

**MINUTES OF THE DEVELOPMENT COMMITTEE MEETING
HELD 25 FEBRUARY, 2002, CIVIC CENTRE, OXLEY STREET
CAMDEN – 5.30PM**

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

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

Apology: An apology was received from Cr S Senise from this meeting.

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

DC014/02 THE MOTION WAS **CARRIED**.

DEVELOPMENT COMMITTEE PUBLIC ADDRESSES

Mr Phillip Breeze addressed the Committee in relation to Item 3. Mr Darryl Warry on behalf of the Applicant addressed the Committee in relation to Item 3.

**1. Proposed Construction of First Floor Balcony, No 54
(Lot 29 DP 201585) Somerset Ave, Narellan**

File No: DA7250.550-2 (Director, Development & Environment Division)
DA No: 2268/2001
Owner: B & M Ghassibe
Zoning: Residential 2(a) CLEP46

Purpose of Report

To advise Council of a new development application for the construction of a balcony at the rear of an existing dwelling and address objections which cannot be mediated.

Summary of Recommendation

This report recommends that the application be approved subject to conditions including additional privacy screening, given that the balcony's proposed size, design and potential use. It is considered that the development is not likely to unreasonably impact on the privacy or visual amenity of adjoining premises.

Background

In August 2001 Council resolved to refuse a section 96 application to construct a balcony at first floor level to the rear of the subject premises. The grounds for refusal were that the

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development was unacceptable in terms of likely impacts on the privacy and visual amenity of adjoining residents.

The applicant subsequently lodged an appeal with the Land and Environment Court however the Court upheld Council's decision. This decision was delivered at an on-site conference. In view of the Court's decision, an Order requiring demolition of the structure was served. No further action in relation to the Order has been taken until this new application is determined.

Council at the meeting of 11 February 2002 resolved to defer the application and carry out a site inspection. A site inspection was carried out on 25 February 2002.

The Proposal

The applicant now seeks approval to construct a smaller, covered timber balcony to the rear elevation at first floor level. The proposal is 3.0m in length by 2.0m in width and would be accessed via a sliding door off bedroom 4. The balcony would stand approximately 4.5m above existing ground level and includes a solid privacy screen, screening direct views to the north-west (52 Somerset Ave).

It should be noted that during Land and Environment Court Appeal proceedings concerning the previous balcony, the Commissioner of the Court stated that a 'Juliet' type balcony (similar to that described above) would be a more appropriate development, given that the reduced size limited its potential use which consequently would reduce the impact on privacy. A copy of the submitted plans forms **Tabled Document "DC 1"**.

The Site

The subject site area is approximately 690m² and falls from Somerset Ave to the rear. Existing improvements on the property include a two storey dwelling, detached garage and inground swimming pool. A location plan forms **Tabled Document "DC 2"**.

Notification

The application was notified to adjoining property owners in accordance with Council's Policy. One submission was received from an adjoining owner expressing concern about the impact on privacy (**a copy of the submission was handed out separately to Councillors with the business paper**).

Planning Controls

The following plans and policies have been considered in assessing the proposal.

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CLEP46

The proposed development is a permissible use and is considered to comply with objectives of the zone.

DCP58

The proposed development generally complies with the provisions of DCP58.

With regard to visual privacy, DCP58 suggests the use of screening to minimise privacy impacts, where balconies are within 12.0m of other dwellings. As such, the proposal incorporates a solid screen to the north-western side of the balcony that extends from floor level to the underside of the balcony roof.

It is considered that this screening will afford reasonable privacy to residents adjoining the north-western boundary. It is suggested that the privacy screen be duplicated on the south-western side of the balcony, to afford privacy to current and future residents of the property adjoining that boundary. Although this is not reflected on the submitted plans, such changes could be required prior to issue of a construction certificate.

In addition to proposed screening, it is considered that the proposed size of the balcony limits potential use and therefore the extent of impact on privacy. Given the balcony may accommodate a maximum of two (2) to three (3) people at one time and is accessed via a upstairs bedroom, its potential use would be considered low impact.

It should be noted that Council is currently considering an application for the property to the rear of the subject development, however separation distances exceed that required by DCP58.

Assessment

Section 79c

- (b) the likely impacts of the development, including environmental impacts on both the natural and built environments.**

Given the size and appearance of the proposed balcony, it is considered that visual amenity will not be significantly impacted upon.

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With regard to potential privacy impacts, it is considered that these are reasonably addressed as discussed in the report.

(d) any submission made in accordance with the Act or Regulations.

One submission was received from an adjoining owner, raising an issue that the structure will provide an invasion of privacy to residents of their property.

This issue has been addressed in the report.

Conclusion

The subject application has been considered in accordance with Council's policies and standards, as well as those issues raised in the submission received.

