

**MINUTES OF THE DEVELOPMENT COMMITTEE MEETING
HELD 25 NOVEMBER, 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. Cr Senise arrived during the Public Addresses at 5.45pm

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

DEVELOPMENT COMMITTEE PUBLIC ADDRESSES

The following persons addressed the Committee in relation to Item 1.

Mr John Green, Mr Bernard Garling, Mr John Wynne, Mr Gerard Murphy, Mr Stan Aliprandi, Don Keenan and Mr Terry Morris.

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**1. Aluminium Extrusion Plant (Capral Limited) at
Anderson Road, Smeaton Grange**

(File DA150.05-2) (Director, Development & Environment
Division)

Purpose of Report

Council has been notified of a Development Application and Environmental Impact Statement having been lodged with Planning NSW by Capral Limited for the establishment of an aluminium extrusion plant for architectural and industrial applications, with associated powder coating, anodising, warehousing and packing facilities, at Anderson Road, Smeaton Grange.

The purpose of this report is to advise Council of the assessment of the exhibited EIS and determine Council's response to same.

Background

The subject development is classified as of State Significance due to the size of the project, and as such PlanningNSW is the Determining Authority and not Council.

The matter is currently on exhibition until the 2 of December 2002, with all submissions to be forwarded to PlanningNSW.

Council resolved at the meeting of 11 November, 2002 to request a month extension to the exhibition period. Council received advice on 19/11/02 that PlanningNSW was not prepared to extend the exhibition period however would be prepared to grant Council a further two weeks to make submission.

Media Reports

It is being reported in the media that the proposed development will have thirty-six (36) 20 metre high smokestacks.

This statement is considered misleading and requires clarification to address the visual impact of the chimneys.

The proposed development will have the following number and size of chimneys:

14	1m diameter chimneys, which protrude 3m above the main roof
1	2m diameter chimney, which rises 18m from the ground
1	1m diameter chimney, which protrudes 7.5m above lower roof
18	vent pipes, which protrude 2m above the roof

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The chimneys range in height from 17m and 20m above ground level.

The number and height of chimneys in this instance is irrelevant, as they are so low and small that they do not impact upon the appearance of the development and in fact many would not be visible from the road. What is of concern however is the material discharged from the chimneys, and this will be addressed later in the report.

The Site

The site is located on the southern side of Anderson Road between the two drainage channels, is 11.52 Ha in area and has a 348.8 metres frontage to Anderson Road A site plan forms **Tabled Document 'DC1'**.

The site is virtually flat, backs onto the main drainage channel and contains no significant flora or fauna.

Building

The proposed building is some 5.78 Ha in area, (a little smaller than the Coles/Myer warehouse) with a maximum height of 17 metres. Council's development Code for Smeaton Grange (DCP121) provides that buildings must not exceed 11 metres in height. The Coles Myer Building is 12.4m high.

The building complies with the setback requirements of the Building Code of Australia (BCA) and DCP 121. The manufacturing part of the building is setback 24 metres and 34 metres from the front boundary. A 40 metre wide, two-storey office building is located in front of the manufacturing building and is setback 16m from Anderson Road. Plans of the building form **Tabled Document 'DC2'** as on display.

Parking

The application proposes the provision of two hundred (200) car-parking spaces, with capacity for an additional ninety eight (98) spaces if required.

The EIS states that 207 persons are to be employed at the site over three shifts twenty four hours a day seven days a week, with a maximum 100 employees on site at any one time.

The number of car parking spaces provided does not numerically comply with Council's car parking Code, because of the fact this building is such a large development. Considering however, the number of employees on site at any

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given time and the overlapping of shifts, the number of car parking spaces is considered adequate.

Water

Total projected water consumption will be in the order of 720Kl/day (30Kl/h) for Stage 1 and 1295Kl/day (54Kl/h) for Stage 2. Sydney Water have confirmed that this quantity of water can be provided from the existing service.

Waste Water

An effluent treatment plant is to be provided on site, to process water from the plant prior to it being discharged to the sewer.

The effluent treatment tank will have a capacity of 60m³/hr, and will be fitted with automatic level probes and other types of sensors, designed to control the pumps and the quantity of reagents added to the effluent to ensure compliance with the requirements of Sydney Water.

Sydney Water have advised that it has the ability to accept the estimated average 700Kl/day (29Kl/h) of waste water generated by Stage 1. However Stage 2 cannot proceed until an agreement has been reached with Sydney Water on the treatment and disposal of the potential increase in wastewater.

Electricity

Electricity demand for Stage 1 would be 16.9 Million Volts Amps, (MVA) with the bulk of the power used in the extrusion plant and the anodising plant. This usage would increase to 17.3MVA for Stage 2.

Initially two 20000A rectifiers would be employed which will restrict the capacity of the anodising plant to 2470m² per shift. Production will increase to 3953m² with the provision of an additional rectifier as part of Stage 2.

Electricity will be supplied to the site via an underground main at 66KV from the Narellan substation. It should be noted, however that this connection is not part of this development application and as such has not been addressed.

Discussions have been held with the Department of Land and Water Conservation (DLWC) in relation to the placing of the Electricity Cables in the Narellan Creek Drainage Channel.

DLWC have advised that they would prefer the cables be placed in the adjoining property, adjacent to the channel, however, if this can not be achieved, DLWC have agreed to the cables being located within the drainage channel.

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Natural Gas

The proposed plant will require 106GJ of natural gas per hour. A 150mm steel main extension from Narellan Road along Anzac Road and Anderson Road is to be constructed to service the plant. Once again this connection is not part of this application and as such has not been addressed.

Hydrology & Water Quality

The drainage system for the Smeaton Grange area has been designed on the assumption that 80% of the site would have an impervious surface.

The proposed development will see an impervious surface constructed over approximately 10.4Ha or 90% of the site. An on site detention system, capable of holding the additional 10% above the assumed 80% of stormwater runoff is to be provided, which will ensure that flows leaving the site will not exceed the assumed quantities.

A first flush system incorporating an oil and grease arrestor is to be provided to clean the stormwater prior to its release into the Narellan Creek drainage channel.

By-Products And Wastes

Waste minimisation techniques and recycling will be applied to all production lines wherever practicable. However, despite these practices the following wastes will be generated:

- Scrap aluminium;
- Heat emissions and fumes;
- Spent process chemicals;
- Wastewater;
- Filter cakes; and
- General solids from packing.

Construction

The development program for the project spans 14 months from May 2002 to June 2003, covering design and planning to completion of plant fitout and landscaping.

Construction Hours

The majority of construction work would be completed between the hours of 7.00am to 6.00pm Mondays to Fridays and 7.00am to 1.00pm Saturdays.

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However the construction may require work outside the above hours when pouring concrete. On these occasions Capral will notify the community, Council and the EPA of the proposed extended hours and implement all necessary safeguard measures to minimise any potential impacts of extended working hours. EPA criteria allow work until 4pm on Saturdays.

Traffic And Transport

It is estimated that there will be a total of 207 employees at the site with a maximum of 100 employees during the day shift.

Traffic generated by the proposed development would have the largest effect during morning and afternoon peak periods when vehicles entering and leaving the site will merge with commuter traffic, as well as the overlapping shift traffic.

In addition to traffic generated by employees and visitors there will be some 100-service vehicles per day, which will range in size from cars to B-doubles. Average service vehicle movements would be in the order of 5 to 10 vehicles per hour (two-way) during the day and less than 5 vehicles per hour (two way) during the night.

It is anticipated that the following increase in traffic flows during morning and afternoon peak hours can be expected: -

- Anderson Road up to 150 vehicles per hour
- Narellan Road, Anzac Avenue and Hartley Road up to 110 vehicles per hour
- Camden Valley Way, The Northern Road and Smeaton Grange Road up to 35 vehicles per hour.

During construction it is anticipated that there will be a maximum of 80 employees on site at any one time, and parking will be provided on site for these employees.

Landscaping and Views

The proposed development will be clearly visible to residents of Turner Road, and to lessen this impact it is proposed to construct a 2m high mound with tree planting to the Anderson Road frontage.

Security Lighting

Security lighting will be directed into the development and provide a minimal contribution to artificial light glow on the night sky.

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Council's Assessment

The exhibited EIS has been assessed by Council staff, who are of the opinion that the following matters have not been adequately addressed in the EIS, and as such a determination should not be made until these concerns have been addressed.

Staff Amenities

Concern is expressed that the size of the lunch room and kitchen facilities are inadequate for the number of employees.

Concern is also expressed that there are only three toilet locations in a 5.8Ha building.

