

**MINUTES OF THE DEVELOPMENT COMMITTEE HELD  
22 APRIL, 2002, CIVIC CENTRE, OXLEY STREET  
CAMDEN – 5.30PM**

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**Present:** Cr Corrigan (Mayor/Chairperson), Cr Anderson, Cr Patterson, Cr Winn, Cr Batros, Cr Fekete, Cr McFadden, Cr Senise. Cr Campbell arrived at 5.34pm during Public Addresses.

**Staff:** General Manager, Director Governance & Outcomes, Director Development & Environment, Director Works & Services, Manager Environment & Health, Manager Outcomes, Manager Development, Administration Officer.

**DEVELOPMENT COMMITTEE PUBLIC ADDRESSES**

Ms Carina Ford addressed the Committee in relation to Item 2.

**1. Master Plan for Fairwater Gardens “R2” Residential Development – Part Lot 2046 DP 1035209 Fairwater Drive, Harrington Park**

**File No:** DA2960.550 (Director, Development & Environment Division)

**Owner:** Dandaloo Pty Ltd

**Zoning:** Residential “2(d)”

**Purpose of Report**

To submit to Council the Master Plan for the development of Fairwater Gardens “R2” residential development at Harrington Park for adoption in place of the development controls in DCP 58. The Master Plan includes a concept subdivision layout for which approval is sought.

It should be noted that the Master Plan has not been submitted as a development application. Rather, the applicant seeks the Council’s consent to use the Master Plan as a guideline document for future applications for development of Fairwater Gardens. Council used this concept when adopting the guidelines for Park Haven village in Harrington Park.

**The Proposal**

The Master Plan identifies a medium density community-title residential development with a mix of lot sizes and housing forms. Ninety-nine (99) lots are proposed in the development.

Lot sizes range from 232m<sup>2</sup> to 665m<sup>2</sup> with an average lot size of 354m<sup>2</sup>. The dwelling density proposed is 17.6 dwellings per hectare. Dwelling forms are proposed to range from single detached dwellings to attached townhouse style dwellings.

All lots have a dual frontage, either to a road and a laneway or to a road and open space. Where lots have a frontage to open space, it is proposed that the dwellings will be oriented towards the open space. Where lots have frontage to a laneway, which

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will provide vehicular access, studio lofts or balconies are proposed above the garages to provide opportunities for surveillance of the laneway.

All development is proposed to have a scale of two stories.

The community-title proposal means that all internal roads and facilities will be private. The proposed private facilities include a clubhouse, tennis court, swimming pool, barbecue area, and gazebo and change rooms.

One portion of the site will be dedicated to Council as open space to provide a public link from Lakeside Village to the Narellan Creek Parklands and for a drainage flow path.

The subdivision plan contained in the Master Plan is included as **Tabled Document “DC 1 “**. **Extracts from the Master Plan document have been forwarded to Councillors under separate cover** and the document will be displayed at the Council meeting.

**The Site**

The subject site is a vacant parcel of land on the eastern side of Fairwater Drive south of Harrington Parkway. To the east of the site is the Narellan Creek Parklands. A locality plan is included as **Tabled Document “DC 2“**.

The site has an irregular shape, determined by the curved boundary of Fairwater Drive and the 1% AEP (1 in 100 year) flood line of Narellan Creek.

The site is relatively flat draining to the east towards Narellan Creek. There are no trees or improvements upon the site.

**Notification**

The proposed Master Plan was notified with three submissions received, **copies of which have been forwarded to Council under separate cover**. The submissions raised the following issues:

(a) Objection to the exclusive nature of the development

Comment – The proposal is a Community Title Development. There is no prohibition on community title developments in Harrington Park or in Camden in general. The development will not be a “gated community” as this is contrary to the objectives of Camden 2025. The public will be able to walk through the development, however will not have access to the pool, gym, tennis court or community building.

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- (b) Objection to medium density housing on the site and in Camden in general

Comment – The site is identified for medium density housing “Residential 2” in DCP 69 – Harrington Park, which was adopted by Council on 30 January 1996. The form of development is also consistent with Council’s Residential strategy.

- (c) Objection to continuing housing developments in Camden in general

Comment – Continuing demand for residential lots and dwellings in Camden will drive the release of new land for housing developments. Camden Council’s strategic planning documents identify the need to protect the existing environmental features of Camden when considering the location and design of new housing estates. Harrington Park has been zoned for housing for a number of years and this fact must be considered. Camden Council recognises the stress the environment is under, particularly in relation to air quality and accessibility and has adopted the structure plan to limit growth. Further, Council has resolved not to release the plans for Elderslie and Spring Farm until such time and the State Government makes a commitment to meaningful public transport for the area.

- (d) Objection to the proposed facilities being for residents of the new development only

Comment – In a community title development, the facilities are paid for by the residents in their body corporate fees. Other facilities are being developed in Harrington Park for use by all residents.

- (e) Objection to fencing along Fairwater Drive. Lakeside Village residents cannot have front fencing

Comment – Fairwater Gardens provides a different form of development from Lakeside Village. For this reason, different urban design forms, including fencing, are utilised to highlight the differences in development form. This is already demonstrated in other parts of Harrington Park, ie Park Haven Village where Council has adopted urban design guidelines in a master plan approach. The provision of fencing does not necessarily result in a less attractive development. Details submitted with the Master Plan indicate that an open form of fencing, which will be consistent with the building forms and materials, is proposed. This form of

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fencing is considered acceptable and will not present a walled effect to this streetscape.

(f) Objection to increased traffic resulting from the development

Comment – The proposal provides an additional 99 residential lots having vehicular access onto Fairwater Drive. Fairwater Drive is one of the major roads in the Harrington Park development with a capacity for large volumes of traffic and was accounted for in a number of traffic reports for the Harrington Park estate and the design of the road network for the estate. The additional traffic generated by the development can be accommodated on Fairwater Drive. None of the lots have direct access onto Fairwater Drive and therefore traffic generated by the development will be controlled to two locations with adequate sight lines.