With the implementation of proposed privacy screens and the fact that the balcony has been reduced to half the size as existing, the proposed balcony is suitable in terms of size, location and design and will not adversely impact on visual amenity or the privacy of surrounding residents.

Recommended: That:

- (i) Development application No 2268/2001 be approved subject to conditions which form **Tabled Document "DC 3"**.
- (ii) The objector be notified of Council's decision.

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

- (i) *Development application No 2268/2001 be approved subject to the deletion of condition 2 and the adoption of the remaining conditions which form **Tabled Document "DC 3"**.*
- (ii) *The objector be notified of Council's decision.*

DC015/02

THE MOTION WAS **CARRIED**.

(Cr Campbell, Cr McFadden & Cr Batros voted against the Motion).

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**2. Dwelling, Pool, Shed and Fences, No 2 (Lot 100
DP1002964) Yorkshire Close, Catherine Field**

File No: **DA8660.20** (Director, Development &
Environment Division)

DA No: **1859/2001**

Owner: **Mr F & Mrs C Maruzza**

Zoning: **1 (c) Rural**

Purpose of Report

Council has received a development application for the construction of a two-storey dwelling, pool, shed and fence, the installation of a septic tank and the carrying out of associated site works. The application has been referred to Council for consideration due to the fact that one objection from an adjoining owner was received in relation to the dwelling being out of character with dwellings in the area.

Summary of Recommendation

This report recommends that the application be approved subject to conditions which minimise the impact on both the built and natural environment by requiring landscaping of the property and a reduction in the amount of hard paving.

The Proposal

The development application submitted to Council is seeking consent to construct a new dwelling and related structures. The application also proposes moderate site works to provide a level platform for the proposed pool and outdoor recreation area. A required septic application also forms part of this application. Boundary fencing has been applied for but at such time no details have been provided.

A copy of the submitted plans forms **Tabled Document “DC 4”**.

The Site

The vacant corner block has a site area of one (1) acre (4000m²) and fronts Yorkshire Close, whilst the southern boundary adjoins Chisholm Road. Although the lot does not adjoin Deepfields Road, it is visible due to the natural fall in the land toward Deepfields Road and the limited existing landscaping. The lot has approximately 3.5 metres of diagonal fall from the western corner to the eastern corner. It is clear of vegetation apart from one eucalypt tree along the southern boundary, which shall remain and be incorporated into the proposed landscaping.

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A location plan forms **Tabled Document “DC 5”**.

Notification

The proposal was notified in accordance with Council’s policy to all owners within Yorkshire Close and nearby in Chisholm Road.

One submission was received expressing concerns regarding the design of the proposal in relation to the existing character of Camden and in particular Catherine Field. The objector’s main concern with this proposal was it did not maintain the design of existing dwellings within the area. **A copy of the submission was handed out separately with the Business Paper.**

Planning Controls

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

CLEP 48

The proposed development is a permissible use and is considered to comply with the objectives of the zone.

Draft DCP 119

The proposed development meets the requirements of exhibited draft DCP 119 for Catherine Fields Village. In relation to design the “Statement of Desired Future Character” of the Catherine Fields village describes “Large contemporary style dwellings set in well maintained properties will characterise the village”. Whilst the proposed dwelling is of a design that is “unusual” in its design, in that it is a modern, architecturally designed dwelling, more common in suburban and inner city areas, the “Desired Future Character” statement suggests that large contemporary dwellings are appropriate for the village area. The proposed dwelling is not inconsistent with this statement.

A copy of the landscape and three dimensional concept plans form **Tabled Document “DC 6”**.

Assessment

Section 79c

- (b) The likely impacts of that development, including Environmental in both the Natural and Built environments, and Social and Economic on the locality**

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It is considered that the proposal will not conflict with these requirements. The contemporary design is set well back from boundaries and has been provided with additional native landscaping. This additional planting, along with minimising hard surface areas, will contribute effectively to the salinity issues within the area and minimise the impact of the dwelling when viewed from Deepfields Road and from other properties.

The proposal will comply with Council's DCP 94.1 Building Energy Conservation achieving a minimum three and a half (3.5) star energy rating.

The proposal's articulated design and landscape concepts have effectively contributed to reducing the size and bulk of the dwelling. The use of effective colours has assisted in the contemporary design whilst minimising the bulk of the dwelling. The architectural concept of a staggered first floor has also reduced the impact of height to the surrounding properties.

Council's Environment Branch has carried out a preliminary septic assessment, and advised that the proposal should meet minimum effluent disposal requirements set down in Council's guidelines. A separate application to install and operate the septic system is required.

(d) any submissions made in accordance with this Act or the Regulations

One submission was received from a neighbour during the notification period. The main issue raised was that the design was unsuitable for the existing area. The original application had additional features provided, which have now been deleted as a result of negotiations with the architect.

