

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

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Present: Cr Corrigan (Mayor/Chairperson), Cr Anderson, Cr Patterson, Cr Winn, Cr Campbell, Cr Batros, Cr Fekete, Cr McFadden.

Staff: General Manager, Director Governance & Outcomes, Director Development & Environment, Acting Director Works & Services (Manager Engineering), Manager Environment & Health, Manager Development, Senior Governance Officer.

Apologies: An apology was received from Cr Senise from this meeting.

Resolved on the Motion of Cr Winn, seconded Cr Anderson that leave of absence be granted to Cr Senise from this meeting.

DC067/02 THE MOTION WAS **CARRIED.**

DEVELOPMENT COMMITTEE PUBLIC ADDRESSES

Neirdra Hill addressed the Committee in relation to Item 2.

MOTION

Moved Cr Batros, seconded Cr Winn that an extension of time of 2 minutes be granted.

DC068/02 THE MOTION WAS **CARRIED.**

Mr Gary Murphy addressed the Committee in relation to Item 2.

1. Review of DCP 112 – Exempt and Complying Development and Subsequent Amendment of LEP’s 45, 46, 47, 48 and 74

(4271/4 & 4280/1) (Director, Development & Environment Division)

Purpose of Report

The purpose of this report is for Council to resolve to amend DCP112 – Exempt and Complying Development and proceed to then amend LEP’s 45, 46, 47, 48 and 74.

Background

DCP 112 – Exempt and Complying Development was adopted by Council on 22 May, 2000. At the same time, an amending Local Environmental Plan (LEP 114) was prepared to amend LEP’s 45, 46, 47, 48 and 74 in order to give effect to DCP 112. The amending LEP was gazetted on 28 July, 2000.

DCP 112 has therefore been in operation for almost 2 years. Over this time, a few amendments have been made in response

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to inappropriate developments being erected as Complying Development. However, various other minor problems have been experienced in the operation of the DCP, and a full review of the DCP has been undertaken.

In addition to this internal review, PlanningNSW has been undertaking a review of Complying Development in the Urban Development Program (UDP) areas of western Sydney. This process has not been completed and Council is awaiting further advice from PlanningNSW.

Report

A full review of DCP 112 – Exempt and Complying Development has been undertaken. A number of modifications to the DCP are proposed in order to make the document consistent with other Council policy and to correct any errors or omissions.

The following tables provide a detailed account of the proposed modifications to DCP 112.

Full copies of the current DCP and the amended DCP are contained in **Tabled Document “DC1“** and **Tabled Document “DC2“** respectively.

1. Section 1.0 – Advice To Applicants

This section of the plan has been renamed “Introduction”.

Clause	Modification	Reason for Modification
1.1 (*)	Mostly deleted	Much of the clause is repeated later in the document.
1.2 (1.1)	Re-worded	To simplify the clause.
1.3 (1.2)	No change	
1.4 (1.4)	Re-worded	To simplify the clause.
1.5 (**)	Re-worded & Relocated	So that the Plan has a logical format.

* The first sentence in paragraph four of clause 1.1 has been retained in a new clause 1.3 called “What is the purpose of this plan?”

** Most of clause 1.5 has been relocated to relevant parts of sections 3, 4 and 5 of the draft DCP.

2. Section 2.0 – Objectives

Clause	Modification	Reason for Modification
Objectives	Re-worded & Consolidated	Many of the objectives are repetitive.

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3. Section 3.0 – How To Use This Development Control Plan?

This section of the plan has been renamed “General Requirements”.

Clause	Modification	Reason for Modification
First five paragraphs	Deleted	Repetitive
3.1	Deleted	Repetitive
3.2	Deleted	Repetitive
3.3 (5.8)	Relocated to Section 5.0	So that the plan has a logical format.
3.4 (3.1)	No change	
3.5 (3.7)	No change	
3.6	Relocated to Section 6.0	So that all definitions are contained in the one place.

The following clauses have been added to Section 3.0 of the Plan:

- What are the responsibilities of the Accredited Certifier? (3.4)
- What are the responsibilities of the Principal Certifying Authority? (3.5)

4. Section 4.0 – What is and is not Exempt Development?

Clause	Modification	Reason for Modification
4.1 (4.1)	Inserted clause 1.5.1 from current DCP	So that the plan has a logical format.
4.2 (4.2)	Clause (c)(ii) deleted	All relevant standards for exempt development should be contained within the Plan.
4.3 (4.3)	Clause (a) re-worded Clause (f) deleted Clause (i) re-worded	To add a reference to land facing Harrington Park Homestead. LEP 74 is no longer a draft and there are no longer any deferred areas. To add a reference to a plan identifying the State and Regional Significant Landscape Areas.

The following clause has been added to Section 4.3 of the Plan:

- *“Has a surface level below a 1% Annual Exceedance Probability (AEP) flood level.” (j)*

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5. Section 5.0 – What is and is not Complying Development?

Clause	Modification	Reason for Modification
5.1 (5.1)	Inserted clause 1.5.2 from current DCP.	So that the plan has a logical format.
5.2 (5.2)	Clauses (b) and (c) re-worded & consolidated Clause (c)(ii) deleted.	To be consistent with proposed changes to format of Complying Development Schedule. All relevant standards for exempt development should be contained within the Plan.
5.3 (5.3)	Clauses (a) and (b) re-worded Clause (f) re-worded Clauses (k) and (l) consolidated	For clarity. LEP 74 is no longer a draft and there are no longer any deferred areas. Repetitive.

Clause	Modification	Reason for Modification
5.3 (5.3) (cont.)	Clauses (m), (n) and (o) deleted Clause (r) re-worded Clause (v) re-worded	Repetitive. To add a reference to land facing Harrington Park Homestead. To add a reference to a plan identifying the State and Regional Significant Landscape Areas.

The note at the end of clause 5.2 in the current DCP has been re-worded and incorporated as sub-clauses (I) to (l) in clause 5.2.

The following clauses have been added to Section 5.0 of the Plan:

- *“What is a Complying Development Certificate?” (5.4)*
- *“Who can apply for a Complying Development Certificate?” (5.5)*
- *“How is an application for a Complying Development Certificate made?” (5.6)*

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- “How long does it take to process a Complying Development Certificate?” (5.7)
- “How long is a Complying Development Certificate valid?” (5.9)

6. Section 6.0 – Glossary

Definition	Modification	Reason for Modification
Awning Sign	Deleted	Details are provided in the Exempt Development Schedule.
Direction Sign	Deleted	Details are provided in the Exempt Development Schedule.
Fascia Sign	Deleted	Details are provided in the Exempt Development Schedule.
Flashing Sign	Deleted	Details are provided in the Exempt Development Schedule.
Identification Sign	Deleted	Details are provided in the Exempt Development Schedule.
Poultry Farm	Deleted	Poultry Farms are not exempt or complying.
Public Notice	Deleted	Details are provided in the Exempt Development Schedule.
Real Estate Sign	Deleted	Details are provided in the Exempt Development Schedule.
Side Fences	Deleted	Details are provided in the Exempt Development Schedule.
Sign	Deleted	Details are provided in the Exempt Development Schedule.
Top Hamper Sign	Deleted	Details are provided in the Exempt Development Schedule.
Under Awning Sign	Deleted	Details are provided in the Exempt Development Schedule.
Wall Sign	Deleted	Details are provided in the Exempt Development Schedule.

