



NPA alternative

see letter of interim adv

National Parks Association of NSW  
Macarthur  
Campbelltown Sub Branch  
P.O. Box 792,  
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REPORT TO CAMPBELLTOWN CITY COUNCIL

ON

PROPOSED SUBDIVISION OFF VICTORIA  
ROAD, WEDDERBURN BEING PART PORTION  
9 PARISH OF WEDDERBURN, PART LOT 505  
BEING STAGES 3 AND 4 OF DEVELOPMENT  
OF YEOMAN'S HOLDING AT WEDDERBURN.

Grahame Douglas,  
President Macarthur Branch,  
NPA of NSW.

## 1. INTRODUCTION

Since 1986, the National Parks Association of NSW (Macarthur Branch) has advised both Campbelltown City Council and the National Parks and Wildlife Service of the presence of koalas within the Yeoman's property at Wedderburn.

Further, the Association has formulated realistic proposals for a Dharawal Nature Reserve and a Macarthur State Recreation Area which include koala habitat along the O'Hares Creek and Georges River systems.

As a result of publicity at the imminent subdivision and development of the Yeoman's property, the Minister for Environment placed the first Interim Protection Order on the subject land on 4 June, 1988.

It is the purpose of this report to put the position of the National Parks Association of NSW on the development and to present an alternative which seeks to accommodate the owners of the land, the government and the public interest reflected in the overwhelming support for the protection of koalas.

## 2. DEVELOPMENT PROPOSAL

The proposal for development is to create 26 rural-residential allotments which range in size from from 4.0-7.5ha. Roadworks include the extension of Victoria Road and the creation of 2 side roads. A map of the proposal is given at the end of this report. The balance of the land within the 6(a) Open Space Zone is to be dedicated to Council. Development consent was granted on 31 December, 1985 for stage 3 and 27 February, 1986 for stage 4. A one year extension to the consent has also been granted, giving an effective three years in which to undertake development.

### 3. ZONING AND LAND-USE PROVISIONS

Under Clause 8 of Local Environmental Plan - No 32, City of Campbelltown gazetted on 21 January, 1983, the subject land is zoned 7(1) Environmental Protection and 6(a) Open Space. Subdivision to create lots of a minimum of 4ha are permitted within the 7(1) zone.

Of particular interest are clauses 10 and 13 of the DCP (Development Control Plan) whereby -

- (a) Clause 10 - Tree Preservation provides "the ringbarking, cutting down, topping, lopping, removing, injuring or willful destruction of any tree or group of trees is prohibited unless permission in writing is first obtained from the Council. Any such permission will not be granted prior to consent to development and approval of a building application"; and
- (b) Clause 13 - General provides " notwithstanding anything to the contrary contained in this plan the Council reserves the right to vary the conditions of approval or disapprove of any development in the light of circumstances pertaining to any site or sites or in the public interest generally".

While the development is generally consistent with clause 8, the combination of clauses 10 and 13 in conjunction with the aims and objects of the LEP make it clear that the primary purpose of the LEP is to protect the environmental attributes of the area even if unknown at the time of consent to development.

### 4. INTERIM PROTECTION ORDER

On 4 June, 1988 the Minister for Environment issued the first Interim Protection Order over the Yeoman's property at Wedderburn. In placing the order on the land, the Minister's press statement stated that <sup>this would allow</sup> a 12 month breathing space in which "further options will be canvassed to permanently protect the koalas. The Council and the landowners will be able to explore options to protect the koalas habitat".

5. COUNCIL'S RESPONSE

Campbelltown City Council at its meeting on 14 June, 1988 resolved :-

- " (1) That Council congratulate the Minister for Environment on his action in applying an Interim Protection Order on the koala habitat site;"
- (2) a letter be sent to the National Parks and Wildlife Service seeking advice as to -
- (a) extent of the habitat of these koalas in this locality; and
  - (b) whether the development of the environmental protection lands in accordance with the restrictions set out in LEP No 32 would be prejudicial to the habitat and/or survival of the koalas;
- " (3) that Council seek an immediate undertaking from the State Government that will purchase land identified as koala habitat....".

