

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

TABLE OF CONTENTS – DEVELOPMENT COMMITTEE

DEVELOPMENT COMMITTEE PUBLIC ADDRESSES	2
MAYORAL MINUTE	2
1. Proposed Modification to Development Consent 231/2002 – Retail/Commercial Complex at No 1 (Lot 1 DP979451) Murray Street, Camden.....	5
2. Two (2) Lot Rural Subdivision (One 1 Additional Lot) at 190 (Lot 1 DP882365) Kirkham Lane, Kirkham	13
3. Retention of an Existing Unauthorised Detached Brick Walled and Iron Roofed Building / Entertainment Room at 53 (Lot 69 DP 230494) Engesta Avenue, Camden South.....	28
4. Notification of Development Applications over the Christmas Period	36

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

Present: Cr G Corrigan (Mayor/Chairperson), Cr F Anderson, Cr S Winn, Cr C Patterson, Cr B Batros, Cr N McFadden, Cr E Campbell, Cr S Fekete, Cr S Senise

Staff: General Manager, Director Governance & Outcomes, Acting Director Works & Services (Manager Engineering), Director Development & Environment, Acting Manager Corporate Services (Team Leader Financial Planning), Manager Assets, Manager Community Services, Senior Governance Officer, Administration Officer.

DEVELOPMENT COMMITTEE PUBLIC ADDRESSES

- Mr Bob Lundie-Jenkins addressed the Committee in relation to Item 5 of the Resources & Services Committee.
- Mr Frank Coyne addressed the Committee in relation to Item 2 of the Development Committee.
- Mr Warren Back addressed the Committee in relation to the Recission Motion in the Resources & Services Committee.
- Mr Michael Haynes addressed the Committee in relation to Item 3 of the Development Committee.
- Mr Burnett also addressed the Committee in relation to Item 3 of the Development Committee.
- Mr Peter Neilson addressed the Committee in relation to the Recission Motion in the Resources & Services Committee.
- Mr Greg Frawley addressed the Committee in relation to the Mayoral Minute.

(Cr McFadden declared a conflict of interest as he works for an opposition aluminium company and took no part in discussion or voting and left the Chamber – the time being 6.20pm).

MAYORAL MINUTE

Councillors would be aware of the development application lodged by Capral Pty Ltd to PlanningNSW that proposes the construction of an industrial building in Anderson Road Smeaton Grange for use as an aluminium extrusion plant.

The application is State Significant Development and for this reason the application is submitted to PlanningNSW and will be determined by the Minister for Planning. Camden Council is not the consent authority to the development however staff are currently reviewing the Environmental Impact Statement and will be preparing a comprehensive submission to PlanningNSW by the closing date for submissions, which is December 2, 2002. A report in relation to the application will be submitted to Council's meeting of November 25, 2002.

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

I provide details of the process involved to ensure that everyone who is concerned with the proposal is aware of the procedures that will be followed.

SEPP No 43 – Major Employment Generating Development is a State policy for major developments that have state significance in terms of employment and investment. The policy applies to a range of industrial uses where the projects will employ more than 100 persons on a full-time basis, post construction and/or have a capital investment of \$20 million or more (excluding land value). Metal processing is one of the types of industries covered by the policy and therefore the Capral proposal, being a metal processing factory that will employ 207 persons and cost \$90.6million to develop is covered by the policy. This means the Minister for Planning is the consent authority to this development.

In addition, the application is designated development and requires that an Environmental Impact Statement be prepared to assess potential impacts of the proposal. This statement together with the development application is currently on exhibition at Council offices and Camden library and can also be purchased from PlanningNSW. The exhibition period will conclude on December 2, 2002.

The applicant has arranged for a second public meeting to be held next Thursday, November 14, 2002 commencing at 6pm in the Harrington Park Community Hall. This meeting is to provide feedback to persons who attended the initial community consultation meeting and also to allow residents who have any concerns in relation to the project to address the consultants who have prepared the EIS.

Any person may make a submission to the Minister for Planning in relation to the development application and has until December 2, 2002 to do so. Submissions should not be made to Camden Council.

Under the legislation, a call for a public inquiry in relation to the application may also be made. The Minister cannot determine the application until the Inquiry has given its findings.

In the event that no Public Inquiry is held, any person who made a submission in relation to the application may appeal the Minister's determination in the Land and Environment Court.

I believe the procedures and processes available to review the application and the opportunities for an open assessment will ensure a proper determination of the application by the Minister. Camden Council will ensure that its submission to

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

the Minister properly addresses all issues relevant to its residents.

I recommend that:

- i. Councillors take the opportunity to consider the EIS and the issues it raises in order that the matter can be fully debated at the Council meeting of 25 November 2002.
- ii. Councillors encourage community members to attend the meeting at Harrington Park on 14 November 2002 and make their concerns known.
- iii. Councillors encourage community members to make submissions directly to the Minister of Planning regarding this development.

Moved Cr Corrigan, seconded Cr Patterson that

- i. Councillors take the opportunity to consider the EIS and the issues it raises in order that the matter can be fully debated at the Council meeting of 25 November 2002.*
- ii. Councillors encourage community members to attend the meeting at Harrington Park on 14 November 2002 and make their concerns known.*
- iii. Councillors encourage community members to make submissions directly to the Minister of Planning regarding this development.*

DC115/02 THE MOTION WAS **CARRIED.**

(Cr McFadden returned to the Chamber – the time being 6.35pm).

CHAIR OF MEETING

Cr Corrigan vacated the Chair and the Deputy Mayor, Cr Anderson assumed the Chairperson's role.

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

**1. Proposed Modification to Development Consent
231/2002 – Retail/Commercial Complex at No 1 (Lot
1 DP979451) Murray Street, Camden**

File No: 5750.10-3/2 (Director, Development &
Environment Division)
DA No: 231/2002 (Modified Application 76/2002)
**Owner: CMPH Pty Ltd and the Country Women's
Association of NSW**
**Zoning: Town Centre 3[e] and Town Centre Support 3[f]
under LEP 45**

Purpose of Report

The applicant seeks approval to vary two conditions of the development consent which authorise the construction of the commercial building that is currently under construction. These conditions relate to the erection of illuminated signage and filling under the proposed CWA building.

Summary of Recommendation

It is recommended that the modification be approved in relation to filling, however, the request for internally illuminated signage is not supported given the impact on the streetscape and the number of signs proposed advertising 'Target'. Notwithstanding this comment, an application for the erection of professionally painted advertising signs that are floodlit would be supported.

The Proposal

The applicant seeks approval to vary the following conditions of Development Consent, the first seeking to delete the requirement of Condition 53; the second to vary requirements in relation to illuminated signage.

53. FREE FLOW OF FLOODWATERS – The CWA building is to be designed so as to allow the free flow of floodwaters below the building in a flood event. The area below the building is to be secured so as to prevent access by unauthorised persons. No change to the finished ground levels other than the adjacent car park shall occur.

