

**MINUTES OF THE DEVELOPMENT COMMITTEE MEETING  
HELD 24 MAY, 2004 CIVIC CENTRE, OXLEY STREET, CAMDEN –  
5.30PM**

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**ORDER OF BUSINESS – DEVELOPMENT COMMITTEE MEETING**

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**Present:** Cr Anderson (Mayor/Chairperson), Cr Dewbery, Cr Elliott, Cr Kernohan, Cr Campbell, Cr Whiteman, Cr Cagney, Cr Funnell, Cr Johnson.

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

**APOLOGIES**

There were no apologies.

**DECLARATION OF PECUNIARY OR CONFLICT OF INTEREST**

Councillor Johnson declared an interest in Item 2 as the Developer, in another capacity, is a client of Cr Johnson's accounting practice.

**DEVELOPMENT COMMITTEE PUBLIC ADDRESSES**

Mr Bill Preston addressed the Committee in relation to Item 2.

**MOTION**

*Moved Cr Funnell, seconded Cr Elliott, that an extension of time of 2 minutes be granted.*

DC063/04 THE MOTION WAS **CARRIED.**  
\*\*\*\*\*

**FURTHER MOTION**

*Moved Cr Funnell, seconded Cr Cagney that a further extension be granted to permit Mr Preston to conclude his address.*

DC064/04 THE MOTION WAS **CARRIED.**  
\*\*\*\*\*

*(Cr Campbell voted against the Motion).*

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**1. Unauthorised Tree Felling – No 164 (Lot 21 DP 32098)  
Anthony Road, Leppington**

**File No:** PF250.150 (Director, Development &  
Environment Division)

**Owner:** Mr Xurong Cai & Mrs Chong Juan Li

**Zone:** Rural 1(b) (2ha) under CLEP 48

**Purpose of Report**

This report is submitted to Council for further consideration of unauthorised tree felling at the site and to recommend that the matter be referred to Council's Solicitor to commence legal proceedings against the owners of 164 Anthony Road, Leppington.

**Background**

Council considered the matter at the meeting of 10 May, 2004. At that meeting it was resolved to defer consideration pending a Council inspection to be carried out before the next Development Committee meeting of 24 May, 2004. Arrangements were made to carry out the inspection prior to the meeting.

**Recommended:** That:

- (i) The matter be referred to Council's solicitors for action to proceed against Mr Xurong Cai and Mrs Chong Juan Li for unauthorised tree felling and land clearing at 164 Anthony Road, Leppington.
- (ii) The Vegetation Management Plan be accepted as a viable plan for the conservation of remaining vegetation and be made available to the Court in its consideration of orders, if any.

**MOTION**

**Moved** Cr Johnson, seconded Cr Campbell that:

- (i) *The matter be referred to Council's solicitors for action to proceed against Mr Xurong Cai and Mrs Chong Juan Li for unauthorised tree felling and land clearing at 164 Anthony Road, Leppington.*

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- (ii) *The Vegetation Management Plan be accepted as a viable plan for the conservation of remaining vegetation and be made available to the Court in its consideration of orders, if any.*

**CR FUNNELL MOVED THAT THE MOTION BE NOW PUT.**

DC065/04    *THE MOTION THAT THE MOTION BE PUT WAS **CARRIED**.*  
\*\*\*\*\*

*(Cr Cagney and Cr Campbell voted against the Motion).*

DC066/04    *THE MOTION AS MOVED BY CR JOHNSON ON BEING PUT WAS  
\*\*\*\*\* **CARRIED**.*

*(Cr Kernohan, Cr Cagney and Cr Funnell voted against the Motion).*

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**2. Modification to Development Consent 78/2001 for  
Pepperfields Estate, Werombi Road, Grasmere**

**File No:** DA8125.240-4 (Director, Development &  
Environment Division)

**DA No:** 78/2001

**Owner:** S Richardson Holdings Pty Ltd and  
Pepperfields Pty Ltd

**Applicant:** Preston Developments and Project  
Management

**Zoning:** 1(c) Rural 'C'

**Purpose of Report**

Council is in receipt of an application under Section 96 of the Environmental Planning and Assessment Act 1979, to vary Conditions 1, 70 (h) and 73 of Development Consent 78/2001, to allow the deletion of a pathway, the modification of areas required for wastewater disposal and the deletion of a bus stop on Werombi Road, in the vicinity of Lots 39 and 40.