The following definitions have been added to Section 6.0 of the Plan:

- Habitable room
- Hoarding
- Shade structure
- Storey

7. Schedule 1 – Exempt Development Provisions

In Schedule 1, the heading for column one has been changed to “Development Type” and the heading for column two has been changed to “Standards”, to be consistent with terminology in the legislation. Further, the exemption requirement “meets

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the specification of ‘what is and what is not exempt development’ as outlined in section 4” has been deleted from each development type and a new note to this effect has been added under the schedule title.

Activity	Modification	Reason For Modification
Access ramps for the disabled	Deleted “ <i>maximum length of ramp 9m</i> ”.	Conflicts with other requirements.
Advertising signs – general standards	<ul style="list-style-type: none"> ▪ Modified to exclude heritage items and conservation areas ▪ Deleted “<i>must not cause offence to public</i>” ▪ Added “<i>non-flashing</i>” 	<ul style="list-style-type: none"> ▪ Conflicts with section 4.0 ▪ This is not a requirement - too subjective. ▪ To avoid repetition. (“Non-flashing” has therefore been deleted elsewhere in this section)
	<ul style="list-style-type: none"> ▪ Added details of signs that are prohibited. 	<ul style="list-style-type: none"> ▪ To clarify that certain signs are prohibited.
Advertising signs – business zones	<ul style="list-style-type: none"> ▪ For wall signs, changed 20% to 10%. ▪ Relocated “<i>Public notices</i>” to Temporary Signs 	<ul style="list-style-type: none"> ▪ A wall sign covering 20% of the wall is excessive for exempt development. ▪ To avoid repetition.
Advertising signs – industrial zones	<ul style="list-style-type: none"> ▪ For wall signs, changed “<i>2m x 1.2m</i>” to “<i>1m x 0.7m</i>” ▪ Changed “<i>Identification signs</i>” to “<i>Free-standing signs</i>”. 	<ul style="list-style-type: none"> ▪ To be consistent with DCP 96. ▪ So that terminology is consistent.
Advertising signs – special use and open space zones	<ul style="list-style-type: none"> ▪ Added “<i>maximum height up to 4m</i>”. ▪ Relocated “<i>Public notices</i>” to Temporary Signs 	<ul style="list-style-type: none"> ▪ To prevent signs of excessive height. ▪ To avoid repetition.
Air-conditioning units for dwellings	Relocated to Schedule 2 – Complying Development	As a result of numerous noise problems associated with air-conditioning units.
Ancillary Development	Deleted	This section is ambiguous as to what can be exempt.

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Awnings, Canopies, Storm Blinds (attached to a dwelling)	<ul style="list-style-type: none"> ▪ Deleted “<i>non-combustible material</i>” ▪ Deleted “Appropriate setbacks” ▪ Added “<i>Not to reduce uncovered private open space to below a minimum area of 5m x 5m</i>”. ▪ Added “<i>Not to increase impervious area of the site, excluding the dwelling and garage/carport, to above 50%</i>”. ▪ Added “<i>No signage or advertising to be displayed on awnings/canopies/storm blinds</i>”. 	<ul style="list-style-type: none"> ▪ Setback requirement ensures fire safety considerations are addressed. ▪ Minimum 900mm boundary setback already stated. ▪ To ensure principal private open space area remains uncovered. ▪ To minimise impervious area on site. ▪ To prevent a proliferation of advertising in residential areas.
Awnings, Shade Structures (detached from a dwelling)	Section added. (Details similar to attached awnings section).	To allow small detached shade structures such as shade sails.
Cabanas/ Gazebos and Greenhouses	(Same additions as for Awnings, Canopies, Storm Blinds attached to a dwelling.)	
Cubby Houses	Added “ <i>Maximum height of floor level 600mm from natural ground level</i> ”.	To ensure cubby houses do not result in overlooking of adjoining properties.
Decks	(Same additions as for Awnings, Canopies, Storm Blinds attached to a dwelling – except for the requirement about signage)	

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Driveways, paths and paved areas	<ul style="list-style-type: none"> ▪ Section name changed to “<i>Driveways, Paths and other Impervious Areas (including paved areas)</i>”. 	<ul style="list-style-type: none"> ▪ To clarify the extent of development to which this section applies.
	<ul style="list-style-type: none"> ▪ Added “<i>Site coverage of paved areas not to exceed 50% of private open space</i>”. ▪ Added “<i>Not to increase impervious area of the site, excluding the dwelling and garage/carport, to above 50%</i>”. 	<ul style="list-style-type: none"> ▪ To minimise impervious area on site. ▪ To minimise impervious area on site.
Garden Sheds	(Same additions as for Awnings, Canopies, Storm Blinds attached to a dwelling – except for the requirement about signage)	
Hoardings	<ul style="list-style-type: none"> ▪ Added “<i>No signage or advertising to be displayed on hoardings</i>”. 	<ul style="list-style-type: none"> ▪ To prevent a proliferation of advertising.
Home-based Child Care Centre	<ul style="list-style-type: none"> ▪ Section added. ▪ Allows for care of up to 5 children. ▪ Must be registered with DOCS. 	<ul style="list-style-type: none"> ▪ So that development consent is not required for a home-based child care centre.

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Minor Internal Alterations	<ul style="list-style-type: none"> ▪ For (ii) Commercial Premises, added “<i>(Excluding Food Shops)</i>” to the title ▪ Added (iii) “<i>Industrial Premises</i>” (Details similar to “commercial premises” except minimum floor area changed to 500m²) 	<ul style="list-style-type: none"> ▪ Alterations to food premises should require a development application. ▪ To allow minor internal alterations to industrial buildings.
Retaining Walls	<ul style="list-style-type: none"> ▪ Changed maximum height from 600mm to 500mm. ▪ Added “<i>not within minimum 5m x 5m private open space area</i>”. 	<ul style="list-style-type: none"> ▪ To be consistent with Council’s cut and fill policy. ▪ To ensure principal private open space area is not affected by a change in level.
Satellite Dishes	<ul style="list-style-type: none"> ▪ Added “<i>Rural</i>” to (i) ▪ Added “<i>Industrial</i>” to (ii) 	<ul style="list-style-type: none"> ▪ To allow small satellite dishes in rural areas. ▪ To allow small satellite dishes in industrial areas.
Solar Hot Water Heaters and Solar Panels	<p>Added “<i>Must not be located on roof slope facing primary street frontage</i>”.</p>	<p>To prevent solar hot water heaters becoming visually dominant in a streetscape.</p>
Temporary Signs – Development Site Signs	<ul style="list-style-type: none"> ▪ Added “<i>must state name and contact details of site manager</i>”. ▪ Deleted “<i>Only permitted for a maximum period of 1 year</i>” and added “<i>Must be removed from site at completion of construction works</i>”. 	<ul style="list-style-type: none"> ▪ So that the general public have contact details of site manager. ▪ To ensure that the sign is erected for the duration of the works and removed when works are completed.

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Fabric Signs, Community Signs and Sponsorship Advertising	Re-worded and Consolidated	To be consistent with Council’s Policy No. 4.1.5 Banners and Signs on Road Reserves.
Temporary Structures and Temporary Buildings	Re-worded	To separate the various types of temporary buildings and structures.
Builders sheds, portable toilets and scaffolds	Deleted “ <i>removed on completion of associated development or within six (6) months..</i> ” and replaced with “ <i>removed within 5 days of completion of associated development</i> ”	<ul style="list-style-type: none"> ▪ To ensure that the structures are erected for the duration of the works and removed within a reasonable time after completion of works.