Traffic

The report states that the roundabout controlled intersection at Narellan Road and Hartley Road is operating with average delays of less than 20 seconds per vehicle during morning and afternoon peak periods which offers a B grade Level of Service (LOS_B). Council is at a loss to understand this assessment, as the latest information available to Council indicates that the intersection operates at a LOS_F which is extreme delay and the worst service level.

It should be noted that the worst traffic movement at this intersection is the eastbound morning peak along Narellan Road, and it is this flow which would be most adversely impacted upon by employee traffic, using the roundabout to turn across this flow.

The Narellan Road and Mount Annan Road intersection is also operating at a congested level during morning and afternoon peak periods, and the impact of traffic generated by the proposed development on this intersection, should also be addressed in the traffic report.

The report does not indicate a directional split, for truck movements accessing the site. This is a very important issue in this locality, as it would indicate the number of trucks, passing close to the residential dwellings in Currans Hill, where such a movement would generate heavy vehicle traffic noise possibly in exceedence of acceptable levels. No assessment of the noise levels and the adequacy of the completed acoustic fence which separate residential premises in Currans Hill from Hartley Road has been made.

Noise

In relation to Council's DCP 121, Section 3.10.3 - Specific Noise Controls, states "*consideration should be given to the*

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management of heavy vehicle movements to development during the night or early morning, in the vicinity of exiting or proposed residential areas". In accordance with the above and the restrictions currently imposed upon vehicles servicing the Coles/Myer distribution centre, it is suggested that the operating of heavy vehicles from the plant along Hartley Road be restricted to between 7.00am and 10.00pm seven days a week.

The report appears not to comply with Camden Council's DCP 121 Smeaton Grange Industrial Area with regard to Section 3.10.3 - Specific Noise Controls. One of the noise controls states that *"the maximum industrial noise level when measured 2 meters from all factory openings must not exceed 60dB(A) Laeq for uses in the 4(a) zone"*.

There is a realistic expectation that vehicles operating within the site will cause excessive Intermittent Transient Noise when reversing. It is therefore suggested with a view to reducing this impact that "level varying reversing alarms" or "flashing lights" be fitted to all forklift vehicles and heavy vehicles that are required to reverse during night operations.

In addition it is suggested that a Site Environmental Noise Management Plan be implemented that would address the issues of employee noise education, noise monitoring, noise non-compliance, and complaint handling with reporting mechanisms to residents.

Further, it is suggested that during the construction process a Noise Management Plan be provided to address and hopefully minimise all potential impacts.

It is noted that the noise report does not discuss potential vibration impacts during plant operation. This may be an oversight by the applicant and will need to be assessed.

Meteorology & Air Quality

It must be recognised that the plant will be located within what is known as the Camden Basin, which has a distinct airshed pattern. A study undertaken by Hyde & Johnson, December 1990 on behalf of the then NSW Dept of Planning, NSW State Pollution Control Commission and the Commonwealth Dept of Transport highlighted the existence of the Camden Basin and some of the constraints that faced the development of the region in terms of air quality. One of the salient points of the study was that the region suffered from intense inversion layers which inhibited the movement of air containing higher than acceptable levels of Ozone O₃, Nitrous oxide NO_x and Non-methane Hydrocarbons which when combined lead to the development of Photochemical smog.

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Hyde & Johnson determined that the Camden Basin had a rim at the 100m AHD contour. The subject plant has a proposed finished floor level of 81.4m AHD with a roof height in the order of 17 metres. Therefore, with stack heights ranging from 17m to 20m above finished floor level some of the discharge points will not exceed the 100m level recognised by Hyde & Johnson as being critical to get the emissions into the airstream above the inversion effects of the Camden Basin.

Hyde & Johnson state at p38 - *‘ In order to minimise the effect of emissions from stacks at Smeaton Grange Industrial Park on air quality within the South Creek or Campbelltown Valleys the plume heights will need to be sufficient to get emissions above the Camden Basin inversion and into the regional drainage flow. Despite such precautions, there is the possibility of transient fumigation of the plume occurring at the southern boundary of South Creek following erosion after sunrise of the surface inversion within the Smeaton Grange Industrial Park. This could affect the air quality at the residential properties immediately to the north of the park.’*

Despite the stack heights being in the range of the desired level, concern is expressed at the volumes of Nitrous oxide NO_x and volatile organic compounds that will be emitted from the plant and the cumulative effect on the region when taking into account the already high seasonal levels of ozone. The EIS does not seem to have considered the overall impact of the air emissions in a cumulative nature in the Camden Basin. This is of serious concern in respect of air quality despite the predictions that total emissions will not exceed the maximum permitted levels as set by the EPA.

Waste & Wastewater

An Effluent Treatment Plant (ETP) has been incorporated in the plant and has been designed to process wastewater before it is discharged to sewer. The average daily flow of wastewater discharged to sewer will be in the order of 700kL/day with a maximum of 950kL/day litres per day in Stage 1. These volumes will increase to between 1200kL/day and 1600kL/day in Stage 2.

Whilst it is the responsibility of the proponent to obtain approval from Sydney Water Corporation under a trade waste agreement concern is expressed regarding the contents of the waste waters and the effects on Camden West Sewage Treatment Plant and the receiving waters of the Nepean River.

Table 16.4 of the EIS shows the estimated masses of pollutants discharged to sewer after pre-treatment in the ETP in Stage 1. In brief there will be 19kg/day of Aluminium, 5kg/day of

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Boron, 20kg/day of Fluoride, 4kg/day of Iron, 2kg/day of Manganese, 27kg/day of Phosphorus, 2200 kg/day of Sulphate totalling 3600 kg/day dissolved solids. These masses are predicted to significantly increase at Stage 2 when the volumes are predicted to increase two fold.

It is unknown as to the efficiency of the West Camden Sewerage Treatment Plant (WCSTP) in removing these contaminants and what the resultant effect will be on water quality for the Nepean River. It must be borne in mind that the River is used for irrigation of crops downstream. The quality of the discharges must be guaranteed and should at the very least comply with the standards set by the Australian Water Quality Guidelines for Fresh and Marine Waters (ANZECC).

The increase in the amount of water being discharged from the West Camden Sewerage Treatment Plant (WCSTP), and to what extent these various metals will be removed from the water, or the impact they will have on the aquatic environment over time, through accumulation in river sediments have not been addressed. If, as is proposed in the EIS for the WCSTP upgrade and amplification, the effluent from the WCSTP is to be piped to and used as irrigation on a number of farms in the locality, the potential accumulation of these metals and the potential as soil contaminants and possible uptake in the food chain (eg. milk) should also be addressed.

As a possible alternative to the use of the effluent from the WCSTP for irrigation purposes, it is suggested that consideration be given to piping the recycled water back to the subject plant for further use.

Salinity

A detailed assessment of the salinity status of the site does not appear to have been carried out. A statement is made in the EIS that groundwater within the Bringelly shale formation tends to be fairly saline and that the NSW Assessment of Pollution Risk Sheets shows salinity at greater than 14,000 mg/l in the Camden LGA, however no further mention is made of the possible impact of this fact on the development. Nor is the potential for the proposed development to contribute to the salinity status of the site during the construction and operational phases addressed in the EIS.

Further it is pointed out in section 20.4.3 that should groundwater be encountered during the construction of the footings it would be sampled and tested prior to off-site disposal. Further clarification of the method of off-site disposal is required, as disposal of saline waters to any water body may be a breach of the provisions of the POEO Act. It is suggested that a salinity management plan be prepared for the site.

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Filling

It is noted in 20.2.1 of the report that the site was substantially levelled by the placement of controlled filling during 2000. The site was filled to achieve required levels and to realign a creek that previously transversed the subject site. Further in 20.2.3 it is reported by Douglas Partners (DP) that the material used to fill the site comprised of natural weathered shale and shaley clay from an adjacent site and it is assumed the land use activities from the source site to have been predominantly rural/agricultural. Council's records suggest that all landforming was conducted using material from adjacent land and in particular soil from the high point where the Coles Myer complex now stands.

Contamination

Douglas Partners (DP) undertook a preliminary contamination investigation of the subject site. This level of investigation involved a site walkover and review of historical site information including aerial photographs and title deeds. No intrusive drilling or soil and water sampling was conducted.

The review reveals that the site until recently had been predominantly used for agricultural purposes and on the basis of the preliminary investigate DP concludes that the site presents a low to moderate risk to soil and groundwater contamination. However, DP further point out that the possible sources of contamination at the site are associated with the previous agricultural use and the imported filling material used to level the site and realign the creek, again no sampling and analysis have been undertaken to support DP conclusions, and it is considered that such an action should be undertaken prior to a determination being made in this matter.

