TABLE OF CONTENTS – DEVELOPMENT COMMITTEE

DEVELOPMENT COMMITTEE PUBLIC ADDRESSES 2

1. The Erection of two (2) Softball Batting Tunnels and two (2) Lighting Towers at 2 Argyle Street Camden 3

2. Modification to DA 1056/2001, Community Title Subdivision at No 350 (Lot 3 DP 882365) Macquarie Grove Road, Kirkham. 11

3. Draft Development Control Plan 122 – Classification of Land: Welling Drive Mount Annan to Residential "1"..... 15

Present: Cr G Corrigan (Mayor/Chairperson), Cr C Patterson, Cr N McFadden, Cr F Anderson, Cr B Batros, Cr E Campbell, Cr S Fekete, Cr S Winn

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

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

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

DC081/02 *THE MOTION WAS **CARRIED**.*
****

DEVELOPMENT COMMITTEE PUBLIC ADDRESSES

Mr Michael Gordon addressed the Committee in relation to Item 2.

Ms Neidra Hill addressed the Committee in relation to Item 1.

MOTION

Moved Cr McFadden, seconded Cr Winn an extension of time of one (1) minute be granted.

DC082/02 *THE MOTION WAS **CARRIED**.*
****

1. The Erection of two (2) Softball Batting Tunnels and two (2) Lighting Towers at 2 Argyle Street Camden

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

Purpose of Report

This report is submitted to Council to report on the matters raised at the Councillors workshop on held on 6 August 2002, in accordance with the resolution from the meeting of July 22, 2002 which stood over the determination of the development application. The report purely addresses the assessment of the development application and does not consider strategic open space planning.

Summary of Recommendation

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

Background

Council has considered a number of reports on this matter, and held a Councillors workshop on 6 August 2002. At that workshop the Macarthur District Softball Association (MDSA) advised Council that softball facilities existed in the floodplain at Lismore, Liverpool and Tamworth.

Councillors asked that these sites be investigated and a further report submitted to Council.

Councillors also asked about the possibility of obtaining a geotechnical report to determine the effect of scouring on the structures, and whether the old Cowpasture Bridge had drop down handrails.

The Proposal

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

- The construction of two (2) batting tunnels and a practice batting and pitching area. The batting tunnels are chain wire structures 20 metres long x 6 metres wide x 3.5 metres high, and are supported by a metal pipe frame. The tunnels

have been designed to enable the rear wall to be dropped in time of pending floods. Adjacent to the pitching tunnels is a practice batting and pitching area. This is a flat area with a dolomite surface used for the hitting and throwing of balls into the sides of the pitching tunnel.

- Two 18m high lighting towers containing lights of sufficient intensity for practice only.

- Backnets have been erected on eight (8) of the nine fields and dugouts have been erected on four (4) of the fields. Dugouts are currently under construction on two (2) other fields. The application also seeks development approval for these previously erected structures.

The Site

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

Assessment

An assessment of this application, in accordance with the requirements of Section 79c of the EP&A Act, was carried out in the report to Council of 11 February 2002. A copy of the minutes forms **Tabled Document "DC 1"**. This report expressed concerns at the flood impacts of the development and the visual impact of the lighting towers.

An assessment of the response received from SMEC was carried out in the report to Council of 22 July 2002. A copy of the report forms **Tabled Document (refer to Tabled Document from previous meeting of 12 August, 2002** The consultant engineer for the MDSA has provided information which forms **Tabled Document (refer to Tabled Document from previous meeting of 12 August, 2002)**.

Referring to the matters raised at the Councillors workshop of 6 August 2002 the following is offered as the result of discussions with officers of the relevant councils.

LISMORE

The Softball facilities are located in Albert Reserve adjacent to the Wilson River.

The softball complex contains one (1) international field, (2) fields with large backnets and (4) fields with small nets. A grandstand exists on the reserve, which is located in such a

position that it protects the international field from the full force of the floodwaters.

The playing fields are inundated to a depth of approximately 4m in a 1 in 100 year flood event, at a velocity of 1.6 – 3 m/sec.

Due to the age of the facilities, it was not possible without considerable research to confirm if the facilities had development or building approval.

It was known however that the facilities had been erected prior to 1980 under the provisions of the old flood mitigation plan, which has since been found to be severely flawed. This was demonstrated during the most recent flood which was not a 1% flood when an old 1.8m high chain wire perimeter fence was flattened as a result of debris build up against the fence.

It was also stated that, the existing facilities would not be approved under the current flood plain mitigation plan.

Referring to the liability matter, Lismore Council, due to the age of the facilities, has never specifically discussed the matter of liability with their insurance brokers.

