

**MINUTES OF THE DEVELOPMENT COMMITTEE MEETING
HELD 11 MARCH, 2002, CIVIC CENTRE, OXLEY STREET
CAMDEN – 5.30PM**

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11 MARCH, 2002**

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Present: Cr Winn (Deputy Mayor/Chairman), Cr Anderson, Cr Patterson, Cr Campbell, Cr Corrigan, Cr Batros, Cr Fekete, Cr McFadden, Cr Senise

Staff: General Manager, Director Governance & Outcomes, Director Development & Environment, Director Works & Services, Manager Development, Manager Outcomes, Senior Governance Officer

DEVELOPMENT COMMITTEE PUBLIC ADDRESSES

There were no public addresses.

1. Rezoning Application - Strata Subdivided Serviced Apartments, Convention Centre and Restaurant, No 23 (Lot 2, DP 1008301) Harrington Street, Elderslie

File No: DA3725.45 (Director, Development & Environment Division)

Owner: B G & S Dickinson

Zone: Open Space Private 6(c) – LEP 46

Purpose of Report

To consider an application to prepare a draft Local Environmental Plan to amend LEP46 to permit the development of strata-titled serviced apartments associated with a convention centre and a restaurant on at No 23 (Lot 2 DP 1008301) Harrington Street, Elderslie.

Summary of Recommendation

The subject site has development consent to erect a convention centre and motel. The design of the approved development is relatively bland with a large roof that dominates the building.

Details submitted with the rezoning application indicate that the development will have an improved design, with a more articulated roof form and a “homestead” style form to the building.

In the circumstance of obtaining an improved development upon the site, it is recommended that Council supports, for the purposes of public notification, the proposed amendment to LEP46 and proceed to prepare an amending local environmental plan.

The recommended amendment to LEP46 is the inclusion of the following clause in Schedule 5:

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“Lot 2 DP 1008301, 23 Harrington Street, Elderslie, as shown edged heavy black on the plan marked “Camden Local Environmental Plan No. **XX**” - Strata-titled serviced apartments as short term tourist accommodation associated with a convention centre and a restaurant.

Background

Development consent was granted on 27 May 1996 for the erection of a single-storey convention centre, comprising three adjustable rooms and an attached two-storey motel comprising 45 motel rooms with ancillary tennis court and swimming pool.

Work on the construction of the development has commenced, but has been halted subject to the determination of this rezoning application and a subsequent development application. As such this development has commenced in terms of the EP&A Act and therefore the consent has not lapsed.

A previous request for rezoning of the site to enable a place of worship to be developed on the site was not supported by Council and did not proceed.

The Proposal

The proposed amendment to LEP 46 is the inclusion in Schedule 5 of a clause permitting the development of 25 strata-titled serviced apartments in association with a convention centre and restaurant on the subject site.

The purpose of the request is to enable the approved motel and convention centre development to be modified.

The concept plans submitted with the request indicate a more articulated building form reflecting a “homestead” style development. The access arrangements to the site are not proposed to be changed from those approved with the original development plans.

A development application does not accompany the request for the LEP amendment, however detailed plans for a development application will be prepared if the LEP amendment proceeds. The concept plans submitted with the rezoning request are of sufficient detail to enable Council to consider the form of development proposed for the site.

The preliminary concept plans and elevations form **Tabled Document “DC 1”**. Elevations of the currently approved building form **Tabled Document “DC 2”**.

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The Site

The subject site is located approximately 800m north-east of Cowpasture Bridge along Camden Valley Way. The site has frontage to both Camden Valley Way roadwidening and Harrington Street and is regular in shape with a 76.08m frontage and an average depth of 116m. Total site area is 8640m².

Residential, educational and religious uses surround the site along with playing fields and a caravan display and sales operation.

The site is currently vacant except for foundations and footings of the approved motel and convention centre development. It is devoid of trees, however there are a number of significant trees along the frontage of the site within the Camden Valley Way road reserve.

The land is affected by the 1% AEP flood event at RL71.6m.

A locality plan is attached at **Tabled Document “DC 3”**.

Current Zone

Current zoning of the land is 6(c) Open Space Private pursuant to LEP 46. The objective of the zone is to identify land where private recreation facilities are and may be developed in an environmentally sensitive manner.

The following uses are among those permitted with consent in this zone:

- Advertising structures
- Bed and breakfast establishments
- Clubs
- Recreation facilities; and
- Tourist facilities.

LEP 46 was amended by LEP 53 on 14 December, 1990 by the inclusion in Schedule 5 of a clause permitting the development of a “retail garden centre and landscape supply outlet” on the subject site.

The approved use of the premises as a motel and convention centre was approved under the definition “tourist facilities”, which is as follows:

“tourist facility” means an establishment providing holiday accommodation or recreation facilities, or both, on a short-term basis, and may consist of or include;

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- (a) *motels, bed and breakfast establishments, serviced apartments, holiday cabins, caravan parks, camping grounds, and associated swimming pools, golf courses and tennis courts; and*
- (b) *restaurants; and*
- (c) *souvenir shops, arts and craft galleries and exhibition centres”.*

The proposal remains fundamentally a tourist facility as serviced apartments are encapsulated in the definition. In addition, the proposed restaurant is within the tourist facility definition. The other proposed use, being the convention centre, remains the same as in the original approval.

However, it is the proposed strata subdivision of the serviced apartments that does not fall within the definition and is not currently permissible in the zone.

In the circumstances that it is only subdivision of land that is prohibited in the zone, a schedule rezoning is proposed to permit the strata subdivision of the serviced apartments. No change to the zoning of the land nor the permitted uses is proposed.

Comments on Proposal

Strata Subdivision

The purpose of the schedule rezoning is to allow the strata subdivision of the serviced apartments. Serviced apartments provide short-term holiday accommodation and are usually kept in the one ownership for reasons of management. However, it is not uncommon for serviced apartments to be separated in title. The “time-share” style apartments are one example of subdivided serviced apartments. Also, the large hotel developers and operators often sell individual units, but maintain management of them. Despite the subdivision of these holiday accommodation developments, they do maintain a short-term residential occupation.

To ensure the serviced apartments remain as short-term accommodation, the applicant has provided legal advice to the effect that a Section 88B instrument under the Conveyancing Act can be imposed upon the titles to prevent the long-term occupation of any of the serviced apartments. Further, it would be appropriate that the Section 88B instrument require all of the serviced apartments to remain under one management, being the operator and manager of the convention centre.

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Car Parking

The addition of the restaurant to the proposal is within the bounds of the tourist facility definition, but raises concerns relating to noise and car parking. The applicant has indicated that the restaurant may at times operate independently of the convention centre. In this circumstance, the parking provision would increase from originally proposed. However, offsetting this increased parking demand is the reduction in the number of units from 45 motel rooms to 25 serviced apartments. A full parking assessment would be undertaken when the subsequent development application is lodged.

