

**SYDNEY PLANNING PANEL
(Sydney South West)**

SPP No	2016SYW032
DA Number	3510/2015/DA-MP
Local Government Area	Campbelltown
Proposed Development	Concept Master Plan for Residential Subdivision of Macquarie Field House
Street Address	Lot 1 DP 612265, Lot 1 DP 828871 Macquarie Field House, Campbelltown Road, GLENFIELD
Applicant/Owner	Gentle (Macquarie) Pty Ltd
Number of Submissions	8
Regional Development Criteria (Schedule 4A of the Act)	Development that has a capital investment value of more than \$20 million
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> • Heritage Act 1977 • Threatened Species Conservation Act 1995 • Water Management Act 2000 • State Environmental Planning Policy 55 – Remediation of Land • State Environmental Planning Policy (Infrastructure) 2007 • Campbelltown Local Environmental Plan 112 – Macquarie Field House • Draft Campbelltown Local Environmental Plan 2014 • Development Control Plan 63 – Macquarie Field House • Campbelltown sustainable City Development Control Plan 2014
Does the DA require Special Infrastructure Contributions conditions (s94EF)?	No
List all documents submitted with this report for the panel's consideration	Officer's assessment report and attachments
Recommendation	Refusal
Report by	Luke Joseph – Senior Development Planner
Report date	18 April 2017

Attachments

1. Location Plan
2. Zoning Map
3. Site Plan

Purpose

The purpose of this report is to assist the Sydney South West Planning Panel in its determination of the subject development application pursuant to the *Environmental Planning and Assessment Act 1979*.

Introduction

This application proposes a concept master plan for the residential subdivision of the land occupied by Macquarie Field House, which is listed on the stage heritage register. The application is a staged development application made pursuant to clause 83B of the Environmental Planning and Assessment Act, 1979. The application seeks concept approval for the consolidation of the two allotments on which the house and the majority of its curtilage are located, and subdivision of the site into 69 allotments (although a total of 73 allotments are shown on the master plan). The application in effect proposes a reduction in the size of the heritage item's curtilage. The application indicates that consent for the actual subdivision of the site would be sought in stages, following approval of the master plan. The proposed master plan shows an indicative layout containing 73 allotments ranging in size from 1,004sqm to 5,458sqm, as well as a proposed road layout, street tree planting and community open space including a lake. Macquarie Field House would be retained on its own allotment with a vastly reduced curtilage, and be used as a private residence. The proposed development has a Capital Investment Value of \$32.9 million.

The subject site consists of two allotments (which are in common ownership). The first allotment is 1.79 hectares in size and contains Macquarie Field House itself and its immediate surrounds including some dense vegetation. The second allotment, which surrounds the first allotment, has a size of 21.27 hectares and contains the expansive grounds of Macquarie Field House and disused agricultural buildings, which are within the listed curtilage of and contribute to the heritage significance of the site. The curtilage of the heritage item extends eastwards beyond the boundary of the site into a drainage reserve and finishes at the former alignment of Bunbury Curran Creek, which has been diverted. Macquarie Field House is of state and national aesthetic significance as one of the finest examples of early Australian residential architecture and is a landmark that is carefully sited in an intact 19th century rural cultural landscape. It remains evocative of early NSW colonial history and is one of the finest extant colonial homesteads in New South Wales.

The site is adjoined to the south by the suburb of Macquarie Links, which is a master-planned community that contains a golf course. It is adjoined to the east by a drainage reserve. Beyond the drainage reserve is part of the Macquarie Links Golf Course, and beyond the golf course is the Main South Railway Line. Adjoining the site to the north is vacant land owned by Transport for NSW, and beyond this land is the South West Rail Line, which connects Glenfield to Leppington. Beyond the railway line is more vacant land owned by Transport for NSW, and Hurlstone Agricultural High School. Adjoining the site to the west is a private road owned by the Macquarie Links Community Association, and beyond this road is the Hume Motorway. The site and its surrounds are shown in Attachment 1.

Background and History

James Meehan arrived in Sydney in February 1800 aboard the convict ship *Friendship* to serve a life sentence following his conviction for being a member of a proscribed organisation. Because of his experience as a surveyor in Ireland, Meehan was assigned to the Surveyor General of the colony. In 1805 he received a conditional pardon and was acting as chief surveyor of New South Wales. The land upon which Macquarie Field House currently sits is part of a land grant given to Meehan in 1810 by Governor Macquarie. Meehan erected a two-storey farmhouse in about 1818, approximately 150 metres to the northwest of the current Macquarie Field House. It was demolished in 1958 whilst in Government ownership, and much of the building material was left on the site. Part of the footprint of the building remains visible, and the site contains considerable archaeological potential. A brick barn was built on the property between 1814 and 1816, and its ruins remain on the site, mostly concealed by overgrown vegetation. Meehan died in 1826, and the current Macquarie Field House was built in the early 1840s. Subdivisions over the years reduced the size of the land considerably, and in 1962 the house was restored from its then ruinous state.

Macquarie Field House was first identified as a heritage item (non-statutory listing) in the Cumberland County Council List of Historic Buildings of 1961-1967. The site was subject to a Permanent Conservation Order from 1985, and was listed on the State Heritage Register in 1999. Between 1998 and 2004, three development applications were lodged seeking to subdivide the land surrounding Macquarie Field House into 171, 123 and 116 lots respectively. The first of these applications was refused by Council, and an appeal against Council's refusal was dismissed by the Land and Environment Court. The second application was withdrawn by the applicant. The third application was refused by Council, and a subsequent Land and Environment Court appeal against Council's refusal was withdrawn by the applicant. With regard to each application, matters relating to the impacts upon the heritage significance of Macquarie Field House and legal and physical access to the land remained unresolved.

The current application was lodged on 10 December 2015, one day prior to the gazettal of the Campbelltown Local Environmental Plan 2015, in an apparent attempt to avoid the incoming Plan's provisions. The application was lodged without a Conservation Management Plan (although a CMP was received in April 2016), and is deficient in terms of information required to address heritage, contamination, flora and fauna, stormwater and vehicular access issues. Council has received legal advice to the effect that the proposed development is not permissible under the planning instrument applicable at the time of the lodgement of the application, Campbelltown Local Environmental Plan 112. The NSW Heritage Council has recommended that the Panel refuse the application, and Council has received unfavourable submissions regarding the application from three Government departments who own or administer land within the vicinity of the site. In April 2016 while assessment of the application was ongoing, the site was sold from one property developer to another, and the applicant for this application subsequently changed.

In 2015 the Government announced the Draft Glenfield to Macarthur Urban Renewal Corridor Strategy, to establish a strategic planning framework to guide future development and infrastructure delivery along the Glenfield to Macarthur Urban Renewal Corridor over the next 20 years. In 2016, following the announcement that Hurlstone Agricultural High School would be relocated to the Western Sydney University Hawkesbury campus, the Government announced that it is undertaking further investigations and a review of the draft Glenfield Land Use and Infrastructure Plan to identify potential future land uses for the Hurlstone Agricultural High School site. This includes a new education precinct, and any necessary infrastructure upgrades required to support future growth. This is important to note, as whilst

the site is currently deficient in terms of physical and legal access appropriate for the creation of a new residential estate (as has been the case with previous subdivision proposals for the site), this matter may eventually be resolved in the future if the Glenfield to Macarthur Urban Renewal Corridor Strategy is adopted and other development in the western part of Glenfield proceeds.