The colour scheme was amended to provide a more natural finish so as to suit the surrounding environment. In addition to amendments to the design, the applicant also proposes screen planting to further reduce the structure's impact on visual amenity.

A copy of the submitted colour schedule forms **Tabled Document "DC 7"**.

Conclusion

An application has been received for the construction of new dwelling and related structures. The application was notified and one objection received relating to the contemporary design of the dwelling in a rural area. The report, whilst

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acknowledging that the architectural design is unique, still meets the planning constraints for the area. Furthermore, it is considered that the proposal is compatible with the desired future character of the Catherine Fields village area.

This report recommends that Development Application 1859/2001 be approved subject to conditions.

*Recommended: That Development Application No 1859/2001 to construct a dwelling, pool, septic tank, fences and site works at No 2 (Lot 100 DP 1002964) Yorkshire Close, Catherine Field, be approved subject to standard conditions which form **Tabled Document "DC 8"**.*

*Resolved on the Motion of Cr Corrigan, seconded Cr Patterson that Development Application No 1859/2001 to construct a dwelling, pool, septic tank, fences and site works at No 2 (Lot 100 DP 1002964) Yorkshire Close, Catherine Field, be approved subject to standard conditions which form **Tabled Document "DC 8"**.*

DC016/02 THE MOTION WAS **CARRIED**.

(Cr Fekete & Cr McFadden voted against the Motion).

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3. Utilise Grounds of Camelot for Temporary Outdoor (Marquee) Wedding Functions, No 1512 (Lot 32 DP 785487) Kirkham Lane, Kirkham [Camelot]

File No: 4625.70-2 (Director, Development & Environment Division)
DA No: 1437/2000
Owner: BC Powers
Zoning: Rural 1 (a)

Purpose of Report

The subject Development Application is submitted to Council for determination due to the receipt of 7 submissions objecting to the proposal. The issues of concern raised in the submissions are unable to be resolved by way of conditions of development consent. The development is also proposed to be carried out on a site listed as having State heritage significance.

Summary of Recommendation

That Council refuse Development Application No. 1437/2000.

Background

On 5th July 2000 Council received an application for a 'Place of Public Entertainment' for the subject property. Such application was subsequently notified to adjoining owners and 13 submissions objecting to the proposal were received.

Prior to this date the subject site had been used several times for the purpose now seeking development consent. Further to complaints being received detailing the unauthorised use of the premises on 29 June 2000, Council issued a Notice of Proposed Order seeking the cessation of the use of the premises for a variety of public entertainment uses.

Several letters seeking additional information in support of the application were sent to the applicant. The applicant submitted an amendment to the Development Application accompanied by a Statement of Environmental Effects, Tree Assessment and Acoustic Impact Assessment in September 2001. Such reports are detailed in the body of this report.

The amended application was renotified and as a result 7 submissions were received.

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The Proposal

The subject application seeks Council approval for the carrying out of outdoor weddings at the rear of the Camelot home. The development is best described as containing the following elements:

- Capacity for on-site parking of 80-90 cars. Overflow parking to accommodate bus/coach parking to an unknown capacity.
- Driveway access via service entrance to the south of the site.
- Weddings conducted between 12noon- 11pm (all attendees off site by 12 midnight) Friday and Saturday.
- Bridal photographic sessions of one (1) 20 minute maximum duration.
- Music broadcast from within Marquee only.
- Marquee maximum size of 12m x 24m, however dependant on number of guests.
- Maximum number of guests proposed is 150. Marquee has capacity of 265-310 people. Marquee erection time is 1 to 1 and half days. Dismantle time is 1 day. Marquee will therefore be on-site for a minimum of 2.5 days.
- Off-site food preparation. Possible use of on-site spit-roast barbeque.
- Toilet facilities provided via portaloos
- Lighting from 2 existing external flood lights and internal marquee lighting

The Site

The Camelot property has an area of 30.88 hectares and is partly affected by the 1% AEP flood level (refer to **Tabled Document “DC 9”**). The dwelling, outbuildings, stables, meat smoking shed, gardens etc are collectively listed as an Item of Environmental Heritage as listed in Schedule 1 to LEP 48.

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The site has two entries onto Kirkham Lane. The development immediately to the north of the property consists of 4000m² residential allotments, the nearest to Camelot being a distance of 80 metres away (refer to **Tabled Document “DC 10”**).

Notification

The subject development proposal was notified to adjoining residents and those considered immediately impacted. At the close of the notification period a total of seven (7) submissions were received. The issues raised in the submissions are addressed later in this report. **Copies of the submissions were be provided to the Councillors separately with the Business Paper.**

Planning Controls

Camden 2025 – A Strategic Plan for Camden

Camden 2025 sets an objective of ensuring that the heritage value of an area is preserved and enhanced. The plan seeks to encourage community access to heritage items through their appropriate usage and promotion and support owners of heritage items in the pursuit of their maintenance and conservation.