Comments: Council previously approved a maximum height for the retaining wall shown along the property's western boundary [no greater than the existing road level to the RSL car park]. The height stipulation was designed to reduce the impact of local flooding. Likewise the free flow of floodwaters beneath the CWA building was

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

required to compensate for loss of flood storage area. In reality however, the storage area will have negligible impact in relation to floodwater displacement during a major flood event. The applicant has suggested that an open sub floor area will result in the accumulation of rubbish, encourage vermin breeding and provide concealment opportunities for anti – social behaviour. The filled area will also facilitate disabled access from the CWA building to the rear courtyard.

88. ADVERTISING SIGNS APPLICATION – Outdoor-advertising structures require prior development consent. A development application must be submitted and approval granted by the Consent Authority [ie Camden Council] prior to the erection of any advertising signs.

The design style, colour, height and type of any advertising sign must have regard to the character of the development, any existing advertising theme and DCP 96 ‘Outdoor Advertising Code’.

The Signage design policy submitted with the DA is acceptable as a guide to the signage theme on the building.

90. FLASHING OR REVOLVING LIGHTS – No flashing, neon or revolving lights shall be used to attract customers. No signs shall be internally lit. No banners are permitted.

Comments: Both of these conditions need to be read in conjunction, as they relate to signage on the building. The applicant intends to erect five (5) internally illuminated and one (1) non- illuminated ‘Target Country’ signs. A further three (3) ‘Camden Central’ signs are proposed at the Corner of Cawdor Road and Murray Street (see **Tabled Document ‘DC 1’**).

The Site

The subject site is located on the western fringe of Camden Town Centre (see **Tabled Document ‘DC 2’**). The commercial/retail complex approved by Council is nearing completion. Given the proximity of the site to the floodplain and indeed the level of flood affectation, the building approved by Council has prominent elevations particularly from the northwest and southwest elevations. The design of the complex includes a corner tower, which provides the streetscape with a

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

bold statement and the building with a strong sense of presence.

Planning Controls

The following planning controls have been considered with respect to Council's assessment of the application:

- Camden 2025
- Camden LEP 45
- Draft Camden Local Plan
- Camden DCP 96 – Guidelines for Outdoor Advertising
- Scenic and Cultural Landscape Study

Assessment

The subject application has been assessed in accordance with section 79C of the Environmental Planning & Assessment Act. The following comments are provided with respect to the critical aspects of Council's assessment.

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

Camden 2025

The strategic document recognises Camden town as the last remaining significant country town on the Cumberland Plain. The document calls for the 'retention of the existing character...with cultural, landscape and design qualities being protected'.

Comments: Council has always discouraged the use of internally illuminated signs. A much more suitable alternative is the use of externally floodlit signage. There are a number of existing buildings in Argyle Street, which have successfully provided flood lit signage to promote their business, without impacting on the heritage significance of the mainstreet. A good example is the Retravision store. These signs tend to be professionally sign written rather than computer generated. The end result is an external facade / signage arrangement that is more in keeping with the heritage significance of the town centre.

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

Camden LEP 45

The planning instrument aims to:

- [b] to encourage new retail and commercial development which will reinforce the town centre, while retaining its historic character.

- [d] to protect significant vistas towards St Johns Church

Comments: The objectives referred to highlight the balance Council is endeavouring to strike between new development and the retention of historic values. Council has worked with the developer to ensure that the new complex is sympathetic to existing development and themes found through out the township. Appropriate signage will ensure that the design features of the building are not eroded by what might be regarded as visual pollution.

Draft Camden Local Plan

Council has recently referred the draft Camden LEP to PlanningNSW seeking a s65 Certificate to allow exhibition of the plan. Whilst the plan has not been publicly exhibited, the place statements have been the subject of public consultation and therefore can be considered in relation to the proposal.

The Desired Future Character Statement (DFC) for the subject site states:

‘Signage will not be allowed to proliferate. It will be limited to the shop front, awning fascia and under awning locations. Signage will be incorporated with and proportionate to the building, externally lit, sign written onto the building and consistent with the character elements of the place. Standard corporate style design signage, free standing or pole signs will not be allowed’.

Comments: The DFC statement reflects Council’s attitude towards appropriate signage and the importance of maintaining a streetscape that is not dominated by corporate, internally lit or product signage. The ‘Target Country’ signs proposed for the building are typical of the design adopted by the company, with a white background, red circles or target and black lettering. The plans submitted to

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

Council are unclear with respect to the separation between the proposed signage and the horizontal banding afforded to the building. The proliferation of signage on the building will be out of character with that within the town centre and will not comply with the above statement.

Camden DCP 96 – Guidelines for Outdoor Advertising

The DCP seeks:

- To control the impact of signs on the natural and man made environment, taking into account the impact of such advertising on historic buildings / items thus preserving the unique character of Camden.
- To take into account the impact of signage on the landscape and scenic quality of the locality.

The DCP specifically prohibits the erection of above awning signs [ie attached to the building facade above the awning].

Comments: Council agreed to the provision of signage in parts of the building façade above the awning when approval was granted for the subject development. The approved plans indicated that some signage would be provided within the banded areas. The plans approved by Council clearly show designated areas for advertising. At the time, it was envisaged that the various tenants would use the designated areas. This does not appear to be the case however, with all signs to be reserved for 'Target Country' advertisements. Consequently six Target signs [two signs on three of the four elevations] will appear on the building. These signs are generally located above separately tenanted shops, except for one located on the Cawdor Road frontage and an internal sign above the shop entry.

Draft Scenic and Cultural Landscape Study

The document suggests that the scenic quality of a town is determined by its underlying landform. In the case of Camden, the ridge at its centre and the floodplain around three sides of it, determine both views from the town centre and those towards Camden from the floodplain and surrounding higher land. Of particular importance is the

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

gateway sites with the town. This site is one of those sites, which requires careful consideration to the impacts of development.

Comments: The signs proposed by the applicant [internally lit] have the potential to detract from views towards and from the floodplain. Illuminated signs proposed along Murray Street will be visible from properties located along the ridgeline and the St Johns Church Conservation Area. Likewise the illuminated signs proposed for Cawdor Road will be visible from Onslow Park, Bicentennial Park and surrounding land. By their nature and materials used, internally lit signs are out of character with the heritage character of Camden.

(b) The impact of the development on the natural and built environment

Filling of Land

The proposed fill to be placed beneath the CWA building is minor in area. The amount of floodwater displacement during a major flooding event will be negligible. There are a number of advantages to be gained by filling this area. Possibly the most important is the removal of a concealment area in accordance with safer by design principles and provision of disabled access to the courtyard at the rear of the CWA building.

External Advertising

The advertising signs, as proposed, have the potential to cause adverse impact upon the building and the streetscape in general. The internally illuminated signs are essentially corporate in nature and not in keeping with the design of the complex and surrounding development.

Conclusion

Externally flood lit signs, which have been professionally sign written would be more in keeping with the advertising arrangement sought for Camden Township. The design of the building lends itself to external illumination given the awning arrangement that overhangs the footpath area. In this regard the application to internally illuminate signs is not supported based on the comments espoused in this report.

