

**MINUTES OF THE DEVELOPMENT COMMITTEE MEETING
HELD 16 DECEMBER, 2002, CIVIC CENTRE, OXLEY STREET
CAMDEN – 5.30PM**

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Present: Cr Corrigan (Mayor/Chairman), Cr Anderson, Cr Patterson, Cr Winn, Cr Batros, Cr Fekete, Cr McFadden, Cr Senise. Cr Campbell arrived during discussion on Item 13 at 6.40pm.

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

DEVELOPMENT COMMITTEE PUBLIC ADDRESSES

Mr Ray Burnett addressed the Committee in relation to Item 1.
Mr Glen Rouland addressed the Committee in relation to Item 8.
Mr Ray Brown addressed the Committee in relation to Item 4.
Mr John Shaw addressed the Committee in relation to Item 14.
Mr Bill Kirby addressed the Committee in relation to Item 6.
Mr Michael Hayes addressed the Committee in relation to Item 1.

1. Application To Retain An Unauthorised Building At No 53 (Lot 69 DP 230494) Engesta Avenue, Camden South

File No: DA2850.550 (Director, Development & Environment Division)
DA No: 1038/2002
Owner: Mr R Burnett
Zoning: Residential 2(a) pursuant to Camden LEP 46

Purpose of Report

The purpose of this report is for Council to consider a request to retain the existing unauthorised building at No 53 Engesta Avenue. This request follows a site inspection by Councillors on 25 November 2002. The report recommends that Council refuse Development Application 1038/2002 and serve an Order requiring the applicant to demolish the building and serve an Order on the adjoining landowner of No 51 Engesta Ave to demolish all unauthorised structures in the vicinity of the common boundary.

Background

Council considered the above-mentioned application at the meeting of the 11 October 2002. The report recommended that the application be refused for a number of reasons and that an Order be served requiring the demolition of the unauthorised building. It was resolved at the meeting to defer the determination of the matter to permit a works inspection. The inspection was carried out on the 25 November 2002. The matter is now referred to Council for determination.

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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 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 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 Fekete 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 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";*

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- (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 The owner of No 51 Engesta Avenue be issued with a notice to remove the unauthorised structures within the vicinity of the common boundary.*

DC131/02 THE MOTION WAS **CARRIED.**

***** (Cr Winn voted against the Motion).

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2. Twenty Three Lot Subdivision of No. 1E (Lot 216 DP 1001823) Spring Hill Circle, Currans Hill

File No: 7297.1911-2 (Director, Development & Environment Division)
DA No: 82/2001
Owner: Landco (NSW) Pty Ltd & Wolin Investments
Zoning: Residential 'D' 2(d) pursuant to Camden LEP 47

Purpose of Report

This report considers a proposal to subdivide one (1) lot into 23.

Summary of Recommendation

It is recommended that the application be approved subject to standard conditions of development consent see **Tabled Document 'DC 1'**.

The Proposal

The subject application seeks Council approval to subdivide one lot into twenty-three see **Tabled Document 'DC 2'**. Twenty-two (22) of the lots would be used for residential purposes. The residue allotment would be dedicated to Council as open space. The proposed residential allotments range in size from 241.5m² to 813.7m². The residue lot to be dedicated as open space has an area of 1.076 hectares.

All lots will gain vehicular access via a proposed internal loop road. The road is proposed to have a 13m wide carriageway with two splayed intersections with Spring Hill Circle. Seven (7) of the proposed lots will gain access to the loop road via battle-axe handles.

Given that the 1% AEP (1:100) flood line transects the site adjacent to the drainage reserve, the applicant intends to make modifications to the fold in the ground between Lot 216 and upstream of the existing dam. The vertical rock retaining walls will ensure that the channel has sufficient capacity for the 1 % flood event whilst allowing a freeboard of greater than 300 mm to the road surface. DLWC have inspected the site and advised Council that they do not consider the watercourse to be a "river" and therefore the development is not integrated development. They do however, recommend that the development be designed to minimise impacts on the watercourse and to retain and enhance the native vegetation along this corridor. Such issues could be addressed as conditions of any consent issued.

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Subject to the approval of this application, the applicant intends to lodge further applications for the erection of a dwelling on each lot. It is Landco P/L practise to then sell individual lots with approved plans for the dwelling. The applicant has provided Council with a sample of the type of housing design to be submitted to Council, should the subdivision be approved see **Tabled Document 'DC 3'**. It is considered that some of these houses require improvements in relation to facades and setbacks however this can be addressed at the time of assessing the development application. What the plans do show is that it is possible to site a dwelling on the lots to comply with the provisions of DCP No 58.

The Site

The site earmarked for subdivision has an area of 2.218 hectares and is located on the northern section of the internal part of Spring Hill Circle adjacent to the intersection with Turner Road. There is no significant vegetation on the site apart from a number of trees that will form part of the proposed reserve / open space. The site has a cross-fall of around five (5) metres and falls towards an adjoining drainage reserve.

Notification

The subject application was notified to adjacent and adjoining property owners and occupiers. At the close of the notification period a total of four submissions were received. The concerns raised in the submissions relate to:

- Inconsistent application of 88b Restrictions to User;
- Misleading conduct by real estate agents;
- A history of unsightly and substandard development;
- Gradual degradation of the area's amenity;
- Low cost housing will result in an increase in rental properties;
- The proposed development will prevent visual surveillance of the children's play area;
- The development will result in increased traffic;
- Destruction of natural habitat for wildlife.

A comment on each of these matters is provided elsewhere in this report and copies were provided as **separate handouts to Councillors**.

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Planning Controls

The following planning instruments relate to the proposed development and the assessment undertaken by Council:

- Camden 2025
- Camden LEP 47
- DCP 86 – Currans Hill
- DCP 58 – Residential Development
- State Environmental Plan Policy No 1
- Safer by Design Guidelines

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 provision of any local environmental plan, development control plan or draft instrument

Camden 2025

The Strategic Plan for Camden seeks to ensure that growth occurs in a planned and orderly way. The proposed development has the necessary infrastructure and access arrangements required by the Plan. The natural environment will not be degraded by the development. Nor will the rural culture and lifestyle be affected by the development.

Camden LEP 47

The proposed subdivision is permissible development. The planning instrument seeks 'to provide for a wide range of housing needs by:

- (i) allowing a choice of housing options in each town;
- (ii) satisfying the housing needs of the community, including socially and physically disadvantaged people; and
- (iii) increasing the density of residential development near commercial and community facilities where satisfactory transport services are available; and
- (iv) promoting more affordable housing.'

The development meets these objectives.

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DCP 86 – Currans Hill

The aims of the DCP are to 'optimise the topographical and natural opportunities available' and 'to provide a range of allotment sizes, housing types and living environments so as to reach a wide and varied market'.

The objectives for land zoned 'Residential 2' are:

- (a) To allow alternative housing forms to be provided such as town houses, courtyard housing, dual occupancies, multi-unit housing and integrated housing.
- (b) to achieve a residential density of 15 to 20 dwellings per hectare.

The DCP stipulates that subdivision of Residential 2 sites should be located within 200 m of a bus stop and generally conform to those parts of section 3.1 of DCP 58 relating to Residential 2 [d] zoned land. Compliance with these matters is discussed below. The site is adjacent to a bus stop.

DCP 58 – Residential Development

DCP 58 requires that residential subdivision in the 2(d) Residential 2 zone maintain a sense of place by ensuring that development density and scale is in harmony with the existing or planned character of the area and that lot sizes provide for adequate setbacks, maintain site features and provide a useable building space and a pleasant living environment.

Within the Res 2 zone, lot sizes are permitted below 450m² with an average of 350m². The average lot size for the proposed development is 406m².

Battle-axe allotments are discouraged by the DCP, however are permitted where the area of the lot (excluding the access handle) is not less than 20% greater than the minimum lot size and a satisfactory building site is provided of adequate distance from existing or proposed buildings. The minimum lot size is 241.5m² and the sizes of the 7 battle-axe lots are 377m²; 401.2m²; 408.7m²; 400m²; 374.6m²; 383.9m² and 813.7m². All of which are greater than 20% larger than the smallest lot proposed. The corner allotments are also proposed to be larger than the other lots in accordance with the DCP requirements. The purpose of the battle-axe lots is to provide all vehicle access to the lots from the proposed new service road

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rather than from Spring Hill Circle. This is considered desirable in this case.

For lots with an area less than 400m² the DCP requires the proposal to include a building envelope and for lots below 350m² the applicant is required to provide a design for a proposed building. The developer has not provided dwelling designs for the 10 allotments having areas below 350m², however building envelopes for all lots are indicated and samples of the proposed designs have been provided for Council's perusal. As stated above, the applicant has demonstrated that a dwelling can satisfactorily be sited on each lot and the final design will be subject to further review when individual development applications are received.

- Setback to Spring Hill Circuit

The building footprints proposed by the applicant show wide and varied setbacks to the new loop road and Spring Hill Circle. The setback for the proposed new road would generally be 5.5 metres. For two of the lots [corner allotments] the applicant is proposing a setback of 3 metres at the closest point to the service road. Setbacks proposed by the applicant range from 4.5 to 7 metres [approx.]. The applicant argues that as there will be no direct vehicle access from Spring Hill Circle to the individual allotments there is no need to maintain off street parking spaces in front of private garages and therefore the setbacks proposed are adequate. This opinion is not supported, as the purpose of the setback is to provide a good streetscape and allow for the provision of appropriate landscaping. There is a well-established streetscape in Spring Hill Circle with well-landscaped building alignments. For this reason it is not appropriate to vary the setbacks to the extent proposed. This issue will be addressed in consideration of the development application for the dwellings.

- Fencing

The applicant intends to utilise a combination of vegetative hedging, picket and solid fencing to achieve a degree of privacy between neighbouring properties and private and public land.

Lots 1 to 4, which adjoin the land to be dedicated to Council, will be provided with 1.8 metre picket fencing between brick piers at 1.8 metre centres. Lapped and capped fencing to a height of 1.8 metres will be provided along the common boundary between adjoining residential allotments. No fencing will be provided along front

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property boundaries or street frontages. Where private open space is proposed in the front yard area, however the applicant intends to plant a wide hedge within the property boundary.

The absence of front fencing is consistent with the dominant fencing arrangements for Currans Hill. All side boundary fencing will be constructed at least 1.5 metres behind the front building facade. The 1.8 metre picket fence provided between Lots 1 to 4 and the area to be dedicated as public reserve will provide the property owners with a degree of privacy and security. The open nature of the picket fence [with brick columns] should provide for a more attractive fencing arrangement than that of the lapped and capped style.

Safer by Design Guidelines

The applicant has incorporated certain safer by design principles into the overall development. Placement of the access road on the southern side of the development provides access to the Reserve and consequently passive surveillance of this area. Spillage from streetlights onto the reserve will also assist with the surveillance of the area.

In addition to the above, certain lot boundaries should be splayed at the corners in order to eliminate concealment opportunities. These issues could be dealt with by way of consent conditions.

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

The impact upon the environment will be minimised by incorporating suitable controls during the road construction and building phase of the development. As mentioned elsewhere in this report the proposed development will result in the conservation of most of the remnant vegetation found on the site. The development will also assist with the efficient utilisation of services afforded to the area.

Whilst the subdivision proposed will not impact on the built form, the siting and dwellings proposed will. In this regard, further work on this aspect is required by the applicant.

(c) Suitability of the site

The subject site is fully serviced for residential development. It also has good access to public transport

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(bus) and the road network. The majority of the site to be developed in terms of road construction and residential subdivision is devoid of native vegetation. Despite the level of flooding inundation the applicant intends to modify the drainage reserve to ensure the 1- % flood event in contained within the confines of the channel.

(d) Any submissions received by Council

The following comments are provided with respect to the matters raised by adjoining property owners:

1. 'Bringing in this site of commission like homes would only destroy its natural wildlife'

Comments: The proposed development will result in the removal of two trees and approximately 5-6 shrubs. The majority of trees however will be retained and protected by the proposed dedication of land to form a public reserve.

2. 'Our property was sold to us under false pretences...one of the selling points of our property according to the real estate agent was its location opposite a reserve and parkland'

Comments: Landco P/L has assured Council that their brochures have never advertised the subject land as anything other than a future stage of development. Whilst it is regrettable that certain property owners have purchased their land with the belief that they would front open space, Council planning has always allowed for residential development and open space within the centre of Spring Hill Circle.

3. 'We are also concerned that the proposed development will block visual access to a children's park area'

Comments: The proposed open space has a long frontage to Spring Hill Circle, which will aid in visual surveillance of the area. However not all residents will have direct visual access from their front yards.

4. 'We are concerned about the increase in traffic on the Circle.... We believe the proposed driveway entrances and exits are too close to existing street junctions...and.... residents often

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**park on the street creating congestion and slow
down traffic flow'**

Comments: The Developer has addressed this issue by relocating the western junction onto the Circle in order to stagger the street entry / exit points and prevent any conflict with traffic movements along Turner Road or Plowman Road. In addition to providing two off street parking spaces for each lot, the proposal for rear access to all lots allows for the provision of on street parking along the entire site frontage. In addition twelve [12] parking spaces along the proposed loop road adjacent to the drainage reserve are provided.

5. 'The other side of Spring Hill Circle has been developed into a duplex village, with the majority of these being occupied by tenants.....the area that has been developed is ample for the type of homes being built on such small blocks'

Comments: The subject site has been ear marked for medium density development and is clearly labelled as such under DCP 86. The fact that tenants may occupy the buildings is not grounds for refusal of the subject application. The objective of Council's planning is to provide for a range of housing types and the development achieves this. All properties will be sold and therefore it is likely that will be a mix of owner-occupiers and rental premises.

6. 'Numerous people paid thousands of extra dollars to make the facade of their house conform to the design guidelines and covenants laid down by the developer – Landco [NSW] – when the developer has done his best to ignore most of his own guidelines and covenants'

Comments: It is agreed that the facades of the buildings fronting Spring Hill Circle could be improved to enhance the built form. The developer acknowledges that Pickets Place has not turned out as well as expected. Certain changes are proposed to be made to the housing designs for the proposed lots such as the inclusion of eaves on all buildings. Greater detail will also be placed upon

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external character and colour variation. It these issues that will be addressed in assessment of the application for individual dwellings.

Conclusion

The development will result in minimal disturbance to the natural environment in terms of removal of native vegetation. The modifications to the drainage channel will ensure that the developed land is not affected by flood inundation. Further work on dwelling siting and design will ensure that many of the residents and Council's concerns relating to recent development that has occurred in close proximity to the subject site are addressed.

Recommended: That Development Application No 82/2001 for the subdivision of No 1E (Lot 216 DP 10018230) Spring Hill Circle, Currans Hill be approved subject to conditions of consent as detailed in **Tabled Document "DC 1"**.

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

- (i) *Development Application No 82/2001 for the subdivision of No 1E (Lot 216 DP 10018230) Spring Hill Circle, Currans Hill be approved subject to conditions of consent as detailed in **Tabled Document "DC 1"**.*
- (ii) *A Council workshop be held with the Developers early in 2003 on the built form relating to the subdivision.*

DC132/02 THE MOTION WAS **CARRIED.**

(Cr Senise voted against the Motion).