The subject proposal does not seek consent for what is considered to be an appropriate use of the site due to the noise impacts and the late hours of usage. Whilst the owner of the property has carried out considerable work to improve the gardens and condition of the property, it has not been demonstrated that there are adequate financial links between the use of the site and the continued maintenance of the item.

Local Environmental Plan No 48

The subject property is zoned Rural 1(a) pursuant to LEP 48. The subject development is not defined by the terms of the LEP nor the Model Provisions. Accordingly the development is considered to be unspecified development and permissible with the development consent of Council, subject to the provisions of clause 25 (c) of the LEP. This clause allows Council to consider an application that would otherwise be prohibited, provided that the heritage significance of the heritage item is not adversely affected.

The relevant objectives of the LEP are:

- (e) *to enable certain non-agricultural activities to be carried out within a particular zone if they are in keeping with the objectives of that zone and compatible with development of adjoining and adjacent lands;*

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- (h) *to preserve the lifestyles and amenities of the people living in the Municipality of Camden by controlling the type and magnitude of development within the rural areas.*

It is considered that the subject proposal is not in keeping with the objectives of the LEP or zone (refer below), nor compatible with residential development on adjoining land. The amenity of residents in the vicinity of the subject site would be to a large degree compromised by the carrying out of the proposed use.

The relevant objective of the Rural 1(a) zone is:

- (c) *to enable compatible forms of development, including recreation and tourist orientated uses to be carried out, if they are in keeping with the rural character of the locality, and carried out in an environmentally sensitive manner.*

The proposed use is not considered compatible with the rural character of the area by way of the potential frequency of the wedding functions and the inability of the applicant to demonstrate that the current amenity of nearby residents is not adversely affected.

The Special Provisions of the LEP contain a clause, clause 36 which sets out requirements for development of certain land in the vicinity of Camelot.

The clause lists developments, which must not be carried out in the 1(a) zone, notwithstanding any other clause of the plan. Such uses listed include clubs, hotels, motels, and drive-in theatre. It would be reasonable to conclude from these prohibited uses that they have potential to generate unacceptable negative externalities which would impact on adjoining and nearby development. Further it is also considered reasonable to deduce that these such externalities (traffic movements, large numbers of patrons, noise from music and entertainment, lighting etc) would likely to also be associated with the proposed use.

Planning Instruments

- (a) *the provisions of:*
(i) *any environmental planning instrument, and*

The application is not inconsistent with any SEPP or REP.

Compliance with LEP 48 has been addressed above.

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- (ii) *any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority, and*

There are no exhibited draft planning instruments which affect the subject site.

- (iii) *any development control plan, and*

None applicable.

- (iv) *the regulations (to the extent that they prescribe matters for the purposes of this paragraph), that apply to the land to which the development application relates,*

None applicable.

- (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 likely impacts of the proposed development are addressed below.

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

Due to the relationship of the subject site to the immediately adjoining residential development it is not considered suitable for the intended use. This matter is addressed below.

- (d) *any submissions made in accordance with this Act or the regulations,*

Notification of Application

As stated above, seven (7) submissions objecting to the proposal were forwarded to Council. The issues raised in these submissions largely fall into the category of traffic and noise impact and are summarised in dot points as follows.

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Traffic

- increased volume of traffic along Kirkham Lane will accelerate the deterioration of the road surface.
- Nuisance likely to be caused by vehicles entering and leaving the car park

The application suggests that a total of 60-80 vehicle movements will be generated by the proposed development with each function.

Despite the availability of two separate entrances and adequate on-site area for vehicle parking the impact of vehicle movements and parking on the site is considered to be unreasonable, particularly late at night when the impact of traffic and associated noise is greater given the rural nature of the area. The location of the parking area to the rear of the site is such that it will not adversely impact upon nearby residents by way of headlight spill however, vehicle noise late at night would detrimentally impact upon the rural/residential amenity.

Noise

- Over the past two years most events have been very noisy
- Likelihood of disturbing noise, particularly from the car park, affecting nearby residences
- Acoustic barrier will be an unsightly blight on the local environment
- When marquee style receptions have taken place in “Camelot” similar extraneous noises have been audible within our home.

An Acoustic Impact Assessment report was submitted with the application. The report sought to measure the impact upon nearby residences from the conduct of weddings on the site and to propose any necessary ameliorating measures. Given the findings outlined in the report, Council’s environmental assessment of the report revealed a number of inadequacies, contradictions and omissions. Notwithstanding these the applicant has relied upon same in the construction of the statement of environmental effects. Accordingly Council has utilised the information provided to form the basis of the following assessment.