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

Recommended: That the application to modify Development Application No 231/2002 for property located at No 1 [Lot 1 DP979451] Murray Street, Camden be determined in the following form:

- (i) Condition 53 be deleted to allow proposed fill to be placed beneath the CWA Building;
- (ii) Condition 90 remain for the following reasons:
 - (a) the proposal does not comply with the Desired Future Character Statement for Camden as set out in the Draft Camden Local Plan;
 - (b) the proposed signage is contrary to the requirements of Draft DCP 96 in terms of the amount and location of signage;
 - (c) the proposed signage will impact on the historic values of the Camden town centre and is incongruous with existing signage.
 - (d) The proposed signage for the major tenant is excessive and reduces the opportunity for signs to be displayed by other occupants of the complex; and
- (iii) The applicant be advised that Council would support an application for externally floodlit professionally painted signs on the building, provided the amount of signs is reduced to comply with DCP 96 and given consideration to the needs of all tenants of the complex.

Resolved on the Motion of Cr Batros, seconded Cr Patterson that the application to modify Development Application No 231/2002 for property located at No 1 [Lot 1 DP979451] Murray Street, Camden be determined in the following form:

- (i) Condition 53 be deleted to allow proposed fill to be placed beneath the CWA Building;
- (ii) Condition 90 remain for the following reasons:
 - (a) the proposal does not comply with the Desired Future Character Statement for Camden as set out in the Draft Camden Local Plan;
 - (b) the proposed signage is contrary to the requirements of Draft DCP 96 in terms of the amount and location of signage;
 - (c) the proposed signage will impact on the historic values of the Camden town centre and is incongruous with existing signage.
 - (d) The proposed signage for the major tenant is excessive and reduces the opportunity for signs to be displayed by other occupants of the complex; and

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

- (iii) *The applicant be advised that Council would support an application for externally floodlit professionally painted signs on the building, provided the amount of signs is reduced to comply with DCP 96 and given consideration to the needs of all tenants of the complex.*

DC116/02 THE MOTION WAS **CARRIED.**

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

**2. Two (2) Lot Rural Subdivision (One 1 Additional Lot)
at 190 (Lot 1 DP882365) Kirkham Lane, Kirkham**

File No: DA4625.109-2 (Director, Development & Environment Division)
DA No: 36/2002
Owner: SMA Motors Pty Ltd & Investment and Loans Pty Ltd
Zoning: Rural “A” (40ha) Zone and small areas of Rural “C” (0.4ha min) Zone – CLEP 48

Purpose of Report

Council is in receipt of an application to create an additional lot from the subject site. This report addresses such application, in accordance with all relevant statutes and Council policies.

The application is referred to Council for consideration, as the proposal does not comply with the development standard contained within CLEP 48, in that the new lots do not have minimum lot sizes of 40 hectares as required and the proposed dwelling will be substantially above RL90, which is in contravention of DCP 83 ie ‘building ridge heights shall be suppressed in respect of RL90.’ The applicant has submitted a SEPP 1 application request with the application seeking Council support to the variation of the minimum lot area standard in CLEP 48.

Summary of Recommendation

Because of the impact that the proposed development will have on an adjoining property and the proposed new dwelling being located on an elevated ridge near the entrance to the rural residential estate, the application is recommended for refusal.

Background

Council received an application for a 3 lot subdivision for the same site in November 2000. It was resolved (DC012/01) at the Development Committee, 22 January 2001, that:

‘Council not support the SEPP 1 Objection as DCP 83 requires building heights to be suppressed to RL90.’

Pursuant to s82A EP&A Act the applicant made a request on 12 February 2001, for a review of this determination. The justification by the applicant for this review was as follows:

‘The Development Control Plan states that the area ‘has to be developed in response to the scenic significance and environment sensitivity of the land and the landscaping

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

setting'. We agree with these objectives and in our application set out how they would be achieved in the proposed subdivision.

As pointed out in our application Council has approved ridge lines above RL 90 for various allotments in the adjoining Kirkham Meadows Estate and controlled the development by covenants relating to building height, design, location, external finishes and outbuildings. We suggest that similar covenants could be applied to the two 4000m² lots. The old clubhouse building on the large residue lot (4.62ha) would be upgraded or rebuilt to the standard of the Kirkham Meadows Estate.

Any homes erected on the two lots would have ridgelines below the backdrop land. The intersection of Kirkham Lane and Macquarie Grove Road is RL 100. Also, the two new homes would be obscured in view lines from Camden Valley Way by existing developments in Kirkham Meadows Estate and existing trees etc. No existing trees would be removed on either of the two new lots.'

The review was reported to Council's Development Committee, 26 March 2001 and it was resolved (DC031/01) that:

'the Application be refused due to not complying with planning and design criteria.'

The Proposal

The subject site has an area of 5.4469ha and it is proposed to create two (2) lots having areas of 4.621ha and 8259m². It is proposed that the smaller lot will be utilised for future residential purposes as an extension of the existing rural residential estate 'Kirkham Meadows'. The residue parcel shall continue to provide a curtilage for the former existing cottage, which was previously a golf clubhouse. This building has recently been damaged by fire and an application has been received for its demolition.

A plan of the proposal forms **Tabled Document 'DC 3'**.

The Site

The site is situated on the corner of Kirkham Lane and The Meadows, adjacent to the Kirkham Stables precinct.

The smaller site falls off a central short spur line on its south-western boundary, to the north and to the south-east towards The Meadows (road). The land slopes from RL 94 to RL 90 at its south-eastern corner. The land slope is consistent with that of the adjoining developed lots.

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

The overall site supports a number of large trees and other vegetation. Mature trees exist on the land scattered towards the north-east as a clump around the south-western section of the site. No trees were proposed to be removed as a result of this development.

Notification

The application was advertised in accordance with Council's Policy and at the close of the notification period three (3) submissions were received. **Copies of the submissions were provided separately for the information of Councillors.** Such objections are summarised below in this report.

Planning Controls

The following plans and policies have been considered in the assessment of this application:

- Camden LEP 48
- SREP 20 Hawkesbury-Nepean River system
- Camden Scenic and Cultural Landscape Plan
- DCP No. 83- Kirkham
- Camden 2025

Section 79C Consideration

(a) The Provision of any Environmental Planning Instrument

The application is not inconsistent with any SEPP or REP.

Sydney Regional Environmental Plan

The land is affected by Sydney Regional Environmental Plan No. 20 (No. 2 –1997) which states that Council shall not grant consent to an application to carry out development which drains to the Hawkesbury/Nepean River, unless it has taken into account the effect the proposed development will have on:

- (a) the water quality of the river;
- (b) the recreational opportunities of the river;
- (c) the economy of the river;
- (d) the agricultural potential of the river;
- (e) the significant vegetation and wildlife habitats of the river valley;
- (f) the environmental heritage of the river valley;
- (g) the scenic quality of the river and river valley;

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

- (h) whether the proposed development will be capable of connection to a Sydney Water Corporation or Council sewerage system, either now or in the future.

