Government needs to institute a strong and sophisticated policy for data collection and data handling, and establish a whole-of-environment data repository.

The Government should also implement stronger conditions around the training of CSG operators, and champion further research on the unanswered questions around the science of CSG.

There is, however, more work to do.

Based on preliminary investigations, the Review will continue the industry compliance study and the study of best practice in unconventional gas extraction technologies and regulation. It will also commission studies on risk and on exposure pathways for chemicals and contaminants.

In addition, the Review has identified areas around land owner compensation, company insurance and operator penalties which could be strengthened and, as such, has commissioned further legal work in these areas.

The issue of CSG in NSW is a very tough one with many complicated parts. A commitment to sound policy implementation based on highly developed data and further research to fill the knowledge gaps will be essential.

ATTACHMENT 3

RECOMMENDATIONS

Recommendation 1

That the Government commits to establishing a regime for extraction of coal seam gas that is world class. This involves inter alia:

- clear public statements of the rationale/need for coal seam gas extraction (including, for example, within the State planning policies on energy and resources; environment and conservation; infrastructure; hazards; agricultural and rural resources; and development assessment being developed following the 2013 White Paper, a New Planning System for NSW)*
 - insisting on world best practice in all aspects and at all stages (exploration, production, abandonment) of CSG extraction*
 - sending a clear message to industry that: CSG extraction high performance will be mandatory; compliance with legislation will be rigorously enforced; and transgressions will be punished with published high fines and revocation of licences as appropriate*
 - treating coal seam gas extraction in NSW as a complex system with appropriate mechanisms to estimate risk both in toto and locally on a dynamic basis*
 - having a clear, easy-to-navigate legislative, compliance and monitoring framework that evolves over time to incorporate new engineering and science developments*
 - high levels of transparency*
 - having a fair system for managing land access and compensation for those whose land is affected by coal seam gas activities*
 - maintaining reliable, complete, current and authoritative data on all aspects of CSG and having this data held in a central, comprehensive, spatially-enabled, open, whole-of-environment data repository. All data collected by the private and public sectors relevant to CSG extraction, coal, other mining, and water would be sent directly to the repository. Such a repository supports transparency and enables rapid compliance checking, fast response to alarms and accidents, increased understanding of cumulative impacts, and research on complex issues*
 - developing within government a system to assess cumulative impacts of multiple industries operating in sensitive environments with formal assessments being updated annually with any major problems identified being addressed promptly*
 - the Ministry of Health continuing to monitor any unusual symptoms reported in areas where coal seam gas is being extracted and looking for correlations with changing environmental factors*
 - committing to high levels of monitoring with an understanding that the amount and sophistication of monitoring is likely to increase rather than decrease over time as sensors become even cheaper and communications and data technologies become even better*
 - adjusting on a regular basis industry levies, bonds and insurance to make sure all financial costs of overseeing the State's coal seam gas system and maintaining infrastructure are covered, as are all contingencies and making sure industry understands that fees can be adjusted at annual notice*
 - ensuring all coal seam gas companies have structures in place to ensure full legislative compliance not only by themselves but also by any subcontractors they retain*
 - ensuring all those working in the coal seam gas industries have appropriate training and certification*
-

2.4 Initial Report By The Office Of The Chief Scientist On The Review Of The Coal Seam Gas Industry In NSW

- *ensuring those working in the public sector on CSG legislation and compliance are provided with a sound compliance and monitoring framework within which to operate, and given appropriate on-the-job training to ensure up-to-date knowledge of this fast-moving industry and of latest developments in monitoring and compliance worldwide*
- *commitment to ramping up research on difficult issues such as continuing to develop comprehensive and detailed models of the State's underground water and how to build robust engineering approaches to assessing cumulative impact of multiple industries affecting underground resources in a dynamic way*
- *working closely and continuously with the community, industry, industry bodies, and research organisations to keep the coal seam gas system in NSW up to world standard.*

Recommendation 2

That Government commission the design and establishment of a whole-of-environment data repository for all State environment data including all data collected according to legislative and regulatory requirements associated with water management, gas extraction, mining, manufacturing, and chemical processing activities. This repository would, as a minimum, have the following characteristics:

- *have excellent curatorial systems*
- *be designed and managed by data professionals to highest world quality data-handling standards*
- *be open except for limited exceptions where the data is commercial-in-confidence and to which access is restricted to varying degrees*
- *be not only accessible by all under open-data conventions but also able to accept citizen data input*
- *be able to be searched in real time*
- *be spatially enabled*
- *hold all data electronically*
- *hold data of many diverse formats including text, graphics, sound, photographic, video, satellite, mapping, electronic monitoring data, etc.*
- *be the repository of all research results pertaining to environmental matters in NSW along with full details of the related experimental design and any resulting scientific publications and comments*
- *be the repository of historical data with appropriate metadata*
- *for all bodies governed by relevant legislation, generate an automatic deposit schedule, and notify the regulator and the organisation involved automatically of overdue deposits.*

That any legislation amendments needed to direct all environment data to the Data Repository are undertaken.

Recommendation 3

That a pre-major-CSG whole-of-State subsidence baseline be calculated using appropriate remote sensing data going back, say, 15 years. And that, from 2013 onwards, an annual whole-of-State subsidence map be produced so that the State's patterns can be traced for the purpose of understanding and addressing any significant cumulative subsidence.

Recommendation 4

That all coal seam gas industry personnel including subcontractors working in operational roles be subject to mandatory training and certification requirements and that these mandatory training and certification requirements be included in the codes of practice relevant to CSG.

Recommendation 5

That the Government continue and extend its role as a champion of research relevant to the hard problems related to under-earth especially the development of sophisticated predictive underground models and a formalisation of engineering processes for cumulative impact assessment. The Government should not only lead by example in encouraging and funding such research to be undertaken and discussed in NSW, but should exhort other governments and organisations to take a related approach through mechanisms such as COAG and international partnerships.

ATTACHMENT 4



22 August 2013

The Hon. B O'Farrell MP
Premier of NSW
Level 40 Governor Macquarie Tower
1 Farrer Place
SYDNEY NSW 2001

Dear Mr O'Farrell

Independent Review of Coal Seam Gas Activities in NSW by the NSW Office of the Chief Scientist and Engineer

At its meeting on 10 September 2013 Council considered a report on the Initial Report of the Independent Review of Coal Seam Gas Activities in NSW by the NSW Office of the Chief Scientist and Engineer. The Initial Report is viewed by Council as validating a wide range of Council's previously held concerns and actions in relation to the Camden Gas Project and the coal seam gas industry in NSW. A summary of these actions is provided in Table 1 (see attached) for your information.

In response to the findings and recommendations of the Initial Report Council has resolved to reaffirm its previous resolutions in response to the findings and recommendations of the Initial Report produced by the Chief Scientist:

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

'That Council continues to have the view that no licences for coal or mining applications be issued until such time as scientific evidence guarantees that such activities do not compromise the environment or health of the community'

Council is also seeking a response from the NSW Government to the findings and recommendations of the Initial Report.

If you require any further information please contact me on (02) 46 454 659.

Yours sincerely

Paul Tosi
General Manager

2.4 Initial Report By The Office Of The Chief Scientist On The Review Of The Coal Seam Gas Industry In NSW

Table 1: Initial Report findings corresponding to validated Council actions

Initial Report finding	Council action validated by the finding	Source of Council action
Further research is required to build our understanding of risks to groundwaters associated with coal seam gas activities. Further work to understand health risks associated with these activities is also warranted.	Raised deficiencies in the assessment of potential impacts to groundwaters (based on specialist advice) as well as human health in regard to the Camden Gas Project.	Council submission on the Camden Gas Project Stage 3 Application (dated 20 December 2010) and Camden Gas Response to Submissions Report (dated 16 January 2013).
There is a requirement for further research, baseline and ongoing monitoring to understand the level of fugitive methane emissions from the coal seam gas industry.	Requested the NSW Government establish an independent inquiry into fugitive methane emissions from coal seam gas extraction activities.	Resolution at a Council meeting of 18 December 2012.
The NSW Government has significant work to do in getting the policy settings right and building the trust of the public (in both government and industry).	Expressed strong opposition to the NSW Government's expressed view that the Strategic Regional Land Policy provides 'a comprehensive regulation for the coal seam gas industry'.	Resolution at a Council meeting of 26 February 2013.
There is an absence of scientific guidelines for monitoring programs but such programs should be designed to achieve a comprehensive understanding of a groundwater system in a lateral and vertical context.	Requested the adequacy of the scientific basis of the AGL expanded groundwater and fugitive methane emissions monitoring programs be investigated due to a failure to provide a comprehensive understanding of the groundwater system.	Resolution at a Council meeting of 21 May 2013.
The controversy surrounding the coal seam gas industry has been primarily fuelled by the failure of industry and government at all levels to adequately address community concerns before proceeding with the development.	Requested the NSW Government consider the issues raised by the community at the information forums coordinated by Council in its deliberations regarding issues associated with the coal seam gas industry.	Resolution at a Council meeting of 13 August 2013.

ATTACHMENT 5



22 August 2013

Ms M O'Kane
The Chief Scientist
The NSW Office of the Chief Scientist and Engineer
GPO Box 5477
SYDNEY NSW 2001

Dear Ms O'Kane

Independent Review of Coal Seam Gas Activities in NSW

I am writing to you with regard to the public release of the Initial Report on the Independent Review of Coal Seam Gas Activities in NSW. Council would like to express its appreciation for the opportunity to make comment on the Initial Report and the consultation conducted by representatives of the NSW Office of the Chief Scientist and Engineer (the Office) with Council staff at a meeting on 1 July 2013.

The Initial Report was the subject of a detailed report to Council at its meeting on 10 September 2013. The Council report broadly supported the findings and recommendations of the Initial Report. However Council continues to have concerns regarding regulatory and monitoring programs associated with the industry. Council is therefore seeking a meeting with representatives of the Office to further discuss:

- the refinement of the regulatory regime recommended in the Initial Report to address the specific issues and concerns of Council
- the adequacy of the scientific basis of the AGL fugitive methane emissions and expanded groundwater monitoring program, that was the subject of Council correspondence to the Office (dated 28 May 2013).

It would be appreciated if a representative of the Office could contact Council's Senior Environmental Officer, David Henry, on (02) 4645 4214 to discuss the proposed meeting.

Yours sincerely

Jeff Lawrence
Director Planning and Environment

2.5 Draft State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) Amendment (Resource Significance) 2013

Reporting Officer

Manager Sustainable City and Environment

Attachments

1. Location map of existing and potential future mining activity in the Campbelltown Local Government Area (distributed under separate cover - to view a copy of this attachment, contact Council's Corporate Support Coordinator on 4645 4405)
2. Draft submission to the NSW Department of Planning and Infrastructure (contained within this report)

Purpose

1. To inform Council on proposed amendments to the State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) Amendment (Resource Significance) 2013.
2. To seek Council's endorsement of a draft submission to the NSW Department of Planning and Infrastructure (DPI) on the proposed amendment.

History

The NSW Department of Planning and Infrastructure (DPI) have recently prepared a proposed amendment to the State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) (SEPP amendment) that applies to coal and mineral mining activities in NSW. The SEPP amendment has relevance to aspects of the Bulli Seam Project, which occupies portions of the southern section of the Campbelltown Local Government Area (LGA) and involves the underground extraction of coal. Council should note that the SEPP amendment does not apply to coal seam gas extraction activities or other extraction activities such as sand extraction.

The SEPP amendment only applies to new mining applications or applications lodged at and after the time of its commencement. Consequently, it does not apply to the Bulli Seam Project Area, as approved in December 2011 (shown as Area A on Map 1, attachment 1). The amendment does however have relevance to any future application lodged in the area removed from the initial project application (shown as Area B on Map 1) by the proponent in December 2011. This is considered to be a possibility given the previous comments made by the proponent that indicated an intention to carry out further environmental assessments within this area, with a view to possibly lodging a future application for mining. Council should note that mining is not permitted in the Dharawal National Park, but is permitted in the smaller Dharawal State Conservation Area (both of which are shown on Map 1).

Report

The NSW DPI has placed the proposed SEPP amendment on public exhibition until 12 August 2013. A review by Council staff identified a number of issues of concern to Council that warranted the lodgement of a submission. Consequently, a draft submission was prepared and lodged with the Department, which is provided in attachment 2.

Following a request by staff, the DPI granted Council an extension to enable the matter to be considered by Council at its meeting on 10 September 2013. However, as a condition of this extension, Council was required to submit the draft submission to the DPI prior to the closing date for submissions.

1) Features of the SEPP amendment

The major features of the draft SEPP amendment placed on public exhibition are:

- the proposed inclusion of 'promoting the development of significant mineral resources' as an additional overall aim for the Mining SEPP
- a requirement for consent authorities to give primary consideration to the economic benefits of a resource when assessing a proposed mining development
- proposed development standards (standards) to establish criteria for consent authorities to consider when assessing a proposed mining development
- a requirement that consent authorities not be able to refuse consent to a mining development in the circumstances where a development standard is satisfied.

2) Implications of the SEPP amendment and recommended Council response

i) Assessment of the significance of the coal resource

The proposed SEPP amendment requires that 'the significance of the resource is to be the consent authority's principal consideration when considering a proposed mining development.' There are concerns that the introduction of this proposed requirement may result in the approval of mining developments (with potentially unmitigated environmental impacts) of high economic significance. It is therefore recommended that Council advise the DPI that consent authorities must be able to consider the economic significance of the coal resource in equal importance to the assessment of all other potential impacts of a proposed mining development.

ii) Proposed development standards

a) General comments

The Frequently Asked Questions, Planning Changes for the Resources Industry Guide (the Guide) states development standards are being introduced to 'provide greater certainty for proponents and to define criteria for potential environmental and amenity impacts for mining proposals that are deemed to be acceptable' (by the NSW Government). The proposed standards of relevance to operations associated with the Bulli Seam Project are 'air quality emissions' and 'aquifer interference'.

The introduction of the standards is recognised as having some potential benefits in requiring that proponents of mining developments must demonstrate compliance with certain standards. There are concerns however, that the proposed requirement for consent authorities 'not to refuse consent to the development on the specific grounds to which the standard relates' has some potential adverse implications for the environmental assessment of developments that satisfy one or more standard. It is considered that such a scenario (of relevance to the Bulli Seam Project) may possibly result in a consent authority being unable to refuse an application with deficiencies in the assessment of potential impacts of mining operations on watercourses as a result of compliance with the groundwater standard. This would not be appropriate and requires clarification.

Recommended Council response

It is recommended that the DPI be requested to provide clarification to Council that the determination of an application's compliance with any standard will only occur subsequent to the public exhibition of the Environmental Assessment and review by relevant government agencies. It is also recommended that Council request the DPI to amend the SEPP amendment to address the following items and provide a response to Council prior to its finalisation:

- the reasoning behind the selection of standards at the expense of the other potential impacts of mining developments, such as impacts on biodiversity
 - the policy framework underpinning the SEPP amendment including the relationship with the NSW Government's Strategic Regional Land Use Policy
 - intended procedures to be adopted to avoid scenarios where consent authorities are unable to refuse approval of a proposed development containing deficiencies in the environmental assessment as a result of one or more standards being satisfied
 - the involvement of government agencies in the determination of a proposed development's compliance with any standard.
- b) Comments on specific standards of relevance to the Bulli Seam Project
- Particulate matter

This proposed standard has relevance to the Bulli Seam Project due to particulate matter emissions that can occur from deposited coal wash waste. The standard is noted to be defined by a level of larger particulate size (PM 10) emissions experienced by residential dwellings in proximity to mining developments. However, a wide range of health experts, including the Doctors for the Environment have advised that the smaller size particulate matter (PM 2.5) has significantly higher potential health impacts. Consequently, it is recommended that Council request the standard be based on this particulate matter size (PM 2.5) to achieve consistency with this specialist advice or otherwise the DPI be called on to demonstrate that the compliance with the exhibited standard will not under any circumstance compromise community health.

- Aquifer interference

The potential impacts on groundwater aquifers and interconnecting surface waters (watercourses) associated with underground mining operations were key components of Council's submissions on both the Bulli Seam Project and Aquifer Interference Policy (AIP) and are highly complex. Consequently, it is considered that the development of a standard that adequately applies to all proposed mining developments in NSW (one size fits all) is extremely difficult, if not impossible. Therefore it is preferred that a standard should not be proposed by the SEPP amendment and that the assessment and review of groundwater related impacts should be restricted to a merit process for individual developments.

However, and despite Council's concern, it is likely that a standard based on the requirements of the AIP will be included in the finalised SEPP. Council should note however, that these requirements contain a number of shortcomings in ensuring that an adequate assessment of groundwater related impacts by proposed underground mining developments (such as the Bulli Seam Project) is undertaken. Consequently, there are concerns that proponents of underground mining developments will not be required to provide an adequate and comprehensive assessment of potential groundwater related impacts to satisfy the standard (as proposed). It is therefore considered warranted that the standard be amended in light of the shortcomings identified in the AIP by Council.

Recommended Council response

It is recommended that Council request that consent authorities be permitted to refuse consent for a proposed mining development on aquifer related grounds until the following (as a minimum) is demonstrated:

- mining activities will not occur within 200 metres (laterally) of a watercourse defined under the *Water Management Act 2000*
 - the assessment of potential impacts on groundwaters and interconnecting surface waters associated with the proposal is to the satisfaction of the Commonwealth Independent Expert Scientific Committee and the Office of Chief Scientist and Engineer.
- iii) Requirements for consent authorities to consult with the NSW Office of Environment and Heritage

The SEPP amendment proposes an additional requirement for consent authorities 'to consider the adequacies of any biodiversity certification issued by the NSW Office of Environment and Heritage (OEH) in offsetting or mitigating the biodiversity impacts of a mining proposal'. This proposal however only requires consent authorities to consult with the OEH in relation to those mining applications that have received certification from the OEH. It is therefore recommended that Council request that the DPI require consent authorities to review the adequacy of the assessment of biodiversity impacts of all proposed mining developments in consultation with the OEH.

3) Conclusion

The proposed SEPP amendment has been identified as having relevance to potential future adverse implications relating to a future Bulli Seam Project within the Campbelltown LGA. This warrants the preparation and lodgement of a submission by Council. The draft submission attached to this report expresses strong opposition to the statement in the draft SEPP amendment that consent authorities will be required to give principal consideration to the economic value of mining applications that may prevent adequate assessment or the imposition of consent conditions to deal with related impacts on the environment and the community.

The introduction of the proposed development standards have some potential benefits in requiring that proponents of mining developments demonstrate compliance with certain standards. However, the attached draft submission outlines a range of concerns and requests clarification. In addition, the attached submission has outlined significant deficiencies in the development standard regarding aquifer interference (that is of most relevance to the Bulli Seam Project).

Officer's Recommendation

That Council endorse the attached submission to the NSW Department of Planning and Infrastructure concerning the draft State Environmental Planning Policy (Mining, Petroleum, Production and Extractive Industries) Amendment (Resource Significance) 2013.

Committee's Recommendation: (Kolkman/Matheson)

That Council endorse the attached submission to the NSW Department of Planning and Infrastructure concerning the draft State Environmental Planning Policy (Mining, Petroleum, Production and Extractive Industries) Amendment (Resource Significance) 2013 subject to the submission being amended to include the following sentence at the conclusion of point 2 of the submission:

Council is of the view that the welfare of the communities and the people who make them should form a core principle in determining applications.

CARRIED

Council Meeting 10 September 2013 (Greiss/Matheson)

That the Committee's Recommendation be adopted.

Council Resolution Minute Number 194

That the Committee's Recommendation be adopted.

ATTACHMENT 2



20 August 2013

The Director
Mining and Development
NSW Department of Planning and Infrastructure
GPO Box 39
SYDNEY NSW 2001

Dear Sir/Madam

State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) Amendment (Resource Significance) 2013

On behalf of Council, I would like to thank you for the opportunity to comment on the above SEPP Amendment through the public exhibition process. Council would also like to express its appreciation for the extension provided beyond the closing date for submissions to allow Council to consider and endorse its submission at its meeting on 10 September 2013.

The broad purpose of the SEPP Amendment to ensure that mineral resources which are demonstrated to be significant to the State are given greater consideration by consent authorities when considering mining applications has been noted. However, a review of the document has identified potential adverse implications for the assessment and regulation of future coal mining activity that could potentially occur within the Campbelltown Local Government Area.

Accordingly please find attached a submission prepared by Council staff for your records. This submission is requested to be viewed as a draft as it has not been endorsed by Council due to reporting deadlines preventing its consideration by Council. It is anticipated that Council's final submission will be forwarded following its endorsement at the aforementioned meeting.

If you require any further information please contact Council's Senior Environmental Officer (Environment Protection and Management), David Henry, on (02) 4645 4214.

Yours sincerely

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

Jeff Lawrence
Director Planning and Environment

Draft submission on the State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) Amendment (Resource Significance) 2013

1) Background information

The Bulli Seam Project Area lies (in part) within the Campbelltown Local Government Area (LGA). Council opposed this application on a number of grounds including inadequate assessment of potential impacts on water resources potentially attributable to mining operations. The proponent (BHP) amended the initial project application in October 2010 by deleting most of the upper Georges River Catchment Area from the project area (shown as Area A on Map 1; Attachment 1) following the identification of significant deficiencies in the application by a Planning Assessment Commission.

The proposed State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) Amendment (Resource Significance) 2013 (SEPP Amendment) is recognised as not applying to the project area that was approved in December 2011 (shown as Area B on Map 1; Attachment 1). However, the proponent was noted to indicate an intention to lodge a future application to carry out mining in the area removed from the initial application following further detailed environmental assessment. Consequently, the SEPP Amendment is viewed as having relevance to the potential future application to carry out longwall mining operations in this area. Any new application must be required to be subject to the provisions of the SEPP Amendment.

The proposed SEPP Amendment is also noted to have a level of relevance to the NSW Government's Strategic Regional Land Use Policy (SRLUP) and associated documents such as the Aquifer Interference Policy (AIP). Council has previously lodged submissions that viewed the preparation of these documents as positive initiatives but identified a range of deficiencies in addressing issues raised regarding the Bulli Seam Project (as well as the Camden Gas Project). The Department is requested to take these submissions into account whilst further considering the SEPP Amendment.

2) Purpose of the SEPP Amendment

The **Frequently Asked Questions, Planning Changes for the Resources Industry Guide (the Guide)** is noted to state the purpose of the proposed SEPP Amendment is to require *"the economic significance of the coal resource to the State of NSW be considered as an important, but not the only factor in the decision-making process"*. However, there is some degree of contradiction between this statement and the SEPP Amendment which states that the *"significance of the resource will be the consent authority's principal consideration when determining a mining application"*.

Council would be opposed to the economic significance and value of a coal or metalliferous resource being given principal consideration compared to the assessment of the range of potential impacts associated with mining activities, on the environment and the community. In this regard, it is considered that the introduction of this proposed requirement may result in the approval of mining developments (with potentially unmitigated environmental impacts).

Council requests that the document be amended to require consent authorities to consider the significance of the resource in equal importance to the assessment of other impacts associated with mining applications.

3) Non-discretionary development standards for mining

The Guide states development standards are being introduced to "*provide greater certainty for proponents*" and to "*define criteria relating to potential environmental and amenity impacts for mining proposals that are deemed to be acceptable*". The introduction of these standards is recognised as having some potential benefits in establishing minimum criteria for certain potential impacts of mining applications. However, Council has some concerns as set out below:

a) *Process for assessing project applications by consent authorities*

The Guide is noted to state that "*where a proposed mining development satisfies a defined development standard, the consent authority must not refuse consent to the development on the specific grounds to which the standard relates*". There are concerns that this proposed requirement may potentially have adverse implications for the environmental assessment of proposed mining developments that satisfy one or more standards. It is considered that such a scenario of relevance to the Bulli Seam Project may possibly result in a consent authority being unable to refuse an application with deficiencies in the assessment of potential impacts of mining operations on the condition of watercourses as a result of compliance with the groundwater standard, (as proposed), being satisfied. **The DP&I is requested to outline intended procedures that would prevent such a scenario from occurring following the introduction of the proposed SEPP Amendment.**

In a related matter, there is considered to be an absence of description regarding the involvement of Government Agencies in the determination of a proposed development's compliance with any standard. **The DP&I is requested to advise whether consent authorities will be required to refer applications to Government Agencies as part of the assessment process.**

b) *Scope of the standards*

The proposed standards are noted to be largely related to potential amenity impacts associated with open cut mining operations. In this regard, Council is of the view that the standards should address all key issues associated with both longwall and open cut operations to achieve their stated purpose. **The DPI is requested to provide Council with the reasoning behind the selected standards and its view on their considered adequacy in achieving their stated purpose of defining criteria relating to potential environmental and amenity impacts for longwall mining operations.**

c) *Timeframe for the assessment of compliance with the development standards*

It is considered likely that some proponents may seek to demonstrate compliance with the development standards at the early stages of the application process to minimise the required level of environmental assessment. In this regard, there is considered potential for the proposed SEPP Amendment to adversely affect the adequacy of collected baseline data and subsequent

Environmental Assessment associated with future mining related applications. **The DPI is requested to provide confirmation to Council that the determination of an application's compliance with any development standard will only occur subsequent to the public exhibition of the Environmental Assessment and review by relevant Government Agencies.**

d) Relationship of the development standards to the Strategic Regional Land Use Policy

The Guide is noted to state that "*the development standards are consistent with longstanding policies and guidelines developed by the NSW Government for these purposes*". However, the Guide does not state which Policies and Guidelines the standards are consistent with and the nature of this consistency. The NSW Government's Strategic Regional Land Use Policy (SRLUP) is assumed to be the policy framework underlying the proposed SEPP Amendment. **Council requests the amendment of the Guide to address this uncertainty by outlining the specific policy framework underpinning the SEPP Amendment including the relationship with the NSW Government's SRLUP.**

A summary of Council's previously raised concerns with the SRLUP, the associated Aquifer Interference Policy (AIP) and Gateway Process as well as relevant Council resolutions is presented in Table 1 (Attachment 2). **Council requests that these issues be considered by the DPI during the finalisation of the SEPP Amendment.** A copy of the report considered by Council regarding the finalised SRLUP is presented in Attachment 3 for assistance in this regard.

e) Comments in regard to specific development standards

The following provides comments and requested amendments to the proposed SEPP Amendment in relation to the non-discretionary standards that are of specific relevance to longwall mining operations. In this regard, it is noted that the majority of the standards are specifically related to open cut coal mining operations.

(i) Cumulative air quality level

This development standard is recognised as being largely directed at 'particulate matter' generated from open cut coal mining operations. However, this standard also has potential relevance to future applications with the Bulli Seam Project given that particulate matter emissions can occur from coal wash waste generated from longwall mining operations.

The proposed SEPP Amendment is noted to include a standard for the consent authority to consider when approving mining applications in relation to PM10. However, a wide range of studies produced by experts in this field (such as the Doctors for the Environment) have all advised that the finer particles (PM 2.5) have greater potential health impacts. **Consequently, it is requested that the development standard be replaced with an appropriate standard for PM2.5, to achieve consistency with this specialist advice. Alternatively, the DP&I is requested to demonstrate that compliance of a proposed development with the exhibited standard will not under any circumstance compromise community health.**

(ii) Aquifer interference

As the DP&I would appreciate, the interaction of mining operations with groundwater sources (and interconnecting surface waters) is an extremely complex issue. This complexity was illustrated by the detailed analysis carried out by the Planning Assessment Commission as part of its assessment of the Bulli Seam Project. The compilation of a standard that would adequately encapsulate this complexity would therefore be extremely difficult, if not impossible. Consequently, it is considered that provisions that may prevent a consent authority from refusing approval on matters related to groundwater impacts associated with underground mining operations should not be proposed by the SEPP Amendment.

It is recognised however that aquifer interference is a key issue for consideration by the consent authority and that a development standard regarding this issue will most likely be included in the finalised SEPP Amendment. Consequently, comments that recognise the requirements of the AIP as the basis for the proposed development are provided in Table 2 (Attachment 4) for the information of the DP&I. The comments provided in this Table highlight the considered unsuitability of the development standard for aquifer interference in light the shortcomings identified in the AIP that are detailed in Table 2. Consequently, the SEPP Amendment must permit consent authorities to refuse consent for a mining application on groundwater related grounds until as a minimum; the following has been adequately demonstrated by each proponent:

- *Mining activity will not occur within 200 metres laterally of a watercourse defined under the Water Management Act 2000 and*
- *The assessment of potential impacts on groundwater and interconnecting surface waters associated with the proposal is to the satisfaction of the Commonwealth Independent Expert Scientific Committee (as well as the Office of Chief Scientist)*

The above recommendations are consistent with Council's submission on the Bulli Seam Project and the report produced by the PAC on this project. **Council requests that the SEPP be amended to incorporate the above requirements.**

4) Consultation with the NSW Office of Environment and Heritage

The Guide is noted to state that the proposed SEPP Amendment "*elevates the importance of advice received from the NSW Office of Environment and Heritage (OEH)*". However, there is a discrepancy between this statement and the SEPP Amendment, which only requires "*that a consent authority consider any certification from the OEH*". In this regard, Council would have strong concerns that the consent authority would only be required to consult with the OEH in relation to those applications that have received certification given that the requirements of the *Threatened Species Conservation Act 1995* do not apply to such applications.