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3. Application for the Retention of an Existing Front Fence at 52 Topham Road, Smeaton Grange.

File No: DA 7850.520-2 [Director, Development & Environment Division]
DA No: 1427/2002
Owner: Fence Master Pty Ltd
Zoning: 4(a) 'General Industrial' pursuant to Camden LEP 47

Purpose of Report

The matter is reported to Council, as the fence has already been built contrary to the provisions of Development Control Plan No 121 "Smeaton Grange Industrial Area" (DCP 121).

Summary of Recommendation

It is to be recommended that appropriate orders be issued requiring that the subject fence be removed, given that the structure has been erected contrary to the requirements of DCP 121 and that the fence has been erected without development consent, which is contrary to condition 41 of the consent. These matters are addressed in the report.

Background

Council on 15 March 2000 granted consent for the construction of 4 industrial buildings, which are currently under construction. The approved plan shows no fencing on the site.

Condition 41 of the above consent reads as follows: -

"Boundary Fencing – Any required security fencing must be located behind the landscaped area at the front of the site. Details of same must be submitted to the Principal Certifying Authority for approval in conjunction with the landscape plans.

All gates must be designed to open inwards to the subject property."

On 29 October 2001 Council issued a Construction Certificate for the development. There were no fence details shown on the submitted and approved plans.

Council on 6 September 2002 wrote to the applicant advising that the front fence did not comply with the requirements of DCP 121 and as such should be removed.

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The applicant responded by lodging a Development Application on 25 September 2002 seeking Council approval for the retention of the subject fence.

The Site

The site is located on the southern side of Topham Road, three (3) lots east of the intersection of that road with Orielton Road, in the Smeaton Grange Industrial area. A locality plan forms **Tabled Document “DC 4”**

A four unit industrial development is currently being erected on the site.

The fence, the subject of this application is an attractive imitation sandstone structure with powder coated metal infill panels. The fence is located approximately 3 metres from the front property boundary. DCP 121 requires fencing to be setback 5 metres from the front building alignment.

Planning Controls

The only planning document relevant to this application is Development Control Plan No 121 - Smeaton Grange Industrial Area. (DCP 121) adopted in April 2002.

DCP 121 Clause 3.11 FENCING states: -

‘Security fencing is to be erected behind the landscaping where it fronts a public road’.

Prior to April 2002 the planning document for the Smeaton Grange industrial area was DCP 57, which stated: -

7.6.7 - No fence shall be erected in front of the building line without Council’s consent. Existing fences on the street alignment are to be removed. If the front boundary is to be provided with security fencing, such fencing should be screened externally by appropriate planting. Wherever possible, frontage fencing should be on the building line rather than the property boundary, with visitor parking areas located outside the fenced enclosure’.

Part of clause 7.1 of DCP 57 states: -

‘Applications relating to land within the Smeaton Grange Industrial Estate must comply with the provisions of the Smeaton Grange Landscape Master Plan where appropriate’.

The Smeaton Grange Landscape Master Plan shows fencing located at the rear of the landscaped area.

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Bearing in mind the above, it has been standard practise when assessing development applications in the Smeaton Grange Industrial Area to require front fencing to be located behind the landscaping.

Assessment

DCP 121 requires all front fencing in this locality to be located not less than 5 metres from the property boundary behind the landscaping area.

The subject fence is located 3 metres from the front property boundary in the middle of the landscaping.

The applicant has stated in his submission, lodged as part of the development application that, “they regret not including the fence details in the landscaping plans, and that they aligned their fence with that on the property to the west”.

Unfortunately the adjoining fence has been erected without Council approval, and contrary to the requirements of DCP 121. It should be noted that action has commenced to have this fence removed.

An investigation of all the existing fences in the Smeaton Grange Industrial Area has been undertaken and the following observed: -

- 5 properties have fences located on the front property boundary;
- 19 properties have fences located within the landscaping;
- 18 properties have fences located behind the landscaping;
and
- 14 properties have no fences;

STREETSCAPE

Fences form an integral part of the streetscape, and it is important therefore that fences be attractive in their own right and form an integral and complementary part of the landscaping.

The fence in question is an attractive structure. The applicant argues that the fence, when completed, should present a pleasing addition to the streetscape.

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SAFER BY DESIGN PRINCIPALS

Section 79C of the EP&A Act 1979 provides that Council has an obligation to ensure that a development provides safety and security to users and the community. If it is considered that a proposed development presents a crime risk, Council may recommend modifications be made to the proposed development to minimise the risk of crime, or refuse the development on the grounds that crime risk cannot be appropriately minimised.

Fences form an important part of crime prevention, and it is important that a balance be achieved between the impact a fence has on the streetscape as opposed to its security role.

In this instance, it is considered that the fence as constructed would perform an adequate security role, whilst still having a pleasing impact on the streetscape.

Conclusion

DCP 121 Council's Development Control Policy for the Smeaton Grange Industrial Area clearly provides that all fencing is to be located behind the landscaped area.

Condition 41 of the development consent clearly states that any fencing erected on the property should be located behind the landscaping.

In view of the above it is to be recommended that the existing front fence be demolished, as it has not been erected in accordance with the requirements of DCP 121.

Recommended: That

- (i) The application for retention of a front fence erected at No 52 Topham Road, Smeaton Grange being Lot 304 in DP 875500 be refused on the following grounds:
 - [a] The fence is inconsistent with the objectives outlined in Development Control Plan No 121 – Smeaton Grange Industrial Area.
 - [b] The fence is inconsistent with clause 3.11 of Development Control Plan No 121 - Smeaton Grange Industrial Area, which requires fencing to be erected behind the landscaping.
 - [c] The fence is inconsistent with the existing and proposed streetscape along Topham Road envisaged by Development Control Plan No 121.

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- (ii) That a Notice of Intention to serve an Order be served on the owner of No 52 Topham Road, Smeaton Grange requiring the demolition of the unauthorised front fence.

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

- (i) *The application for retention of a front fence erected at No 52 Topham Road, Smeaton Grange being Lot 304 in DP 875500 be refused on the following grounds:*

[a] The fence is inconsistent with the objectives outlined in Development Control Plan No 121 - Smeaton Grange Industrial Area.

[b] The fence is inconsistent with clause 3.11 of Development Control Plan No 121 - Smeaton Grange Industrial Area, which requires fencing to be erected behind the landscaping.

[c] The fence is inconsistent with the existing and proposed streetscape along Topham Road envisaged by Development Control Plan No 121.

- (ii) *That a Notice of Intention to serve an Order be served on the owner of No 52 Topham Road, Smeaton Grange requiring the demolition of the unauthorised front fence.*

DC133/02 THE MOTION WAS **CARRIED.**

(Cr Batros, Cr Fekete and Cr Senise voted against the Motion).

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**4. Two (2) Lot Rural Subdivision at No 296 (Lot PT 101
DP 866 920) Cawdor Road, Cawdor.**

File No: DA1500.2955-3 (Director, Development & Environment Division)

DA No: 39/2002

Owner: Mr RV & Mrs EB Brown

Applicant: Mr RV & Mrs EB Brown

Zoning: LEP 46 Rural 1(a) (40 Hectares)
LEP 48 Rural 1(a) (40 Hectares)

Purpose of the Report

The purpose of this report is for Council to consider an application to create one additional allotment from the subject site. The application is accompanied by a SEPP 1 objection, which is not supported. The report recommends that Council refuse Development Application 39/2002.

Background

Council considered the above application at the meeting of the 25th November 2002. The report recommended that the application be refused for a number of reasons. It was resolved at the meeting to defer the determination of the matter to allow a works inspection. The works inspection was carried out on the 16th December 2002. The matter is now referred to Council for determination.

Conclusion

The report to the Council meeting of 25 November 2002 recommended that the application be refused for various reasons, mainly due to the variation sought from the requirements of LEP 46 and LEP 48, which require a minimum lot size of 40ha for each allotment to be created.

Recommended: That

Development Application No: 39/2002 to create one additional rural allotment at 296 Cawdor Road, (Lot PT 101 DP 866920) be refused for the following reasons:

- (i) The proposed allotments do not comply with the 40ha minimum subdivision size of the Rural 1(a) zone as specified in clause 12(1) and clause 12(2) of LEP 48.
- (ii) The variation between the allotment size required by clause 12(1) of LEP 46 and clause 12(2) of LEP 48, and that proposed in DA 39/2002 is considered unacceptable, and therefore Council does not support the objection under the provisions of SEPP1.

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- (iii) The subdivision if approved, would set a precedent for undersized subdivision of other rural 1(a) zoned land, which will undermine the objectives of the zone.
- (iv) The proposal does not support the Rural 1(a) zone objectives set out within both LEP 46 and 48; as it would discourage the conservation of economic units of productive agricultural land, by encouraging the fragmentation of actual or potentially productive rural holdings.
- (v) The SEPP 1 objection does not address how the subdivision will comply with one of the major land use strategies outlined within Sydney Regional Environmental Plan No. 20 – Hawkesbury Nepean River, in that the minimum lot size will be further deteriorated and could not sustain agricultural use of Class 2 & 3 agricultural land.

Resolved on the Motion of Cr Patterson, seconded Cr McFadden that Council support Development Application No: 39/2002 to create one additional rural allotment at 296 Cawdor Road, (Lot PT 101 DP 866920) and seek the concurrence of the Department of Planning.

DC134/02 THE MOTION WAS **CARRIED.**

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**5. Erection of a Two Storey Dwelling at Lot34 DP29835
No. 28 Milford Road Ellis Lane**

File No: DA5500.250_2 (Director, Development &
Environment Division)

DA No: 821/2002

Owner: Mr and Mrs P Leighton

Zoning: 1(c) Rural pursuant to Camden LEP 48

Purpose of Report

The applicant seeks approval to construct a two storey dwelling on the subject vacant land. The matter is referred to Council for determination given that the site is significantly affected by flooding from the Nepean River and Sickles Creek.

Summary of Recommendation

It is recommended that development application No821/2002 for the erection of a dwelling at Lot34 DP29835 No 28 Milford Road, Ellis Lane be refused for the reasons espoused in this report.

Background

The site has been subject to various unauthorised filling operations from time to time culminating in a large scale filling operation in 1994 which included large amounts of demolition materials. Council granted a development consent to permit the existing fill levels to remain subject to removal of the bulk of the demolition materials, compaction of the site, submission of a final geotechnical report and a survey indicating final fill levels.

Although a large amount of builders waste was removed from the site to Council's satisfaction, a final survey and geotechnical report have not been submitted to Council and the site is still considered to have uncontrolled fill upon it. The site is considered to be stable as vacant land.

In January 1996 council approved a building application for a dwelling on the land after a legal opinion indicated that council would not be legally liable if it "acted in good faith" and the requirements of the day allowed council to "act in good faith". (BA 1229/95 Planning Works and Building Committee 25/3/1996) The dwelling was not erected and the approval has lapsed.

An application to install a waste treatment device (septic tank) has not been submitted or approved by Council at any time for this application or the previous.

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On the 27/6/1998 Council refused an application for a dwelling on adjacent land at similar flood affected levels, due to changes to environmental legislation. Council's refusal was upheld in an appeal to The Land and Environment Court on 18 July 1999.

Having regard to the above Court decision and Council's position in relation to the erection of dwellings on flood affected land, the applicant was sent a letter requesting the withdrawal of the application or alternatively to submit further details supporting the application. The applicant did not respond to this letter, however, the owners of the land had a meeting with Council staff in relation to this application. At the meeting the owners were advised that the application could not be supported and that they should withdraw the application. They were also advised that if they did not withdraw the application the matter would be reported to Council with a recommendation for refusal. The owners were also aware of a Land and Environment Court's decision in relation to the adjoining property.

The Proposal

The applicant seeks approval to construct a two-storey dwelling. The upper storey would contain four bedrooms, a bathroom, an ensuite, a kitchen, a lounge/dining area and meals/family room. The lower floor would contain a double garage, a w/c and undesignated rooms. A copy of the plans form **Tabled Document "DC 5"**.

The matter is reported to Council because the development would result in the lower floor area located below the 5% AEP flood level of RL 65.5m AHD. The lower floor level would be situated at RL 64.30m AHD, which is 1. 2m below the 5% AEP flood level and 3.4m below the 1% AEP flood level.

The upper floor level is proposed to be at RL 67.30m AHD and is 370mm below the 1% AEP of RL 67.6 AHD and 970mm below council's requirement of habitable rooms being 600mm above the 1%AEP flood level.

The proposed dwelling will be totally inundated above the ridgeline at the PMF flood level of 74.9 AHD

The Site

The land is a vacant site of approximately 4000square metres in area, located on the western side of Milford Road. Sickles Creek forms the rear boundary. An intermittent watercourse makes its way to Sickles Creek on the adjacent lot35. The land is irregular in shape and is flanked by allotments of similar

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size. An adjacent lot contains a two-storey dwelling. A site plan forms **Tabled Document “DC 6”**.

The entire allotment is affected by the 5% and 1% AEP flood levels. The land is categorised by the 1995 Upper Nepean Flood Study as high hazard flood storage.

The site fronts Milford Road and there is no flood free access available to the land. Flood free access becomes unavailable at the 5% AEP flood line (RL.65.5 AHD). The centre line of Milford Road near the property frontage is at about RL 64 AHD. Approximately 80% of the site is overlain by uncontrolled fill, which is up to 2.5 metres in depth.

Notification

The proposal was notified to neighbours, in accordance with Council’s Policy. At the conclusion of the exhibition period no submissions were received.

Planning Controls

The following documentation has been considered with respect to the assessment of the subject application:

- Camden Local Environmental Plan No 48
- Upper Nepean River Floodplain Management Study and Plan
- Sydney Regional Environmental Plan 20-Hawkesbury-Nepean River
- Development Control Plan No 58
- Environmental and Health Protection Guidelines “On-site sewage management for single households”
- Camden Council’s exhibited draft sewage management strategy
- Development Control Plan No 94
- NSW Floodplain Management Manual 2001: “the management of flood liable land”

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 planning instrument, development control plan or matter prescribed by the regulations**

Camden Local Environmental Plan No 48 clause 21(2) (e) states that Council may refuse consent to the carrying out of development on land if in Council’s opinion would “be

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adversely affected by inundation or likely structural damage from floodwaters”

No evidence that the proposed dwelling has been designed to withstand the effects of flooding has been submitted with the application.

Although buildings can be designed to withstand the effects of flooding, the proposed development is adversely affected by flooding, due to the absence of flood free access commencing at or below the 5% AEP flood event. The early isolation of the Ellis Lane area from the Camden township in a flood event reduces the likelihood of emergency services personnel from aiding in evacuation. Evacuation of persons from the dwelling if flood isolated, may place emergency services personnel and the occupants at risk.

The land is unsuitable for the installation of an on-site waste water treatment and disposal system (septic tank) and this will be further discussed in the report.

Development Control Plan No 94 “Building Energy Conservation”

The dwelling does not comply with the requirements of part 6.2.3 of DCP94 in that the living areas will not receive 3 hours of sunlight between 9am and 3pm on the 21 June, as the windows to the living areas have no northerly aspect and face east and west.