(g) Objection to the small lot sizes fronting Fairwater Drive as it will be visually unattractive

Comment – The provision of narrower lots fronting Fairwater Drive does not necessarily result in a less attractive development. Details of dwelling design submitted with the Master Plan demonstrates that well articulated built forms are proposed. A full assessment of dwelling designs will be undertaken when the development applications are received for the various stages of the development. As stated above no lots have access to Fairwater Drive and therefore lots can be narrower as the garage is located internally to the development. Double garages normally dictate properties being wider. **Tabled Document “DC 3”** shows the elevations to Fairwater Drive, and it can be seen that the style of housing is of high quality and in keeping with others in Harrington Park.

(h) Objection to small lot sizes fronting Fairwater Drive, as it will devalue surrounding homes

Comment – No evidence has been provided to demonstrate that the proposed development will have a negative effect on surrounding property values. The dwellings proposed are of a high quality and should contribute to the amenity of the area.

(i) Objection to medium density development as it attracts investors and renters

Comment – No evidence has been provided that the proposed development, if it attracts investors and

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renters, will have a detrimental impact on the amenity of the locality. The provision of a variety of housing choice is imperative to ensure that all housing needs are satisfied.

**Planning Controls**

Camden Local Environmental Plan No. 74 – Harrington Park (CLEP74)

The site is zoned Residential 2(d) pursuant to CLEP74. The proposed development is permissible with consent in the zone and is considered to be consistent with the objectives of the zone.

Development Control Plan No. 69 – Harrington Park (DCP69)

The subject site is identified in the plans associated with DCP 69 – Harrington Park for “Residential 2” (R2) development. The proposal is generally consistent with the relevant objectives, strategies and standards contained in DCP69.

In particular, Section 12.1 of DCP69 states that “*Residential 2 areas shall generally meet the following criteria:*”

- *Within 200m of a bus stop;*
- *No more than 500m from the neighbourhood centre or a village centre; and*
- *The proposed development form shall not adversely affect adjoining lower density development.”*

The proposal satisfies the above standards.

Development Control Plan No 58 – Residential Development (DCP58)

As stated above, the Master Plan for Fairwater Gardens is proposed to replace the Integrated Housing controls in DCP58. The following table provides a comparison between the numerical requirements of DCP58 and the Master Plan.

	DCP58	Master Plan
Lot size	< 450m <sup>2</sup> average 350m <sup>2</sup>	< 665m <sup>2</sup> average 354m <sup>2</sup>
Setbacks:		
Fairwater Drive	7.5m	5.5m
Access streets	5.5m	3m
Second frontage	3m	1m
Open Space	3m	3m
Height	7m to ceiling 9.5m to ridge max. 2 storeys	9m max. 2 storeys

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Private Open Space	Min. 80m <sup>2</sup> Min.5m x 5m	Min. 50m <sup>2</sup> Min. 5m x 4m
Parking: Residents Visitors	Min. 2 per house Min. 1 per 4 units	Min 2 per house Min. 1 per 4 units

As can be seen from the above table, the primary differences between DCP58 and the Fairwater Gardens Master Plan is in setbacks and private open space. In terms of the setback to Fairwater Drive, as stated above no lot has direct access to Fairwater Drive and therefore the setback is acceptable in this circumstance. The merits of the variations from DCP58 are discussed in the Assessment Section below.

**Assessment**

The Master Plan for Fairwater Gardens is proposed to replace the development guidelines in DCP 58 for the subject site. The Master Plan addresses the following areas:

- The Community Title Philosophy and Facilities;
- Social Issues, including safety and security;
- Access and Circulation;
- Site Layout and Lot Sizes;
- Built Form, Building Envelopes and Design;
- Acoustic and Visual Privacy and Private Open Space;
- Solar Access and Energy Efficiency;
- Drainage;
- Servicing, including garbage collection;
- Fencing; and
- Landscaping.

Each matter is considered in detail below:

**The Community Title Philosophy and Facilities**

The Master Plan states that “*central to the vision for the project is a landscaped lifestyle facility incorporating recreational and community meeting facilities. This facility includes a swimming pool, tennis court, gym and community room all within a large park which is framed by residences and overlooks the creek open space*”.

The proposed community title development means that all community facilities provided within the development are jointly owned by the Fairwater Gardens community title. The community facilities include the roads and shared accessways, two of the proposed parks and the recreation facilities described above. All of these facilities will be owned and therefore maintained by the community association with Council having no responsibility for maintenance.

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Community title development can be exclusive in nature. The subject proposal is somewhat less of a concern in this regard as the residents will need to move out of the development not only for work, but also for shopping, childcare, schooling and some forms of recreation. Further, the proposed development is not proposed to be visually represented as a “gated community”, except where some low-scale fencing is proposed between the Narellan Creek Parklands and private parks within the development. Whilst the internal parks will be privately owned, physical access is available to the entire development (other than the gym, pool, tennis court and clubroom) by any resident of Harrington Park and the wider community.

The general public, however, will have the right to access one of the proposed parks from both Fairwater Drive and the Narellan Creek parklands. This park is intended to be dedicated to Council as a public reserve as it provides an overland flow path for drainage from Lakeside Village and a public access through the site to the Narellan Creek Parklands.

Given that the proposal will not present visually as a “gated community”, and the provision of a public access park through the site, the community title philosophy of the proposal is considered satisfactory.

Social Issues, including safety and security

The Master Plan states that *“a diverse range of residential lots are proposed within Fairwater Gardens. This application reflects the intentions of the joint venture Company to provide people in various socioeconomic groups wishing to live in Harrington Park with a wide variety of housing choice”*.

The provision of a variety of housing choices certainly allows for variety in the resident population.

Nevertheless, a community title development by its very nature will not provide affordable housing, as in addition to the initial cost of housing and on-going costs, there are fees associated with maintenance of roads and community facilities.

The proposed Master Plan for Fairwater Gardens will provide a housing choice not currently available in Harrington Park or generally in Camden. It is likely to appeal to those persons not wishing to have the responsibility of maintaining large backyards however still have the ability to use swimming pools and recreation facilities. Likely groups that would be attracted to this form of housing are young married couples, retired persons as well as families. This is a benefit to the overall community.

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With regards to safety and security, the Master Plan states that *“by establishing direct frontage on to the parks this open space becomes an extension of the lots, creating a strong sense of ‘ownership’ of the park by the residents. A high degree of casual surveillance is thus provided, creating a safer environment for the residents and thus encouraging increased usage and enjoyment of the parks”*.