An automated noise logger was placed in the area designated for the erection of the marquee and readings taken over a 7 day period in July 2001. Background noise levels for the period 4pm-11pm ranged from 36-41

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dB(A). After 11pm the background noise levels drop to a median level of 33 dB(A).

The EPA set noise criteria in terms of noise levels for intrusiveness, amenity and sleep disturbance. For intrusiveness the noise levels should be equal to or less than the environmental background level plus 5dB (A). The report does not address noise in terms of amenity or sleep disturbance.

The major noise sources identified by the proposed development are to be the guests, background music and dancing music. The report states that to reach the maximum noise limit at 10pm only 45 people would need to be talking in a conversational voice. To exceed the noise limit from 10pm-11pm only 11 people would need to be talking in normal voices.

The recommendations made in the Noise Impact Assessment to minimise the impact of noise are summarised as follows:

- 1.8m high lapped and capped timber paling fence on boundary between Camelot and nearest residence.
- Limit the number of guests
- Public address system to have speakers directed away from potentially affected residences.
- Musical performers face away from nearby residences and be backed by a 5ply marine plywood “sound shell”.
- Operators engage a noise level meter to measure (at a distance of 20m away from the marquee) noisier periods and instruct musicians to reduce noise volume where it exceeds 55dB(A).
- Supply neighbours with mobile phone contact number to contact operators should the noise be considered “offensive” and disturbing.

It is not considered that these measures have credibility in achieving the desired level of noise in the area. It would be unreasonable for guests and performers to be required to lower noise levels to the degree required to meet authority standards, nor for residents in the area to have to ‘police’ the noise intrusion.

The report did not address noise from people leaving the site, shutting car doors, starting car engines and driving from the carpark area. These would all be audible from adjacent residences because of the low background noise levels at the time of the completion of the function.

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Light Spillover

The application details that lighting on the site will consist of internal marquee lighting and two existing external flood lights in the function precinct. The application states that additional external flood lights may be required by individual wedding organisers and that all proposed lighting will be directed away from adjoining residences. Given the size of the property and separation from adjoining residences it is considered that the direction of the lighting may be designed to contain lightspill on the site and therefore have negligible impact however, the applicant has not submitted details in support of this matter.

Heritage Impact

The subject application was submitted to the NSW Heritage Council in accordance with the integrated development application provisions. Under the development provisions of the Environmental Planning and Assessment Act, an application under Section 60 of the NSW Heritage Act must be sought.

The heritage office assessed the application and provided Council with terms of approval for the development proposal. Such terms are outlined on the Heritage Council correspondence which forms **Tabled Document “DC 11”**.

Impact on Amenity

It is considered that the subject development has potential to severely impact upon the amenity currently enjoyed by residents in the vicinity. It is not conclusively proven by the proposal that noise impacts can be contained to within the site to an acceptable level. In fact, the contrary has been shown in the past where noise from functions has been audible within adjacent residences.

- (e) *the public interest.*

Given the abovementioned matters it is considered that the subject development would not be in the public interest.

Conclusion

The subject application is submitted to Council due to the receipt of unresolved objections. The application is not considered to demonstrate that the proposal can be carried out

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in the best interests of the neighbours' amenity or the surrounding environment. Whilst it is acknowledged alternate use of the premises may be required to support heritage restoration, any such use must be compatible with the amenity of the neighbourhood.

Recommended: That Development Application No. 1437/2000 at No151 (Lot 32 DP 785487) Kirkham Lane, Kirkham [Camelot], for a "Temporary Entertainment Facility - proposed erection of a marquee on a temporary basis for the purposes of conducting outdoor wedding functions" be refused on the following grounds:

- (i) The development is inconsistent with the objectives of the LEP 1(a) Rural zones.
- (ii) The development is inconsistent with the aims and objectives of LEP 48, specifically objectives (e) and (h).
- (iii) The proposed use is considered incompatible with the surrounding land uses.
- (iv) The carrying out of weddings on the premises would result in an unacceptable diminution of amenity to nearby residential areas.
- (v) Anticipated noise levels cannot be adequately controlled to comply with statutory requirements.
- (vi) The development proposal is inconsistent with the strategies outlined in Camden 2025 as they relate to the use and maintenance of heritage items.

(Cr McFadden & Cr Patterson declared a potential conflict of interest in this matter as both Councillors own land in the vicinity of the subject property and declined from discussion or voting in this matter and left the Council Chamber – the time being 6.06pm).

Resolved on the Motion of Cr Batros, seconded Cr Fekete that Development Application No. 1437/2000 at No151 (Lot 32 DP 785487) Kirkham Lane, Kirkham [Camelot], for a "Temporary Entertainment Facility - proposed erection of a marquee on a temporary basis for the purposes of conducting outdoor wedding functions" be refused on the following grounds:

- (i) The development is inconsistent with the objectives of the LEP 1(a) Rural zones.
- (ii) The development is inconsistent with the aims and objectives of LEP 48, specifically objectives (e) and (h).