Implementation of appropriate erosion controls during construction, together with water quality management, the impact of the proposed development on the river system is not an issue.

Camden Local Environmental Plan No. 48

The subject land is principally zoned Rural "A" (40Ha) and a small area zoned Rural "C" where the site is below RL 90 (the zoning boundary is the contour) and is immediately adjoining to land zoned Rural "C" with a minimum subdivision area of 4000m². A copy of a plan showing the zone boundaries forms **Tabled Document 'DC 4'**. Within the Rural "A" zoning of LEP 48, a minimum subdivision area of 40ha is specified. Clause 10 of LEP 48 permits a minor variation between the Rural "A" and Rural "C" zone boundaries, where it can be demonstrated that the development is desirable due to planning, design, ownership, servicing or similar criteria relating to the most appropriate development of the land

The relevant zone objectives are as follows:

- (a) to provide suitable land for agricultural use;
- (b) to promote the conservation of economic units of productive agricultural land, particularly those areas designated as having prime crop and pasture potential, by regulating subdivision to prevent the fragmentation of actual or potentially productive rural holdings;
- (c) to enable compatible forms of development, including recreation and tourist orientated uses to be carried out, if they are in keeping with the rural character of the locality, and carried out in an environmentally sensitive manner;
- (d) to permit the development of extractive industries to occur in an environmentally acceptable manner; and
- (e) to ensure that development does not detract from the existing rural character of the area or create unreasonable or uneconomic demands for provision or extension of public amenities and services.

The proposal is not consistent with the objectives of this zone.

Clause 10 of the LEP 48 provides for subdivision of land...

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

- ‘10. (1) which is within 50 metres of a boundary between any two of Zones Nos. 1(a), 1(b), 1(c), 1(v), 5(a), 5(c), 6(a) and 7(d).
- (2) Subject to subclause (3), development may, with the consent of the Council, be carried out on land to which this clause applies for any purpose for which development may be carried out in the adjoining zone.
- (3) The Council shall not consent to the carrying out of development referred to in subclause (2) unless, in the opinion of the Council, the carrying out of the development is desirable due to planning, design, ownership, servicing or similar criteria relating to the most appropriate development of the land.’

The development proposed is within 50m of the boundary between the zones 1(a) and 1(c) with a small portion of the lot zoned 1 (c). The provisions of this clause permit development for the purposes proposed. It is considered however, that the proposal is not desirable because of its impact to adjoining land and visual impact from the entrance road and Macquarie Grove Road.

Clause 12 of the plan provides that...

- ‘(2) The Council shall not consent to the subdivision of land to which this clause applies unless each separate allotment created by the subdivision will have an area of not less than:
- (a) in the case of land within Zone No. 1(a) or 7(d) - 40 hectares;’

As the lot sizes proposed do not achieve the 40ha minimum required by the LEP, an objection made under the provisions of *SEPP. 1 – Development Standards* application has been lodged for Council’s consideration. SEPP 1 provides that where a development standard does not allow the carrying out of a development, which but for the standard could be carried out, written application may be made objecting to the development standard on the basis that the development standard is unreasonable or unnecessary in the circumstances of the case and specifying the grounds of that objection.

The grounds presented by the applicant for this proposal are as follows:

“It is noted that the area of the current lot 1 is only 5.44 hectares compared with the minimum area standard of 40 hectares. A building already exists on the land and this

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

would be retained on a lot with a slightly reduced area without impact on that building, its curtilage or use of the land.

- *Compliance with the standard is unnecessary as the subject land having an area of only 5.44 hectares is not suitable for agricultural use other than perhaps intensive agriculture which would not be desirable given the scenic and landscape considerations (objective (a) {of CLEP 48}).*
- *Compliance with the standard is unnecessary as the subject land is not and cannot become an economic unit of productive agricultural land. It is not an area of prime crop or an area of pasture potential (objective (b)).*
- *Compliance with the standard is unnecessary as the resultant building form and use will be clearly compatible with surrounding development, will be in keeping with the rural character (rural residential) of the area whilst it can be carried out in an environmentally sensitive manner (objective (c)).*
- *Compliance with the standard is unnecessary as the land does not contain extractive resources nor is it a situation where extractive industries would be permitted (objective (d)).*
- *Compliance with the standard is unnecessary as the development will not create demands for the provision of additional services. It is noted that all domestic service requirements are available (including reticulated sewer) whilst the extent of development will not require any amplification of those services. The development is entirely in keeping with the existing rural character and variation of the standard and the resultant built form and use can be adequately controlled by appropriate consent conditions and 88B Instrument controls (objective (e) and*
- *Compliance with the standard would be unreasonable as the zoning boundary as set followed the RL 90m contour based on water service and visual impact considerations. As demonstrated in our report of June 2002 the particular situation of this land is such that dwelling house development can occur without any unacceptable visual impact. Finally, the land can be served with a reticulated water system.*

For the reasons set out above we submit that variation of the development standard is justified”

It is considered that the grounds of objection to the development standard are not justified given the

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

circumstances of the existing rural residential estate, ie keeping the ridge heights of the dwellings at a level that minimised their impact on the surrounding landscape, the history of the development of the site and the precedent of building an expected large dwelling on an elevated ridge. Concurrence from planningNSW is required to the variation should Council support the application.

Development Control Plan No. 83

Principal Objectives

- To ensure that development is responsive to the natural and cultural characteristics of the site, the surrounding land and its use;
- Development shall consider the slope/stability of the prevailing landform;
- To ensure, that as a result of development, water quality and land degradation are not diminished or exacerbated respectively and where unsatisfactory, are enhanced;
- To ensure that the subdivision design recognises and preserves remnant vegetation and fauna habitat;
- To ensure that development is adequately serviced by public utilities;
- To ensure that development considers the heritage significance of the site;
- To ensure appropriate access to a commensurate level of recreation and community facilities;
- To ensure that rural pursuits are pursued in accordance with agricultural land capability principles and in an environmentally sensitive and sustainable manner;
- To ensure that the scenic rural landscape is preserved and embellished where possible. Building ridge heights shall be suppressed in respect of RL 90;
- To provide an adequate access network which has regard to the environmental constraints of the site;
- To ensure that development has due regard to the flooding characteristics of the site and does not exacerbate problems associated with flooding or increase flood risks generally;
- To develop a stormwater strategy, having regard to natural drainage paths so as to minimise the impacts of stormwater drainage upon development and the natural environment;
- To identify building envelopes within each allotment, where required, so as to ensure adequate setback between buildings to reinforce the sense of place and

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

rural atmosphere and to protect the valuable physical characteristics of the site;

- To ensure that buildings are sited with due regard to the surrounding environment so as to ensure minimum visual impact, optimum energy efficiency and access to views and privacy;
- To ensure that the impacts resulting from the current and future use Camden Airport fall within acceptable environmental tolerance and that the current and long-term functioning of the airport is not impeded by development.