Noise

In terms of noise, the restaurant facility is located inside the building complex, however, the opportunity arises for tables and chairs to be placed external to the building surrounding the pool area. The proposed use of any amplified musical equipment, therefore has the potential to have detrimental noise impacts on nearby Elderslie residents. A full acoustic assessment of the proposal will be required with the subsequent development application and noise attenuation measures may be required, potentially including the construction of acoustic walls around the outdoor dining area, the prohibition on use of amplified music and/or the limitation on hours of operation of the restaurant.

Visual Impact

The site is situated within flood prone land at the eastern entrance to the Camden Township. This is a visually important area as identified in the Camden Scenic and Cultural Landscape Study. In addition, significant vistas exist in the location of the subject site, between Studley House, St. John's Church, Rhineburgers Hill, Camelot and Kirkham.

The proposed development is intended to be of a similar height and scale to the approved development with a much improved design. The site is set some 100m off Camden Valley Way, and this setback area contains some large significant trees, which will screen the development. The views from Studley House and Rhineburgers Hill towards St John's Church will not be obscured by the proposed development, as it is not located in the direct line of sight.

A full assessment of the visual impact of the development on the locality will be undertaken when a development application is submitted.

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Conclusion

The proposed schedule rezoning does not significantly change the approved or permissible uses on the subject site. The only new development to be permitted on the site is strata subdivision.

The proposed development on the site will remain within the definition of tourist facility and will provide a similar development to that already approved by Council on the site, except that the design of the building will be much improved from that previously approved.

Assessment of the impact of the proposal in terms of traffic, parking and visual impact are generally likely to be similar to those impacts of the approved development. Nevertheless, these issues will be re-addressed in detail when a development application is submitted for the construction of the development.

Noise impacts from the proposed development are potentially greater than the approved development. These potential impacts however, can be attenuated through detailed design of the building or through technical measures such as noise limitations, and a full acoustic assessment will be undertaken when a development application is submitted.

Recommended: That:

- (i) Council resolve to prepare an amending LEP to allow the development of strata-subdivided short term serviced tourist apartments, convention centre and restaurant on Lot 2 DP 1008301 (23 Harrington Street, Elderslie).
- (ii) The Director of Department of Planning be advised of Council's decision to prepare an amending LEP.
- (iii) The rezoning be advertised in accordance with the requirements of section 66 of the EP&A Act, 1979, as amended.

Resolved on the Motion of Cr Corrigan, seconded Cr McFadden that:

- (i) Council resolve to prepare an amending LEP to allow the development of strata-subdivided short term serviced tourist apartments, convention centre and restaurant on Lot 2 DP 1008301 (23 Harrington Street, Elderslie).
- (ii) The Director of Department of Planning be advised of Council's decision to prepare an amending LEP.

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- (iii) *The rezoning be advertised in accordance with the requirements of section 66 of the EP&A Act, 1979, as amended.*

*DC020/02 THE MOTION WAS **CARRIED**.*

(Cr Campbell and Cr Fekete voted against the Motion).

**2. Rezoning Application to Permit the Construction of a
Second Dwelling on an Allotment, No 231 (Lot 61 DP
829006) Bringelly Road, Leppington**

File: PF 1100.170) (Director, Development &
Environment Division)

Owner: Mr S Auteri

Purpose of Report

To advise Council that PlanningNSW has refused to support the application to rezone the subject land to allow the erection of a second detached dwelling.

Background

Council, on the 25th of October 1999, resolved to support an application to rezone No 231 Bringelly Road, Leppington to allow the construction of a second dwelling on the subject allotment.

In accordance with the requirements of the Environmental Planning and Assessment Act (EP&A Act) the matter was referred to PlanningNSW for their concurrence.

Main Report

The applicant lodged an application with Council seeking to construct a second detached dwelling on an allotment of 1.863ha in area.

CLEP 48, the planning instrument for this locality, provides that an allotment must contain an area of not less than 2ha to enable detached dwellings to be erected.

Council, on the 25th of October 1999, resolved to support a rezoning application to allow a second dwelling to be erected on the property. A number of discussions were held with the Department regarding this matter.

On the 8th of February 2002 PlanningNSW advised Council that they were not prepared to support the application for the following reason:

“The State Government has identified the Bringelly area as an area to be investigated to accommodate Sydney’s future growth. It is important that while investigations are in progress development not occur which could make it more difficult to achieve orderly and economic development in the area.”

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PlanningNSW further advised that it is not prepared to support any proposal for additional dwellings or subdivisions in and around the Bringelly area, unless they are consistent with existing provisions in planning instruments. A copy of the advice is provided as **Tabled Document “DC 4”**.

Recommended: That the information be noted.

Resolved on the Motion of Cr Fekete, seconded Cr McFadden that the information be noted.

DC021/02 THE MOTION WAS **CARRIED**.

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3. Two-Lot Torrens Title Subdivision, No 48 (Lot 6 Sec 10 DP 2650) Carrington Road, Bringelly

File No: DA1425.130 (Director, Development & Environment Division)
DA No: DAS 75/2001
Owner: L & F Bartolo
Zoning: 1(b) "Rural B" – LEP48

Purpose of Report

This application for a two-lot subdivision at 48 Carrington Road, Bringelly is submitted to Council as a objection under the provisions of SEPP 1 has been received to vary the minimum lot size requirement for Rural 1(b) (2ha minimum) land in CLEP 48. As the land is zoned Rural, the concurrence of the Director PlanningNSW is required if Council supports the SEPP1 objection.

Summary of Recommendation

It is recommended that Council support the SEPP 1 objection and refer the matter to the Director for concurrence.

The Proposal

A development application has been received for a two-lot Torrens Title subdivision of No 48 (Lot 6 Sec 10 DP 2650) Carrington Road, Bringelly.

The proposed lots will have areas of 20,430m² and 19,390m². The allotments will each have a relatively regular shape with one of the proposed allotments fronting Carrington Road and the other an internal allotment with a 6.0m wide access handle to Carrington Road.

The proposed subdivision plan forms **Tabled Document "DC 5"**.

The Site

The site is located on the southern side of Carrington Road at Bringelly and is within an area of where lots have an area of approximately 4 hectares.

The site slopes down from Carrington Road to a watercourse traversing the centre of the property and then rises up again to the rear of the property. The front and rear of the allotment have a level of approximately RL73, while the lowest point in the centre of the site has a level of RL66.5. An existing

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residence and a dam are located towards the front and centre of the site.

With the exception of a small shed, there are no improvements on the rear section of the site. A dam is located near the centre of the site. The proposed property boundary will be clear of the dam and its walls.

A locality map forms **Tabled Document “DC 6”**.

Notification

The application was not required to be notified pursuant to DCP 116 – Public Notification Policy.

Planning Controls

The relevant planning instruments and development control plans are:

- Camden Local Environmental Plan No. 48 (CLEP48)
- State Environmental Planning Policy No. 1 (SEPP1)
- Draft Camden Rural Lands Study

a) *The provisions of any environmental planning instrument/ development control plan*

Camden Local Environmental Plan No. 48

The site is zoned 1(b) “Rural B” under the provisions of Camden Local Environmental Plan No. 48 (CLEP48). CLEP48 requires development consent for the subdivision of land.

