

**MINUTES OF THE DEVELOPMENT COMMITTEE MEETING
HELD 13 OCTOBER, 2003, CIVIC CENTRE, OXLEY STREET
CAMDEN – 5.30PM**

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

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

DECLARATION OF PECUNIARY OR CONFLICT OF INTEREST

Cr Campbell, acting on legal advice, declared an interest in Item 1 of the Development Committee, relating to the Draft LEP 117 Elderslie Release area.

Crs Patterson, Winn and Campbell, as business operators in the Camden CBD, declared an interest in Item 11 of the Resources & Services Committee relating to the provision of a decked parking structure in Camden.

DEVELOPMENT COMMITTEE AND RESOURCES & SERVICES COMMITTEE PUBLIC ADDRESSES

(30 MINS)

(Crs Campbell, Patterson and Winn left the meeting due to the declaration of interest in relation to Item 11 of the Resources and Services Committee - the time being 5.35 pm).

Mr Jim Morrison addressed the Committee in relation to Item 11 of the Resources & Services Committee.

(Crs Patterson & Winn returned to the meeting - the time being 5.38 pm. Note Cr Campbell remained outside the Chamber and took no part in discussion or voting on Item 1 of Development Committee).

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1. Draft Local Environmental Plan 117 Elderslie Release Area

(File 3345/18)(Director Governance and Outcomes)

Purpose of Report

To advise Council of the Interim Land Release Contribution Policy which has been finalised by the State Government to fund essential transport infrastructure for the land releases at Elderslie and Spring Farm, the Memorandum of Understanding for the implementation of the Policy and the amendments proposed to the Draft Local Environmental Plan 117 – Elderslie Release Area to implement the Policy. The report also recommends the adoption of Draft LEP 117 Elderslie, Draft DCP 124 Elderslie Release Area and place on public exhibition for a period of 28 days together with the Interim Land Release Contribution Policy and the Memorandum of Understanding.

Background

In May 2002, Council resolved that while it considered the amended Draft Local Environmental Plan for Elderslie Infill to be capable of adoption, it would not adopt the plan until such time as a meaningful commitment to public transport and accessibility was obtained from the State Government.

Since that time, Council officers have been working with officers of DIPNR and its predecessors to progress the matter. The then Mayor, Cr Geoff Corrigan, together with the Acting General Manager, Mr Greg Wright, met with the then Minister, Dr Refshauge, in August 2002 to commence the process. At that meeting Council was advised that draft documents would be provided to Council by November 2002.

In December 2002 the State Government issued a press release indicating that a transport levy of \$15,000 per lot would be applied in the Elderslie/Spring Farm releases and that \$30 million would be spent on various transport and accessibility issues in Camden.

Council in December 2002 resolved with regard to the Transport Levy the following:

“That Council agree in principle

- (i) to endorse the Transport Levy outline proposal as summarised in the report;*
- (ii) that the proposal, if satisfactorily finalised, will represent a meaningful commitment to transport and accessibility;*

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(iii) to consider the signing of the Memorandum of Understanding and adoption of the Elderslie DLEP at its next meeting

subject to

- 1. the resolution of all outstanding issues regarding the collection, administration and management of the Levy; and*
- 2. satisfactory resolution of any issues raised in Council's own legal advice; and*
- 3. Camden Council's list of priorities for regional infrastructure works to be funded by the Levy being agreed.*

Further, that Council request the Minister for planning to consider extending the application of the Levy to developments of less than 1000 lots."

The first draft documents setting out the actual mechanism by which the Levy was to be collected and required amendments to the DLEP were only received by Council in May 2003.

Further negotiations then took place with a revised draft policy, Memorandum of Understanding and LEP clauses received from DIPNR on 12 August 2003. Council Staff have been liaising with The Department of Infrastructure Planning and Natural Resources (DIPNR) regarding the Interim Transport Policy, the MOU and the amendments proposed to DLEP 117 Elderslie Release Area. Copies of the Policy, MOU and Draft LEP have also been referred to Council's Solicitor for advice. Copies of the Department's covering letter, the Interim Land Release Contribution Policy, MOU and Draft LEP 117 Elderslie Release Area with the amendments highlighted **have been circulated to Councillors under separate cover.**

Interim Land Release Contribution Policy

The Policy is to apply to the four urban release areas of Elderslie and Spring Farm in the south-west and Balmoral Road and Second Ponds Creek Release Areas in the north-west.