The report is brought before Council to allow it to consider and determine the application submitted by the developers of the Pepperfields Estate as Council consented to the original application.

**Summary of Recommendation**

It is recommended that the application to modify Condition 1 and 70 (h) be approved. It is further recommended that Condition 73 be modified.

**Background**

On 27 May, 2002 Council approved a Development Application (78/2001) for the subdivision of land known as Lot 4 DP 786413 (No 135) and Lot 22 DP 736618 (No 151) Werombi Road, Grasmere. The proposal was for a 42 lot rural residential and 1 residue lot subdivision.

A previous section 96 application was considered and allowed by Council on 23 September, 2002. This amendment deleted Condition 23 of the existing development consent. This condition was concerned with the provision of a footpath between the proposed cul-de-sac head at Sickles Drive and Werombi Road and also between proposed Lots 36, 37 and 39, 40 and Werombi Road. Council staff had recommended that one of the pathways be retained to allow pedestrian access to Werombi Road adjacent to Lots 36 and 37, and 39 and 40. This recommendation was not adopted.

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On 19 April, 2004 Council received a request from Prestons Development and Project Management, on behalf of the developers, S Richardson Holdings Pty Ltd and Pepperfields Pty Ltd, to allow the modification of Conditions 1, 70(h) and 73. The issues associated with the request are addressed in the following report.

**Main Report**

Section 96 of the Environmental Planning and Assessment Act, 1979 (the Act) allows Council, on application being made by the applicant, to modify the consent if:

- it is satisfied that the proposed modification is of minimal environmental impact, and
- it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted.

The request has been considered in accordance with this provision of the Act.

The proposal to modify each of the three conditions of Development Consent are considered separately:

**Condition 1** – “APPROVED PLANS - The development must be carried out strictly in accordance with the plans prepared by Lean & Hayward Pty Ltd, dated the October 2001, and numbered 74472.02.P01, amendment D; and amended in red to provide a pedestrian path between Lots 36, 37, 39 and 40 to Werombi Road and to retain existing trees.

The development must also comply with the conditions of approval imposed by Council hereunder.

AMENDMENTS – Modifications to the approved plans and specifications requires the prior approval of the Consent Authority (ie Camden Council). The procedure for applying to amend the approved plans is to submit an “Amended Development Application” form pursuant to section 96 of the *Environmental Planning & Assessment Act 1979*”.

***Comment:***

In regard to this condition, the applicant is seeking to modify the approved plans to the extent of showing the deletion of a 5m wide pedestrian pathway along the common boundary of lots 16 and 17, between Sickles Drive Extension and Werombi Road. The pathway can be seen on **Tabled Document “DC 1”**. This pathway was formally deleted by Council’s resolution of 23

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September, 2002 by the deletion of Condition 23, however the Council motion did not address the provisions of the approved plans. The proposed modification will ensure the consent accords with Council's earlier resolution whereby all pathways to Werombi Road were deleted.

It should be noted that the proposed pathway was also provided as a corridor for the provision of public utility services, primarily Sydney Water and Integral Energy. Any proposed amendment to the development consent in this regard should provide suitable easements for these services. The need to maintain the provision of easements for these services has been discussed with the developer's representatives and agreed to.

The previous section 96 application approved on 23 September, 2002, deleted condition 23 of the existing development consent. As detailed earlier in this report this condition was concerned with 2 aspects:

- the provision of a concrete footpath 2.0m wide between the proposed cul-de-sac head at Sickles Drive and the shoulder of Werombi Road; and
- the provision of a concrete footpath 2.0m wide between proposed Lots 36, 37 and 39, 40 to link the proposed road to Werombi Road.

As a result the concrete footpath at the cul-de-sac in Sickles Drive has already been deleted. The current application seeks to formalise the incorporation of the relevant land previously to be occupied by the footpath into Lots 16 and 17.

Perusal of Condition 1 of the consent also indicates continued reference to the now deleted footpath referred to in (ii) above. Under the circumstances it would seem appropriate that the condition be amended to reflect the previous approved section 96 amendment (23 September, 2002).