It is assumed that the consent authority currently considers advice from the OEH in relation to biodiversity matters when considering mining applications. **However, it is requested that the SEPP Amendment require consent authorities to review the adequacy of the assessment of potential biodiversity impacts of all proposed mining developments in consultation with the OEH rather than those that have received certification, as appears to be proposed.**

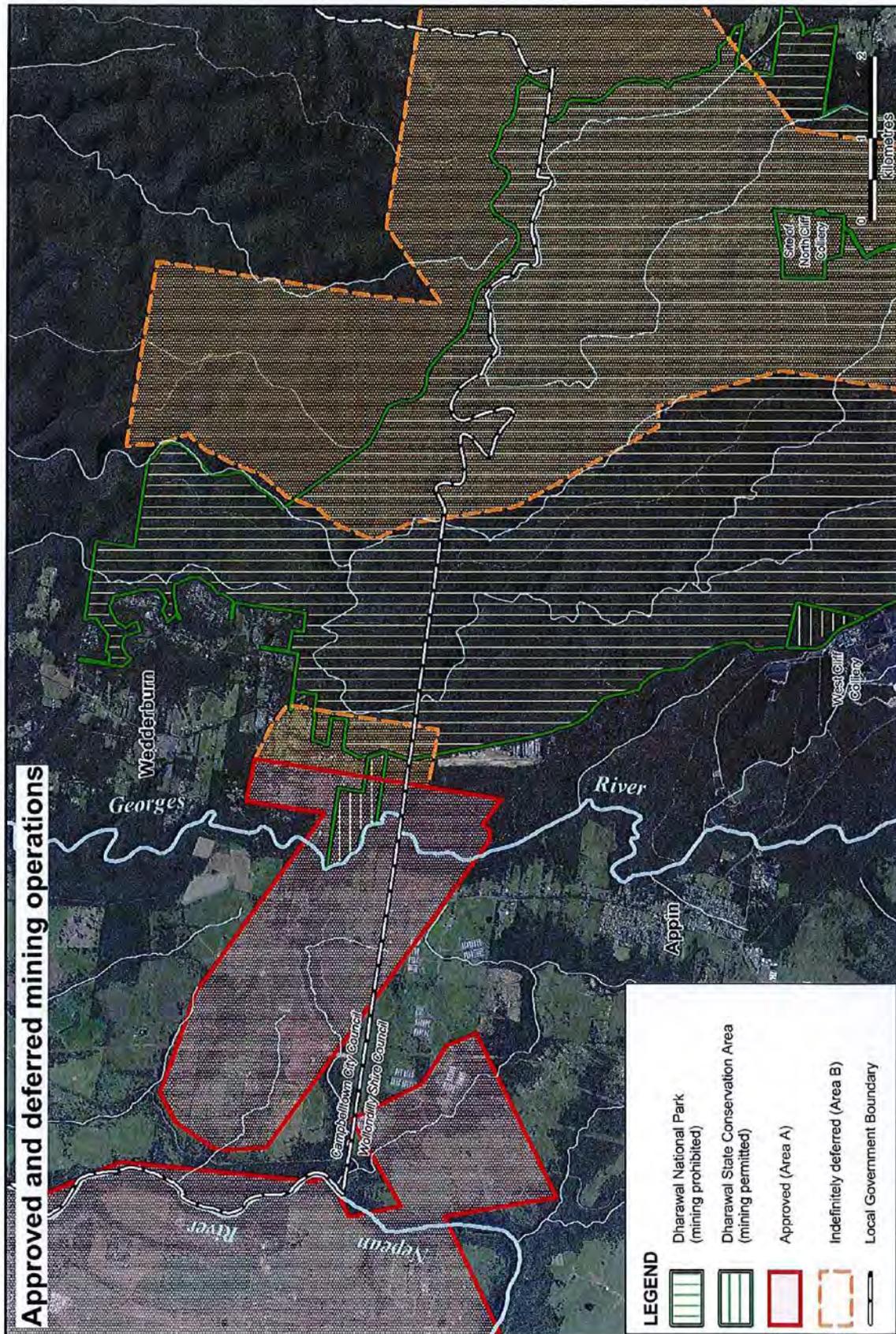
5) Conclusion

The SEPP Amendment has been identified as having relevance relating to a possible future Bulli Seam Project within the Campbelltown LGA. The stated purpose in introducing the SEPP Amendment to ensure that the economic significance of mineral resources are given greater consideration by consent authorities when considering the assessment of mining development applications has been noted by Council. However, this submission expresses opposition to the statement in the SEPP Amendment that consent authorities will be required to give principal consideration to the economic value of mining applications in any application assessment.

This submission has also outlined concerns that the introduction of the proposed standards may possibly prevent a consent authority from refusing consent for the development on the specific grounds to which the standard relates. These concerns include amending the document to allow for a consent authority to continue to be able to refuse a development solely on other environmental or social grounds and clarification of procedures by which a project can be refused notwithstanding a certain standard is satisfied.

In addition, the submission has outlined significant deficiencies in the development standard regarding aquifer interference which is of most relevance to the Bulli Seam Project. Council considers this Policy has not adequately addressed its concerns regarding groundwater related impacts associated with the Bulli Seam Project. Consequently, this submission requests that consent authorities must be permitted to refuse consent for a proposed mining development on aquifer related grounds until standards relating to potential impacts on both groundwaters and interconnecting surface waters are satisfied.

2.5 Draft State Environmental Planning Policy (Mining, Petroleum Production And Extractive Industries) Amendment (Resource Significance) 2013



ATTACHMENT 2

Table 1: Relevant Council resolutions to the Bulli Seam Project and Strategic Regional Land Use Plans

Project or Policy	Council resolutions	Topic of report considered by Council	Date of resolution
Bulli Seam Project	<p>That Council object to the issuing of a project determination by the Minister for Planning based on the reasons outlined in this report and attached submissions and in particular the lack of detailed assessment regarding potential impacts of the development on the section of the Wedderburn district; insufficient assessment of potential conflicts with future urban expansion in the Macarthur area; the risks associated with an up to 30 year project approval; and potential environmental impacts including risks to the condition of waterways.</p>	<p>Environmental Assessment associated with the Bulli Seam Project</p>	<p>16 December 2009</p>
Strategic Regional Land Use Plans	<p>That Council write to the Commonwealth Minister for the Environment requesting that the Interim Independent Expert Scientific Committee identify the Bulli Seam Project as a priority mining project for investigation and that the project be commissioned by the Committee (when established) to investigate the impacts of the approved development on water resources.</p> <p>That Council send correspondence to the Department of Planning and Infrastructure requesting that:</p> <ul style="list-style-type: none"> a. Strategic Regional Land Use Plan be developed to apply to all Local Government Areas within the southern coalfields. b. interim measures for resolving conflicts between land use and mining operations be established and enforced until such time as a Strategic Regional Land Use Plan is developed and implemented for the area. 	<p>Approval of the project with amended project area</p>	<p>13 March 2012</p>
		<p>Strategic Regional Land Use Plan for the Southern Highlands</p>	<p>31 July 2012</p>

2.5 Draft State Environmental Planning Policy (Mining, Petroleum Production And Extractive Industries) Amendment (Resource Significance) 2013

Project or Policy	Council resolutions	Topic of report considered by Council	Date of resolution
Aquifer Interference Policy	<p>That Council write to the Minister for Planning and Infrastructure and strongly request that all State Significant Developments (including those not yet to be determined) be subject to the full requirements of the Aquifer Interference Policy.</p>	Release of the draft AIP	8 May 2012
	<p>That as a matter of urgency Council send correspondence to the New South Wales Office of Water that:</p> <ul style="list-style-type: none"> a. reiterates its previous request that the full requirements of the Aquifer Interference Policy (and associated Gateway Process) apply to all proposed and existing mining related projects. b. expresses concern and disappointment that the finalised Aquifer Interference Policy has not specifically considered the issue of aquifer interference associated with longwall mining operations. c. requests clarification in regard to the application of the Aquifer Interference Policy to larger scale development and the role local government will have in the administration of this matter. d. requests clarification on the application of the finalised Aquifer Interference Policy to coal seam gas and mining exploration activities. e. requests a meeting with Council officers to discuss deficiencies of the finalised Aquifer Interference Policy 	Finalised document that was expanded to apply Statewide compared to the initial document which only applied to areas with completed SR Plans	20 November 2012.

ATTACHMENT 4

TABLE 2

Deficiencies in the proposed development standard regarding aquifer interference

Issue or Concern	Comment
<p>The proposed development standard is directly linked to the requirements of the AIP related to the demonstration of minimal impact to aquifers by proponents.</p>	<p>The principle of linking the development standard to requirements of the AIP is supported. However, Council has raised a number of deficiencies of the requirements of the AIP in regard to issues associated with longwall mining projects. .</p>
<p>The wording of the applicable AIP requirement (1c) linked to the SEPP Amendment infers that the consent authority will not be able to refuse consent if a mining activity is within close proximity (laterally and vertically) to '<i>reliable water supplies</i>' defined by SR Plans.</p>	<p>Council has been unable to obtain any information from the DP&I regarding the status or application of the Southern Highlands SR Plan to the Campbelltown LGA. Consequently, it can be inferred that the proposed development standard would not apply to mining projects within this region until such time as the '<i>reliable water supply</i>' are defined by either this SR Plan or by other means.</p>
<p>The applicable AIP requirement for proponents to demonstrate minimal harm is noted to be largely geographically rather than scientifically based (i.e. within 200 metres of a watercourse). In addition, the additional requirements in the AIP for an applicant to '<i>demonstrate minimal impact</i>' are not related to potential impacts on groundwaters associated with longwall mining operations.</p>	<p>The PAC that investigated the Bulli Seam project as well as the proponent of this project have both expressed the view that fracturing potentially attributable to longwall mining operations can extend more than 200 metres from the point of extraction.</p> <p>In addition, the consent authority would not be required to scientifically review the adequacy of the assessment associated with a mining application based on the AIP requirement that the development standard is based on. .</p>

2.6 Planning Proposal - No. 71 and No. 366 St Andrews Road Varroville

Reporting Officer

Manager Sustainable City and Environment

Attachments

1. Site Map (distributed under separate cover)
2. Aerial Photo (distributed under separate cover)
3. LEP D8 Zoning Extract (distributed under separate cover)
4. Emerald Hills Concept Plan (distributed under separate cover)

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

Purpose

The purpose of this report is to present to Council for its consideration a proposal submitted by Michael Brown Planning Strategies (on behalf of the owners) to rezone and subdivide No. 71 and No. 366 St Andrews Road Varroville to allow for rural residential development.

Property Description	Lot 71 DP 706546 (71 St Andrews Road, Varroville) (Petrin) Lot 1 DP 123968 (366 St Andrews Road, Varroville) (Thomson)
Applicant	Michael Brown Planning Strategies
Owner	Mr A and Mr P Thomson and Mr D and Mrs A Petrin
Provisions	Campbelltown Local Environmental Plan District 8 (Central Hills Lands)

History

In March 2013, the planning process for the South West Growth Centre precinct of East Leppington was finalised. It is understood that the owners of No. 71 St Andrews Road had previously made submissions to the Department of Planning during the process seeking to have their land included in the East Leppington precinct, however, the Department of Planning declined to amend the boundary of the precinct. The owners of No. 71 St Andrews Road were understood to have been advised to contact Council to request a rezoning, which they subsequently did in December 2012.

Concurrently, a submission was being made on behalf of the owners of No. 366 St Andrews Road to Council to consider rezoning the property. A formal request for consideration was lodged with Council in March 2013. This proposal coincidentally included No. 71 St Andrews Road. The proponent (Michael Brown Planning Strategies) was requested to confirm that the owners of No. 71 St Andrews Road were willing to proceed with the proposal as presented. Council received confirmation of this on 18 June 2013.

Report

Subsequent to receiving the proposal Council staff met separately with the Applicant (Michael Brown and the owners of No. 366 St Andrews Road) and the owners of No. 71 St Andrews Road who have identified that their envisaged outcomes are considerably different.

The proposal for No. 71 St Andrews Road most closely reflects the urban development type proposed for East Leppington and Emerald Hills. This is a low density residential scale of development which would most likely be sought to be integrated into the before mentioned developments.

The proposal for No. 366 St Andrews Road is for 1ha allotments. This more closely resembles the type and scale of development seen along St James and St Davids Roads at Varroville.

Given this, it is considered appropriate to review each proposal independently. While both properties are geographically related and hence share a number of broader contextual elements, beyond this they each have their own associated issues, constraints and opportunities.

For the purpose of this report a summary will be provided of the broad issues which affect the area. This will be followed by a separate review of each proposal.

Current Planning Controls

Both sites are presently zoned 7(d1) Environmental Protection (Scenic) under the provisions of Campbelltown Local Environmental Plan District 8 (Central Hills Lands).

The objectives of this zone are generally to protect and preserve the rural and scenic values of the Scenic Hills and allow for ongoing agricultural uses and research. Under the provisions of this Plan, a range of uses considered unsuitable are prohibited. All other uses are considered permissible with consent. (see attachment 3).

To ensure the retention of the rural/scenic nature of the Scenic Hills, as part of Campbelltown Local Environmental Plan District 8 (Central Hills Lands), the minimum subdivision size for land zoned 7(d1) Environmental Protection (Scenic) is set at 100ha.

It should be noted that while both of these allotments have an area which is lawfully less than the 100ha minimum, under the current planning provisions they both have a dwelling entitlement. This is owing to the fact that both allotments were created prior to the prescribed date in the LEP. With regard to No. 71 St Andrews Road, Varroville, this entitlement has been acted upon. With respect to No. 366 St Andrews Road, Varroville, this entitlement has not been acted upon.

Under the current planning controls there is no further opportunity for subdivision of the properties, hence the submission of the Planning Proposal to amend the planning instrument provisions for both sites.

Precedent

Since 2007, Council has come under increasing pressure to allow development in the Scenic Hills. A total of six proposals have been presented to Council for its consideration over this time. In each case, one of the key concerns raised has been the issue of precedent.

While it is acknowledged that both sites sit behind the ridgeline of the Scenic Hills as viewed from Campbelltown and as such would have minimal visual impact in itself, the precedent created could potentially give rise to future subdivision on adjoining land. These sites are typical of several with the Varroville locality that may be subject to future planning proposals. In each case these sites are typified by their high value scenic nature, low scale development and environmental significance.

Council's Visual Landscape Analysis (adopted by Council on 18 October 2011 for the purpose of assisting to inform the preparation of the Comprehensive LEP) reflects this in stating that the land should be zoned E3 – Environmental Management and the 100ha minimum lot size be retained.

In this regard it is important to consider Council's previous resolution in regard to development in the Scenic Hills. At its meeting on 13 November 2007, Council considered a report on the concept of a proposed business park on a separate and larger site located within the Scenic Hills (Varroville) locality. At this meeting Council resolved:

1. That the tabled letter from the Cornish Group seeking the withdrawal of the Strategic Planning overview - Varroville be received and noted and that Council accede to the request for withdrawal of the proposal.
2. That Council confirms in the strongest possible terms its support for the high value that the Community of Campbelltown and South Western Sydney places on the Scenic Hills as an iconic landscape with distinctive scenic, heritage and environmental qualities.
3. That Council unequivocally commits to continue to maintain and preserve the Scenic Hills for future generations to enjoy.
4. That Council declares it has no intention to amend current overall planning controls that would allow land uses and development with the Scenic Hills, not currently permitted by LEP District 8 (Central Hills Land).

While the proposals subject of this report are considerably different in terms of their scale and proposed use, it is worth noting Council's previous resolve to protect the Scenic Hills, in particular not to support land uses not currently permitted by LEP D8; which in this case relates to a significant reduction in the 100ha subdivision standard and increase in development density.

This resolution is consistent with the aim of the LEP D8. The aim states that the 'Central Hills Lands District of the City of Campbelltown retains the rural character that was envisaged for it during the planning that preceded the urbanisation of that City.' This rural character and the desire to articulate Campbelltown's boundary with Camden in such a way was outlined in the Three Cities Structure Plan (1973). Since this time, the environmental, rural and aesthetic nature of the Scenic Hills has been maintained.

It is also worth to note that in regard to the Potential Housing Opportunities – Landowner Nominated Sites, Council objected to the residential development proposal for Emerald Hills located in the Camden Local Government Area. Emerald Hills was a proposal for 1200 lots and a neighbourhood centre adjoining Camden Valley Way south of St Andrews Road. (see attachment 4). Council's objection to the proposal was based on continual residential creep into the Scenic Hills and potential traffic implications. Notwithstanding Campbelltown Council's objection, this proposal was supported by Camden Council and subsequently the State Government. Camden Council is currently in the process of rezoning this land.

Flora and Fauna

The area contains varying densities of vegetation. No. 71 St Andrews Road has a large number of mature trees however the understorey shows a considerably modified character. No. 366 St Andrews Road on the other hand, is heavily vegetated and considered to best represent a virtually undisturbed Cumberland Plain Woodland ecological community (see attachment 2).

A review of the National Parks and Wildlife Service Vegetation mapping shows that vegetation across both properties has been identified as Cumberland Plain Woodland. This community is listed as a Critically Endangered Ecological Community under the *Threatened Species Conservation Act (NSW) 1995* and the *Environment Protection and Biodiversity Conservation Act (Federal) 1999*. In addition to this within the vicinity of the site a number of vulnerable/threatened species have been identified including

- Cumberland Land Snail - Endangered
- Eastern Bentwing Bat - Vulnerable
- Little Eagle - Vulnerable

The extent and importance of this area in regards to its conservation value has previously been noted by Council and the Sydney Metropolitan Catchment Management Authority.

As part of the Campbelltown Biodiversity Study (2008) the Endangered Ecological Communities (EECs) around Varroville and Denham Court were highlighted as a focus of future conservation efforts.

The draft Sydney Metropolitan Catchment Management Authority Biodiversity Corridor Strategy also highlights the area as a 'very high' priority in their strategy.

Given these constraints it is considered unlikely that the NSW Office of Environment and Heritage or Department of Planning would support the rezoning of No. 366 St Andrews Road. In regard to No. 71 St Andrews Road it is considered that further studies and would need to be completed to determine if some form of development could be allowed that would minimise any impacts.

Existing Easements

The collective site is currently traversed by two service easements, in addition to the Sydney Water Canal.

Endeavour Energy manages an electricity easement for overhead electricity transmission lines that run north to south, through No. 366 St Andrews Road. During the planning phase of the East Leppington precinct, Endeavour Energy indicated that it had no plans to relocate the overhead lines, and placing them underground is cost-prohibitive.

There are also two high pressure gas mains that run also run through No. 71 St Andrews Road. They are:

- DN 850 natural gas pipeline – Moomba to Wilton (Jemena JGN)
- DN 200 phase ethane pipeline – Moomba to Botany (Gorodok).

The DN 850 gas and the DN 200 ethane pipelines share a common easement located to the east of the Upper Canal. The gas mains are located underground within easements that run through existing rural land adjacent to dwellings and other rural land uses.

The Sydney Upper Canal also transverses the site. The Upper Canal links water supply dams south of Sydney to the Prospect Reservoir and is part of the water supply system for metropolitan Sydney. Much of the open canal is constructed of concrete and sandstone and is listed as a State Heritage item. Ensuring the quality of water within the Upper Canal is a key issue for surrounding developments. Sydney Water has previously advised that any further road crossing of the Upper Canal would need to demonstrate a clear need.

The Planning Proposal – No. 366 St Andrews Road, Varroville

The proposal submitted to Council seeks to rezone No. 366 St Andrews Road, Varroville to allow for the subdivision of the site into a series of 1ha allotments. Given the size and shape of the site (13.3ha) this would allow for approximately 12 lots of approximately 1ha in area.

The proposal also intends to facilitate the connection of St Andrews Road (over the Upper Canal) to Camden Valley Road, East Leppington and the wider South West Growth Centre. This would provide a new east/west connection from the Growth Centres through to the Campbelltown LGA.

The rationale for the proposal is supported by the following principles:

- provide new housing opportunities to assist Council in meeting its dwelling targets
- improve access for surrounding development via St Andrews Road
- reduction in vegetation and consequently reduced bushfire risk
- development is proposed behind the ridge and as such would have no visual impact
- large lots provide an appropriate transition for the residential precinct of East Leppington.

Comment:

The property is highly constrained. The mapping, aerial photography and site inspection shows that the vegetation on the site is of high quality and contributes significantly to the wider biodiversity value of the Scenic Hills.

The proposal to connect St Andrews Road to Camden Valley Way and to East Leppington has the potential to give rise to significant issues for Council in regard to traffic management and upgrading works along St Andrews Road.

At present St Andrews Road serves 25 rural dwellings. As such the design and standard of construction is that of a rural road. To connect St Andrews Road to East Leppington and/or Camden Valley Way, thereby creating a new east/west connection, would require a significant road upgrading. Given the traffic flow that this could generate it is envisaged that the road would need to be upgraded to a standard similar to that of Raby Road. Council has previously sought funding from the Growth Centres to upgrade east/west connections such as Badgally Road and Denham Court Road. Council has consistently been advised that funding beyond the boundaries of the Growth Centre is outside the scope of the Commission's responsibility and no funding would be provided. Given this, if St Andrews Road was to be open and connect the Camden and Campbelltown LGAs, Council would be likely to be required to fund any upgrade works required.

It is also worth noting that the property does still retain a dwelling entitlement. Subject to Council approval the owners could potentially develop the site with a dwelling.

The Planning Proposal – No. 71 St Andrews Road, Varroville

The proposal for No. 71 St Andrews Road is to essentially extend the urban residential development proposed on adjoining the property (East Leppington). This is a low density residential form. The exact number of dwellings that are proposed for the site has not been determined.

The rationale for the proposal is supported by the following principles:

- The property is presently isolated as the last property on the western extent of St Andrews Road. There is presently no direct vehicular access to Campbelltown
- Installation of new signals at Camden Valley Way and St Andrews Road will improve accessibility to the No. 71 St Andrews Road and support further development
- In the future the property will be isolated and excluded from both the new communities in East Leppington and Emerald Hills.

Comment:

No. 71 St Andrews Road is not constrained to the same extent as No. 366 St Andrews Road. While the on-site vegetation is mapped as being Cumberland Plain Woodland, the lack of understorey impacted on the vegetation community. In this regard further work would need to be undertaken to ascertain if residential development could be permitted on the site with an acceptable level of impact.

The owners of No. 71 St Andrews Road have further advised Council that given the road upgrades proposed, they see no need to connect St Andrews Road from east to west. This would ensure that there was no need to upgrade St Andrews Road. If development was to proceed it would also possibly facilitate the disposal of a 1ha road reserve parcel currently vested in Council's name.

Given the development that is proposed in the immediate vicinity of this property, it is not difficult to envisage that this proposal may warrant some further consideration. Having said that, the desire for the site to be developed for the purpose of low density urban residential is not supported. There does appear to be some possible opportunity for large lot/rural residential/environmental living options. This scale of development may potentially allow for the retention of the existing vegetation and management of the other constraints.

It is worth noting that this approach is consistent with the proposal for the environmentally significant land within the Emerald Hills proposal. It is also of worth to note that No. 71 St Andrews Road does not benefit from the biodiversity certification and offsetting strategy that the East Leppington (Growth Centre Site) does.

Without the extent and scale of constraints seen at No. 366 St Andrews Road it is foreseeable that development could be considered on the site without significant adverse impact to the environmental, scenic and aesthetic values of the Scenic Hills.

Discussion

The proposal put before Council, seeks to allow for the subdivision of land currently zoned 7(d1) Environmental Protection (Scenic) – 100ha minimum. This would be to allow for the development of 1ha rural-residential lots in respect to No. 366 St Andrews Road or low density urban residential in respect to No. 71 St Andrews Road.

In both instances it is a considerable departure from the existing planning controls that apply to the land.

In undertaking a preliminary assessment of the properties it is clear that whilst both are constrained, the extent and nature of these constraints differ for each property.

No. 366 St Andrews Road is most highly constrained by the vegetation on the site. A desktop review of the information pertaining to the site, suggest that several State Agencies would be unlikely to support development that would see the loss of Cumberland Plain Woodland of such high conservation significance. The proponents' proposal to connect St Andrews Road to both Camden Valley Way and East Leppington is also considered to create a number of potential challenges for Council. Most notable the need to upgrade St Andrews Road.

No. 71 St Andrews Road on the other hand, while constrained, does appear to offer some limited opportunity for development. The environmental values would need to be further assessed. The isolated nature of the site and the development proposed around it, give further weight to the argument to grant some further consideration to rezoning the site to allow for some limited rural-residential development.

Conclusion

This proposal represents the type of development pressure that Council is facing in the Scenic Hills. In each case Council needs to give careful consideration to the impact of the development on not only the site but on the wider Scenic Hills landscape.

Both properties are constrained with easements for service providers and environmentally significant vegetation.

No. 366 St Andrews Road in particular is noted as being of high conservation significance for Cumberland Plain Woodland, a critically endangered ecological community. There is also considered to be a high potential for the property to be inhabited by vulnerable and threatened species.

No. 71 St Andrews Road while mapped as having the same environmental significance, appears to have less environmental significance. This situation does not relinquish the environmental significance of the site. It does however suggest that with further investigation opportunities for sensitive development may be identified.

It is also important to note that with regard to No. 366 St Andrews Road, Varroville a dwelling entitlement is yet to be acted upon. The proponents therefore have the opportunity, subject to Council approval, to develop a dwelling on the property.

Given the constraints evident of at No. 366 St Andrews Road it is not considered appropriate to give further consideration to the proposal to rezone No. 366 St Andrews Road, Varroville. No. 71 St Andrews Road, on the other hand does appear to present some opportunity worthy of further consideration. However, the proponents' desire for the site to be developed as low density residential is not considered appropriate. With further study of the constraints of the property it is felt that there may be an opportunity to develop a number of larger rural residential/environmental living allotments.

Officer's Recommendation

1. That Council resolve not to support the rezoning No. 366 St Andrews Road, Varroville to allow for the development of 1ha lots.
2. That Council resolve to invite the proponents to submit a formal planning proposal for No. 71 St Andrews Road, Varroville that would consider the potential development of a number of rural residential/environmental living allotments.
3. That Council notify the proponents in writing of its decision.

Committee's Recommendation: (Greiss/Kolkman)

1. That a decision in regard to the planning proposal for No. 366 St Andrews Road be deferred at the request of the applicant.
2. That Council resolve to invite the proponents to submit a formal planning proposal for No. 71 St Andrews Road, Varroville that would consider the potential development of a number of rural residential/environmental living allotments.
3. That Council notify the proponents in writing of its decision.

Amendment: (Greiss/Kolkman)

That a decision in this matter be deferred pending receipt of further information.

CARRIED

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

Voting against the Committee's Recommendation: Nil.

Council Meeting 10 September 2013 (Greiss/Matheson)

That the Committee's Recommendation be adopted.

Council Resolution Minute Number 195

That the Committee's Recommendation be adopted.

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

Voting against the Council Resolution: Nil.

2.7 Changes to Interim Heritage Order Delegations

Reporting Officer

Manager Sustainable City and Environment

Attachments

Letter from NSW Office of Environment and Heritage dated 15 July 2013 (contained within this report)

Purpose

To inform Council of changes to Interim Heritage Order (IHO) delegations issued to local councils by the Minister for Heritage.

Report

The *Heritage Act 1977* (the Act) allows the Minister for Heritage to make an IHO for a place, building, work, relic, moveable object or precinct that the Minister considers may, on further inquiry or investigation, be found to be of state or local heritage significance.

The effect of an IHO is to provide temporary protection (maximum 12 months) for the nominated item or place, during which time a full assessment can be undertaken of the heritage significance and possible listing of the subject item.

Section 25 of the Act allows the Minister for Heritage to authorise local councils to make IHOs for items of potential local heritage significance within a council's respective area.

In August 2001, the (then) Minister for Urban Affairs and Planning made an order under section 25 that authorised a number of local councils, including Campbelltown City Council, to make IHOs within their respective Local Government Areas (LGAs). The Ministerial Order was subject to a number of conditions, generally relating to the process that councils must follow in making an IHO under delegation. This included for example, the requirement to obtain a preliminary heritage assessment of an item before making an IHO, and resolving within a specified time frame to place the item on the heritage schedule of its Local Environmental Plan.

It is also noted that the Ministerial Order limited the opportunity for Council to make an IHO where:

- Council has previously made an IHO
 - the Land and Environment Court has granted development consent (including demolition)
 - the land is Crown land or being developed by or on behalf of the Crown
 - the land is subject to state significant development
 - the land is subject to an approval issued by the NSW Government which permits the item to be harmed.
-

Campbelltown City Council already has an extensive listing of heritage significant items under its planning instruments, which has ensured that to date there has been no need to utilise the protection mechanisms of the IHO process. Council has undertaken further work to examine the completeness of the existing listings and to assess any additional potential items of heritage significance as part of the preparation of the new comprehensive LEP.

On 17 July 2013, Council received written confirmation from the NSW Office of Environment and Heritage (attachment 1) advising that the Minister for Heritage had extended the authority for the making of IHOs under section 25 to all local councils in NSW. The revised authorisation revokes the earlier Ministerial Order made by the Minister in 2001.

The new Ministerial Order for local councils to make IHOs generally replicates the conditions of the 2001 Ministerial Order delegating authority to Campbelltown City Council, with the exception of two additional restrictions where Council cannot make an IHO:

1. where a development consent has been issued which permits harm to the item; and
2. where a complying development certificate has been issued for the demolition of an existing dwelling and the erection of a new single or two storey dwelling.

It is important to note that Council has a position of not pursuing the LEP listing of potential heritage items in instances where the owner objects. This cooperative approach with landowners ensures that there is no motive for owners wanting to diminish the heritage value of their properties being considered for listing. Notwithstanding, it is noted that this practice has traditionally and potentially constrained Council making an IHO where a potential heritage item is approved for demolition, given that the IHO process ultimately requires a Council resolution to consider the subject item for heritage listing.

Accordingly, it is considered that the revised Ministerial Order which provides delegated authority for Council to issue an IHO under the Act will not have any material impact on Council processes.

Officer's Recommendation

That the information be noted.

Committee's Recommendation: (Lound/Thompson)

That the Officer's Recommendation be adopted.

CARRIED

Council Meeting 10 September 2013 (Greiss/Matheson)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 194

That the Officer's Recommendation be adopted.

ATTACHMENT 1



Office of
Environment
& Heritage

Our reference: DOC13/18641

15 July 2013

Mr Paul Tosi
General Manager
Campbelltown City Council
PO Box 57
CAMPBELLTOWN NSW 2560

JUL17'13 08:09:28 RCVD

Dear Mr Tosi

I am writing to advise that the Minister for Heritage, the Hon Robyn Parker MP, has authorised all local councils in NSW to make Interim Heritage Orders (IHOs) under the NSW *Heritage Act 1977*.

This initiative is consistent with the Government's commitment to devolve decision making to the appropriate level and allows for local decision-making by council on local heritage issues. As you may be aware, consultation occurred with councils and other key heritage stakeholder groups prior to the authorisation being approved.

What does an IHO do?

An IHO is a temporary heritage order (made for up to one year) which provides time to assess the heritage significance, or values, of a potential heritage item. The definition of a potential heritage item is one not currently listed on a statutory Local Environmental Plan (LEP) heritage schedule or the State Heritage Register. IHOs provide time for studies and inspections to take place, so that a decision on whether a place should be formally considered for local or State heritage listing can be taken. An IHO should be made over a potential heritage item only where the heritage item is being or is likely to be harmed, they are not to be used as a tool to block development.

Why is this authorisation needed?

Most of the State's heritage items, places and objects are protected at the local government level by listing on LEPs. There are currently 26,000 heritage items listed in this way across NSW. While this figure sounds large, it equates to an average of only 160 heritage items per local government area. This is a relatively small number, taking into account the size of the State's property and asset base, with less than one per cent of the State's properties listed as heritage items. This also indicates there are likely to be additional places of heritage significance in local communities that warrant consideration for heritage protection.

What happens after an IHO is made?

During the period of an IHO, councils are required to assess the significance of the item and determine if it warrants statutory listing. While an IHO can be in place for up to a year, they lapse after six months if a council does not resolve to add the item to its LEP. Importantly, an IHO does not stop a development from proceeding. Because council is the approval body under the Heritage Act for changes to an item during the period of an IHO, council can approve all or parts of a development to continue but cannot authorise demolition. When an IHO is in place, section 60 applications are not referred to the Heritage Council for its consideration.

PO Box A290 Sydney South NSW 1232
59-61 Goulburn St Sydney NSW 2000
Tel: (02) 9995 5000 Fax: (02) 9995 5999
TTY (02) 9211 4723
ABN 30 841 387 271
www.environment.nsw.gov.au

In addition to supporting local heritage decisions being made at the local level by council, the NSW Government recognises that statutory heritage listing is not an end in itself. Consequently, owners, business, councils and the community should work together to find viable adaptive reuse options for our heritage places to retain their vitality and contribution to the community's sense of place. Heritage places play a significant role in setting a locality's identity and should be seen as a way to enliven local communities and provide economic and tourism benefits where appropriate. The granting of the authority to issue IHOs provides councils with the ability to safeguard community heritage assets, while informed decisions on their long-term futures are made.

To help ensure Council staff are acquainted with the IHO authorisation and conditions, please find enclosed, the authorisation notice from the NSW Government Gazette; and Question and Answer sheet summarising the IHO provisions. For any assistance in the use of the authorisation powers, please contact the Heritage Division of the Office of Environment and Heritage on (02) 9873 8500.