Council's request to the Minister of Planning to consider extending the application of the Levy to developments of less than 1000 lots has not been included in the Policy and DIPNR has advised that it will not be extending the levy to developments below 1000 lots at this stage.

The Policy will be implemented by way of amendment to the Draft LEP for Elderslie, which will require adoption by Council and public exhibition for a period of at least 28 Days. An MOU is required to be prepared to document the implementation of

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the Policy between the DIPNR, Roads and Traffic Authority and Council.

The contribution is calculated on the basis of \$33.33 per square metre for land suitable for residential subdivision, which is equivalent to \$15,000 per 450m² dwelling lot. The amount will be indexed annually by reference to the average percentage change in land value for all lands in the Register zoned for residential purposes in each of the relevant local government areas. The land values will be certified by the Valuer-General to DIPNR on a yearly basis.

The Levy will be collected by DIPNR, whether it is made by way of monetary contribution, works-in-kind or transfer of land or a combination of these. The monetary contribution can be in the form of a bank guarantee with payment in full required before the plan of subdivision is registered.

The funds will be used for regional transport infrastructure which the Policy describes "*may include*:"

- *Rail, busway or road links to district centres;*
- *Rail, busway or road links to regional transport road and rail networks, including station and track upgrades;*
- *Ancillary works such as regional cycleways and pedestrian footpaths to encourage/facilitate access to regional and sub-regional public transport;*
- *Promotion of public transport in the area and non-motorised forms of transport such as walking and cycling;*
- *Acquisition of land for transport infrastructure purposes; and*
- *Administration tasks in relation to the implementation of an Interim Land Release Contribution Policy".*

The MOU is to contain a more specific scope of works for which the funds will be used. The Land Management Branch of the DIPNR will administer Land Release Contributions in a trust fund with the Director General of DIPNR and the Chief Executive of the RTA jointly responsible for approving disbursements from that fund for infrastructure works identified in the relevant MOU.

The costs associated with administration of the Interim Land Release Contribution Policy over the life of the proposed implementation are calculated to be up to 1.5% of the Land Release Contribution.

The Policy is to be jointly managed by the DIPNR and the Roads and Traffic Authority of NSW and may be amended from time to time. Any proposed amendments to the Policy will be carried out in consultation with the relevant Councils affected by the Policy.

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Memorandum Of Understanding

An MOU to be entered into by DIPNR, Roads and Traffic Authority of NSW and Council, identified as the “parties”, has been prepared. The purpose of the MOU is to establish effective processes and co-operative arrangements between the “parties” to achieve provision of regional transport infrastructure in association with the development of urban release areas in Elderslie and Spring Farm. In addition the MOU is to document the agreement between the “parties” to implement the Interim Land Release Contribution Policy

The objective of the MOU is to facilitate the implementation of the Interim Land Release Contribution Policy as it relates to the Elderslie and Spring Farm Release Areas, by ensuring that satisfactory arrangements for the provision of regional transport infrastructure are in place prior to the issue of any development consent for subdivision for urban development.

The MOU sets out the roles, responsibilities and the principles for the implementation of the Levy and identifies in general terms the “appropriate transport infrastructure “ for the Elderslie and Spring Farm release areas”.

Attachment A to the MOU sets out the application of the policy to Elderslie and Spring Farm Release Areas noting that it comprises “3 key aspects:

- *Elderslie LEP and Spring Farm LEP to include provision for satisfactory arrangements for regional transport infrastructure as a condition of determination of any development application for subdivision of land for residential or mixed use purposes.*
- *The land subject of the contribution is as set out in Camden Local Environmental Plan No. 117 for Elderslie and Camden Local Environmental Plan No. 121 for Spring Farm.*
- *Upon receipt of a Certificate from the Director-General of Infrastructure, Planning and Natural Resources specifying that satisfactory arrangements have been made for the provision of regional transport infrastructure, section 149 certificates shall be amended to include a reference to this Certificate applying to the subject land.”*

Attachment B to the MOU contains a preliminary list of works, including an “agreed priority for the first three items of regional transport infrastructure” proposed for funding by the levy. Those three items of regional transport infrastructure are:

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1. *“Intersection improvements on Narellan Road to include signals and bus priority measures.*
2. *Narellan Road extension to the Northern Road.*
3. *Improvements to Macarthur station and interchange”*

The list also identifies *“other measures not prioritised may include:*

- *Public transport information and promotion measures*
- *Additional Bus priority measures*
- *Spring Farm Link Road conversion from collector to arterial road*
- *Narellan Road upgrade*
- *Intersections on the southern section of Camden Valley Way*
- *Camden By-Pass extension to Camden Valley Way”*

The list of works to be funded by the Levy is generally in accordance the regional transport priorities adopted by Council in December 2002.

