

# Reports of the Planning and Environment Committee Meeting held at 7.30pm on Tuesday, 11 December 2012.

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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 11 December 2012**

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**Present** Her Worship the Mayor, Councillor S Dobson  
Councillor G Greiss (Chairperson)  
Councillor R Kolkman  
Councillor D Lound  
Councillor A Matheson  
Councillor M Oates  
Councillor T Rowell  
Councillor R Thompson  
General Manager - Mr P Tosi  
Director Planning and Environment - Mr J Lawrence  
Manager Sustainable City and Environment - Mr A Spooner  
Manager Development Services - Mr J Baldwin  
Acting Manager Compliance Services - Mr P Curley  
Manager Executive Services - Mr N Smolonogov  
Manager Waste and Recycling Services - Mr P Macdonald  
Manager Community Resources and Development - Mr B McCausland  
Corporate Support Coordinator - 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.

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

**No reports this round**

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

### **2.1 2012 Macarthur Nature Photography Competition**

#### **Reporting Officer**

Manager Sustainable City and Environment

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#### **Attachments**

Nil

#### **Purpose**

To update Council on the outcomes of the 2012 Macarthur Nature Photography Competition.

#### **History**

The Macarthur Nature Photography Competition is a high profile regional environmental education initiative generating significant interest from residents of the Macarthur region, with the number of participants and observers growing substantially in recent years.

Occurring annually since 2006, the competition aims to engage residents with their local environment, raise awareness and enhance appreciation of Macarthur's unique natural surrounds, and in turn foster residents' increased stewardship of their natural heritage.

The event is held in partnership with Camden and Wollondilly Councils. Campbelltown City Council is the main sponsor and coordinator of the event while Camden and Wollondilly Councils continue to provide in-kind and financial contributions in support of the competition.

#### **Report**

The 2012 Macarthur Nature Photography Competition, along with the 2012 Threatened Species Art Competition (subject to a separate report in this Business Paper) was launched on 25 August 2012 at the Riverfest festival, in recognition of Riverfest's complementary theme and objectives. This move also maximised visibility and opportunities for cross promotion of Council's concurrent events and programs. While participation was open to residents living within and outside of the Macarthur Region, images were required to be captured from within the Macarthur Region, whether from Council reserves, public bushland, or entrants' own backyards.

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During September, expert guided 'Walk-n-Talk' bushwalks were held free of charge for interested photographers, at several locations throughout Macarthur. Most of the walks were led by outdoor photography expert Maggie Destefanis with Council staff providing insight into the local flora and fauna. In addition, Council hosted a walk in the recently declared Dharawal National Park. The walk was led by National Parks and Wildlife Service Discovery Rangers and this event was used as a trial by the Discovery Ranger Program for similar proposed activities. Attendance at the guided walks was overall higher than experienced in previous years, and participants responded positively to the opportunity to enjoy the outdoors, whilst obtaining specialist advice.

For the first time this year, entrants were given the option to submit their photographs on-line through Council's website. Although entry into the competition is free, a fee of \$10 was required for on-line entries to cover the cost of printing and mounting of the electronic images. The on-line payment system was successfully trialled to process the on-line fee, the results of which will further assist other on-line payments to Council.

A total of 270 entries were received for this year's competition. Although participation numbers were slightly down on last year, they were significantly more than any other year of the competition. Images reflected the diverse natural and environmental heritage of the Macarthur region, depicting a range of subject matter including misty waterfalls, picturesque woodland expanses and detailed macro shots of spiders.

Each image was entered under one of the following competition themes:

- Our Landscapes
- Our Wildlife
- Our Waterways, and
- Our Environment.

The Judging Panel consisted of Jeff de Pasquale, Macarthur Advertiser photographer; Dr Robert Close, Associate Professor at the University of Western Sydney (Australian mammal and Georges River bushland expert); and Megan Monte, Program Support Officer at Campbelltown Arts Centre. Judging took place on Thursday 4 October 2012, determining the 1st and 2nd place winners from each category in both adult and young people's categories.

The Awards Night was held at the Campbelltown Arts Centre on Wednesday 10 October 2012, with approximately 160 guests in attendance. Campbelltown Councillor, Paul Hawker on behalf of the Mayor, officially opened the ceremony. Mr Andy Best, Environmental Educator with the Department of Education and Training and School Principal at Harrington Park Public School, acted as MC and awarded prizes to the winners. Guest speaker, nature photography expert, Tanya Stollznov, entertained the audience with photographs and stories from her travel adventures as well as providing photography tips. Environmental and photography themed door prizes were awarded to winning guests.

The People's Choice votes were cast and counted at the Awards Night, with the winner, Lorraine McKenzie, receiving a compact digital camera donated by sponsors, Macarthur Camera House and Nikon Australia for her photo "Changing colours".

The photos were then placed on travelling exhibition from 3 October to 21 November 2012. The exhibition was displayed at the HJ Library in Campbelltown, Narellan Library, Narellan and the Council Administration Building in Picton. Following the exhibition photographs were returned to participants.

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Overall, the feedback from the community regarding the Awards Night and the Competition has been very positive. Comments were sought from participants and attendees through an evaluation form which was distributed at the Awards Night. Feedback reflected appreciation for the calibre of the photography on display, the environmental themes of the competition, as well as the general organisation of the event. The Campbelltown Arts Centre was also recognised as a very popular venue choice.

### Summary of Expenditure

At its meeting on 3 July 2012 Council considered a report on the 2012 Macarthur Nature Photography Competition and resolved to endorse the allocation of \$12,400 for the 2012 Macarthur Nature Photography Competition. The following table shows a breakdown of the proposed expenditure compared to the actual expenditure for the competition:

Items	Budget	Expenditure
Salaries		1,033.45
Gifts/Souvenirs for speakers and judges	200.00	375.27
Prize Money	3,600.00	3,600.00
Catering/Meals	2,600.00	2,347.40
Equip Hire	3,500.00	2,437.39
Marketing/Promotion	1,000.00	274.37
Advertising	500.00	250.65
Contingency Fees	1,000.00	1,027.29
<b>Total expenditure</b>	<b>12,400.00</b>	<b>11,345.82</b>

The cost saving achieved can be attributed to sponsorship received from two local Macarthur businesses to a total of \$4,920. Macarthur Camera House donated a Nikon S9300 Camera and Fairfax Media donated advertising space in the Macarthur Chronicle Newspaper.

In previous years, both Wollondilly and Camden Council made a cash contribution of \$1,000 each toward the competition, however, this year both councils contributed \$2,000 each. These additional funds, as well as an increase in Council's budget, have enabled the competition to be an effective community engagement program. Given the increased community interest and broad ranging environmental benefits gained from the Competition, it is recommended that Council continue to hold the Competition on an annual basis subject to continued funding and support from Camden and Wollondilly Councils.

### Officer's Recommendation

That the information be noted.

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

1. That the information be noted.
2. That Council continue to run the Macarthur Nature Photography Competition on an annual basis subject to receipt of funding from Camden and Wollondilly Councils.

**CARRIED**

**Council Meeting 18 December 2012 (Greiss/Rowell)**

That the Committee's Recommendation be adopted.

**Council Resolution Minute Number 218**

That the Committee's Recommendation be adopted.

Councillor Mead asked that his name be recorded in opposition to the resolution in regard to Item 2.1 - 2012 Macarthur Nature Photography Competition.

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## **2.2 2012 Threatened Species Art Competition**

### **Reporting Officer**

Manager Sustainable City and Environment

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### **Attachments**

Nil

### **Purpose**

To update Council on the outcomes of the 2012 Threatened Species Art Competition.

### **History**

In 1996, on the sixtieth anniversary of the last Tasmanian Tiger's death, the 7 September was declared 'National Threatened Species Day' – a time to reflect on what has happened to the Tasmanian Tiger and how similar fates could await other native species unless appropriate action is taken. The Day coincided with Biodiversity Month in September which aims to promote the importance of protecting, conserving and improving biodiversity both within Australia and across the world.

The Campbelltown Local Government Area (LGA) and broader Macarthur region is fortunate in that it still supports natural waterways and vast areas of native vegetation. These areas support a high level of biodiversity including a diverse range of threatened species. Within the Campbelltown LGA alone 64 threatened species are currently known to occur. To assist with the conservation of these species, it is important for Council to educate the community about these species and the threats to their survival. In this regard, a range of educational initiatives focused on threatened species and biodiversity in general have been, or are in the process of being developed and implemented as part of Council's Environmental Education Strategy. The Threatened Species Art Competition is one of these initiatives.

Council has held and managed the Threatened Species Art Competition annually since 2008 in celebration of Threatened Species Day and Biodiversity Month. The competition aims to educate children about local threatened species and threats to their survival. The competition is open to all children within the Macarthur region aged 3-12 and participants are required to research a threatened species from the Macarthur region and prepare a drawing, painting or collage relating to that threatened species.

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## Report

The 2012 Threatened Species Art Competition along with the 2012 Macarthur Nature Photography Competition (subject to a separate report in this Business Paper) was launched on 25 August 2012 at Riverfest. Council's Environmental Planning and Waste and Recycling Services Sections held a stall at Riverfest which included a display on the Threatened Species Art Competition. This display included an area where children could sit and create an artwork that represented their favourite local threatened species, for entry into the 2012 Competition.

The competition was also promoted through a range of other avenues including:

- the distribution of posters, flyers and threatened species fact sheets to Council's libraries
- the distribution of information packages to all primary schools within the Macarthur region as well as preschools managed by Council
- the inclusion of information on Council's website and within Council's Community newsletter (Compass)
- advertisements within Council's Public Notice Section in local Newspapers.

In addition to the above, a series of events were held as part of the 2012 Competition. During the month of September the Storytime for Preschoolers sessions at Council libraries had a threatened species theme. As part of the Spring School Holiday program a Creative Conservation Workshop was also held at the Campbelltown Arts Centre. This workshop included a visit from the Taronga Zoomobile and an art workshop where children were encouraged to create an artwork that represented their favourite local threatened species. This workshop was a highly successful event as evidenced by the fact that it was completely booked out and the high number of entries (49) that the event generated.

The Threatened Species Art Competition commenced on 25 August and concluded on the 2 October 2012. It received a record 584 entries, over six times more than any previous year. The entries featured 52 threatened species from the Macarthur region including the Giant Burrowing Frog, Eastern Pygmy Possum, Downy Wattle and Small-flowered Grevillea. As in previous years, the 2012 entries displayed high artistic quality and it was also evident that many entrants undertook significant research into their selected threatened species. All entries were on display at the H. J. Daley Central Library between 8 to 14 October, 2012.

The submitted entries were judged by staff from the Campbelltown Arts Centre in the following age categories:

- 3-4 years
  - 5-6 years
  - 7-9 years
  - 10-12 years.
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Environmentally themed educational prizes were awarded to first, second and third place winners in each age category as well as the preschool with the highest participation rate (Minto Early Learning Centre). The school with the highest participation rate (Eschol Park Public School) received a \$500 cash prize to purchase school environmental resources as well as a Planet Eco Dome Kit to the value of \$450. The runner up school (Robert Townson Public School) also received a \$250 cash prize to purchase school environmental resources. Some of the entries were also awarded a highly commended prize (an environmentally themed book) with the total prize pool being \$2,900. The winning entries are being compiled into a 2013 calendar which will be distributed to all place winners and interested Macarthur residents.

### Summary of Expenditure

This year's competition cost \$6629.76 with a budget breakdown provided in Table 1 below. Costs associated with ordinary salaries, postage and printing are not included in this figure as they are considered to be ongoing organisational costs and cannot be easily costed to this competition.

Table 1: 2012 Threatened Species Art Competition Expenditure

Items	Expenditure
Advertising	\$3,255.90
Taronga Zoomobile Visit	\$300.00
Educational prizes	\$2,150.00
School prize money to purchase environmental resources	\$750.00
Art Supplies	\$173.86
Total expenditure	\$6,629.76

Advertising costs contributed to 49% of total budget expenditure. It is considered that this cost could be reduced to \$1600 in 2013 by reducing the number of advertisements that are placed in Council's Public Notices Section in local newspapers and further reduced by seeking support of the Competition by a local paper.

Taking into account the reduced advertising costs a budget of \$5000 is estimated to be required to successfully hold the competition in 2013. However, Council officers are currently exploring other opportunities to reduce the cost of this competition to Council such as event sponsorship and a potential financial partnership with Camden and Wollondilly Councils.

Funds for the competition are currently sourced from the Environmental Education Cost Centre in the 2012/13 Environmental Planning Budget. Expenditure of this cost centre is currently in line with predicated budget expenditure.

### Conclusion

Overall the Threatened species Art Competition has been a successful annual community event since its launch in 2008. It challenges local children to research themes of relevance to local biodiversity, threatened species and the protection of the environment, while engaging them in a creative way. It is therefore recommended that Council continues to run this event on an annual basis.

### **Officer's Recommendation**

That the information be noted.

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

1. That the information be noted.
2. That Council continue to run the Threatened Species Art Competition on an annual basis subject to receipt of funding from Camden and Wollondilly Councils.

### **CARRIED**

### **Council Meeting 18 December 2012 (Greiss/Rowell)**

That the Committee's Recommendation be adopted.

### **Council Resolution Minute Number 218**

That the Committee's Recommendation be adopted.

Councillor Mead asked that his name be recorded in opposition to the resolution in regard to Item 2.2 - 2012 Threatened Species Art Competition.

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## 2.3 Camden Gas Response to Submissions Report

### Reporting Officer

Manager Sustainable City and Environment

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### Attachments

1. Map showing the key features of Stage 2 and the amended Camden Gas Stage 3 Project application (distributed under separate cover)
2. Terms of Reference for the merit assessment of the application by a Planning Assessment Commission (distributed under separate cover)
3. Summary of how the 'Response to Submissions Report' addressed Council's submission on the Environmental Assessment that accompanied the Camden Gas Stage 3 Project Application (distributed under separate cover)
4. Draft Council submission on the 'Response to Submissions Report' (distributed under separate cover)
5. Peer review of the Groundwater Sampling and Investigation Program (distributed under separate cover)
6. Summary of how the Response to Submissions Report addresses other issues raised by Council (distributed under separate cover)
7. Map showing amendments to proposed gas extraction well sites (distributed under separate cover)

### Purpose

To advise Council of the 'Response to Submissions Report' for the Camden Gas Project Stage 3 Application and to seek Council's endorsement of a formal response to the 'Response to Submissions Report', to the Department of Planning and Infrastructure. A further purpose is to inform Council that the project application will no longer be assessed under Part 3A of the *Environmental Planning and Assessment Act 1979* following its classification as a State Significant Development by the NSW Government.

### History

Council considered a report on an Environmental Assessment accompanying the Camden Gas Project Stage 3 application lodged under the former Part 3A of the *Environmental Planning and Assessment Act 1979* at its meeting on 14 December 2010. The application proposed 12 well sites and gas gathering pipelines and associated infrastructure. At this meeting, Council endorsed a submission on this application which objected to its determination on a number of grounds, in particular the inadequate assessment of groundwater related impacts.

Council resolved at this meeting:

1. To pursue meetings with the Department of Planning and the New South Wales Office of Water to discuss issues identified in previous submissions and the specialist advice received regarding the groundwater assessment.
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2. Request the Minister for Planning to establish a Planning Assessment Commission to investigate the Camden Gas Project - Stage 3.

At a subsequent meeting on 18 October 2011, Council considered a report on a Groundwater Investigation and Sampling Program being undertaken by AGL as part of AGL's response to the submissions received on the Camden Gas Stage 3 Project Application.

Following consideration of a further report regarding this matter, Council at its meeting on 16 October 2012, resolved to:

'Accept the quote from the Water Research Laboratory to undertake a peer review of the report on the Groundwater Investigation and Sampling Program prepared on behalf of AGL Energy Ltd for the Camden Gas Stage 3 Project Area.'

At this meeting, Council also considered a reply from the NSW Minister for Primary Industries to correspondence sent in accordance with a resolution of Council at its meeting on 15 November 2011 which requested the NSW Government to impose a moratorium on any further coal seam gas extraction until there was greater scientific certainty regarding impacts on groundwater resources. Following its consideration of this report, Council resolved to:

'Make further representations to the Minister for Resources and Energy requesting that no new licences for Coal Seam Gas mining or exploration be approved or renewed until such time as scientific evidence guarantees that such activities do not compromise the environment or health and safety of the community.'

Council also considered a related report at its meeting on 20 November 2012 on the NSW Government's Strategic Regional Land Use Policy (SRLUP) and associated documents such as the Aquifer Interference Policy (AIP) that includes requirements of direct relevance to the Camden Gas Project Stage 3 Application.

Council also considered a further related report at its meeting on 3 July 2012 on the report produced by the NSW Parliamentary Inquiry into Coal Seam Gas.

A report on the NSW Government's formal response to the outcomes and recommendations of the Inquiry will be presented to Council early in 2013.

## **Report**

### **Introduction**

The location and key features of the Camden Gas Project Stage 3 application and relationship to previously approved stages of this Project is presented in Attachment 1. This application was recently classified as a 'State Significant Development' by the NSW Minister for Planning and Infrastructure (DP&I) and will be determined by a Planning Assessment Commission.

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A Planning and Environment Councillor Weekly Memo (CWM) Item (dated 9 November 2012) advised that a 'Response to Submissions Report' including amendments to the initial Camden Gas Stage 3 Project Application had been placed on public exhibition by the NSW Department of Planning and Infrastructure (DP&I) between Tuesday 26 October 2012 and Tuesday 7 December 2012. Council staff have arranged for an extension to this deadline to allow for the consideration of this report, and the lodgement of a formal submission, should Council deem appropriate to do so.

The Minister for Planning and Infrastructure announced on 19 October 2012 that a Planning Assessment Commission (PAC) would undertake a merit review of the application that would include public hearings (likely to be during the first quarter of 2013). The Commission will consider all submissions lodged on the Project application as part of its investigation, the scope of which has been detailed in the Terms of Reference issued by the NSW Minister for Planning and Infrastructure presented in Attachment 2. Details of the public hearing will be provided to Council when available. A separate Planning Assessment Commission will be the determining authority for the Project application under delegation from the NSW Minister for Planning and Environment.

The CWM (9 November 2012) further advised that the Minister for Planning and Infrastructure had classified this application as a State Significant Development under Part 4.1 of the *Environmental Planning and Assessment Act 1979*. The assessment and approval process under this arrangement has similarities to the former Part 3A process. However, Council has been advised that the application will be approved by a Planning Assessment Commission under delegated authority from the NSW Minister for Planning and Infrastructure.

### **Response to Submissions Report and amendments to the project application**

The Response to Submissions Report details the response of the applicant to issues raised in the 28 submissions (including a submission by Campbelltown City Council) arising from the public exhibition that took place in 2010. This Report and accompanying attachments including a specialist report on the Groundwater Sampling and Investigation Program can be viewed on the website of the DP&I at [www.dpi@nsw.gov.au](http://www.dpi@nsw.gov.au).

The Response to Submissions Report also incorporates the following amendments to the originally exhibited application that are of specific relevance to the Campbelltown Local Government Area (LGA) and are illustrated in Attachment 1.

- Removal of two proposed well sites in the suburb of Varroville and the addition of a replacement proposed well site in the suburb of Varroville
- Adjustment of gas gathering pipelines linking the proposed amended well sites to the existing network within the Camden Gas Project.

This means that the current (amended) proposal now encompasses:

- Eleven gas extraction wells (comprising of 5 wells located in the Campbelltown LGA and 6 in the Camden LGA) with up to 6 well heads at each site
  - Gas gathering pipelines linking the proposed wells with the existing network associated with the previously approved Stages 1 and 2 of the Camden Gas Project and associated infrastructure such as access roads.
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However, Council should note that 5 of the proposed wells included in the current (amended) application are all located within the boundaries of the Scenic Hills area and are considered not to be consistent with the environmental values of this area.

### **Review of the Response to Submissions Report**

The Response to Submissions Report prepared on behalf of the proponent has been reviewed by officers in terms of the adequacy of its response to Council's previous submissions and consistency within the context of previous Council resolutions.

The issues raised in Council's submission on the original Environmental Assessment (EA) placed on public exhibition in 2010 are provided in Attachment 3. This attachment indicates that the Response to Submissions Report has addressed some of the matters raised in Council's submission, i.e. the capacity of the Rosalind Park Plant, impacts on local roads, and protection of subsurface items of Aboriginal heritage.

However, the review by Council's officers has identified a number of remaining concerns and issues with the application that warrant Council's continued objection.

Consequently, a draft submission has been prepared for Council's consideration (Attachment 4) that recommends Council continue to provide objection to the application's determination. A discussion on each of the key areas of concern along with a suggested Council response is presented below.

#### **a) Operational aspects of the Rosalind Park Gas Processing Plant**

The original EA advised that in-field compression (to enhance the pressure of extracted gas from wells in the northern part of the project area) may be necessary due to the distance of the proposed wells from the Rosalind Park Gas Processing Plant and that this matter would be the subject of a separate assessment and application process. The Response to Submissions Report has not adequately responded to Council's request in its submission for additional information in relation to 'in-field processing'. This is unsatisfactory as the extent and nature of the impact of any such infrastructure remains unknown.

#### **Suggested Council response:**

It is suggested that Council request the DP&I to seek further amendment of the application to include the nomination of wells where 'in-field processing' is likely to be required, as well as potential impacts associated with the construction and operation of 'in-field infrastructure'. It is further suggested that Council request that operational aspects of the application be added to the Terms of Reference for investigation by the Planning Assessment Commission as part of its merit assessment of the amended application.

#### **b) Permissibility of the project at State and local level**

The proposed coal seam gas facilities and operations put forward in the current application are permissible with the consent of the Minister or his delegate.

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Notwithstanding, the entire Stage 3 Project area is included within an Environmental Sensitive zone under the current local planning instrument (LEP D8 Central Hills Lands). The Response to Submissions Report contends that the proposed works constitute 'utility restoration' under the definitions of this LEP, and therefore are a use permissible under the LEP.

Council officers do not share this conclusion, noting that coal seam gas extraction is not an activity specifically defined by the LEP. Although it may be argued that such an activity is a permissible use in the zone, officers consider that the proposed wells (in particular) are inconsistent with a number of relevant zone objectives.

In addition, Council's submission to the Parliamentary Inquiry expressed the view that all mining and coal seam gas should not be permissible in environmentally sensitive areas nor in circumstances where potential impacts are likely to significantly compromise environmental values.

#### **Suggested Council response:**

It is suggested that Council reiterate its previously held position to the DP&I strongly opposing coal seam gas extraction activities in environmental sensitive areas such as the Scenic Hills, given the inconsistency that exists between such activities and the values and planning objectives for such areas.

In addition, it is suggested that Council advise the DP&I of its position that the proposed development is inconsistent with the following relevant planning objectives for the 7d(1) (Environmental Protection - Scenic) Zone:

- 'a) to set aside certain land as a protected scenic environment
- b) to ensure that land will remain a rural environment providing visual contrast to the urban areas of Campbelltown, Camden and Liverpool
- c) to ensure that the inhabitants of Campbelltown will continue to have views of, and access to, a rural environment.'