Yours sincerely



TERRY BAILEY
Deputy Chief Executive
Regional Operations

Enclosures: Ministerial Order and Schedules published in NSW Government Gazette
Making Interim Heritage Orders—Questions and Answers



Office of
Environment
& Heritage

Making Interim Heritage Orders by Local Government

Questions & Answers

What is an Interim Heritage Order?

An Interim Heritage Order (IHO) is a temporary heritage order made to protect a potential heritage item while a heritage assessment is carried out.

What is Council required to do when an IHO is in place?

Council is required to make a decision about whether to take further action such as listing as a heritage item on an Local Environmental Plan (LEP). This decision must be based on the heritage assessment prepared by a person with appropriate heritage knowledge, skills and experience who is employed or retained by Council.

When should IHOs be considered

Only where the site has potential heritage value following a preliminary assessment by a heritage expert, and where:

- the site is likely to be of local heritage significance, or of State significance;
- the site is likely to be harmed or destroyed; and
- where an existing heritage LEP exists.

The IHO must be confined to the item under threat.

Does an IHO freeze a property?

No, Council becomes an approval body for the life of an IHO under the NSW *Heritage Act 1977*. Council is not permitted to approve demolition of an item within the life of the order.

How long does an IHO last for?

Six months unless Council resolves to add the item to its LEP schedule, then 12 months applies. Council can revoke an IHO at any time.

Is compensation payable to the owner if an IHO is made?

No.

When should an IHO not be made?

An IHO cannot be made in the following circumstances:

- Where there are no significant heritage values.
- Where the site is already listed as a heritage item or in a Heritage Conservation Area.
- The item is subject to an emergency order (s.136) under the Heritage Act.
- Where there has been a previous IHO over the site.
- Where a Development Application consent has already been issued which permits harm to the item.
- Where a complying development certificate has been issued for the demolition of a house **and** the erection of a single or two storey house.

Can an IHO be made over Crown land, activities or approvals?

No, an IHO cannot be made over:

- Crown Land;
- land subject to Crown development (or on its behalf);
- land where the consent authority is the Minister for Planning and Infrastructure (e.g. SSD and SSI); or
- land where there is an existing licence or similar issued by the Crown or a Minister which permits the item to be harmed.

What about a proposed IHO for Aboriginal heritage?

A proposed IHO over an Aboriginal place, site or object must first be referred to the Office of Environment & Heritage for expert assessment.

12 July 2013

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4. Further action under the Act

The making of this declaration does not prevent the carrying out of voluntary management of the site and any person may submit a voluntary management proposal for the site to the EPA.

5. Submissions invited

The public may make written submissions to the EPA on:

- Whether the EPA should issue a management order in relation to the site; or
- Any other matter concerning the site.

Submissions should be made in writing to:

Manager, Contaminated Sites,
Environment Protection Authority,
PO Box A290,
Sydney South NSW 1232,

or faxed to (02) 9995 5930,

by not later than 4 weeks from the date of this letter.

Dated: 9 July 2013.

NIALL JOHNSTON,
Manager,
Contaminated Sites,
Environment Protection Authority

Note:

Management order may follow

If management of the site or part of the site is required, the EPA may issue a management order under s.14 of the Act.

Amendment/Repeal

This declaration may be amended or repealed. It remains in force until it is otherwise amended or repealed. The subsequent declaration must state the reasons for the amendment or repeal (s.44 of the Act).

Information recorded by the EPA

Section 58 of the Act requires the EPA to maintain a public record. A copy of this significantly contaminated land declaration will be included in the public record.

Information recorded by councils

Section 59 of the Act requires the EPA to give a copy of this declaration to the relevant local council. The council is then required to note on its planning certificate issued pursuant to s149 (2) of the Environmental Planning and Assessment Act 1979 that the land is declared significantly contaminated land. The EPA is required to notify council as soon as practicable when the declaration is no longer in force and the notation on the s149 (2) certificate is no longer required.

Relationship to other regulatory instrument

This declaration does not affect the provisions of any relevant environmental planning instruments which apply to the land or provisions of any other environmental protection legislation administered by the EPA.

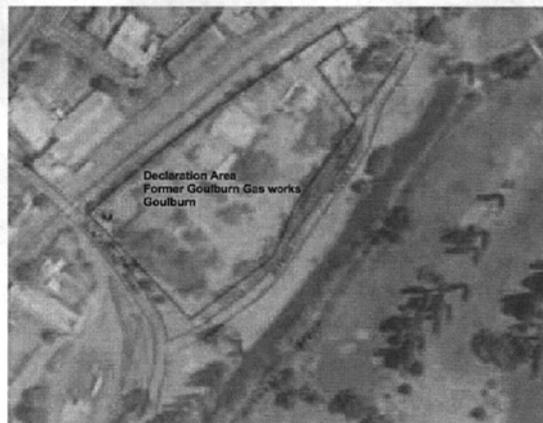


Figure 1. Land to which this declaration applies,
1 Blackshaw Road, Goulburn NSW

Map Source: NSW Land and Property Website,
<http://maps.six.nsw.gov.au/>; 4 March 2013

HERITAGE ACT 1977

Ministerial Order

Authorisation for Local Councils to make Interim Heritage Orders

Section 25 of the Heritage Act 1977

Section 43 Interpretation Act 1987

I, ROBYN PARKER M.P., Minister for Heritage, do by this order:

1. **revoke** the order made under section 25 of the Heritage Act 1977 and published in the *New South Wales Government Gazette* dated 1st February 2002, at pages 708 to 710.
2. **authorise** the local councils identified in Schedule 1 to make Interim Heritage Orders for items in the local council's area in accordance with section 25 of the Heritage Act 1977 and subject to the conditions listed in Schedule 2.

Dated: 22 April 2013.

ROBYN PARKER, M.P.,
Minister for Heritage

SCHEDULE 1

Local Councils Authorised to make Interim Heritage Orders under Section 25 of the Heritage Act 1977

Albury City Council
Armidale Dumaresq Council
Ashfield Council
Auburn City Council
Ballina Shire Council
Balranald Shire Council
Bankstown City Council
Bathurst Regional Council
Bega Valley Shire Council
Bellingen Shire Council
Berrigan Shire Council
Blacktown City Council

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Bland Shire Council	Junee Shire Council
Blayney Shire Council	Kempsey Shire Council
Blue Mountains City Council	The Council of the Municipality of Kiama
Bogan Shire Council	Kogarah City Council
Bombala Council	Ku-ring-gai Council
Boorowa Council	Kyogle Council
The Council of the City of Botany Bay	Lachlan Shire Council
Bourke Shire Council	Lake Macquarie City Council
Brewarrina Shire Council	Lane Cove Municipal Council
Broken Hill City Council	Leeton Shire Council
Burwood Council	Leichhardt Municipal Council
Byron Shire Council	Lismore City Council
Cabonne Council	City of Lithgow Council
Camden Council	Liverpool City Council
Campbelltown City Council	Liverpool Plains Shire Council
City of Canada Bay Council	Lockhart Shire Council
Canterbury City Council	Maitland City Council
Carrathool Shire Council	Manly Council
Central Darling Shire Council	Marrickville Council
Cessnock City Council	Mid-Western Regional Council
Clarence Valley Council	Moree Plains Shire Council
Cobar Shire Council	Mosman Municipal Council
Coffs Harbour City Council	Murray Shire Council
Conargo Shire Council	Murrumbidgee Shire Council
Coolamon Shire Council	Muswellbrook Shire Council
Cooma-Monaro Shire Council	Nambucca Shire Council
Coonamble Shire Council	Narrabri Shire Council
Cootamundra Shire Council	Narrandera Shire Council
Corowa Shire Council	Narromine Shire Council
Cowra Shire Council	Newcastle City Council
Deniliquin Council	North Sydney Council
Dubbo City Council	Oberon Council
Dungog Shire Council	Orange City Council
Eurobodalla Shire Council	Palerang Council
Fairfield City Council	Parke Shire Council
Forbes Shire Council	Parramatta City Council
Gilgandra Shire Council	Penrith City Council
Glen Innes Severn Council	Pittwater Council
Gloucester Shire Council	Port Macquarie-Hastings Council
Gosford City Council	Port Stephens Council
Goulburn Mulwaree Council	Queanbeyan City Council
Great Lakes Council	Randwick City Council
Greater Hume Shire Council	Richmond Valley Council
Greater Taree City Council	Rockdale City Council
Griffith City Council	Ryde City Council
Gundagai Shire Council	Shellharbour City Council
Gunnedah Shire Council	Shoalhaven City Council
Guyra Shire Council	Singleton Council
Gwydir Shire Council	Snowy River Shire Council
Harden Shire Council	Strathfield Municipal Council
Hawkesbury City Council	Sutherland Shire Council
Hay Shire Council	Council of the City of Sydney
The Hills Shire Council	Tamworth Regional Council
Holroyd City Council	Temora Shire Council
The Council of the Shire of Hornsby	Tenterfield Shire Council
The Council of the Municipality of Hunters Hill	Tumbarumba Shire Council
Hurstville City Council	Tumut Shire Council
Inverell Shire Council	Tweed Shire Council
Jerilderie Shire Council	Upper Hunter Shire Council

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Upper Lachlan Shire Council
Uralla Shire Council
Urana Shire Council
Wagga Wagga City Council
The Council of the Shire of Wakool
Walcha Council
Walgett Shire Council
Warren Shire Council
Warringham Council
Warrumbungle Shire Council
Waverley Council
Weddin Shire Council
Wellington Council
Wentworth Shire Council
Willoughby City Council
Wingecarribee Shire Council
Wollondilly Shire Council
Wollongong City Council
Woollahra Municipal Council
Wyong Shire Council
Yass Valley Council
Young Shire Council

SCHEDULE 2

Conditions for Local Councils to make Interim Heritage Orders

- (1) A council must not make an Interim Heritage Order (IHO) unless:
- (a) an environmental planning instrument containing a schedule of heritage items derived from a heritage study and provisions for the management of those items is in force in the Local Government Area; and
 - (b) it has considered a preliminary heritage assessment of the item prepared by a person with appropriate heritage knowledge, skills and experience employed or retained by the council and considers that:
 - (i) the item is or is likely to be found, on further inquiry and investigation, to be of local heritage significance;
 - (ii) the item is being or is likely to be harmed;
 - (iii) the IHO is confined to the item determined as being under threat; and
 - (c) where the IHO is made over land which includes an item which is likely to be found, on further inquiry and investigation, to be of significance to Aboriginal people, a council must refer the proposal to make an IHO to the Office of Environment and Heritage for assessment regarding significance and community consultation, before the IHO is made. Council must comply with the recommendations of the Office of Environment and Heritage made in its assessment prepared pursuant to the referral.
- (2) A council must not make an IHO where:
- (a) the item is listed on:
 - (i) an environmental planning instrument as an item of environmental heritage;
 - (ii) the item is within a heritage conservation area identified in an environmental planning instrument; or

- (b) the item is covered by:
 - (i) an order under s.136 of the Heritage Act, 1977; or
 - (c) the council has previously placed an interim heritage order on the item; or
 - (d) a development consent (other than a complying development certificate), has been granted in relation to the item that permits the item to be harmed, and the development consent is still in force; or
 - (e) a complying development certificate has been granted for the demolition of an existing dwelling and the erection of a new single storey or two storey dwelling house, and the complying development certificate is still in force.
- (3) A council must not make an IHO in relation to item(s) that are located on land:
- (a) that is Crown land; or
 - (b) which is being developed by or on behalf of the Crown; or
 - (c) which is subject to a development for which the Minister for Planning and Infrastructure is the consent authority or approval authority under the Environmental Planning & Assessment Act 1979.

For the purposes of this clause, "the Crown" includes State Government Agencies, State Owned Corporations, Statutory Corporations, Statutory Authorities and Ministerial Corporations. "Crown" is also taken to have the same meaning as specified in section 57(1A)(b) of the Heritage Act, 1977.

- (4) A council must not make an IHO in respect of an item (which includes a building, work, relic, or place) that is subject to an approval, consent, licence, permit, permission or any other form of authorisation that requires or permits the item to be harmed and that is issued by the Crown, an officer or employee of the Crown or a Minister.

For the purposes of this clause, "the Crown" includes State Government Agencies, State Owned Corporations, Statutory Corporations, Statutory Authorities and Ministerial Corporations. "Crown" is also taken to have the same meaning as specified in section 57(1A)(b) of the Heritage Act, 1977. This clause does not apply to an approval, consent, licence, permit, permission or any other form of authorisation that requires or permits the item to be harmed and that is issued by the council.

- (5) An IHO made by a council must contain the following condition:
- "This Interim Heritage Order will lapse after six months from the date it is made unless the local council has passed a resolution before that date; and
- (i) in the case of an item which, in the council's opinion, is of local significance, the resolution seeks to place the item on the heritage schedule of a local environmental plan with appropriate provisions for protecting and managing the item; or
 - (ii) in the case of an item which in the Council's opinion, is of State heritage significance, the resolution requests the Heritage Council to make a recommendation to the Minister for Heritage under section 32(2) of the Heritage Act to include the item on the State Heritage Register."

3424

OFFICIAL NOTICES

12 July 2013

(6) A council must publish annually in its State of Environment Report or Annual Report a summary of all decisions regarding IHOs for that year and provide a copy to the Office of Environment and Heritage.

Note: A council will be responsible for defending proceedings in any Court relating to its decisions made under this authorisation (including the bearing of all costs).

NATIONAL PARKS AND WILDLIFE ACT 1974

Draft Amendments to the Plans of Management for Garigal National Park,

Ku-Ring-Gai Chase National Park and Lion Island, Long Island and Spectacle Island Nature Reserves,

Marramarra National Park, Muogamarra Nature Reserve and Maroota Historic Site

THE Public Exhibition Period for the draft amendments to the above plans has been extended until Friday, 19 July 2013.

These amendments can be viewed on www.environment.nsw.gov.au (use the 'quicklinks' to 'park management plans') and at other locations as notified in the *New South Wales Government Gazette* of 31 May 2013.

They are also available free of charge from the Bobbin Inn Visitor Centre, Ku-ring-gai Chase National Park, Bobbin Head Road, Mount Colah (ph 9472 8949) and the OEH Information Centre, Level 14, 59-61 Goulburn Street, Sydney.

Written submissions on the draft plan should be forwarded by 19 July 2013, to 'The Planner', Metropolitan North East Region, NPWS, PO Box 3031, Asquith NSW 2077, by email to mne.planning@environment.nsw.gov.au or they can be submitted on-line at www.environment.nsw.gov.au/consult.

All submissions received by NPWS are a matter of public record and are available for public inspection upon request. Your comments on these documents may contain information that is defined as 'personal information' under the NSW Privacy and Personal Information Protection Act 1998. The submission of personal information with your comments is voluntary.

PESTICIDES ACT 1999

Notice under Section 48 (4)

NOTICE is hereby given, pursuant to section 48(4) of the Pesticides Act 1999, that I have granted a Pilot (Pesticide Rating) Licence, particulars of which are stated in the Schedule.

SEAN NUNAN,
Team Leader,
Chemicals and Radiation Licensing,
Hazardous Materials, Chemicals and Radiation Section,
Environment Protection Authority
(by delegation)

SCHEDULE

Pilot (Pesticide Rating) Licence

<i>Name and Address of Licensee</i>	<i>Date of Granting of Licence</i>
Nicholas MASON, PO Box SM232, Mildura South VIC 3501.	5 July 2013.

POISONS AND THERAPEUTIC GOODS ACT 1966

Order under Clause 175(1),
Poisons and Therapeutic Goods Regulation 2008

Withdrawal of Drug Authority

IN accordance with the provisions of Clause 175(1) of the Poisons and Therapeutic Goods Regulation 2008, an Order has been made on Dr Nandini POLEPALLI, DEN0001677187, of Suite 1, 9 Station Street, Fairfield NSW 2165, prohibiting her until further notice, as a dental practitioner from supplying or having possession of drugs of addiction as authorised by Clause 101 of the Regulation and issuing a prescription for a drug of addiction as authorised by Clause 77 of the Regulation.

This Order is to take effect on and from 7 June 2013.

Dr MARY FOLEY,
Director-General

Ministry of Health, New South Wales.
3 June 2013.

SUBORDINATE LEGISLATION ACT 1989

Erratum

IN *New South Wales Government Gazette* No. 87, dated 5 July 2013, at Folio 3392, the text of the notice relating to the Subordinate Legislation Act 1989, omitted the word 'Tribunal' in referring to the proposed Dust Diseases Tribunal Regulation 2013 and the Dust Diseases Tribunal Regulation 2007. The gazettal date remains the same, 5 July 2013.

THREATENED SPECIES CONSERVATION ACT 1995

Notice of Preliminary Determination

THE Scientific Committee has made a Preliminary Determination proposing that the following be listed in the relevant Schedule of the Threatened Species Conservation Act 1995.

Critically Endangered Ecological Community (Part 2 of Schedule 1A)
Hydrocycbeae community of Lane Cove Bushland Park in the Sydney Basin Bioregion

Any person may make a written submission regarding this Preliminary Determination. Send submissions to Suzanne Chate, NSW Scientific Committee Unit, PO Box 1967, Hurstville BC 1481. Submissions close 6th September 2013.

A copy of the Determination, which contains the reasons for the determination, may be obtained free of charge on the Internet www.environment.nsw.gov.au, by contacting the Scientific Committee Unit, PO Box 1967, Hurstville BC 1481. Tel.: (02) 9585 6940 or Fax (02) 9585 6606, or in person at the Office of Environment and Heritage Information Centre, Level 14, 59-61 Goulburn Street, Sydney. Copies of the determination may also be obtained from National Parks and Wildlife Service Area Offices and Visitor Centres, subject to availability.

Associate Professor MICHELLE LEISHMAN,
Chairperson,
Scientific Committee

2.8 No. 194 Campbelltown Road, Denham Court - A Proposed Amendment to LEP 2002

Reporting Officer

Manager Sustainable City and Environment

Attachments

1. Copy of the of the applicant's submission requesting an amendment to LEP 2002 (distributed under separate cover)
2. An aerial photo of the subject site (distributed under separate cover)
3. A map illustrating the traffic movement to and from the site to the South Western Freeway (F5) (distributed under separate cover)

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

Purpose

The purpose of this report is to advise Council of a proposal that seeks an amendment to Campbelltown (Urban Area) Local Environmental Plan 2002 (LEP 2002) for Lot 100 in DP 1176622 (No. 194 Campbelltown Road), Denham Court to enable the use of the site as a service station.

History

A proposal for No. 194 Campbelltown Road, Denham Court was submitted to Council on 11 July 2013 and is provided as attachment 1 to this report. The proposal was accompanied by an Arboricultural Impact Assessment Report which provided a detailed assessment of the conditions of the vegetation on site.

Report

Property Description: Lot 100 DP 1176622 (known as 194 Campbelltown Rd, Denham Court)

Owner: Press Australia Pty Ltd

Applicant: Smyth Planning

Site description

The subject site is located within the suburb of Denham Court and is bounded by major roads from all sides. Campbelltown Road lies to the west, the South Western Freeway (F5) to the east and south and the Ingleburn exit F5 off-ramp exit from the F5 to the north. An aerial photo of the site is shown as attachment 2 of this report.

The site is irregular in shape and has a frontage of approximately 240 metres to Campbelltown Road, 192 metres to the F5 and 116 metres to the F5 off-ramp and has an area of 1.241 hectares. The site is relatively flat with a slight slope to the north.

There is a single dwelling house on the site that is currently occupied.

The southern part of the site was recently used by the former Roads and Traffic Authority (RTA) as a storage area for road works material and equipment associated with the F5 upgrade.

Current zoning of the site

The site is currently zoned Zone 7 (d5) - Environmental Protection 1 hectare Minimum Zone under LEP 2002 and is proposed to be rezoned to E4 Environmental Living under draft Campbelltown Local Environmental Plan 2013 (draft CLEP 2013).

Under the provisions of LEP 2002, service stations are not permissible under Zone 7 (d5) - Environmental Protection 1 hectare Minimum Zone. The same provisions apply in draft CLEP 2013 as service stations are not permissible under the E4 Environmental Living zone.

The proposal

The proposal is to amend Campbelltown LEP 2002 by creating a 'scheduled use' for the subject site that allows the site to be used for a service station.

The proposed development, as described by the applicant, is a typical service station with cashier for the fuel bowsers located within a building. The building is also proposed to include a convenience store and a small food area, with a small cafeteria and seating to service customers driving cars and trucks.

It is proposed that the service station would service traffic travelling on the Campbelltown Road in both directions and would not be visible from the F5 Freeway. The application also indicates that the service station would be servicing cars and trucks.

Suitability of the site and legislative context

At face value, the site is considered suitable for a typical service station type development, as it is an isolated parcel of land that is bounded by major roads from all sides.

However, while the application describes the proposal as a 'typical service station' an examination of the concept plan drawing that was submitted to Council indicates that the service station would also provide on-site parking to heavy vehicles. Six special parking bays for B-double heavy vehicles are proposed. A copy of the application including the concept plan drawing is shown as attachment 1 to this report.

While a typical service station could ordinarily provide for fuelling of heavy vehicles, it would not normally be expected to provide for on-site heavy vehicle parking, especially to the extent indicated on plans submitted with this proposal.

The close proximity of the site to the Ingleburn industrial precinct and the direct and easy access from the F5, combined with the proposed facilities for heavy vehicles, would potentially attract large numbers of trucks.

Notably, under the provisions of LEP 2002, the definition of a 'service station' does not differentiate between a 'typical service station' and a 'heavy vehicle service station'. The same applies to the definition of a 'service station' under the Standard Instrument - Principal Local Environmental Plan. This means that if LEP 2002 were amended to allow 'a service station' as a permissible use on the site, there would be no certainty for Council in relation to the type of service station that could be developed on the site. In this regard, Council would need to seek to include additional clauses as part of the amendment to LEP 2002 to ensure that the proposal would be for a 'typical service station'.

The subject site is not considered suitable for a service station that is designed to accommodate on-site parking and servicing for heavy vehicles for the following reasons:

- the proposed development is not considered compatible with the rural residential character of the area
- the site area of 1.2 hectares is not considered sufficient to provide a service station of this nature. Truck oriented service stations are normally significantly larger than this site (over three hectares in site area)
- the nature strip in front of the site is wide, and this would potentially result in truck drivers parking their trucks on the nature strip
- heavy vehicle manoeuvring creates noise which would adversely impact on nearby rural residential properties, given the likely extent of heavy vehicle traffic generation.

Given the above, it is considered that while the site may have some merit to be used as a 'typical service station' it is not suitable for a 'truck oriented service station'.

If the applicant chooses to amend the proposal so that it is for a service station without on-site parking for heavy vehicles, then further information would need to be provided to Council including additional studies in relation to traffic management, land contamination, noise and visual impact, in order for the proposal to be further considered.

Traffic movements

Although the intention of the proposed service station is to provide services to vehicles travelling on Campbelltown Road, there is still a likelihood that a number of vehicles travelling north on the F5 would utilise the service station. In this regard, a map showing the anticipated directional movement of traffic to and from the site for those vehicles is shown in attachment 3. Such vehicles would enter the site through the Ingleburn F5 exit ramp. To re-enter the F5 and continue travelling in the same direction, the vehicles would have to loop back through Williamson Road, and then turn left to Brooks Road. In doing so, the vehicles would traverse through the industrial area of Ingleburn. Given that the traffic would not navigate through any residential suburbs, such traffic movement would not be considered unreasonable.

Arboriculture Impact Assessment

The applicant has submitted to Council an Arboriculture Impact Assessment for the site. The report has examined all trees located on the land and of the 136 trees assessed, 91 are proposed to be retained and protected.

The majority of trees on the site are highly fragmented and modified bushland which have been impacted by past land use activities. Some of the trees are identified as being remnant trees of Cumberland Plain Woodland. In this regard, further investigation is required to ascertain whether the vegetation on site is representative of Cumberland Plain Woodland. If this is the case, the applicant would need to undertake a flora and fauna assessment.

Where to from here

If Council chooses not to support the LEP amendment, the applicant would be entitled to, within 40 days of Council's notification of its decision, make a written application and pay a fee to the Department of Planning and Infrastructure for a pre-gateway review. An applicant may also request a pre-gateway review if Council has not made a determination after 90 days from the date of submission of the LEP amendment request. The pre-gateway review is informed by advice from joint regional planning panels.

Notably, Council or a proponent may also request a review of a gateway determination within 40 days of being notified by the Department.

Should Council resolve to support the request to create a 'scheduled use' to allow the site to be used as a 'service station', then the applicant would be required to prepare additional studies to support the application, and a further report would need to be submitted to Council in this regard.

Conclusion

It is evident from the concept design drawing provided to Council by the applicant that the proposal is not for a 'typical service station'. While a typical service station provides for fuelling of heavy vehicles, it does not normally include on-site heavy vehicle parking, and especially to the extent nominated by plans submitted with the proposal.

The site is not considered suitable for a service station that would provide onsite parking and specialised services for heavy vehicles and as such, the proposal is considered to have insufficient merit in order to be progressed to the next stage.

There would be merit for a proposal that would limit the use of the site for a typical service station, not incorporating heavy vehicle parking.

Should Council resolve not to endorse the proposal, the applicant would have the right to appeal Council's decision.

Officer's Recommendation

1. That Council not support the proposed amendment to Campbelltown (Urban Areas) Local Environmental Plan 2002 for Lot 100 DP1176622 (No. 194 Campbelltown Road), Denham Court to include an additional use (service station) to Schedule 2 – Additional Development, given that the subject land is not suitable to be developed for a purpose associated with heavy vehicle parking, servicing and associated activities.
2. That Council advise the applicant in writing of its decision.

Committee's Recommendation: (Thompson/Rowell)

That a decision in this matter be deferred to allow for the consideration of further information regarding the proposal.

CARRIED

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

Voting against the Committee's Recommendation: Nil.

Council Meeting 10 September 2013 (Greiss/Matheson)

That the Committee's Recommendation be adopted.

Council Resolution Minute Number 196

That the Committee's Recommendation be adopted.

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

Voting against the Council Resolution: Nil.

3. DEVELOPMENT SERVICES

3.1 Development Services Section Statistics - July 2013

Reporting Officer

Manager Development Services

Attachments

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

Purpose

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

Report

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

Officer's Recommendation

That the information be noted.

Committee's Recommendation: (Rowell/Matheson)

That the Officer's Recommendation be adopted.

CARRIED

Council Meeting 10 September 2013 (Greiss/Matheson)

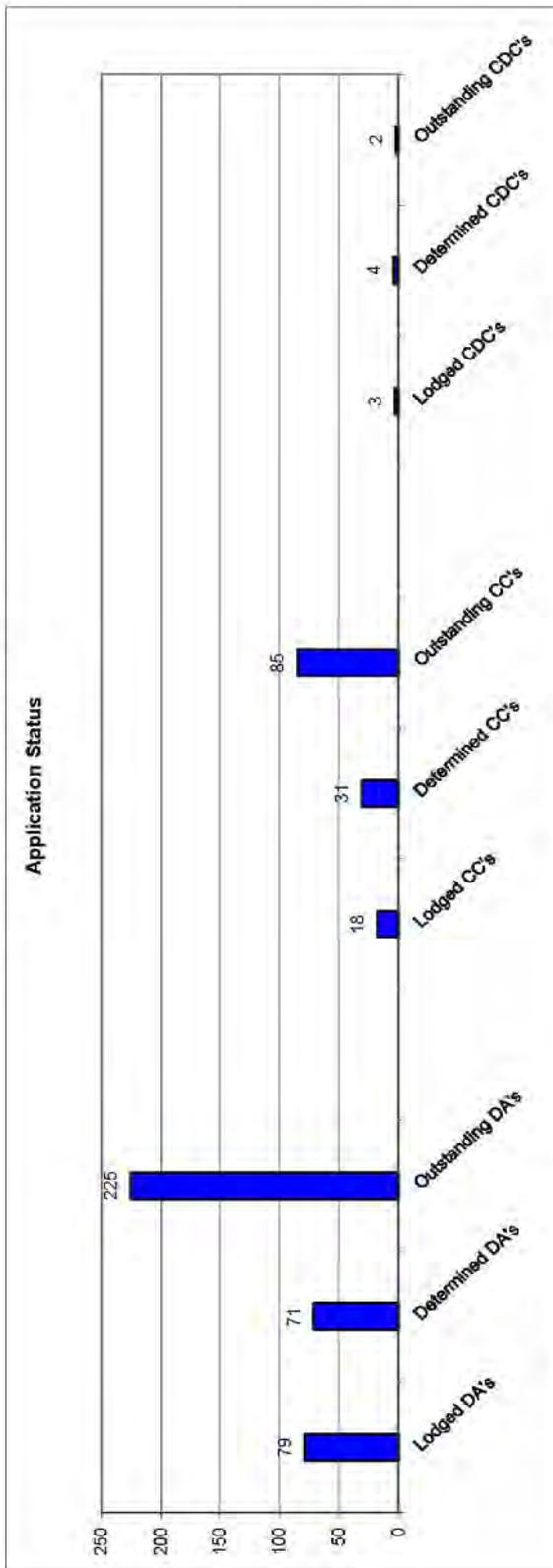
That the Officer's Recommendation be adopted.

Council Resolution Minute Number 194

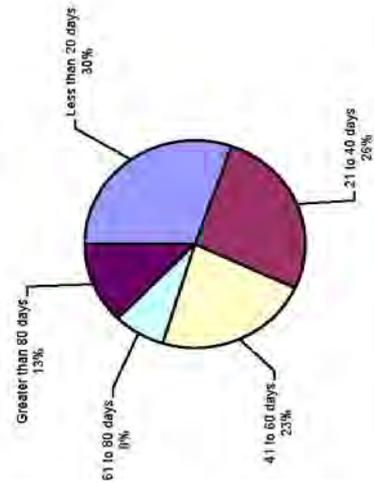
That the Officer's Recommendation be adopted.

ATTACHMENT 1

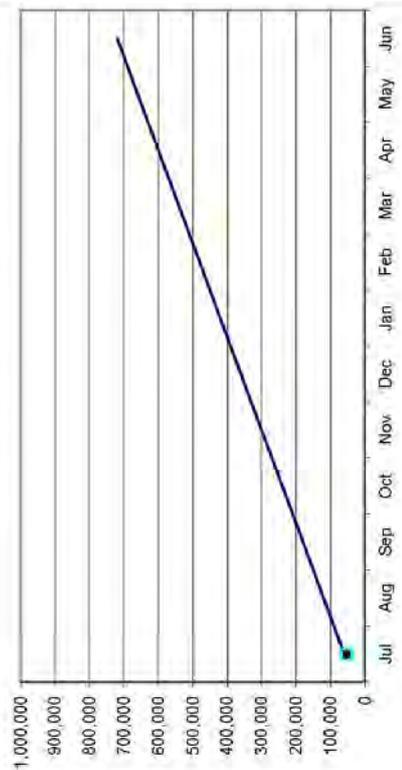
DEVELOPMENT SERVICES SECTION MONTH AT A GLANCE - July 2013



Development Application Monthly Processing Times



Development Application Income



3.2 Claymore Urban Renewal Project - Proposed Modification

Reporting Officer

Manager Development Services

Attachments

1. Letter from Department of Planning and Infrastructure to Campbelltown City Council advising of modification request (contained within this report)
2. Letter from Council to the Department of Planning and Infrastructure advising of the timing of Council's consideration (contained within this report)

Purpose

To advise Council that UrbanGrowth NSW has formally requested the Department of Planning and Infrastructure to modify the Claymore Urban Renewal Project Concept Plan Approval in order to provide greater certainty regarding the nature and timing of development contributions and to amend the timing of the execution of the proposed Voluntary Planning Agreement.