Legal Issues

During the negotiations over this issue Council staff had consistently pointed out to DIPNR Council’s concerns that the Transport Levy be soundly legally based. DIPNR staff assured Council staff that their advice from Parliamentary Counsel was that the Levy was soundly based. However Council staff had always made it clear that Council would be seeking its own legal advice on the matter to ensure that our position was protected and that the scheme would operate successfully.

Council sought legal advice from Wilshire Webb on 14 August and following the receipt of preliminary advice, further advice was sought from Senior Counsel. The legal opinion of Senior Counsel was that the scheme under which it was proposed for the transport levy to be collected was “unlawful”.

On receipt of this advice, Council officers continued to work with DIPNR to determine another means by which the levy could lawfully be collected.

However on 24 September 2003 the Minister for Infrastructure, Planning and Natural Resources, the Hon Craig Knowles, intervened and advised the Mayor that the Government

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expected the matter to be resolved swiftly in accordance with the scheme proposed by the Department.

Discussions between the General Manager and DIPNR confirmed that the Minister expected the Draft LEPs for Elderslie and Spring Farm would be considered by Council at the next available opportunity, with the proposed amendments relating to the Transport Levy and arrangements for its collection included.

The clauses at issue and the details of the Memorandum of Understanding and draft policy have been discussed earlier in this report. Council officers are of the view that provided they were legally sound, the scheme would be an appropriate one for Council to endorse and to include in the Draft LEPs. However Council's legal advice is to the contrary.

Both Mr Knowles and Departmental officers have stated that the Government has legal advice that the scheme proposed is sound and the Mayor has requested that such advice be provided to Council in writing. A copy of the Minister's letter dealing with the legal advice **has been made available separately to Councillors.**

Given the conflicting legal advice, if Council adopts the DLEP it would be prudent for the Council to request the State Government to indemnify Council in the event of any challenge being made to these provisions of the LEP.

Draft LEP 117 Elderslie Release Area

A number of amendments have been proposed by DIPNR. The major amendment proposed permits Council to consent to a subdivision of land only if the Director-General has certified in relation to the land the subject of the development application for subdivision, that satisfactory arrangements have been made for provision of regional transport infrastructure in relation to any lot to be used for residential purposes.

Council may consent to a subdivision of land for specific purposes without the need for a Certificate where that land is intended to be used for such things as public open space, public roads, public utilities, educational facilities or any other public purposes to be provide by a public authority, lots for community facilities or minor adjustments to common property or the like. Residential uses are defined in this new clause

DIPNR has also requested additional objectives to be included in the LEP to complement the clause amendments to implement the Interim Land Release Policy. Minor changes to

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the Desired Future Character Statement contained within the DLEP have also been requested.

The zone boundary between the Local Open Space 6(b) and the residential zone at Rheinberger's Hill has been amended to be consistent with the Development Plan previously adopted by Council for Camden Acres property and included in the Development Control Plan.

A number of other minor amendments have been recommended by DIPNR for inclusion in the DLEP to ensure consistency with the Draft LEP for Spring Farm.

The Interim Land Release Contribution Policy and the Memorandum of Understanding are to be exhibited with the Draft LEP Elderslie Release Area.

Connections to Elderslie

Council has also received 217 submissions from residents from the existing Elderslie area raising concerns that the road connections proposed within the Elderslie DCP between the Release Area and existing Elderslie will *“significantly increase traffic volumes by vehicles not of existing Elderslie origin or destination”*. The issue of connections between the Release Area and the existing Elderslie area was the subject of intense discussion and examination during the preparation of the Masterplan.

An objective of the DCP is *“to provide a movement network which has a managed street network, establishes good internal and external access for residents, maximises safety, encourages walking/cycling, supports public transport use and minimises the impact of through traffic”*. Access between the existing Elderslie and the Release Area is proposed with the extension of Merino Drive, Southdown Road and Coopworth Road. The road connections were included in *“Figure 2.5 Street Network”* in the DCP.

The bus route determined in consultation with Busways and identified in *“Figure 2.6 Proposed Bus Routes”* in the DCP follows the proposed extension of Southdown Road from existing Elderslie into the Release Area. These connections were included in the plans that were the subject of discussion during the workshops held on the Elderslie Release Area. The connections are located to be consistent with the objectives of the DCP.