#### **c) Groundwater**

Councillors were provided with a briefing on 1 October 2011 by a Sydney Catchment Authority representative with significant expert knowledge in groundwater related issues, which outlined potential impacts associated with key components of coal seam gas extraction. Councillors can obtain a copy of this presentation from the Manager Sustainable City and Environment, however, the key issues arising from that presentation are summarised as follows:

- Drilling operations during the establishment and operation of wells and associated use of drilling additives. **These processes can potentially result in an artificial connection being established between aquifers at various depths and loss of additives to groundwaters**
  - Dewatering of aquifers to enable the drainage of gas from the coal seam gas reservoir. **This process can potentially result in the decline of groundwater levels and induced upward movement of groundwater through fractures**
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- Hydraulic fracturing activities (fracking) that involves the insertion of a predominantly slurry mix (generally comprised of 95% sand and water and 5% chemical additives) to create a fracture in the coal seam to facilitate the gas extraction process. **This process can potentially result in the creation of fractures in surrounding bedrock and long-term contamination of groundwaters.**

The specialist report accompanying Council's original submission to the original EA in 2010 included a range of recommendations (detailed in Attachment 3) to address deficiencies in the level of baseline data as well as the assessment of impacts associated with the above key issues associated with coal seam gas activities. The response of the applicant to these recommendations, as well as other deficiencies raised in the other submission, has been as follows:

- The Groundwater Investigation and Monitoring Program is largely similar to the version previously reported to Council apart from an analysis of additional groundwater monitoring and a desk-top conceptual model of groundwater behaviour
- A response to specific issues raised regarding the key components of coal seam gas listed above is contained within the main body of the document
- A Groundwater Monitoring Plan developed in consultation with the NSW Office of Water that describes the intended procedures by the applicant to monitor any changes in groundwater aquifers beneath the project area as a consequence of dewatering activities is included.

(i) Groundwater Investigation and Monitoring Program

In accordance with Council's resolution of 16 October 2012, a specialist consultancy 'The Water Research Laboratory' (WRL) was engaged by Council to review the adequacy of the above report in providing a comprehensive understanding of groundwater behaviour and the assessment of impacts associated with the application. Key findings arising from this peer review commissioned by Council are as follows:

- The Response to Submissions Report has identified the regional geological and hydrogeological settings for the groundwater environment within the vicinity of the Project Area, but not the local settings
  - The Response to Submissions Report has adequately described a conceptual model of the aquifers present in the Project area, however, this model has not described a number of aspects of these systems including the expected lateral flows within aquifers and the ranges of likely reduction in the level of groundwater sources as a consequence of the project. The WRL therefore recommended a precautionary approach be adopted by assuming that some vertical connectedness may exist between aquifers in the project area
  - The monitoring undertaken was sufficient in providing a broad understanding of groundwater behaviour but was not designed to identify groundwater flows in lower aquifers in the vicinity of the coal seam. In this regard, WRL advised that the accuracy of the conceptual model could not be confirmed and therefore the conclusions of the model (that the overlying aquifer zones will be isolated from each other) must be viewed as a range of possible outcomes
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- The Response to Submissions Report has not provided a range of the likely dewatering rates of aquifers as a consequence of the project, nor a description of variations to gas extraction activities that may be needed in the event that dewatering volumes (both laterally and vertically) are greater than the level predicted in the application
- The proponents conceptual model is accompanied by a level of uncertainty in so far as the extent of interconnectivity between aquifers. Further modelling could only achieve an improved understanding of groundwater behaviour if supplemented by extensive physical groundwater sampling/drilling.

**Officer comment:**

The above findings support previously expressed views by Council regarding deficiencies in the knowledge of the groundwater environment in the vicinity of the coal seam and the level of risk presented to this environment from coal seam gas extraction activities. It is therefore appropriate that Council continue to provide objection to the projects approval consistent with its resolution at its meeting on 18 October 2011 that no new licences for Coal Seam Gas mining be renewed until such time as scientific evidence guarantees that such activities do not compromise the environment or health and safety of the community.

(ii) Response to key issues associated with coal seam gas extraction

The review of the proponent's Response to Submissions Report in responding to submissions from Council and Government agencies on the key issues of coal seam gas extraction associated with the Camden Gas Stage 3 Project Application has identified the following issues:

- The Response to Submissions Report has not adequately responded to issues raised in Council's original submission regarding the intended regime to monitor the performance of the project and the description and potential impacts associated with any fracking operations
  - The Response to Submissions Report has not adequately considered the applicable requirements of the NSW Government's Aquifer Interference Policy (AIP) in terms of the assessment of impacts and interference with groundwater aquifers
  - The Response to Submissions Report has not provided a comprehensive description and analysis of the risk and specific measures intended to minimise the creation of pathways and potential for impacts on aquifers above the coal seam during drilling and fracking operations
  - The Response to Submissions Report has not considered the cumulative impacts associated with multiple well sites and has not responded in sufficient detail to issues raised regarding the use of chemicals as drilling additives or as part of any fracking operations
  - The lodgement of the Response to Submissions Report prior to the conclusion of the water sampling program is considered to have prevented any comprehensive and conclusive assessment of impacts associated with the application. This is evidenced by the prevalence of expressions such as 'it is anticipated' throughout the document when describing potential impacts on groundwaters associated with the proposal.
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In addition, aspects of the groundwater environment and impacts associated with coal seam gas extraction on this environment have been the subject of recent research and investigation, since the lodgement of Council's submission. This research includes an article titled 'Some ways forward for coal seam gas and natural resource management in Australia', by the former head of the Land and Water Division of the Commonwealth Scientific and Investigation Resource Organisation (October 2012). This article details the current shortcomings in scientific knowledge regarding these matters, which should have been considered by the Response to Submissions Report.

The implications of the shortcomings regarding the knowledge of groundwater environment beyond shallow depths and impacts of coal seam gas extraction on this environment is illustrated by a number of generic and seemingly ambiguous statements in the Response to Submissions Report such as the following statement on Page 35:

"Based on a review of previous studies undertaken, the assessment (the conceptual model) concluded that the presence of extensive and thick claystone formations that overly the coal measures are likely to impede the vertical flow of groundwater."

"However, the assessment also identified that the possibility cannot be ruled out that major fault zones could provide a hydraulic pathway through claystone horizons and that some shallow groundwater impacts may be observed in close proximity to those structures."

The inclusion of these generic statements verifies Council's resolution regarding insufficient scientific knowledge regarding the risks presented to groundwater sources by coal seam gas extraction activities.

**Suggested Council response:**

It is suggested that Council acknowledge the Report on the Groundwater Monitoring and Investigation Program and the Groundwater Monitoring Plan as welcome initiatives in addressing a number of significant shortcomings raised by submissions on the groundwater component of the EA. However, it is suggested that Council highlight the need for action by the DP&I to address the following outstanding concerns:

- Require further amendment of the application to address all items in Council's specialist report on the Groundwater Monitoring and Investigation Program prior to its referral to the PAC for determination
  - Require the amendment of the application to specify the compliance of the amended application with applicable requirements of the Government's Aquifer Interference Policy and Codes of Practice for Fracching and Well Integrity and the Gateway Process associated with the NSW Government's Strategic Rural Land Use Policy
  - Request that the PAC investigate the accuracy of the predicted dewatering volumes and resolve the risks posed by the Project, in view of a lack of certainty associated with conceptual modelling without extensive physical disturbance to aquifers.
-

In addition, Council has previously resolved to pursue a joint meeting with the NSW Office of Water and the DP&I to discuss its concerns. While the NSW Office of Water agreed to attend such a meeting, the DP&I declined but provided an assurance that it would entertain such a meeting if Council continued to have concerns following its review of the Response to Submissions Report. In light of the concerns outlined above, it is recommended that Council reinstate such a meeting. This meeting would also provide an opportunity to discuss issues associated with the Aquifer Interference Policy with the NSW Office of Water in accordance with Council's resolution of its meeting on 20 November 2012.

**d) Surface Waters**

(i) Impacts on surface waters associated with the operation of well sites

The Response to Submissions Report includes a response from the proponent regarding potential impacts associated with the installation and operation of the 11 proposed well sites, on adjacent surface waters, as well as interconnecting groundwaters. The Response to Submissions Report, however, has not adequately responded to Council's request that the EA be amended to contain management strategies as well as mitigation measures that apply to individual well sites.

The Response to Submission Report states that the volumes and types of chemicals to be used as drilling additives, or as part of fracking operations, will be disclosed following approval in order to comply with the requirements of the Hydraulic Fracturing Code of Practice associated with the NSW Government's SRLUP. However, the Response to Submission Report has not adequately responded to Council's request to outline the intended volumes and types of all chemicals to be used as drilling or fracking activities and that this information be made publicly available.

In relation to this matter, Council's submission on the EA welcomed the intention of the applicant to adopt the practice of storing wastewater from proposed well sites in Stages 1 and 2 of the Camden Gas Project. However, the Response to Submissions Report has not adequately responded to Council's request for further details and mitigation measures regarding the possible use of lined ponds for matters such as the storage of returned drilling fluids as part of Stage 3 of the Camden Gas Project.

(ii) Impacts associated with the installation of gas pipelines

The application involves the laying of gas gathering pipelines that would transport extracted gas to the Rosalind Park Processing Plant and link with the existing network associated with the Camden Gas Project at approximate depths of 750 mm. The Response to Submissions Report has partially responded to Council's request that AGL consult with the NOW to identify appropriate design and mitigation measures for the crossing of watercourses (with both permanent and non-permanent flow) by gas gathering pipelines.

However, the Response to Submissions Report has not adequately responded to Council's request that assessment of potential impacts associated with individual well sites and sections of gas gathering pipelines (such as downstream salinity impacts) be undertaken.

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**Suggested Council response:**

It is suggested that Council request the DP&I to require further amendment of the application to include the following prior to determination:

- Assessment of potential impacts associated with individual well sites and sections of gas gathering lines that are consistent with applicable requirements of Council's Sustainable City Development Control Plan
- A full list of the volumes and types of chemicals to be used as drilling additives and as part of any fracking operation and that such information be made publicly available
- Specification of watercourses (with both permanent and non-permanent flow) intended to be crossed by gas gathering pipelines as well as intended procedures and mitigation measures.

**e) Biodiversity**

The Response to Submissions Report includes a specialist Flora and Fauna Assessment that has been prepared to update the assessment that accompanied the original EA to reflect the amendments to proposed gas extraction well locations and associated pipelines. This updated assessment has partially responded to issues raised in Council's submission regarding the adequacy of the flora and fauna surveys and the adopted 'envelope' approach to assess impacts. This approach involves the surveying of a broad area (or envelope) in the vicinity of each proposed gas well and gas gathering pipelines to allow for the facility or infrastructure to be located at any point within this broad area.

It is appropriate that Council acknowledge that the applicant has designed the application to restrict impacts on biodiversity and that measures outlined in the Response to Submissions Report will help to minimise the extent of Cumberland Plain Woodland and other Endangered Ecological Communities that will be cleared as a result of the project. However, the officer review of the Response to Submissions Report has identified the following further deficiencies in the response of the applicant:

- There are apparent inconsistencies between the main body of the Response to Submission Report and the supporting Biodiversity Specialist Report regarding the extent of clearing as part of the project application
  - The proposed surveys, assessment of impacts and commitments for site rehabilitation outlined in the specialist report largely relate to gas wells and not gas gathering pipelines, which also have a potential to impact on vegetation and fauna
  - The Response to Submissions Report has partially responded to deficiencies regarding surveys and assessments associated with the adopted 'envelope' approach. However, the main body of the Response to Submissions Report has not referred to statements in the supporting Specialist Report that additional assessment may be required within the previously surveyed 'envelope' for a number of gas well sites and sections of gas gathering lines.
-

**Suggested Council response:**

It is suggested that Council request the DP&I to require the amendment of the application to include the following:

- Clarification over the apparent inconsistencies between the main body of the Response to Submissions Report and the supporting Specialist Report regarding the actual extent of residual impacts associated with the application on remnant Endangered Ecological Communities
- Completion of assessments, surveys and commitments for site rehabilitation to apply to both gas wells and gas gathering pipelines.

**f) Greenhouse Gas Emissions**

Coal seam gas extraction activities can involve the venting of methane gas at well sites as part of operation and maintenance procedures. They can also involve fugitive emissions of methane through fractures created in geological formations potentially attributable to coal seam gas extraction activities. In this regard, Council should note that a recent research program undertaken by the Southern Cross University, which was the subject of an article in the Sydney Morning Herald on 15 November 2012, reportedly identified high levels of methane emissions leaking from a gas field in Queensland. This matter is of high importance given the promotion of the coal seam gas industry as a cleaner energy source compared to coal in terms of greenhouse gas emissions and the potential health and environmental impacts associated with fugitive methane emissions from coal seam gas fields.

The Response to Submissions Report states that venting is limited due to impediments of geological formations overlaying the coal seam, to the upward migration of methane gas. In relation to this matter however, an AGL representative at the Camden Gas Community Consultation Committee meeting held on 15 November 2012 advised that external consultants had been engaged to investigate best management practices and monitoring techniques in relation to fugitive emissions. While Council may wish to acknowledge this initiative, it is considered that the Response to Submissions Report has not adequately considered nor provided an approximate estimate of the likely level of fugitive emissions associated with the Camden Gas Stage 3 Project application.

**Suggested Council response:**

It is suggested that Council request the following action by the NSW DP&I (as detailed in the attached submission):

- Require the proponent to amend the application to include a quantitative assessment of fugitive emissions based on latest research, preferably prior to its referral to the PAC
  - Request that the PAC investigate in detail, methane emissions (both venting and fugitive) associated with the application
  - Request the NSW Government to establish an independent Inquiry in relation to fugitive emissions associated with the coal seam gas industry by a suitably independent scientific body.
-

It is also suggested that Council write to AGL requesting that the study into best practices for fugitive emissions involve the monitoring for any fugitive emissions across Stages 1 and 2 of the Camden Gas Project Area.

**g) Other Issues**

Council's submission on the EA requested amendments on a range of other issues associated with the project relating to Aboriginal and European Heritage, land sterilisation, impacts associated with lateral drilling under the subsurface project area such as geological fracturing, and traffic related issues. A description of the response by the applicant in regard to these issues and suggested Council response is presented in Attachment 6 and is summarised below:

**Suggested Council response**

- Request that the DP&I require the PAC to investigate potential health, environment and safety impacts associated with lateral drilling within the subsurface project area given that this area underlies most of the urbanised portion of the Campbelltown Local Government Area
- Reiterate a previous request to the DP&I that the Heritage Management Plan for the Camden Gas Project be updated to apply to the Stage 3 project area, should approval be granted
- Request the DP&I to require the development of Traffic Management Plans for each well site, should approval be granted.

**h) Issues Associated with Individual Well Sites**

The removal of the two originally proposed wells in the suburb of Varroville has responded to Council's initial concerns regarding these sites. However, two wells have been retained in the amended application that Council has previously requested to be relocated (Sites 1 and 2 Attachment 7) due to potentially unacceptable water quality impacts on nearby watercourses. The Response to Submissions Report has also not adequately responded to Council's request that all direct and indirect biodiversity and water quality impacts associated with proposed well sites be assessed on a site by site basis prior to determination.

The alternate proposed gas extraction well site at Varroville (well site 3 Attachment 7) is located on privately owned land. The Response to Submissions Report advises that the site will be accessed from Badgally Road. Whilst this access could potentially be considered as acceptable (subject to the provision of a Traffic Management Plan) there is potential for impacts during the establishment and operation of this well site on a number of nearby dams and associated watercourses.

**Suggested Council response:**

It is suggested that Council reiterate its request to the DP&I that it require AGL to conduct site specific analysis of environmental and community impacts, for individual well sites that are based on existing overarching Plans applying to approved stages of the Camden Gas Project.

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### **Summary of Council's Recommended Position regarding the Amended Project Application**

The preceding sections of this report have outlined a range of deficiencies in addressing issues raised in Council's original submission concerning the Camden Gas Stage 3 Project Application. The preceding sections also refer to recent research by the Southern Cross University and the former head of the CSIRO Division of Land and Water Resources that identified significant knowledge gaps in the 'science' regarding these matters. In addition, the Response to Submission Report provides no guarantee that the risks presented to groundwater sources associated with the project application can be accommodated without harm to the environment. Nor have such risks been adequately assessed based on specialist advice received from Council's consultant, The Water Research Laboratory.

Accordingly, it is suggested that Council continue its objection to the project determination based on these concerns.

It is further suggested that Council oppose the determination of any petroleum production licence applying to the Camden Gas Stage 3 application due to insufficient scientific evidence regarding potential health and environmental impacts associated with coal seam gas extraction in accordance with its resolution at its meeting on 16 October 2012.

### **Conclusion**

Council's original (2010) submission on the publicly exhibited Environmental Assessment that accompanied the Camden Gas Project Stage 3 Application provided objection on a number of grounds that included an absence of a comprehensive assessment of impacts on water resources as well as the inadequate assessment of environmental and health impacts in regard to individual gas extraction well sites.

A review of the more recently released Response to Submissions Report has identified that the applicant has partially responded to issues raised in Council's initial submission regarding the capacity of the Rosalind Park Gas Processing Plant and impacts on local roads associated with accessing well sites.

However, the Response to Submission Report has not adequately responded to issues raised regarding potential impacts associated with the project on ground and surface waters and vegetation clearance. In particular, the Response to Submissions Report has not adequately predicted the risk of aquifer connectivity (both laterally and vertically) as a consequence of dewatering activities, based on the specialist advice received by Council.

Further, the officer review has identified an inadequate response has been provided in respect of:

- Details of any 'in-field compressing' required as part of the project and associated potential impacts
  - The assessment of cumulative impacts associated with multiple well sites and well heads on surface and groundwater sources
  - A full list of chemicals to be used at well sites for drilling and fracking operations
-

- The likely level of methane emissions (both venting and fugitive) at well sites and across the project area, which may potentially have implications for surface development and resident populations. More investigation and analysis of possible risks need to be undertaken.

This Council report has also referred to data gaps in scientific knowledge regarding impacts of coal seam gas extraction activities on groundwaters and the related issue of fugitive methane gas emissions. Consequently, this report has identified a series of suggested responses by Council to address these deficiencies that include requesting the New South Wales Department of Planning and Infrastructure to require the further amendment of the application as detailed in the attached draft submission. This report also recommends that Council continue to express opposition to the determination of the Project due to the shortcomings in scientific knowledge concerning coal seam gas impacts and no guarantee having been provided regarding the risk presented to groundwaters associated with the project application.

This report acknowledges the announcement of the NSW Minister for Planning and Infrastructure that a Planning Assessment Commission has been established to conduct a merit assessment of the application. Items requested to be investigated by this Commission include the need for in-field compressing and computerised modelling of groundwater behaviour as well as potential methane emissions (both venting and fugitive) associated with the application. Details of the public hearing and any response from the Department of Planning and Infrastructure to Council's submission will be provided to Council when available. It is intended that Council's Director Planning and Environment would present Council's position on the amended application (Camden Gas Project - Stage 3) to any public hearing conducted by the PAC, should Council deem such to be appropriate.

### **Officer's Recommendation**

1. That Council continue to object to the determination of the project application based on inadequate assessment of the risks to groundwaters and fugitive greenhouse gas emissions as well as inadequate response to previously raised issues regarding deficiencies in the assessment of impacts associated with the proposed development particularly in regard to cumulative impacts on surface waters and impacts on biodiversity.
  2. That Council request the Minister for Energy and Resources not to issue any more exploration or mining applications until such time as scientific evidence guarantees that such activities do not compromise the environment or health of the community.
  3. That Council endorse the draft submission on the Response to Submissions Report in relation to the amended Camden Gas Project Stage 3 Application.
  4. That as a matter of urgency, Council pursue a joint meeting with the New South Wales Office of Water and the Department of Planning and Infrastructure regarding its concerns on water related issues associated with the amended application.
-



5. That Council acknowledge the assessment and determination of the application by a Planning Assessment Commission (PAC) and that the Department of Planning & Infrastructure be requested to require the following matters be included in the Terms of Reference for investigation by the PAC as part of its merit review:
  - a) The need for further assessment including computerised modelling to accurately determine the environment and health risks associated with the amended project.
  - b) The specific need and requirements for in-field processing within the Camden Gas Stage 3 Project Area.
  - c) The potential and approximate quantification of fugitive methane emissions across the project area and methane gas venting as part of well maintenance and operation procedures in both the short and long-term.
6. That Council 's Director Planning and Environment present Council's position on the amended application (Camden Gas Project – Stage 3) to any public hearing conducted by the Planning Assessment Commission.
7. That Council request the NSW Government establish an Inquiry into fugitive methane emissions associated with the coal seam gas industry by a suitable independent scientific body.
8. That Council write to the applicant requesting that the intended study into best practices for fugitive emissions occur across Stages 1 and 2 of the Camden Gas Project Area.

**Committee Note:** Mrs J Kirkby and Father G Bourke addressed the Committee regarding this matter.

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

1. That Council continue to object to the determination of the project application based on inadequate assessment of the risks to groundwaters and fugitive greenhouse gas emissions as well as inadequate response to previously raised issues regarding deficiencies in the assessment of impacts associated with the proposed development particularly in regard to cumulative impacts on surface waters and impacts on biodiversity.
  2. That Council request the Minister for Energy and Resources not to issue any more exploration or mining applications until such time as scientific evidence guarantees that such activities do not compromise the environment or health of the community.
  3. That Council endorse the draft submission on the Response to Submissions Report in relation to the amended Camden Gas Project Stage 3 Application.
  4. That as a matter of urgency, Council pursue a joint meeting with the New South Wales Office of Water and the Department of Planning and Infrastructure regarding its concerns on water related issues associated with the amended application.
-

5. That Council acknowledge the assessment and determination of the application by a Planning Assessment Commission (PAC) and that the Department of Planning & Infrastructure be requested to require the following matters be included in the Terms of Reference for investigation by the PAC as part of its merit review:
  - a) The need for further assessment including computerised modelling to accurately determine the environment and health risks associated with the amended project.
  - b) The specific need and requirements for in-field processing within the Camden Gas Stage 3 Project Area.
  - c) The potential and approximate quantification of fugitive methane emissions across the project area and methane gas venting as part of well maintenance and operation procedures in both the short and long-term.
6. That Council 's Director Planning and Environment present Council's position on the amended application (Camden Gas Project – Stage 3) to any public hearing conducted by the Planning Assessment Commission.
7. That Council request the NSW Government establish an urgent and comprehensive Inquiry into fugitive methane emissions associated with the coal seam gas industry by a suitable independent scientific body.
8. That Council write to the applicant requesting that the intended study into best practices for fugitive emissions occur across Stages 1 and 2 of the Camden Gas Project Area.

**CARRIED**

**Council Meeting 18 December 2012 (Greiss/Rowell)**

That the Committee's Recommendation be adopted.

**Amendment (Oates/Chanthivong)**

1. That Council continue to object to the determination of the project application based on inadequate assessment of the risks to groundwaters and fugitive greenhouse gas emissions as well as inadequate response to previously raised issues regarding deficiencies in the assessment of impacts associated with the proposed development particularly in regard to cumulative impacts on surface waters and impacts on biodiversity.
  2. That Council request the Minister for Energy and Resources not to issue any more exploration or mining applications until such time as scientific evidence guarantees that such activities do not compromise the environment or health of the community.
  3. That Council endorse the draft submission on the Response to Submissions Report in relation to the amended Camden Gas Project Stage 3 Application.
-

4. That as a matter of urgency, Council pursue a joint meeting with the New South Wales Office of Water and the Department of Planning and Infrastructure regarding its concerns on water related issues associated with the amended application.
5. That Council acknowledge the assessment and determination of the application by a Planning Assessment Commission (PAC) and that the Department of Planning & Infrastructure be requested to require the following matters be included in the Terms of Reference for investigation by the PAC as part of its merit review:
  - a) The need for further assessment including computerised modelling to accurately determine the environment and health risks associated with the amended project.
  - b) The specific need and requirements for in-field processing within the Camden Gas Stage 3 Project Area.
  - c) The potential and approximate quantification of fugitive methane emissions across the project area and methane gas venting as part of well maintenance and operation procedures in both the short and long-term.
6. That Council 's Director Planning and Environment present Council's position on the amended application (Camden Gas Project – Stage 3) to any public hearing conducted by the Planning Assessment Commission.
7. That Council request the NSW Government establish an urgent and comprehensive Inquiry into fugitive methane emissions associated with the coal seam gas industry by a suitable independent scientific body.
8. That Council write to the applicant requesting that the intended study into best practices for fugitive emissions occur across Stages 1 and 2 of the Camden Gas Project Area.
9. That in accordance with the Liberal State Government promise to return planning powers to local government, Council requests the relevant minister to return this application to Council for its determination.