Clause 12 (2) of CLEP48 states that the minimum subdivision area for land in the 1(b) zone is 2 hectares (20,000m²). The proposed lots are 20,430m² and 19,390m² in size. As such one of the proposed lots is 610m² less than the minimum standard. Therefore, a SEPP1 objection is required to vary clause 12 (2) of CLEP48.

A SEPP1 objection has been submitted and is addressed below.

SEPP1

The SEPP 1 objection seeks variation of clause 12 (2) of CLEP48. The SEPP1 objection provides the following reasons for the variation:

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- The subdivision boundary has been located to ensure a dam on the site is wholly within one of the properties; and
- Adjoining landowners have approved subdivisions with similar sized lots.

Pursuant to SEPP1, an applicant may request a variation from a development standard on the grounds that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. The objection to the standard must address the aims established with the particular zone. Further Council can only grant consent where the SEPP1 objection is well founded and is consistent with the aims of SEPP1 and the Act.

In the case of rural land, the concurrence of the Director of the Department of Planning is required for SEPP 1 objections.

It is considered that the SEPP1 objection does not adequately address the aims of the Rural 1(b) zone. In this regard however, the variation from the development standard is considered to be consistent with the aims of SEPP1 and the Act, for the following reasons:

- The proposed subdivision is consistent with the emerging subdivision pattern in the locality;
- The variation from the control is minor and does not result in development which would be contrary to the intent of the Rural 1(b) zone;
- The proposed subdivision ensures the retention of the existing dam on site; and
- The proposed subdivision does not result in development, which would have a detrimental impact on the amenity of the locality.

Camden Rural Lands Strategy

The site is located within a “rural/residential” precinct comprising the suburbs of Rossmore, Leppington, Catherine Field and Bringelly. The precinct contains a range of activities and a mix of lot sizes with most lots between 4000m² and 5ha in size.

The strategy for the precinct is to preserve those areas where agriculture is considered sustainable and allow residential development of the other areas.

Subdivision of the land into two lots approximately 2ha in size does not constitute residential development to the exclusion of agricultural development. Land 2ha in size

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is capable of being used for some form of small-scale agriculture such as market gardens.

The proposal is considered to be generally consistent with the Camden Rural Lands Strategy.

b) *The Impact of the Development on the Natural/Built/Social Environment*

The proposed subdivision involves the construction of a driveway to the rear lot. This driveway would cross a natural drainage line through the centre of the property. The application was referred to the Department of Land and Water Conservation (DLWC) for comments on the type of crossing required. The conditions recommended by DLWC will be incorporated into the conditions of consent.

Further, DLWC have recommended conditions relating to salinity control, and these will also be incorporated into the conditions of consent.

In terms of effluent disposal, the applicant has provided a Wastewater Management Plan. No objection is raised to the proposed subdivision on the grounds of effluent disposal subject to conditions.

c) *The Suitability of the Site for the Proposed Development*

The site is designated as Class 3 agricultural land. Class 3 land is described as grazing land or land well suited to pasture improvement, having a moderate level of production as a result of environmental constraints, including erosion hazard and soil structural breakdown.

The proposed subdivision of the subject site results in one lot which exceeds Council's minimum area requirement and one lot which is 610m² less than the minimum area requirement.

It is considered that the size of the proposed lots does not prejudice the potential agricultural use of the land for market gardens or other small-scale agriculture such as grazing.

In the circumstances of the case, the site is considered to be suitable for the proposed subdivision.

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d) Submissions

As stated above, the application did not require notification pursuant to DCP116. Therefore, there are no submissions to consider.

e) The Public Interest

The land is within an area which is currently under investigation for future urban release. It is at the edge of existing rural residential subdivision and adjoins large parcels of undeveloped land. For these reasons, it may be considered that further subdivision of the site may prejudice the future urban development of the land.

However, as can be seen on the locality plan in **Tabled Document “DC 6”**, the adjoining site is also currently seeking consent for subdivision and the two lots adjoining these have already been subdivided in the same manner. Therefore, given the consistency in the developing subdivision pattern, less conflict with possible future development options results.

Although the subject area has been identified for investigation for future urban development, there has been no direction from the Minister for Planning to not proceed with any development or subdivision proposals in the area.

In the circumstances of the case, the proposed development is not considered to be contrary to the public interest.

Referrals

Department of Land and Water Conservation

The application has been referred to the Department of Land and Water Conservation (DLWC) as a tributary of South Creek crosses the property.

DLWC have advised that the unnamed tributary of South Creek is not a “river” for the purposes of the Rivers and Foreshores Improvement Act at the location of the proposed driveway crossing. Therefore, a Part 3A permit is not required for the development and, as such, the proposed development is not Integrated Development.

However, as stated above, the Department has provided comments on the proposed crossing design and on salinity

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control. These comments will be incorporated into conditions of development consent.

Conclusion

The proposed two-lot subdivision is consistent with the emerging subdivision pattern in the locality. The existing site is slightly less than 4 hectares in size, resulting in the proposed development having one lot smaller than 2 hectares, being the minimum subdivision area for the Rural B zone.

Sufficient land is available on each lot for effluent disposal. Works to construct a driveway across a natural drainage line can be conducted with minimal impacts on the environment and on adjoining properties.

A SEPP 1 objection has been submitted with the application, and the SEPP 1 is considered to be well founded. Subject to the concurrence of the Director PlanningNSW for the SEPP 1 objection, the proposed subdivision is considered acceptable and is supported.

Recommended: That

- (i) The SEPP No 1 Objection accompanying Development Application No DAS 75/2001 for a two-lot Torrens Title subdivision of No 48 (Lot 6 Sec 10 DP 2650) Carrington Road, Bringelly be supported and that the application be referred to the Director of PlanningNSW for concurrence.
- (ii) On receipt of concurrence of the Director, consent be granted subject to the conditions which form **Tabled Document “DC 7”**.

Resolved on the Motion of Cr Corrigan, seconded Cr Patterson that

- (i) *The SEPP No 1 Objection accompanying Development Application No DAS 75/2001 for a two-lot Torrens Title subdivision of No 48 (Lot 6 Sec 10 DP 2650) Carrington Road, Bringelly be supported and that the application be referred to the Director of PlanningNSW for concurrence.*
- (ii) *On receipt of concurrence of the Director, consent be granted subject to the conditions which form **Tabled Document “DC 7”**.*

DC022/02 THE MOTION WAS **CARRIED**.

(Cr Fekete voted against the Motion).

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**4. Two-lot Torrens Title Subdivision, No 46 (Lot 5 Sec 10
DP 2650), Carrington Road, Bringelly**

File No: 1425.110-2 (Director, Development &
Environment Division)

DA No: DAS 77/2001

Owner: S & K Bell

Zoning: 1(b) "Rural B" – LEP48

Purpose of Report

This application for a two lot subdivision at 46 Carrington Road, Bringelly is submitted to Council as a SEPP1 objection has been received to vary the minimum lot size requirement for Rural 1(b) (2ha minimum) land in Camden Local Environmental Plan 48. As the land is zoned Rural, the concurrence of the Director PlanningNSW is required for the SEPP1 objection.