It should be noted that the initial letter from the Department that accompanied the Transport Levy package of documents includes the following paragraph;

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“The Department appreciates that much work has gone into the draft Elderslie Development Control Plan to meet integrated land use and transport planning objectives, and its successful implementation hinges on holistic and consistent application of the plan’s principles, objectives and provisions, including a high level of connectivity between the established and new urban areas.”

The Desired Future Character Statement in the Draft LEP also states in paragraph 2 *“The new suburban area shall integrate with the existing Elderslie and Narellan communities and with Kirkham Park by suitable low level road, pedestrian and cycle links”*. Also liaison with DIPNR resulted in the following aims and objectives being included in the Draft LEP:

“4(2)(a)(vi) Integrates with the adjoining residential communities, particularly in terms of connectivity and accessibility” and

“4(2)(d)(ii) provides a subdivision pattern which allows for connectivity with the adjoining existing suburban areas, particularly for pedestrians, cyclists and buses”.

The authors of the recent submissions, landowners and the authors of previous submissions will be advised of the dates of the public exhibition period.

There are a small number of minor edits to the DCP that have been included to be consistent with the Spring Farm DCP. The amendments are to the reduce the requirement that 80% of roof area to 60% drain to the rainwater tank, the facilities to be provided within the Village Centre to include a retail and multi-purpose neighbourhood centre facility and the specification for the street trees has been amended. In addition an acoustic report will be required for development adjacent to Camden Valley Way and Camden Bypass. An amended copy of draft DCP 124 Elderslie Release Area is available if required by any Councillor.

Conclusion

The Interim Land Release Policy, the MOU and the amendments to Draft LEP 117 Elderslie Release Area are consistent with Council’s resolution of the 16 December 2002, include in general terms the priorities adopted by Council and although not supported by Council’s Solicitors have been endorsed by the Crown Solicitor that they are legally enforceable. The MOU, although not a legally binding contract,

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does set out the commitment and expectations of all the parties to the document.

If Council declines to exhibit the DLEP including the clauses relating to the Transport Levy, the Interim Land Release Contribution Policy and the Memorandum of Understanding, there is undoubtedly a real risk that the Minister will proceed to rezone the Elderslie release areas. Such rezoning may or may not include any provision for a Transport Levy. If it did not include such provision, urban development could then proceed on this site with no provision for additional transport infrastructure in Camden. The Minister has requested Council to expedite the rezoning process with a 4 week exhibition with completion by Council by December 2003.

On balance, it would appear that the appropriate course of action is for Council to now proceed to adopt the DLEP, including the clauses related to the Transport Levy, for exhibition. Council should also request the State Government to indemnify the Council against challenges, as set out above.

It is recommended that the amended Draft LEP 117 Elderslie Release Area, amended Draft DCP 124 Elderslie Release Area be adopted and placed on public exhibition for a period of 28 days together with the Interim Land Release Policy and MOU for the Elderslie and Spring Farm Urban Release Areas.

Recommended: That

- (i) Council adopt the amended Draft LEP 117 Elderslie Release Area, amended Draft DCP 124 Elderslie Release Area and place on public exhibition for a period of 28 Days in accordance with Section 66 of the Environmental Planning and Assessment Act 1979.
- (ii) Council exhibit the Interim Land Release Contribution Policy and the MOU for the implementation of the Contribution Policy for the Elderslie and Spring Farm areas in conjunction with the public exhibition of the amended Draft LEP 117 Elderslie Release Area and amended Draft DCP 124 Elderslie Release Area.
- (iii) That a report be prepared and referred to Council upon the completion of the exhibition process for DLEP 117 and DDCP 124.
- (iv) Council request the State Government to indemnify it in the event of any challenge being made to the provisions of the LEP relating to the Transport Levy.

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Resolved on the Motion of Cr Corrigan, seconded Cr McFadden, the new amended recommendation:

- (ii) Council adopt the amended Draft LEP 117 Elderslie Release Area, (subject to technical and legal drafting amendments required by Parliamentary Counsel) amended Draft DCP 124 Elderslie Release Area and place on public exhibition for a period of 28 Days in accordance with Section 66 of the Environmental Planning and Assessment Act 1979.*
- (ii) Council exhibit the Interim Land Release Contribution Policy and the MOU for the implementation of the Contribution Policy for the Elderslie and Spring Farm areas in conjunction with the public exhibition of the amended Draft LEP 117 Elderslie Release Area and amended Draft DCP 124 Elderslie Release Area.*
- (iii) That a report be prepared and referred to Council upon the completion of the exhibition process for DLEP 117 and DDCP 124.*
- (iv) Council request the State Government to indemnify it in the event of any challenge being made to the provisions of the LEP relating to the Transport Levy.*

DC088/03 THE MOTION WAS **CARRIED**.