### **Council Resolution Minute Number 218**

That the above amendment be adopted.

Councillor Mead asked that his name be recorded in opposition to the resolution in regard to item 2.3 - Camden Gas Response to Submissions Report.

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## **2.4 Community Fishing Day Event at Eagle Vale Pond**

### **Reporting Officer**

Manager Sustainable City and Environment

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### **Attachments**

Nil

### **Purpose**

To seek Council's approval for a community fishing event at Eagle Vale Pond, Eagle Farm Reserve, Eagle Vale.

### **History**

At its meeting on 31 May 2011, Council considered a report on the evaluation of the Eagle Vale Pond Catchment Education Day and resolved (in part):

*That a report be provided including full costings and potential liabilities on the viability of conducting a community fishing event in the Campbelltown Local Government Area.*

### **Report**

A community fishing event represents an opportunity to engage the community with their local waterways and the environment and educate residents on responsible fishing practices as well as ecosystem values and threats to aquatic ecosystems.

Several sites across the Campbelltown LGA have been identified as potentially ideal for a community fishing event to address community concerns regarding eel and carp populations and the predation of these species on waterfowl as well as waterway health. Eagle Vale Pond in Eagle Farm Reserve, Eagle Vale, has been identified as one such site due to its community interest, proximity to urban areas and visual sightings of a carp population.

There has been concern raised by some community members over the amount of eels present in the Pond and that this is the cause of a large number of bird mortalities. However eels are an important part of the natural ecosystem, they are a native animal and are believed to aid in water quality and waterway health. The waterfowl at the site are of such numbers that if not controlled they could potentially pollute the water with faecal contamination which can upset the chemical balance of the waterway. Eels also help to control introduced fish species such as carp by eating juvenile fish before they reach breeding age.

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Notwithstanding this view, recreational fishing of eels is not seen as an effective method of control and is not supported by the NSW Department of Industry and Investment. Even if eels are removed from a waterbody they will return. The larvae of Long-finned eels enter estuaries and migrate upstream, even over land in wet periods to freshwater habitats, where they may remain for up to 50 years before returning to the ocean to breed and die. The population of eels in any waterbody will never become unsustainable because if there is not enough food or if the habitat becomes degraded the eels will travel to another location.

Conversely, carp (*Cyprinus carpio*) are an introduced species that have established self-sustaining populations and are the dominant species in many fish communities in South Eastern Australia. Carp can have detrimental impacts on native aquatic plants, animals and general river health, particularly through their destructive feeding habits which involve the disturbance of sediment and removal of aquatic plants from the water bed. Impacts that have been directly attributable to carp include:

- reduced water quality
- destruction of aquatic plants
- decline in macroinvertebrate (small aquatic animals) populations
- spread of disease.

Carp have also been linked to a reduction in native fish populations, algal blooms and waterway erosion. Carp are a very hardy species and can survive in poor water quality and low water levels. Intensive recreational fishing for carp in small closed systems such as small lakes, ponds and dams can reduce local carp populations.

It is therefore proposed to hold a community fishing event at Eagle Vale Pond, targeting carp, to help to reduce carp populations and to prevent further environmental damage being caused by this fish species. Carp fishing competitions are seen as a fun, hands-on way for members of the public to help reduce the high numbers of this pest fish and its destructive impact on inland waterways. The event will encourage community members to fish for carp within the lake whilst educating them about the positive role of the eels within the system. All eels caught on the day would be returned to the water immediately, whilst all carp will be euthanized in an ice slurry and subsequently provided to a fertiliser manufacturer. The event would also showcase educational displays about aquatic weeds and pests. Prizes would be awarded to participants for various fishing achievements such as the largest carp or the most carp caught.

The competition is proposed for autumn 2013, when the weather is ideal for outdoor activities and fish are still relatively active. The competition is proposed to run between 7am and 11am on a Sunday morning and participants would be treated to a BBQ brunch. Based on attendance at previous community environmental events it is anticipated that the event would attract between 30-70 community members.

A regulatory sign is located within the Reserve that prohibits fishing unless approved by Council. This prohibition will not be applicable should Council approve this event. A preliminary risk assessment has been undertaken and appropriate controls have been identified to reduce the risk to participants, such as briefing participants on hazards, adequate supervision by council staff and the provision of Personal Protective Equipment such as insect repellent, sunscreen and gloves. All children under 12 years of age would be required to be supervised by an adult. Participants would need to complete a registration form specifying terms and conditions for entry and outlining risks associated with fishing in the competition. Prior to the event being undertaken a finalised risk assessment would be submitted to Council's insurer for confirmation of indemnity.

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The NSW Department of Industry and Investment have been contacted and are in support of the event. Officers from the Department have advised that no special permits are required to hold the event, however, all participants over the age of 18 must hold a fishing licence. This requirement would be communicated to the community during the promotion of the event and Council would hold no liability for participants fishing without a licence.

Should the event be approved, local businesses and fishing clubs will be approached for support and assistance. Depending on the level of support provided, the following costs may be reduced.

Estimated costs for the event are as follows:

• Advertising and promotion	\$800
• Prizes	\$500
• Refreshments	\$200
• Staff salaries (3 x staff @ 5 hours)	\$1400
<b>Total</b>	<b>\$2900</b>

Funds are available in Council's Environmental Planning budget to meet these costs.

### **Conclusion**

A community fishing event is considered an effective means of engaging the community with their local waterways and addressing concerns regarding eel and carp populations. Eels are native animals and are an important part of ecosystem health, their removal from a waterbody will not assist in controlling their population. Carp, however, are a detrimental invasive species, which have been attributed to deterioration of waterway health. It is recommended that a fishing event focusing on the removal of carp be held at Eagle Vale Pond, Eagle Farm Reserve, Eagle Vale in Autumn 2013.

### **Officer's Recommendation**

That Council approve a community fishing event, targeting carp, to be held at Eagle Vale Pond, Eagle Farm Reserve, Eagle Vale during Autumn 2013.

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

That the Officer's Recommendation be adopted.

### **CARRIED**

### **Council Meeting 18 December 2012 (Greiss/Rowell)**

That the Officer's Recommendation be adopted.

### **Council Resolution Minute Number 218**

That the Officer's Recommendation be adopted.

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## **2.5 Naming of a reserve within the 'Vista' development, Glenfield**

### **Reporting Officer**

Manager Sustainable City and Environment

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### **Attachments**

Nil

### **Purpose**

To seek Council's approval for the public exhibition of 'Yandel'ora Reserve' (meaning 'may there be peace between people') as the proposed name for a reserve within the 'Vista' community development at Atlantic Boulevard, Glenfield.

### **History**

The Glenfield Road Urban Release Area Masterplan was adopted by Council at its meeting on 17 December 2002. This plan provides for a number of areas of public open space and Council has now received a request from the executive committee of the Vista community scheme to consider a proposed name for a proposed public reserve located in proximity to this community title development at Atlantic Boulevard, Glenfield.

### **Report**

#### **Proposed reserve name**

Council's policy on the naming of parks and reserves states that new parks and reserves are to be named after past residents, land grantees or using Aboriginal words from the local dialect. In accordance with this policy, the executive committee of the Vista community scheme contacted the Tharawal Local Aboriginal Land Council (LALC) requesting suitable words from the local Aboriginal dialect for use in the naming of this reserve. Three suggestions were provided by the LALC of which *yandel'ora*, was considered by the executive committee to be the most appropriate given the diversity of cultures represented throughout the residents of the Vista community. The Vista executive committee is also proposing to utilise the naming of this reserve to educate their community about indigenous history and culture in cooperation with the LALC.

#### **Ownership of the proposed reserve**

Although this proposed reserve is located within a community title scheme, it will be transferred to Council as a public reserve. The land comprising this reserve (Lot 2 in DP 1149933) is currently in the ownership of Mirvac Homes NSW Pty Ltd but it is anticipated that the transfer to Council will be formally completed in the near future.

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This reserve is identified as being part of the environmental corridor under the Section 94 Development Contributions Plan - Glenfield Road Urban Release Area - May 2007, and is for use as passive open space (no playground and no bushland).

### **Process for naming reserves**

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

The GNB encourages local councils to undertake consultation with the community prior to submitting any naming proposals to the GNB and the procedure adopted by Council for the naming of parks and reserves is, therefore, as follows:

1. Council staff assess the naming proposal against current GNB guidelines.
2. If the proposed name conforms to these guidelines, a report to Council is prepared recommending that the proposed name be publicly exhibited for 28 days to allow for community comment.
3. If the proposal is approved for exhibition, a notice is published in local newspapers and 28 days are allowed for the receipt of any submissions. Any submissions received during the exhibition period are then considered and a report to Council is prepared recommending that either the naming proposal not be continued, or that an application be made to the GNB to have the proposed name assigned as the geographical name for the reserve or park.
4. If an application is made, the GNB assesses the proposal at a meeting of the GNB and recommends that either the naming proposal be rejected, or that the naming proposal be advertised in accordance with Section 8 the Act to give the community further opportunity to comment.
5. If approved for advertising, notice of the proposal is published by the GNB in a local newspaper and the NSW Government Gazette. The GNB then considers any submissions and either does not proceed with the proposal, or assigns the name as a geographical name for the feature. If the name is assigned, it is entered into the Geographical Names Register and notification of this is published in the NSW Government Gazette.

Council staff have assessed the proposed reserve name and consider that it conforms with current GNB guidelines. It is therefore recommended that the proposed reserve name be publicly exhibited by Council for 28 days to allow for community comment.

It is recommended that Council writes to the Tharawal LALC as part of the public consultation process associated with the proposed naming of this reserve.

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### **Officer's Recommendation**

1. That Council endorse the name 'Yandel'ora Reserve' for the reserve within the 'Vista' community development at Atlantic Boulevard, Glenfield for public exhibition for a period of 28 days following the transfer of Lot 2 DP1149933 into Council ownership.
2. That Council write to the Tharawal Local Aboriginal Land Council seeking endorsement of Yandel'ora Reserve as the proposed name of the reserve.
3. That a further report be provided to Council on the outcome of the public exhibition of this proposed reserve name.

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

That the Officer's Recommendation be adopted.

**CARRIED**

### **Council Meeting 18 December 2012 (Greiss/Rowell)**

That the Officer's Recommendation be adopted.

### **Council Resolution Minute Number 218**

That the Officer's Recommendation be adopted.

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### **3. DEVELOPMENT SERVICES**

#### **3.1 Development Services Section Statistics - October and November 2012**

##### **Reporting Officer**

Manager Development Services

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##### **Attachments**

Development Services Application Statistics for October and November 2012 (distributed under separate cover)

##### **Purpose**

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

##### **Report**

In accordance with Council's resolution of 23 August 2005 that Councillors be provided with regular information regarding the status of development applications, the attachment to this report provides details of key statistics for October and November 2012 as they affect the Development Services Section.

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

That the information be noted.

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

That the Officer's Recommendation be adopted.

##### **CARRIED**

##### **Council Meeting 18 December 2012 (Greiss/Rowell)**

That the Officer's Recommendation be adopted.

##### **Council Resolution Minute Number 218**

That the Officer's Recommendation be adopted.

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3.2 Nos. 48-52 Warby Street, Campbelltown - Demolition Of Existing Structures And Construction Of A Six Storey Residential Apartment Building With Two Levels Of Basement Car Parking And Associated Landscaping

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**3.2 Nos. 48-52 Warby Street, Campbelltown - Demolition of existing structures and construction of a six storey residential apartment building with two levels of basement car parking and associated landscaping**

**Reporting Officer**

Manager Development Services

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**Attachments**

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

**Purpose**

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

<b>Property Description</b>	Lots A – B DP 358051, Lot 10 DP 714457, Nos. 48- 52 Warby Street, Campbelltown
<b>Application No</b>	1246/2012/DA-RA
<b>Applicant</b>	Designcorp Australia Pty Ltd
<b>Owner</b>	Mr Gilbert Luy Yu
<b>Provisions</b>	State Environmental Planning Policy No.65 – Design Quality of Residential Flat Development State Environmental Planning Policy (Infrastructure) 2007 Campbelltown (Urban Area) Local Environmental Plan 2002 Campbelltown (Sustainable City) Development Control Plan 2009
<b>Other Provisions</b>	Campbelltown 2025 – Looking Forward
<b>Date Received</b>	22 June 2012

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### 3.2 Nos. 48-52 Warby Street, Campbelltown - Demolition Of Existing Structures And Construction Of A Six Storey Residential Apartment Building With Two Levels Of Basement Car Parking And Associated Landscaping

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## History

The subject development application was deferred on 25 September 2012 for an extensive range of reasons relating to matters including:

- Architectural merit
- Issues concerning the submitted Statement of Environmental Effects
- Waste management
- Parking and traffic impacts.

In response, additional plans and documentation was submitted to Council on 23 October 2012 and is the subject of this report.

## Report

### The Site

The subject site is located on the north western corner of Warby Street and Moore-Oxley Bypass. Warby Street is a local road that carries through traffic between Queen Street and Moore-Oxley Bypass. The subject site consists of four single allotments with a total area of 2211.97sqm. Located on the allotments are three single dwellings with associated outbuildings. The four single allotments are regular in shape and would be consolidated into one parcel.

The immediate (surrounding) built environment is characterised by a range of dwelling sizes and styles, including single storey dwellings as well as residential apartment buildings. There are dwellings within Warby Street that are also being used for a range of commercial purposes.

### The Proposal

The proposed development consists of the demolition of three detached dwelling houses and associated outbuildings and the construction of a six storey residential apartment building with two levels of basement car parking and associated landscaping at Nos. 48 – 52 Warby Street, Campbelltown. The residential apartment building would provide a total of forty seven units with a mix of one, two and three bedroom dwellings. Vehicular access is provided via Warby Street with one entry/exit driveway.

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A breakdown of each level is as follows:

Floor Level	Units	Car parking spaces	Service Areas	Storage Areas
Basement One	Nil	31 car parking spaces including two disabled spaces	Two waste rooms, plant rooms and two lifts	16 storage areas for units
Basement Two	Nil	33 car parking spaces including three disabled	Two lifts and pant rooms	26 storage areas for units
Ground Floor	3 x 2 bedroom units 4 x 3 bedroom units	Nil	Two foyers, two lifts and two garbage areas with chutes Recreational room and common open space area	storage areas in units
First floor	1 x 1 bedroom 1 x 2 bedroom 6 x 3 bedroom units	Nil	Two foyers, two lifts and two garbage areas with chutes	storage areas in units
Second Floor	1 x 1 bedroom 1 x 2 bedroom 6 x 3 bedroom units	Nil	Two foyers, two lifts and two garbage areas with chutes	storage areas in units
Third Floor	1 x 1 bedroom 1 x 2 bedroom 6 x 3 bedroom units	Nil	Two foyers, two lifts and two garbage areas with chutes	storage areas in units
Fourth Floor	1 x 1 bedroom 1 x 2 bedroom 6 x 3 bedroom units	Nil	Two foyers, two lifts and two garbage areas with chutes	Storage areas in units

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Floor Level	Units	Car parking spaces	Service Areas	Storage Areas
Fifth Floor	1 x 1 bedroom 1 x 2 bedroom 6 x 3 bedroom units	Nil	Two foyers, two lifts and two garbage areas with chutes	Storage areas in units

The proposed residential apartment building provides a mix of unit types with each apartment being provided with private open space areas through balconies and/or ground level courtyards. Each apartment has been provided with a storage area within the basement levels as well as storage within the units. Each apartment typically contains bedrooms, bathroom/ensuite, kitchen, built in wardrobes, linen closet and combined living/dining areas as well as an internal laundry. The building consists of two separate wings providing a break in the building fronting Warby Street at the ground level and a break to the rear of the site for all levels above ground level. This allows each wing to have its own foyer and lift area at each level. A recreation room is provided to the rear of the site on the ground floor that provides a kitchen and bathroom and opens up to the common open space areas.

Vehicular access to the residential apartment building is provided via a six metre wide combined entry/exit driveway along Warby Street in the north western corner of the site. The driveway would be a charcoal coloured stencilled concrete. Access into and out of the basement levels for residents and visitors would be through a secured automatic roller door. Visitors' cars can only gain access to the basement level on the basis of being allowed via a security intercom system at the entry point.

The proposed design of the building includes contemporary articulation and façade treatments with a flat roof with plant and lift overruns extending above the flat roof line to add visual interest. The building would be constructed of two different types of face brick work, with rendered and painted masonry to break up the scale and massing of the building.

Each wing of the building is to be provided with designated garbage chutes for perishable and recycled waste. These chutes are centrally located on each floor next to the lifts. Waste is deposited into the respective chute which then descends to the garbage rooms on the basement level. A compactor is provided in each garbage room within the basement level that would compact all waste from the garbage chutes. A caretaker would be employed to ensure that the garbage bins are placed at the kerb for collection and to relocate them back to the garbage rooms when emptied.

Landscaping is provided to the perimeter of the building as well as on the street frontages and side and rear boundaries through the use of trees, shrubs and groundcovers, as well as providing planter boxes where required.

Strata subdivision has not been requested at this stage and as such would be the subject of a separate development application to Council.

### 3.2 Nos. 48-52 Warby Street, Campbelltown - Demolition Of Existing Structures And Construction Of A Six Storey Residential Apartment Building With Two Levels Of Basement Car Parking And Associated Landscaping

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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.

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

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

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

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

## 2. Planning Provisions

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

The subject land is zoned 10(a) Regional Comprehensive Centre Zone under the provisions of Campbelltown (Urban Area) Local Environmental Plan 2002 (CLEP 2002). The proposed development is defined as 'residential flat building' and is permissible with Council's development consent. A residential flat building is defined as:

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'A building containing two or more dwellings which achieve access from shared foyers, halls or stairways.'

The objectives of the 10(a) Regional Comprehensive Centre, of relevance to the proposed development are:

- a) To encourage a variety of forms of higher density housing, including accommodation for older people and people with disabilities in locations, which are accessible to public transport, employment, retail, commercial and service facilities.

It is a requirement of the CLEP 2002, that development must be consistent with at least one of the objectives in order that Council can grant development consent. The development would provide a variety of higher density housing in a location that is accessible to public transport, employment, retail, commercial and service facilities. Accordingly, it is considered that the development is consistent with the relevant zone objectives and Council can grant consent to the proposed development should it deem appropriate to do so.

## **2.2 State Environmental Planning Policy No.65 - Design Quality of Residential Flat Development**

State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP 65) was gazetted on 26 July 2002 and applies to the construction of new residential flat buildings as well as substantial redevelopment of existing residential flat buildings. A residential flat building is defined under the provisions of SEPP 65 as:

'A building that comprises or includes:

- (a) 3 or more storeys (not including levels below ground level provided for car parking or storage, or both, that protrude less than 1.2 metres above ground level)
- (b) 4 or more self-contained dwellings (whether or not the building includes uses for other purposes, such as shops)

but does not include a Class 1a building or a Class 1b building under the Building Code of Australia.'

The aims and objectives of improving the design quality of residential flat development under the provisions of SEPP 65 are as follows:

- a) To ensure that it contributes to the sustainable development of New South Wales:
    - i. by providing sustainable housing in social and environmental terms
    - ii. by being a long-term asset to its neighbourhood
    - iii. by achieving the urban planning policies for its regional and local contexts.
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- b) To achieve better built form and aesthetics of buildings and of streetscapes and the public spaces they define
- c) To better satisfy the increasing demand, the changing social and demographic profile of the community, and the needs of the widest range of people from childhood to old age, including those with disabilities
- d) To maximise amenity, safety and security for the benefit of its occupants and the wider community
- e) To minimise the consumption of energy from non-renewable resources, to conserve the environment and to reduce greenhouse gas emissions.

Clause 30(2) of SEPP 65 requires a consent authority, in determining a development application for a new residential flat building, to take into consideration:

- a) the advice of a Design Review Panel constituted under Part 3 of the Policy
- b) the design quality of the development when evaluated in accordance with the design quality principles (Part 2 of the Policy)
- c) the publication 'Residential Flat Design Code'.

As Council has not established a Design Review Panel, for the purpose of this application Council is required to consider only the design quality principles and the Residential Flat Design Code. The design quality principles provide a guide to achieving good design for residential flat buildings and have been assessed against the proposed development.

### **Principle 1: Context**

'Good design responds and contributes to its context. Context can be defined as the key natural and built features of an area.

Responding to context involves identifying the desirable elements of a location's current character or, in the case of precincts undergoing a transition, the desired future character as stated in planning and design policies. New buildings will thereby contribute to the quality and identity of the area.'

The existing site is situated on the eastern side of Warby Street where it intersects with Moore Oxley bypass. The site exists with a down grade from the south to the north of the property. There are three single dwellings located on the subject allotments surrounded by a mix of low to medium density housing. The subject land is within the vicinity of other residential apartment buildings.

The proposed design of the residential apartment building integrates well with the emerging character of multi dwelling developments within the immediate vicinity. The proposed building has been designed to the slight slope of the site and expands upon the built form established by existing residential developments. The building facades have a positive impact on all streetscapes due to the colours/materials proposed and articulation incorporated throughout the architectural design.

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### **Principle 2: Scale**

'Good design provides an appropriate scale in terms of the bulk and height that suits the scale and the surrounding buildings.

Establishing an appropriate scale requires a considered response to the scale of existing development. In precincts undergoing a transition, proposed bulk and height needs to achieve the scale identified for the desired future character of the area.'

The scale of the development in the form it is proposed is considered appropriate for the site and is considered to be commensurate with the existing and desired scale, height and character of its surroundings. It is not considered inconsistent with the locality's current and future desired character. The elevations have been articulated by means of various materials, colours and architectural features that help to mitigate any issues of building bulk and scale.

All visible elevations from the public domain illustrate an acceptable scaling of the buildings.

### **Principle 3: Built form**

'Good design achieves an appropriate built form for a site and the building's purpose, in terms of building alignments, proportions, building type and the manipulation of building elements.

Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.'

The building's mass has been modulated and articulated so as to reduce its overall bulk. The use of balconies facilitate recessed building facades and are clearly identified by a distinctive selection of materials and colours. The building's orientation maximises the site's potential in terms of solar access, cross-ventilation of individual units and its general amenity.

The mixture of one, two, and three bedroom apartments as well as the orientation of the living areas to maximise solar access would provide good amenity for future occupants. Occupants of and visitors to the building have been provided with clearly defined entries and pathways from the street with direct access also able via the basement car parks.

### **Principle 4: Density**

'Good design has a density appropriate for a site and its context, in terms of floor space yields (or number of unit or residents).

Appropriate densities are sustainable and consistent with the existing density in an area or, in precincts undergoing a transition, are consistent with the stated desired future density. Sustainable densities respond to the regional context, availability of infrastructure, public transport, community facilities and environmental quality.'

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The density achieved by the proposed development is consistent with that provided for by Campbelltown (Sustainable City) DCP and is commensurate with the increased densities that will support the Campbelltown regional comprehensive centre.

The proposal provides well for the private open space and amenity needs for future occupants. This demonstrates that the intent of the proposal is to provide apartments with good living amenity and interaction between the individual apartments' private open space and living areas.

Given the number of apartments proposed, the development would not significantly impact upon the availability of infrastructure, public transport, community facilities and environmental quality and would satisfy the general amenity of future occupants of the apartments.

#### **Principle 5: Resource, energy and water efficiency**

'Good design makes efficient use of natural resources, energy and water throughout its full life cycle, including construction.

Sustainability is integral to the design process. Aspects include demolition of existing structures, recycling of materials, selection of appropriate and sustainable materials, adaptability and reuse of buildings, layouts and built form, passive solar design principles, efficient appliances and mechanical services, soil zones for vegetation and reuse of water.'