It is considered appropriate that Development Consent 78/2001, as amended on 23 September, 2002 be further amended such that the approved plans replace the subject pathway with "easement for services 1.5 m wide". Proposed Lots 16 and 17 are to be burdened by such an easement and the easement is to be located in both lots adjacent to their common boundary.

Further, it is considered appropriate that Condition 1 of Development Consent 78/2001, as amended on 23 September, 2002 be further amended so as to remove "and amended in red to provide a pedestrian path between Lots 36, 37, 39 and 40 to Werombi Road and to retain existing tress".

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**Condition 70(h)** – “Effluent disposal area to be shown on the linen plan and an appropriate restriction to user indicating that no structures are permitted to remain within the effluent disposal area. The area is based on Nitrogen being the limiting factor for effluent disposal calculations, which requires a disposal area of 1332m<sup>2</sup> for all lots. The effluent disposal area is to be shown in accordance with Camden Council’s Draft Sewage Management Strategy on-site Sewage Management for Single Households”.

***Comment:***

In regard to this condition the applicant is seeking to have a table of values substituted for the existing, blanket value of 1332m<sup>2</sup>. This condition has been reviewed and discussed with officers of Council’s Environment and Health Branch and it agreed that the figure of 1332m<sup>2</sup>, shown in condition 70 (h) of the Development Consent as being the area required for effluent disposal on each of the lots can be varied as the applicant has now conducted individual geotechnical testing of each allotment. In accordance with Council’s policy, the minimum disposal area can be reduced if this testing suggests the soil conditions are appropriate to allow proper disposal of waste waters. The appropriate area requirements, as determined by geotechnical assessment for each of the lots are shown in a Table provided later in this report.

In view of the information provided in the geotechnical assessment it is considered appropriate that Condition 70 (h) be modified to make reference to this table, rather than the single figure of 1332m<sup>2</sup>. Additional restrictions as to user are required to be added to the condition to ensure that the methodology used in the report is reflected in the design of the houses. These details are included in the recommendation to this report.

**Condition 73** – “BUS STOP – A bus stop shall be constructed in Werombi Road in vicinity of Lots 39 and 40. The final location and construction of the bus stop shall be determined in consultation with Busways and the Local Traffic Committee”.

***Comment:***

The applicant is seeking to have this condition requiring a bus stop in Werombi Road, deleted. This condition provides for the construction of a bus stop in the vicinity of Lots 39 and 40, however the condition also advises that the final location of the bus stop is to be determined in Werombi Road.

The deletion of the condition requiring a pedestrian footpath in the vicinity of Lots 36, 37, 39 and 40, on 23 September 2002

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makes the current condition redundant. However it is considered the need to have a bus stop on Werombi remains.

The site has been attended by Council officers including Council's Local Traffic Committee representative and also a representative of Busways to determine whether there is a need for a bus stop to service the proposed subdivision and if so, where it should be.

Both have agreed that a bus stop is required in Werombi Road as a bus service will not be provided for the subdivision. Busways have previously formally advised the developer that they are not able to service the subdivision in any form and will be reliant on picking up and placing down passengers onto the Werombi Road reserve.

During this site attendance the subdivision frontage along Werombi Road was surveyed thoroughly to determine an appropriate location/s for bus stop. The result was that two sites were found to be satisfactory.

Consequently, it is recommended that Condition 73 be modified. The nature of this modification is detailed later in this report.

**Conclusion**

The original Development Consent for 42 residential lots and 1 residue lot was approved with a requirement for two footpaths. One in the vicinity of Lots 16 and 17 and the other in the vicinity of Lots 36 to 40. These were subsequently deleted by Council on 23 September, 2002 on application from the developers. The current application seeks to formalise the incorporation of the subject land into the residential lots as it relates to Lots 16 and 17 and is supported.

The original Development Consent contained standard values for the area of land that needed to be provided on each lot to provide for on-site effluent disposal. A new table of values has been agreed upon and it is proposed to incorporate the new values into an amended consent. This is also supported.

The amendment of 23 September, 2002 has made redundant the need for a bus stop in the vicinity of Lots 39 and 40. The current application seeks to formalise this redundancy. This is also supported. However subsequent assessment has shown that a bus stop is still required in Werombi Road at some location (to be determined).

