

**MINUTES OF THE DEVELOPMENT COMMITTEE
MEETING HELD 27 APRIL, 2004
CIVIC CENTRE, OXLEY STREET, CAMDEN – 5.30PM**

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Present: Cr Anderson (Mayor/Chairperson), Cr Dewbery, Cr Elliott, Cr Kernohan, Cr Whiteman, Cr Cagney, Cr Funnell, Cr Johnson.
Cr Campbell arrived at 5.40pm during the Public Addresses.

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

DECLARATION OF PECUNIARY OR CONFLICT OF INTEREST

There were no declarations.

DEVELOPMENT COMMITTEE PUBLIC ADDRESSES

Mr Haynes addressed the Committee in relation to Item 3.

(Cr Campbell arrived at this stage, the time being 5.40pm).

Mr Bobbyreff addressed the Committee in relation to Item 4.

Mr Newport addressed the Committee in relation to Item 3.

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1. Proposal for Additional Poker Machines at Camden Golf Club, 50 Lodges Road, Elderslie

(File No: PF4950.120) (Director, Development & Environment Division)

Purpose of Report

The purpose of this report is to seek Council's direction in relation to an application to install an additional 4 poker machines at Camden Golf Club.

Background

Camden Golf Club currently has approval from the Department of Gaming and Racing to operate 47 poker machines within the Club. They have submitted an application and social impact assessment to increase the number of machines by 4 from 47 to 51.

Main Report

The Gaming Machines Act 2001 attempts to control gambling in NSW by limiting the number of approved amusement devices (poker machines and other gaming devices) and imposing restrictions on the form that gambling, advertising and management must take place.

Under the Act, a State cap of 104,000 machines has been imposed and each club is limited to a maximum of 450 machines. Applications to obtain additional machines must include a Social Impact Assessment (SIA) that justifies the installation of the machine will not cause harm and meets statutory requirements. A copy of the SIA submitted with the application to the Department is provided at **Tabled Document "DC 1"**.

The issue of gambling and its social effects has been well documented, however to date Camden Council has not entered into the issue of poker machine allocation. Undoubtedly as the population continues to increase, so too will the desire of clubs and hotels to meet this growth with additional gaming machines. From a Council's perspective it is important to ensure that its community is not being disadvantaged by the proliferation of machines without proper controls and mechanisms imposed by the clubs and hotels to cater for problem gamblers. To date, Council is not aware of any significant issues in relation to gambling within the area however this is not to say that problem gambling may not seriously impact some families.

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Conclusion

Council has been notified of the application in accordance with the provisions of the Gaming Machines Act and may lodge a submission to the Liquor Administration Board should it so desire.

Recommended: That Council determine whether it wishes to make a submission to the Liquor Advisory Board in relation to the application by Camden Golf Club to increase the number of poker machines from 47 to 51, and in the event that it is proposed to make a submission to determine the grounds of that submission.

MOTION

Moved Cr Campbell, seconded Cr Kernohan that Council not make a submission to the Liquor Advisory Board in this instance.

DC054/04 THE MOTION WAS **CARRIED.**

(Cr Cagney and Cr Johnson voted against the Motion).

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2. Extension of Time for the Use of a Temporary Boat Shelter and Construction of a Boat, No 15 (Lot 36, DP 259833) Thompson Place, Camden South

File No: DA7725.140 (Director, Development & Environment Division)
DA No: 222/2004
Property: No 15 (Lot 36, DP 259833) Thompson Place, Camden South
Applicant: J & R Hore
Owner: RJ & JA Hore
Zoning: Residential 'A' 2(a)

Purpose of Report

To enable Council to make a determination of an application to continue use of a temporary shelter for the construction of a boat previously approved by Council's Development Committee.

Summary of Recommendation

That the application be approved for a period of 5 years subject to compliance with the conditions of the original development consent No 899/2000.

Background

On 17 April 2000, Council received a Development Application proposing construction of a temporary shelter for the manufacture of a boat. The applicant included documentation from surrounding neighbours stating that they had no objections to the proposal. Subsequently, assessment of the proposal was carried out and Council's Development Committee made a determination on 26 June, 2000 to issue a consent for a period of three years for the construction and use of a boat shelter.

When issued, the consent included the following conditions:

'Approval in principle from the Police and RTA is required, prior to the issue of a Construction Certificate, that permission would be granted to remove the completed boat.'

'A bond or bank guarantee of the sum of \$500.00 is required to ensure that the landscaping area at the rear of the subject site and adjacent to the Old Hume Highway is not damaged.'