Sustainability is integral to the design of the proposed development, consisting of the selection of appropriate and sustainable materials, passive solar design features and the use of energy efficient appliances.

A Basix certificate has been submitted with the development application detailing that all units feature good solar access to balconies and living rooms and meet the required targets. The development would incorporate energy efficient and water efficient devices appropriate to the specification of the building and which is detailed in the Basix Certificate. All living rooms feature direct window openings with cross ventilation able to be achieved by means of open doorways to main bedroom areas. The majority of the units have two primary orientations with the service rooms (bathrooms, laundries) generally centralised to minimise the depth of habitable rooms as measured from windows and balconies.

#### **Principle 6: Landscape**

'Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in greater aesthetic quality and amenity for both occupants and the adjoining public domain.

Landscape design builds on the existing site's natural and cultural features in responsible and creative ways. It enhances the development's natural environmental performance by co-ordinating water and soil management, solar access, microclimate, tree canopy and habitat values. It contributes to the positive image and contextual fit of development through respect for streetscape and neighbourhood character or desired future character.

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### 3.2 Nos. 48-52 Warby Street, Campbelltown - Demolition Of Existing Structures And Construction Of A Six Storey Residential Apartment Building With Two Levels Of Basement Car Parking And Associated Landscaping

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Landscape design should optimise useability, privacy and social opportunity, equitable access and respect for neighbours' amenity, and provide for practical establishment and long-term management.'

The proposal provides landscaped areas to all common/communal open space and private open space areas at ground floor level. Landscape elements are proposed to enhance the communal area in the development and would create a buffer between the residential units. Extensive deep soil zones have been incorporated into the development in order to encourage a scale of landscaping that will be in keeping with the scale of the building form.

#### **Principle 7: Amenity**

'Good design provides amenity through the physical, spatial and environmental quality of a development.

Optimising amenity requires appropriate room dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, outlook and ease of access for all age groups and degrees of mobility.'

The subject site is in close proximity to public transport, schools, medical facilities and shopping centres and offers a high level of amenity for future occupants. The design of each unit has responded to the need for good room sizes, efficient planning and adequate solar access. Each unit is proposed to be provided with a private open space area in the form of balconies or ground floor courtyards compliant with Council's DCP and SEPP 65. In addition, the design of the apartments protects the future occupant's ability to carry out private functions in all rooms and private open space areas without compromising views, ventilation and solar access.

Each apartment is proposed to be provided with internal storage areas with additional storage located within the basement levels. All of the apartments are naturally cross-ventilated adding to amenity.

#### **Principle 8: Safety and security**

'Good design optimises safety and security, both internal to the development and for the public domain.

This is achieved by maximising overlooking of public and communal spaces while maintaining internal privacy, avoiding dark and non-visible areas, maximising activity on streets, providing clear, safe access points, providing quality public spaces that cater for desired recreational uses, providing lighting appropriate to the location and desired activities, and clear definition between public and private spaces.'

The orientation of the proposed building, floor layouts and location of balconies provide natural surveillance of the public areas and pathways. Security and safety would be optimised by the inclusion of private security within the building, for occupants and visitors.

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The basement car park is proposed to be serviced directly through a security controlled gate. An intercom system to control security access is to be provided for all residents to gain entry to and from the basement.

Stairwells as well as lifts from the basement levels provide direct access to all units. The units that front Warby St provide balconies and living areas that offer passive surveillance over the public street. The units that front Moore Oxley bypass have balconies that provide passive surveillance.

#### **Principle 9: Social dimensions**

'Good design responds to the social context and needs of the local community in terms of lifestyles, affordability, and access to social facilities.

New developments should optimise the provision of housing to suit the social mix and needs in the neighbourhood or, in the case of precincts undergoing transition, provide for the desired future community.'

The proposed development provides for a mix of design and layouts for varying household sizes and would complement and extend the range and diversity of residential accommodation in the area. The development would address the needs of the community in terms of lifestyle, choice and given the close proximity to the Campbelltown CBD would enable easy access to major transport nodes, commercial and business uses as well as shopping facilities.

Adaptable units are to be provided in the building and are accessible by lift from the basement. All units within the proposed development would be accessible as per the requirements of the relevant Australian Standards.

#### **Principle 10: Aesthetics**

'Quality aesthetics require the appropriate composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the development. Aesthetics should respond to the environment and context, particularly to desirable elements of the existing streetscape or, in precincts undergoing transition, contribute to the desired future character of the area.'

The façades of the buildings are modulated with specific contextual references to the form and scale of the desired future streetscape. The proposed development incorporates a mix of building elements, textures and colours to enhance the buildings' character, thereby contributing to a high quality design. External balconies have been integrated into each façade of the building to break up the building form and offer relief and articulation within each façade. The predominantly flat roof form minimises the bulk and scale of the development, skillion overhangs to certain roof elements 'break' the skyline and would add visual interest.

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**Residential Flat Design Code**

The Residential Flat Design Code (RFDC) is an additional resource to help guide the design of residential flat buildings across New South Wales. It sets out a number of guidelines that provide benchmarks for residential apartment buildings. The RFDC supports the design quality principles set out under SEPP 65 and as such, operates in conjunction with SEPP 65 to achieve the objective of providing high quality residential apartment buildings. An assessment of the proposed residential apartment building against the RFDC objectives has been carried out and is detailed below.

	<b>Objectives</b>	<b>Proposal</b>
<b>Building Envelopes</b>	Building envelopes set an appropriate scale for future development in terms of height, depth, separation, setbacks and floor space in relation to the street layout and lot size.	The proposed building complies with the primary controls being height, depth, separation, street setbacks and floor space.
<b>Height</b>	Height of residential flat buildings should be based on scale and character of the local area and should allow reasonable daylight access.	The proposed development satisfies the height standard as required by the SCDCP.
<b>Building Depth</b>	Ensures that the bulk of the development is in scale with the existing or desired future character as well as to provide sufficient natural sunlight and ventilation (10-18 metres depth otherwise must demonstrate that appropriate solar access and natural ventilation).	The building depth is broken up by the lift and stairwells separating the units. Thus the units have a depth of 16 metres.
<b>Street Setbacks</b>	Should achieve a transition between public and private space.	Provision of private courtyard areas as well as communal areas within the dual street frontage, which are clearly defined spaces.
<b>Side and Rear Setbacks</b>	Minimise the impact of the development on light, air, sun, privacy, views and outlook for neighbouring properties.	The proposal complies with the side and rear setbacks as required in the SCDCP.
<b>Floor Space Ratio</b>	Ensures the development is in keeping with the optimum capacity of the site and to allow modulation of the walls and habitable balconies.	The SCDCP does not have a standard for floor space ratio, however all other components have been complied with and objectives satisfied.
<b>Deep Soil Zones</b>	Assist with the management of the water table, water quality and improve the amenity of the development.	The proposal provides a suitable area available for deep soil planting.
<b>Fences and Walls</b>	To define the boundaries and provide security and privacy.	Fencing along the street elevations consist of brick piers with rendered masonry infills.

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	<b>Objectives</b>	<b>Proposal</b>
<b>Landscape Design</b>	To enhance privacy, provide a habitat for native indigenous plants, improve stormwater quality, improve microclimate and solar performance, improve air quality and contribute to biodiversity.	The landscape plan submitted with the development application provides landscaping for screening and privacy, enhanced energy and solar efficiency and aesthetics.
<b>Open Space</b>	Passive and recreational open space with landscaping is to be provided (ground level units to have 25sqm private open space). Communal open space provided (25% - 30% of the site area).	Passive and recreational space is to be provided for each unit as well as landscaped areas. Ground floor units have 25sqm private open space. 25% communal open space has been provided.
<b>Orientation</b>	To optimise solar access, support landscape and to protect the amenity of existing development. 70% of units to receive solar access for three hours.	Majority of the units have been orientated to achieve ventilation and natural sunlight. 68% of units receive solar access for at least three hours.
<b>Planting on Structures</b>	Enhance quality and amenity of rooftops, internal courtyards and podiums and encourage landscaping in urban areas.	The proposal provides landscaping for individual units where required.
<b>Safety</b>	To ensure safety for residents and visitors and contribute to the safety of the public domain.	The proposal reinforces distinction between public and private areas. The design and layout of the building provides natural surveillance of the public domain and common open space area.
<b>Visual Privacy</b>	Provide reasonable levels of visual privacy and maximise outlook and views.	The proposal minimises direct overlooking of private open space areas by means of appropriate setbacks and screening structures.
<b>Building Entry</b>	Create entrances that provide desirable identity, to orient the visitor and to contribute positively to the streetscape.	Residents and visitors would be provided with a clearly defined entry and pathway to the building. Separate entry is provided for vehicles.
<b>Parking and Pedestrian Access</b>	To promote access to the street and public domain, to minimise dependency on cars and provide adequate car parking facilities.	Car parking is provided via a driveway to basement levels. Separate pedestrian access from the public street is provided to the building.
<b>Apartment Layout</b>	Ensure spatial arrangements are functional, high standards of amenity are achieved and accommodate a variety of household activities.	Apartment depths and spatial layouts achieve a high degree of amenity and functionality. All apartments meet the minimum floor area as recommended by the RFDC.

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	<b>Objectives</b>	<b>Proposal</b>
<b>Balconies</b>	To provide apartments with private open space, ensure balconies are functional and contribute to safety of the street.	Each balcony complies with the minimum area and depth requirements. Each apartment provides surveillance to the street and/or on-site open space areas.
<b>Ceiling Heights</b>	Increase sense of space, promote penetration of light into apartments and to allow flexibility of use.	The ceiling heights proposed comply with the requirements of the RFDC.
<b>Flexibility</b>	To encourage housing designs that meet a range of needs, accommodate whole or partial changes of use and encourage adaptive re-use.	The design of the apartments provides the ability to be flexible for changes of use as required. The mix allows for some flexibility in what type of apartment future occupants may desire.
<b>Mixed-use</b>	Support the integration of appropriate retail and commercial uses with residential and encourage active street frontages.	The proposal is located within close proximity to the CBD, shopping centres and medical facilities within Campbelltown. No retail and commercial uses are proposed within the development.
<b>Storage</b>	Provide adequate storage for each individual apartment.	Satisfactory storage areas are provided within each apartment as well as in the basement levels.
<b>Acoustic Privacy</b>	Ensure a high level of amenity.	The proposal separates quiet rooms from adjacent noisy rooms.
<b>Daylight Access</b>	Ensure daylight access is provided and provide residents with the ability to change the quantity of daylight to suit their needs.	68% of apartments receive the required minimum amount of sunlight.
<b>Natural Ventilation</b>	Ensure apartments are designed to provide direct access to fresh air and reduce energy consumption by minimising the use of mechanical ventilation.	74% of apartments receive direct access to fresh air and direct ventilation. The development complies with the requirement for natural cross ventilation.
<b>Awnings and Signage</b>	To provide shelter and desirable signage.	Balconies above act as awnings over the proposed entry and only signage proposed is the address number.
<b>Facades</b>	Promote high architectural quality, ensure facades define and enhance the public domain and building elements are implemented into the overall building form.	The design of the proposal provides modulated facades with a flat roof that incorporates articulation. Balconies add to the architectural quality and visual interest of the building.
<b>Roof Design</b>	Provide quality roof designs, integrate the roof into the design of the building and increase the longevity of the building through weather protection.	The roof design is a flat, low profile roof which breaks down the mass and bulk of the building. This flat skyline is offset by selective skillion overhangs.



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	Objectives	Proposal
<b>Energy Efficiency</b>	Reduce the need for mechanical ventilation and promote renewable energy initiatives.	The proposal is designed to incorporate energy efficiency measures.

In conclusion, the proposed development generally satisfies the overall intent of SEPP 65 and the RFDC with the exception of a minor variation to the solar access requirement. This is discussed in further detail later in this report.

**2.3 State Environmental Planning Policy (Infrastructure) 2007**

Under the requirements of State Environmental Planning Policy (Infrastructure) 2007, Clause 101 applies to the subject proposal given its proximity to the Moore Oxley Bypass and states the following:

**'Development with frontage to classified road**

- (1) The objectives of this clause are:
  - (a) to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and
  - (b) to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.
- (2) The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:
  - (a) where practicable, vehicular access to the land is provided by a road other than the classified road, and
  - (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:
    - (i) the design of the vehicular access to the land, or
    - (ii) the emission of smoke or dust from the development, or
    - (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and
  - (c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.'

A Noise Assessment Report was submitted with the application which states that based on the measured noise levels, it will not be necessary to have acoustic treatment carried out other than specific glazing requirements which could be applied as conditions of consent should Council decide to support the proposal.

3.2 Nos. 48-52 Warby Street, Campbelltown - Demolition Of Existing Structures And Construction Of A Six Storey Residential Apartment Building With Two Levels Of Basement Car Parking And Associated Landscaping

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## 2.4 Campbelltown (Sustainable City) Development Control Plan 2009

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

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

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

### Part 2 - Requirements Applying to all Types of Development

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

**Site Analysis** – A site analysis plan has been submitted identifying the constraints and opportunities for the development and how the proposed development relates to the site.

**Views and Vistas** - The proposed development appropriately responds to Campbelltown's important views and vistas to and from public places given that the height of the building does not exceed Council's minimum requirements.

**Sustainable Building Design** – A Basix certificate was submitted for the proposed development with all relevant requirements detailed on the plans.

**Landscaping** – All existing trees on the site are to be removed and replaced with new landscaping. A landscaping plan detailing new landscaping for the site was submitted and is considered to be satisfactory.

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3.2 Nos. 48-52 Warby Street, Campbelltown - Demolition Of Existing Structures And Construction Of A Six Storey Residential Apartment Building With Two Levels Of Basement Car Parking And Associated Landscaping

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

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

**Cut and Fill** – The proposal requires excavation of two basement levels which will be constructed in accordance with Council's requirements.

**Demolition** – The proposed development involves the demolition of three dwellings and outbuildings which will be carried out in accordance with the relevant Australian Standards.

**Water Cycle Management** - A Water Cycle Management Plan was submitted as part of the proposed development. Council's Technical Services staff have assessed the proposal and no issues have been raised.

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

**Fencing and Retaining walls** – 1.8 metre high rendered masonry fencing with brick piers is proposed along the site's street boundaries with 1.8 metre high lapped and capped timber fencing provided between each courtyard area at ground level. Retaining walls are to be constructed in accordance with Council's requirements, if and where required.

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

**Risk Management** - The proposed site is not within a bushfire prone area or is subject to mine subsidence. The site is not contaminated according to Council's records. However the subject land is affected by overland flooding. Council's Technical Services staff have assessed the proposal and no issues have been raised.

**Waste Management** - A Waste Management Plan for demolition and construction works has been submitted and is considered to be satisfactory. Information regarding ongoing waste management was submitted and is discussed further in this report.

#### **Part 4 – Residential Apartment Buildings and Mixed-Use Development**

Part 4 – Residential Apartment Buildings and Mixed-Use Development of the SCDCP sets out certain development standards for residential and mixed-use development within the City of Campbelltown. As the proposed development is for a residential apartment building, it is considered that an assessment against the development standards contained within the SCDCP is required and is detailed below:

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3.2 Nos. 48-52 Warby Street, Campbelltown - Demolition Of Existing Structures And Construction Of A Six Storey Residential Apartment Building With Two Levels Of Basement Car Parking And Associated Landscaping

		<b>Campbelltown (Sustainable City) Development Control Plan</b>	
<b>Control</b>	<b>Proposed</b>	<b>Requirement</b>	<b>Complies</b>
<b>Maximum Height</b>	Six storeys	Six Storeys	Yes
<b>Building Design</b>	<p>Appropriate facades address both frontages</p> <p>Articulation in walls via use of balconies with flat roof elements enhanced with selected skillion overhangs</p> <p>Variation in planes of external walls</p> <p>Variation in roof height</p> <p>Various building materials and colours are proposed</p> <p>Provision of landscaping and architectural details</p>	<p>Appropriate facades to address street frontages</p> <p>Articulation in walls, variety of roof pitch, architectural features</p> <p>Variation in planes of exterior walls</p> <p>Variation in height</p> <p>Articulation through use of colour and building materials</p> <p>Landscaping and architectural detailing at ground level</p>	Yes
<b>Site Services</b>	The roof mounted plant and lift overruns would not be visible from street level	Roof mounted plant shall not be visible from public place	Yes
<b>Site Area</b>	Site area: 2211.97sqm	Minimum 2,500sqm	<b>No</b>
<b>Site Width</b>	48.4 metres	Minimum 30 metres	Yes
<b>Street Boundary Setback</b>	5.5 metres	5.5 metres	Yes
<b>Side Setback</b>	7.0 metres	6.0 metres	Yes
<b>Rear Setback</b>	6.0 metres	6.0 metres	Yes
<b>Secondary Street Frontage</b>	5.5 metres	5.5 metres	Yes
<b>Unit Ratio</b>	Five x one bedroom units	<p>Minimum 5% of the total number of dwellings shall be one bedroom or a studio</p> <p>Requires: 2.35</p>	Yes

3.2 Nos. 48-52 Warby Street, Campbelltown - Demolition Of Existing Structures And Construction Of A Six Storey Residential Apartment Building With Two Levels Of Basement Car Parking And Associated Landscaping

		<b>Campbelltown (Sustainable City) Development Control Plan</b>	
<b>Control</b>	<b>Proposed</b>	<b>Requirement</b>	<b>Complies</b>
<b>Adaptable Units</b>	All three bedroom units are adaptable  Provides: 8	Minimum of 10% of the total number of dwellings shall be adaptable  Requires: 4.7	Yes
<b>Dwelling Floor Area</b>	No studio  One bed: 58.95sqm  Two bed: >92.76sqm  Three: >106.78sqm  No four bedroom dwellings	40sqm for studio  50sqm for one bedroom  70sqm for two bedroom  95sqm for three bedroom  110sqm for four or more bedroom	Yes
<b>Access from Common Lobby Area</b>	Four dwellings from each lift and lobby area	Maximum of 8 dwellings shall be accessible from a common lobby area on each level	Yes
<b>Lift Access</b>	Two lifts are provided for the building of which both provide access from the second basement level to top most level  Each lift is accessed by a maximum of 23 or 24 dwellings  Direct access and illuminated	All residential apartment buildings shall provide at least one lift for access from the basement to the upper most accessible area  A maximum of 50 dwellings shall be accessible from a single common lift  Direct access and illuminated	Yes
<b>Deep Soil Planting</b>	Provides: 515.99sqm	Minimum of 25% of the required open space area or 15% of the total site area, whichever is the greater shall be available for deep soil planting  15% of site area: 331.79sqm	Yes

3.2 Nos. 48-52 Warby Street, Campbelltown - Demolition Of Existing Structures And Construction Of A Six Storey Residential Apartment Building With Two Levels Of Basement Car Parking And Associated Landscaping

		<b>Campbelltown (Sustainable City) Development Control Plan</b>	
<b>Control</b>	<b>Proposed</b>	<b>Requirement</b>	<b>Complies</b>
<b>Storage Facilities</b>	47 storage compartments are provided in the basement as well as storage within each individual unit	Storage facilities are to be provided for each unit either in the unit and/or within the basement with a capacity of no less than:  6 cubic metres for a studio;  8 cubic metres for a one bedroom unit;  10 cubic metres for a two bedroom unit;  12 cubic metres for a three bedroom unit; and  15 cubic metres for four or more bedroom units.	Yes
<b>Car Parking</b>	One per unit; plus One per four units; plus One per 10 for visitors Provided: 64 spaces	One space per unit; plus One space per four units; plus One space per ten units for visitors  Required: 64 spaces	Yes
<b>Solar access</b>	Orientated in a north-south direction  The private open space of adjoining properties receive solar access for greater than three hours	Orientated and sited to maximise northern exposure  20sqm of the required private open space on adjoining land to receive three hours continuous solar access	Yes
<b>Balconies and Ground Level Apartments</b>	All balconies are a minimum of 8.0sqm in area and have minimum depth of 2.0 metres	Courtyards/balconies shall be not less than 8sqm in area and have a minimum depth of 2.0 metres	Yes

3.2 Nos. 48-52 Warby Street, Campbelltown - Demolition Of Existing Structures And Construction Of A Six Storey Residential Apartment Building With Two Levels Of Basement Car Parking And Associated Landscaping

		<b>Campbelltown (Sustainable City) Development Control Plan</b>	
<b>Control</b>	<b>Proposed</b>	<b>Requirement</b>	<b>Complies</b>
<b>Privacy</b>	<p>Ground level apartments have privacy screens</p> <p>Windows and/or balconies that directly face another unit's balcony or habitable rooms (Type I and Type J units) have privacy screens</p>	<p>Ground level apartments shall have privacy screens</p> <p>No window of a habitable room or balcony shall directly face a window or habitable room of another dwelling</p>	Yes
<b>Communal Recreation facilities</b>	<p>Recreational room is 73.98sqm</p> <p>Bbq/outdoor area is 63.6sqm</p> <p>Not located within primary street setback</p>	<p>Recreation room with a minimum of 50sqm per dwellings per 50 dwellings</p> <p>Bbq/outdoor dining area with a minimum area of 50sqm per 50 dwellings</p> <p>Not located within primary or secondary street setback</p>	Yes
<b>Waste Management</b>	<p>Provision of garbage bins adjacent to garbage chutes on each level.</p> <p>Two compactors in waste rooms on basement levels</p>	<p>240L bin per three dwellings;</p> <p>1000L bulk bin per 12 dwellings;</p> <p>240L recyclable bin per three dwellings</p>	Yes

The proposal generally complies with the SCDCP with the exception of compliance with the minimum site area standard. This matter is discussed in more detail below.

**Minimum Site Area**

The total site area is 2,211.97sqm, being 288.03sqm or 12% short of the required 2,500sqm minimum allotment size.

Land exists adjacent the subject site which (although physically could form part of the application) has not been included in the proposal as the owner of the adjacent allotment does not wish to be a part of the proposed development. The applicant has attempted to unsuccessfully include the adjoining property into the subject development through negotiations which included financial incentives, however no agreement was reached. It is noted that that the owners of the adjoining lot would not be isolated as a result of the development and this development proposal does not remove or affect further development potential should they consolidate with lots adjoining them. As such, the adjoining properties would still be afforded development potential subject to approval from Council.

### 3.2 Nos. 48-52 Warby Street, Campbelltown - Demolition Of Existing Structures And Construction Of A Six Storey Residential Apartment Building With Two Levels Of Basement Car Parking And Associated Landscaping

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It is the case that in 2010, a report was tabled before the Council requesting a variation of the same standard, but in that case the variation was from 2,500sqm to 1,600sqm. The Council ultimately approved the variation as (despite the 2,500sqm standard) it ultimately formed an opinion that the 2,500sqm standard did not necessarily guarantee or result in a superior planning outcome to that of a development proposed on a smaller allotment.

In this regard, it is considered that the variation is satisfactory in the circumstances of this case given that the proposed development complies with all other requirements of Council's SCDCP as well as fulfils the objectives of the LEP. The 12% variation sought is considered to be relatively minor and should be supported given the outcome being of high architectural merit and quality. Furthermore, it is considered that the variation would not have an adverse impact on the amenity of the existing or desired future streetscape and would not isolate the adjoining property in terms of development potential.

## **3. Planning Assessment**

### **3.1 Waste Management**

The proposed development was referred to Council's Waste Management Officer for comment. Several issues were raised and the applicant was requested to address these issues prior to the application being determined.

One issue that was raised related to the location of the garbage chutes on each level being adjacent to the units with the potential to cause a noise nuisance for the occupants of the units where the chutes pass. Amended plans were submitted with the location of the chutes modified to remove the chute away from party walls, to avoid any noise disturbance.

A further issue related to the collection area of the bins on collection days. A 'wheel out wheel back' service was proposed which was considered to be unacceptable. As such, amended plans were submitted detailing a designated area within the Warby Street road reserve for the bins to be stored on their nominated collection days. This is considered to be satisfactory with conditions of consent recommended to ensure proper management of the bins to be taken out to the road reserve and returned to the garbage rooms once emptied.