Report

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

1. Planning Provisions

1.1 Heritage Act 1977

Under Section 57 of the Heritage Act, when a listing on the State Heritage Register applies to a building, place or land, a person must not carry out any development in relation to the land on which the building, work or relic is situated, the land that comprises the place, or land within the precinct except in pursuance of an approval granted by the Heritage Council of New South Wales.

As the application seeks consent for a master plan to subdivide the land upon which Macquarie Field House is located, the application was referred to the Heritage Council pursuant to the integrated development provisions of the Environmental Planning and Assessment Act 1979.

The Heritage Council reviewed the application and recommended the refusal of the application for the following reasons:

1. The proposal will have an adverse visual and physical effect on the environmental heritage of the property by reducing the existing curtilage, making a major change of land use and character, from open rural of a former farm to a semi-urban area of housing and its associated infrastructure.
2. The use of the incentive clause in CLEP 2015 (draft CLEP 2014) is not supported as the proposal fails to demonstrate heritage benefit arising from the proposed development.
3. The proposed development is not sensitive to and will have an adverse impact on the scenic and rural quality of the locality.
4. The proposed development will have an unacceptable and adverse impact on significant views and vistas to and from Macquarie Field House by reducing the open rural valley setting of open grass and limited tree plantings. The proposal diminishes the visual contrast between open fields and the densely planted farm homestead hilltop and thus its landmark quality in the district.
5. The completed development to the south of Macquarie Field House has reduced the urban break available to the south. Therefore, the subject site's land and the land to

the north is of greater value as setting for Macquarie Field House as an increasingly rare surviving example of a colonial farm in open, cleared land.

6. The proposal has failed to adequately address the significance of the Landscape fabric.

Pursuant to Section 91A(4) of the Environmental Planning and Assessment Act, if an integrated development approval body informs the consent authority that it will not grant an approval that is required in order for the development to be lawfully carried out, the consent authority must refuse consent to the application. In this regard, as the Heritage Council has recommended that the application be refused, and has not granted its approval to the proposed development, the consent authority is required to refuse the application. Accordingly, this report to the Panel recommends the refusal of the application.

1.2 State Environmental Planning Policy 55 – Remediation of Land

Due to the former agricultural use of the land, SEPP 55 is applicable to the proposed development. A Phase 1 Contamination Assessment was submitted with the application, which identified the following potential Areas of Environmental Concern in respect of the subject site:

- Soil contamination arising from weathering of building structures
- Pesticide and herbicide use
- Demolition of former buildings/sheds in the centre of the site

The assessment concludes that there is medium potential for contamination to be present on the site, and a Phase 2 Contamination Assessment is required.

A Phase 2 Contamination Assessment was requested from the applicant however was not provided. In the absence of such an assessment, the consent authority can not be satisfied, pursuant to Clause 7 of SEPP 55, that the land is suitable in its contaminated state, or will be suitable after remediation for the purpose for which the development is proposed to be carried out.

Accordingly, the application fails to satisfy the provisions of SEPP 55.

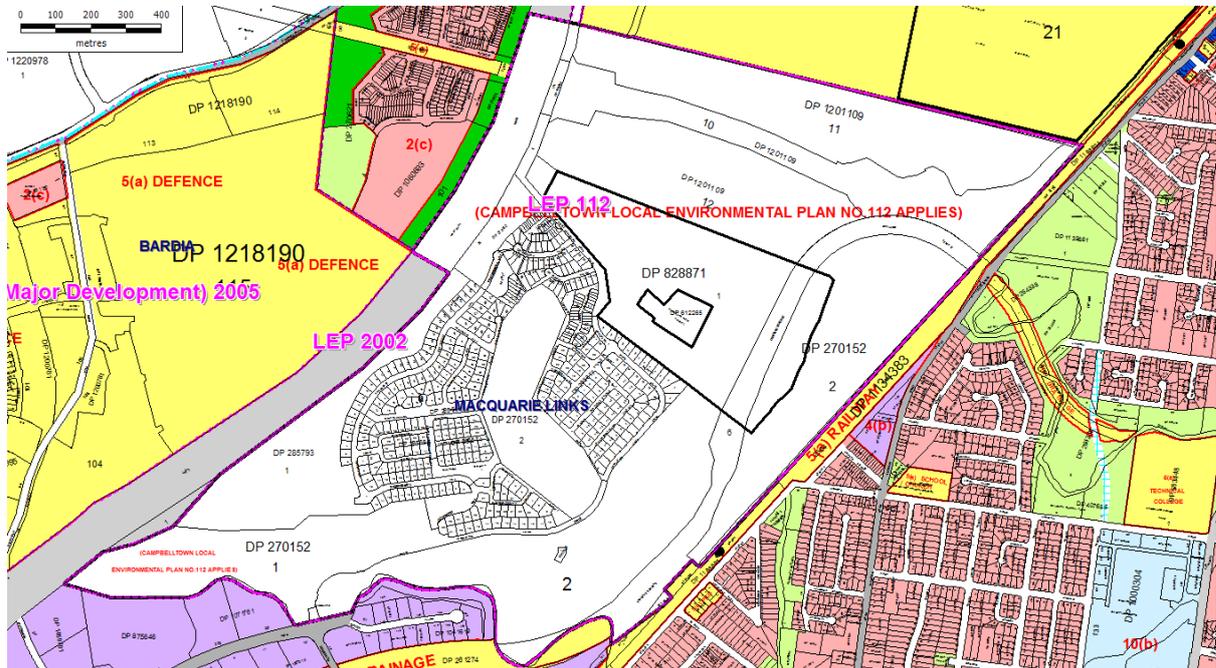
1.3 State Environmental Planning Policy (Infrastructure) 2007

Schedule 1 of the Infrastructure SEPP lists traffic-generating development that is required to be referred to NSW Roads and Maritime Services. Subdivisions of land that create 50 or more allotments are required to be referred to the RMS if they are located on sites that have access to a classified road, or access to a road that connects to a classified road if that access is within 90 metres of the classified road. In this particular case, given the peculiarities with regard to land ownership and access arrangements near the intersection of Campbelltown Road, Beech Road, Quarter Sessions Road and the existing access road to Macquarie Field House (which are discussed later in this report), the application was referred to the RMS for concurrence. The RMS advised Council that it has no objection to the application, and accordingly, the provisions of the SEPP have been satisfied.

1.4 Campbelltown Local Environmental Plan 112 – Macquarie Field House

At the time of the lodgement of the application, LEP 112 applied to the subject site. LEP 112 is now repealed, however as it was in force at the time of lodgement, the application is required to be assessed pursuant to its provisions (and clause 1.8A – Savings Provision of the Draft Campbelltown Local Environmental Plan 2014, now gazetted as CLEP 2015).