The applicant has not provided evidence of a minimum 3.5 star energy rating for the dwelling in the form of a NatHERS assessment (National house energy rating scheme) as required by DCP94 or contracted Council to complete a NatHERS assessment.

Development Control Plan No 58

The dwelling generally complies with the requirements of DCP 58 and is similar in design to other dwellings in Milford Road.

Environmental and Health Protection Guidelines “On-site Sewage Management for Single Households”

Approvals for wastewater treatment devices (septic disposal systems) are considered and approved under The Local Government (Approvals) Regulation 1999.

Part 31(3) of the Regulation requires that Council must consider any matter specified in guidelines and directions

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issued by the Director-General in relation to environment and health protection matters listed in 31(2) of the Regulation.

The State Government publication “Environmental Protection Guidelines: On-site sewage management for single households” has been nominated by the Director General as such a guideline.

The guideline indicates that a waste treatment device (septic tank) should not be installed below the 1% AEP flood line and that waste water irrigation should not occur below the 5% AEP flood line.

As the whole of the site is below the 5% AEP flood line, the site is unsuitable for on-site wastewater disposal or the installation of a septic tank.

The guidelines require that no land applications of effluent disposal occur within 100 metres of the high bank of a permanent river/creek. Sickles Creek is a permanent watercourse and is categorised as a river for the purposes of the guidelines. No portion of the allotment meets the guideline setback requirements from watercourses for the land application of septic tank effluent.

The Manual also requires that Council not approve of any new development that must rely on a “pump out” type septic disposal system. Regardless of the requirements of the Manual, Council does not approve pump out systems for residential premises for various reasons, including the cost of the system and the location of approved disposal depots. It would be noted that the Gledswood ponds will be closed for public use shortly.

Sydney Regional Environmental Plan No 20-Hawkesbury
Nepean River

Part 2 (3)(d) of SREP20 requires that any development requiring the disposal of sewage effluent that adversely affects the water quality of the river not be carried out.

The requirements of the “Environmental and Health Protection Guidelines” discussed above are based on protection of the environment and health and would indicate that such effluent disposal from the proposed development would be likely to contribute to the degradation of the Nepean River.

The requirements of SREP20 would not allow for the approval of the proposed dwelling.

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Draft Sewage Management Strategy

Council has exhibited a draft policy in regard to on-site sewage management for single households.

The draft policy is commensurate with the requirements of the “Environmental and Health Protection Guidelines: On-site sewage management for single households, as discussed above.

(b) the likely impact of the development including environment, social and economic impacts

NSW Floodplain Management Manual: “the management of flood liable land”

A comprehensive flood policy is still being formulated by Council and is near completion. The NSW Flood Plain Management Manual: 2001, Interim development guidelines indicates the following: -

- New development is not considered appropriate in high hazard areas. It may be appropriate under certain conditions. Such conditions should be based on a detailed review of the impact of the development of the development on flooding and the potential hazard to the proposed development.
- In high hazard areas, the developer or property owner should be required to demonstrate to council that fail safe, maintenance free measures are incorporated in the development to ensure the timely, orderly and safe evacuation of people.
- It should be demonstrated to Council that the displacement of the occupants will not add to the overall cost and community disruption caused by the flood.
- A detailed report from an appropriate consulting engineer should be required to support a development application.

The applicant has not submitted any of the above to support the application. However, the design levels are similar, particularly egress paths, to those on the adjacent lot 35 Milford Road, to which Council refused DA135/98 for a dwelling.

In Council’s defence of the appeal, the services of Dr S Perrens, consulting engineer as expert witness in regard to flooding matters, were obtained.

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In Dr Perrens evidence the above matters were considered. Dr Perrens advised that: -

- Floodwater is likely to surround the dwelling about once every 12 years. (including the low end of Milford Road)
- Once every 15 years the floodwater is likely to be over 0.8 metres deep around the dwelling. This depth would be hazardous for evacuation purposes for occupants and emergency personnel, even though the velocity of flow is likely to be negligible.
- In a significant flood, water levels can be expected to rise at a rate of 0.5 metres per hour. This rate of rise would only provide an opportunity to evacuate for about 2 hours.
- At the 5%AEP flood level occupants of the dwelling would have to be evacuated for a distance of about 200 metres.
(The travel distance for the proposal is about 160 metres)
- The site is severely flood affected and can expect to experience high hazard flood conditions of any flood greater than 7.5% AEP flood event.
- The Camden area already has a large number of flood affected properties (about 550) that make heavy demands on emergency personnel during a flood. Because emergency services personnel are already placed under strain in a flood, there should be no additional demands placed on them, particularly from an area remote from others that will require emergency assistance.
- The dwelling would be completely inundated over the ridge line and any flooding event over the 1%AEP flood level would require evacuation of the dwelling and place the occupants and rescuers at significant personal risk.
- There are no flood refuge facilities in the Ellis Lane/Grasmere area for people displaced by a flooding event.

Upper Nepean River Floodplain Management Study and Plan

The floodplain management study indicates that the vacant blocks in Milford Road, although severely flood affected are not listed for any buy back due to little damage occurring to the vacant land from flooding.

The study also notes that flood isolation to Ellis Lane is a problem for emergency response to the area.

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(c) the suitability of the site for development

In Dr Perren's evidence to the Land and Environment Court, he concluded that lot 35 Milford Road was unsuitable for the erection of a dwelling. As almost identical site constraints exist on lot 34 Milford Road, this lot is also considered unsuitable for the erection of a dwelling.

(d) the Public Interest

It would not be in the public interest for Council to approve of development that had detrimental affects on the environment and placed persons at physical risk in a flood event. Further, due to the likelihood of any owners be able to ensure the property, economic loss is likely to be suffered in a flood event that may impose a cost to the community.

Conclusion

Although the development could be amended to comply with solar access , energy efficiency requirements and the floor level to the upper storey to be 600mm above the 1%AEP flood level the development fails to meet other development criteria as follows:-

- The property is significantly flood affected and fails to meet environmental guidelines in regard to disposal of waste water generated by the proposed development.
- The development is adversely affected by flooding and does not meet the requirements of LEP48.
- The development has the potential to place person/s at personal risk.

Due to such significant site restraints the application for the erection of a dwelling on this land should be refused.

Recommended: That:

Development Application 821/2002 for the erection of a dwelling at Lot 34 DP29835 No 28 Milford Road, Ellis Lane be refused for the following reasons:

- (i) The proposed development is not consistent with the objectives for Zone No (1c) of Camden Local Environmental Plan 48 in particular:
 - (a) To ensure development is carried out in a manner that minimises risk from natural hazards particularly flooding.
- (ii) The proposed development is unacceptable having regard to the matters specified for consideration in Clause 21(2)

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of LEP 48 in particular the development will be adversely affected by inundation or likely structural damage from floodwaters.

- (iii) The proposed development is on land which would be inundated with water to which flood free access is not available in the 1% and 5% AEP flood events.
- (iv) Approval of the proposed development would result in increased demand for scarce emergency resources in times of flood and additional costs to the community.
- (v) The proposed development will generate waste water that cannot be adequately or appropriately stored or disposed of on the land and provision cannot be made for a sewerage management facility which will appropriately deal with such waste water having regard to the matters specified for consideration in the Local Government (Approvals) Regulation 1993.
- (vi) The proposed development is contrary to the provisions of SREP No 20 – Hawkesbury Nepean River.

Resolved on the Motion of Cr Batros, seconded Cr Anderson that:

Development Application 821/2002 for the erection of a dwelling at Lot 34 DP29835 No 28 Milford Road, Ellis Lane be refused for the following reasons:

- (i) *The proposed development is not consistent with the objectives for Zone No (1c) of Camden Local Environmental Plan 48 in particular:*
 - (a) *To ensure development is carried out in a manner that minimises risk from natural hazards particularly flooding.*
- (ii) *The proposed development is unacceptable having regard to the matters specified for consideration in Clause 21(2) of LEP 48 in particular the development will be adversely affected by inundation or likely structural damage from floodwaters.*
- (iii) *The proposed development is on land which would be inundated with water to which flood free access is not available in the 1% and 5% AEP flood events.*
- (iv) *Approval of the proposed development would result in increased demand for scarce emergency resources in times of flood and additional costs to the community.*
- (v) *The proposed development will generate waste water that cannot be adequately or appropriately stored or disposed of*

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on the land and provision cannot be made for a sewerage management facility which will appropriately deal with such waste water having regard to the matters specified for consideration in the Local Government (Approvals) Regulation 1993.

(vi) The proposed development is contrary to the provisions of SREP No 20 – Hawkesbury Nepean River.

*DC135/02 THE MOTION WAS **CARRIED.***

(Cr Corrigan voted against the Motion).

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**6. Change of Use – Place of Worship at Lot 1 DP 202695
(6) Hill Street, Camden**

File No: 3950.10 (Director, Development & Environment
Division)
DA No: 1289/2002
Owner: FE Dunk Pty Limited
Zoning: Town Centre Support 3 (f)

Purpose of Report

The purpose of this report is to enable Council to determine an application for a change of use of an existing building for a place of worship. The application was subject to neighbour notification, with two (2) objections received at the conclusion of the notification period. The matter is referred to Council given that noise and car parking issues cannot be resolved.

Summary of Recommendation

It is recommended that Council refuse Development Application No 1289/2002 for reasons espoused in this report.

The Proposal

The applicant seeks approval to use part of an existing vacant building as a place of public worship.

The use of the building involves refurbishment to accommodate the following:

- A dais and pulpit
- A sound desk
- A crèche
- Facilities for people with disabilities.

The following table provides a summary of activities to be undertaken within the premises, the proposed hours of use and the expected attendance levels.

It is not anticipated that the site will be used for funerals or weddings. A floor plan of the premises forms **Tabled Document “DC 7”**.

Day & Time	Frequency	Purpose	Estimated No. of Persons
Sunday 9.30am – 11.30am	Weekly	Worship for Adults and Children	78
Sunday 6:30pm – 8:30pm	Weekly	Worship for Adults and Children	46

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Wednesday – Friday 7:30pm – 9:30pm	Weekly	Worship and Prayer Meetings	16
Thursday 3:30pm – 4:30pm	Weekly	Storytelling for Children	
Saturday 7:30pm- 9:30pm	Weekly	Youth Program	26

The Site

The site is located on the eastern side of Hill Street, approximately 40 metres from the intersection with Argyle Street, and contains an existing single storey masonry building. The building has direct, street level frontage to Hill Street with access available to the front and the rear of the premises. The applicant proposes to occupy one of two commercial premises within the building, which are both currently vacant. The property is positioned between a two storey masonry building along the northern boundary and a single storey masonry building along the southern boundary. Land at the rear is used for car parking. The adjacent land uses are commercial and professional, with a mixture of private residences and professional premises located further to the south of Hill Street. The site is not affected by the likelihood of flooding. A Site Plan forms **Tabled Document. “DC 8”**.

Notification

The application was notified in accordance with Council’s policy and consequently two submissions were received. The submissions raised the following issues:

- Insufficient provision for car parking
- Unsuitable window dressing
- Inappropriate use of premises
- Adverse impact of noise generated from development.

Planning Controls

The following plans and policies were considered in assessing the proposal:

- Camden LEP 45
- Camden Strategic Plan – 2025
- Sydney Regional Plan 20
- Development Control Plan 97 – Car Parking Code
- Safer by Design Principles
- Draft Development Control Plan 102 – Guidelines for Places of Public Worship

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- Draft Development Control Plan 96 – Guidelines for Outdoor Advertising

Assessment

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

- a) The provision of any planning instrument, development control plan or matter prescribed by the regulations

Camden Strategic Plan – 2025

The proposed development is sympathetic with the historic and social characteristics of the locality. The use of the premises as a place of worship maintains and protects the image of Camden as a country town. However, the community has expressed concerns regarding the adverse impact of noise and the provision of car parking. The application has provided insufficient information to enable satisfactory assessment of the issues.

Camden Local Environmental Plan 45

The site is zoned Town Centre Support 3 (f) under the provisions of the Camden Local Environmental Plan 45 (LEP 45). The use of the premises for a place of public worship is permissible with consent of Council.

Sydney Regional Plan 20

The provisions of Sydney Regional Environmental Plan No 20 (SREP 20) apply to the land as it falls within the Hawkesbury-Nepean River Catchment.

The SREP provides an overall direction for the protection of the environment of the river. Given that this development is for a change of use, it is unlikely that there would be an impact on the environment.

Development Control Plan 97 – Car Parking Code

The proposal is affected by the provisions of Development Control Plan 97 (DCP 97) which provides guidelines to ensure adequate parking is available relevant to the land use. For churches, the DCP recommends the provision of 1 car parking space per 6 seats or 1 space per 9m² of net floor area, whichever is greater.

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Plans submitted with the application indicate the provision of seating for up to 146 people, which determines the provision of 22 car parking spaces. Calculation of the floor area, approximately 240m², requires provision for 26 parking spaces.

With regard to the guidelines of the DCP, the floor area has been determined to be the greater and establishes that the proposed development requires the provision of 26 on-site car parking spaces.

The applicant has stated that provision for off-street parking is available at the rear of the site for up to 14 vehicles with the balance of parking accommodated in Council carparks. Clearly, these spaces are not contained on the allotment to which the application relates. While it is recognised that the building is existing, and that services are generally conducted outside normal peak trading hours, for the majority of businesses in the town centre, the proposed parking facilities are not in accordance with the DCP guidelines and remain a concern with respect to future increase of service attendance. The car parking spaces located at the rear of the premises are not allocated solely to this use and are shared by other users of the building and other adjoining properties. Therefore the need to provide an appropriate level of parking on-site is reasonable in this circumstance given the number of people in the congregation attending various services.

Safer by Design Principles

The Safer by Design guidelines was used to identify crime risks and to reduce opportunity for criminal activity by applying crime prevention through environmental design.

Assessment of the proposal has determined that the carparking facility at the rear of the building increases the risk for criminal activity, particularly at night, due to lack of surveillance and the creation of areas hidden from view which afford many places of concealment.

Draft Development Control Plan 102 – Guidelines for Places of Public Worship

Objectives of Draft Development Control Plan 102 (Draft DCP 102) aim to achieve the following;

- *‘To ensure that the operations of places of public worship in regard to the number of persons accommodated and hours of operation have minimal impact on the amenity of adjoining developments.’;*

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- *To ensure that adequate provision is made for off-street parking for use by people attending places of public'.*

With consideration to the above objectives, concerns are raised regarding the adequacy of parking provisions and the impact of noise emission on the locality. These issues have been discussed previously in this report. Compliance with the objectives of the draft DCP cannot be demonstrated, subsequently resulting in the recommendation for refusal.

Draft Development Control Plan 96 – Guidelines for Outdoor Advertising

Consideration of proposed advertising shall require compliance with the DCP. The applicant does not propose the provision of illuminated signs.

- b) The likely impact of the development including environmental, social and economic impacts

The development is consistent with the zoning of the locality and is not considered to have an adverse social or economic impact. However, insufficient documentation was provided with the application to ascertain the likely environmental impact of the development. Specifically, the provision of an acoustic report stating anticipated noise levels and comments regarding adopted standards has been requested however not submitted. Objectors have also raised the same concerns.