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- (iii) *The proposed use is considered incompatible with the surrounding land uses.*
- (iv) *The carrying out of weddings on the premises would result in an unacceptable diminution of amenity to nearby residential areas.*
- (v) *Anticipated noise levels cannot be adequately controlled to comply with statutory requirements.*
- (vi) *The development proposal is inconsistent with the strategies outlined in Camden 2025 as they relate to the use and maintenance of heritage items.*

DC017/02 THE MOTION WAS **CARRIED**.

(Cr Patterson & Cr McFadden returned to the Chamber – the time being 6.12pm).

4. Draft Masterplan for land covered by Draft LEP 118, Lots 101 and 102, DP 841639, Lots 100 and 101, DP 803468 and Lot 14 DP 855147 located on the corner of The Old Oaks and Werombi Roads Grasmere

(4252/4) (Director Governance & Outcomes)

Introduction

Council considered a report in respect of the Draft Masterplan for the subject land at its meeting of 29 January, 2002. (refer to **Tabled Document “DC 12”**). At the same meeting Council also considered a report in respect of amendments to Development Control Plan No. 47 (DCP No. 47).

The Masterplan generally pertains to land in the ownership of Salter, Sivewright and the University of Sydney. The balance of the Grasmere holdings is generally covered by DCP No. 47.

In preparing the Masterplan and reviewing DCP 47 Council has sought, amongst other things to improve the level of accessibility between the areas covered by both planning documents.

Integrated Landuse and Transport

The integration of landuse and transport is at the heart of connecting the two development areas. For a variety of environmental and community outcomes it is desirable to link the two areas. Pedestrian and cycle facilities which are being increasingly fostered should not be restricted by “artificial” planning boundaries. People should have alternatives to travelling extended routes in vehicles and should have improved access to bus routes.

The initial proposal to link the two development areas led to the expression of concern for the Bolko family (Lot 401 DP818037) in terms of the impact upon the amenity of their holding and future development opportunities led to their recent submissions and address to Council.

As a result of the Bolko representations Council deferred consideration of the DCP and Masterplan reports at its meeting of 29 January, 2002. A copy of the Bolko submission has been **forwarded to Councillors under separate cover.**

Alternative means of Connection

As a result of the ongoing Bolko concerns a number of alternative means of connecting the two development areas have been further reviewed. This review has led to:

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- An alternative pathway siting connecting directly into Benwerrin Crescent (refer to **Tabled Document “DC 13”**).
- Deletion of the proposed road on Lot 100 (refer to **Tabled Document “DC 13”**).

The alternative has been canvassed with the potentially directly affected parties. All concur with the exception of Mr Michael Salter whose land it would be constructed on as he proceeds to develop his land. The deletion of the proposed road, as referred to above, means in an area sense the impact of the pathway (land utilised) is slightly less. The impact on yet to be created allotments is likely to be minimal, both in sense of value and in terms of amenity.

It should be noted that the nature of pathways in rural areas with open styled fencing and lower numbers of residents is substantially different to urban areas.

The principle of reasonable connection (with least impact) is considered a fundamental objective and should be proceeded with in the form suggested.

Maximum Cut and Fill Requirements

In the previous report to Council reference was made to deleting the words “where possible” from references made to the maximum cut and fill being 500mm in Sections 2.5 and 2.6.

One of the landowners, Mr Don Hayes, has subsequently made a submission objecting to this change and he considers that the land is reasonably steep and that the restriction of the maximum cut and fill will be ‘unduly restrictive’.

He requests that either;

- “(a) The words ‘where possible’ be reinstated or
- (b) A more suitable wording be substituted so as to accurately reflect the objective stated above, ie maximum cut/fill of about 500mm at line of adjacent retaining wall or landscaping.”

It is acknowledged that some of the land is relatively steep, however Council is intent on maintaining the natural landforms to minimise ground water impacts, ensure water quality and local biodiversity. Restricting cut and fill to a maximum of 500mm will require builders to consider alternatives to traditional slabs-on-ground construction. Options such as pier and beam or split-level housing would be more sensitive. These measures in reducing earthworks have been applied to avoid disturbing the water table and increasing the risk of salinity. Accordingly, Mr Hayes’ request should be

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denied. Further, Figure 2 of the Masterplan relates to engineering guidelines for hillside construction and this is accompanied by a diagram which indicates cut and fill in excess of 500mm. It is considered that this is not appropriate given Council's position on the matter, and the figure should be taken out of the Masterplan document.

Open Space Provision and Contribution to District Level Facilities

Deeds of Agreement have been prepared with a view to ensuring commitment to Open Space and District Level Facilities, in the event of a change in ownership of land within the Masterplan area, prior to development. It has been Council's position that such Deeds should be executed prior to formal adoption of the Masterplan.