The four principles of Crime Prevention Through Environmental Design (CPTED) are:

- Surveillance
- Access Control
- Territorial Reinforcement, and
- Space Management

In terms of surveillance, the design of dwellings facing open spaces and roadways will have a positive impact on reducing opportunities for crime.

In terms of access control, it is proposed that high quality materials and finishes at the entrances to the development (rather than gates) will provide a visual clue to the private nature of the development. Signage is also proposed.

In terms of territorial reinforcement, the community title proposal by its very nature will facilitate community ownership of public spaces, which may lead to a reduction in opportunities for crime.

Space management relates to the use and management of public spaces. Again, community title developments engender good management of open spaces because of the shared community ownership in the open spaces.

While the proposal satisfies the above CPTED criteria, a full assessment of the proposed development pursuant to the Safer By Design Criteria will be undertaken when development applications for buildings are received.

Given the different choice of housing being offered by the proposed development and the sympathetic design with regards to safety and security, the proposal is considered satisfactory in regard to social considerations.

#### Access and Circulation

Access to the subject premises is proposed from two points on Fairwater Drive. An internal road connecting both access points is proposed to provide a choice of access paths. This internal road will cross the reserve intended to be dedicated to Council and is therefore proposed as a right of carriageway. A

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further internal loop road and a number of small access lanes are also proposed to service the lots. One of the access lanes provides rear access to two rows of terraces and is called “The Mews”.

Pedestrian access is obtained to Fairwater Drive from four points and to the Narellan Creek Parklands from 7 points. From either Fairwater Drive or the Narellan Creek Parklands, easy and direct access is available to various community facilities in Harrington Park, including a shopping centre; community centre, school and child care centre.

The access and circulation design facilitates a choice of movement for both vehicles and pedestrians and ensures safety by avoiding blind corners and providing traffic control measures to restrict speed.

The proposal is considered satisfactory in regard to access and circulation.

Site Layout and Lot Sizes

The site layout is based upon the best orientation for most of the lots and the philosophy to have all lots with a dual frontage, with as many as possible having a frontage to a park. The site layout is successful in this regard.

Proposed lot sizes vary considerably, with an average of 354m<sup>2</sup> consistent with Council’s current controls in DCP58.

The proposal is considered satisfactory in regard to site layout and lot sizes.

Built Form, Building Envelopes and Design

The built form, building envelope and building design principles include the following:

- Zero lot line to one side boundary or both to maximise courtyard space;
- Minimal setbacks, again to maximise courtyard space, but with some variation to provide an articulated streetscape;
- Maximum two-storey scale of development;
- Energy efficient buildings and maximising solar access;
- A mix of dwelling sizes and styles;
- Contemporary dwelling design with a focus on reducing garage dominance, and encouraging the overlooking of streets and public open spaces and variety in roof forms.

The style and scale of development is consistent with good examples of medium density housing such as Subi Centro in Perth.

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The reduction in setback on Fairwater Drive from 7.5m to 5.5m is considered an acceptable variation from DCP58 for the following reasons:

- The lesser setback, combined with the fence along the Fairwater Drive frontage, highlights that the site is a different form of development to the surrounding developments;
- Landscape treatment is proposed along Fairwater Drive to complement existing street tree planting;
- The lesser setback will not significantly alter noise impacts from traffic on Fairwater Drive; and
- The lesser setback will maximise private open space on the northern section of the lots fronting Fairwater Drive.

Subject to further consideration of the design of the facades of the terraces, the proposal is considered satisfactory in regard to built form, building envelopes and design.

Acoustic and Visual Privacy and Private Open Space

The Master Plan states that “*particular attention has been given at the design stage to siting, building and room layout, window and wall location and to the selection of construction methods and materials to ensure maximum acoustic privacy.*”

Further, the Master Plan states that visual privacy will be achieved by:

- Minimising windows facing each other;
- Avoiding overlooking of internal living areas and courtyards; and
- Directing outlooks from habitable rooms to streets or public open space areas.

With regards to private open space, all dwellings will be provided with a variety of useable private open space areas. Many of the concept dwelling details demonstrate central courtyard areas as well as front and rear yards, with some dwellings having first floor deck areas where ground level open space is at a minimum or significantly overshadowed. These elevated decks are located to avoid overlooking of adjoining dwellings.

This breaking up of the private open space areas will allow for a choice in private outdoor recreation and in most instances this choice will be based on where solar access is available at various times of the day.

The proposal is considered satisfactory in regard to acoustic and visual privacy and private open space.

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Solar Access and Energy Efficiency

The Master Plan states that the proposal has been designed to:

- *“maximise the winter sun penetration to main living areas;*
- *minimise the penetration of the summer sun;*
- *provide outdoor living and play areas with solar access; and*
- *allow for maximum daylight penetration.”*

Shadow diagrams submitted with the master plan demonstrate that the lots for detached dwellings will achieve satisfactory solar access to living rooms and private open space areas. However, the rows of terraces will achieve satisfactory solar access to the living rooms only. The private open space areas for the terraces will receive minimal solar access at ground level. To compensate for this lack of outdoor play areas with solar access at ground level, above ground terraces are proposed. These spaces will receive full solar access.

The following additional energy efficient principles have been incorporated into the Master Plan:

- *concrete slab on ground as opposed to timber;*
- *eaves, verandahs and pergolas to shade windows and internal rooms;*
- *employment of breeze paths through the dwellings;*
- *dwellings setback from the northern boundary as far as possible where the site permits; and*
- *NatHERS Compliance Certificate.*

In addition, 1000litre minimum rainwater tanks are proposed for each dwelling.

The proposal is considered satisfactory in regard to solar access and energy efficiency.

Drainage

The Master Plan states that the lot will be drained to Narellan Creek via five discharge points each installed with gross pollutant traps. These drainage facilities will be in private ownership and therefore maintained by the Community Association and not Council.

The overland flow path proposed to be dedicated to Council as a reserve will be piped as a part of the development and will become a Council drain.

The proposal is considered satisfactory in regard to drainage.