Summary of Recommendation

It is recommended that Council support the SEPP 1 objection and refer the matter to the Director for concurrence.

The Proposal

A development application has been received for a two-lot Torrens Title subdivision of No. 46 (Lot 5 Sec 10 DP 2650). Carrington Road, Bringelly.

The proposed lots will be 20,688m² and 19,012m² in size. The allotments will each have a regular shape with one of the proposed allotments fronting Carrington Road and the other an internal allotment with a 6.0m wide access handle to Carrington Road.

The proposed subdivision plan forms **Tabled Document "DC 8"**.

The Site

The site is located on the southern side of Carrington Road at Bringelly. The site is within an area consisting of approximately 4 hectare allotments.

The site slopes down from Carrington Road to a watercourse traversing the centre of the property and then rises up again to the rear of the property. The front and rear of the allotment have a level of approximately RL73, while the lowest point in the centre of the site has a level of RL67.32. An existing residence and a dam are located towards the rear of the site.

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There are no improvements on the front section of the site. A farm dam is located near the centre of site. The proposed property boundary will be clear of the dam and its walls.

A locality map forms **Tabled Document “DC 9”**.

Notification

The application was not required to be notified pursuant to DCP 116 – Public Notification Policy.

Planning Controls

The relevant planning instruments and development control plans are:

- Camden Local Environmental Plan No. 48 (CLEP48)
- State Environmental Planning Policy No. 1 (SEPP1)
- Draft Camden Rural Lands Study

Assessment

a) The provisions of any environmental planning instrument/ development control plan

Camden Local Environmental Plan No. 48

The site is zoned 1(b) “Rural B” under the provisions of Camden Local Environmental Plan No. 48 (CLEP48). CLEP48 requires development consent for the subdivision of land.

Clause 12 (2) of CLEP48 states that the minimum subdivision area for land in the 1(b) zone is 2 hectares (20,000m²). The proposed lots are 20,688m² and 19,012m² in size. As such one of the proposed lots will be 988m² less than the minimum standard. Therefore, a SEPP1 objection is required to vary clause 12 (2) of CLEP48.

A SEPP1 objection has been submitted and is addressed below.

SEPP1

The SEPP 1 objection seeks variation to clause 12 (2) of CLEP48. The SEPP1 objection provides the following reasons for the variation:

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- The subdivision boundary has been located to ensure a dam on the site is wholly within one of the properties.
- The amenity of the surrounding area can be sustained.
- Adjoining landowners have approved subdivisions with similar sized lots.

Pursuant to SEPP1, an applicant may request a variation from a development standard on the grounds that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. Further Council can only grant consent where the SEPP1 objection is well founded and is consistent with the aims of SEPP1 and the Act.

In the case of rural land, the concurrence of the Director is also required for SEPP 1 objections.

It is considered that the SEPP1 objection does not adequately address the aims of the Rural 1 (b) zone. In this regard however, the variation from the development standard is consistent with the aims of SEPP1 and the Act, for the following reasons:

- The proposed subdivision is consistent with the emerging subdivision pattern in the locality;
- The variation from the control is minor and does not result in development which would be contrary to the intent of the Rural 1(b) zone;
- The proposed subdivision ensures the retention of the existing dam on site; and
- The proposed subdivision does not result in development, which would have a detrimental impact on the amenity of the locality.

Camden Rural Lands Strategy

The site is located within a “rural/residential” precinct comprising the suburbs of Rossmore, Leppington, Catherine Field and Bringelly. The precinct contains a range of activities and a mix of lot sizes with most lots between 4000m² and 5ha in size.

The strategy for the precinct is to preserve those areas where agriculture is considered sustainable and allow residential development of the other areas.

Subdivision of the land into two lots approximately 2ha in size does not constitute residential development to the exclusion of agricultural development. Land 2ha in size

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is capable of being used for some form of small-scale agriculture such as market gardens.

The proposal is considered to be generally consistent with the Draft Camden Rural Lands Study.

b) *The Impact of the Development on the Natural/Built/Social Environment*

A natural drainage line traverses the property. The application has been referred to the Department of Land and Water Conservation who have advised that drainage line is not a river and therefore a Part 3A permit is not required. Conditions relating to the construction of the access roadway over the drainage line to minimise impacts on the natural environment and surrounding properties in terms of flooding can be imposed.

In terms of effluent disposal, the applicant has provided a Wastewater Management Plan. No objection is raised to the proposed subdivision on the grounds of effluent disposal subject to conditions.

Subject to conditions, the proposed development will have a minimal impact on the natural, built and social environment.

c) *The Suitability of the Site for the Proposed Development*

The site is designated as Class 3 agricultural land. Class 3 land is described as grazing land or land well suited to pasture improvement, having a moderate level of production as a result of environmental constraints, including erosion hazard and soil structural breakdown.

The proposed subdivision of the subject site results in one lot which exceeds Council's minimum area requirement and one lot which is 610m² less than the minimum area requirement.

It is considered that the size of the proposed lots does not prejudice the potential agricultural use of the land for market gardens or other small-scale agriculture such as grazing.

In the circumstances of the case, the site is considered to be suitable for the proposed subdivision.

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d) Submissions

As stated above, the application did not require notification pursuant to DCP116. Therefore, there are no submissions to consider.

e) The Public Interest

The land is within an area which is currently under investigation for future urban release. It is at the edge of existing rural residential subdivision and adjoins large parcels of undeveloped land. For these reasons, it may be considered that further subdivision of the site may prejudice the future urban development of the land.

However, as can be seen on the locality plan which forms **Tabled Document “DC 9”** the adjoining site is also currently seeking consent for subdivision and the two lots adjoining these have already been subdivided in the same manner. Therefore, given the consistency in the developing subdivision pattern, less conflict with possible future development options results.

Although the subject area is currently under investigation for future urban development, there has been no direction from the Minister for Planning to not proceed with any development or subdivision proposals in the area.

In the circumstances of the case, the proposed development is not considered to be contrary to the public interest.

Referrals

Department of Land and Water Conservation

The application has been referred to the Department of Land and Water Conservation (DLWC) as a tributary of South Creek crosses the property.

DLWC have advised that the unnamed tributary of South Creek is not a “river” for the purposes of the Rivers and Foreshores Improvement Act at the location of the proposed driveway crossing. Therefore, a Part 3A permit is not required for the development and, as such, the proposed development is not Integrated Development.

However, the Department has provided comments on the proposed crossing design and on salinity control. These

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comments have been incorporated into conditions of development consent.

Conclusion

The proposed two-lot subdivision is consistent with the emerging subdivision pattern in the locality. The existing site is slightly less than 4 hectares in size, resulting in the proposed development having one lot smaller than 2 hectares, being the minimum subdivision area for the Rural B zone.

Sufficient land is available on each lot for effluent disposal. Works to construct a driveway across a natural drainage line can be conducted with minimal impacts on the environment and on adjoining properties.