(Cr Campbell returned to the meeting – the time being 5.43 pm).

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**2. Spring Farm Draft Local Environmental Plan No 121 –
Spring Farm and Draft Development Control Plan No
123 Spring Farm**

(File 4224/11)(Director Governance & Outcomes)

Purpose of Report

The purpose of this report is to seek Council's endorsement to an amended Draft Local Environmental Plan No 121 – Spring Farm being submitted to the Department of Infrastructure, Planning and Natural Resources (DIPNR) to allow the issue of a Section 65 Certificate, the adoption of draft Development Control Plan No123 – Spring Farm, the Landscape Masterplan for Spring Farm, the amended Masterplan and the Spring Farm Conservation Strategy Documents to permit the public exhibition of the planning documents.

Background

Council at its meeting in October 2002 resolved to adopt Draft Local Environmental Plan No 121 – Spring Farm, Spring Farm Local Environmental Study, the additional sub-studies and masterplan for the purposes of exhibition and refer the documents to the then Planning NSW with a request that a Section 65 Certificate be issued so as to allow the documents to be placed on public exhibition.

The Council also resolved that upon issue of the Section 65 Certificate and endorsement of the draft DCP and Landscape Masterplan, all planning documents be placed on public exhibition for a period of six weeks. The exhibition is to include the previous bush corridor recommendation and to include an information evening to explain the proposal.

Council further resolved to amend the Masterplan to include an additional full size soccer field in the north-eastern residential precinct and to identify to the then Planning NSW its intention to seek meaningful commitments to public transport and accessibility and management of the bush corridor before it will support the gazettal of the draft LEP.

Council also made similar provisions relating to regional transport infrastructure as for the Elderslie zoning proposal discussed in an earlier report to this meeting. That is, that Council would not rezone the land until such time as a meaningful commitment was made by the State Government to the provision of regional transport and accessibility.

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Draft Local Environmental Plan No 121 – Spring Farm

The draft LEP and other planning documents have been referred to DIPNR and after consultation with the Department a number of minor edits have been inserted in the document. In addition the clause for bushfires has been amended as requested by the Rural Fire Service and an additional clause regarding the provision of services has been included in the LEP.

The clauses relating to the 7(a) Environmentally Sensitive Land have also been amended after consultation with NPWS and Planning NSW. The objectives of the zone have been expanded as follows:

- (a) *to ensure protection and management of environmentally sensitive land for the principal purpose of biodiversity conservation where this land has been identified for this purpose in DCP No. 123 Spring Farm as adopted by Council on the (insert date) 2003;*
- (b) *to conserve, restore and enhance native flora and fauna habitat and the ecological viability of land identified for biodiversity protection purposes;*
- (c) *to provide a buffer around areas identified for biodiversity protection purposes;*
- (d) *to provide for development in accordance with item 3 in locations as identified in the DCP No. 123 Spring Farm as adopted by Council on the (insert date) 2003 that will not destroy, damage or compromise;*
 - (i) *the extent, quality or integrity of the ecological attributes of the land, or*
 - (ii) *the potential for restoration and enhancement of native fauna and flora habitat on the land identified for biodiversity protection; and*
- (e) *to provide links with other natural areas, as part of an open space and bush corridor network*

DIPNR has also required amendments to the Draft LEP to facilitate the payment of contributions for regional transport. These amendments are consistent with those included in the Elderslie draft LEP. The major amendment permits Council to consent to a subdivision of land only if the Director-General has certified in relation to the land the subject of the development application for subdivision, that satisfactory arrangements have been made for provision of regional

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transport infrastructure in relation to any lot to be used for residential purposes.