The same request was also made for the Airds Bradbury Renewal Project which was the subject of a separate report to the August round of Council.

History

The Claymore Urban Renewal Project has been moving through the development assessment process for a number of years. Council gave its final consideration to the project in December 2012 and the Minister for Planning and Infrastructure subsequently issued approval to the Concept Plan in May 2013. A Development Application for the Stage 1 subdivision is due to be lodged shortly and will be determined by the Joint Regional Planning Panel in due course.

It is important to note that the approved Concept Plan differs from what Council endorsed at its meeting in December 2012 in two significant ways. Firstly, the proposed new retail centre fronting Badgally Road has been retained as an integral part of the concept, with the existing Claymore shopping centre site also being retained. Secondly, housing will be developed along the frontage of Badgally Road rather than Council's preference for the retention of Badgally Reserve and Claymore Park. This was the decision of the Minister's delegate.

As well as new housing, the project involves the significant redevelopment of existing infrastructure including roads, drainage, open space, playing fields and community facilities. Securing the appropriate development contributions from this development has always been a key issue for Council and significant negotiations have been ongoing both before and since the project's approval. To cover the issue of contributions, the Concept Approval contained the following condition:

'Prior to the determination of any development application for subdivision and consistent with the proponents statement of commitments, a Voluntary Planning Agreement (VPA) to provide roads, social and community infrastructure drainage and open space facilities and amenities with details of the contributions and the nature of any land dedications or works in kind, is to be negotiated and executed with Campbelltown City Council.'

It is understood that the request for modification to the Concept Approval relates directly to this condition. The intent of the proposed modification is not to alter the scope or value of works associated with the development, rather it could be described as a procedural change that will secure appropriate contributions across the life of the development while allowing the first stages of development to proceed in a timely fashion. It is important to note however, that the proponent has not submitted any alternative wording for a replacement condition. The final wording will be decided by the Department of Planning and Infrastructure and will need to ensure that it secures the opportunity for Council to collect appropriate development contributions over the life of the development.

Report

Modification to condition relating to development contributions

On 21 June 2013, UrbanGrowth NSW wrote to Council to advise of its intention to seek a modification to the condition of consent of the Claymore Urban Renewal Concept Approval in relation to development contributions. On 25 June 2013, UrbanGrowth NSW wrote to the Department of Planning and Infrastructure to request an amendment to the Claymore Urban Renewal Project Concept Plan condition relating to development contributions. The Department of Planning and Infrastructure will be responsible for determining the request. By letter dated 4 July 2013 (attachment 1), the Department advised Council of the request and asked that any submission be provided by 19 July 2013 and that it be dealt concurrently with the request to modify the equivalent condition of the Airds Renewal Project approval. As with that request, the Department was advised that the matter would not be presented to Council until its meeting of 13 August 2013 and that the proponent did not object to that timeframe (attachment 2).

UrbanGrowth has made the following request of The Department of Planning and Infrastructure:

“We are seeking an amendment to the Claymore Renewal Concept Plan condition relating to Development Contributions (Schedule 4, Item 7). There is uncertainty regarding the development contributions based on the current wording of the condition and we seek to rectify the situation by providing greater certainty by lodging modification to the Concept Plan so that it takes into account the following:

- NSW Land and Housing Corporation submits a letter of offer to enter into a VPA (Planning Agreement and Infrastructure Services Delivery Plan) with Campbelltown Council. The items of works to be delivered in the VPA are to be generally consistent with the Concept Plan Approval. It is to provide details in regards to the item of works to be provided, responsibilities and timing.
- The timeframe for execution of the VPA is to be deferred to before the Stage 3 DA approval date (Stage 3 incorporates significant project items including Community Facilities and Retail). This will allow for the project to proceed whilst still ensuring the VPA is executed prior to the approval of Stage 3 when critical infrastructure works are required. The deferment of execution will not impede the delivery of any of the works as the development applications will still demonstrate consistency with the Concept plan and the related letter of offer.
- Stages 1 & 2 VPA items of works are to be undertaken as part of the works associated with each stage of development. This will be confirmed as part of the Stage 1 works when the Development Application is lodged with Council and can be secured via a Works in Kind Agreement.”

In order to determine if a modification can be supported, it is firstly important for Council to acknowledge the objective behind the condition (a copy of the relevant condition has been provided earlier in this report). Its aim is to ensure that appropriate development contributions for infrastructure are secured through a legally binding mechanism ie Voluntary Planning Agreement (VPA).

VPAs are an important component of the development contributions framework set out in the *Environmental Planning and Assessment Act 1979*. VPAs are particularly useful when dealing with large scale developments within well-defined localities, such as the Claymore Urban Renewal Project and can provide for greater certainty and minimise risk for Council and the community over the funding and delivery of infrastructure.

Council staff understand from discussions with representatives of UrbanGrowth NSW that the proponent's commitment to provide development contributions is not in question. It is anticipated that a Letter of Offer and a draft Voluntary Planning Agreement will be submitted to Council shortly, along with a Development Application for the Stage 1 subdivision (there are intended to be 12 stages of subdivision overall). The scope and value of contributions have been discussed over a long period of time with relevant staff throughout the assessment of the concept plan, but have not as yet been included in a formal Letter of Offer to the Council nor a draft VPA.

The proponent contends that there is some uncertainty about the wording of the current condition and its potential to delay the timely consideration of the early stages of development. This is understood to be the primary motivation behind the request to modify, rather than any attempt to avoid obligations.

Firstly, because they are voluntary agreements, there may be some question over whether or not it is appropriate to have a condition of consent that makes it mandatory to enter into an agreement.

On the other hand, Council staff point out that this condition was included in the Concept Plan Approval by the Minister, and places an obligation on the proponent (a government authority) and facilitates the Council's capacity to negotiate and execute a VPA to secure the provision of local infrastructure in Claymore. This assurance to Council afforded by the Concept Plan Approval, must not be fettered in any way.

Secondly, Council staff also understand from discussions with representatives of UrbanGrowth that the aim of the modification being sought is to retain a VPA for the majority of the Claymore Renewal Project (Stage 3 onwards), but to secure the development contributions associated with Stages 1 and 2 through the assessment of the relevant Development Applications and Works in Kind Agreements (WIKAs). This is because it will take some time to finalise the negotiation and execution of a VPA with Council for the Claymore Precinct, and Urban Growth wish to seek approval for Stages 1 and 2 of the Renewal Project as soon as possible to facilitate early commencement of on-ground works.

Such WIKAs would simply extract items from the schedule of works from a draft VPA or given timing considerations, items as agreed to by the Council relevant for those stages. WIKAs are also a commonly used method of setting out and securing agreed works arising from a development (or stage of development). In this sense, the modification to the existing condition of the Concept Plan Approval can be considered a procedural change. That is, the same outcomes can be achieved through a different mechanism. The benefit to the proponent is that it removes any potential delay in receiving consent for the early stages of development.

Due to its value, the Stage 1 subdivision DA when lodged, will be determined by the Joint Regional Planning Panel. A condition of consent can be included that secures the range of work described in the WIKAs to be provided as part of the Stage 1 works. The same process can be utilised for the Stage 2 subdivision, before Stage 3 onwards are subject to the proposed Voluntary Planning Agreement.

It is recommended that the Department of Planning and Infrastructure be advised that Council raises no objection to the proposed modification to the Concept Plan Approval on the basis that the proposed Works in Kind Agreements be agreed to by the Council.

Proposed development contributions from Claymore Urban Renewal Project

Although Council has yet to receive the formal Letter of Offer and VPA, the scope of proposed contributions has been identified through discussions that have been ongoing over the course of the assessment process.

In summary, contributions over the life of the Claymore Urban Renewal Project will be made in the following categories:

1. road works, cycleways, bus stops and intersection upgrades
2. water Cycle and Water Quality management
3. open space and landscaping including a new town centre park and upgrades to Fullwood Reserve playing fields and amenities, Dimney Park and Davis Park
4. riparian and bushland regeneration through Brady Park/Fullwood Reserve
5. new purpose built community and child care centre.

Conclusion

As the consent authority of the Claymore Urban Renewal Project, the Department of Planning and Infrastructure is responsible for determining an application to modify any conditions of consent. Urban Growth has made such an application in respect to the condition included in the Concept Plan Approval dealing with development contributions, and Council has been requested to submit any comments it may have to the Department of Planning and Infrastructure.

It is believed that Council should respond to the Department and advise that no amendment to the condition should be considered that would have the effect of altering Council's capacity to negotiate and execute a VPA for the Claymore Renewal Project, in the best interests of the community.

Further, it is suggested that Council indicate to the Department that it raises no objection to a modification to the Concept Plan Approval that accounts for the requirement for the proponent to put into place WIKAs with Council to secure the funding and delivery of infrastructure relevant to Stages 1 and 2 of the renewal project, as agreed to by Council.

In relation to the draft VPA, a further report can be presented to Council once a formal Letter of Offer and draft VPA is submitted by the NSW Land and Housing Corporation. The VPA will require public notification prior to it being executed.

Officer's Recommendation

That Council make a submission to the Department of Planning and Infrastructure regarding UrbanGrowth's modification application no. MP10- 0010 MOD1 advising:

- i. That no amendment to the Concept Plan Approval should be considered that would have the effect of altering Council's capacity to negotiate and execute a Voluntary Planning Agreement for the Claymore Renewal Project, in the best interests of the community.
 - ii. That Council raises no objection to a modification to the Concept Plan Approval that accounts for the requirement for the proponent to put into place Works in Kind Agreements that are agreed to by Council, to secure the funding and delivery of infrastructure relevant to Stages 1 and 2 of the Renewal Project, and for all subsequent stages through and in accordance with a Voluntary Planning Agreement with Campbelltown City Council, endorsed by Council.
-

Committee's Recommendation: (Thompson/Lound)

That the Officer's Recommendation be adopted.

Addendum: (Kolkman/Oates)

2. That the NSW Government be requested to provide a timetable for the implementation of the Claymore Renewal Project.

CARRIED

Council Meeting 10 September 2013 (Greiss/Matheson)

That the Committee's Recommendation be adopted.

Council Resolution Minute Number 194

That the Committee's Recommendation be adopted.

ATTACHMENT 1



4 July 2013

Contact: Peter McManus
Phone: (02) 9228 6316
Fax: (02) 9228 6455
Email: peter.mcmanus@planning.nsw.gov.au
Our ref: MP11_0010 MOD 1

Mr Jeff Lawrence
Director Planning and Environment
Campbelltown City Council
PO Box 57
CAMPBELLTOWN NSW 2560

Attention: Scott Lee

Dear Mr Lawrence

Subject: Notification of Modification Request for Claymore Urban Renewal Project (MP11_0010 MOD 1)

UrbanGrowth NSW (the proponent) has submitted a request to modify the above concept plan, seeking approval to amend the wording of future environmental assessment requirement No. 7 to provide greater certainty to development contributions.

The modification application will be made available on the department's website from Friday, 5 July 2013, under reference 'MP11_0010 MOD 1' at:

<http://majorprojects.planning.nsw.gov.au>

The department requests that the modification application be considered concurrently with the modification application for the Airds Bradbury Concept Plan (MP10_0186 MOD 1), recently referred to council on 28 June 2013.

I have enclosed a hard copy of the application and supporting documentation for your review. I invite you to make a submission on the request, including advice on recommended conditions of approval, by Friday 19 July 2013.

It is departmental policy to make your submission available on the department's website.

Your contact officer for this proposal, Peter McManus, can be contacted on 9228 6316 or via email at peter.mcmanus@planning.nsw.gov.au. Please mark all correspondence regarding the proposal to the attention of the contact officer.

Yours sincerely,

A handwritten signature in black ink that reads 'David Gibson'.

David Gibson
Team Leader
Industry, Social Infrastructure & Key Sites

ATTACHMENT 2



16 July 2013

Mr D Gibson
Team Leader, Social Infrastructure and Key Sites
Department of Planning and Infrastructure
GPO Box 39
SYDNEY NSW 2000

Attention: Mr Peter McManus

Dear Mr Gibson

Notification of Modification Request for Claymore Urban Renewal Project (Your Reference: MP11_0010 MOD 1)

Thank you for your letter dated 4 July 2013 concerning the above modification application that relates to development contributions. Similar to the advice recently forwarded to the Department (Contact Ms Megan Fu) with respect to the Modification Application for the Airds-Bradbury Renewal Project, please note that Council will not be in a position to respond to the Department's correspondence until 14 August 2013, due to the administrative requirements associated with Council's reporting cycle.

This is to confirm that the matter of the Modification Application for the Claymore Urban Renewal Project will be subject of a report to Council on 13 August 2013. Any resolution of Council concerning the Application will be reported directly to the Department on the following day.

Council understands that Mr Hourigan of Urban Growth does not object to the Application being deferred by the Department of Planning and Infrastructure, until Council has had the opportunity to consider the Modification Application at its meeting on 13 August 2013, and formally respond to the Department's Notification correspondence.

Should you require any further information please do not hesitate to contact me directly on (02) 4645 4575.

Yours sincerely

A handwritten signature in black ink, appearing to be "Jeff Lawrence", written over a horizontal line.

Jeff Lawrence
Director Planning and Environment

3.3 No. 20 Frost Road, Campbelltown - Construction And Use Of A Warehouse/Storage Building, Use Of Land And An Existing Building As A Truck Maintenance Facility, Construction Of Associated Car Parking And Construction Of An Acoustic Wall

3.3 No. 20 Frost Road, Campbelltown - Construction and use of a warehouse/storage building, use of land and an existing building as a truck maintenance facility, construction of associated car parking and construction of an acoustic wall

Reporting Officer

Manager Development Services

Attachments

1. Recommended conditions of consent (contained within this report)
2. Locality plan (confidential for privacy and copyright)
3. Site (confidential for privacy and copyright)
4. Landscape plan (confidential for privacy and copyright)
5. Floor plans (confidential for privacy and copyright)
6. Elevation plans (confidential for privacy and copyright)
7. Acoustic wall detail (confidential for privacy and copyright)

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 92 DP 1004803 and Lot 7 DP 1008057, No.20 Frost Road, Campbelltown
Application No	845/2012/DA-U
Applicant	AR Design
Owner	Mr Robert Tebb and Mrs Annette Tebb
Provisions	Campbelltown (Urban Area) Local Environmental Plan 2002 Campbelltown (Sustainable City) Development Control Plan 2009 Development Control Plan No.87 – Public Notification and Public Exhibition Policy Campbelltown 2025 – Looking Forward
Date Received	8 May 2012

3.3 No. 20 Frost Road, Campbelltown - Construction And Use Of A Warehouse/Storage Building, Use Of Land And An Existing Building As A Truck Maintenance Facility, Construction Of Associated Car Parking And Construction Of An Acoustic Wall

History

The subject development application was initially reported to the Planning and Environment Committee meeting of 19 February 2013. On the night of the Committee meeting the applicant requested that the item be deferred so that they could address some of the matters raised in the planning officer's report. The Committee agreed to the request and the Council subsequently resolved that the item be deferred so as to allow the applicant time to respond to the relevant issues raised in the Officer's report.

This report examines the amended proposal put forward by the applicant in addressing concerns raised within the previous report to Council.

Report

Introduction

Council has received a development application for the construction and use of an industrial warehouse/storage building, the use of the land and an existing building as a truck maintenance facility, the construction of associated car parking and the construction of a temporary acoustic wall at No. 20 Frost Road, Campbelltown.

The Site

The subject site is located to the south of the cul-de-sac head of Frost Road, Campbelltown and is located approximately 310 metres away from the intersection of Frost and Johnson Roads.

The site has a total area of 7,685.60 square metres and is square in shape, with an average width of 78.90 metres and average depth of 83.04 metres. As the land is located at the head of the cul-de-sac, the allotment's front boundary width to Frost Road is 15 metres.

The land currently contains an older style industrial building that was constructed in the 1970s. The existing industrial building has an approximate area of 600 square metres. The land is encumbered with a 25 metre wide drainage easement along its eastern side and a 1.5m wide easement for services along the southern boundary of the property.

It is understood that the property is currently being used for the purpose of truck parking and truck servicing.

Adjoining and nearby land uses include industrial activities to the east, north and north-west of site, residential land uses to the west and south of the site and a service station to the south-east of the site. Six residential properties adjoin the subject land comprising a mix of single and two storey dwellings.

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The Proposal

The proposed development includes the construction and use of a new industrial building containing three industrial units, the construction of a temporary acoustic wall for the full length of the adjoining residential boundary, the use of the land and an existing building as a truck maintenance facility and the construction of associated car parking.

The proposed industrial building has a footprint of approximately 2,535 square metres with each unit containing a mezzanine level of between 96 and 140 square metres.

The proposed development also includes:

- The provision of 46 car parking spaces
- Concrete driveways and manoeuvring areas
- Landscaping
- A temporary acoustic wall located adjacent to the south-western residential boundary having a height of approximately 6.0 metres made of fibrous cement sheets or plywood (measured from ground level of the subject site - approx. 1.5 metres above the height of the existing timber fence along the south-western boundary of the site).

The proposed hours of operation of the truck maintenance facility are:

- Monday to Friday – 7.00am to 7.00pm
- Saturday – 7.00am to 5.00pm
- Sunday and Public Holidays – approval for a three hour operating window on Sundays is sought from Council. This window is for the movement of trucks from the premises only and could involve up to six truck movements. The trucks required to be moved on Sundays and Public Holidays would be parked on the site's northern boundary being the furthest from residential dwellings.

1. Vision

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

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

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The strategic directions relevant to this application are:

- Growing the Regional City
- Building a distinctive Campbelltown sense of place
- Creating employment and entrepreneurial opportunities.

The proposed development is generally consistent with these directions.

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

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

It is considered that the proposed development is generally consistent with the Vision's desired outcomes having regard to the proposed employment opportunities, function and design. Some potential issues exist with impacts on adjoining residential amenity.

2. Planning Provisions

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

2.1 Campbelltown (Urban Area) Local Environmental Plan 2002

The subject site is zoned 4(a) General Industry under the provisions of Campbelltown (Urban Area) Local Environmental Plan 2002.

The proposed development is defined as a 'motor vehicle repair station' and 'storage establishment' which are (with Council's consent) permissible land uses within the zone.

Under the CLEP 2002, a 'motor vehicle repair station' is defined as:

a building or place used for:

- (a) the selling or fitting of accessories to, or
 - (b) the repair, other than body building, panel beating or spray painting, of, motor vehicles or agricultural machinery.
-

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Under the CLEP 2002, a 'storage establishment' is defined as:

A building or place used principally for the storage of goods, materials or products and includes facilities for the loading and unloading of vehicles carrying those goods, materials or products, but (in Part 2) does not include a road transport terminal.

The objectives of the zone include:

- (a) to encourage activities that will contribute to the economic and employment growth of the City of Campbelltown
- (b) to allow a range of industrial, storage and allied activities, together with ancillary uses, the opportunity to locate within the City of Campbelltown
- (c) to encourage a high quality standard of development which is aesthetically pleasing, functional and relates sympathetically to nearby and adjoining development
- (d) to protect the viability of the commercial centres in the City of Campbelltown by limiting commercial activities to those associated with permitted industrial, storage and allied development
- (e) to ensure development will not be carried out unless the consent authority is satisfied that the processes to be carried on, the transportation to be involved, or the plant, machinery or materials to be used, do not interfere unreasonably with the amenity of the area.

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 the carrying out of the proposed development would be consistent with one or more of the objectives of this zone.

The proposed development is considered to be consistent with zone objectives numbers (a), (b), (c) and hence development consent can be granted, should Council deem it appropriate to do so.

Clause 37(d) of CLEP 2002, requires that development consent must not be granted to development, other than for the use of land for landscaping, for access roads and for off street parking, on any land within Zone 4 (a) or 4 (b) which is within 10 metres of Frost Road.

The proposed development includes landscaping and car parking within the 10 metre setback area and as such, is considered compliant with clause 37(d).

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2.2 Campbelltown (Sustainable City) Development Control Plan 2009

The proposed development has been assessed having regard to the relevant provisions of Council's Sustainable City Development Control Plan 2009 (the Plan). This section assesses the proposal against the relevant requirements of the Plan:

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 would not obscure any important views to and from public places and would not impact upon district views.

Sustainable building design – A rainwater tank of 10,000 litres in size is required to be provided for the development, as the proposed building has a roof area of between 1,000m² and 5,000m². A rainwater tank has been incorporated into the proposal, to be located underneath the parking area.

A condition has been included in the draft consent (Attachment 1) requiring the installation of a 10,000 litre tank.

Landscaping – The landscaping opportunities at the site are limited by the site's orientation and location at the head of a cul-de-sac. Landscaping is proposed adjacent to the site's northern and western boundaries and is considered to be satisfactory.

Flora, fauna and weed management – The site contains no existing significant vegetation.

Cut, fill and floor levels – The application proposes a warehouse building located at the rear of the property. Cut and fill is not proposed. Proposed floor levels are considered satisfactory given the topography of the land.

Waste Management – A Waste Management Plan has been submitted and is considered to be satisfactory.

Stormwater – The application proposes to drain the development to Council's existing stormwater system within Frost Road, which is satisfactory.

Part 6 – Industrial development

The following is an assessment against the relevant requirements of Part 6 of the Campbelltown (Sustainable City) DCP 2009.

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Standard	Required	Proposed	Compliance
Height	Predominantly single storey, excluding offices and mezzanines	One storey	Yes
Building design	Vertical/horizontal offsets in wall surfaces	Vertical/horizontal offsets in wall surfaces provided	Yes
	Articulated windows/doors/roof/entrances	Windows/ doors/roof /entrances articulated	Yes
	Walls to be articulated using texture, colour, materials	Walls articulated – different materials and colours	Yes
	Minimum of 50% of total surface area of front elevation to be constructed of masonry material	70% of area constructed of masonry	Yes
	Mezzanines/offices to be no more than 30% of leasable floor area	Mezzanine/office area amount to 11.9% (341/2876m ²) of leasable floor area	Yes
Main entry to be identifiable from street	Although access to the site is readily identifiable, entry to each of the proposed units would be not be identifiable from the street given the subject site's orientation and location of the proposed units	NA	
Setbacks	10 metres to Frost Road	Proposed building is 41 metres from Frost Road boundary	Yes

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<p>Car parking</p>	<p>Industrial/warehouse space:</p> <p>Minimum two spaces per unit (eight required) plus:</p> <p>One space for every 100m² of leasable floor area up to 2,876m² (25.2 required based on 2,520m² of LFA), plus</p> <p>One space per 35m² for office areas, lunch rooms, office storage areas, etc. (8.7 required based on 305m² of LFA)</p> <p>Total required = 33.9 (say 34) spaces plus eight (42 required)</p> <p>Car parking spaces and manoeuvring areas are not to occupy more than 50% of the required front setback area</p> <p>10% of required car spaces, including disabled spaces, located close to main pedestrian entry</p>	<p>46 spaces provided</p> <p>Landscaping and parking areas are located within the setback area. Location of parking and landscaping adjacent to boundary considered acceptable in this instance</p> <p>More than 10% of spaces, including an accessible parking space, are located close to the main pedestrian entry</p>	<p>Yes</p> <p>NA</p> <p>Yes</p>
<p>Manoeuvring and Loading</p>	<p>All vehicles shall be able to enter and leave the site in a forward direction with a maximum of a three point turn</p> <p>Each industrial building having a leasable floor area of:</p> <p>Between 400m² and 1,500m² shall provide an area to allow a medium rigid vehicle to manoeuvre on site;</p> <p>More than 1,500m² shall provide a loading area for a heavy rigid vehicle to manoeuvre on site</p>	<p>All vehicles are able to enter and leave the site in a forward direction with a maximum of a three point turn</p> <p>Loading bays and manoeuvring areas sufficient for both medium and heavy rigid vehicles are provided to service the proposed building</p> <p>Adequate manoeuvring areas for all vehicle types are available on site.</p>	<p>Yes</p> <p>Yes</p>

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Landscaping	Landscaping is to be provided to a minimum of 50% of each required setback area	Given the location of the subject property and width street frontage, the required setback area to be landscaping cannot be achieved	NA
	Landscaping to be provided along the full width of street frontages, other than driveways	Landscaping provided along full width of street frontage apart from driveway areas	Yes
Fencing	Maximum height of 2.4m	2.1m side fencing proposed	Yes
	Palisade design required	Steel palisade fencing proposed	Yes
Residential Interface	Loading areas, driveways, rubbish and storage areas, and roof top equipment shall not be located adjacent to residential areas	The design of the proposed development avoids loading areas, storage areas and roof equipment near dwellings as the entrances to the proposed building are furthest from the boundary abutting the residential properties (26 metres). Proposed parking areas located adjacent to residential areas are to be separated by way of the construction of an acoustic wall.	Yes
	External and security lighting shall be positioned to avoid light spillage to adjacent residential development	Location of warehouse and acoustic wall would assist in avoiding light spillage impact on adjoining residential development	Yes
	An acoustic report shall be prepared to accompany the development application	Acoustic report has been submitted to accompany the development application	Yes

The proposed development is generally consistent with the development and numerical standards of the Plan.

3. Planning Assessment

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

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3.1 Acoustic Assessment - Applicant

Since the applicant's previous report to Council, the applicant has provided a revised 'Environmental Noise Impact Assessment' prepared by specialist consultancy "Acoustic Logic" which assesses the potential and predicted noise impacts of the proposed development. The consultant's assessment considered the NSW EPA Industrial Noise Policy and was revised in response to the findings of a peer review (commissioned by the Council) of the applicant's original acoustic report. The peer review for the Council was carried out by NG Child and Associates.

For the purpose of the revised assessment, the applicant's acoustic consultant adopted the noise criterion / emission goals proposed by Council's consultant (see Table A below), which are based on the NSW EPA Industrial Noise Policy (Table B).

Table A

Type of Receiver	Time of Day	Consultants Noise Criterion Level dB(A) Leq
Residential	Day	46
	Evening	45
	Night	40

Day = 7:00am to 6:00pm Monday to Saturday
= 8:00am to 6:00pm Sundays and Public Holidays.

Evening = 6:00pm to 10:00pm.

Night = 10:00pm to 7:00am.

The NSW EPA Industrial Noise Policy provides guidelines for assessing noise impacts from industrial developments. The recommended assessment objectives vary, depending on the potentially effected receivers, the time of day and type of noise source. The EPA Industrial Noise Policy has two requirements which both have to be complied with:

- Amenity Criterion
- Intrusiveness Criterion

The Amenity Criterion is intended to limit the absolute noise level from all noise sources to a level that is not inconsistent with the noise generated from other uses within the surrounding local environment.

The Intrusiveness Criterion is intended to limit the audibility of noise emissions at residential receivers and requires that noise emissions measured at the receiving point, do not exceed the background noise level by more than 5dB(A).

The NSW EPA Industrial Noise Policy sets out acceptable noise levels for various localities. The table below provides the recommended ambient noise levels for urban residential receivers for the day, evening and nights periods:

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Table B

Type of Receiver	Time of Day	EPA Recommended Acceptable Noise Level dB(A) Leq
Residential	Day	55
	Evening	45
	Night	40

Day = 7:00am to 6:00pm Monday to Saturday
 = 8:00am to 6:00pm Sundays and Public Holidays.

Evening = 6:00pm to 10:00pm.

Night = 10:00pm to 7:00am.

The applicant has provided an updated assessment of potential future operational noise that may be generated from the site. This includes truck movements (including idling time required to inflate pneumatic brake release system of vehicles on start-up) and noise from the proposed industrial units.

Predicted noise levels are measured from the back yards and first floor windows of adjoining dwellings located on John Kidd Drive. These figures assume the existence of a 6.0m high acoustic wall erected adjacent to the common boundary fence and take into consideration the intensity and level of noise generated by the use and continued operation of the industrial site.

Table C

Noise Source	Receiver Location	Predicted Noise Levels dB(A)Leq(15min)	Complies with the EPA Recommended Acceptable Noise Level dB(A) Leq
Truck Manoeuvring	Backyards of residences	36	Yes
	First floor windows of residences	45	Yes – day and evening criteria only
Workshop Noise	Backyards of residences	<31	Yes
	First floor windows of residences	36	Yes

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Having regard to the above, the applicant's amended acoustic report provides a revised set of recommendations relating to the erection of a temporary acoustic screen, the construction and use of the proposed industrial building, as well as management controls for the site so as to ensure that activities carried out on the site remain within the Predicted Noise Level ranges stated in the Table C above.

The applicant's recommendations for the temporary acoustic screen are:

- The screen is to be constructed for the full length of the boundary abutting residential dwellings
- The screen should be a minimum of 4.5m high above ground level when measured above the ground level of the adjoining residential allotments
- The screen be constructed using multiple layers of 6mm thick fibro cement sheet or 12mm plywood. Perspex can be used to allow for additional solar penetration.

Further to the above recommendations, the applicant's report recommends the following on-site management controls whilst the acoustic screen is the only form of acoustic protection on the site:

- No vehicle movements between 10pm and 7am
- No more than two truck movements in any 15 minute period
- Truck maintenance and use of tools to be undertaken inside the workshop.

The applicant's recommendations for the proposed industrial building are:

- Temporary acoustic screen no longer required (after occupation certificate has been issued for the proposed industrial building)
 - Industrial building shall run full length of the south-western boundary to create a noise screen for the adjacent residential allotments
 - For any tenancy used for truck maintenance, the roof shall be constructed to consist of sheet metal with 40mm thick Enviro-spray (or similar) sprayed to underside
 - Unit 1 western and southern external walls to consist of sheet metal or 6mm fibro cement sheet external cladding, minimum 90mm airgap (with 75mm 11kg/m³ insulation) and 13mm plasterboard internal lining (or similar construction method that achieves same acoustic properties)
 - Any windows or skylights shall be constructed using minimum 10mm thick glass. All operable window sashes shall have acoustic seals (equal to Q-Lon from Schlegal).
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Further to the above recommendations, the applicant's report recommends the following on-site management controls for the development and use of the proposed industrial building:

- No more than six truck movements on the site in any 15 minute period
- For the period between 10pm and 7am:
 - Where truck movements are proposed, the ridgeline of the new building should be constructed to a height of at least 7.5m above the ground level of the site
 - No more than one truck movement on site in any fifteen minute period
- Noisy maintenance works to trucks to be carried out in the workshop (not outside). Noisy works would include use of power/air tools, revving engines and use of compressors
- Detailed acoustic review of any ventilation mechanisms to be undertaken at the Construction Certificate stage, when plant selections are finalised.

The applicant's acoustic consultant's report concludes that provided all recommendations above are satisfied, the noise emissions from the proposed development would fully comply with NSW EPA Industrial Noise Policy and would not have an adverse impact on surrounding properties.

3.2 Acoustic Assessment - Council

As a result of the findings of the applicant's original acoustic assessment, Council engaged NG Child and Associates (Acoustic Consultant) to undertake a peer review of the applicant's 'Environmental Noise Impact Assessment'.

Key findings of the peer review included apparent inconsistencies with the applicant's originally reported background noise levels, proposed hours of operation as well as limitations with respect to the appropriateness of various base noise levels/criteria used by the applicant's acoustic consultant as part of their assessment and reporting.

