

# **Reports of the Planning and Environment Committee Meeting held at 7.30pm on Tuesday, 1 April 2014.**

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## **APOLOGIES**

## **ACKNOWLEDGEMENT OF LAND**

## **DECLARATIONS OF INTEREST**

### **Pecuniary Interests**

### **Non Pecuniary – Significant Interests**

### **Non Pecuniary – Less than Significant Interests**

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**Minutes of the Planning and Environment Committee held on 1 April 2014**

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**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  
Acting Manager Assets and Supply Services - Mr W Miller  
Manager Community Resources and Development - Mr B McCausland  
Manager Cultural Services - Mr M Dagostino  
Manager Development Services - Mr J Baldwin  
Manager Sustainable City and Environment - Mr A Spooner  
Acting Manager Governance and Administration - Mr T Rouen  
Executive Assistant - Mrs D Taylor

**Apology** Nil

**Acknowledgement of Land**

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

**DECLARATIONS OF INTEREST**

There were no Declarations of Interest at this meeting.

**Pecuniary Interests**

Nil

**Non Pecuniary – Significant Interests**

Nil

**Non Pecuniary – Less than Significant Interests**

Nil

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

**No reports this round**

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

### **2.1 Draft Policy of the Association of Mining Related Councils on Coal Seam Gas 3**

#### **Reporting Officer**

Manager Sustainable City and Environment

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#### **Attachments**

Draft Policy of the Association of Mining Related Councils on Coal Seam Gas (contained within this report)

#### **Purpose**

To seek Council's endorsement of a recommended response to the draft Policy.

#### **History**

A key responsibility of the Association of Mining Related Councils (the Association) is to advocate the concerns of member councils and their local communities on mining related activities to the Government and Government Agencies. At its meeting on 9 May 2013, the Association adopted the viewpoint that the adoption of a Policy which defines its position on coal seam gas would be of benefit in the carrying out of this responsibility.

At its meeting on 10 November 2013, the Association considered a draft Policy and resolved to defer its adoption until consideration and comment had been received by member councils. In this regard, Council has received correspondence (dated 18 November 2013) from the Executive Officer of the Association inviting comment on the draft Policy. Council subsequently wrote to the Association and advised it was the preferred view of Council that the Policy be based on Council's current resolutions regarding the coal seam gas industry.

#### **Report**

A meeting of the Association was held in Sydney on 27 February 2014 where a draft Policy on Coal Seam Gas (see attachment 1) which was significantly different to the previously circulated version, was tabled. The Executive Officer of the Association sent correspondence to Council (dated 28 February 2014) seeking comments from member councils on this version of the draft Policy prior to its finalisation.

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The revised draft Policy is broadly consistent with Council's current resolutions regarding the Coal Seam Gas industry. It is therefore recommended that Council write to the Association expressing its support in-principle for the draft Policy based on its consistency with Council's resolutions.

The draft Policy will be considered by the Association at a future meeting following review and consideration of member council feedback. The outcome of those considerations will be reported back to Council in due course.

### **Officer's Recommendation**

That Council provide in-principle support to the draft Policy of the Association of Mining Related Councils on Coal Seam Gas and advise the Association of its decision in this matter.

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

That the Officer's Recommendation be adopted.

### **CARRIED**

### **Council Meeting 8 April 2014 (Rowell/Lound)**

That the Officer's Recommendation be adopted.

### **Council Resolution Minute Number 43**

That the Officer's Recommendation be adopted.

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## ATTACHMENT 1

### **Draft Policy of the Association of Mining Related Councils on Coal Seam Gas.**

1. That the Association of Mining Related Councils (AMRC) takes the position that there are genuine concerns in the community surrounding the short term and long term environmental impacts of Coal Seam Gas as they are not well understood at either a state-wide or regional level.
  2. The AMRC would like to acknowledge the progress that has been made by this government in establishing both planning and environmental safeguards around exploration and mining activities. The Association further acknowledges recent extensions to CSG exclusion zones and the extension of the planning gateway process.
  3. The AMRC calls upon the state government to release as soon as possible the findings of the Chief Scientist and to commission with the key industry groups, peer reviewed research demonstrating the possible impacts and effects of CSG mining on ground water and surface water systems, effects related to the use of chemicals, effects related to hydraulic fracturing, effects on greenhouse gas and other emissions and the nature and effect of remediation under the *Petroleum (Onshore) Act 1991* and under clause 14 of SEPP (Mining, Petroleum Production and Extractive Industries) 2007."
  4. The AMRC also requests that the state government supports and clarifies the role and position of local government in the pre-gateway determinations concerning CSG operations and their impacts on local communities, environment and infrastructure.
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## **2.2 Minutes of the Heritage Protection Sub Committee Meeting held 20 February 2014**

### **Reporting Officer**

Manager Sustainable City and Environment

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### **Attachments**

Minutes of the Heritage Protection Sub Committee meeting held 20 February 2014  
(contained within this report)

### **Purpose**

To seek Council's endorsement of the minutes of the Heritage Protection Sub Committee Meeting held 20 February 2014.

### **Report**

Detailed below are the recommendations of the Heritage Protection Sub Committee. Council officers have reviewed the recommendations and they are now presented for Council's consideration. 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**

#### **7.1 Heritage Listed Glenalvon House – Oral Presentation by Mrs Gerri Nicholas**

1. That the Heritage Protection Sub Committee note the information and oral presentation presented by Mrs Gerri Nicholas.
2. That Council be requested to write a letter of appreciation to Mrs Gerri Nicholas for her efforts in preparing and making the oral presentation to the Heritage Protection Sub Committee.

#### **7.2 2014 Heritage Medallion Nominations**

1. That the information be noted.
  2. That the Director Planning & Environment present a separate confidential report to Council seeking endorsement of the Heritage Protection Sub Committee's recommended recipient of the 2014 Heritage Medallion.
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### **8.1 2014 Heritage Protection Sub Committee Meeting dates**

That the information be noted.

### **Officer's Recommendation**

1. That the minutes be noted.
2. That in regard to item 7.1 - Heritage Listed Glenalvon House – Oral Presentation by Mrs Gerri Nicholas - that a letter of appreciation be forwarded to Mrs Gerri Nicholas for her efforts in preparing and making the oral presentation to the Heritage Protection Sub Committee.

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

That the Officer's Recommendation be adopted.

**CARRIED**

### **Council Meeting 8 April 2014 (Rowell/Lound)**

That the Officer's Recommendation be adopted.

### **Council Resolution Minute Number 43**

That the Officer's Recommendation be adopted.

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## **2.3 Proposed Road Names - UWS Campbelltown Residential Project, Stage 1**

### **Reporting Officer**

Manager Sustainable City and Environment

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### **Attachments**

List of proposed road names for use in Stage 1 of the University of Western Sydney (UWS) Campbelltown Residential Project (contained within this report)

### **Purpose**

To propose new road names for use in Stage 1 of the UWS Campbelltown Residential Project, for Council's consideration.

### **History**

On 29 November 2012, the Sydney West Joint Regional Planning Panel issued development consent for the subdivision of Lots 63 and 64 DP 1104486, Narellan Road, Campbelltown into 240 residential allotments, five superlots, one open space lot and three residue allotments as Stage 1 of the UWS Campbelltown Residential Project. The developer (UrbanGrowth NSW) has since adopted "Macarthur Hills" as the marketing name for this development. Council has now received a request from UrbanGrowth NSW for approved road names for use in Stage 1 of this development.

### **Report**

For some time it has been Council's protocol to select specific themes in an effort to harmonise road names within suburbs and developments and provide some assistance to the travelling public.

UrbanGrowth NSW, in partnership with UWS Campbelltown, commissioned CLOUSTON Associates with Susan Conroy Cultural Planning to develop an integrated landscape, public art and place making strategy for the UWS Campbelltown Residential Project. Research carried out as part of this place making strategy established that the site of this development has a long history that can be traced back to activities undertaken by the Dharawal people, through colonial and farming settlement, to the more recent use of the site as a university campus. From this research, the overarching theme proposed for the place making and public art program is "Bringing Knowledge to Life: Public Art, Environment and Science". Underpinning this theme are four sub-themes drawn from the history, character, profile and evolution of uses of the site. These are: University Influences, Dharawal Roots, Productive Keepers Past and Present, and Natural Corridors. As the various stages of this estate are separated into distinct residential precincts by areas of open space, it is proposed to apply these separate place making sub-themes to the individual stages of this development.

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Stages 1, 2 and 3 of this residential development are located close to the existing university campus and are therefore within the area covered by the “University Influences” place making sub-theme. This sub-theme provides the opportunity to recognise UWS Campbelltown’s unique research capabilities in the areas of astronomy, nano technology, solar technology and health sciences. As Stage 1 is also located adjacent to the site of the existing university astronomical observatory, the selected theme for the proposed road names within this stage are predominantly drawn from an “astronomy” theme.

A list of proposed road names suggested by UrbanGrowth NSW for use in Stage 1 of the UWS Campbelltown Residential Project is included as attachment 1 to this report. These proposed road names have also been checked to ensure compliance with the current Geographical Names Board’s NSW Road Naming Policy.

Division 2 of Part 2 of the *Roads Regulation 2008* outlines the procedure that Council must follow when naming public roads under its control. In accordance with these procedures, it is recommended that Council advertise the proposed road names in local newspapers for a period of one month and notify Australia Post, the Registrar General, the Surveyor General and the various emergency services of its intention to name the roads within this development. Should no objections be received from the public or authorities prescribed in this Regulation within the advertisement and notification period of this proposal, it is also recommended that Council then complete the road naming process by publishing a notice of these new road names in the NSW Government Gazette.

### **Officer's Recommendation**

1. That Council approve the proposed road names in attachment 1 to this report for use in Stage 1 of the UWS Campbelltown Residential Project.
2. That Council advertise its proposal to use these road names in local newspapers for a period of one month and notifies the authorities prescribed by the *Roads Regulation 2008*.
3. That, should no objections to the proposal to use these road names be received from the public or authorities prescribed by the *Roads Regulation 2008* within one month, Council publish notice of these new road names in the NSW Government Gazette.

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

That the Officer's Recommendation be adopted.

### **CARRIED**

### **Council Meeting 8 April 2014 (Rowell/Lound)**

That the Officer's Recommendation be adopted.

### **Council Resolution Minute Number 43**

That the Officer's Recommendation be adopted.

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## **2.4 Amendment to Campbelltown (Sustainable City) Development Control Plan 2012 Volume 1**

### **Reporting Officer**

Manager Sustainable City and Environment

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### **Attachments**

1. Draft Campbelltown (Sustainable City) Development Control Plan 2014 Volume 1 *Development Controls For all types of Development* (distributed under separate cover due to size of document (260 pages))
2. Issues raised, officer's comments and recommendations (contained within this report)

To view a copy of attachment, contact Council's Corporate Support Coordinator on 4645 4405.

### **Purpose**

The purpose of this report is to:

- advise Council of proposed amendments to SCDCP 2012 Volume 1 *Development Controls for all Types of Development* as a result of a review of SCDCP 2012; and
- seek Council's approval to place the revised Draft Campbelltown (Sustainable City) Development Control Plan 2014 Volume 1 *Development Controls for all Types of Development* (Draft SCDCP 2014) on public exhibition.

### **History**

SCDCP 2012 was adopted by Council on 18 June 2013 and came into effect on 3 July 2013. SCDCP 2012 included the following new additional major parts:

Part 4 Dwelling Houses, Rural Worker's Dwellings, Dual Occupancies and Residential Subdivision on Non-Urban Land;  
Part 9 Public Consultation;  
Part 10 Religious Establishments;  
Part 11 Vegetation and Wildlife Management;  
Part 12 Telecommunication Facilities; and  
Part 13 Sex Industry Premises.

Following its adoption, staff have identified a need for a number of minor amendments. These amendments are required to address issues including:

- inconsistencies with recent amendments to State Environmental Planning Policies; and
  - minor technical anomalies with the SCDCP 2012 that have become apparent in its day to-day implementation and from client feedback.
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This report presents to Council a revised SCDCP 2014, a copy of which is shown as attachment 1 of this report.

## Report

The SCDCP 2012 is a working document that will continue to be regularly reviewed to ensure consistency with new legislation and guidelines introduced by public authorities, particularly NSW Planning and Infrastructure.

The SCDCP 2012 has been revised and a number of amendments are proposed. The details of these amendments and officer's comments and recommendations are included under Attachment 2 of this report. Following is a summary of the main proposed changes for each part of the SCDCP 2012.

### Proposed Amendments to Part 1: Preliminary

A revised definition for 'domestic outbuildings' has been included which emphasises that a domestic outbuilding does not include 'a dwelling'. This is to ensure that domestic outbuildings are not converted into habitable rooms and used as dwellings.

A revised definition for 'private open space' has been included to make the definition consistent with the definition under the Standard Instrument—Principal Local Environmental Plan (SI LEP).

The term 'garden flat' has been replaced with the term 'secondary dwelling' for consistency with the State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP). In addition the definition of a 'secondary dwelling' has also been amended to be consistent with the definition under the Standard Instrument—Principal Local Environmental Plan.

### Proposed Amendments to Part 2: Requirements Applying to all Types of Development

A new sub-clause **2.10.3 Stormwater Drainage** has been introduced which requires that, a Stormwater Drainage Plan (SDP) is to be prepared by a suitably qualified person and submitted to Council as part of any relevant development application. The SPD will demonstrate to Council how stormwater will be collected and discharged from a site, subject of a development application.

### Proposed Amendments to Part 3: Dwelling Houses, Narrow Lot Dwellings, Multi Dwelling Housing, and Subdivision *(now called Part 3 Residential and Ancillary Development on Urban Land)*

The title of this Part has been changed to read *Part 3 Residential and Ancillary Development on Urban Land*. This change better reflects that the title encompasses ancillary developments that are already covered under this Part including swimming pools/spas, domestic outbuildings and fencing.

A new requirement is proposed (under sub clause 3.3.1 Streetscape) that requires bathrooms/ensuite and laundry windows that face the primary street to be designed as an integral component of the articulation of the front building façade. This is to enhance the front façade and collectively the streetscapes within residential neighbourhoods.

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An additional sub-clause is proposed under 3.5.2 Visual Privacy. The new clause is proposed to apply to multi dwelling housing and narrow lot dwellings and addresses potential noise and vibration impacts on medium density residential developments that are proposed to be located near railway lines and major roads. The newly proposed sub clause requires such developments to comply with a set of design guidelines entitled "*Development Near Rail Corridors and Busy Roads – Interim Guideline, 2008*". These guidelines were developed by the then Department of Planning and generally include measures to mitigate impacts of noise and vibration that result from heavy traffic and train movements. Notably, a similar clause currently exists for mixed use and residential apartment buildings that are proposed near railway lines and major roads.