The concern with this use is that the amount of glass along the Hill Street frontage and how any noise emanating from the premises can be attenuated to reduce likely impacts. As stated above, there are still uses within the vicinity of this development, such as residences and doctor's surgeries that could be affected by noise generated from amplified music or from a public address system. As no details have been provided with the application, an assessment of the likely impacts cannot be made.

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- c) The suitability of the site for the development

The existing building is similar to existing construction in the area. The applicant proposes to upgrade the premises with the provision of facilities for persons with disabilities.

Consideration of the suitability of the site for the development is the purpose of this report.

- d) Any submissions made in accordance with this Act or the regulations

As a consequence of neighbour notification two (2) submissions were received. Copies of these submissions were **provided separately to councillors**. The following comments are provided with respect to the relevant concerns raised by local residents:

Car parking

The issue of car parking has been previously discussed in this report with regard to DCP 97 – Car Parking Code. Whilst the intended usage of the premises is outside the peak usage of carparking in Camden, the nature of businesses is changing and they are opening for longer hours. For this reason, it is important to ensure that all uses provide parking that is adequate for their needs and do not cause conflicts with other users, particularly in the longer term.

Window Dressing

Concern has been expressed regarding the complete painting of windows at the front of the building. The applicant proposes the installation of vertical blinds as well as drapes to provide full to partial privacy. Whilst it is acknowledged that there is a need for privacy, to full or partially drape windows would not present a good streetscape and would be incongruous with the existing streetscape of the town centre at street level. Hill Street is within an heritage precinct and therefore, the use of vertical blinds is inconsistent with the heritage nature of the street and careful consideration of the façade is important.

Use of premises

Under the provisions of LEP 45 the use of the premises for a place of public worship is permissible with consent of Council.

Noise

It is considered that the proposed development may have the potential to create an adverse acoustic impact on the locality.

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Insufficient documentation has been provided with the application to enable an accurate assessment of the impact. Consequently, refusal of the application is recommended.

Summary

As a result of preliminary assessment of the application and submissions from local residents, several meetings were conducted with the applicant and Council officers, with a view to resolving issues of concern, in particular, the impact of noise and the provision of suitable carparking.

Due to concerns regarding the impact of noise, Council required the submission of an Acoustic Impact Statement, to be prepared by a qualified acoustic engineer. Information provided in the acoustic report would be required to address the anticipated noise levels, impact on the locality and, if necessary, recommend actions to ensure compliance with adopted standards. Correspondence to the applicant also requested details of proposed line marking for the delineation of spaces in the rear car parking area to confirm the proposed number of parking spaces.

To date, the required documentation has not been submitted to Council for consideration. Consequently, accurate assessment of the impact of the development could not be established. On the basis of the available information before Council to determine this application, this report recommends that the application be refused.

Recommended That

Development Application No 1289/2002 at No 6 Hill Street, Camden, being Lot 1 in DP 202695, for the approval of the change of use of a building to a place of worship, be refused on the following grounds:

- (i) The development application provides insufficient evidence of compliance with the principles of Camden LEP 45 for the appropriate provision of parking space relative to the characteristics and possible future demand of the development;
- (ii) The proposal is inconsistent with the guidelines of Car Parking DCP 97 'to ensure adequate parking is available for different land uses';
- (iii) The application provides insufficient evidence to establish compliance with the objective of DCP 102 – 'Guidelines for Places of Public Worship' ;

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- (iv) To ensure that the operation of places of public worship by way of the noise levels generated have minimal impact on the amenity of adjoining development'
- (v) The Proposed carpark at the rear of the building increases the risk of criminal behaviour towards people and property.
- (vi) The proposed development will be out of character with existing businesses in the town centre in terms of providing a continuous streetscape at Street level.
- (vii) Insufficient information has been provided in accordance with Clause 54 of the Environmental Planning and Assessment Act Regulations 2000 to allow a proper assessment of the application.

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

Development Application No 1289/2002 at No 6 Hill Street, Camden, being Lot 1 in DP 202695, for the approval of the change of use of a building to a place of worship, be refused on the following grounds:

- (i) *The development application provides insufficient evidence of compliance with the principles of Camden LEP 45 for the appropriate provision of parking space relative to the characteristics and possible future demand of the development;*
- (ii) *The proposal is inconsistent with the guidelines of Car Parking DCP 97 'to ensure adequate parking is available for different land uses';*
- (iii) *The application provides insufficient evidence to establish compliance with the objective of DCP 102 – 'Guidelines for Places of Public Worship' ;*
- (iv) *To ensure that the operation of places of public worship by way of the noise levels generated have minimal impact on the amenity of adjoining development'*
- (v) *The Proposed carpark at the rear of the building increases the risk of criminal behaviour towards people and property.*
- (vi) *The proposed development will be out of character with existing businesses in the town centre in terms of providing a continuous streetscape at Street level.*
- (vii) *Insufficient information has been provided in accordance with Clause 54 of the Environmental Planning and*

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*Assessment Act Regulations 2000 to allow a proper
assessment of the application.*

DC136/02 THE MOTION WAS **CARRIED.**

7. Appeal against the issuing of an Order to cease using premises at 162 Deepfields Road, Catherine Field for the purpose of storing building formwork material for the construction industry.

(File 2275.420] (Director, Development & Environment Division)

Purpose of Report

To notify Council of an appeal to the Land and Environment Court by Mr Tilocca, the owner of the property and operator of the business, against an Order issued by Council to cease using 162 Deepfields Road, Catherine Field for the purpose of storing building formwork material for the construction industry.

Background

Council on 26 February 2001 refused a Development Application to use 162 Deepfields Road, Catherine Field for the purpose of storing building formwork material for the construction industry.

Mr Tilocca lodged an appeal against Council's decision to the Land and Environment Court. The appeal was dismissed.

Council subsequently served Orders on Mr Tilocca to cease using the property for the purpose of storing building formwork material for the construction industry.

Mr Tilocca has now appealed the above mentioned Orders to the Land and Environment Court.

Main Report

The callover in this matter was held on 2 December 2002.

At that callover Registrar Greenwood directed: -

- That the applicant file and serve a Statement of Issues by 17 December 2002.
- That the matter be adjourned to a further Callover on 19 December 2002.

Council's solicitor, Marsdens, who are continuing to act for Council in this matter, has advised that they estimate a fee for acting on behalf of Council in this matter will be in the order of \$10000 to \$12000, inclusive of GST. Given that the Court has already made a determination in this matter and the fact that these proceedings would appear to be stalling tactics, Council

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will be seeking the Court to award costs against the appellant in these proceedings.

Recommended That the matter of the appeal lodged in the Land and Environment Court against Council's Order in respect of 162 Deepfields Road, Catherine Field be noted.

Resolved on the Motion of Cr Batros, seconded Cr Winn that the matter of the appeal lodged in the Land and Environment Court against Council's Order in respect of 162 Deepfields Road, Catherine Field be noted.

DC137/02 THE MOTION WAS CARRIED.

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**8. Proposal: Erection of Shed on flood affected land.
Property: Lot 201 DP 878982 No 187 Cawdor Road,
Cawdor.**

File No: 1500.1875 (Director, Development &
Environment Division)

DA No: 1484/2002

Owner: G. Rouland

Zoning: Rural 1(a) pursuant to Camden LEP46

Purpose of Report

Council is in receipt of a development application for the erection of a rural storage shed, which is to be located on a flood affected portion of the allotment. Council officers have no delegation to determine an application for development that is flood affected.

Summary of Recommendation

It is recommended that Development Application No1484/2002 for the erection of a rural shed at No 187 Cawdor Road, Cawdor be refused.

Background

The applicant was requested to relocate the proposed shed to a position above the 1% AEP flood level. The applicant has amended the plan, so that the proposed shed is now above the 5% AEP flood line. However, the relocated position, although higher in elevation, is still below the 1%AEP flood level. The applicant has been further requested to locate the shed above all flood levels, but has requested Council to approve the shed in the new position and giving reasons for such a request. A copy of the letter forms **Tabled Document “DC 9”**.

Basically the request for allowing the shed to be built in the proposed position is on the basis that to relocate to a position above the 1% level would require land to be filled and would impact on proposed future house extensions and on adjoining neighbours. These matters will be discussed in the report.

The applicant has also submitted a report from a structural engineer attesting to the structural adequacy of the building to withstand flood flows and the effects of flood waters.

The applicant also submitted a letter supporting the shed to be erected below the 1% level. This letter was to support the initial application. A copy of which forms **Tabled Document “DC 10”**. This letter states that the shed is only used for the storage of various equipment and that it would be located behind the

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adjoining neighbours dwelling and therefore less visually prominent.

The Proposal

The application is for the erection of a colour bonded metal shed of 95 square metres in floor area. A copy of the plans forms **Tabled Document “DC 11”**.

The finished floor level of the proposed shed would be RL70.55AHD, which is 700mm below the 1%AEP flood level of RL71.2AHD. The 5% AEP flood level is RL69.4AHD. This places the finished floor level 1.15m above the 5% flood level. A copy of the flood levels forms **Tabled Document “DC 12”**.

The shed would require approximately 1.0 metre of fill to establish a building platform with the building platform being filled from the upper datum to maximise the finished floor level height. The proposed shed is mist green in colour and the application includes screen landscaping.

The proposal was originally submitted with inaccurate site levels.

The original proposal would have sited the shed below the 5% AEP flood line.

The Site

The site is 17.5 hectares in area with approximately 5000 square metres of land in the vicinity of the Cawdor Road frontage above the 1%AEP flood level. A site plan forms **Tabled Document “DC 13”**.

The land gently slopes from Cawdor Road to the flood plain. A dwelling is currently erected on the land at a 20 metre building line.

The location of the proposed shed is categorised as high hazard flood fringe.

Notification

The adjoining property owners have consented to the development and as the proposal generally complies with Council’s shed guidelines, other than on flood affected land, further notification is not deemed necessary.

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Planning Controls

The land is zoned Rural 1(a) under the provisions of LEP 46. The proposed shed is a permissible development, as it is ancillary to the use of the land.

The following documentation has been considered with respect to Council's assessment of the subject application:

- Camden Local Environmental Plan No 46
- Upper Nepean River Floodplain Management Study and Plan
- Sydney Regional Environmental Plan 20-Hawkesbury-Nepean River
- NSW Floodplain Management Manual 2001: "The management of flood liable land"

Assessment

In accordance with the EP&A Act, the proposal has been assessed under section 79C, with the following issues relevant to the consideration.

- (a) The provisions of any Environmental Planning Instrument.

As stated above the proposed shed is permissible with development consent. Clause 21 of LEP 46 states that Council may refuse consent to development if it will result in a number of impacts, namely affect on flood levels, increase in the flow of waters on adjoining properties and affect the river bank stability. It is considered that the proposed development will not cause the above impacts and therefore are not grounds on which Council would refuse the application.

- (b) NSW Floodplain Management Manual

The subject land is classified under the Manual as High Hazard – Flood Fringe. The Manual requires that a building constructed below the flood level should be built from flood compatible materials. The Manual also states that minor development could be permitted provided that the potential for damage to development is considered and that the property owner can demonstrate that the building can withstand the force of flowing flood waters, including debris and buoyancy forces and impact from floating debris as appropriate. The applicant has provided details to this effect however as the premises is to be used for the storage of goods, there will be damage to contents in a flood event.

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Whilst the applicant has demonstrated that the proposed development can meet this criteria, the fact remains that there is sufficient area on the property above the 1% AEP flood level (5000m²) to construct the shed. Council in the past has approved sheds below the 1% AEP, but in most of these instances there has not been available area above the flood level to erect such structures.

The applicant has also stated that to position the shed above the flood level would require significant fill and impact on proposed future house extensions. This claim cannot be supported. As can be seen from **Tabled Document "DC 14"**, there is a substantial distance from the house to the shed, so that the extensions would not be an impediment and that the land would not be required to be filled if the shed was located above the flood. The applicant assumes that in order to meet the latter requirement that the land must be filled. This is not the case given the fact that the 1% AEP flood level is marginally below the proposed finished floor level and that no application has been made as part of this application to fill the land.

Conclusion

The applicant has submitted an application to erect a shed on land that is affected by the 1% AEP flood line. The proposed shed would be erected above the 5% flood line, but below the 1% flood line. The applicant states that the proposed shed will have no impact on adjoining properties in terms of flooding and visual impacts if located in the position as requested. The applicant has submitted details to attest to the adequacy of the shed to withstand the effects of floodwaters.

However, notwithstanding these matters, sufficient land is available on-site to erect the shed above the 1% flood line.

Recommended: That

- (i) Development Application 1484/2002 for the erection of a shed at 187 Cawdor Road, Cawdor be refused for the following reasons:
 - (a) The proposed development is not consistent with the objectives of Zone 1 (a) of Camden Local Environmental Plan 46 in that the development is on land affected by the 1% AEP Flood.
 - (b) The proposed development is on land, which would be inundated with water in the 1%AEP year flood event and adequate area is available on site to locate

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the shed above this level without the need to carry out any alterations to landform.

- (ii) The applicant be advised that Council would consider an application to erect a shed above the 1% AEP Flood Line.

MOTION

Moved Cr Patterson, seconded Cr Senise that Development Application 1484/2002 for the erection of a shed at 187 Cawdor Road, Cawdor be approved subject to the standard conditions.

DC138/02 THE MOTION ON BEING PUT WAS **CARRIED.**

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

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**9. Unauthorised Tree Felling and Land Clearing, 164B
Coates Park Road Cobbitty**

File: 1775.211 (Director, Development &
Environment Division)
Owner: Mr Anthony Tax Mrs Barbara Tax &
Mr Shane Tax
Property: 164B Coates Park Road, Cobbitty. Lot 1034
DP 851113
Zoning: Rural 'A' (40 hectares) 1(a)

Purpose of Report:

To advise Council of the unauthorised tree felling and land clearing at the subject site. A significant amount of trees have been cleared without development consent. It is considered appropriate for matters of this scale to be referred to the Land and Environment Court for legal proceedings. The report is supplemented by a video presentation and aerial photo display board, which will be available for Councillors at the meeting.

Background:

On the 8 November 2002 Council received a complaint that possible unauthorised earth moving works were being undertaken at 164B Coates Park Road, Cobbitty and that an estimated 300 trees had been cleared from the site.

Council officers inspected the site and were able to confirm clearing had recently taken place and was still in progress at the time of the inspection. The officers witnessed a bulldozer in progress of pushing two or three fallen trees down on to a heap. The operator, from TRN made admissions to the effect that he was clearing saplings, but not the ones in the creek. He advised that he had been operating on the property for about five days over a two-week period and was unaware of any consent or even the need for one to allow the work. The operator was asked to stop work, remove the machine and not to conduct any further work on this property. **Tabled Document "DC 15"** indicates clearing, fallen trees pushed up into heaps and the machine used to do the work. **Tabled Document "DC 16"** shows aerial photo evidence of the clearing works.

On 11 November 2002 a meeting was held on site with Mr A Tax (owner) and Council Officers. The purpose of the meeting was to establish with the owner how the work came to occur on his property and what were the reasons for the work. Mr Tax advised that he didn't know he needed a permit to clear saplings and that because he was concerned about bushfires he wanted to clear around his house.