Note: In some sections of Schedule 1, the “Advisory Notes” column contained statements of requirements. Where this occurred, the statements were relocated to the “Standards” column.

8. Schedule 2 – Complying Development Provisions

In Schedule 2, the heading for column two has been changed from “Requirements and Outcomes” to “Standards” to be consistent with terminology in the legislation. Further, the requirement “*meets the specification of ‘what is and what is not complying development’ as outlined in the previous section 5*” has been deleted from each development type and a new note to this effect has been added under the schedule title.

Within each section of Schedule 2, the titles “*Requirements*” and “*Outcomes*” have been deleted as all of the matters listed are standards.

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Activity	Modification	Reason For Modification
Detached Dwellings in Residential Zones	<ul style="list-style-type: none"> ▪ Deleted “<i>On lots between 500m² and 1000m²”</i> and replaced with “<i>Only on lots over 500m².</i>” ▪ Added “<i>One dwelling per property</i>”. ▪ Deleted “<i>The proposed development is permissible with development consent under the provisions of Camden LEP’s 46, 47 and 74</i>”. ▪ Deleted “<i>The adjoining owner/s of vacant land are to be identified to establish if building proposals for the vacant land are available....</i>”. 	<ul style="list-style-type: none"> ▪ To allow dwellings on residential lots over 1000m² as Complying Development. ▪ To prevent two-dwelling development, dual occupancy or granny flat development as Complying Development. ▪ A dwelling is a permissible development on all land zoned residential. ▪ This is not a development standard.

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Detached Dwellings in Residential Zones (cont.)	<ul style="list-style-type: none"> ▪ Added “<i>Maximum impervious area is 50% of the site, excluding the dwelling and garage/carport</i>”. ▪ Relocated garage and car port requirements to a new section. ▪ Relocated alteration and addition requirements to a new section. ▪ Changed ceiling insulation to minimum R3.5. ▪ Deleted “<i>Dwellings are to be sited to allow living rooms to be oriented...</i>” 	<ul style="list-style-type: none"> ▪ To be consistent with DCP 58. ▪ So that the Plan has a logical format and for clarity. ▪ So that the Plan has a logical format and for clarity. ▪ To be consistent with other Council policy. ▪ Section already requires living areas to receive minimum 3 hours of sun.
	<ul style="list-style-type: none"> ▪ Reworded “<i>Lowest habitable floor is to be a maximum of 1m above natural ground level</i>” to “<i>The level of the finished ground floor shall not be greater than 1m above natural ground</i>”. 	<ul style="list-style-type: none"> ▪ For clarity.

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<p>Detached Dwellings in Residential Zones (cont.)</p>	<ul style="list-style-type: none"> ▪ Changed maximum building height dimensions to 3.6m and 6.5m. ▪ Changed “living areas or balconies are not permitted on first floors” to allow balconies and living areas at first floor level where they do not overlook adjoining properties. ▪ In the tree preservation section, added “<i>for foundations, footings, drainage or sewerage lines, etc</i>” in the clause regarding excavation near trees. 	<ul style="list-style-type: none"> ▪ The existing maximum heights are too restrictive and the proposed change will not result in excessive building heights. ▪ The existing control is too restrictive and the proposed change will not result in privacy concerns. ▪ For clarity.
<p>Dwellings in Rural Zones</p>	<ul style="list-style-type: none"> ▪ Added “<i>One dwelling per property</i>”. ▪ Deleted “<i>The proposed development is permissible with development consent under the provisions of Camden LEP’s 46, and 48</i>”. ▪ Relocated garage and car port requirements to a new section. 	<ul style="list-style-type: none"> ▪ To prevent two-dwelling development, dual occupancy or granny flat development as Complying Development. ▪ A dwelling is a permissible development on all land zoned rural. ▪ So that the Plan has a logical format and for clarity.

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<p>Dwellings in Rural Zones (cont.)</p>	<ul style="list-style-type: none"> ▪ Relocated alteration and addition requirements to a new section. ▪ Changed ceiling insulation to minimum R3.5. ▪ Deleted <i>“Dwellings are to be sited to allow living rooms to be oriented....”</i> ▪ Reworded <i>“Lowest habitable floor is to be a maximum of 1m above natural ground level”</i> to <i>“The level of the finished ground floor shall not be greater than 1m above natural ground”</i>. ▪ Changed maximum building height dimensions to 3.6m and 6.5m. ▪ Added <i>“All fencing is to be of an open nature such as post and rail or post and wire style fencing”</i>. 	<ul style="list-style-type: none"> ▪ So that the Plan has a logical format and for clarity. ▪ To be consistent with other Council policy. ▪ Section already requires living areas to receive minimum 3 hours of sun. ▪ For clarity. ▪ The existing maximum heights are too restrictive and the proposed change will not result in excessive building heights. ▪ To be consistent with other Council policy.
<p>Dwellings in Rural Zones (cont.)</p>	<ul style="list-style-type: none"> ▪ In the tree preservation section, added <i>“for foundations, footings, drainage or sewerage lines, etc”</i> in the clause regarding excavation near trees. 	<ul style="list-style-type: none"> ▪ For clarity.

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<p>Alterations and Additions (new section)</p>	<ul style="list-style-type: none"> ▪ Added “Awnings or other shade structures are to have a maximum aggregate area of 30m², a maximum height of 2.7m and be no closer than 900mm from side and rear property boundaries”. ▪ Added clauses to reinforce that the requirements for dwellings also apply to the requirements for additions. 	<ul style="list-style-type: none"> ▪ To clarify the complying development requirements for awnings and other shade structures. ▪ For clarity.
<p>Carports and Garages (new section)</p>	<ul style="list-style-type: none"> ▪ Changed parking requirements from a minimum of 2 spaces for all dwellings to a minimum of 2 for 3 or more bedroom dwellings and a minimum of 1 for 2 or less bedroom dwellings. 	<ul style="list-style-type: none"> ▪ To allow a variety of dwelling sizes as complying development with appropriate standards.

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Carports and Garages (new section)(contd)	<ul style="list-style-type: none"> ▪ Add “<i>Not to reduce uncovered private open space to below a minimum area of 5m x 5m</i>”. ▪ Changed setback to side boundaries from 500mm to 900mm. 	<ul style="list-style-type: none"> ▪ To ensure principal private open space area remains uncovered. ▪ To ensure fire safety requirements of BCA are satisfied and to be consistent with other setback requirements.
Air-conditioning units for dwellings (new section)	Relocated from Schedule 1 – Exempt Development	As a result of numerous noise problems associated with air-conditioning units.
Sheds in Rural Zones	<ul style="list-style-type: none"> ▪ Changed maximum no. of sheds per property from one to two. ▪ Added the word “<i>aggregate</i>” into the maximum area requirement. ▪ Added “<i>except a home business</i>” at the end of the clause “<i>not to be used or adapted for residential, industrial or commercial purposes</i>”. 	<ul style="list-style-type: none"> ▪ To allow flexibility in the complying requirements for sheds in rural zones. ▪ To ensure two sheds of 80m² are not complying development. ▪ To be consistent with other Council policy.