A number of amendments are proposed to side and rear setback requirements for detached dwellings, secondary dwellings and ancillary structures to be consistent with State Environmental Planning Policy (Exempt and Complying Codes) 2008 (ECDC SEPP).

The first of these is a proposed amendment to sub-clause 3.7.2.2 Setbacks for dwelling houses by reducing the currently required five metre rear setbacks for dwelling houses to make it consistent with the rear setback requirement that applies under the ECDC SEPP.

The proposed clause would require that a dwelling house be setback from the rear boundary by:

- 3.0 metres for any part of the building that is up to 4.5 metres in height from ground level (existing)
- 8.0 metres for any part of the building that is higher than 4.5 metres from ground level (existing).

An amendment is also proposed to sub-clause 3.7.3.4 Setbacks for Domestic Outbuildings by reducing the existing SCDCP five metre rear setback for domestic outbuildings on urban land to make it consistent with the rear setback requirement under ECDC SEPP.

The proposed clause would require domestic outbuildings to be setback from the rear boundary by:

- 0.9 metre for any part of the building that is up to 3.6 metres in height;
- 5 metres for any part of the building that is higher than 3.6 metres, and lower than 4.5 metres; and
- 8 metres for any part of the building that is higher than 4.5 metres from ground level (existing).

An amendment is also proposed to clause 3.7.4.2 Setbacks for Garden Flats/Secondary Dwellings to reduce the currently required 5 metre rear setback for garden flats/secondary dwellings to 3 metres for any part of the building that is up to 3.8 metres in height and to 8 metres for any part of the building that is higher than 3.8 metres. The proposed amendment will ensure consistency with the rear setback requirement under ECDC SEPP and ARH SSEPP.

It is proposed to amend the maximum height for Garden Flats/Secondary Dwellings under Clause 3.7.5.4 Maximum Height from one storey to two storeys and remove the restriction that secondary dwellings must be located at ground level. These changes are proposed for consistency with the requirements under the ARH SEPP.

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An amendment is also proposed to clause 3.7.4.2 Setbacks for Swimming Pools/Spas, to reduce the minimum setback requirements for side and rear boundaries for pools/spas incorporating decking higher than 600mm, from the currently required five metres to 1.5 metres, providing the design of the pool includes appropriate measures to minimise potential adverse impacts on the visual and acoustic privacy of adjoining neighbours. Notably, the ECDC SEPP applies only to pools that incorporate decking less than 600mm in height, and requires such pools to be setback by 0.9 metre from the rear and side boundary.

The current five metre requirement under the SCDCP 2012 is considered excessive and client feedback suggests that the standard restricts many landowners from the opportunity to have pools/spas in their backyards.

It is proposed to delete sub-clause 3.7.5.5 Car Parking Rates that requires the provision of one 'off street' car parking for a garden flat/secondary dwelling in order to be consistent with the ECDC SEPP. The ECDC SEPP specifically states that a consent authority must not refuse consent to a secondary dwelling if no additional car parking is provided on the site.

An additional sub clause under 3.9 Multi Dwellings is proposed to limit the width of the driveway where it meets the street curb to six metres. This would maximise opportunities for landscaping and pervious areas within the front boundary of multi dwelling housing.

**Proposed Amendments to Part 4: Dwelling Houses, Rural Worker's Dwellings, Dual Occupancies and Residential Subdivision on Non-Urban Land** *(now called Part 4 Rural Residential and Ancillary Development on Non- Urban Land)*

It is proposed to change the title of Part 4 to read *Part 4 Rural Residential and Ancillary Development on Non-Urban Land*. This is to reflect that the title encompasses ancillary developments that are already covered under this Part including domestic outbuildings and fencing.

It is also proposed that the maximum gross floor area permitted under clause 4.5.4 for domestic outbuildings on non-urban land (per site area) revert back to what was in place prior to the adoption of the SCDCP 2012.

Prior to the adoption of the SCDCP 2012, the maximum floor area of a domestic outbuilding on non-urban land was 150sqm for domestic outbuildings on land with a site area of less than 2 hectares, and 250sqm for domestic outbuildings on sites larger than 2 hectares. The '2 hectare' site area bench mark for the increase in gross floor area of domestic outbuildings (from 150sqm to 250sqm ) was changed to 10 hectares under the SCDCP 2012; meaning that a person could no longer have a domestic outbuilding larger than 150sqm unless his/her land is 10 hectares or more.

The reason for the change in the site area(from 2 hectares to 10 hectares) was to address concerns that a 250sqm shed on a 2 hectare property may be potentially large, given that some sites may be constrained by native vegetation. To address this issue an additional clause is proposed to be added under Clause 4.5.4 *Domestic Outbuildings on Non-urban Land* that requires domestic outbuildings on non-urban land to be designed and located to minimise adverse visual impacts on the environmental and scenic values of the non-urban land.

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An amendment is proposed to change table 4.5.2 to reduce the rear and side setbacks for domestic outbuildings on non-urban land from 10 metres to 5 metres for allotments having a site area of 0.4 hectare or less. A 5 metre rear and side setback are considered appropriate for these sites.

#### **Proposed Amendments to Part 5 Residential and Mixed-Use Development**

An amendment is proposed to sub-clause 5.4.4 Car Parking and Access for Residential Apartment Buildings, to reduce the number of proposed dwellings within a mixed use or residential apartment buildings that triggers the need to prepare a traffic impact assessment (from 75 dwellings to 20 dwellings). Notably, an additional 20 dwellings may not have noticeable effects on the local traffic network as a standalone development, however the cumulative impacts of a number of similar residential developments could potentially have major impacts on the local network and as such would need to be examined and addressed as part of any newly proposed development incorporating 20 dwellings or more.

#### **Proposed Amendments to Part 6 Commercial Development**

There are no major proposed amendments to Part 6 Commercial Development.

#### **Proposed Amendments to Part 7: Industrial Development**

An additional clause is proposed to sub-clause 7.4.2 Loading and Unloading that requires development applications for industrial development to specifically show on the plans accompanying the application the "swept paths" for heavy vehicles. This is to ensure that driveways and turning points are appropriately designed to accommodate the movements of heavy vehicles to and from the site and to and from the designated loading/unloading areas.

#### **Proposed Amendments to Part 8 Child Care Centres**

There are no proposed amendments to Part 8 Child Care Centres.

#### **Proposed Amendments to Part 9 Public Consultation**

An amendment is proposed to sub-clause 9.4.2.1 Public Notified and Exhibited Development to remove a number of clauses that include a monetary value as the 'trigger' for public notification and public exhibition. In some instances, the monetary figures under this part have unnecessarily triggered the public notification and exhibition of development applications that in the 'norm' would not be publicly notified nor exhibited, such as for example an internal fit out that exceeds the prescribed monetary value.

Therefore, it is recommended that all monetary value triggers be replaced by a more generic control that relates to 'potential adverse impacts' on adjoining and/or nearby properties as assessed by Council.

#### **Proposed Amendments to Part 10 Religious Establishments**

There are no proposed amendments to Part 10 Religious Establishments.

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**Proposed Amendments to Part 11 Vegetation and Wildlife Management**

An additional clause is proposed to be included under clause 11.3.1 Exemptions of this Part. The proposed clause will provide exemptions from the need to obtain Council's approval for the pruning and removal of African Olives and Camphor Laurel. These two species are considered invasive and present a threat to local native flora, and are not currently listed as noxious weeds under the Campbelltown Noxious Weed List (CNW List). Notably, The CNW List is prepared by the Department of Primary Industries with input from Council.

**Proposed Amendments to Part 12 Telecommunication Facilities**

There are no proposed amendments to Part 12 Telecommunication Facilities.

**Proposed Amendments to Part 13 Sex Industry Premises**

There are no proposed amendments to Part 13 Sex Industry Premises.

**Next Stage – Alignment of the SCDCP with Draft Campbelltown Local Environmental Plan 2014**

Council, in accordance with the Standard Instrument (Local Environmental Plans) Order 2006, has prepared draft CLEP 2014 which is currently with NSW Planning and Infrastructure (the Department) for the purpose of issuing a Section 65 certificate to enable Council to publicly exhibit the draft plan.

The current SCDCP has been prepared in conjunction with the current State Environmental Planning Instruments (EPIs) that apply to the Campbelltown Local Government Area including :

- Campbelltown (Urban Areas) Local Environmental Plan 2002 ( LEP 2002)
- Interim Development Orders ( IDOs) number 13,15, and 28
- LEP 1, LEP (District) 8, LEP No 32 and LEP No 112.

As all of the above EPIs will be replaced by CLEP 2014, upon its gazettal, the SCDCP will need to be revised to be aligned with CLEP 2014 at that time.

Given that CLEP 2014 will be placed on public exhibition in the near future, it is intended that a further revised draft SCDCP 2014 be placed on public exhibition at the time of the impending Gazettal of CLEP 2014.

However, given the uncertainty in the timing of the exhibition (and ultimate gazettal) of the Draft CLEP 2014 and the urgency to undertake the current proposed amendments (subject of this report) to the SCDCP 2012, it recommended that Council place the revised Draft SCDCP 2014 (contained in attachment 1) on public exhibition, and undertake the alignment of the SCDCP with the draft CLEP 2014 at a later stage.

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**Public Consultation**

It is recommended that the revised draft SCDCP 2014 be placed on public exhibition for 28 days at a number of locations across the City including Council's Civic Centre, all libraries, and on Council's website, in accordance with the legislative requirements of the Environmental Planning and Assessment Regulation 2000.

At the conclusion of the public exhibition of draft SCDCP 2014, a report on the outcome of the public exhibition will be provided to Council.

**Officer's Recommendation**

1. That Council endorse draft Campbelltown (Sustainable City) Development Control Plan 2014 Volume 1 (contained in attachment 1) for public exhibition in accordance with the *Environmental Planning and Assessment Act, 1979* and associated regulation.
2. That at the conclusion of the public exhibition, a report be provided to Council on the outcome of the public exhibition of the draft Campbelltown (Sustainable City) Development Control Plan 2014 Volume 1.

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

That the Officer's Recommendation be adopted.

**CARRIED****Council Meeting 8 April 2014 (Rowell/Lound)**

That the Officer's Recommendation be adopted.

**Council Resolution Minute Number 43**

That the Officer's Recommendation be adopted.

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## 2.5 Noxious Weeds (Weed Control) Order 2014

### Reporting Officer

Manager Sustainable City and Environment

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### Attachments

*Noxious Weeds (Weed Control) Order 2014* gazetted by the NSW Department of Planning Industries (contained within this report)

### Purpose

To advise Council of the *Noxious Weeds (Weed Control) Order 2014* gazetted 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*. This declaration is known as a control order and lists noxious weed species according to control class. Each 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 are 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.

Council at its meeting on 15 October 2013 considered a report on the *draft Noxious Weeds (Weed Control) Order 2013*. Following consideration of the report Council resolved;

That Council endorse the attached submission to the NSW Department of Primary Industries which supports the majority of changes proposed under *draft Noxious Weeds (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 Weeds (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 Weeds (Weed Control) Order 2013*.
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Following a review of submissions on the *draft Noxious Weeds (Weed Control) Order 2013*, the *Noxious Weeds (Weed Control) Order 2014* was gazetted by the NSW Minister for Primary Industries on 28 February 2014. This report outlines the changes relevant to the Campbelltown Local Government Area (LGA) under the new control order and the recommended response from Council.

## Report

The *Noxious Weeds (Weed Control) Order 2014* declares a number of new species as noxious weeds and amends the wording for the control requirement for Class 4 noxious weeds.

The major changes for the Campbelltown LGA under the new control order include:

- the declaration of African Olive (*Olea europaea ssp. cuspidate*) as a Class 4 noxious weed
- the upgrading of Madeira Vine (*Andredera cordifolia*) to a Class 3 noxious weed
- the upgrading of Boneseed (*Chrysanthemoides monilifera ssp. Monilifera*) to a Class 1 noxious weed
- amendment of the Class 4 noxious weed control requirement to – ‘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’.

The NSW Department of Primary Industries also adopted Council’s recommendation regarding Rhizomatous Bamboo (*Phyllostachys spp.*), outlined above. However Maple Ash (*Acer negundo*) was not declared a noxious weed. This species continues to be of concern across the Macarthur area in regard to its displacement of native species in riparian areas.

In accordance with the advice in the previous Council report, a number of new species have been declared as noxious for the Campbelltown LGA. A full list of species changes under the *Noxious Weeds (Weed Control) Order 2014* of relevance to the Campbelltown LGA are contained within this report (see attachment 1).

There has been no response from the NSW Government with regard to Council’s request for funding assistance to enable Council to implement the control of the noxious weeds under the new control order.

## Conclusion

A total of 27 new species have been declared noxious and the classification of five species of noxious weeds have been upgraded for the Campbelltown LGA under the *Noxious Weeds (Weed Control) Order 2014*. Council staff support these inclusions as they will increase opportunities to appropriately manage existing threats to native bushland and control new and emerging weed incursions.

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. Inclusion of these species allows for timely control should these species be detected.

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However, Council staff continue to have concern regarding the non-classification of Maple Ash (*Acer negundo*) as a noxious weed as well as the amount of funding provided by the NSW Government for the control of noxious weeds. It is therefore recommended that Council write to the NSW Department of Primary Industries expressing these concerns.

### **Officer's Recommendation**

That Council write to the NSW Department of Primary Industries outlining the concerns contained within the report regarding the *Noxious Weeds (Weed Control) Order 2014*.

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

That the Officer's Recommendation be adopted.

### **CARRIED**

### **Council Meeting 8 April 2014 (Rowell/Lound)**

That the Officer's Recommendation be adopted.

### **Council Resolution Minute Number 43**

That the Officer's Recommendation be adopted.

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### **3. DEVELOPMENT SERVICES**

#### **3.1 Development Services Section Statistics - February 2014**

##### **Reporting Officer**

Manager Development Services

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##### **Attachments**

Development Services application statistics for February 2014 (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 February 2014 as they affect the Development Services section.

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

That the information be noted.

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

That the Officer's Recommendation be adopted.