A SEPP 1 objection has been submitted with the application, and the SEPP 1 is considered to be reasonable in the circumstances. Subject to the concurrence of the Director for the SEPP 1 objection, the proposed subdivision is considered acceptable and is supported.

Recommended: That

- (i) The SEPP No 1 Objection accompanying Development Application No. DAS 77/2001 for a two-lot Torrens Title subdivision of No. 46 (Lot 5 Sec 10 DP 2650) Carrington Road, Bringelly be supported and that the application be referred to the Director of PlanningNSW for concurrence.
- (ii) On receipt of concurrence of the Director, consent be granted subject to the conditions included in **Tabled Document “DC 10“**.

Resolved on the Motion of Cr Corrigan, seconded Cr Patterson that

- (i) *The SEPP No 1 Objection accompanying Development Application No. DAS 77/2001 for a two-lot Torrens Title subdivision of No. 46 (Lot 5 Sec 10 DP 2650) Carrington Road, Bringelly be supported and that the application be referred to the Director of PlanningNSW for concurrence.*
- (ii) *On receipt of concurrence of the Director, consent be granted subject to the conditions included in **Tabled Document “DC 10“**.*

DC023/02 THE MOTION WAS **CARRIED**.

(Cr Fekete voted against the Motion).

5. Demolition of Existing Buildings, Construction of a Two Storey Commercial Building with Associated Carparking and Strata Subdivision, No 6 (Lot 5 DP 25582) Somerset Ave, Narellan

File No: 7250.80-3 (Director Development & Environment Division)
DA No: 1766/2001
Owner: Kas Developments Pty Ltd and JK Managements Aust Pty
Zoning: 3 (a) Business General CLEP 46

Purpose of Report

This application is reported to Council due to the receipt of two (2) submissions and the proposal's non-compliance with the provisions of Council's DCP 89.

Summary of Recommendation

That development Application No. 1766/2001 be conditionally approved.

The Proposal

The subject application seeks Council approval for the erection of a two storey Commercial Development with the provision of eleven (11) car parking spaces at the rear of the development. A strata subdivision of the development is also sought. An existing dwelling on the site is proposed to be demolished prior to the commencement of the construction of the subject building.

The building will comprise three (3) ground floor shops (retail) and three (3) first floor offices. The ground floor shops would have a total floor space of 311.35m² and the first floor offices 313.43m². The height of the building is a maximum of 10.2m. A copy of the plans form **Tabled Document "DC 11"**.

It is proposed to construct the development with precast concrete panels, aluminium windows, powder-coated steel columns and colourbond roofing. A verandah on the front elevation is proposed for both levels. A colour scheme for the development has been submitted to Council incorporating a rustic red, gold and a teal blue colour scheme.

The car parking to the rear is proposed to connect with the car parking of the adjoining existing commercial building and real estate office. When Council issued consent for the adjoining 2 storey commercial building a right of way in favour of Camden

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Council was created. Such right of way granted full responsibility for public liability and maintenance within the right of way area to the registered proprietor of the lot. It is proposed that the subject application be conditioned to require registration of a similar right of way in favour of Council so as to provide vehicle access to adjacent sites. No walkway linking the Narellan Town Centre car park to the rear is proposed.

The development also seeks approval for signage panels on the front elevation (4) and rear elevation (2). Details of such signage have not been provided to Council to date and therefore, in the event that consent is granted to the application, a condition should be imposed requiring a separate application for signage.

The Site

The subject site has an area of 727.2m² and a 17.07m frontage to Somerset Avenue. It is on the south-western side of the street and has a cross fall of 600mm. Two trees are located at the rear of the site, one of which is proposed to be removed to enable the car park construction and provide a driveway across the neighbouring site. A location plan forms **Tabled Document “DC 12”**.

The site currently supports an older fibro and terracotta tile cottage which is utilised by a beautician. This development has vehicular access to the rear of the site via a sealed pavement driveway on the northern boundary off Somerset Avenue. A site plan detailing the existing right-of-way location forms **Tabled Document “DC 13”**.

Notification

The subject application was notified to all adjoining property owners and at the close of the notification period, two (2) submissions were received. **Copies of the submission were provided to Councillors separately with the business paper.** Issues outlined in the submissions are addressed later in this report.

Planning Controls

The relevant planning controls for this development are:

- Camden LEP 46
- DCP 89- Development Guidelines Somerset Avenue, Narellan
- DCP 97- Car Parking
- Narellan Town Centre Masterplan
- Narellan Town Centre-Streetscape and Public Domain Guidelines.

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Assessment

Section 79c Considerations

(a) The Provision of any:

Environmental planning instrument

The application is not inconsistent with any SEPP or REP.

Local Environmental Plan

The subject property is zoned 3(a) Business General pursuant to the provisions of LEP 46. Within such zone commercial premises and shops are permissible with the development consent of Council. The relevant objectives of such zone are:

- (a) to provide sufficient opportunities for the development of retail and commercial activities designed to satisfy the needs of the community in an environmentally sensitive
- (b) to encourage the development and expansion of business activities which will contribute to the economic growth of, and the creation of employment opportunities within, the Municipality of Camden, and
- (c) to encourage a wide range of retail, commercial and recreational activities.

It is considered that the proposed development complies with these objectives.

Development Control Plan

DCP 89

DCP 89 applies to the subject site and has the relevant objectives of:

- 7.2 creating and encouraging a defined main street character which will enhance and complement the role of Narellan
- 7.3 provide safe, efficient and orderly vehicular access to off-street car parking areas
- 7.5 maximise pedestrian amenity, minimise footpath vehicular crossings
- 7.8 improve the supply and convenience of off-street parking
- 7.13 endeavour to facilitate incremental development

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The standards of development outlined in the plan are assessed as follows:

Issue	DCP Standard	Proposal	Compliance
Storeys	2	2	yes
Floor Space Ratio FSR	1:1	0.85:1	yes
Carparking	1/30m ² and 1/35m ² = 19.3 spaces	11 spaces	No ¹
Landscaping	Masterplan	As per masterplan	yes
Disabled Access	AS 1428.1, 1993	No	No ²

The development has a shortfall of 8 car parking spaces. Given the current traffic and car parking conflicts experienced in Narellan this shortfall is problematic. However, the developer has agreed to pay to Section 94 contributions in lieu of car parking provision. This is the same scenario adopted with similar developments in the Town Centre.

Disabled access to the building, nor disabled car parking spaces are provided by the proposal. However, the proposal can be conditioned to comply.

DCP 97- Car Parking

DCP 97 provides that 19.3 spaces be provided on-site for the proposed development. The subject development proposes that 11 spaces only be provided at the rear of the site, having connectivity to the existing car park and ultimately to the Council car park over the rear portion of the site at No. 4 Somerset Avenue.

The DCP provides for monetary contributions pursuant to S94 to be paid in lieu of off-street parking being provided. Accordingly the applicant would be required by condition of development consent to pay contributions for the shortfall of 8 spaces.

Narellan Town Centre Masterplan

The proposed development is considered consistent with the provisions of the Masterplan which allows for two storey mixed-use development. The masterplan also encourages buildings to be close to the street boundary with the use of colonnades with rear parking.