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The Subject Site:

The property has an area of 50 hectares and is owned by Mr A and Mrs B Tax. The property is zoned Rural 'A' (40 Hectares) 1(a) under LEP 48. A site plan forms **Tabled Document "DC 17"**. The land is a large "L" shape block at the end of a long shared private access road approximately 2 Km off the East Side of Coates Park Road. The land is part of an elevated ridge running in a north south direction and evenly interspersed by natural watercourses that drain towards the lower northern portion of the property. The banks of these watercourses range from quite step with impenetrable vegetation to deep eroded gullies and furrows and scalds void of any plant growth. All the watercourses were noted as being dry.

The existing land use consists of a dwelling house, indoor pool, detached carport, water storage tank, machinery shed, cattle crush, stock fencing and four small to medium size dams, two of which share common boundaries with two adjacent owners.

Densely wooded forest occurs along the main natural watercourse with canopy less dense on the other tributaries. A high voltage overhead transmission line bisects the property; north to south occupying a corridor through predominantly cleared pasture.

Subject Vegetation Community:

Vegetation on the property is dominated by Eucalyptus varieties including E. molucanna, E. teriticornis and Corymbia maculata at 20 to 30 metres in height, with many singularly taller trees. The under story consisting of Bursaria, Privet and wild olive is generally confined to the watercourse. Other species observed included Casuarina and melaleuca species.

The identified composition of vegetation closely resembles that of Cumberland Plain Woodland (CPW) and can further be classified as being either Shale Hills or Shale Plains Woodland, but more likely to be a transition zone where characteristics of both groups seem to be present. There is several overlays of base vegetation mapping published by National Parks & Wildlife Service and Camden Council internal studies that can provide more evidence of the importance of this particular vegetation. These mapping overlays are consistent in that they identify the site vegetation as important and require conservation. The endangered status of this vegetative community is regarded as having State, regional and local conservation significance.

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Formal Site Inspection Meeting:

A meeting was held on Thursday 28 November 2002 and was attended by Mr A and Mrs B Tax, Andrew Philippa (Resource Compliance Manager, DLWC), Mr David Outhet (Independent Principal Scientist, DLWC), Mr Michael Brown (Manager, Development Branch) and Mr John Soldo (Vegetation Management Officer).

Mr A Tax was interviewed and provided a full admission of responsibility for the earthworks, clearing and tree removal. He was aware that development consent was required to be obtained, but considered the works necessary to provide protection to the property in case of a bush fire.

Mr A Tax advised that he had given instructions to the machine operator of where and how he wanted trees to be cleared and that he only wanted to clear the trees outside of the creeks, as he didn't want to get in to trouble from the Council. Mr A Tax believed the best number of trees to have on grazing land was about 20 to 40 trees to the acre.

Mr A Tax has repeatedly stated that he was unaware of the need to obtain consent for such work, yet has referred to an unseen condition of subdivision allowing him to clear the land. Mr Tax was unable to produce any consent that related to his land. He also advised that he was concerned about removing trees from the creek.

Mr Tax did however, offer to restore the land and plant trees to Council's requirements. Whilst this commendable, the extent and nature of land clearing is significant in this instance.

Environmental Planning Instruments and Controls:

Camden Local Environment Plan 48 provides as follows;

1. A tree is defined as follows;
Any tree, sapling or shrub which,
 - (a) is 3 metres or more in height
 - (b) has a girth of 300mm or more at a height of 1 metre above natural ground surface or
 - (c) has a branch span of 3 metres or more
2. Clause 28 states that: "A person shall not ringbark, cut down, top, lop, remove, injure or wilfully destroy any living tree, or cause such tree to be ringbarked, cut down, removed or wilfully destroyed, without development consent."

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- 3 Clause 29 states that: “Land within Zone No 1(a) must not be cleared for any purpose, except with consent. In considering whether to grant consent Council must take into consideration the extent to which clearing would adversely affect the amenity of the natural and rural landscape.”

The number of trees removed has been estimated at between 350 and 400. The height of the trees was 25m, and this is consistent with all felled trees and the remaining tree stock. The girth was also measured on average of 200mm, with some exceeding 300mm. Whilst some of the trees were below 300mm, the LEP requires that only one of the above criteria needs to be met to be classified as a tree. This unauthorised clearing work may also trigger Threatened Species Conservation Legislation as Cumberland Plain Woodland (CPW) is listed as an Endangered Ecological Community.

Consideration:

Council consent is required to clear any portion of this land. Consent has not been given for clearing or earthmoving works on the site. This is a breach of the EP&A Act.

A significant amount of trees have been wilfully destroyed without consent. This action leaves it open to Council to commence legal proceedings in either Local Court or the Land & Environment Court. It is appropriate for matters of this scale to be referred to the Land and Environment Court.

This incident is different to recent unauthorised clearing matters involving Mr Neasy and Mr Medich. The scale of clearing in these cases was appropriate for hearing in the Local Court, which is limited in the range of penalties it can impose on vegetation clearing. This experience led to a relatively minor fine being imposed on Mr Neasy with no order to restore the damaged environment. In the case of Mr Medich it was considered likely that the Local Court would impose a similar fine and again the environment would remain degraded. Mediation in the Medich case resulted in a plan for restoration of the cleared area, which has since been remediated to Council’s satisfaction.

Through the Land and Environment Court breaches of this kind are an offence under s.125 of EP&A Act. Such offences may in addition or in substitution of a fine be required to plant new trees and vegetation and maintain to mature growth and provide security for such work. The Court can also issue a fine for such an offence.

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Conclusion:

It is reasonable to assume from all the admissions made that Mr A Tax was aware that some form of consent was required for the work carried out.

All the reasons provided by Mr Tax that he believed allowed him to do the work can not be supported. Mr Tax stated that the clearing works was for bush fire protection, yet he did not seek advice from Rural Fire Service.

Mr Tax stated that he was trying to achieve 20 to 40 trees to the acre yet this is not evident, as large areas have been completely cleared

Mr A Tax has offered to restore the damage through the planting of trees. However, the extent and magnitude of land clearing that has taken place is significant.

The fact is a large number trees have been removed, an offence has been committed by the owners of the property by conducting work that requires consent. The EP&A Act is an important control for the public interest. The public should not be sent any other message than that the Act is to be complied with.

The Mayor read a letter from Solicitors acting for the owners of the Land requesting a postponement of the matter in order to obtain full and detailed instructions on the matter.

Recommended: That

- (i) The matter be referred to Council's Solicitors for action to proceed against the owners, Mr A and Mrs B Tax, of the property for unauthorised tree felling and land clearing at 164B Coates Park Road
- (ii) That such action be taken in the Land and Environment Court

MOTION

Moved Cr McFadden, seconded Cr Senise that further consideration of this matter be deferred to 28th January, 2003 Council Meeting.

*THE MOTION ON BEING PUT WAS **LOST**.*

(Cr Corrigan, Cr Anderson, Cr Patterson, Cr Winn, Cr Batros, Cr Fekete and Cr Senise voted against the Motion).

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FURTHER MOTION

Moved Cr Batros, seconded Cr Winn that

(i) *The matter be referred to Council's Solicitors for action to proceed against the owners, Mr A and Mrs B Tax, of the property for unauthorised tree felling and land clearing at 164B Coates Park Road*

(ii) *That such action be taken in the Land and Environment Court*

DC139/02 THE FURTHER MOTION ON BEING PUT WAS **CARRIED**.

(Cr McFadden voted against the Motion).

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**10. Camden Council –V- Glen Alpine Constructions –
POEO Act Offences**

(File No 5750.10-2/5) (Director, Development & Environment
Division)

Purpose of Report

The purpose of this report is to advise Council of the outcome of a court hearing in the Camden Local Court in relation to the failure of Glen Alpine Constructions to Comply with Clean Up Notice and Permit Waters to be Polluted.

Background

On 8 October 2001 Council granted consent for the construction of a retail/commercial development on the Cnr Murray & Cawdor Roads, Camden.

Conditions of consent required sedimentation control measures to be properly installed and maintained.

The developer's private certifier approved the Construction Management Plan and Sediment Control Plans required under Council's conditions. These plans indicated as quoted that:
"Glen Alpine Pty Ltd. shall ensure at all times, no site pollutants, such as concrete slurry, clays and soils or other associated items, are washed onto the roadways, footways, or stormwater drainage system of the Council of Camden"

Council officers spent a considerable amount of time on the site advising the builders in relation to erosion and sedimentation control however on the most part the advice was not taken on board.

On 6 February 2002 no works had been undertaken and a storm event caused sediment laden waters to enter Camden Council's stormwater system leading to the Nepean River. A \$1,500 infringement notice for "Permit Waters to be Polluted" was issued and water samples were taken.

On 11 February 2002 issues were still outstanding on the Clean up Notice, therefore, a \$1,500 infringement notice was issued for "Failure to Comply with the Clean Up Notice"

Glen Alpine Constructions Pty Ltd decided to appeal these two infringement notices and a court mention date was issued for 11 June 2002. Glen Alpine Constructions Pty Ltd pleaded not guilty during this mention and a hearing date was set for 26 November 2002.

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Main Report

At the court Council was represented by Caldwell Martin & Cox before Magistrate Spence. During the hearing Glen Alpine Constructions Pty Ltd claimed that they had carried out all possible measures to stop sediment leaving the site and that it was because of the amount of rainfall during the rainfall event that a breach had occurred.

Based on the evidence provided to the court Mr Spence considered that no reduction in the ticket amount of \$1,500 for each offence should be made. He found the defendant guilty of each offence and imposed a fine of \$1,500 for each. He ordered that court of costs of \$59.00 per offence be paid to the court. Further he awarded professional costs of \$770.00. The defendant was given 28 days within which to pay the total fines and costs into the court. Mr Spence also warned Glen Alpine Constructions that if they are brought in front of a court for these offences again then he would expect them to receive a harsher penalty.

His Worship Mr Spence congratulated and thanked the Council officers on a well put together brief and a professional way in which they conducted the case. Council Officers were pleased with the performance of Caldwell Martin & Cox in the court and in particular with their knowledge and application of the POEO Act.

Conclusion

This site is not supervised by Council and this matter demonstrates that Council must inject a considerable effort in the control of building sites to achieve good environmental outcomes. Without constant and strict supervision the performance of the construction industry will continue to decline. To have the penalties not reduced is considered to be a satisfactory result in this instance.

Recommended That Council:

- (i) Note the information;
- (ii) Submit an article to the local newspapers informing the public of the Guilty verdict in the Local Court and alerting builders of the penalties.

Resolved on the Motion of Cr Batros, seconded Cr Winn that Council:

- (i) Note the information;

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- (ii) *Submit an article to the local newspapers informing the public of the Guilty verdict in the Local Court and alerting builders of the penalties.*

DC140/02 THE MOTION WAS CARRIED.

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11. PlanFIRST Implementation and Regional Strategies
(File 3969) (Director Governance & Outcomes)

Background

PlanFIRST is the State government strategy for effecting changes to the plan making system across NSW.

PlanFIRST purports to be instrumental in realising “a whole-of-government approach, including local government, to make sure that plans are more effective in coordinating actions and giving confidence in the future.”

Implementation of PlanFIRST

PlanningNSW has recently advised of a regional framework for planning in NSW and an outline for regional strategies.

(a) Regional Strategies

Regional Strategies represents an important plank in the implementation of PlanFIRST. The Minister for Planning recently announced that regional strategy work would commence in a number of regions including western Sydney. In so doing he confirmed the nature of regions established for strategy purposes in NSW including the above referenced Western Sydney Region. (A map depicting the regional strategy areas is reproduced as **Tabled Document “DC 18”**).

(b) South Western Sydney View

It should be noted that Camden, Campbelltown and Liverpool Councils were strong advocates for a Southwestern Sydney Region based upon the respective local government areas as a minimum. This position was championed by all three (3) Councils collectively without success. The Minister for Planning has, however, verbally acknowledged the opportunities for a Western Sydney regional strategy to clearly acknowledge and respond to unique southwestern Sydney issues in the emergent Regional Strategy.

(c) Regional Forums

PlanningNSW have further advised that Regional forums will be established shortly in the first regions announced, inclusive of Western Sydney. Regional forums are being promoted as a mechanism for providing the Minister for Planning with advice on the development of regional strategies and will comprise of people with a broad range of skills and perspectives on planning in the region.

Generally, a regional forum is likely to be made up of five (5) Councillors from the region, five (5) representatives from State agencies and five (5) non-government representatives. The Minister will be able to appoint up to four (4) additional

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members to represent interests relevant to a particular region. A “local leader” will be appointed as chairperson of the forum.

(d) Regional Strategy Teams

PlanningNSW have also advised that recruitment of regional strategy teams has commenced in order that such teams can begin their work in partnership with Councils, government agencies and regional communities.

Regional Planning and WSROC

The Western Sydney Region is clearly dominated by the WSROC Councils; Councils which of themselves have different sectoral aspirations. WSROC, however, is generally united in their approach to regional planning, largely politically driven and well resourced.

WSROC has pre-empted the Government’s decision in respect of regional strategies and commissioned the preparation of a regional vision and planning framework as a key local government input into state government planning for the region. Such work is to be completed by December 2003. Through this process it is intended to address the “big picture” issues of managing growth and the implications in regard to, environment, infrastructure and employment as well as being a vehicle for each local Council to present the “unique” needs and aspirations of their communities in planning for the region.

WSROC see the preceding project as providing a solid basis for all local Councils in Western Sydney to co-operate to set the agenda for planning for the region, to strengthen regional planning outcomes and to ensure that local priorities are considered alongside metropolitan and state priorities in regional planning.

Progress to date on the project has been significant including the commissioning of four major regional studies, development with local Councils of profiles and strategic directions statements, employment of a project officer and establishment of a regional advisory committee. On the 25 November, 2002 WSROC formally launched the first stage of the regional profile which included statistics on Camden and Campbelltown.

WSROC planning staff have clearly held the view for some time that the inevitability of planning for the greater region of Western Sydney should involve liaison at least with Camden and Campbelltown Councils. This view has been further reinforced by the Minister for Planning’s announcement in respect of regional planning and regional planning forums.

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WSROC/MACROC Relationship

WSROC have involved MACROC Councils in the Team West regional planning initiatives over recent years. Further, principal planning staff have been invited to attend other regular WSROC environmental planning forums/meetings in acknowledgment of the relationship between WSROC and MACROC as entities representing Greater Western Sydney. Similarly there have been various relationships between WSROC and MACROC politically over the years.

In the light of the previously referred to decision by the NSW Planning Minister in respect of the nature of the Western Sydney Region, WSROC have indicated a recent desire to develop a closer relationship with both Camden and Campbelltown Councils and MACROC for regional planning. Indeed, WSROC at its meeting of 28 November 2002 resolved to:

“write to Camden and Campbelltown Councils inviting them to participate in the WSROC regional vision and planning framework project on the same basis as WSROC Councils”

Further, Council staff have been invited to attend as an observer for the regional steering committee meeting scheduled for 17 December 2002.