DCP 83 also requires that development applications for future dwelling houses shall be required to prepare and submit to Council a site specific geotechnical assessment. Measures shall be put in place to ensure that land degradation is avoided. The loss of remnant vegetation shall be minimised. Each allotment shall be provided with an acceptable level of services applicable to rural-residential development. A comprehensive landscaping plan shall be required to be submitted to Council to ensure compliance with the requirements of the DCP. An appropriate building envelope shall be provided for each dwelling house and associated out buildings and buildings sited as to have regard to surrounding development, energy efficiency and access to views and privacy.

Therefore the proposal is considered to be in conflict with the DCP.

Camden 2025

The application is considered to be generally consistent with the objectives identified in the Camden 2025 Plan and strategies proposed by the Camden Structure Plan with the exception of the following issues:

Urban Development Objective

- Camden's landscape setting is retained and enhanced;

Environmental Systems

- The unique cultural and visual landscapes which characterise Camden are threatened by both urban and rural development pressures. The vulnerability of these landscapes requires innovative management strategies.

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

Environmental Systems Objective

- To preserve and enhance the visual, cultural and scenic landscape qualities.

Economic and Community Development

- The rural landscape is an important factor in the lifestyle of the Camden community. Camden offers the opportunity for a wide variety of rural pursuits including rural residential living. The challenge is to manage rural lands and agricultural pursuits with due regard to the environment and neighbouring residential uses.

Draft Cultural and Scenic Landscape Study

The draft Cultural and Scenic Landscape Study does not specifically identify the subject site or immediate area as having any specific cultural or scenic significance apart from the corner at Kirkham Lane and Macquarie Grove Road. The site is a prominent element in the landscape with panoramic views in all directions and is a secondary gateway to Camden, inclusive of the proposed lot/house. The Study includes a number of things to be discouraged, including:

- Any development in the buffer area between the road and the Crear Hills ridges to the east of Macquarie Grove Road, which would have the effect of diminishing the landscape's scenic and heritage values;
- Residential expansion into the foregrounds of views of the curtilages of historic properties;
- Loss of view lines and panoramas;
- Development which conflicts with the visual qualities of the "gateway" to Camden on Kirkham Lane.

The study also supports development that:

- Development of a scenic and cultural landscape policy for subdivisions which acknowledges, manages and enhances the appreciation, interpretation and promotion of scenic and related cultural values of the road corridor.
- Buildings of a rural scale and forms which relate to the existing local tradition.

It is considered that the proposed development does not comply with the Study in a number of areas.

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

(b) Likely Impact on Both Natural and Built Environment

Overall Impact

The overall impact of the development is not consistent with the existing and desired character of the built environment. There will a significant impact on the natural environment because of the house is proposed to be on an elevated ridge and the house, even restricted to single storey will dominant the current rural residential development.

RL 90

In order to minimise the visual impact of the previous development on the ridgeline and the protection of views to the site, building ridge heights in the vicinity of RL 90 were conditioned in the earlier development consent. The lots immediately adjoining the proposed development were conditioned in relation to ridge heights as follows:

LOT	METRES
105	92
106	92 (vacant)
107	93 (vacant)
206	94.5 (vacant)
207	93 (vacant)
208	92

The potential RL's in the subject application are as follows:

LOT	FLOOR LEVEL HEIGHT	RIDGELINE HEIGHT
101	98m (assumes existing floor level of golf clubhouse)	na
102	92	98

The proposed RL for the proposed lot 102 is clearly outside the gamut of surrounding levels. The visual impact from Macquarie Grove Road would be significant, even with a single storey dwelling. The impact is such that support cannot be given for this DCP variation.

Heritage Issues

The proposed subdivision is adjacent to land, which contains the historic Kirkham Stables precinct. Clause

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

24(3) of LEP 48 requires that ...“Council shall not grant consent to the carrying out of development in the vicinity of land containing an item of environmental heritage unless it has made an assessment of the impact of the effect which the carrying out of development would have on the historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the item or its setting”.

Accordingly, in assessing the development application, Council must consider the impact of the subdivision on the integrity of the Kirkham Stables precinct and its setting.

‘Kirkham’ is listed within Camden LEP No. 48 as an item of environmental heritage. Further, the ‘Kirkham Precinct’ is listed in the Register of the National Estate and is listed in the National Trust of Australia register.

During assessment of DA 5266/98 for the subdivision which created the subject lot 1, a heritage ‘Statement of Significance’ was prepared by Knox and Partners for the subject site in 1995 to assist in preparation of Development Control Plan No. 83 - Kirkham.

Godden Mackay Logan, Heritage Architects, subsequently prepared a conservation plan. The conservation plan identified only a limited curtilage for the Kirkham Stables and did not proceed to develop a comprehensive schedule of works relative to conservation of the stables. A Heritage Assessment Report, prepared by Tropman and Tropman Architects was also submitted in conjunction with the development application for the rural residential subdivision. This report provided several recommendations, which were embodied in the original consent to assist in retaining the integrity of the Kirkham precinct and protect views from and towards the site.

It is considered that the proposed development will not directly impact upon the historic integrity of the adjoining heritage items.

Acoustic

An initial assessment reveals that the proposed lots may be affected by the 20 ANEF contour resulting from Camden Airport. A condition of consent would be required requiring an acoustic consultant to address the impact of the 20 ANEF contour on lots within the proposed subdivision. Such report would need to be prepared in accordance with the requirements set out in the Australian Standard AS 2021-1994 ‘Acoustics-

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

Aircraft Noise Intrusion- Building Siting and Construction.’ This report would include the likely external sound pressure levels due to aircraft noise intrusions from the operation of the Camden Airport to meet the noise limits set in this standard.

A restriction as to user would be required for compliance with the relevant Australian Standard for the construction of dwellings affected by aircraft noise intrusion.

Landscape and Scenic Quality

The prominence of the site when viewed from a distance from surrounding roads is acknowledged. The proposed development will have an impact on the existing scenic quality of the area.

Council’s draft Cultural and Scenic Landscape Study recommends that the site retain its backdrop, visual character and that development conserve the visual access to the curtilages of heritage properties. Further, the study recommends that no development encroach onto ridgelines or highly visible slopes and that vegetation management conserve the visual character and heritage plantings.

The most visually prominent position on the site is considered to be the central eastern slopes of the ridge, above RL 90, which is highly exposed and contains only limited existing vegetation.

In addition to landscaping, potential building works on the site would be restricted by covenants on building materials, height, design and location, to limit the visual impact of any development, as required by Clause 17 of LEP 48 should Council resolve to approve the application.

Draft DCP 83 – Kirkham and clause 17 of LEP 48 also contain requirements relative to building design and materials and such requirements would need to be included as a condition of any development consent.

A restrictive covenant would also be required for each lot ensuring that all fencing is constructed of post and wire or wire netting and that no fencing is to be erected within the area between the front building line and the road boundary.

Notification

The development application was advertised for a period of fourteen (14) days from 10 September 2002 to 23 September

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

2002. At the closure of such period three (3) submissions had been received in respect of the development proposal. The following provides a summary and commentary of issues raised in the submissions.