Following payment of the bond and receipt of a confirmation letter from the RTA, Council issued a Construction Certificate on 3 August, 2000.

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A Question Without Notice asked by Councillor Corrigan at Council's meeting of 23 February, 2004 sought information regarding the status of the boat construction.

In response Council Officers investigated the matter and determined that the consent had expired on 30 June, 2003. A site meeting was arranged with Mr & Mrs Hore and it was established that construction of the boat has substantially commenced but is not yet near completion.

Mr & Mrs Hore requested an extension of time and were advised by Council Officers to submit an application, which is currently before Council for determination.

The Proposal

The applicant seeks permission to continue the use of a temporary structure under which a catamaran sailing boat is being built in the rear yard of the above property. The applicant has requested that an extension of time be granted for 5 years. The need for a five year period is on the basis that this is a hobby and work can only be undertaken on weekends.

The structure measures 16m x 9m, with a height of 5m and a floor area of 144m². The structure is semi-elliptical in shape and is constructed of metal pipe framework with a green weatherproof cover. A copy of the approved plans form **Tabled Document "DC 2"**.

The Site

The subject site has an area of 972.5m² and is located at the southern end of Thompson Place in the cul-de-sac, and backs onto the Old Hume Highway. The site is irregular in shape and is bounded by four other properties. A location plan forms **Tabled Document "DC 3"**.

In addition to the boat shelter, the site contains a single storey brick and tile dwelling and a garden shed in the rear yard. The property falls gently to the street.

Notification

The application for extension of time was notified to surrounding residents in accordance with Council's Development Control Plan 116 'Notification, Advertisements and Mediation'. At the conclusion of the exhibition period no submissions were received.

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Planning Controls

The site is zoned residential “A” 2(a) under the provisions of Camden Local Environment Plan No 46. Sheds and other structures ancillary to a dwelling are permitted subject to Council consent.

Assessment

On 26 June, 2000 Council’s Development Committee considered the original application for the construction of the shelter with specific regard to noise, odour, lighting, work hours, delivery and disposal of materials and removal of the completed boat. Following careful assessment, the consent was issued under the provisions of the Environmental Planning & Assessment Act and Section 68 of the Local Government Act, which enables Council to approve temporary structures for nominated periods of time. A review of the matters for consideration, pursuant to Section 79C of the EP&A Act, 1979 and the fact that no objections have been received to the application suggest that the use is not having any adverse impacts on the amenity of the area.

Conclusion

The temporary boat shelter has been constructed in accordance with the approved plans and is in sound condition. It has been adequately maintained to avoid any aesthetic or environmental issues and thus far Council has not received any complaints regarding the work. It is considered that the activity has not had a detrimental impact on adjoining neighbours or the local environment.

Recommended: That Development Application No 222/2004 to continue the use of a temporary boat shelter and to carry out the construction of a boat at No 15 (Lot 36 DP 259833) Thompson Place, Camden be approved for a further five years period subject to standard conditions which form **Tabled Document “DC 4”**.

*Resolved on the Motion of Cr Campbell, seconded Cr Elliott that Development Application No 222/2004 to continue the use of a temporary boat shelter and to carry out the construction of a boat at No 15 (Lot 36 DP 259833) Thompson Place, Camden be approved for a further five years period subject to standard conditions which form **Tabled Document “DC 4”**.*

DC055/04 THE MOTION WAS **CARRIED**.

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3. Development Application for Construction of a Studio/ Workshop/Storage Shed at No 53 (Lot 69 DP 230494) Engesta Avenue, Camden

File No: DA2850.550-3 (Director, Development & Environment Division)

DA No: 37/2004

Proposal: Workshop/Storage Shed

Zoning: Zone No 2 (a) Residential

Purpose of Report

The report is submitted to Council to make a determination of a development application which proposes the construction of a studio/workshop/storage shed. Council received an objection to the proposal and despite attempts to mediate the matter, the objection cannot be resolved. In accordance with the current delegations the matter must be determined by Council.

Summary of Recommendation

That the application be approved subject to conditions of consent.

The Site

The site is located at the northern end of Engesta Ave, situated at the head of the cul-de-sac (see locality map which forms **Tabled Document “DC 5”**). Engesta Reserve abuts the western and northern boundaries with a single storey dwelling occupying the land adjacent to the eastern boundary.

The land is affected by the 1% AEP flood event, located at RL 71.2m AHD, however the location of the proposed workshop/shed would be situated outside the 1% flood line. This is demonstrated further in this report.