##### **CARRIED**

##### **Council Meeting 8 April 2014 (Rowell/Lound)**

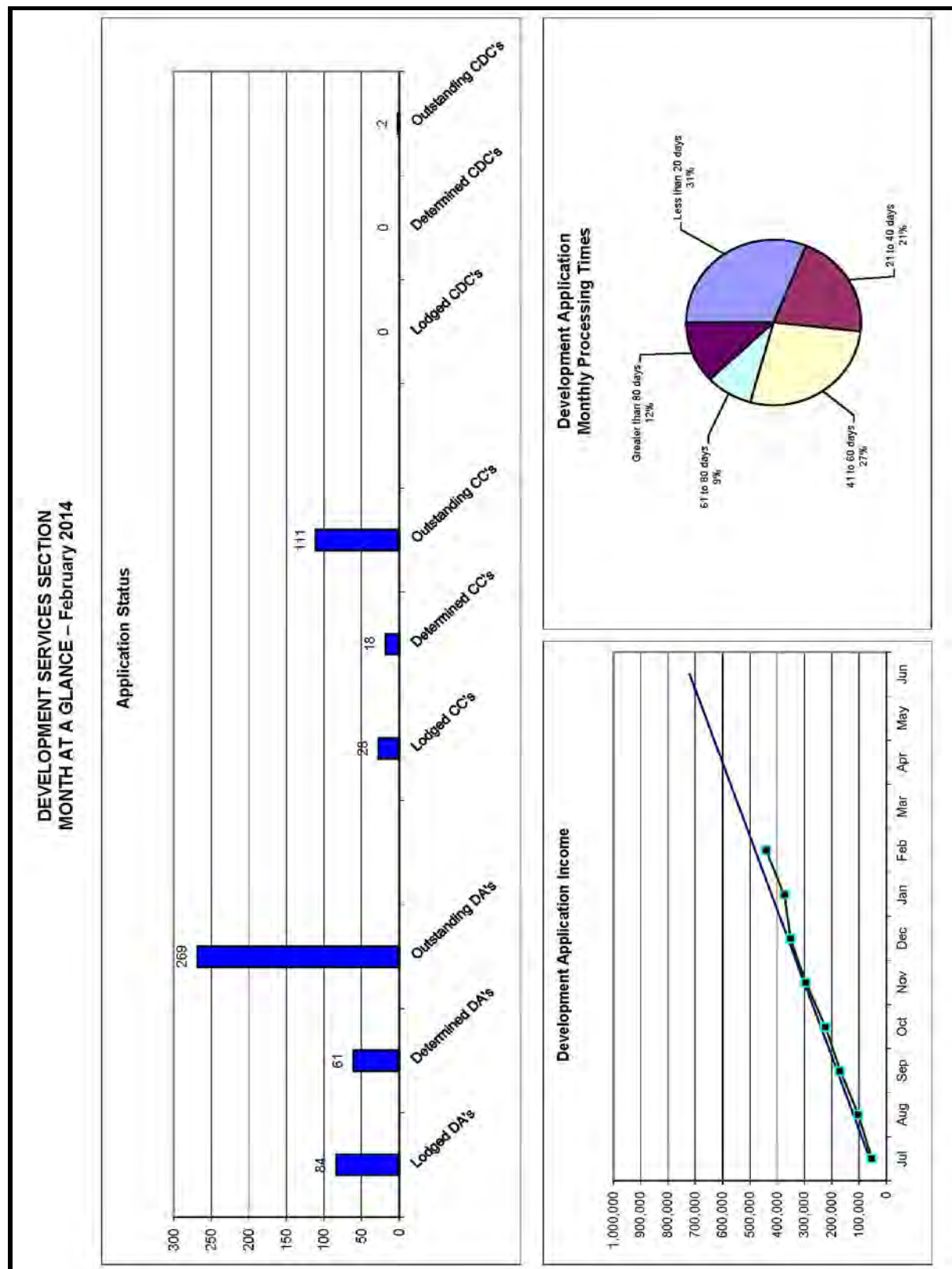
That the Officer's Recommendation be adopted.

##### **Council Resolution Minute Number 43**

That the Officer's Recommendation be adopted.

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## ATTACHMENT 1



### 3.2 Corner Appin Road And Kellerman Drive, St Helens Park - Construction Of A Public Skate Park And Accessible Toilet

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## 3.2 Corner Appin Road and Kellerman Drive, St Helens Park - Construction of a public skate park and accessible toilet

### Reporting Officer

Manager Development Services

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### Attachments

1. Recommended conditions of consent (contained within this report)
2. Locality plan (contained within this report)
3. Site plan (contained within this report)
4. Plan of proposed footpath (contained within this report)
5. Public toilet plans (contained within this report)
6. Skate park elevations (contained within this report)

### Purpose

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

This development application is required to be reported to Council due to the number of objections received in response to the public notification of the application to residents adjacent to and nearby the subject site.

In addition, the proposed skate park is a public facility to be constructed by Council, which is likely to be of interest to Councillors and the broader community.

|                             |  |
|-----------------------------|--|
| <b>Property Description</b> | Lot 1 DP 810691, Lot 70 DP 1068130, Lot 703 DP 833443, St Helens Park Reserve (Corner of Appin Road and Kellerman Drive, St Helens Park)   |
| <b>Application No</b>       | 1266/2012/DA-C   |
| <b>Applicant</b>            | Campbelltown City Council  |
| <b>Owner</b>                | Campbelltown City Council  |
| <b>Provisions</b>           | Campbelltown 2025 - Looking Forward<br>Campbelltown Sustainable City Development Control Plan 2009<br>Campbelltown (Urban Area) Local Environmental Plan 2002<br>Campbelltown Development Control Plan No. 87 - Public Notification and Public Exhibition Policy<br>Campbelltown City Section 94 Development Contributions Plan 2007 |
| <b>Date Received</b>        | 26 June 2012   |

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### 3.2 Corner Appin Road And Kellerman Drive, St Helens Park - Construction Of A Public Skate Park And Accessible Toilet

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## History

The Campbelltown City Section 94 Development Contributions Plan 2007 lists a skate park at Rosemeadow as an “additional facility” which development contributions levied under the Plan will be used to fund, in addition to the facilities identified in the Works Schedule within the Plan.

In November 2011, Council wrote to the Department of Planning, seeking authorisation for a proposed change in location of the skate park from a previously identified site at Rosemeadow to St Helens Park Reserve. In April 2012, the Minister for Planning and Infrastructure, The Hon. Brad Hazzard, wrote to Council, advising that he had no objections to Council's proposal to relocate the proposed skate park facility. An amended ministerial direction was provided in respect of the Campbelltown City Section 94 Development Contributions Plan 2007, directing Council to use the development contributions levied under the Plan for the purpose of a skate park at St Helens Park.

## Report

A development application has been lodged by the Assets and Supply Services section of Council for the construction of a public skate park and accessible toilet at St Helens Park.

The proposed skate park is a public facility for which development contributions have been collected.

St Helens Park Reserve is a 3.8 Hectare Council-owned park located on the north-eastern corner of Appin Road and Kellerman Drive. The site currently contains grassed areas, vegetation, walking paths and play equipment. The site is adjoined by residential development to the north and south, St Helens Park House to the east, and Ambarvale High School to the west across Appin Road.

The proposed skate park facility would be located in the western portion of the site, approximately 20 metres from the Appin Road boundary of the site and approximately 68 metres from the boundary of the site with the nearest residential property in Holman Place to the north. The proposed public toilet would be approximately 43 metres from the boundary of the site with the nearest residential property in Holman Place.

The application proposes the installation of four flood lighting poles to illuminate the skate park during evenings. Each flood lighting pole would be 12 metres high and would contain four lights each. The flood lights would operate from 6.30pm seven days per week, and be switched off at 10.00pm on Fridays and Saturdays and 9.30pm from Sunday through to Thursday. The proposed public toilet would be programmed to self-lock at the same time that the flood lights are switched off each day.

The application proposes to rely upon on-street parking within St Helens Park Drive to serve the skate park facility, and proposes to create one permanent accessible on-street car parking space.

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### 3.2 Corner Appin Road And Kellerman Drive, St Helens Park - Construction Of A Public Skate Park And Accessible Toilet

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## 1. Vision

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

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

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

The strategic directions relevant to this application are:

- Growing the regional City
- Creating education, employment and entrepreneurial opportunities
- Building and maintaining quality public infrastructure.

The application is consistent with the above strategic directions as the proposal would provide a high quality public facility to cater for the growing regional city, and would provide employment opportunities within the construction industry during construction of the proposed skate park.

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

- Local infrastructure that is well utilised for positive community and/or environmental gain
- New infrastructure exhibits 'best practice' design and construction techniques, incorporating:
  - Contemporary 'signature' architectural and civic forms
  - Local community input where possible.

The development is consistent with desired outcomes within Campbelltown 2025, as the proposed recreational infrastructure will increase the range of sporting and community facilities available to the southern part of the City. The proposed skate park also has a high quality architectural design which would enhance its aesthetic appeal. In addition, it is understood that the local skateboarding community have been consulted and provided input regarding the design and layout of the proposed skate park.

## 2. Planning Provisions

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

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

The subject site is zoned 6(a) – Local Open Space under the provisions of Campbelltown (Urban Area) Local Environmental Plan 2002. The proposed development is defined as a recreation area and is permissible with Council's development consent within the zone.

The proposal is consistent with several zone objectives, particularly:

- (a) to ensure there is provision of adequate open space to meet the existing and future needs of residents and to provide opportunities to enhance the environmental quality of the City of Campbelltown
- (b) to identify land which is owned, or proposed to be owned, by the Council and to provide for the acquisition or dedication of this land for open space or public recreational purposes
- (c) to identify land which is owned by the Crown and is under the care, control and management of the Council as public open space
- (d) to provide opportunities for recreation and the provision of community facilities on publicly owned land.

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.

Consent must not be granted for development on land within this zone unless the consent authority is of the opinion that carrying out the proposed development would be consistent with one or more of the objectives of this zone. The proposed development is consistent with all zone objectives listed above, and therefore Council is able to approve the application should it deem appropriate to do so.

### **Clause 49 – Development in the vicinity of a heritage item**

Clause 49 of the CLEP relates to development that is in the vicinity of a heritage item. As St Helens Park Reserve is adjacent to St Helens Park House, which is a heritage item, the application has been assessed against this clause. This assessment is presented below:

- (1) Before granting consent to development in the vicinity of a heritage item, the consent authority must assess the impact of the proposed development on the heritage significance of the heritage item and of any heritage conservation area within which it is situated.

St Helens Park House is a 2.58 Hectare property located to the east of St Helens Park. The property contains a two storey neo-Gothic mansion built in 1887, and the entire property is listed as a heritage item under the NSW State Heritage Register and Campbelltown (Urban Area) Local Environmental Plan 2002.

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### 3.2 Corner Appin Road And Kellerman Drive, St Helens Park - Construction Of A Public Skate Park And Accessible Toilet

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Although St Helens Park is within the vicinity of the St Helens Park House property, the proposed skate park, being located towards the western edge of St Helens Park, would be located approximately 170 metres from the property boundary with St Helens Park, and 260 metres from the house itself. Due to the significant distance separating the proposed skate park facility from St Helens Park House, it is considered that the proposed skate park would not have a significant impact on the heritage significance of St Helens Park House.

- (2) This clause extends to development:
- (a) that may have an impact on the setting of a heritage item, for example, by affecting a significant view to or from the item or by overshadowing, or
  - (b) that may undermine or otherwise cause physical damage to a heritage item, or
  - (c) that will otherwise have any adverse impact on the heritage significance of a heritage item or of any heritage conservation area within which it is situated.

It is noted that the proposed flood light poles are likely to be visible from certain areas within the grounds of St Helens Park House, however due to the significant distance separating the proposed flood light poles from St Helens Park House and the slender shape of the poles, it is considered that views to and from the heritage item would not be detrimentally affected.

- (3) The consent authority may refuse to grant any such consent unless it has considered a heritage impact statement that will help it assess the impact of the proposed development on the heritage significance, visual curtilage and setting of the heritage item.

A heritage impact statement prepared by a heritage consultant has been provided by the applicant, which assesses the impact of the proposed skate park facility (including the proposed light poles) on the heritage significance, visual curtilage and setting of St Helens Park House.

The heritage impact statement states that the proposed skate park facility would have no impact on the historical, scientific, cultural, social, architectural, aesthetic, technical, natural or archaeological significance of St Helens Park House.

The heritage impact statement states that the design of the proposed skate park and the siting of the proposed skate park at the opposite end of St Helens Park Reserve from its boundary with St Helens Park House, as well as the dense landscaping and plant screening at the boundary of St Helens Park Reserve and St Helens Park House will ensure that the proposed skate park will have no impact on the current presentation of the heritage item. The report concludes that as the current presentation of the heritage item within the context of the surrounding streetscape and the landscaping of the property and architectural elements of buildings will largely remain unaltered and intact, the proposed skate park will not affect the listed heritage item.

- (4) The heritage impact statement should include details of the size, shape and scale of, setbacks for, and the materials to be used in, any proposed buildings or works and details of any modification that would reduce the impact of the proposed development on the heritage significance of the heritage item.
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### 3.2 Corner Appin Road And Kellerman Drive, St Helens Park - Construction Of A Public Skate Park And Accessible Toilet

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The heritage impact statement states that the design of the proposed skate park and the siting of the proposed skate park at the opposite end of St Helens Park Reserve from its boundary with St Helens Park House, as well as the dense landscaping and plant screening at the boundary of St Helens Park Reserve and St Helens Park House will ensure that the proposed skate park will have no impact on the current presentation of the heritage item. Therefore, recommendations in relation to the size, shape and scale of, setbacks for, and the materials to be used in relation to the proposed skate park facility are not considered to be required.

#### **Clause 54 - Development within Zone 6(a)**

Clause 54 of the CLEP states the following:

Consent must not be granted to the carrying out of development on land within Zone 6 (a), being land owned or controlled or proposed to be owned or controlled by the Council, unless the consent authority has considered:

- (a) the need for the proposed development of the land, and
- (b) the impact of the proposed development on the existing or likely future use of the land, and
- (c) the need to retain the land for its existing or likely future use.

The applicant has provided the following information in respect of the above clause, which is considered to be sound and reasonable and in satisfaction of the clause:

- (a) the need for the proposed development of the land, and

Council has provided skate parks at Leumeah and Macquarie Fields. The Leumeah skate park serves the central region of the City and the Macquarie Fields skate park serves the northern region of the City. At present the southern region of the City has limited access to a skate park facility.

The gap in the provision of a more even spread of recreational facilities throughout the City demonstrates the need for a skate park facility to service the southern region of Campbelltown.

- (b) the impact of the proposed development on the existing or likely future use of the land, and

St Helens Park is currently open space used for passive recreation purposes. The proposal would modify a portion of the park to an area of active recreation, with the balance remaining as passive recreation. This is considered to be a suitable use of the land and is consistent with the zone objectives.

- (c) the need to retain the land for its existing or likely future use.

The land is to be retained by Council.

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### 3.2 Corner Appin Road And Kellerman Drive, St Helens Park - Construction Of A Public Skate Park And Accessible Toilet

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

The application has been assessed under the provisions of the now repealed Campbelltown (Sustainable City) Development Control Plan 2009, as the application was lodged before the Campbelltown (Sustainable City) Development Control Plan 2012 came into effect. The provisions within the 2012 Plan that apply to the application are not substantially different from equivalent provisions within the 2009 Plan.