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Narellan Town Centre-Streetscape and Public Domain Guidelines.

The subject development can be conditioned to incorporate landscaping elements consistent with the provisions of these guidelines. Such elements will include an AC path with paver trim with planters adjacent to the roadway street furniture may include seats or bins.

Built Form

The proposed two storey development complies with the height and floor space provisions of DCP 89. The architectural elements of the proposed building will largely conform with those of the adjoining two-storey development to the south.

Access and Carparking

Access to the proposed car parking area at the rear of the site will require the creation of a reciprocal right of carriageway over the adjoining properties to both the north and south. Access to the rear of the site will be gained via the entrance to the Narellan Town Centre on Somerset Avenue then across the rear of the existing two-storey building adjoining. Vehicles exiting the site will be able to travel back onto the Narellan Town Centre car park or across the rear of the real estate office to the east. Reciprocal rights of way over several properties will need to be created to permit this development to proceed. As stated earlier in this report Council is authorised to grant such right of way.

Landscaping

Landscaping proposed by the development consists of two areas adjacent to the rear of the building. Such areas consist of a 1.5m x 4m area and a 1.5m x 11.4m area. The applicant has not provided details of the species proposed. Detailed landscape plans can be conditioned to be provided to Council prior to issue of the Construction Certificate in that consent is granted to the development.

Materials and Colours

The materials of construction are outlined above in this report. Details of colours are proposed as follows:

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Walls	Dulux “Happy” (muted mustard-yellow)
Roof	Off- white colourbond
Windows	Dulux “Mandarin Blue” (teal blue)
Fascia, Balcony	“Red Cross” (rust red)

The selected colour scheme is considered appropriate given adjoining development and the design of the building.

Advertising Signs

The subject development makes provision for four (4) advertising sign panels on the front of the building having dimensions of 5.4m x 0.7m each. The rear elevation of the building proposes signage panels in two locations, however dimensions of such panels are not specified. Council’s advertising policy permits signage of maximum area of 4.5m². It is proposed that conditions of development consent specifying the exact nature and number of signage permitted per unit be imposed.

Subdivision

The applicant has provided a plan of strata subdivision to enable the assessment of same in conjunction with the built component of the development. The ground floor strata plan has been drafted with an error and is to be amended and re-submitted to Council indicating that the common property areas adjacent to car parks numbered 7 and 10 be designated as car spaces for ground floor units 1 and 2.

(b) Likely impacts of the development on both natural and built environment

It is not considered that the proposed development will have any adverse impact upon the natural and built environments subject to the impositions of appropriate design and environmental controls.

(c) Suitability of the site

The land is within the general business zone of the Narellan business centre and is therefore an appropriate site for the construction of a commercial and retail building.

The subject site is located within the mine subsidence district and the Mine Subsidence Board has granted their consent to the submitted plans.

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(d) Submissions

As mentioned above two (2) submissions were received objecting to the proposal. The issues raised are summarised and addressed below:

- The development does not have requirements for disabled parking

Comment

Disabled parking and facilities in accordance with AS 1428.1, 1993 will be required to be provided at the rear of the development in close proximity to the rear public entrance.

- There is no visible landscaping

Comment

The building is erected to the front property boundary in accordance with the DCP requirements and therefore, any landscaping must be in the footpath area or the rear carpark. As mentioned above landscaping of the site will be conditioned to conform to Council guidelines.

- There is no garbage/ refuse area

Comment

The provision of on-site garbage receptacles has been nominated on amended plans received from the applicant following the original exhibition period. Whilst substantially the same as exhibited, the plans show a garbage collection point, landscaping and amended front elevation windows response to Council's request for additional information and improvement to design.

- There is no loading facility.

Comment

Given the small-scale commercial nature of the development and the availability of rear access it is considered reasonable for loading to occur from the car park area.

- No direct provision for pedestrian access to the rear car park

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Comment

All tenancies have access to the rear carpark through the building. There is however, no pedestrian access from Somerset Avenue to the rear of the site other than through the ground floor shops.

- Entrance to the private car park will be through Council car park with the possible loss of two parking spaces.

Comment

The adopted DCP for the site acknowledges the loss of two car-parking spaces in the Council car park. Council is collecting Section 94 contributions to fund the provision of additional carparking in Narellan and these spaces will be provided in these carparks.

(e) The public interest

The subject proposal is considered to be consistent with the public interest. The development will contribute to the embellishment of Somerset Avenue as a primary street within the precinct, will provide a social and economic advantage to the public and be developed in a way which will not compromise the environment.

Conclusion

The subject development proposal largely complies with Council policy and development guidelines. Where non-compliances are apparent it is considered that conditions of development consent can be imposed which result in a development complementary to the character of Somerset Avenue, whilst not prejudicing any future development of the precinct.

Recommended: It is recommended that Development Application No.1766/2001 seeking consent for a two storey commercial building, car parking and signage at No. 6 (Lot 5 DP 25582), Somerset Avenue Narellan, be approved subject to conditions which form **Tabled Document. “DC 14”**.

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*Resolved on the Motion of Cr Corrigan, seconded Cr Patterson it is recommended that Development Application No.1766/2001 seeking consent for a two storey commercial building, car parking and signage at No. 6 (Lot 5 DP 25582), Somerset Avenue Narellan, be approved subject to conditions which form **Tabled Document. "DC 14"**.*

DC024/02 THE MOTION WAS **CARRIED**.

(Cr Anderson, Cr Patterson and Cr Senise voted against the Motion).

6. Sydney Gas Company NL – Environmental Impact

**Statement: Camden Coal-Bed Methane Project,
Petroleum Production Operations, Cawdor**

File: TC4350/7 (Director, Development & Environment
Division)

Purpose of Report

To seek Council's endorsement of a submission to PlanningNSW in response to the development application (DA) that Sydney Gas Operations Pty Ltd have made to the State government for the commercial production of coal-bed methane, based on their current petroleum assessment lease. Also that Council request that the Minister for Planning direct that a public inquiry be held on the proposed DA.

Background

Sydney Gas Company NL holds three Petroleum Exploration Licences (PELs 2, 4 and 267, which cover approximately 2.4 million hectares within the Sydney Basin) through its wholly owned subsidiary, Sydney Gas Operations Pty Ltd (SGO) together with a Petroleum Assessment Lease (PAL 1) in the Cawdor area (refer to **Tabled Document "DC 15"**).

PAL 1 was granted to SGO in November 2000, by the Minister of Mineral Resources with Council being sent the 'Schedule of Conditions of the Assessment Lease', in which some of Council's concerns had been included. However, the major issues were not addressed. These included:

- dirt and/or seed transfer. In particular the provision of a vehicular shaker during construction works;
- buffer area around the gas well and setback from property boundaries ie the issue of the 200m setback;
- temporary gas treatment plant – no further information on the byproducts of the treatment process as requested;
- creation of easements on land titles (this is important as it will allow local government to know the location of wells and pipelines on private property if an assessment is required for a development application on that property, or an adjoining property).