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Sheds in Rural Zones (contd)	<ul style="list-style-type: none"> ▪ Changed setback to side boundaries from 3m to 5m. 	<ul style="list-style-type: none"> ▪ To be consistent with other setback requirements.
Swimming Pools and/or Spas	<ul style="list-style-type: none"> ▪ Changed side setback requirement to <i>“The pool shall be sited so that the water’s edge is no closer than 1m to a property boundary”</i>. 	<ul style="list-style-type: none"> ▪ To be consistent with relevant legislation.
	<ul style="list-style-type: none"> ▪ Added <i>“The pool barrier (eg. fence, wall) shall be a minimum of 1.0m from the water’s edge”</i>. ▪ Added <i>“Above ground pools are to be no more than 1.2m above natural ground level with no attached decking”</i>. 	<ul style="list-style-type: none"> ▪ To be consistent with relevant legislation. ▪ To allow above ground pools as complying development provided there is no attached decking.
Swimming Pools and/or Spas (cont.)	<ul style="list-style-type: none"> ▪ Added a requirement on noise attenuation of pumps and filters. ▪ Add <i>“Not to increase impervious area of the site, excluding the dwelling and garage/carport, to above 50%”</i>. 	<ul style="list-style-type: none"> ▪ To ensure that pool pumps or filters do not cause a noise nuisance. ▪ To minimise impervious area on site.

9. Schedule 3 – Complying Development Certificate Conditions

The Complying Development Certificate Conditions have been amended to be consistent, where relevant, with State Environmental Planning Policy No. 60 – *Exempt and Complying Development* and Council’s current standard development conditions.

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Conclusion

A comprehensive review of DCP 112 – Exempt and Complying Development has been undertaken. As a result, various inconsistencies and out-of-date requirements have been found and are proposed to be corrected. While there are a great number of proposed changes, most of the changes are minor and the Draft DCP does not constitute a major shift in the types of developments that may be exempt or complying.

Recommended: That

- (i) Council approve, for the purposes of exhibition, the proposed changes to DCP 112 – Exempt and Complying Development as outlined in the above report;
- (ii) Council resolve to prepare a Draft LEP to amend LEP's 45, 46, 47, 48 and 74 to give effect to Draft DCP 112;
- (iii) Council advise Planning NSW of its decision to prepare a Draft LEP; and
- (iv) Once a Draft LEP has been prepared, Council exhibit Draft DCP 112 in conjunction with the Draft LEP.

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

- (i) Council approve, for the purposes of exhibition, the proposed changes to DCP 112 – Exempt and Complying Development as outlined in the above report;
- (ii) Council resolve to prepare a Draft LEP to amend LEP's 45, 46, 47, 48 and 74 to give effect to Draft DCP 112;
- (iii) Council advise Planning NSW of its decision to prepare a Draft LEP; and
- (iv) Once a Draft LEP has been prepared, Council exhibit Draft DCP 112 in conjunction with the Draft LEP.

DC069/02 THE MOTION WAS **CARRIED**.

2. **Development of Softball Park - Rotary Cowpasture Reserve, No 2 (Lot 1 DP 612829) Argyle Street, Camden**

File No: DA350.20-5 (Director, Development & Environment Division)
Owner: Camden Council
Applicant: Macarthur District Softball Association
Zone: 6(a1) Existing Open Space
DA No: 1871/2001

Purpose of Report

This report is submitted to Council to provide an assessment of a structural engineer's report lodged with Council in relation to the softball structures erected by the Macarthur District Softball Association on Cowpasture Reserve.

Summary of Recommendation

It is recommended that Council refuse the submitted development application, and furthermore, recommended that all structures erected on the site without Council development consent be removed.

Background

Council has considered a number of reports on this matter, the last of which was 11 February 2002. At that meeting Council resolved the following: -

That the matter be deferred: -

- (a) *until a structural engineer's report is supplied to Council as regards to the back nets and dug out area in the event of a flood and the effects the area has on existing flood flow;*
- (b) *A structural engineer's report is supplied to Council regarding the suitability of the lighting towers;*

An on-site meeting was conducted on 25 February 2002. At that meeting, part of the requested Structural Engineer's report was submitted, with the remainder submitted to Council on 15 March 2002.

The structural engineer's report was referred to the Snowy Mountains Engineering Corporation (SMEC) for their assessment. This company conducted Council's Floodplain Management Study for the Nepean River.

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SMEC has provided advice and the contents of this response forms the basis of this report.

The Site

The site is currently developed as a softball complex with nine (9) fields and associated facilities. Council, over a period of time, has allowed and encouraged the development of Rotary Cowpasture Reserve as a softball facility, to the extent of giving financial assistance to the development of the reserve.

A plan showing the subject site forms **Tabled Document “DC3”**.

The Proposal

The development application submitted seeks Council approval for the following: -

- The construction of two (2) batting tunnels and a practice batting and pitching area. The batting tunnels are chain wire structures 20 metres long x 6 metres wide x 3.5 metres high, and are supported by a metal pipe frame. The tunnels have been designed to enable the rear wall to be dropped in time of pending floods. Adjacent to the pitching tunnels is a practice batting and pitching area. This is a flat area with a dolomite surface used for the hitting and throwing of balls into the sides of the pitching tunnel.
- Two 18m high lighting towers containing lights of sufficient intensity for practice only.
- Backnets have been erected on eight (8) of the nine fields and dugouts have been erected on four (4) of the fields. Dugouts are currently under construction on two (2) other fields. The application also seeks development approval for these previously erected structures.

Flooding

The site is severely flood- affected, and is classified by the NSW Floodplain Management Manual as ‘High Hazard – Floodway’.

The Manual suggests that, whilst new development should not be considered in a “high hazard - floodway”, it may be acceptable under special conditions. Such conditions should involve a detailed review of the impact of the new development on flooding and of the potential hazard of flooding on the new or existing development.

The flooding information available to Council indicates: -

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- that during a 1% flood event, water crosses the subject site at a depth of between 7.3m and 5.2m at a velocity of 1.1m/sec to 1.2m/sec.
- that during a 5% flood event water crosses the subject site at a depth of between 3.6m and 5.4m at a velocity of 0.9m/sec to 1.0m/sec.

Insurance

The matter has been discussed with Council's insurance brokers who have responded with the following:

- If Council has considered the erection of nets and identified hazards associated with them and allows the nets to be erected, it could be argued that Council would be liable for any injury and/or damage to third parties.
- Council should not automatically assume that, if injury or property damage is caused by the nets, its protection providers will provide indemnity to Council in such circumstances.
- The Board of Management of Statewide may deny indemnity to Council for ignoring the advice of skilled Council staff and may decide that Council has not enforced those recommendations and has done so in the knowledge that, in the likelihood of any claim, Council would be responsible for the defence and/or settlement of that claim.
- It could be argued that Council has knowingly allowed a situation to arise which has increased the exposure of the Mutual Scheme and its other Members, consequently, Council has not fulfilled the conditions of the protection wording.

It can be seen from the above that, should Council recommend approval of the proposed development, Council may be held liable for a substantial compensation claim which may not be honoured by Council's insurance brokers.

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Assessment

An assessment of this application, in accordance with the requirements of Section 79c of the EP&A Act, was carried out in the report to Council of 11 February 2002. A copy of the minutes forms **Tabled Document “DC4”**.

In addition to the above assessment, the following addresses the response received from SMEC. A copy of the report forms **Tabled Document “DC5”**.

SMEC Report

In assessing applications for development on flood-affected properties, there are two issues to be considered. The impact the subject structures will have on the flood event and its subsequent impact on other structures, and the impact of flooding on the subject structures.