It should be noted that neither the 2009 nor 2012 versions of the SCDCP contain specific provisions relating to skate parks, however the general provisions of Part 2 of the Plan apply to all types of development. Compliance with the relevant provisions of Part 2 of the Plan is discussed as follows:

**Views and vistas** – The appearance of the proposed skate park from the major thoroughfare of Appin Road is considered to be satisfactory. The skate park would not detrimentally affect the view of St Helens Park Reserve from the surrounding locality. Views and vistas from Appin Road to St Helens Park House would not be affected by the proposal, as the eastern and western boundaries of St Helens Park Reserve are for the most part lined with vegetation including large mature trees, such that the grounds of St Helens Park House are barely visible from Appin Road, and the house itself is not visible from Appin Road.

**Flora and fauna** – St Helens Park Reserve contains several groups of trees, however it is noted that no trees are proposed to be removed as part of the application.

**Stormwater** – The proposed skate park facility would contain stormwater pits that would allow stormwater to drain into an existing pipe that traverses the Reserve.

### Part 5 of SCDCP 2009 – Commercial Development

|                    |   | Campbelltown (Sustainable City)<br>Development Control Plan  |   |
|--------------------|---|--|---|
| Control            | Proposed  | Requirement  | Complies                                      |
| <b>Car Parking</b> | 16 on-street spaces are available in St Helens Park Drive | Gymnasiums / Recreation Facilities –<br>Outdoor facilities – one space per 50m <sup>2</sup> of site area<br>Approximately 790m <sup>2</sup> of skate park area proposed<br><b>Total spaces required = 16</b> | <b>Yes</b><br>(in an on-street configuration) |

### 3.2 Corner Appin Road And Kellerman Drive, St Helens Park - Construction Of A Public Skate Park And Accessible Toilet

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#### **Car parking**

The application proposes to rely upon on-street car parking in St Helens Park Drive to serve the skate park facility. The SCDCP 2009 stipulates a car parking rate of one car parking space per 50m<sup>2</sup> of site area for a recreational facility. Based on this rate, the skate park would require 16 car parking spaces to be provided. St Helens Park Reserve has a frontage to St Helens Park Drive of approximately 110 metres. This length of roadway is able to accommodate the parking of 16 vehicles. Accordingly, 16 vehicles will be able to park within St Helens Park Drive in front of St Helens Park Reserve without needing to park in front of surrounding residential properties. Car parking availability is therefore considered to be satisfactory. In support of this configuration, it is considered necessary to ensure that vehicles do not use the part of Kellerman Drive in close proximity to the intersection of Appin Road and Kellerman Drive for parking and drop-off purposes. In this regard, a condition of consent has been included in the recommended conditions of consent in Attachment 1, requiring 'No Stopping' signs to be provided on the northern side of Kellerman Drive, the extent of which will be determined by the Local Traffic Committee.

#### **3. Planning Assessment**

Given that the proposed skate park is a public facility that is funded by development contributions, it would be inappropriate for a Section 94A contribution to be levied in respect of the proposal.

Council's Building Certification Unit advised that the proposal can be assessed for compliance against the Building Code of Australia at the Construction Certificate stage, and that detailed plans of the proposed accessible toilet can be provided with the Construction Certificate application.

The nearest of the four proposed flood light poles to the residential properties in Holman Place would be located approximately 70 metres from the boundary with the nearest of the residential properties. Despite this significant distance between the lighting and the residences, Council required the applicant to engage a qualified lighting consultant to prepare a Light Spill Analysis, to assess whether the proposed flood lighting would comply with Australian Standard 4282 – Control of the Obtrusive Effects of Outdoor Lighting. A Light Spill Analysis was submitted by the applicant, which showed that the maximum illuminance that would be detectable at the boundary of the nearest residential properties in Holman Place when all of the proposed lights are in operation would be 0.9 lux when initially switched on and 0.7 lux thereafter. Australian Standard 4282 recommends a maximum illuminance for residential properties of 10 lux. Hence, the illumination caused by the proposed flood lights at the boundary of the nearest residential properties in Holman Place would be significantly less than this recommended maximum, and accordingly, the proposed flood lights would comply with Australian Standard 4282 – Control of the Obtrusive Effects of Outdoor Lighting.

St Helens Park is located within the South Campbelltown Mine Subsidence District. The Mine Subsidence Board has confirmed that it is required to assess the proposal. Accordingly, a condition requiring the applicant to obtain the approval of the Mine Subsidence Board in respect of the proposal has been included in the recommended conditions of consent in Attachment 1.

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### 3.2 Corner Appin Road And Kellerman Drive, St Helens Park - Construction Of A Public Skate Park And Accessible Toilet

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The application was referred to the Crime Prevention Officer at the Campbelltown Local Area Command of the NSW Police for an assessment of the proposed skate park against the principles of Crime Prevention Through Environmental Design (CPTED).

The Police conducted a Safer by Design Evaluation, and concluded that the site risk rating for the proposed development is medium crime risk. The evaluation is based on crime likelihood (statistical probability), consequence (crime outcome), distributions of reported crime (hotspot analysis), socioeconomic conditions (relative disadvantage), situational hazards and crime opportunity.

The Police provided the following recommendations to be incorporated into the design and management of the skate park and its surrounds, in order to reduce opportunities for crime:

- a surveillance system may be installed to enhance the physical security of the area and assist in the identification of people involved in anti-social or criminal behaviour
- the landscaping/shrubbery should be kept well maintained to reduce concealment opportunities and allow clear sight lines from passing motorists, local streets and nearby houses
- sight lines should be kept as simple as possible. Clear sightlines should be maintained between the skate park and any buildings, landmarks, local streets and surrounding houses to assist in the overall surveillance of the site
- a lighting maintenance policy should be established for the floodlights, which ensures that broken lights are repaired within 24 hours
- luminaries (light covers) should be vandal resistant
- consulting with the local youth in relation to the general rules at the skate park can help increase the connection the youth have with the site and enhance territorial re-enforcement
- as malicious damage (graffiti) to skate parks often occurs, strong consideration should be given to the use of graffiti resistant materials, to reduce such attacks or assist in the quick removal of such attacks
- a graffiti management plan should be incorporated into the maintenance plan for the skate park. Research has shown that the most effective strategy for reducing graffiti attacks is the quick removal of such material generally with a 48 hour period
- skate parks are often targeted by offenders during the construction phase. Police recommend the use of security sensor lights and a security company to monitor the site while construction is in progress.

These recommendations have been included in the recommended conditions of consent in Attachment 1 (please see proposed condition number 11).

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### 3.2 Corner Appin Road And Kellerman Drive, St Helens Park - Construction Of A Public Skate Park And Accessible Toilet

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#### 4. Public Participation

The application was publicly exhibited and notified to nearby and adjoining residents. Council has received submissions from seven households (one in support of the proposal and six against the proposal) raising the following issues:

**Issue** - The proposed skate park will lead to an increase in noise, from people using the facility as well as people in transit to and from the facility. The skate park will be able to be used 24 hours a day, and will cause constant noise pollution.

**Comment** - The proposed skate park would be located in the western portion of the site (near Appin Road), approximately 68 metres from the boundary of the facility with the nearest residential property in Holman Place. The proposed public toilet would be approximately 43 metres from the boundary of the site with the nearest residential property in Holman Place.

It is considered that the distance between the proposed skate park and the surrounding dwellings is sufficient to provide Council with confidence that the surrounding residences would be unlikely to experience a significant amount of noise pollution. In addition, the skate park would not be able to be used 24 hours a day, as the floodlights would be switched off at 10.00pm at the latest.

The noise associated with a skate park would not be constant. Rather, it would be intermittent, and would be dependent upon the number of people present at the skate park, which would fluctuate throughout each day and week. Peak usage of the skate park is expected to be during the after-school period, during the weekend, and during school holidays. However these times are also times when the park would be expected to experience its maximum patronage, with or without the proposed skate park.

It should be noted that the skate park at Macquarie Fields is located approximately 50 metres from the boundary of the nearest residential property to the skate park, and the entrance to the car park servicing the skate park is located approximately 40 metres from the nearest residential property. Council's Community Resources and Development, Customer Service, Compliance and Healthy Lifestyles sections have advised that no noise complaints have been received in relation to the Macquarie Fields skate park.

Whilst it is acknowledged that the proposed skate park (including transit to and from the skate park) is likely to increase the noise levels within the park, it is not unexpected for a recreational area such as a skate park (which the zoning of the land allows for) to produce a certain amount of noise. However, given the distance (and vegetation) between the location of the proposed skate park and the surrounding residences, it is considered unlikely that the proposed skate park would be a source of constant noise pollution.

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### 3.2 Corner Appin Road And Kellerman Drive, St Helens Park - Construction Of A Public Skate Park And Accessible Toilet

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**Issue** - The proposed skate park will lead to an increase in light affecting residents' homes.

**Comment** - The nearest of the four proposed flood light poles to the residential properties in Holman Place would be approximately 70 metres from the boundary with the nearest of the residential properties. Despite this significant distance between the lighting and the residences, Council required the applicant to engage a qualified lighting consultant to prepare a Light Spill Analysis, to assess whether the proposed flood lighting would comply with Australian Standard 4282 – Control of the Obtrusive Effects of Outdoor Lighting. A Light Spill Analysis was submitted by the applicant, which showed that the maximum illuminance that would be detectable at the boundary of the nearest residential properties in Holman Place when all of the proposed lights are in operation would be 0.9 lux when initially switched on and 0.7 lux thereafter. Australian Standard 4282 recommends a maximum illuminance for residential properties of 10 lux. The illuminance caused by the proposed flood lights at the boundary of the nearest residential properties in Holman Place would be significantly less than this recommended maximum, and accordingly, the proposed flood lights would comply with Australian Standard 4282 – Control of the Obtrusive Effects of Outdoor Lighting.

**Issue** - The proposed skate park will lead to an increase in litter in the park.

**Comment** - The proposed skate park is likely to lead to an increase in the number of people using the park. Therefore there is a possibility (but not a certainty) that the park will experience an increase in litter. Advice from the Police outlined that there is a high correlation between urban decay, fear of crime, and avoidance behaviour. Accordingly, it is considered appropriate to impose a condition of consent requiring the skate park and the surrounding reserve to be inspected for litter and cleaned on a daily basis. Such a condition is outlined in the recommended conditions of consent in Attachment 1.

**Issue** - The proposed skate park will lead to an increase in anti-social behaviour and crime in the park. The park's isolated location and the lack of supervision of the skate park will exacerbate this.

**Comment** - The application was referred to the Crime Prevention Officer at the Campbelltown Local Area Command of the NSW Police for an assessment of the proposed skate park against the principles of Crime Prevention Through Environmental Design (CPTED).

The Police conducted a Safer by Design Evaluation, and concluded that the site risk rating for the proposed development is medium crime risk. The evaluation is based on crime likelihood (statistical probability), consequence (crime outcome), distributions of reported crime (hotspot analysis), socioeconomic conditions (relative disadvantage), situational hazards and crime opportunity.

It is noted that the Police did not object to the proposed skate park.

The Police provided recommendations to be incorporated into the design and management of the skate park and its surrounds, in order to reduce opportunities for crime. These recommendations have been included in the recommended conditions of consent in Attachment 1.

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### 3.2 Corner Appin Road And Kellerman Drive, St Helens Park - Construction Of A Public Skate Park And Accessible Toilet

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**Issue** - The proposed public toilet will provide a place for people to take drugs.

**Comment** - There is no evidence to suggest that people will take drugs in the proposed public toilet. The toilet will be locked each night when the floodlights are switched off, so the toilet will not be in operation while the skate park is not being used. This reduces the extent of the risk of drug users using the toilet.

**Issue** - The proposed skate park will lead to an increase in graffiti in the park.

**Comment** - The Police have advised that the most effective ways of reducing the incidence of graffiti attacks are the use of graffiti resistant materials (or coating) and the rapid removal of graffiti when it does occur (within 48 hours of occurrence). Accordingly, recommended conditions of consent (as shown in Attachment 1) would require the applicant to incorporate graffiti-resistant materials or coating into the surfaces of the skate park, and remove graffiti within 48 hours of occurrence.

**Issue** - There is no mention within the application of a Crime Prevention Through Environmental Design (CPTED) report, nor is there any mention of CCTV to prevent problems occurring at the site.

**Comment** - The application was referred to the Crime Prevention Officer at the Campbelltown Local Area Command of the NSW Police for an assessment of the proposed skate park against the principles of Crime Prevention Through Environmental Design (CPTED).

The Police conducted a Safer by Design Evaluation, and concluded that the site risk rating for the proposed development is medium crime risk. The evaluation is based on crime likelihood (statistical probability), consequence (crime outcome), distributions of reported crime (hotspot analysis), socioeconomic conditions (relative disadvantage), situational hazards and crime opportunity.

The Police provided recommendations to be incorporated into the design and management of the skate park and its surrounds, in order to reduce opportunities for crime. These recommendations have been included in the recommended conditions of consent in Attachment 1.

**Issue** - The proposed skate park will lead to an increased risk of damage to private property such as fences.

**Comment** - There is no evidence to suggest that the proposed skate park will lead to an increased risk of damage to private property. It is considered that if the recommendations made by the Police are adopted (including adequate maintenance of the park, ensuring clear sight lines are maintained, rapid graffiti removal, etc.), potential offenders will be discouraged from engaging in criminal activity at the park.

**Issue** - There are no parking facilities on Appin Road or Kellerman Drive near the proposed skate park. This has the potential to encourage dangerous and illegal parking, and cause traffic congestion.

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### 3.2 Corner Appin Road And Kellerman Drive, St Helens Park - Construction Of A Public Skate Park And Accessible Toilet

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**Comment** - The application proposes to rely upon existing on-street car parking opportunities in St Helens Park Drive to serve the skate park facility. The SCDCP 2009 stipulates a car parking rate of one car parking space per 50m<sup>2</sup> of site area for a recreational facility. Based on this rate, the skate park would require 16 car parking spaces to be provided. St Helens Park Reserve has a frontage to St Helens Park Drive of approximately 110 metres. This length of roadway is able to accommodate the parking of 16 vehicles. Accordingly, 16 vehicles would be able to park within St Helens Park Drive in front of St Helens Park Reserve without needing to park directly in front of surrounding residential properties. Car parking availability is therefore considered to be satisfactory.

**Issue** - Skateboarders may ride their skateboards on the existing paths traversing St Helens Park as well as surrounding residential streets and cause traffic incidents.

**Comment** - Skateboarders would be bound by the limitations of Australian and New South Wales road rules, which allow skateboards to be ridden on certain roads in certain situations.

