



Additional Report

Agenda: *Development Control Committee*

Date: *Monday 29 September 2014*

Time: *6.00 pm*

Session: *One*

Item: *R2*

Development Control Committee

Outline of Meeting Protocol & Procedure:

- The Chairperson will call the Meeting to order and ask the Committee/Staff to present apologies or late correspondence.
- The Chairperson will commence the Order of Business as shown in the Index to the Agenda.
- At the beginning of each item the Chairperson will ask whether a member(s) of the public wish to address the Committee.
- If person(s) wish to address the Committee, they are allowed four (4) minutes in which to do so. Please direct comments to the issues at hand.
- If there are persons representing both sides of a matter (eg applicant/objector), the objector speaks first.
- At the conclusion of the allotted four (4) minutes, the speaker resumes his/her seat and takes no further part in the debate unless specifically called to do so by the Chairperson.
- If there is more than one (1) person wishing to address the Committee from the same side of the debate, the Chairperson will request that where possible a spokesperson be nominated to represent the parties.
- The Chairperson has the discretion whether to continue to accept speakers from the floor.
- After considering any submissions the Committee will debate the matter (if necessary), and arrive at a recommendation (R items which proceed to Full Council) or a resolution (D items for which the Committee has delegated authority).

Recommendation only to the Full Council or to the Strategic and Corporate Committee (“R” Items)

- Specified developments, as may be determined and listed by the Council by resolution taken from time to time.
- Matters which involve broad strategic or policy initiatives within responsibilities of Committee.
- Matters requiring the expenditure of moneys and in respect of which no Council vote has been made.
- Matters not within the specified functions of the Committee.
- Matters reserved by individual Councillors in accordance with any Council policy on "safeguards" and substantive changes.

Delegated Authority (“D” Items)

To determine all development applications and related applications, which are not required to be determined by the Council under Council’s adopted procedures for the call up of applications **except:**

- a) Applications for review of a determination under section 82A of the *Environmental Planning and Assessment Act 1979* (“*the Act*”) where the DCC determined the original application.
- b) Development applications for development on community land which may not be delegated for determination under section 47E of the LG Act.

Committee Membership: 7 Councillors

Quorum: The quorum for a committee meeting is 4 Councillors.

Additional Item Meeting Agenda

Session One – Commencing 6.00pm

Item	Subject	Pages
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**Items to be Submitted to the Council for Decision
with Recommendations from this Committee**

R2	DA94/2013 - 2-4 Quarry Street, Paddington – Site remediation & construction of new childcare centre to provide 120 long day care places for ages 0-6 years with operating hours between 6.30am to 7.30pm Monday to Friday – 14/3/2013 *See Recommendation Page 2 *Note Confidential Report Circulated Under Separate Cover	1-2
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DEVELOPMENT APPLICATION SUPPLEMENTARY REPORT

ITEM No.	R
FILE No.	DA 94/2013/1
ADDRESS	2-4 Quarry Street PADDINGTON
SITE AREA	7837m ²
ZONING	Open Space 6 - General Recreation
PROPOSAL	Site remediation and construction of new childcare centre to provide 120 long day care places for ages 0 to 6 years with operating hours between 6.30am to 7.30pm Monday to Friday
TYPE OF CONSENT	Local development
COST OF WORKS	\$1,831,919.00
DATE LODGED	14/03/2013
APPLICANT	CSKS Holdings Pty Ltd
OWNER	Crown Lands
AUTHOR	Mr. A Gilderdale
TEAM LEADER	Mr. G Fotis

1. PREAMBLE

On 18 August 2014, Full Council resolved the following:

THAT Development Application No. 94/2013 for site remediation and construction of a new child-care centre to provide 120 long day care places for ages 0 to 6 years with operating hours between 6.30am to 7.30pm Monday to Friday on land at 2-4 Quarry Street Paddington be deferred until the outcome of the NSW Trade and Investment referral to the ICAC is known and completed, for the following reasons:

- 1. The considerable and long standing concern of the community.*
- 2. The letter from the Secretary of Trade and Investment provided new and significant information casting doubt over whether the Crown felt comfortable granting the land owners consent to lodge the DA.*
- 3. Although aware of the strict legal obligations of Council, those legal obligations are outweighed by the significant community interest. It is essential that the community have trust in the system and certainty in the probity process.*

2. CLASS 4 SUMMONS OF THE LAND AND ENVIRONMENT COURT OF NEW SOUTH WALES

On 3 July 2014, Council was served a Class 4 Summons of the Land and Environment Court of New South Wales. The relief claimed in the Class 4 Summons is as follows:

1. *An Order that the Respondent within 14 days of this Order determine development application No. 94/2013 pursuant to section 80 (1) of the Environmental Planning & Assessment Act 1979 by granting consent to the application either unconditionally or subject to conditions or by refusing consent to the application.*
2. *An Order that having determined development application No. 94/2013 the Respondent is to immediately notify its determination of the application to the Application in accordance with section 81 (1) of the Environmental Planning & Assessment Act 1979.*
3. *An Order that the Respondent pay the Applicant's costs of these proceedings.*

On 5 September 2014, the matter was the subject of a directions heading before Registrar Walton. The matter is set down for hearing on 14 October 2014.

The confidential report sets out matters relevant to the proceedings.

3. LEGAL ADVICE

On 24 September 2014, Council received legal advices relevant to the proceedings from Council's solicitor Dr. Lindsay Taylor of Lindsay Taylor Lawyers and associated counsel Jason Lazarus. The legal advices concern Council's prospects of success in relation to the Class 4 Summons of the Land and Environment Court of New South Wales to DA 94/2013/1. In our opinion, this matter requires further consideration as informed by the confidential report.

4. RECOMMENDATION

- A. THAT in respect of the Development Application No. 94/2013/1 for site remediation and construction of new childcare centre to provide 120 long day care places for ages 0 to 6 years with operating hours between 6.30am to 7.30pm Monday to Friday on land at 2-4 Quarry Street PADDINGTON, the Committee resolve to enter into closed session with the press and public excluded to consider the confidential report on this matter in accordance with the provisions of Section 10A(2)(g) of the Local Government Act 1993.
- B. THAT in accordance with Council's policy of confidentiality, the confidential report remain confidential for a period of six (6) months or until the conclusion of the appeal, whichever occurs last.

Mr. A Gilderdale
ASSESSMENT OFFICER

Mr. G Fotis
TEAM LEADER

Political Donations – matters to be considered by Councillors at Meetings