### **3.2 Traffic and Parking Assessment**

Specialist traffic consultancy, Traffic Solutions Pty Ltd was engaged by the applicant to prepare a Traffic and Parking Assessment report in support of the proposed development.

The report concluded that the proposed driveway to serve the development is suitably located and would provide good sight distance in both directions along Warby Street. The proposed car parking satisfies the requirements specified by the Roads and Maritime Services and Councils Development Control Plan.

Furthermore, the estimated potential traffic generation increase in vehicle movements would not exceed the RMS capacity volume and would not have a detrimental effect on the surrounding road network.

Council's development engineers pose no objection to the proposal.

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3.2 Nos. 48-52 Warby Street, Campbelltown - Demolition Of Existing Structures And Construction Of A Six Storey Residential Apartment Building With Two Levels Of Basement Car Parking And Associated Landscaping

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#### **4. Public Participation**

The subject development application was referred to adjoining residents during the period of 31 July 2012 until 14 August 2012. During this time, Council received three submissions objecting to the proposed development. The submissions raised the following concerns:

##### **a. Adverse Privacy Concerns**

Concern was raised that the proposed development would have an adverse impact on the privacy enjoyed by the multi dwelling development located to the rear of the subject land. Concerns were raised specifically in relation to the direct visual line into the adjoining dwellings private open space areas and as such suggested that some type of screening measure be implemented to minimise any potential impact.

The applicant was requested to submit amended plans detailing proposed screening measures to address the potential privacy impacts and as a result, timber privacy screening is now proposed to the balconies facing the rear of the subject site, to minimise any overlooking issues. As such, the privacy screens would minimise potential for occupants on the balconies to overlook into adjoining private open space areas.

##### **b. Required Site Area**

Concern was raised that the proposal does not provide the minimum required site area for the development and as such should not be supported.

As detailed above, the applicant has made several attempts to include the neighbouring property as part of the proposal but no agreement was reached. Considering there is only a 12% variation to the development standard, that the proposed development satisfies all other Council requirements and does not reduce the development potential for the neighbouring allotment by isolating the site, it is considered that the variation be supported.

#### **5. Conclusion**

Council has received an application for the demolition of existing dwellings and associated structures and the construction of a six storey residential apartment building with two levels of basement car parking and associated landscaping Nos. 48 – 52 Warby Street, Campbelltown.

The proposed development generally conforms to the requirements of SEPP 65, ISEPP, LEP 2002 and Council's Sustainable City DCP. It is considered the proposal results in acceptable planning outcomes for the subject land.

The building provides design features across all facades to promote visual interest and provides a high standard of architectural merit. Adequate measures relating to garbage collection are proposed in order to ensure that the development does not significantly and detrimentally impact on traffic safety and convenience within the neighbourhood.

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3.2 Nos. 48-52 Warby Street, Campbelltown - Demolition Of Existing Structures And Construction Of A Six Storey Residential Apartment Building With Two Levels Of Basement Car Parking And Associated Landscaping

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Submissions were received regarding the development's potential impact on the immediate vicinity. As a result, amended designs were requested by Council and subsequently received that addressed a number of concerns held over the initially submitted proposal. It is considered that the development as now proposed, forms an acceptable balance between the existing surrounding development and land uses and Council's desired likely future character for new development in the locality.

### **Officer's Recommendation**

That development application 1246/2012/DA-RA for the demolition of three detached dwelling houses and associated outbuildings and the construction of a six storey residential apartment building with two levels of basement car parking and associated landscaping at Nos. 48 – 52 Warby Street, Campbelltown be approved, subject to the conditions detailed in Attachment 1.

**Committee Note:** Mr M Barhoum addressed the Committee in opposition to the development and tabled a letter, asking that it be distributed to all Councillors.

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

That the Officer's Recommendation be adopted.

### **CARRIED**

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

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

### **Council Meeting 18 December 2012 (Greiss/Rowell)**

That the Officer's Recommendation be adopted.

### **Council Resolution Minute Number 219**

That the Officer's Recommendation be adopted.

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

Voting against the Council Resolution were Councillors: Brticevic, Dobson, Lound, Oates and Thompson.

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3.3 Nos. 15-17 Parc Guell Drive, Campbelltown - Demolition Of Existing Structures And The Construction Of Two Residential Dwellings, A Residential Apartment Building, Basement Car Parking, Associated Landscaping And Strata Subdivision

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**3.3 Nos. 15-17 Parc Guell Drive, Campbelltown - Demolition of existing structures and the construction of two residential dwellings, a residential apartment building, basement car parking, associated landscaping and strata subdivision**

**Reporting Officer**

Manager Development Services

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**Attachments**

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

**Purpose**

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

<b>Property Description</b>	Lots 401 – 402 DP 1107378 Nos. 15-17 Parc Guell Drive, Campbelltown
<b>Application No</b>	414/2012/DA-RA
<b>Applicant</b>	Design Workshop Australia
<b>Owner</b>	Landcom
<b>Provisions</b>	State Environmental Planning Policy No.65 – Design Quality of Residential Flat Development Campbelltown (Urban Area) Local Environmental Plan 2002 Campbelltown (Sustainable City) Development Control Plan 2009 Campbelltown Development Control Plan No.104 – The Link Site
<b>Other Provisions</b>	Campbelltown 2025 – Looking Forward
<b>Date Received</b>	13 March 2012

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### 3.3 Nos. 15-17 Parc Guell Drive, Campbelltown - Demolition Of Existing Structures And The Construction Of Two Residential Dwellings, A Residential Apartment Building, Basement Car Parking, Associated Landscaping And Strata Subdivision

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## History

In December 2001 Council resolved to adopt a Master Plan and Development Control Plan for the development of the land between the Campbelltown Catholic Club and Macarthur Square, known as the Campbelltown Link Area (Park Central). Development Control Plan No. 104, which accompanies the Master Plan, also applies to the site and came into force on 9 January 2002.

On 21 May 2002, development consent G137/2001 was granted for subdivision creating nine allotments, the construction of three new roads and the construction of a new regional park, subject to conditions. The development proposed the subdivision of the site into nine lots (including the Campbelltown Hospital). Two of the allotments (Lots 5 and 6) were for the development of a regional public park, Lot 1 a hospital site, Lot 8 a retirement village, Lot 9 business uses and Lot 7 commercial activities. Lots 2, 3 and 4 were to be developed for future residential purposes. Lots 2, 3 and 4 were subsequently re-subdivided of which the development site is located on a lot that was originally part of Lot 4.

The subject development application was deferred on 1 June 2012 for a number of reasons including:

1. The letter from the owner granting consent for the lodgement of the development application does not authorise the current applicant to lodge the application.
2. Shortcomings associated with the submitted plans in relation to:
  - The height of the development
  - On-site landscaping
  - Compliance with the Residential Flat Design Code
  - Proposed apartment floor layouts.
3. It was also considered that the development would have potentially resulted in a significant reduction in the general amenity of the area, noting the objections already received from nearby and adjoining residents. The main issues of public concern related to bulky height, vehicular access, overshadowing, solar access, privacy and parking.

After several meetings with Council officers in relation to the requested information, amended plans were lodged on 20 November 2012 and are the subject of this report.

## Report

### The Site

The subject site is located on the corner of Parc Guell Drive and Parkside Crescent within the Park Central Estate. The site has a frontage of 31.16 metre fronting Parc Guell Drive and 33.63 metres fronting Parkside Crescent with an overall site area of 1,604 square metres. The site is rectangular in shape with a splayed corner and has an access handle provided via Rizal Road for vehicular access. The site has a gentle slope as it extends up the hill towards Gilchrist Drive.

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3.3 Nos. 15-17 Parc Guell Drive, Campbelltown - Demolition Of Existing Structures And The Construction Of Two Residential Dwellings, A Residential Apartment Building, Basement Car Parking, Associated Landscaping And Strata Subdivision

The immediate (surrounding) built environment is characterised by a range of dwelling sizes and styles, including single storey dwellings as well as two storey dwellings with studios located above garages and residential apartment buildings.

It is also noted that the Park Central Estate contains commercial developments, a private hospital, retirement village and several residential apartment buildings.

**The Proposal**

The proposed development consists of the demolition of the existing structures (redundant piers that supported the previous sales office for Park Central) on the land and the construction of two dwellings, a residential apartment building with basement car parking, associated landscaping and strata subdivision. The proposal overall provides for two attached residential dwellings, twenty seven units and seventy five car parking spaces. One entry/exit driveway has been provided via Parc Guell Drive. The access handle via Rizal Street only provides access to three visitor spaces as well as one motorbike parking space and five bicycle parking spaces. No access to the basement car parking spaces is provided via the access handle.

A breakdown of each level of the residential apartment building is as follows:

Floor Level	Units	Car parking spaces	Service Areas	Storage Areas
Basement level 3	Nil	29 car parking spaces	Service duct, services room and lift	11 storage areas for units
Basement level 2	Nil	27 car parking spaces	Service duct, services room and lift	10 storage areas
Basement level 1 / lower ground floor	1 x 2 bedroom accessible unit 1 x 3 bedroom accessible unit	16 car parking spaces. Two motorbike spaces and eight bicycle spaces	Garbage room, service duct, plant rooms and lift	Six storage areas
Ground Floor	4 x 1 bedroom units 2 x 2 bedroom units	Three visitor spaces, one motorbike space and four bicycle spaces	Garbage room with chute and lift	storage areas in units

3.3 Nos. 15-17 Parc Guell Drive, Campbelltown - Demolition Of Existing Structures And The Construction Of Two Residential Dwellings, A Residential Apartment Building, Basement Car Parking, Associated Landscaping And Strata Subdivision

Floor Level	Units	Car parking spaces	Service Areas	Storage Areas
First floor	4 x 1 bedroom units 4 x 2 bedroom units	Nil	Garbage room with chute and lift	storage areas in units
Second Floor	3 x 1 bedroom units 2 x 2 bedroom units	Nil	Garbage room with chute and lift	storage areas in units
Third Floor	3 x 2 bedroom units 3 x 3 bedroom units	Nil	Garbage room with chute and lift	storage areas in units
Fourth Floor	Three units are two storey so the second storey of three of these units are on this level	Nil	Nil	Nil

The proposed residential apartment building provides for a mix of one, two or three bedroom units (27 in total), each apartment being provided with a private open space area through generously sized balconies and/or ground level terraces. Each apartment has been provided with a storage area within the basement levels as well as storage within the units. Each apartment typically contains bedrooms, bathroom/ensuite, kitchen, built in wardrobes, linen closet and combined living/dining areas as well as an internal laundry.

The two houses proposed to be constructed are both two storey houses with three bedrooms. Each house would be provided with two car parking spaces within basement level 1. Stairs have been provided from the basement level to the ground level to the rear of the two dwellings with a gate in the rear fence that allows easy access for the future occupants of the houses. The subject site currently consists of two allotments which will be conditioned to be consolidated such that the dwellings/houses are part of the same site as the residential apartment building which would then be strata subdivided.

Vehicular access is provided by means of an entry and exit driveway via Parc Guell Drive to the basement levels. The access handle via Rizal Street provides access to three visitor spaces, one motorbike space and four bicycle spaces and does not provide access to the basement car parking spaces at all. Most of the parking spaces provided in the basement levels have been provided with roller doors for secure parking.

3.3 Nos. 15-17 Parc Guell Drive, Campbelltown - Demolition Of Existing Structures And The Construction Of Two Residential Dwellings, A Residential Apartment Building, Basement Car Parking, Associated Landscaping And Strata Subdivision

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The proposed design of the buildings includes contemporary articulation and façade treatments which provide a development that not only complements the existing development styles in the Park Central Estate but is considered to complement the future desired streetscapes within the broader Campbelltown regional city centre.

A waste room is to be provided within basement level 1 that consists of a compactor with a garbage room and garbage chute provided on each level of the building. No waste collection points have been nominated on the submitted plans however if deemed appropriate by Council, would be conditioned such that it is provided and approved by Council prior to the issue of the construction certificate.

Landscaping is proposed to be provided to the perimeter of the buildings, on the street frontages and side and rear boundaries through the use of trees, shrubs and groundcovers as well as providing planter boxes.

Strata subdivision has been requested as part of the development, however amended strata plans are required to be submitted prior to the issue of the construction certificate, to rectify minor errors on the plan and any consent can be conditioned accordingly, if deemed appropriate by the Council.

## 1. Vision

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

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

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

The strategic directions relevant to this application are:

- Growing the regional City
- Creating education, employment and entrepreneurial opportunities.

The application is consistent with the above strategic directions as the proposal would provide a housing product that would enable the City to grow by providing housing opportunities as well as providing employment opportunities within the construction industry. The proposed development would support the emergence of the Campbelltown/Macarthur CBD area as a regional city centre.

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### 3.3 Nos. 15-17 Parc Guell Drive, Campbelltown - Demolition Of Existing Structures And The Construction Of Two Residential Dwellings, A Residential Apartment Building, Basement Car Parking, Associated Landscaping And Strata Subdivision

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

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

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

## **2. Planning Provisions**

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

The subject land is zoned 10(a) Regional Comprehensive Centre Zone under the provisions of Campbelltown (Urban Area) Local Environmental Plan 2002 (CLEP 2002). The proposed development is defined as 'residential flat building' and is permissible with Council's development consent. A residential flat building is defined as:

'A building containing two or more dwellings which achieve access from shared foyers, halls or stairways.'

The objectives of the 10(a) Regional Comprehensive Centre, of relevance to the proposed development are:

- a) To encourage a variety of forms of higher density housing, including accommodation for older people and people with disabilities in locations, which are accessible to public transport, employment, retail, commercial and service facilities.

It is a requirement of the CLEP 2002, that development must be consistent with at least one of the objectives in order that Council can grant development consent. The development would provide a variety of higher density housing in a location that is accessible to public transport, employment, retail, commercial and service facilities. Accordingly, it is considered that the development is consistent with the relevant zone objectives and Council can grant consent to the proposal should it deem appropriate to do so.

### **2.2 State Environmental Planning Policy No.65 - Design Quality of Residential Flat Development**

State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP 65) was gazetted on 26 July 2002 and applies to the construction of new residential flat buildings as well as the substantial redevelopment of existing residential flat buildings. A residential flat building is defined under the provisions of SEPP 65 as:

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3.3 Nos. 15-17 Parc Guell Drive, Campbelltown - Demolition Of Existing Structures And The Construction Of Two Residential Dwellings, A Residential Apartment Building, Basement Car Parking, Associated Landscaping And Strata Subdivision

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'A building that comprises or includes:

- (a) 3 or more storeys (not including levels below ground level provided for car parking or storage, or both, that protrude less than 1.2 metres above ground level), and
- (b) 4 or more self-contained dwellings (whether or not the building includes uses for other purposes, such as shops),

but does not include a Class 1a building or a Class 1b building under the Building Code of Australia.'

The aims and objectives of improving the design quality of residential flat development under the provisions of SEPP 65 are as follows:

- a) To ensure that it contributes to the sustainable development of New South Wales:
  - i. by providing sustainable housing in social and environmental terms
  - ii. by being a long-term asset to its neighbourhood
  - iii. by achieving the urban planning policies for its regional and local contexts.
- b) To achieve better built form and aesthetics of buildings and of streetscapes and the public spaces they define
- c) To better satisfy the increasing demand, the changing social and demographic profile of the community, and the needs of the widest range of people from childhood to old age, including those with disabilities
- d) To maximise amenity, safety and security for the benefit of its occupants and the wider community
- e) To minimise the consumption of energy from non-renewable resources, to conserve the environment and to reduce greenhouse gas emissions.

Clause 30(2) of SEPP 65 requires a consent authority, in determining a development application for a new residential flat building, to take into consideration:

- a) the advice of a Design Review Panel constituted under Part 3 of the Policy
  - b) the design quality of the development when evaluated in accordance with the design quality principles (Part 2 of the Policy)
  - c) the publication 'Residential Flat Design Code'.
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As Council has not established a Design Review Panel, for the purpose of this application Council is required to consider only the design quality principles and the Residential Flat Design Code. The design quality principles provide a guide to achieving good design for residential flat buildings and have been assessed against the proposed development.

### **Principle 1: Context**

'Good design responds and contributes to its context. Context can be defined as the key natural and built features of an area.

Responding to context involves identifying the desirable elements of a location's current character or, in the case of precincts undergoing a transition, the desired future character as stated in planning and design policies. New buildings will thereby contribute to the quality and identity of the area.'

An analysis of the site and the characteristics of the surrounding area, identifies the site as one that is located within an area that has a mix of single and two storey dwellings, as well as multi-storey residential apartments and mixed use buildings. The land beyond the boundary of the Park Central Estate is within an area that allows development of up to 10 storeys, pursuant to the relevant provisions of the Campbelltown (Sustainable City) Development Control Plan (SCDCP). The site occupies land located within the 10(a) Regional Comprehensive Centre Zone where residential flat buildings (multi-storey residential apartments) are permissible with Council's consent.

The proposed building has been designed to respect the topography of the site and expand upon the built form established by existing residential apartment buildings in the vicinity. The architectural style of the building provides for varied elevations when viewed from different vantage points, which adds to the quality of the design and reduces the bulk and mass of the overall development. The building facades have a positive impact on all streetscapes due to the colours/materials proposed and articulation throughout the architectural design.

Vehicular access is predominantly provided via an entry/exit driveway onto Parc Guell Drive however, visitor car parking spaces on the ground level would be accessed via the access handle off Rizal Street.

### **Principle 2: Scale**

'Good design provides an appropriate scale in terms of the bulk and height that suits the scale and the surrounding buildings.

Establishing an appropriate scale requires a considered response to the scale of existing development. In precincts undergoing a transition, proposed bulk and height needs to achieve the scale identified for the desired future character of the area.'

The scale of the development in the form it is proposed is considered appropriate for the site and is considered to be commensurate in scale, height and character with surrounding development in proximity. It is not considered inconsistent with the locality's current or desired future character.

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All visible elevations from the public domain would illustrate an acceptable 'scaling' of the buildings relative to their immediate surrounds and positioning. Further design measures have been incorporated into the roof 'pods' where an interesting roof form breaks the flat, elongated elements and provides visual interest when viewing the building from a distance.

As discussed further below, part of the development exceeds the height limit allowed by The Link Site Development Control Plan. The architectural design of the buildings reduces the scale of the buildings such that when viewed from the street the buildings appear to comply with the four storey height limit. Furthermore, the top levels of each building are setback considerably from the lower levels such that this level would not be viewed from adjacent and nearby public domain areas. This further reduces the perceived scale of bulk of the buildings as it will essentially be viewed as a four storey building as opposed to a five storey building.

#### **Principle 3: Built Form**

'Good design achieves an appropriate built form for a site and the building's purpose, in terms of building alignments, proportions, building type and the manipulation of building elements.

Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.'

The building's mass has been modulated and articulated to reduce the visual appearance of its overall bulk and expresses individual character through the selected external materials. The building's orientation maximises the site's potential in terms of solar access, cross-ventilation for individual units and its general amenity for future occupants.

The mixture of one, two, and four bedroom apartments as well as the orientation of the living areas to maximise solar access provides good amenity for future occupants. Occupants of and visitors to the building would be provided with clearly defined entries and pathways from the street with direct access also able via the basement car park.

#### **Principle 4: Density**

'Good design has a density appropriate for a site and its context, in terms of floor space yields (or number of unit or residents).

Appropriate densities are sustainable and consistent with the existing density in an area or, in precincts undergoing a transition, are consistent with the stated desired future density. Sustainable densities respond to the regional context, availability of infrastructure, public transport, community facilities and environmental quality.'

The proposal complies with the Council's requirements in terms of site coverage (being approximately 56%) which has provided desired private open space and building amenity for the future occupants. This demonstrates that the intent of the proposal is to provide apartments with good living amenity and interaction between the individual apartments' private open space area and adjoining living areas.

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Given the number of apartments proposed, the development would not significantly impact upon the availability of infrastructure, public transport, community facilities and environmental quality and would satisfy the general amenity of future occupants of the apartments.

**Principle 5: Resource, energy and water efficiency**

'Good design makes efficient use of natural resources, energy and water throughout its full life cycle, including construction.

Sustainability is integral to the design process. Aspects include demolition of existing structures, recycling of materials, selection of appropriate and sustainable materials, adaptability and reuse of buildings, layouts and built form, passive solar design principles, efficient appliances and mechanical services, soil zones for vegetation and reuse of water.'

Sustainability is integral to the design of the proposed development consisting of the selection of appropriate and sustainable materials, the incorporation of passive solar design principles and the use of energy efficient appliances.

The development would incorporate energy efficient and water efficient devices appropriate to the specification of the building and are detailed in the Basix Certificate submitted with the application. The buildings perform reasonably well in respect of natural ventilation with greater than 60% of the units being naturally cross ventilated.

The floor areas are not excessive, reducing demands for resources in the construction phase and long term living/occupation costs.

**Principle 6: Landscape**

'Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in greater aesthetic quality and amenity for both occupants and the adjoining public domain.

Landscape design builds on the existing site's natural and cultural features in responsible and creative ways. It enhances the development's natural environmental performance by co-ordinating water and soil management, solar access, microclimate, tree canopy and habitat values. It contributes to the positive image and contextual fit of development through respect for streetscape and neighbourhood character or desired future character.

Landscape design should optimise useability, privacy and social opportunity, equitable access and respect for neighbours' amenity, and provide for practical establishment and long-term management.'

The proposal provides landscaped areas to all common/communal open space areas and private open space areas at ground floor level. Landscaping has also been provided within the front setback areas of the two dwellings fronting Parc Guell Drive.

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### **Principle 7: Amenity**

'Good design provides amenity through the physical, spatial and environmental quality of a development.

Optimising amenity requires appropriate room dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, outlook and ease of access for all age groups and degrees of mobility.'

The proposed development achieves three hours of solar access to more than 70% of the residential apartments, which is in accordance with the recommendations of the Residential Flat Design Code.

The separation between the different building elements utilises screening walls and other privacy elements where necessary. The layouts of the individual apartments are configured in such a way to assure rooms of similar function are adjacent to common walls. The design of the apartments protects the future occupant's ability to carry out private functions in all rooms and private open space areas without compromising views, ventilation and solar access.

Apartments all have internal storage areas with additional storage within the basement. Balconies are all designed to accommodate seating arrangements. Greater than 60% of the apartments are naturally cross-ventilated.

### **Principle 8: Safety and security**

'Good design optimises safety and security, both internal to the development and for the public domain.

This is achieved by maximising overlooking of public and communal spaces while maintaining internal privacy, avoiding dark and non-visible areas, maximising activity on streets, providing clear, safe access points, providing quality public spaces that cater for desired recreational uses, providing lighting appropriate to the location and desired activities, and clear definition between public and private spaces.'

The orientation of the proposed building, floor layouts as well as the location of balconies all provide natural surveillance of the public domain and common open space. Appropriate security arrangements are incorporated at pedestrian entry lobbies. All pedestrian areas are designed to provide clear sight lines and minimise the potential for concealment areas. Controlled access into the pedestrian foyers prevents unauthorised access to the residential floors.

All common areas and pathways are proposed to be illuminated.

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### **Principle 9: Social dimensions**

'Good design responds to the social context and needs of the local community in terms of lifestyles, affordability, and access to social facilities.

New developments should optimise the provision of housing to suit the social mix and needs in the neighbourhood or, in the case of precincts undergoing transition, provide for the desired future community.'

The proposed development provides for a variety of design and layouts for varying household sizes and would complement and extend the range and diversity of residential accommodation in the area. The development would address the different needs of the community in terms of lifestyle and choice and given the close proximity of the site to the Campbelltown/Macarthur CBD would enable easy access to major transport nodes, commercial and business uses as well as shopping facilities.