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Recommended:      That:

- (i)      Condition 1 of Development Consent 78/2001 be modified to read:

“APPROVED PLANS - The development must be carried out strictly in accordance with the plans prepared by Lean & Hayward Pty Ltd, dated the October 2001, and numbered 74472.02.P01, amendment D.

The development must also comply with the conditions of approval imposed by Council hereunder.

AMENDMENTS - Modifications to the approved plans and specifications requires the prior approval of the Consent Authority (ie Camden Council). The procedure for applying to amend the approved plans is to submit an “Amended Development Application” form pursuant to section 96 of the Environmental Planning & Assessment Act 1979”.

- (ii)      Council endorse the amendment of Development Consent 78/2001 plan prepared by Lean and Hayward Pty Ltd, dated October 2001 and number 74472.02.P01, amendment D to reflect the deletion of the pathway between Lots 16 and 17 and the incorporation of the relevant land into those lots. Also that those plans be amended to reflect an easement for services 1.5 m wide over Lots 16 and 17.

- (iii)      Condition 70 (h) of Development Consent 78/2001 be modified to read:

“Effluent disposal area to be shown on the linen plan and an appropriate restriction to user indicating that no structures are permitted to remain within the effluent disposal area. The area is based on Nitrogen being the limiting factor for effluent disposal calculations, which requires a disposal area for each lot as indicated on the following table:

Table 1 – Minimum areas required for on-site effluent disposal for each residential lot in the Pepperfields Estate.

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Lot Number	Minimum Req.	Area
1	600 m <sup>2</sup>	
2	600 m <sup>2</sup>	
3	600 m <sup>2</sup>	
4	550 m <sup>2</sup>	
5	555 m <sup>2</sup>	
6	645 m <sup>2</sup>	
7	605 m <sup>2</sup>	
8	600 m <sup>2</sup>	
9	600 m <sup>2</sup>	
10	600 m <sup>2</sup>	
11	600 m <sup>2</sup>	
12	600 m <sup>2</sup>	
13	620 m <sup>2</sup>	
14	600 m <sup>2</sup>	
15	600 m <sup>2</sup>	
16	600 m <sup>2</sup>	
17	550 m <sup>2</sup>	
18	550 m <sup>2</sup>	
19	550 m <sup>2</sup>	
20	550 m <sup>2</sup>	
21	550 m <sup>2</sup>	
22	550 m <sup>2</sup>	
23	550 m <sup>2</sup>	
24	535 m <sup>2</sup>	
25	500 m <sup>2</sup>	
26	500 m <sup>2</sup>	
27	535 m <sup>2</sup>	
28	500 m <sup>2</sup>	
29	735 m <sup>2</sup>	
30	550 m <sup>2</sup>	
31	550 m <sup>2</sup>	
32	550 m <sup>2</sup>	
33	550 m <sup>2</sup>	
34	620 m <sup>2</sup>	
35	500 m <sup>2</sup>	
36	535 m <sup>2</sup>	
37	500 m <sup>2</sup>	
38	500 m <sup>2</sup>	
39	500 m <sup>2</sup>	
40	500 m <sup>2</sup>	
41	Existing System	
42	535 m <sup>2</sup>	

The effluent disposal area is to be shown in accordance with Camden Council's Draft Sewage Management Strategy on-site Sewage Management for Single Households". Wastewater management conditions attached to the deposited plan on an 88b instrument shall be imposed on all proposed lots. Conditions are as follows:-

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- (a) No dwelling shall be erected, or used, on the lots so burdened, other than as a single dwelling house.
  - (b) Dwelling construction will be restricted to a maximum of 4 bedrooms, OR a population equivalent of 5 persons.
  - (c) Any proposed dwelling greater than 4 bedroom, OR with a potential occupancy greater than 5 persons, shall require further calculations to be submitted to Camden Council to justify the extra loading and increase in size of the effluent application area.
  - (d) Effluent application is to occur via sub-surface application within the areas so designated on
- (iv) Condition 73 of Development Consent 78/2001 be modified to read:

“BUS STOP – A bus stop shall be created in Werombi Road to service the development. The final location and construction of the bus stop shall be determined in consultation with Busways and the Local Traffic Committee”.