The SMEC report states the following: -

- The general findings of G F Murphy Consulting, that there will be no significant impacts on flood levels and velocities, is supported by the modelling SMEC has undertaken.
- SMEC agrees with the comments of the State Emergency Service regarding access to the site and its “evacuation” on receipt of a flood warning. It is not the best practice to have to place people at risk to remove equipment from a flood-affected site; the people involved would be at risk with access roads cut before the site is affected and there would be many “false alarms” requiring “evacuation” before a flood fully affected the site;
- While SMEC has not assessed the structural issues raised by G F Murphy Consulting, the consequences of the netting failing need to be considered. Should the netting connectors fail both top and bottom, large areas of netting will move downstream, catching on other poles, fences or buildings. These will then act as additional debris traps to the detriment of others and may involve some liability for Council and the Association. If the development proceeds, the netting should be secured, preferably at the bottom and sides, with plastic (breakable) connectors and securely at the top so that failure occurs low and the debris has the chance to wash off/pass under without total loss of the structure;
- The shipping container poses a risk in flooding and is environmentally obtrusive on the floodplain. While it may be possible to anchor the container, it would be more

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appropriate to find some other method or location for its contents to be stored;

- Localised increases (in flooding) have the potential for significant scour for both the structures and the reserve.
- The following scour protection measures may be introduced:
 - (a) healthy grass cover on the overall areas;
 - (b) limited open soil locations, particularly near the nets and posts; and
 - (c) vegetation screens to reduce velocity profiles in the area.

However, the effectiveness of these measures is unknown.

- The size of the back nets, and the risk of these being destabilised and washed downstream, remains a concern. Should this happen during a flood event they have the potential to obstruct flooding downstream, which may have a severe impact on flood levels, velocities and flood damages. Should they obstruct a bridge opening downstream, there is potential that this could lead to the bridge collapsing.

It is important to reflect on Camden's experiences with the devastating and unpredictable effects of floods; particularly the effect the 1975 flood had on the Cowpasture Bridge. This flood (estimated to be a 1 in 7 year flood) was significantly less in terms of height, volume and velocity than the 1 in 100 year flood, yet this flood caused extensive damage to a significant structure, resulting in the reconstruction of the bridge decking. If a relatively minor flood can cause so much damage to a significant structure, then a major flood such as the 1% AEP (1 in 100 years) would have devastating effects on structures.

Based on Council's flooding experience, it is considered that the development of the proposed softball park, in its current form at Cowpasture Reserve, is not an appropriate use of this site within the floodplain in light of the unpredictable nature of flooding, together with the significantly devastating impacts of major flood events.

It is recommended that due to the flood hazard, flows, velocities, high potential for scour, the instability of the structures, the potentially devastating impacts upon failure and the risk to human life, that Council not approve the development of the Softball Park as proposed for Cowpasture Reserve, Camden.

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Summary

Whilst the SMEC assessment is not definitive in stating that the structures will be washed away, they have expressed a concern that the structures could be washed away as a result of scouring of the supports, or alternatively by a build up of debris upon the netting.

SMEC have also suggested possible means whereby both scouring and the build up of debris on the netting might be reduced. However, once again they have not said that these are fail-safe solutions.

However, if the structures fail and are washed away, they have the potential to cause further obstruction, which could have an adverse impact on property and structures downstream, thereby possibly generating potential litigation claims against both Council and the MDSA.

In view of the above it is to be recommended that, as it cannot be guaranteed the structures will not be washed away and cause significant damage, Council refuse the application.

Referring to the existing structures erected on the site without development consent, it is to be recommended a Notice of Intention to Serve an Order be served on the MDSA requiring that all unauthorised structures be removed within two months of the Council determination.

Referring to the evacuation plan submitted by the MDSA, it is considered totally inappropriate to place people in a position whereby their means of escape is totally cut off before the land which they are working becomes inundated resulting in them working on an island surrounded by rapidly flowing floodwaters.

Recommended: That:

- (i) Development Application 1871/2001 for the construction of two (2) batting tunnels and an adjacent practice batting and pitching area and two 18m high lighting towers, at Rotary Cowpasture Reserve, No 2 (Lot 1 DP 612829), Argyle Street, Camden be refused for the following reasons: -
 - (a) The proposed development is inconsistent with the requirements of clause 21 of Camden Local Environmental Plan No 46 in that the applicant has not demonstrated that the proposed structures will not fail during a flood event leading to potential damage of infrastructure and/or property.

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- (b) The proposed development has the potential for significant scouring of the structures causing possible failure.
 - (c) The proposed development has the potential for significant scouring of the reserve.
 - (d) The applicant has not demonstrated that the netting is capable of being retained within the structures, and should it break free, the netting will move downstream possibly catching on poles, fences, trees or buildings; thereby acting as an additional debris trap, and increasing the potential to cause additional damage to property and/or life.
 - (e) The applicant has not demonstrated that the structures will not fail as a result of flood hazards, such as water and debris forces and velocities
 - (f) The application does not comply with the provisions of the NSW Floodplain Development Manual, which requires any structure erected within a “high hazard- floodway” to provide structural engineers details, demonstrating that the structures are capable of withstanding the force of flowing floodwaters, including debris and buoyancy forces.
 - (g) The evacuation plan is not considered acceptable, as it would require people to be placed in an area where the access roads are cut before the subject site is affected.
- (ii) Orders under section 121 of the EP&A Act be served requiring the netting to be dismantled and removed from the site within two months.

MOTION

Moved Cr Anderson, seconded Cr Campbell that

- (i) *Development Application 1871/2001 be stood over*
- (ii) *The matter be workshopped between Council Officers, and Macarthur District Softball Association and Councillors.*
- (iii) *Such meeting/ Workshop be attended by the appropriate Council Officers and their consultants, as many*

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Councillors as may elect to attend and a total of four (4) officers or members and representatives of the Macarthur District Softball Association plus their consultants.

- (iv) *A further report be presented to Council no later than 26th August 2002.*

DC070/02 THE MOTION ON BEING PUT WAS **CARRIED**.

ADJOURNMENT OF MEETING

Due to the large number of members of the public in the Gallery, the Mayor called a short adjournment of the Meeting, the time being 6.01pm.

MEETING RECONVENED

The Meeting reconvened at 6.03pm

All Councillors as previous recorded where present in the Chamber.

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3. Companion Animals

(PF:6135.50) (Director, Development & Environment Division)

Purpose of the Report

To advise Council of the outcome of a prosecution for a breach of Section 16 of the Companion Animals Act 1998 against the owners of a Rottweiler dog, Mr Robert Firth and Ms Kelley King.

Background

Council resolved at the Ordinary Meeting 22 April 2002, to prosecute Mr Firth and Ms King for a breach of the Companion Animals Act after their Rottweiler dog attacked and inflicted serious injury on a member of the public who was passing by their place of residence on 29 March 2002. The incident was investigated by Council officers at the time and the dog was surrendered by the owner and subsequently destroyed.

As a result of the attack, the victim was hospitalised for one week after suffering deep punctures and cuts to her lower leg. A number of the injuries required stitches and plastic surgery. It is expected that further medical treatment may be required to remove scar tissue on her leg within the next twelve months.

Current Situation

The matter was listed for mention before Magistrate Spence at the Camden Local Court on 11 July 2002. At this time, both defendants appeared and entered a plea of guilty to the charges. His Worship convicted both defendants and fined them a total of \$1,500, awarded Council \$128 Court costs, \$650 legal costs and made a further Order to pay the victim \$3,026 in compensation for her medical expenses and associated costs.