Adaptable units are provided in the building and are accessible by lift from the basement. All units in the buildings would be accessible as per the requirements of the *Disability Discrimination Act 1992*.

### **Principle 10: Aesthetics**

'Quality aesthetics require the appropriate composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the development. Aesthetics should respond to the environment and context, particularly to desirable elements of the existing streetscape or, in precincts undergoing transition, contribute to the desired future character of the area.'

The façades of the buildings are modulated with specific contextual references to the form and scale of adjoining buildings. The proposed development incorporates a mix of building elements, textures and colours to reflect the buildings' character, thereby contributing to a high quality design. The colours selected would assist to delineate the various horizontal and vertical forms as well as reduce the overall perceived scale of the building. The building materials and colours also help to distinguish the ground floor from the above levels.

### **Residential Flat Design Code**

The Residential Flat Design Code (RFDC) is an additional resource to help guide the design of residential flat buildings across New South Wales. It sets out a number of guidelines that provide benchmarks for residential apartment buildings. The RFDC supports the design quality principles set out under SEPP 65 and as such, operates in conjunction with SEPP 65 to achieve the objective of providing high quality residential apartment buildings. An assessment of the proposed residential apartment building against the RFDC has been carried out and is detailed below.

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	<b>Objectives</b>	<b>Proposal</b>
<b>Building Envelopes</b>	Building envelopes set appropriate scale of future development in terms of height, depth, separation, setbacks and floor space in relation to the street layout and lot size.	The proposed building generally complies with the primary controls.
<b>Height</b>	Height of residential flat buildings should be based on scale and character of the local area and should allow reasonable daylight access.	The proposed development does not meet the height standard as required by DCP 104 (which is discussed further in this report).
<b>Building Depth</b>	Ensures that the bulk of the development is in scale with the existing or desired future character as well as to provide sufficient natural sunlight and ventilation (10-18 metres depth otherwise must demonstrate that appropriate solar access and natural ventilation).	The proposal incorporates a depth of less than 18 metres and provides for appropriate solar access and natural ventilation.
<b>Street Setbacks</b>	Should achieve a transition between public and private space.	The top floor of the building steps back such that the massing is reduced when viewed from the street.
<b>Side and Rear Setbacks</b>	Minimise the impact of the development on light, air, sun, privacy, views and outlook for neighbouring properties.	The proposal complies with the side and rear setbacks.
<b>Floor Space Ratio</b>	Ensures the development is in keeping with the optimum capacity of the site and to allow modulation of the walls and habitable balconies.	DCP 104 does not have a standard for floor space ratio, however does comply with maximum site coverage being 65%.
<b>Deep Soil Zones</b>	Assist with the management of the water table, water quality and improve the amenity of the development.	The proposal provides a suitable area for deep soil planting.
<b>Fences and Walls</b>	To define the boundaries and provide security and privacy.	The side and rear boundaries have an existing fence which is to be retained.
<b>Landscape Design</b>	To enhance privacy, provide a habitat for native indigenous plants, improve stormwater quality, improve microclimate and solar performance, improve air quality and contribute to biodiversity.	The landscape plan submitted with the development application provides landscaping for shade, screening and privacy, enhanced energy and solar efficiency and aesthetics.

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	<b>Objectives</b>	<b>Proposal</b>
<b>Open Space</b>	Passive and recreational open space with landscaping is to be provided (ground level units to have 25sqm private open space). Communal open space provided (25% - 30% of the site area).	Passive and recreational space for each unit as well as landscaped areas. Ground floor units have 25sqm private open space. 28% of the site is to be utilised as communal open space.
<b>Orientation</b>	To optimise solar access, support landscape and to protect the amenity of existing development. 70% of units to receive solar access for three hours.	All apartments have been orientated to achieve ventilation and natural sunlight. 70% of units receive solar access for three hours.
<b>Planting on Structures</b>	Enhance quality and amenity of rooftops, internal courtyards and podiums and encourage landscaping in urban areas.	All courtyards at ground level are landscaped. No landscaping is proposed on the roof. Planter boxes on balconies would be provided where required.
<b>Safety</b>	To ensure safety for residents and visitors and contribute to the safety of the public domain.	The proposal reinforces distinction between public and private areas. The design and layout of the building provide natural surveillance of the public domain and common open space area. Controlled access into pedestrian foyers prevents unauthorised access to residential floors.
<b>Visual Privacy</b>	Provide reasonable levels of visual privacy and maximise outlook and views.	The proposal minimises direct overlooking of private open space areas by means of planter boxes as well as appropriate setbacks.
<b>Building Entry</b>	Create entrances that provide desirable identity, to orient the visitor and to contribute positively to the streetscape.	Residents would be provided with a clearly defined entry and pathway to the building. Separate entry is provided for vehicles.
<b>Parking and Pedestrian Access</b>	To promote access to the street and public domain, to minimise dependency on cars and provide adequate car parking facilities.	Car parking is provided via a driveway to basement levels. Pedestrian access from the public street is provided.
<b>Apartment Layout</b>	Ensure spatial arrangements are functional, high standards of amenity are achieved and accommodate a variety of household activities.	Apartment depths and spatial layouts achieve a high degree of amenity and functionality. All apartments meet the minimum floor area as recommended by the RFDC.
<b>Balconies</b>	To provide apartments with private open space, ensure balconies are functional and contribute to safety of the street.	Each balcony complies with the minimum area and depth requirements. Each apartment provides surveillance to the street and/or open space areas.
<b>Ceiling Heights</b>	Increase sense of space, promote penetration of light into apartments and to allow flexibility of use.	The ceiling heights proposed comply with the requirements of the Residential Flat Design Code.



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	<b>Objectives</b>	<b>Proposal</b>
<b>Flexibility</b>	To encourage housing designs that meet a range of needs, accommodate whole or partial changes of use and encourage adaptive re-use.	The design of the apartments provides the ability to be flexible for changes of use as required. The mix allows flexibility in what type of apartment future occupants may require.
<b>Mixed-use</b>	Support the integration of appropriate retail and commercial uses with residential and encourage active street frontages.	The proposal is located within close proximity to CBD, Marsden Park and commercial precincts within Park Central. No retail and commercial uses are proposed within the development.
<b>Storage</b>	Provide adequate storage for each individual apartment.	Appropriate storage areas are provided within each apartment as well as in the basement levels.
<b>Acoustic Privacy</b>	Ensure a high level of amenity.	The proposal separates quiet rooms from noisy rooms in adjacent units.
<b>Daylight Access</b>	Ensure daylight access is provided and provide residents with the ability to change the quantity of daylight to suit their needs.	70% of apartments receive the required amount of sunlight, satisfying the requirements of SEPP 65.
<b>Natural Ventilation</b>	Ensure apartments are designed to provide direct access to fresh air and reduce energy consumption by minimising the use of mechanical ventilation.	60% of apartments receive direct access to fresh air and direct ventilation. The development complies with the requirement for natural cross ventilation.
<b>Awnings and Signage</b>	To provide shelter and desirable signage.	Balconies above as awnings over entry.
<b>Facades</b>	Promote high architectural quality, ensure facades define and enhance the public domain and building elements are implemented into the overall building form.	The design of the proposal provides a built urban form that 'frames' the park with the building materials and colours assisting with definition. Balconies add to the architectural quality of the building. The building steps down as it ascends up Parc Guell Drive.
<b>Roof Design</b>	Provide quality roof designs, integrate the roof into the design of the building and increase the longevity of the building through weather protection.	The roof design is a low profile roof and breaks down the mass and bulk of the building.
<b>Energy Efficiency</b>	Reduce the need for mechanical ventilation and promote renewable energy initiatives.	The proposal is designed to incorporate energy efficiency measures.

In conclusion, the proposed development generally satisfies the overall intent of SEPP 65 and the RFDC, subject to some minor variations which are discussed in further detail later in this report.

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### **2.3 Campbelltown (Sustainable City) Development Control Plan 2009**

Campbelltown (Sustainable City) Development Control Plan (SCDCP) does not apply to the site as there is a site specific development control plan for Park Central, however it is considered relevant to consider the proposed development against the aims of the SCDCP as follows:

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

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

### **2.4 Development Control Plan No.104 - Campbelltown Link Site**

Development Control Plan No.104 - Campbelltown Link Site (DCP 104) came into force on 9 January 2002 and applies to the whole of the Link Site. The objectives of the DCP are:

- a. To allow for a variety of land uses and building types including open space, residential, mixed uses, commercial and aged persons housing within appropriate identified precincts
  - b. To ensure a minimum neighbourhood dwelling density of 30 dwellings per hectare of total residential precincts is achieved through the provision of a mixture of dwelling types and building configurations
  - c. To ensure building design demonstrates architectural merit and comprises high quality materials and finishes
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- d. To create a place that serves and inspires present generations without compromising future generations through the utilisation of ecologically sustainable design practices
- e. To provide opportunities to a range of transport nodes
- f. To provide for increased housing densities in close proximity to transport nodes and civic precincts, in accordance with State Government Policies and Council's Housing Strategy
- g. To capitalise on the Link Site's location and distinctive features to create a high quality urban environment which offers a range of housing, employment and recreational opportunities.

The proposed development complies with a number of the objectives of DCP 104 as it provides for a variety of building types and demonstrates high quality architectural merit.

The subject site falls within the 'Parkside Crescent' precinct, which is intended to complement the adjacent public open space by providing a built form that 'frames' the park. The objectives of this precinct relevant to the proposal are:

- To reinforce formality of the Crescent by providing a hard-edged building form which complements the landscaped roadway and defines the perimeter of the adjacent open space, creating a sense of enclosure
- To ensure buildings are designed to address and provide casual surveillance of Marsden Park
- To achieve a higher density housing which provides good access to public open space.

The proposed development complies with these precinct objectives, as the proposed building provides a hard-edged building which frames the park and achieves a higher density housing that provides good access to open space areas. The proposed building and landscaping have been designed to address the public open space and the road areas as well as providing passive surveillance of public domain areas, from the apartments.

In conclusion, it is considered that the proposed development would not compromise the overall objectives for the Link Site, and would provide a development that would have a positive impact on the overall streetscape.

### **Design Guidelines**

Specific provisions in relation to design, massing and setbacks have been provided for proposed developments within this precinct by DCP104. The proposed development has been assessed against these guidelines and the outcomes are detailed below:

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	<b>Design Guideline</b>	<b>Assessment</b>	<b>Complies</b>
<b>Allotment Size</b>	Minimum 800sqm	1,604sqm	Yes
<b>Height</b>	Apartments: 4-storeys	Part 4, part 5 and part 6 storeys	No
<b>Site Frontage</b>	Minimum 20 metres	31.16 metres	Yes
<b>Site Coverage</b>	Site coverage maximum of 65%	Approximately 56%	Yes
<b>Design &amp; Massing</b>	Four storey apartment buildings Continuous and uniform massing Strong built frontage with projecting balconies overlooking the park	Part 4, part 5 and part 6 storeys Continuous and uniform massing Strong built frontage with projecting balconies overlooking open space areas	No
<b>Private Open Space</b>	Balconies are to have a total area of 8.0sqm and shall not be less than 2.0 metres in width	All balconies have a minimum area of 8.0sqm with minimum 2.0 metres depth.  Additional balconies are provided that are less than 8.0sqm and/or less than 2.0 metres in width.	Yes
<b>Car Parking</b>	One space per apartment plus one per five apartments for visitor.  Two spaces for each dwelling house  Total required: 36 spaces (31 spaces for units, six for visitors)	75 car parking spaces provided including six visitor spaces	Yes
<b>Setbacks</b>	Front setback - 3.5 metres  Side setback – nil where they adjoin terrace buildings and 5.0 metres where they adjoin other building types.  Rear setback - minimum of 3.0 metres	Minimum front setback is 3.5  Side setback is nil and 1.0 metre  Rear setback is greater than 3.0 metres	Yes

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The proposed development generally complies with the Design Guidelines except as detailed below:

### **Height**

The proposed building has a part 4, part 5 and part 6 storey element due to the slope of the subject land which means that parts of the building exceed the four storey height limit dependent upon where the building is viewed from.

The proposed building has several pods that extend above the roof form which form the second level of the units on the third floor. These pods are most evident from the eastern elevation and do not extend across the entire roof of the building, rather just in certain sections. These pods are recessed further back compared to the storeys below such that when viewed from the street the building presents as a part 4, part 5 storey building. The design of the building both in terms of the façade treatment and the roof form reduces the overall bulk and scale of the development even though it exceeds the height limit. Added to this is the fact that the adjacent proposed houses are higher than a traditional two storey house given the slope of the land going up the hill along Parc Guell Drive.

When viewed from Parkside Crescent, the building presents as a five storey building. Notwithstanding, the design of the building reduces the bulk and scale such that it is consistent with the architectural design and height of other residential apartment buildings in the nearby locality. An existing retaining wall along Parkside Crescent adds to the perceived height of the building as the ground floor of the building at this point is above natural ground level. This has provided the development with the provision of two additional accessible units which are accessed via street level on the lower ground floor level. If these units were not provided, there would be a blank wall as the ground floor units would not be able to be dropped given the slope of the site. In effect, the development has made use of what would otherwise be redundant space to provide accessible units.

Further to the above, this outcome also helps to provide some degree of activation of the street frontage. If the proposal was to comply with the four storey height limit with a gable roof (similar to other buildings in Park Central) a similar mass would be achieved, however a poorer quality architectural design would be the result.

Finally, it is considered that the variation to the height limit is acceptable in the circumstances of this case, given that through the variance in design (in particular the roof area) there are considered to be no adverse impacts on the neighbouring properties in relation to the bulk, scale and mass of the buildings. The proposed development design is considered to respond effectively to its site and expresses a high quality architectural standard.

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### **3. Planning Assessment**

#### **3.1 Crime Prevention through Environmental Design**

The design of the individual buildings and the overall layout of the development contribute to the overall safety and vitality of the adjacent spaces by enforcing natural surveillance and reducing opportunities for crime. The design orientates the balconies and windows of individual units towards the street providing opportunities for casual surveillance of the public domain.

The areas of communal open space benefit from a high level of casual surveillance from the apartments within the residential apartment buildings as well as from passageways with glass louvre hallways looking out directly to the open space areas. The width and alignment of pathways enable clear sight lines to required destinations. Communal focal points are located in areas with a high level of natural surveillance.

Lighting is proposed to be installed in accordance with the relevant Australian Standards to ensure that all entries, foyer areas and pathways are illuminated to an acceptable level. Landscaping has also been designed so as to not create any hiding niches and/or entrapment areas.

#### **3.2 Traffic Assessment Report**

A Traffic Assessment Report prepared by Hemanote Consultants was submitted in support of the development. The Report concluded that whilst the development would increase traffic within the local road network, the additional traffic generated would be relatively low and will be within the environmental capacity of the local roads. It is further considered that the additional traffic generated would not result in an unacceptable peak hour traffic generation.

In regards to the provision of parking, the report states that adequate off site car parking has been provided and is in accordance with the relevant Australian Standards.

Council's development engineers have no objection to the proposed development.

### **4. Public Participation**

The subject development application was referred to adjoining residents during the period of 11 April 2012 until 18 May 2012. During this time, Council received five submissions objecting to the proposed development. The submissions raised the following concerns:

#### **4.1 Traffic Impacts**

Concern was raised that the proposed development would increase the traffic in the area especially given the location of the development being on the corner of Parc Guell Drive which is considered to carry large volumes of traffic due to its connection with Gilchrist Drive.

The proposed development is likely to increase traffic within the immediate vicinity however it is considered that this increase in traffic would be relatively low and would remain well within the environmental capacity of the street.

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#### **4.2 Car Parking**

Concern was raised that the proposal does not provide an adequate number of car parking spaces and as a result would lead to more on street car parking problems.

As detailed earlier in this report, the application proposes seventy five car parking spaces which exceeds the minimum number required by The Link Site DCP. Each unit is provided with two car parking spaces. These parking spaces are secured with the provision of roller doors which also allows for greater storage areas for each unit.

As such, it is considered that the proposal development is acceptable in relation to the provision of car parking including the number of visitor spaces provided and it has been designed to limit any impact on the street.

#### **4.3 Height and Scale of the Development**

Concern was raised at the proposed height and scale of the development and the possible overshadowing and overlooking impacts.

Council had previously raised the issue of the height and overall bulk and scale of the development and requested that the applicant submit amended plans addressing these issues. The applicant recessed the top level such that it would not be visible from the street which, coupled with architectural changes, also reduced the overall bulk and scale of the proposal. Further work was undertaken on the architectural design of the apartment buildings to lessen the impact of the scale and bulk of the development given the topography of the site. The bulky pitched roofs were replaced with contemporary low profile roofing. A small pitched roof element has been retained to reference with the existing single and double storey buildings in the estate.

In addition, the proposed height of the buildings would not have any adverse impacts on the amenity of the locality when viewed from significant viewpoints in and around the Park Central Estate. This is due to the buildings responding effectively to the steep topography of the site as well as the existing vegetation providing significant screening to the buildings when viewed from the local public domain areas.

#### **4.4 Access to the development**

Concern was raised in regards to the use of the access handle via Rizal Street being utilised for the development.

The access handle would only provide access to three car parking spaces, one motorbike space and five bicycles with all other vehicle access to the site being provided via Parc Guell Drive. It is considered that access to the development as proposed would not adversely affect the occupants of dwellings surrounding the access handle and as such is considered to be satisfactory.

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3.3 Nos. 15-17 Parc Guell Drive, Campbelltown - Demolition Of Existing Structures And The Construction Of Two Residential Dwellings, A Residential Apartment Building, Basement Car Parking, Associated Landscaping And Strata Subdivision

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#### 4.5 Solar Access

Concern was raised that the proposed development would overshadow the existing terrace developments along Parkside Crescent.

The applicant has submitted shadow diagrams to demonstrate that the proposed development, whilst showing significant overshadowing of the adjoining terraces to the south, would not overshadow the adjoining terraces any more than that expected where similar terraces were to be built on the subject site instead of the proposed building. It is clear from further investigation, that even without the proposed building, the each of the existing terraces (including each of their detached garages) result in overshadowing of the allotment to its south and to a level similar to that which is expected from the proposed development.

However, to counter the current and possible future overshadowing effects from development on northern allotments, the private open space areas for the terraces have been provided within both the rear and front yards of the terraces, and as such the terraces receive an appropriate amount of solar access to the front open space areas.

It is therefore considered that although the proposed development will overshadow properties adjoining the site to the south, the significance of the overshadowing would be no greater than that expected from a stand-alone two-storey town house development, and as such, the significance of the overshadowing caused by the proposed development compared to that of a two-storey terrace would be virtually unperceivable.

#### 5. Conclusion

Council has received an application for the demolition of the existing structures (footings of a previous 'land sale' building) and the construction of two dwellings, a residential apartment building with basement car parking, associated landscaping and strata subdivision at Nos. 15 – 17 Parc Guell Drive, Campbelltown.

The proposed development generally conforms to the requirements of SEPP 65, LEP 2002, Council's Sustainable City DCP and The Link Site DCP. It is considered the proposal results in an appropriate planning outcome for the site.

The building incorporates design features in various facades to promote visual interest and has sufficient architectural merit to be considered favourably. Adequate measures relating to garbage collection are proposed in order to ensure that the development does not significantly and detrimentally impact on traffic safety and convenience within the neighbourhood.

Submissions were received regarding the development's potential impact on the immediate vicinity. As a result, amended designs were requested by Council and subsequently received that addressed a number of concerns held over the initially submitted proposal. It is considered that the development proposed forms a reasonable balance between the existing surrounding development and land uses and Council's desired future character and development density for that part of the Park Central Estate.

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3.3 Nos. 15-17 Parc Guell Drive, Campbelltown - Demolition Of Existing Structures And The Construction Of Two Residential Dwellings, A Residential Apartment Building, Basement Car Parking, Associated Landscaping And Strata Subdivision

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### **Officer's Recommendation**

That development application 414/2012/DA-RA for the demolition of the existing structures and the construction of two dwellings, a residential apartment building with basement car parking, associated landscaping and strata subdivision at Nos. 15 -17 Parc Guell Drive, Campbelltown be approved, subject to the conditions detailed in Attachment 1.

**Committee Note:** Mr R Longford addressed the Committee in opposition to the development.

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

That the Officer's Recommendation be adopted.

### **CARRIED**

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

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

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

### **Council Meeting 18 December 2012 (Greiss/Rowell)**

That the Officer's Recommendation be adopted.

### **Council Resolution Minute Number 220**

That the Officer's Recommendation be adopted.

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

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

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3.4 No. 15 Blaxland Road, Campbelltown - Construction Of Alterations And Additions To Existing Brothel

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### 3.4 No. 15 Blaxland Road, Campbelltown - Construction of alterations and additions to existing brothel

#### Reporting Officer

Manager Development Services

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#### Attachments

1. Recommended Conditions of Consent
2. Locality Plan
3. Site Plan
4. Floor Plans
5. Elevation Plans
6. Landscape Plan
7. Signage Plan

#### Purpose

The purpose of this report is to assist Council in its determination of the subject Development Application in accordance with the provisions of the *Environmental Planning and Assessment Act, 1979* (EP&A Act).

<b>Property Description</b>	Lot 2 DP 519337, No. 15 Blaxland Road, Campbelltown
<b>Application No</b>	124/2012/DA-C
<b>Applicant</b>	Mr Frank Assad
<b>Owner</b>	Mr Zhi Hua Yan, Mrs Cui Li Wang
<b>Provisions</b>	Campbelltown (Urban Area) Local Environmental Plan 2002 Campbelltown (Sustainable City) Development Control Plan 2009 Campbelltown Sex Industry Development Control Plan 2003 Development Control Plan No.99 – Advertising Signs State Environmental Planning Policy No.1 – Development Standards
<b>Other Provisions</b>	Campbelltown 2025 - Looking Forward
<b>Date Received</b>	30 January 2012

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### 3.4 No. 15 Blaxland Road, Campbelltown - Construction Of Alterations And Additions To Existing Brothel

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## History

A development application was lodged with Council in July 1998 (DA No. E9/1998) for the use of premises as a brothel at No. 15 Blaxland Road, Campbelltown. Council at its meeting on 22 September 1998 approved the use as a brothel. The approval effectively formalised the use of land as a brothel as the use had been operating without Council's consent for some time previously.

The approved brothel contained four client rooms, five staff (including one manager) and provided for hours of operation of between 9.00am and 5.00am seven days a week.

## Report

### Introduction

Council has received a development application for proposed alterations and additions to the brothel at No. 15 Blaxland Road, Campbelltown. The existing brothel has been operating for at least 14 years.

The alterations and additions seek to reconfigure the existing layout, increase the number of working rooms, increase the number of sex workers and construction of a pole sign within the front set back area.

### The Site

The subject land is located on the northern side of Blaxland Road, Campbelltown and approximately 180 metres to the south west of the intersection with Rose Street. Occupying the site is a two storey building that has been converted into a brothel. A six car carport is located adjacent to the north eastern boundary of the site.

The land has a width of 25.145 metres and depth of 80.465 metres and an overall area of 2023.30 square metres. The existing building is setback 8.0 metres from the front boundary.

Adjoining land uses include kitchen manufacturing and showroom at No. 13 Blaxland Road and motor vehicle smash repairs at No. 15 Blaxland Road. Council's Animal Care Facility is located to the rear of the subject premises. Land uses across Blaxland Road from the subject land include bulky goods retailing of such items as furniture, home improvements and building materials.

### The Proposal

The subject premises are currently used as a brothel in accordance with development consent E9/1998 issued by Council on 22 September 1998.