***(Cr Johnson, having previously declared an interest in this matter, took no part in discussion or voting and left the Chamber – the time being 6.08pm).***

**MOTION**

Moved Cr Cagney, seconded Cr Dewberry that:

- (i) Condition 1 of Development Consent 78/2001 be modified to read:

“APPROVED PLANS - The development must be carried out strictly in accordance with the plans prepared by Lean & Hayward Pty Ltd, dated the October 2001, and numbered 74472.02.P01, amendment D.

The development must also comply with the conditions of approval imposed by Council hereunder.

AMENDMENTS – Modifications to the approved plans and specifications requires the prior approval of the Consent Authority (ie Camden Council). The procedure for applying to amend the approved plans is to submit an “Amended Development Application” form pursuant to section 96 of the Environmental Planning & Assessment Act 1979”.

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- (ii) Council endorse the amendment of Development Consent 78/2001 plan prepared by Lean and Hayward Pty Ltd, dated October 2001 and number 74472.02.P01, amendment D to reflect the deletion of the pathway between Lots 16 and 17 and the incorporation of the relevant land into those lots. Also that those plans be amended to include the provision of easements for services through lots 16 and 17 as shown on the plan submitted by Lean and Hayward No. 74472.02.P04.
- (iii) Condition 70 (h) of Development Consent 78/2001 be modified to read:

*“Effluent disposal area to be shown on the linen plan and an appropriate restriction to user indicating that no structures are permitted to remain within the effluent disposal area. The area is based on Nitrogen being the limiting factor for effluent disposal calculations, which requires a disposal area for each lot as indicated on the following table:*

*Table 1 – Minimum areas required for on-site effluent disposal for each residential lot in the Pepperfields Estate.*

<i>Lot Number</i>	<i>Minimum Area Req.</i>
1	600 m <sup>2</sup>
2	600 m <sup>2</sup>
3	600 m <sup>2</sup>
4	550 m <sup>2</sup>
5	555 m <sup>2</sup>
6	645 m <sup>2</sup>
7	605 m <sup>2</sup>
8	600 m <sup>2</sup>
9	600 m <sup>2</sup>
10	600 m <sup>2</sup>
11	600 m <sup>2</sup>
12	600 m <sup>2</sup>
13	620 m <sup>2</sup>
14	600 m <sup>2</sup>
15	600 m <sup>2</sup>
16	600 m <sup>2</sup>
17	550 m <sup>2</sup>
18	550 m <sup>2</sup>
19	550 m <sup>2</sup>
20	550 m <sup>2</sup>
21	550 m <sup>2</sup>
22	550 m <sup>2</sup>
23	550 m <sup>2</sup>
24	535 m <sup>2</sup>
25	500 m <sup>2</sup>
26	500 m <sup>2</sup>
27	535 m <sup>2</sup>

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28	500 m <sup>2</sup>
29	735 m <sup>2</sup>
30	550 m <sup>2</sup>
31	550 m <sup>2</sup>
32	550 m <sup>2</sup>
33	550 m <sup>2</sup>
34	620 m <sup>2</sup>
35	500 m <sup>2</sup>
36	535 m <sup>2</sup>
37	500 m <sup>2</sup>
38	500 m <sup>2</sup>
39	500 m <sup>2</sup>
40	500 m <sup>2</sup>
41	Existing System
42	535 m <sup>2</sup>

*The effluent disposal area is to be shown in accordance with Camden Council's Draft Sewage Management Strategy on-site Sewage Management for Single Households". Wastewater management conditions attached to the deposited plan on an 88b instrument shall be imposed on all proposed lots. Conditions are as follows:-*

- (a) Dwelling construction will be restricted to a maximum of 4 bedrooms, OR a population equivalent of 5 persons.*
- (b) Any proposed dwelling greater than 4 bedroom, OR with a potential occupancy greater than 5 persons, shall require further calculations to be submitted to Camden Council to justify the extra loading and increase in size of the effluent application area.*
- (c) Effluent application is to occur via sub-surface application within the areas so designated on*
- (iv) Condition 73 of Development Consent 78/2001 be deleted and Council pressure Busways to provide a bus service to Sickles Drive to service the existing and new estate.*

DC067/04 THE MOTION ON BEING PUT WAS **CARRIED.**

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*(Cr Campbell, Cr Kernohan and Cr Anderson voted against the Motion).*

***(Cr Johnson returned to the Chamber – the time being 6.31pm).***

The Meeting closed at 6.31pm.