Agricultural activities are identified as a potentially contaminating activity in Appendix A of Council's Policy for the management of contaminated land in the Camden LGA. It is a requirement of the policy to proceed to the next level of investigation which is a detailed investigation including soil/groundwater sampling analysis regime to determine with some level of certainty the suitability of the site for its intended use. The argument against this will be that the proposal does not expose the occupants of the site to the risk of exposure to contaminated soils/groundwater. However it would be considered prudent to adopt a precautionary approach in the absence of scientific certainty.

It is also considered that the potential for mobility and transporting of contaminants off-site via dust and water run-off

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and movement through the soil and groundwater warrant further investigation.

Further, a data gap exists in the table 1- Results of Title Deed Search in that the possible land uses between March 1968 and June 1985 and more recently are unknown, giving further weight to a more detailed level of investigation.

Hazards And Risk

The potential of acute and chronic toxicity effects on the biophysical environment during the construction and operational phase of the proposal are not addressed. Little attention is given to the environmental consequences/off-site effects.

The containment of contaminated fire-fighting waters as discussed in section 1.8 of the HIPAP no.2 is not addressed.

Further information is needed to justify the reasoning behind the consultant in section 3.1.4 adopting the classification system as proposed by professor H M Tweddale for the threats to the natural environmental over the AS 3931: 1998- Risk Assessment of Technological Systems- application and guidelines.

A transport route evaluation study should be required in accordance with the requirements of SEPP 33 given that significant quantities of hazardous materials are proposed to enter and leave the site.

Full justification is required were the preliminary Hazard Analysis report differs in the adopted methodology set out in HIPAP no 6 and 4. For example the risk analysis is qualitative in its approach and a multi-level risk assessment may be more appropriate.

There is an inconsistency in Table 2.1 Raw Material Transport to the materials listed in the left hand column and Table 4.1.2 Storage Volumes of Hazardous Materials- Table 4.1 wherein several of the class 8 (corrosives) listed do not appear in Table 2.1. Does this omission impact on the transport screening thresholds”?

The hazard identification and incident scenarios set out in section 4 are not comprehensive in that several hazards such as the escape of contaminated fire fighting waters and the possible failure of the in-line scrubbers in the anodising area allowing fugitive emissions to enter the atmosphere have not been considered.

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Conclusion

It is evident that there are many unanswered questions relating to the proposed development especially in the very important fields of water disposal and air emissions, health and to a lesser extent transport, which warrant further investigation.

The built form of the development is considerably larger than other development in the Smeaton Grange industrial area, and whilst the building does exceed the height limit in DCP 121, this is not considered to be an issue, as it will complement the scale of the building.

The matter of the much talked about smoke stacks is not considered to be an issue, as their number and size are insignificant when compared to the size of the building.

The number of car parking spaces is less than required in DCP 121. However it is also considered that the number of parking spaces provided on the site compared to the number of employees is adequate.

The Mayor provided Councillors and the gallery with an update on the position in relation to the Capral Development Application:-

“Firstly, I must make it clear that Council will not be determining the application here tonight. The decision on whether the plant will proceed will be made by the Minister for Planning, Dr Andrew Refshauge. Camden Council will however be making representations to the Minister to ensure that the views of the community are know and addressed.

Since preparing the report to tonight’s meeting the following actions have occurred:-

- PlanningNSW has reviewed its initial decision made in relation to Council’s request to extend the exhibition period and time in which people can make submissions in relation to the EIS and development application. The closing date for submissions is now December 16, 2002.*
- PlanningNSW advise that they have ‘stopped the clock’ in relation to processing the application and are seeking additional information for both themselves and the EPA.*
- Capral have submitted additional information to Council in relation to issues raised at the September Councillor workshop. These details have been made available to Councillors however do not affect the recommendations of the report.*

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- *The CEO's of Camden Council, State and Regional Development, PlanningNSW, Land and Water Conservation, Sydney Water and Integral Energy have been requested to attend a meeting organised by Premiers Department to discuss the application this Thursday, November 28, 2002. The General Manager will advise this meeting of Council's position in relation to the application".*

(Cr McFadden declared an interest in this matter as the General Manager of Aluminium Construction Suppliers Pty Ltd being a competitor of Capral. Cr McFadden took no part in discussion or voting on this matter and left the Chamber – the time being 6.02pm).

Recommended: That

- (i) PlanningNSW be advised that Camden Council considers that the EIS is inadequate and requires the following matters to be addressed:
- review of traffic assessment and in particular the impact on the Hartley/Narellan Road intersection;
 - review of road traffic noise along Hartley Road and its impact on adjacent residential properties;
 - review of operational noise and the preparation of a noise management plan for construction;
 - assessment of operational vibration impacts of the development;
 - further assessment of air quality in on the impact of the development on the Camden Basin.
 - affects of the development on the operation of the West Camden Sewage Treatment Plans;
 - assessment of the impact on water quality as the result of discharges from the sewage treatment plan and the potential impacts on irrigation and the food chain.
 - consideration of better on site waste water treatment and whether the water from the sewage treatment plant should be returned for further use on site;
 - assessment of salinity and preparation of a salinity management plan;
 - contamination investigation;

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- assessment of the potential of acute and chronic toxicity affects on the biophysical environment;
 - details of the means of containing contaminated fire-fighting water;
 - transport route evaluation study for hazardous goods;
 - clarification of issues in the PHA.
- (ii) The Minister for Planning require that the EIS is amended to address the items listed above and re-exhibited to further review and public comment;
- (iii) Camden Council expresses its concern about the development due to the inadequate information available;and
- (iv) Council request that a Commission of Inquiry be held prior to determination of the application.

MOTION

Moved Cr Patterson, seconded Cr Winn that

- (i) *PlanningNSW be advised that Camden Council considers that the EIS is inadequate and requires the following matters to be addressed:*
- *review of traffic assessment and in particular the impact on the Hartley/Narellan Road intersection;*
 - *review of road traffic noise along Hartley Road and its impact on adjacent residential properties;*
 - *review of operational noise and the preparation of a noise management plan for construction;*
 - *assessment of operational vibration impacts of the development;*
 - *further assessment of air quality in on the impact of the development on the Camden Basin.*
 - *affects of the development on the operation of the West Camden Sewage Treatment Plans;*
 - *assessment of the impact on water quality as the result of discharges from the sewage treatment plan and the potential impacts on irrigation and the food chain.*

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- *consideration of better on site waste water treatment and whether the water from the sewage treatment plant should be returned for further use on site;*
 - *assessment of salinity and preparation of a salinity management plan;*
 - *contamination investigation;*
 - *assessment of the potential of acute and chronic toxicity affects on the biophysical environment;*
 - *details of the means of containing contaminated fire-fighting water;*
 - *transport route evaluation study for hazardous goods;*
 - *clarification of issues in the PHA.*
- (ii) *The Minister for Planning require that the EIS is amended to address the items listed above and re-exhibited to further review and public comment with an exhibition period of six weeks.*
- (iii) *Camden Council expresses its grave concern about the development due to the above mentioned matters as outlined in (i) due to the inadequate information available.*
- (iv) *Council request that a Commission of Inquiry be held prior to determination of the application.*
- (v) *Should the Minister decline to amend and re-exhibit the EIS and hold a Commission of Inquiry prior to the determination of the application, Camden Council oppose the development of an Aluminium Plant at Smeaton Grange.*
- (vi) *Council immediately allocate resources from the Fighting Fund to assist the community groups in their endeavours against the proposed plant.*

DC121/02 THE MOTION ON BEING PUT WAS **CARRIED** UNANIMOUSLY.

(Cr McFadden returned to the Chamber – the time being 6.47pm).

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

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

Purpose of Report

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

Background

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

Recommended: That

- (i) Development Application No 1038/2002 at No 53 Engesta Avenue, Camden South, being Lot 69 in DP 230494, for the approval of an existing detached entertainment room and proposed open structure, be refused on the following grounds:
 - (a) The development contravenes the provisions of the Environmental Planning & Assessment Act in that the structure has been erected without the 'prior' approval of Council;
 - (b) The proposal is inconsistent with objectives of Camden LEP 46 which encourages "all forms of residential development to be carried out in a functional, aesthetic and environmentally sensitive manner";
 - (c) The proposal is unacceptable having regard to the objection received from the adjoining landowner; and

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- (d) No evidence has been submitted to attest to the structural adequacy of the structure or compliance with the Building Code of Australia.
- (ii) The owner of No 53 Engesta Avenue be issued with a notice to remove the unauthorised structure [entertaining room] and to relocate the existing shed to within the premises; and
- (iii) The owner of No 51 Engesta Avenue be issued with a notice to remove the unauthorised structures within the vicinity of the common boundary.

MOTION

Moved Cr Batros, seconded Cr Campbell that consideration of this Item be deferred until the next Council meeting held 16th December, 2002.

DC122/02 THE MOTION WAS **CARRIED**.

