

**Report to the Secretary on an application for a Site Compatibility Certificate
State Environmental Planning Policy (Infrastructure) 2007**

SITE: Lot 1 Pembroke Road, Minto (Lot 1 in DP 620 265)

APPLICANT: Endeavour Energy

PROPOSAL: To permit multi-dwelling housing at Lot 1 Pembroke Road, Minto

LGA: Campbelltown

PERMISSIBILITY STATEMENT

The site is State land, currently zoned under Campbelltown (Urban Areas) Local Environmental Plan 2002 as:

- 5(a) Special Uses A (Depot),
- 5(a) Special Uses A (Drainage), and
- 2(b) Residential B.

Zone 5(a) covers most of the site and consequently, residential development is currently not permissible. The site is surplus to Endeavour Energy needs and the application for a site compatibility certificate is to enable residential development. In accordance with Clause 18 (2), the sites adjacent eastern and southern boundaries have residential development and the proposed use of multi dwelling housing is permissible in the adjoining 2(b) Residential B zone.

In accordance with Clause 18 (1) (a) of the Infrastructure SEPP, the land is not subject to a Standard Instrument Local Environmental Plan, or is listed for conservation or reservation in any of the excluded categories or protection zones.

CONSIDERATION UNDER CLAUSE 19(6)

The Secretary must not issue a certificate unless the Secretary:

- (a) has taken into account any comments received from the council within 14 days after the application for the certificate was made; and
- (b) is of the opinion that the development concerned is compatible with the surrounding land uses having regard to the following matters:
 - i) the existing uses and approved uses of land in the vicinity of the development,
 - ii) the impact that the development (including its bulk and scale) is likely to have on the existing uses, approved uses and uses that, in the opinion of the Secretary, are likely to be the preferred future uses of that land,

- iii) the services and infrastructure that are or will be available to meet the demands arising from the development, and
- (c) is of the opinion that the development concerned is not likely to have an adverse effect on the environment and does not cause any unacceptable environmental risks to the land.

These matters are addressed in detail below.

Clause 19(6)(a): Comments from Council.

Campbelltown Council was invited to comment via email and letter on the 20 August 2015 with several subsequent phone calls and emails. Given the interest Council had shown in the site, it was considered prudent to wait for their submission. A detailed submission from Council was received on 11 November 2015, attached at Tab A. Council's submission was sent to the proponent for review. The Department discussed Council's comments with the proponent and Council's Acting Director Planning & Environment.

The majority of Council's concerns can be appropriately dealt with as part of any future development application process, such as:

- detailed flora and fauna assessment;
- bushfire risk assessment and asset protection zones;
- revised Site Audit Statement;
- specific details of acoustic fencing; and
- proposed lot size and building height consistency with Campbelltown DCP 2014

Issues raised by council regarding biodiversity and contamination are addressed by imposing the following requirements on the SCC:

- the high flora and fauna value of the site should be protected from development by establishing a 25m biodiversity corridor along McBarron Creek.
- development on land in the area identified as the "Impacted Zone" must comply with the Site Audit Statement issued on the 6 May 2015; this includes submitting a revised Environmental Management Plan (EMP) which assesses the best way of managing the site contamination for the development proposed.
- any development approval on the land in the "impacted zone" must provide an impervious seal over the impacted zone or other built measure that provides a long-term physical barrier between future occupants and the soil.

These are addressed by imposing requirements on the SCC and are discussed in the section titled "Effect on the environment" below.

Clause 19(6)(b): Compatibility with surrounding land uses

The Secretary must not issue a certificate unless she is of the opinion that the development concerned is compatible with the surrounding land uses having regard to the following matters;

Clause 19(6)(b)(i). The existing uses and approved uses of land in the vicinity of the development

The proposal comprises of multi dwelling housing development with three storey components and is generally compatible with the existing and approved use of land in the vicinity which is also predominantly residential as see in the aerial map at Tab E - Site Analysis.

The land uses adjacent to the development include: multi dwelling housing to the south, dwellings to the east and recreational areas to the west. In terms of future development on adjoining land, the current zoning and the proposed R2 (low density residential) zoning both permit multi-dwelling housing.

The proposal allows for multi dwelling housing supporting approximately 102 lots ranging from 300m² to 476m² and a common open space area of 1200m². The proposed density complies with Campbelltown's Development Control Plan 2014 which permits a minimum site area of 300m² per dwelling. The majority of the surrounding residential dwellings are of single or two storeys. However adjacent dwellings off Westmoreland Road, to the sites south, are three storeys. Thus, the proposed density and built form is in keeping with the existing and permissible density.