The University of Sydney is still to execute its Agreements. It has advised that no objection is raised to the principles contained in the Agreements, however, it is not in a position to execute the documents until it finalises negotiations with the other two principal landholders in the Masterplan area.

Under such circumstances it is recommended that Council adopt the Masterplan but delay the date it becomes operative until all Agreements have been executed.

Conclusion

The Masterplan as amended represents a delicate balance in terms of connectivity/accessibility and impact. The other amendments to the Masterplan considered relevant are detailed in the former report to Council reproduced as **Tabled Document "DC 12"**, including the deletion of the cut and fill diagram, and should also be adopted.

Recommended: That

- (i) Council adopt the Masterplan as amended, but defer the date it becomes operative until all Deeds of Agreement referred to in the preceding report are executed.
- (ii) Council advise all those responsible for submissions and potentially directly affected of its decision.
- (iii) Council affix its seal to the Deeds of Agreement in relation to the provision of open space and contribution toward district level community recreational facilities, when signed.

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

- (i) Council adopt the Masterplan as amended, but defer the date it becomes operative until all Deeds of Agreement referred to in the preceding report are executed.*
- (ii) Council advise all those responsible for submissions and potentially directly affected of its decision.*
- (iii) Council affix its seal to the Deeds of Agreement in relation to the provision of open space and contribution toward district level community recreational facilities, when signed.*

DC018/02 THE MOTION WAS **CARRIED**.

**5. Amendment to Development Control Plan No. 47 -
Grasmere**

(3128/38) (Director Governance & Outcomes)

Purpose of Report

The purpose of this report is to advise Council of the recent exhibition of the amendments to Development Control Plan (DCP) No. 47 and to recommend that the amendments, with some alterations, be adopted. This report was deferred from the meeting of 29 January, 2002 following representations from the Bolko family. This report has been amended as a result of those representations.

Background

Development Control Plan No. 47 provides development guidelines for the low density urban area within Grasmere and is bounded by Sickles Creek, Smalls Road then linking across to The Old Oaks Road. The amendments to the DCP relate to the future locations of roads.

One of the original areas of concern in reviewing DCP 47 was to facilitate greater connectivity of the development of the land on the corner of the Old Oaks Road and Werombi Roads with the “Benwerrin” subdivisions.

Exhibition

The amendment to DCP No. 47, which forms **Tabled Document “DC 14”**, was exhibited together with the Draft Grasmere Masterplan, from Tuesday November 20 to Friday December 21, 2001.

Submissions

Three submissions were received:

- (a) The Carrington Trust owns the large undeveloped parcel of land to the north fronting Smalls Road and Werombi Road. At this stage the Carrington Trust is uncertain whether the land will be developed as low density urban or housing associated with aged or disabled persons. Regardless of which form of development takes place, Carrington has outlined some development principles it would seek Council’s planning framework to provide. These are:

- Seek to preserve access from Benwerrin Crescent.

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- Denote a major point of access off Smalls Road. (No such point is shown on the Amended DCP)

They are not supportive of the road connection linking the proposed development to the east with the proposed road connecting to Benwerrin Road, however would support a pedestrian connection. They have advised that the construction of a road would not be necessary to their development and would place an unfair financial burden on them. They further contend that access could be equally achieved by a cycleway/pedestrian pathway which they believe should be shared equally between themselves and the adjoining owner.

- (b) The second submission was from Mr Ken Francis, a resident from Ellis Lane, who raises two issues. The first relating to the future road layout on the Carrington land and the other on the future relocation of The Old Oaks Road.

On the Carrington land it was originally proposed to have road access points from Grasmere Grove and from a road connecting the land to be subdivided to the east. However the road connecting to the east was not proceeded with due to the steepness of the land. The land at the end of Grasmere Grove has experienced significant vegetation regrowth and any future road connection will need to accommodate this. In fact throughout the Carrington's land there are heavily treed areas which will determine future development patterns. Until it is established what type of development will occur it is not appropriate to establish an internal road pattern but rather identify connection points with adjoining lands.

The other issue raised concerned the proposed deviation of The Old Oaks Road. This was shown on the original DCP 47 map. Acquisition of the road reserve is currently being negotiated with the landowner. The road deviation is covered by Council Contribution Plan No. 16 and is actually outside of the area covered by the DCP No. 47.

- (c) The third submission (comprising two separate letters) was from Mr and Mrs Bolko. They stated their opposition to the proposed road due to its proximity to their home. They contend that they positioned their residence having regard to the road layout as shown on Development Control Plan No. 47.

They advised that they were under the impression that the road would be unsealed and for the use of local landowners only. They concluded that if a "simple drive"

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was not acceptable then the road connecting from the adjoining development (ie that land recently rezoned and covered by the Draft Grasmere Masterplan) be cul-de-saced at the north-east corner of their property.