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Servicing, including garbage collection

The Master Plan states that *“the development can be readily connected to the standard services required for residential use, namely: reticulated sewerage; water supply; underground power; gas; and telecommunications.”*

With regards to garbage collection, each lot is proposed to have bin alcoves, which can be easily accessed by the resident and placed on the street for collection. Further, the Master Plan states that *“all roads, streets, rear lanes and mews areas have been designed to accommodate rubbish trucks, so no group central bin pads will be required.”*

Council’s garbage collection vehicles will have difficulty accessing the front of some lots due to narrow access roads. In particular the narrowness of the Mews is of concern. Further, the design of some road ends does not facilitate ease of manoeuvring for garbage collection vehicles. Further, the developer will be required to enter into an agreement with Council indemnifying Council against any damage caused to the private roads as a result of garbage collection.

It is considered that the above concerns can be adequately addressed at the subdivision stage of the development and, while modifications to the design may be necessary, any modifications will not substantially alter the plans associated with this Master Plan.

Subject to further consideration of garbage collection, the proposal is considered satisfactory in regard to servicing.

Fencing

The Master Plan states that fencing will be consistent with building design, low, open in form and articulated at entrance points and where letterboxes are located. Fencing details provided in the Master Plan demonstrate the above principles.

Although some of the proposed fences will separate private parks from public open space along Narellan Creek Parkland, they are not designed to represent exclusivity, as they will be consistent with adjoining fencing along rear property boundaries and be open in nature and low in height.

The proposal is considered satisfactory in regard to fencing.

Landscaping

The Master Plan states that *“generally small, flowering, deciduous trees have been selected within the street corridors, reflecting the garden scale of this estate, plus continuing the*

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*“Colonial” character established throughout Harrington Park Estate.”*

The proposal is considered satisfactory in regard to landscaping.

**Conclusion**

A Master Plan for the development of Fairwater Gardens “R2” residential development estate at Harrington Park has been submitted to Council for adoption in place of the development controls in DCP 58. The Master Plan includes a subdivision layout for which approval is sought.

The Master Plan addresses all relevant matters pertaining to an Integrated Housing Development and is considered satisfactory with regard to most matters. Further consideration of the design of the facade of the terraces and the street layout in terms of garbage collection is required, yet these matters are unlikely to result in significant changes to the subdivision layout.

It is therefore considered that the Master Plan should be supported as the document, which will guide the development of Fairwater Gardens in place of DCP58.

Recommended: That Council support the Fairwater Gardens Master Plan and the concept subdivision plan as the document and plan which will guide the future subdivision and development of Fairwater Gardens, except that further consideration of the street layout in terms of garbage collection is required prior to the submission of any development application.

*Resolved on the Motion of Cr Campbell, seconded Cr Anderson that Council support the Fairwater Gardens Master Plan and the concept subdivision plan as the document and plan which will guide the future subdivision and development of Fairwater Gardens, except that further consideration of the street layout in terms of garbage collection is required prior to the submission of any development application.*

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THE MOTION WAS **CARRIED**.

*(Cr Senise voted against the Motion).*

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**2. Two (2) Lot Subdivision (Battle-axe) and the Construction of a Single Storey Dwelling, No 10 (Lot 1514 DP 1001017) Ann Place, Narellan Vale**

**File No:** DA220.100-4 (Director, Development & Environment Division)

**DA-S No:** 5/2002

**Owner/**

**Applicant:** Mr N Novek

**Zoning:** Residential 'D' CLEP 47

**Purpose of Report**

The subject application proposes the creation of a further battle-axe lot from the existing battle-axe Lot 1514. To achieve this proposed subdivision a resolution of Council is required to vary a 'Restriction as to User' pursuant to a section 88B Instrument (Conveyancing Act 1919), which currently prohibits any subdivision of this lot. The application is also seeking approval for a single storey dwelling on the proposed new battle-axe lot.

Five (5) objections were received to this proposal following the public notification of the application.

**Summary of Recommendation**

It is recommended that Council refuse Development Application No S5/2002.

**Previous Resolutions**

A similar DA was reported to Council on 10 December 2001 for the subdivision of a battle-axe lot. It was resolved that:

- (i) *Development Application No 65/2001 to subdivide No 10 (Lot 1514 DP 1001017) Ann Place, Narellan Vale into two (2) residential lots be refused for the following reasons:*
  - (a) *the proposed subdivision is inconsistent with the objectives for land within zone 2(d) under Camden Local Environmental Plan No 47 in particular 1(a), (b) and (d) in the table to that zone;*
  - (b) *the proposed subdivision does not comply with the clauses 3.1.7 and 3.1.10 of DCP 58 in respect of compliance with the area of lots;*
  - (c) *the proposed subdivision is not environmentally suitable for the site, in particular;*

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- *visual impact to the south on the existing dwellings fronting Mary Howe Reserve;*
- *visual intrusion to the public using the pedestrian/cycleway on the ridge – Mary Howe Reserve;*
- *additional vehicles crossing Mary Howe Reserve will impact on the amenity and safety of this public reserve;*
- *an additional dwelling at the top of the water catchment will have both a visual and environmental impact on the existing adjacent bush corridor downstream. Any additional vehicles and people in this catchment will increase the risk and potential of pollution of this important area of vegetation downstream;*
- *the s88B instrument prohibits the proposed subdivision;*
- *the precedent it will create for the subdivision of the other 3 large residential lots created in the original Landcom subdivision;*

(ii) *Those who made submissions be thanked and advised of the determination of the application.*

**The Proposal**

Council is in receipt of an application to re-subdivide the rural/residential Lot 1514 into two lots. Proposed Lot 2, containing the existing house and detached garage would have an area of 5,676m<sup>2</sup>. Proposed Lot 1 will have an area of 3,729m<sup>2</sup> inclusive of access handle. Access to this new Lot 1 is proposed via a 5m wide access handle along the northern side of the subject property. The existing lot accesses the turning head of Ann Place after crossing Mary Howe Reserve via a 6m wide right of carriageway. A plan of the subdivision forms **Tabled Document “DC 4”**.

The applicant is also seeking approval for a single storey dwelling with a floor area of 361m<sup>2</sup> to be erected on the proposed Lot 1. House elevations and section form **Tabled Document “DC 5”**.

