

Reports Planning and Environment Committee Meeting held at 7.30pm on Tuesday, 8 October 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 8 October 2013

Present

His Worship the Mayor, Councillor C Mead
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 Cultural Services - Mr M Dagostino
Acting Manager Customer Service – Mr P MacDonald
Acting Manager Development Services - Mr B Leo
Manager Information Management and Technology – Mrs S Peroumal
Manager Sustainable City and Environment - Mr A Spooner
Senior Development Planner - Mr R Blagojevic
Senior Development Planner - Mr A Macgee
Policy and Governance Coordinator - Ms J Warner
Corporate Support Coordinator - Mr T Rouen
Executive Assistant - Mrs K Peters

Also in Attendance

Following the conclusion of the City Works Committee meeting the Councillor Hawker attended the remainder of the Planning and Environment Committee meeting.

Acknowledgement of Land

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

DECLARATIONS OF INTEREST

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

Pecuniary Interests

Nil

Non Pecuniary – Significant Interests

Nil

Non Pecuniary – Less than Significant Interests

Councillor Lound - Item 3.5 - Lots 9A and 9B DP 24844, No. 136 Oxford Road, Ingleburn - Construction of a new religious establishment building, additions and alterations to existing buildings, construction of a new car parking area and associated site and landscaping works - Councillor Lound advised that family members attend Holy Family Catholic Primary School, however this has no impact on the issue before council.

Councillor Greiss - Item 3.3 - Lot 1 Zouch Road, Denham Court - Section 82A Review of Determination for Construction of a dwelling - Councillor Greiss advised that one of the applicants is known to him and that he will vacate the Chamber.

1. WASTE AND RECYCLING SERVICES

No reports this round

2. SUSTAINABLE CITY AND ENVIRONMENT

2.1 Proposed Naming of a Lake Adjacent to the UWS Campbelltown Campus

Reporting Officer

Manager Sustainable City and Environment

Attachments

Location map of UWS Campbelltown Campus and surrounds (contained within this report)

Purpose

To seek Council's approval of the proposal to name the lake/dam located adjacent to the University of Western Sydney (UWS) Campbelltown Campus 'Lake Thomson'.

History

On 13 February 2009 Council received a letter from Mr Andrew Thomson requesting consideration be given to naming the large dam located close to the railway line based on the historical connection of his family with the area adjacent to the southern perimeter of the UWS Campbelltown Campus. The name proposed was Lake Thomson.

On 14 April 2009 Council wrote to Landcom (now UrbanGrowth NSW) as the owner of the parcel of land on which this lake is located and a major stakeholder in the future development of the UWS Campbelltown Campus, seeking any comments it may have had in relation to the proposed naming of this lake.

On 26 May 2009 Council received a letter from Landcom stating that, to the best of its knowledge, this lake was already named Harrison Dam but that the Landcom organisation had no objection to it being renamed Lake Thomson.

On 15 June 2009 Council wrote to Landcom requesting that Council be forwarded any information Landcom possessed regarding the name 'Harrison Dam', to assist in the naming process. To date, no reply has been received to this enquiry.

Report

The proposed name

The location of the subject lake/dam is shown on the map included as Attachment 1 to this report.

The Thomson family owned and farmed the land upon which this lake is situated up until it was resumed by the NSW State Planning Authority in November 1968. The farm was known as 'Claremont' and the family continued dairy farming on the land until November 1970. In the early 1960s the Thomson family engaged Cleary Brothers to construct this large dam to provide irrigation for the crops and pastures in connection with the dairy farm. It should be noted that both Lake Sedgwick and Lake Fitzpatrick, located within the nearby Australian Botanic Garden, Mount Annan, have also been named after past land owners.

Under the UWS Development Control Plan, this lake/dam will be incorporated into the public open space provided as part of the proposed development of the UWS Campbelltown Campus and surrounding land, and be developed as an area for public recreation.

As already noted in this report, correspondence previously received from Landcom indicated that this dam was already named 'Harrison Dam'. However, this name is not recorded in the Geographical Names Register of New South Wales nor on any available topographical maps of the area. A search of available Council records has also failed to find any mention of this name.

Process for naming geographical features such as lakes and dams

Lakes and dams are defined as 'places' under Section 2 of the *Geographical Names Act 1966* (the Act) and the names of these places are defined as 'geographical names' under the same section of this Act. The Geographical Names Board of New South Wales (GNB), which is largely responsible for the administration of the Act, is charged with the role of assigning names to these places.

The GNB welcomes suggestions for new place names from the public but any proposal must have the support of the local Council before it will be considered. The GNB also encourages local councils to undertake consultation with the community prior to submitting any naming proposals. The procedure adopted by Council for the naming of geographical features such as lakes and dams is, therefore, as follows:

1. Council staff assess the naming proposal against current GNB guidelines.
 2. If the proposed name conforms to these guidelines, a report to Council is prepared recommending that the proposed name be publicly exhibited for 28 days to allow for community comment.
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2.1 Proposed Naming Of A Lake Adjacent To The UWS Campbelltown Campus

3. If the proposal is approved for exhibition, a notice is published in local newspapers and 28 days are allowed for the receipt of any submissions. If no objections are received during the exhibition period then an application is made to the GNB to have the proposed name assigned as the geographical name. If any objections are received during the exhibition period then these are considered and a report to Council is prepared recommending that either the naming proposal not be continued, or that an application be made to the GNB to have the proposed name assigned as the geographical name.
4. If an application is made, the GNB assesses the proposal at a meeting of the Board and recommends that either the naming proposal be rejected, or that the naming proposal be advertised in accordance with Section 8 of the Act to give the community further opportunity to comment.
5. If approved for advertising, notice of the proposal is published by the GNB in a local newspaper and the NSW Government Gazette. The GNB then considers any submissions and either does not proceed with the proposal, or assigns the name as a geographical name for the feature. If the name is assigned, it is entered into the Geographical Names Register and notification of this is published in the NSW Government Gazette.

Council staff have assessed the proposed name and consider that it conforms with current GNB guidelines. It is therefore recommended that this naming proposal be publicly exhibited by Council for 28 days to allow for community comment. If no objections are received during this period, it is then recommended that Council forward a naming application to the GNB. Should any objections be received during the exhibition period or any further information be received from Landcom that might conflict with the assignment of the proposed name, then a further report will be presented to the next available Council meeting.

Officer's Recommendation

1. That Council endorse 'Lake Thomson' as the proposed name for the large dam/lake located on the western side of the railway line adjacent to the southern perimeter of the UWS Campbelltown Campus, for public exhibition for a period of 28 days.
 2. That through the public exhibition process Council again write to Landcom (UrbanGrowth NSW) requesting any information that they may have about the name 'Harrison Dam'.
 3. That, should no objections to this naming proposal be received during the public exhibition period, Council submit an application to the Geographical Names Board of NSW to have the name 'Lake Thomson' assigned as the geographical name for this large dam/lake.
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Committee's Recommendation: (Kolkman/Thompson)

That the Officer's Recommendation be adopted.

CARRIED

Council Meeting (Greiss/Lake)

That the Officer's Recommendation be adopted.

Council Minute Resolution Number 216

That the Officer's Recommendation be adopted.

ATTACHMENT 1

Location Map



2.2 River Health Report Card 2012-2013

Reporting Officer

Manager Sustainable City and Environment

Attachments

River Health Report Card 2012-2013 (distributed under separate cover) - <http://www.georgesriver.org.au/ignitionSuite/uploads/docs/georges%20river%202013%20lo wres.pdf>.

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

Purpose

To provide Council with information on the release of the Georges River Combined Councils Committee (GRCCC) River Health Report Card 2012-2013.

History

In 2009, the GRCCC commenced its River Health Monitoring Program. The Program involves the monitoring of macro invertebrates (small aquatic animals without a backbone), water quality and riparian vegetation at selected sites along the Georges River catchment. In 2011 the Program expanded to include monitoring through the Cooks River Catchment. The data collected is being used to produce a series of River Health Report Cards which provide a snapshot of the health of the Georges River and Cooks River Catchments.

The program aims to gain a greater understanding of both systems. The project identifies areas of high biodiversity value that should be protected; areas where on-ground works have been effective; areas where remediation works could be carried out in the future; and areas where future investigation may be required. The results will inform more rigorous studies and offer a guide to future expenditure for environmental works within the catchments through the identification of problem areas.

The Program also aims to create an on-going 'culture shift' to allow and encourage residents to be active in their river's management.

Since 2009 the Program has facilitated over 300 sampling events at 54 freshwater and estuarine sites along the Georges River and Cooks River catchments.

The first five report cards presented data from Spring 2009, Autumn 2010, Spring 2010, Autumn 2011, Spring 2011 and Autumn 2012. In late 2011 the focus of the report cards shifted from biennial to annual. This report presents the results of monitoring undertaken between Spring 2012 and Autumn 2013.

Report

River health monitoring continued to take place along the Georges and Cooks Rivers and their main tributaries between Spring 2012 and Autumn 2013 and the results have been used to produce the 2012-2013 River Health Georges and Cooks Rivers Report Card (attachment 1) which was publicly released on 2 September 2013.

Methodology

The same methodology was used for the preparation of this report card as in previous rounds. Over 1000 community volunteer hours were contributed to testing. The testing was led by Council staff and science professionals at 54 sites along the Georges and Cooks Rivers and their tributaries. The monitoring examined both fresh water and estuarine environments in the catchments reaching from the Rivers' headwaters to Botany Bay.

The testing focused on three key river health indicators:

1. Water quality - water was tested for pH, electrical conductivity, turbidity, dissolved oxygen, total phosphorous and total nitrogen, against Australian and New Zealand Environment Conservation Council (ANZECC) guidelines for upland and lowland rivers, to determine what pollutants may be affecting the health of the river. Many organisms are sensitive to changes in water quality and changes to water quality can result in population decline or potentially extinction.
2. Riparian vegetation – vegetation was surveyed using the 'Rapid Appraisal of Riparian Condition' (published by the Australian Government's Land and Water Australia Corporation), which assesses the ecological condition of riparian habitats using indicators that reflect functional aspects of the physical, community and landscape features of the riparian zone. Healthy riparian vegetation is an important factor in maintaining a functioning ecosystem. These vegetation communities play an important role in recycling nutrients, slowing stormwater flows into waterways and filtering sediment. They also provide critical habitat and food for a vast array of organisms. Through monitoring these communities it is hoped to better understand their condition and effectiveness in maintaining water quality within the catchment. Each site was initially surveyed in 2009 and due to the relative stability of the vegetation, were not surveyed again until Autumn 2013.
3. Macro invertebrate populations – macro invertebrates were tested for species diversity against different orders (a statistical test for biodiversity), in accordance with industry standards. These populations provide valuable information on the health and quality of the aquatic ecosystem. Many macro invertebrates are sensitive to environmental change and in particular, changes to water quality.

Under each of the tests a statistical score is generated. These scores are then extrapolated to a grading for each indicator and further combined to produce an overall grading for each site, sub-catchment (upper, middle and lower Georges River) and the overall catchment. The grading scores range from A+ (excellent) to F- (poor). The results provide a good understanding of the integrity of the aquatic ecosystems.

Test Results

The results of sampling undertaken between Spring 2013 and Autumn 2013 indicated that the overall health of the Georges River system continues to be 'fair' scoring a B grading. Thus far, all report cards verify that the system has been affected by a degree of urban and industrial development, particularly in the lower catchment. This has expectedly led to a loss of riparian and estuarine vegetation and deterioration in water quality and macro invertebrate diversity. In the upper catchment, the protection of large areas of vegetation has resulted in mostly healthy waterways. However there is some evidence of degraded water at a number of sites which can be attributed to either industrial discharge or urban runoff.

Once again, slight variations were observed in grading in terms of overall catchment health, between all report cards, however no significant changes warranted concern.

The report card splits the catchment into three areas; upper, mid and lower. Whilst the report card does not include or follow local government area boundaries the Campbelltown Local Government Area (LGA) lies entirely within the upper Georges River catchment section of the project. A total of seven monitoring sites are located within the Campbelltown LGA. A further six sites within the upper catchment are being monitored within the Wollondilly LGA.

The location of test sites and results for the Campbelltown LGA for the 2012-2013 monitoring period are listed in Table 1 below.

Table 1. 2012-2013 River Health Monitoring Program gradings for Campbelltown LGA sites

Site	Macro-invertebrate Grading	Water Quality Grading	Vegetation Grading	2012-2013 Overall Grading
Stokes Creek, Dharawal National Park	A+	A	A+	A+
O'Hares Creek, The Woolwash	A-	A	A+	A
Georges River, The Woolwash	A-	C-	A+	B+
Georges River, Ingleburn Weir	A	A+	A+	A+
Georges River, Simmos Beach	A+	A+	A+	A+
Bunbury Curran Creek, Macquarie Fields	B-	C	B	B-
Georges River, Cambridge Avenue	A-	A+	B+	A-
Upper Georges River (overall)	A	B	A	A-

A comparison of the overall results for sites within the Campbelltown LGA and the overall Upper Georges River catchment, for each of the six report cards is provided in Table 2 below.

Table 2. Comparison of River Health Monitoring Program overall gradings of Campbelltown LGA sites and Upper Georges River across all report cards

Site	Spring 2009 overall grading	Autumn 2010 overall grading	Spring 2010 overall grading	Autumn 2011 overall grading	2011-2012 overall grading	2012-2013 overall grading
Stokes Creek, Dharawal National Park	A	A+	A+	A	A+	A+
O'Hares Creek, The Woolwash	A	A-	A	A	A+	A
Georges River, The Woolwash	B+	B	B	B	A	B+
Georges River, Ingleburn Weir	A+	A+	A+	A+	A+	A+
Georges River, Simmos Beach	B-	B	B	B+	A-	A+
Bunbury Curran Creek, Macquarie Fields	-	-	-	-	B	B-
Georges River, Cambridge Avenue	C+	B-	B	B	B+	A-
Upper Georges River (overall)	B+	B+	B+	B+	A	A-

The overall grading for the Upper Georges River catchment continues to be assessed as good, however with a grading decrease from A to A- between the last two reporting periods. The best rated sites have consistently been located within bushland catchments in Stokes Creek, O'Hares Creek and the upper reaches of the Georges River upstream of the confluence with Bunbury Curran Creek.

A marked improvement in the gradings for the Georges River at Simmos Beach and Cambridge Avenue has occurred. This may be due to increased rainfall experienced during the monitoring period.

The results continue to highlight the worst performing areas within the Upper Georges River as those within or fed by urban waterways such as Bunbury Curran Creek, Georges River at Appin, Brennans Creek and Spring Creek.

Recommendations from the Program are provided in the River Health Technical Report to improve river and ecosystem health and include:

- investigate opportunities for the implementation of further Water Sensitive Urban Design (WSUD) in urbanised areas of the Georges River catchment
- develop a WSUD action plan to build capacity within the (Council) organisation and target onground works
- undertake weed control and re-establish riparian vegetation along Bunbury Curran Creek to improve biodiversity, increase water treatment and stabilise banks
- investigate opportunities for monitoring of mining discharge from Brennan's Creek in partnership with Wollondilly Shire Council.

In response to these recommendations a WSUD working party has been proposed under Council's revised Sustainability Committee and will be charged with the preparation of this action plan during 2013. It is anticipated that the action plan will be guided by the Upper Georges River Strategic Environmental Management Plan and will identify opportunities for WSUD implementation within the Campbelltown LGA and may include naturalisation of areas of the Bow Bowing Bunbury Curran system.

Monitoring at the West Cliff Colliery of discharges into the Georges River has increased as a result of changes to Endeavour Coal's (BHP) Environmental Protection Licence in 2013. Endeavour Coal must now make results of that monitoring publicly available to the public - online. The NSW EPA has required Endeavour Coal to implement a program of works to assist in improving the water quality in the Georges River. Under its licence, Endeavour Coal is now required to carry out a program of works to achieve 95% species protection in Brennan's Creek and the Georges River, by December 2016.

Conclusion

The River Health Report Card 2012-2013 was publicly released on 2 September 2013. The Report Card provides a snap shot of river system health based on results from sampling undertaken by the Community River Health Monitoring Program between Spring 2012 and Autumn 2013.

Overall, the health of the Georges River catchment has been graded as 'fair' and the Upper Georges River (which includes the Campbelltown LGA) was graded as 'good'. These results are generally consistent with those reported in the previous Report Cards. The results of this program will continue to assist Council in strategic allocation of available resources towards the management of the river.

Officer's Recommendation

That the information be noted.

Committee's Recommendation: (Thompson/Rowell)

That the Officer's Recommendation be adopted.

CARRIED

Council Meeting (Greiss/Lake)

That the Officer's Recommendation be adopted.

Council Minute Resolution Number 216

That the Officer's Recommendation be adopted.

2.3 Draft Noxious Weed (Weed Control) Order 2013

Reporting Officer

Manager Sustainable City and Environment

Attachments

1. Current classifications of noxious weeds (contained with this report)
2. Draft submission to NSW Department of Primary Industries on Draft Noxious Weed (Weed Control) Order 2013 (contained within this report)

Purpose

To advise Council of the changes to the Noxious Weeds (Weed Control) Order proposed by the NSW Department of Primary Industries and the implications for Council.

History

The NSW Minister for Primary Industries is responsible for the declaration of noxious weeds in NSW under the *Noxious Weeds Act 1993* (the Act). This declaration is known as a control order and lists noxious weed species according to their control class. Each control class (1-5) specifies the threat and/or geographical significance of the weed and the manner in which it must be controlled. Class 1 weeds are the most significant (or threatening) on a state-wide scale and Class 5 weeds are the least significant or confined to specific locations.

Local Control Authorities (LCA, usually Councils) are responsible for weed control and management in areas under their control. All owners and occupiers of property in NSW are obliged to comply with the Act and associated control order. An LCA can take enforcement action on landholders failing to manage noxious weeds on their property in accordance with the requirements of the control order.

In January 2013 the Department of Primary Industries (DPI) released preliminary Draft Noxious Weeds (Weed Control) Order 30 for informal comment from LCAs prior to formal community consultation.

Through this consultation process Campbelltown Council staff submitted suggested changes to the NSW DPI specifically requesting:

- the inclusion of Madeira Vine (*Anredera cordifolia*) as a Class 3 (Regionally Controlled Weed), due to its impact on the canopies of endangered ecological communities. This is currently listed as a Class 4 (Locally Controlled) weed
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- the declaration of Maple Ash (*Acer negundo*) as a noxious weed within the Campbelltown Local Government Area (LGA). Maple Ash is an emerging weed along large sections of the Nepean River. The three Macarthur councils concur regarding its potential threat to riparian areas due to its ability to rapidly replace native vegetation. Its declaration would assist in seeking future grant funding for works along the Nepean River to remove and suppress this weed
 - the declaration of African Olive (*Olea europaea subsp Africana*) as a Class 4 (Locally Controlled) Weed due to its listing as a key threatening process under the *Threatened Species Conservation Act 1995* and its rapid proliferation throughout the Campbelltown LGA, affecting native plant communities.

On 26 August 2013 the NSW DPI placed the draft Noxious Weeds (Weed Control) Order 2013 on public exhibition until 18 October 2013. There are a series of changes proposed under the revised draft control order, including changes to control requirements for Class 4 noxious weeds and amendments to the species lists for the various control classes. This report outlines these proposed changes, their implications for Council and a recommended response from Council.

Report

The existing control requirements for Classes 1, 2, 3 and 5 noxious weeds are not proposed to be subject to any change (see attachment 1 for existing classifications of noxious weeds and corresponding control requirements). However the Class 4 control requirement is proposed to be slightly amended, see Table 1 for the existing control requirement compared to the proposed wording.

Table 1: Comparison of wording for control requirement of Class 4 noxious weeds

Current Class 4 control requirement	Proposed control requirement for Class 4 noxious weeds under draft Noxious Weeds (Weed Control) Order 2013
The growth of the plant must be managed in a manner that reduces its numbers, spread and incidence and continuously inhibits its reproduction and the plant must not be sold, propagated or knowingly distributed	The growth of the plant must be managed in a manner that continuously inhibits the ability of the plant to spread and the plant must not be sold, propagated or knowingly distributed

Council staff view the proposed wording as an improvement, due to its simplicity and ability to be communicated to the community more effectively.

There are also a number of proposed changes to the species lists for the various control classes. The key changes of interest to Council are outlined in Table 2.

Table 2: Key changes to noxious weed species listings proposed under the draft Noxious Weeds (Weed Control) Order 2013 for the Campbelltown LGA

Change proposed	Supported	Comments
<p>The declaration of African Olive (<i>Olea europaea subsp africana</i>) as a Class 4 (Locally Controlled) Weed</p> <p>This species is a new listing</p>	<p>Yes</p>	<p>This species is one of Campbelltown's most prolific weeds within the western part of the LGA.</p> <p>Its declaration will assist with future applications for grant funding and create opportunities to strategically control the species through the delivery of Council's noxious weed management program.</p>
<p>The upgrading of Boneseed (<i>Chrysanthemoides monilifera</i>) to a Class 1 (State Prohibited) Weed</p> <p>Formerly Class 2</p>	<p>Yes</p>	<p>Isolated occurrences of this species have been recently detected within the Campbelltown LGA. It is highly invasive and poses a significant threat to native bushland particularly on the east coast of Australia.</p> <p>This re-classification will assist with Council's current approach to Boneseed management but will require a re-prioritisation of weed management efforts.</p>
<p>The upgrading of Madeira Vine (<i>Anredera cordifolia</i>) to a Class 3 (Regionally Controlled) Weed</p> <p>Formerly Class 4</p>	<p>Yes</p>	<p>This re-classification will assist with Council's current approach to invasive vine management, with special attention to the process relating to noxious weed notification requirements and targeted weed management within the LGA.</p>
<p>The inclusion of Rhizomatous bamboo (<i>Phyllostachys spp</i>) as a Class 4 (Locally Controlled Weed)</p> <p>This species is a new listing</p>	<p>No</p>	<p>This weed does not pose a significant threat to natural areas in the Campbelltown LGA as the climatic conditions within NSW do not allow bamboo to produce seed. Individual plants expand through root systems along the ground.</p> <p>It is anticipated that the declaration of Rhizomatous bamboo will result in a significant increase in customer complaints and staff workloads. This species is commonly the subject of neighbourhood disputes which can be dealt with under the <i>Trees (Disputes Between Neighbours) Act 2006</i>.</p> <p>Council does not currently possess sufficient resources to adequately manage impacts that are likely to be generated by the proposed classification.</p>

A further 23 species are proposed to be declared as noxious weeds for the Campbelltown LGA under the draft Noxious Weed (Weed Control) Order 2013, see Table 3. Many weeds found under the new listing are not present within the LGA however these species are of concern on a state-wide and regional basis.

Table 3: New species proposed to be declared as noxious for the Campbelltown LGA under the Noxious Weed (Weed Control) Order 2013

Species	Class	Known to be present in Campbelltown?	Extent of occurrence within Campbelltown
<i>Bellyache bush</i>	5	No	
<i>Bitou bush</i>	2	Yes	Minor – one plant recently removed
<i>Black willow</i>	2	Yes	Minor – scattered through Nepean River catchment
<i>Broad-leafed pepper tree</i>	2	No	
<i>Cats claw creeper</i>	4	Yes	Minor to moderate
<i>Chinese celtis</i>	4	Yes	Moderate – used as a street tree
<i>Coolatai grass</i>	3	No	
<i>Culinary asparagus</i>	4	Yes	Moderate – scattered through urban areas
<i>Flax-leaf broom</i>	4	No	
<i>Frogbit/Spongeplant</i>	1	No	
<i>Gamba grass</i>	5	No	
<i>Giant reed</i>	4	Yes	Moderate – occurs through Nepean and Georges River catchments
<i>Grey willow</i>	2	No	
<i>Groundsel bush</i>	3	No	
<i>Honey locust</i>	3	Yes	Extensive – throughout Campbelltown
<i>Kudzu</i>	2	No	
<i>Mexican poppy</i>	5	No	
<i>Montpellier/Cape broom</i>	3	No	
<i>Paper mulberry</i>	2	No	
<i>Rhizomatous bamboo</i>	4	Yes	Extensive – common garden plant
<i>Rhus Tree</i>	4	Yes	Minor
<i>Silver leaf nightshade</i>	4	No	
<i>Tussock paspalum</i>	4	No	

The changes outlined above will increase the weed control and management obligations of Council and the broader community. It is not envisaged that Council will receive any additional funding (with the exception of potential grant funds) to assist in this process. However the majority of species earmarked for inclusion are already controlled by Council's contractors when undertaking works across the LGA and these efforts will satisfy Council's obligations under the *Noxious Weed Act 1993*.

Notwithstanding this, Council staff support these inclusions as indicated, as they will increase opportunities to appropriately manage existing threats to native bushland and control new and emerging weed incursions. The proposed changes will also allow for improved education to the Campbelltown Community regarding these threats and a greater emphasis for their removal.

Declaration of these species as noxious for the Campbelltown LGA promotes ongoing monitoring for their presence and control should they be detected. Any amendments to the Noxious Weed (Weed Control) Order 2013 will require review and potential reprioritisation of Council works undertaken through the Noxious Weed and Pest Animal Management Strategy, bearing in mind that funding levels are not anticipated to change. Council will continue to target its weed control and management efforts in a strategic manner to afford appropriate protection to areas of high ecosystem value.

Conclusion

Council staff support the majority of changes proposed under the draft Noxious Weed (Weed Control) Order 2013 from an ecological perspective, however, there is concern regarding the declaration *Rhizomatous bamboo*, the failure of the DPI to action Council's request regarding the declaration of Maple Ash and the cost implications for Council to fund control means. It is therefore recommended that Council write to the NSW DPI requesting that these concerns be addressed through the finalisation of Noxious Weed (Weed Control) Order 2013. A draft submission addressing these issues is provided in attachment 2 for Council's endorsement.

Following the finalisation and gazettal of Noxious Weed (Weed Control) Order 2013 Council will need to update its Noxious Weed and Pest Animal Strategy, which guides its noxious weed management program, to reflect the changes made and educate the community on these changes. This matter will be reported to Council in due course.

Officer's Recommendation

That Council endorse the attached submission to the NSW Department of Primary Industries which supports the majority of changes proposed under draft Noxious Weed (Weed Control) Order 2013, however requests that:

- i. *Maple Ash (Acer negundo)* be added to the Noxious Weed (Weed Control) Order 2013 as a Class 4 (Locally Controlled) Weed.
- ii. *Rhizomatous bamboo (Phyllostachys spp)* be removed from the Campbelltown Local Government Area under the draft Noxious Weed (Weed Control) Order 2013.
- iii. That appropriate funding be provided to enable Council to implement the control of the noxious weeds proposed by the draft Noxious Weed (Weed Control) Order 2013.