**3. Convention Centre, Serviced Apartments and
Restaurant at No 23 (Lot 2 DP 1008301) Harrington
Street, Elderslie**

File No: 3725.45-2 (Director, Development &
Environment Division)
DA No: 936/2002
Owner: GJ, BG & SP Dickinson
Zoning: 6(c) Open Space Private

Purpose of Report

The purpose of this report is to address issues raised in three (3) submissions received following neighbour notification for the construction of the convention centre, serviced apartments and restaurant.

Summary of Recommendation

It is recommended that the consent be issued subject to appropriate conditions.

Background

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

Construction work commenced on the site but ceased subject to consent for an application to amend Local Environmental Plan (LEP) 46. The application requested that consent be granted for rezoning which would allow the development of strata-titled, serviced apartments associated with the convention centre and as well as a restaurant.

The application for rezoning and the Draft LEP 129 were advertised and, at the conclusion of the exhibition period, one submission was received. Issues raised in the submission were addressed and Council considered the application at the meeting of 22 July 2002. Council resolved to approve the application subject to conditions and to refer Draft LEP 129 to the Department of Planning for gazettal. LEP 129 was gazetted by the Minister, Department of Planning on 25 October 2002.

Subsequent to the meeting of 22 July 2002, concerns were raised that neighbouring residents were not fully aware that the exhibition of the rezoning included the proposal for the convention centre, serviced apartments and restaurant. Consequently, surrounding neighbours were renotified and clearly advised of the proposed works.

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The matter is referred to Council given the response from residents and the number of issues raised.

The 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 and directional signage is proposed within the road reserve.

The front section of the building is of single storey construction, with the rear two-storey section containing the apartments. A copy of the development plans form **Tabled Document 'DC3'**. The front section of the building contains the convention/function room facilities and restaurant.

The Site

The site is located on the southeastern side of Camden Valley Way between Hilder Street and the closed section of Hassall Street. (See **Tabled Document 'DC4'**) The rear of the property has frontage to Harrington Street with a caravan display centre located to the northeast. Two residences are located to the southwest with one in Hassall Street and another in the church grounds. Footings constructed in accordance with the previously approved development are situated on the site, which constitute commencement and therefore, the owner could complete the development in accordance with the original consent. The land is affected by the 1% AEP flood event at RL71.6m and is vacant apart from footings constructed for the approved motel.

Notification

Details of the construction proposal were renotified to 46 residents. As a consequence three (3) submissions were received. **(Copies of submissions were provided separately to Councillors).**

Mediation

Discussions were held with objectors to address the issues raised in the submissions. However, given the nature and the number of items submitted for appraisal, the matter is referred to Council for determination.

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Planning Controls

The property was originally zoned 6(c) Open Space Private pursuant to LEP 46 and permitted the use as a tourist facility. The gazettal of LEP 129 amends the zoning to permit the use and the strata subdivision of the serviced apartments.

The following plans and controls were considered in the assessment of 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
- Safer by Design Principles

Assessment

The applicant supported the proposal with documentation addressing relevant planning issues, acoustic assessment, traffic management, landscape details and a flooding report. Determination of the proposal was subject to satisfactory appraisal of the reports. The assessment of the proposal, with respect to the relevant planning instruments and controls, was comprehensively addressed in the report to Council dated 22 July, 2002.

At the conclusion of the second notification period three (3) submissions were received expressing concern regarding the following matters:

- Reason for renotification
- Increase & control of traffic
- Noise
- Height & scale of building
- Preservation of vista
- Safer by Design principles
- Mine Subsidence Board approval
- Flooding
- Illegal fill
- Long term occupancy of apartments
- Tree removal
- Antisocial behaviour due to amplified music and alcohol
- Destruction of ‘place’
- Decrease in property value

The following comments address the above concerns.

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Reason for Development Application being Renotified

Draft LEP 129 was advertised and placed on exhibition from 21 May to 21 June 2002. The advertisement advised that the purpose of the Draft Plan was for the development of strata subdivided, short-term, serviced, tourist apartments. However comments expressed by residents in the locality raised concerns regarding local awareness of the proposed development. Whilst the development application was exhibited concurrently with the draft LEP, it was considered that the notification was not clear and that there could have been an expectation in the community that a further opportunity to comment on the development application would be provided. Council is required to provide a level of transparency and openness, in order to ensure community understanding of the proposal. It was considered essential to renotify surrounding residents regarding the construction of the convention centre, serviced apartments and restaurant.

Increase and Control of Traffic

With careful regard for the impact of the development on the locality, the proposal was submitted to the Local Development Traffic Committee for consideration and assessment.

The applicant's traffic report was prepared in accordance with the requirements of State Environmental Planning Policy No 11 – Traffic Generating Development. Following thorough analysis of the report, the Council Development Committee (Traffic) approved the ingress and egress provisions from Camden Valley Way. The provision of directional signage and 39 additional carparking spaces, in conjunction with the previously approved 102 spaces, accords with the calculated demand for on-site traffic control.

Noise

A review of the noise report was carried out by Council's Environmental Health Officers. The report was considered to be deficient in several key areas such as the methodology used by the consultant in predicting the potential noise impacts at the residential receivers and the adopted noise design criteria for the function room.

It was considered that a peer review was warranted due the deficiencies contained in the report. Council Officers contracted an independent company to conduct a comprehensive peer review of the contents of the original noise report.

Council's noise consultant concluded that the report should not be accepted by Council due many errors contained within it and that additional noise monitoring was appropriate. Once

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the additional noise monitoring was undertaken Council Officers arranged a meeting between the applicant's consultants, Council's consultants and relevant Council Officers.

At the meeting it was agreed that the applicant's would submit an amended noise report. It was further agreed that if the information contained in the amended noise report addressed all issues raised at the meeting, then Council Officers would be in a better informed position to approve the noise report subject to conditions.

The amended noise report as submitted by the applicant's consultants now reflects both the NSW's Environment Protection Authority's Industrial Noise Policy and the Liquor Administration Board's requirements and addresses Council Officers concerns.

To safeguard the acoustic amenity of the locality from any adverse impacts associated with the activities of the proposed development during both the construction and operational phases it is proposed to impose conditions of consent in relation to the management of the acoustic environment.

Further an additional noise assessment will be undertaken prior to the installation of any plant and/or equipment and noise monitoring will be undertaken upon occupancy of the premises to ensure that noise levels do not exceed the adopted noise design criteria.

Height and Scale of the Building

The height and scale of the building was closely assessed and subject to comment with Council's urban design consultants prior to the recommendation for approval. The effect of flooding on the site places constraints on the building design resulting with the highest point of the building 13 metres to the ridgeline from natural ground level. The adequacy of the design rests with its ability to address any likely impacts associated with its building form. Those impacts are primarily related with views, the impact on adjoining properties and the amenity of the area. The architect has designed a 'Federation' theme, with a complex roof design, which blends with the character of the locality. The visual prominence of the building will be further reduced by the substantial setback to Camden Valley Way and the provision of landscaping.

Preservation of Vista

Given the location of the building at the entrance to Camden, the external appearance of the development has been

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considered with specific regard to Council's Cultural and Scenic Landscape Study.

The proposal is not expected to have a detrimental impact on the 'view corridors' referred to in the Study or the ridgeline associated with Camden town centre. This matter was addressed in detail in the last report.

Safer by Design Principles

The Safer by Design guideline was used to identify crime risks and to reduce opportunity for criminal activity by applying crime prevention through environmental design. The proposed development complies with this criteria.

Mine Subsidence Board Approval

The Mine Subsidence Board has no objections to the proposed development subject to design requirements.

Flooding

Clause 21 of LEP 46 requires assessment of development to be compatible with the flooding characteristics of the locality and not increase the flood risk to adjoining properties. The site is affected by the 1:100 year flood with a current flood level of RL71.6m A.H.D. and is categorised in accordance with the Upper Nepean River Floodplain Management Study and Plan as High Hazard – Flood Fringe. The flood report submitted by the applicant states that the development has been designed to comply with the specific design requirements and can withstand the impact of floodwater, debris and buoyancy. This matter was addressed in the previous report to Council.

Illegal Fill

Assessment of the fill placed on the land was effectively addressed in the determination of the original consent and relates to the approval for the tennis courts. This matter was also addressed in previous reports to Council. The fill will not adversely affect flood levels .

Long Term Occupancy of Apartments

The use of a Section 88B instrument and the supervision by central management will be implemented for the control of short-term occupancy. In addition, Council has the jurisdiction to commence legal action for failure to comply with the conditions of the development consent, should tenants maintain long-term occupancy. As most employment awards incorporate a four week provision for annual leave, it is considered that a maximum stay of four weeks is appropriate

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and will ensure that the apartments are not used for long term occupation.