**Background**

The subject site and the adjoining Lot 1513 are both large lots with areas of 9405m<sup>2</sup> and 8598m<sup>2</sup> respectively, located on the southern side of the ridge (Mary Howe Reserve), refer to **Tabled Document “DC 6”**.

These large lots were created from a ‘Landcom’ subdivision in 1997 to allow the development of residential zoned land at the head of a separate water catchment from the Narellan Creek

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catchment, that includes all of the Narellan urban release area. This other water catchment includes the undeveloped Spring Farm urban release area. These two lots were approved as large lots to minimise the impact of residential development on this southern water catchment and the adjoining bush corridor.

The development consent required that both these lots have a 'Restriction as to User' placed in a section 88B Instrument, which prevented further subdivision.

Landcom dedicated the ridge between Ann Place and these two lots as open space (Mary Howe Reserve), which required the two lots to have rights of carriageways over the open space to gain access to Ann Place. Also, sewerage was an issue in the original Landcom subdivision as the two lots could not be sewered by gravity and therefore required the sewage to be pumped from both lots over the ridge to the nearest sewer main in Ann Place.

**Notification**

All adjoining landowners were advised of the proposal with five submissions received objecting to the proposed development.

A summary of the main issues expressed in the submissions, follow:

- maintain rural setting;
- s88B instrument prohibits the re-subdivision;
- conflict with the covenants that all local owners had agreed to when purchasing their properties;
- current low water pressure would be further affected;
- additional traffic potentially impact residents and users of walkway within Mary Howe Reserve;
- potentially effect the safety of young children playing and cycling along the pedestrian/cycleway;
- may create precedent for re-subdivision of adjoining lot;
- bought in this area on the understanding there would be no future development taking place;
- agree with the statement made by Council in the Minutes of 10/12/01 meeting: "The proposed subdivision would create lots that do not comply with the provisions of DCP 58 and are contrary with the objectives of the zone";
- the subdivision of the land will impact on this distinctive character (a zone objective);
- proposed dwelling would be of high significant visual intrusion from our home and the public reserve;
- new owner may wish to add another storey to the house;
- believe current large lots and reserve add value to our home;
- more Otto bins – total of 12 will clutter the reserve;

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- we believe that the s88B was placed for a reason – hope this reason would still remain;
- s88B Instrument states that ‘building shall be within the area designated’ (building envelope on deposited plan) and ‘no future subdivision of the lots’ – to this we hold in good faith that Council would retain the Restrictions and the status of the instrument as it intended;
- Council is the empowered body to release the s88B instrument – we believe that Council has placed a covenant on the land for the restriction of use for a reason, “to promote a distinctive character, to retain a physical and visual contact with the rural setting and to provide land for use as an appropriate urban drainage system in an environmentally sensitive manner”;
- widening of carriageway in ROW will create a visual intrusion (in Mary Howe Reserve) and allow 2 vehicles to travel on the carriageway at once;
- consultant’s report suggests that the proposed house will have an adverse impact on visual intrusion from Mary Howe Reserve and neighbouring properties. Waiting 10-15 years for trees to screen proposed house is unreasonable;
- my understanding that Mr Novek also wishes to build a Granny Flat at lot 1514 that may increase the residents to 5 using the driveway crossing through the reserve;
- purchased property mid ’99 – stated in contracts that the land release in our area was for single dwellings only, which assisted us in making our decision to move to our neighbourhood.

**Copies of the submissions have been provided to the Councillors separately to the Business Paper.**

**Assessment**

**Section 79C (1) Matters for Consideration**

**(a) the provision of any environmental planning instrument**

The site is zoned Residential ‘D’ pursuant to LEP 47. The proposed development is permissible with the consent of Council. The relevant objectives of the zone applicable to this application are:

- to promote a distinctive character and quality of development in each release area, based on the historic and natural characteristics of the land;
- to retain a close physical and visual contact with the rural setting;
- to provide land for use as an appropriate urban drainage system in an environmentally sensitive manner.

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The distinctive character of these two properties is one of large rural lots within a park like setting. The properties have extensive views over Spring Farm, the Bush Corridor and to the Razorback Mountains. Proposed Lot 1 falls from approximately RL 100 in the north-eastern corner to RL 92 to the south boundary, a fall of some 8 metres. The subdivision of the land into smaller parcels will impact on this character.

Whilst the above DA includes a proposed single storey dwelling with minimal cut for its foundations, there will always be the potential to seek to vary a development consent to add a second storey. This potential can be controlled with a covenant, however the future owner of the dwelling can undertake the same process as this DA in seeking Council's lifting of the covenant. A two-storey dwelling would be a considerable impact on this area.

Camden DCP 59 Narellan Vale/Mount Annan also allows the proposed development, while DCP 58 Residential Code has a relevant clause relating to battle-axe lots. Clause 3.1.7 identifies that a maximum of two (2) lots may use an access handle and that the access handle has a maximum length of 50 metres. The creation of a third lot would be contrary to this clause.

Clause 3.1.10 relating to irregular shaped lots requires that such lots contain an area 12% greater than the minimum median area to provide adequate site area. It is clear that this proposal does not comply with this provision when addressed in relation to the adjacent allotment however, when assessed in relation to the remainder of the subdivision, the area does exceed the median.

Clause 20 of LEP 47 'Suspension of certain laws', refers to Council having the ability not to take into account "... any agreement, covenant or instrument imposing restrictions as to the erection or use of buildings for certain purposes or as to the use of land for certain purposes, to the extent necessary to serve that purpose..." if the development is carried out in accordance with the LEP. This clause principally refers to, for example, any covenant that was in place before the LEP was gazetted and therefore came into force, can be taken as not applying as long as the development meets the objectives and standards of the LEP.

The s88B instrument that was drawn by Landcom for their subdivision that created the large lots (lots 1513, 1514, 1527, 1528) includes a covenant that was

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requested by Council to prevent further subdivision of lot 1514 DP 1001017. Clause 20 should therefore not be applied in this case as the covenant was created after the LEP's gazettal and was at the direction of Council.

The applicant's consultant states in his environmental assessment that accompanied the DA (refer to **Tabled Document "DC 7"**):

"There was never any doubt that the restrictive covenant would prohibit a suitably justified subdivision and new dwelling house on a freshly created lot."