Committee's Recommendation: (Lound/Matheson)

That the Officer's Recommendation be adopted.

CARRIED

Council Meeting (Greiss/Lake)

That the Officer's Recommendation be adopted.

Council Minute Resolution Number 216

That the Officer's Recommendation be adopted.

ATTACHMENT 1

Current classifications of noxious weeds

Control Class	Weed type	Control requirement
Class 1	Plants that pose a potentially serious threat to primary production or the environment and are not present in the State or are present only to a limited extent.	The plant must be eradicated from the land and the land must be kept free of the plant. The weeds are also "notifiable" and a range of restrictions on their sale and movement exist.
Class 2	Plants that pose a potentially serious threat to primary production or the environment of a region to which the order applies and are not present in the region or are present only to a limited extent.	The plant must be eradicated from the land and the land must be kept free of the plant. The weeds are also "notifiable" and a range of restrictions on their sale and movement exist.
Class 3	Plants that pose a potentially serious threat to primary production or the environment of a region to which the order applies, are not widely distributed in the area and are likely to spread in the area or to another area.	The plant must be fully and continuously suppressed and destroyed.
Class 4	Plants that pose a potentially serious threat to primary production, the environment or human health, are widely distributed in an area to which the order applies and are likely to spread in the area or to another area.	The growth of the plant must be managed in a manner that continuously inhibits the ability of the plant to spread and the plant must not be sold, propagated or knowingly distributed.*
Class 5	Plants that are likely, by their sale or the sale of their seeds or movement within the State or an area of the State, to spread in the State or outside the State.	There are no requirements to control existing plants of Class 5 weeds. However, the weeds are "notifiable" and a range of restrictions on their sale and movement exists.

NOTE: All Class 1, 2 and 5 weeds are prohibited from sale in NSW.

* Change to control requirement proposed under Noxious Weeds (Weed Control) Order 2013

ATTACHMENT 2



9 October 2013

Invasive Species Support Officer
NSW Department of Primary Industries
Locked Bag 21
ORANGE NSW 2800

Dear Sir/Madam

Draft Noxious Weed (Weed Control) Order 2013

Thank you for the opportunity to make comment on the above draft control order. At its meeting on 8 October 2013 Council considered a report on the draft Noxious Weed (Weed Control) Order 2013, including the proposed amendments to noxious weed species listings for the Campbelltown Local Government Area and resolved to:

Support the majority of changes proposed under draft Noxious Weed (Weed Control) Order 2013, however request that:

- *Maple Ash (*Acer negundo*) be added to the Noxious Weed (Weed Control) Order 2013 as a Class 4 (Locally Controlled) Weed*
- *Rhizomatous bamboo (*Phyllostachys spp*) be removed from the Campbelltown Local Government Area under the draft Noxious Weed (Weed Control) Order 2013.*
- *appropriate funding be provided to enable Council to implement the control of the noxious weeds proposed by the draft Noxious Weed (Weed Control) Order 2013.*

Maple Ash is an emerging weed along large sections of the Nepean River. Council is concerned regarding its potential threat to the riparian area due to its ability to rapidly replace native vegetation.

Rhizomatous bamboo is a common garden plant within the LGA, it is anticipated that the declaration of this species would result in a significant increase in customer complaints and call upon Council's currently allocated resources. This species is commonly the subject of neighbourhood disputes which can be dealt with under the *Trees (Disputes Between Neighbours) Act 2006*. Council does not currently have the resources to adequately manage the proposed classification.

With the exception of the above concerns, Council supports the amendments proposed under the draft Noxious Weed (Weed Control) Order 2013 for the Campbelltown LGA, as

they will increase opportunities to appropriately manage existing threats to native bushland and control new and emerging weed incursions.

However, it is envisaged that the changes will increase the weed control and management obligations of Council. As such, further funding must be provided to allow Council to effectively meet its obligations under the *Noxious Weeds Act 1993*.

If you require any further information please contact Council's Environmental Project Officer, Mitchell Johnson on 4645 4501.

Yours sincerely

Andrew Spooner
Manager Sustainable City and Environment

DRAFT

2.4 Planning Proposal - No. 71 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 land known as No. 71 St Andrews Road, Varroville to allow for residential development.

Property Description	Lot 71 DP 706546 (No. 71 St Andrews Road, Varroville)
Applicant	Michael Brown Planning Strategies
Owner	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 regarding their rezoning proposal, 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 of that 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.

A report was subsequently presented to Council at its meeting on 10 September 2013. This report considered the proposal for No. 71 St Andrews Road and No. 366 St Andrews Road as a single report owing to the fact that both properties adjoined each other, and had been included in a submission for a single proposal. At this meeting Council resolved:-

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

Council staff were consequently asked to separate the proposal for No. 71 St Andrews Road from that of No. 366 St Andrews Road and present individual reports for each property.

This report deals exclusively with the proposal for No. 71 St Andrews Road, Varroville.

Report

The proposal for No. 71 St Andrews Road most closely reflects the urban development type proposed for the nearby East Leppington and Emerald Hills precincts. This will be a low density residential scale of development.

Current Planning Controls

The site is 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. A range of 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 the subject allotment has an area which is lawfully less than the 100ha minimum (under the current planning provisions) and hence enjoys a dwelling entitlement. This is owing to the fact that the allotment was created prior to the prescribed date in the LEP. With regard to No. 71 St Andrews Road, Varroville, this entitlement has been acted upon and a dwelling house currently occupies the land.

Under the current planning controls there is no further opportunity for subdivision of the property. The submission of the planning proposal seeks to amend the planning instrument provisions for the site, to provide an opportunity for the lodgement of a development application to subdivide the land.

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 this site sits 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 possibly give rise to future subdivision pressure 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, existing low scale of development, and higher 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 Draft LEP) reflects this in stating that the land should be zoned E3 – Environmental Management and the 100ha minimum lot size be maintained.

In this regard, it is important to consider Council's previous resolution concerning 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 proposal subject of this report is considerably different in terms of its 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.

On 16 October 2012, Council resolved:

'That Council reaffirm its strong opposition to any urban/rural residential development in the Scenic Hills'.

These resolutions are 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 character of the Scenic Hills has generally 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 which lies in direct proximity to the land subject of the planning proposal being addressed by this report.

Flora and Fauna

The area contains varying densities of vegetation. No. 71 St Andrews Road is occupied by a large number of mature trees however the understorey vegetation shows a considerably modified character. Areas to the south of the site are 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 the site subject of the proposal 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 also 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) in the vicinity of 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 having 'very high' priority.

Given this, it is considered that further studies would need to be completed to determine if some form of development could be allowed that would minimise any impacts No. 71 St Andrews Road to an acceptable level.

Existing Easements

No. 71 St Andrews Road is traversed by an easement, in addition to the Sydney Water Upper Canal.

Two high pressure gas mains 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 crosses 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. Maintaining the quality of water within the Upper Canal is a key issue for surrounding developments.

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

The request to prepare a planning proposal for No. 71 St Andrews Road essentially seeks to extend the urban residential development proposed on land adjoining the property (East Leppington). This will likely be a low density suburb in terms of 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 several of the surrounding properties. While the on-site vegetation is mapped as being Cumberland Plain Woodland, the lack of understorey demonstrates an impact on the value of this vegetation community. In this regard further work would need to be undertaken to ascertain if some intensification of development could be permitted on the site with an acceptable level of impact on vegetation.

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 that part of St Andrews Road within the Campbelltown LGA. Although not a core issue for consideration, 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 urban development that is proposed in the immediate vicinity of this property, it is not unreasonable 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 and some enhancement of the existing vegetation, and management of the other constraints that affect the land.

It is worth noting that this approach is consistent with the proposal for the environmentally significant land within the Emerald Hills proposal located opposite the subject land on the other side of St Andrews Road (within the Camden LGA). 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.

It is foreseeable that some level of additional development could potentially 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 low density urban residential housing at No. 71 St Andrews Road.

This is a significant departure from the existing planning controls that apply to the land.

In undertaking a preliminary assessment of the property it is clear that whilst there are constraints, the extent and nature of these constraints does not necessarily preclude consideration of some form of future rural residential development.

No. 71 St Andrews Road, 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 extent and scale of development proposed around it, appear to give some weight to the argument to grant some further consideration to rezoning.

Conclusion

Possible future development of the subject land for rural residential development at an appropriate density is not considered to pose any significant risk to the visual landscape character of the Scenic Hills, given its location away from primary vistas as viewed from public places and the nature and density of nearby proposed urban and rural residential development.

This proposal represents the type of development pressure that Council has previously faced in the Scenic Hills.

The property is constrained by a service easement and vegetation which is identified as being environmentally significant.

In regard to No. 71 St Andrews Road, while mapped as having the same environmental significance, it appears to be less constrained than some of the surrounding properties. This situation does not relinquish the environmental value of the site. It does however suggest that with further investigation, opportunities for some degree of sensitive development may be identified.

The proponents' desire for the site to be developed as low density suburban residential is not considered appropriate. With further study of the constraints of the property it is felt that there may be some potential to develop a number of larger rural residential/environmental living allotments.

Officer's Recommendation

1. That Council resolve to invite the proponents to submit a formal planning proposal request for No. 71 St Andrews Road, Varroville that would consider the potential development of a number of rural residential/environmental living allotments, noting that such a proposal would need to be supported by a range of technical investigations to address issues including:
 - visual impact
 - flora and fauna
 - traffic impacts and management
 - relationship to surrounding development (future and existing)
 - land use history and any site contamination potential
 - servicing capability
 - easements and utility constraints.
2. That Council notify the proponents in writing of its decision.

Committee Note: Mr and Ms Petrin addressed the Committee in favour of the application.

Committee's Recommendation: (Lound/Mead)

1. That Council resolve to invite the proponents to submit a formal planning proposal request for No. 71 St Andrews Road, Varroville that would consider the potential development of a number of rural residential/environmental living allotments, noting that such a proposal would need to be supported by a range of technical investigations to address issues including:
 - visual impact
 - flora and fauna
 - traffic impacts and management
 - relationship to surrounding development (future and existing)
 - land use history and any site contamination potential
 - servicing capability
 - easements and utility constraints.
2. That Council notify the proponents in writing of its decision.
3. That interested Councillors attend an inspection of the property and surrounds.

CARRIED

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

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

Council Meeting (Greiss/Lake)

That the Committee's Recommendation be adopted.

Amendment: (Brticevic/Borg)

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

LOST

Council Minute Resolution Number 217

That the Committee's Recommendation be adopted.

2.5 Minutes of the Heritage Protection Sub Committee Meeting held on 15 August 2013

Reporting Officer

Manager Sustainable City and Environment

Attachments

Minutes of the Heritage Protection Sub Committee meeting held on 15 August 2013 (contained within this report)

Purpose

To seek Council's endorsement of the Minutes of the Heritage Protection Sub Committee Meeting held on 15 August 2013.

Report

Detailed below are the recommendations of the Heritage Protection Sub Committee. Council officers have reviewed the recommendations and they are now presented for the consideration of Council. Recommendations that require an individual resolution of Council are detailed in the officer's recommendation.

Recommendations of the Heritage Protection Sub Committee.

Reports listed for consideration.

5.1 Heritage Protection Sub Committee Guidelines

That the Heritage Protection Sub Committee notes the information contained in the Heritage Protection Advisory Sub Committee Guidelines report.

5.2 Local Heritage Fund Request 2012-2013 - Street fence, St David's Presbyterian Church

1. That the Heritage Protection Sub Committee requests that Council approve the Local Heritage Fund application 2012-2013 for \$2000 from St David's Presbyterian Church for new fencing constructed along the Lithgow Street boundary of the subject property.
 2. That the applicant be advised in writing of Council's decision with respect to this matter.
-

5.3 Local Heritage Fund Request 2013-2014 - Replacement Guttering, St David's Presbyterian (Former) Manse

1. That the Heritage Protection Sub Committee request that Council approve the Local Heritage Fund 2013-2014 application for \$2000 from Macarthur Diversity Services Initiative for replacement guttering on the heritage listed St David's Presbyterian (Former) Manse, with payment being subject to works being completed in accordance with the approved application.
2. That the applicant be advised in writing of Council's decision with respect to this matter.

5.4 Local Heritage Fund Request 2013-2014 - Gravesite Restoration (John Warby) at St Peter's Anglican Church Cemetery

1. That the Heritage Protection Sub Committee request that Council approve the Local Heritage Fund 2013-2014 application for \$2000 from Michelle Vale for the restoration of the John Warby Gravesite within the St Peters Anglican Church Cemetery, with payment being subject to works being completed in accordance with the approved application.
2. That the applicant be advised in writing of Council's decision with respect to this matter.

5.5 Local Heritage Fund Request (2012-2013) - Garden Fencing, Denfield House

1. That the Heritage Protection Sub Committee request that Council approve the Local Heritage Fund (2012-2013) application for \$2000 from Steve Laws for the restoration of garden fencing for Denfield House.
2. That the applicant be advised in writing of Council's decision with respect to this matter.

6.1 The Condition of 'Raith' Local Heritage Item

That Council be requested to monitor the condition of the local heritage item called 'Raith' and continue to liaise with NSW Department of Community Services requesting that necessary action be undertaken by the Department to fulfil its obligations as the owner of this heritage item.

Officer's Recommendation

1. That the minutes be noted.
 2. That in regard to item 5.2. - the Local Heritage Fund application 2012-2013 for \$2000 from St David's Presbyterian Church for new fencing constructed along the Lithgow Street boundary of the subject property be approved.
 3. That in regard to item 5.3 - the Local Heritage Fund 2013-2014 application for \$2000 from Macarthur Diversity Services Initiative for replacement guttering on the heritage listed St David's Presbyterian (Former) Manse, be approved with payment being subject to works being completed in accordance with the approved application.
-

4. That in regard to item 5.4 - the Local Heritage Fund 2013-2014 application for \$2000 from Michelle Vale for the restoration of the John Warby Gravesite within the St Peters Anglican Church Cemetery, be approved, with payment being subject to works being completed in accordance with the approved application.
5. That in regard to item 5.5 - the Local Heritage Fund (2012-2013) application for \$2000 from Steve Laws for the restoration of garden fencing for Denfield House be approved.

Committee's Recommendation: (Oates/Rowell)

1. That the minutes be noted.
2. That in regard to item 5.2. - the Local Heritage Fund application 2012-2013 for \$2000 from St David's Presbyterian Church for new fencing constructed along the Lithgow Street boundary of the subject property be approved.
3. That in regard it item 5.3 - the Local Heritage Fund 2013-2014 application for \$2000 from Macarthur Diversity Services Initiative for replacement guttering on the heritage listed St David's Presbyterian (Former) Manse, be approved with payment being subject to works being completed in accordance with the approved application.
4. That in regard to item 5.4 - the Local Heritage Fund 2013-2014 application for \$2000 from Michelle Vale for the restoration of the John Warby Gravesite within the St Peters Anglican Church Cemetery, be approved, with payment being subject to works being completed in accordance with the approved application.
5. That in regard to item 5.5 - the Local Heritage Fund (2012-2013) application for \$2000 from Steve Laws for the restoration of garden fencing for Denfield House be approved.
6. That in regard to item 6.1 - the condition of 'Raith' Local Heritage Item - Council monitor the condition of the local heritage item called 'Raith' and continue to liaise with the NSW Department of Community Services requesting that necessary action be undertaken by the department to fulfill its obligations as the owner of this heritage item.
7. That Council contacts the Office of Environment and Heritage and the Department of Community Services requesting a timetable for the restoration and preservation of the historic property known as 'Raith'.

CARRIED

Council Meeting (Greiss/Lake)

That the Officer's Recommendation be adopted.

Council Minute Resolution Number 216

That the Officer's Recommendation be adopted.

Councillor Mead asked that his name be recorded against the resolution in regard to Item 2.5 - Minutes of the Heritage Protection Sub Committee held 15 August 2013

ATTACHMENT 1

Minutes of the Heritage Protection Sub Committee Meeting

Held Thursday 15 August 2013 in Committee Room 3

Meeting Commenced: 6:09pm

1. Acknowledgement of Land

An Acknowledgement of Land was presented by the Chairperson, Councillor Rowell.

2. Attendance and Apologies:

Councillor Ted Rowell (Chairperson) - Campbelltown City Council
Kay Hayes - Campbelltown Airs Historical Society
Robert Wheeler - National Parks Association
Learna Coupe - Campbelltown Airs Historical Society

Also in Attendance: Councillor Meg Oates - Campbelltown City Council
Sue Kijurina - Campbelltown Airs Historical Society Alternate Delegate
Clarice Stretch - Observer Campbelltown Airs Historical Society
Andrew Spooner - Manager Sustainable City and Environment
Jeff Burton - Strategic Planner
Jane Worden - Executive Support

Apologies: James Gardner - Qualified Person
Mario Majorich - National Parks Association Alternate Delegate

Sub Committee's Recommendation: (Hayes/Rowell)

That the above apologies be accepted.

CARRIED

3. Declarations of Interest

There were no Declarations of Interest made at this meeting.

4. Correspondence - Nil

5. Reports

5.1 Heritage Protection Advisory Sub Committee Guidelines

Reporting Officer

Manager Sustainable City and Environment

Purpose

To advise of the Heritage Protection Sub Committee of the relevant guidelines adopted by Council that governs the operation and administration of the Sub Committee.

Report

The Heritage Protection Sub Committee provides an important advisory role to Campbelltown City Council on a wide range of heritage related matters, and operates in accordance with the attached Guidelines (Heritage Protection Advisory Sub Committee Guidelines). These Guidelines provide the framework for the function and role of the Sub Committee, and clarify the scope of heritage matters that may be considered by the Heritage Protection Sub Committee.

Council periodically reviews these Guidelines to ensure they remain current and relevant. In this respect it is noted that minor amendments were made to the Guidelines in June 2013, generally relating to the membership quorum for the Sub Committee.

Given the extended break of the Heritage Protection Sub Committee following the Local Government elections in September 2012, it is considered opportune that the revised Guidelines are tabled for the information of Sub Committee members.

Officer's Recommendation

That the information be noted.

Sub Committee's Recommendation: (Wheeler/Hayes)

That the Heritage Protection Sub Committee notes the information contained in the Heritage Protection Advisory Sub Committee Guidelines report.

CARRIED**5.2 Local Heritage Fund Request 2012-2013 – Street Fence, St David's Presbyterian Church****Reporting Officer**

Manager Sustainable City and Environment

Purpose

To seek the endorsement of the Heritage Protection Sub Committee for a recommendation to Council to approve the subject application for funding under the Local Heritage Fund 2012-2013.

Background

St David's Presbyterian Church is of historical significance as one of the oldest buildings in Campbelltown (1840 – 1842) and remains in its original configuration. The building was designed by James Hume, an early architect who was involved with a number of important buildings in NSW. The building retains early roof construction, Colonial brickwork, and significant examples of stained glass. St David's is also significant for its setting that includes a direct association with the adjacent (former) Manse.

St David's Presbyterian Church is listed as an item of local heritage significance under Campbelltown (Urban Area) Local Environmental Plan 2002.

The subject application for Local Heritage Funding relates to street fencing constructed in accordance with Development Consent 2405/2011 for Construction of a Columbarium Wall, Front Fencing and the Removal of Two Significant Trees. This development consent was approved by Council on 5 June 2012 following consideration by Council's Heritage Protection Sub Committee at its meeting on 9 February 2012. It is noted that at this time, the front fencing to Lithgow Street is

the only component of the approved works that have been commenced in accordance with this consent.

Report

Council has received a local heritage fund application relating to St David's Presbyterian Church, requesting financial assistance for street fencing constructed in accordance with Development Consent 2405/2011 for Construction of a Columbarium Wall, Front Fencing and the Removal of Two Significant Trees.

The application has been lodged by the owner of the property, St David's Presbyterian Church, and is provided as attachment 1. Photographs of before and after works are provided in attachment 2. The subject application was submitted to Council in May 2013, with works completed in the corresponding 2012-2013 financial year. As such, funds have been set aside from the 2012-2013 budget for this application pending review by the Heritage Protection Sub Committee and approval by Council.

The subject fencing has been constructed along the front property boundary to Lithgow Street and comprises sandstone piers with infill black metal palisade panels. The fencing replaces a steel pole and single chain fence and continues the style of the existing street fencing for the adjacent Manse. As such, the new fence provides a continuity of street appeal with the adjoining (former) Manse building, once part of the church site and now in separate ownership.

The application seeks the maximum allowance under the Local Heritage Fund of \$2000, noting that the total cost of the fencing works is \$8420. The application has been considered in accordance with the Local Heritage Fund Guidelines and complies with the assessment criteria for eligible works, as the subject works enhance the heritage setting of the church, are consistent with the approved landscaping plan for the property, and reinforces the historical association of the property with the adjoining Manse building when viewed from the public domain.

Council's Local Heritage Fund Guidelines permit the reinstatement of garden elements for heritage listed properties, which includes fencing. For the reasons outlined above, it is considered that the subject application falls within the scope of eligible maintenance works and may therefore be approved.

Accordingly, it is recommended that the application be recommended for approval by the Heritage Protection Sub Committee.

Officer's Recommendation

1. That the Heritage Protection Sub Committee requests that Council approve the Local Heritage Fund application 2012-2013 for \$2000 from St David's Presbyterian Church for new fencing constructed along the Lithgow Street boundary of the subject property.
2. That the applicant be advised in writing of Council's decision with respect to this matter.

Sub Committee's Recommendation: (Coupe/Hayes)

1. That the Heritage Protection Sub Committee requests that Council approve the Local Heritage Fund application 2012-2013 for \$2000 from St David's Presbyterian Church for new fencing constructed along the Lithgow Street boundary of the subject property.
2. That the applicant be advised in writing of Council's decision with respect to this matter.

CARRIED

5.3 Local Heritage Fund Request 2013-2014 – Replacement Guttering, St David’s Presbyterian (Former) Manse

Reporting Officer

Manager Sustainable City and Environment

Purpose

To seek the endorsement of the Heritage Protection Sub Committee for a recommendation to Council to approve the subject application for funding under the Local Heritage Fund 2013/2014.

Background

St David’s (Former) Manse is a rendered brick two storey building, built in the late Victorian Italianate architectural style. The building features a main wing with a hipped roof and a two storey projecting hipped bay with wrap around timber and cast iron balcony. There are three large chimneys with decorated capping and ceramic pots. At the rear of the building is a single storey section with a hipped roof extending out to a rear skillion.

St David’s (Former) Manse is listed as an item of local heritage significance under Campbelltown (Urban Area) Local Environmental Plan 2002 given its nineteenth century origin and long term association with St David’s Church.

The building is currently occupied and used by Macarthur Diversity Services Initiative for the purpose of community aged day care services and associated offices. This user group has undertaken minor maintenance activities on the building, as well as a number of more substantial works on the site (with Council approval), including the construction of a new training room in the north-west corner of the site in 2011 and a new covered walkway and carport at the rear of the building approved earlier this year.

The subject application for replacement of roof guttering is part of the appropriate and regular maintenance and upkeep of the building, being implemented by the current owners.

Report

Council has received a local heritage fund application for financial assistance to replace existing guttering on the heritage listed St David’s Presbyterian (Former) Manse.

The application has been lodged by the owner of the subject building, *Macarthur Diversity Services Initiative*, and is provided as attachment 1. The condition of the existing guttering on the building is shown in photos included as attachment 2.

The applicant has advised that the existing gutters on the building are leaking, and are also under-capacity for containing stormwater from common rainfall events. Consequently, there are issues occurring with respect to overflow and seeping rainwater from the existing gutters causing water damage to the fabric of the building.

The proposed works are to be undertaken by Advance Guttering P/L in traditional style guttering that is to be colour matched to the building and also used for the recently built training room at the rear of the property. The works involve the replacement of approximately 90 metres of guttering and associated downpipes.

The application seeks the maximum allowance under the Local Heritage Fund of \$2000, noting that the total cost of the works is \$5995. The application has been considered in accordance with the Local Heritage Fund Guidelines and is consistent with the assessment criteria for eligible works, as the proposed works would promote the conservation of the existing building.

Accordingly, it is recommended that the application be recommended for approval by the Heritage Protection Sub Committee.

Officer's Recommendation

1. That the Heritage Protection Sub Committee request that Council approve the Local Heritage Fund 2013-2014 application for \$2000 from Macarthur Diversity Services Initiative for replacement guttering on the heritage listed St David's Presbyterian (Former) Manse, with payment being subject to works being completed in accordance with the approved application.
2. That the applicant be advised in writing of Council's decision with respect to this matter.

Sub Committee's Recommendation: (Wheeler/Hayes)

1. That the Heritage Protection Sub Committee request that Council approve the Local Heritage Fund 2013-2014 application for \$2000 from Macarthur Diversity Services Initiative for replacement guttering on the heritage listed St David's Presbyterian (Former) Manse, with payment being subject to works being completed in accordance with the approved application.
2. That the applicant be advised in writing of Council's decision with respect to this matter.

CARRIED**5.4 Local Heritage Fund Request 2013-2014 - Gravesite Restoration (John Warby) at St Peters Anglican Church Cemetery****Reporting Officer**

Manager Sustainable City and Environment

Purpose

To seek the endorsement of the Heritage Protection Sub Committee for a recommendation to Council to approve the subject application for funding under the Local Heritage Fund 2013-2014.

Background

St Peters Anglican Church Cemetery, located in Cordeaux Street, Campbelltown, is listed as a local heritage item within the St Peters Anglican Church group in Campbelltown (Urban Area) Local Environmental Plan 2002. In this respect it is noted that the St Peters Anglican Church group comprises the church built 1821-22; cemetery established 1822; and the rectory built 1887.

The grant application relates to the historic grave site of John Warby, located within the St Peters Anglican Church Cemetery. Council's heritage register recognises John Warby as one of the important early settlers of the Macarthur district, whose links to the Campbelltown area include his 1816 land grant which he called 'Leumeah'. In this respect, it is noted that there are three heritage listed items directly associated with John Warby: Warby's Stables and Barn (Queen Street, Campbelltown) and Warby's Dams (Lindesay Street, Leumeah).

The applicant has advised that the proposed conservation works are being organised following a reunion in Campbelltown last year of John Warby's descendants.