LIVERPOOL

The softball facility at Liverpool is located adjacent to the Cabramatta Creek at Warwick Farm. The site contains 2 large backnets, 10 smaller nets, 2 batting tunnels 2 light towers and a ground level amenities building.

The site is within a 1% floodway and no depth or velocity details are available, however it is estimated that the depth of water during a 1% flood event would be approximately 1.5 to 2m across the playing fields.

Information was not easily available to determine if the facilities had obtained development or building approval.

Referring to the liability matter, Liverpool Council, due to the age of the facilities, has never specifically discussed the matter with their insurance brokers.

TAMWORTH

The softball facilities at Tamworth are located in Riverside Park adjacent to the Peel River.

The complex comprises 10 softball and baseball fields of differing standards ranging from international standard to local.

The facilities at Tamworth are all provided with 1.8m high drop down netting.

The system works in the following manner: -

A preliminary warning is issued of a possible flood event, and a final warning issued approximately four hours prior to flooding. This warning also contains details of the potential depth of the inundation. Once this information is received those responsible attend the fields to drop all the nets. The officer believed the system works well.

Initially a system existed whereby the nets were pulled up, however this was found to be physically difficult, subsequently the system of dropping the nets was introduced.

The depth of water across the fields during a 1% flood event is approximately 4m at a velocity of 1.5m/sec.

It was also stated that some of the older structures had failed in the past. This failure resulted in the structure buckling, but at no time did the netting come away from the supporting structures.

Referring to the liability matter, Tamworth Council, due to the age of the facilities, has never specifically discussed the matter with their insurance brokers.

COMPARISON

The following comparisons are offered between the above and Rotary Cowpasture Reserve:-

None of the above can be considered as a reasonable comparison to the subject site due to the fact that the maximum inundation is only 4m which is well short of the predicted depth across the subject site of between 7.3m and 5.2m

In the case of Lismore, it is noted that if approval was being sought today for the construction of the existing structures, the current flood plain mitigation plan would necessitate that the application be refused.

It is also noted that an old 1.8m high chain wire perimeter fence erected under the previous flood plain management plan was flattened in the last flood due to the build up of flood debris against the fence. This indicates that chain wire fences can succumb to the forces of flood water and debris build up. This fact is supported by the fact that some old softball structures at Tamworth have collapsed in the past due to flood debris build up.

In the case of Liverpool a comparison can not be made due to the depth of inundation, which is much less than that experienced at the subject site, it is also noted that the Cabramatta Creek catchment is much smaller.

It is also noted in the case of Tamworth that due to the flood warning system in place, sufficient time exists to have all the nets dropped prior to the area becoming inundated, and unlike the subject site the affected areas are not isolated prior to inundation.

GEOTECHNICAL REPORT.

Council has obtained a quote of $6000.00 to conduct the suggested Geotechnical report, and there is no guarantee that the results would be conclusive.

OLD COWPASTURE BRIDGE

An investigation has been undertaken into the details of the old Cowpasture Bridge.

It has not been possible to find plans of the old bridge, however an old photo has been found which indicates that only the handrails could be laid down.

CONTAINER

It was agreed at the workshop that an alternate watering system should be sourced to allow the removal of the container. Such system will need to be of sufficient size to be capable of being stored within the existing amenities building.

Conclusion

From the information obtained it has been demonstrated that chain wire barriers to flood waters can collect flood debris to the extent where they can eventually fail, even in situations of much less severity than that which may be experienced at the subject site. It should be noted however that in the Tamworth situation even though the structure collapsed, the netting did not separate from the structure.

It is worth noting that at Lismore, which is the only example comparable to the subject site, that the existing facilities would not be approved under the provisions of the existing flood mitigation plan.

Council's insurers have advised that if Council has considered the erection of nets and identified hazards associated with them and allows the nets to be erected, it could be argued that

Council would be liable for any injury and/or damage to third parties. Council should not automatically assume that if injury or property damage is caused by the nets its protection providers will provide indemnity to Council in such circumstances. Council must therefore consider proper risk management in this case and not allow any risk in the floodway.

Recommended: That:

(i) Development Application 1871/2001 for the construction of two (2) batting tunnels and an adjacent practice batting and pitching area and two 18m high lighting towers, at Rotary Cowpasture Reserve, No 2 (Lot 1 DP 612829), Argyle Street, Camden be refused for the following reasons: -

(a) The proposed development is inconsistent with the requirements of clause 21 of Camden Local Environmental Plan No 46 in that the applicant has not demonstrated that the proposed structures will not fail during a flood event leading to potential damage of infrastructure and/or property.

(b) The proposed development has the potential for significant scouring of the structures causing possible failure.

(c) The proposed development has the potential for significant scouring of the reserve.