1. One submission was supportive of the proposed subdivision.
2. Objection based on the impact it will have on their recently purchased lot *“under the understanding that there would never be any further development... subdivision will severely lower the value of our property... knocked back on two other occasions... on the basis of its height above RL 90 line... there is no need to vary from the stand taken previously.”*
3. Second objection refers to *“a building in this location would sit higher than the others and impinge upon the ridge and dominate the surrounding landscape... expect Council to observe its own guidelines and reject any compromise to the RL 90 boundary... such compromise... sets a dangerous precedent. The longer-term conservation of our scenic and rural landscape is at stake and we request Council dismiss completely such applications.”*

(Copies of each submission was provided to Councillors separately from the Business Paper.)

Summary

The proposal is considered not to have sufficient merit for it to proceed against the two objections. The impact of the dwelling on the surrounding area and the precedent that it would generate by being potentially 8m above RL 90 is too significant to consider an approval.

In accordance with the above report, it is appropriate that Council refuse the application.

Recommended: That Development Application No. 36/2002 to subdivide Lot 1 DP 882365 Kirkham into two (2) rural residential lots be refused.

The basis for refusal is that:

- (a) the proposal is inconsistent with clause 10 of Camden LEP 48; “... Council shall not consent ... unless, in the opinion of Council ... the development is desirable due to planning, design, ... or similar criteria relating to the most appropriate development of the land.” The proposal is not desirable because of its impact to the adjoining land and

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

the scenic quality of the ridge (elevated land) where the development is located;

- (b) the proposal is inconsistent with clause 12(2) of Camden LEP 48; "... Council shall not consent to the subdivision of land ... unless each separate allotment ... will have an area of not less than ... 40ha;" The proposal does not meet this development standard;
- (c) the proposal is unacceptable in terms of the objections received from an adjacent landowner and a community group;
- (d) the proposal is inconsistent with Council's draft Cultural and Scenic Landscape Study. The study recommends that no development encroach onto ridgelines or highly visible slopes;
- (e) the proposal is inconsistent with objectives in Council's DCP 83, in particular; "Building ridge heights shall be suppressed in respect of RL90.";
- (f) the proposal is inconsistent with the objectives of Council's Strategic Plan Camden 2025; in particular the following:
 - the retention and enhancement of Camden's landscape setting;
 - the need for innovative management strategies to prevent Camden's unique cultural and visual landscapes from being threatened by urban and rural development pressures;
 - to preserve and enhance the visual, cultural and scenic landscape qualities;
 - to manage rural lands and agricultural pursuits with due regard to the environment.
- (g) Those who made a submission be thanked and advised of the determination of the application.

Resolved on the Motion of Cr Batros, seconded Cr Campbell that Development Application No. 36/2002 to subdivide Lot 1 DP 882365 Kirkham into two (2) rural residential lots be refused.

The basis for refusal is that:

- (a) *the proposal is inconsistent with clause 10 of Camden LEP 48; "... Council shall not consent ... unless, in the opinion of Council ... the development is desirable due to planning, design, ... or similar criteria relating to the most appropriate development of the land." The proposal is not desirable*

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

because of its impact to the adjoining land and the scenic quality of the ridge (elevated land) where the development is located;

- (b) the proposal is inconsistent with clause 12(2) of Camden LEP 48; "... Council shall not consent to the subdivision of land ... unless each separate allotment ... will have an area of not less than ... 40ha;" The proposal does not meet this development standard;*
- (c) the proposal is unacceptable in terms of the objections received from an adjacent landowner and a community group;*
- (d) the proposal is inconsistent with Council's draft Cultural and Scenic Landscape Study. The study recommends that no development encroach onto ridgelines or highly visible slopes;*
- (e) the proposal is inconsistent with objectives in Council's DCP 83, in particular; "Building ridge heights shall be suppressed in respect of RL90.";*
- (f) the proposal is inconsistent with the objectives of Council's Strategic Plan Camden 2025; in particular the following:*
 - the retention and enhancement of Camden's landscape setting;*
 - the need for innovative management strategies to prevent Camden's unique cultural and visual landscapes from being threatened by urban and rural development pressures;*
 - to preserve and enhance the visual, cultural and scenic landscape qualities;*
 - to manage rural lands and agricultural pursuits with due regard to the environment.*
- (g) Those who made a submission be thanked and advised of the determination of the application.*

DC117/02 THE MOTION WAS **CARRIED.**

(Cr McFadden, Cr Campbell, Cr Patterson and Cr Corrigan voted against the Motion).

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

It is also recommended that a Notice of proposed Order be served on the neighbour (51 Engesta Avenue) to remove all of the unauthorised and encroaching structures on that property that are within the vicinity of the common boundary under dispute.

Subject Site

The subject property has an area of 986.4 m² with an eleven (11) metre frontage to Engesta Avenue and depth of approximately 43.7 metres. The site rises gently to the east. The site contains an existing dwelling with an attached garage, an attached side addition and the subject detached entertainment room. The entertainment room is sited close to (but not over) the side (common) boundary, towards the rear of the existing dwelling. A survey plan submitted also shows that a shed at the rear of the premises encroaches Engesta Reserve by 1.1 metres.

A locality plan showing the subject site forms **Tabled Document 'DC 5'**.

Description of the Proposed Development/Subject Building

Application is made for the approval of an existing brick walled and sheet iron roofed detached building (entertainment room) that was constructed in the early 1980s and a new tubular metal pergola (see **Tabled Document 'DC 6'**).

The entertainment room does not dominate the streetscape because it is single storey in height and is primarily screened from the street by the side addition. The entertainment room comprises of a single room, which opens onto a courtyard and adjoins the existing dwelling.

The entertainment room was modified in 2002 when the original (low-pitch) metal roof was replaced by a slightly higher pitched metal roof. This action resulted in a slightly higher profile being presented to the neighbour and the creation of an unsightly area (facing the neighbour) along the top plate where the roof has been flashed.

The pergola is proposed to be located immediately forward of the entertainment room.

Notification

The application was notified to formalise the unauthorised structure. Council subsequently received a letter of objection, **(which was included in a handout to Councillors)**. The concerns in the letter relate to:

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

- Stormwater run-off;
- Glare caused by choice of roofing material;
- Obstruction of views;
- Aesthetic appearance;
- Loss of natural light;
- Loss of air circulation;
- Loss of privacy;
- Use of structure as unauthorised flat.

Planning Controls

The following planning provisions have been considered in the assessment of this application:

- Camden Local Environmental Plan No 46 (CLEP 46)
- Development Control Plan No 58 (DCP 58)

Assessment

The subject application has been assessed in accordance with section 79c of the Environmental Planning & Assessment Act 1979. The following points are provided in relation to the critical aspects of Council's assessment:

(a) The provision of any environmental planning instrument, development control plan [DCP] or matter prescribed in the regulations

Camden LEP No 46

The subject site is zoned 2(a) Residential wherein the proposed development is permissible with Council consent.

The relevant zone objectives are reproduced as follows:

- to provide for all forms of residential development to be carried out in a functional, aesthetic and environmental sensitive manner.