Report

Council has received a local heritage fund application for financial assistance to undertake restoration works on the grave site of John Warby, located within the heritage listed St Peters Anglican Church Cemetery.

The gravesite comprises an above ground tomb, constructed of sandstone with a series of hand carved inscriptions relating to successive members of the Warby family as they have been interned into the tomb. The condition of the tomb and inscriptions has deteriorated due to age, fungal growth and rising damp. There is also evidence of decay resulting from inappropriate repairs involving acrylic paint.

The proposed works are to be undertaken by a qualified stonemason to clean and repair the tomb using best-practice restoration techniques, and re-tinting the hand cut lettering to improve legibility. The works also include the replacement of a scripted shield stone panel which has deteriorated beyond repair.

The application has been submitted by Michelle Vale (descendant of John Warby) and has been endorsed by the land owner – St Peters Anglican Church Cemetery Trust.

A copy of the application is provided as attachment 1, and seeks the maximum allowance under the Local Heritage Fund of \$2000. The applicant has advised of the difficulty in obtaining the services of a suitably qualified stonemason with appropriate experience in sandstone restoration work. In this respect it is noted that the more expensive quote –attachment 2 (total cost \$7975) has been selected based upon their expertise and ability to provide a better conservation outcome.

The application has been considered in accordance with the Local Heritage Fund Guidelines and is consistent with the assessment criteria for eligible works, as the proposed works would promote the conservation of an important colonial gravesite within the cemetery of the heritage listed St Peters Anglican Church group. Accordingly, it is recommended that the application be recommended for approval by the Heritage Protection Sub Committee.

Officer's Recommendation

1. That the Heritage Protection Sub Committee request that Council approve the Local Heritage Fund 2013-2014 application for \$2000 from Michelle Vale for the restoration of the John Warby Gravesite within the St Peters Anglican Church Cemetery, with payment being subject to works being completed in accordance with the approved application.
2. That the applicant be advised in writing of Council's decision with respect to this matter.

Sub Committee's Recommendation: (Hayes/Coupe)

1. That the Heritage Protection Sub Committee request that Council approve the Local Heritage Fund 2013-2014 application for \$2000 from Michelle Vale for the restoration of the John Warby Gravesite within the St Peters Anglican Church Cemetery, with payment being subject to works being completed in accordance with the approved application.
2. That the applicant be advised in writing of Council's decision with respect to this matter.

CARRIED

5.5 Local Heritage Fund Request (2012 / 2013) – Garden Fencing, Denfield House

Reporting Officer

Manager Sustainable City and Environment

Purpose

To seek the endorsement of the Heritage Protection Sub Committee for a recommendation to Council to approve the subject application for funding under the Local Heritage Fund 2012/2013.

Background

Denfield is located at Appin Road, St Helens Park, and is listed as a heritage item under the State Heritage Register and the *Campbelltown (Urban Area) Local Environmental Plan 2002*.

Denfield, was built 1835-1837, and is of State historical significance as one of the earliest intact collections of colonial farmhouse style buildings in the Campbelltown and Appin areas, retaining a significant setting and garden. Denfield is associated with early farming identities John Farley (famous for reporting the first sighting of Fisher's Ghost in Campbelltown), and John Bray who, along with his family, owned and farmed the property from 1840 until well into the 1900's. The main building was extensively renovated in the 1960s.

The current owners purchased the property in 1992, and have been active in opening the house and grounds for inspection by interested community groups and during National Trust Heritage Week events.

Report

The application seeks financial assistance under Council's 2012/2013 Local Heritage Fund for fence restoration works relating to the heritage listed Denfield House. The subject application was submitted by the Denfield property owner (Mr Steve Laws) to Council in May 2013, with works completed in the corresponding (2012/2013) financial year. As such, funds have been set aside from the 2012/2013 Budget for this application pending review by the Heritage Protection Sub Committee and approval by Council.

The subject fence is a highly visible white boundary timber picket fence of approximately 70 metres in length that provides a distinct visual border to the immediate garden setting of Denfield House. Given the timing of the application, restoration works have been completed and photos showing 'before and after' works are provided under separate cover for the information of the Heritage Protection Sub Committee.

The completed works involved the restoration and painting of the entire fence line, including the replacement of approximately 18 metres which was beyond repair. Associated works included the partial removal of invasive weeds in the adjoining garden which contributed to the deterioration of the fence.

Council's Local Heritage Fund Guidelines permit the reinstatement of garden elements for heritage listed properties, which includes fencing. Given the highly visible and complementary nature of the picket fencing to the setting of Denfield House, it is considered that the subject application falls within the scope of eligible maintenance works and may therefore be approved.

It is noted that the applicant provided two quotes from separate companies for the subject works, and proceeded with (and paid) the less expensive quote of \$4,000. Accordingly, the applicant is seeking the maximum allowance of \$2000 under the 2012/2013 Local Heritage Fund.

Officer's Recommendation

1. That the Heritage Protection Sub Committee request that Council approve the Local Heritage Fund (2012-2013) application for \$2000 from Steve Laws for the restoration of garden fencing for Denfield House.
2. That the applicant be advised in writing of Council's decision with respect to this matter.

Sub Committee's Recommendation: (Wheeler/Coupe)

1. That the Heritage Protection Sub Committee request that Council approve the Local Heritage Fund (2012-2013) application for \$2000 from Steve Laws for the restoration of garden fencing for Denfield House.
2. That the applicant be advised in writing of Council's decision with respect to this matter.

CARRIED**6. General Business****6.1 The Condition of 'Raith' Local Heritage Item**

Councillor Oates advised the Heritage Protection Sub Committee of her concerns regarding the local heritage item 'Raith' and its current poor condition. 'Raith' is located in Bradbury and is owned by the NSW Department of Community Services ("DoCS"). It was noted that this matter has been previously discussed by the Heritage Protection Sub Committee who recommended that Council write to the NSW Department of Community Services to raise concerns regarding the condition of the Raith building and seek appropriate action to address local concerns.

It was noted that DoCS have responded to Council's correspondence indicating that they intend to restore Raith for the purposes of a community services building however DoCS are currently awaiting a determination from its insurance company in relation to this matter. The Heritage Protection Sub Committee suggested that Council continue to monitor progress in relation to this matter.

Sub Committee Recommendation: (Wheeler/Hayes)

That Council be requested to monitor the condition of the local heritage item called 'Raith' and continue to liaise with NSW Department of Community Services requesting that necessary action be undertaken by the Department to fulfil its obligations as the owner of this heritage item.

CARRIED

Next meeting of the Heritage Protection Sub Committee will be held on Thursday 17 October 2013 at 6.00pm in Committee Room 3.

Councillor Rowell
Chairperson

Meeting Concluded: 6.35pm

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

2.6 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 Local Government Area (LGA) in recent years. In this regard, Council at its Ordinary Meeting held 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'.

2.6 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. A Report on the Chief Scientists initial report was presented to Councils meeting on 10 September 2013 where the matter was deferred to enable the Councillors to be briefed on the matter. A subsequent briefing took place at the briefing session on the 24 September 2013. 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>.

2.6 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 included into the 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.

2.6 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 community information forums organised by Council. (Council Resolution 13 August 2013 - Coal Seam Gas Community Information Forums).
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.	Advised the NSW Government of concerns with the assessment of potential impacts to groundwaters (based upon specialist advice) and human health. (Council Resolutions 18 October 2011 – AGL Groundwater Investigation and Sampling Program; 13 December 2013 – Submission on the Application for the Installation of a Proposed Additional Gas Extraction Well at Menangle Park; 18 December 2012 – Camden Gas Response to Submissions Report).
Initial Report Finding	Council action validated by the finding
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. (Council Resolution 18 December 2012 – Camden Gas Response to Submissions Report).
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 view that the Strategic Regional Land Policy provides 'a comprehensive regulation for the coal seam gas industry'. (Council Resolution 26 February 2013 – Response of the NSW Government to the Parliamentary Inquiry into Coal Seam Gas).
There is an absence of scientific guidelines for monitoring programs but such programs should be designed to achieve a groundwater system in a lateral and vertical context.	Requested the NSW Government to address the adequacy of the scientific base for the AGL expanded groundwater and fugitive methane emissions monitoring programs due to deficiencies in providing a comprehensive understanding of the groundwater system. (Council Resolution 18 December 2012 – Camden Gas Response to Submissions Report).

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

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 as 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.

c) Recommendations of the initial report

The 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 3) 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 Chief Scientist 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.

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

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 Chief Scientists 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'.

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.

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.

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

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 on Coal Seam Gas produced by the NSW Chief Scientist and Engineer:
 - '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. That Council endorse the attached correspondence to the NSW Chief Scientist and Engineer (presented in attachment 5).
-

Committee's Recommendation: (Greiss/Mead)

That the information be noted and no further action be taken until the Chief Scientist and Engineer report is presented to Council.

CARRIED

Council Meeting (Greiss/Lake)

That the Committee's Recommendation be adopted.

Council Minute Resolution Number 216

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*
-

2.6 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



16 October 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 15 October 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 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 resolved 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'

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

If you require any further information please contact Council's Manager Sustainable City and Environment, Andrew Spooner, on (02) 4645 4598.

Yours sincerely

Jeff Lawrence
Director Planning and Environment

2.6 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 the Council in its deliberations regarding issues associated with the coal seam gas industry.	Resolution at a Council meeting of 13 August 2013.

ATTACHMENT 5



16 October 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 in 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 16 October 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 discuss:

- the refinement of the regulatory regime recommended in the Initial Report to incorporate 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

3. DEVELOPMENT SERVICES

3.1 Development Services Section Statistics - August 2013

Reporting Officer

Manager Development Services

Attachments

Development Services application statistics for August 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 August 2013 as they affect the Development Services section.

Officer's Recommendation

That the information be noted.

Committee's Recommendation: (Rowell/Lound)

That the Officer's Recommendation be adopted.

CARRIED

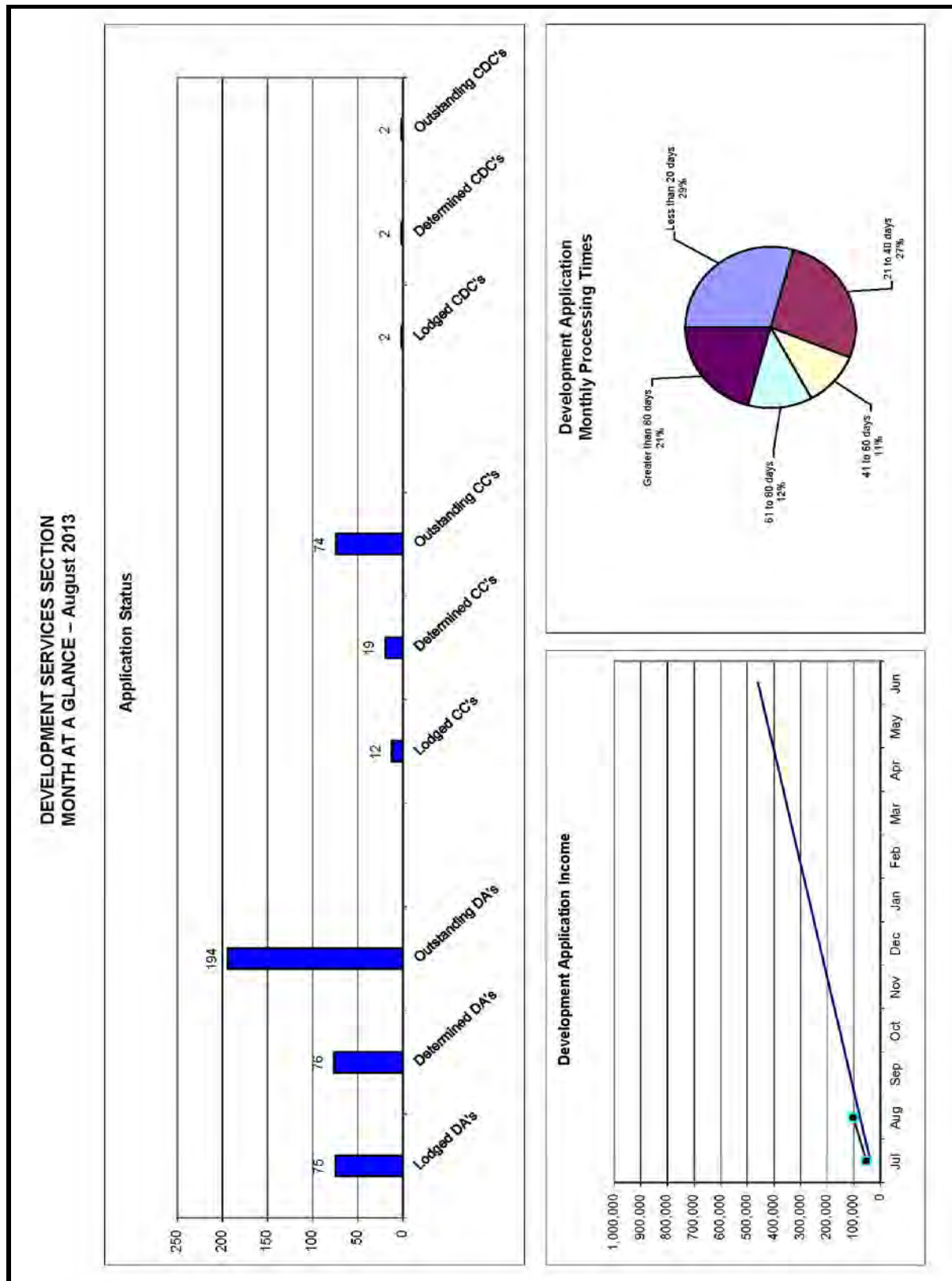
Council Meeting (Greiss/Lake)

That the Officer's Recommendation be adopted.

Council Minute Resolution Number 216

That the Officer's Recommendation be adopted.

ATTACHMENT 1



3.2 No. 4 Feldspar Road, Eagle Vale - Modification to Multi Dwelling Development

Reporting Officer

Manager Development Services

Attachments

1. Recommended Conditions of Consent (contained within this report)
2. Locality Plan (contained within this report)
3. Site Plan (distributed under separate cover)
4. Elevation Plans (distributed under separate cover)
5. Revised Floor Plans (confidential - privacy and copyright)
6. Detail of Faux Balconies (distributed under separate cover)
7. Detail of Fencing (distributed under separate cover)
8. Land and Environment Court Approved Consent (contained within this report)
9. Land and Environment Court Approved Plans (confidential - privacy and copyright)

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

Purpose

To assist Council in its determination of the subject application to modify a development consent issued by the Land and Environment Court in accordance with the provisions of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

Property Description	Lot 102 DP 856454, No. 4 Feldspar Road, Eagle Vale
Application No	202/2001/DA-M/A
Applicant	Eaglevale Developments Pty Ltd
Owner	Eaglevale Developments Pty Ltd
Statutory Provisions	Campbelltown (Urban Area) Local Environmental Plan 2002 Campbelltown (Sustainable City) Development Control Plan 2009
Non Statutory	Campbelltown 2025 – Looking Forward
Date Received	3 May 2013

Report

History

A development application was received by Council in April 1999 for the construction of a residential apartment complex containing 24 three bedroom units. This proposal consisted of three apartment buildings of two and three storeys in height, similar in design to 'walk up flats'. The application was refused by Council at its meeting on 6 July 1999.

The reasons for refusal included excessive bulk and scale, overdevelopment of the site, privacy concerns and the development was considered to be out of character of the locality.

The applicant subsequently lodged another development application for 18 three bedroom multi dwellings at the site in March 2001.

Council at its meeting on 7 August 2001 refused the development application. The reasons for refusal included the proposal's adverse impact on streetscape, failure of the development to achieve high quality urban design, excessive bulk and scale and the development being out of character with the nature of the locality.

Council reaffirmed its refusal at its meeting on 23 October 2001 when requested to review the determination pursuant to Section 82A of the *Environmental Planning and Assessment Act 1979*.

The applicant lodged a Class 1 appeal with the Land and Environment Court and the development was subsequently approved by the Court in May 2002.

Introduction

Council has received a modification application made under Section 96AA of the *Environmental Planning and Assessment Act, 1979* to modify the NSW Land and Environment Court approved development. Section 96AA of the Act allows a consent authority, Council in this instance, to modify a development consent issued by the Land and Environment Court upon application being made.

The development has been partially constructed to date.

The application to modify the Court approved consent seeks to formalise unauthorised variations to the development previously constructed by the original builder of the development.

The development has recently changed ownership and a new builder has been engaged to complete the works.

The Site

The subject land is situated on the north-eastern corner of the intersection of Emerald Drive and Feldspar Road at Eagle Vale. The site is a residue parcel of land from the Eagle Vale Shopping Centre development, and has frontage on its northern boundary to an access road to the shopping centre.

Existing development in the vicinity of the site is varied. There is a service station, carparking and a church to the north, the Eagle Vale Shopping Centre located to the immediate east, Council's Eagle Vale Leisure Centre to the south and detached residential development to the west.

The property slopes down from the south-western corner to its north eastern corner. The land is an irregular shaped allotment with a total area of 6,020 square metres.

The Proposal

The proposed development includes the construction of 18 three bedroom multi dwellings. The subject application is seeking to legitimise the unlawful modifications made to date by the original builder of the development.

The current application seeks to modify the development consent issued by the Land and Environment Court in the following terms:

- Driveways and site access
- Amended location of visitor parking spaces
- Amended floor layouts
- Amended location of private open spaces
- Faux balconies in lieu of approved balconies
- Floor levels to reflect those as constructed
- Schedule to finishes to reflect as those constructed
- Amended fencing schedule
- Amended landscaping schedule
- Consequential amendments to conditions of consent.

The proposed development is currently nearing completion.

Assessment

1. Other Provisions - Vision

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

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

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

The strategic directions relevant to this application are:

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

The proposed development is generally consistent with these directions.

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

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

It is considered that the proposed modifications are mostly consistent with the Vision's desired outcomes having regard to the development's scale, function and design.

2. Planning Provisions

The application has been assessed have regard to the matters for consideration prescribed under the *Environmental Planning and Assessment Act 1979*. Subsequently the following matters have been identified for further consideration and discussion.

2.1 S96AA Modification by Consent Authorities of Consents Granted by the Court

Section 96AA states as follows:

- (1) a consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the Court and subject to and in accordance with the regulations, modify the development consent if:
 - (a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all)
 - (b) it has notified the application in accordance with:
 - (i) the regulations, if the regulations so require
 - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent

- (c) it has notified, or made reasonable attempts to notify, each person who made a submission in respect of the relevant development application of the proposed modification by sending written notice to the last address known to the consent authority of the objector or other person
 - (d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be
- (1A) in determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 79C (1) as are of relevance to the development the subject of the application
- (1B) development consent of the kind referred to in section 79B (3) is not to be modified unless the requirements of section 79B (3)–(7) have been complied with in relation to the proposed modification as if the application for the proposed modification were an application for development consent
- (1C) the modification of a development consent in accordance with this section is taken not to be the granting of development consent under this Part, but a reference in this or any other Act to a development consent includes a reference to a development consent as so modified.

It is considered that the proposed modification can be considered under Section 96AA of the Act. The proposed modifications relate to the consent, and would be substantially the same development.

2.2 Campbelltown (Urban Area) Local Environmental Plan 2002

The subject site is zoned 10(b) District Comprehensive Centre Zone under the provisions of Campbelltown (Urban Area) Local Environmental Plan 2002.

Under the Plan, the proposed development is defined as a 'multi dwelling housing'. The definition provided by the Plan is as follows:

"Multi dwelling housing means development involving the erection of three or more dwellings on a site, each with separate access from the ground floor"

Multi dwelling housing is permissible with Council's consent in the 10(b) Comprehensive Centre Zone.

The zone objectives include:

- (a) to provide space for a wide range of retail, commercial and like needs to serve the districts within the City of Campbelltown
 - (b) to encourage employment and business activities in order to promote the economic well-being of the community
-

- (c) to accommodate a range of cultural, entertainment and like facilities for the benefit of the community
- (d) to permit limited industrial uses that are compatible with the proper operation of a commercial centre serving a district
- (e) to encourage a variety of forms of higher density housing, including accommodation for older people and people with disabilities, in locations which are accessible to public transport, employment, retail, commercial and service facilities.

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

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

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

2.3 Campbelltown Sustainable City Development Control Plan 2009 (SCDCP)

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

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

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

The proposed changes sought to the approved development primarily relate to the functioning of the development. A summary of the changes sought are addressed in more detail below.

a. Driveways and Site Access

The approved development was designed to provide a single driveway entry/exit from Feldspar Road. The amended design proposes an entry off Feldspar Road and an exit onto Emerald Drive. The original proposal would have required the construction of a partially suspended driveway adjacent to the eastern boundary at considerable cost.

The amended scheme is considered acceptable having regard to the function of the development and impact on the surrounding road network.

Council's traffic engineers have reviewed the revised layout and pose no objection to the proposal.

b. Amended Location of Visitor Parking

The relocation of visitor car parking spaces results from the redesign of the internal access road. The number of visitor car parking spaces remain the same as that originally approved.

It is considered that the proposed visitor car parking spaces are acceptable having regard to their location and position within the site.

c. Amended Floor Layouts

The floor layout of dwellings presenting to Feldspar Road (Unit Nos. 1 – 6) and Emerald Drive (Unit Nos. 7 and 13 – 18) have not been constructed in accordance with the approved plans. The position of entry doors has been relocated and the room layouts on the ground and first floors have been altered.

The entrances to the dwellings are proposed to be located adjacent to the garages. The alterations to the ground floor layout also include the relocation of the kitchen, wet areas, living areas and stairwell. The first floor changes include the relocation of the stairwell and bathroom.

It is considered that the room layout changes would not have an unacceptable impact on the subject land and adjoining land uses.

d. Amended Location of Private Open Spaces/Amended Fencing Schedule

The location of private open spaces for units 1 – 6 were originally located adjacent to the garages. The proposed modification seeks to alter location of these private open space areas to a location adjacent to the Feldspar Road boundary. This will result in the private open spaces requiring a modified fencing schedule to ensure an adequate level of amenity and privacy within this space.

The relocation of these private open space areas places the open space to the south of the respective two storey dwellings. As a result, the private open space areas allocated to units 1 – 6 do not satisfy the solar access requirements of Council's Sustainable City Development Control Plan.

Part 3.6(a) of the SCDCP requires:

“Living areas shall have a northerly orientation”

This requirement places the private open space in a northerly orientation given the SCDCP prescribes for direct linkages from internal living areas to private open space.

Further, part 3.6(b) states:

“A minimum 20m² of the required private open space shall receive three (3) hours of continuous direct solar access on 21 June between 9.00am and 3.00pm, measured at ground level”

The modification sought would result in private open space areas of units 1 – 6 not receiving a minimum 20 square metres of three hours continuous solar access on 21 June between 9.00am and 3.00pm.

With respect to external impacts on solar access, it is considered that the development for 18 multi dwellings will not impact on adjoining development and land uses, and the concerns (non-compliances) raised relate to the dwellings within the subject development only.

Given that the building works are nearing completion and the development's internal modifications have been undertaken, Council is required to consider the variation to the development control plan and the subsequent impact on the amenity and liveability of the affected dwellings.

Whilst the development is considered not to be ideal, the development does not impact to any significant degree upon adjoining land uses, and as such it is considered that the poor orientation whilst not ideal could be accepted by Council in the circumstances as the development is generally compliant in other respects.

As a result of the revised private open space orientation, the fencing presenting to the street is proposed to be modified to ensure a level of privacy and amenity to occupants. The Court approved fence is a mix of a 900mm high timber picket fencing and 1,800mm high brush wood fencing with metal rails.

The application seeks to amend the approved fencing that presents to the street with a metal framed fence with metal bars to keep an open style palisade appearance. The use of landscaping in conjunction with the open space fencing is aimed to provide privacy to the private open space areas. The proposed fence would alternate between heights of 1,200mm and 1,800mm at approximately every 4.0 metres.

The modified fencing proposal is considered satisfactory in the circumstances.

e. Faux Balconies in lieu of Approved Balconies

The proposed scheme seeks the use of faux balconies rather than the constructed balconies as required by the approved plans. The balconies were not constructed by the original builder and the use of the faux balconies is a design feature used to mimic Juliet balconies and respect the Court approved plans.

It is considered that the use of faux balconies would not have an unacceptable impact on the development and presentation to the streetscape.

f. Floor Levels

The floor levels of the dwellings have not been constructed at the levels approved under the original development consent. The differences in floor levels vary between -1.56 metres below and +1.78 metres above the approved levels.

Given the site's location at the intersection of three roads (Feldspar Rd, Emerald Drive and the private access road to Eagle Vale Shopping Centre), the variation in floor levels is not likely to have an unacceptable impact on adjoining development, particularly the residential dwellings located to the west of the site.

Equally, it is not anticipated that the potential for overlooking between the units would change. Subsequently, there would be a negligible impact on adjoining land uses.

In this regard, it is considered that the floor level changes sought would not have an unacceptable impact in this instance.

g. Schedule of Finishes

The amended schedule of finishes is not inconsistent with the original approval however considered acceptable in the circumstances.

h. Amended Landscape Plan

An amended landscape plan has been submitted to accompany the approved landscape plan to reflect the modifications sought. It is considered that the amended landscaping scheme is acceptable in this instance.

3. Public Participation

The proposed development was notified to adjoining land owners in accordance with the provisions of Development Control Plan No.87 – Public Notification and Public Exhibition Policy for a period of 14 days from 17 May 2013 to 31 May 2013. In addition the application made was publicly exhibited in accordance with the provisions of Section 96AA of the *Environmental Planning and Assessment Act 1979* for 14 days between 3 September 2013 and 17 September 2013 (post receipt of all documents required for public notification).

During this period Council did not receive any submissions objecting to the proposed development.

4. Conclusion

The subject application has been lodged pursuant to Section 96AA of the *Environmental Planning and Assessment Act 1979* to modify a Land and Environment Court approved consent for the construction of 18 three bedroom multi dwellings at No. 4 Feldspar Road, Eagle Vale.

The application is seeking to formalise unauthorised variations that have been constructed and are inconsistent with the plans approved by the Court.

Giving regard to the basis of the original determination by the Court, it is considered that the modifications sought would not have unacceptable impact on the use of the site for medium density residential development and will not have an unacceptable impact on adjoining land uses.

Officer's Recommendation

That development application 202/2001/DA-M/A for the modification of the Land and Environment Court approved development consent F202/2001 to regularise unauthorised works at the existing development site at No. 4 Feldspar Road, Eagle Vale be approved subject to conditions outlined in Attachment 1, being generally consistent with the conditions issued by the Land and Environment Court in judgement 11012 of 2001, dated 23 May 2002.