LEP 112 applies to land located between the Main Southern Railway Line and Campbelltown Road, bordered by Hurlstone Agricultural High School and Glenfield Park School to the north and the Ingleburn industrial estate to the south. The land to which LEP 112 applies is shown within the map below:



LEP 112 does not contain zoning provisions, and all land to which the LEP applies is therefore unzoned. The LEP lists the following purposes for which development may be carried out with development consent:

- Agriculture (other than intensive animal or horticultural husbandry),
- Buildings required to accommodate activities ancillary to other permissible purposes,
- Clubs,
- Dwelling-houses used in conjunction with development for other permissible purposes,
- Drainage,
- Educational establishments,
- Executive lodges,
- Hotels,
- Motels,
- Places of assembly,
- Planting of trees or shrubs for reforestation, silviculture or landscaping,
- Recreation areas,
- Recreation facilities,
- Refreshment rooms,
- Residential flat buildings used in conjunction with development for other permissible purposes,
- Roads,

- Shops where the gross floor area of each shop is less than 50 square metres,
- Training lodges, and
- Utility installations other than gas holders and generating works

The application contends that the proposed development is permissible by virtue of the fact that it proposes the construction of roads, and that dwelling-houses constructed on the allotments that the proposed estate would contain would be used in conjunction with those roads. However, Council has received legal advice in respect of the proposed development, which asserts that the dominant land use proposed under this application is subdivision and dwellings (not roads), and that therefore the application to subdivide the site and construct dwellings is not made permissible merely by its proposal to construct roads within the subdivision. Accordingly, as the proposed development is not permissible under LEP 112, it cannot be approved and must be refused. This report recommends the refusal of the application.

Clause 16 of LEP 112 states the following in respect of heritage items:

- (1) A person shall not in respect of a building, work, relic, tree or place that is a heritage item:

 - (a) demolish or alter the building or work,*
 - (b) damage or move the relic,*
 - (c) excavate for the purpose of exposing the relic,*
 - (d) damage or despoil the place or tree,*
 - (e) erect a building on or subdivide land on which the building, work or relic is situated or that comprises the place, or*
 - (f) damage any tree on land on which the building, work or relic is situated or on the land which comprises the place,**except with the consent of the council.**
- (2) The council must not grant consent to a development application required by subclause (1) unless it has taken into consideration the extent to which the carrying out of the proposed development would affect the heritage significance of the item and any stylistic or horticultural features of its setting.*
- (3) The council may require that a conservation plan accompany a development application referred to in this clause to enable the consent authority fully to consider the heritage significance of the item and the impact of the proposed development on the significance of the item and its setting.*

The application proposes to subdivide the site and is therefore affected by this clause. The clause is somewhat redundant as LEP 112 was gazetted prior to the listing of Macquarie Field House on the State Heritage Register. The site is now subject to the provisions of the Heritage Act 1977, and Council has largely deferred to the assessment of the NSW Heritage Council concerning heritage matters. A Conservation Management Plan was submitted following the lodgement of the application, and the application was referred to the NSW Heritage Council. As discussed in detail earlier in this report, the Heritage Council reviewed the application and recommended refusal of the application.

1.5 Draft Campbelltown Local Environmental Plan 2014

The application was lodged after the commencement of the exhibition of the Draft Campbelltown Local Environmental Plan 2014 on 12 June 2014 (which has now been gazetted as Campbelltown Local Environmental Plan 2015). Accordingly, under Section 79C(1)(a)(ii), the provisions of the draft Plan must be taken into consideration in the assessment of the application. An assessment of the application against the relevant provisions of the draft Plan is presented below:

Zoning/Permissibility

The zoning of the subject property under the draft CLEP 2014 is E3 – Environmental Management. Dwelling houses and roads are permissible land uses within the E3 zone with Council's development consent. Whilst the zoning of the property under the draft Plan should be given strong weight now that the CLEP 2014 has been gazetted (as CLEP 2015), the savings provision clause within the standard LEP requires Council to determine applications that were made before the commencement of the Plan as if the Plan had not commenced. In this regard, the zoning of a property under an applicable planning instrument cannot be disregarded in favour of its zoning under a draft planning instrument, and it is considered that the proposed development is still prohibited, by virtue of its prohibition under LEP 112.

The objectives of the E3 zone are as follows:

- To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.
- To provide for a limited range of development that does not have an adverse effect on those values.
- To enable development for purposes other than rural-residential only if that development is compatible and complementary, in terms of design, size and scale, with the character of land in the zone.
- To allow cellar door premises, restaurants and cafes only where they are directly associated with the agricultural use of the land.
- To protect, and maintain the environmental, ecological and visual amenity of, the Scenic Hills, the Wedderburn Plateau and environmentally sensitive lands in the vicinity of the Georges River from inappropriate development.
- To preserve the rural heritage landscape character of the Scenic Hills.
- To protect and enhance areas of scenic value and the visual amenity of prominent ridgelines.
- To protect bushland, wildlife corridors and natural habitat, including waterways and riparian lands.
- To ensure the preservation and maintenance of environmentally significant and environmentally sensitive land.

The proposed development is considered to be inconsistent with the first three of these objectives. As can be seen from the Heritage Council's assessment of the application, the proposed development is inappropriate, having regard to the site's cultural values and the proposed development's adverse impact on those values. The proposed master plan is not considered to be compatible and complimentary with the desired character of the E3 zone.

Minimum lot size

The allotment that contains Macquarie Field House itself has an applicable minimum lot size of 10 hectares, while the larger allotment that contains the grounds of Macquarie Field House has an applicable minimum lot size of 40 hectares. All of the proposed allotments would fail to comply with these minimum lot size standards.

Heritage conservation incentives

The consent authority may grant consent to development for any purpose of a building that is a heritage item or of the land on which such a building is erected, or for any purpose on an Aboriginal place of heritage significance, even though development for that purpose would otherwise not be allowed by this Plan, if the consent authority is satisfied that:

- (a) the conservation of the heritage item or Aboriginal place of heritage significance is facilitated by the granting of consent, and
- (b) the proposed development is in accordance with a heritage management document that has been approved by the consent authority, and
- (c) the consent to the proposed development would require that all necessary conservation work identified in the heritage management document is carried out, and
- (d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, or the heritage significance of the Aboriginal place of heritage significance, and
- (e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.

This application seeks to utilise this clause of the Draft CLEP 2014, to enable the proposed development to occur despite the proposed subdivision's failure to comply with the minimum lot sizes applicable under the draft plan.

The site is subject to the provisions of the Heritage Act 1977 as Macquarie Field House is listed on the State Heritage Register, and Council has largely deferred to the assessment of the NSW Heritage Council concerning heritage matters. A Conservation Management Plan was submitted following the lodgement of the application, and the application was referred to the NSW Heritage Council. As discussed in detail earlier in this report, the Heritage Council reviewed the application and recommended refusal of the application. In particular, the Heritage Council does not support the application's proposed use of the heritage conservation incentives provisions as the application fails to demonstrate heritage benefit arising from the proposed development. Therefore, it is considered that despite the application's ability to utilise this clause (even though the CLEP 2014 was only in draft form at the time of lodgement), the proposed development fails to satisfy clauses (d) and (e) above.