The entertainment room is functional and provides a break out area for residents of the dwelling. The adjoining property owner has raised concerns about the aesthetic appearance of the building from their rear yard.

Development Control Plan No 58

The standards for residential development in the Camden local government area are outlined in DCP No 58. The

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

requirements applicable to this particular development are discussed below:

Privacy

DCP 58 provides that development should:

- (a) Avoid overlooking of main internal living areas or courtyards or the northern aspect of adjacent development.
- (b) Provide screening where overlooking is unavoidable.

The entertainment room is single storey and does not present privacy problems because it does not have any windows or doors in locations that enable overlooking. The pergola is also single storey and acceptable.

Building Character and Scale

DCP 58 has a number of objectives relating to design criteria.

These objectives are as follows:

- To maintain and enhance the features that creates local character and sense of place.
- Development should enhance the existing or planned town character and streetscape.
- The form, scale and siting of buildings, the materials and colours shall be appropriate to the character of the area.

While the building character and scale of the entertainment room are generally acceptable, the form of the newly modified roof when viewed from the east (No 51 Engesta Avenue) is unconventional and the flashing is extremely poorly finished. It has an adverse aesthetic impact on 51 Engesta Avenue. The pergola however, has acceptable building character, scale and form.

Overshadowing

The overshadowing generated by the entertainment room over the property to the east is acceptable in terms of the DCP requirement. No significant overshadowing impact is deemed to arise from the pergola.

- (b) Likely impacts of the development, including impacts on both natural and built environment including social and economic impacts**

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

The impact on the natural environment is considered to be acceptable regarding the entertainment room and the pergola. As the structure has been built without any Council approval or inspection, it is not known whether it is structurally adequate. The applicant has not submitted any certification for any aspect of the structure.

(c) Suitability of the site

The site is fully serviced [ie water, electricity, sewer and telephone] and is located in reasonably close to Camden town centre. The entertainment room and pergola are similar in nature to others found in the general area.

(d) any submission made in accordance with the Act

The following comments are provided with respect to the matters raised by the objector:

- Stormwater run-off

The configuration of the new roof flashing on the entertainment room has caused stormwater run-off to be discharged onto No 51 Engesta Avenue. Casual observation of the site suggests that this is the case.

- Glare caused by choice of roofing material

The roofing material over the entertainment room has been alleged to cause problems with glare. Casual observation of the site suggests that this is the case.

- Obstruction of views

The protrusion of the new roofline above the existing sidewall of the entertainment room has increased the height of the building. The new roof is marginally higher than the original and now protrudes above the common wall which formerly concealed it. It has a marginal impact on 51 Engesta Avenue in terms of loss of views to the floodplain.

- Aesthetic appearance.

The new roof over the entertainment room has an adverse aesthetic impact upon the neighbouring property (No 51 Engesta Avenue) due to poor quality of the finish of the flashing.

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

- Loss of natural light / air circulation.

The pergola will not interfere significantly with light and air circulation. The pergola will be visible to the objector over the sidewall but the impact is considered to be acceptable.

- Loss of privacy.

The unauthorised works have not resulted in any loss of privacy in terms of overlooking. The objector's concerns appear to stem from the physical proximity of the structure to the boundary and rear courtyard.

- Use of structure as unauthorised flat.

Council has no evidence that the room is being used as a separate flat. An inspection of the subject site by Council Officers failed to disclose anything that would suggest that the room is a separate tenancy. It should be noted that the room has not been afforded with any sanitary, shower or washing facilities and therefore could not be used for separate occupancy.

Conclusion

Efforts made by Council Officers to mediate this matter have failed. The adjoining property owner at No 51 Engesta Avenue was asked whether there were any works that could be done to the unauthorised structure to appease their concerns and ensure the continuance of the building. The adjoining owner has indicated that they cannot live with the structure in any form.

In response the owner of the subject building has submitted a letter to Council **(included as a separate handout to Councillors)** outlining his concerns with previous improvements undertaken at No 51 Engesta Avenue, including:

- A room has been added to the rear of No 51 Engesta Avenue without approval. This is incorrect, as Council issued building approval in 1984 (BA378/84) for a sunroom and a porch;
- A pool shelter has been constructed in the rear of No 51 Engesta Avenue without approval. Council has no record of approving the pool;
- A lean-to between the house at No 51 Engesta Avenue and the common wall has been constructed without approval. It discharges water onto 53 Engesta Avenue and causes

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

dampness in the common wall. The owner of 53 Engesta Avenue seeks its removal. Again, Council has no evidence of any approval having been issued for the structure;

- The guttering around the approved carport in the front of No 51 Engesta Avenue encroaches on No 53 Engesta Avenue by 0.15 metre, as confirmed by the survey report dated 9 August 2002;
- The steel struts supporting the carport are bolted to the common wall and the fixings are sought to be removed; The damage to the common wall on No 53 Engesta Avenue occasioned by the bolting of the carport struts is sought to be repaired;
- The approximately one (1) metre deep soil has been added behind the single width concrete block wall on the common boundary is sought to be removed because the wall is beginning to crack. This wall was constructed by the owner of No 53 Engesta Avenue and not designed to be used as a retaining wall;
- The stormwater pipes under the drive of No 51 Engesta Avenue are damaged and discharge water onto No 53 Engesta Avenue;
- The water in the swimming pool is currently in a polluted state;
- A BBQ shed has been constructed in the rear of No 51 Engesta Avenue without approval. Council has not issued an approval for this structure.

Given Council's inability to mediate the matter and the obvious illegal works that have been undertaken by both property owners, it is proposed to refuse the subject application and instigate legal action against both parties. Among the many issues raised by the owner of No 53 Engesta Avenue, only those items that are located within the vicinity of the common boundary will be addressed in this action. This includes the removal of the lean-to between the house and the common boundary. The notice will also require the relocation of the perimeter guttering of the carport that encroaches on No 51 Engesta Avenue, to be totally within the lot boundary of No 51 Engesta Avenue; the removal of the fixings of the carport struts; and the removal of the fill side boundary wall.

Recommended: That

- (i) Development Application No 1038/2002 at No 53 Engesta Avenue, Camden South, being Lot 69 in DP 230494, for the approval of an existing detached entertainment room and proposed open structure, be refused on the following grounds:
 - (a) The development contravenes the provisions of the Environmental Planning & Assessment Act in that

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

- the structure has been erected without the 'prior' approval of Council;
- (b) The proposal is inconsistent with objectives of Camden LEP 46 which encourages "all forms of residential development to be carried out in a functional, aesthetic and environmentally sensitive manner";
 - (c) The proposal is unacceptable having regard to the objection received from the adjoining landowner; and
 - (d) No evidence has been submitted to attest to the structural adequacy of the structure or compliance with the Building Code of Australia.
- (ii) The owner of No 53 Engesta Avenue be issued with a notice to remove the unauthorised structure [entertaining room] and to relocate the existing shed to within the premises; and
- (iii) The owner of No 51 Engesta Avenue be issued with a notice to remove the unauthorised structures within the vicinity of the common boundary.