Committee's Recommendation: (Kolkman/Oates)

That the Officer's Recommendation be adopted.

CARRIED

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

Voting against the Committee's Recommendation: nil.

Council Meeting (Greiss/Lake)

That the Officer's Recommendation be adopted.

Council Minute Resolution Number 218

That the Officer's Recommendation be adopted.

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

Voting against the Council Resolution: nil.

Note: Councillor Thompson was absent at the time of the voting on this item.

ATTACHMENT 1

Recommended Conditions of Consent

1. **Approved Plans and Documentation** – The development shall take place in accordance with the approved development plans reference Nos. DA01, DA01.1, DA02 and DA03 revisions D dated 30 April 2012 except as modified by any condition of this consent.

The modified development (DA 202/2001/A) shall take place in accordance with the approved development plans containing Council's approved development stamp, except as modified in red and/or any conditions of this consent.

THE SITE

The following conditions have been applied to ensure that the land and/or building will be developed so as to minimise impact on the amenity of the neighbourhood and environment.

2. **Prescribed Conditions** – for the purpose of Section 80A(11) of the Act, the following conditions are prescribed in relation to this development:
 - a) that the work (other than work relating to the erection of a temporary building) must be carried out in accordance with the provisions of the Building Code of Australia (as in force on the date the application for the relevant construction certificate was made)
 - b) 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.

This condition does not apply to the extent to which an exemption is in force under Clauses 187 or 188, subject to the terms of any condition or requirement referred to in Clause 187 (6) or 188(4).

3. **Public Property** – The applicant or the applicant's agent shall advise Council of any damage to property controlled by Council which adjoins the site including kerbs, gutters, footpaths, walkways, reserves and the like, prior to commencement of any work on the site. Failure to identify existing damage will result in all damage detected after completion of the building work being repaired at the applicant's expense.

The kerb, gutter and footpath adjoining the site shall be kept clear of soil and debris during the course of construction. Should clearing of the kerb and gutter be necessary, the work will be completed by Council at the applicant's expense (to ensure adequate protection of Council assets).

THE DEVELOPMENT

The following condition/s have been applied to ensure that the land and/or building will be developed so as to minimise impact on the local environment and to achieve the objectives of the relevant planning instruments.

4. **Pollution Warning Sign** – Council's sign issued with the Development Consent, promoting the protection of our waterways must be displayed on the most prominent point of the building site that is visible to both the street and the site workers. The sign must be erected on site prior to work commencing and maintained for the duration of work on the site. NOTE: the sign will be provided by Council free of charge, however, if lost or destroyed, it must be replaced at the cost of the applicant. (To ensure compliance with Campbelltown DCP No. 112 – Erosion and Sediment Control).
 5. **Compliance Certificates** – Compliance Certificates (or reports from a Company or individual professionally experienced and qualified to give that evidence and containing documented authoritative evidence of compliance with the specifications, drawing and development conditions) shall be obtained for the following prior to issue of the Occupation Certificate:
 - a) Service Authority Clearance – prior to placement of vehicle crossing construction
 - b) Road Restoration Clearance – from Council
 - c) Conditions of Development Consent
 6. **Design and Investigation by Council** – Where Council design and/or investigation is required for any works necessitated by the development costs shall be met by the developer. (Applied to ensure that the land and or building will be developed in a way which will minimise impact on the local environment and achieve the objectives of the relevant Planning Instruments).
 7. **Footpath and Vehicular Crossing Levels** – Footpath and vehicle crossing levels are to be obtained from Council prior to the commencement of work. In this regard, an application should be lodged with Council on the prescribed form. (Applied to ensure that the land and or building will be developed in a way which will minimise impact on the local environment and achieve the objectives of the relevant Planning Instruments).
 8. **Geotechnical Report** – A geotechnical report from a NATA registered laboratory appointed by the applicant is to be provided which indicates that the land will not be subject to subsidence, slip, slope failure or erosion. In this regard two copies of the report shall be provided to the Principal Certifying Authority with the application for the Occupation Certificate. (Applied to ensure that the land and or building will be developed in a way which will minimise impact on the local environment and achieve the objectives of the relevant Planning Instruments).
 9. **Civil Works/Building Works** – A final engineering inspection and clearance for all civil works/building works associated with the development is required prior to the release of the Occupation Certificate. (Applied to ensure that the land and or building will be developed in a way which will minimise impact on the local environment and achieve the objectives of the relevant Planning Instruments).
-

10. **Erosion and Sediment Control Plan** – An Erosion and Sediment Control Plan showing how erosion is to be minimised and sediment trapped for the purpose of minimising water pollution shall be submitted to and approved by the Principal Certifying Authority prior to initiating any activity that has the potential to disrupt the soil surface (To ensure compliance with Campbelltown DCP No. 112 – Erosion and Sediment Control).
 11. **Work on Public Land** – Now work shall be undertaken within adjoining public lands without the prior written consent of Council. The applicant is to liaise with Council prior to commencing design works, and Council's approval of design plans and consent in writing for the work on public land shall be obtained prior to issue of the Construction Certificate. All inspections, approval and restoration of such work shall be undertaken by Council at the applicant's expense unless otherwise approved in writing. (Applied to ensure that the land and or building will be developed in a way which will minimise impact on the local environment and achieve the objectives of the relevant Planning Instruments).
 12. **Public Safety** – Any works undertaken in a public place are to be maintained in a safe condition at all times. In this regard, the applicant shall ensure that a safe fully signposted passage minimum 1.2 metre wide, separated from the works and moving vehicles by suitable barriers and lights, is maintained for pedestrians at all times and that traffic control is undertaken and maintained strictly in accordance with AS 1742.3 (1996), the requirements set out in the RTA manual "Traffic Control at Work Sites" 1998, all applicable Traffic Management and Control Plans and that any Work Cover Authority requirements are met. 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. (Applied to ensure that the land and/or building will be developed in a way which will minimise impact on the local environment and achieve the objectives of the relevant Planning Instruments).
 13. **External Finishes** – The external finishes shall be in accordance with the schedule of finishes nominated within the "Statement of Environmental Effects" by JBA Berkhout, page 9, dated March 2001, as illustrated on the approved development plan Reference DA02 Revision D dated 30 April 2002.

In addition, subject to this modified development consent, the face brick finishes as proposed shall form part of this modification.
 14. **Driveway Materials** – The developer shall reduce the visual impact of the driveway and car parking areas by utilising materials other than plain concrete or bitumen. The choice of materials/colours shall compliment the external finishes of the development and be submitted to the consent authority for approval prior to issuing an Occupation Certificate (including Interim Occupation Certificate). The internal driveways shall be of earthy/recessive tones.
 15. **Landscaping Plan** – The development site shall be landscaped and maintained with lawns and advanced shrubs and trees in accordance with the approved landscape concept plan No. 01-102 drawn by Pfeiffer Landscape Architects dated 7 March 2001 except to the extent of any inconsistency with the approved development plans nominated in Condition 1 of this consent.
-

Landscaping requirements include ongoing maintenance by the property owner/s to ensure the standard fencing and landscaping to the street is adequately maintained.

The modified landscape plan forming part of this development consent shall be in accordance with approved Drawing No. 1427-01 Issue D dated November 2012 prepared by Planspec Building Design.

'Open Style' fencing of the development shall take place in accordance with 'Typical Fence Panel Detail' with approved Drawing No. 1427-02 Issue C dated March 2013 prepared by Planspec Building Design. Colourbond style fencing is presenting to the street or other public areas in not permitted.

16. **Landscaping Bond** – Deleted.
17. **Existing Vegetation** – Existing trees shall be left undisturbed except where roads drainage, site regrading or buildings are proposed. The Contractor shall suitably fence off those trees to be retained in accordance with the approved plans. (Environmental Planning and Assessment Act)
18. **Garbage Collection** – Each dwelling shall retain individual garbage/recyclable receptacles. In this regard the common garbage storage areas marked on the approved plans shall be deleted and appropriately landscaped.

INSPECTIONS – BUILDING WORK

The following conditions have been applied to ensure that the development is inspected at each stage of construction.

The following stages of construction shall be inspected by an Accredited Person, Council or other suitably qualified person (as applicable), and documentary evidence of compliance with the relevant terms of the approval/standards of construction detailed in the Building Code of Australia is to be obtained prior to proceeding to the subsequent stages of construction.

19. **Pier Holes** – The pier holes before they are filled with concrete.
 20. **Steel Work** – The steelwork when in position and before concrete is poured. (footings, lintels, beams, columns, floors, walls, swimming pools or like).
 21. **Framework** – The framework including wind bracing and roof members when completed and prior to the fixing of any internal linings.
 22. **Wet Area** – The wet area damp-proofing and flashing before covering.
 23. **Rainwater Drains** – The rainwater drainage lines within the property boundaries when completed and before covering.
 24. **Final** – The development is completed and before occupation or use is commenced. This shall include the issuing of a fire safety certificate in accordance with Part 7B Divisions 1 to 5 of the Environmental Planning and Assessment Amendment Regulations, 1998.
-

Note: If Council has been nominated as the Principal Certifying Authority, all inspections required by this consent shall be carried out by Council, unless otherwise arranged. Work must not proceed until approval for each inspection has been obtained. Council is required to carry out the final inspection of the development to allow the issue of the Occupation Certificate.

It should be further noted that when final clearance is given by the Planning and Development Department for building work, a final clearance may also be required from the City Engineer's Road Restoration Overseer in regard to the condition of the kerb/gutter and footpath openings.

INSPECTIONS – CIVIL WORKS

The following conditions have been applied to ensure that the development is constructed in accordance with the development approval.

The following stages of construction shall be inspected by an Accredited Person, Council or other suitably qualified person (as applicable). A Compliance Certificate or other documentary evidence of compliance with the relevant terms of the approval/standards is to be obtained prior to proceeding to the subsequent stages of construction.

25. **Erosion and Sediment Control** – (1) direction/confirmation of required measures (2) after installation and prior to commencement of earthworks (3) as necessary until completion of work.
26. **Overland flowpaths** – After shaping and prior to topsoil/turf placement.
27. **Vehicle crossings or Laybacks** – Prior to pouring concrete.
28. **Final Inspection** – All outstanding works.

CONSTRUCTION

The following condition/s have been applied to ensure that the development complies with all technical requirements.

29. **Floor Level** – The floor level of all habitable rooms shall be a minimum 300mm above finished ground level, when measured 1.0m clear of the external wall. (Flood Management)
 30. **Structural Engineering Details** – No building works shall commence until details prepared by a practising structural engineer have been submitted to and approved by Council or an Accredited Person for concrete and steel structural elements, and retaining walls. (To ensure the structural adequacy of the building and compliance with the Building Code of Australia).
 31. **Construction Certificate** – The development consent relates to the erection of residential dwellings. In this regard construction work shall not commence until a Construction Certificate has been issued.
-

- 32. Door to Sanitary Compartments** – All doors into sanitary compartments must either open outwards, slide or be readily removable from outside the compartment unless there is a clear space of 1.2 metre between the closet pan within the compartment and the nearest part of the doorway to comply with Part 3.8.3.3 of the Building Code of Australia.

PUBLIC RESERVE AND COMMUNITY FACILITIES

The following condition/s have been applied to ensure that the development and/or subdivision has been provided with adequate public reserve land and community facilities in accordance with Council's adopted Contributions Plans.

- 33. Open Space Contribution** – An Open Space Contribution equivalent to an area of 1692.9m² shall be provided. The Contribution will be based on Council's Open Space Contribution Rate applicable at the time of payment. The Contribution shall be used by Council for the acquisition and development of open space in the area. The subdivision certificate/construction certificate shall not be issued until the open space contribution is paid to Council. (Council's Open Space Policy)
- 34. Community Facilities and Services** – A monetary contribution shall be provided for the provision of community facilities and services in accordance with the adopted Section 94 Contributions Plan. The exact amount of the contribution will be calculated at the rate applicable at the time of payment, noting that the current rate is \$1365.27 per dwelling/lot.

In accordance with Section 94 of the Environmental Planning and Assessment Act, this contribution is for the provision of community facilities as identified in Council's Contributions Plan No. 1, a copy of which may be inspected at Campbelltown City Council, cnr Queen and Broughton Streets, Campbelltown, during normal business hours.

OFF-STREET CAR PARKING AND VEHICLE SERVICING

The following condition/s have been applied to ensure that the development has provided adequate car parking and vehicular servicing areas and to prevent conflict within the public road system.

- 35. Car Parking Spaces** – Five 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 (as amended).

PEST CONTROL

The following condition/s have been applied to ensure that the development is suitably protected from pests in accordance with AS3660.1.

- 36. Termite Control** – The building shall be protected for subterranean termites in accordance with AS 3660.1 and Council's Termite Management Policy. (Building Code of Australia)
-

- 37. Certification** – Certification from a licensed pest controller shall be submitted to the consent authority certifying that the termite protection system installed in the building complies with AS3660.01 and Council's Termite Management Policy.

SERVICES

The following condition/s have been applied to ensure that the adequate utility installations are provide to the site to service the development and to satisfy the requirements of the relevant planning instrument.

- 38. Integral Energy Clearance** – The developer shall submit to Council a letter from Integral Energy stating that all its requirements and any conditions of this consent have been satisfied prior to release of the Construction Certificate. Application shall be made to Contestabel Works, Network Projects, Integral Energy, PO Box 6366, Blacktown NSW 2148.
- 39. Sydney Water Clearance** – The development must obtain a Section 73 Compliance Certificate under the Sydney Water Act, 1994 from Sydney Water stating that satisfactory arrangements have been made with Sydney Water for the amplification and/or reticulation of water and sewerage services to the land. To obtain the Section 73 Certificate, Sydney may require you to construct works and/or pay developer charges.

Sydney Water's Notice of Requirements must be obtained prior to release of the Construction Certificate. This is to avoid problems in servicing your development and adverse impacts on lot layout or the design of buildings and associated facilities, particularly driveways and landscaping.

The final Section 73 Certificate must be provided to the Principal Certifying Authority prior to issue of the final inspection compliance certificate.

Accordingly, you should make immediate application to Sydney Water to avoid problems in servicing your development. Application should be made to the Urban Development Team, Sydney Water, Cnr Bigge & Moore Streets, Liverpool 2170 (PO Box 557, Liverpool 2170 – Ph: 132 092).

- 40. Telstra** – The applicant is advised to contact Telstra to satisfy its requirements in relation to services to the proposed development, particularly the provision of conduit and cabling for telecommunication services.
- 41. Optus Clearance** – the applicant is advised to contact Optus to satisfy any of its requirements in relation to the proposed development, particularly the relocation of any existing services.

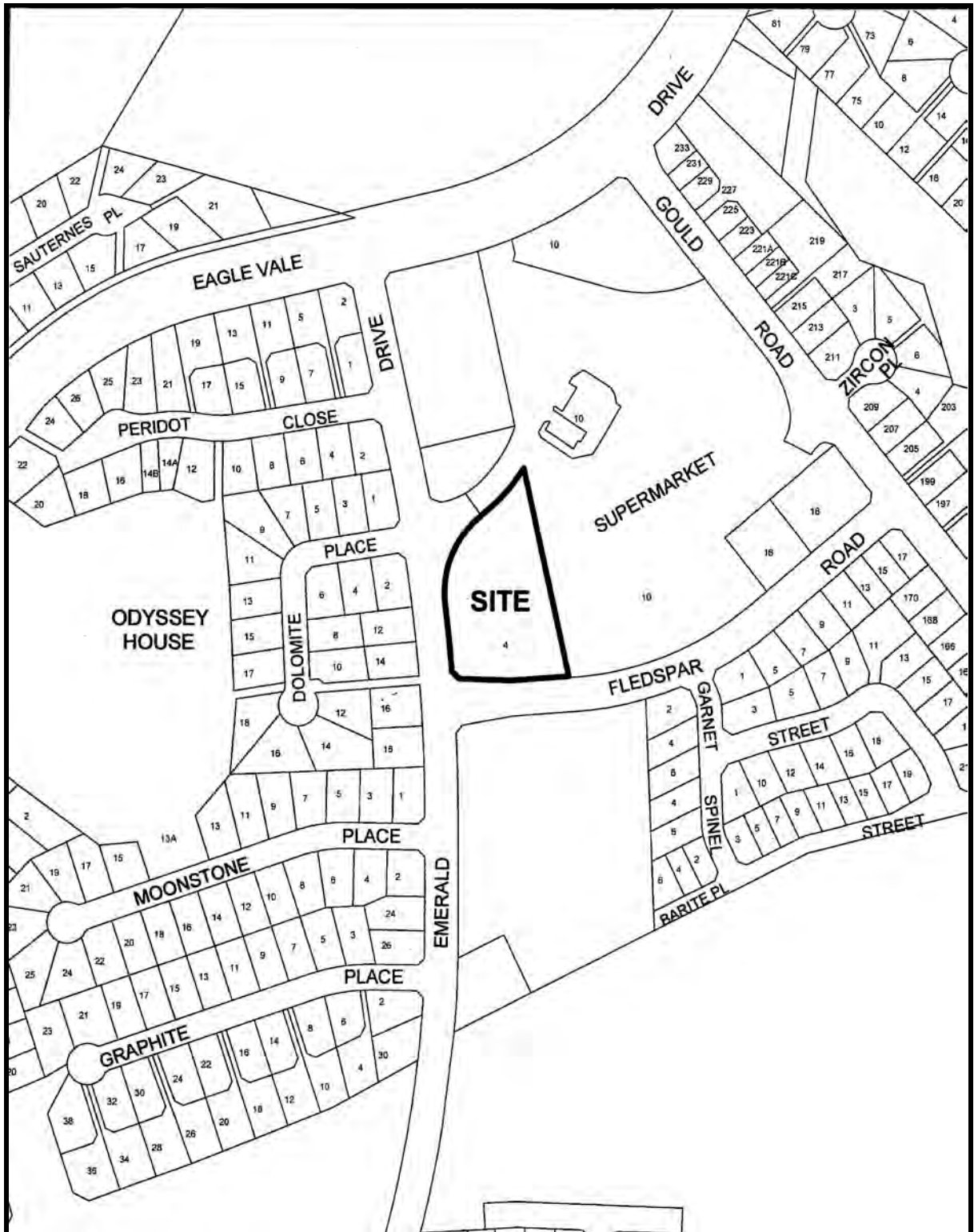
POLLUTION CONTROL – WASTE MANAGEMENT

The following condition/s have been applied to facilitate a reduction in waste going to landfill in accordance with the *Protection of the Environment Operations Act 1997*.

- 42. Waste Management Plan** – Section two of Council's standard Waste Management Plan is to be completed, to the satisfaction of Council's Manager of Development and Building, prior to the issue of the Construction Certificate for the development. (To ensure that Waste Management Plans are submitted at the appropriate time and approved by Council).

End of Conditions

ATTACHMENT 2



Locality Plan

Lot 102 DP 856454, No. 4 Feldspar Road, Eagle Vale

ATTACHMENT 8

In the Land and Environment Court of New South Wales

No. 11012 of 2001

**Restifa and Partners Pty
Ltd**

Applicant

**Campbelltown City
Council**

Respondent

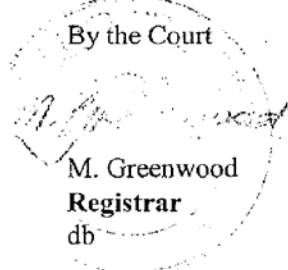
Order

The Court orders by consent that:

1. The appeal be upheld.
2. The development application lodged by the Applicant with the Respondent on 16 March, 2001 for the erection of 18 two storey townhouses on Lot 102 DP 856454 corner of Emerald Drive and Feldspar Road, Eaglevale is determined by the granting of consent subject to the conditions set out in the annexure "A" hereto.
3. The exhibits be returned except for Exhibit 1.

Ordered: 23 May 2002

By the Court


M. Greenwood
Registrar
db

Appeal No. 11012 of 2001

Conditions of development consent

Annexure A

Restifa and Partners Pty Ltd

v

Campbelltown City Council

1. **APPROVED PLANS & DOCUMENTATION** – The development shall take place in accordance with the approved development plans reference Nos. DA01, DA01.1, DA02 and DA03 revisions D dated 30 April 2002 except as modified by any conditions of this consent.

THE SITE

The following conditions have been applied to ensure that the land and/or building will be developed so as to minimise impact on the amenity of the neighbourhood and environment.

2. **PRESCRIBED CONDITIONS** - For the purposes of Section 80A(11) of the Act, the following conditions are prescribed in relation to this development:-
 - (a) that the work (other than work relating to the erection of a temporary building) must be carried out in accordance with the provisions of the Building Code of Australia (as in force on the date the application for the relevant construction certificate was made)
 - (b) 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.

This condition does not apply to the extent to which an exemption is in force under Clauses 187 or 188, subject to the terms of any condition or requirement referred to in Clause 187(6) or 188(4).

3. **PUBLIC PROPERTY** - The applicant or the applicant's agent shall advise Council of any damage to property controlled by Council which adjoins the site including kerbs, gutters, footpaths, walkways, reserves and the like, prior to commencement of any work on the site. Failure to identify existing damage will result in all damage detected after completion of the building work being repaired at the applicant's expense.

Appeal No. 11012 of 2001

The kerb, gutter and footpath adjoining the site shall be kept clear of soil and debris during the course of construction. Should clearing of the kerb and gutter be necessary, the work will be completed by Council at the applicant's expense. (To ensure adequate protection of Council assets.)

THE DEVELOPMENT

The following condition/s have been applied to ensure that the land and/or building will be developed so as to minimise impact on the local environment and to achieve the objectives of the relevant planning instruments.

4. **POLLUTION WARNING SIGN** – Council's sign issued with the Development Consent, promoting the protection of our waterways must be displayed on the most prominent point of the building site that is visible to both the street and site workers. The sign must be erected on site prior to work commencing and maintained for the duration of work on the site. NOTE: The sign will be provided by Council free of charge, however, if lost or destroyed, it must be replaced at the cost of the applicant. (To ensure compliance with Campbelltown DCP No. 112 - Erosion and Sediment Control.)
5. **COMPLIANCE CERTIFICATES** - Compliance Certificates (or reports from a Company or individual professionally experienced and qualified to give that evidence and containing documented authoritative evidence of compliance with the specifications, drawings, and development conditions) shall be obtained for the following prior to issue of the Occupation Certificate:
 - (a) *Service Authority Clearance - prior to placement of vehicle crossing construction.*
 - (b) *Road Restoration Clearance - from Council.*
 - (c) *Conditions Of Development Consent.*

Two collated copies of any related plans, documents, reports, forms or other evidence shall accompany the above documents.

6. **DESIGN AND INVESTIGATION BY COUNCIL** - Where Council design and/or investigation is required for any works necessitated by the development, costs shall be met by the developer. (Applied to ensure that the land and or building will be developed in a way which will minimise impact on the local environment and achieve the objectives of the relevant Planning Instruments)
7. **FOOTPATH AND VEHICULAR CROSSING LEVELS** - Footpath and vehicular crossing levels are to be obtained from Council prior to the commencement of work. In this regard, an application should be lodged with Council on the prescribed form. (Applied to ensure that the land and or building will be developed in a way which will minimise impact on the local environment and achieve the objectives of the relevant Planning Instruments)

Appeal No. 11012 of 2001

8. **GEOTECHNICAL REPORT** - A geotechnical report from a NATA registered laboratory appointed by the applicant is to be provided which indicates that the land will not be subject to subsidence, slip, slope failure or erosion. In this regard two copies of the report shall be provided to the Principal Certifying Authority with the application for the Occupation Certificate. (Applied to ensure that the land and or building will be developed in a way which will minimise impact on the local environment and achieve the objectives of the relevant Planning Instruments)
9. **CIVIL WORKS/BUILDING WORKS** - A final engineering inspection and clearance for all civil works/building works associated with the development is required prior to the release of the Occupation Certificate. (Applied to ensure that the land and or building will be developed in a way which will minimise impact on the local environment and achieve the objectives of the relevant Planning Instruments)
10. **EROSION AND SEDIMENT CONTROL PLAN** - An Erosion and Sediment Control Plan showing how erosion is to be minimised and sediment trapped for the purpose of minimising water pollution shall be submitted to and approved by the Principal Certifying Authority prior to initiating any activity that has the potential to disrupt the soil surface. (To ensure compliance with Campbelltown DCP No. 112 - Erosion and Sediment Control.)
11. **WORK ON PUBLIC LAND** - No work shall be undertaken within adjoining public lands without the prior written consent of Council. The applicant is to liaise with Council prior to commencing design works, and Council's approval of design plans and consent in writing for the work on public land shall be obtained prior to issue of the Construction Certificate. All inspections, approval and restoration of such work shall be undertaken by Council at the applicant's expense unless otherwise approved in writing. (Applied to ensure that the land and or building will be developed in a way which will minimise impact on the local environment and achieve the objectives of the relevant Planning Instruments)
12. **PUBLIC SAFETY** - Any works undertaken in a public place are to be maintained in a safe condition at all times. In this regard, the applicant shall ensure that a safe fully signposted passage minimum 1.2 metres wide, separated from the works and moving vehicles by suitable barriers and lights, is maintained for pedestrians at all times and that traffic control is undertaken and maintained strictly in accordance with AS 1742.3 (1996), the requirements set out in the RTA manual "Traffic Control at Work Sites" 1998, all applicable Traffic Management and Control Plans and that any Work Cover Authority requirements are met. 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. (Applied to ensure that the land and/or building will be developed in a way which will minimise impact on the local environment and achieve the objectives of the relevant Planning Instruments.)

Appeal No. 11012 of 2001

13. EXTERNAL FINISHES - The external finishes shall be in accordance with the schedule of finishes nominated within the "Statement of Environmental Effects" by JBA Berkhout, page 9, dated March 2001, as illustrated on the approved development plan Reference DA02 Revision D dated 30 April 2002.
14. DRIVEWAY MATERIALS - The developer shall reduce the visual impact of the driveway and car parking areas by utilising materials other than plain concrete or bitumen. The choice of materials/colours shall compliment the external finishes of the development and be submitted to the consent authority for approval prior to issuing a Construction Certificate.
15. LANDSCAPING PLAN - The development site shall be landscaped and maintained with lawns and advanced shrubs and trees in accordance with the approved landscape concept plan No. 01-102 drawn by Pfeiffer Landscape Architects dated 7 March 2001 except to the extent of any inconsistency with the approved development plans nominated in Condition 1 of this consent.