Council may consent to a subdivision of land for specific purposes without the need for a Certificate where that land is intended to be used for such things as public open space, public roads, public utilities, educational facilities or any other public purposes to be provide by a public authority, lots for community facilities or minor adjustments to common property or the like. Residential uses are defined in this new clause

The LEP Maps have also been amended to move the link Road which is proposed to be zoned Special Uses 5(b) Local Road Future Arterial Road and Special Uses 5(c) Future Arterial Road Widening from NPWS land to the adjoining Landcom and Council land. Consultation with the NPWS has identified that the process to acquire land for a road may not be feasible. Landcom has advised that it will liaise with NPWS regarding the location of the road with the aim to obtain the approval for the road to remain in the original location and an application for an amendment to the LEP may occur in the future.

The Link Road has been divided into two Special Uses Zones to identify that part of the road that is required for local access in conjunction with the development of Spring Farm and that part of the road which performs the arterial road role.

With regard to the new alignment of the Link Road, a part of the road is proposed on land that has been transferred to Council as open space and is classified as community land. That portion of the land proposed for the Link Road will require a resolution of Council to reclassify the land as operational to permit the rezoning process to proceed. A clause has also been inserted into the LEP to reclassify the land to operational. A copy of draft Local Environmental Plan 121 – Spring Farm **has been circulated to Councillors under separate cover.**

DIPNR has requested that the public exhibition period be no longer than the 28 days as required by the planning legislation.

Draft Development Control Plan No 123 – Spring Farm

The draft Development Control Plan has been prepared by Consultants in consultation with Council Staff. The plan provides planning and development guidelines for development consistent with the Masterplan for Spring Farm and the provisions of the Draft LEP 121 Spring Farm. A copy of the Development Control Plan has been is attached as **has been circulated to Councillors under separate cover.**

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Spring Farm Conservation Strategy Documents

Further consultation with NPWS and Planning NSW has resulted in the approval of a package of documents known as the Spring Farm Conservation Strategy Documents by NPWS. A copy of the Supplement to the Conservation Implementation Strategy: Spring Farm Urban Release Area, Document 1 of the Spring Farm Conservation Strategy Documents **has been circulated to Councillors under separate cover.** The Spring Farm Conservation Strategy Documents are available for Councillors if required and will be placed on public exhibition with the DLEP, DLES, supporting sub-studies and DDCP.

The Spring Farm Conservation Strategy Documents will be implemented via the Section 94 Plan process. The plan will provide for the acquisition of the land by Council, construction of the final landform and the establishment and maintenance for the first five years of the conservation works. In addition Section 94 will provide for the preparation of Plans of Management in accordance with the Local Government Act to guide Council as the owner of this land on its ongoing responsibilities for the management of the bush corridor.

Liaison with the Mount Annan Royal Botanic Gardens Staff and NPWS in the preparation of the specifications, the conservation actions and performance criteria for the implementation of the Conservation Strategy and the preparation of the Plans of Management of the corridor is recommended.

Masterplan

The Masterplan has also been amended to incorporate the changes to the location of the Link Road. In addition new roads have been located adjoining the bush corridor and the Integral Energy site to be consistent with the planning principles already in place for Spring Farm.

Consultation with Integral Energy has resulted in an agreement to the corridor extending onto Integral Energy's land subject to acquisition of the land.

Having regard to Council's resolution to amend the Masterplan to locate an additional full size soccer field in the north-eastern residential precinct the Consortium have examined a number of options to provide this facility. Having regard to the topography, the extent of the bush corridor and location of open space, an area has been identified of approximately 1 ha located within local open space in the northeastern precinct for use as a small soccer field/kick-about area. The site is also unaffected by flooding or other drainage constraints. A copy of

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the amended Masterplan **has been circulated to Councillors under separate cover.**

Section 94

Council is currently considering the Consolidated Section 94 Plan for Camden. The Plan does include the locality of Spring Farm and provides for the engineering and social infrastructure identified in the draft LES and Masterplan process carried out for Spring Farm.

Landscape Masterplan Report

A Landscape Masterplan Report has been prepared to complement the draft DCP for Spring Farm. The Landscape Masterplan provides an overall landscape strategy with design guidelines for future development of the site. The design guidelines include:

- *Conservation & regeneration of threatened ecological communities, including Elderslie Banksia Scrub Forest and Cumberland plain Woodland,*
- *Bush corridor design including landscape management of existing trees and remnant vegetation,*
- *Environmentally Sensitive Design (ESD) principles for residential development,*
- *Street tree Masterplan, Streetscape structure and design for key street types, and*
- *Public open space and parkland design.*

A copy of the Landscape Masterplan Report for Spring Farm **has been circulated to Councillors under separate cover.**

Transport & Accessibility

As for the Elderslie rezoning considered in the earlier report to this meeting, Council has been working for some time with the various State Government agencies to resolve the issue of regional transport and accessibility. However on 24 September 2003 the Minister for Infrastructure, Planning and Natural Resources, the Hon Craig Knowles, intervened and advised the Mayor that the Government expected the matter to be resolved swiftly in accordance with the scheme proposed by the Department.