Essential Services

Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required:

- (a) the supply of water,
- (b) the supply of electricity,
- (c) the disposal and management of sewage,
- (d) stormwater drainage or on-site conservation,
- (e) suitable road and vehicular access,
- (f) telecommunication services,
- (g) the supply of natural gas.

The Services Assessment Report submitted with the application indicates the availability of certain services within the adjacent Macquarie Links estate, and implies that the proposed development could utilise or augment these services. However, some of the services that the report indicates as available are owned by the Macquarie Links Community Association and are not in fact public utilities. The application's reliance upon the use or augmentation of

services owned by the Macquarie Links Community Association is problematic, because the consent of the MLCA would be required under such a scenario, and this has neither been sought nor given. It would appear that the developer has not approached the MLCA regarding this matter, and therefore the application fails to demonstrate that the proposed estate would be provided with an adequate level of public utility services, as the Services Assessment Report lists no other alternative options to providing services to the proposed estate.

1.6 Development Control Plan 63 – Macquarie Field House

DCP 63 applies to land to which LEP 112 – Macquarie Field House applies. The plan was made under and conforms with the provisions of LEP 112. Whilst the DCP has now been repealed, it was in force at the time of the lodgement of the application, and the application is therefore required to be assessed pursuant to its provisions.

Section 5 of DCP 63 states that Council shall not approve any development application on the land unless and until it has been provided with, and approved of, a master plan for the development of the land. The master plan below was adopted by Council. It shows the development of the suburb of Macquarie Links to the south of Macquarie Field House, in a manner that is generally consistent with the eventual development of Macquarie Links, however no development is shown within the land occupied by Macquarie Field House and its curtilage. Accordingly, the proposed development, which seeks to subdivide the land occupied by Macquarie Field House and its curtilage, is inconsistent with the master plan, and is therefore inconsistent with the provisions of DCP 63.

1.7 Campbelltown sustainable City Development Control Plan 2014

Part 2 - Requirements Applying to All Types of Development

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

Views and Vistas – This section of the DCP requires that development shall respond to Campbelltown's important views and vistas to and from public places. These include views and vistas to and from rural/semi-rural landscape areas and heritage items. Whilst the inadequacy of the proposal in this regard has been covered somewhat by the Heritage Council's assessment and recommendation, Council's Heritage Officer has provided detail on some of the application's specific deficiencies. These are listed below:

- The view corridors identified within the Heritage Impact Statement do not correlate with the subdivision plans in terms of the view corridors that are proposed to actually be retained.
- Dwellings that would be constructed as part of the proposed estate would be clearly visible from Macquarie Field House (the house itself, not just its grounds), which would severely compromise its views.
- The view corridors have been assessed by only considering views from Macquarie Field House itself and not its grounds. The view corridors should be assessed from the edges of the plateau on which the house is situated, to ensure that the future grounds of Macquarie Field House maintain view corridors that are uninterrupted by the proposed urban development.

In light of the above deficiencies, the proposed development is considered to be unsatisfactory with respect to views and vistas.

Landscaping – The master plan proposes the planting of groupings of street trees, as well as the provision of trees within the proposed view corridors. A lake is also proposed to be constructed in the north-eastern corner of the site.

Stormwater – The application was referred to Council's City Works division for assessment of flooding impacts associated with the proposed development. City Works has advised that there are several matters with regard to the application that require the submission of additional information from the applicant, such as flooding models. Accordingly, the application is not satisfactory with regard to stormwater drainage.

Part 3.10 – Residential Subdivision of Urban Land

The provisions of this section of the SCDCP do not apply to the subject land, as these standards only apply to residential subdivision on urban land. The DCP contains specific standards for large-lot subdivision of non-urban land. However, of particular interest is that one of the indicative allotments would not achieve the minimum depth requirement for a residential allotment of 25 metres, and several indicative allotments would only just achieve this standard. This is considered to be unusual for a subdivision of non-urban land, and would indicate that the layout of the concept subdivision is not compatible with the site's rural character.

Part 4.6 – Residential Subdivision of Non-Urban Land

The subdivision provisions of this section of the SCDCP do not strictly apply to the subject land, as these standards only apply to land to which a minimum allotment size applies under the Campbelltown Local Environmental Plan 2015. As the subject application was lodged prior to the gazettal of the CLEP 2015, the subdivision standards outlined within this section of the SCDCP are not applicable to this application. However, they may be used as a guide for non-urban subdivision of the type proposed (although it is noted that the CLEP 2015 has set a minimum lot size of 10 hectares for Macquarie Field House itself and 40 hectares for its grounds).

If the applicable subdivision standards for 4,000sqm lots are used, all allotments require a frontage of 45 metres and a minimum frontage to depth ratio of 1:2, and several indicative allotments would not achieve these standards. If the subdivision standards for one and two hectare allotments are used, all allotments require a minimum width of 60 metres, and several indicative allotments would not achieve these standards. Whilst these standards do not apply to the proposed development, the master plan's failure to meet these standards indicate that the number of allotments proposed is excessive and the proposal is an overdevelopment of the site.

2. Planning Assessment

Flora and Fauna

The application was referred to Council's Environmental Planning section and was found to be deficient with regard to its assessment of potential impacts on flora and fauna. The site contains native vegetation however the application does not include a Flora and Fauna Assessment Report prepared in accordance with the Office of Environment and Heritage's *Threatened Species Survey and Assessment Guidelines* and *Field Survey Methods*.

Integrated Development – Water Management Act

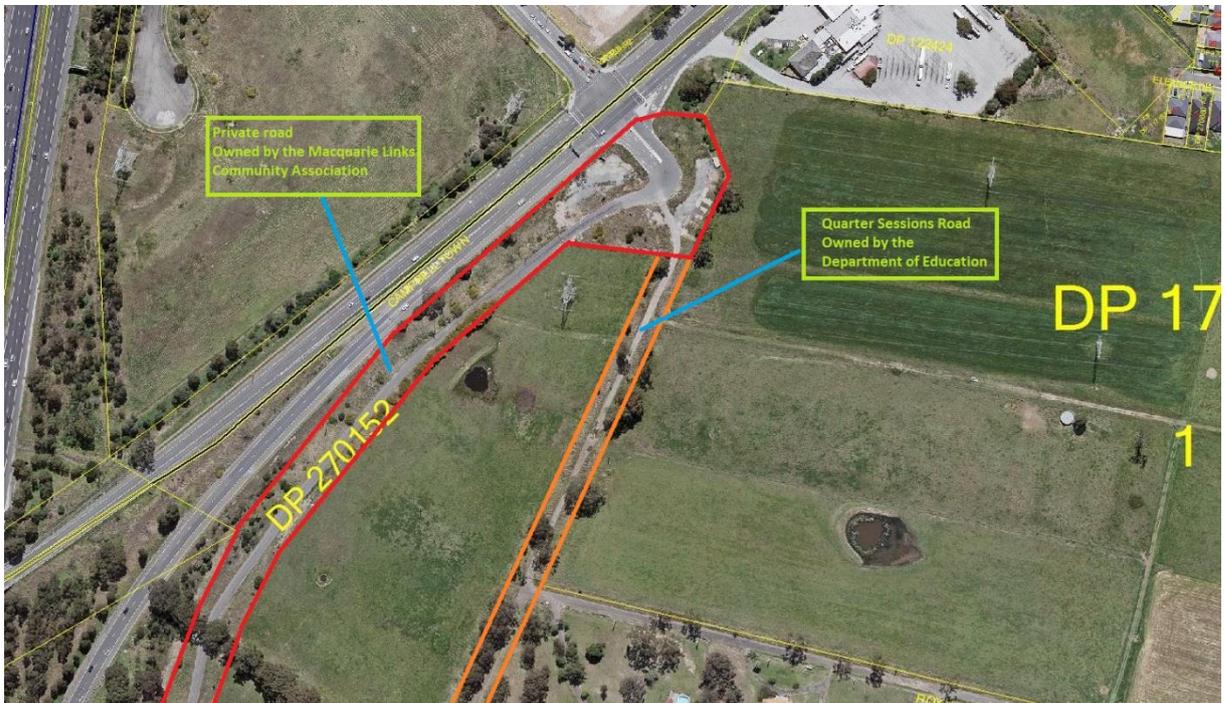
The subject site adjoins a natural water body to its east and is therefore integrated development pursuant to the provisions of the Water Management Act 2000. The application was referred to the NSW Department of Primary Industries (Water Division), who subsequently issued its General Terms of Approval.