Tree Removal

Concerns have been expressed regarding the tree located on the western corner of Hassall Street and Camden Valley Way. There are no proposals for the pruning or removal of the tree and a condition of the consent requires the protection of trees.

Antisocial Behaviour Due To Amplified Music And Alcohol

The applicant proposes to operate a restaurant licensed under the Liquor Act. The development does not include a public bar available for passing trade, and functions within the centre will generally be private affairs. The managerial staff will be concerned for maintaining the comfort of the motel occupants as well as local residents and will be responsible for behaviour control of patrons. Management is also obliged to ensure they administer the provisions of their licence in relation to responsible service of alcohol. Furthermore, Council will instigate appropriate proceedings should noise created by patrons exceed acceptable levels.

Destruction of Place

The Camden Strategic Plan - 2025 provides 'place based' goals and objectives to ensure that the character and value of Camden is maintained. The proposed development was evaluated to ensure achievement of the objectives for the planned and orderly growth of Camden.

It is considered that the development recognises the individual environmental and cultural significance of Elderslie while establishing a balance between the promotion of tourism and the maintenance of the traditional environment.

Decrease in Property Value

Decrease in property value is difficult to substantiate in view of the fact that the proposal presents a level of development, which is considered to contribute to the community and the quality of the locality.

Summary

A thorough investigation into the issues raised in the submissions has been completed. The investigation established that the proposed development satisfies the goals and objectives of Camden 2025 and, subject to compliance with the conditions of the consent, will comply with the relevant statutory requirements. The concerns expressed by the local

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residents have been considered and, where appropriate, conditions will be imposed on the consent to alleviate the issues. Council officers will maintain on-going monitoring of the development during construction and upon completion to ensure compliance with the consent.

The merit of the development rests with its ability to satisfactorily address any potential impacts associated with the conservation and enhancement of the area and the amenity of surrounding properties.

(Cr Corrigan declared an interest in this matter as his current employer has received business funding from one of the applicants. Cr Corrigan took no part in discussion or voting on this matter and left the Chamber – the time being 6.51pm)

CHAIRMANSHIP OF MEETING

Cr Corrigan, the Mayor vacated the Chair and the Deputy Mayor, Cr Anderson assumed Chairmanship of the Meeting.

Recommended: That Consent for Development Application 936/2002 for a convention centre, /serviced apartments and a restaurant be approved subject to appropriate conditions as detailed in **Tabled Document ‘DC5’**.

MOTION

Moved Cr McFadden, *seconded* Cr Patterson that Consent for Development Application 936/2002 for a convention centre, /serviced apartments and a restaurant be approved subject to appropriate conditions as detailed in **Tabled Document ‘DC5’**.

DC123/02 THE MOTION ON BEING PUT WAS **CARRIED**.

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

CHAIRMANSHIP OF MEETING

Cr Anderson, the Deputy Mayor vacated the Chair and the Mayor, Cr Corrigan assumed Chairmanship of the Meeting, the time being 7.03pm.

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**4. Two (2) Lot Rural Subdivision at No 296 (Lot PT 101
DP 866920) Cawdor Road, Cawdor**

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

DA No: 39/2002

Owner: Mr RV & Mrs EB Brown

Applicant: Mr RV & Mrs EB Brown

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

Purpose of the Report

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

The application is referred to Council for consideration, as the proposal does not comply with the development standards contained within LEP's 46 and 48, in that the allotments do not have a minimum lot size of 40 hectares. The applicant has submitted a SEPP1 objection with the application seeking Council's support.

Summary of Recommendation

It is recommended that Council refuse the application.

Subject Site

The site is known as Lot 101 DP 866920. Cawdor Road divides the lot into two (2) parts. Part Lot 101 to the western side of Cawdor Road has a total area of 32.47ha, whilst Part Lot 101 to the eastern side of Cawdor Road has an area of 1.294ha. The western part of Lot 101 also has frontage to Dowles Lane and borders Camden High School. Matahil Creek west also runs through this part of Lot 101.

As the lot is divided by two LEP's, there is a dwelling entitlement to both parts; hence these entitlements have been utilised and there are two dwellings on the same allotment, one on either side of Cawdor Road. **Tabled Document 'DC6'** shows the existing allotment and its location.

Proposed Development

The proposal involves the subdivision of both parts of the lot by creating a boundary along Cawdor Road. This will create two separate titles, which could be held in separate ownership. The new lots will have the same site areas as the current part lots

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have and there are no physical changes proposed. The subdivision proposal is indicated in **Tabled Document 'DC7'**.

There is a long subdivision history of the site and the current proposal to create two (2) under sized allotments could only proceed through a SEPP 1 objection.

Zoning

The current zoning boundaries run along Cawdor Road. The part lot on the western side of the road is zoned Rural 1(a) under LEP 48, whilst the part lot on the eastern side of the road is zoned Rural 1(a) under LEP 46.

The applicant has submitted a SEPP 1 objection, as the proposal cannot achieve the minimum subdivision size. Both LEP's contain different objectives and provisions, however both require a minimum subdivision size of 40ha. It is noted that a SEPP 1 objection requires the concurrence of the Director of PlanningNSW.

Subdivision History of the Site

The site's subdivision history is relevant to the current proposal. Outlined below is a comprehensive history of these subdivisions:

- (a) The subject land extended on both sides of Cawdor Road prior to 1976. This was made up of 14.32ha on the eastern side of the road (Lot 11, DP 716636) and 43ha on the western side (Lot 23, DP 975392) see **Tabled Document 'DC6'**.
- (b) Preceding both LEP'S 46 & 48, Interim Development Order No. 3 (IDO 3) was the relevant planning instrument for the site. Under this, the site was zoned 1(a) Non Urban. This instrument required a minimum of 40ha per lot, and also had provisions for concessional lots. The then owners, who held from 40ha up to 80ha were capable of creating two concessional lots having an area of 1000sqm for the purpose of housing the owners and their relatives or a rural worker; or 2ha for agricultural use.

Consequently, two smaller allotments were created on the western side - Lot 101 DP 623516 (registered 1981) having an area of 2ha, and Lot 1 DP 584054 (registered 1976) having an area of 2035sqm fronting Cawdor Road. The latter was enlarged in 1986 with approval, to 3035sqm by boundary adjustment and is now known as Lot 11 DP 773224. Hence, two separate dwellings have been erected on these concessional lots. A residue lot of 40.71ha (lot 12) remained, which complied with the

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minimum lot size requirement. These allotments are indicated on Deposited Plan 773224, which forms **Tabled Document 'DC8'**.

This resulted in all concessional lot entitlements being taken up.

- (c) On the 20th August 1991, an application to subdivide an undersized lot was made with the lodgment of DA 1298/91. This proposed the creation of a 2.2ha lot on the western side of Cawdor Road.

This application was refused by Council as:

- it did not meet the 40ha minimum requirement of IDO3 and would create a residue of 38.51ha;
- the SEPP 1 objection was not justified;
- it set a precedent;
- it was not in the public interest.

DA 1298/91 subdivision plan forms **Tabled Document 'DC9'**.

- (d) A further application to subdivide an undersized allotment was made on the 25 November 1991, with the lodgement of DA 1356/91. The proposal was similar to the current application and proposed the subdivision of a 1.294ha lot on the eastern side of Cawdor Road, with a residue lot of 13.06ha. The subdivision plan for DA 1356/91 forms **Tabled Document 'DC9'**.

Council staff recommended refusal of the application for the same reasons as in DA 1298/91. However, the Council of the time supported the application and requested the concurrence of the Director of the Department of Urban Affairs and Planning. The Director refused concurrence, and requested a more detailed SEPP1 objection be submitted to justify the proposal.

This was not acted upon as Council had subsequently received legal advice indicating the subdivision could be effected by a boundary adjustment. The boundary to be adjusted was the boundary along Cawdor Road. This would create a lot that straddled the road and contained two dwellings as indicated in **Tabled Document 'DC7'**. Council's legal advice indicated that the boundary adjustment would be acceptable as:

- it was permitted under clause 12 (2) (c) of LEP 46 which allows enlargement of an allotment, without reducing any other allotment below the minimum lot size requirement. In this regard, the existing lot from

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which the land for the boundary adjustment was being taken was already under the minimum lot size requirement;

- there was no change to development density;
- two dwellings on one allotment were acceptable in this case as the area of land was affected by two LEP's, both of which allowed for the erection of a dwelling.

Subsequently, DA 1356/91 for the undersized allotment was withdrawn, and DA 177/92, achieving the same result was approved for the boundary adjustment.