Landscaping requirements include ongoing maintenance by the property owner/s to ensure the standard fencing and landscaping to the street is adequately maintained.

16. LANDSCAPING BOND - A cash bond or bank guarantee for the sum of \$20,000 is to be lodged with the consent authority to ensure the effective establishment and maintenance of landscaping. The bond or guarantee is to be lodged with consent authority prior to the issuing of a Construction Certificate and will be returned on the following basis:

50% on completion of landscaping in accordance with the approved plans;

25% six months after the completion date of the landscaping, subject to the consent authority being satisfied that the maintenance program is proceeding satisfactorily;

25% residue to be refunded twelve months after completion, subject to satisfactory maintenance of the landscape area.

17. EXISTING VEGETATION - Existing trees shall be left undisturbed except where roads, drainage, site regrading or buildings are proposed. The Contractor shall suitably fence off those trees to be retained in accordance with the approved plans. (Environmental Planning and Assessment Act)
18. GARBAGE COLLECTION - Each dwelling shall retain individual garbage/recyclable receptacles. In this regard the common garbage storage areas marked on the approved plans shall be deleted and appropriately landscaped.

Appeal No. 11012 of 2001

INSPECTIONS - BUILDING WORK

The following conditions have been applied to ensure that the development is inspected at each stage of construction.

The following stages of construction shall be inspected by an Accredited Person, Council or other suitably qualified person (as applicable), and documentary evidence of compliance with the relevant terms of the approval/standards of construction detailed in the Building Code of Australia is to be obtained prior to proceeding to the subsequent stages of construction:

19. PIER HOLES - The pier holes before they are filled with concrete.
20. STEELWORK - The steelwork when in position and before concrete is poured. (footings, lintels, beams, columns, floors, walls, swimming pools or like).
21. FRAMEWORK - The framework including wind bracing and roof members when completed and prior to the fixing of any internal linings.
22. WET AREA - The wet area damp-proofing and flashing before covering.
23. RAINWATER DRAINS - The rainwater drainage lines within the property boundaries when completed and before covering.
24. FINAL - The development is completed and before occupation or use is commenced. This shall include the issuing of a fire safety certificate in accordance with Part 7B Divisions 1 to 5 of the Environmental Planning and Assessment Amendment Regulations, 1998.

NOTE: If Council has been nominated as the Principal Certifying Authority, all inspections required by this consent shall be carried out by Council, unless otherwise arranged. Work must not proceed until approval for each inspection has been obtained. Council is required to carry out the final inspection of the development to allow the issue of the Occupation Certificate.

It should be further noted that when final clearance is given by the Planning and Development Department for building work, a final clearance may also be required from the City Engineer's Road Restoration Overseer in regard to the condition of the kerb/gutter and footpath openings.

INSPECTIONS - CIVIL WORKS

The following conditions have been applied to ensure that the development is constructed in accordance with the development approval.

Appeal No. 11012 of 2001

33. OPEN SPACE CONTRIBUTION - An Open Space Contribution equivalent to an area of 1692.9 m². shall be provided. The Contribution will be based on Council's Open Space Contribution Rate applicable at the time of payment. The Contribution shall be used by Council for the acquisition and development of open space in the area. The subdivision certificate/construction certificate shall not be issued until the open space contribution is paid to Council. (Council's Open Space Policy)
34. COMMUNITY FACILITIES AND SERVICES - A monetary contribution shall be provided for the provision of community facilities and services in accordance with the adopted Section 94 Contributions Plan. The exact amount of the contribution will be calculated at the rate applicable at the time of payment, noting that the current rate is \$ 1365.27 per dwelling/lot.

In accordance with Section 94 of the Environmental Planning and Assessment Act, this contribution is for the provision of community facilities as identified in Council's Contributions Plan No. 1, a copy of which may be inspected at Campbelltown City Council, Cnr Queen and Broughton Streets, Campbelltown, during normal business hours.

OFF-STREET CAR PARKING AND VEHICULAR SERVICING

The following condition/s have been applied to ensure that the development has provided adequate car parking and vehicular servicing areas and to prevent conflict within the public road system.

35. CAR PARKING SPACES - 41 off-street car parking spaces, including access driveways, are to be constructed on the site in accordance with Council's Off-Street Car Parking Policy - Development Control Plan No. 52. In this regard, the two visitor spaces located between Units 1 and 7 shall be deleted due to inadequate manoeuvring. One disabled car parking spaces shall be provided as part of this total requirement, having dimensions of 3.0 metres x 5.5 metres and be distinctly signposted. Engineering details for the construction of these areas shall be lodged for approval with the Construction Certificate.

PEST CONTROL

The following condition/s have been applied to ensure that the development is suitably protected from pests in accordance with AS3660.1.

36. TERMITE CONTROL - The building shall be protected for subterranean termites in accordance with AS 3660.1 and Council's Termite Management Policy. (Building Code Australia)
37. CERTIFICATION - Certification from a licensed pest controller shall be submitted to the consent authority certifying that the termite protection system installed in the building complies with AS3660.1 and Council's Termite Management Policy.

Appeal No. 11012 of 2001

SERVICES

The following condition/s have been applied to ensure that adequate utility installations are provided to the site to service the development and to satisfy the requirements of the relevant planning instrument.

38. **INTEGRAL ENERGY CLEARANCE** - The developer shall submit to Council a letter from Integral Energy stating that all its requirements and any conditions of this consent have been satisfied prior to release of the Construction Certificate. Application shall be made to Contestable Works, Network Projects, Integral Energy, PO Box 6366, Blacktown NSW 2148.
39. **SYDNEY WATER CLEARANCE** - The development must obtain a Section 73 Compliance Certificate under the Sydney Water Act, 1994 from Sydney Water stating that satisfactory arrangements have been made with Sydney Water for the amplification and/or reticulation of water and sewerage services to the land. To obtain the Section 73 Certificate, Sydney may require you to construct works and/or pay developer charges.

Sydney Water's Notice of Requirements must be obtained prior to release of the Construction Certificate. This is to avoid problems in servicing your development and adverse impacts on lot layout or the design of buildings and associated facilities, particularly driveways and landscaping.

The final Section 73 Certificate must be provided to the Principal Certifying Authority prior to issue of the final inspection compliance certificate.

Accordingly, you should make immediate application to Sydney Water to avoid problems in servicing your development. Application should be made to the Urban Development Team, Sydney Water, Cnr Bigge & Moore Streets, Liverpool 2170 (PO Box 557, Liverpool 2170 - Ph: 132 092).

40. **TELSTRA** - The applicant is advised to contact Telstra to satisfy its requirements in relation to services to the proposed development, particularly the provision of conduit and cabling for telecommunications services.
41. **OPTUS CLEARANCE** - The applicant is advised to contact Optus to satisfy any of its requirements in relation to the proposed development, particularly the relocation of any existing services.

POLLUTION CONTROL - WASTE MANAGEMENT

The following conditions have been applied to facilitate a reduction in waste going to landfill in accordance with The Protection Of The Environment Operations Act, 1997.

Appeal No. 11012 of 2001

The following stages of construction shall be inspected by an Accredited Person, Council or other suitably qualified person (as applicable). A Compliance Certificate or other documentary evidence of compliance with the relevant terms of the approval/standards is to be obtained prior to proceeding to the subsequent stages of construction.

25. EROSION AND SEDIMENT CONTROL - (1) direction/confirmation of required measures (2) after installation and prior to commencement of earthworks (3) as necessary until completion of work.
26. OVERLAND FLOWPATHS - After shaping and prior to topsoil/turf placement.
27. VEHICLE CROSSINGS OR LAYBACKS - Prior to pouring concrete.
28. FINAL INSPECTION - All outstanding works.

CONSTRUCTION

The following condition/s have been applied to ensure that the development complies with all technical requirements.

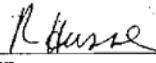
29. FLOOR LEVEL - The floor level of all habitable rooms shall be a minimum 300 mm above finished ground level, when measured 1.0 m clear of the external wall. (Flood Management)
30. STRUCTURAL ENGINEERING DETAILS - No building work shall commence until details prepared by a practising structural engineer have been submitted to and approved by Council or an Accredited Person for concrete and steel structural elements, and retaining walls. (To ensure the structural adequacy of the building and compliance with the Building Code of Australia).
31. CONSTRUCTION CERTIFICATE - This development consent relates to the erection of residential dwellings. In this regard construction work shall not commence until a Construction Certificate has been issued.
32. DOOR TO SANITARY COMPARTMENTS - All doors into sanitary compartments must either open outwards, slide or be readily removable from outside the compartment unless there is a clear space of 1.2 metre between the closet pan within the compartment and the nearest part of the doorway to comply with Part 3.8.3.3 of the Building Code of Australia.

PUBLIC RESERVE AND COMMUNITY FACILITIES

The following condition/s have been applied to ensure that the development and/or subdivision has been provided with adequate public reserve land and community facilities in accordance with Council's adopted Contribution Plans.

Appeal No. 11012 of 2001

42. WASTE MANAGEMENT PLAN - Section Two of Council's standard Waste Management Plan is to be completed, to the satisfaction of Council's Manager of Development and Building, prior to the issue of the Construction Certificate for the development. (To ensure that Waste Management Plans are submitted at the appropriate time and approved by Council.)


R R Hussey
Commissioner of the Court
db

3.3 Lot 1 Zouch Road, Denham Court - Section 82A Review Of Determination For Construction Of A Dwelling

3.3 Lot 1 Zouch Road, Denham Court - Section 82A Review of Determination for Construction of a Dwelling

Reporting Officer

Manager Development Services

Attachments

1. Recommended Reasons for Refusal of 82A Review of Determination (contained within this report)
2. Locality Plan (contained within this report)
3. Site Plan (distributed under separate cover)
4. Elevation Plans (distributed under separate cover)
5. Floor Plans (confidential - privacy and copyright)
6. Landscape Plan (confidential - privacy and copyright)

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

Purpose

To assist Council in its consideration and determination of the subject S82A application being a review of a previous refusal decision issued under delegated authority by Council in accordance with the relevant provisions of the *Environmental Planning and Assessment Act 1979* (the Act).

Property Description	Lot 1 DP 1039153, Lot 1 Zouch Road, Denham Court
Application No	1458/2013/DA-82A
Applicant	Ahmad Majoub
Owner	Abdulhalim Elbaf and Amne Elbaf
Statutory Provisions	Campbelltown (Urban Area) Local Environmental Plan 2002 Campbelltown (Sustainable City) Development Control Plan 2009 Development Control Plan No.49 – Rural Environmental Protection Subdivision and Dwelling Policy
Non Statutory	Campbelltown 2025 – Looking Forward
Date Received	12 July 2013

Report

History

A development application was received by Council on 22 April 2013 for the construction of a two storey dwelling and detached outbuilding (DA879/2013/DA-DW). The development application was made in order to regularise certain unauthorised construction works that have been undertaken on the subject land.

The development application for the dwelling and detached outbuilding was poorly made and failed to adequately address the relevant provisions of Section 79C of the Act and was subsequently refused by Council under delegated authority, on 25 June 2013.

The reasons for refusal included:

1. Pursuant to the relevant provisions of the *Environmental Planning and Assessment Act 1979*, it is considered that development consent cannot be granted retrospectively for the (already constructed) aspect of works being applied for under the application.
 2. Pursuant to the provisions of Section 79C(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, it is considered that the proposed development is inconsistent with Campbelltown (Urban Area) Local Environmental Plan 2002 with respect to protecting areas from inappropriate development.
 3. Pursuant to the provisions of Section 79C(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, it is considered that the proposed development is inconsistent with Campbelltown (Urban Area) Local Environmental Plan 2002 with respect to ensuring environmentally sensitive areas are protected.
 4. Pursuant to the provisions of Section 79C(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, it is considered that the proposed development is inconsistent with the objectives of the 7(d5) Environmental Protection 1 Hectare Minimum zone under Campbelltown (Urban Area) Local Environmental Plan 2002 with respect to protecting environmentally important land possessing scenic, aesthetic, ecological or conservation value.
 5. Pursuant to the provisions of Section 79C(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, it is considered that the proposed development is inconsistent with the objectives of the 7(d5) Environmental Protection 1 Hectare Minimum zone under Campbelltown (Urban Area) Local Environmental Plan 2002 with respect to the development being likely to have a detrimental effect on the quality and character or amenity in the locality.
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3.3 Lot 1 Zouch Road, Denham Court - Section 82A Review Of Determination For Construction Of A Dwelling

6. Pursuant to the provisions of Section 79C(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, it is considered that the proposed development is inconsistent with the objectives of the 7(d5) Environmental Protection 1 Hectare Minimum zone under Campbelltown (Urban Area) Local Environmental Plan 2002 with respect to dwellings (more than one) being prohibited development in the zone.
7. Pursuant to the provisions of Section 79C(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, it is considered that the proposed development is inconsistent with Campbelltown (Sustainable City) Development Control Plan with respect to, but not limited to, submission of incorrect and inaccurate plans, discrepancies between the unauthorised construction to date and submitted plans, failure to submit a BASIX Certificate, failure to address erosion and sediment control, failure to address cut and fill management, failure to submit details of retaining walls, failure to submit a detailed waste management plan and a materials and colour schedule.
8. Pursuant to the provisions of Section 79C(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, it is considered that the proposed development is inconsistent with Council's Development Control Plan No. 49 Rural Environmental Protection Subdivision and Dwelling Policy with respect to minimum setbacks from boundaries.
9. Pursuant to the provisions of Section 79C(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, it is considered that the proposed development is inconsistent with Council's Development Control Plan No. 49 Rural Environmental Protection Subdivision and Dwelling Policy with respect to appropriate tree preservation and landscaping.
10. Pursuant to the provisions of Section 79C(1)(b) of the *Environmental Planning and Assessment Act 1979*, the proposed development fails to demonstrate relevant Planning for Bushfire Protection statutory requirements being addressed.
11. Pursuant to the provisions of Section 79C(1)(b) of the *Environmental Planning and Assessment Act 1979*, the proposed development fails to demonstrate relevant flora and fauna legislation being addressed.
12. Pursuant to the provisions of Section 79C(1)(e) of the *Environmental Planning and Assessment Act 1979*, it is considered that in the circumstances of the case, approval of the development would set an undesirable precedent for similar inappropriate development and is therefore not in the public interest.

As a consequence of the refusal, a formal request for a review of the refusal decision has been made by the applicant pursuant to the relevant provisions of Section 82A of the *Environmental Planning and Assessment Act 1979*. This report details an assessment of the merits of the S82A application having regard to the proposed works, works undertaken to date and an assessment against relevant planning instruments.

3.3 Lot 1 Zouch Road, Denham Court - Section 82A Review Of Determination For Construction Of A Dwelling

The development was the subject of a Councillor site inspection on 17 September 2013.

The works on the land have ceased whilst the matter is dealt with by Council.

Introduction

As noted above, Council originally received a development application in April 2013 for the construction of a two storey dwelling and detached outbuilding at Lot 1 Zouch Road, Denham Court. The development sought consent to complete development works that had been partially constructed without the appropriate authority. The applicant has also made an application for a Building Certificate to regularise the physical works undertaken to date.

The original development proposal comprised the following main elements:

- Dwelling house with a standard floor layout consisting of a floor area of 347 square metres
- A sub floor level below the dwelling, consisting of a series of rooms with a floor area of 173 square metres. There was no internal physical access provided between each level. Each level is accessed externally and separate to one another
- A detached outbuilding that consisted of a series of rooms including rooms with floor wastes and a subfloor garage having a total floor area of 140 square metres.

A site inspection by Council officers revealed that the works undertaken at that time were inconsistent with the plans accompanying the original development application. The applicant has since submitted revised plans to accompany the subject Section 82A review application.

The current request for the review of Council's previous refusal now seeks development consent for a single dwelling. The s82A application now proposes to physically attach the main building to the originally shown and formerly detached proposed outbuilding at the rear, so as to form one building (dwelling).

The Land

The subject land is situated on the eastern side of Zouch Road (southern part) near its intersection with Keating Place. The land is located to the north of the M5 Motorway, but does not directly adjoin it.

The land has an area of 1.017 hectares and currently contains no vegetation. The land contains the partially constructed development for which consent is sought.

Land to the north comprises the recently released suburb of Bardia (Edmondson Park South) that is currently being transformed into urban and rural residential allotments. It is to be noted that land immediately to the north of the subject land has been designated as public open space under the approved Masterplan and Edmondson Park South Development Control Plan 2012 which is applicable to that land.

3.3 Lot 1 Zouch Road, Denham Court - Section 82A Review Of Determination For Construction Of A Dwelling

The land to the west includes similarly sized one hectare allotments that have been developed with single dwellings. Land to the south and east contains the M5 motorway. A vacant one hectare allotment is located to the east of the subject land. This undeveloped allotment is accessed via a handle that immediately adjoins the subject land's southern boundary.

The Proposal

An application requesting a review of the original determination of a recently refused development application (proposing the construction of a dwelling and outbuilding on the subject land), has been lodged pursuant to the relevant provisions of s82A of the *Environmental Planning and Assessment Act 1979* (the Act). The application has amended what was originally applied for in response to the initial reasons for refusal and now seeks consent for the completion of a partially constructed dwelling, fencing and landscaping and use of the completed building as a single dwelling/domicile. The original application refused under delegated authority, consisted of the construction of a single dwelling house and a detached outbuilding. For the purposes of review, pursuant to s82A of the Act, an applicant is allowed to amend a previously refused application, subject to the revised proposal being deemed to be substantially the same development to that which was considered previously. In this regard, the current proposal is considered to be substantially the same development.

The current proposal generally consists of a single dwelling incorporating:

- Lower ground floor that includes two storage rooms (one being of garage size with garage sized entry), shower/utility room, bar/wine cellar, rumpus, bedrooms No. 7 and 8, separate bathroom and internal stairwell
- Ground floor that includes multiple living and dining areas, four bathrooms, two toilet rooms, six bedrooms, two laundries, two kitchens and a double garage

The development also includes the construction of a masonry fence on part of the northern and eastern boundaries adjacent to the proposed dwelling and a retaining wall to the south and west of the partially constructed buildings. Details of the fence and retaining walls have not been provided with the plans accompanying the current s82A application.

Assessment

1. Other Provisions - Vision

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

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

3.3 Lot 1 Zouch Road, Denham Court - Section 82A Review Of Determination For Construction Of A Dwelling

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

The strategic directions relevant to this application are:

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

The proposed development is generally consistent with these directions.

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

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

It is considered that the development of a dwelling house on this land is not inconsistent with the Vision's relevant desired outcomes having regard to the proposed scale, function and environmental capacity and capability of the land.

2. Planning Provisions

The application has been assessed have regard to the matters for consideration prescribed under the *Environmental Planning and Assessment Act 1979*. Subsequently the following matters have been identified for further consideration and discussion.

2.1 Section 82A Review of Determination

The application has been made under the provisions of Section 82A of the *Environmental Planning and Assessment Act 1979*.

Relevant parts of Section 82A of the Act include:

- (1) If the consent authority is a council, an applicant may request the council to review a determination of the applicant's application, other than:
 - (a) a determination to issue or refuse to issue a complying development certificate
 - (b) a determination in respect of designated development
 - (c) a determination in respect of integrated development
 - (d) a determination made by the council under section 116E in respect of an application by the Crown.
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3.3 Lot 1 Zouch Road, Denham Court - Section 82A Review Of Determination For Construction Of A Dwelling

- (2) A Council must, on a request made in accordance with this section, conduct a review,
- (3A) In requesting a review, the applicant may make amendments to the development described in the original application, subject to subsection (4)(c).
- (4) The council may review the determination if:
 - (a) it has notified the request for review in accordance with:
 - (i) the regulations, if the regulations so require
 - (ii) a development control plan, if the council has made a development control plan that requires the notification or advertising of requests for the review of its determinations
 - (b) it has considered any submissions made concerning the request for review within any period prescribed by the regulations or provided by the development control plan, as the case may be
 - (c) in the event that the applicant has made amendments to the development described in the original application, the consent authority is satisfied that the development, as amended, is substantially the same development as the development described in the original application.
- (4A) As a consequence of its review, the council may confirm or change the determination.
- (8) If on the review the council grants development consent, or varies the conditions of a development consent, the council must endorse on the notice the date from which the consent, or the consent as varied, operates.
- (9) If on a review the council changes a determination, the changed determination replaces the earlier determination as from the date of the review.
- (10) If on a review the council grants development consent, or varies the conditions of a development consent, the council is entitled, with the consent of the applicant and without prejudice to costs, to have an appeal made under section 97 in respect of its determination withdrawn at any time prior to the determination of that appeal.
- (11) A decision on a review may not be further reviewed under this section.

It is considered that the proposed application can be made and reviewed by Council under Section 82A of the *Environmental Planning and Assessment Act 1979*.

3.3 Lot 1 Zouch Road, Denham Court - Section 82A Review Of Determination For Construction Of A Dwelling

In assessing this application for review of determination Council may confirm or change the original determination. Should Council confirm the determination, which stands as a refusal, Council may amend, by way of adding or deleting, reasons for refusal that formed part of the original determination, that take into account matters raised in the review application.

Should Council change the determination to an approval, standard and relevant conditions of consent would be applied to the development consent issued under this review.

2.2 Campbelltown (Urban Area) Local Environmental Plan 2002

The subject land is zoned 7(d5) – Environmental Protection 1 Hectare Minimum Zone under the provisions of Campbelltown (Urban Area) Local Environmental Plan 2002.

Under the Plan, the proposed development is defined as a ‘dwelling’. The relevant definition/s provided by the Plan is as follows:

A ‘dwelling’ is a ‘room or suite of rooms occupied or used, or so constructed or adapted as to be capable of being occupied or used, as a separate domicile’.

The Plan also defines a ‘dwelling house’ as ‘a building containing one, but no more than one, dwelling’.

Further, the Plan states ‘dwellings (other than dwelling houses and dual occupancies (attached))’ are prohibited under the 7(d5) – Environmental Protection 1 Hectare Minimum Zone, being the zone under which this land exists.

Whilst the proposal under the current s82A application is stated by the applicant to be a single dwelling or in other words, a ‘dwelling house’, the plans clearly show a proposal that (notwithstanding its capacity to be operated as a single dwelling or ‘dwelling house’) contains a suite of rooms and ancillary functional/utility areas that could be constructed and easily adapted and made capable of being used as two separate domiciles or two separate dwellings.

The factors that give weight to this opinion include the ease and ability of the ground floor component (that containing bedrooms No.4, 5 and 6, two bathrooms, a kitchen and lounge room, garage storage room and separate driveway access) to be physically separated from the rest of the building. Although the applicant is not currently seeking approval for a dual occupancy (two dwellings), it is important to note that notwithstanding the fact that a dual occupancy contains ‘dwellings’ (prohibited in the zone), ‘attached dual occupancies’ are specifically excluded from this prohibition and are a permissible form of development (with Council’s consent).

Following on from the above, the objectives of the 7(d5) – Environmental Protection 1 Hectare Minimum Zone are:

- (a) to conserve the rural-residential character of the land by maintaining a minimum area of 1 hectare for lots used for rural-residential living
 - (b) to protect environmentally important land and watercourses possessing scenic, aesthetic, ecological or conservation value
 - (c) to allow some diversity of development, but only where it is unlikely to have a detrimental effect on the quality and character of the locality or the amenity of any existing or proposed development in the locality.
-

3.3 Lot 1 Zouch Road, Denham Court - Section 82A Review Of Determination For Construction Of A Dwelling

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

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

The proposed development is considered to be generally consistent with at least one of the zone objectives.

2.3 Campbelltown Sustainable City Development Control Plan (SCDCP)

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

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

Although it could be argued that the development is generally consistent with some of the relevant aims of the SCDCP, serious consideration needs to be given to the design and siting of the proposed development in that it has given no regard to the SCDCP standards relating to building setbacks and the like. Council officers are also unsure (due to the lack of information provided) as to what natural environmental concerns and factors were considered in the assessment of the development prior to the commencement of the existing building works.

3.3 Lot 1 Zouch Road, Denham Court - Section 82A Review Of Determination For Construction Of A Dwelling

The following development controls within the SCDCP are raised to assist in Council's assessment of the relevant aspects of the proposed development that are not compliant with the Plan. It is noted that the applicant has provided additional information with the current s82A review application, responding to the reasons for the refusal of the original application.

Part 2.6 Flora, Fauna and Weed Management

Part 2.6.1(a) requires 'a flora and fauna assessment to be undertaken in accordance with DECC's Draft Threatened Biodiversity Survey and Assessment Guidelines for Developments and Activities and shall be submitted with a DA relating to land that contains native vegetation and/or habitat for threatened biodiversity'.

Comment: As part of the construction works carried out to date, it would appear from evidence available to Council through aerial photography, that the land (including adjacent private and public lands), were cleared of native vegetation during the carrying out of recent works on the land. Other than from evidence obtained from aerial photography, Council is now unable to determine the quality of the native vegetation and to whether the native vegetation held any significant habitat value. Council's documented information identifies the areas removed of vegetation as containing Cumberland Plain Woodland which is a Critically Endangered Flora Species. An infringement notice on the land owners for the unauthorised removal of vegetation has been issued by Council officers. Council officers will investigate the possibility having the lands revegetated following the determination of this application.

Part 2.12 Fencing and Retaining Walls

Part 2.12.2 requires that an applicant responds to the following where relevant to their development:

- Obtain development consent for retaining walls greater than 900mm
- Retaining walls greater than 900mm are designed and certified by a suitably qualified person
- Retaining walls designed to support proposed cut shall be setback 450mm from the side boundary containing the cut
- Any retaining wall shall not adversely alter surface flows to adjoining private land
- Any retaining wall shall be designed to be located wholly within the property.

Comment: Although not specifically included or discussed in the current s82A application, retaining walls have already been constructed on the land without prior development consent. The retaining wall existing along the property's northern boundary has an approximate length of 60 metres. The retaining wall existing approximately 6.0 metres east of the existing building structure has an approximate length of 38 metres. The retaining wall existing approximately 6.0 metres south of the existing building structure has an approximate length of 60 metres. The maximum height of the retaining wall system is approximately 1.6 metres at the south-eastern portion of the structure.

The original application did not, nor does the current s82A application provide an assessment against the retaining wall provisions of SCDCP. On investigation, it appears that the retaining wall constructed along the land's northern boundary has not been constructed in accordance with the relevant provisions of the SCDCP and may capture overland surface flows and direct those flows in a concentrated form towards adjoining private lands.