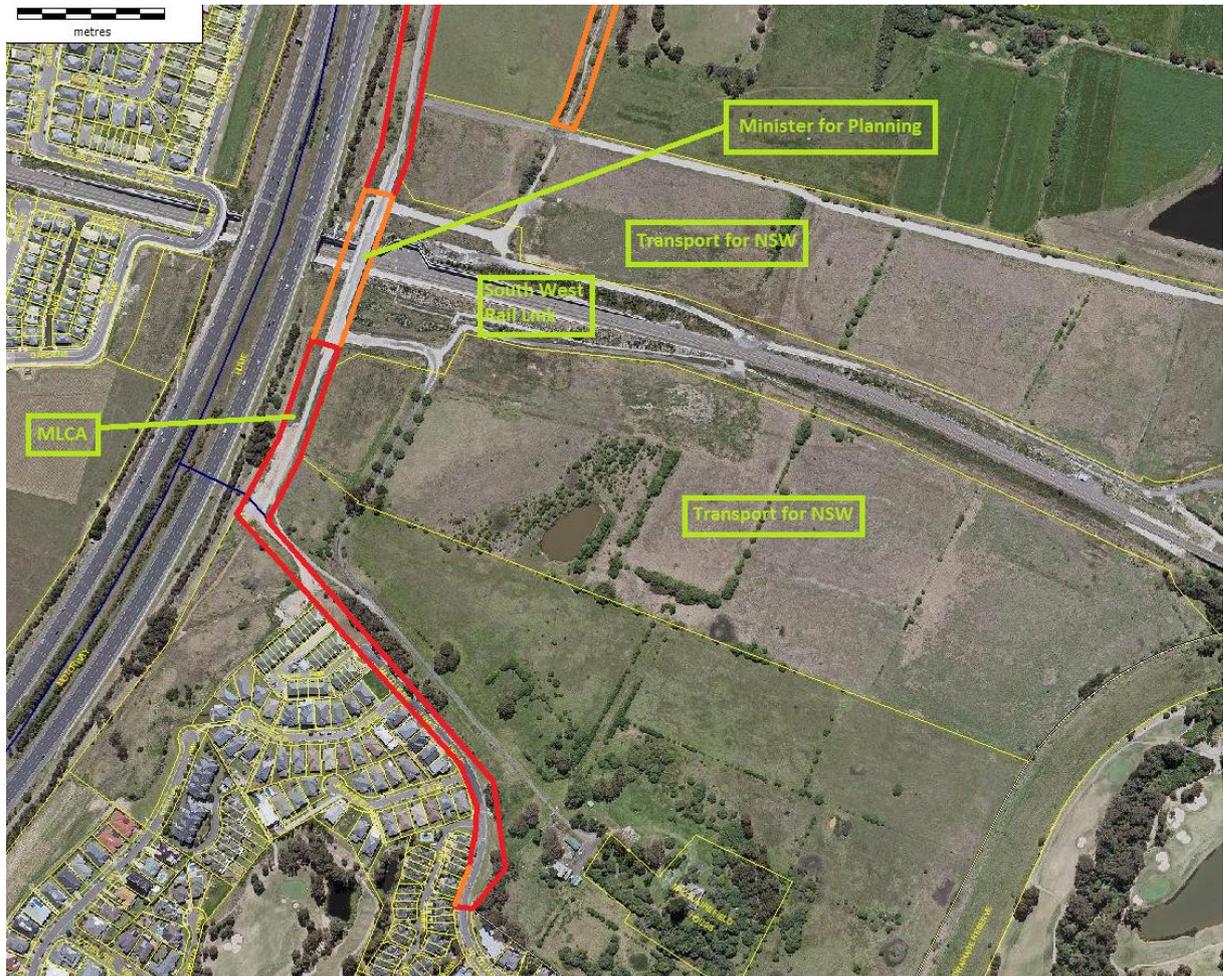
Physical and Legal Access/Owner's Consent

At present, the site does not have direct access to a public road. There are currently two roads that could potentially be used to access the site. Diagrams showing these are overleaf. The first of these roads is a private road owned by the Macquarie Links Community Association. It runs north-south from its signalised intersection with Campbelltown Road and Beech Road, and runs directly to the east of the Hume Motorway. The road is not used by residents of Macquarie Links for access to their properties. Its original intent was to provide direct access to guests of a hotel and convention centre that was planned for the northern section of Macquarie Links. The development did not occur and therefore the road was never upgraded to an appropriate standard. The part of the road to the north of the South West Rail Link is formed but unsealed, whilst the part of the road to the south of the South West Rail Link is unformed and unsealed. The two sections of the road are bisected by a bridge over the South West Rail Link, which is on land owned by the Minister for Planning. In order for the

proposed development to use the road owned by the Macquarie Links Community Association, the land upon which Macquarie Field House is situated would need to have the benefit of a right of carriageway over the MLCA road. However, the application makes no attempt to document or verify whether or not this is the case.

The second of these two roads is known as Quarter Sessions Road. Despite its name, Quarter Sessions Road is not a gazetted public road, it is rather contained in an allotment of land that is owned by the Department of Education. It is an unsealed road that runs north-south from the intersection of the Macquarie Links Community Association's private road in the north to the boundary of the vacant land owned by Transport for NSW to the south. Within TfNSW land, the road continues in a southerly direction then diverts west to cross the South West Rail Link over a bridge owned by the Minister for Planning that was constructed when the rail line was constructed. It then tracks back east and continues along its original alignment in a southerly direction through TfNSW land until it reaches the property boundary of Macquarie Field House. The land upon which Macquarie Field House is situated appears to benefit from rights of carriageway through Quarter Sessions Road, TfNSW land and the South West Rail Link bridge (although the application makes no attempt to document or verify this).