**Issue** - The proposed skate park has the potential to reduce the value of houses within the area.

**Comment** - No evidence has been submitted to substantiate this claim.

**Issue** - The skate park should be constructed at one of the other parks within St Helens Park, where there would be less potential amenity impacts on residents, and users of the skate park would not have to cross a busy road to access shops.

**Comment** - This objection is outside the scope of the application currently being considered.

**Issue** - The proposed skate park should be moved closer to the existing playground within the park and St Helens Park House, to buffer noise and light away from houses.

**Comment** - The proposed location of the skate park is a reasonable distance from all surrounding dwellings. Siting the skate park further east towards St Helens Park House would mean locating it closer to several dwellings than it is currently proposed to be located.

**Issue** - There is no need for the proposed skate park, as Campbelltown has three other skate parks, and one within three kilometres of the proposed skate park. Liverpool has only one skate park with a proposal for a second, while Fairfield has two skate parks.

**Comment** - Campbelltown currently has two full-size skate parks (one at Leumeah and one at Macquarie Fields), which have proven to be popular and well-patronised. Bradbury Park contains a skate bowl, however this is not a full-size skate park.

The Leumeah skate park serves the central region of the City and the Macquarie Fields skate park serves the northern region of the City. At present the southern region of the City has limited access to a skate park facility.

The gap in the provision of an even spread of recreational facilities throughout the City demonstrates the need for a skate park facility for the southern region of Campbelltown.

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### 3.2 Corner Appin Road And Kellerman Drive, St Helens Park - Construction Of A Public Skate Park And Accessible Toilet

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**Issue** - Exercise equipment should be added to the proposal.

**Comment** - This objection is outside the scope of the application currently being considered.

## 5. Conclusion

Having regard to the matters for consideration under Section 79C of the *Environmental Planning and Assessment Act 1979* and the issues raised above, it is considered that the application is consistent with the relevant planning legislation.

It is noted that although five objections to the proposal were received, this represents only a small proportion of the 41 households that were notified of the proposed development. It is considered that the objections raised have been satisfactorily addressed, or will be addressed by compliance with the recommended conditions of consent outlined in Attachment 1.

## Officer's Recommendation

That development application 1266/2012/DA-C for the construction of a public skate park and accessible toilet at Lot 1 DP 810691, Lot 70 DP 1068130, Lot 703 DP 833443, St Helens Park Reserve (Corner of Appin Road and Kellerman Drive, St Helens Park) be approved, subject to the conditions detailed in Attachment 1 of this report.

**Committee Note:** Mr Close addressed the Committee in opposition to the development and tabled a petition containing 51 signatures objecting to the development.

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

That development application 1266/2012/DA-C for the construction of a public skate park and accessible toilet at Lot 1 DP 810691, Lot 70 DP 1068130, Lot 703 DP 833443, St Helens Park Reserve (Corner of Appin Road and Kellerman Drive, St Helens Park) be approved, subject to the conditions detailed in Attachment 1 of this report and the inclusion of additional conditions that require the provision of adequate seating and shading in the vicinity of the skate park and the provision of adequate pedestrian fencing where necessary to address pedestrian safety in the vicinity of the adjacent roadways.

## 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.

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### **Council Meeting 8 April 2014 (Rowell/Lound)**

That the Committee's Recommendation be adopted.

### **Council Resolution Minute Number 44**

That the Committee's Recommendation be adopted.

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

Voting against the Council Resolution: Nil.

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## **4. COMPLIANCE SERVICES**

### **4.1 Legal Status Report**

#### **Reporting Officer**

Acting Manager Compliance Services

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#### **Attachments**

Nil

#### **Purpose**

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

#### **Report**

This report contains a summary of the current status of the Division's legal matters for the 2013-2014 period as they relate to:

- The Land and Environment Court
- The District Court
- The Local Court
- Matters referred to Council's solicitor for advice.

A summary of year-to-date costs and the total number of matters is also included.

|  |
|--|
| <b>1. Land and Environment Court Class 1 Matters – Appeals Against Council's Determination of Development Applications</b> |
|--|

|   |                    |
|---|--------------------|
| <b>Total ongoing Class 1 DA appeal matters (as at 11/03/2014)</b>   | <b>2</b>           |
| <b>Total completed Class 1 DA appeal matters (as at 11/03/2014)</b> | <b>3</b>           |
| <b>Costs from 1 July 2013 for Class 1 DA appeal matters:</b>        | <b>\$39,141.29</b> |

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**1 (a)**

**Abdulhalim ELBAF & Amne ELBAF**

**Issue:**

Appeal against Council's deemed refusal of a Building Certificate Application seeking to regularise building works, the subject of a disputed complying development certificate comprising a partly constructed residential dwelling and residential outbuilding and associated retaining walls, on the property.

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|                           |   |
|---------------------------|---|
| <b>Property:</b>          | Lot 1 DP 1039153 Zouch Road, Ingleburn.   |
| <b>Property Owner:</b>    | Mr. Abdulhalim Elbaf and Mrs Amne Elbaf   |
| <b>Council File:</b>      | No. 957/2013/BC-UW  |
| <b>Court Application:</b> | Filed on 12 December 2013 - File No. 10969 of 2013  |
| <b>Applicant:</b>         | Abdulhalim Elbaf and Amne Elbaf   |
| <b>Costs Estimate:</b>    | \$10,000 (exclusive of Barristers, Court Appointed Experts or disbursement fees)  |
| <b>Costs to date:</b>     | \$1641.81   |
| <b>Status:</b>            | Ongoing – listed for conciliation conference and hearing respectively on 14 and 15 April 2014   |
| <b>Progress:</b>          | <p>The Applicants have filed an appeal in the Land and Environment Court of NSW against Council's deemed refusal of a building certificate application seeking to regularise building works, the subject of a disputed complying development certificate comprising a partly constructed residential dwelling and residential outbuilding and associated retaining walls, on the property.</p> <p>The appeal was before the court for first mention on 16 January 2014, where by consent, the proceedings were adjourned to 14 February 2014 for call over, in order to bring all three Class 1 appeal matters together and thereby give priority to Class 4 review matter of the disputed Complying Development Certificate listed under item 3(a) of this report.</p> <p>The appeal was before the court on 14 February where, by consent, the proceedings were adjourned to 21 February 2014 for directions hearing. The adjournment was to allow the Applicant to file a Notice of Motion seeking orders that the proceedings be transferred to the Court's Residential List to enable the appeal to proceed separately to the Class 1 and Class 4 proceedings listed at items 2(a) and 3(a) respectively of this report.</p> <p>The appeal was before the court on 21 February 2014, where orders were made adjourning the proceedings for section 34 conciliation conference and section 34AA hearing respectively on 14 and 15 April 2014.</p> |

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**1 (c)**

**Abdulhalim ELBAF & Amne ELBAF**

**Issue:**

Appeal against Council's refusal of a modified development application seeking a review under section 82A of the *Environmental Planning and Assessment Act 1979* of the determination of development application No. 1458/2013/DA-DW for building works, the subject of a disputed complying development certificate comprising a residential dwelling and residential outbuilding and associated site works, on the property.

**Property:**

Lot 1 DP 1039153 Zouch Road, Ingleburn.

**Property Owner:**

Mr. Abdulhalim Elbaf and Mrs Amne Elbaf

**Council File:**

No. 1458/2013/DA-82A

**Court Application:**

Filed on 12 December 2013 - File No. 10970 of 2013

**Applicant:**

Abdulhalim Elbaf and Amne Elbaf

**Costs Estimate:**

\$10,000 (exclusive of Barristers, Court Appointed Experts or disbursement fees)

**Costs to date:**

\$1,641.81

**Status:**

Ongoing – listed for conciliation conference and hearing respectively on 14 and 15 April 2014

**Progress:**

The Applicants have filed an appeal in the Land and Environment Court of NSW against Council's refusal of a modified development application seeking a review under section 82A of the *Environmental Planning and Assessment Act 1979* of the determination of development application No. 1458/2013/DA-DW for building works, the subject of a disputed complying development certificate comprising a residential dwelling and residential outbuilding and associated site works, on the property.

The appeal was before the court for first mention on 16 January 2014, where by consent, the proceedings were adjourned to 14 February 2014 for call over, in order to bring all three Class 1 appeal matters together and thereby give priority to Class 4 review matter of the disputed Complying Development Certificate listed under item 3(a) of this report.

The appeal was before the court on 14 February where, by consent, the proceedings were adjourned to 21 February 2014 for directions hearing. The adjournment was to allow the Applicant to file a Notice of Motion seeking orders that the proceedings be transferred to the Court's Residential List to enable the appeal to proceed separately to the Class 1 and Class 4 proceedings listed at items 2(a) and 3(a) respectively of this report.

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The appeal was again before the court on 21 February 2014, where orders were made adjourning the proceedings for section 34 conciliation conference and section 34AA hearing respectively on 14 and 15 April 2014.

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| <b>2. Land and Environment Court Class 1 Matters – Appeals Against Council's issued Orders / Notices</b> |
|--|

|   |                   |
|---|-------------------|
| <b>Total ongoing Class 1 Order/Notice appeal matters (as at 11/03/2014)</b>   | <b>1</b>          |
| <b>Total completed Class 1 Order/Notice appeal matters (as at 11/03/2014)</b> | <b>0</b>          |
| <b>Costs from 1 July 2013 for Class 1 Order/Notices appeal matters:</b>       | <b>\$1,450.00</b> |

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**2 (a) Abdulhalim ELBAF & Amne ELBAF**

**Issue:** Appeal against Council's Order 2 given under section 121B of the Environmental Planning and Assessment Act 1979 requiring the building works, the subject of a disputed complying development certificate comprising a partly constructed residential dwelling and outbuilding and associated retaining walls, on the property be demolished.

**Property:** Lot 1 DP 1039153 Zouch Road, Ingleburn.

**Property Owner:** Mr. Abdulhalim Elbaf and Mrs Amne Elbaf

**Council File:** No. 801/2013/N-EPA

**Court Application:** Filed on 6 December 2013 - File No. 10954 of 2013

**Applicant:** Abdulhalim Elbaf and Amne Elbaf

**Costs Estimate:** \$10,000 (exclusive of Barristers, Court Appointed Experts or disbursement fees)

**Costs to date:** \$1,450.00

**Status:** Ongoing – listed for directions hearing on 4 April 2014

**Progress:** The Applicants have filed an appeal in the Land and Environment Court of NSW against Council's Order 2 given under section 121B of the Environmental Planning and Assessment Act 1979 requiring the building works, the subject of a disputed complying development certificate comprising a partly constructed residential dwelling and outbuilding and associated retaining walls, on the property be demolished.

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The appeal was before the court for first mention on 16 January 2014, where by consent, the proceedings were adjourned to 14 February 2014 for call over, in order to bring all three Class 1 appeal matters together and thereby give priority to Class 4 review matter of the disputed Complying Development Certificate listed under item 3(a) of this report.

On 14 February 2014 the Court, by consent, adjourned the proceedings to 4 April for directions hearing.

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

|  |                    |
|--|--------------------|
| <b>Total ongoing Class 4 matters before the Court (as at 11/03/2014)</b> | <b>1</b>           |
| <b>Total completed Class 4 matters (as at 11/03/2014)</b>                | <b>1</b>           |
| <b>Costs from 1 July 2013 for Class 4 matters</b>                        | <b>\$43,249.25</b> |

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|              |  |
|--------------|--|
| <b>3 (a)</b> | <b>Abdulhalim ELBAF &amp; Amne ELBAF</b> |
|--------------|--|

**Issue:** Appeal seeking judicial review of disputed complying development certificate No. CDC 0455/12 issued by the private certifier for the development comprising a residential dwelling and residential outbuilding and associated site works, on the property.

**Property:** Lot 1 DP 1039153 Zouch Road, Ingleburn.

**Property Owner:** Mr. Abdulhalim Elbaf and Mrs Amne Elbaf

**Council File:** No. 2491/2012/CDCPRI

**Court Application:** Filed on 24 December 2013 - File No. 41030 of 2013

**Applicant:** Abdulhalim Elbaf and Amne Elbaf

**Costs Estimate:** \$10,000 (exclusive of Barristers, Court Appointed Experts or disbursement fees)

**Costs to date:** \$6,960.36

**Status:** Ongoing – listed for further directions hearing on 4 April 2014.

**Progress:** The Applicants have filed an appeal in the Land and Environment Court of NSW seeking judicial review of disputed complying development certificate No. CDC 0455/12 issued by the private certifier for the development comprising a residential dwelling and residential outbuilding and associated site works, on the property.

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At the first mention on 7 February 2014 the proceedings were adjourned to 14 February for directions hearing.

On 14 February 2014, the Court, by consent, adjourned the proceedings to 4 April 2014 for directions hearing.

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

|   |        |
|---|--------|
| Total ongoing Class 5 matters before the Court (as at 11/03/2014) | 0      |
| Total completed Class 5 matters (as at 11/03/2014)                | 0      |
| Costs from 1 July 2013 for Class 5 matters                        | \$0.00 |

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

|  |        |
|--|--------|
| Total ongoing Class 6 matters (as at 11/03/2014)   | 0      |
| Total completed Class 6 matters (as at 11/03/2014) | 0      |
| Costs from 1 July 2013 for Class 6 matters         | \$0.00 |

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

|  |          |
|--|----------|
| Total ongoing Appeal matters before the Court (as at 11/03/2014) | 0        |
| Total completed Appeal matters (as at 11/03/2014)                | 1        |
| Costs from 1 July 2013 for District Court matters                | \$795.00 |

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## 7. Local Court prosecution matters

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

|   |                   |
|---|-------------------|
| <b>Total ongoing Local Court Matters (as at 11/03/2014)</b>   | <b>3</b>          |
| <b>Total completed Local Court Matters (as at 11/03/2014)</b> | <b>22</b>         |
| <b>Costs from 1 July 2013 for Local Court Matters</b>         | <b>\$2,200.00</b> |

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|                             |   |
|-----------------------------|---|
| <b>File No:</b>             | LP28/13 – Section 48 Penalty Notice Appeal  |
| <b>Offence:</b>             | Stand vehicle longer than allowed   |
| <b>Act:</b>                 | <i>Local Government Act 1993</i>  |
| <b>Final Costs to date:</b> | \$0.00  |
| <b>Status:</b>              | Completed   |
| <b>Progress:</b>            | Matter was before the Court for first mention on 11 March 2014 where the defendant Chimezie Anosike Kingsley did not appear. The Magistrate granted Council's application to proceed in the defendant's absence and after considering the evidence and submissions, the Magistrate convicted the defendant, imposing a \$200 fine and \$85 Court Costs. |

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|                     |   |
|---------------------|---|
| <b>File No:</b>     | LP01/14 – Penalty Notice Court Election   |
| <b>Offence:</b>     | Disobey No Stopping sign  |
| <b>Act:</b>         | <i>Road Rules 2008</i>  |
| <b>Final costs:</b> | \$0.00  |
| <b>Status:</b>      | Completed.  |
| <b>Progress:</b>    | The matter was before the Court on 18 March 2014 for mention where the defendant entered a guilty plea with explanation. After considering the facts and submissions the Magistrate found the offence proved without conviction under Section 10(1a) of the <i>Crimes (Sentencing Procedure) Act 1999</i> . |

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|                       |   |
|-----------------------|---|
| <b>File No:</b>       | LP02/14 – Penalty Notice Court Election |
| <b>Offence:</b>       | Disobey No Parking sign – School Zone   |
| <b>Act:</b>           | <i>Road Rules 2008</i>                  |
| <b>Costs to date:</b> | \$0.00                                  |

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**Status:** Ongoing.