Summary

This matter is now concluded.

Recommended: That the information contained in this report be noted.

Resolved on the Motion of Cr Winn, seconded Cr Patterson that the information contained in this report be noted.

DC071/02 THE MOTION WAS **CARRIED**.

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**4. Rezoning Application and Development Application
936/2002 - 23 Harrington Street, Elderslie (Lot 2, DP
1008301)**

File: **PF3725.45** (Director, Development &
Environment Division)
Owner: **BG & S Dickinson**
Proposal: **Strata Subdivided Serviced Apartments,
Convention Centre and Restaurant**

Purpose of Report

The purpose of this report is to:

- (a) inform Council that the exhibition of Draft Local Environmental Plan No. 129 (Draft LEP), which proposes to amend LEP46 to permit the development of strata-titled serviced apartments associated with a convention centre and a restaurant on Lot 2 DP 1008301 at 23 Harrington Street, Elderslie, resulted in the receipt of one submission; and
- (b) seek Council's approval of the Draft LEP for referral to the Minister for gazettal.
- (c) approve Development Application 936/2002.

Background

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

Work on the construction of the development was commenced, but has been ceased subject to the determination of this rezoning application and the development application.

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

The request for rezoning was reported to Council on 11 March 2002. The resolution of the meeting was that:

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

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

In accordance with the above resolution, a draft LEP was prepared, the Director, Department of Planning NSW was notified and the rezoning has been exhibited in accordance with the Act. The exhibition included the proposed development plans in accordance with Council policy, which basically requires that any “spot” rezoning proposal must be accompanied with development application plans and be exhibited concurrently.

A copy of the exhibited draft LEP is attached to this report as **Tabled Document “DC6”**.

Proposal

The proposed development consists of a 25 room serviced apartment complex in association with convention/function room facilities and restaurant. Provided on-site are 141 car parking spaces, 30 of which are under the building. The latter spaces are allocated to the apartment clients. A bus parking/drop off area is also provided. Vehicular access is provided from Camden Valley Way, via a one-way traffic movement. No access is proposed to Harrington Street. Entry signage is proposed within the road reserve and this will require Council’s approval.

The front section of the building is of single storey construction, with the rear section containing the apartments two storey. A copy of the development plans form **Tabled Document “DC7”**. The front section of the building contains the convention/function room facilities and restaurant.

The applicant has submitted a planning report, acoustic report, traffic report, landscape plans and a flooding report with the development application.

The Site

The site is known as No 23 Harrington Street, Elderslie and is located between Hilder Street and the closed section of Hassal Street. Total site area is 8640m². Existing on-site is the footings from the previously approved and commenced motel development. The land is affected by the 1% AEP flood event at RL71.6m.

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Current Zone

The property is currently zoned 6(c) Open Space Private pursuant to LEP 46. The proposed use is permissible with development consent as a tourist facility. The request to rezone the land to permit the strata subdivision of the serviced apartments is the subject of this report, together with an assessment of the development application.

Submissions

The rezoning application and development plans were notified to 45 adjoining residents. At the conclusion of the exhibition period, one submission was received to the exhibition of the draft LEP. The issues raised in the submission are addressed below. A copy of the submission was **handed to the Councillors separately with the business paper.**

The submission raises a concern as to whether this is the final proposal for the site or whether there will be more “improved” changes in the future, wasting Council and community time and effort.

Comment

Once development consent or a rezoning of land has been approved by Council, it is up to the owner of the land to decide whether to proceed with the development. Often developments do not proceed due to many factors including change of owner, lack of finance, change of mind, market forces, etc. A development application has been lodged which would indicate that this development will proceed once development consent is issued.

The subject proposal may not be the final proposal for development of the land. However, this is not a matter for consideration in determining the proposed rezoning. The rezoning and development proposals do, however, provide a level of certainty as to the form and content of the development of this site.

All applications for rezoning and development of land attract appropriate fees which, in part, reflect Council’s costs in determining the applications.

1. The submission asks why the developer started work on the original approval and then ceased work and applied for a rezoning.

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Comment

It appears that the developer commenced work on the approved development in order to prevent that development consent from lapsing. Should the proposed rezoning fail, it would be likely that the developer would resume construction of the approved development (a motel and convention centre) in accordance with the previous plans.

2. The submission states that the concept plans show three additional access entries to the site from Camden Valley Way and a semi-circular vehicle “get in/get out” road on the public reserve, potentially affecting the trees on the reserve.

Comment

Whilst the plans do not specify it, the entries referred to in the submission are pathways for pedestrian access to the premises from Camden Valley Way. The semi-circular “road” referred to in the submission is also a pathway linking to the disabled access ramp.

3. The submission states that there are considerably more car parking spaces proposed on the site. Further, traffic has increased in the area in the last 6 years and will “skyrocket” when the Elderslie Infill development occurs.

Comment

A full parking and traffic assessment has been undertaken by the developer as a part of the development application process. The previously approved development proposed 102 spaces. This development provides for 141 spaces. Therefore, the applicant is providing additional spaces to ensure that the parking demand generated by this development is provided on-site. The proposed development is a category two development pursuant to SEPP 11 - Traffic Generating Development - and the Roads and Traffic Authority have already approved the access arrangements.

It is agreed that traffic in the area will increase as a result of the Elderslie Infill residential development. However, this is being addressed in the consideration of the Elderslie proposal and does not impact on this development proposal.

4. The submission states that the concept plans show the site closer to Camden Valley Way than previously thought, reducing the width of the reserve, or making the reserve an integral part of the development.

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Comment

The concept plans do not show exactly where Camden Valley Way is in relation to the site. Given the angle of the property, the building is located at its closest point 7.15m from the front property boundary. Existing fencing clearly shows the location of the property in relation to the road reserve.

5. The submission raises a concern that the provision of a Section 88B instrument, under the Conveyancing Act to control the short-term accommodation in the serviced apartments, is very loose and almost impossible to enforce.

Comment

The applicant has provided legal advice that the use of a Section 88B instrument is appropriate for the control of the short-term accommodation. However, the applicant also proposes a central management regime for the serviced apartments.

Should there be concern that the serviced apartments are being used for long-term accommodation, Council can investigate this matter through a variety of means, including surveillance, check of attendance records, etc, and can enforce any breach of the development consent through appropriate legal means.

6. The submission states that the proposal appears to be higher than the original approval, and that car parking under the serviced apartments makes this part of the building three storeys in height.

Comment

In the original approval, the motel portion of the building was raised above ground level by 1.5m, presumably to ensure the floor level was above the flood line. That proposal did include parking underneath the ground floor.

The plans for the current proposal show the ground level of the serviced apartments at RL72.350m or 850mm above the 1% AEP level. This will result in a building that is taller than the previous approved building. The ridge of the roof of the approved building was 10m above natural ground level. The plans show the ridge 13m above natural ground level at its highest point (apartments).

The plans were submitted to Council's consultants for assessment and advice. The consultants have advised that:

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“The proposed building, including the roofs, are ornamented with “Federation” period characteristics. The building is considered to be acceptable for such a function centre. It would have an air of informality and an architectural theme well suited to its use. Hence these characteristics should not be discouraged, but should be carried through to materials, colours and finishes suitable to the “Federation” theme. The roofs are the most visually dominant element. However, they are well broken up. Their complexity and “Federation” detailing contributes visual interest and are complementary to the characteristics of the building. As the roofs are large, they should be of a subdued colour. Soft greys-greens would be acceptable.”