The application does not explicitly state how access to the estate would be provided, however the proposed master plan shows the estate being accessed by the southern end of Quarter Sessions Road. Whether or not the subject site contains lawful rights of carriageway over adjoining properties from Campbelltown Road to its property boundary, these rights of carriageway were created to service the property in its current rural form.

The standard of both of these roads reflects their current use (access to a rural property and infrequent maintenance of the railway line), and both roads are completely unsuitable to be used as the main access road into a residential estate containing 73 allotments. In the absence of a public road being constructed to service the proposed subdivision, one of the existing roads would need to be upgraded to the standard of a public road in order to access the estate. This would require works to be carried out on land owned by the Macquarie Links Community Association (near the intersection of Campbelltown Road, Beech Road and the MLCA private access road) as well as on land owned by one or more government authorities. No such road works have been proposed under this application, and the consent of these landowners has not been sought or given. Further, this is not a matter that could be addressed by way of a condition of consent, since the consent of other landowners would be required in order for these works to take place, and there is no certainty that such consent would be forthcoming.

Relying on rights of carriageway through multiple surrounding properties that were created to facilitate access to a farm and homestead is considered to be an inappropriate method of accessing a residential estate containing 73 allotments, for the following reasons:

- The maintenance obligation for the roads that are burdened by the rights of carriageway would still fall upon the owners of the lands through which the rights of carriageway pass, and the residents of the proposed estate would not necessarily be required to contribute towards such maintenance.
- Utility services are typically located within road reserves. If the Macquarie Links Community Association does not agree to the proposed estate's usage of its private utility networks, new services would need to be laid from Campbelltown Road to the estate. The installation of such services falls outside the terms of a right of carriageway, and the developer would need to rely on the granting of consent by the surrounding land owners to the creation of easements for services, which may not be forthcoming.
- Such a configuration could potentially inhibit the orderly and economic development of the locality to the north of the South West Rail Link as part of the Glenfield to Macarthur Urban Renewal Corridor. In particular, a comprehensive upgrade of the intersection of Campbelltown Road and Beech Road is likely to be required to facilitate development of the lands to the north of the site, as well as the provision of arterial and local road networks feeding into this intersection. The intensification of the use of rights of carriageway and the provision of utility services therein would likely prejudice the orderly provision of road and utility infrastructure and complicate any land acquisition required as part of the development of the precinct.

Accordingly, the subject site does not have appropriate vehicular access to service the proposed development. It is considered that any development or subdivision of the Macquarie Field House site requires direct public road access to be available to the site. Further, any development or subdivision of the Macquarie Field House site should not precede the implementation of the Glenfield to Macarthur Urban Renewal Corridor and the provision of associated road and utility infrastructure. Any development of the site that occurs prior to this would be premature as it would prejudice the orderly and economic development of land to the north of the site that is the subject of current investigations by the Government in association with the Glenfield to Macarthur Urban Renewal Corridor.

3. Public Participation

The application was publicly exhibited and notified to nearby and adjoining residents. Council has received a total of eight submissions, including three from Government departments that own or administer land in the vicinity of the subject site that would be affected by the proposal (Transport for NSW, Government Property NSW, and the Department of Education), the Macquarie Links Community Association, which represents the residents of the neighbouring suburb of Macquarie Links, and four individuals. These submissions are discussed below:

Transport for NSW submission

TfNSW owns land to the immediate north of Macquarie Field House. TfNSW accesses its land via the benefit of an easement for a right of carriageway burdening the privately owned (unsealed) road lot contained in Lot 1 DP 270152 belonging to the Macquarie Links Community Association. The application's proponent has access to its lands via the benefit of rights of carriageway over privately owned access roads belonging to TfNSW and the Macquarie Links Community Association. The Macquarie Links Community Association does not use its road lot for day-to-day access to the estate.

The application's proponent currently has access through land accommodating the Glenfield to Leppington railway line. Access is via unsealed but formed private access roads predominantly used by Sydney Trains vehicles for maintenance access to the rail corridor. These private shared access roads are not suitable for day-to-day use by residential property owners.

The rights of carriageway that are in place favouring the proponent's lands were created to provide access to Macquarie Field House (and farm) – not a major residential development. The current access arrangements, including maintenance of the unsealed roads is not appropriate when taking into account the traffic that would be generated by a residential development of the scale shown in the development application.

TFNSW submits that access to the proposed residential subdivision should be via a properly formed, sealed public road that is regulated and maintained by a Roads Authority.

Response

The content of this submission is considered to be correct, sound and reasonable. As discussed earlier in this report, the proposed development fails to provide vehicular access that is appropriate to the land use proposed. Further, it is considered that any development or subdivision of the Macquarie Field House site requires direct public road access to be available to the site.

Further, any development or subdivision of the Macquarie Field House site should not precede the implementation of the Glenfield to Macarthur Urban Renewal Corridor and the provision of associated road and utility infrastructure. Any development of the site that occurs prior to this would be premature as it may prejudice the orderly and economic development of land to the north of the site that is the subject of current investigations by the Government in association with the Glenfield to Macarthur Urban Renewal Corridor.

Government Property NSW submission

There is limited vehicular access to the proposed residential subdivision from either the south or north of the property. Access to the proposed residential subdivision is via a private road located on the Government owned land to the north.

The access way currently provides vehicular access to Macquarie Field House on an unsealed road. The concept master plan for residential subdivision proposes to increase the number of lots from one to 69. The traffic report submitted with the application does not assess the impact of this increased demand on the private unsealed access road currently servicing the site.

Further consideration is required regarding access rights to the proposed subdivided site, including access road location and infrastructure upgrades. Further consideration is also required regarding the impact of the proposal on the intersection of Campbelltown Road and

Quarter Sessions Road, given the RMS is currently reviewing the road network in Glenfield with a view to upgrading this intersection.

Response

The content of this submission is considered to be correct, sound and reasonable. As discussed earlier in this report, the proposed development fails to provide vehicular access that is appropriate to the land use proposed. Further, it is considered that any development or subdivision of the Macquarie Field House site requires direct public road access to be available to the site.

Further, any development or subdivision of the Macquarie Field House site should not precede the implementation of the Glenfield to Macarthur Urban Renewal Corridor and the provision of associated road and utility infrastructure. Any development of the site that occurs prior to this would be premature as it may prejudice the orderly and economic development of land to the north of the site that is the subject of current investigations by the Government in association with the Glenfield to Macarthur Urban Renewal Corridor.

Department of Education submission

There is limited vehicular access to the proposed residential subdivision from either the south or north of the property. It appears access to the proposed residential subdivision is only gained via either Lot 1 DP 270152 (a private road owned by the Macquarie Links Community Association) or Quarter Sessions Road (Lot 2 DP 808118) owned by the Department of Education.

Quarter Sessions Road is an unsealed road that does not currently provide direct access to Campbelltown Road. The proposed residential subdivision will increase the traffic on these roads to allow for access to 69 residential allotments. The traffic report submitted with the application does not assess the impact of this increased demand on these roads. It is requested that further work and consultation is undertaken in relation to access to the proposed residential subdivision from all adjoining properties.