**Progress:** The matter was before the Court on 4 March 2014 for first mention where the defendant entered a not guilty plea. The proceedings were adjourned to 2 April 2014 for hearing.

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**File No:** LP03/14 – Penalty Notice Court Election  
**Offence:** Disobey No Parking sign – School Zone  
**Act:** *Road Rules 2008*

**Costs to date:** \$0.00

**Status:** Ongoing.

**Progress:** The matter was before the Court for first mention on 11 March 2014 where the defendant did not enter a plea. The proceeding was adjourned to 28 April 2014 for further mention.

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**File No:** LP04/14 – Penalty Notice Court Election  
**Offence:** Stand vehicle longer than allowed  
**Act:** *Local Government Act 1993*

**Costs to date:** \$0.00

**Status:** New matter.

**Progress:** Listed for first mention on 25 March 2014.

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

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

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**Total Advice Matters (as at 11/03/2014)**  
**Costs from 1 July 2013 for advice matters**

**10**  
**\$17,240.40**

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| <b>9. Legal Costs Summary</b>   |                     |                     |
|---|---------------------|---------------------|
| The following summary lists the Planning and Environment Division's net legal costs for the 2012/2013 period. |                     |                     |
| <b>Relevant attachments or tables</b>   | <b>Costs Debit</b>  | <b>Costs Credit</b> |
| Class 1 Land and Environment Court - appeals against Council's determination of Development Applications      | \$39,141.29         | \$0.00              |
| Class 1 Land and Environment Court - appeals against Orders or Notices issued by Council                      | \$1,450.00          | \$0.00              |
| Class 4 Land and Environment Court matters - non-compliance with Council Orders, Notices or prosecutions      | \$43,249.25         | \$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   | \$795.00            | \$0.00              |
| Local Court prosecution matters   | \$2,200.00          | \$0.00              |
| Matters referred to Council's solicitor for legal advice  | \$17,240.40         | \$0.00              |
| Miscellaneous costs not shown elsewhere in this table   | \$0.00              | \$0.00              |
| Costs Sub-Total   | \$104,075.94        | \$0.00              |
| <b>Overall Net Costs Total (GST exclusive)</b>  | <b>\$104,075.94</b> |                     |

### **Officer's Recommendation**

That the information be noted.

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

That the Officer's Recommendation be adopted.

**CARRIED**

### **Council Meeting 8 April 2014 (Rowell/Lound)**

That the Officer's Recommendation be adopted.

### **Council Resolution Minute Number 43**

That the Officer's Recommendation be adopted.

## **4.2 New Policy - Management of Infant and Feral Companion Animals**

### **Reporting Officer**

Acting Manager Compliance Services

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### **Attachments**

Draft Policy Statement – Management of Infant and Feral Companion Animals (contained within this report)

### **Purpose**

To report on the proposed adoption of a policy to ensure Council meets its statutory obligations in respect of the management of feral and infant companion animals received at Council's Animal Care Facility (ACF).

### **Background**

Council's Planning and Environment Committee at its meeting on 3 December 2013, considered a report on the Draft Policy Statement for the Management of Infant and Feral Companion Animals and resolved: -

1. That the proposed policy "Management of Infant and Feral Companion Animals", as outlined in attachment 1 of the report, be placed on public exhibition for a minimum period of 28 days.
2. That a further report to consider adoption of the policy referred to in 1 above and any submissions received, be presented to Council following the public exhibition period.

Council at its Ordinary Meeting on 10 December, 2013 adopted the above recommendations.

A public notice was advertised on the Council's website on 20 January 2014 and in local papers on 14 and 15 January 2014 calling for written submissions on or before 14 February 2014, however no submissions were received.

### **Report**

Section 64 (2) of the Companion Animals Act provides for the humane euthanising of feral and infant companion animals by Council, prior to the end of the mandatory holding period (which is 14 days for registered animals and seven days for unregistered animals) if there is an adopted policy in place.

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Often it is not practical nor humane to detain feral and infant companion animals at Council's Animal Care Facility (ACF) for various reasons. These may include biosecurity risk (ie transmission of disease), animal health or behavioural issues (e.g. feral cats), humane reasons or care requirements (ie infant animals which need an intense level of 'round the clock care' particularly in terms of warmth and feeding).

The purpose of the policy (Attachment 1) is to authorise (subject to the terms of the policy) the humane euthanising of feral or infant companion animals that are not considered either suitable for re-homing (ie feral animals) or where it is not practical to retain them at Council's ACF (eg due to the intensive care requirements of infant animals being less than eight weeks of age) prior to the expiration of the mandatory holding period.

For a companion animal to be considered as "feral" or "infant" under the terms of the policy it must be assessed by staff upon arrival at the ACF and the results of the assessment documented on the respective form.

Under the terms of the policy and once a companion animal is assessed as feral and the assessment documented, the animal is not considered suitable for re-homing and is able to be euthanised at any time prior to the expiration of the mandatory holding period.

With respect to infant animals, once a companion animal is assessed to be an infant, the policy requires a number of steps to be undertaken to ascertain if the infant is in good health and able to be cared for.

Under the terms of the policy, infant animals, due to the intensive care requirements and for humane reasons, may be euthanised prior to the mandatory holding period if a practical and timely care arrangement cannot be implemented.

The policy advocates a practical and humane approach to managing infant and feral animals received at Council's ACF, particularly during times of seasonal influx (such as cat breeding season), which is consistent with practices adopted at other impounding facilities such as those operating at Blacktown City's facility and at Renbury Farm.

Given that Council did not receive any community submissions or comments during the exhibition period, the policy is recommended for adoption.

### **Officer's Recommendation**

That the proposed policy "Management of Infant and Feral Companion Animals", as outlined in attachment 1 of the report be adopted by Council.

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

That the Officer's Recommendation be adopted.

### **CARRIED**

Councillor Rowell asked that his name be recorded in opposition to the recommendation regarding Item 4.2.

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**Council Meeting 8 April 2014 (Rowell/Lound)**

That the Officer's Recommendation be adopted.

**Council Resolution Minute Number 43**

That the Officer's Recommendation be adopted.

Councillor Rowell asked that his name be recorded in opposition to the resolution regarding Item 4.2 - New Policy - Management of Infant and Feral Companion Animals.

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## ATTACHMENT 1

|   |  |
|---|--|
|  <b>DRAFT POLICY</b> |  |
| Policy Title  | Management of Feral and Infant Companion Animals   |
| Related Documentation   | DW2468330 – Procedure Document – Euthanasia of Impounded Animals.<br>DW 2241642 – Procedure Document – Impounding Animals<br>DW2535841 – Procedure Document – Housing Impounded Animals<br>Risk Identification (R1011ACF) Euthanasia of Animals<br>Risk Identification (R1012ACF) Disposal of Dead Animals |
| Relevant Legislation/<br>Corporate Plan   | Companion Animals Act 1998 – S64& 64A; Guideline on the Exercise of Functions under the Companion Animals Act  |
| Responsible Officer   | Manager Compliance Services; Animal Care Facility Coordinator  |

**Policy details may change prior to review date due to legislative changes, therefore this document is uncontrolled when printed.**

### Objectives

To authorise the humane euthanasia of seized, abandoned or surrendered feral and infant companion animals before the end of any statutory holding periods in certain circumstances, as prescribed in the Policy Statement and as permitted under Section 64 (2) of the Companion Animals Act 1998.

### Policy Statement

The policy provides for the assessment and management of Feral and Infant Companion Animals that are not deemed either suitable for re-homing or practical to retain at Council's Animal Care Facility (ACF).

Feral and infant companion animals may not be practical to retain at Council's ACF for various reasons such as:

- Biosecurity risk
- Animal health or behavioural issues
- Humane reasons
- Care requirements

#### Scope

The policy provides for the assessment and management of Feral and Infant Companion Animals that are not deemed either suitable for re-homing or practical to retain at Council's Animal Care Facility (ACF).

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**Campbelltown City Council**

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**Definitions**

1. **Companion Animal** means a dog or cat and any other animal that is prescribed by the Companion Animals Act regulations as a companion animal.
2. **Feral** means wild or showing no signs of domestication but does not include any companion animal that is micro chipped or wearing a collar.
3. **Infant** means a companion animal that appears to be under 8 weeks of age.
4. **Euthanasia** refers to the euthanasing procedure administered by Council's authorised veterinary surgeon in accordance with Procedure Document DW 2468330 "Euthanasia of Impounded Animals".

**Legislative Context**

The Companion Animals Act 1998 at Section 64(2) provides for the humane euthanising of feral or infant animals prior to the end of the statutory holding periods if there is an adopted Council policy in place to do so. This policy has been developed to comply with that provision.

**Principles**

**1. Feral companion animals**

Feral companion animals may be euthanised at any time prior to the expiration of the statutory holding period providing the requirements of this procedure are observed and documented evidence of this is recorded by the ACF Coordinator or a delegated officer on a feral animal assessment form.

Upon receiving the animal at Council's ACF, a feral animal assessment form (Attachment 1) is to be completed to document and justify the assessment of the animal as "feral".

**2. Infant companion animals**

Prior to euthanising an infant companion animal, all reasonable and practical steps shall be taken by the ACF Coordinator or a delegated officer to ascertain:

- a) if the infant is in good health and able to be cared for and if so:
- b) if there is a suitable lactating animal at the Animal Care Facility that is able to adopt and care for the infant or:
- c) if there is an alternative care arrangement (for example a foster carer with an approved Rescue Group) that is able to be implemented immediately to accept responsibility for, and deliver an appropriate level of care to, the infant.

Infant companion animals may be euthanised at any time prior to the expiration of the statutory holding period if the requirements of this procedure, as indicated at (a) – (c) above, are observed and documented evidence of this is recorded by the ACF Coordinator on an infant animal assessment form.

Upon receiving the infant animal at Council's ACF, an Infant Animal Assessment form (see Attachment 2) is to be completed to document and justify the assessment of the animal as an "infant".

**Responsibility**

It is the responsibility of the Animal Care Facility Coordinator or delegated officer to administer this policy.

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**Campbelltown City Council**

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**Effectiveness of this Policy**

The policy will be administered in accordance with the Companion Animals Act 1998 to manage the infant and feral companion animals received by the Animal Care Facility.

**END OF POLICY STATEMENT**

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## **4.3 Revised Policy - Second Hand Clothing Bins**

### **Reporting Officer**

Acting Manager Compliance Services

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### **Attachments**

1. Letter from NACRO dated 23 August, 2013 (contained within this report)
2. Revised Second Hand Clothing Bins Policy (contained within this report)

### **Purpose**

To report on the proposed adoption of the revised Second-Hand Clothing Bins Policy ("revised policy") that has been amended in response to a written request by the National Association of Charitable Recycling Organisations (NACRO).

### **Background**

The policy was first adopted by Council at its meeting on 18 October 1988, with the most recent review of the policy being approved by Council at its meeting on 26 July 2011.

The policy aims to ensure second-hand clothing bins are satisfactorily located, managed and maintained.

On 27 August 2013, Council received written correspondence from the National Association of Charitable Recycling Organisations (NACRO) requesting Council to introduce a clothing collection bin placement policy which limits the operation of donation bins to NACRO members and includes a "Code of Practice" for the safe and efficient management of clothing collection bins.

The existing policy was revised in response to NACRO's letter of 23 August, 2013 and Council's Planning and Environment Committee, at its meeting on 3 December 2013, considered a report on the revised policy for Second Hand Clothing Bins and resolved: -

1. That the revised draft Second-Hand Clothing Bin Policy as attached to this report be placed on public exhibition for a minimum period of 28 days subject to clause 2 of the policy statement being amended to read:

'only second-hand clothing bins provided by charitable organisations are permitted unless the organisation has an Australian Business Number and the bin in such cases is clearly marked to indicate it is a commercial operator collection bin.'

2. That a further report be presented to Council to consider adoption of the policy and any submissions received during the public exhibition period.

Council at its Ordinary Meeting on 10 December 2013 adopted the above recommendations.

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A public notice was advertised on 20 January 2014 on Council's website and in local papers on 14 and 15 January, 2014 calling for written submissions on or before 14 February, 2014, however no submissions were received.

## **Report**

The correspondence from NACRO advises that commercial enterprises are seeking to gain financially from the generosity of donors by using charity names on their collection bins. NACRO claims that some clothing donors are being deceived and led to believe they are donating to the charity named on the bin, when they are actually giving over their goods to a commercial re-seller.

In response to the abovementioned concern and in consideration of Council's Planning and Environment Committee recommendations of 3 December 2013, Item 2 of Council's Second-Hand Clothing Bins Policy Statement was revised to state that "only second-hand clothing bins provided by registered charities or organisations are permitted, unless the organisation has an Australian Business Number and the bin in such cases is clearly marked to indicate it is commercial operator collection bin."

This policy requirement will enable the public to make informed choices about whom they make their clothing donations to.

In addition, in consideration of the recommendation by NACRO to include provisions in the policy relating to the safe and efficient management of clothing collection bins, additional requirements were included in the policy as outlined below:

- to ensure donation bins are located appropriately so as not to detract from site amenity
- the need for donation bins to be regularly emptied, cleaned and maintained
- to ensure the donation bins do not cause obstruction to footpaths and roadways
- to ensure the donation bins are adequately fixed to prevent damage to property or injury to persons
- be of a design that would ensure people are not able to climb into them
- not be located on driveways, access ways, car parking areas, landscaping areas.

Given that Council did not receive any community submissions or comments during the exhibition period it is recommended that the revised policy as outlined in attachment 1 of the report be adopted.

## **Officer's Recommendation**

That the revised draft Second Hand Clothing Bin Policy as outlined in attachment 2 of to this report be adopted by Council.

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

That the Officer's Recommendation be adopted.

**CARRIED**

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**Council Meeting 8 April 2014 (Rowell/Lound)**

That the Officer's Recommendation be adopted.