(d) The applicant has not demonstrated that the netting is capable of being retained within the structures, and should it break free, the netting will move downstream possibly catching on poles, fences, trees or buildings; thereby acting as an additional debris trap, and increasing the potential to cause additional damage to property and/or life.

(e) The applicant has not demonstrated that the structures will not fail as a result of flood hazards, such as water and debris forces and velocities

(f) The application does not comply with the provisions of the NSW Floodplain Development Manual, which requires any structure erected within a “high hazard- floodway” to provide structural engineers details, demonstrating that the structures are capable of withstanding the

force of flowing floodwaters, including debris and buoyancy forces.

(g) The evacuation plan is not considered acceptable, as it would require people to be placed in an area where the access roads are cut before the subject site is affected.

(ii) Orders under section 121 of the EP&A Act be served requiring the netting to be dismantled and removed from the site within two months together with the unauthorised shipping container.

(iii) Council officers source an alternate watering system which is capable of being located within the existing amenities building.

MOTION

Moved Cr Corrigan, seconded Cr Winn that Council, after carefully considering in good faith the reports put forward by Macarthur Softball (Gary Murphy Consulting) and David Yong Consulting, Council staff and the Snowy Mountains Engineering Corporation (SMEC) approve:

(i) The Masterplan put forward by Macarthur District Softball Association for the development of the site;

(ii) The retention of the existing softball enclosures, subject to the recommendations contained in the Gary Murphy Consulting report being implemented specifically, the adoption of drop down netting on all fences and safety backdrops must be completed by December, 2002. Also the anti scouring measures recommended by SMEC and D Yong Consulting are to be implemented by December, 2002;

(iii) The unauthorised shipping container must be removed within two (2) months;

(iv) Council officers source an alternate watering system, which is capable of being located within the existing amenities building;

(v) No further fences are to be erected on site, to enclose softball diamonds until a flood event shows the success of the proposed measures adopted in (ii) above;

(vi) Deferred approval is given for DA1871/2001. The batting tunnels and lighting towers are not to be constructed until G Murphy Consulting provides an Engineer's certification that the measures proposed in (ii) above had been

implemented, the lighting spill assessment to be reported back to Council. This certification must be reported to Council and Councillors inspect such measures before this approval becomes active;

(vii) The Macarthur District Softball Association be advised Council does not agree with any aspects of the Masterplan relating to development within the riperian zone.

DC082/02 *THE MOTION ON BEING PUT WAS* ***CARRIED****.*
****

(Cr Fekete voted against the Motion).

2. Modification to DA 1056/2001, Community Title Subdivision at No 350 (Lot 3 DP 882365) Macquarie Grove Road, Kirkham.

File No: **DA5125.350-3** (Director, Development & Environment Division)
DA No: **Modification 60/2002 of DA 1056/2001**
Owner: **Vinegar Hill Pty Ltd**
Applicant: **John M Daly & Associates**
Zoning: **1(a) Rural 'A' (40 Hectares)**

Purpose of Report

The purpose of this report is to amend two conditions of consent granted previously by Council in relation to the 55 lot community title subdivision at Macquarie Grove Road, Kirkham.

Background

Council at the meeting held on the 27 August 2001, approved an application to create a 55 lot community title subdivision. One lot was to be dedicated to Council as open space, which would be an extension to the land previously dedicated to Council.

The Proposal

The applicant and owner, since obtaining development approval, and undertaking construction works and pre-sales of lots, have overlooked the bushfire restriction set down in the development application, as in prior meetings with the Rural Fire Service they had a different opinion of the outcome as set out in the consent.

Due to this misunderstanding and the lots being sold, the applicant has had further discussions with the Rural Fire Service and Rural Fire Service Planning Services. The applicant has requested a modification of condition 24 (b) (i) of the consent as a result of these discussions.

Condition 24 (b) currently reads –

Orielton Property Boundary –

i) A building alignment be established to ensure buildings are located over 35 metres off the Orielton property boundary, with the exception of lots 43, 44, 45 and 46 where the building alignment of not less than 15m should apply.

It has been requested by the applicant that part (b) (i) of Condition 24 of Council's consent be modified to read:

(b) Orielton Property Boundary –

i) A building alignment be established for lots 22 and 37 to ensure buildings are located over 25 metres off the Orielton property boundary with a Restriction as to User created to ensure the compliance with the requirements of the Rural Fire Service. Lots 42, 43, 44, 45 and 46 are to have a building line of not less than 15 metres from the Orielton property boundary.

In addition to the above, the applicant has requested the following modification to the rainwater tank restriction as to user, as Council has not yet introduced a rainwater tank policy for the connection of rainwater tanks to be used for toilet flushing.