Further consideration is also required regarding the impact of the proposal on the intersection of Campbelltown Road and Quarter Sessions Road, given the RMS is currently reviewing the road network in Glenfield with a view to upgrading this intersection.

Response

The content of this submission is considered to be correct, sound and reasonable. As discussed earlier in this report, the proposed development fails to provide vehicular access that is appropriate to the land use proposed. Further, it is considered that any development or subdivision of the Macquarie Field House site requires direct public road access to be available to the site.

Further, any development or subdivision of the Macquarie Field House site should not precede the implementation of the Glenfield to Macarthur Urban Renewal Corridor and the provision of associated road and utility infrastructure. Any development of the site that occurs prior to this would be premature as it may prejudice the orderly and economic development of land to the north of the site that is the subject of current investigations by the Government in association with the Glenfield to Macarthur Urban Renewal Corridor.

Macquarie Links Community Association submission

Issue

Macquarie Links is adjacent to the proposed concept Master Plan and is part of Campbelltown LEP 112 which includes Macquarie Field House. Macquarie Links is a Master Plan development in its final stages of construction adjacent to the southern boundary of Macquarie Field House. The owners of properties in this suburb have always been advised that the Master Plan controlled the development and expected that Macquarie Field House, a heritage building, and associated lands would remain as is and not be developed. There is an expected outlook for all Macquarie Links homes within sight of Macquarie Field House that a green area with trees would surround the house and provide a historical background for the estate.

Response

It is correct that at the time of lodgement of the application, Campbelltown LEP 112 applied to the property. The DCP and master plan approved thereunder do show that the curtilage of Macquarie Field House would remain undeveloped. The application fails to demonstrate how the property can be subdivided and developed under the planning legislation applicable at the time of the lodgement of the application.

Issue

Terms and conditions applicable to properties in Macquarie Links backing onto the southern boundary of Macquarie Field House (DP285774) included specific provisions to screen them from line of sight and reduce the impact on Macquarie Field House. These were put in place so as not to have a deleterious impact on the view from Macquarie Field House. Consequently the expectation of the owners of the Macquarie Links houses was to have views of open land from the rear of houses and their back yards. There was no expectation of housing being developed on the Macquarie Field House heritage land.

Response

This objection is understandable, since the planning legislation applicable at the time of the lodgement of the application (LEP 112) does not allow for subdivision and development of the curtilage of Macquarie Field House.

Issue

It is considered that the number and location of proposed allotments will remove the heritage value of Macquarie Field House and land. Any proposed concept should at minimum provide the same terms and conditions as those applied to Macquarie Links properties, particularly including sight lines from Macquarie Links houses, clearances and heights on proposed properties and a buffer zone with tree planting along the Macquarie Links/ Macquarie Field House boundary. Macquarie Links residents do not wish to be overlooked by the proposed development.

Response

The NSW Heritage Council concurs with the view that the proposal will have an adverse visual and physical effect on the environmental heritage of the property by reducing the existing curtilage, making a major change of land use and character, from open rural of a former farm to a semi-urban area of housing and its associated infrastructure. The

application fails to demonstrate an appropriate heritage outcome including the interface between the subject site and adjoining lands.

Issue

There is no reference in the application that Macquarie Links Community Association owns the private access road (Lot 1 DP270152). Macquarie Links Community Association will require early communication with Campbelltown Council, Office of Strategic Lands and the developer regarding access rights and costs of access. Also, the question of selling the access road to the Office of Strategic Lands in order to make the access a public road needs to be addressed. Existing subdivisions did not envisage the proposed development into such a large residential area requiring fully developed road, paths, street lighting etc., with consequent maintenance.

Comment

This point of objection is considered to be correct, sound and reasonable. As discussed earlier in this report, the proposed development fails to provide vehicular access that is appropriate to the land use proposed. Further, it is considered that any development or subdivision of the Macquarie Field House site requires direct public road access to be available to the site.

Further, any development or subdivision of the Macquarie Field House site should not precede the implementation of the Glenfield to Macarthur Urban Renewal Corridor and the provision of associated road and utility infrastructure. Any development of the site that occurs prior to this would be premature as it may prejudice the orderly and economic development of land to the north of the site that is the subject of current investigations by the Government in association with the Glenfield to Macarthur Urban Renewal Corridor.

Issue

There is no mention in the report of any need to communicate with Macquarie Links Community Association regarding any of the proposed service connections. Most of these services are actually owned by Macquarie Links Community Association and are the responsibility of Macquarie Links Community Association for ongoing maintenance, repair or replacement. The Community objects to any arbitrary proposal to connect to existing services in Macquarie Links, without full negotiation on capacities, costs for upgrades/use and ongoing cost of maintenance.

Comment

The Services Assessment Report submitted with the application indicates the availability of certain services within the adjacent Macquarie Links estate, and implies that the proposed development could utilise or augment these services. However, some of the services that the report indicates as available are owned by the Macquarie Links Community Association and are not in fact public utilities.

The application's reliance upon the use or augmentation of services owned by the Macquarie Links Community Association is problematic, because the consent of the MLCA would be required under such a scenario, and this has neither been sought nor given. It would appear that the developer has not approached the MLCA regarding this matter, and therefore the application fails to demonstrate that the proposed estate would be provided with an adequate level of public utility services, as the Services Assessment Report lists no other alternative options to providing services to the site.

Issue

The matter of security is not addressed in the application. It is a matter that should be addressed, as Macquarie Links is a secure estate with 24/7 front gate security plus roving patrols at night. Residents enjoy a lifestyle at Macquarie Links which includes the security provided. Residents have queried if there will be any impact or reduction in security of properties within the Macquarie Links estate due to construction of buildings around Macquarie Field House, new residences along the boundary between the two estates, or even access being forced from persons in the Macquarie Field House development into the Macquarie Links estate. Certainly it requires a fenced buffer with screening trees between the two estates.

Comment

Beyond ensuring the adequate provision of boundary fencing between the two estates, the consent authority can not ensure that trespassing will not occur. Notwithstanding this, the provision of a vegetated buffer between the two estates is a worthy proposition that any future development on the site should consider.

Matters raised by individuals

Issue

In building a distinctive sense of place for Campbelltown, we are again losing a large rural property to developers, and the history of Campbelltown is being slowly eroded. The number of proposed lots would remove the heritage value of Macquarie Field House.

Comment

The NSW Heritage Council concurs with the view that the proposal will have an adverse visual and physical effect on the environmental heritage of the property by reducing the existing curtilage, making a major change of land use and character, from open rural of a former farm to a semi-urban area of housing and its associated infrastructure.

Issue

The proposal should be rejected at this time and reassessed concurrently with the proposed development of Hurlstone Agricultural High School.

Comment

This view is considered to be correct, and it is considered that any development or subdivision of the Macquarie Field House site should not precede the implementation of the Glenfield to Macarthur Urban Renewal Corridor and the provision of associated road and utility infrastructure. Any development of the site that occurs prior to this would be premature as it would prejudice the orderly and economic development of land to the north of the site that is the subject of current investigations by the Government in association with the Glenfield to Macarthur Urban Renewal Corridor.