A copy of Council's submission to the Department of Mineral Resources (DMR) forms **Tabled Document "DC 16"**.

Gas well drilling began early 1999. Of the 25 wells covered by this DA, 22 have been drilled. In May 2001, pursuant to the DMR approval for the PAL, the first gas deliveries commenced

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to enable the assessment of the pilot gas project in its ability to sustain commercial rates of production.

Development Process

The current DA is being assessed under Part 4 of the EP&A Act and is deemed to be Designated Development in accordance with Schedule 3 – EP&A Regulation 2000, under the definition of ‘Petroleum works’.

An EIS has been submitted by the applicant with the DA. Furthermore, the DA is being assessed as an ‘Integrated Development’ with the concurrent authority being the Environmental Protection Authority (EPA).

The Minister for Planning has made a declaration pursuant to section 76A(7) of the EP&A Act, that the project is a State Significant Development. Therefore, the DA was lodged with PlanningNSW for determination by the Minister (refer to **Tabled Document “DC 17”** for a flow chart of ‘General Procedures for State Significant Development’.

EIS Preparation

A ‘planning focus’ meeting was called by PlanningNSW in November 2001 for all government agencies to discuss their specific issues and concerns on the project. Formal requirements from Council and the other agencies were then requested to become part of the Department Director-General’s requirements for the preparation of the above EIS.

EIS Exhibition

The DA and accompanying EIS for the Camden Coal-bed Methane Project were placed on public exhibition from 6 February until 8 March 2002. Advertisements were placed in local and metropolitan newspapers circulating in the area.

Given the limited period in which to consider the document, an extension has been requested. Firstly, to allow Council’s response to be accepted after the Council meeting of 11 March, and secondly, that the exhibition period be extended for a month to allow the community to be able to better access the voluminous EIS in order to comprehend the issues of this major project. PlanningNSW have indicated that an extension of 2 weeks has been granted. The exhibition will therefore close on Friday 22 March 2002.

Request for a Public Inquiry

The NSW Association of Mining Related Councils Inc resolved on 15 February 2002:

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“That a delegation meet with Minister Refshauge seeking support for a Commission of Inquiry to be held prior to Development Consent being granted.”

The delegation will consist of the Chair and Deputy Chair of the Association.

The Minister, pursuant to s119 EP&A Act, may at any time direct that an inquiry be held with respect to the environmental aspects of a proposed development, the subject of a development application.

It is recommended that Council support the NSW Association of Mining Related Council’s request for a public inquiry. This course of action is on the basis of the significance of this project, which is located in ‘rural residential’ areas affecting both Wollondilly and Camden LGA’s. Also, there is strong community interest as evidenced by the well attended Community Advisory Panel (CAP) meetings facilitated by SGO. A public inquiry will allow greater transparency of the DA assessment process before the Minister makes a determination.

Proposed Development

The DA is seeking consent to convert the existing Petroleum Assessment Lease (PAL 1) into a Petroleum Production Lease (PPL) and to cover the following activities:

- maintenance of existing production wells;
- the completion of a further 3 production wells located within the ‘Logan Brae’ property;
- maintenance of the existing and proposed gas gathering systems;
- the production of gas from proposed and existing gas wells; and
- the sale of the gas by its transmission to the existing AGL gas network located at Camden.

Review of EIS

It is proposed, with the extension of the exhibition period, to further review the responses the EIS has made to the Director-General’s requirements. It has been evident that the information and actions sought by Council have not all been addressed in the EIS. An appraised copy of Council’s letter to PlanningNSW, which is part of the Director-General’s requirements forms **Tabled Document “DC 18”**.

The main issues that have not been addressed in the EIS are as follows:

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Noise

The assessment is incomplete. The options for noise mitigation in relation to existing complaints from residents living adjacent to the plant are not discussed in the EIS. One option would be to enclose those areas of the plant that are generating noise.

The main issue with noise is the current approval process, which has created uncertainty in the way SGO's operations should be licensed. The EPA has not been involved, even though the plant has been operating for nearly a year. They will only take responsibility after the DA has been determined.

Odour

Again the assessment is incomplete. An odourant is required to be mixed with the gas to provide the gas with a smell after it leaves the plant. SGO have made a response to the project's HAZOP study in the EIS (p14-8) "Work on the odourant injection system has been completed to a stage where uncontrolled releases have now almost been eliminated." No details have been provided in the EIS. The Air Quality Impact Assessment undertaken by Dick Benbow & Associates is quoted, (pi) "The odour dosing compound ... has not been assessed due to the lack of published data relating to either environmental or health levels." Although it continues "Brief discussions with the NSW EPA noted this was considered to be acceptable." No details or letter confirming this action is apparent and no certainty as to the suitability of the proposal can be given. As mentioned above in 'noise' the option to enclose that section of the plant should be addressed in the EIS to contain any odour releases.

Rehabilitation, maintenance and bonds (items 12, 14 and 15) cannot be located as described in the EIS. Rehabilitation requires full details to be included in the EIS. This would cover typical programs for well sites, water storage dams, laying gas pipelines on private property and public road reserves including landscape details, specific maintenance and sedimentation control. Bonds need to be discussed regarding environmental damage and the decommissioning of wells and pipelines.

Council and the community have raised cadastral location of gas wells and well buffers (items 7 and 8) for some time. However, the EIS has not addressed this significant issue. The information being sought is that all wells and pipelines are identified by a temporary easement that would be extinguished with the decommissioning of the gas infrastructure. This information needs to be in the public realm to allow adjoining landowners and Council to determine the impact of the gas

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infrastructure has on any future development of surrounding land. The current practice of gas wells being initially approved by the DMR, rather than PlanningNSW pursuant to EP&A Act, creates difficulty of adjoining landowners to object to the impact on their land until after the wells have been drilled and a production lease is sought.

Irrigation and Salinity

The issue of the capability of the soils to receive irrigation from underground water collected at the well sites, even in a suitably diluted form to reduce salinity, has not been addressed in the EIS. This issue will require detailed site specific management plans to ensure there is no environmental degradation of the agricultural land.

Extending the Operation of an Existing Well (EIS section 3.5.8)

Raises the issue again of which government department ie Department of Mineral Resources or Planning and therefore which Act should be employed to approve a new or an extension (deeper drilling) of an existing gas well. As discussed above, it is more reasonable that the approval is sought under the EP&A Act before the well is drilled.

Conclusion

The extraction of coal-bed methane gas is a valuable resource for the Macarthur area and the State. However, the EIS has not provided sufficient information for a proper environmental impact assessment of the project and therefore the determination should be deferred by PlanningNSW, until all issues have been fully addressed and documented.

A detailed submission will be submitted to PlanningNSW based on the above review. With the two week extension of the exhibition, the EIS will be further reviewed to provide as detailed a submission as possible to PlanningNSW to ensure the EIS covers all outstanding issues. This will also assist if the Minister agrees to hold a public inquiry.