A meeting was held with Mr Bolko and his daughter and representatives from the Carrington Hospital Trust on 11 January 2002.

From that meeting it was understood (not only by Council staff) that agreement had been reached to replace the proposed 15 metre wide road, that was to be located between their two properties, with a 5 metre wide pathway. This would join up with the adjoining development to the east. The proposal is shown in **Tabled Document “DC 15”**.

Mr and Mrs Bolko lodged a further submission dated 25 January 2002, listing the following concerns:

- (1) That the matters raised in their original submission, in relating to the proposed road, were not included in the report to the meeting of the 29 January 2002.
- (2) That the report implied that they were in “general agreement” with the proposed pathway when in fact they had agreed “under protest”.
- (3) They were concerned with the pathway, as they considered that they may lose a future lot, from their holding, due to the amount of lane required for the pathway. They believe that the cycleway would not provide future access, if needed, to a future lot on the north-west portion of their lot.
- (4) They consider that the cycleway would result in:
 - (i) high cost and impractical upkeep
 - (ii) administration costs
 - (iii) poor security
 - (iv) undesirable element and use. Consider that there is insufficient population for its intended use.

Following is a response to:

- (1) The matters contained within Mr & Mrs Bolko’s first submission referred to both the proposed amendment to DCP 47 and the exhibition of the Draft Grasmere Masterplan. A number of issues were referred to in the Masterplan report however due to an oversight the point concerning their objection to the proposed road was not included in the original report on the amendment to DCP 47. It should be noted that it was considered that the matter was resolved when it was thought that agreement was reached on the pathway.
- (2) It was the impression of the Council officer (and others), at the meeting held on the 11 January, that the Bolko’s were in agreement with the pathway proposal. The Bolko’s have

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subsequently highlighted that any agreement was “under protest”.

- (3) It is not considered that the lot potential of the Bolko’s property would have been diminished as a result of the dedication of half width of the pathway. The future access to the land on the north-west portion of the lot is not considered to be an issue given the future road access from Benwerrin Road.
- (4) The matters raised in relation to maintenance and security of the pathway are not considered to be an issue. The pathway is a long-term proposal. A feature of the development will be open fencing. This will provide casual surveillance for the pathway and in addition will enable a linkage of the land to the east through to Benwerrin Crescent.

A further meeting was held with Mr Bolko and his daughter on 5 February 2002 to discuss their concerns. As a result of the issues raised at that meeting it was agreed alternative options would be further explored.

The purpose of the pathway is to provide a linkage to connect with Benwerrin Crescent. Following further investigation it is suggested that an alternative pathway could be located elsewhere within the proposed development to the east which could link directly to Benwerrin Crescent. This would then negate the need for a road connection to the west. These proposals are shown on **Tabled Document “DC 16”** and further details are contained in the report on the Exhibition of the Draft Grasmere Masterplan report that appears elsewhere in this business paper.

Amendments to DCP No. 47

It was originally proposed to continue a road from the land to the east covered by the Draft Grasmere Masterplan. For the reasons outlined above, it is now proposed to not proceed with this road connection. The road connecting Benwerrin Crescent to the Carrington land will revert to its original position, following discussions with the landowners.

The proposed road location on Southwell’s land will remain as exhibited.

On the original plan a notation appeared on the Carrington land advising that vehicular access be denied on to Werombi Road. It is recommended that this notation also appear on the amended plan. In addition the Carrington’s request that a reference be made to a future major access point onto Smalls Road is also agreed with. It should be noted that the exact location of the entrance would be determined at the development application stage.

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The above amendments have all been agreed to by the affected landowners and are shown on **Tabled Document “DC 17”**.

Conclusion

The amendments proposed above will ensure that the principles are in place to enable adequate connectivity to the existing road network and to achieve a workable cycle/pedestrian linkage.

Recommended: That

- (i) Council adopt the amendments to DCP No. 47 as referred to above and detailed in **Tabled Document “DC 18”**.
- (ii) The amendment to DCP No. 47 be publicly notified in accordance with the provisions of the Environmental Planning and Assessment Act, 1979 (as amended).
- (iii) All potentially affected landholders and inclusive of those persons responsible for submissions be advised of Council’s decision.

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

- (i) *Council adopt the amendments to DCP No. 47 as referred to above and detailed in **Tabled Document “DC 18”**.*
- (ii) *The amendment to DCP No. 47 be publicly notified in accordance with the provisions of the Environmental Planning and Assessment Act, 1979 (as amended).*
- (iii) *All potentially affected landholders and inclusive of those persons responsible for submissions be advised of Council’s decision.*

DC019/02 THE MOTION WAS **CARRIED**.

The Meeting closed at 6.16pm.