The alterations and additions include:

- Reconfiguration of the ground floor of the premises to include a relocated entry/exit point, reception area, waiting room, kitchen, laundry, disabled working room and amenities (including disabled WC)
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### 3.4 No. 15 Blaxland Road, Campbelltown - Construction Of Alterations And Additions To Existing Brothel

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- Reconfiguration and extension of the first floor of the premises to include seven working rooms, staff room for sex workers and amenities
- Additions to the façade of the premises to include a front privacy screen and awning above the entry/exit (SEPP1 objection required)
- Revised parking layout to include three additional car parking spaces (total 10 spaces), including one accessible space
- One pole sign presenting to Blaxland Road
- An increase in the number of sex workers from four to eight
- An increase in the hours of operation from 9.00am to 5.00am to 24 hours per day.

#### 1. Vision

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

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

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

The strategic direction relevant to this application is:

- Creating employment and entrepreneurial opportunities.

The proposed development is generally consistent with this direction.

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

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

It is considered that the proposed development is generally consistent with the Vision's desired outcomes having regard to the proposed employment opportunities, function, design, and impact on adjoining development and the locality.

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## 2. Planning Provisions

Section 79C(1)(a) requires Council to consider any relevant environmental planning instrument, draft environmental planning instrument or development control plan.

### 2.1 State Environmental Planning Policy (SEPP) No.1 - Development Standards

SEPP 1 provides flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objectives specified in section 5(a)(i) and (ii) of the *Environmental Planning and Assessment Act, 1979*.

SEPP 1 applies to this application, as the applicant is proposing to vary Clause 37 of Campbelltown (Urban Area) Local Environmental Plan 2002 (LEP 2002), which states that:

'consent must not be granted to development, other than the use of land for landscaping, for access roads and for off street parking, on any land within Zone 4 (a) or 4 (b) which is within 8 metres of the front boundary between Rose Street and Lot 5 DP 538258 on the north western side of Blaxland Road.'

The application proposes a privacy screen located in front of the entry/exit door and an awning to be located above the door.

The proposed privacy screen has a height of 2.21 metres and is 2.0 metres wide and comprises a 900mm brick wall base with a 1.095 metre high timber lattice screen above. A metal awning will be constructed above the screened area to provide weather protection.

The awning and the privacy screen protrude from the building by 1.5 metres and are located 6.5 metres from the front boundary.

The existing building itself is setback 8.0 metres and complies with the minimum front boundary setback standard within the LEP.

Clause 6 of SEPP 1 states that where development could, but for any development standard, be carried out under the Act, the person intending to carry out that development may make a development application in respect of that development, supported by a written objection that compliance with that development standard is unreasonable or unnecessary in the circumstances of the case, and specifying the grounds of that objection.

The applicant has submitted a written objection pursuant to SEPP 1 – Development Standards, arguing that compliance with the 8.0 metre setback control in question would be unreasonable and unnecessary. The arguments made by the applicant in this regard are the following:

- The proposed privacy screen is not a visually significant feature and would not dominate the streetscape on this side of Blaxland Road. The proposed screen is minor in variation to the original building and seeks only to provide visual privacy and cover for patrons awaiting entry to the premises
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### 3.4 No. 15 Blaxland Road, Campbelltown - Construction Of Alterations And Additions To Existing Brothel

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- The design, size and scale of the screen does not result in a significant encroachment on the required 8.0 metre setback under clause 37(c) of the LEP
- Existing landscaping at the site frontage will help provide a visual barrier to the front façade of the subject premises which will further reduce the impact of the proposed screen regarding the Blaxland Road streetscape
- Other nearby existing development along the north western side of Blaxland Road include building setbacks which encroach into the required 8.0 metre setback under clause 37(c) of the LEP, including numbers 21, 25, 37, 41 45-47 Blaxland Road.

Under Clause 7 of SEPP 1, where the consent authority is satisfied that a SEPP 1 objection is well founded and is also of the opinion that granting of consent to that development application is consistent with the aims of the SEPP, it may, with the concurrence of the Director General of the Department of Planning and Infrastructure, grant consent to that development application notwithstanding the development standard the subject of the objection. It should be noted that consent authorities may assume the Director General's concurrence in relation to all development applications except for some dwelling and subdivision proposals on rural and non-urban land. In this regard, Council can assume the Director General's concurrence in respect of the SEPP 1 objection in this instance.

Clause 8 of SEPP 1 stipulates that the matters which shall be taken into consideration in deciding whether concurrence should be granted (or assumed) are:

- (a) whether non-compliance with the development standard raises any matter of significance for state or regional environmental planning
- (b) the public benefit of maintaining the planning controls adopted by the environmental planning instrument.

In regard to point (a), the non-compliance does not raise any matters of state or regional planning significance. In regard to point (b), the public benefit of maintaining the 8.0 metre setback control outlined by CLEP 2002 in this circumstance, would be minimal, considering that if the 8.0 metre setback control was to be strictly enforced, the building would present with a simplistic façade treatment to the street.

Accordingly, the objection to the development standard in this instance is considered to be reasonably well founded and it is recommended that such be supported.

Pursuant to Department of Planning's Circular B1, Council may assume the concurrence of the Director General of the Department of Planning, to varying the standard.

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

Pursuant to Campbelltown (Urban Area) Local Environmental Plan 2002 (CLEP), the site is zoned 4(b) Industry B zone. The proposed development is defined as a 'brothel' under Clause 61 of the CLEP.

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### 3.4 No. 15 Blaxland Road, Campbelltown - Construction Of Alterations And Additions To Existing Brothel

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'Brothel means a premises habitually used for the purpose of prostitution, whether or not by only one prostitute'

A 'brothel' is a permissible land use within the zone subject to Council's approval.

The zone objectives include:

- (a) To encourage activity that will contribute to economic and employment growth in the City of Campbelltown
- (b) To encourage a high quality standard of development which is aesthetically pleasing, functional and relates sympathetically to nearby and adjoining development
- (c) To protect the viability of the commercial centres in the City of Campbelltown by limiting commercial activities to those associated with permitted industrial, storage and allied development or primarily intended to provide a professional facility to serve people employed or occupied in land uses permitted in the industrial zones
- (d) To permit the display and sale by retail of bulky goods only if such activities cannot appropriately be located in, or would not adversely affect the viability of development in, the business or comprehensive centre zones
- (e) To ensure development will not be carried out if the processes to be carried on, the transportation to be involved or the plant, machinery or materials to be used interfere unreasonably with the amenity of the area.

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

The proposed development is considered to be consistent with one or more of the above objectives, particularly (a) and (c), and subsequently Council can grant development consent should it deem appropriate.

Separately, Clause 61 of the CLEP prescribes that a brothel can only be carried out subject to Council approval on lands zoned 4(a), 4(b) and 4(c).

### **2.3 Campbelltown Sustainable City Development Control Plan (SCDCP) 2009**

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

- Ensure that the aims and objectives of any relevant EPI including Campbelltown's LEPs and IDOs are complemented by the Plan
  - Ensure that the principles of ecological sustainability are incorporated into the design, construction and ongoing operation of development
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### 3.4 No. 15 Blaxland Road, Campbelltown - Construction Of Alterations And Additions To Existing Brothel

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- Facilitate innovative development of high quality design and construction in the City of Campbelltown
- Ensure that new development maintains or enhances the character and quality of the natural and built environment
- Ensure that new development takes place on land that is capable of supporting development
- Encourage the creation of safe, secure and liveable environments
- Ensure that new development minimises the consumption of energy and other finite resources, to conserve environmental assets and to reduce greenhouse gas emissions
- Provide for a variety of housing choices within the City of Campbelltown.

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

#### **Part 6 – Industrial Development**

Part 6 sets out development standards for industrial development within the City of Campbelltown. As the development already exists and the proposed changes are considered minor in nature, the industrial development standards are not relevant as the use as a brothel is currently being undertaken. However the proposed use of the premises still needs to consider operating hours, car parking, waste management, conflicting land uses, and crime risk. These matters are encapsulated in the Campbelltown Sex Industry Development Control Plan 2003, which is discussed separately in the next section of this report.

#### **2.3 Campbelltown Sex Industry Development Control Plan 2003 (CSIDCP)**

The CSIDCP 2003 came into effect on the 18th March 2003. The CSIDCP's Aims and Objectives are as follows:

- (a) To provide guidelines for the determination of applications for sex industries in the City of Campbelltown
  - (b) To acknowledge that sex industry premises are permitted in appropriate locations within Campbelltown
  - (c) To locate sex industry premises so that they do not create adverse social or economic impacts, do not result in any adverse effects on the amenity of an area and do not become a prominent feature in the streetscape
  - (d) To control the location of sex industry premises to avoid a concentration of these uses in a particular location and to minimise any cumulative impact of the industry
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3.4 No. 15 Blaxland Road, Campbelltown - Construction Of Alterations And Additions To Existing Brothel

- (e) To ensure that all sex industry premises are appropriately regulated under the *Environmental Planning and Assessment Act 1979*
- (f) To safeguard public health and safety for sex industry workers and their clients by providing appropriate health and hygiene standards and safety guidelines for premises.

The development currently operates as a brothel and has done so for approximately 14 years. There is no authorised or known unauthorised brothel operating in close proximity of the site.

The development standards of CSIDCP are discussed in the sections below:

**Location requirements for brothels (Section 4.1 of CSIDCP)**

In order to minimise the impact of brothels on sensitive land uses, a brothel must not be located within a 150m radius (as measured from any point(s) of client access and egress at the building proposed to be so used) of child care centres, churches, community facilities, residences, hospitals, medical centres, schools, places regularly frequented by children for recreational or cultural activities, licensed premises and major transport nodes.

In assessing a development application for sex industry premises, Council is required to consider the proximity of other sex industry premises, such as brothels, sex-on-premises establishments and the like, both within or outside the local government area, including existing unauthorised premises. Brothels must not be located within a 150m radius (as measured from any point(s) of client access and egress at the building proposed to be so used) of another sex industry premises.

Brothels are to be sensitively located so that they do not create adverse social impacts, and do not result in any other adverse effects with regard to the amenity of the area.

The Table below details the name and address of relevant sensitive land uses as outlined in CSIDCP. Also noted is the distance by road or likely pedestrian route, whether the site is within a 150m radius of a sensitive land use and whether the brothel is visible from a nominated sensitive land use.

Sensitive Land Use	Name	Address	Distance (by Road, or likely pedestrian route)*	Is within 150m radius**	Is proposal visible?
Child care centre	Nil	-	-	-	-
Place of worship	Nil	-	-	-	-
Community facilities	Nil	-	-	-	-
Residences	-	150 North Steyne Road, Woodbine (nearest dwelling by road)	975m	No	No

3.4 No. 15 Blaxland Road, Campbelltown - Construction Of Alterations And Additions To Existing Brothel

Sensitive Land Use	Name	Address	Distance (by Road, or likely pedestrian route)*	Is within 150m radius**	Is proposal visible?
Hospital	Nil	-	-	-	-
Medical Centre	Nil	-	-	-	-
Schools	Nil	-	-	-	-
Places regularly frequented by children for recreational or cultural activities	Nil	-	-	-	-
Licensed premises	Club Hotel	32 Blaxland Road, Campbelltown	390m	No	No
Major transport node	Campbelltown Railway Station	Farrow Road, Campbelltown	955m	No	No
Other	Nil	-	-	-	-

Legal or known illegal sex premises	Name	Address	Distance	Is within 150m radius	Is proposal visible?
Brothel	Nil				
Sex-on-premises	Nil	-	-	-	-
Sex industry premises	Nil	-	-	-	-
Restricted premises	Sexy World	59 Blaxland Road, Campbelltown	610m	No	No

\* As measured from any point(s) of client access and egress at the building proposed to be so used

\*\*As measured in a straight line

The above tables are considerations for locational requirements for brothels. It should be noted however, that the current application is for an existing brothel.

**Design requirements for brothels (Section 4.2)**

Brothels must meet the following design requirements:

- (a) The building design for brothels is to be compatible with the surrounding built form
- (b) Only one separate street level access, with no other internal access to any other tenancy, is to be provided to a brothel
- (c) The entrances, exits and external appearance of brothels shall be well lit but not to the extent where it becomes a prominent feature in the streetscape. Flashing lights shall not be permitted

### 3.4 No. 15 Blaxland Road, Campbelltown - Construction Of Alterations And Additions To Existing Brothel

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- (d) Brothels shall not display sex workers, or sex related products from the windows, doors or outside of the premises
- (e) No signs shall be permitted which, in the opinion of Council, are lewd, sexually explicit or offensive. 'A' frame signs and signs with flashing lights will not be permitted. Signage shall, however, clearly identify the building so as to minimise nuisance to neighbours
- (f) Brothels shall minimise nuisance to neighbours in the street by displaying the building number in a manner that is clearly visible from the street
- (g) The paint finishes on external walls of brothels should not be such that they become a prominent feature in the streetscape (e.g. fluorescent or excessively bright colours)
- (h) The premises must comply with the requirements of the Building Code of Australia and disabled access requirements.

The existing brothel is considered to satisfy these requirements. The proposal to extend the hours of operation and increase the number of sex workers to eight would not interfere or alter the design requirements of the CSIDCP.

#### **Car parking (Section 4.3)**

Off-street parking must be provided at the rate of one space per 35 square metres of floor space. Car parks should be well lit and easy for staff and customers to locate.

The proposed development will increase the total floor area of the building to 225 square metres. The development is required to provide 6.4 car parking spaces. Ten spaces (including one disabled) are provided by the development.

It is considered that the proposed development satisfies the car parking requirements of CSIDCP.

#### **Protection of neighbourhood amenity (Section 4.4)**

The premises should not affect the amenity of the neighbourhood as a result of its size, any noise generated and operating hours, number of employees or clients. Operators are to implement measures to avoid nuisance to neighbours through mistaken identity (for example, customers knocking on doors asking where the brothel is, or driving slowly through the street looking for the premises).

All development applications for brothels are to be referred to the NSW Police Service for comment.

The brothel has been operating for approximately 14 years. Council has no record of complaints arising from mistaken identity or driving slowly through the street. Immediate land uses adjoining the brothel comprise of industrial uses.

The application has been referred to the NSW Police Service for comment. A summary of the Police comment is discussed in a separate section of this report.

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### 3.4 No. 15 Blaxland Road, Campbelltown - Construction Of Alterations And Additions To Existing Brothel

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#### **Waste disposal and collection (Section 4.5)**

Council does not collect trade waste. Brothel operators are to make their own arrangements for trade waste collection, and ensure that any potentially hazardous waste is collected by a clinical waste contractor. Waste containers are to be stored and collected from within the site.

The existing private waste collection service is to remain.

#### **2.4 Development Control Plan No.99 – Advertising Signs**

The proposed development includes the erection of a pole sign having a maximum height of 3.75 metres. The area of the advertising sign is 1.56 square metres. The advertising sign contains the number “15” indicating the street address and the telephone number of the premises.

DCP No.99 prescribes that pole signs in an industrial area have a maximum height of 10 metres and a maximum advertising area of three square metres.

It is considered that the proposed pole sign is appropriate for the development.

#### **2.5 Planning Circular PS 07-07 Commencement of the Brothels Act 2007**

The Brothels Planning Circular was released by the NSW Department of Planning in 2007 with respect to the commencement of the *Brothels Act 2007*. In 1995 the *Restricted Premises Act 1943* (RP Act) was amended to abolish the common law offence of keeping a brothel. Since then, brothels (or sex service premises) have been regulated as a land use under the *Environmental Planning and Assessment Act 1979* (EP&A Act). The RP Act also regulates the operation of brothels.

The *Brothels Legislation Amendment Act 2007* (Brothels Act) includes increased enforcement powers for Councils and other regulatory authorities to take action against brothels that are operating unlawfully or in a manner resulting in adverse impacts on the community.

The *Brothels Act 2007* amends the *EP&A Act* by:

- Inserting a definition of ‘brothel’ in Section 4 of the *EP&A Act*
- Introducing new enforcement provisions, including brothel closure orders and utilities orders
- Introducing new provisions applying to proceedings related to use of premises as a brothel.

At this stage the Brothel is operating with consent and as such no breaches under the *EP&A Act 1979* have been recorded.

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### 3.4 No. 15 Blaxland Road, Campbelltown - Construction Of Alterations And Additions To Existing Brothel

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### **3. NSW Police Service (Campbelltown Local Area Command) Comment**

The proposed modification was referred to the NSW Police Service for comment having regard to Crime Prevention Through Environmental Design (CPTED) principles. CPTED requires applicants to have regard to the design of a building to minimise crime and anti-social behaviour. This is achieved through appropriate lighting, fencing, landscaping and security management.

The Campbelltown LAC Crime Prevention Officer has provided Council with a number of recommendations for Council to consider in its assessment of the proposed development. The comments are summarised below:

#### **3.1 Surveillance**

A monitored CCTV camera and good lighting should provide adequate coverage and illumination of ground floor reception and waiting area. Surveillance equipment should also be located at the entry point and provide coverage of the car parking area.

Any surveillance equipment should be manufactured and installed by a qualified company and be regularly tested.

#### **3.2 Landscaping**

The proposed landscaping is to be maintained and regularly trimmed to reduce concealment opportunities. Obstacles and rubbish are to be removed from the car parking area when they appear. Sight-lines are to be maintained.

#### **3.3 Environmental Maintenance**

Any graffiti appearing on the building shall be removed within 48 hours.

#### **3.4 Access Control**

Physical and symbolic barriers can be used to attract, channel, or restrict the movement of people. Operators of the brothel to make it clear where people are permitted to go or not to go.

Comments and recommendations provided by the Campbelltown LAC Crime Prevention Officer addressing the above concerns and matters have been incorporated into the recommended conditions of consent should Council approve the proposed development.

### **4. Public Notification**

The application was notified and placed on public exhibition in accordance with Council's Notification Policy from 23 October 2012 for a period of 14 days (exhibition) and from 22 October 2012 for a period of 14 days (notification).

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

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3.4 No. 15 Blaxland Road, Campbelltown - Construction Of Alterations And Additions To Existing Brothel

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## 5. Conclusion

Development application 124/2012/DA-C has been lodged to increase the floor area and number of working rooms, as well as external modifications to the building at the existing brothel at No. 15 Blaxland Road, Campbelltown.

The brothel is seeking to extend its hours of operation each day by five hours with operating hours of 24 hours per day, seven day a week. The current approved hours are 9.00am to 5.00am.

The brothel is also seeking to increase the number of sex workers from four to eight.

Council has notified and publicly exhibited the proposed modification. Council did not receive any submissions objecting to the development.

The application has been assessed against relevant statutory requirements and is considered to generally comply with same. The changes sought by the proponent are considered to be acceptable having regard to the extent and nature of any additional impact on adjoining and nearby land uses.

Giving regard to the basis of the original determination by Council in September 1998, it is considered that the changes sought should not have any further notable impact on adjoining and nearby land users and are considered appropriate for the use of the site.

## Officer's Recommendation

1. That the Council allow the variation to the 8.0 metre set back standard pursuant to Clause 37 of the Campbelltown (Urban Area) Local Environmental Plan 2002.
2. That development application 124/2012/DA-C for the construction of alterations and additions to the existing brothel, including the increase in the number of sex workers from four to eight and increase the hours of operation from 9.00am to 5.00am to 24 hours per day at Lot 2 DP 519337 at No. 15 Blaxland Road, Campbelltown be approved subject to conditions listed in Attachment 1.

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

That the Officer's Recommendation be adopted.

## LOST

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

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

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3.4 No. 15 Blaxland Road, Campbelltown - Construction Of Alterations And Additions To Existing Brothel

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

That a decision in this matter be deferred to the Council meeting to be held 18 December 2012.

**CARRIED**

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

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

**Council Meeting 18 December 2012 (Greiss/Rowell)**

That the Committee's Recommendation be adopted.

**Amendment (Mead/Kolkman)**

1. That the Council allow the variation to the 8.0 metre set back standard pursuant to Clause 37 of the Campbelltown (Urban Area) Local Environmental Plan 2002.
2. That development application 124/2012/DA-C for the construction of alterations and additions to the existing brothel, including the increase in the number of sex workers from four to eight and increase the hours of operation from 9.00am to 5.00am to 24 hours per day at Lot 2 DP 519337 at No. 15 Blaxland Road, Campbelltown be approved subject to conditions listed in Attachment 1.

**LOST**

**Amendment (Greiss/Hawker)**

That development application 124/2012/DA-C for the construction of alterations and additions to the existing brothel, including the increase in the number of sex workers from four to eight and increase the hours of operation from 9.00am to 5.00am to 24 hours per day at Lot 2 DP 519337 at No. 15 Blaxland Road, Campbelltown be rejected for the following reasons:

1. The development and the 100% increase in the number of sex workers will have an adverse impact upon the amenity of land users within the locality.
2. Approval of the proposed development would set an undesirable precedent for similar inappropriate development, is not in keeping with the desired future development typology for the Blaxland Road precinct and is therefore not in the public interest.

**CARRIED**

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### **Council Resolution Minute Number 221**

That the above amendment moved by Councillor Greiss, seconded by Councillor Hawker be adopted.

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

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

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### **3.5 Concept Plan Application for the Claymore Renewal Project**

#### **Reporting Officer**

Manager Development Services

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#### **Attachments**

1. Original report from Manager Development Services to Planning and Environment Committee meeting of 26 June 2012 (distributed under separate cover)
2. Letter from Claymore Enterprises Pty Ltd dated 12 November 2012 (distributed under separate cover)
3. Letter from Dart West dated 11 July 2012 (distributed under separate cover)
4. Letter dated 20 October 2012 (distributed under separate cover)
5. Letter from Landcom dated 11 October to support rezoning application (distributed under separate cover)
6. S75r(3A) submission supporting the rezoning application (prepared by BBC Consulting Planners) (distributed under separate cover)
7. Proposed zoning map (distributed under separate cover)
8. Amended Concept Plan consistent with rezoning request (distributed under separate cover)

#### **Purpose**

To assist Council in its assessment of a Concept Plan (Master Plan) for the Claymore Renewal Project.

#### **Report**

The Claymore Renewal Project Application has been lodged by the NSW Land and Housing Corporation under the transitional arrangements of the former Part 3A of the Environmental Planning and Assessment Act 1979. Approval is being sought from the Department of Planning and Infrastructure for a Concept Plan (or Masterplan). Council has been delegated the responsibility to carry out the necessary planning assessment of the Concept Plan with the Minister for Planning retaining the consent authority role.

Further transitional arrangements have recently been put in place for outstanding Part 3A projects with the intention that assessment and determination of all projects be finalised by 30 June 2013. It should be noted that in recent discussions with the General Manager and Director of Planning and Environment, senior officers of the Department of Planning and Infrastructure have stressed the importance of Council finalising its assessment of the Claymore project as soon as possible.

The Claymore Renewal Project was last considered by Council in June/July this year.

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At its meeting on 26 June 2012, the Planning and Environment Committee considered a detailed report on this matter that recommended the project be supported. This original report is Attachment 1 and remains relevant to Council's consideration of this matter. At the meeting, the Committee was addressed by a representative of the applicant in support of the project as well as four speakers who were in opposition to all or part of the reports recommendation. Two of those speakers represented the owners of the existing Claymore Shopping Centre site. The Committee passed the following recommendation:

That Council:

1. Support an amendment to the Concept Plan for the Airds-Bradbury Urban Renewal Project as described in the letter from Landcom dated 21 June 2012.
2. Advise the Department of Planning and Infrastructure of its decision in this matter.
3. Forward to the Department of Planning and Infrastructure a final Director General's Environmental Assessment Report, Instrument of Delegation and Concept Approval, in accordance with the abovementioned letter received from Landcom and the matters raised in the above report.
4. Request that the NSW Land and Housing Corporation and Landcom immediately provide a draft copy of the Voluntary Planning Agreement for the Airds Bradbury Urban Renewal Project so that Council can receive a further report on the terms and conditions of the Agreement prior to placing it on public exhibition.

Subsequently, Council, at its meeting on 3 July 2012, considered the matter and resolved as follows:

That a decision in this matter be deferred to allow further consultation between Council and representatives of Landcom and the NSW Land and Housing Corporation to completely clarify the issues with regard to the existing Claymore Shopping Centre.