It is apparent that the applicant believed the application of clause 20 would automatically allow a variation to the covenant imposed by Council. Should Council have proposed to allow subdivision of the land, it would not have imposed the restriction to user in the first place. For this reason, the only guarantee the purchaser of the land had was that they could build one dwelling on the lot.

**(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality.**

The proposed subdivision and the resultant erection of a dwelling on the new lot would have the following impacts:

- visual impact to the south on the existing dwellings fronting Mary Howe Reserve;
- visual intrusion to the public using the pedestrian/cycleway on the ridge – Mary Howe Reserve;
- additional vehicles crossing Mary Howe Reserve will impact on the amenity and safety of the users of this public reserve, which includes young children on bicycles;
- an additional dwelling at the top of the water catchment will have both a visual and environmental impact on the adjacent bush corridor downstream. Whilst some measures can be undertaken to minimise pollution and stormwater drainage impacts on the bush corridor, any additional vehicles and people in this catchment will increase the risk and potential of pollution of this important area of vegetation (Cumberland Plain Woodland) downstream;
- the proposal will create a precedent for the other 3 large residential lots in this subdivision ie lots 1513,

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631 and 1527 DP 1001017 to seek further subdivision of these similar battle-axe lots (refer to location plan).

**(c) the suitability of the site for the development**

The original subdivision by Landcom was conditioned that the number of dwellings were to be restricted on the southern side of Mary Howe Reserve because of the environmental issues mentioned above. A section 88b 'Restriction as to User' was created with the subdivision, identifying further subdivision being prohibited because of the sites' environmental unsuitability for additional residential development.

As mentioned above, DCP 58 only refers to two (2) lots to use a battle-axe access handle and not three (3) as proposed and that it be only 50 metres in length and not 90 metres as proposed. The DCP only permits battle-axe lots where the lot adjoins open space, except Council may consider a battle-axe lot not adjoining open space where:

- there is an area of not less than 20% greater than the minimum lot size or the median size within 400m of the site;
- a satisfactory building site is provided of adequate distance from existing or proposed buildings, to ensure privacy.

Whilst the latter may be achieved, the requirement to be 20% greater can not be complied with. In this regard the adjoining residential lots to the north should not be taken into consideration in the assessment of 20% greater. It would be noted that the two rural/residential lots are 9,405m<sup>2</sup> (Lot 1514) and 8,589m<sup>2</sup> (Lot 1513). Therefore, the proposed lot would need to have an area of approximately 10,797m<sup>2</sup> to comply with the requirements of the DCP. As previously stated the proposed lot 1 would have an area of 3,729m<sup>2</sup>. The requirement to comply with adjoining open space has already been taken up by the creation of the two rural/residential lots.

The proposed battle-axe access for lot 1 as proposed by the subdivision is not adequate in width. An extra width of 5m is necessary to allow service vehicles to turn around the acute angled bend in the driveway. This extra width would need to come off lot 2 and also require the removal of the mature eucalypt in front of the existing house on proposed lot 2.

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**(d) any submissions made in accordance with this Act or Regulation**

Five objections were received during the exhibition period following notification of the proposal. The major issues have been summarised above under notification.

The principal concern expressed in the submissions relate to the s88B restrictions placed on the land by the developer, in liaison with Council, to restrict the development of these lands to two (2) lots. The intention of the subdivision was to permit two (2) lots only as the land was within a different water catchment area and the inherent difficulties of servicing these sites for water and sewerage. Currently the two (2) lots “pump up” to the sewer. Any additional dwellings would also have to pump to the sewer, including any ancillary structures such as swimming pools. The building envelopes on Lots 1513 and 1514 were located so that there was a short distance to pump to the main. Any dwelling on proposed Lot 1 would need to pump some 70m to the connection point on Lot 1514 and then to the main sewer. Whilst this is not unachievable, it was not the intention of the subdivision in creating two lots only.

**(e) the public interest**

Considerable community input was received during the preparation of the adjoining Bushland Corridor Study, which identified the significance of the existing vegetation below the proposed subdivision. The vegetation comprising Cumberland Plain Woodland, an endangered community listed in the Threatened Species Conservation Act 1995. Any potential environmental threat to this bushland corridor would not be in the public interest.

The applicant is proposing to widen the concrete driveway within the right of carriageway (6m wide) that crosses Mary Howe Reserve from 2.92m to 5.5m (the width of a local road carriageway) for 6m to cater for the additional traffic. This is double the width of the existing pathway. The original subdivision for two battle-axe lots was to create a low visual and traffic impact on the public reserve as possible. The extra lot and potentially a second further lot will not achieve this original Council objective.

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**Conclusion**

The subject property is located in a prominent park setting and within a different water catchment area. The intention of the subdivision was to allow two (2) dwellings only on large rural/residential lots. The proposed subdivision would create lots that do not comply with the provisions of DCP 58 and are contrary with the objectives of the zone.

Council is the identified authority to vary the s88B 'restriction on the use of land', however, following the s79C (EP&A Act) assessment of the development application there are sufficient grounds for refusing the application.

Recommended: That

- (i) Development Application No. S 5/2002 to subdivide No 10 (Lot 1514 DP 1001017) Ann Place, Narellan Vale into two (2) residential lots and the erection of a dwelling on the proposed vacant lot, be refused for the following reasons:
- (a) the proposed subdivision is inconsistent with the objectives for land within zone 2(d) under Camden Local Environmental Plan No 47 in particular 1(a), (b) and (d) in the table to that zone;
  - (b) the proposed subdivision does not comply with the clauses 3.1.7 and 3.1.10 of DCP 58 in respect of compliance with the area of lots;
  - (c) the proposed subdivision is not environmentally suitable for the site, in particular;
    - visual impact to the south on the existing dwellings fronting Mary Howe Reserve;
    - visual intrusion to the public using the pedestrian/cycleway on the ridge – Mary Howe Reserve;
    - additional vehicles crossing Mary Howe Reserve will impact on the amenity and safety of this public reserve;
    - an additional dwelling (potentially two storeys) at the top of the water catchment will have both a visual and environmental impact on the existing adjacent bush corridor downstream. Any additional vehicles and people in this catchment will increase the risk and potential of pollution of this important area of vegetation downstream;
    - the s88B instrument prohibits the proposed subdivision;

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- the s88B instrument has identified building envelopes that were positioned to minimise the visual impact of the proposed dwellings on the environment. The proposed subdivision will need the creation of a third building envelope, which will exceed the current covenant;
  - the precedent it will create for the subdivision of the other 3 large residential lots created in the original Landcom subdivision;
- (ii) Those who made submissions be thanked and advised of the determination of the application.