As a consequence of these findings, Council engaged NG Child and Associates to undertake its own independent acoustic assessment of the current operations at the site, including an assessment of that proposed within the subject application, and to provide recommendations for Council to consider as a part of its own assessment process.

In consideration of the development and use proposed by the applicant and that currently operating on site, NG Child and Associates recommended a number of relevant controls be implemented in order to reduce any noise impacts experienced by residential neighbours whilst the business is in operation on the site. These include:

- Introduction of a Noise Management Plan / Plan of Management designed to control work practices and minimise intrusive noise generated at the site
 - Construction of a noise barrier / wall along the south-western boundary of the subject site, returning part way along the north-western and south-eastern boundaries to minimise reflected sound.
-

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In addition to the above, NG Child and Associates recommends that pending the construction of a suitable acoustic wall or barrier, truck movement and truck maintenance operations on the site should not be permitted after 6.00pm and before 7.00am (i.e. no evening or night work).

Following the construction of the required acoustic barrier, NG Child and Associates states that subject to the approval of the Council, restricted activities during the designated evening period (such as limited maintenance work on vehicles already located in the workshop), could be carried out on the premises. During this period, the ingress, manoeuvring or egress of vehicles to/from the building should not be permitted nor should the movement of vehicles around the site (yard movements). Any proposal for an extension of the hours of operation beyond that approved under this consent would need to be the subject of a further development application.

Notwithstanding the above, it is important to note that NG Child and Associates considers that even with an acoustic barrier / wall in place, it is possible that noise from truck movements and associated yard activities could still exceed relevant noise guidelines and criteria at the residential boundary. In this regard it is recommended that in addition to the development of a Noise Management Plan / Plan of Management, that where the Council is of a mind to approve the subject application, the applicant be required to undertake continual noise monitoring at the site under the direction of an approved acoustic consultant and that the results of the monitoring be provided to the Council at least every six months, or as otherwise requested by Council acting reasonably.

Where it is established that the activities on the site unreasonably exceed the accepted noise emission criteria, the applicant would be required to revise the Noise Management Plan and introduce additional noise mitigation measures (physical or operational) in order to reduce the noise generated from the use of the site, so as to accord with the specified noise performance standard. A draft condition has been included at Attachment 1 requiring the same.

As a result of their assessment, Council's consultant (NG Child and Associates) provided a number of recommendations for design and operational controls which are considered necessary in order to achieve and maintain the required noise criteria at the boundary of the subject site and adjoining residential properties.

The applicant's acoustic consultant has liaised with NG Child and Associates and considered the NG Child recommendations. With this, the applicant's consultant has resubmitted a revised Plan of Management that proposes the following hours of operation for the workshop, truck movements and other vehicular operations.

Workshop hours of operation now proposed by the applicant's consultant are:

- Monday to Friday 7am – 7pm;
 - Saturday 7am – 5pm;
 - Sunday and Public Holidays no work except in events of emergency where access to tools and equipment is required to carry out emergency repairs or respond to breakdowns. These events would be recorded in an incident report book.
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Truck movement/operation times now proposed by the applicant's consultant are:

- Monday to Friday 7am – 7pm;
- Saturday 7am – 5pm;
- Sunday and Public Holidays no work to be carried out with the exception of a three hour window as designated by Council for the movement of trucks from the premises only. Trucks to be moved would be located away from the boundary abutting the residential allotments and no more than 4 to 6 movements in that time.

In consideration of the above and the recommendations by NG Child and Associates, the revised hours of operation for the specified activities are not considered unreasonable, subject to the completion of a suitable and comprehensive Plan of Management approved by Council, as well as the construction of a suitable acoustic wall (in proximity to and for the full length of the residential boundary), that meets and/or exceeds the relevant acoustic performance standards for noise attenuation.

In consideration of the results of the continuous noise monitoring undertaken by NG Child and Associates as well as further advice provided by NG Child to Council regarding the effectiveness of the acoustic wall proposed by the applicant, it is considered that the construction of a free standing (i.e. not attached to the existing fence) acoustic wall that was certified to meet the specified acoustic performance standards, in addition to the provision of a suitable Plan of Management, would be sufficient to provide adequate amelioration of noise impacts resulting from the use of the subject site.

In this regard, it is recommended that the performance standard to be adopted is that which is specified and required by the NSW EPA Industrial Noise Policy. The Policy requires that noise generated by activities carried out on sites similar to this site, are not to exceed the ambient background noise level set for the particular time of day by more than 5dB(A).

Draft conditions have been included at Attachment 1 of this report to address the recommendations of both the applicant's consultant and NG Child and Associates.

Further to the above and for the interim, it is recommended that prior to the completion of the required acoustic wall to Council's satisfaction, the hours of operation on the site must be restricted to:

- Monday to Friday 7am – 6pm;
- Saturday 8am – 5pm;
- Sunday and Public Holidays no work.

Upon completion of the acoustic wall to Council's satisfaction and the provision of a comprehensive Plan of Management (also to be approved by Council), hours of operation on the site could be increased to that requested, and being for:

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Workshop hours of operation:

- Monday to Friday 7am – 7pm;
- Saturday 7am – 5pm;
- Sunday and Public Holidays - access to tools and equipment to undertake emergency/breakdown repairs offsite. These events would be recorded in incident report book. No works are to be undertaken on site during these hours except for that otherwise allowed under this consent.

Truck movement/operation times:

- Monday to Friday 7am – 7pm;
- Saturday 7am – 5pm;
- Sunday and Public Holidays no work to be carried out with the exception of a three hour window (10am – 1pm) for the movement of trucks from the premises only. Trucks to be moved would be located away from the boundary abutting the residential allotments and no more than 4 to 6 movements in that time.

3.3 Social and Economic Impact

It is anticipated that the development will provide a positive contribution by providing and generating additional employment opportunities.

Economic benefits will be realised through both the construction phases and operation of the development. In this regard, it is considered that the development will generate a number of short term and long term employment opportunities – expanding upon the existing number of jobs in the locality, adding to additional economic activity within the LGA.

The social impacts arising from the development will be positive, as these impacts largely stem from the resulting economic benefits realised.

The proposed development is considered to enhance the appearance of the site given the nature and age of the existing development on the land.

3.4 Built Form

The overall development includes the construction of an industrial building, temporary acoustic wall, landscaping, car and truck parking areas. Given the site's location and orientation, the built form of the development would not impact upon the existing and future streetscape.

The proposed warehouse is proposed to be located 1.5 metres from the rear boundaries of the residential properties to the south-west of the subject land. A 1.5 metre wide easement for electrical services currently exists on the land at the rear boundary. The proposed acoustic wall would lie immediately adjacent to the boundary and not attached to the existing fence.

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The subject industrial site has an existing ground level of 1.5 metres below the residential allotments that abut the property. The rear of the residential allotments are fenced by a timber lapped and capped fence with an approximate height of 3.0 metres (top of fence being 4.5 metres higher than the subject industrial land).

The height of the proposed industrial units is 7.7 metres at the rear of the building measured from ground level on the industrial site. The height of the proposed acoustic wall is 6.0 metres measured from the ground level on the industrial site. The rear of the building and acoustic wall would be higher than the existing rear fence and would add to the further reduction of noise intrusion on adjacent residential allotments.

Translucent extension panels (Perspex) could be incorporated into the acoustic wall construction / design so as to not impact on solar access to the rear yards of the adjacent residential properties when constructed.

It is worth noting that adjoining industrial development at Nos. 14, 16 and 18 Frost Road which abut other residential allotments in John Kidd Drive and Sophia Place, Blair Athol and are developed with industrial buildings either on the rear boundary or with a minor setback. The built form of the proposed development subject of the report will not be inconsistent with the position and form of other developments in the vicinity of the subject land and the proposal is generally not considered inconsistent with how other buildings relate to the adjacent residential lands.

4. Public Participation

The proposed development was originally notified to adjoining land owners in accordance with the provisions of Development Control Plan No.87 – Public Notification and Public Exhibition Policy from 31 May 2012 for a period of 14 days.

During this period Council received six submissions objecting either to the proposed development or to the existing land use on the site.

The submissions objecting to the proposed development are addressed below:

- **8.0 metre wall along the rear boundary** – Concerns were raised having regard to the proposed building and wall heights along the rear boundary.

Comment: There currently exists a 3.0m high lapped and capped timber fence along the rear boundary of the residential properties. The proposed building will have a height of 7.7m along its rear wall and is setback 1.5m from the residential boundary. The proposed acoustic wall will have a height of 6.0m when measured from the ground level of the industrial site. The ground level of the industrial land is 1.5m below the ground level of the residential allotments.

From within the residential properties, the acoustic fence will appear 4.5m high, and the building will appear 6.2m high when considering the existing 1.5m differential between the finished ground level of the industrial site and residential properties.

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The building and temporary acoustic wall will appear 3.2 metres and 1.5 metres above the existing 3.0m high fence line respectively.

- **The wall will block the sun, solar access and view of the sky** – Concerns were raised that the development will block all sun from the dwelling's private open space areas.

Comment: With the temporary acoustic fence erected, the private open space area of the residential allotments abutting the subject land will still be able to achieve a minimum 20sqm of private open space that receives three hours of continuous direct solar access on 21 June between 9:00am and 3:00pm, in accordance with Section 3.6 of SCDCP 2009.

However, to help reduce the impact on solar access to the residential allotments, the applicant has proposed the use of clear 'Perspex' section along the top portion of the temporary acoustic fence starting from a height equivalent to that of the existing timber boundary fence.

On completion of the proposed industrial building, the usefulness of the Perspex section of the acoustic fence would be overcome due to the additional height of the new building. The new building would cause additional overshadowing to the adjacent residential premises, but despite the additional overshadowing, 20sqm of private open space that receives three hours of continuous sunlight at the winter solstice would still remain in each of the affected residential allotments.

- **Increase in business activity and subsequent increase in noise and air pollution** – Concerns were raised that the development would increase vehicle movements and other activities that would increase the amount of noise generated by the development.

Comment: The Statement of Environmental Effects and Environment Impact Noise Assessment Report indicate the proposed hours of operation sought by the applicant. Should Council approve the development application an appropriate condition of consent should be included limiting the hours of operation of the business. The acoustic assessment report concludes that subject to the construction of an acoustic wall and the implementation of an appropriate Plan of Management, noise from activities associated with the development would be within acceptable levels as prescribed by NSW EPA Industrial Noise Policy.

Council is not aware of any ongoing air pollution issues being generated by the current use of the subject land.

- **Set precedent for other 24/7 industrial uses** – Concerns were raised that the approval of the development would set the precedent for more industrial uses operating 24 hours a day, seven days a week.

Comment: The application is not seeking to operate 24 hours, seven days per week. The sought hours of operation are Monday to Friday 7:00am to 7:00pm, Saturday 7:00am to 5:00pm and Sunday for 3hrs. There a number of industrial land uses that operate 24 hours a day within the Campbelltown LGA and hence, this application would not set a precedent. The assessment of industrial land uses considers the impact of the development on adjoining land.

3.3 No. 20 Frost Road, Campbelltown - Construction And Use Of A Warehouse/Storage Building, Use Of Land And An Existing Building As A Truck Maintenance Facility, Construction Of Associated Car Parking And Construction Of An Acoustic Wall

- **Inappropriate land use adjoining residential allotments** – Concerns were raised that the proposed use of the subject site is inappropriate given the adjoining residential zone.

Comment: The proposed activity is a permissible land use in the zone. The assessment has considered the location and siting of the proposed building and acoustic wall that is being constructed to ameliorate the impacts of noise generated from the activities. Industrial activities have been undertaken on the subject site since 1974.

- **Property prices** – Concerns have been raised that the approval of the development would devalue the adjoining land and property values.

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

In light of the applicant's request to modify the proposed development and further amend details of the proposed acoustic wall, the application was again notified to adjoining residents between 19 April 2013 and 3 May 2013 and again in light of further information being received by Council from the applicant, between 30 July 2013 and 13 August 2013.

Council did not receive any submission objecting to the proposal during these notification periods, however, correspondence was received after the notification period objecting to the construction of an acoustic wall along the residential boundary of the subject site.

5. Conclusion

The application for the construction of an industrial building and use of the development as a truck maintenance facility and storage establishment at No. 20 Frost Road, Campbelltown has been assessed against the relevant matters for consideration under the environmental planning legislation and Council's development controls.

The use of the site for the purposes of a truck maintenance facility is permissible with Council's consent. The truck maintenance activities will be restricted to within the existing building, constructed in the 1970s.

The proposed development includes the construction of a new industrial building comprising of three separate units, the construction of car parking comprising 46 on-site car parking spaces, and the construction of a temporary acoustic wall to ameliorate the impacts of noise generated from the site. The acoustic wall is to be removed upon the completion of the proposed industrial building, formalisation of car parking areas and provision of landscaping.

3.3 No. 20 Frost Road, Campbelltown - Construction And Use Of A Warehouse/Storage Building, Use Of Land And An Existing Building As A Truck Maintenance Facility, Construction Of Associated Car Parking And Construction Of An Acoustic Wall

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

Officer's Recommendation

That development application No. 845/2012/DA-U, proposing the construction of an industrial building and use of site as a truck maintenance facility and storage establishment at No. 20 Frost Road, Campbelltown be approved subject to the recommended conditions contained in Attachment 1.

Note: Council's Director Planning and Environment advised the Planning and Environment Committee that in regard to the attachment, condition 18 - Operating Hours, the section relating to hours of operation on completion and certification of the acoustic wall to the satisfaction of Council, incorrectly states that the finish time on Saturday is 5am and in fact should be 5pm.

Committee Note: Mr McCabe addressed the Committee in opposition to the development.

Mr Taylor and Mr and Mrs Tebb addressed the Committee in favour of the development.

Committee's Recommendation: (Kolkman/Lound)

That development application No. 845/2012/DA-U, proposing the construction of an industrial building and use of site as a truck maintenance facility and storage establishment at No. 20 Frost Road, Campbelltown be approved subject to the recommended conditions contained in Attachment 1 with condition 18 being amended to read:

Hours of operation for all activities prior to the construction and certification of the acoustic fence/wall shall be limited to:

Monday to Friday	7am - 6pm
Saturday	8am - 5pm
Sunday and Public Holidays	No work

3.3 No. 20 Frost Road, Campbelltown - Construction And Use Of A Warehouse/Storage Building, Use Of Land And An Existing Building As A Truck Maintenance Facility, Construction Of Associated Car Parking And Construction Of An Acoustic Wall

On completion and certification of the acoustic wall to the satisfaction of Council, the hours of operation for all activities subject to this development consent shall be limited to:

Monday to Friday	7am – 7pm
Saturday	7am - 5pm
Sunday and Public Holidays	10am – 1pm (all work is prohibited during this time except for the movement of trucks up to a maximum of six truck movements during this period. All other work and working outside of these hours is prohibited)
Sunday and Public Holidays	8am – 6pm (office work and collection of tools and equipment to undertake emergency/breakdown repairs offsite. These events are to be recorded in an incident report book. No other works are to be undertaken on site or within the building during these hours except for that otherwise allowed under this consent)

CARRIED

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

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

Council Meeting 10 September 2013 (Greiss/Matheson)

That the Committee's Recommendation be adopted.

Council Resolution Minute Number 197

That the Committee's Recommendation be adopted.

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

Voting against the Council Resolution were Councillors: Brticevic, Chanthivong 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.

In addition to the general requirements of this consent and for the purpose of clarity, the separate aspects of the proposed development shall be carried out in accordance with the following.

Use of the Existing Building and Site as a Truck Maintenance Facility:

- On the issue of this consent, maintenance activities can be carried out wholly within the existing building in accordance with the conditions of this consent. Maintenance of trucks, plant, parts, trailers, devices or similar (**Vehicles**) is not permitted outside of the existing building. Subject to the conditions of this consent, the site shall only be used for the purpose of parking Vehicles waiting for maintenance or awaiting pickup or those activities ancillary to the operation of a maintenance facility, such as delivery of parts, or other similar items. Vehicles that have commenced maintenance are to be stored inside the existing building or out of view from a public area.
 - The applicant is to provide and implement a revised Noise Management Plan (NMP) covering all aspects of the operation of the truck maintenance facility. The NMP is to be designed to control and continually improve work practices within the existing building and on the site, and reduce the levels of noise generated at the site so as to not exceed the applicable noise criteria at the residential boundary specified in Table 4.4 of the report by NG Child and Associates – Addendum to Acoustic Assessment Report - Document Reference (Campbelltown – 20 Frost Road Addendum Report – Version 3 – 301112.doc). The completed NMP must be lodged with Council for its review and approval within two months of the date of this consent. The noise management plan is to be binding on staff, clients and visitors, and is to include but not be limited to the following issues:
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3.3 No. 20 Frost Road, Campbelltown - Construction And Use Of A Warehouse/Storage Building, Use Of Land And An Existing Building As A Truck Maintenance Facility, Construction Of Associated Car Parking And Construction Of An Acoustic Wall

- Vehicle operations
 - Fork lift operations
 - No amplified music or speech within the proposed factory
 - Compressor operations
 - Truck wash operations
 - Operating hours
 - Noise minimisation strategies and procedures
 - Other procedures as appropriate.
- The operation and parking of Vehicles (excluding passenger cars/utes) is not permitted within 25m of the south-western (residential) boundary of the site unless a noise barrier has been constructed in accordance with this consent and the barrier has been inspected and approved by Council
 - 18 car parking spaces are to be constructed within four months of the date of this consent
 - The applicant/operator of the site shall carryout continuous and daily noise monitoring of the site under the direction of a suitably qualified acoustic engineer for a two year period. At the end of each six month period, provide a tabulated technical report to Council with the results of the noise monitoring for the preceding six month period. The report is to be submitted to Council within 28 days of the end of the respective six month period. Council may require additional monitoring or the implementation of additional noise mitigation measures (physical or operational) where it is identified that noise generated by the activities on the site exceed the specified noise criteria.

Notwithstanding the above, it remains the applicant's responsibility to ensure that all other relevant conditions of this consent are complied with.

Construction of a noise barrier/wall:

- The applicant shall construct a noise barrier/wall adjacent to the south-western boundary between the subject land and residential allotments. The noise barrier/wall is to return and continue for 20m along the south-eastern boundary and is to incorporate a translucent to the portion of the barrier above the existing lapped and capped timber fence
 - The noise barrier is not to be attached to the existing boundary fence and is to be designed and constructed so as to reduce the impact of noise generated from the subject site and to ensure noise levels received (measured) at the residential boundary do not exceed the applicable noise criteria at the residential boundary specified in Table 4.4 of the report by NG Child and Associates – Addendum to Acoustic Assessment Report - Document Reference (Campbelltown – 20 Frost Road Addendum Report – Version 3 – 301112.doc).
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3.3 No. 20 Frost Road, Campbelltown - Construction And Use Of A Warehouse/Storage Building, Use Of Land And An Existing Building As A Truck Maintenance Facility, Construction Of Associated Car Parking And Construction Of An Acoustic Wall

- The noise barrier is to be fully erected and certified by a structural engineer as being erected in accordance with the appropriate structural engineering standards. The design and construction of noise barrier is also to be certified by a suitably qualified acoustic engineer as being able to achieve the noise abatement performance standards referred to in this consent. The noise barrier is to be certified as being compliant with the noise abatement requirements of this consent on completion of its erection.
- On completion of the noise barrier and on receipt by the Council of a copy of the required structural and acoustic certification, the applicant/operator of the site shall carryout continuous and daily noise monitoring of the site under the direction of a suitably qualified acoustic engineer for a two year period. At the end of each six month period, provide a tabulated technical report to Council with the results of the noise monitoring for the preceding six month period. The report is to be submitted to Council within 28 days of the end of the respective six month period. Council may require additional monitoring or the implementation of additional noise mitigation measures (physical or operational) where it is identified that noise generated by the activities on the site exceed the specified noise criteria.

Notwithstanding the above, it remains the applicant's responsibility to ensure that all other relevant conditions of this consent are complied with.

Construction of the Warehouse/Storage Building:

- The design of the proposed warehouse building shall incorporate all noise mitigation measures recommended in the report by NG Child and Associates - Addendum to Acoustic Assessment Report - Document Reference (Campbelltown – 20 Frost Road Addendum Report – Version 3 – 301112.doc) relating to the mitigation of noise intrusion from the operation of the warehouse building, both from within and external to the building
 - The building design and construction is to comprise external masonry or concrete walls to achieve an RW rating of not less than 55. In this regard, the south eastern and western façades of the proposed warehouse building are to be constructed of masonry or concrete with a minimum thickness of 150mm
 - The roof of the proposed warehouse building is to be of minimum metal deck construction, with all penetrations to be acoustically sealed and 120mm thick 30kg/m³ Fibertex Rockwool insulation or equivalent is to be fitted to the underside of the metal factory roof
 - All wall and roof junctions and penetrations are to be acoustically sealed
 - Any fire escape door/s required to be fitted to the southern façade of the proposed warehouse building is to be of solid core construction and fully acoustically sealed
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3.3 No. 20 Frost Road, Campbelltown - Construction And Use Of A Warehouse/Storage Building, Use Of Land And An Existing Building As A Truck Maintenance Facility, Construction Of Associated Car Parking And Construction Of An Acoustic Wall

- Any mechanical ventilation system to be installed in the proposed warehouse building to be treated and insulated to ensure full compliance with relevant noise emission criteria.
- 46 car parking spaces in total are to be made available on site in accordance with the approved plans prior to the occupation, use or issue of any occupation certificate for the building

In addition to all relevant conditions of this consent, all required items, devices and acoustic design measures for the proposed warehouse building are to be installed, constructed and implemented prior to the use, occupation or issue of any occupation certificate for the proposed warehouse building.

2. Building Code of Australia

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

3. Landscaping

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

4. External Finishes

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

5. 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.

3.3 No. 20 Frost Road, Campbelltown - Construction And Use Of A Warehouse/Storage Building, Use Of Land And An Existing Building As A Truck Maintenance Facility, Construction Of Associated Car Parking And Construction Of An Acoustic Wall

6. 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.

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/s.

8. Bund Wall

A bund wall shall be constructed around all work and liquid storage areas to prevent any spillage entering into the stormwater system. The bunded area shall provide a volume equal to 110% of the largest container stored and graded to a blind sump so as to facilitate emptying and cleansing.

9. Storage of Flammable and Combustible Liquids

Flammable and combustible liquids shall be stored in accordance with Australian Standard 1940-(as amended) – The Storage and Handling of Flammable and Combustible Liquids.

10. Trafficable Bund

A 100mm high trafficable bund shall be provided to all exits from the mechanical repair workshop so as to prevent the escape of any pollutants into Council's stormwater drainage system.

11. Mechanical Repairs

The operation of the mechanical repair workshop shall comply with the following requirements:

- a. All mechanical repairs shall be conducted within the workshop, the floor of which shall be graded to an internal drainage point connected to the sewer of Sydney Water in accordance with that Authority's requirements. Under no circumstances shall work be conducted on open driveways or outside of the building.
 - b. The driveway area is to be kept free of oil contamination.
 - c. All car washing, engine degreasing and steam cleaning shall be conducted in a wash bay connected to the sewer of Sydney Water in accordance with that Authority's requirements.
 - d. Waste oil shall be stored in a covered area pending regular removal to a waste oil recycler.
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3.3 No. 20 Frost Road, Campbelltown - Construction And Use Of A Warehouse/Storage Building, Use Of Land And An Existing Building As A Truck Maintenance Facility, Construction Of Associated Car Parking And Construction Of An Acoustic Wall

- e. There shall be no washing of motor vehicles carried out on the premises other than in an approved and constructed wash bay/s.
- f. No motor vehicle or part of a motor vehicle that is in the custody of the business shall be left standing on any public road or footpath.
- g. A spill kit shall be provided on site at all times to clean up any minor liquid spillages.
- h. There shall be no vehicles or parts worked on outside of the building.

12. Workshop Connection to Sewer

The workshop's connection to the sewer in accordance with Sydney Water's requirements shall be undertaken within 6 months of the date of this consent.

13. Use of New Building

No storage or distribution of goods or occupation of the new building shall occur on the site until all acoustic mitigation measures have been incorporated into the building and certified by a suitably qualified person as complying with the requirements of this consent and the standards of which the consent has relied upon. In this regard, Council is to be notified at the time of final inspection of the completed acoustic measures and is to be issued with a copy of the relevant final certificate issued by the certifying authority, prior to occupation, use or the issuing of an occupation certificate for the proposed building.

14. No Panel Beating/Spray-Painting

The subject premise has not been approved for panel beating or spray-painting. It is prohibited to undertake such activities without separate written development consent being obtained from Council.

15. 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.

16. Unreasonable Dust and Vibration

The development, including operation of vehicles, shall be conducted so as to avoid the generation of unreasonable dust or vibration and cause no interference to adjoining or nearby occupants. Special precautions must be taken to avoid nuisance to neighbouring residential areas, particularly from industrial machinery and movement of vehicles.

3.3 No. 20 Frost Road, Campbelltown - Construction And Use Of A Warehouse/Storage Building, Use Of Land And An Existing Building As A Truck Maintenance Facility, Construction Of Associated Car Parking And Construction Of An Acoustic Wall

17. 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.

18. Operating Hours

Hours of operation for all activities prior to the construction and certification of the acoustic fence/wall shall be limited to:

Monday to Friday	7am - 6pm
Saturday	8am - 5pm
Sunday and Public Holidays	No work

On completion and certification of the acoustic wall to the satisfaction of Council, the hours of operation for all activities subject to this development consent shall be limited to:

Monday to Friday	7am – 7pm
Saturday	7am - 5am
Sunday and Public Holidays	10am – 1pm (all work is prohibited during this time except for the movement of trucks up to a maximum of six truck movements during this period. All other work and working outside of these hours is prohibited)
Sunday and Public Holidays	8am – 6pm (office work and collection of tools and equipment to undertake emergency/breakdown repairs offsite. These events are to be recorded in an incident report book. No other works are to be undertaken on site or within the building during these hours except for that otherwise allowed under this consent)

19. Retail Sales

The direct retail sale of goods from the premises is prohibited.

20. Car Parking Spaces

46 car parking spaces shall be designed, sealed, line marked and made available to all users of the site in accordance with Australian Standards 2890.1 and 2 (as amended) prior to the occupation, use or issue of any occupation certificate for the new building.

3.3 No. 20 Frost Road, Campbelltown - Construction And Use Of A Warehouse/Storage Building, Use Of Land And An Existing Building As A Truck Maintenance Facility, Construction Of Associated Car Parking And Construction Of An Acoustic Wall

18 car parking spaces shall be designed, sealed, line marked and made available to all users of the site within four months of the date of this consent. At least one of these spaces shall be designed as an accessible parking space in accordance with the relevant Australian Standard.

21. 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.

22. Rain Water Tank(s)

Rain water tank/s, having a minimum capacity of 10,000 litres 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.

23. 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

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.

24. 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.

3.3 No. 20 Frost Road, Campbelltown - Construction And Use Of A Warehouse/Storage Building, Use Of Land And An Existing Building As A Truck Maintenance Facility, Construction Of Associated Car Parking And Construction Of An Acoustic Wall

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

25. 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.

26. 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.

27. Stormwater Management Plan (Development)

Prior to Council or an accredited certifier issuing a construction certificate, a plan indicating all engineering details and calculations relevant to site regrading and the collection and disposal of stormwater from the site, building/s and adjacent catchment, shall be submitted for approval. Floor levels of all buildings shall be a minimum of 150mm above the adjacent finished site levels and stormwater shall be conveyed from the site to the nearest system under Council's control. All proposals shall comply with the Campbelltown (Sustainable City) DCP 2012 - Volumes 1 and 3.

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

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

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

- where the value of the proposed development is greater than \$100,000 but less than \$500,000, provide a Cost Summary Report by a person who, in the opinion of the Council, is suitably qualified to provide a Cost Summary Report (Cost Summary Report Template 1). All Cost Summaries will be subject to indexation on a quarterly basis relative to the Consumer Price Index - All Groups (Sydney) where the contribution amount will be based on the indexed value of the development applicable at the time of payment; or
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3.3 No. 20 Frost Road, Campbelltown - Construction And Use Of A Warehouse/Storage Building, Use Of Land And An Existing Building As A Truck Maintenance Facility, Construction Of Associated Car Parking And Construction Of An Acoustic Wall

- 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.

29. 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.

30. 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.

3.3 No. 20 Frost Road, Campbelltown - Construction And Use Of A Warehouse/Storage Building, Use Of Land And An Existing Building As A Truck Maintenance Facility, Construction Of Associated Car Parking And Construction Of An Acoustic Wall

31. 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.

32. Toilet on Construction Site

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

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

33. 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.

34. Vehicular Access during Construction

Prior to the commencement of any works on unsealed areas, a single vehicle/plant access to the unsealed area 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 unsealed area to the sealed area, shall be provided as a minimum requirement.

3.3 No. 20 Frost Road, Campbelltown - Construction And Use Of A Warehouse/Storage Building, Use Of Land And An Existing Building As A Truck Maintenance Facility, Construction Of Associated Car Parking And Construction Of An Acoustic Wall

Vehicle access to/from the unsealed area shall be restricted to the single vehicle/plant access point.

35. 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.

36. Footpath and Vehicular Crossing Levels

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

37. Hoarding / Fence

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

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

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

38. Fencing

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

DEVELOPMENT REQUIREMENTS DURING CONSTRUCTION

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

39. 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 5.00pm
Sunday and public holidays	No Work.

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40. Erosion and Sediment Control

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

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

41. 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.

42. Excavation and Backfilling

All excavations and backfilling associated with the approved works must be executed safely and in accordance with appropriate professional standards. All excavations must be properly guarded and protected to prevent them from being dangerous to life or property.

If an excavation associated with the approved works extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:

- a. Must preserve and protect the building from damage; and
- b. If necessary, must underpin and support the building in an approved manner, and
- c. Must, at least seven days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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43. Fill Compaction Requirements

Any filling carried out in accordance with this consent shall maintain a minimum requirement of 98% standard compaction.

Any lot filling operations carried out in accordance with this consent shall be tested to establish the field dry density every 300mm rise in vertical height. Test sites shall be located randomly across the fill site with one test per 500m² (minimum one test per 300mm layer) certified by a qualified geotechnical engineer.

44. 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.

45. 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.

46. 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.

47. Industrial / Commercial Driveway and Layback Crossing

The applicant shall provide a reinforced concrete driveway and layback crossing/s to Council's Industrial/Commercial Vehicle Crossing Specification and Campbelltown (Sustainable City) DCP 2009.

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 within four weeks of the date of this development consent and a driveway crossing be constructed within three months of the driveway and layback approval. Conduits must be provided to service authority requirements.

48. 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.

3.3 No. 20 Frost Road, Campbelltown - Construction And Use Of A Warehouse/Storage Building, Use Of Land And An Existing Building As A Truck Maintenance Facility, Construction Of Associated Car Parking And Construction Of An Acoustic Wall

49. Completion of Construction Works

Unless otherwise specified in this consent, all construction works associated with the approved development should 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".

50. Section 73 Certificate

Prior to the principal certifying authority issuing an occupation certificate, the submission of a Section 73 certificate issued by Sydney Water.

51. Structural Engineering Certificate

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

Prior to the principal certifying authority issuing a compliance certificate for the proposed acoustic fence/wall, the submission of a certificate from a practising structural engineer certifying that the acoustic fence/wall has been constructed in accordance with the approved structural drawings, relevant SAA Codes and is structurally adequate.