Recommended: That Council resolve to:

- (i) Prepare a submission to PlanningNSW for a Petroleum Production Lease development application from Sydney Gas Operations based on the following issues raised in the body of the Council report:
- noise
 - odour
 - rehabilitation, maintenance and bonds
 - cadastral location of gas wells and well buffers
 - irrigation and salinity;

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- (ii) Write to the Minister of Planning seeking a public inquiry for the proposed Camden Coal-bed Methane Project, Petroleum Production Operations at Cawdor currently being assessed as a development application by PlanningNSW.

Resolved on the Motion of Cr Batros, seconded Cr Fekete that Council resolve to:

- (i) *Prepare a submission to PlanningNSW for a Petroleum Production Lease development application from Sydney Gas Operations based on the following issues raised in the body of the Council report:*
- *noise*
 - *odour*
 - *rehabilitation, maintenance and bonds*
 - *cadastral location of gas wells and well buffers*
 - *irrigation and salinity;*
- (ii) *Write to the Minister of Planning seeking a public inquiry for the proposed Camden Coal-bed Methane Project, Petroleum Production Operations at Cawdor currently being assessed as a development application by PlanningNSW.*

DC025/02 THE MOTION WAS **CARRIED**.

**7. Proposed rezoning of “Kirkham Views” precinct
Camden Valley Way, Narellan (adjacent to Camden
Views Estate)**

(Director Outcomes and Governance) (File TC4272/2).

Purpose

The purpose of this report is to inform Council regarding the status of the draft Local Environmental Plan (LEP) for the Kirkham Views precinct and have Council resolve to defer the draft Plan.

Background

On the 14th May, 2001 Council was briefed in respect of the proposed rezoning of certain land generally bounded by the “Links Estate”, “Camden Views Estate”, the Narellan Hotel and Camden Valley Way, Narellan to permit medium density development resolved:

- (i) *Council resolve to exhibit the amended draft Local Environmental Plan to rezone the subject precinct to permit multi-unit housing.*
- (ii) *The consultation strategy as proposed in the report be pursued.*
- (iii) *A further report be submitted to Council at the conclusion of the exhibition period.*

In accordance with Council’s resolution and previously outlined consultation strategy, Council officers met with owners adjoining the precinct to explain the draft plan and address any concerns they may have regarding future development of the precinct. It should also be noted that owners within the precinct were consulted extensively at the outset of the rezoning process and have been kept informed throughout. Details regarding this consultation are addressed in the report.

Proceeding from consultation with adjoining owners, the draft Plan was exhibited for public comment from the 24th September to 26th October 2001. Details of the exhibition are also addressed in the report.

A location map of the precinct forms **Tabled Document “DC 19”**.

Consultation with adjoining Residents

The owners of property adjoining the subject precinct were invited to an information session to discuss Council’s decision

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to investigate the suitability of their land for medium density residential purposes.

The workshop was well received by those residents who attended. Council staff presented details regarding the proposed rezoning and fielded questions on a wide range of issues.

Whilst many owners expressed initial concerns regarding the rezoning process, it was clear from the information session that Council's expectation of high quality development within the precinct was successfully communicated.

Adjoining residents posed a number of central issues requiring further feedback from Council. These issues and Council's response to residents forms **Tabled Document "DC 20"**.

Exhibition

The draft Plan was placed on public exhibition for 28 days from the 24th September 2001 to the 26th October 2001. Property owners within the precinct; adjoining owners and relevant Statutory Authorities were advised regarding the exhibition and invited to make written submissions to Council on the draft Plan.

Submissions were received from the Mine Subsidence Board, The Department of Mineral Resources, RTA, EPA, Agriculture NSW and Sydney Water, all of whom raised no objection to the draft rezoning.

After initial and extensive consultation very few enquires were made during the exhibition of the Draft plan by owners in the precinct. These enquires were predominantly concerned with an ultimate completion date for the rezoning process and commencement of development.

A submission was, however, received from Macquarie Developments, an owner of land in the precinct. The principal issue raised by Macquarie Developments with regard to the draft LEP was the requirement to consolidate land in each drainage catchment into a single allotment prior to lodging a development application.

Macquarie Developments contend that consolidation of land into a single allotment is not feasible given the multiple ownership within the precinct and varying development aspirations.

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CAMDEN – 5.30PM**

**Site Consolidation, Infrastructure Requirements and
Funding Mechanisms**

Further discussions were held with Macquarie Developments regarding their concerns and legal advice was sought by Council regarding the wording of the consolidation clause.

Based on legal advice received, it is evident that the wording of the consolidation clause can be amended to provide increased opportunity for development within catchments of the precinct.

In this regard, it is recommended that the requirement in the draft Plan for consolidation of land in each drainage catchment into a single allotment be removed in favour of wording that requires the lodgement of a single development application for all land in each respective drainage catchment within the precinct.

The lodgement of a single application necessitates that landowners in each catchment coordinate to develop their land in a staged manner and affords Council the opportunity to negotiate a Developer Agreement.

The recent legal advice obtained by Council also indicated that preparation of a Developer Contribution Plan under S.94 of the Act, potentially exposes Council to pressure for up front studies and the provision of infrastructure associated with drainage, access and open space in particular.

Developer agreements present Council with the best opportunity to both limit its financial exposure for up front provision of necessary infrastructure such as trunk drainage, traffic management and open space and achieve a quality staged development within the precinct.

However, a developer agreement, that would ensure that Council's needs are met, can only be negotiated before finalising the draft Plan. Should the draft Plan be adopted by Council and the Plan made by PlanningNSW, the opportunity to negotiate a developer agreement is lost and Council risks financial exposure through up-front provision of necessary infrastructure.

It is therefore recommended that Council defer the rezoning of both catchments until presented with a single application for development in one or both catchments and having negotiated a developer agreement with the applicant.

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Conclusion

The re-development of sites with multiple ownership such as the Kirkham Views Precinct presents a range of issues and planning challenges, particularly the means by which, necessary infrastructure including public open space is funded at the time of development.

Council in proceeding with the draft Plan, without having first negotiated developer agreements for infrastructure provision, risks financial exposure to providing this infrastructure up-front at its own cost. Therefore, deferring the draft Plan and amending the consolidation clause to provide increased opportunity for staged development in the precinct is recommended.

Recommended: That

- (i) Council resolve to defer the draft Local Environmental Plan for both catchments until presented with a single application for development in one or both catchments and having negotiated a developer agreement.
- (ii) Council amends the wording in the draft Plan pertaining to the consolidation of land, as detailed in this report.
- (iii) Planning NSW be advised of Council's decision in this matter.
- (iv) Owners within the subject precinct be advised of Council's decision in this matter.

Resolved on the Motion of Cr Corrigan, seconded Cr Anderson that

- (i) Council resolve to defer the draft Local Environmental Plan for both catchments until presented with a single application for development in one or both catchments and having negotiated a developer agreement.
- (ii) Council amends the wording in the draft Plan pertaining to the consolidation of land, as detailed in this report.
- (iii) Planning NSW be advised of Council's decision in this matter.
- (iv) Owners within the subject precinct be advised of Council's decision in this matter.

DC026/02 THE MOTION WAS **CARRIED**.

The Meeting closed at 6.25pm.