- (e) The Department of Public Works and Services created the Camden High School site (Lot 100) as a Crown subdivision. The Department acquired an allotment of 8.24ha from the western part of Lot 101, thus reducing the size of the western part from 40ha to 32.4ha, with a total area of Lot 101 now being 33.76ha.
- (f) A further proposal was lodged with Council on the 25 November 1998, known as DA 5952/98. This application proposed an identical subdivision to the current proposal, with the creation of a boundary along Cawdor Road. The new lots were to have the same site area as the part lots currently have. A copy of the subdivision forming DA 5952/98 is shown in **Tabled Documents 'DC10'**.

Council refused the application at the meeting of the 12 April 1999, for the following reasons:

- The proposed allotments do not comply with the 40ha minimum subdivision size of the Rural 1(a) zone as specified in clause 12(1) of LEP 46 and clause 12(2) of LEP 48;
- The variation between the allotment size required by clause 12(1) of LEP 46 and clause 12(2) of LEP, and that proposed in DA 5952/98 is considered unacceptable; and therefore Council does not support the objection under the provisions of SEPP1;
- The subdivision, if approved, would set a precedent for undersized subdivision of other Rural 1(a) zoned land, which will undermine the objectives of the zone.

SEPP1 Objection

The proposed subdivision will create lot sizes of 1.294ha and 32.47ha, which does not meet the requirements of both LEP 46 and LEP 48. Clause 12(1) of LEP 46 and clause 12(2) of LEP 48 both require a 40ha minimum lot size for subdivisions within the respective Rural 1(a) zones.

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A SEPP 1 objection has been submitted by the applicant to vary the standard, arguing that strict compliance with the development standard is unreasonable, unnecessary and would tend to hinder the attainment of the objectives of state, regional and local planning instruments. The objection states that the proposal complies with the objectives of the Rural 1(a) zones within LEP's 46 and 48; the objectives of sections 5 (a) (i) and (ii) and section 79C of the EP&A Act; the objectives of Sydney Regional Environmental Plan No. 20; and the principles behind clause 12(1) of LEP 46 and clause 12(2) of LEP 48.

The SEPP1 objection states that these objectives are achieved as:

- there are no changes proposed through the subdivision, therefore there are no adverse impacts on the rural character, environmental quality or the agricultural productivity of the site;
- due to separation by the road and its size, the existing eastern part of Lot 101 has already been fragmented from agricultural use. The western part of Lot 101 is still available for viable agricultural use;
- the subdivision will formalise the existing situation and allow for improved management of site to promote sustainable living;
- the development will not generate any increase in demand on existing infrastructure;
- the proposal reflects the emphasis on subdivision patterns corresponding to the natural characteristics of the site and adjoining developments within the rural locality of Cawdor.

The SEPP1 objection identifies and addresses the development standards to be varied within the Camden Local Environmental Plans. Yet the objection fails to justify how the subdivision gives priority to agricultural sustainability and the conservation of economic units of actual or potentially productive agricultural land as identified by the Department of Agriculture. The objection does not adequately address how the subdivision will support the Rural 1(a) zone objectives of both LEP's 46 and 48 and agricultural strategies outlines within SREP 20 – Hawkesbury Nepean River. The comments in relation to current subdivision refer to other concessional lots created on adjoining land and it is noted that the subject site has already been subdivided under the concessional lot provisions. On this basis the SEPP Objection is not supported.

Notification

In accordance with Council Development Control Plan No. 116 "Notification, Advertisements and Mediation", the proposed development was notified to potentially affected residents. At

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the conclusion of the exhibition period, no submissions were received.

Consideration of the Proposal

In accordance with the EP&A Act, the proposal has been assessed under Section 79C, with the following issues being raised:

(a) Agricultural Classification

The Department of Agriculture has classed the eastern side of Cawdor Road under the 'Agricultural Land Classification System' as Class 3. This class consists of moderately productive land suitable for grazing and pasture improvement. The western side of the road has a higher quality (Class 2) agricultural classification. Both sides of the road have potential to be utilised for agricultural production.

The subdivision would tend to hinder the potential viability of agricultural production by formalising the fragmentation of the land and creating potential for conflict between agricultural and other land uses. It would also limit the flexibility of rotation of uses between the two parcels.

(b) Precedent

The proposal will create two lots with site areas substantially lower than the 40ha minimum subdivision requirement of LEP 46 and 48. The 32.47ha western part has an area, which is 18.8% less than the requirement, whilst the 1.294ha eastern part has an area, which is 96.8% less than the requirement. Following the acquisition of the 8.24ha for the school, the existing lot no longer complies with the minimum lot requirement.

It is considered that the approval of this subdivision will create a precedent for similarly zoned land in Camden. This in turn will undermine the objectives of both LEP 's 46 and 48.

(c) The Provisions of any Environmental Planning Instruments

Camden LEP 46

The objectives of the Rural 1(a) zone within LEP 46 are:

- to promote the conservation of economic units of productive agricultural land;

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- to discourage fragmentation of landholdings into areas which are inadequate to support viable commercial agricultural practices;
- to permit the development of appropriate agricultural land uses and prevent development of inappropriate non-agricultural land uses;
- to discourage alienation of good farming land while at the same time permitting selected non-agricultural land uses such as rural industries which are in keeping with the principal zone objectives and which will not adversely affect agricultural production;
- to ensure that development does not detract from the existing rural character or create unreasonable or uneconomic demands for provision or extension of public amenities and services;
- to permit the development of a number of rural retreats and horse riding and training schools provided agricultural productivity is not adversely affected and development does not occur on lands subject to environmental hazards.

Camden LEP 48

The objectives of the Rural 1(a) zone within LEP 48 are:

- to provide for suitable land for agricultural use;
- to promote the conservation of economic units of productive agricultural land, particularly those areas designated as having prime crop and pasture potential, by regulating subdivision to prevent the fragmentation of actual or potentially productive rural holdings;
- 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;
- to permit the development of extractive industries to occur in an environmentally acceptable manner, and;
- to ensure that development does not detract from the existing rural character of the area or create unreasonable or uneconomic demands for provision or extension of public amenities and services.

It is considered that taking into account the history of the site and its area reduction that further subdivision of the land would not be consistent with the objectives of either zone.

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Sydney Regional Environmental Plan No. 20 –
Hawkesbury Nepean River No. 2 – 1997

SREP 20 provides a total catchment management approach to planning within the catchment of the Hawkesbury Nepean River.

In particular, the Plans policy on agriculture is:

Agriculture must be planned and managed to minimise adverse environmental impacts and be protected from adverse impacts of other forms of development.

The strategies relating to agriculture under this policy are:

- give priority to agricultural production in rural areas;
- ensure zone objectives and minimum lot sizes support the continued agricultural use of Class 1, 2 & 3 of agricultural land (as defined in the Departments - Agricultural Land Classification Atlas) and of any other rural land that is currently sustaining agricultural production;
- incorporate effective separation between intensive agriculture and adjoining uses to mitigate noise, odour and visual impacts;
- protect agricultural sustainability from the adverse impacts of other forms of proposed development;
- consider the ability of the site to sustain over the long term the development concerned.

Again, the subdivision would not achieve these objectives.

Conclusion

The site currently exists as two parts separated by Cawdor Road, and is zoned under two different LEP's. The proposal intends to formalise the existing arrangement by subdividing the lot along Cawdor Road. Whilst the applicants arguments can be appreciated, the degree of variation from the minimum lot size, the zone objectives, the history of subdivision, and any precedent that would be created should all be considered.

The minimum lot size requirement in LEP 46 and 48 is 40ha. As this is not achieved, the applicant has submitted a SEPP1 objection and identified the relevant development standards to be varied. The objection argues that strict compliance with the development standard is unreasonable and will formalise an existing situation. However, the objection fails to justify a variation from the zone objectives in relation to the conservation of agriculturally productive land and the fragmentation of viable commercial agricultural practices. It

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also fails to acknowledge that the approvals granted for the dwellings were for use by relatives or rural workers. The subdivision would allow separate, independent use of the dwellings.

The proposed allotments will have a lot size of 1.294ha and 32.47ha. These lot sizes represent a 96.8% and 18.8% variation from the 40ha requirement. In the past, the Director of DUAP refused concurrence as the SEPP1 objection failed to justify the proposal. In addition, all concessional lot entitlements have been used up and an undersized allotment has been acquired by the Department of Works and Services for a school.

On this basis, it is considered that the proposed subdivision is unacceptable, as it will set an undesirable precedent for similar allotments. Based on the above it is recommended that the application be refused.