52. Completion of External Building Works

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.

3.3 No. 20 Frost Road, Campbelltown - Construction And Use Of A Warehouse/Storage Building, Use Of Land And An Existing Building As A Truck Maintenance Facility, Construction Of Associated Car Parking And Construction Of An Acoustic Wall

53. Final Inspection – Works as Executed Plans

Prior to the principal certifying authority issuing an occupation certificate, the applicant shall submit to Council two complete sets of fully marked up and certified work as executed plans in accordance with Council's Specification for Construction of Subdivisional Road and Drainage Works (as amended) and with the design requirements detailed in the Campbelltown (Sustainable City) DCP (as amended).

The applicant shall **also** submit a copy of the Works as Executed information to Council in an electronic format in accordance with the following requirements:

Survey Information

- Finished ground and building floor levels together with building outlines.
- Spot levels every 5.0 metres within the site area.
- Where there is a change in finished ground levels that are greater than 0.3.m between adjacent points within the above mentioned 5m grid, intermediate levels will be required.
- A minimum of 15 site levels.
- If the floor level is uniform throughout, a single level is sufficient.
- Details of all stormwater infrastructure including pipe sizes and types as well as surface and invert levels of all existing and/or new pits/pipes associated with the development.
- All existing and/or new footpaths, kerb and guttering and road pavements to the centre line/s of the adjoining street/s.
- The surface levels of all other infrastructure.

Format

- MGA 94 (Map Grid of Australia 1994) Zone 56 - Coordinate System
- All level information to Australian Height Datum (AHD)

AutoCAD Option

- The "etransmit" (or similar) option in AutoCAD with the transmittal set-up to include as a minimum:

Package Type	-	zip
File Format	-	AutoCAD 2004 Drawing Format or later
Transmittal Options	-	Include fonts Include textures from materials Include files from data links Include photometric web files Bind external references The drawing is not to be password protected.

MapInfo Option

- Council will also accept either MapInfo Native format (i.e. .tab file) or MapInfo mid/mif.
-

3.3 No. 20 Frost Road, Campbelltown - Construction And Use Of A Warehouse/Storage Building, Use Of Land And An Existing Building As A Truck Maintenance Facility, Construction Of Associated Car Parking And Construction Of An Acoustic Wall

All surveyed points will **also** be required to be submitted in a point format (x,y,z) in either an Excel table or a comma separated text file format.

54. 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.

55. 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).

3.3 No. 20 Frost Road, Campbelltown - Construction And Use Of A Warehouse/Storage Building, Use Of Land And An Existing Building As A Truck Maintenance Facility, Construction Of Associated Car Parking And Construction Of An Acoustic Wall

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. Retaining Walls

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

Advice 4. Covenants

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

Advice 5. 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 6. 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 7. 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.

3.3 No. 20 Frost Road, Campbelltown - Construction And Use Of A Warehouse/Storage Building, Use Of Land And An Existing Building As A Truck Maintenance Facility, Construction Of Associated Car Parking And Construction Of An Acoustic Wall

Advice 8. Asbestos Warning

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

www.environment.nsw.gov.au
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 9. Rain Water Tank/s

It is recommended that water collected within any rainwater tank/s 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 10. Smoke Free Environment Act

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

Advice 11. Dial 1100 Before you Dig

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

END OF CONDITIONS

3.4 Lot 40 DP 270152, Macquarie Links Drive, Macquarie Links - Construction Of 26 Two-Storey Townhouses, Communal Facilities And Associated Site And Landscaping Works

3.4 Lot 40 DP 270152, Macquarie Links Drive, Macquarie Links - Construction of 26 two-storey townhouses, communal facilities and associated site and landscaping works

Reporting Officer

Manager Development Services

Attachments

1. Recommended conditions of consent (contained within this report)
2. Locality plan (confidential for privacy and copyright)
3. Staging plan (confidential for privacy and copyright)
4. Site plan (confidential for privacy and copyright)
5. Floor plans (confidential for privacy and copyright)
6. Elevation plans (confidential for privacy and copyright)
7. Perspective views (confidential for privacy and copyright)
8. Landscaping plan (confidential for privacy and copyright)

Purpose

To assist Council in its determination of a development application pursuant to the requirements of the *Environmental Planning and Assessment Act 1979*.

Property Description	Lot 40 DP 270152, Macquarie Links Drive, Macquarie Links
Application No	620/2013/DA-M
Applicant	Jessica Investments P/L
Owner	Jessica Investments P/L and Woodgreen Investments P/L
Provisions	Campbelltown 2025 – Looking Forward <i>Heritage Act 1979</i> Local Environmental Plan 112 - Macquarie Field House Development Control Plan No. 63 - Macquarie Field House Campbelltown Sustainable City Development Control Plan
Date Received	21 March 2013

History

Macquarie Links Estate has been subject to several development applications for various stages of development, consisting of a golf course, club house, pro-shop, retail shops, hotels, recreation facilities, reserves, landscape works and residential subdivision, dwelling houses and apartment buildings.

3.4 Lot 40 DP 270152, Macquarie Links Drive, Macquarie Links - Construction Of 26 Two-Storey Townhouses, Communal Facilities And Associated Site And Landscaping Works

The Macquarie Links Estate is guided by a master plan adopted by Council pursuant to Local Environmental Plan No. 112 – Macquarie Field House, and Development Control Plan No. 63 – Macquarie Field House. The Plans also relate to the Ingleburn Gardens site, Macquarie Field House and land north of Macquarie Field House adjoining properties owned by the NSW Department of Education.

An initial master plan was prepared in 1991 and has subsequently been amended to reflect desired future outcomes for land to which it applies. Amendment 3 (1999) stipulates controls for the subject site (the expressed development intent being a hotel/conference centre with associated residential lodges).

The subject site is located near to the northwest boundary of the Macquarie Links estate, adjoining the terminus of Governors Way, the “Peak Apartments” and golf course. The site is currently vacant and slopes to the south east, down from the Freeway to the golf course and the recent stage of residential subdivision.

The subject site has had three development applications approved by Council upon it, which are briefly detailed as follows:

- DA 504/2001 was issued in March 2002 for hotel, conference centre with associated recreation facilities and accommodation, golf lodges, landscaping and car parking. That approval provided for a cluster of buildings; a part 2/3 storey hotel/conference centre, lounge bar and restaurant; five linked three-storey guest room buildings incorporating a total of 90 rooms and 16 x two-storey golf lodge buildings (each with four dwellings).
- DA 5416/2004 for the construction of a hotel, apartments and golf lodges, which was approved by Council in 2005. The proposal was for a part 4/5 storey hotel building with up to 153 rooms, conference facilities, restaurants and other ancillary facilities. The consent also allowed for 15 golf lodges and a part 3/4 storey residential apartment building containing 66 units. Vehicular access to the site under this consent was via a northern access road from Campbelltown Road (which has not been constructed to date).
- DA 3215/2008 for a staged development comprising 48 (which was subsequently amended to 47) residential allotments within Stage 1 and a future hotel site within Stage 2. Council approved the development at its meeting held on 25 August 2009. Stage 2 of the development, being the future hotel, was subject to vehicle access being provided from the previously-approved northern access road connecting to Campbelltown Road. The future hotel site is the subject of the current application.

Most recently, the applicant has also lodged the following applications:

- DA 486/2011 to construct a ‘motel’ at the subject site. The motel application proposed the construction of a manager’s dwelling, commercial tenancy, kitchen, dining room and associated landscaping and car parking. The motel suites were proposed to be located within five 2-storey buildings spread across the property, with car parking provided at grade in front of the motel suites. They were designed as self-contained suites, comprising 40 x 2 bedroom and 6 x 3 bedroom suites, with each suite containing a bathroom, kitchen, laundry and balcony.
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3.4 Lot 40 DP 270152, Macquarie Links Drive, Macquarie Links - Construction Of 26 Two-Storey Townhouses, Communal Facilities And Associated Site And Landscaping Works

- An amendment to DA 3215/2008 so as to change the wording of approved Stage 2 from 'hotel' to 'motel'.

These two applications were refused by Council at its meeting held on 13 December 2011 for various reasons including:

- Inconsistency with previous approvals at the site;
- Likely impacts on neighbourhood amenity; and
- The site not being suitable for the development noting potential traffic and amenity impacts

In the meantime, the residential component of the August 2009 approval (3215/2008) has been completed, with the two new roads (Dromedary Place and Jarvisfield Place) constructed and 34 of the 47 allotments now containing dwellings.

Report

The Site

The land subject of the current application (Lot 40 DP 270152) is located near to the north-western boundary of the Macquarie Links Estate, adjoining the terminus of Governor's Way, the 'Peak' apartments and the golf course. The 7,120 square metre site slopes down from the Freeway towards the golf course generally within a natural valley extending along a south-west/north-east alignment and is irregular in shape.

The land is bounded to the north-west and north-east by vacant pasture. Macquarie Field House is situated to the east of the site and is an item of heritage listed on the State Heritage Register. The highest part of the site is at 66m Australian Height Datum (AHD).

The 'Peak' apartments located to the west/south-west of the subject land, presents as the tallest ridge height of development on the western side of the valley. These apartments have a ridge height of 71.15m AHD. The 47 residential allotments approved as part of the 2009 approved staged consent (DA3215/2008) directly adjoin the site to the south.

A cul-de-sac head which terminates Macquarie Links Drive is already constructed in the site's easternmost corner.

The Proposal

The proposed development comprises 22 x 3 bedroom townhouses and 4 x 4 bedroom townhouses in five separate buildings.

The townhouses are accessed off the cul-de-sac head of Macquarie Links Drive and each townhouse would be accessible from a 6.0 metre wide private road that traverses the development site. A swimming pool and covered barbecue area is also proposed in a central location within the development.

A pathway at the south west corner of the site connects it to Dromedary Place, providing walking access to the adjoining street and existing golf course.

3.4 Lot 40 DP 270152, Macquarie Links Drive, Macquarie Links - Construction Of 26 Two-Storey Townhouses, Communal Facilities And Associated Site And Landscaping Works

Each townhouse has a single lock-up garage and 14 visitor parking spaces are provided across the site in nominated areas.

The three bedroom townhouses are two storeys high and include a single garage, living, dining and kitchen area, laundry and separate toilet, alfresco dining area and private open space on the ground floor. The first floor comprises three bedrooms, two bathrooms and study nook. The areas of private open space incorporate landscaped and alfresco areas ranging from 34 to 170 square metres. Each dwelling would also be provided with a 2,000 litre rainwater tank.

The four bedroom townhouses are two storey dwellings and include a single garage, living, dining and kitchen area, laundry and bathroom, a bedroom, alfresco dining area and private open space on the ground floor. The first floor comprises three bedrooms, bathrooms and living area. The areas of private open space, incorporating landscaped and alfresco areas range from 70 to 140 square metres. Each dwelling would also be provided with a 2,000 litre rainwater tank.

Vehicular access would be from a private driveway connecting to the existing cul-de-sac head on Macquarie Links Drive. It is proposed to construct a driveway crossing at the north western end of the cul-de-sac that would provide access to a two-way internal driveway to service the townhouses. The driveway would be 6.0 metres wide and includes an area for vehicle manoeuvring at its end.

The site would be intensively landscaped. The proposal incorporates the following:

- Substantial perimeter planting
- Landscaping adjacent to dwelling entries and porches
- Entry feature landscaping
- Landscaping around the common pool area, golf course access path, bin storage area and around the substation (near Macquarie Links Drive).

The development application does not specify that the proposed townhouses would be further subdivided to provide for separate ownership. However, if this was considered in the future, it is likely that the townhouse development would be considered a separate 'neighbourhood' within the existing Macquarie Links 'community'. The townhouses may be separately strata subdivided with the access road, visitor parking and communal facilities being considered as common areas.

It is important to note that this development site represents the last land within Macquarie Links that is available for development.

Planning Assessment

1. Vision

Campbelltown 2025 - Looking Forward

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

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

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

The strategic directions relevant to the Project Application are:

- Protecting and enhancing the City's key environmental assets
- Growing the Regional City
- Building a Distinctive Campbelltown Sense of Place
- Creating employment and entrepreneurial opportunities.

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

- Development and land use matches environmental capacity and capability
- Match the type, scale and intensity of new land use and development within the capability of the local environment to sustain that land use/development
- A working desire to create a range of sustainable and high quality lifestyle opportunities across a framework of liveable neighbourhoods
- An impression of architecture that engages its environmental context in a sustainable way.

The Applicant has not addressed "Campbelltown 2025 Looking Forward" (the Vision) in the submitted statement of environmental effects. However it is considered that the proposed development is consistent with the statements contained in the Vision. It is considered that the application presents a development that is integrated within the existing residential estate and surrounding locality. The proposal is also consistent with the stated focus area "to match the scale and intensity of the new land use with the capability of the local environment to sustain that use".

3.4 Lot 40 DP 270152, Macquarie Links Drive, Macquarie Links - Construction Of 26 Two-Storey Townhouses, Communal Facilities And Associated Site And Landscaping Works

It is anticipated that the development would have a positive economic impact upon the Campbelltown Local Government Area, which is also a stated desired outcome of the Vision. The townhouses would complement the revitalisation of the Campbelltown and Ingleburn central business districts thereby contributing to the growth of Campbelltown Local Government Area as a regional city.

2. Planning Provisions

2.1 Heritage Act 1997

The *Heritage Act 1997* includes a range of provisions for identifying and protecting items of environmental heritage. In addition to the establishment of the State Heritage Register (SRH) (a list of items assessed as having State heritage significance), these provisions also include Interim Orders, Orders to stop work, heritage conservation registers and relics provisions.

The proposed development does not directly affect any place on the State Heritage Register but is located in the vicinity of Macquarie Field House which is listed on the State Heritage Register. No part of the site is subject to an Interim Heritage Order.

A report by Heritage Consultants Godden MacKay Logan lodged in support of the development application, indicated that the proposed development would not impact upon the heritage item due to its distance/separation and the ground height in the area.

The report made a recommendation regarding excavation and the potential to unearth relics, which has been incorporated into a recommended condition of consent.

2.2 Local Environmental Plan 112 - Macquarie Field House (LEP 112)

LEP 112 was gazetted on 14 January 1991 and was subsequently amended later through LEPs 135, 176 and 204. LEP 112 provides for the land use zoning for Macquarie Links, which includes the subject site.

The relevant objectives of the LEP are:

- (a) To control the uses to which the land to which this plan applies may be put
 - (b) To conserve the environmental heritage of the land to which this plan applies
 - (c) To protect and enhance the role of the land to which this plan applies in providing a clearly perceived break between urban development in the City of Campbelltown and that in the City of Liverpool by preserving the visual character and landscape quality of that land
 - (d) To protect and enhance the role of the land to which this plan applies in providing a rural backdrop to the residential areas of Glenfield, Macquarie Fields and Ingleburn
-

3.4 Lot 40 DP 270152, Macquarie Links Drive, Macquarie Links - Construction Of 26 Two-Storey Townhouses, Communal Facilities And Associated Site And Landscaping Works

- (e) To protect the quality and nature of the view from the South Western Freeway where it passes through the land to which this plan applies
- (f) To protect that part of the major urban drainage system for the City of Campbelltown situated on the land to which this plan applies
- (g) To control, by means of a development control plan, the siting, height, bulk, scale and density of any buildings to be erected on the land to which this plan applies to achieve the objectives stated in paragraphs (c), (d), (e) and (f)
- (h) To guide, by means of a development control plan, the future landscaping of the land to which this plan applies to achieve the objectives stated in paragraphs (c), (d), (e) and (f).

The proposal is complementary to the above objectives. The development is consistent with the Development Control Plan No. 63 (DCP 63) and the site is not situated in the "rural backdrop" as expressed in the master plan, nor does the development compromise any item of environmental heritage. The "break" between urban development in Campbelltown and Liverpool is retained to the north-east of the site. The identified views of Macquarie Field House from the F5 Freeway (Hume Highway) as included in the master plan do not relate to this site as they are located further to the north.

Relevant Clauses of the LEP are discussed below.

Clause 8

Within the land subject to this LEP, Clause 8 nominates a wide range of uses that are permissible with development consent, including the following uses applicable under the master plan:

- Dwelling houses (used in conjunction with development for other permissible purposes)
- Drainage
- Planting of trees or shrubs for re-forestation
- Silviculture or landscaping
- Recreational areas
- Residential flat buildings (used in conjunction with development for other permissible purposes)
- Roads.

It has been established by legal precedent (*Winten Property vs Campbelltown City Council* 1999) that pursuant to Clause 8 of LEP 112, roads, landscaping, dwellings and residential flat buildings within a master plan scheme constitute permissible development under the LEP. The proposal is a permissible development that satisfies the objectives of the LEP. Pursuant to the LEP (and consequently, the repealed Environmental Planning and Assessment Model Provisions 1980), the development is defined as a residential flat building, which is a permissible land use. Under the Model Provisions, a residential flat building is one which contains two or more dwellings. Each of the four buildings proposed in this instance contains more than two dwellings.

3.4 Lot 40 DP 270152, Macquarie Links Drive, Macquarie Links - Construction Of 26 Two-Storey Townhouses, Communal Facilities And Associated Site And Landscaping Works

Clause 13

Clause 13 requires that Council must not grant consent to the carrying out of development on the land unless satisfactory measures to protect buildings or works against bushfires are provided. The site is not bush fire prone land pursuant to Council's Bush Fire Prone Land Map, endorsed by the Rural Fire Service Commissioner's representative on 4 July 2012.

Clause 17

Clause 17 relates to development to be undertaken within the vicinity of a heritage item. There are no items of environmental heritage on the subject site; however Macquarie Field House is located to the south east of the land. Between the subject site and Macquarie Field House are dwellings fronting Jane Jarvis Way and Macquarie Links Drive. There are other dwellings located between the subject site and Macquarie Field House, including those constructed on land subdivided as part of the development consent issued by Council in 2009.

The construction of the townhouses is not considered likely to impact on the heritage significance of Macquarie Field House. A report by Heritage Consultants Godden MacKay Logan indicated that the development of the site will not impact on the House in terms of interfering with its archaeology or curtilage.

Therefore the development is considered to satisfy the provisions of LEP112.

2.3 Development Control Plan No. 63 – Macquarie Field House (DCP 63)

The purpose of DCP 63 is to provide more detailed provisions than are contained within LEP 112. The DCP does not contain any additional specific objectives.

Relevant Clauses of the DCP are discussed below.

Clause 2 discusses landform and makes provision for geotechnical investigation of land within identified "moderately steep" or "very steep" areas. The subject site is located in both these areas and as a result, it is recommended a condition of consent be applied requiring a geotechnical report prior to issue of a construction certificate, should Council decide to approve the application.

Clause 3 relates to the siting of buildings. Building height controls are confined to the "Significant Distant View from the Freeway over Study Area" and "Corridors of Visual Significance" as nominated on Map B of the DCP 63 Plan. The subject site is not located within any of these areas.

The proposed development is not considered likely to be visible from the Hume Motorway (M31) due to the location of an existing embankment along the Motorway's alignment in the vicinity.

Clause 4 requires Council's development consent for landscaping. A landscape plan has been prepared and provided with the application, which provides for screen and shade tree plantings across the site as well as various shrubs and ground covers.

3.4 Lot 40 DP 270152, Macquarie Links Drive, Macquarie Links - Construction Of 26 Two-Storey Townhouses, Communal Facilities And Associated Site And Landscaping Works

Clause 5 of the DCP states that Council can only approve development that is in accordance with an adopted master plan. The existing master plan, adopted by Council on 7 December 1999, nominates a hotel/conference centre with associated accommodation and recreation facilities in this part of the Macquarie Links Estate.

The proposal deviates from this component of the master plan. The variation is discussed in more detail later in this report.

Clause 5 of DCP 63 also provides guidelines for preserving view corridors across the area from the east. The intention of the DCP is to protect the rural nature of the area surrounding Macquarie Field House as viewed from these general locations.

Sub-Clause 5.3.1 of the DCP seeks to protect the identified views through the limiting of building heights so that protrusion above the horizon is avoided or minimised in order to protect the rural nature of the area surrounding Macquarie Field House.

The nearby 'Peak Apartments' are partially visible above the horizon from the Hume Motorway. The applicant's statement of environmental effects states the following on the issue:

“. . . . the two storey residential development will be barely perceivable from the Hume Highway.

The two storey residential development will sit below the embankment located on the Hume Highway and is significantly lower than the 4/5 storey hotel development previously approved on the site.

. . . . the development will sit in the context of surrounding development being predominantly two storey detached dwellings. It will also be lower than the three storey Peak apartments located to the west of the site.”

Aside from the site's use in accordance with the master plan, the development is not considered to be inconsistent with the residential focus of the DCP. As mentioned earlier, the master plan issue is discussed later in this report.

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

The Campbelltown (Sustainable City) Development Control Plan 2009 (SCDCP) applies to the subject site. A 'hybridised' assessment of the proposal has been undertaken due to the unusual nature of the development's formal definition as a residential flat building, as per the discussion later in this report.

3.4 Lot 40 DP 270152, Macquarie Links Drive, Macquarie Links - Construction Of 26 Two-Storey Townhouses, Communal Facilities And Associated Site And Landscaping Works

Relevant parts of the SCDCP are discussed below:

2.3 - Views and Vistas	The proposal does not impact on view corridors to the heritage listed Macquarie Fields House and protects scenic views.	Complies
2.4 - Sustainable Building Design	A BASIX Certificate and NatHERS rating has been issued for each dwelling. Each dwelling is provided with a 2,000 litre rainwater tank and rainwater would be used for flushing toilets, washing and for irrigation of landscaped areas.	Complies
2.5 - Landscaping	A landscaping plan has been prepared. Significant planting and landscaping will be undertaken using a mix of native and exotic species of ground covers, shrubs and trees.	Complies
2.8 - Cut, Fill and Floor Levels	Earthworks plans have been prepared. Due to the cross fall of the site some cut and fill is required to be undertaken to provide level building pads. The bulk earthworks will comprise re-grading and compacting fill that has been deposited on the site to provide level building pads. This will necessitate the requirement to provide retaining walls and embankments up to 1.5m in height, with some areas of cut up to 3.0m, which is higher than the amount recommended in the DCP. However, it is noted that the additional cut would serve to minimise the potential of the townhouse development to be seen from the Hume Motorway, which is of benefit.	Complies, with justification
2.10 - Water Cycle Management	A concept stormwater capture and disposal plan has been prepared. Stormwater will be collected and diverted into the existing stormwater drainage system. A gross pollutant trap will also be provided in the south east corner of the site. The site is not flood liable and there are no overland flow paths on the site.	Complies
2.11 - Heritage Conservation	The proposed development will not impact on the adjoining heritage listed Macquarie Fields House.	Complies

3.4 Lot 40 DP 270152, Macquarie Links Drive, Macquarie Links - Construction Of 26 Two-Storey Townhouses, Communal Facilities And Associated Site And Landscaping Works

2.13 - Security	<p>The site is with the Macquarie Links estate, which is a 'gated' community with secure access.</p> <p>The community facilities are centrally located allowing for casual surveillance by the local community.</p>	Complies
2.15 - Waste Management	<p>A separate communal bin storage area is provided near to the main entry. Bins would be collected from Macquarie Links Drive by Council's regular contracted waste collection service.</p> <p>A recommended condition of development consent requires that a nominated person be responsible for moving the relevant bins in and out of the property for collection each week.</p>	Complies
4.3.2 - Building Form and Character	<p>The proposed buildings are two storeys in height and are consistent with the design and scale of other residential dwellings and buildings in the Macquarie Links estate.</p> <p>The building frontages address the private access road and incorporate a range of elements to provide articulated facades. A unified design has been adopted to establish a desired consistency in streetscape appearance.</p> <p>Substantial landscaping is proposed to provide a high quality environment and soften any visual impact of the new built form.</p>	Complies
4.4.4 - Car Parking Access and Design	<p>A private circulation road is proposed. The private road would be 6.0m wide and the driveway access is located greater than 6.0m from the intersection of Dromedary Place and Macquarie Links Drive.</p> <p>Each dwelling is to be provided with a single lock-up garage. In addition 14 visitor parking spaces (including one disabled space) are to be provided. In total 40 parking spaces are provided, exceeding the SCDCP's requirement of 36 spaces.</p> <p>Bicycle storage can be accommodated within each dwelling/lot. In addition, bike racks are proposed adjacent to the visitor parking spaces.</p>	Complies

3.4 Lot 40 DP 270152, Macquarie Links Drive, Macquarie Links - Construction Of 26 Two-Storey Townhouses, Communal Facilities And Associated Site And Landscaping Works

4.4.5 - Solar access	<p>A shadow diagram has been prepared which shows the extent of shadows on adjoining properties at 9.00am, 12.00pm and 3.00pm on the 22nd of June.</p> <p>The proposed development will cast some shadow on the lots adjoining the development to the south. The final siting and design of the dwellings on the adjoining lots will determine the extent of private open space overshadowed.</p>	Complies
4.4.6 - Balconies and ground level courtyards	<p>All dwellings include an alfresco dining area, courtyard gardens, and balconies on the first floor.</p> <p>The alfresco dining area is accessed directly off the main living area of each dwelling.</p>	Complies
4.4.7 - Privacy	<p>The townhouses have been designed so that no window of a habitable room directly faces another habitable room or balcony of another townhouse dwelling located within 9 metres of the proposed window.</p>	Complies
4.4.8 - Communal recreation facilities	<p>The development provides for a covered barbecue area and a swimming pool. The swimming pool and covered outdoor area has been provided in lieu of a recreation room.</p>	Complies
4.4.9 - Waste	<p>Centralised waste bin storage provided and has been designed to hold 15 general waste bins, 15 bins for recyclable material and two bins for organic waste. The number of bins was determined following discussions with Council's Acting Manager Waste Services prior to the application being lodged.</p> <p>The centralised bin storage area is located near to the main driveway entry and will be screened with appropriate landscaping.</p> <p>A recommended condition of development consent requires that the waste storage area be designed in accordance with the SCDCP's requirements.</p>	Complies

Having regard to the above information, the development is considered to be compliant with the SCDCP.

3. Public Participation

The development proposal was notified to nearby and adjoining owners for two weeks between 5 and 19 April 2013. Council did not receive any submissions in objection to the proposal.

3.4 Lot 40 DP 270152, Macquarie Links Drive, Macquarie Links - Construction Of 26 Two-Storey Townhouses, Communal Facilities And Associated Site And Landscaping Works

The Macquarie Links Community Association provided a submission in support of the proposal and also provided its consent for use of Macquarie Links Drive for access. Macquarie Links Drive is owned by the Community Association and is known as Lot 1 DP 270152.

4. Other Matters

4.1 Master Plan/DCP

As mentioned earlier in the report, the development is inconsistent with the presently adopted master plan. The master plan proposed a hotel/conference facility at the subject site. DCP 63 requires that development be consistent with the adopted master plan.

The applicant previously expressed a desire to undertake a hotel style of development on the subject land. Council has previously issued consents for such developments in 2002 and 2005.

However and notwithstanding that already approved, the proponent contends that certain circumstances now put the viability and need for a hotel in question. The applicant has supplied Council with a detailed depiction of the status of a hotel development at the estate as part of a formal request to vary the requirements of DCP 63.

In this regard, the applicant has requested a variation from the DCP (and its resultant master plan) on the following grounds:

- The change to the global economy (the global financial crisis) has resulted in extreme difficulties being presented to secure finance for a hotel project at the site. As mentioned earlier, the applicant's intent to build such a complex was evident by way of receiving previous development consents, however, as a result of worldwide funding constraints of certain commercial projects, a hotel at the site is now not considered to be viable by financial institutions. Approaches to various financial and/or building partners in an attempt to construct approved hotel developments at the site have collapsed over several years.
- Resident expectations have shifted within the estate. The applicant asserts that neighbours within the residential parts of the estate are no longer supportive of a commercial-style development in the precinct.

This is evidenced by the number of objections received from neighbours when Council received applications in recent times for development of the site for both a hotel in 2008 and a motel in 2011.

No objections were received in relation to the current residential development proposal.

3.4 Lot 40 DP 270152, Macquarie Links Drive, Macquarie Links - Construction Of 26 Two-Storey Townhouses, Communal Facilities And Associated Site And Landscaping Works

- Public access to the hotel site has been constrained since adoption of the master plan and the issue of previous development consents. Previous hotel consents and the master plan itself provided for a separate identifiable entry for the hotel site, which was to be via a new road that ran parallel to the Hume Motorway (to the north) and up to Campbelltown Road. This meant that traffic associated with the hotel use would not interfere with the residential amenity of the surrounding Macquarie Links area.

The 'northern access' route has been removed as a viable option due to the construction of the South West Rail Link nearby, meaning that should the site be developed for commercial purposes, all traffic would be required to travel through the residential parts of the Macquarie Links estate.

Changes were made to the *Environmental Planning and Assessment Act 1979* earlier in 2013. One significant change was the introduction of Section 79C(3A), which (amongst other things) requires Councils to consider alternatives to development control plan requirements. Specifically, Section 79C(3A)(b) states:

If a development control plan contains provisions that relate to the development that is the subject of a development application, the consent authority:

- (b) if those provisions set standards with respect to an aspect of the development and the development application does not comply with those standards - is to be flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development

The applicant has put forward an acceptable alternative solution to development of the site, in light of the outlined difficulties that construction and operation of a hotel in the precinct presents.

Development of the site as proposed for residential, rather than commercial purposes represents a reasonable alternative, which is comparable to and compatible with existing surrounding development and is also understood to be consistent with the expectations of nearby residents.

On these grounds, a variation from the master plan's requirements for the site's development as a hotel is worthy of Council's support.

4.2 Staged Development

Development of the site is presently the subject of a staged development consent, issued pursuant to Section 83D of the *Environmental Planning and Assessment Act 1979*. The consent provided for a development in two stages - firstly Stage 1, which was for 47 residential allotments and Stage 2, a future hotel. As discussed above, a hotel is no longer considered a viable nor a practical development outcome for the site, and it is considered that a reasonable and sympathetic alternative has been proposed.

However, Section 83D(2) requires that any subsequent consents issued at the same site shall be consistent with the original staged consent (3215/2008) - i.e. in this case, the site shall be developed as a hotel.

3.4 Lot 40 DP 270152, Macquarie Links Drive, Macquarie Links - Construction Of 26 Two-Storey Townhouses, Communal Facilities And Associated Site And Landscaping Works

Planning staff understand that there are certain steps that may be followed to allow a lawful consent for the townhouses to be issued by Council, should it deem appropriate to do so.

Briefly, a recommended condition of any consent issued by the Council should include a condition that requires that the existing staged development consent (3215/2008) to be modified such that it is made consistent with the current townhouse proposal. The condition would require that prior to work commencing at the site under the subject application, a modification to the original consent (3215/2008) be received and approved by Council.

It is important to note that as part of the modification application of 3215/2008, the applicant is required to secure the consent of all other owners within Stage 1 of the development, being those privately-owned allotments within Dromedary Place and Jarvisfield Place.

5. Conclusion

Council has received a development application to construct 26 two-storey townhouses, communal facilities and associated site and landscaping works at Lot 40 Macquarie Links Drive, Macquarie Links. The development site is the last remaining parcel of land remaining within the Macquarie Links estate.

The development would provide for a range of private three and four bedroom dwellings, with a range of internal amenities such as kitchen, laundry, balconies and living areas. Communal facilities such as a swimming pool and outdoor barbecue area are also proposed.