The irony of this responsible action by Council is that the NPWS has not undertaken any further survey of koala presence since the Interim Protection Order has been put in place. Prior to the IPO's placement, the Service had to seek the location of koalas from this Association which although indicating most koalas were seen to the north, <sup>also reported that</sup> isolated findings were made to the south.

It must be remembered that sightings have largely been the result of this Association's bushwalking program and not part of any specific survey. Because walks have tended to the north, so have the sightings, while few walks have been conducted to the south. This Association intends using the 12 month breathing space to undertake a detailed survey on the subject land. At the same time it is evident that a number of cleared areas do not contain koala habitat.

While the NPWS identified clearing of trees, introduction of dogs with residential development and speed of traffic as areas of main concern, this Association also believes that some people would seek out the koala and/or dump cars and otherwise vandalise the area.

6. MODIFICATIONS PROPOSED BY THE OWNER/NPWS

The proposed modifications include changes to road conditions and restrictive covenants by reinforcement of Council's Tree Preservation Order and the Dog Act.

The City Planner's report of 28/6/88 (item 1.13 P&B Committee) recommended the following variations (see map):-

- (i) from A to B, a 6 metre carriageway, sealed, with 1m shoulders, 60kph speed limit;
- (ii) from B to G to be constructed 5.5m wide, no shoulders and a type B(Y) culdesac head construction at G;
- (iii) a private road from C to D, 4m wide;
- (iv) from G to E to be a private road, 4m wide, 40kph speed limit;
- (v) access to lot 406 via a right of way adjoining lot 405;
- (vi) from B to F the existing track be upgraded to an all-weather access.

Such proposals do not address the real issue in which a significant number of trees will be removed and bring koala habitat into rural residential holdings. Further, while the interest has centred on koalas, much of the area has magnificent views along the O'Hares Creek Gorge, and contains significant Aboriginal occupation sites.

It has been made clear by the Minister for Environment that the cost of acquisition would be too high and cannot be anticipated. The potential for court action against the Minister to receive compensation by the owner is a real threat which the government understandably does not wish to face. In all other respects the development is essentially the same as that upon which the IPO has been placed.

## 7. RESOLUTION OF THE PROBLEM

The issue of protecting koalas and recognising the rights and expectations of the owner are not totally exclusive of each other and the NPA of NSW Macarthur Branch recognises that these conflicts need resolution. In seeking such a resolution though, it is unlikely that any of the parties will be totally satisfied. In this regard the following strategy has been developed to accommodate as far as possible the owners proprietary rights, the government and the public interest;

- (a) that the construction of the sealed road from A to B proceed, 5.5m wide and 40kph speed limit;
- (b) that the construction of the road C to D proceed as recommended by the City Planner;
- (c) that 14 blocks (lots 301-311 and 402-404) only proceed and be monitored in relation to a reinforced tree preservation order and Dog Act covenant as proposed;
- (d) that a code (or amending DCP) be developed by Council which prevents the establishment of kennels, catteries or horse establishments within LEP No 32;
- (e) that the NPA of NSW seek the purchase of lots 312-314 and 401 by public subscription in collaboration with government through the Sydney Region Development Fund (possibly on a dollar-for-dollar basis);
- (f) that the balance of the land be deferred for development for 12 months to provide a period in which to negotiate the future use and/or purchase the land from the owner (such period would permit the establishment of the extent of koala habitation and its management); and
- (g) that the whole of the open space zoned land be transferred to the Council at no cost to the Council.

The NPA of NSW (Macarthur Branch) will undertake the detailed survey during the remaining 11 months of the IPO and present its findings to the owners, NPWS and Campbelltown City Council.

It is also proposed that the fire gate on Victoria Rd be relocated to just before point B to prevent public access to the koalas.