In August, following the resolution of Council, a letter was forwarded to both Landcom and the NSW Land and Housing Corporation requesting advice as to any progress made in relation to further discussions with the owners of the existing Claymore shopping centre. Landcom have advised Council informally that further discussions with the owner were held, including the possibility of Landcom acquiring the site. The owners of the existing centre have confirmed these discussions did occur, however the parties are yet to reach any agreement.

The owners of the existing centre and their representatives have continued to argue that there should only be one commercial centre within Claymore and they have made this point most recently at a meeting held with the Mayor on 9 November. Their position is set out in a letter to the Mayor dated 12 November 2012 (Attachment 2).

#### **Comments from other interested parties**

Since Council's resolution of 3 July, there have been two submissions received from other interested parties.

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### **1. Submission from Dart West Developments regarding Claymore Shopping Centre:**

Dart West Developments Pty Ltd, who are developing Gregory Hills, including a site for a 15,000 square metre shopping centre, made a submission by letter dated 11 July 2012, indicating their general support for the Claymore Renewal Project (Attachment 3). This letter however also raised questions over whether the retail assessments associated with the Claymore proposal had adequately considered potential impacts upon the Gregory Hills development.

The Environmental Assessment document that supported the Renewal project contained a shopping centre market analysis report prepared by Hill PDA and this report made reference to the proposed 15,000 square metre Turner Road precinct. The Hill PDA report was available as part of the public exhibition process for the renewal project. As part of its assessment process, Council commissioned a peer review of the Hill PDA report, but this has not been made publicly available. The peer review supported the initial retail analysis.

### **2. Submission from regarding Badgally Reserve**

On 20 October 2012, Council received a letter from that raised concern about the impact of the Renewal Project upon Badgally Reserve (Attachment 4). The writer of this letter addressed the Committee meeting of 26 June 2012. The main points in the submission, which reiterate what was presented to the Committee meeting, are as follows:

- Concerned at the large reduction in the size of the Reserve which reduces recreational green space at a time when dwelling numbers are increasing
- The value of the existing reserve to local residents and to wildlife has been underestimated and it could easily be improved with bike and walking tracks and replantings
- The existing reserve is visually prominent and creates a natural continuity of green space between residential areas and is preferable to more development along Badgally Road
- Sceptical as to the value of proposed vegetation offsets in Brady and Fullwood Parks.

The provision and embellishment of open space within the Claymore Renewal Project Area was discussed within the original assessment report. Although the size of Badgally Reserve will reduce, overall the Renewal Project will see an increase in Council owned open space across Claymore. The open space areas will have better defined roles and functions, improved safety and accessibility and better linkages to the broader open space network of the district. The reasons set out in the original assessment report to support the open space outcomes of the renewal project are worthy of continued support, notwithstanding the submission of 20 October.

### **Rezoning Proposal**

As part of the Claymore Urban Renewal Project, the project land ultimately needs to be rezoned to be consistent with the Concept Plan. Council has recently received the necessary rezoning application submission from NSW Housing and Landcom. Attachment 5 is a letter from Landcom supporting the rezoning, Attachment 6 is the rezoning submission prepared by BBC Consulting Planners and Attachment 7 is the proposed zoning map.

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The re-zoning application proposes to zone the existing Claymore Shopping Centre site 'mixed use'. A mixed use zone would allow a range of uses from retail, commercial and residential, either in separate developments, or mixed within the one development. However, the current Campbelltown LEP does not include a 'mixed use' zone and it is considered that the same outcome could be achieved by retaining the existing 10(c) Local Comprehensive Centre zoning, which allows a range of commercial and residential uses. This would be consistent with the proposed zoning for the new retail/community centre on Badgally Road which is intended to be zoned 10(c) Local Comprehensive Centre zoning. Such a plan, with both the existing and proposed commercial centres having the same zoning, would be consistent with the dual objectives of providing land use flexibility for the owner of an existing commercial centre while also recognising that as part of a significant urban renewal project, there remains the opportunity for new commercial activities on the new site.

Under the re-zoning application, the Claymore Public School site is proposed to retain its existing 10(c) Local Comprehensive Centre zoning of the Campbelltown LEP 2002. The Concept Plan proposes no change in land use for the existing school. The remainder of the Renewal Project land is proposed to carry a 2(b) Residential zone which is suitable for the range of other land uses proposed, including housing and open space.

In relation to the proposed comprehensive LEP being prepared under the State template, both the existing and proposed commercial centres could be amended to a mixed use zone with an appropriate mix of land uses. The only change that would need to be made would be to the school site, which under State planning directives, would need to carry a residential zone.

#### **Impact of the rezoning proposal on Claymore Shopping Centre site**

The owner of the existing centre has indicated that they are still of the view that there should be only one retail centre in Claymore and that their site is preferable to the proposed new centre on Badgally Road.

The mixed use zone being proposed for the existing Claymore Shopping Centre (or the retention of the 10(c) Local Comprehensive Centre zone), would provide for a variety of land uses that the owner of the existing centre could take advantage of subject to Council's approval of a Development Application. This could range from maintaining or expanding retail floorspace, expanding medical uses (an option that the owner has previously stated was attractive to them), residential development, or any combination of these uses. If the site was to be rezoned to residential, as the original concept plan contemplated, the owner of this site would be reliant upon existing use rights to secure approvals for any retail/commercial redevelopment.

There would be little certainty for the owner under existing use rights, which potentially would impact upon their willingness to invest in a site that is clearly in need of upgrade. The rezoning scenario mentioned above may provide the owner of the site some benefit in allowing for a range of uses alternate to the shopping centre.

Overall, the flexibility of the mixed use zone is considered to be a fair and reasonable outcome for the owner of this site, while at the same time not undermining the longer term objectives of the renewal project to transition the estate from public housing to a mixed private/social housing neighbourhood. The potential for commercial/retail redevelopment of the existing centre would not be constrained by a zoning restriction, but potentially by market forces.

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### **Impact on Claymore Renewal Project Concept Plan**

The objective of the Claymore Renewal Project is to provide the best opportunity for the urban renewal of an area that has proven to be unsustainable in both the built and social environment spheres. A key component of the renewal strategy is to provide a site for an alternative retail opportunity to create a successful and vibrant retail and community hub. This is important, as the existing site is in an inferior location by comparison to competing centres and regardless of the benefits of the renewal project it is likely that it would continue to struggle within a competitive retail market place as stated within the retail studies supporting the Renewal Project. The retail assessment reports that supported the renewal project have indicated that the Badgally Road site is a superior location for retail/commercial activities when compared to the existing shopping centre. Council's independent consultant's review of the reports confirmed this view. There would be a significant demographic shift resulting from the proposed renewal project with commensurate increased demand for improved quantity and quality of local retail services. A new site on Badgally Road can not only capture this spending capacity of the Claymore precinct, but also be better placed to attract trade from Blairmount, part of Eagle Vale, Eschol Park, Blair Athol and Woodbine. It would provide the opportunity to establish a centre that not only serves local Claymore residents, but looks outward and embraces adjoining suburbs, helping to further elevate a positive impression of the renewed Claymore locality.

On this basis, it is the proponent's contention that it is important that the concept plan and zoning plan maintain the retail opportunity on Badgally Road. It provides maximum flexibility for both potential commercial sites. Similar to the situation for the existing Claymore Shopping centre, the commercial/retail potential of the Badgally Road site would ultimately be determined by the market.

### **Option to move forward**

Unfortunately, and noting Council's resolution of 3 July 2012, the shopping centre issue remains outstanding even taking into account the position put forward by Landcom in their rezoning application. The owners of the existing Claymore Shopping Centre are still of the view that their site should be the sole commercial precinct for Claymore. The situation is further complicated by the submission from Dart West that raises the questions of whether the impact of and upon the proposed Gregory Hills retail centre have been adequately addressed. This centre will be directly accessible to Claymore by the proposed construction of the Gregory Hills Road/Badgally Road link. However, the Hill PDA report did not include the Gregory Hills centre in the defined primary and secondary trade areas for the proposed new Claymore commercial site.

To move forward with all parties confident in the independence of the decision making process, it is recommended that this issue be dealt with through a direction from the Director-General of the Department of Planning and Infrastructure that a final independent expert analysis be undertaken of the need for and the impact of the provision of additional zoned commercial land at Claymore. This would highlight the strategic implications on the existing and planned retail hierarchy of the sub-region including locations within and outside the local government boundaries of Campbelltown City Council. Based on the outcomes of such an independent review and any other relevant matters, the Minister would be appropriately placed to make a determination on the shopping centre issue.

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## **Conclusion**

A comprehensive assessment report of the Claymore Renewal Project was previously presented to Council at its meeting on 3 July 2012 and although Council deferred a final decision at that meeting, that report remains relevant and should be considered as one of the primary assessment reports for the project.

Council's resolution of 3 July 2012 has been actioned, with discussions between Council staff and the proponent resulting in the submission of a rezoning application that takes into account the existing Claymore shopping centre site. It is recommended however that rather than a mixed use zone for the existing centre, the 10(c) Local Comprehensive centre zoning will provide the necessary flexibility. The rezoning plan also looks to provide a 10(c) Local Comprehensive Centre zoning for the proposed new commercial centre on Badgally Road that the proponent sees as a vital component of the Claymore Renewal Project.

The combination of flexibility for the existing commercial centre and the provision of a new site for commercial activity may have some merit. However, concern has been expressed by the owners of the existing Claymore Shopping centre as well as the developers of the Gregory Hills precinct that a rezoning for additional commercial floorspace, as proposed, could be detrimental to their interests.

There is obvious merit in renewing the residential housing stock within Claymore and this would be so regardless of whether a new commercial centre is established or the existing centre is upgraded.

## **Officer's Recommendation**

1. That Council advise the Director General of the Department of Planning and Infrastructure that the issue of a new commercial centre within the Claymore Urban Renewal Project area and its potential impacts upon the existing Claymore Shopping Centre, remains as an unresolved issue and that the Director General should consider commissioning an independent retail analysis of the need for and impact of additional zoned commercial land as proposed by the Concept Plan, including an assessment of the strategic implications on the existing and planned retail hierarchy of the sub region, prior to making any final recommendation to the Minister for Planning in relation to the Claymore Urban Renewal Project.
  2. That having regard to Recommendation 1, Council advise the Director General of the Department of Planning and Infrastructure that it supports the Concept Plan (Master plan) for the Claymore Renewal Project as depicted in Attachment 8 to this report excepting provisions relating to the existing and proposed shopping centre sites, noting in particular the following:
    - a) Council must be satisfied of the biodiversity off-set package proposed in the Statement of Commitments prior to the determination of any Development Application under the Concept Plan.
    - b) Council and the proponent must agree on the final land use layout for the proposed town centre prior to the determination of any Development Application under the Concept Plan.
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- c) All roads that form part of the final bus route shall be at least minor collector road standard.
  - d) Council support for any retail centre on Badgally Road deemed appropriate by the Minister, is on the basis of providing a new opportunity for a supermarket and speciality shops for local needs, not predominately for uses reliant upon high volumes of passing trade.
  - e) Provision must be made for the continued presence of the existing Baptist Church and Guardian Angels Child Care Centre.
  - f) Council and the proponent must agree on the landscaping and fencing treatment of any areas where rear property fences abuts the public domain, prior to the determination of any Development Application under the Concept Plan, noting that such areas have been minimised by the Concept Plan.
3. That Council endorse the original planning assessment report (Attachment 1 to this report) excepting matters dealing with the existing and proposed shopping centre sites and advise the Department of Planning and Infrastructure accordingly.
  4. That Council acknowledge the need to receive a further report in order to endorse the final terms and conditions of the draft Voluntary Planning Agreement for the Claymore Renewal Project prior to placing the Voluntary Planning Agreement on public exhibition.
  5. That Council support the application to rezone the land within the Claymore Renewal Project area consistent with the zoning map as depicted in Attachment 7 to this report excepting for the existing Claymore shopping centre site which should be a 10(c) Local Comprehensive Centre zone and subject to resolution of issues associated with the existing and proposed shopping centre sites by the Minister.
  6. That Council, once a determination has been made by the Department of Planning and Infrastructure, notify in writing, those persons who made a submission in respect of the Claymore Renewal Project.

**Committee Note:** Mrs N Makowski, Mr P Chae and Mr T Robb addressed the Committee regarding this matter.

Mr P Hourigan addressed the Committee on behalf of the Applicant.

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

That a decision in this matter be deferred pending a detailed briefing being provided to Councillors.

**CARRIED**

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### **Council Meeting 18 December 2012 (Greiss/Rowell)**

That the Committee's Recommendation be adopted.

#### **Amendment (Dobson/Borg)**

1. That Council advise the Director General that subject to the retention of the existing shopping centre in its current location and the retention of open space fronting Badgally Road, that Council supports the concept plan application for the Claymore Renewal Project.
  2. That having regard to Recommendation 1, Council advise the Director General of the Department of Planning and Infrastructure that it supports the Concept Plan (Master plan) for the Claymore Renewal Project as depicted in Attachment 8 to this report excepting provisions relating to the existing and proposed shopping centre sites, noting in particular the following:
    - a) Council must be satisfied of the biodiversity off-set package proposed in the Statement of Commitments prior to the determination of any Development Application under the Concept Plan
    - b) Council and the proponent must agree on the final land use layout for the proposed town centre prior to the determination of any Development Application under the Concept Plan
    - c) All roads that form part of the final bus route shall be at least minor collector road standard
    - d) Council support for any retail centre on Badgally Road deemed appropriate by the Minister, is on the basis of providing a new opportunity for a supermarket and speciality shops for local needs, not predominately for uses reliant upon high volumes of passing trade
    - e) Provision must be made for the continued presence of the existing Baptist Church and Guardian Angels Child Care Centre
    - f) Council and the proponent must agree on the landscaping and fencing treatment of any areas where rear property fences abuts the public domain, prior to the determination of any Development Application under the Concept Plan, noting that such areas have been minimised by the Concept Plan.
  3. That Council endorse the original planning assessment report (Attachment 1 to this report) excepting matters dealing with the existing and proposed shopping centre sites and advise the Department of Planning and Infrastructure accordingly.
  4. That Council acknowledge the need to receive a further report in order to endorse the final terms and conditions of the draft Voluntary Planning Agreement for the Claymore Renewal Project prior to placing the Voluntary Planning Agreement on public exhibition.
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5. That Council support the application to rezone the land within the Claymore Renewal Project area consistent with the zoning map as depicted in Attachment 7 to this report excepting for the existing Claymore shopping centre site which should be a 10(c) Local Comprehensive Centre zone and subject to resolution of issues associated with the existing and proposed shopping centre sites by the Minister.
6. That Council, once a determination has been made by the Department of Planning and Infrastructure, notify in writing, those persons who made a submission in respect of the Claymore Renewal Project.
7. That Council write to the Premier and the Minister for Community Services requesting confirmation that the necessary funding for the redevelopment has been allocated.

### **Council Resolution Minute Number 218**

That the above amendment be adopted.

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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 2012-2013 period as they relate to:

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

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

<b>1. Land and Environment Court Class 1 Matters – Appeals Against Council's Determination of Development Applications</b>
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<b>Total ongoing Class 1 DA appeal matters (as at 20/11/2012)</b>	<b>0</b>
<b>Total completed Class 1 DA appeal matters (as at 20/11/2012)</b>	<b>0</b>
<b>Costs from 1 July 2012 for Class 1 DA appeal matters:</b>	<b>\$119.40</b>

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

<b>Total ongoing Class 1 Order/Notice appeal matters (as at 20/11/2012)</b>	<b>0</b>
<b>Total completed Class 1 Order/Notice appeal matters (as at 20/11/2012)</b>	<b>0</b>
<b>Costs from 1 July 2012 for Class 1 Order/Notices appeal matters:</b>	<b>\$0.00</b>

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**3. Land and Environment Court Class 4 Matters – Non-Compliance with Council Orders / Notices**

<b>Total ongoing Class 4 matters before the Court (as at 20/11/2012)</b>	<b>0</b>
<b>Total completed Class 4 matters (as at 20/11/2012)</b>	<b>0</b>
<b>Costs from 1 July 2012 for Class 4 matters</b>	<b>\$0.00</b>

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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**

<b>Total ongoing Class 5 matters before the Court (as at 20/11/2012)</b>	<b>0</b>
<b>Total completed Class 5 matters (as at 20/11/2012)</b>	<b>0</b>
<b>Costs from 1 July 2012 for Class 5 matters</b>	<b>\$0.00</b>

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

<b>Total ongoing Class 6 matters (as at 20/11/2012)</b>	<b>0</b>
<b>Total completed Class 6 matters (as at 20/11/2012)</b>	<b>0</b>
<b>Costs from 1 July 2012 for Class 6 matters</b>	<b>\$0.00</b>

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

<b>Total ongoing Appeal matters before the Court (as at 20/11/2012)</b>	<b>0</b>
<b>Total completed Appeal matters (as at 20/11/2012)</b>	<b>0</b>
<b>Costs from 1 July 2012 for District Court matters</b>	<b>\$0.00</b>

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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 20/11/2012)</b>	<b>0</b>
<b>Total completed Local Court Matters (as at 20/11/2012)</b>	<b>11</b>
<b>Costs from 1 July 2012 for Local Court Matters</b>	<b>\$3616.00</b>

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**8. Matters Referred to Council's solicitor for advice**

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

<b>Total Advice Matters (as at 20/11/2012)</b>	<b>4</b>
<b>Costs from 1 July 2012 for advice matters</b>	<b>\$6,931.80</b>

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<b>9. Legal Costs Summary</b>		
The following summary lists the Planning and Environment Division's net legal costs for the 2012/2013 period.		
<b>Relevant attachments or tables</b>	<b>Costs Debit</b>	<b>Costs Credit</b>
Class 1 Land and Environment Court - appeals against Council's determination of Development Applications	\$119.40	\$0.00
Class 1 Land and Environment Court - appeals against Orders or Notices issued by Council	\$0.00	\$0.00
Class 4 Land and Environment Court matters - non-compliance with Council Orders, Notices or prosecutions	\$0.00	\$0.00
Class 5 Land and Environment Court - pollution and planning prosecution matters	\$0.00	\$0.00
Class 6 Land and Environment Court - appeals from convictions relating to environmental matters	\$0.00	\$0.00
Land and Environment Court tree dispute between neighbours matters	\$0.00	\$0.00
District Court appeal matters	\$0.00	\$0.00
Local Court prosecution matters	\$3616.00	\$940.00
Matters referred to Council's solicitor for legal advice	\$6931.80	\$0.00
Miscellaneous costs not shown elsewhere in this table	\$0.00	\$0.00
Costs Sub-Total	\$10.667.20	\$940.00
<b>Overall Net Costs Total (GST exclusive)</b>	<b>\$9,727.20</b>	

### **Officer's Recommendation**

That the information be noted.

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

That the Officer's Recommendation be adopted.

**CARRIED**

### **Council Meeting 18 December 2012 (Greiss/Rowell)**

That the Officer's Recommendation be adopted.

### **Council Resolution Minute Number 218**

That the Officer's Recommendation be adopted.

## 4.2 Tobacco Legislation Amendment Act 2012

### Reporting Officer

Acting Manager Compliance Services

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### Attachments

Nil

### Purpose

To advise Council of recent amendments to the *Smoke-free Environment Act 2000* to make various public places smoke-free.

### History

The *Tobacco Legislation Amendment Act 2012* was passed by NSW Parliament on 15 August 2012. In effect, the *Tobacco Legislation Amendment Act 2012* amended the *Smoke-free Environment Act 2000* to make a number of outdoor public places smoke-free from 7 January 2013.

The legislative amendments form part of actions identified in the NSW Tobacco Strategy 2012-2017 developed by NSW Health to reduce tobacco related harm in NSW.

### Report

Smoking related illness accounts for approximately 5200 deaths and 44,000 hospitalisations per year in NSW. These hospitalisations are largely related to heart disease and lung cancer.

Non-smokers can also be adversely affected by exposure to environmental tobacco smoke. In children breathing in environmental tobacco smoke can lead to bronchitis, asthma and other related illnesses. In adults breathing in environmental tobacco smoke can increase the risk of cardiovascular disease, lung cancer and other diseases.

Amendments have been made to the *Smoke-free Environment Act 2000* to make the following settings smoke free from 7 January 2013:

- In public playgrounds within 10 metres of children's play equipment
  - In open areas of public swimming pools
  - In major sporting facilities and at public sports grounds in spectator areas whilst organised events are being held
  - At public transport stops and stations
  - Within 4 metres of the pedestrian access point to a public building
  - From 2015, commercial outdoor dining areas.
-

Authorised Inspectors from the NSW Health Public Health Units will be responsible for enforcement of compliance with the new smoking bans. Penalties of up to \$550 may apply to anyone who fails to comply with the outdoor smoking laws.

Under the reforms, occupiers of certain premises (swimming pool complexes, railway stations, and from 2015, commercial outdoor dining areas) will be required to display signage to indicate that smoking is not permitted. The new law also allows the Ministry of Health to work with local councils and other government agencies to develop signage appropriate to the different types of settings.

A statewide community education campaign will be carried out by NSW Health prior to the commencement of the new smoke-free laws to ensure a high level of awareness and compliance by the general public and business community.

A range of materials, including fact sheets, have been developed to inform the general public and suitable information will also be included on Council's website to support the NSW Health education campaign.

### **Implications for Council**

- The Act amendments apply to children's play equipment in local parks, reserves and sporting venues, however does not extend to cover the residual area of a park, reserve or sporting ground (other than a public spectator area during sporting events).
  - Smoking is banned in spectator areas (both covered and uncovered) at public sports grounds and other recreational areas, however only when an organised sporting event is being held. Major sporting facilities are included under the definition of a public sports ground. Other Council outdoor sporting facilities such as playing fields are covered by the law also, but only during an organised sporting event.
  - Smoking is banned in open areas within the perimeter of all public swimming pool complexes. Occupiers of public swimming pool complexes must ensure that adequate signage is erected and maintained to indicate that smoking is not permitted within the perimeter of the swimming pool complex. Appropriate signage templates will be made available by NSW Health for this purpose and suitable signage can be erected once these signs are made available.
  - Smoking is banned within 4 metres of a pedestrian entrance to or exit from a public building. Smoking is already banned in enclosed areas of public places in NSW. The law extends the smoking ban to cover the area within 4 metres of a pedestrian entrance to or exit from a public building such as community centres, halls, libraries and galleries, fitness centres, other sporting and recreational facilities and childcare facilities.
  - The *Smoke-free Environment Act 2000* amendments do not require signs to be displayed in areas such as within 10 metres of children's play equipment, within spectator areas of public sports grounds, or within 4 metres of an entrance to public buildings, however appropriate signage templates will be made available by NSW Health for Council's to consider erecting suitable signage should they wish to.
-

It is intended, at this stage, that appropriate signage to indicate smoking is not permitted be erected at each of our swimming centres (once the signage templates have been provided by NSW Health) to meet the obligations of the amended legislation. The signs will not be erected before 7 January 2013, however, will be installed as soon as possible thereafter. Given that Council has only four swimming centres the cost will be relatively minor and will be accommodated within the existing budget.

### **Officer's Recommendation**

That the information be noted.

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

That the Officer's Recommendation be adopted.

### **CARRIED**

### **Council Meeting 18 December 2012 (Greiss/Rowell)**

That the Officer's Recommendation be adopted.

### **Council Resolution Minute Number 218**

That the Officer's Recommendation be adopted.

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## 5. GENERAL BUSINESS

Nil.

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

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

**CARRIED**

## 18. CONFIDENTIAL ITEMS

### 18.1 Confidential Report - Directors of Companies

#### **Reason for Confidentiality**

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

- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business

There being no further business the meeting closed at 9.29pm.

G Greiss  
CHAIRPERSON

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