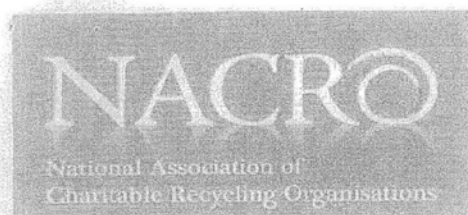
**Council Resolution Minute Number 43**

That the Officer's Recommendation be adopted.

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## ATTACHMENT 1



National Association of Charitable Recycling Organisations  
17 Rooney Street Richmond Victoria 3121  
PO Box 344 Hawthorn Victoria 3122  
T: (03) 9429 9884 F: (03) 9421 5516  
E: [information@nacro.org.au](mailto:information@nacro.org.au) [www.nacro.org.au](http://www.nacro.org.au)

23 August, 2013  
Ref: CBP

The Mayor and Councillors  
Campbelltown City Council  
PO Box 57  
CAMPBELLTOWN, NSW 2560

Dear Cr Dobson,

AUG27'13 08:14:58 RCVD

I write on behalf of the members of the National Association of Charitable Recycling Organisations to ask for your support. NACRO represents Australian charities that rely on donations of clothing and household goods to support their community programs.

Increasingly, commercial enterprises are seeking to cash in on the philanthropic nature of Australians by using a charity name, for a small fee, on their collection bins. Donors are led to believe they are donating to the charity when they are actually giving their goods for free to a commercial reseller. Unlike NACRO members, these commercial enterprises have no Code of Practice or Regulator to which they are accountable. Australian communities are being deceived and fundraising resources are being diverted to commercial profit.

We are sure that your council is supportive of the work our charities do in your community; that you value the opportunities for employment and volunteerism charity recycling provides; that you recognise the importance of distributing clothing and goods in times of crisis; and, that you see the value of affordable shopping at charity op shops.

Charity recycling is the oldest recycling industry in Australia, diverting 300,000 tonnes of usable clothing and household items from landfill. More than 70% of this is collected via clothing donation bins. NACRO members are committed to a Code of Practice for the safe and efficient operation of clothing recycling bins.

On behalf of our members, we ask you to take an affirmative stand in support of charity recyclers that engage thousands of Australians through employment, volunteerism and supporting local communities. To that end, we ask that your council:

- Formulate and publish, like many other councils, a clothing collection bin placement policy
- Within the policy, limit the operation of donation bins to NACRO members. NACRO ensures that all its members are bona fide charities under state and federal legislation.
- Within the policy, include a "Code of Practice" for the safe and efficient management of clothing collection bins. A sample code can be found on the NACRO website.

More information and examples of policies that have been adopted by Australian councils are available on our website at [www.nacro.org.au/councilresources](http://www.nacro.org.au/councilresources).

I would be pleased to answer any questions and discuss with you this important matter for your local community.

Yours sincerely,

A handwritten signature in dark ink, reading "Kerryn Caulfield".

Kerryn Caulfield, Chief Executive Officer  
National Association of Charitable Recycling Organisations

Encl: Brochure: Charity recyclers need your help

## AUSSIES HAVE A HEART

Australians love our NACRO charity op shops.

Whether it is the volunteers that staff them, the bargain shopping or just the opportunity to participate by donating, charity op shops are integral to the fabric of Australian society.

**We love to know that items we donate will be put to good use**

Australians are among the world's highest per capita donors of reusable clothing to charities.

For Australia's charity recyclers, these donations are essential to delivering community services to those most in need.

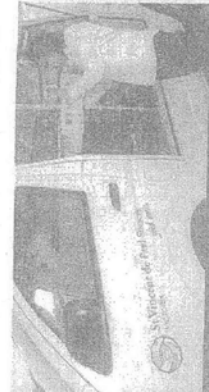
Australian charity recyclers divert two million items (over 800 tonnes) of clothing from landfill each year through clothing donation bins, household collections and in-store donations.

These donations are collected at no cost to councils or government.

Some 75 per cent is able to be recycled through charity op shops, donated to those in need, reprocessed into functional textiles or sent to developing nations.



Charities rely on donation bins for the collection of 70% of their clothing and household goods.



## CHARITY RECYCLERS NEED YOUR SUPPORT

Research shows that only 18% of clothing collection bins belong to charities\*

Charity recycling is the oldest recycling industry in Australia. The governing principle is benevolence. Its function is to clothe those without, raise money for charitable purposes and to provide work for the disadvantaged.

Charity recyclers range from small, local community organisations through to large national operators whose brands are household names. NACRO members are constituted and operate in accordance with state and territory charity legislation.

Funds raised through recycling operations of NACRO members are returned to the community.

### The need

Commercial clothing recyclers are increasingly targeting the kindness of Australian donors to the detriment of Australia's charities by displacing our donation bins.

## SUPPORT THE WORK OF CHARITY RECYCLERS

Australians believe that clothing donation bins should belong to bona fide charities, such as NACRO members.

\* Findings of a 2012 NACRO study of seven Victorian eastern metropolitan municipalities. Of more than 448 clothing collection bins, only 8% belonged to legitimate charity recyclers. The rest belonged to commercial clothing recyclers.



## CHARITY RECYCLERS RETURN TO THE COMMUNITY

### Community services

ALL proceeds generated by the recycling operations of NACRO members go to support their charitable work.

Every day across Australia, charity recyclers assist tens of thousands of people in need through community support programs enabled by their recycling operations, including:

- aged care services
- budget counselling
- disaster recovery
- education services
- employment opportunities
- food and clothing
- home visits
- hospital and health services
- hostel accommodation
- medical research
- migrant and refugee assistance
- overseas disaster relief
- prison visits
- suicide prevention
- counselling
- youth programs

### Volunteers

Thousands of volunteers give countless hours to charity op shops, believing in their value to the community.

### Employment

The operations of charity recyclers provide important and valued employment opportunities.

### Donors

People feel good about giving their clothing and household goods knowing they will be put to good use.

### Shoppers

Charity op shops are a valuable resource for those on tight budgets and buyers who want their money to go to a good cause.

### Environment

Charity op shop reuse and recycling operations significantly reduce CO<sub>2</sub> emissions\*.

\* A study by the Danish Technological University in 2010 found that reuse of clothing enabled by charity recycling saves a kg of CO<sub>2</sub> for every kilogram of donated clothing.



## CHARITY RECYCLERS ARE RESPONSIBLE

A prominently located and responsibly managed charity recycling donation bin is proven to be the most effective way to collect donations of gently used second-hand goods.

NACRO members have adopted the following code of practice to ensure that donation bins remain a convenient service for residents to donate to their charity of choice and in turn keep recyclable items from landfill.

## THE NACRO CODE OF PRACTICE

**Members commit to:**

- public safety
- donation bins are located and maintained to the satisfaction of the land manager so as not to cause injury to any person or damage to property
- donation bins are designed to contain fire and prevent people climbing inside
- maintaining the amenity of the area
- donation bins are emptied and maintained in a manner sufficient to minimise materials accumulating outside donation bins
- locating donation bins under agreement with the land management authority
- providing evidence to the land manager of:
  - charitable status
  - public liability insurance policy
  - a 24 hour emergency contact number
- clearly identifying the charity wholly supported by the donations
- displaying a contact number for the charity on the donation bin.

## HOW TO SUPPORT THE WORK OF CHARITY RECYCLERS

As land managers, support the placement of clothing recycling donation bins operated by bona fide NACRO charities – our communities depend on us.

# CHARITY RECYCLERS NEED YOUR HELP

### ABOUT NACRO

NACRO is the peak body representing charitable collection, sorting and reuse organisations throughout Australia.

Collectively, NACRO members operate thousands of op shops around Australia and are the largest and oldest recycling cohort in the country. Donations of second-hand goods are accepted through clothing donation bins, household collections and drop-offs directly to op shops.

These charities have invested heavily in recycling infrastructure, donation bins, transport fleets, sorting depots, retail stores and call centres to meet the needs of the community.

### NACRO members include:

|   |  |   |
|---|--|---|
| <ul style="list-style-type: none"> <li>• Aids For The Blind (QLD)</li> <li>• Anglicare (WA, NSW)</li> <li>• Anshu Services - Peace Lutheran (QLD)</li> <li>• Australian Red Cross (VIC, NSW, QLD)</li> <li>• Brotherhood of St Laurence (VIC)</li> <li>• Diabetes Australia (VIC, SA)</li> <li>• Endeavour Foundation (QLD)</li> <li>• Epilepsy Foundation of Victoria (VIC)</li> <li>• Launceston City Mission (NSW)</li> <li>• Leukemia Youth Foundation (NSW)</li> <li>• LifeCare (VIC)</li> <li>• Lifeline Brisbane (QLD)</li> <li>• Lifeline Burdett (QLD)</li> <li>• Lifeline Country to Coast (SA) Inc.</li> </ul> | <ul style="list-style-type: none"> <li>• Lifeline Darling Downs &amp; SW (QLD)</li> <li>• Lifeline Far North (QLD)</li> <li>• Lifeline Fraser (QLD)</li> <li>• Lifeline Geelong Earworn Region (VIC)</li> <li>• Lifeline Gippsland (VIC)</li> <li>• Lifeline Gold Coast (QLD)</li> <li>• Lifeline Greater Sunshine Coast (QLD)</li> <li>• Lifeline Ipswich &amp; West Moreton (QLD)</li> <li>• Lifeline Mackay (QLD)</li> <li>• Lifeline North West (TAS)</li> <li>• Lifeline NSW</li> <li>• Lifeline Nth (QLD)</li> <li>• Lifeline Rockhampton (QLD)</li> <li>• Lifeline South East (SA)</li> <li>• Lifeline South West (VIC)</li> <li>• Mission Australia (NSW)</li> </ul> | <ul style="list-style-type: none"> <li>• Presbyterian Recycling and Reuse (NSW)</li> <li>• Sacred Heart Mission (VIC)</li> <li>• Salvos Stores Eastern Territory (NSW, QLD, ACT)</li> <li>• Salvos Stores Southern Territory (VIC, SA, TAS, WA, NT)</li> <li>• Spine &amp; Limb Foundation (VIC)</li> <li>• St Vincent De Paul Society - Australia-wide (QLD)</li> <li>• The Asthma Foundation (QLD)</li> <li>• The Smith Family (NSW)</li> <li>• UnitedCare Communities Goodwill (SA)</li> <li>• UnitedCare Communities (QLD)</li> <li>• UnitedCare Wesley Country (SA)</li> </ul> |
|---|--|---|

### More information

Resources for councils and other land managers are available at [www.nacro.org.au/councilresources](http://www.nacro.org.au/councilresources)

Contact us:  
T 03 9429 9884  
E [information@nacro.org.au](mailto:information@nacro.org.au)

This information is current at time of publication, July 2013. NACRO reserves the right to change this policy as it sees fit and is not liable for any loss or expenses incurred as a result of any changes.

## ATTACHMENT 2

|   |  |                     |
|---|--|---------------------|
|  <b>campbelltown</b><br>city council |  | <b>DRAFT POLICY</b> |
| Policy Title  | Second Hand Clothing Bins  |                     |
| Related Documentation   | Policy Procedure   |                     |
| Relevant Legislation/<br>Corporate Plan   | State Environmental Planning Policy (Temporary Structures) 2007<br>Local Government Act 1993 |                     |
| Responsible Officer   | Manager Compliance Services  |                     |

**Policy details may change prior to review date due to legislative changes, therefore this document is uncontrolled when printed.**

### Objectives

1. To control the location and site of second-hand clothing bins.
2. To ensure all second-hand clothing bins are satisfactorily managed and maintained.

### Policy Statement

1. Second-hand clothing bins shall be located only on private property, (with written approval of the landowner), in accordance with the exempt development provisions of clause 15 Exempt Development of State Environmental Planning Policy (Temporary Structures) 2007.
2. Only second-hand clothing bins provided by charitable organisations are permitted unless the organisation has an Australian Business Number and the bin in such cases is clearly marked to indicate it is a commercial operator collection bin.
3. Second-hand clothing bins must not contravene any conditions of development consent relating to the use of the land and must not be placed on a landscaped area or occupy any parking space.
4. Second-hand clothing bins shall be marked with appropriate identification information and maintained as directed by Council Policy and Procedures.
5. To ensure the safe and efficient management of second-hand clothing bins the following provisions shall apply:
  - Donation bins are to be located appropriately so as not to detract from site amenity.
  - Donation bins to be regularly emptied, cleaned and maintained.
  - Donation bins shall not cause obstruction to footpaths and roadways.
  - Donation bins are to be adequately fixed to prevent damage to property or injury to persons.
  - Donations bins to be of a design that would ensure people are not able to climb into them.

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- Donation bins shall not be located on driveways, access ways, car parking areas or landscaping areas.

**Scope**

The policy relates to all second-hand clothing bins located in the Campbelltown Local Government area whether commercially or charity operated.

**Definitions**

Within the policy the following definitions apply:

**Second-hand clothing bin** refers to an externally located collection device, usually a large enclosed steel box, used for the placement of unwanted second-hand items by the public, such as good quality clothing, linen, books and toys.

**Temporary Structure:** includes a second-hand clothing bin, booth, tent or other temporary enclosure and also includes a mobile structure.

**Legislative Context**

SEPP (Temporary Structures) 2007, contains provisions for temporary structures, including exempt development provisions.

**Clause 15 SEPP (Temporary Structures) 2007:**

**15. Exempt development**

**Note (1)** Under section 76 of the Environmental Planning and Assessment Act, exempt development may be carried out without the need for development consent under Part 4 of the Act or for assessment under Part 5 of the Act.

The section states that exempt development:

- (a) must be of minimal environmental impact; and
- (b) cannot be carried out in critical habitat of an endangered species, population or ecological community (identified under the Threatened Species Conservation Act 1995 or the Fisheries Management Act 1994; and
- (c) cannot be carried out in a wilderness area (identified under the Wilderness Act 1987).

**Note: (ii)** Specifying a type of development as exempt development does not authorise the contravention of any condition of development consent applying to the land on which the exempt development is carried out, nor does it remove the need for any approval that may be required under other legislation.

To be exempt development, the development:

- (a) must meet the relevant deemed-to-satisfy provisions of the Building Code of Australia; and
  - (b) must not, if it relates to an existing building, cause the building to contravene the Building Code of Australia; and
  - (c) must not be designated development; and
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- (d) must not be carried out on land that comprises, or on which there is, a heritage item that is listed on the State Heritage Register under the Heritage Act 1977 or that is subject to an interim heritage order under the Heritage Act 1977; and
- (e) must not be carried out in an environmentally sensitive area for exempt or complying development (as defined in clause 3.3 of the standard instrument by the Standard Instrument (Local Environment Plans) Order 2006; and
- (f) must not restrict any car parking required pursuant to the conditions of any development consent or any vehicular or pedestrian access to or from the site of the development; and
- (g) must not obstruct any drainage on the site of the development or of adjacent land.