3.3 Lot 1 Zouch Road, Denham Court - Section 82A Review Of Determination For Construction Of A Dwelling

Further to this, the retaining wall has been constructed along the boundary of the subject land and as such, does not comply with the 450mm retaining wall setback standard of the SCDCP. Additionally, it would appear that no consent of the adjoining land owner has been provided for the retaining wall works undertaken along the boundary.

Part 3.7 Dwelling Houses, Domestic Outbuildings, Swimming Pools and Garden Flats

The original application considered the relevant controls of the SCDCP, as the applicant originally sought approval for a dwelling and outbuilding. It is to be noted that the outbuilding as originally proposed did not comply with all provisions relating to the construction of an outbuilding on non-urban land. The outbuilding exceeded maximum floor area permitted for outbuildings on land less than two hectares in area (150 square metres allowed) and had a height greater than the maximum allowable height of 4.5 metres (an approximate height of 6.6 metres was proposed).

Notwithstanding the above, this current application does not need to consider the outbuilding provisions of the SCDCP as the current application (by way of including a physical attachment between the two existing structures) treats the outbuilding as part of the main dwelling, and as such, the whole structure is being presented as one single dwelling.

The connection of the two buildings is proposed as part of the current s82A application.

2.4 Campbelltown Development Control Plan No.49 – Rural Environmental Protection Subdivision and Dwelling Policy

Although DCP No.49 has recently been repealed by the Council and as such, is no longer an instrument that can be relied upon for the purposes of assessment of new development applications, DCP No.49 is relevant for the purpose of assessing the current s82A application and carrying out a review of the refusal issued on the original application, as DCP No.49 was a relevant instrument of consideration during the assessment of the original application.

In this regard, Section C Clause 24 'Building Setbacks' of DCP No.49 relates to land having a minimum area of one hectare. Clauses 24(1) and (2) require that one and two storey dwellings be setback from the front boundary 35 metres and 50 metres (respectively).

The following table demonstrates the current proposal's non-compliance against the Plan's requirements for building setbacks.

DCP No.49 Clause	Control	Proposed/Constructed	Complies
24(1)	Single storey dwelling house shall maintain a 35 metre building setback from front boundary.	The proposed single storey component of the front elevation is 9.9 metres from the front boundary (adjacent to Zouch Road). The entry element of the dwelling is 9.04 metres from the front boundary.	No
24(2)	Two storey dwelling house shall maintain a 50 metre building setback from front boundary.	The two storey element of the dwelling is only located 10 metres from the front boundary.	No
24(3)	A dwelling house shall not be sited within 10 metres of a side or rear boundary.	The development is located 4.8 metres from the side boundary (northern boundary)	No

3.3 Lot 1 Zouch Road, Denham Court - Section 82A Review Of Determination For Construction Of A Dwelling

When giving regard to the dimensions of the subject land, the land is more than capable of supporting a development of similar proportions to that proposed under this application, whilst at the same time, complying with the relevant setback provisions for dwelling structures.

There are no known constraints on the land that would otherwise prevent the siting of the dwelling in compliance with the DCP setback controls. The DCP controls were devised so as to ensure appropriate siting of dwellings on lands within a rural residential setting.

It is of worth to note that Council's Sustainable City Development Control Plan 2012 which currently applies to the site, imposes the same setback requirements for the land as previously existed under Development Control Plan No. 49.

3. Public Participation

The Section 82A review application was notified to adjoining land owners (for a period of 14 days from 31 July 2013) in accordance with the provisions of Part 9 of Campbelltown Sustainable City Development Control Plan 2012.

During this period Council did not receive any submissions objecting to the proposed development.

4. Conclusion

An application made in accordance with s82A of the *Environmental Planning and Assessment Act, 1979* has been received by Council requesting a review of Council's (delegated) decision to refuse a development application to construct a single dwelling and outbuilding at Lot 1 DP1039153 (also known as Lot 1 Zouch Road), Denham Court. The applicant has now amended the original proposal in an attempt to respond to the reasons for refusal issued with the original determination and now seeks approval for a single dwelling only.

The subject land is zoned 7(d5) – Environmental Protection 1 Hectare Minimum Zone under the provisions of Campbelltown (Urban Area) Local Environmental Plan 2002.

The applicant has stated within the Statement of Environmental Effects accompanying the s82A application that “dwelling houses and ancillary development are permissible with consent in the zone”. CLEP 2002 states that ‘Dwellings (other than dwelling houses and dual occupancies (attached))’ as defined under the Plan are a **prohibited** land use in the zone.

Although the applicant has not technically stated by way of accepted definition what the proposed development is, the applicant does make a statement that ‘the building will be used as a single dwelling’. In this regard, it is considered appropriate to define the proposal as a ‘dwelling house’ being ‘a building containing one, but not more than one, dwelling’, in accordance with the adopted definitions of the Campbelltown (Urban Area) Local Environmental Plan 2002.

A ‘dwelling’ is defined under the Plan as ‘a room or suite of rooms occupied or used, or so constructed or adapted as to be capable of being used, as a separate domicile’.

3.3 Lot 1 Zouch Road, Denham Court - Section 82A Review Of Determination For Construction Of A Dwelling

'Dwellings (other than dwelling houses and dual occupancies (attached))' as defined under the Plan are a prohibited land use in the zone.

The proposed development, referred to by the applicant as a single dwelling, contains one double garage, a separate single garage/storeroom, eight bedrooms, one living area at lower ground, multiple living areas at ground level, three dining areas, two separate kitchens at ground level, one bar at lower ground, two separate laundries at ground level, multiple bathrooms and toilets on the ground floor and two bathrooms at lower ground level.

As stated in the report, despite what is technically being applied for, given the layout of the proposed rooms, and in particular, the clusters of living, dining, kitchen and bedrooms and other amenities, it is considered that the areas and facilities within the proposed single dwelling development could be easily converted and occupied separately, and therefore used as an attached dual occupancy. Although this may be the case, an attached dual occupancy is permissible in the zone with Council's consent.

Notwithstanding, the above permissibility argument, the development, as proposed, fails to comply with the required building/boundary setback requirements of DCP No.49 - Rural Environmental Protection Subdivision and Dwelling Policy. The variations sought by the applicant are considered beyond that which could be considered acceptable given the magnitude of the variations sought. In this regard, the applicant seeks approval to vary the front setback requirement by 72% to 80% and vary the side setback by up to 50%.

With regard to the above, there are no known constraints or circumstances individual to the land (other than for the existing unauthorised works) that would normally give rise to a need to consider a variation of the building setback standard. However, when contemplating the applicant's request to vary the setback standard, consideration on whether a variation of such a magnitude should be allowed, needs to give due regard to the circumstances where the unauthorised works had not been carried out in the first place, and following this, what decision may have been made where the land was in its pre-developed state.

In this regard, and with respect to the matters of consideration under Section 79C of the *Environmental Planning and Assessment Act 1979*, it is recommended that due to the magnitude of the non-compliances with Council's various standards, that Council confirm the original decision to refuse the development application and commence action to have the existing structures demolished.

Should Council 'confirm' the determination of the review application by means of refusal, the reasons for refusal of the original determination can be amended to directly relate to the amended development proposal taking into consideration the additional information provided with the application for review made under Section 82A of the *Environmental Planning and Assessment Act 1979*.

Whilst confirming the original determination as a refusal, it should be acknowledged that the applicant has attempted to address a number of the original reasons for refusal by way of submitting amended plans, a bushfire assessment report, hydraulic plans and landscape plans. As a result of the additional information submitted for review addressing some of the reasons for refusal, as well as Council being satisfied that the development, as amended, is substantially the same development, some of the previously issued reasons for refusal have now been addressed and are no longer relevant.

However, if Council is of a mind to allow the variations sought by the applicant, it would be recommended that any consent issued, be granted on the basis of a Deferred Commencement Consent with the applicant required (prior to the consent being activated) to provide revised plans that show the removal of one of the kitchens and laundry rooms from the ground floor, including all associated plumbing and waste fittings.

Officer's Recommendation

That pursuant to Section 82A of the *Environmental Planning and Assessment Act 1979*, Council confirm the original decision to refuse development application 879/2013/DA-DW, as amended under development application 1458/2013/DA-82A, for the construction of a single dwelling at Lot 1 Zouch Road, Denham Court, noting the reasons for refusal shown as Attachment 1.

Having declared an interest in this matter the Chairperson, Councillor Greiss left the Chamber. In the absence of the Chair, His Worship the Mayor assumed the Chair during discussion of this item.

Committee Note: Mr Sarich and Mr Majoub addressed the Committee in support of the application.

Committee's Recommendation: (Mead/Oates)

That a decision in this matter be deferred to allow the applicant adequate time to address the issues and to negotiate with Council Officers.

LOST

Voting for the Committee's Recommendation were Councillors: Mead and Oates.

Voting against the Committee's Recommendation: Lound, Kolkman, Matheson, Rowell, and Thompson.

Committee's Recommendation: (Thompson/Kolkman)

That the Officer's Recommendation be adopted.

CARRIED

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

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

At the conclusion of the discussion regarding Item 3.3, Councillor Greiss returned to the Chamber for the remainder of the meeting and reassumed the Chair.

Council Meeting 15 October 2013

Having declared an interest in regard to Item 3.3, Councillor Greiss left the Chamber and did not take part in debate nor vote on this item.

Council Meeting (Greiss/Lake)

That the Officer's Recommendation be adopted.

Council Minute Resolution Number 219

That the Officer's Recommendation be adopted.

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

Voting against the Council Resolution were Councillors: Glynn and Mead.

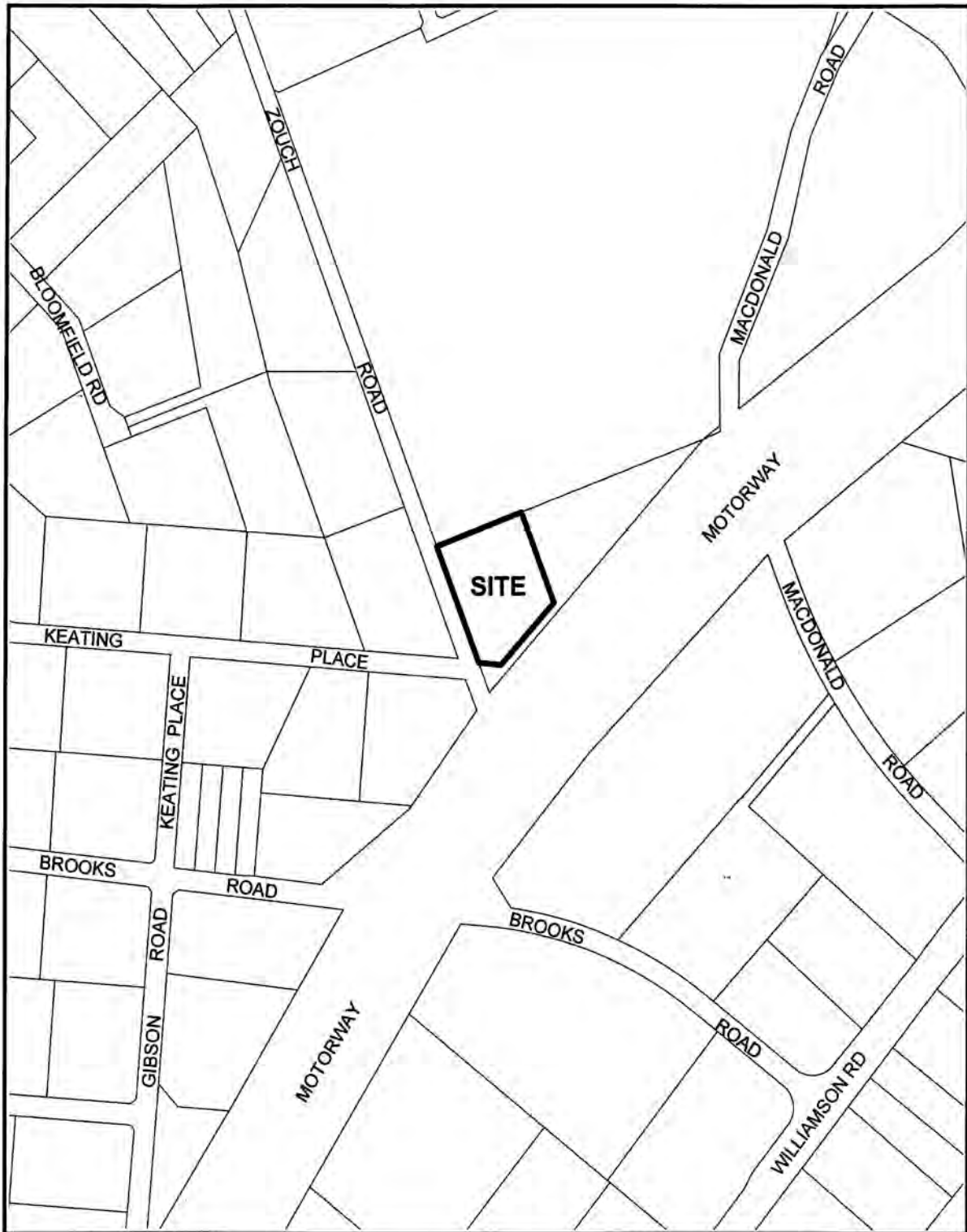
At the conclusion of the discussion regarding Item 3.3, Councillor Greiss returned to the Chamber for the remainder of the meeting.

ATTACHMENT 1

Recommended Reasons for Refusal of 82A Review of Determination

1. Pursuant to the provisions of Section 79C(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, it is considered that the proposed development is inconsistent with Campbelltown (Urban Area) Local Environmental Plan 2002 with respect to protecting areas from inappropriate development.
 2. Pursuant to the provisions of Section 79C(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, it is considered that the proposed development is inconsistent with the objectives of the 7(d5) Environmental Protection 1 Hectare Minimum zone under Campbelltown (Urban Area) Local Environmental Plan 2002 with respect to protecting environmentally important land possessing scenic, aesthetic, ecological or conservation value.
 3. Pursuant to the provisions of Section 79C(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, it is considered that the proposed development is inconsistent with the objectives of the 7(d5) Environmental Protection 1 Hectare Minimum zone under Campbelltown (Urban Area) Local Environmental Plan 2002 with respect to the development being likely to have a detrimental effect on the quality and character or amenity in the locality.
 4. Pursuant to the provisions of Section 79C(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, it is considered that the proposed development is inconsistent with Council's Development Control Plan No. 49 Rural Environmental Protection Subdivision and Dwelling Policy with respect to minimum setbacks from boundaries.
 5. Pursuant to the provisions of Section 79C(1)(e) of the *Environmental Planning and Assessment Act 1979*, it is considered that in the circumstances of the case, approval of the development would set an undesirable precedent for similar inappropriate development and is therefore not in the public interest.
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ATTACHMENT 2



LOCALITY PLAN 

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

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

Reporting Officer

Manager Development Services

Attachments

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

Purpose

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

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

History

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

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

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

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

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

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

Extracts from RMS correspondence at the time reads:

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

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

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

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

Report

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

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

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

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

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

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

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

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

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

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

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

The extenuating circumstances can be summarised:

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

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

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

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

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

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

- a survey indicating the extent of works undertaken in order to achieve compliance with Condition 19 and its requirement to achieve a 'Type A' intersection
- electronic SIDRA intersection modelling files
- a road safety audit based on the intersection treatment on-site and proposed.

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

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

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

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

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

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

The letter continued:

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

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

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

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

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

“19. Intersection Construction

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

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

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

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

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

Independent Assessment

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

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

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

- As at March 2013, the Type A works for the operation of the child care centre with up to 50 children have not been fully undertaken
- The Section 96 Application is to delete the requirement for the construction of an Austroads Type B junction when the number of children exceeds 50. The MTE letter refers to this alternative layout as a 'modified Type A layout'. It involves additional bitumen on the passing lane, the relocation of a power pole to the north and the placement of a guard rail between the edge of the western shoulder and the power pole that is opposite Blomfield Road. MTE do not suggest that this is a Type B (AUR) layout, but is just a modified Type A layout which they consider to be adequate for the situation.
- It is relevant to note that in the current Austroads Guidelines, the Type B (Type AUR) intersection treatment is no longer used, and is replaced by a Type CHR(S), which is a reduced version of the standard CHR right turn bay treatment. The version for urban areas is very similar. It is safer than the B/AUR treatment.

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

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

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

Consideration of the proposal put forward by the applicant:

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

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

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

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

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

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

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

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

The independent expert concluded:

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

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

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

Public Consultation

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

- Safety at the intersection:

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

- The Land and Environment Court’s decision:

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

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

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

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

The RMS states in its response letter:

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

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

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

- Ongoing non-compliance issues at the child care centre

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

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

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

Conclusion

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

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

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

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

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

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

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

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

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

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

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

Officer's Recommendation

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

Committee Note: Ms Painter and Mr Hawie addressed the Committee objecting to the application.

Mr Galluzzo, the owner of the property addressed the Committee.

Committee's Recommendation: (Greiss/Mead)

That a decision in this matter be deferred and the item be listed for consideration in the Planning and Environment Committee agenda to be held 5 November 2013.

CARRIED

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

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

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

Council Meeting (Greiss/Lake)

That the Committee's Recommendation be adopted.

Amendment: (Kolkman/Borg)

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

Voting for the Amendment were Councillors: Borg, Brticevic, Glynn, Kolkman, Lake, Lound, and Oates.

Voting against the Amendment were Councillors: Dobson, Greiss, Hawker, Matheson, Mead, Rowell and Thompson.

The **Amendment** was declared **LOST** on the casting vote of the Mayor.

Council Minute Resolution Number 220

That the Committee's Recommendation be adopted.

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

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

ATTACHMENT 1

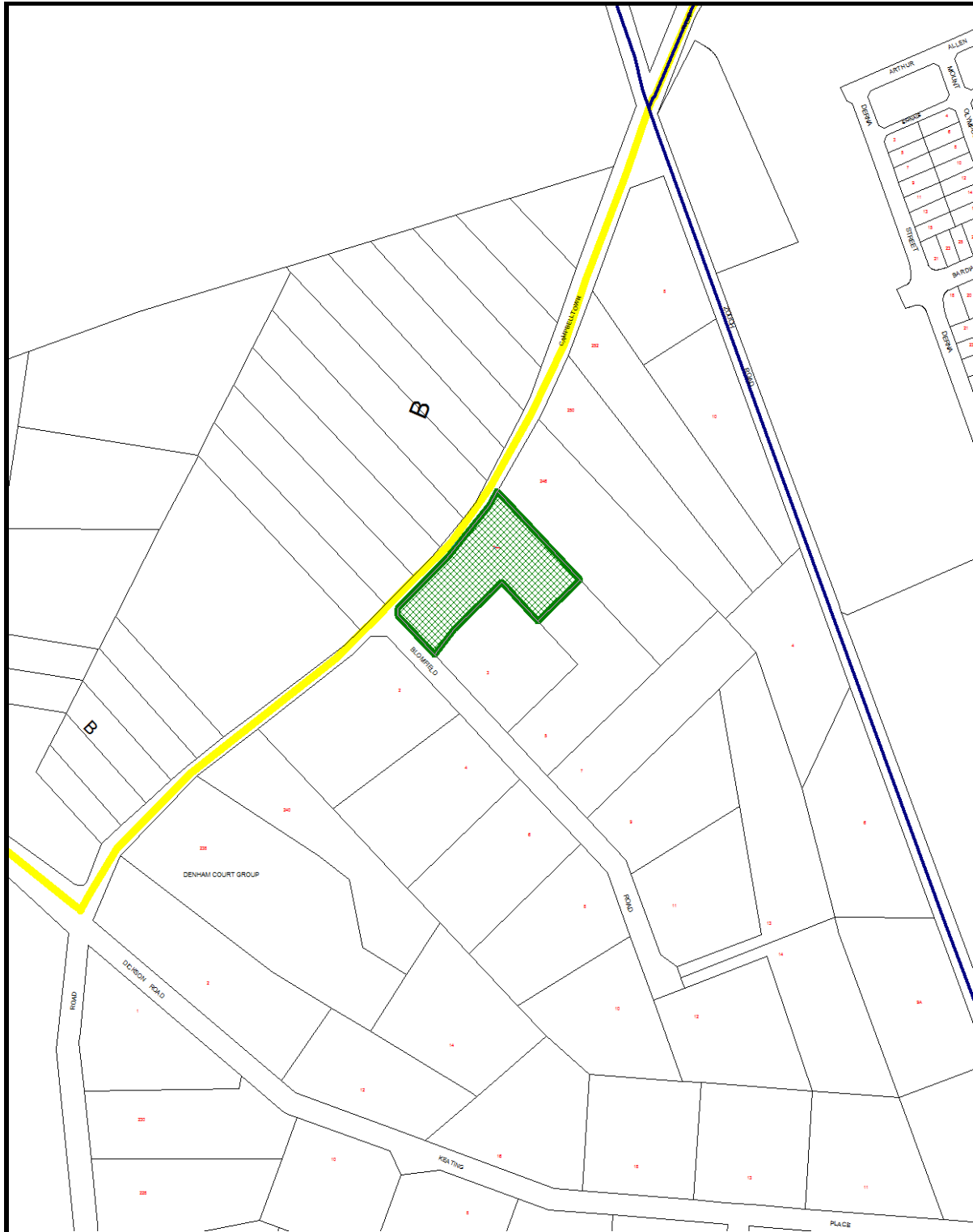
Recommended reasons of refusal

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

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

ATTACHMENT 2

Locality Plan



ATTACHMENT 3



Transport
Roads & Maritime
Services

21 June 2013

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

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

Attention: Andrew MacGee

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

Dear Mr Baldwin,

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

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

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

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

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

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

Roads & Maritime Services

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

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

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

Yours faithfully



James Hall

Senior Land Use Planner
Transport Planning, Sydney Region

CC McLaren Traffic Engineering

- 3.5 Lots 9A And 9B DP 24844, No. 136 Oxford Road, Ingleburn Construction Of A New Religious Establishment Building, Additions And Alterations To Existing Buildings, Construction Of A New Car Parking Area And Associated Site And Landscaping Works
-

3.5 Lots 9A and 9B DP 24844, No. 136 Oxford Road, Ingleburn Construction of a new religious establishment building, additions and alterations to existing buildings, construction of a new car parking area and associated site and landscaping works

Reporting Officer

Manager Development Services

Attachments

1. Recommended conditions of consent (contained within this report)
2. Locality plan (contained within this report)
3. Site plans (distributed under separate cover)
4. Floor plans (distributed under separate cover)
5. Elevations (distributed under separate cover)
6. Shadow plans (distributed under separate cover)
7. Landscape 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

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	Lots 9A and 9B DP 24844, No. 136 Oxford Road, Ingleburn
Application No.	2445/2012/DA-C
Applicant	DTA Architects
Owner	Trustees of the Roman Catholic Church Diocese of Wollongong
Provisions	Campbelltown 2025 – Looking Forward Campbelltown (Urban Area) Local Environmental Plan 2002 Campbelltown (Sustainable City) Development Control Plan 2009 Development Control Plan No.82 – Religious Establishments Development Control Plan No.87 – Public Notification and Public Exhibition Policy
Date Received	7 December 2013

3.5 Lots 9A And 9B DP 24844, No. 136 Oxford Road, Ingleburn Construction Of A New Religious Establishment Building, Additions And Alterations To Existing Buildings, Construction Of A New Car Parking Area And Associated Site And Landscaping Works

Report

Introduction

Council has received a development application to construct a new religious establishment building, additions and alterations to existing buildings, construction of a new car parking area and associated site and landscaping works. The works are proposed at the site of the Holy Family Parish, at which a primary school, combined parish/school hall building, presbytery, car park and associated outbuildings and playgrounds are presently located.

The site

The site is legally described as Lots 9A and 9B in DP 24844 and is known as No. 136 Oxford Road, Ingleburn.

The site is rectangular in shape and has an area of approximately 1.63 hectares. As mentioned previously, the land is presently used by the Holy Family Parish as a primary school and to undertake religious services in a combined school and parish hall.

The site is located directly opposite Ingleburn High School and has access points on three roads, being Oxford Road, Pardalote Street and Currawong Street. A Council-owned laneway extends along the site's entire eastern boundary and physically connects Oxford Road and Currawong Street.

Surrounding development includes detached one and two storey dwellings, multi-unit villa and townhouse complexes and as mentioned previously, Ingleburn High School is located directly opposite the site, on the southern side of Oxford Road.

The proposal

The proposal can be broken down into four components, which are detailed below.

1. Construction of a new purpose-built church building, featuring the following attributes:
 - Belfry (bell tower)
 - Narthex (vestibule or antechamber)
 - Drive through Porte Cochere
 - Sacristies (priest and assistant preparation areas)
 - Crying room
 - Kitchenette
 - Choir loft
 - Sanctuary (containing altar, lectern and tabernacle)
 - Reconciliation rooms
 - Amenities
 - Meeting and prayer rooms.
-

3.5 Lots 9A And 9B DP 24844, No. 136 Oxford Road, Ingleburn Construction Of A New Religious Establishment Building, Additions And Alterations To Existing Buildings, Construction Of A New Car Parking Area And Associated Site And Landscaping Works

The building would have a seating capacity of up to 600 people, who would be seated on pews laid out through the main body of the church. The exterior appearance of the new building is a contemporary expression of a traditional 'Romanesque' styled Christian church. It features symmetry, vaulted roof construction, face brick and stone external walls and simplistic detailing.

An extract from the architect's design statement for the building reads:

"The aesthetic of the Church references its historical and traditional values, is reflective of characteristics as a place of worship, and represents the strength, solidarity and sanctity of the Roman Catholic Church"

The building uses changes in the site's land form to its advantage, and locates certain meeting rooms and amenities in a lower ground portion to its rear. The building has been designed to present to Oxford Road and would be located 11.7 metres from the street boundary at its closest point. The building would be 13.7 metres above ground level at its highest point (being the ridge point of the belfry) when viewed from Oxford Road. Due to the sloping nature of the site, the building would be 16.2 metres above finished ground level when viewed from the rear.

Floor plans, elevations and perspectives of the building are included as attachments to this report for Council's reference.

2. Alterations to the existing presbytery building

The existing presbytery would be extended and modified internally as part of the proposal. A new entry and double garage would be constructed, while internally, a reconfiguration of existing space would result in the creation of a new office and meeting area.