4. Conclusion

This application was lodged on the day before the gazettal of the Campbelltown Local Environmental Plan 2015. At the time of lodgement, the application did not contain a Conservation Management Plan, which is a key document that should inform the design of a proposal as opposed to being prepared following the submission of a development

application. As discussed earlier in the report, the application also lacks detail and clarity in a number of areas. It would appear that the original applicant intended to avoid the provisions of the incoming Campbelltown Local Environmental Plan 2015, however it is not clear why this is the case, particularly as Campbelltown Local Environmental Plan 112 prohibits the proposed development while the heritage conservation incentives clause of the CLEP 2015 would allow the proposal to be considered.

Notwithstanding the above, the proposed master plan is considered to be significantly flawed, in addition to the proposed development's prohibition under the applicable planning instrument. The NSW Heritage Council has recommended that the application be refused and has given Council a detailed list of reasons to support this recommendation. As the Heritage Council is an integrated development approval body in respect of this application, which has informed Council that it will not grant its approval to the application, the consent authority is obliged to refuse the application under the provisions of the Environmental Planning and Assessment Act 1979.

The subject site does not have appropriate vehicular access to service the proposed development, and the application fails to demonstrate how the proposed development would be adequately serviced. Further, the proposed development would likely prejudice the outcome of current investigations into large parcels of land to the north of the site by the Government in association with the Glenfield to Macarthur Urban Renewal Corridor. It is therefore considered that the proposed development fails to satisfy objective (a)(ii) of the Environmental Planning and Assessment Act 1979, which is to encourage the promotion and coordination of the orderly and economic use and development of land.

The application fails to comprehensively address contamination, flooding and flora/fauna issues, and fails to adequately protect important views and vistas to and from the site. The number of allotments proposed under the master plan is considered to be excessive and the proposal is considered to be an overdevelopment of the site.

The matters raised within submissions received in response to the public exhibition of the proposed development from Government authorities who own or administer surrounding lands as well as the general public have not been addressed. For the reasons detailed within this report the subject site is considered to be unsuitable for a development of the scale proposed, and the proposal is not considered to be in the public interest.

Officer's Recommendation

That development application 3510/2015/DA-MP proposing a concept master plan for the residential subdivision of Macquarie Field House be refused for the reasons outlined below:

1. Pursuant to the provisions of section 91A(4) of the Environmental Planning and Assessment Act 1979, the NSW Heritage Council has advised that the proposed development is unsatisfactory for the following reasons:
 - a. The proposal will have an adverse visual and physical effect on the environmental heritage of the property by reducing the existing curtilage, making a major change of land use and character, from open rural of a former farm to a semi-urban area of housing and its associated infrastructure.
 - b. The use of the incentive clause in CLEP 2015 (draft CLEP 2014) is not supported as the proposal fails to demonstrate heritage benefit arising from the proposed development.

- c. The proposed development is not sensitive to and will have an adverse impact on the scenic and rural quality of the locality.
 - d. The proposed development will have an unacceptable and adverse impact on significant views and vistas to and from Macquarie Field House by reducing the open rural valley setting of open grass and limited tree plantings. The proposal diminishes the visual contrast between open fields and the densely planted farm homestead hilltop and thus its landmark quality in the district.
 - e. The completed development to the south of Macquarie Field House has reduced the urban break available to the south. Therefore, the subject site's land and the land to the north is of greater value as setting for Macquarie Field House as an increasingly rare surviving example of a colonial farm in open, cleared land.
 - f. The proposal has failed to adequately address the significance of the Landscape fabric.
2. Pursuant to the provisions of Section 5(a)(ii) of the Environmental Planning and Assessment Act 1979, the proposed development would not result in an orderly and economic use and development of land, for the following reasons:
 - a. Appropriate vehicular access to service the proposed development in the form of a public road is not available to the subject site.
 - b. The application fails to demonstrate that the proposed development would be provided with an adequate level of public utility services.
 - c. The proposed development would prejudice the outcome of current investigations into large parcels of land to the north of the site by the Government in association with the Glenfield to Macarthur Urban Renewal Corridor.
3. Pursuant to the provisions of Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development fails to satisfy the provisions of State Environmental Planning Policy 55 – Remediation of Land.
4. Pursuant to the provisions of Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development is prohibited pursuant to the provisions of Campbelltown Local Environmental Plan 112 – Macquarie Field House.
5. Pursuant to the provisions of Section 79C(1)(a)(ii) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the objectives of the E3 – Environmental Management zone under Draft Campbelltown Local Environmental Plan 2014 having regard the site's cultural values and the proposed development's adverse impact on those values. The proposed master plan is not considered to be compatible and complimentary with the desired character of the E3 zone.
6. Pursuant to the provisions of Section 79C(1)(a)(ii) of the Environmental Planning and Assessment Act 1979, the application fails to justify the proposed use of the heritage conservation incentives provisions under Draft Campbelltown Local Environmental

Plan 2014. In this regard, these provisions may not be used as the proposed development would adversely affect the heritage significance of Macquarie Field House, including its setting, and the proposed development would have significant adverse effects on the amenity of the surrounding area.

7. Pursuant to the provisions of Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the provisions of Campbelltown Development Control Plan 63 – Macquarie Field House and the master plan endorsed thereunder, in that the proposal seeks to develop the curtilage of Macquarie Field House whilst the endorsed master plan shows the curtilage remaining undeveloped.
8. Pursuant to the provisions of Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development fails to adequately consider views and vistas to and from Macquarie Field House and its rural/semi-rural landscape.
9. Pursuant to the provisions of Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the size and depth of the proposed allotments are inconsistent with the minimum allotment sizes/depths outlined within the Campbelltown Sustainable City Development Control Plan 2014 for subdivision of non-urban land. In this regard, the number of proposed allotments is excessive, and the proposal is considered to be an overdevelopment of the site.
10. Pursuant to the provisions of Sections 79C(1)(a)(iii) and (1)(b) of the Environmental Planning and Assessment Act 1979, information sufficient to demonstrate that the proposed development would not have a detrimental impact in terms of flooding has not been submitted with the application.
11. Pursuant to the provisions of Sections 5A and 79C(1)(b) of the Environmental Planning and Assessment Act 1979, information sufficient to demonstrate that the proposed development would not have a detrimental impact on threatened species, populations or ecological communities and their habitats has not been submitted with the application.
12. Pursuant to the provisions of Section 79C(1)(c) of the Environmental Planning and Assessment Act 1979, having regard to the site's heritage significance and cultural values, its lack of appropriate vehicular access and serviceability, and the likely presence of contaminants, the site is not considered to be suitable for the proposed development.
13. Pursuant to the provisions of Section 79C(1)(d) of the Environmental Planning and Assessment Act 1979, the content of submissions received in response to the public exhibition and notification of the proposed development has not been addressed satisfactorily.
14. Pursuant to the provisions of Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, as the proposed development would adversely affect an item of significant cultural heritage, would result in a disorderly development of land, and has failed to demonstrate that the site is suitable for the proposed development, approval of the application is not in the public interest.

Attachment 1 – Locality Plan



Attachment 2 – Zoning Map showing the subject site and its listed curtilage