Discussions between the General Manager and DIPNR confirmed that the Minister expected the Draft LEPs for Elderslie and Spring Farm would be considered by Council at the next available opportunity, with the proposed amendments

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relating to the Transport Levy and arrangements for its collection included.

The clauses at issue and the details of the Memorandum of Understanding and draft policy have been discussed in the Elderslie report. Council officers are of the view that provided they were legally sound, the scheme would be an appropriate one for Council to endorse and to include in the Draft LEPs. However Council's legal advice is to the contrary.

Both Mr Knowles and Departmental officers have stated that the Government has legal advice that the scheme proposed is sound and the Mayor has requested that such advice be provided to Council in writing. A copy of the Minister's letter in relation to the legal advice has been made available separately to Councillors.

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Given the conflicting legal advice, if Council adopts the DLEP, it would be prudent for the Council to request the State Government to indemnify Council in the event of any challenge being made to these provisions of the LEP.

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Conclusion

Draft Local Environmental Plan 121 – Spring Farm has been amended to incorporate changes recommended through the ongoing consultation process with DIPNR, other Government Departments and Council Staff. The amended Plan should be referred to DIPNR with a request that a Section 65 Certificate be issued to permit the public exhibition of the of draft LEP and the suite of planning documents previously adopted by Council.

The amended Masterplan should also be adopted for the purposes of the public exhibition, as should the Draft Development Control Plan 123 – Spring Farm, the Spring Farm Conservation Strategy Documents and the Spring Farm Landscape Masterplan Report. The public exhibition should be for a period of 28 days as requested by the Minister and required by the planning legislation and include the previous bush corridor recommendation with a background explanation of its relationship to the revised corridor.

An information evening to explain the planning and conservation principles for this new urban area will be held during the exhibition process.

If Council declines to exhibit the DLEP including the clauses relating to the Transport Levy, the draft Interim Land Release Contribution Policy and the Memorandum of Understanding, there is undoubtedly a real risk that the Minister will proceed

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to rezone the Spring Farm release area. Such rezoning may or may not include any provision for a Transport Levy. If it did not include such provision, urban development could then proceed on these sites with no provision for additional transport infrastructure in Camden.

On balance, it would appear that the appropriate course of action is for Council to now proceed to adopt the DLEP, including the clauses related to the Transport Levy and MoU, for exhibition. Council should also request the State Government to indemnify the Council against challenges, as set out above.

Recommended: That:

- (i) Council adopt Draft Local Environmental Plan 121 – Spring Farm, Draft Development Control Plan 123 – Spring Farm October 2003, Spring Farm Conservation Strategy Documents 26 September 2003, the amended Masterplan sk.09, 2 October 2003, and Landscape Masterplan Report October 2003 for Spring Farm plan for the purposes of exhibition and refer these documents to DIPNR with a request that a Section 65 Certificate be issued so as to allow the documents to be placed on public exhibition.
- (ii) Council resolve to include in the draft LEP for Spring Farm a clause to reclassify operational that part of lots 1 and 4 DP 1007608 zoned 5 (b) SPECIAL USES – LOCAL ROAD FUTURE ARTERIAL ROAD and 5(c) SPECIAL USES – FUTURE ARTERIAL ROAD WIDENING.
- (iii) Upon receipt of the Section 65 Certificate from DIPNR the Draft Local Environment Plan, Draft Local Environmental Study, additional sub-studies, Masterplan, Draft Development Control Plan and Landscape Masterplan, be placed on public exhibition for a period of 28 days. Additionally, the previous bush corridor recommendation be concurrently placed on exhibition with a background explanation of its relationship to the revised corridor.
- (iv) An information evening be held during the exhibition period to explain the rezoning proposal.
- (v) Council consult with the NPWS and the Mount Annan Botanic Garden regarding the specifications, conservation actions and performance criteria for the implementation of the Conservation Strategy and the preparation of Plans of Management for the Bush

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Corridor prior to the finalisation of the tender documents for the work.