It is clear that Council should participate in regional planning initiatives for Western Sydney championed by WSROC as WSROC seek to ensure that State Government doesn't “dominate” the preparation of regional strategies. Such an opportunity in concert with Campbelltown and Liverpool provides a means of ensuring an understanding and profile for sub-regional issues in a broader regional context.

The nature of the invitation needs to be further explored and in particular the reference to “on the same basis as WSROC Councils”. Notwithstanding the absence of such knowledge Council should indicate its qualified preparedness in principle to accept the WSROC's invitation.

Resourcing of PlanFIRST

Council recently considered advice in respect of PlanningNSW's announcement of an additional fee on development applications to assist in the implementation of PlanFIRST. This fee of 0.064 cents in the dollar on development valued at over \$50,000 is in addition to the State Government 2002/2003 budget allocation of \$4 million.

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In a manner consistent with Council's deliberations on PlanFIRST funding at its Development Committee meeting of 11 November, 2002 Council should approach PlanningNSW seeking funding support for any participation in regional planning such as that proposed by WSROC.

Conclusion

The initial actions in respect of the implementation of PlanFIRST are clearly focussed upon regional planning including a framework for planning in Western Sydney. Council should explore PlanFIRST levy funding opportunities so as to defray any regional planning costs. WSROC have taken the initiative to ensure local factors are reflected in regional planning. WSROC have extended an invitation to Camden and Campbelltown Councils to participate in the current WSROC regional vision and planning framework project. Qualified support to such invitation should be extended.

Recommended: That

- (i) Council note the State Government's initial position in respect of regional planning.
- (ii) Council convey qualified support to WSROC in respect of participating in the WSROC auspiced regional vision and planning framework project. Such qualification being founded upon coming to a better understanding of the reference to "on the same basis as for WSROC Councils".
- (iii) Upon satisfactory clarification of "same basis" reference as denoted above, Council communicate to Campbelltown and Liverpool Councils, the chair of MACROC and PlanningNSW, its preparedness to participate with WSROC in respect of the regional visioning and planning framework project.
- (iv) Council request of PlanningNSW support via PlanFIRST funding for participation in Regional Planning initiatives.

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

- (i) Council note the State Government's initial position in respect of regional planning.
- (ii) Council convey qualified support to WSROC in respect of participating in the WSROC auspiced regional vision and planning framework project. Such qualification being founded upon coming to a better understanding of the reference to "on the same basis as for WSROC Councils".

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- (iii) *Upon satisfactory clarification of “same basis” reference as denoted above, Council communicate to Campbelltown and Liverpool Councils, the chair of MACROC and PlanningNSW, its preparedness to participate with WSROC in respect of the regional visioning and planning framework project.*
- (iv) *Council request of PlanningNSW support via PlanFIRST funding for participation in Regional Planning initiatives.*

DC141/02 THE MOTION WAS **CARRIED.**

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12. Proposed Rezoning of Land situated at Mayfarm Road, adjacent to Sickles Creek (and Camden Local Government Area) (Owners: I W Lane, J Bordina and others)

(File 4289/1) (Director Governance & Outcomes)

Introduction

The owners of some 250 hectares of land bounded by Werombi Road, Mayfarm Road, Burragorang Road and Sickles Creek and situated in Wollondilly Shire have recently made representations to Council seeking support to a low density urban rezoning of their land. Reproduced as **Tabled Document “DC 19”** is a map depicting the location of such land.

A copy of recent correspondence received from the proponents is contained as a **separate handout to Councillors**.

Background

The owners (some 21 in number) have been generally pursuing a rezoning of their land for some 12 years. Their desire has been to replicate development of the nature occurring in Grasmere ie. low density urban (formerly described as rural residential), situated in the Camden Local Government Area.

In principle support has been extended by Wollondilly Shire Council in the past to pursue such form of development by way of detailed planning studies. It is claimed that support had also previously been afforded by the state planning agency. PlanningNSW are at present suggesting that the land has future urban potential and its capability should ultimately be examined in that context. Copies of the relevant PlanningNSW correspondence are contained in **Tabled Document “DC 20”**.

Current Position

As referred to above PlanningNSW believes that

“low density residential development of the Mayfarm area is not the highest and best use for the land and that its potential should be considered in the context of the larger area, which includes both Camden and Wollondilly lands.”

Council staff in attendance at a meeting convened with Wollondilly Shire Council and PlanningNSW, several months ago, agreed that the future of the subject area should be “considered through a joint planning exercise.” Council staff understood PlanningNSW’s comments in respect of more intense development but did not depart the meeting necessarily agreeing with such philosophy. What Council staff accepted

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was that a combined broader context planning investigation should occur and that such should canvass all development opportunities.

PlanningNSW in the context of the broader planning study have suggested that PlanFIRST funding may be available to assist with such exercise given the district/regional nature of same.

Wollondilly Council has indicated that it will be commencing a review of its rural areas in 2003 and developing a vision for them.

In the interim PlanningNSW have suggested that current planning controls should be retained and proposals for development limited to those which would not adversely affect the future development potential of the area.

Implications for Camden Council

The strategic context of the subject land and its possible development are obviously of immense interest to Council given its potential impacts. It is critical that Council participates in any joint planning initiative of the nature referred to by PlanningNSW.

Council's Structure Plan does not contemplate urbanisation of the Cawdor Valley, even at a low density similar to Grasmere. Such is contrary to the urban containment model. Council's position in respect of the nature and form of possible development in the Mayfarm catchment should be reserved, until the fuller investigations have been undertaken. Compatibility with Grasmere styled development and sensitivity to the rather variegated nature of the catchment (particularly steep in parts) may ultimately influence the appropriateness of intense urban development.

Conclusion

Council should note the development aspirations of the Mayfarm Road residents and endorse Council participation in any joint planning exercises for the broader catchment and reinforce our position in respect of the Cawdor Valley. Further, Council should note the potential for impacts of any development upon Camden infrastructure and the Sickles Creek catchment.

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Recommended: That

- (i) Council note the development aspirations of the residents of Mayfarm Road, within the Sickles Creek catchment.
- (ii) Council participate in any planning exercise for the broader catchment.
- (iii) Council reserve its position in respect of proposed low-density urban development until such planning exercise.
- (iv) Council reaffirm its policy position in respect of the non-urbanisation of the Cawdor Valley.
- (v) Council note the potential for impacts of any development in the Sickles Creek catchment upon Camden infrastructure.
- (vi) Council advise the representatives of Mayfarm Road, Wollondilly Shire Council and PlanningNSW of the contents of this report and Council's resolution.

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

- (i) Council note the development aspirations of the residents of Mayfarm Road, within the Sickles Creek catchment.
- (ii) Council participate in any planning exercise for the broader catchment.
- (iii) Council reserve its position in respect of proposed low-density urban development until such planning exercise.
- (iv) Council reaffirm its policy position in respect of the non-urbanisation of the Cawdor Valley.
- (v) Council note the potential for impacts of any development in the Sickles Creek catchment upon Camden infrastructure.
- (vi) Council advise the representatives of Mayfarm Road, Wollondilly Shire Council and PlanningNSW of the contents of this report and Council's resolution.

DC142/02 THE MOTION WAS **CARRIED.**

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13. Section 94 Contributions Plan No. 6 – Rehabilitation and Management: Elderslie Sand and Soil Deposits
(File 3424/2) (Director Governance and Outcomes)

Purpose of Report

This report describes the current status of sand and soil extraction in Spring Farm and its impact on Contributions Plan No. 6. The report also comments on a submission from the Extractive Industry Representatives who have contributed to the Plan.

It recommends that Council agree in principle to the repeal of Contributions Plan No. 6. The report also identifies a priority for the use of the remaining funds collected under the plan. It identifies that the funds should be used for the lowering, reconstruction and relocation of services of Springs Road, acquisition of open space and recreation areas identified in the Contributions Plan and the design, rehabilitation construction of the open space, conservation and bush corridor and playing fields as identified by the Elderslie Sand and Soil: Land Management Study and the revegetation and landscaping of areas not covered by conditions of consent.

The report further recommends that negotiations for the finalisation of CP 6 and the use of the current funds be undertaken with the extractors in the context of the final Spring Farm Masterplan and developer agreements and be reported back to Council

Background

The Spring Farm area has been the subject of sand and soil extraction for many years. The Elderslie Sand and Soil Deposits Land Management Report, particularly “Volume V1 – The Summary Environmental Impact Statement” prepared by Longworth and McKenzie in 1981, has guided the extraction process and the preparation of development applications and environmental impact statements.

Prior to the legislative introduction of Contribution Plans all extractors entered Deeds of Agreement and has conditions of consent imposed in respect of the broad range of impacts of extraction beyond the sites.

Contributions Plan No. 6 was adopted in 1994 by Council to facilitate the extraction, rehabilitation and management of the sand and soil deposits by means of a levy imposed on all sand and soil extracted from this area. The Contributions Plan provided for the levy to be collected over a 19-year period. 19 years was understood from the Longworth and McKenzie report and general rates of extraction, allowing for market

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fluctuations to be the life of the resource. Extraction has proceeded faster than anticipated and the resource has been found to be of a lesser quality and lower volume than predicted.

Contribution Plan No. 6 was to be used for the following purposes:

- ◆ Land acquisition for the relocation of Springs Road;
- ◆ Rebuilding Springs Road and part of Richardson Road to existing standards;
- ◆ Construction of access roads and temporary road diversions for staged works;
- ◆ Relocation of existing water, telephone and electricity services to new alignments;
- ◆ Design of relocated Roads;
- ◆ Supply of plant material, planting, revegetation and landscaping of areas not normally undertaken by extractors as part of their restoration work;
- ◆ Land acquisition for open space;
- ◆ Design, rehabilitation and construction of playing fields and ovals;
- ◆ Land acquisition of areas uneconomical to extract on their own
- ◆ Relocation of the Clutha Weighbridge;
- ◆ Appointment of a full time Council Officer with vehicle to provide supervision and administration.

Current Status of Sand and Soil extraction

A number of meetings have been held with the current and past extractors who have contributed to Contributions Plan No. 6 to identify the current status of sand and soil extraction in the area. From these meetings it has been established that approximately 1.2 million cubic metres of sand remain although a significant amount of this resource may be unavailable for extraction due to ecological constraints or due to its variable quality. It has been estimated that the remaining sand could be extracted over the next 5 years.

The sand deposits comprise quaternary sand overlaying clay and weathered rock substrata, away from and above the existing river; the soil deposits comprise alluvial material adjacent to the Nepean River and located on the flood plain. The soil resources are the subject of a long-term extraction program and will continue to be extracted in the future and with appropriate buffering and haulage practices, with minimal impact to any urban development in the area including that proposed in the Spring Farm Masterplan.

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A survey carried out recently over the areas previously extracted has highlighted the fact that the final landform has varied in some areas significantly from the final landform recommended in the Longworth and McKenzie Report. The reason for the variation has principally been the depth, quality and location of the resource not being as expected in that early report and also the identification of endangered ecological communities impacting on that resource. Some areas have been extracted to levels below the 100-year flood line.

Contributions Plan No. 6

As stated previously the plan provides for a levy to be collected over 19 years whilst it provides for a schedule of works to be carried out to the year 2017. A rehabilitation program for the area was to continue for the years 2015 to 2017. The schedule of works over this time was estimated to cost in excess of \$18 million while income from the levy including interest was expected to fund the expenditure. A major component of the \$18 million was derived from interest over the life of the plan

The Plan has collected over \$7.6 million (August 2002) in levies and interest to date whilst approximately \$1.5 million has been spent on service relocations, Springs Road Depot rehabilitation, land acquisition and Sand Extraction Officer. Funds currently available from the Plan are approximately \$6.1 million.

The extent of extraction to date and the estimates of the remaining resource available for extraction and the program for the urban release of this area indicate that the expected income from the plan will never be achieved. This in turn will impact on the level of works that can be completed from the proceeds of the Plan and in particular poses real challenges in achieving an appropriate post extractive landform.

Springs Farm Urban Release Area

The Spring Farm area is on the State Government's Metropolitan Development Program (MDP) and announcements at the end of last year identified the Government's desire for the release of this area to be expedited. Work on the Local Environmental Study and Local Environmental Plan has been underway for some time. Three workshops have been held and a masterplan finalised. The sub-studies have been completed and a draft Local Environmental Plan prepared. Council has adopted the Draft LES and Draft LEP, the additional sub-studies and masterplan for the purpose of public exhibition and has referred those documents to Planning NSW for the issue of a Section 65 Certificate to permit the public exhibition of the documents.

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The work to date has included the preparation of a plan for the final landform that would provide a drainage solution for all the land currently identified as having urban potential. That plan has been developed in concert with the current masterplan. It, amongst other things, retains Springs Road on its present alignment but requires its lowering and the partial filling of a number of sites previously extracted.

The addition of the anticipated mine subsidence allowance (1.6m for Spring Farm) to the 100-year flood level as required by the Department of Mineral Resources has resulted in some of the sites previously extracted being potentially flood affected and requiring filling to realise urban potential.

The urban release of this area will put pressure on landowners and Council to complete the sand extraction program and to facilitate the final landform required for urban development.

Future of Contributions Plan No 6

The meetings with the extractors have identified the limited resource available and support for the extraction process of sand to be completed in the next 3 to 5 years. That will require Council to determine its position with regard to the sand resource under Springs Road and the future of CP 6. Soil extraction will continue within a longer timeframe.

The income from CP 6 was reliant on the collection of levies and income from interest on the funds accrued over 19 years. It is evident that the funds required to complete the schedule of works contained within the Contributions Plan will not be collected. The pressure for urban development and the quantity of the resource remaining will result in the extraction program being completed within 5 years well within the time period contained within the Contributions Plan. With the budget provisions and work schedule of Contributions Plan No. 6 unable to be achieved Council should consider the repeal of the Contributions Plan.

In this instance the repeal process will require Council to advertise its intention to repeal the plan, and the proposed works program that existing funds are to be expended against. Following advertising of Council's intentions and consideration of any submissions, Council would need to determine if it should proceed to repeal the plan. As the past and present sand extractors have been involved in negotiations already, the advertising required will consist of notification within a local newspaper for a period of 14 days in accordance with Section 33 of the EP&A Regulations 2000.

Council will also need to determine the use of the existing funds contained within the Contributions Plan in consultation

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with the extractors who have contributed to the Plan. The use of these funds should have regard to the Schedule of Works within the Plan and if possible, complement the urban release of the land.

The options for the use of these funds include the following:

- ◆ Lowering, reconstruction and relocation of services for Springs Road. These works would include construction of temporary diversion roads and design of all road and service works;
- ◆ Supply of plant material, planting, revegetation and landscaping of areas not normally undertaken by Extractors as part of their restoration work;
- ◆ Land acquisition for open space;
- ◆ Design, rehabilitation and construction of playing fields and ovals;
- ◆ Land acquisition of areas uneconomical to extract on their own;

The works that would appear to have the highest priority and benefit Council and the community would be the lowering, reconstruction and relocation of services of Springs Road. Preliminary estimates have indicated that approximately \$2.1 million will be required to carry out this work. The acquisition of elements of the open space and recreation system proposed in Contribution Plan No. 6 and the construction and landscaping of a final landform for those areas not completed by way of conditions of consent for the extraction of sand are also matters that would have a high priority for use of CP 6 funds.