*Resolved: on the Motion of Cr Batros, seconded Cr Fekete that*

(i) *Development Application No. S 5/2002 to subdivide No 10 (Lot 1514 DP 1001017) Ann Place, Narellan Vale into two (2) residential lots and the erection of a dwelling on the proposed vacant lot, be refused for the following reasons:*

*(a) the proposed subdivision is inconsistent with the objectives for land within zone 2(d) under Camden Local Environmental Plan No 47 in particular 1(a), (b) and (d) in the table to that zone;*

*(b) the proposed subdivision does not comply with the clauses 3.1.7 and 3.1.10 of DCP 58 in respect of compliance with the area of lots;*

*(c) the proposed subdivision is not environmentally suitable for the site, in particular;*

- *visual impact to the south on the existing dwellings fronting Mary Howe Reserve;*
- *visual intrusion to the public using the pedestrian/cycleway on the ridge – Mary Howe Reserve;*
- *additional vehicles crossing Mary Howe Reserve will impact on the amenity and safety of this public reserve;*
- *an additional dwelling (potentially two storeys) at the top of the water catchment will have both a visual and environmental impact on the existing adjacent bush corridor downstream. Any additional vehicles and people in this catchment will increase the risk and potential of pollution of this important area of vegetation downstream;*
- *the s88B instrument prohibits the proposed subdivision;*
- *the s88B instrument has identified building envelopes that were positioned to minimise the visual impact of the proposed dwellings on the*

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*environment. The proposed subdivision will need the creation of a third building envelope, which will exceed the current covenant;*

- *the precedent it will create for the subdivision of the other 3 large residential lots created in the original Landcom subdivision;*

*(ii) Those who made submissions be thanked and advised of the determination of the application.*

*DC039/02 THE MOTION WAS **CARRIED**.*

*\*\*\*\*\**

*(Cr Patterson, Cr Anderson & Cr McFadden voted against the Motion).*

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**3. Companion Animals – Dog Attack, 5 Parson Place,  
Harrington Park**

**File No:**       **PF6135.50** (Director, Development &  
Environment Division)

**Purpose of the Report**

To recommend prosecution for a breach of Section 16 (Owner liable if dog attacks a person or animal) of the Companion Animals Act 1998 against the owners of a Rottweiler dog, Mr Robert James Firth and Ms Kelley Fae King.

**Background**

Council was contacted by Camden Police on Friday 29 March 2002 at 10.39am regarding a dog attack that had occurred outside No 5 Parson Place, Harrington Park. At about 11.00am that day a Council Officer attended 5 Parson Place and spoke with Ms King regarding the incident. Ms King stated that her partner Mr Firth was walking from the backyard with a whipper snipper to the front yard of the property via the side gate. Mr Firth closed the gate behind him but the gate had allegedly not latched.

A short time later the victim was walking with her dog on a lead and pushing a stroller containing her 19 month old son. As the victim approached the premises the dog allegedly ran through the gate and bit the victim on the left shin. At this time Ms King who was inside the house ran out to assist the victim. A number of other neighbours also came to the victim's aid and an ambulance was called. At 11.45am Ms King surrendered the dog to the custody of Council and the dog was taken from the premises.

**Current Situation**

On 2 April 2002 a Council Officer attended the victim's residence and took a statement. The victim stated that the dog was already standing on the front lawn before she got to the premises. She further stated that as she approached the premises the dog looked up, ran straight to her, bit her on the left shin and would not release its bite. At this time Ms King then came to her aid, as did a number of other neighbours.

The victim is expected to be off work for some time and will be required to seek treatment by a plastic surgeon to correct the injuries inflicted by the dog. The dog after being surrendered to Council was later humanely destroyed by a veterinarian.

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**Summary**

There are a number of variances in the facts between the owners of the dog and the victim, however it is clear that ultimately an attack did occur. The Act requires owners to keep animals under effective control at all times to prevent such instances occurring. Clearly in this instance the owners of the dog failed to exercise due care which ultimately resulted in the attack. The owners, once they surrender the dog to Council, lose all rights, privileges and ownership of the animal and due to the circumstances of the attack destruction of the animal was the only suitable course of action to take.

Section 16 of the Companion Animals Act has a maximum penalty of \$1,100 and the imposition of any penalty would be determined by the Court.

Recommended: That Council resolve to proceed against both Mr Robert James Firth and Ms Kelley Fae King as owners of the dog before the Local Court for a breach of Section 16 of the Companion Animals Act 1998.

*Resolved on the Motion of Cr Senise, seconded Cr Winn that Council resolve to proceed against both Mr Robert James Firth and Ms Kelley Fae King as owners of the dog before the Local Court for a breach of Section 16 of the Companion Animals Act 1998.*

DC040/02 THE MOTION WAS **CARRIED**.  
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**4. Council Vehicle Air Emissions**

**File No:**        **TC2798** (Director, Development & Environment  
Division)

**Purpose of Report**

The purpose of this report is to provide information in relation to the use of low sulphur diesel fuel and the installation of catalytic converters on some of Council's large vehicle fleet.

**Background**

Much of the Camden LGA is known to lie in the Sydney air shed with topography that tends to trap poor quality air that has moved from either the Sydney basin or the Illawarra depending on the prevailing weather conditions. Having recognised this, it has been difficult for Council to have any influence over the cause or to be able to do anything to improve air quality. One aspect of Council's operations that can have an impact is the fuel which is purchased for the Council fleet. Traditional diesel which is dispensed at most service stations contains 2000ppm (parts per million) sulphur.