In addition to these comments, the large setback to Camden Valley Way and landscaping will assist to enable the proposed building to sit comfortably within the landscape setting of the site. The applicant has submitted a colour scheme for the development with the application, which follows the above criteria.

7. The submission raises a concern about noise impacts from the development on surrounding properties.

Comment

A full acoustic assessment has been undertaken as a part of the development application process. The acoustic report recommends that a number of acoustic treatment measures be put in place to ensure that the development does not adversely affect the adjacent properties.

Conditions of consent will be imposed on the development to conform to the criteria

8. A manager’s residence and tennis court are not shown on the concept plans.

Comment

A manager’s unit is shown on the floor plan. The proposal does not include a tennis court.

9. The proposal will have a significant visual impact on the area, particularly from Camden Valley Way, Low Street, Harrington Street, Hilder Street and the approaches to and from Camden.

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Comment

Whilst the current proposal is slightly higher than the approved building, the scale of the development when viewed from surrounding properties will be similar to the approved development. It is considered that the building is more articulated in design and will therefore appear less bulky than the original approval. This matter was addressed above under issue 7.

10.The submission states that there is no noticeable emergency exit to Harrington Street in case of flood.

Comment

The plans show car parking across the full length of the Harrington Street boundary of the site, with no access to this Street. This was an issue raised in previous concerns from residents of Harrington Street and has been deleted to overcome concerns with traffic impacts. However, in the event of a major flood cutting off Camden Valley Way, and if persons have not vacated the premises by this time, then pedestrian access and removal of goods to Harrington Street is still available.

11.The submission states that a full study of the effect of flooding on the site and the impact of the development on flood levels on adjoining properties should be undertaken.

Comment

A full assessment of the impact of the development on the locality in terms of flooding has been undertaken in association with the development application. Clause 21 of LEP 46 requires Council to assess the impacts the development is likely to have on adjoining properties and flood levels. This matter will be addressed under the heading of Flooding below.

12.The submission states that any conditions of a new development application should be in accordance with current regulations, not based on the previous approval.

Comment

Any conditions of development consent for the erection of the building will relate to the new application.

13.The submission raises a concern that liquor and entertainment licences will be sought for the proposed development and that late hours of operation will be sought, turning the proposal into another pub.

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Comment

The development is not for a “pub”, but a conference/function centre. Like similar developments throughout the region, the centre will provide liquor on site and need to comply with requirements set down by Council and the Liquor Administration Board in terms of hours of operation, security arrangements and the responsible serving of alcohol. The application is clear in its intent and will not be converted to another use.

Planning Controls

As stated above, the current zoning of the land permits a motel complex and restaurant. The rezoning application is to allow the strata subdivision of the rooms to permit separate ownership. This is a common practice with this type of tourist facility. The following plans and policies were considered in assessing the proposal.

- Camden LEP 46
- Camden Strategic Plan – 2025
- Flood Plain Management Manual
- Sydney Regional Plan 20 – Hawkesbury- Nepean River
- Development Control Plan 97- Car parking Code
- Draft Camden Scenic and Landscape Study

Assessment

The following comments are provided with respect to the planning assessment undertaken by Council.

- (a) the provisions of any planning instrument, Development Control Plan or matter prescribed in the regulations.

Camden Strategic Plan – 2025

The Strategic Plan promotes tourism as one of the priorities. The Plan states that Camden’s natural environment and historic assets and its proximity to Sydney also offers potential for economic development and employment. Opportunities exist, in particular, for the development and promotion of tourism businesses. One of the objectives of the Plan is to promote tourism by capitalising on the environmental and historic assets of Camden. It is clear that the proposed development complies with the Plan.

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Draft Camden Scenic and Landscape Study

The subject land is described in the Study as follows:

“The part of the road between approximately Studley Park and the Cowpastures Bridge forms another important visual gateway, this time to Camden Town itself. This gateway effect is accentuated by the contrasts of land use and the low scale traditional form of buildings to the north of the Cowpastures Bridge. Development to the north by contrast is having the effect of blurring this contrast and decreasing the ‘entry’ effect to town”.

It is considered that the development would not be out of character with the area and is not inconsistent with the Study. Council’s consultants have viewed the plans and have no objection to the proposal as stated earlier in this report.

Sydney Regional Environmental Plan No 20 – Hawkesbury-Nepean River

This Plan applies to the land. The plan integrates the planning process with the catchment management and aims to protect the environment of the river system by ensuring that the impacts of future development and land uses are considered in a regional context. The planning framework set in place by the Plan outlines specific planning policies for key issues including water quality and quantity. The development will be required to put in place measures to protect soil erosion from entering the river system.

(b) the likely impacts of that development, including environmental impacts on both the built and natural environment

Flooding

Clause 21 of LEP 46 requires Council to assess flooding impacts of the development. In this regard, the applicant has submitted a flood report. The subject site is classified as High Hazard - Flood Fringe due to depth of water approximately 1m and flow of waters 1.1m/sec. As stated above, the 1% AEP flood level for this site is RL 71.6. The 5% AEP level is RL 70. Council’s current policy is to require the residential component of any development to be 600mm above the 1% level or RL 72.2. The residential component is at RL 72.350 (1050mm above), whilst the commercial component is at RL 71.150. All electrical outlets will be located at RL 72.350.

The report also states that the development can be designed to withstand the flood forces, given the type of construction

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material of the building. In addition the development is unlikely to alter the flood levels in the vicinity of the site, with the estimated increase to be approximately 50mm.

In terms of flood hazard, the velocity flows are expected to be 1.1m/sec, with the maximum depth of 800mm. Under these flows and depth, people will be able to exit to Harrington Street if not already evacuated. In this regard, the report states that the evacuation plan for occupants, vehicles and the equipment has a notification time in excess 4 hours for any flooding in the area. This will allow easy evacuation of occupants and vehicles. The time will also allow the raising of any materials in the conference area to a flood-free storage area. In a worst case situation, there is still a low hazard flood area to the rear of the property.

The proposed development complies with the merit based approach of the Floodplain Management Manual.

Traffic Generation

The Roads and Traffic Authority, as required under State Environmental Planning Policy No 11 – Traffic Generating Developments, previously approved the proposed access to Camden Valley Way. This approval was for a Type C intersection involving separate ingress and egress, with a right-turn bay in Camden Valley Way, with associated deceleration taper, while maintaining a full northbound through lane. No vehicular access is proposed to Harrington Street. These arrangements will provide a high level of access, meeting the needs of site traffic while minimising the impact on passing traffic.

On-site Car Parking

The plans provide for a total of 141 car parking spaces, plus one coach space. Four of the spaces are allocated for disabled parking at ground level meeting the requirements of AS2890.1-1993. A further two spaces can be access in the basement car park for disabled drivers. Pedestrian access to the reception and units is available via a lift. In accordance with Council's Code, 136 spaces are required to be provided on site. The RTA guidelines recommend 131 spaces.

Whilst the proposal meets the numerical requirements of both Codes, there could be overlapping uses, in terms of parking demand, between the motel guests and restaurant patrons, or possibly the function centre patrons. The concept of overlapping uses and hence parking demands at motels is well accepted. The RTA's guidelines make the following comments on motel parking.