A preliminary meeting has been held with The Department of Mineral Resources advising of the current status of sand and soil extraction, the limitations to the extraction of the remaining resource and the future urban release of the area. The Department has not indicated any objection to the urban release of the area as long as the extraction of the remaining resource is maximised.

Submission from Extractors

As stated previously, meetings have been held with the Extractors who have paid the levies in accordance with Contributions Plan No. 6 to discuss the status of sand extraction in the area, staging of future extraction and the future of Contributions Plan No 6.

An initial submission from the extractors was received regarding Contribution Plan No. 6. This submission was withdrawn prior to being considered by the Extractive Industries Committee and Council. Council has received a

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further submission signed by representatives of the Extractive Industry Group. A copy of the Extractive Industry Group submission forms **Tabled Document “DC 21”**.

The representatives have proposed 9 heads of agreement to enable the termination of the fund and the distribution of the proceeds of the fund. The Heads of Agreement with comments are as follows:

1. *Existing approvals issued for sand and soil extraction in the Elderslie Land Management Area are unaffected by the finalisation of Contributions Plan No. 6 (CTP6).*

Comment: The finalisation of the Contributions Plan should not affect existing approvals although when repealed Council will not have the power to require further levies as required by individual conditions of consents. Existing Deeds of Agreement, which accompanied Development Consents for extraction, may need to be amended in respect of the levy.

2. *Springs Road will be lowered by the extraction of sand from within the road alignment. The works will extend along Springs Road from adjacent to the entrance to Camden Zone Substation near Richardson Road to near the intersection of Ettlesdale Road.*

Comment: The lowering and reconstruction of Springs Road and relocation of services are an item contained within the schedule of works proposed by CP 6. The location of the works will generally be from adjacent to Camden Zone Substation near Richardson Road to a point east of the intersection with Ettlesdale Road. The final design will determine the exact extent of the works.

3. *Contributions Plan No. 6 will be wound up as soon as practicable and contributions cease when Council approves termination of the fund.*

Comment: CP 6 will be wound up as soon as Council has determined all the issues contained within this agreement and has completed the statutory process as required by the Environmental Planning and Assessment Act for the repeal of the Contribution Plan.

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4. Council applies the funds from Contribution Plan No. 6 in the following order of priority:
- (i) Costs associated to re-design Springs Road.
 - (ii) Reconstruction costs incurred to rebuild Springs Road to an equivalent standard.
 - (iii) Construction costs involved to form access roads and temporary road diversions for staged completion of Springs Road.
 - (iv) Costs incurred to relocate existing water, telephone and electricity on the new Springs Road alignment.
 - (v) Land purchases for open space, conservation and bush corridors, playing fields and ovals within the Elderslie Land Management Area.
 - (vi) Costs incurred to design, rehabilitate and construct open space, conservation and bush corridors, playing fields and ovals within the Elderslie Land Management Area.
 - (vii) Costs incurred to revegetate and landscape areas not undertaken by extractors as part of the development conditions.

Comment: The recommendations of the Extractors for the works to be undertaken using the funds from Contributions Plan No. 6 are supported although the costs incurred to revegetate and landscape areas not undertaken by extractors as part of the development conditions would need to be restricted to those areas identified by the Elderslie Sand and Soil: Land Management Study and the work schedule contained within CP 6 and not covered by existing conditions of consent.

5. Nepean Quarries Pty Ltd and M Collins & Sons (Contractors) Pty Ltd purchase the sand located within the Springs Road Reserve between Spring Creek and the entrance to Camden Zone Substation near Richardson Road for the \$200,000 total lump sum payable into Contribution Plan No. 6 subject to the following conditions:
- (i) Preparatory works to provide access to the sand are carried out by others.
 - (ii) The extraction is carried out in conjunction with the lowering of the road.
 - (iii) Sand removed from the Road Reserve and associated batters can be stockpiled, processed and sold from currently approved sites for a period of five years from the commencement of work.

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- (iv) The extraction is completed to create a final landform in accordance with the Masterplan submitted to the Extractors by Lean and Hayward.*
- (v) Works are permitted to commence the project before 1 May 2003.*

Comment: This quotation is from firms who have the necessary infrastructure available and a history of extraction in the area. The quantity of material available for this eastern section of Springs Road is approximately 50,000 cu metres. Preliminary assessment of the price offered for the material indicates that it does reflect the market value of the resource even acknowledging the constraints of the extraction being carried out in conjunction with the lowering of the road.

The statutory requirements for the approval process for the extraction and sale of this resource will also need careful investigation. Previous advice from PlanningNSW has identified that the lowering of Springs Road and the extraction of the underlying sand would not require development consent but be assessed under Part V of the EPA Act.

The timing of the works will depend on the completion of the design and tendering process noting that this is the first priority for the use of the funds. The Springs Road works should be carried out as soon as possible after the completion of the statutory process for the repeal of the contribution plan. Funds from the sale of the sand should return to Council as the road itself is a Council asset.

- 6. Council permits surplus valuable sand reserves made available in the formation of the final landform being processed, stockpiled and sold from currently approved extraction sites for a period of five years from the commencement of work. The sterilisation or wastage of valuable remnant sand reserves affected by the regrading is to be avoided and it is recognised that filling will be required to achieve the proposed final landform levels. Following the extraction of Springs Road and the adjoining batters clean fill material shall be imported, placed and compacted on these areas where needed to comply with the final landform levels.*

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Comments: The extraction of sand and soil in this area should be maximised although will need to comply with any conditions of consent placed on the consent for the land forming work or on existing consents regarding the processing of material on site. The sand resource under the Springs Road west of Springs Creek and under the Council cottages on Springs Road has potential for sale although there has been some question raised as to the quality of this resource. Income from the sale of this sand has been included in CP 6.

The construction of the final landform will require development consent and these works will need to be carried out in accordance with such application and subsequent consent.

7. *Council imposes timing and access restrictions on redevelopment within the Macarthur Road precinct to ensure whilst the extractive industry continues on the Collins lands (Lot 1 DP587631 and Lot 22 DP833317) any impact on the extractive industry is minimised to enable the operation to realise its full potential.*

Comment: Council's objective for any urban development in this area has always been to minimise any impact of development on existing extraction. The staging of development within the Macarthur Road residential precinct will need to be managed in a manner to minimise impact on existing extraction and in this regard further work is required to determine a strategy and appropriate controls to be implemented for this situation.

8. *Nothing in this agreement would prejudice the rights which exist pursuant to current approvals issued by Council or applications currently before Council.*

Comment: Nothing in the agreement should prejudice the rights that exist under current development consents although Council would need a firm timetable from extractors as to when the extraction process is to be completed to ensure compatibility with future urban development.

9. *A committee comprising representatives from the Extractors and Council be retained until the CP6 Fund has been fully distributed. The purpose of the committee is to oversee the expenditure of funds in accordance with the agreed priorities.*

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Comment: The retention of a committee of appropriate Council and Extractive Industry representatives would provide a consultative approach to overseeing the expenditure of CP6 funds.

Conclusion

The review of the current status of sand extraction in Spring Farm has identified that the remaining resource potentially available for extraction is limited and could be extracted over the next 5 years. This will significantly impact on Contributions Plan No 6 in that the expected income will not be received and the Schedule of Works will not be able to be carried out in its entirety. The release for urban purposes of the area is imminent and as such will necessitate the completion of the extraction program in the area as soon as possible to minimise any impacts of the extraction process on future urban development. Contributions Plan No 6 is no longer viable and Council should consider its repeal.

A submission from the contributors to the fund has indicated their support to the repeal of the Contributions Plan and has listed their priorities for the use of the funds. Those priorities include:

- the design and construction of a lowered Springs Road including the construction of any access roads or road diversions, relocation of services onto the new road alignment;
- acquisition of land for open space, conservation and bush corridors, and playing fields in accordance with the Elderslie Sand and Soil: Land Management Study;
- the design, rehabilitation and construction of the open space, conservation and bush corridors and playing fields in accordance with the Elderslie Land Management Study and
- the cost of revegetating and landscaping areas not undertaken by extractors as part of development conditions.

The submission proposes 9 heads of agreement including the above priorities for use of existing contributions to Contributions Plan No 6. Comments have been provided on the heads of agreement and subject to Council's determination of the future of Contributions Plan No.6 further negotiations should be held with the extractors to reach agreement on the issues raised and to finalise Contributions Plan No.6 and the use of the remaining funds.

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The priorities as listed by the extractors for the use of the funds are satisfactory noting that the final priority targets land within the Elderslie Sand and Soil Land Management Study. These works do complement the objectives of Contribution Plan 6 and the future use of the area for urban purposes.

All of these works are in accordance with the work schedule provided within Contributions Plan No. 6 and, with the repeal of the Contributions Plan, would provide a satisfactory outcome for the Council and the Community.

Cr Campbell arrived at the Meeting during discussion on this Item – the time being 6.40pm.

Recommended: That:

- (i) Council agree in principle to the repeal of Contributions Plan No 6, Rehabilitation and Management, Elderslie Sand and Soil Deposits subject to satisfactory negotiations for the finalisation of the Plan in the context of the final Spring Farm Masterplan and the agreement with the extractors.
- (ii) Council identify the priority uses for the remaining funds from Contributions Plan No 6 as:
 - (a) Costs associated to re-design Springs Road and gain necessary approvals.
 - (b) Reconstruction costs incurred to rebuild Springs Road to an equivalent standard.
 - (c) Construction costs involved to form access roads and temporary road diversions for staged completion of Springs Road.
 - (d) Costs incurred to relocate existing water, telephone and electricity on the new Springs Road alignment.
 - (e) Land purchases for open space, conservation and bush corridors, playing fields and ovals within the Elderslie Land Management Area.
 - (f) Costs incurred to design, rehabilitate and construct open space, conservation and bush corridors, playing fields and ovals within the Elderslie Sand and Soil: Land Management Study.
 - (g) Costs incurred to revegetate and landscape areas for land within the Elderslie Sand and Soil: Land Management Study not covered by existing conditions of consent.
- (iii) A further report is prepared for Council on the results of the negotiations with the extractors for the finalisation of Contributions Plan No. 6 and the use of the remaining funds.

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Resolved on the Motion of Cr Batros, seconded Cr Winn that

- (i) Council agree in principle to the repeal of Contributions Plan No 6, Rehabilitation and Management, Elderslie Sand and Soil Deposits subject to satisfactory negotiations for the finalisation of the Plan in the context of the final Spring Farm Masterplan and the agreement with the extractors.*

- (ii) Council identify the priority uses for the remaining funds from Contributions Plan No 6 as:
 - (h) Costs associated to re-design Springs Road and gain necessary approvals.*
 - (i) Reconstruction costs incurred to rebuild Springs Road to an equivalent standard.*
 - (j) Construction costs involved to form access roads and temporary road diversions for staged completion of Springs Road.*
 - (k) Costs incurred to relocate existing water, telephone and electricity on the new Springs Road alignment.*
 - (l) Land purchases for open space, conservation and bush corridors, playing fields and ovals within the Elderslie Land Management Area.*
 - (m) Costs incurred to design, rehabilitate and construct open space, conservation and bush corridors, playing fields and ovals within the Elderslie Sand and Soil: Land Management Study.*
 - (n) Costs incurred to revegetate and landscape areas for land within the Elderslie Sand and Soil: Land Management Study not covered by existing conditions of consent.**

- (iii) A further report is prepared for Council on the results of the negotiations with the extractors for the finalisation of Contributions Plan No. 6 and the use of the remaining funds.*

- (iv) CRAG be notified of the exhibition period.*

- (v) A site inspection be carried out as soon as possible in 2003.*

DC143/02 THE MOTION WAS **CARRIED.**

14. Elderslie Release Area (“Infill”) Local Environmental Study (LES), Draft Local Environmental Plan (LEP) and draft Master Plan

(File 3345/16) [Director Governance and Outcomes]

Purpose of Report

This report provides an update on the Elderslie Release Area. It also presents the finalised Development Control Plan and Masterplan for the Elderslie Release Area and provides an update on the status of discussions with the State Government regarding a “meaningful commitment to public transport and accessibility”. It recommends that while the DCP and Masterplan are ready for adoption, they not be adopted until a commitment from the State Government is secured.

Background

On 27 May 2002, Council considered a report in respect of the Elderslie Release Area planning documents. The recommendations of that report were that:

- (i) Council advise PlanningNSW that Council considers the amended Draft Local Environmental Plan is capable of adoption by Council, however, Council will not adopt the plan until such time as a meaningful commitment to public transport and accessibility is obtained from the State Government.
- (ii) Council endorse the principles and amendments to the Draft Development Control Plan and Masterplan as outlined in the report and amend the documents accordingly. Further, upon amendment the Draft Development Control Plan and Masterplan be resubmitted to Council for adoption.
- (iii) Consideration of the connection of the Elderslie Release area to Bicentennial Estate be deferred for further consultation with Sirius Circuit residents.
- (iv) Council resolve to prepare a Draft LEP for the corner of Kirkham Park to allow a change of use from Community Land to Operational Land to facilitate the provision of the Link Road.
- (v) Council further investigate options for the future use of Lot 3 DP 859872 Lodges Road (land in Council ownership adjacent to the Golf Club).
- (vi) Council not hold a public meeting to further debate the issues relating to the Elderslie Release Area. But a further information session will be held, if required.

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This report will discuss the outstanding issues identified in the previous recommendations and advise Council of the progress that has been made in resolving these issues.

Advising PlanningNSW

A letter was sent to the Director General of PlanningNSW on 30 May 2002 by the General Manager advising them of Council's resolutions of 27 May 2002.

Draft DCP

The outstanding issues identified in the 27 May 2002 report to Council have been addressed and a revised DCP and Masterplan have been prepared. These documents are included as **Tabled Document "DC 22"** and **Tabled Document "DC 23"** respectively.

In summary, the changes made to the DCP and Masterplan comprise:

- Inclusion of relevant information from the sub-studies so that reference to the sub-studies is not required except for major designs
- Inclusion of street and footpath lighting standards
- Specifications for standard fixtures added
- Bus stop locations included
- Principles for the management of the retained bush included
- Specification and location for noise barriers along the Camden Bypass
- Streets have been prioritised
- Connection with the bypass preferred intersection treatment resolved
- Minor changes to the Masterplan
- Water quality system and salinity monitoring included
- Legibility of all figures improved
- DCP tightened up so that the required density is achieved
- Minor changes to Masterplan boundaries
- Clauses regarding Aboriginal heritage, provisions added
- Clause included in the General Requirements of the DCP to Satisfy NSW Fisheries requirements
- Clause added to ensure that the setback requirements adjoining padmount substations are accounted for
- Sections added to identify areas at risk from salinity and identify the measures to be taken for any development in these areas
- Clause to satisfy Department of Land and Water Conservation comments added
- The Table of contents has been expanded
- Minor grammatical changes

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- Waste Management requirements strengthened
- Clause added: “where possible, development directly adjoining existing development in Elderslie and Narellan is to be of a similar nature and scale to the adjoining area and to be located so as not to eliminate views from existing residences”.
- Significant trees identified in the Conacher Travers study are shown.
- Design solution for Rheinberger’s (Herbert’s Hill) and interface with open space prepared and principles embraced.