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

- (i) The proposed allotments do not comply with the 40ha minimum subdivision size of the Rural 1(a) zone as specified in clause 12(1) of LEP 46 and clause 12(2) of LEP 48.
- (ii) The variation between the allotment size required by clause 12(1) of LEP 46 and clause 12(2) of LEP 48, and that proposed in DA 39/2002 is considered unacceptable; and therefore Council does not support the objection under the provisions of SEPP1.
- (iii) The subdivision if approved, would set a precedent for undersized subdivision of other rural 1(a) zoned land, which will undermine the objectives of the zone.
- (iv) The proposal does not support the Rural 1(a) zone objectives set out within both LEP 46 and 48; as it would discourage the conservation of economic units of productive agricultural land, by encouraging the fragmentation of actual or potentially productive rural holdings.
- (v) The SEPP 1 objection does not address how the subdivision will comply with one of the major land use strategies outlined within Sydney Regional Environmental Plan No. 20 – Hawkesbury Nepean River, in that the minimum lot size will be further deteriorated and could not sustain agricultural use of Class 2 & 3 agricultural land.

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MOTION

Moved Cr Campbell, seconded Cr McFadden that consideration of this matter be deferred following a Works Inspection.

DC124/02 THE MOTION ON BEING PUT WAS **CARRIED.**

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5. Traffic Management Facilities Associated with the Retirement Village at No 49 (Lot 200 DP 1022680) Lodges Road, Narellan

File No: 4950.105 (Director, Development & Environment Division)
DA No: 246/98, 1727/99 & 1814/2001
Owner: Trustees of the Hunters Hill Congregational Church
Zoning: LEP 46 5(a) special zoning

Purpose of Report

The applicant has requested the deferment of the conditions that have been attached to a previous Development Application for the erection of units and a community building at the subject property. The consent contained conditions relating to the provision of traffic management facilities at the entrance to the development. **Tabled Document 'DC11'** forms the approved interim Traffic Management Proposal by Council's Traffic Committee.

The development was completed some 3 years ago, but the applicant has not carried out these works to date. A number of requests have been made to defer these works, and have in the past been granted. However, the applicant has lodged an application to erect more units and not carry out these works. This would bring the total number of units to 44, not including the community centre, which is used for church services.

The applicant has requested a deferral of these works; however the report recommends the work take place immediately.

Background

The following stages of the development have been completed at the Angus Bristow Retirement Village at Lodges Road:

- Stage I – (DA111/93)
12 x 2 bedroom units
- Stage II – (DA246/98)
16 selfcare units and community centre

The condition related to intersection treatment by providing a passing lane and short acceleration and deceleration lanes was not completed. Council approved the plan for work on 4 May 1998.

- Stage III
10 self-care units

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The condition related to the intersection work was specified but no work has been carried out.

The applicant claimed that the Golf Club objected to the proposed intersection treatment and requested a roundabout in place of the proposal. The roundabout proposal was not agreed by Council or the applicant's Traffic Consultant, as the location was undesirable, given sight lines.

- Stage IV – Current Development Application (1814/2001)
 - 2 x 2 bedroom villa units
 - 4 x 3 bedroom villa units

This application has been assessed and complies with SEPP No 5. During notification, Camden Golf Club objected to the further development of the site until the Lodges Road intersection treatment is completed. If the objection can be resolved, consent to the application can be issued.

Council has had numerous meetings with the architect, the applicant, Camden Golf Club and Traffic Consultants Sinclair Knight & Mertz in order to resolve this matter. In view of the fact that the LEP for Elderslie proposes a new road along the western boundary of the property (approximately 60 metres from the existing entrance), it is considered that minimal road works would need to be carried out to address the safety of the motorists entering and leaving the subject site. The work includes the improved delineation of the road by minor widening, line marking, provision of raised pavement markers and signs. The Golf Club has no objection to the proposal but refused any contribution.

The proposal was approved by the Traffic Committee in April 2002, subject to submission of a Traffic Control Plan for construction work and formal advice to emergency services and bus companies.

It was also agreed that a bond should be lodged with Council equivalent to the cost of the 'original approved work' so that such bond would be used as a part of the Contribution for the proposed intersection treatment with the new road (on the western side) and Lodges Road. However, proposed interim work should be carried out as soon as a contractor is secured.

The applicant advised Council on 29 August 2002 that the only quotation secured was approximately \$68,000 and such funds could be put for better use in carrying out their mission with aged and disabled. Council has assessed the cost of the works and advises that the work can be completed for \$21,739.57. Staff are currently discussing the issue of cost with the applicant.

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Traffic Condition

The condition requiring the implementation of the Traffic Management Strategy at the entrance to the retirement village and Golf Club is essential in order to improve the safety of the motorist entering and leaving those sites. The entry points are only separated by the 24m at the crest of the hill.

The daily traffic volume of 2100 was recorded in 2001 and which included 5% or about 100 of heavy vehicles in Lodges Road. Further, the traffic generation from the Golf Club is fairly high during the weekends. The poor geometry of Lodges Road and the speed observed over the subject section of the road represent a safety concerns for residents of the retirement village and Golf Club. Given these conditions and the age of persons living in the retirement village, it is considered that Council has a duty of care to ensure that safe access is available to such residents. Council in the past has deferred construction works on the request of the applicant, however, the number of residents accessing the village is increasing and these works are required to be carried out.

Interim Traffic Management Proposal

This proposal consists of a minor widening of the existing southern lane to 3.0m for a length of 140m and remarking of centre double lines, edge lines, and providing reflective raised pavement markers. Further signs will be placed on either side of the crest of the hill indicating that “Hidden Driveways” exist.

The main aim of the proposed traffic management proposal is to improve the delineation of the road and the entrance points thereby improving the safety of the residents in the retirement village and patrons of the Golf club.

Future Work in Lodges Road due to Elderslie LEP

Lodges Road has been identified as a Collector Road in the Elderslie LEP and the Section 94 Plan will provide funding for design and construction of Lodges Road. The timing of such work is somewhat uncertain at this stage unless up front funds are made available. Any further development of the retirement village would be subject to such Section 94 Contributions.

The road on the western side of the subject land has been masterplanned and availability of this road link to the site will be subject to development of the adjoining lands.

Conclusion

The intersection improvement at the entrance to the retirement village has been a condition of the development consent since

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October 1998. Lack of any traffic management strategy at the entrance to the development would present a safety problem to the residents of the retirement village and Golf Club patrons.

The proposed interim proposal would provide a sufficient level of safety in the short term, which will be further, improved with implementation of the road network for the Elderslie LEP.

Recommendation: That

- (i) That the proposed interim traffic management proposal be constructed prior to the approval of further development on the subject site;
- (ii) Development Application No 1814/2001 to construct 2x2 bedroom units and 4x3bed room units at No 49 (Lot 200 DP 1022680) Lodges Road be approved under delegated authority after the road works are completed, and
- (iii) The Camden Golf Club be advised of the Council's decision.

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

- (i) That the proposed interim traffic management proposal be constructed prior to the approval of further development on the subject site;
- (ii) Development Application No 1814/2001 to construct 2x2 bedroom units and 4x3bed room units at No 49 (Lot 200 DP 1022680) Lodges Road be approved under delegated authority after the road works are completed, and
- (iii) The Camden Golf Club be advised of the Council's decision.

DC125/02 THE MOTION WAS **CARRIED.**

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6. Update on progress of Council's Fire Safety Program
(File 4563) (Director, Development & Environment Division)

Purpose of Report

The report is provided to update Council on the progress and implementation of Council's Fire Safety program.

Background

On 26 November 2001, Council resolved to launch a Fire Safety program, which included a public awareness campaign followed by an upgrade of building and on-going education program. The program was successfully launched at a seminar in April 2002 to which building owners and key stakeholders were invited. Council also conducted an extensive education program via a number of mail outs.

In August 2002, after a Development Branch re-structure, a Fire Safety Officer was appointed internally to oversee and implement the program.

Main Report

The Building Audit Process

The inspection regime began almost immediately with appointment of the Fire Safety Officer.

Buildings in the area have generally been ranked according to potential risk, with high-risk buildings being addressed first given their use and potential threat to life and safety. High risk buildings are generally those where people may be disadvantaged during a fire or emergency due to varying factors such as sleeping, incapacitation, alcohol and sub-standard construction and/or essential services.

To date, Council has inspected approximately 50 buildings. The inspections have revealed varying degrees of non-compliance and fire safety issues, including a number of high risk buildings. Defects include windows and combustible construction built up to boundaries, non-compliant or insufficient egress from buildings, inadequate fire separation between sole occupancy units and adjoining buildings, essential services such as smoke alarms, hose reels, emergency lighting etc which have not been maintained and in many cases are non existent.

Council is currently working with a number of building owners to achieve satisfactory upgrades to these buildings. A map will be on display at the Council meeting, providing a graphical representation of the areas covered by the program to date.