Resolved on the Motion of Cr Batros, seconded Cr Winn that this item be deferred until a site inspection has been carried out by Councillors.

DC118/02 THE MOTION WAS **CARRIED.**

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

4. Notification of Development Applications over the Christmas Period

(File No 3888/1) (Director, Development & Environment Division)

Purpose of Report

The purpose of the report is to suspend notification of Development Applications for a four-week period over the Christmas/New Year holiday period.

Consideration

Development Control Plan No 116 – Notification, Advertisements and Mediation stipulates the types of Development Applications which require notification, the form in which that notification is to take place and the exhibition period for the range of applications received.

The majority of development applications received are notified for fourteen (14) days and these days are taken into account when assessing whether a Council has met its statutory obligation of determining all applications within forty (40) days of receipt.

Council suspended notification of applications over the 2001/2 Christmas/New Year holiday period for a four-week period and this was found to be acceptable to both residents and applicants.

It is suggested that Council again ensure being away from home and not receiving notification of applications over the holiday period does not prejudice its residents. In this regard, it is appropriate that the final date for newspaper and neighbour notifications be December 10, 2002 and that the period of exhibition be extended until January 2, 2003. Notification of applications would recommence on January 6, 2003 with the first newspaper notice on January 7, 2003. For applications advertised during the week of January 6-10, 2003, a period of twenty-one (21) days in lieu of the usual fourteen (14) days could be allowed to address the likely absence of affected parties during the holiday period.

Recommended: That:

- (i) Council suspend notification of development applications from December 10, 2002 until January 6, 2003; and
- (ii) Council allow a twenty-three (23) day exhibition period for those applications notified on December 10, 2002 and

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

twenty-one (21) day period for those applications notified from January 6 -10, 2003.

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

- (i) Council suspend notification of development applications from December 10, 2002 until January 6, 2003; and*
- (ii) Council allow a twenty-three (23) day exhibition period for those applications notified on December 10, 2002 and twenty-one (21) day period for those applications notified from January 6 -10, 2003.*

DC119/02 THE MOTION WAS **CARRIED.**

(Cr Batros left the Chamber - the time being 6.58pm at the conclusion of Item 4 and took no part in discussion or voting for Item 5).

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

**5. Amendment to Fees and Charges to Assist in
Implementing planFIRST**

(File 1445/6) (Director, Development & Environment Division)

Purpose of Report

The purpose of this report is to advise Council of the gazettal of new fees imposed by planningNSW in respect of certain Development Applications as part of planFIRST and the implications to Council in terms of handling the new fees. Minor amendments are also made to the fees charged for reviews and modifications of determinations to reflect the altered fee structure. A copy of the new fees forms **Tabled Document 'DC 7'**.

Main Report

PlanningNSW has advised all Councils of new fees to be imposed on certain Development Applications to assist in implementing planFIRST. The new fee came into effect on 1 November 2002. Council was officially notified of this new fee on 14 October 2002. Council advised building companies and developers of this fee in writing and also at the recently conducted Developer's Forum. The fee is an 'add-on' fee to the development application fees prescribed by the Act. PlanningNSW will manage the money collected from the fee, and allocate it for regional strategy work in accordance with the planFIRST philosophy. In addition, it may also be applied to provide funding to councils to assist in strategic planning for new local plans under planFIRST.

The fee is payable at the Development Application stage for all developments valued at over \$50,000. The rate is 64 cents per \$1000 value of work. An example of the implications of the additional fee to a person proposing a dwelling valued at \$200,000 is \$128 which represents a significant increase to the current \$770 development application fee, in this case by 18.3%.

As Council receives around 150 applications per month, even if only half of these attract the new fee, Camden will be contributing a large portion of revenue for the State Government to carry out functions that they are already responsible for.

The new fee does not apply to Complying Development, and other development not involving the erection of a building or the carrying out of works. This effectively exempts minor home renovations. An application for the review of a determination or modification of a development consent is also exempt. How Complying Development is exempt is unclear, and it is

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

assumed that there is no mechanism for private certifiers to collect the monies and then pass on to planningNSW.

The fee is collected by Council and forwarded on a monthly basis. For this service, Council retains an amount of \$5 per development application on which the fee is applicable. Council is required to keep a record of amounts received and forward to planningNSW with the report. The report must outline the following:

- The DA reference number
- The estimated cost of work
- The DA fee taken
- The amount of the additional fee

The report should also include a reconciliation of the total of the amount paid to planningNSW each month. This is to include:

- The total of DA fees collected, where the additional fee applies
- Less the total amount retained by Council
- The net amount forwarded to planningNSW

Where no fee payments are collected by Council during any month, a nil return is to be sent by electronic means. This new procedure requires some impacts on Council in terms of administrative matters and the \$5 retainer fee is minimal considering the amount of work to done to refund fees to the Department.

In addition to this new fee, planningNSW have introduced new fees for a request for a review of a determination under section 82A and a modification of a consent under section 96 of the Act. Council was not consulted as part of the introduction of these new fees.

As stated above, the new fee is to assist in the staged implementation of planFIRST. It would be noted that this Council has already prepared the Local Plan based on planFIRST principles. Therefore this Council will not benefit from any of the monies collected from the new fees. It is possible that some of the fees collected would be available to assist in the considerations of the proposed Bringelly release areas however, it may be that planningNSW will consider this to be regional planning and not provide any funding for Councils to contribute to the planning process. This matter requires clarification and therefore it is appropriate that Council make a submission in relation to the application of fees collected.

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

The changes to the way fees are calculated for a review of modification of a determination relate to the way these fees are calculated rather than altering the fee. They are the same as current fees and do not include the planFIRST levy.

Conclusion

The new fees took effect as and from 1 November 2002 and will significantly impact on Camden residents and those persons proposing to develop in Camden due to the high level of building activity in the LGA. As Camden Council is well advanced in the preparation of a LEP under the planFIRST framework, it is unlikely that an equitable return of revenue will result. For this reason it is appropriate to request that an amended scale of fees be applied to Camden or alternately that planningNSW guarantee the application of funding to assist Council in consideration of the work investigating the proposed Bringelly release area is made.

Recommended: That:

- (i) Council request that the Minister for Planning give consideration to reducing the fee applicable to development applications lodged in Camden due to the advanced stage of preparation of the draft Camden Local Environmental Plan; and
- (ii) Council seeks assurances from PlanningNSW that it will receive sufficient funding to allow it to provide meaningful contributions to the investigation of the suitability of the Bringelly release area.

Resolved on the Motion of Cr Fekete, seconded Cr Winn that:

- (i) *Council request that the Minister for Planning give consideration to reducing the fee applicable to development applications lodged in Camden due to the advanced stage of preparation of the draft Camden Local Environmental Plan; and*
- (ii) *Council seeks assurances from PlanningNSW that it will receive sufficient funding to allow it to provide meaningful contributions to the investigation of the suitability of the Bringelly release area.*

DC120/02 THE MOTION WAS **CARRIED.**

The Meeting closed at 7pm.