Clause 19(6)(b)(ii). The impact that the development (including its bulk and scale) is likely to have on the existing uses, approved uses and uses that, in the opinion of the Secretary are likely to be the preferred future uses of that land

In terms of impact on existing and future uses of surrounding land, the surrounding land will be subject to the Campbelltown LEP 2015, a new standard instrument LEP for the whole local government area, which takes effect on the 11 March 2016. The surrounding residential areas will be zoned R2 Low Density Residential, under the new Principal LEP a zone that permit multi-unit housing. As such, the proposal will have little to no impact on the existing and future uses of surrounding land.

The applicant has noted that they would like to build dwellings up to three storeys in height; they justify this on the basis that whilst the majority of nearby housing is one to two storeys, there are some 3 storey dwellings to the south, along Westmoreland Road. A desktop review of the scale of housing along Westmorland Road shows that there are some 3 storey elements, however the majority of these are to the rear of the sites and occur due to the slope of the land down to the rear creating an additional "basement" under the 2 storey front portion of the houses.

It is considered that were the proposal to follow suit, it could be appropriate to allow 3 storey developments on some sites. Clause 18 (4) of the Infrastructure SEPP allows Council to approve developments that are more stringent and to limit aspects of development even where such aspects are permitted in the site compatibility certificate, as such, Council is able to apply controls which result in the proposal following the scale and form of surrounding development as assessed at the development application stage. Accordingly, it is considered appropriate to allow the proposal to proceed with scope for limited 3 storey development.

Clause 19(6)(b)(iii). The services and infrastructure that are or will be available to meet the demands arising from the development.

The proposed site is centrally located within the Campbelltown local government area and is well serviced by transport, recreational and social infrastructure and utilities. In terms of transport the site is adjacent to Pembroke Road, which is a classified road, providing access to the Hume Highway, a major cross- regional road. Public transport is available via two train stations at Leumeah 1.7km to the south of the site and Minto 1.3km north of the site, providing intra-city services at approximately half hour intervals. Bus stops are also available along adjacent streets, namely Westmorland Road and Townson Avenue.

In terms of services and facilities, the site has access to a local shopping centre – Minto 1km away and the major regional centre of Campbelltown –Macarthur 4km to the south west. The site is within 300 m to a primary school and 3km to a high school, and serviced by local and regional sporting facilities and parks. As the surrounding area is developed and serviced by utilities, the limited additional load can be serviced by existing utility services.

As the proposal is similar to surrounding development and relatively small in terms of additional residents, it is considered to be able to be serviced by regional services and infrastructure. Council is able to apply section 94 contributions to ensure local facilities and infrastructure is able to meet the additional demand.

Clause 19(6)(c): Effect on the environment

The Secretary must not issue a certificate unless she is of the opinion that the development concerned is not likely to have an adverse effect on the environment and does not cause any unacceptable environmental risks to the land (clause 19(6)(c)):

Adverse effects on the environment and unacceptable environmental risks to the land

The site is affected by a number of natural issues and man-made issues caused by its previous use as an electricity depot; these are discussed below, where possible, the location and extent of each issue is shown in the map - Tab D - Site Constraints.

Natural issues – Flooding, vegetation and koalas:

The site is considered a Flood Control Lot by Campbelltown City Council. Potential stormwater impacts were provided by Council's stormwater engineer. Council's stormwater advice states that any building must comply with the floor level requirements of the BCA and may also need to comply with engineering design controls. These and any additional related matters will be addressed at development application stage.

The majority of the site is cleared; however, remnants of low quality Cumberland Plain woodland occur in the western and south eastern portions of the site, with a small strip of high quality vegetation along the southern edge of the site along McBarron creek.

In terms of fauna, the site contains possible koala habitat. An ecological study was submitted with the application which shows that whilst no koalas were sighted during field surveys, the small area of high quality vegetation, and possible fauna movement link, is located within a 10m strip along McBarron creek, with a 25m strip containing moderate quality vegetation acting as a buffer to the core 10m strip. Given the quality of the vegetation, any development proposed should be designed to conserve this area; it is recommended that a strip of approximately 25m wide be maintained along the riparian corridor, in the location shown in the attached diagram - Tab D - Site Constraints. This strip will act as a fauna movement corridor.

In terms of koala management, Council will determine whether an additional Koala Plan of Management is required to be lodged with any development application for the site.

Contamination – the “Impacted Zone”:

The site has been remediated following the advice of the Environmental Protection Authority (EPA) and in consultation with Council. Two separate independent Site Audit Statements have been issued, in 2011 and in 2015 and certified by an EPA authorised specialist.

These site audit statements conclude that the majority of the site has been remediated and is suitable for residential development. In reference to the impacted zone, the 2015 Site Audit Statement notes that a quantitative risk assessment indicates that soil vapours are present in deep groundwater but can be managed under the provisions of an Environmental Management Plan (EMP), no other risks were found, nor will the risks migrate off the site. The statement concludes that the site is suitable for residential development subject to a 10% limit on vegetable production, exclusion of poultry and minimal access to soil by residents. The Statement recommends that any future development approval requires a revised EMP which assesses the specific development proposed and addresses the specific vapour mitigation system appropriate to the development.