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Particular attention has been given to the Camden Town Centre, due to the mix of uses and age and construction of the buildings. It should be noted that a number of low risk buildings have also been inspected, mainly in response to Council's education program and positive feedback from building owners who have been pro active in embracing their legislative responsibilities.

Places of Public Entertainment

As part of the program, Council is also looking at all premises, which are conducted as Places of Public Entertainment (POPE). Approvals for existing premises are currently being revised and renewed, with suitable upgrades being carried out as required. A comprehensive register of POPEs is being compiled so those premises may be monitored on their performance and compliance with their annual approval. Through this process Council will also endeavour to identify premises conducting activities which constitute a POPE without such approval, and assist proprietors in having these situations rectified.

Bushfire Prone Areas and Bushfire Protection

Council is currently in the process of mapping bush fire risk in accordance with PlanningNSW guidelines. For new subdivisions, bushfire risk assessment is carried out as part of the section 79C assessment and appropriate measures or restrictions placed on developed parcels. Development in existing bush fire prone areas will be assessed in accordance with PlanningNSW guidelines, Australian Standard AS3959 – 'Construction of buildings in bushfire prone areas' and referral to the Rural Fire Service. Any development within a classified area is integrated development and requires approval from NSW Rural Fire Service. Staff are currently liaising with the local Fire Coordinator to establish a suitable protocol for referrals.

Monitoring of Automatic Fire Alarms

The Building Code of Australia requires that certain buildings have their fire alarm and detection systems connected to a 'back to base' type monitoring system. For the past 20 years this monitoring was done via a direct data link to a NSW Fire Brigades station or command centre. However, in early 2002 the Brigades announced they would no longer provide this service. It is therefore necessary that all affected buildings have their systems converted over to private service providers.

Council is currently liaising with NSW Fire Brigades and building owners to implement the necessary change over and meet Brigades timetable for conversions. Council will also require certification on completion of works to ensure that an

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authorised provider has been contracted and that conversion works and system performance complies with relevant standards.

Conclusion

The Fire Safety Upgrade program is an on-going and difficult process. Council will be kept informed of the progress and any new developments in fire safety which effect the Camden LGA.

Recommended: That Council note progress in the Fire Safety Program.

Resolved on the Motion of Cr Patterson, seconded Cr McFadden that consideration of this matter be deferred to the Council Meeting later this evening.

DC126/02 THE MOTION WAS **CARRIED.**

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**7. Collection Service for Domestically Generated Sharps
and Syringes**

(TC3631) (Director, Development & Environment Division)

Purpose of Report

The purpose of this report is to propose that Council participate in a joint program with local pharmacies involving the collection of used sharps and syringes produced by local residents.

Background

On numerous occasions over recent years Waste Service NSW, who operate the MRF, has suggested to Council that recycling material delivered to Jacks Gully is being contaminated with sharps originating from either local doctors surgeries, veterinary surgeries, dentists or from residents who use needles at home as a result of a chronic illness. Concerned about the allegations, Council undertook an audit of all commercial properties generating sharps. It was found that all premises audited had an acceptable method of disposal in place for medical waste and in particular sharps. As a result of the audits it was believed that the sharps were originating from domestic properties (ie people with medical conditions).

Due to the very limited disposal options available to residents, Council approached all pharmacies within the LGA, inviting them to participate in a co-operative arrangement for a collection program, similar to those successfully implemented in other Council areas. This issue has been recognised by a large number of councils around Sydney and most of our neighbouring councils offer a collection service.

The first audit was undertaken in November of 2001. At that stage there was very low support for the program, with only one pharmacy wishing to be involved (Camden Pharmacy). Disappointed by the lack of support, Council did not commence with the program.

Since then, Council has revisited all pharmacies to initiate more support for the collection and inviting them to participate in the program. More positively, a number of pharmacies have expressed interest in the program.

Program

Council aims to deal with the inappropriate disposal of domestic sharps in two stages.

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Stage One

Pharmacies wishing to be involved in the program would act as a drop off point to the public, whereby residents are able to bring in unwanted sharps, which are to be disposed of in suitable containers supplied by a nominated contractor. The contractor, employed on Council's behalf, would either pick up the bin on a regular basis or on-call as required. There would be no cost to the pharmacy other than promotional material additional to that supplied by Council.

Having approached all pharmacies recently, the level of support for the program is significantly increased from previous invitations to participate in the collection program.

The following are pharmacies that have indicated initial support for the program.

- Camden Pharmacy – 91 Argyle Street, Camden
- Sinclairs Day & Night Pharmacy – 122-130 Argyle Street Camden
- Amcal Narellan – Shop 44-48 Narellan Town Centre, Narellan

The remaining chemists have indicated that they wish to further consider before joining the program.

The service will be promoted to the community through appropriate channels with the possibility for further promotion to be undertaken by the South-Western Area Health Service.

Cost

The costs associated with providing a sharps collection program are relatively minimal, but will ultimately depend on the usage of the service. Camden Pharmacy who currently have a bin are charged an initial \$40 per bin plus \$40 per pick up. It is anticipated that should all pharmacies join the program the approximate cost for the service may range somewhere between \$2000-2500 per annum. The cost of the program would be funded by the Waste Management Budget. It is believed that the cost of providing the service would offset any potential costs associated with Council's recycling load being classified as contaminated (with syringes and sharps) and charged at a significantly higher rate than current recycling rates. Current costs incurred by Council for the disposal of recyclable material is \$15.00 per tonne. For material found to contain sharps increases to \$120.00 per tonne. Sharps are segregated from the load using a front end loader thus leading to substantial quantities being rejected.

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Stage Two

The issues related to the disposal of syringes in public places will form the second stage of the program. Recent discussions with the Department of Health and the South West Sydney Area Health Service have indicated that there are opportunities to establish co-operative relationship in addressing the sharps issue in public places. These opportunities will be furthered investigated.

Conclusion

The lack of appropriate disposal methods available to the community for sharps and syringes has become apparent. Council is willing to initiate a service in partnership with the local pharmacies for the benefit of the community. The perceived benefits of implementing a convenient and safe collection programs are considered to outweigh the relatively small cost associated with the program.

Recommended: That Council

- (i) Support the establishment of a program to collect and dispose of domestically generated sharps and syringes and actively promote the program to all possible participants and the community;
- (ii) Engage a contractor on behalf of participating pharmacies and cover associated costs. Funding to be provided from the Waste Budget's sundry expense account; and
- (iii) Further investigate opportunities in seeking assistance to establish collection points in public places, if appropriate.

Resolved on the Motion of Cr Winn, seconded Cr McFadden that consideration of this matter be deferred to the Council Meeting later this evening.

DC127/02 THE MOTION WAS **CARRIED.**

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**8. Call For Nominations For Membership On The
Hawkesbury-Nepean Management Board**

(File 3573/8) (Director, Development & Environment Division)

Council is in receipt of correspondence from LGovNSW, which advises that it is seeking nominations to fill three (3) positions to represent local government interests across the catchment on the Hawkesbury-Nepean Management Board. Two (2) of the positions are for Councillors and the third for a land holder/user position nominated by Councils. The person nominated for the latter position does not need to be a Councillor or council officer and can be a person recognised by local government as representing the interests of local landholders and landusers.

Formal nominations will be submitted to DLWC by the LGovNSW.

An information pack which details the process and criteria of nomination forms **Tabled Document 'DC12'** and DLWC advise that there is likely to be six (6) meetings per year with two (2) in the first two months to establish the Board. The meetings would be during the day and are likely to run for the whole day. The initial meetings would be held at Windsor and the Board would then determine future venues.

Recommended: That Council determine whether it wishes to nominate any Councillor for consideration to the Board.

MOTION

Moved Cr Senise, seconded Cr McFadden, that Council determine whether it wishes to nominate a Councillor for consideration to the Board.

DC128/02 THE MOTION ON BEING PUT WAS **CARRIED.**

FURTHER MOTION

Moved Cr Patterson, seconded Cr Winn that Council not nominate any Councillors for consideration to the Board.

DC129/02 THE FURTHER MOTION ON BEING PUT WAS **CARRIED.**

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9. 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)

Council at its meeting held on 25 February resolved to adopt the Grasmere Masterplan, but deferred the date it became operative until all Deeds of Agreement were executed.

All Deeds of Agreement are now due to be received by Council. Accordingly the Masterplan can now become operative following its notification in the newspaper.

Recommended: That

- (i) the Grasmere Masterplan come into operation following its notification in the newspaper.
- (ii) Council advise each of the owners of its decision.

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

- (i) the Grasmere Masterplan come into operation following its notification in the newspaper.
- (ii) Council advise each of the owners of its decision.

DC130/02 THE MOTION WAS **CARRIED.**

The Meeting closed at 7.10pm.