The development site has a long-standing history as the future location of a hotel and conference facilities. However, the applicant has detailed that development of this kind is not possible, having regard to the present economic climate, changes in surrounding development and the expectations of existing estate residents.

The development is considered to be not inconsistent with relevant local planning controls and is suitable for the site, having regard to its compatibility with nearby development.

Accordingly, the proposal is recommended for approval as outlined below.

Officer's Recommendation

That the application for the construction of 26 two-storey townhouses, communal facilities and associated site and landscaping works at Lot 40 DP 270152, Macquarie Links Drive, Macquarie Links be approved, subject to the conditions detailed in Attachment 1 to this report.

Committee's Recommendation: (Thompson/Rowell)

That the Officer's Recommendation be adopted.

CARRIED

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

Voting against the Committee's Recommendation: Nil.

3.4 Lot 40 DP 270152, Macquarie Links Drive, Macquarie Links - Construction Of 26 Two-Storey Townhouses, Communal Facilities And Associated Site And Landscaping Works

Council Meeting 10 September 2013 (Greiss/Matheson)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 198

That the Officer's Recommendation be adopted.

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

Voting against the Council Resolution were Councillors: Brticevic and Glynn.

ATTACHMENT 1

Recommended Conditions of Consent

GENERAL CONDITIONS

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

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

1. Approved Development

The development shall be carried out in accordance with the approved plans containing Council's approved development stamp and all associated documentation supporting this consent, except as modified by Council any conditions within.

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.
-

3.4 Lot 40 DP 270152, Macquarie Links Drive, Macquarie Links - Construction Of 26 Two-Storey Townhouses, Communal Facilities And Associated Site And Landscaping Works

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:

- 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. The plan and landscape installation shall also ensure that screen tree plantings are provided along the site's boundary with DP 286277.

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.

3.4 Lot 40 DP 270152, Macquarie Links Drive, Macquarie Links - Construction Of 26 Two-Storey Townhouses, Communal Facilities And Associated Site And Landscaping Works

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. Swimming Pool

The construction and operation of the swimming pool shall comply with the following requirements:

- a. The pool shall not be filled with water nor be permitted to retain water until all required safety fencing has been erected in accordance with the provisions of the *Swimming Pools Act 1992*, Swimming Pools Regulation 2008 and Australian Standard 1926 and a compliance certificate issued for such by the principal certifying authority.
- b. Filter backwash waters shall be discharged to the sewer mains of Sydney Water in accordance with Sydney Water's requirements. Where Sydney Water sewer mains are not available in rural areas, the backwash waters shall be discharged into a 5-metre absorption trench constructed within the confines of the property to the satisfaction of the principal certifying authority.
- c. A C.P.R. information resuscitation poster authorised by the Life Saving Association is to be displayed within the pool area. Such a poster may be obtained from Council for a prescribed fee.

Noise emissions from the filtration equipment must be maintained such that it does not cause a nuisance to adjoining residents.

9. 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.

10. 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.

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.

3.4 Lot 40 DP 270152, Macquarie Links Drive, Macquarie Links - Construction Of 26 Two-Storey Townhouses, Communal Facilities And Associated Site And Landscaping Works

11. Deliveries

Vehicles servicing and/or visiting 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.

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

12. 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 Volume 2 (as amended).

13. Car Parking Spaces

The visitor car parking spaces shall be designed, sealed, line marked and made available to all users of the site in accordance with Australian Standards 2890.1 and 2.

14. Rubbish/Recycling Bin Storage

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

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

The bin storage area shall be finished in accordance with the requirements of the Campbelltown (Sustainable City) Development Control Plan Volume 1.

15. 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.

16. 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.
-

3.4 Lot 40 DP 270152, Macquarie Links Drive, Macquarie Links - Construction Of 26 Two-Storey Townhouses, Communal Facilities And Associated Site And Landscaping Works

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.

17. 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.

18. 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.

19. 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.

The management plan shall detail the arrangements for rubbish bin positioning and removal from the street for collection.

20. Geotechnical Report

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

3.4 Lot 40 DP 270152, Macquarie Links Drive, Macquarie Links - Construction Of 26 Two-Storey Townhouses, Communal Facilities And Associated Site And Landscaping Works

21. 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.

22. Road Construction (New)

Prior to Council or an accredited certifier issuing a construction certificate, the applicant shall submit design details for approval of the proposed road construction.

The pavement for the proposed road shall be designed as a Category D road with a Traffic Loading of 3×10^5 .

Construction of the road shall be undertaken in accordance with Council's Specification for Construction of Subdivisional Road and Drainage Works (as amended) and the design requirements detailed in the Campbelltown (Sustainable City) DCP - Volume 2 (as amended).

All inspections are to be undertaken by Council and the principal certifying authority shall not issue the subdivision certificate until all works have been completed satisfactorily.

23. Traffic Committee

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

24. 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 closet Council controlled system. All proposals shall comply with the Campbelltown (Sustainable City) DCP 2009 - Volumes 2 (as amended).

25. Existing Drainage

Prior to Council or an accredited certifier issuing a construction certificate, the applicant shall submit design details and related calculations for the analysis of the existing drainage system in Macquarie Links Drive, where it is proposed to discharge stormwater from the proposed development, to determine whether the existing system has sufficient capacity to adequately convey the increased flows.

3.4 Lot 40 DP 270152, Macquarie Links Drive, Macquarie Links - Construction Of 26 Two-Storey Townhouses, Communal Facilities And Associated Site And Landscaping Works

26. 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.

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

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

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

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

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

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

3.4 Lot 40 DP 270152, Macquarie Links Drive, Macquarie Links - Construction Of 26 Two-Storey Townhouses, Communal Facilities And Associated Site And Landscaping Works

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.

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.

28. Modification of Existing Consent

Prior to **any** physical works commencing in relation to the subject development, development consent 3215/2008/DA-S (as amended) shall be modified.

The modification shall be made in accordance with the requirements of Sections 80A(1)(b) and 80A(5) of the *Environmental Planning and Assessment Act 1979* and Clause 97(1) of the *Environmental Planning and Environment Regulation 2000*.

The modification shall be made:

- To amend the development description wording of Stage 2 so that it reads:
“Development of the Residue lot created in Stage 1 for the purposes of residential flat buildings as provided for by consent 620/2013/DA-M”
- To remove references to a ‘future hotel’ in other relevant conditions of consent
- To delete Condition 5.

29. 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.

30. 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
-

3.4 Lot 40 DP 270152, Macquarie Links Drive, Macquarie Links - Construction Of 26 Two-Storey Townhouses, Communal Facilities And Associated Site And Landscaping Works

- 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.

31. Toilet on Construction Site

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

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

32. 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.

33. 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 the public road system. Single sized aggregate, 40mm or larger and placed 150mm deep, extending from the kerb and gutter to the property boundary, shall be provided as a minimum requirement.

34. Fencing

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

3.4 Lot 40 DP 270152, Macquarie Links Drive, Macquarie Links - Construction Of 26 Two-Storey Townhouses, Communal Facilities And Associated Site And Landscaping Works

DEVELOPMENT REQUIREMENTS DURING CONSTRUCTION

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

35. 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 4.00pm
Sunday and public holidays	No Work.

36. 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 sediment control devices shall remain in place until the site has been stabilised and fully revegetated.

Note: On the spot penalties of up to \$1500 will be issued for any non-compliance with this requirement without any further notification or warning.

37. 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.

38. Protection of Existing Trees

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

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

3.4 Lot 40 DP 270152, Macquarie Links Drive, Macquarie Links - Construction Of 26 Two-Storey Townhouses, Communal Facilities And Associated Site And Landscaping Works

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

39. Fill Compaction Requirements

Any filling carried out on the site shall be compacted to a minimum dry density of 98% Standard Compaction. Density testing, which is to be certified by a qualified geotechnical engineer, shall be undertaken for every 300mm rise in vertical height, with test locations being selected randomly across the site. At least 1 test shall be taken for every 500m² of the filled area (minimum 1 test per 300mm layer).

40. 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.

41. Termite Control

The building shall be protected from subterranean termites in accordance with Australian Standard 3660.1. Certification of the treatment shall be submitted to the principal certifying authority prior to the issue of an occupation certificate.

42. 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.

43. Earth Works/Filling Works

All earthworks, including stripping, filling, and compaction shall be:

- a. Undertaken in accordance with Council's 'Specification for Construction of Subdivisional Roads and Drainage Works' (as amended), AS 3798 'Guidelines for Earthworks for Commercial and Residential Development' (as amended), and approved construction drawings
 - b. Supervised, monitored, inspected, tested and reported in accordance with AS 3798 Appendix B 2(a) Level 1 and Appendix C by a NATA registered laboratory appointed by the applicant. Two collated copies of the report and fill plan shall be forwarded to Council
 - c. Certified by the laboratory upon completion as complying, so far as it has been able to determine, with Council's specification and AS 3798.
-

3.4 Lot 40 DP 270152, Macquarie Links Drive, Macquarie Links - Construction Of 26 Two-Storey Townhouses, Communal Facilities And Associated Site And Landscaping Works

44. 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 that are considered to be unsafe, and recover all reasonable costs incurred, from the applicant.

45. 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 Volumes 1 & 2 (as amended)
- c. 'Soils and Construction (2004) (Bluebook)
- d. All relevant Australian Standards and State Government publications.

46. Nature Strip

The nature strip adjoining the subject land shall be regraded, topsoiled and turfed in accordance with levels obtained from Council. The formation may need to be extended beyond the site boundaries, to provide an acceptable transition to the existing footpath levels.

47. Medium Density Footpath Crossing and Layback

The applicant shall provide a reinforced concrete footpath crossing and layback at the entrance and exit to the property, in accordance to Council's Medium Density Vehicle Crossing Specification and the Campbelltown (Sustainable City) DCP Volume 2 (as amended).

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 prior to pouring the concrete. Where necessary, conduits shall be provided under the footpath crossing, in accordance with the relevant service authority requirements.

48. 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 other civil works directed by Council, to make a smooth junction with existing work.

49. 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.

3.4 Lot 40 DP 270152, Macquarie Links Drive, Macquarie Links - Construction Of 26 Two-Storey Townhouses, Communal Facilities And Associated Site And Landscaping Works

50. 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.

51. Imported 'waste-derived' fill material

The only waste-derived fill material that may be received at the development site is:

- a) virgin excavated natural material (within the meaning of the Protection of the Environment Operations Act 1997); and
- b) any other waste-derived material the subject of a resource recovery exemption under cl.51A of the Protection of the Environment Operations (Waste) Regulation 2005 that is permitted to be used as fill material.

Any waste-derived material the subject of resource recovery exemption received at the development site must be accompanied by documentation as to the material's compliance with the exemption conditions and must be provided to the Principal Certifying Authority on request.

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".

52. Section 73 Certificate

Prior to the principal certifying authority issuing an occupation certificate, a certificate issued by Sydney Water pursuant to Section 73 of the *Sydney Water Act 1994* shall be provided.

53. Completion of External Works Onsite

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

3.4 Lot 40 DP 270152, Macquarie Links Drive, Macquarie Links - Construction Of 26 Two-Storey Townhouses, Communal Facilities And Associated Site And Landscaping Works

54. 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.

55. 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.

56. Registration of Levels

Prior to the principal certifying authority issuing an occupation certificate, a qualified practicing surveyor shall certify that the finished floor and finished surface levels of the development comply with the approved development plans containing Council's stamp. An electronic copy of this work as executed information shall also be submitted to Council, complying with the following provisions:

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

57. Final Inspection – Works as Executed Plans

Prior to the principal certifying authority issuing an occupation certificate the applicant shall submit to Council two copies of a work as executed plan, certified by a qualified surveyor, which is in accordance with Council's Specification for Construction of Subdivisional Road and Drainage Works (as amended) and the requirements detailed in the Campbelltown (Sustainable City) DCP Volume 2 (as amended).

58. Restoration of Roads

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

59. 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.

3.4 Lot 40 DP 270152, Macquarie Links Drive, Macquarie Links - Construction Of 26 Two-Storey Townhouses, Communal Facilities And Associated Site And Landscaping Works

60. 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, 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 shall be forwarded to Council. All construction work shall conform to the relevant authority's specification/s.

The final Asphaltic Concrete 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, a bond to cover the cost of the final seal and trench restoration. The amount of the bond will be calculated by Council upon written request from the applicant.

61. Line Marking / Sign Posting Documentation (development)

Prior to the principal certifying authority issuing an occupation certificate, the applicant shall submit to Council, for the Local Traffic Committee's records, two copies of the work as executed plans for the line marking/sign posting, undertaken in relation to the development. The information shown on the plan shall be in accordance with the recommendations of the Traffic Committee and shall note the date/s of installation.

62. Council Fees and Charges

Prior to the principal certifying authority issuing an occupation certificate the applicant shall ensure that all applicable Council fees and charges associated with the development have been paid in full.

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.
-

3.4 Lot 40 DP 270152, Macquarie Links Drive, Macquarie Links - Construction Of 26 Two-Storey Townhouses, Communal Facilities And Associated Site And Landscaping Works

- b. Nominate a principal certifying authority and notify Council of that appointment prior to the commencement of any works.
- c. Give Council at least two days notice prior to the commencement of any works.
- d. Have mandatory inspections of nominated stages of the construction inspected.
- e. Obtain an occupation certificate before occupying any building or commencing the use of the land.

Advice 2. Tree Preservation Order

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

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

Advice 3. Provision of Equitable Access

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

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

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

Advice 4. 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 5. 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 3.

3.4 Lot 40 DP 270152, Macquarie Links Drive, Macquarie Links - Construction Of 26 Two-Storey Townhouses, Communal Facilities And Associated Site And Landscaping Works

Advice 6. 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 7. Swimming Pools - Limit evaporation and save water

To limit evaporation and save water, Council encourages that you investigate placing a pool blanket over the swimming pool.

Advice 8. Swimming Pool Owner's Responsibility

- a. A securely fenced pool is no substitute for responsible adult supervision. When children are in or around a swimming pool they should always be responsibly supervised.
- b. Swimming pool owners are required, under the provisions of the *Swimming Pool Act*, to register their swimming pools on an online register on or before 29 October 2013. The NSW Swimming Pools Register will be available for use by and from 29 April 2013.

There is a penalty (i.e. penalty notice amount of \$220) that applies to owners who fail to register their pool on or before 29 October 2013.

For further information visit the Department of Local Government website www.dlg.nsw.gov.au or contact Campbelltown City Council on (02) 4645 4000.

- c. As from 29 April 2014, owners of properties with swimming pools are required, under the provisions of the *Swimming Pools Act*, to obtain a valid Section 24 Swimming Pool Compliance Certificate before sale or lease of their property.

Advice 9. Retaining Walls

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

Advice 10. 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 11. Inspections – Civil Works

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

3.4 Lot 40 DP 270152, Macquarie Links Drive, Macquarie Links - Construction Of 26 Two-Storey Townhouses, Communal Facilities And Associated Site And Landscaping Works

- a. EROSION AND SEDIMENT CONTROL –
 - i) Direction/confirmation of required measures.
 - ii) After installation and prior to commencement of earthworks.
 - iii) As necessary until completion of work.
- b. STORMWATER PIPES – Laid, jointed and prior to backfill.
- c. VEHICLE CROSSINGS & LAYBACKS – Prior to pouring concrete.
- d. FINAL INSPECTION – All outstanding work.

Advice 12. 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 13. 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 the Campbelltown (Sustainable City) DCP Volume 3.

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. Dial 1100 Before you Dig

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

Advice 16. Telecommunications Act 1997 (Commonwealth)

Please note that under the *Telecommunications Act 1997* (Commonwealth) Telstra's written authorisation is required before any person can enter land or undertake work on any Telstra's assets. Any person caught interfering with a facility or installation owned or operated by Telstra is committing an offence under the *Criminal Code Act 1995* (Commonwealth) and is liable for prosecution.

If you are aware of any works or proposed works which may affect or may impact on Telstra's assets in any way please contact Telstra's Network Integrity Team on phone number 1800 810 443.

END OF CONDITIONS

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 2013-2014 period as they relate to:

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

A summary of year-to-date costs and the total number of matters is also included.

1. Land and Environment Court Class 1 Matters – Appeals Against Council's Determination of Development Applications
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Total ongoing Class 1 DA appeal matters (as at 20/08/2013)	1
Total completed Class 1 DA appeal matters (as at 20/08/2013)	0
Costs from 1 July 2013 for Class 1 DA appeal matters:	\$10,510.62

1 (a) Ray JARDINE

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

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 direction hearing on 17 October 2013.
Progress:	<p>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.</p> <p>On 19 August 2013 the parties entered into consent orders whereby the Applicant is allowed six weeks to complete the agreed outstanding rectification works which are to be inspected by Council within two weeks after completion. The matter is re-listed for directions hearing on 17 October 2013, with an option for either party to earlier re-list the matter on two days notice.</p>

2. Land and Environment Court Class 1 Matters – Appeals Against Council's issued Orders / Notices
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Total ongoing Class 1 Order/Notice appeal matters (as at 20/08/2013)	0
Total completed Class 1 Order/Notice appeal matters (as at 20/08/2013)	0
Costs from 1 July 2013 for Class 1 Order/Notices appeal matters:	\$0.00

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 20/08/2013)	1
Total completed Class 4 matters (as at 20/08/2013)	0
Costs from 1 July 2013 for Class 4 matters	\$7,516.82

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:	\$32,427.98
Status:	Ongoing – Listed for further directions hearing on 23 August 2013.
Progress:	<p>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.</p> <p>On 23 August 2013, the Court, by consent of the parties, gave directions to refer the matter to mediation by a Court appointed mediator. The matter is listed for a directions hearing on 27 September 2013.</p>

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 20/08/2013)	0
Total completed Class 5 matters (as at 20/08/2013)	0
Costs from 1 July 2013 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 20/08/2013)	0
Total completed Class 6 matters (as at 20/08/2013)	0
Costs from 1 July 2013 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 20/08/2013)	0
Total completed Appeal matters (as at 20/08/2013)	0
Costs from 1 July 2013 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 20/08/2013)	7
Total completed Local Court Matters (as at 20/08/2013)	6
Costs from 1 July 2013 for Local Court Matters	\$0.00

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 mention on 10 September 2013.

Progress: The matter was before the Court for hearing on 20 August 2013, where written notice of the defendant's unavailability to attend Court was provided to the Court. The proceedings have been listed for mention on 10 September 2013.

File No: LP12/13 – Penalty Notice Court Election
Offence: Own dog which attacked animal – not dangerous dog.
Act: *Companion Animals Act 1998*

Costs to date: \$0.00

Status: Ongoing – listed for mention on 10 September 2013.

Progress: The matter was before the Court for hearing on 20 August 2013, where written notice of the defendant's unavailability to attend Court was provided to the Court. The proceedings have been listed for mention on 10 September 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 mention on 10 September 2013.

Progress: The matter was before the Court for hearing on 20 August 2013, where written notice of the defendant's unavailability to attend Court was provided to the Court. The proceedings have been listed for mention on 10 September 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

Progress: Listed for first mention on 3 September 2013.

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

Final Costs: \$0.00

Status: Completed.

Progress: The matter was before the Court for hearing on 7 August 2013 where the defendant, Mohamed Raffi Khan, initially maintained his not guilty plea only to change it to guilty plea with explanation during the hearing. The Magistrate found the offence proved and convicted the defendant imposing a \$99 fine.

File No: LP16/13 – Penalty Notice Court Election
Offence: Stop in bus zone.
Act: *Road Rules 2008*

Final Costs: \$0.00

Status: Completed.

Progress: Matter was before the Court for first mention on 30 July 2013 where the defendant entered a guilty plea with explanation. After considering the evidence and submissions the Magistrate found the offence proved without conviction.

File No: LP17/13 – Penalty Notice Court Election
Offence: Own dog which attacked animal – not dangerous dog.
Act: *Companion Animals Act 1998*

Costs to date: \$0.00

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

Progress: The matter was before the Court for first mention on 6 August 2013, where the defendant entered a not guilty plea. The proceedings have been listed for defended hearing on 5 September 2013.

File No: LP18/13 – Penalty Notice Court Election
Offence: Owner have dog in a prohibited place (school grounds) – not dangerous dog.
Act: *Companion Animals Act 1998*
Final Costs: \$0.00
Status: Completed.
Progress: The matter was before the Court for first mention on 6 August 2013 where the defendant, Robin Taylor, entered a guilty plea with explanation. The Magistrate found the offence proved and convicted the defendant imposing a \$200 fine.

File No: LP19/13 – Penalty Notice Court Election
Offence: Own dog uncontrolled in a public place (17 April 2013) – not dangerous dog.
Act: *Companion Animals Act 1998*
Final Costs: \$0.00
Status: Completed.
Progress: The matter was before the Court for first mention on 6 August 2013 where the defendant, Robin Taylor, entered a guilty plea with explanation. The Magistrate found the offence proved and convicted the defendant imposing a \$200 fine.

File No: LP20/13 – Penalty Notice Court Election
Offence: Own dog uncontrolled in a public place (9 May 2013) – not dangerous dog.
Act: *Companion Animals Act 1998*
Final Costs: \$0.00
Status: Completed.
Progress: The matter was before the Court for first mention on 6 August 2013 where the defendant, Robin Taylor, entered a guilty plea with explanation. The Magistrate found the offence proved and convicted the defendant imposing a \$200 fine.

File No: LP21/13 – Penalty Notice Court Election
Offence: Disobey no stopping sign.
Act: *Road Rules 2008*

Costs to date: \$0.00

Status: New matter

Progress: Listed for first mention on 27 August 2013.

File No: LP22/13 – Penalty Notice Court Election
Offence: Own dog which attacked animal – not dangerous dog.
Act: *Companion Animals Act 1998*

Costs to date: \$0.00

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

Progress: The matter was before the Court for first mention on 6 August 2013, where the defendant entered a not guilty plea. The proceedings have been listed for defended hearing on 5 September 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 20/08/2013)
Costs from 1 July 2013 for advice matters

2
\$4,104.50

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	\$10,510.62	\$0.00
Class 1 Land and Environment Court - appeals against Orders or Notices issued by Council	\$0.00	\$0.00
Class 4 Land and Environment Court matters - non-compliance with Council Orders, Notices or prosecutions	\$7,516.82	\$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	\$0.00	\$0.00
Matters referred to Council's solicitor for legal advice	\$4,104.50	\$0.00
Miscellaneous costs not shown elsewhere in this table	\$0.00	\$0.00
Costs Sub-Total	\$22,131.94	\$0.00
Overall Net Costs Total (GST exclusive)	\$22,131.94	

Officer's Recommendation

That the information be noted.

Committee's Recommendation: (Thompson/Matheson)

That the Officer's Recommendation be adopted.

CARRIED

Council Meeting 10 September 2013 (Greiss/Matheson)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 194

That the Officer's Recommendation be adopted.

4.2 Compliance Services Quarterly Statistics April to June 2013

Reporting Officer

Acting Manager Compliance Services

Attachments

Compliance Services quarterly activity summary table (contained within this report)

Purpose

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

Report

This report summarises key section activities and operational results for the reporting period April to June 2013.

1. Regulated Premises Inspections

Regulated premises inspection statistics presented in the Activity Summary Statistics Table are divided into food, public health and wastewater management system inspections.

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

a. Food Premises

Within Campbelltown, there are approximately 758 regulated food premises separated into three categories requiring 1136 scheduled inspections per annum as follows:

Low Risk Premises 1 (inspections of market and events throughout the year) ie Festival of Fisher's Ghost, Ingleburn Alive, Riverfest, New Year's Eve and Australia Day.

Low Risk Premises 2 (inspected as required for food recalls or customer complaint) - includes food businesses such as pre-packaged food outlets, variety stores, confectionary shops, chemists, video stores, newsagents, teaching kitchens and tobacconists.

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

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

Food premises category	No. of premises	No. of annual inspections
Low Risk 1	9	9
Low Risk 2	143	when required
Medium Risk	85	85
High Risk	521	1042
TOTAL	758	1136

Amendments to the *Food Act 2003* and the establishment of the Food Regulations Partnership between the NSW Food Authority and NSW councils in 2008, resulted in a mandated and more consistent role for local government in food regulation.

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

A total of 326 food premise inspections were conducted for the reporting period, which is consistent with the quarterly average inspection numbers (317) for 2011-2012. Of the 326 inspections undertaken, 49 (15%) food premises inspections were recorded as unsatisfactory. Follow up reinspections are undertaken where premises are found to be unsatisfactory at the time of initial inspection, to ensure they reach a satisfactory standard. In certain situations, Improvement Notices or Penalty Notices are issued under the *Food Act 2003* when necessary to encourage compliance.

b. Public Health

Within Campbelltown, there are approximately 275 regulated premises separated into three risk categories requiring 286 scheduled inspections per annum.

- **Category 1 Premises** (inspected once per year) - beauty salons (low risk), boarding houses, funeral parlours, skin penetration (low risk procedure, ie waxing), hairdressers, nail artists
- **Category 2 Premises** (inspected twice per year) - brothels, skin penetration (high risk procedure - body piercing)
- **Category 3 Premises** (inspected once per year) - *Legionella* microbial control (air-conditioning towers)
- **Category 4 Premises** (inspected via complaints) - public and private swimming pools.

Health premises category	No. of premises	No. of annual inspections
Category 1 - Medium	162	162
Category 2 - High	27	54
Category 3 - Low	70	70
Category 4 - Swimming Pools	16	via complaints only
TOTAL	275	286

A total of 115 health premises inspections were conducted for the reporting period being above quarterly averages (58) for 2011-2012.

Of the 115 regulated health premises inspections conducted during the reporting period, seven (7%) of the premises inspected were recorded as unsatisfactory.

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

c. Wastewater Management Systems

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

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

The implementation of the revised strategy has continued and is staged, with various unsewered locations throughout the city being addressed progressively.

A total of 71 system inspections were conducted during the reporting period.

In addition, one new installation was approved and 24 existing systems were issued with an approval to operate during the reporting period.

2. Notices/Orders Issued

Food Act 2003 Notices are usually issued where there is repeated failure by a proprietor to meet appropriate standards or where serious breaches are identified. A total of five *Food Act 2003* Notices were issued during the reporting period, being relatively consistent with quarterly average Food Act notice numbers (7) for 2012-2013.

Local Government Act 1993 Notices and Orders are issued for a range of matters including overgrown, unhealthy, unsafe or unsightly conditions. The number of *Local Government Act 1993* Notices and Orders issued during the reporting period was 34, being below the corresponding quarter (94) in 2011-2012.

The number of *Swimming Pools Act 1992* Directions issued (15) requiring the erection of pool fencing or fencing repairs was higher than the corresponding quarter (11) in 2011-2012.

Environmental Planning and Assessment Act 1979 Notices and Orders are issued by Land Use and Environmental Compliance staff, primarily to ensure that premises comply with conditions of development consent and to regulate unauthorised land use. A total of 21 Notices and Orders were served during the reporting period which is lower than quarterly averages (32) for 2012-2013.

Protection of the Environment Operations Act 1997 (POEO) Notices are issued for a variety of pollution matters including water pollution and waste dumping. The number of POEO Notices issued for the reporting period (7) was marginally lower than quarterly averages (8) for 2012-2013.

3. Customer Service Requests

The Compliance Services Section receives a significant number of customer service requests across a broad range of issues as represented in attachment 1. A total of 804 customer service requests were received for the reporting period. Significant complaint categories were:

Category	April to June 2013
Parking (includes heavy vehicles)	138
Barking dogs	128
Illegal construction/development	77
Pollution	68
Health (non-regulated premises)	64
Overgrown land	60
Abandoned motor vehicles	56
Dogs straying	54
Rubbish dumping/litter	42

4. Applications

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

The number of Building Certificate Applications (7) received during the reporting period was below the quarterly average (12) experienced in 2012-2013 period.

Staff have continued to seek applications for an approval to operate a system of waste water management from system owners, on a risk category basis. Fifteen applications for approval to operate a wastewater management system were received during the reporting period, lower than the average number of applications (34) received per quarter for 2012-2013. This variation is not unusual as application numbers fluctuate in response to bulk mail outs that are conducted from time to time to seek applications from different areas within the Local Government Area.

One section 68 (*Local Government Act 1993*) event application was received. This was for the NAIDOC Week Street March.

5. Impounding

The number of dogs impounded during this reporting period was 349, which is consistent with the 346 dogs for the corresponding quarter in 2011-2012. The percentage of dogs microchipped at the time of impounding was 83%.

A total of 182 cats were impounded throughout the reporting period which is lower than the number of cats impounded (289) in the corresponding quarter in 2011-2012. The number of cats that are microchipped at the time they were impounded is typically lower than the dogs and for this reporting period, 19% were microchipped.

The number of abandoned vehicles impounded for this quarter was 10. None of these vehicles were released back to their owners, eight were disposed of by Council, and Council is currently holding two abandoned vehicles.

No shopping trolleys were impounded during the quarter.

6. Penalty Notices

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

The number of penalty notices issued for parking offences in Council car parks (577) was above the number of penalty notices issued in the previous quarter (547). The number issued for on-street offences (647) was also higher than the previous quarter (494).

7. Compliance/Education Programs

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

A summary of compliance programs undertaken during the reporting period follows:

a. Illegal Parking in School Zones

During the reporting period, 58 school locations were patrolled, resulting in the issue of 63 penalty notices.

b. Illegal Sign Statistics

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

c. Illegal Trail Bike Riding

During the reporting period, one joint patrol with NSW Police was undertaken. NSW Police are currently reviewing their trail bike patrol program which has impacted on joint patrols with Council and other agencies. Historically, this program has been successful in addressing wide ranging illegal trail bike riding issues across the Local Government Area.

Rangers continue to undertake a number of single agency patrols of known trail bike riding hot spots in response to community complaints.

d. Litter from Vehicles

Monitoring of littering from vehicles was undertaken during the reporting period with three penalty notices issued.

e. Shopping Trolleys

Monitoring of areas in proximity of shopping centres was undertaken as part of daily patrols during the reporting round.

f. Truck Parking

Two truck parking patrols were undertaken during the reporting period, resulting in 15 penalty notices being issued.

8. Other Activities

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

- Council continues to conduct surveillance of construction sites for sediment and erosion control compliance
- active participation in the Food Regulation partnership, incorporating activity reporting and the review of inspection procedures and related documentation
- continued participation in the Sydney South West Area Health Service Public Health Unit Skin Penetration Working Group to improve industry practice and compliance
- patrols (by way of formalised agreement) of disabled parking at Campbelltown Mall and Macarthur Square continued through the reporting period
- periodic (three yearly) review of risk identification documents for various environmental health, building, land use, animal care/control and ranger activities
- ongoing review and development of Standard Operating Procedures relating to Section activities, tasks and programs
- continuation of participation in the CAWS subsidised desexing program for cats and dogs jointly with the RSPCA and Sydney University Veterinary Training Hospital Camden Campus. This program provides subsidised desexing in identified hot spots locations within the city for low income earners.

Officer's Recommendation

That the information be noted.

Committee's Recommendation: (Matheson/Lound)

That the Officer's Recommendation be adopted.

CARRIED

Council Meeting 10 September 2013 (Greiss/Matheson)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 194

That the Officer's Recommendation be adopted.