Development that involves erecting a temporary structure is exempt development only if the structure is on a surface that is sufficiently firm and level to sustain the structure while in use.

**Local Government Act**

Section 124 of the Local Government Act contains provisions to enable Council to serve Orders to control and regulate nuisance, amenity or threats to health or safety that may be posed by second-hand clothing bin installations, namely:

- Order 10 - To remove or stack articles or matter, to cover articles or matter, to erect fences or screens or to plant trees;
- Order 21 - To do or refrain from doing such things as are specified to ensure that premises are placed or kept in a safe or health condition.
- Order 27 - To remove an object or matter from a public place or prevent any object or matter being deposited there.

**Section 628 - Failure to comply with Order**

Maximum penalty varies according to the type of Order issued and whether it applies to an individual or corporation, ranging from 20-100 penalty points.

**Section 678 - Failure to comply with an Order - carry out of work by Council**

If a person fails to comply with the terms of an Order given to the person under Part 2 of Chapter 7, the Council may do all such things as are necessary or convenient to give effect to the terms of an Order, including the carrying out of any work required by the Order.

Any expenses incurred by Council under this section may be recovered in accordance with section 678(6).

**Principles**

The policy provides direction regarding the manner in which second-hand clothing bins can be operated in the Campbelltown City Council Local Government Area, with the aim of reducing problems associated with the bins such as illegal dumping, vandalism to bins, vandalism to surrounding areas, and other anti-social behavior. With the policy requiring additional signage on bins, written approval from the land owner, and regular maintenance by operators a greater awareness of the proper use and management of bins can be achieved to reduce the associated problems.

**Responsibility**

Council's Compliance Services Section has responsibility for ensuring compliance with this policy.

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**Effectiveness of this Policy**

The effectiveness of this policy will be evaluated through feedback received from bin operators and members of the public. The policy will be reviewed 3 years from the revision date.

**END OF POLICY STATEMENT**

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## **4.4 World of Learning Early Education Centre - No. 1 Blomfield Road, Denham Court**

### **Reporting Officer**

Acting Manager Compliance Services

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### **Attachments**

Planning and Environment Committee Report – Leaping Learners Early Education Centre, 19 March 2013 (contained within this report)

### **Purpose**

To update Councillors in relation to issues of non-compliance with conditions of development consent relating to the World of Learning Early Education Centre at No.1 Blomfield Road Denham Court.

### **History**

On 29 September 2005, the Land and Environment Court granted development consent for a childcare centre at No. 1 Blomfield Road, Denham Court. Consent was granted subject to a number of conditions and allowed for enrolments up to a maximum of 74 children.

Since the determination to grant consent by the Land and Environment Court and subsequent commencement of the centre as Leaping Learners Early Education Centre, Council has received various complaints from residents raising a number of concerns and alleged non-compliances with conditions of consent.

The ownership of the Centre changed in May 2013 and was re-named World of Learning Early Education Centre which is owned by G8 Education, a Queensland based business.

In response to a Question Without Notice from the Ordinary Meeting of Council held on 11 February 2014, the General Manager advised that Councillors would be provided with a summary of the compliance history regarding the operation of the Early Education Centre. A comprehensive report on compliance matters relating to the operation of the Early Education Centre was presented to Council's Planning and Environment Committee Meeting on 19 March, 2013 and is attached to this report for further reference (see Attachment).

### **Report**

An updated response to the various on-going non-compliance issues raised by the complainant detailing action taken by Council staff is outlined below.

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**Parking**

Early Education Centre staff have previously been observed to be parking on grassed areas on the site. A Notice of Proposed Order was served to require parking to occur within designated car parking spaces in accordance with consent requirements and this requirement is currently being complied with, with the exception most recently of a Christmas party function in 2013.

**Conduct of Occasional Centre Functions**

In recognition of the World of Learning Early Education Centre's desire to conduct occasional functions, (such as parent/teacher functions and Christmas parties), the operator has advised that they intend to submit a Section 96 application to vary the existing consent to extend operating hours beyond 6pm for the purpose of holding occasional functions and to allow parking during these occasions in other areas on the subject site to minimise on street parking impacts. The application may also address other matters such as signage and enrolment numbers.

It is anticipated that the Section 96 application will be submitted once issues surrounding the intersection (Blomfield Road and Campbelltown Road) upgrade are resolved and will enable Council to provide detailed consideration over the merits of the proposal and impose suitable conditions of consent to manage amenity impacts.

**Enrolment Numbers**

Council staff have obtained information to suggest the numbers of children enrolled and attending the World of Learning Early Education Centre currently exceed the consent requirements of 74 children.

The information provided by the operator suggest the numbers of children attending the centre vary on a daily basis between 58-87 depending on the time of year, but do not exceed licensing requirements that allow up to 90 children to attend the centre at any one time. The operator intends on addressing this anomaly by seeking a variation of the consent to permit up to 90 children to attend the centre to be consistent with licensing requirements.

**Signage**

An issue has been raised concerning various signage at the Early Education Centre consisting of a business identification sign, located within the premises and near the corner of Blomfield and Campbelltown Roads, a roof gable mounted business sign, coloured flags, a sun smart advertising sign and front boundary pole signage. The consent only permits one advertising sign.

Despite a number of prior requests to reduce signage to comply with consent requirements, observation by Council Officers on 4 November 2013 revealed that the World of Learning continued to display unauthorised signage contrary to consent conditions and consequently a penalty notice was issued to G8 Education Ltd for 'Development not in accordance with consent – Corporation' for \$3000 on 6 November 2013.

Follow up inspection on 13 November 2013 revealed that one sign remained in accordance with Land and Environment Court Consent and the occupiers continue to comply with this consent requirement.

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**Campbelltown Road Intersection Upgrade**

Of significant concern is the failure (to date) of the property owner to construct a Type B intersection at Blomfield and Campbelltown Roads in accordance with the Land and Environment Court issued development consent.

As a consequence of the failure of the applicant to upgrade the intersection of Blomfield and Campbelltown Roads, Council issued an Order under section 121 B of the Environmental Planning and Assessment Act, 1979, to the owner requiring compliance with consent conditions relating to the construction of a Type B intersection by July 2013.

In response the owner submitted a Section 96 application to Council seeking to vary the consent conditions relating to the upgrade of the intersection which was subsequently refused by Council on 12 November 2013. Council's solicitors have since written to Mr Galluzzo advising of the Section 96 modification of consent refusal and requesting advice of the owner's intention to comply with Council's Order requiring compliance with the consent relating to the construction of a Type B intersection.

In the absence of advice regarding the owner's intention to comply, Council contacted it's solicitor to instruct legal proceedings be initiated to seek Orders from the Land and Environment Court requiring the owner to comply with the consent requirements to upgrade the intersection.

**Officer's Recommendation**

That the information be noted.

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

That the Officer's Recommendation be adopted.

**CARRIED****Council Meeting 8 April 2014 (Rowell/Lound)**

That the Officer's Recommendation be adopted.

**Council Resolution Minute Number 43**

That the Officer's Recommendation be adopted.

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## ATTACHMENT



Planning and Environment Committee 19/03/13

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### **TITLE    Leaping Learners Early Education Centre**

#### **Reporting Officer**

Acting Manager Compliance Services

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#### **Attachments**

1. Land and Environment Court Consent Judgement (distributed under separate cover)
2. A list of concerns raised by a local resident in respect of Leaping Learners Early Education Centre (distributed under separate cover)

#### **Purpose**

To update Council on the investigation into concerns from a local resident regarding the operation of the Leaping Learners Early Education Centre.

#### **History**

On 29 September 2005, the Land and Environment Court granted development consent (Attachment 1) for a childcare centre at No. 1 Blomfield Road, Denham Court. Consent was granted subject to a number of conditions and allowed for enrolments up to a maximum of 74 children.

Since the consent was issued by the Land and Environment Court and the subsequent commencement of the centre, Council has received numerous complaints from a local resident raising a number of concerns and alleged non-compliances with the conditions of consent. A copy of these concerns is provided in Attachment 2.

#### **Report**

A response to each of the concerns raised by the resident is outlined below.

#### **Parking Issues**

Early Education Centre staff were observed by Council staff to be parking on grassed areas on site. A Notice of Proposed Order was served on the operator of the Early Education Centre to require parking to occur within the designated carparking spaces in accordance with consent requirements and this requirement is currently being satisfied with the exception of two special occasions in 2012.

Approval to park on grassed areas within the centre to ease parking congestion on Blomfield Road, was allowed by Council on two occasions for two special functions in 2012, being a parent/guardian performance night and a Christmas party function.

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#### 4.4 World Of Learning Early Education Centre - No. 1 Blomfield Road, Denham Court

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A request was also made by a local resident to extend the no stopping zones along both sides of Blomfield Road in a south easterly direction to the crest of the road. The zone currently extends along both sides of Blomfield Road being confined to the frontage of the Early Education Centre site. A roadside mobile CCTV was installed to monitor traffic movement and parking over a two week period in September 2012 to assist in assessing the need to extend the no stopping zone. The results did not support the need to extend the no stopping zone.

The resident advised that the survey period occurred whilst staff were parking on the grassed areas of the site and therefore the results were flawed and has requested Council to undertake a further survey. In this regard it is proposed to undertake monthly site observations to compare to the previous mobile CCTV findings.

##### **Signage**

An issue was raised concerning various signage at the Early Education Centre consisting of a business identification sign, (located within the premises and near the corner of Blomfield and Campbelltown Roads), a roof gable mounted business motif (frog) sign, coloured flags, a sunsmart advertising sign and front boundary pole signage. The signage was assessed by Council staff in light of Council's development standards for signage and the occupier was requested to remove the pole signage along the front boundary, which has occurred.

##### **Footpath**

Issues were raised by the resident regarding the compacted and eroded condition of the footpath in Blomfield Road due to the parking of vehicles associated with the Early Education Centre and the trip hazard posed by timber sleepers placed along the sides of the driveway entrances.

The operator was required to remove the timber sleepers and has complied with this request. The damage to the footpath due to compaction or erosion is not considered of such significance to warrant any remediation work.

##### **Property Maintenance**

The resident raised issues in relation to the maintenance of landscaping and the discharge of stormwater to the Campbelltown Road stormwater drainage system.

The upkeep of the property (including landscaping) is considered to be well maintained. In addition, an inspection of the stormwater drainage discharge confirmed that it was consistent with development standards and Building Code of Australia requirements.

##### **Light Spillage**

Issues continue to be raised by the complainant over light spillage from the premises, including car park lighting. The operator was required to decommission car park lighting and has complied with this request by disabling all car park lighting. External lighting on the building is directed downward to light the front area of the premises only. An after hours inspection has confirmed there is no significant nuisance affecting neighbouring premises and that the lighting is adequately sensor controlled.

##### **Special Functions**

In recognition of the Centre's desire to conduct occasional functions, (such as parent/teacher functions and Christmas parties), the operator intends to submit a Section 96 application to

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vary the existing consent to extend operating hours on occasion beyond 6pm and allow parking during these occasions in other areas on the site to minimise on street parking impacts. It is anticipated that the section 96 application will be submitted in March and will enable Council to provide detailed consideration over the merits of the proposal, and whether a variation is appropriate. Should Council deem it appropriate to approve such an application, Council would have the capacity (through conditions of development consent) to manage any potential negative impacts on neighbourhood amenity.

#### **Side Boundary Clearance**

An issue was raised indicating that the side boundary setback of building number two of the Early Education Centre was inconsistent with the approved plans. A review of the approved plans and subsequent site observations indicates that the building is setback in accordance with the approved plans.

#### **Campbelltown Road Intersection Upgrade**

Of significant concern is the failure (to date) of the property owner to construct a Type B intersection at Blomfield and Campbelltown Roads in accordance with the Land and Environment Court issued development consent.

In response to the failure of the applicant to upgrade the intersection of Blomfield and Campbelltown Roads, prior to the issue of an occupation certificate, Council issued a Notice of Proposed Order under section 121B of the *Environmental Planning and Assessment Act 1979*, to the owner requiring compliance with consent conditions relating to the construction of a Type B intersection.

Council received a written representation to the Notice of Proposed Order in the form of a report from the owners' traffic consultant regarding the Type B intersection. The report concluded that the construction of the intersection upgrade was not considered necessary given the nature of local traffic and the proposed lane upgrade of Campbelltown Road by Roads and Maritime Services (RMS). The report and recommendations were forwarded to the RMS for review and comment.

On 20 December 2012, the RMS advised Council, following its review of the report, that it supports Council in enforcing consent condition No. 19 by requiring the construction of the intersection, for reasons of road safety. The RMS further confirmed that the upgrade of Campbelltown Road between Camden Valley Way and Denham Court Road has not been planned or funded and will not occur within the next 5 years.

As a result of the response received from the RMS, Council issued an Order No 15 under section 121B of the *Environmental Planning and Assessment Act 1979*, to the owner requiring compliance with consent conditions relating to the construction of a Type B intersection on or before 31 July 2013. Subsequently the owner has appealed the Order which was listed for mention in the Land and Environment Court on 6 March 2013. The Court subsequently decided to adjourn proceedings until 17 April 2013 in light of a formal Section 96 application being lodged with Council, looking to vary the consent requirements relating to the intersection.

Accompanying the application is a modified traffic report incorporating modelling that indicates the intersection upgrade is not required despite the RMS advice that the upgrade of Campbelltown Road is not going to proceed in the immediate future. This traffic report has recently been referred to the RMS for review as part of the section 96 application assessment. The report has also been referred to a specialist traffic consultant for independent review.

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**Issue of Occupation Certificate**

A review of Council's records indicate that the occupation certificate for the Child Care Centre was issued by the Principal Certifying Authority (Private Certifier) which was reliant on information indicating that the intersection upgrade works required by the consent were completed. As the consent conditions were not complied with, this matter has been reported by Council officers to the Building Professionals Board for further action.

**Conclusion**

Council has recently written to the resident to confirm the status of the various concerns raised and action taken by Council as outlined in the report.

Of significant concern is the matter relating to the incomplete upgrade of the intersection at Campbelltown Road to provide a slip lane, to allow north bound traffic to bypass traffic stopping to turn right into Blomfield Road. It is intended that Council will seek orders for the intersection to be completed through the Land and Environment Court in the event that the Section 96 application is refused and the owner does not complete the intersection upgrade as required by Council's Order.

**Officer's Recommendation**

That the information be noted.

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## **5. GENERAL BUSINESS**

Nil.

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

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

**CARRIED**

## **18. CONFIDENTIAL ITEMS**

### **18.1 No. 16 Kerr Road, Ingleburn - Property Occupation and Compliance Action History**

#### **Reason for Confidentiality**

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

- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

There being no further business the meeting closed at 8.16pm.

G Greiss  
CHAIRPERSON

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