It has been recognised for some time that the sulphur content in fuel directly contributes to increasing exhaust emissions from heavy vehicles. Research by Council's Works & Services Division purchasing staff has resulted in Council being able to purchase diesel fuel which contains only 500ppm sulphur with the additional cost of only 1cent per litre of fuel purchased. In the recent tender process for the purchase of waste management vehicles the possibility for the purchase of Compressed Natural Gas (CNG) vehicles was investigated. It is apparent that rather than spending large amounts of money in buying CNG vehicles, the changing of fuels and installing catalytic converters will achieve significant reductions in exhaust emissions until the conversion to CNG becomes more viable.

**Current Situation**

Council's Works and Services Division have taken the step of purchasing diesel fuel, which contains only 500ppm sulphur instead of 2000ppm. Considering that most plant operated by Council utilises diesel, there will be a significant overall beneficial impact on air quality with this change in purchasing fuel. Fuel experts predict that over the next decade the sulphur content will continue to be reduced so as to achieve better exhaust emissions across the nation.

Vehicles and parts that are of a more recent manufacture are designed to accommodate the lower sulphur fuel. The new

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waste management vehicles are “Euro 2” version engines which are specifically designed for the low sulphur fuel. In the not too distant future “Euro 3” engines will start to appear that use 50ppm diesel which is not widely available in Australia as yet.

The recent tender for the supply of waste management vehicles called for “Euro 2” compliant engines and the installations of catalytic converters. A catalytic converter is installed on the exhaust side of an engine and treats the emission with the use of a metal impregnated ceramic cartridge. The chemical process reduces emission levels of key components of Hydrocarbons (Hc) Particulate Matter (PM) and Carbon Monoxide (Co).

The sulphur content acts as a lubricant in the engine and some of the older vehicles in the fleet have suffered from gasket and seal failures which, in the most part were originally attributed to the use of the 500ppm fuel. This has since been dispelled as the reason in that the cause of such failures in Queensland was most likely attributed to the use of 50ppm sulphur diesel.

The cost of purchase and installation of a catalytic converter is \$2452. Existing vehicles can be retro-fitted and this is being considered as a maintenance item.

**Conclusion**

The purchase and use of a low sulphur diesel together with the installation of catalytic converters will have a significant beneficial impact on air quality emissions from Council’s fleet. The purchase and installation of CNG has not proven cost effective because of an initial increase in plant purchase cost of \$50,000, loss of approximately 1000kg payload and the need to establish a refuelling depot with an estimated cost of \$500,000.

There has been significant public acclaim of CNG but there has been little consideration of costs to the community. The research undertaken by Council officers indicate that at this stage there are environmental benefits of choosing CNG but substantial costs to the community. In striving towards a better environment with a focus on Camden 2025 as well as recognising “triple bottom line” accounting which incorporates Social, Economic and Environmental costs, the strategy of minimising air emissions is considered to be of paramount importance.

Council operates a significant fleet of diesel powered vehicles and the change in purchasing the lower sulphur diesel should set an example to the community that commitment to environmental improvement can be achieved without necessarily leading to increased costs.

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Recommended: That the information be noted.

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

DC041/02 THE MOTION WAS **CARRIED**.  
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**5. Proposed Contaminated Lands Policy**

**File No:** 3299/4 (Director, Development & Environment Division)

**Purpose of Report**

This report seeks Council endorsement to place on public exhibition a policy relating to the Management of Contaminated Lands in the Camden Local Government Area.

**Background**

NSW Government in 1998 released a package of reforms to provide a comprehensive, consistent and whole of government approach to land contamination and remediation. The reform package facilitates this by integrating land use planning and environmental regulation in managing land contamination and remediation.

The package included:

- *Contaminated Lands Management Act, 1997*
- *State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)*
- *Managing Land Contamination: Planning Guidelines, 1998* prepared by the Department of Urban Affairs and Planning and the Environment Protection Authority

To assist in the implementation of this legislation, the then Department of Urban Affairs and Planning released planning guidelines for managing land contamination. These guidelines were employed in the drafting of the framework for Council's draft contaminated lands policy and procedures.

**Contaminated Land**

Contaminated land is broadly defined as land that contains hazardous substances at concentrations above those naturally present and that poses or is likely to pose a risk to human health or the environment. Contaminated land can have debilitating effects on humans and the environment. Activities associated with the use, storage and disposal of contaminants can potentially impact on soils, groundwater, surface water and air. Contamination can impact on the health and well being of the community and on the integrity of buildings, structures and services facilities.

In recognition of the potential adverse impacts of contaminated land and in response to legislative changes, a Draft Contaminated Lands Policy has been developed (refer to **Tabled Document "DC 8"**). The draft policy is consistent with current

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day contaminated land legislation and associated guidelines and will provide clear guidance in the planning and management of contaminated land with the Camden Local Government Area.

**Purpose of the Draft Contaminated Lands Policy**

The policy forms the basis for best management practice of contaminated land within the Camden LGA. The policy has been developed in recognition of Council's responsibilities under the legislation and addresses all stages of the planning and development process relevant to the identification, assessment and remediation of contaminated land. It has been prepared as a practical guide for all involved in the development industry, consultants, and members of the Camden Community and Council's staff.

The objects of Council's Draft Management of Contaminated Lands Policy are to:

- enable the identification, evaluation and management of potential contamination at an early stage in the planning and development control process.
- ensure that changes of land use will not increase the risk to health or the environment nor impact on the safety of existing or new structures.
- ensure remediation of contaminated sites prior to redevelopment, by the adoption of practical, socially acceptable and cost effective management

**Conclusion**

The draft policy has been developed to reflect the requirements of SEPP 55 – Remediation of Land and will ensure that Council's liability in respect of contaminated land is limited.

Recommended: That

- (i) Council place the Management of Contaminated Lands policy on public exhibition for a period of 28 days and seek comment and submissions on the draft policy.
- (ii) The draft Management of Contaminated Lands policy is to be reported back to Council for adoption at the conclusion of the public exhibition period.

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*Resolved on the Motion of Cr Winn, seconded Cr Senise that:*

- (i) Council place the Management of Contaminated Lands policy on public exhibition for a period of 28 days and seek comment and submissions on the draft policy.*
- (ii) The draft Management of Contaminated Lands policy is to be reported back to Council for adoption at the conclusion of the public exhibition period.*

*DC042/02 THE MOTION WAS **CARRIED**.*

*\*\*\*\*\**

*The Meeting closed at 6.20pm.*