3. Alterations to the existing school/parish hall building

The existing school/parish hall would be slightly extended to allow for new disabled amenities as well as new stair and ramp entries. The main modifications are internal to the existing floor layout, which would see the removal of the existing altar and surrounding room structures and construction of a new elevated stage, a stage access ramp and change rooms.

4. Car parking and other site works

The redevelopment of the site would also incorporate significant site works, including, but not limited to:

- Installation of new stormwater drainage systems
 - Construction of new driveways
 - Removal of up to 10 trees of varying species and height
 - Demolition/removal of existing store and meeting buildings
 - Construction of 123 sealed and line marked car parking spaces
 - Establishment of landscaped gardens and tree planting bays throughout the development area.
-

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The existing primary school (with an enrolment of approximately 410 students) would continue to operate from the site, in its present configuration.

The proposed operating times of the church and the likely number of visitors are outlined in the table below:

Day	Time	Activity	Expected no. of people
Monday	9.00 – 9.30am	Mass	50
	7.00 – 8.30pm	Legion of Mary meeting	10
Tuesday	7.30 – 9.00pm	Evening Mass	25
Wednesday	9.00 – 9.30am	Mass	50
	7.30 – 9.00pm	Prayer group	40
Thursday	9.00 – 9.30am	Mass	50
	7.30 – 9.00pm	Prayer group	40
Friday	9.00 – 9.30am	Mass	50
	7.30 – 9.00pm	Bible study	10
Saturday	2.00 – 4.00pm	Occasional weddings	Varies
	6.00 – 7.00pm	Evening Mass	150
Sunday	9.00 – 10.00am	Sunday school	20
	9.00 – 10.00am	Mass	160
	11.00am – 12.00pm	Mass	120
	6.00 – 7.00pm	Evening Mass	140

Funerals are also likely to take place at irregular intervals during the day on weekdays. The applicant notes that funeral start and end times will be scheduled so that they do not occur on the site during the peak (start and finish) times for the school also located on the site. This is discussed in more detail in Section 3.3 of this report.

Further to the use of the new church, ongoing use of the existing parish/school hall would include:

Day	Time	Activity	Expected no. of people
Monday	9.00 – 11.00am	Play group	30
Tuesday	9.30am – 12.00pm	Craft group	40
Wednesday	9.00 – 11.00am	Play group	30
Thursday	9.00am – 3.00pm	School sport	120
Friday	2.00 – 3.00pm	School assembly	440*
Saturday	8.00 – 11.00am	Parish meetings	50

* this total includes children enrolled at the existing school.

In addition to the above, the applicant notes that other infrequent activities such as parent-teacher interviews, school concerts and performances and other school-related gatherings would occur from time-to-time at the hall (as they presently do).

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The various uses of the entire site are undertaken independently of each other and there are relatively limited periods of time (aside from general school hours) where there is a “cross-over” of more than one activity at a time.

The interrelationship of other existing site uses and the operation of the church is discussed in more detail in Section 3.3 of this report.

Assessment

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

1. Other Provisions - Vision

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

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

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

The strategic directions relevant to this application are:

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

The proposed development is consistent with these directions.

The relevant desired outcomes associated with Council’s vision, included in ‘Campbelltown 2025 – Looking Forward’ include:

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

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

2. Planning Provisions

Section 79C(1)(a) of the *EP&A Act* requires Council to consider environmental planning instruments and development control plans that apply to the site.

2.1 Campbelltown (Urban Area) Local Environmental Plan 2002

The subject site is zoned 5(a) – Special Uses A Zone under the provisions of Campbelltown (Urban Area) Local Environmental Plan 2002 (CLEP2002).

Relevant objectives of the zone are:

- (a) to provide land for special uses which would otherwise be prohibited by the zoning of the surrounding 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 carrying out the proposed development would achieve the objective of this zone stated in paragraph (a).

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

CLEP2002 identifies the following land uses as being 'permissible with consent':

"the land use indicated by lettering on the map and any land use normally associated with and ancillary to that use"

Pursuant to the accompanying zoning map, the site is identified as a School/Church.

Also under CLEP2002, the proposed development is defined as being a religious establishment. The definition is as follows:

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

A religious establishment is consistent with the zone's requirements, being that the site be used for the purposes of a school and church. The development is also considered to be complementary to the zone objectives having regard to the site's existing use as a school and church, the aesthetically pleasing design outcome and the site's functionality. Hence Council is able to approve the development application, should it deem appropriate to do so.

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2.2 Campbelltown (Sustainable City) Development Control Plan

Campbelltown (Sustainable City) Development Control Plan (SCDCP) applies to the subject land and development type.

It is noted that at the time of the application's lodgement, the previous version of the SCDCP was the relevant development control plan (referred to as the '2009 version'). As such, this is the version considered by the applicant and in this report, although where necessary and relevant, comparison to the current version of the SCDCP (referred to as the '2012 version') is made.

Relevant aims of the SCDCP are:

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

The development is consistent with these aims.

Part 2 of the SCDCP applies to all development. Relevant portions of that Part are detailed as follows:

Part 2.4 – Sustainable Building Design

Part 2.4 requires that new buildings be constructed with rain water collection tanks. No tank appears to be proposed with this application, although it is referenced in passing on the submitted drainage concept plan. As such, a recommended condition of consent requires the installation and connection of a 10,000 litre rain water collection tank. The volume of the tank is determined by the new church's roof area.

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Part 2.5 - Landscaping

Part 2.5 sets out Council's requirements for site landscaping and landscaping plans and works with other Parts of the SCDCP. The application complies with that Part's requirements.

Part 2.7 – Erosion and Sediment Control

Part 2.7 requires that erosion and sediment control be considered as part of a new development, particularly during its construction. The proposal is complementary to the SCDCP's requirements. These requirements are further reinforced by recommended conditions of consent.

Part 2.9 – Demolition

Part 2.9 contains Council's requirements for the demolition of buildings. The proposal involves the demolition/removal of some buildings and as such, appropriate conditions are listed in the recommendation to this report.

Part 2.10 – Water Cycle Management

Part 2.10 contains Council's requirements for water management. The Part requires the submission of plans and designs for engineered control of stormwater emanating from new developments. The proposal includes a concept design, which is discussed in further detail later in the report and is also referenced in relevant recommended conditions of development consent.

Part 2.13 – Security

Part 2.13 encourages building and site design to consider the safety and security of visitors to the site. The development is complementary to the SCDCP's controls, in that it provides for open views of the site, clearly identifies building and site entry/exit points and maximises the potential for casual surveillance. A "crime prevention through environmental design" assessment for the development was also undertaken by the applicant which makes recommendations regarding landscaping maintenance and security lighting. The recommendations have been referenced in the conditions of consent found at Attachment 1 to this report.

Part 2.15 – Waste Management

Part 2.15 contains Council's controls for managing waste generated from developments during their demolition, construction and operational phases. A waste management plan was submitted with the application and is referenced in the recommended conditions of consent in Attachment 1.

Having regard to the above discussion, the proposal is considered to be complementary to the requirements of the SCDCP which apply to all development, subject to the imposition of relevant conditions of consent.

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The '2009 version' of the SCDCP did not contain any development controls specific to religious establishments, with the exception of a required car parking rate. However, development for the purposes of religious establishments was subject to the maximum height control of two storeys which applied to all development types located outside of either the Campbelltown/Macarthur and Ingleburn business centres.

The SCDCP required that religious establishments are to provide one car parking space per 10 square metres of 'leasable floor area'. It is acknowledged that the term 'leasable floor area' would not normally be associated with a religious building, therefore the term 'relevant floor area' is used below.

For the purposes of clarification, relevant floor areas used for the car parking calculations in this instance include the main church body, narthex foyer, offices, meeting and prayer rooms, sacristies, sanctuary, piety store, crying room and choir loft.

The relevant floor area of the building is approximately 1191.90 square metres. Using the car parking requirement contained in the '2009 version' of the SCDCP, the church building requires 120 car parking spaces. 123 spaces are proposed across the site.

Discussion on the relationship of different land uses (such as the church, the school, the school/parish hall and presbytery) and their interrelated demand for car parking is provided in Section 3 of this report.

The '2012 version' of the SCDCP contains a dedicated Part in relation to the design, construction and operation of religious establishments. Notwithstanding the fact that the application was made prior to the '2012 version' being adopted, an examination of the proposal against Council's most recent controls is presented for information below:

		Campbelltown (Sustainable City) Development Control Plan 2012 – Part 10	
Control	Requirements	Proposed	Complies
Maximum height	Maximum two storeys, maximum 9.5 metres excl. spires and similar structures if it can be demonstrated that there is no impact on adjoining residential properties.	The building at its highest point above finished ground level would be 16.2 metres high. From Oxford Road, the height is 13.7 metres above finished ground level. Shadow plans submitted which illustrate minor overshadowing of a portion of the rear yards of neighbouring eastern dwellings in the afternoon.	No. Discussed later.

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		Campbelltown (Sustainable City) Development Control Plan 2012 – Part 10	
Control	Requirements	Proposed	Complies
Site location	Religious establishments on urban land must be located at least 250 metres away from another existing approved religious establishment in order to minimise amenity impacts on the locality.	There are no other religious establishments within 250 metres of the site.	Yes.
Acoustic and privacy amenity	Noise levels shall not be more than 5dB(A) above background levels at the site boundary when measured over 15 minutes. Direct views to neighbouring residential properties shall be appropriately screened and landscaped.	An acoustic impact assessment report was submitted with the development application. Its findings and recommendations are discussed in Section 3 of this report. Due to the separation distance between the proposed new church building and adjoining residences, as well as the internal layout of the church, the potential for negative impacts on existing privacy is considered to be low.	Yes.

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		Campbelltown (Sustainable City) Development Control Plan 2012 – Part 10	
Control	Requirements	Proposed	Complies
Design and appearance of buildings	The design of new purpose-built buildings shall complement the scale of surrounding development and the character and qualities of the desired streetscape.	The church building (being the main focus of the development application) is a purpose-built building. It has been designed to incorporate the Catholic Church's desired 'Romanesque' architectural style. It is acknowledged that the building is significantly larger in scale to surrounding residential development, however, given its position on the site, the existing use of the land and the development's positive contribution to the streetscape, it is considered to be acceptable.	Yes.
Streetscape	Off street car parking areas shall be screened by landscaping. Air conditioning units and water tanks shall not be visible from public areas.	Car parking areas would largely be located to the rear of the church building and not readily visible. Landscaping is proposed. A recommended condition of consent requires that services such as air conditioning are not visible in public places.	Yes.
Fencing	Maximum 1.2 metre high fence along site's front boundary. Side and rear fencing to be maximum of 2.1 metres high.	No front fence is proposed. Existing side boundary fences are likely to remain unaffected by proposal.	Yes.

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		Campbelltown (Sustainable City) Development Control Plan 2012 – Part 10	
Control	Requirements	Proposed	Complies
Religious establishments in residential zones*	<p>Newly proposed religious buildings shall not be located on sites:</p> <ul style="list-style-type: none"> - less than 1,500 square metres - less than 20 metres wide -that are on a no through road - where the vehicular access is to/from a road less than 6.5 metres wide 	The site complies with the minimum dimensions and access a main road.	N/A.
Religious establishments in residential zones*	Newly proposed religious buildings shall have a maximum relevant floor area of 160 square metres.	The proposed floor area is approximately 1,191 square metres.	N/A.
Car parking	1 space for every 3.5 site users	123 spaces proposed. Site user definition and relationship with different uses on the site is discussed in Section 3 of the report.	Yes, subject to operational restrictions.
Landscaping	Landscaping required to front setback, within car parking areas and along side setbacks	Landscaped gardens provided throughout the redeveloped site area. Side setbacks are landscaped and turfed.	Yes.
Waste management	<p>Waste storage areas to be screened.</p> <p>Waste management plan to be provided</p>	Waste management plan provided for construction and operational phases of the development. Waste to be managed in a similar manner to that presently being undertaken on site. Waste storage areas not visible from public spaces.	Yes.

* the subject site is not located in a residential zone, but is situated in a predominantly residential area, so the comments are made.

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As illustrated in the table, the proposal contains two variations to Council's most recent standards. The variations are discussed further:

- **Building height:** the building would exceed the SCDCP's height maximum, being 9.5 metres above ground level. In this case, the building (at its most visible point from Oxford Road) would be 13.7 metres high, rising to over 16 metres at the rear of the building owing to the change in natural ground level and the incorporation of a lower storey containing office and prayer space. At the time that the building was designed, Council did not have any controls relating to the height of purpose-built religious establishment buildings.

The building has been architecturally designed to capture the Catholic Church's 'Romanesque' history, while using contemporary materials and an obviously contemporary setting. The applicant has submitted plans which demonstrate negligible impacts on neighbours from the building in terms of its overshadowing and privacy.

The new church is considered to be complementary to the size of its location (being an existing parish and school) and presents as an attractive and historically relevant to the street. The building would present to Oxford Road as a large single storey building, which is compatible with the scale of the site. The variation is supported.

- **Floor area:** the SCDCP requires that newly constructed (or converted) religious buildings in residential zones have a maximum floor area of 160 square metres (excluding amenities, offices kitchens and the like). As mentioned in the table above, the subject site is not located in a residential zone, but is located within a predominantly residential area, hence the comparison is worthy of some discussion.

The proposed building has a floor area (after exclusions are considered) of approximately 1,191 square metres, which is a significantly higher area than permitted under the new DCP.

Notwithstanding the higher area, the site is much larger than 'traditional' residentially zoned allotments on which religious establishments are sometimes proposed, which is why the floor area in the DCP is relatively low. The grounds on which the current proposal would be constructed presently house a school and hall and would be able to accommodate the new church building as well as over 120 car parking spaces. The variation is supported as the site is considered to be capable of supporting the new building without any adverse and significant impact as the function and amenity of the neighbourhood. Another large footprint development, being the Ingleburn High School is located in the immediate locality.

Having regard to the above comments and the table, the development is considered to be generally compliant with Council's latest development controls for religious establishments, albeit the proposal was commissioned prior to the controls being available to the applicant.

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2.3 Development Control Plan No. 82 - Religious Establishments

Development Control Plan No. 82 - Religious Establishments (DCP 82) applies to the subject development type as it was current at the time of the application's lodgement in late 2012. DCP has since been repealed with the introduction of religious establishment provisions in the '2012 version' of the SCDCP, which was discussed in Section 2.2.

DCP 82 contained Council's objectives and controls for the development of religious establishment premises throughout the City.

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

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

With respect to above statement, the site is considered to be suitable for the proposed development as the proposal is likely to represent the future requirements of the religious group and is in-keeping with the existing and long-standing use of the site for religious purposes.

Other relevant matters contained in DCP 82 are as follows:

a. Design of buildings

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

The proposed new church building would be 12 metres from the nearest residential boundary, which is greater than the existing minimal residential building setback of 5.6 metres.

b. Landscaping

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

The proposed development includes new landscaping that is considered suitable and adequate for the scale of development. Several trees would be removed as part of the development to facilitate drainage works and construction of the new car parking area, however, they would be replaced many times over with different tree, shrub and groundcover species as part of an integrated landscape design, with heights up to 8.0 metres.

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c. Operation of the establishment

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

In this instance, the religious establishment already operates from the site. The applicant notes that service times and visitor numbers are not likely to alter significantly from that which presently use the site. It is noted that the church services are presently held in the parish hall, which is located in closer proximity to residential neighbours than what the new church building would be. Noise and other operational issues are discussed in more detail in Section 3 of this report.

d. Car parking provision

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

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

Having regard to the maximum population of the new church building, being up to 600 people, the church would require 60 car spaces. 123 sealed and line-marked spaces are proposed, meaning that the development complies with DCP 82.

The interrelationship of other existing site uses and the operation of the church is discussed in more detail in Section 3.3 of this report.

e. Noise

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

The applicant has submitted an assessment of potential noise impact of the use of the subject land as a religious establishment. The findings are detailed in Section 3 of this report.

3. Impacts on the Natural and Built Environment

Section 79C(1)(b) of the *EP&A Act* requires Council to assess the development's potential impacts on the natural and built environment.

The primary areas in which the development may have some impacts on its environment are detailed as follows:

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3.1 Noise

The applicant has submitted an assessment of potential noise impacts associated with the development prepared by SLR Global Environmental Solutions (Report No.610.12658, dated 20 May 2013).

The report considers the use of the proposed building as a religious establishment, ongoing use of the existing school/parish hall and vehicles entering and exiting the site. The assessment and acoustic forecasting carried out considered the present number of visitors who attend the site, which is anticipated to continue at a similar number despite the new building's construction.

SLR has carried out an assessment of the noise impact associated with the proposed use in accordance with NSW regulatory requirements. Two ambient noise monitoring points were used, one adjacent to Koala Walk Reserve and the other adjacent to the existing drainage easement/walkway between numbers 13 and 15 Pardalote Street. This site in particular was considered to be most representative of potentially sensitive receivers (being the existing residents) and it also captured existing activities that are held in the parish/school hall. The noise monitoring took place for seven continuous days in May 2013.

The noise impact assessment report concludes that Council's and the Environmental Protection Authority's 'Industrial Noise Policy' (INP) goals can be achieved at the nearest potentially sensitive receiver location at the western boundary of the site under typical operational scenarios for the existing hall and the new church building.

Importantly, the report acknowledged that some activities may occur in what the INP defines as night (after 10.00pm), such as people leaving the car park, although no amplified music or speaking would be used after 7.00pm except for some rare occasions for special events and would conclude prior to 10.00pm.

The report recommends some restrictions on the placement and type of mechanical ventilation equipment that is used for the development and also notes that parish hall windows should be closed in the evening and night to ensure that noise does not impact on neighbouring residential properties. The report's findings have been incorporated into a recommended condition of consent, found at Attachment 1 to this report.

Having regard to the above discussion and consideration of the fact that usage of the hall is likely to be similar to its current usage in terms of regularity and activities held, noise impacts of the development are considered to be successfully mitigated at the site.

3.2 Flooding and Drainage

Flooding and drainage represents an issue for the site as it is known to be liable to flooding during certain storm events and furthermore, Council has been made aware of impacts of existing surface water flows emanating from the site on neighbouring residential properties.

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With these issues in mind, Council requested that the applicant undertake a flooding (surface water) analysis of the site and the impacts of the proposed new church building on water flows in its vicinity.

Modelling of the catchment illustrates that the site is susceptible to inundation of water flows in Oxford Road during 1% annual exceedence probability (1% AEP or 1 in 100 year) rainfall events. The water enters the development site from Oxford Road due to a narrowing of the road near an existing pedestrian crossing and the fact that the entry driveway to the site is somewhat lower than the road surface for a point.

Ameliorative measures (such as raising the entry driveway during construction works) and/or placement of a 'speed hump' to reduce the amount of water entering the property are suggested in the report. The report's findings have been incorporated into the recommended conditions of development consent found at Attachment 1. Council's development engineers are satisfied that the proposed drainage of the site will accord with Council's controls.

Drainage of the site is also an issue during less significant rainfall events. Council has been made aware of water leaving the development site and entering adjoining residential properties causing a nuisance and contrary to the requirements of the *Local Government Act 1993*.

As part of the site's redevelopment, a comprehensive network of underground stormwater capture and disposal pipework would be constructed. The design also includes an on-site detention (OSD) system, which is designed to first capture, then slowly disseminate the flow of water from the property into Council's existing underground pipe system. A recommended condition of consent requires that the system be designed in accordance with Council's requirements as detailed in Campbelltown (Sustainable City) Development Control Plan Volume 3 and that a maintenance plan be developed for the OSD system and presented to Council's hydraulic engineers for approval prior to its construction. Council's development engineers are satisfied with these arrangements and anticipate that the current nuisance drainage issues will be resolved.

3.3 Traffic

a. Operational Traffic

The applicant has submitted a traffic and car parking assessment report prepared by specialist consultant Thompson Stanbury Associates (Reference 13-035, dated July 2013) after it was requested by Council's officers.

The report has considered:

- review of the road network in the vicinity of the development
 - estimates of the traffic generation of the development
 - traffic implications of the proposal in terms of road network and capacity
 - review of the geometric design of car parking
 - assessment of the adequacy and suitability of the off-street car parking provided
 - the relationship of between the range of land uses on the site and their demand for car parking at different times.
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As mentioned previously in the report, a number of different land uses are undertaken from the site (at present, and in the future should Council grant its consent for the new church building). The tables earlier in the report detail the days, activities and likely number of visitors at the site. There appears to be a satisfactory 'spread' of activities, with only two or three times during the week that more than one activity is being held on the site at one time (aside of course, from the school which operates during weekdays).

The parking assessment undertook a survey of existing school car parking demand. The busiest time in the existing 86 space car parking area is in the afternoon when approximately 70 vehicles are in the car park. The tables of activities presently held at the site do not show that there are any potential conflicts of different uses being undertaken at the end of school, except for Thursday and Friday when sports and an assembly is held for school children, which would be at the site already in any case.

The applicant has noted that some day time uses will need to be finished prior to peak school leaving time. For example, irregular funeral services will need to be finished prior to 2.00pm so that cars associated with that use have left the site prior to parents arriving to pick up their children. A recommended condition of consent has been prepared to reinforce this requirement so as to minimise parking conflict at the parish/school site.

The report also acknowledges that for a relatively small number of events during the year, the capacity of the car park would be exceeded. This includes Easter and Christmas services and the occasional large funeral. The low number of times that these services would not be able to be accommodated in the proposed car parking area is not considered to be significant. Further, DCP 82 as detailed earlier states:

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

The report concludes:

- The proposed off-street parking provision is considered to be satisfactory based on the proposed normal operational requirements of the development components
 - The proposed access arrangements, internal circulation and manoeuvring arrangements are capable of providing for safe and efficient vehicle movements during peak times
 - The surrounding road network operates with a satisfactory level of service during peak periods
 - It is not expected that the subject proposal will result in any significant change to the traffic generation from the subject site during normal operation and therefore, the operational efficiency of the local road network
 - Notwithstanding the above, it is acknowledged that the subject proposal does have the potential to facilitate the holding of larger worship services than that which can currently be accommodated on-site, although the services are rarely accommodated (less than 5 per year) thereby ensuring that no regular impacts on the surrounding road network are envisaged.
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3.5 Lots 9A And 9B DP 24844, No. 136 Oxford Road, Ingleburn Construction Of A New Religious Establishment Building, Additions And Alterations To Existing Buildings, Construction Of A New Car Parking Area And Associated Site And Landscaping Works

The report does not go as far as recommending restrictions on the operation of activities at both the parish/school hall and the new church building at the same time. A recommended condition of development consent requires that major functions are not held in each building concurrently. A major function in each building for the purposes of the condition is one where more than 300 people would be in each building, which represents the maximum total that may be located in the church at its design capacity.

b. Construction Traffic

One important traffic impact which has not been considered by the applicant or the traffic experts engaged on their behalf is the impact (albeit temporary) of the new church's construction on traffic and car parking availability. The impacts on local traffic and the local amenity of this activity are potentially significant. The impact is owing to the fact that the existing car parking facilities at the site (for both the church and school) would be removed to facilitate the new church building's construction.

It is noted that while some of the new car parking spaces are located immediately adjacent to the new church building, the majority of spaces (approximately 80) would be constructed in an area largely unaffected by the church construction works.

A recommended condition of development consent requires that 80 spaces closest to the existing parish/school hall be constructed and made available to visitors to the site prior to removal of the existing car parking. The existing car parking area at the site contains 86 spaces, which is similar to the recommended condition's requirement. This is to ensure that cars associated with school visitors, school staff and visitors to the church for worship and other activities will continue to be accommodated on the site during the new building's construction.

An additional recommended condition of development consent requires the applicant to prepare, and submit for Council's approval, a construction traffic management plan, which amongst other things will require the identification and completion of the following matters prior to commencement of any construction works at the site:

- Required loading zones and parking restriction areas near the development site to allow for manoeuvring and loading/unloading of heavy vehicles associated with the development
 - 'Staging' locations, where heavy vehicles wait until such time that adequate space is available adjacent to the development site for loading/unloading
 - Traffic management and intersection control near to the development site, having regard to the potentially busy pedestrian crossing adjacent to both the Holy Family Primary School and Ingleburn High School
 - Proposed access routes for heavy vehicles loading/unloading at the site
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3.5 Lots 9A And 9B DP 24844, No. 136 Oxford Road, Ingleburn Construction Of A New Religious Establishment Building, Additions And Alterations To Existing Buildings, Construction Of A New Car Parking Area And Associated Site And Landscaping Works

- Hours of truck movements – the plan shall detail the means by which heavy vehicle access times will be minimised during the school peak pick up and drop off periods
- Consultations made with potentially affected residents and schools in preparation of the plan.

Having regard to the above discussion and the resultant recommended conditions, the traffic impacts of the development, whilst considerable, are not likely to cause a significant and detrimental impact on the surrounding locality.

4. Public Participation

Section 79C(1)(d) of the *EP&A Act* requires Council to consider submissions made in regard to the proposal.

The proposed development was notified to 140 adjoining and nearby land owners in accordance with the provisions of Development Control Plan No.87 – Public Notification and Public Exhibition Policy for a period of 14 days from 10 to 24 December 2012.

Council received two submissions raising concerns in relation to the proposed development. Both submissions did not necessarily object to the proposal and were from residents of Pardalote Street, which is to the west of the development site.

Issues raised in the submissions are addressed below:

Concern: Potential noise and privacy impacts of the new church building

Comment: The church building is a significant building by comparison to the present open nature of the development site. The privacy impacts of the proposal are considered to be relatively low, given the orientation of seating within the new building and also its architectural style ('Romanesque'), a feature of which is to have relatively small windows in comparison to the building as a whole.

Noise from vehicles accessing the site by the new entry road along the rear fence of dwellings fronting Pardalote Street is not considered likely to have a significant impact on the amenity of residents as the operating times of the church are not in conflict with what would ordinarily be anticipated in a residential area. The times are also consistent with the existing operations of the parish, conducted from the hall. The noise of vehicles, including the closing of doors was assessed as part of the acoustic impact report detailed earlier. The noise is not considered likely to negatively impact adjoining residents. A recommended condition of consent requires that the recommendations of the noise assessment report are implemented at the site.

Further, a recommended condition of consent also requests that the applicant place small signs in the car parking area which request that visitors to the school and church leave quietly at night. These signs are not without precedent where religious establishments and other like uses are located in residential areas.

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Concern: The existing parking of school-related visitors in Pardalote Street.