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“If a restaurant and/or a function room is to be included as part of the development, then the amount of off-street parking must be reviewed and increased as necessary. If the restaurant primarily serves motel customers, then additional parking may not be required. However, the possibility of a future change in patronage of the restaurant must be considered. The following options apply to situations where the restaurant and/or function room operates entirely independently of the motel:

- *15 spaces per 100m² gross floor area of restaurant/function room facility, or*
- *1 space per 3 seats, whichever is the greater*

The total parking provision for motels with restaurants/function rooms may be reduced if it can be demonstrated that the peak parking demand of each facility will not coincide. Factors such as the time of usage, and possible future usage, must be taken into consideration when meeting parking requirements.”

Having regard to the above, if each element of the development is independently assessed for parking, there will be adequate parking on site.

Conclusion

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

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

Assessment of the impact of the proposal in terms of flooding, traffic, parking and visual impact are generally likely to be similar to those impacts of the approved development. These issues have been re-addressed in detail in this report.

Noise impacts from the proposed development are potentially significantly greater than the approved development. These potential detrimental impacts, however, can be attenuated through detailed design of the building and landscaping or through technical measures such as noise limitations, as detailed in the acoustic assessment.

The submission received to the proposal raises a number of issues and has been addressed in this report.

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It is considered that the proposed rezoning should be approved and the draft LEP as exhibited be referred to the Minister for gazettal without change.

Recommended: That:

- (i) Council approve draft LEP 129 to allow the development of strata-subdivided serviced apartments, convention centre and restaurant on Lot 2 DP 1008301 (23 Harrington Street, Elderslie).
- (ii) The draft LEP 129 be forwarded to the Minister, Department of Planning for gazettal.
- (iii) Development Application No 936/2002 for the erection of a motel complex, including restaurant and conference/function facilities, be approved.

(Cr Corrigan declared an interest in this matter due to his current employment in the Financial Industry. Cr Corrigan vacated the Chair and took no part in discussion or voting on this matter and left the Chamber, the time being 6.05pm)

(The Deputy Mayor, Cr Winn, assumed the Chair).

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

- (i) Council approve draft LEP 129 to allow the development of strata-subdivided serviced apartments, convention centre and restaurant on Lot 2 DP 1008301 (23 Harrington Street, Elderslie).
- (ii) The draft LEP 129 be forwarded to the Minister, Department of Planning for gazettal.
- (iii) Development Application No 936/2002 for the erection of a motel complex, including restaurant and conference/function facilities, be approved.

AMENDMENT

Moved Cr Batros, seconded Cr Campbell that

- (i) Council approve draft LEP 129 to allow the development of strata-subdivided serviced apartments, convention centre and restaurant on Lot 2 DP 1008301 (23 Harrington Street, Elderslie).
- (ii) The draft LEP 129 be forwarded to the Minister, Department of Planning for gazettal.

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(iii) *Development Application No 936/2002 for the erection of a motel complex, including restaurant and conference/function facilities, be approved. An additional Condition be added as follows:-*

(iv) *Short term accommodation be limited to 3 weeks.*

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

(Crs Patterson, Campbell, McFadden and Winn voted against the Motion).

FORESHADOWED AMENDMENT

Moved Cr Campbell, as per amendment, except Short term accommodation limited to 2 weeks.

THE FORESHADOWED AMENDMENT LAPSED THROUGH LACK OF A SECONDER.

*DC072/02 THE MOTION AS MOVED BY CR CAMPBELL WAS **CARRIED**.*

(Cr Campbell voted against the Motion).

(Cr Corrigan returned to the Chamber and resumed the Chair. The time being 6.45pm).

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**5. Land and Environment Court Proceedings – Corte -
Deepfields Road, Catherine Fields**

(DA2275.540/2) (Director Development & Environment
Division)

Purpose of Report

The purpose of this report is to advise Council of the legal proceedings commenced in the Land and Environment Court on 17 July 2002 and to give to the General Manager delegated authority, if objections are received, to determine a new development application for the subdivision of land at 211 Deepfields Road, Catherine Fields.

Background

The owners have proceeded to appeal against Council's determination to refuse a development application to subdivide the land into four lots with access from Deepfields Road. Action was taken in the Land and Environment Court in respect of this decision. The hearing commenced on Wednesday 17 July 2002. The hearing was adjourned on the request of both legal representatives, as a solution to the dispute became evident subject to a new development application being submitted to Council. Both parties agreed to this course of action, as it will potentially resolve the dispute without the need to proceed with the Court case. A recommendation was also made for a new hearing to be held in approximately one month, if resolution of this matter cannot be found by the owners and Council, with the proposed new development application.

Commissioner Hussey of the Court agreed to this course of action.

The Proposal

It was noted in Court that the only point of dispute was the access to the proposed subdivision. Council was insisting that the development had to be consistent with the current DCP 24 and the new draft DCP 119 to achieve orderly, planned development of the village. The owners were seeking access from Deepfields Road as the proposed access from Yorkshire Close was not available (being offered for sale at a value approximately three times its real value).

As noted above, Council resolved to carry out the compulsory acquisition of the required access from Yorkshire Close. This is currently with the Department of Local Government, following a submission Council made in March 2002. This matter is now awaiting ministerial approval before the process of acquisition can commence. Council's proposed acquisition of the road access off Yorkshire Close has predicated the proposed solution to the above dispute.

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The proposed new development application will initially provide temporary vehicular access off Deepfields Road for all four lots with the provision that, once Council can provide the land for vehicular access off Yorkshire Close, the permanent access to the three proposed battle-axe lots will be made to Yorkshire Close. The temporary access to Deepfields Road would then be extinguished. Refer to **Tabled Document “DC8”**.

The new development application will be exhibited to allow the adjoining owners to consider the proposal and make submissions to Council. It is intended to meet those landowners who have already made submissions so that this proposal can be fully explained during the exhibition period.

Action for Determination of New Development Application

Once Council is in receipt of the new development application, it is proposed to minimise the time in making the determination. To achieve this action, resolution is sought for the General Manager to have delegated authority to make this determination.

Summary

The above proposal will allow immediate access off Deepfields Road for the owners, which will achieve their objective of developing the land quickly, as well as Council achieving the objectives of both the DCP's for the village of Catherine Field, when it acquires the road access off Yorkshire Close.

This proposed course of action will avert the need for the current Land and Environment Court case and once the new development application is determined, the current proceedings will be dismissed. It should be noted that the proceedings were set down for three days of hearing and therefore, if the matter is dealt with by this method, there will savings in legal costs and a determination that favours both parties.

Recommended: That

- (i) delegated authority be given to the General Manager if objections are received for the determination of the proposed development application for the subdivision of Lot 212 DP 27602 (211 Deepfields Road) for four rural residential lots. The proposed subdivision will have temporary access for three lots off Deepfields Road, which will avert to permanent access off Yorkshire Close once Council acquires the access;
- (ii) Council note the progress of the legal proceedings.

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

- (i) *delegated authority be given to the General Manager if objections are received for the determination of the proposed development application for the subdivision of Lot 212 DP 27602 (211 Deepfields Road) for four rural residential lots. The proposed subdivision will have temporary access for three lots off Deepfields Road, which will revert to permanent access off Yorkshire Close once Council acquires the access;*
- (ii) *Council note the progress of the legal proceedings.*

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

(Crs Anderson, Patterson, Batros, Campbell, and Corrigan voted against the Motion).

FURTHER MOTION

Moved Cr Batros, seconded Cr Patterson that Council note the progress of the legal proceedings and further note normal Council policy will apply.

DC073/02 *THE MOTION WAS **CARRIED**.*

The Meeting closed at 6.57pm.