ATTACHMENT 1

Activity	2012-2013 Quarter Results				YTD
	1	2	3	4	
Regulated Premises Inspections					
Food	144	362	149	326	981
Public Health	7	5	23	115	150
Wastewater Management Systems	44	46	35	71	196
Total	195	413	207	512	1327
Notices/Orders Issued					
<i>Food Act 2003</i>	16	1	7	5	29
<i>Local Government Act 1993</i>	64	72	81	34	251
<i>Swimming Pool Act 1992</i>	28	31	31	15	105
<i>Protection of Environment Operations Act 1979</i>	7	10	8	7	32
<i>Environmental Planning and Assessment Act</i>	32	40	37	21	130
<i>Companion Animals Act 1998</i>	6	0	0	0	6
Total	153	154	164	82	553
Customer Requests					
Abandoned Motor Vehicles	69	71	72	56	268
Animals (other)	23	22	27	15	87
Barking Dogs	122	95	145	128	490
Dog Attacks	18	18	25	23	84
Dog Straying	44	54	60	54	212
Food/Health (regulated)	19	20	22	21	82
Footpath Obstruction	6	17	14	11	48
Health (other)	60	77	112	64	313
Heavy Vehicle Parking	38	29	40	27	134
Illegal Construction/Development	62	73	107	77	319
Misuse of Council Park	4	7	5	4	20
Overgrown Land	26	38	44	60	168
Parking (General)	86	80	115	111	392
Pollution	79	70	72	68	289
Rubbish Dumping/Litter	34	61	74	42	211
Shopping Trolley	14	12	9	10	45
Signs	3	3	7	4	17
Swimming Pool Fence	14	27	19	9	69
Trail Bikes	13	12	7	13	45
Tree Removal/Dangerous	9	7	14	7	37
Total	743	793	990	804	3330
Applications					
Building Certificates	13	16	14	7	50
Approval to Operate Effluent Disposal System Section 68 (<i>Local Government Act 1993</i>)	2	10	111	15	138
Event Approvals Section 68 (<i>Local Government Act 1993</i>)	4	6	3	1	14
Total	19	32	128	23	202

Activity	2012-2013 Quarter Results				YTD
	1	2	3	4	
Impounding					
Abandoned Vehicles	8	5	7	10	30
Shopping Trolleys	43	0	0	0	43
Dogs (Incoming)					
Impounded	417	354	324	349	1444
Surrendered	119	134	109	106	468
Dogs (Outgoing)					
Released to Owner	254	197	256	189	896
Sold	134	94	75	96	399
Released to rescue organisation	0	23	30	42	95
Euthanased – Surrendered by Owner	63	78	76	52	269
Euthanased – Restricted Dog	2	1	3	1	7
Euthanased – Health/temperament	54	69	89	48	260
Euthanased – Unable to re-home	38	26	32	15	111
Total	545	488	561	443	2037
Cats (Incoming)					
Impounded	152	163	172	182	669
Surrendered	39	82	62	49	232
Cats (Outgoing)					
Released to Owner	8	11	7	10	36
Sold	18	25	40	57	140
Released to rescue organisation	0	2	0	7	9
Euthanased – Surrendered by Owner	6	19	35	35	95
Euthanased – Health/temperament	100	138	129	102	469
Euthanased – Unable to re-home	153	40	26	12	231
Total	285	235	237	223	980
Penalty Notices					
Companion Animals	115	206	190	176	687
Environmental – includes litter and waste dumping	22	26	26	32	106
General – includes Public Health and Food Safety	13	22	18	28	81
Land Use	7	1	2	5	15
Parking (car parks)	400	398	547	577	1922
Parking (on street)	227	305	494	647	1673
Total	784	958	1277	1465	4484
Compliance Programs					
Illegal Parking in School Zones					
Patrols	14	25	29	58	126
Warnings	0	1	1	1	3

Activity	2012-2013 Quarter Results				YTD
	1	2	3	4	
Penalty Notices	18	19	46	63	146
Illegal Signs					
Complaints – Council property	2	3	5	3	13
Complaints – Private property	0	0	2	0	2
Letters sent	7	0	1	0	3
Cautions issued	0	0	0	0	0
Fines issued	0	0	0	0	0
Removed (posters from poles)	302	40	167	20	529
Illegal Trail Bike Riding					
Joint Patrols	0	0	0	1	1
Bikes Seized	0	0	0	1	1
Penalty Notices (Police)	0	0	0	1	1
Penalty Notices (Council)	0	0	0	2	2
Charges	0	0	0	0	0
Juvenile Cautions	0	0	0	5	5
Litter from Vehicles					
Patrols	0	1	0	1	2
Penalty Notices	0	8	0	3	11
Shopping Trolleys					
Patrols	3	0	0	0	3
Trolley's Tagged	64	0	0	0	64
Trolleys Impounded	43	3	0	0	46
Contractor Notified	43	0	0	0	43
Truck Parking					
Patrols	2	0	1	2	5
Penalty Notices	12	0	1	15	28

4.3 Re-establishment of Alcohol Free Zones

Reporting Officer

Acting Manager Compliance Services

Attachments

Maps of Alcohol Free Zones for Airds, Ambarvale, Bradbury, Campbelltown CBD South, Campbelltown CBD North, Campbelltown East 1, Campbelltown East 2, Leumeah, Menangle Park, Rosemeadow 1, Rosemeadow 2, Ruse, St Helens Park 1 and St Helens Park 2 (distributed under separate cover - to view a copy of this attachment, contact Council's Corporate Support Coordinator on 4645 4405)

Purpose

To submit to Council for endorsement, a proposal to renew without change 14 Alcohol Free Zones that are located within the southern area of the Campbelltown Local Government Area (LGA) and that are due to expire on 24 December 2013.

History

Council at its Ordinary Meeting on 26 March 2013 considered a recommendation from its Planning and Environment Committee regarding a proposal to renew without change 14 Alcohol Free Zones that are located within the southern area of the Campbelltown Local Government Area (LGA) and resolved:

1. that a notice be placed in a local paper inviting submissions from any person or group, in response to Council's intention to re-establish Alcohol Free Zones over the streets and footpaths detailed in Attachment 1 to this report for the proposed Alcohol Free Zones of:
 - (a) Airds
 - (b) Ambarvale
 - (c) Bradbury
 - (d) Campbelltown CBD South
 - (e) Campbelltown CBD North
 - (f) Campbelltown East 1
 - (g) Campbelltown East 2
 - (h) Leumeah
 - (i) Menangle Park
 - (j) Rosemeadow 1
 - (k) Rosemeadow 2
 - (l) Ruse
 - (m) St Helens Park 1
 - (n) St Helens Park 2.
-

-
2. that all submissions received during the exhibition period be reported to Council.
 3. that should no submissions be received during the exhibition period, advice be given that Council intends to re-establish Alcohol Free Zones over the areas specified in Recommendation 1 above to:
 - (a) the Anti Discrimination Board
 - (b) the Officer in charge of the Police Station nearest to the zones
 - (c) the liquor licensees and secretaries of registered clubs whose premises border on or adjoin or are adjacent to the proposed zones
 - (d) any known group that might be affected by the creation of the AFZ.
 4. that should no submissions be received a further report be provided to Council on the re-establishment of the Alcohol Free Zones specified in Recommendation 1 at the completion of the period for comment by the organisations/groups listed in Recommendation 3.

The consultation required by the above recommendations has now been completed and this report is provided to Council recommending the re-establishment of Alcohol Free Zones over the streets, footpaths and car park areas contained within the proposed Alcohol Free Zones at Airds, Ambarvale, Bradbury, Campbelltown CBD South, Campbelltown CBD North, Campbelltown East 1, Campbelltown East 2, Leumeah, Menangle Park, Rosemeadow 1, Rosemeadow 2, Ruse, St Helens Park 1 and St Helens Park 2.

Report

In accordance with Council's previous resolutions, advertisements were placed in local newspapers on 23 and 24 April 2013 advising of Council's intention to re-establish the above zones and seeking comments from the public. As no comments were received and in accordance with the Ministerial guidelines and Council's previous resolution, Council wrote to the following organisations requesting written comment on the proposal:

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

Council received a written reply from the Anti-Discrimination Board on 26 June 2013 raising no concerns over Council's intention to re-establish the above zones. No other relevant responses were received.

In view of the above, Council is now in a position to declare the re-establishment of Alcohol Free Zones over the following streets, footpaths and carpark areas:

Airds

Briar Road
Byrne Way
Carr Place
Cardew Way
Chevoit Place
Creigan Road
Coldenham Way
Croft Place
Dangar Way
Deans Road
Docharty Street
Harrah Place
Hartigan Way
Karingal Place
Nowland Way
Riverside Drive (between Garrallan Place and Samuel Place)
Romney Way
Ryeland Place
Saxon Way
Southdown Place
St Johns Road (between Docharty Street and Briar Road)
Summers Place
Teeswater Place.

Ambarvale

Codlin St (between Jiniwin Place and Copperfield Drive)
Copperfield Road (between Codlin Street and Woodhouse Drive)
Jiniwin Place
Woodhouse Drive.

Bradbury

The Parkway (between Lawn Avenue and St Johns Road)
Jacaranda Avenue (between Hoddle Avenue and St Johns Road)
Karri Place
Campbellfield Avenue (between Greenoaks Avenue and Jacaranda Avenue)
St Johns Rd (between The Parkway and Jacaranda Avenue).

Campbelltown East 1

Lindesay Street (between Chamberlain Street and 100m past Ronald Street)
Ronald Street (between Lindesay Street and McLean Road)
McLean Road (between Chamberlain Street and Ronald Street)
Chamberlain Street (between Lindesay Street and McLean Road).

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

Valley Road

Waminda Avenue (between Hobart Avenue and College Road)

Broughton Street (between Hume Street and College Road)

College Road

St Johns Road (between College Road and Hoddle Avenue).

Menangle Park (Broughton Anglican College)

Menangle Road (between Medhurst Road and Broughton Anglican College).

Rosemeadow 1

Copperfield Drive (between Cleopatra Drive and Anthony Drive)

Fitzgibbon Lane (between Copperfield Drive and Appin Road)

Thomas Rose Drive

Rosemeadow Shopping Centre car park and associated internal roadways.

Rosemeadow 2 (John Therry High School)

Demetrius Road (between Canidius Street and Anthony Drive)

Anthony Drive (between Alexis Place and Othello Avenue)

Ruse (Leumeah High School and Ruse Public School)

Junction Road

Wallaga Avenue

Corunna Avenue

Flinders Street

Isaac Place

Dawson Place

Leichhardt Street (between Flinders Street and the cul-de-sac adjacent to Dawson Place).

St Helens Park 1 (Woodland Road Public School)

Woodland Road (between Quokka Place and Karrabul Road)

Karrabul Road (between Wintaroo Crescent and Rangers Road)

Woodlands Road Baseball Complex car park.

St Helens Park 2 (St Helens Park Public School)

Kellerman Drive (between Anderson Street and Carbasse Crescent)

Crommelin Crescent (between Fiveash Street and Kellerman Drive)

Mary Brookes Park car park

Cameron Place

Benny Place.

Campbelltown CBD-South

Bolger Street
No. 1 Bolger Street Car Park
Bugden Place
Centennial Drive
Geary Street
Gilchrist Drive (between Menangle Road and Therry Road)
Hyde Parade
No. 3 Bolger Street Macarthur Tavern Car Park and surrounding car parking areas
Kellicar Road (between Geary Street and Narellan Road)
Menangle Road (between Geary Street and Narellan Road)
Narellan Road (between Main Southern Railway and Appin Road)
Parkside Crescent
Parc Guell Drive
Tindal Street.

Campbelltown CBD - North

Allman Street (between Queen Street and Moore-Oxley Street)
Anzac Lane
Apey Lane
Badgally Road (between Johnson Road and Farrow Road)
Blaxland Road (between Aldi Supermarket and Rose Street)
Bradbury Avenue (between Queen Street and Moore-Oxley Street)
Broughton Street (between Hurley Street and Moore-Oxley Street)
Browne Street
Camden Road (between rail corridor and Moore-Oxley Street)
Cordeaux Road (between Queen Street and Moore-Oxley Street)
Coogan Lane
Dumaresq Street (between Hurley Street and Moore-Oxley Street)
Farrow Road
Howe Street
Hurley Street (including bus/taxi terminal)
Kellicar Road (between Camden Road and Narellan Road)
Lithgow Street (between Queen Street and Moore-Oxley Street)
Milgate Lane
Narellan Road (between Hurley Street and Appin Road)
Patrick Street
Queen Street (between Chamberlain Street and Camden Road)
Railway Street
Short Street
Unnamed lane 6.1w (Southern Side of Dumaresq Street).

Leumeah

O'Sullivan Road (between Pembroke Road and Old Leumeah Road)
Old Leumeah Road (between O'Sullivan Road and Pembroke Road)
Pembroke Road (between O'Sullivan Road and Rose Payton Drive)
Rose Payton Drive (between Pembroke Road and Airds Road)
Airds Road (between Rose Payton Drive and Plough Inn Road)
Grange Road
Plough Inn Road
Plough Inn Road Commuter Car Park
Hollylea Road
Harbord Road (between Campbelltown Road and Rennie Place) and
Rennie Road.

The abovementioned zones are due to expire on 24 December 2013 and therefore in the interest of continuing to promote the safe use of footpaths, streets and carpark areas within the zones and reduce the potential for alcohol related incidents, it is proposed these zones be re-established.

Officer's Recommendation

1. That Council re-establish Alcohol Free Zones over the streets, footpaths and carpark areas detailed in Attachment 1 to this report for the Alcohol Free Zones at:
 - (a) Airds
 - (b) Ambarvale
 - (c) Bradbury
 - (d) Campbelltown CBD South
 - (e) Campbelltown CBD North
 - (f) Campbelltown East 1
 - (g) Campbelltown East 2
 - (h) Leumeah
 - (i) Menangle Park
 - (j) Rosemeadow 1
 - (k) Rosemeadow 2
 - (l) Ruse
 - (m) St Helens Park 1
 - (n) St Helens Park 2.
2. That the Alcohol Free Zones referred to in Recommendation 1 commence on 24 December 2013 and that an advertisement advising of Council's decision be placed in a local paper at least seven days in advance.
3. That the Alcohol Free Zones referred to in Recommendation 1 be sign posted in accordance with Council's standard Alcohol Free Zone sign template including a contact phone number of the appropriate Police Local Area Command.
4. That the Alcohol Free Zones referred to in Recommendation 1 be reviewed prior to the completion of their establishment period.

Committee's Recommendation: (Lound/Kolkman)

That the Officer's Recommendation be adopted.

CARRIED

Council Meeting 10 September 2013 (Greiss/Matheson)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 194

That the Officer's Recommendation be adopted.

4.4 Council's Regulatory Authority Under The Companion Animals Act 1998 In Respect Of The Control Of Dangerous Or Restricted Dogs

4.4 Council's Regulatory Authority under the Companion Animals Act 1998 in Respect of the Control of Dangerous or Restricted Dogs

Reporting Officer

Acting Manager Compliance Services

Attachments

Nil

Purpose

To inform Council about its authority under the *Companion Animals Act 1998* in respect of the control of dangerous or restricted dogs.

History

At the Planning and Environment Committee Meeting on 11 June 2013, a request was made for a report to be prepared regarding the authority of Council under the *Companion Animals Act 1998* in respect of the control of dangerous or restricted dogs. The request was, in part, prompted by a report before the Committee at that time regarding the NSW Government's consultation on Companion Animals Taskforce Reports in respect of the management of cats and dogs in NSW and the management of dangerous and restricted dogs in NSW. A copy of the Taskforce report on the management of dangerous and restricted dogs can be accessed at:

<http://www.dlg.nsw.gov.au/dlg/dlghome/documents/Information/Companion%20Animals%20Taskforce%20report%20-%20Recommendations%20regarding%20dangerous%20dog%20management.pdf>

Report

Council is obliged under the *Companion Animals Act 1998* (the Act) to:

- (a) promote awareness within its area of the requirements of the Act with respect to the ownership of companion animals
 - (b) take such steps as are appropriate to ensure that it is notified or otherwise made aware of the existence of all dangerous and restricted dogs (including dogs that might reasonably be considered to be the subject of a declaration) that are ordinarily kept within the council area.
-

4.4 Council's Regulatory Authority Under The Companion Animals Act 1998 In Respect Of The Control Of Dangerous Or Restricted Dogs

A dog is considered to be dangerous if it:

- (a) has, without provocation, attacked or killed a person or animal (other than vermin)
- (b) has, without provocation, repeatedly threatened to attack or repeatedly chased a person or animal (other than vermin)
- (c) has displayed unreasonable aggression towards a person or animal (other than vermin)
- (d) is kept or used for the purposes of hunting.

The following dogs are listed as restricted dogs under the Act:

- (a) American pit bull terrier or pit bull terrier
- (b) Japanese tosa
- (c) dogo Argentino
- (d) fila Brasileiro
- (d1) any other dog of a breed, kind or description whose importation into Australia is prohibited by or under the *Customs Act 1901* of the Commonwealth
- (e) any dog declared by an authorised officer of a council to be a restricted dog
- (f) any other dog of a breed, kind or description prescribed under the *Companion Animals Regulation 2008* (the Regulation). [Presently there are no such prescribed dogs].

Council's authorised officers obtain their authority to enforce declaration provisions under Division 1 (power to declare dogs dangerous) or Division 6 (declaration of dogs as restricted dogs) of Part 5 of the Act, for dogs that are ordinarily kept within the council area.

Where a dog comes to Council's notice as being either dangerous or restricted, the process for issuing the respective declaration is specified under the Act. Essentially this involves:

a. In respect of a dangerous dog

The issue of a Notice of Intention to declare the dog to be a dangerous dog, in which case the owner of the dog must ensure that the dog wears a muzzle and is under the control of a competent person by means of a suitable chain, cord or leash at all times when away from the property where it is ordinarily kept, and the dog is registered. The owner then has seven days from the date of issue of the Notice of Intention to lodge an objection with Council, which can include evidence in support of the objection such as a behavioural assessment from a professional behavioural assessor. Objections received by Council must be considered with due regard to procedural fairness (by an authorised officer other than the issuing officer) before making the decision whether or not to declare the dog a dangerous dog.

4.4 Council's Regulatory Authority Under The Companion Animals Act 1998 In Respect Of The Control Of Dangerous Or Restricted Dogs

It is an offence to sell, advertise for sale, give away or transfer ownership of a proposed dangerous dog or declared dangerous dog.

b. In respect of a restricted dog

The issue of a Notice of Intention to declare the dog to be a restricted dog, in which case the owner of the dog must immediately ensure that: the dog is contained securely within its property so that it cannot chase or attack any person lawfully at the property, when outside its property the dog is muzzled and secured by a leash under the control by a competent person, and the dog is registered. An authorised officer may seize the dog should the owner fail to comply with any of these requirements. If the owner wishes to contest the Notice, they have 28 days from the date of service in which to obtain a certificate from an approved breed assessor confirming that the dog is not of a restricted breed or cross breed of a restricted breed. Should the dog be assessed as a cross-breed of a restricted breed, the owner may obtain a certificate from an approved temperament assessor stating that the dog does not pose a threat to the community or is not likely, without provocation, to bite any person or animal.

Council's authorised officer must immediately declare the dog to be a restricted dog if: the owner fails to respond to the Notice to declare within 28 days of the date of service, the dog is assessed as a pure breed or cross breed of a restricted breed, and the dog has failed a temperament assessment.

It is an offence to breed from or advertise as available for breeding, transfer or accept ownership of, sell or advertise for sale, a proposed restricted dog or a declared restricted dog.

The owner of a dog that has been declared dangerous or restricted must ensure that the control requirements for the keeping of the dog are implemented and continually complied with. These requirements include:

- the dog is microchipped and registered
 - the dog is desexed (or permanently sterilised)
 - the dog is not, at any time, left in the sole charge of a person under the age of 18 years
 - the dog is contained in an enclosure that meets the requirements of the Regulation when on the premises where it is ordinarily kept. A certificate of compliance from council must be obtained certifying that the enclosure meets the regulatory requirements
 - required warning signs are prominently displayed on the premises where the dog is ordinarily kept
 - the dog wears a prescribed collar at all times
 - the dog wears a muzzle and is securely leashed at all times when outside the enclosure where it is ordinarily kept
-

4.4 Council's Regulatory Authority Under The Companion Animals Act 1998 In Respect Of The Control Of Dangerous Or Restricted Dogs

- the owner of the dog notifies the local council for the area in which the owner intends to keep the dog, if this council area is different to the council area where the dog was kept when it was declared dangerous or restricted
- the owner of the dog notifies the local council for the area in which the dog is ordinarily kept:
 - if the location (within the same council area) at which the dog is ordinarily kept changes as soon as practicable after the change of location
 - if the dog, with or without provocation, attacks or injures a person or animal, other than vermin, the owner must notify within 24 hours of the attack or injury
 - if the dog cannot be found the owner must notify the local council within 24 hours of the dog's absence first being noticed
 - if the dog dies, the owner must notify the local council as soon as practicable after the dog's death.

Should the owner of a dangerous or restricted dog be unable to comply with the control requirements, then the dog may be surrendered to, or seized by, Council.

Various penalties, as listed in the following table, apply where the owner of a dangerous or restricted dog (whether proposed or declared) fails to comply with their obligations under the Act.

Offence provision	Maximum penalty
Failure to register	\$5,500
Selling or advertising for sale	\$16,500
Accepting ownership	\$15,500
Failure to comply with control requirements	\$16,500
Breeding or advertising as available to breed (restricted dogs only)	\$16,500

Council's authorised officers have certain discretionary powers under the Act to seize and destroy dangerous and restricted dogs. The circumstances where these powers would be exercised include: the dog, without provocation, attacks or bites a person or animal, the owner of the dog has failed to comply with the key control requirements for the keeping of the dog. Some restrictions apply in respect of the seizure and destruction under the Act and depend on whether the dog is classified as dangerous or restricted. For instance, a 'two-strikes within 12-months' rule (action is able to be taken on the second strike) applies in respect of dangerous dogs, whereas the second strike rule does not apply to restricted dogs.

Currently, the NSW Companion Animals Taskforce is considering submissions (including the submission from Campbelltown City Council) to its February 2013 report to the Minister for Local Government on the Management of Dangerous and Restricted Dogs in NSW. Included in that report are various recommendations aimed at assisting local council authorised officers in the management and control of dangerous and restricted dogs within their council area. These recommendations include:

Recommendation 1.1 - Amend the Act to introduce a 'potentially dangerous' dog category.

The circumstances under which a dog could be declared 'potentially dangerous' include where a dog is perceived as threatening or has been involved in a minor incident (ie where no injury has resulted).

4.4 Council's Regulatory Authority Under The Companion Animals Act 1998 In Respect Of The Control Of Dangerous Or Restricted Dogs

Accordingly, the amended Act would need to provide specific control requirements for such dogs of a less onerous nature than those applicable to dangerous dogs. For example, the prescribed enclosure requirements for 'potentially dangerous' dogs should, as a minimum, be childproof and prevent the animal's escape, but should not prescribe the same degree of restriction as the enclosure requirements applicable to dangerous dogs. This also recognises concerns that prescribed enclosures under the Act may, in some cases, exacerbate the aggressive behaviour of such dogs rather than limit it.

Recommendation 1.2 - Introduce provisions in the Act for a 'dangerous' or 'potentially dangerous' dog declaration to be revoked if behavioural training is undertaken for the dog in question, and the council is satisfied that it is appropriate to do so.

This proposal would need to specify that a local council may revoke a 'dangerous' or 'potentially dangerous' dog declaration if the owner provides evidence that their dog has successfully completed accredited behavioural training. However, the amendment would also need to specify that, before revoking any such declaration, the council must be of the opinion that it is appropriate to do so.

Recommendation 1.3 - Update the dog attack reporting framework to more clearly differentiate between 'dog attacks' and less serious incidents involving dogs.

This proposal would require the NSW Division of Local Government (DLG) to update the Companion Animals Register based dog attack reporting module to allow councils to report two distinct categories:

1. 'dog incident' – for incidents of a lesser severity (eg where a dog has or is alleged to have rushed at or chased a person or animal, but where the incident has resulted in no injury)
2. 'dog attack' – for incidents of greater severity (eg where a dog has or is alleged to have rushed at, attacked, bitten, harassed or chased a person or animal, and the incident has resulted in an injury (even if it is minor) or death).

This approach may also provide additional clarity on the extent of serious dog attacks in NSW, by educating the public about the difference between serious dog attacks and less serious incidents involving dogs. It may additionally provide clarity to council officers on the appropriate application of available dog attack enforcement penalties and powers.

Recommendation 1.4 - Review existing powers of council officers under the Act relating to the seizure of dogs subject to dangerous or restricted dog declarations for the purposes of identification.

Under the Act, authorised council officers have the power to seize a dog subject to a dangerous or restricted dog declaration if the owner does not comply with certain control provisions, including if the dog is not microchipped and registered within seven days of such a declaration being made.

4.4 Council's Regulatory Authority Under The Companion Animals Act 1998 In Respect Of The Control Of Dangerous Or Restricted Dogs

However, councils have argued that the seven day compliance period allows some irresponsible owners to remove animals of concern from a property to prevent such a dog from being seized. This means such dogs can remain unidentified on the Companion Animals Register, resulting in situations where dangerous dogs effectively 'disappear' and are unable to be traced by councils.

The Taskforce has recommended that these seizure powers be reviewed to provide council officers with greater ability to seize dangerous and restricted dogs for the purpose of microchipping, where there is a genuine risk of flight.

Recommendation 1.5 - Review the statute of limitations under which councils can prosecute dog attack offences to ensure that it is in line with other relevant legislation.

At present, the time limit for commencement of all summary proceedings under the Act is six months from the time of the alleged offence. Concerns have been raised that this relatively short amount of time can prevent councils from prosecuting more complex cases (for example, where an animal is untraceable for a period of time but later re-emerges).

It was noted by the Taskforce that the *Protection of the Environment Operations Act 1997* allows certain prescribed summary matters to be prosecuted up to three years after the alleged offence. Accordingly, the Taskforce has recommended that the Act be amended to provide a similar three year summary proceedings commencement period for cases involving alleged dog attack, dangerous dog and restricted dog offences.

The submission to the Taskforce, which was endorsed by Council at its Ordinary Meeting on 18 June 2013, supported the above recommendations and provided additional comment where necessary, particularly in regard to the current system of breed assessment, recommending a more objective approach be implemented based on an agreed breed specific assessment criterion.

Officer's Recommendation

That the information be noted.

Committee's Recommendation: (Rowell/Thompson)

That the Officer's Recommendation be adopted.

CARRIED

Council Meeting 10 September 2013 (Greiss/Matheson)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 194

That the Officer's Recommendation be adopted.

4.5 Companion Animal Sale Fees and De-sexing Policy

Reporting Officer

Acting Manager Compliance Services

Attachments

Nil

Purpose

To consider the adoption of fees for the purchase of all cats and dogs from Council's Animal Care Facility (ACF) in conjunction with a policy to require all dogs (including puppies) and cats (including kittens) to be de-sexed prior to sale.

History

Council resolved at its Ordinary Meeting on 13 December 2011 in relation to a report on the operations of the ACF, to adopt a series of 28 recommendations aimed at improving facility operations.

One of the 28 recommendations adopted by Council on 13 December 2011, included:

That the price of male dogs sold from the Animal Care Facility include de-sexing, as a trial until 30 June 2012.

On 31 July 2012, Council subsequently resolved to extend the trial until 30 December 2012.

Subsequent to Council's resolutions on 13 December 2011 and 31 July 2012, the findings of an audit report on the operational effectiveness of the ACF conducted by specialist consultant Mr Cliff Haynes, were presented within a report to the Planning and Environment Committee meeting on 11 June 2013. Two of the recommendations stated within the audit report were as follows:

- Council adopt a policy that all cats and dogs sold at the facility be de-sexed
- standard prices be adopted for the sale of cats and dogs.

On consideration of the audit report at its meeting on 11 June 2013, the Planning and Environment Committee recommended, in part:

4. that Council adopt a policy that all cats and dogs sold at the Animal Care Facility are desexed.
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5. that Council endorse the following fee structure for the purchase of all cats (including kittens) and dogs (including puppies) from Council's Animal Care Facility:

Dogs	\$320	Includes de-sexing, micro-chipping, registration (for adult dogs only), vet check, vaccination and heartworm
Cats	\$200	Includes de-sexing, micro-chipping and registration (for adult cats only)

5% discounted rate on the above fees to apply to pensioners.

6. that Council place the above fees on public exhibition for a minimum of 28 days and a further report be submitted to Council to consider adoption of the proposed fees, outlining details of any submissions received, at the conclusion of the public exhibition period.

The above recommendations were adopted by Council at its Ordinary Meeting on 18 June 2013.

Report

Following Council's resolution of 18 June 2013, the proposed fee structure was advertised in local newspapers for a minimum period of 28 days from 1 July 2013 to 9 August 2013. No submissions have been received.

In view of the above, it is recommended that the abovementioned fee proposal for the sale of all dogs (including puppies) and all cats (including kittens) be adopted in conjunction with the implementation of the policy to require all dogs and cats sold at the ACF to be de-sexed.

Officer's Recommendation

That Council adopt the following fee proposal for the purchase of all dogs (including puppies) and cats (including kittens) in conjunction with the implementation of its policy to require all dogs and cats sold at the Animal Care Facility to be de-sexed:

Sale of dogs (including puppies)	\$320 (incl GST)	Includes de-sexing, micro-chipping, registration (for adult dogs only), vet check, vaccination and heartworm (for adult dogs only)
Sale of cats (including kittens)	\$200 (incl GST)	Includes de-sexing, micro-chipping and registration (for adult cats only)

5% discounted rate on the above fees to apply to pensioners.

Committee's Recommendation: (Lound/Kolkman)

That the Officer's Recommendation be adopted.

CARRIED

Council Meeting 10 September 2013 (Greiss/Matheson)

That the Officer's Recommendation be adopted.

Council Resolution Minute Number 194

That the Officer's Recommendation be adopted.

5. GENERAL BUSINESS

5.1 WSROC

Committee's Recommendation: (Kolkman/Oates)

That at a time when the State Government is moving towards significant changes to both State Planning Laws and the structure of Local Government in NSW, the General Manager provide a report outlining the opportunities, advantages and disadvantages of seeking to create closer formal and/or informal ties with WSROC (Western Sydney Regional Organisation of Councils).

CARRIED

Council Meeting 10 September 2013 (Greiss/Matheson)

That the Committee's Recommendation be adopted.

Council Resolution Minute Number 194

That the Committee's Recommendation be adopted.

5.2 Proposed Western Sydney Airport

Committee's Recommendation: (Kolkman/Oates)

1. That Mr David Borger, co-author of the paper The Economic Impact of a Western Sydney Airport, be invited to attend a briefing night at Council to discuss the Badgerys Creek Airport issues with a focus on its potential economic impact upon MACROC.
2. That, if Mr Borger accepts the invitation, Councillors and senior officials of Camden and Wollondilly Councils be invited to attend the briefing.

CARRIED

Council Meeting 10 September 2013 (Greiss/Matheson)

That the Committee's Recommendation be adopted.

Council Resolution Minute Number 194

That the Committee's Recommendation be adopted.

Confidentiality Motion: (Thompson/Lound)

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

CARRIED

18. CONFIDENTIAL ITEMS

18.1 Confidential Report Directors of Companies

Reason for Confidentiality

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

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

There being no further business the meeting closed at 8.30pm.

G Greiss
CHAIRPERSON