Comment: Visual anecdotal evidence (including on-ground and aerial observation) of Pardalote Street does indicate that several cars associated with the school's use of the site use that street for drop-off/pick-up parking during school start and finish times. Parents then use an existing laneway from Pardalote Street to enter and leave the school site on foot. Kookaburra Street is also used for the same purpose at its eastern end.

It may be the case that in the future, once the new car parking area is constructed, parents use the school's own facilities for dropping off and picking up their children as the new car parking area would be physically closer to the school site than the current car park and Pardalote Street. Notwithstanding, a recommended condition of consent requires that the parish notify parents that parking on-site is preferred over using the adjoining residential street.

Concern: Both submissions raised the issue of surface water running from the development site into adjoining residential land, damaging fences and resulting in sodden ground.

Comment: Comprehensive new underground drainage infrastructure would be installed as part of the church's construction. The existing school and parish buildings have been in existence for approximately 30 years and it is acknowledged that drainage issues have arisen as a result of a stormwater capture infrastructure deficit.

It is anticipated that this would be remedied during the redevelopment of the site. A recommended condition of consent requires that the design and construction of the new stormwater infrastructure ensures that no impacts are created on adjoining lots and that the system complies with Council's Campbelltown (Sustainable City) Development Control Plan Volume 3 – Engineering Design Guide.

Conclusion

The development application to construct a new religious establishment building, additions and alterations to existing buildings, construction of a new car parking area and associated site and landscaping works at No. 136 Oxford Road, Ingleburn has been assessed against the relevant matters for consideration within environmental planning legislation and Council's development controls.

The development's impacts on the natural and built environment are considered to be relatively minimal, subject to management of potential issues such as noise, traffic and surface water flows emanating from the site.

The site is considered to be suitable for the development, having regard to its existing use for the same purpose, the area of the land involved and the new building's positive addition to the local streetscape.

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With due reference to the matters for consideration under Section 79C of the *Environmental Planning and Assessment Act 1979* and the issues raised throughout the report, 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

1. That development application 2445/2012/DA-C for the construction of a new religious establishment building, additions and alterations to existing buildings, construction of a new car parking area and associated site and landscaping works at No. 136 Oxford Road, Ingleburn be approved, subject to the conditions detailed in Attachment 1 of this report.
2. That those who made a submission on the proposal be advised of Council's decision.

Committee's Recommendation: (Lound/Rowell)

That the Officer's Recommendation be adopted.

CARRIED

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

Voting against the Committee's Recommendation: nil.

Council Meeting (Greiss/Lake)

That the Officer's Recommendation be adopted.

Council Minute Resolution Number 221

That the Officer's Recommendation be adopted.

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

Voting against the Council Resolution: nil

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ATTACHMENT 1

Recommended Conditions of Consent

GENERAL CONDITIONS

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

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

1. Approved Development

The development shall 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 by any conditions of this consent.

2. Building Code of Australia

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

3. Landscaping

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

4. Switchboards/Utilities/Air Conditioning Units

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

5. Driveways

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

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.

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

The western driveway shall be sign posted with a standard 'Entry Only' sign (facing Oxford Road) of suitable proportions and located immediately behind the front boundary of the subject property. A 'No Entry' sign of suitable proportions shall be placed adjacent to the eastern exit driveway.

6. Advertising Signs – Separate DA Required

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

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

7. Storage of Goods

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

8. Engineering Design Works

The design of all engineering works shall be carried out in accordance with the requirements set out in the Campbelltown (Sustainable City) DCP - Volume 3.

9. Car Parking Spaces

In total, 123 car parking spaces shall be designed, sealed, line marked and made available to all users of the site in accordance with Australian Standards 2890.

10. Rubbish/Recycling Bin Storage

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

11. Construction Certificate

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

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

3.5 Lots 9A And 9B DP 24844, No. 136 Oxford Road, Ingleburn Construction Of A New Religious Establishment Building, Additions And Alterations To Existing Buildings, Construction Of A New Car Parking Area And Associated Site And Landscaping Works

12. Use as a Religious Establishment

Hours of operation for the church building and school hall shall be limited to:

- 7.30am to 10.00pm

Funerals and other large uses of the church building on weekdays shall only be undertaken between 10.00am and 2.00pm on weekdays in order to minimise traffic conflicts with the school.

The buildings shall be used as a religious establishment and for purposes related to the operations of the parish and school only. The buildings shall not be used for secular education, accommodation or for conventions. The buildings shall not be sub-leased, rented or hired for any purpose.

13. Operation of the Church and Hall

Major services/events, which involve attendance of more than 300 persons in each of the church building and school hall shall not be undertaken concurrently. This is in order to reduce the demand for car parking at the site.

14. Switchboards/Utilities

Switchboards, air-conditioning plant, 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.

15. Lighting

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

16. Unreasonable Noise

The development, including operation of vehicles, shall be conducted so as to avoid the generation of unreasonable noise and cause no interference to adjoining or nearby occupants.

Noise from plant and amplified music/speaking associated with the development shall not exceed the values contained within the Protection of the Environment Operations (Noise Control) Regulation 2008 and the recommendations of the Acoustic Assessment Report 610.12658, prepared by SLR Global Environmental Solutions, dated 20 May 2013.

The applicant shall place signs non-obtrusive signs in the vehicle car parking areas that contain wording to the effect that visitors are requested to refrain from making noise after 10pm.

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17. 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 where possible.

18. 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.

19. 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.

20. Rain Water Tank(s)

A rain water collection tank/s shall be installed on site for the collection and storage of stormwater for irrigation purposes, in accordance with the requirements of Campbelltown (Sustainable City) Volume 1, Part 2.4.

21. 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
-

3.5 Lots 9A And 9B DP 24844, No. 136 Oxford Road, Ingleburn Construction Of A New Religious Establishment Building, Additions And Alterations To Existing Buildings, Construction Of A New Car Parking Area And Associated Site And Landscaping 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.

22. 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.

23. Car Park Staging

Prior to Council or an accredited certifier issuing a construction certificate, the applicant shall submit, for Council's written approval, a plan illustrating that the car parking area would be constructed in stages so as to allow ongoing on-site parking for the duration of construction works at the site.

The first stage of the car parking area shall incorporate approximately 80 car spaces between the existing presbytery and parish/school hall and shall be available prior to the commencement of works for the new church building.

The existing car parking area adjacent to Oxford Road shall remain available for use until the new spaces mentioned above are completed.

Traffic control and directional signage shall be installed at the site to direct church and school visitors to the relevant parking area for the duration of construction works.

24. On-site Stormwater Detention

Prior to Council or an accredited certifier issuing a construction certificate, the applicant shall submit to, and receive Council's written approval for a plan detailing the management and maintenance of the proposed OSD system for the site. The Plan shall also detail the person(s) responsible for the maintenance and provide contact information of those persons to Council.

25. Construction Traffic Management Plan

Prior to Council or an accredited certifier issuing a construction certificate, the applicant shall prepare, and receive Council's written approval for a 'Construction Traffic Management Plan', which shall contain details of the following as a minimum:

- Required loading zones and parking restriction areas near the development site to allow for manoeuvring and loading/unloading of heavy vehicles associated with the development
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3.5 Lots 9A And 9B DP 24844, No. 136 Oxford Road, Ingleburn Construction Of A New Religious Establishment Building, Additions And Alterations To Existing Buildings, Construction Of A New Car Parking Area And Associated Site And Landscaping Works

- 'Staging' locations, where heavy vehicles wait until such time that adequate space is available adjacent to the development site for loading/unloading
- Traffic management and intersection control near to the development site, having regard to the potentially busy pedestrian crossing adjacent to both the Holy Family Primary School and Ingleburn High School
- Proposed access routes for heavy vehicles loading/unloading at the site
- Hours of truck movements – the plan shall detail the means by which heavy vehicle access times will be minimised during the school peak pick up and drop off periods;
- Details of consultation made with potentially affected residents and schools in preparation of the plan.

26. Traffic Control Plans

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

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 Volume 3 and shall also ensure that run-off from the site to neighbouring properties is minimised in accordance with the requirements of the *Local Government Act 1993*.

The recommendations of the Flood Study prepared by siteplus (ref. 13207, dated June 2013) shall also be incorporated into the stormwater management plan and construction certificate drawings.

28. Work outside the Site Boundary

Prior to Council or an accredited certifier issuing a construction certificate, engineering plans for any work outside the site boundary to be submitted to Council for approval. All works shall comply with Council's Campbelltown (Sustainable City) DCP Volume 3 and shall be inspected by Council at all stages of construction.

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

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

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

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

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

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

Copies of the Cost Summary Report - Template 1 and the Quantity Surveyors Estimate Report - Template 2 are located under "Developer Contributions" on Council's web site (www.campbelltown.nsw.gov.au) 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.

30. 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.

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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.

31. 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.

32. 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.

33. 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.
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34. 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.

35. Vehicular Access during Construction

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

The access point for construction traffic should also consider the ongoing use of the site as an operating school and church.

36. Construction Vehicle Control

Prior to the commencement of any works on the land, the applicant shall meet with Council's Traffic Officers and Compliance Officers to discuss the management of the various stages of the development and the management of construction and worker's vehicles in and around the site.

No works shall commence until Council have issued written approval for the Construction Traffic Management Plan.

In order to limit the impact of continued construction activities on the local neighbourhood, construction traffic and construction activities shall be monitored to ensure compliance with the approved Construction Management Plan. Where, as a result of the monitoring of the ongoing construction activities, it is identified (by either Council or the applicant) that additional or varied traffic and construction control measures need to be imposed, a revised Construction Management Plan incorporating all additional measures and management procedures shall be submitted by the applicant to Council for its written approval.

37. 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.

38. Footpath and Vehicular Crossing Levels

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

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39. Demolition Works

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

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

40. Fencing

An appropriate fence preventing public and school children's access to the site shall be erected for the duration of construction works.

DEVELOPMENT REQUIREMENTS DURING CONSTRUCTION

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

41. Construction Work Hours

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

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

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42. 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.

43. Compliance with Council Specification

All design and construction work shall be in accordance with Council's requirements as follows:

- a. Council's specification for Construction of Subdivisional Road and Drainage Works (as amended);
- b. Engineering Design Guide for Development (as amended);
- c. 'Soils and Construction (2004) (Bluebook); and
- d. Relevant Australian standards and State Government publications

44. 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.

45. 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.

46. 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.

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47. Worksite Safety

The safety of visitors and school children shall be at the forefront of any construction planning and physical works undertaken on the site. The worksite shall be managed in accordance with WorkCover requirements and relevant Australian Standards

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.

48. Driveway and Layback Crossings

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

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

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 Volume 3.

50. 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.

51. Completion of Construction Works

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

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

PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

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

3.5 Lots 9A And 9B DP 24844, No. 136 Oxford Road, Ingleburn Construction Of A New Religious Establishment Building, Additions And Alterations To Existing Buildings, Construction Of A New Car Parking Area And Associated Site And Landscaping Works

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

52. 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.

53. Acoustic Amelioration

The recommendations contained within the Acoustic Assessment Report 610.12658, prepared by SLR Global Environmental Solutions, dated 20 May 2013, shall be implemented prior to issue of an occupation certificate for the development.

54. Final Inspection – Works as Executed Plans

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

- a. Two complete sets of fully marked up and certified work as executed plans in accordance with Council's Specification for Construction of Subdivisional Road and Drainage Works (as amended) and with the design requirements of the Campbelltown (Sustainable City) DCP Volume 3.

All reports/certificates shall be prepared by a N.A.T.A. registered laboratory or qualified engineer in accordance with Council's Specification for Construction of Subdivisional Road and Drainage Works (as amended) and with the design requirements of the Campbelltown (Sustainable City) DCP Volume 3 and shall list the relevant compliance standard(s) and certify that the whole of the area of works or materials tested comply with the above specification. All reports/certificates shall be complete, fully referenced, clearly indicate the area or material tested, the location and required/actual values of all tests and retesting, and be collated and suitably bound.

55. Restoration of Public Roads

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

56. 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.

- 3.5 Lots 9A And 9B DP 24844, No. 136 Oxford Road, Ingleburn Construction Of A New Religious Establishment Building, Additions And Alterations To Existing Buildings, Construction Of A New Car Parking Area And Associated Site And Landscaping Works
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57. 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 relevant condition in the development consent. 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)

58. 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.
-

3.5 Lots 9A And 9B DP 24844, No. 136 Oxford Road, Ingleburn Construction Of A New Religious Establishment Building, Additions And Alterations To Existing Buildings, Construction Of A New Car Parking Area And Associated Site And Landscaping Works

Advice 2. Tree Preservation Order

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

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

Advice 3. Provision of Equitable Access

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

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

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. School-related Car Parking

The applicant is requested to notify parents of school children that drop-off and pick-up car parking should be carried out on the parish site, in the available car parking spaces.

Advice 5. Retaining Walls

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

Advice 6. Inspection within Public Areas

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

Advice 7. Adjustment to Public Utilities

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

3.5 Lots 9A And 9B DP 24844, No. 136 Oxford Road, Ingleburn Construction Of A New Religious Establishment Building, Additions And Alterations To Existing Buildings, Construction Of A New Car Parking Area And Associated Site And Landscaping Works

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. Smoke Free Environment Act

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

Advice 10. Dial 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.1100.com.au

Advice 11. 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 12. 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 Volume 3.

3.5 Lots 9A And 9B DP 24844, No. 136 Oxford Road, Ingleburn Construction Of A New Religious Establishment Building, Additions And Alterations To Existing Buildings, Construction Of A New Car Parking Area And Associated Site And Landscaping Works

Advice 13. Telecommunications Act 1997 (Commonwealth)

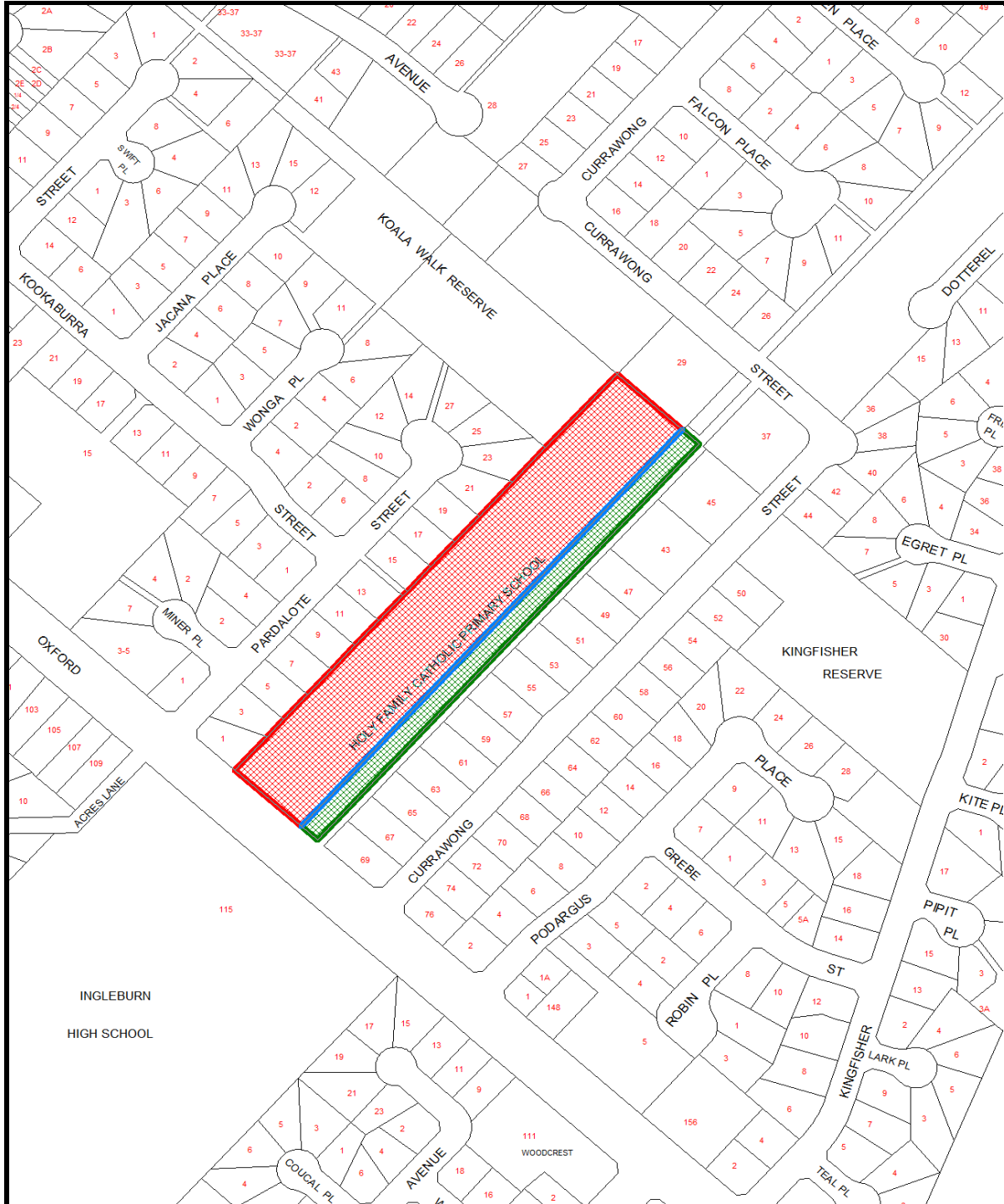
Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any persons interfering with a facility or installation owned by Telstra is committing an offence under the *Criminal Code Act 1995* (Cth) and is liable for prosecution.

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

END OF CONDITIONS

3.5 Lots 9A And 9B DP 24844, No. 136 Oxford Road, Ingleburn Construction Of A New Religious Establishment Building, Additions And Alterations To Existing Buildings, Construction Of A New Car Parking Area And Associated Site And Landscaping Works

ATTACHMENT 2



Locality Plan
Lots 9A & 9B DP24844, No. 136 Oxford Road, Ingleburn

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 20/09/2013)	1
Total completed Class 1 DA appeal matters (as at 20/09/2013)	1
Costs from 1 July 2013 for Class 1 DA appeal matters:	\$16,684.65

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:	\$11,777.05
Status:	Ongoing – listed for directions 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 a 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 20/09/2013)	0
Total completed Class 1 Order/Notice appeal matters (as at 20/09/2013)	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 20/09/2013)	1
Total completed Class 4 matters (as at 20/09/2013)	0
Costs from 1 July 2013 for Class 4 matters	\$8,676.22

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 27 September 2013.
Progress:	On 23 August 2013, the Court, by consent of the parties, gave directions to refer the matter to mediation by a Court appointed mediator. That mediation is scheduled for 19 September 2013 The matter is listed for a further directions hearing on 27 September 2013.

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 20/09/2013)	0
Total completed Class 5 matters (as at 20/09/2013)	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 20/09/2013)	0
Total completed Class 6 matters (as at 20/09/2013)	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 20/09/2013)	0
Total completed Appeal matters (as at 20/09/2013)	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 20/09/2013)	0
Total completed Local Court Matters (as at 20/09/2013)	14
Costs from 1 July 2013 for Local Court Matters	\$2,200.00

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

Final Costs: \$0.00

Status: Completed.

Progress: The matter was before the Court for mention on 10 September where Council withdrew the proceedings as a review of the available records prior to the proceedings revealed that the dog had been implanted with microchip identification but at the time of the alleged offence it had not been registered.

The defendant was warned that, in addition to microchip identification, registration of the dog was also a requirement of the Companion Animals Act and steps must be taken to register the dog as a matter of priority in order to avoid enforcement action.

File No: LP12/13 – Penalty Notice Court Election
Offence: Own dog which attacked animal – not dangerous dog.
Act: *Companion Animals Act 1998*

Final Costs: \$825.00

Status: Completed

Progress: The matter was before the Court for mention on 10 September 2013 where the defendant, Mark Backshall, entered a guilty plea with explanation. After hearing the evidence and submissions the Magistrate found the offence proved and convicted the defendant imposing a fine of \$550 and an order for Council's legal costs in the sum of \$825.

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

Final Costs: \$825.00

Status: Completed

Progress: The matter was before the Court for mention on 10 September 2013 where the defendant, Mark Backshall, entered a guilty plea with explanation. After hearing the evidence and submissions the Magistrate found the offence proved and convicted the defendant imposing a fine of \$250 and an order for Council's legal costs in the sum of \$825.

File No: LP14/13 – Penalty Notice Court Election
Offence: Own dog uncontrolled in a public place – not dangerous dog.
Act: *Companion Animals Act 1998*
Final Costs: \$0.00
Status: Completed
Progress: The matter was before the Court for mention on 3 September 2013 where no appearance was made by the defendant, Rodney Walton. The Magistrate granted Council's application to hear the matter in the defendant's absence and after hearing the evidence and submissions found the offence proved and convicted the defendant imposing a fine of \$250.

File No: LP17/13 – Penalty Notice Court Election
Offence: Own dog which attacked animal – not dangerous dog.
Act: *Companion Animals Act 1998*
Final Costs: \$0.00
Status: Completed
Progress: The matter was before the Court for hearing on 5 September 2013 where the defendant, Tony D'Arro, changed his plea by written notice of pleading to guilty with an explanation. The Magistrate agreed to Council's application that this matter and the other matter of LP22/13 be heard concurrently, as the facts in both matters were essentially the same. During the hearing, a dispute arose in respect of the facts in the other matter resulting in both matters being part-heard for reason that the Magistrate directed that Council's Ranger attend Court to give oral evidence.

This matter was again before the Court on 16 September 2013 where the Magistrate, after considering the written facts and submissions, found the offence proved and convicted the defendant imposing a \$500 fine; a control order requiring the defendant to take additional measures to limit the possibility of a further attack by the dog; and an order for \$85 compensation being a half contribution for the cost of veterinary treatment administered to the injured animals following the dog attack offence.

File No: LP21/13 – Penalty Notice Court Election
Offence: Disobey no stopping sign.
Act: *Road Rules 2008*

Final Costs: \$0.00

Status: Completed

Progress: The matter was before the Court for first mention on 27 August 2013 where the defendant, Mr Ashraful Minhaz, entered a guilty plea with explanation. The Magistrate found the offence proved and convicted the defendant imposing a \$200 fine.

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: \$550.00

Status: Completed

Progress: The matter was before the Court for hearing on 5 September 2013 where the defendant, Scott Castle, attended and changed his plea to guilty with an explanation. The Magistrate agreed to Council's application that this matter and the other matter of LP17/13 be heard concurrently, as the facts in both matters were essentially the same. During the hearing, a dispute arose in respect of the facts in this matter resulting in both matters being part-heard for reason that the Magistrate directed that Council's Ranger attend Court to give oral evidence.

This matter was again before the Court on 16 September 2013 where the defendant made no appearance. The Magistrate agreed to Council's application for the matter to proceed in the defendant's absence, and after considering the written facts and submissions, found the offence proved and convicted the defendant imposing a \$1000 fine; an order for professional costs of \$550, a control order requiring the defendant to take additional measures to limit the possibility of a further attack by the dog; and an order for \$85 compensation being a half contribution for the cost of veterinary treatment administered to the injured animals following the dog attack offence.

File No:	LP23/13 – Penalty Notice Court Election
Offence:	Stop in bus zone – school zone
Act:	<i>Road Rules 2008</i>
Final Costs:	\$0.00
Status:	Completed
Progress:	The matter was before the Court for first mention on 10 September 2013 where the defendant, Aimie Louise McKenzie, entered a guilty plea with explanation. The Magistrate found the offence proved and convicted the defendant imposing a \$350 fine.

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)	3
Costs from 1 July 2013 for advice matters	\$6782.00

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	\$16,684.65	\$0.00
Class 1 Land and Environment Court - appeals against Orders or Notices issued by Council	\$0.00	\$0.00
Class 4 Land and Environment Court matters - non-compliance with Council Orders, Notices or prosecutions	\$8,676.22	\$0.00
Class 5 Land and Environment Court - pollution and planning prosecution matters	\$0.00	\$0.00
Class 6 Land and Environment Court - appeals from convictions relating to environmental matters	\$0.00	\$0.00
Land and Environment Court tree dispute between neighbours matters	\$0.00	\$0.00
District Court appeal matters	\$0.00	\$0.00
Local Court prosecution matters	\$2,200.00	\$0.00
Matters referred to Council's solicitor for legal advice	\$6,782.00	\$0.00
Miscellaneous costs not shown elsewhere in this table	\$0.00	\$0.00
Costs Sub-Total	\$34,342.87	\$0.00
Overall Net Costs Total (GST exclusive)	\$34,342.87	

Officer's Recommendation

That the information be noted.

Committee's Recommendation: (Matheson/Oates)

That the Officer's Recommendation be adopted.

CARRIED

Council Meeting (Greiss/Lake)

That the Officer's Recommendation be adopted.

Council Minute Resolution Number 216

That the Officer's Recommendation be adopted.

5. GENERAL BUSINESS

5.1 Procedures for demolishing houses

Committee's Recommendation: (Thompson/Rowell)

That a report be presented outlining the step by step procedure and appropriate methods for house demolition within the Local Government Area.

CARRIED

Council Meeting (Greiss/Lake)

That the Committee's Recommendation be adopted.

Council Minute Resolution Number 216

That the Committee's Recommendation be adopted.

5.2 Campbelltown Main Street Committee

Committee's Recommendation: (Rowell/Thompson)

1. That a report be prepared to assess the success of the Campbelltown Main Street Committee with regard to:
 - Encouraging Campbelltown CBD businesses to be members of the Campbelltown Main Street Committee
 - obtaining financial and in-kind support from business houses in the Campbelltown CBD to conduct promotions and marketing and other initiatives to assist business generation in the Campbelltown CBD
 - Applying for any available grant funding to support these initiatives
 - Involvement in any initiatives to attracting new business and grow existing business in the Campbelltown CBD
 - Working with Council, government agencies, the Campbelltown Chamber of Commerce, and other community organisations to promote the interests of the Campbelltown CBD
 - Provide information on the expenditure of membership funds, the expenditure of Council's contribution and expenditure of funds gained from any other revenue sources.

2. That the report also provide for Council's consideration options for Council's future involvement with the Campbelltown Main Street Committee having regard to the existing and various other business models which currently exist between Councils and Main Street or like organisations elsewhere in the Sydney Metropolitan area and within NSW.

CARRIED

Council Meeting (Greiss/Lake)

That the Committee's Recommendation be adopted.

Council Minute Resolution Number 216

That the Committee's Recommendation be adopted.

Confidentiality Motion: (Lound/Thompson)

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

CARRIED

18. CONFIDENTIAL ITEMS

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 9.33pm.

G Greiss
CHAIRPERSON