- (vi) [Council request the State Government to indemnify it in the event of any challenge being made to the provisions of the LEP relating to the Transport Levy.](#)

Resolved on the Motion of Cr Corrigan, seconded Cr Fekete the amended recommendation:

- (i) *Council adopt Draft Local Environmental Plan 121 – Spring Farm, (subject to technical and legal drafting amendments required by Parliamentary Counsel), Draft Development Control Plan 123 – Spring Farm October 2003, Spring Farm Conservation Strategy Documents 26 September 2003, the amended Masterplan sk.09, 2 October 2003, and Landscape Masterplan Report October 2003 for Spring Farm plan for the purposes of exhibition and refer these documents to DIPNR with a request that a Section 65 Certificate be issued so as to allow the documents to be placed on public exhibition.*
- (ii) *Council resolve to include in the draft LEP for Spring Farm a clause to reclassify operational that part of lots 1 and 4 DP 1007608 zoned 5 (b) SPECIAL USES – LOCAL ROAD FUTURE ARTERIAL ROAD and 5(c) SPECIAL USES – FUTURE ARTERIAL ROAD WIDENING.*
- (iii) *Upon receipt of the Section 65 Certificate from DIPNR the Draft Local Environment Plan, Draft Local Environmental Study, additional sub-studies, Masterplan, Draft Development Control Plan and Landscape Masterplan, be placed on public exhibition for a period of 28 days. Additionally, the previous bush corridor recommendation be concurrently placed on exhibition with a background explanation of its relationship to the revised corridor.*
- (iv) *An information evening be held during the exhibition period to explain the rezoning proposal.*
- (vi) *Council consult with the NPWS and the Mount Annan Botanic Garden regarding the specifications, conservation actions and performance criteria for the implementation of the Conservation Strategy and the preparation of Plans of Management for the Bush Corridor prior to the finalisation of the tender documents for the work.*

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(vii) Council request the State Government to indemnify it in the event of any challenge being made to the provisions of the LEP relating to the Transport Levy.

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DC 089/03 THE MOTION WAS **CARRIED**.

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3. Draft Local Environmental Plan No 133 – Harrington Park

(File 4726/1) (Director, Development and Environment)

Purpose of Report

This report considers the matters raised during exhibition of the draft plan which seeks to amend LEP 74 by altering the provisions that apply to land around the curtilage of Harrington Park Homestead. The report recommends the making of the plan.

Background

Council, at a meeting held on July 28, 2003 resolved to prepare a draft local environmental plan which would amend Camden Local Environmental Plan No 74 – Harrington Park (LEP 74). LEP 74 is the main planning instrument that applies to the release area of Harrington Park. The purpose of the amendments is to allow the construction of 2 storey dwellings on the lots which front the Homestead and to alter the controls which apply to the building form. The Heritage Office support the amendments.

Exhibition

In accordance with Council's resolution, the draft plan was exhibited for a period of 28 days from 19 August to 16 September 2003. Affected and adjoining property owners, and local community groups were notified of the draft plan by letter and notice of the exhibition was placed in the Camden Wollondilly Advertiser.

During the exhibition period, one submission was received, **a copy of which is provided separately to Councillors**. The submission suggests that ridge heights should be imposed to those lots which front the northern section of Hambledon Circuit, ie Lots 143-148, in order to protect the views corridors (see map at **Tabled Document "DC 1"**). As these lots fall from the intersection with Nolan Way, the finished height of the dwellings being restricted to 9.5m will suffice and there is no advantage in setting ridge heights. Further, the main view corridors are not in the direction of those lots and therefore the final height of those homes will not impact on the view corridors. What is important is the style of housing and in this regard, the controls on materials and building guidelines will apply to those lots.

DIPNR has advised that the plan as exhibited can be legally made. A copy of the final plan forms **Tabled Document "DC 2"**.

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Conclusion

The proposed amendments to LEP 74 will ensure that development around the curtilage of the Harrington Park Homestead is appropriate and will preserve view corridors.

Recommended: That:

- (i) Council resolve to refer draft Local Environmental Plan No 133 to the Minister for Planning for making.
- (ii) Those persons who made a submission in relation to the draft plan be advised of Council's decision.

Resolved Cr Corrigan, seconded Cr Winn that:

- (i) Council resolve to refer draft Local Environmental Plan No 133 to the Minister for Planning for making.
- (ii) Those persons who made a submission in relation to the draft plan be advised of Council's decision.

DC090/03 THE MOTION WAS **CARRIED**.

The meeting closed at 6.05 pm.