Condition 59 (d) reads as follows-

d) Restriction as to user stating that no dwelling shall be erected or permitted to remain on any lot burdened unless such dwelling has a rainwater collection tank connected to the roofwater system to be used for recycling for garden watering and toilet flushing.

The request made by the applicant is to modify the consent condition to read as follows-

d) Restriction as to user stating that no dwelling shall be erected or permitted to remain an any lot burdened unless such dwelling has a rainwater collection tank of capacity not less than 2000 litres connected to the roofwater system to be used for recycling for garden watering.

Section 96 1(A) of the EP&A Act enables Council to modify a consent, where it is satisfied that the proposed modification will have minimal environmental impact.

In terms of the restriction placed on the development by the Rural Fire Services, the Service has met with the applicant to seek a resolution to the restriction. A plan of the lots the subject of this request forms **Tabled Document "DC 2"**. The service has stated that the dwellings will need to be of brick construction, with any windows along the side boundary (Orielton) having toughened glass. The Service also requires that any other structure should not be erected within the 5m setback area.

In terms of the rainwater tank being connected to the toilet system, the new Draft DCP 58 amendment, which not been considered by Council or placed on public exhibition, has a

requirement to provide for the connection to the toilet system. Currently Council is requiring builders to install tanks for gardening purposes. The requirement to connect to toilets has not been formally adopted by Council in the way of the new DCP 58, however it was previously conditioned for this subdivision.

Conclusion

The Rural Fire Services has approved the modification of building setback subject to conditions that are to be enforced by the development approval and restrictions on the 88B instrument as set out in the modified development application.

In addition the request for rainwater for toilet flushing has not been enforced elsewhere in Camden, however the inclusion of toilet flushing within this development will lead the way within the local government area and should be retained.

Recommended: That:

(i) the section 96 request to modify consent to Development Application No 1056/2001 in relation to bushfire setbacks be approved, subject to conditions as detailed in **Tabled Document "DC 3"**.

(ii) the section 96 request to modify the requirement for re-use of stormwater to garden use only be refused as this provides environmental benefits.

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

*(i) the section 96 request to modify consent to Development Application No 1056/2001 in relation to bushfire setbacks be approved, subject to conditions as detailed in **Tabled Document "DC 3"**.*

(ii) the section 96 request to modify the requirement for re-use of stormwater to garden use only be refused as this provides environmental benefits.

*THE MOTION ON BEING PUT WAS **LOST** ON THE CASTING VOTE OF THE MAYOR*

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

FURTHER MOTION

Moved Cr Corrigan, seconded Cr McFadden that

*(i) the section 96 request to modify consent to Development Application No 1056/2001 in relation to bushfire setbacks be approved, subject to conditions as detailed in **Tabled Document "DC 3"**.*

(ii) the section 96 request to modify the requirement for reuse of stormwater to garden use only be approved.

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

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

FURTHER MOTION

Moved Cr Fekete, seconded Cr Winn that;

*(i) the section 96 request to modify consent to Development Application No 1056/2001 in relation to bushfire setbacks be approved, subject to conditions as detailed in **Tabled Document "DC 3"**.*

(ii) the section 96 request to modify the requirement for reuse of stormwater be deferred for further consideration.

DC083/02 ********** *THE FURTHER MOTION AS MOVED BY CR FEKETE ON BEING PUT WAS **CARRIED**.*

(Cr Patterson voted against the Motion).

3. Draft Development Control Plan 122 – Classification of Land: Welling Drive Mount Annan to Residential "1".

(File TC4593)(Director, Development & Environment Division)

Background

Council, at the meeting of the 11th June 2002, resolved to adopt Draft Development Control Plan 122, for the classification of a recent subdivision at Welling Drive, Mount Annan to Residential "1".

Current Status

As required by the Environmental Planning & Assessment Regulations, the Draft was publicly exhibited for the required period with no objections being raised in that time. However, as required by the Act, the resolution of Council is required to be notified in the local newspaper within 28 days of Council's decision. This matter has been overlooked and therefore Council needs to resolve again to proceed with the public notification of the resolution.

Recommended: That Council resolve to adopt Draft Development Control Plan 122 in accordance with its resolution of the 11 June 2002, and the draft plan be implemented in accordance with the provisions of the Environmental Planning & Assessment Act and Regulations.

Resolved on the Motion of Cr McFadden, seconded Cr Winn that Council resolve to adopt Draft Development Control Plan 122 in accordance with its resolution of the 11 June 2002, and the draft plan be implemented in accordance with the provisions of the Environmental Planning & Assessment Act and Regulations.

DC084/02 *THE MOTION WAS **CARRIED**.*
****

(Cr Campbell voted against the Motion).

The Meeting closed at 7.00pm.