As noted previously, Council raised concerns regarding the efficacy of the advice received in respect of the impacted zone and future management, particularly ensuring that future purchasers were made aware of site contamination via a s149 certificate.

Cognisant of this concern, the Department discussed the findings of the Site Audit Statements with the auditor. As both the 2011 and the 2015 Site Audit Statement have been prepared by an EPA certified auditor and in compliance with the *Contaminated Land Management Act 1997*, it is considered that their advice takes precedence over alternate advice and can be relied upon.

The certificate is conditioned to comply with the 2015 Site Audit Statement including a requirement that land in the impacted zone requires a revised EMP to accompany any development application.

To address Council's concerns regarding the future use and management of the site including its difficulty in practically limiting the activity of future residents as recommended in the Site audit Statement, the certificate is conditioned to protect future residents by ensuring a physical barrier prevents their contact with the soil. Thus, any development approval for the impacted zone provides an impervious surface over the impacted zone or other built measure that provides a long-term physical barrier between future occupants and the soil.

In terms of identifying the impacted zone and notifying prospective landowners, a detailed survey plan, identifying the impacted zone via latitude and longitude is at Tab B, the area identified includes the impacted area and a buffer. This provides an accurate identification of the impacted zone boundaries; in terms of notifying purchasers, the letter to council suggests that a notation be included in section 149(5) certificates for any area in the impacted zone.

CONCLUSION

The proposal is consistent with the aims of the Infrastructure SEPP as it allows for the efficient development, redevelopment or disposal of surplus government owned land.

The proposal is also consistent with one of the priorities for South West Sydney in *A plan for Growing Sydney – Accelerate housing supply, choice and affordability and build great places to live*.

Multi dwelling housing will become a permissible use on the site if the certificate is issued, this land use is compatible with the surrounding residential development. Existing transport and social infrastructure nearby make this a good location for urban infill development.

Site constraints have been recognised. The proposed Certificate is conditioned to address issues raised by council regarding biodiversity and contamination. The Certificate requires a 25m biodiversity corridor along McBarron Creek, and measures to address contamination, including a revised Environmental Management Plan.

RECOMMENDATION

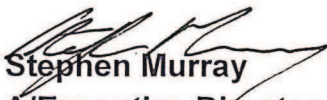
It is recommended that the Secretary:

- **notes** the information in this report;
- **considers** comments received from Campbelltown Council at Tab A;
- **forms** the opinion that the proposed development is compatible with the surrounding land uses having had regard to the matters specified in clause 19(6)(b) of the Infrastructure SEPP, subject to requirements specified in the certificate;
- **forms** the opinion that the development concerned is not likely to have an adverse effect on the environment and does not cause any unacceptable environmental risks to the land;
- **determines** the application for a site compatibility certificate by issuing the certificate subject to requirements specified in the certificate, for Lot 1 Pembroke Road, Minto; and
- **signs** the letters, attached, to the applicant and Campbelltown Council advising of this determination.



10/2/16

Catherine Van Laeren
Regional Director
Sydney Region West



Stephen Murray
A/Executive Director
Regions

3 March 2016

Marcus Ray
Deputy Secretary
Planning Services

Secretary

State Environmental Planning Policy (Infrastructure) 2007
Certificate of Site Compatibility

I, the Secretary of the Department of Planning and Environment, determine the application made by Endeavour Energy by issuing this certificate under clause 19(5) of the State Environmental Planning Policy (Infrastructure) 2007.

I certify that in my opinion, the development of the site described in Schedule 1:

- is compatible with the surrounding land uses, having had regard to the matters specified in clause 19(6)(b) only if it satisfies certain requirements specified in Schedule 2 of this certificate; and
- is not likely to have an adverse effect on the environment and does not cause any unacceptable environmental risks to the land.

Secretary

Date certificate issued:

Please note: This certificate will remain current for 5 years from the date of this certificate (clause 19(9)).

SCHEDULE 1

Site description: Lot 1 in DP 620 265, Pembroke Road, Minto in Campbelltown local government area.

Project description: Multi dwelling housing including limited three story components where appropriate.

Application made by: Endeavour Energy

SCHEDULE 2

Requirements imposed on determination:

1. Urban development is not permitted within a 25m biodiversity corridor along McBarron Creek.
2. Any development application on land in the area identified as the "Impacted Zone" at Tab B must comply with the Site Audit Statement issued on the 6 May 2015; this includes submitting a revised Environmental Management Plan (EMP) which assesses the best way of managing the site contamination for the development proposed.
3. Any development approval on the land in the Impacted Zone must provide an impervious seal over the impacted zone or other built measure that provides a long-term physical barrier between future occupants and the soil.