It is recommended that the DCP is now ready for adoption by Council, however, given that Council has previously resolved not to forward the Draft LEP to PlanningNSW until a meaningful commitment to public transport and accessibility has been secured, it is proposed that Council note that the plan is ready for adoption, but not formally adopt the DCP until a commitment from the state government is forthcoming.

Connections to existing residential areas

Connections to Narellan

As previously mentioned, the draft Masterplan proposes an additional connection to the existing area of Narellan above Lodges Road, it being namely, a road connection of limited capacity to Sirius Circuit in the Bicentennial Estate. This issue generated a large number of submissions from residents during the public exhibition of the planning documents. A meeting with representatives of the estate held on 26 February 2002 failed to resolve the issue of this connection as did the 27 May 2002 report to Council.

In response to Council’s recommendation regarding further consultation with Bicentennial Estate in respect of this connection, a survey was sent to owners and occupiers of properties within Bicentennial Estate, Narellan. This survey was sent out to gauge opinion in respect of alternate proposals for connection with the Elderslie Release Area.

In total 158 surveys were hand delivered with an additional 17 being sent out by mail. An additional 6 were collected from Council. A total of 181 surveys were thus distributed.

This survey was prepared and delivered by hand to all houses in the estate including those residences in the Angus Bristow Retirement Village that front Sirius Circuit. Additionally, the survey was sent to non-resident owners and the management of Angus Bristow facility. A copy of the survey is included as **Tabled Document “DC 24”**.

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The proposal in the survey outlined:

- 1 A road reservation connecting Bicentennial Estate to the Elderslie Release Area be reserved. Refer to **Tabled Document “DC 25 “**.
- 2 No plan to build a road in this reservation in the short term.
- 3 This reservation will allow free movement of pedestrians and cyclists between the neighbourhoods of Bicentennial Estate and the Elderslie Release Area but no vehicular traffic.
- 4 The reservation will be gated and allow access of emergency service vehicles in case of emergency should access be blocked at the intersection of Lodges Road and Sirius Circuit.
- 5 Should it be considered desirable in the future to use this reservation for vehicular traffic, full consultation with the residents of Bicentennial Estate and the (affected part of) Elderslie Release Area will occur before any decision is made.

The respondents were asked to respond within the range of Strongly Agree to Strongly Disagree to the above proposal.

Response to Survey

A total of 118 surveys were returned, however 7 were not included in the assessment of results for the following reasons:

- More than one response from the same address (council records do not show this as a rental property). In this instance the more negative response was included. [6]
- No name given. [1]

Several late submissions were included.

A summary of the submissions have been **made available to Councillors separately** and the major issues raised are summarised in **Tabled Document “DC 26“** and addressed “thematically” in the body of this report.

The response to the proposal in the survey was:

Strongly Agree	4
Agree	7
Undecided	5
Disagree	3
Strongly Disagree	91
Not stated	1
TOTAL	111

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The results show an overwhelming rejection of the proposal in the survey.

The connection of the Elderslie Release Area with Bicentennial Estate at Sirius Circuit has been proposed for several reasons:

- The desire to facilitate integration of this community with the adjoining community in the Release Area.
- Provision of a more direct vehicle access to the Camden Bypass for Bicentennial residents.
- Provision of a relatively direct link to the Village Centre in the Release Area.
- Provision of a second access point for this estate for safety reasons. Currently there is only one way in or out.

This link if ultimately provided is proposed to be provided as a slow or choke point which would only allow one vehicle to pass at a time. Priority would be given to traffic leaving Bicentennial Estate. It is unlikely that through traffic would use this proposed link in the majority of instances, given the circuitous nature of the route and the provision of more direct links between the release area and Lodges Road. There is the possibility that this could become a more attractive link if alternate routes within the Release Area are not available. On balance it is considered that the low order link should be retained, but not constructed until viable alternatives on Release Area roads are constructed and circumstances further evaluated, inclusive of community consultation.

Connections to Elderslie

An issue has been raised regarding the planning solution in the Masterplan for the land adjoining the cul-de-sac ends of Elliotdale Close and Bates Close in Elderslie, an area known as Bates Reserve. It is evident that the planning solution in the Masterplan is less than desirable as it could create an area of lower amenity being a back fence alleyway varying in width from approximately 6 metres to over 11 metres wide. It is accepted that a better solution is required for this location. To ensure that the planning documents are not held up by this issue, it is proposed to allow the DCP and Masterplan to be finalised while a special solution for this area is developed. The area should be identified as a deferred area/matter in the plan until such time as a consulted design solution is achieved. Appropriate treatment of this area will allow the interface of the Release Area with Elderslie and the integration of these two communities and the existing open space to be enhanced.

There is no consideration that this integration would involve additional vehicle access between the Release Area and Elderslie, but the opportunities for improving pedestrian and cycle linkages and rationalising the open space to minimise

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safety issues should be advanced. Connection with the pedestrian overbridge to Spring Farm would be facilitated by this linkage.

Consultation with affected residents must take place, but it is not necessary to delay consideration of the DCP while this occurs. This matter and the proposed solution would be reported to Council once the appropriate consultation has taken place. Should this work be completed prior to a commitment from the State Government being secured, the DCP and Masterplan can be amended to include this solution prior to adoption by Council.

Link Road Rezoning

A Draft LEP (LEP 130) for the reclassification of a section of Kirkham Park from Community Land to Operational Land has been prepared and is included as **Tabled Document “DC 27”**. This rezoning is to facilitate the Link Road through the Elderslie Release Area which is proposed to be an extension of Kirkham Lane through the edge of Kirkham Park, ultimately connecting with the Camden Bypass. It is recommended that Council issue a Section 65 Certificate and that Council adopt the Draft LEP for the purpose of public exhibition. The LEP will be placed on public exhibition for a period of 28 days commencing on January 27, 2003. During the exhibition period, it will be necessary to hold a public hearing as required under Section 68 of the Local Government Act.

Council owned land adjoining Camden Golf Course

A parcel of land identified as Lot 3 DP 859872 (area 4.935ha) as shown on **Tabled Document “DC 28”** is owned by Council and is zoned 6(c) Private Open Space. This land is not utilised in any way and is not maintained by Council. With urban development adjoining this boundary it is incumbent upon Council to investigate all options available for the land and document an appropriate strategy.

This land was purchased from the Commonwealth Government in 1997 for the sum of \$1 as part of the rationalisation of the former Commonwealth Holding with Studley Park. There is a caveat on the land which gives the Commonwealth first option to purchase if any form of sale is contemplated. The contract of sale also imposed numerous conditions on Council in respect of use of this land. Summarised briefly they are:

- Special Condition 11 requires a Deed of Option to be executed. This protects the Commonwealth’s interest should Council do something untoward;
- Special Condition 12 allows the Commonwealth to lodge a Caveat to further protect its interest;

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- Special Condition 13 sets the limitations as to what Council can do with the property without consulting the Commonwealth; and
- Special Condition 14 requires a Transfer to be executed. This further protects the Commonwealth's interest should Council do something untoward.

In general the Commonwealth restrictions are such that the Commonwealth retains an interest in the land. The inference is that in the event that Council is likely to attempt to capitalise on the land it would seek to be directly involved.

The future use of the land has been discussed briefly with the Golf Club and adjoining landowners. Camden Golf Course has expressed an interest in utilising this area for Junior Golf Development. The developer consortium for the land adjoining the golf course has had discussions with Camden Golf Club to investigate interface issues. They are working toward a development solution which will have maximum compatibility with the Golf Club land use. At this point in time, no consensus option has presented for this land and Council will need to continue investigations of its interest.

Adoption of the DCP/Masterplan is not likely to prejudice a range of possible options in respect of the subject land.

Rheinberger's (Herbert's Hill)

The area abutting Rheinberger's Hill was deferred in the Draft Masterplan as a specific design solution was required for this visible and delicate interface area.

A design solution has been progressed with the assistance of a team of urban designers, architects, landscape and heritage consultants.

A plan depicting the principles of the solution is shown as **Tabled Document "DC 29"**. The only variation to such plan is likely to revolve around the integration of water quality treatment. However, such is not likely to prejudice the general design principles shown in the Tabled Document. Accordingly, subject to such qualification the Masterplan/DCP should be amended. It should be noted that specific design guidelines have been prepared which control landscaping, fencing and built form so to deliver the vision for this sensitive area. Importantly they must be read in conjunction with the plan referred to previously. Indeed it is proposed that they be "absorbed" into the DCP. These guidelines have been distributed to **Councillors as a separate handout.**

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Section 94

As previously reported, there are a large number of separate parcels of land and ownerships throughout the Release Area. It is, therefore, not possible to have a developer agreement for the provision of community and recreational facilities and major engineering infrastructure. There is also the issue of some owners wishing to develop and others wanting to remain on their current land holding. A section 94 Plan will allow the formulation of cost estimates and apportionment for community facilities, open space, collector roads, roads fronting open space, water quantity and quality works.

The Draft Camden Consolidated Section 94 Contribution Plan (CP) is reported separately to Council. This CP includes draft contributions for the Elderslie Release Area. Work is still underway to refine the cost estimates in this plan. Once the details and cost estimates are finalised and incorporated, the Consolidated CP will be returned to Council for adoption for the purposes of public exhibition.

The Elderslie Open Space and Social Plan, prepared some years ago, has been amended to account for the increased dwelling yield of the Release Area and the decreased occupancy rates experienced in Camden and general principles embraced in the Masterplan. Provision of all required facilities will be made within the Release Area or the immediate locality.

Camden Integrated Transport Strategy

As reported to Council on 10 December 2001 and again on 27 May 2002, Council officers have been working with State government officers to resolve the issue of the nature and status of the link road through the Elderslie and Spring Farm Release Areas and related public transport to the Narellan / Camden area generally, in the context of Council's resolution in respect of a "meaningful commitment to public transport/accessibility.

A press release was issued by the Minister for Planning in respect of a transport levy for release areas including Elderslie and Spring Farm. A copy of the release is included as **Tabled Document "DC 30"**.

In brief, the release makes reference to a levy of \$15,000 and some items on an outline works schedule.

Ongoing dialogue is taking place with PlanningNSW in respect of the legal mechanisms for introducing such a levy, the relevant schedule of works including priorities and the status

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of other similarly unzoned major residential releases in terms of equity and total revenue achievable.

Conclusion

The Development Control Plan has been fine tuned in accordance with the general principles previously reported to Council and is now ready to be adopted by Council, however until such time as a meaningful commitment to public transport and accessibility is secured, the DCP should not be adopted by Council.

Recommended: That:

- (i) Council endorse the amended Draft Development Control Plan which forms **Tabled Document “DC 22”** and Masterplan which forms **Tabled Document “DC 23”** and note that they are capable of adoption by Council, however, Council will not adopt these documents until such time as a meaningful commitment to public transport and accessibility is obtained from the State Government.
- (ii) Council resolve to include a reservation in the DCP and Masterplan between the Elderslie Release Area to Bicentennial Estate which is of sufficient width to facilitate the provision of a low volume road connection to Sirius Circuit. That such road connection not be made, but the reserve be utilised to facilitate pedestrian and cycle movements between the estates. That such reservation have gates installed to prevent vehicular access with the exception of emergency vehicles. That no road based connection between the estates be permitted without full consultation with the residents of Bicentennial Estate and the (affected part of) the Elderslie Release Area.
- (iii) Council resolve to issue a Section 65 certificate to allow public exhibition of Draft LEP 130 for the corner of Kirkham Park which allows a change of use from Community Land to Operational Land to facilitate the provision of the Link Road and to proceed in accordance with the relevant statutory provisions.
- (iv) Council further investigate options for the future use of Lot 3 DP 859872 Lodges Road (land in Council ownership adjacent to the Golf Club).
- (v) All owners of properties within the proposed release area and persons responsible for submissions, be advised of Council’s considerations and discussion.

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MOTION

Moved Cr Patterson, seconded Cr Batros that

- (i) *Council endorse the amended Draft Development Control Plan which forms **Tabled Document “DC 22”** and Masterplan which forms **Tabled Document “DC 23”** and note that they are capable of adoption by Council, however, Council will not adopt these documents until such time as a meaningful commitment to public transport and accessibility is obtained from the State Government.*
- (ii) *Council resolve to include a reservation in the DCP and Masterplan between the Elderslie Release Area to Bicentennial Estate and that area is to be a Public Reserve (Community Land).*
- (iii) *Council resolve to issue a Section 65 certificate to allow public exhibition of Draft LEP 130 for the corner of Kirkham Park which allows a change of use from Community Land to Operational Land to facilitate the provision of the Link Road and to proceed in accordance with the relevant statutory provisions.*
- (iv) *Council further investigate options for the future use of Lot 3 DP 859872 Lodges Road (land in Council ownership adjacent to the Golf Club).*
- (v) *All owners of properties within the proposed release area and persons responsible for submissions, be advised of Council’s considerations and discussion.*
- (vi) *Council not support the planting of African Olive in Eldeslie Release area and recommends suitable native alternatives*

AMENDMENT

Moved Cr Campbell, seconded Cr Senise that

- (i) *Council endorse the amended Draft Development Control Plan which forms **Tabled Document “DC 22”** and Masterplan which forms **Tabled Document “DC 23”** and note that they are capable of adoption by Council, however, Council will not adopt these documents until such time as a meaningful commitment to public transport and accessibility is obtained from the State Government.*
- (ii) *Council resolve to include a reservation in the DCP and Masterplan between the Elderslie Release Area to Bicentennial Estate and that area is to be a Public Reserve (Community Land).*

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- (iii) Council resolve to issue a Section 65 certificate to allow public exhibition of Draft LEP 130 for the corner of Kirkham Park which allows a change of use from Community Land to Operational Land to facilitate the provision of the Link Road and to proceed in accordance with the relevant statutory provisions.
- (iv) Council further investigate options for the future use of Lot 3 DP 859872 Lodges Road (land in Council ownership adjacent to the Golf Club).
- (v) All owners of properties within the proposed release area and persons responsible for submissions, be advised of Council's considerations and discussion.
- (vi) Council not support the planting of African Olive in Elderslie Release area and recommends suitable native alternatives
- (vii) Council resolve to include a reservation in the DCP and Masterplan between the Elderslie Release Area and existing suburb of Elderslie which is of sufficient width to facilitate the provision of a low volume road connection to Southdown Road, Merino Drive and Coopworth Drive. The such road connection not be made, but the reserve be utilised to facilitate pedestrian and cycle movements between the estates. That such reservation have gates installed to prevent vehicular access with the exception of emergency vehicles. That no road based connection between the estates be permitted without full consultation with the residents of Elderslie and the (affected part of) the Elderslie Release Area.

DC144/02 THE AMENDMENT ON BEING PUT WAS **CARRIED**, BECAME
***** THE MOTION AND WAS **CARRIED**.

(Cr Corrigan and Cr Patterson voted against the Amendment.)

(A Notice of Motion of Recission was lodged by Cr Corrigan, Cr Patterson and Cr McFadden in respect to this resolution).

The Meeting closed at 7.10pm.