Background

A structure similar to that proposed was demolished by the proponent in January this year. The illegal building had been attached to the masonry dividing fence. The building and the top section of the fence were required to be demolished because of the impact on the adjoining property and the fact that Council had not approved any of the works. In addition, a metal shed was required to be resited so that it stood wholly within the property as it encroached onto Engesta Reserve. Council had issued an Order to demolish and when that had not been complied with, resolved that the matter proceed to Court unless the structure was demolished. The structure was demolished in January and therefore legal proceedings were discontinued.

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The Proposal

The applicant seeks consent for the construction of a masonry and timber outbuilding for use as a workshop/studio/storage area. The building is an irregular shape with an approximate floor area of 30m² and would be constructed 900mm from an existing masonry wall which is now approximately 2,200mm high, having been reduced in height in accordance with Council's Order. The maximum height of the building to the roof ridge is 2,900mm sloping down to 2,500mm. A copy of the plans forms **Tabled Document "DC 6"**.

Notification

Following notification in accordance with Council's Development Control Plan No 116 'Notification, Advertisements and Mediation', one submission was received. Mediation was conducted with the applicant and the neighbour but the issue could not be resolved.

Planning Controls

The following documentation has been considered with respect to Council's assessment of the subject application:

- Camden 2025
- Camden Local Environmental Plan No 46
- Sydney Regional Environmental Plan 20-Hawkesbury-Nepean river
- Residential Development Control Plan No 58
- Upper Nepean River Floodplain Management Study and Plan

Assessment

The subject application has been assessed in accordance with section 79C of the Environmental Planning & Assessment Act 1979. The following points are provided in relation to the critical aspects of Council's assessment:

- (a) **The provision of any planning instrument, development control plan or matter prescribed by the regulations**

Camden Strategic Plan – 2025

The proposed development has been designed to be sympathetic with the remainder of the buildings on-site and its scale and bulk is consistent with adjacent development.

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Camden Local Environmental Plan No 46

The land is zoned Residential 2(a) under Camden Local Environmental Plan No 46 (LEP 46). The development meets the aim of the LEP, which seeks to 'promote development suitable to particular localities' and also takes into consideration the traditional, urban character of the locality. The proposed development is permissible in the zone and meets the objectives of the LEP.

Clause 21 in the LEP, which refers to flood prone land, states that Council may refuse an application to carry out any development that is subject to flooding if in the opinion of Council it will:

- affect the flood level at any point above or below the development;
- increase, to a substantial degree, the flow of water on any adjoining flood liable lands;
- cause soil erosion, siltation or destruction of river bank vegetation;
- affect the water table of any adjoining land; or
- adversely affect riverbank stability.

Clause 21 is addressed further in the report, under the following heading.

Upper Nepean River Floodplain Management Study and Plan

The northern half of the site is affected by the 1% AEP flood event located at RL 71.2m AHD and is categorised in accordance with the Upper Nepean River Floodplain Management Study and Plan as High Hazard - Flood Storage (**see Tabled Document "DC 7"**).

The location of the proposed building is outside the 1% flood line. It is not considered to increase the flood risk to local residents or property.

Sydney Regional Environmental Plan No 20

The provisions of Sydney Regional Environmental Plan No 20 (SREP 20) apply to the property as it falls within the Hawkesbury-Nepean River Catchment. The SREP provides an overall direction for the protection of the environment of the river. Sediment and erosion control measures would be implemented during construction to minimise erosion and soil loss from the site.

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Development Control Plan No 58

The design of the proposal blends with the character of the locality and meets with the objectives of Residential Development Control Plan No 58. Relevant criteria are site coverage which is less than the 50% allowed, setback which requires 900mm minimum, and private open space which is well in excess of the 80m² required.

(b) The likely impact of the development including environmental, social and economic impacts

The proposed development is consistent with the residential zoning and amenity of the locality. Conditions would be imposed on the Development Consent to reduce site disturbance and minimise the potential for impact on the local environment.

(c) The suitability of the site for the development

The site is fully serviced (i.e. water, electricity, sewer and phone) and is in close proximity to the Camden Town Centre. Similar development can be found in the general area.

Any Submissions

Following completion of the notification period, Council is in receipt of one submission expressing concerns regarding the following issues:

- Loss of view;
- Number of sheds on the site;
- The workshop may encroach onto the neighbour's property;
- The workshop is proposed to be constructed over an area previously containing a swimming pool;
- The height of the building exceeds 2400mm from natural ground level;
- The masonry wall may be higher than the existing boundary wall;
- The roof and flashing may reflect glare;
- The height and pitch of the roof;
- The proposal may reduce airflow into the adjoining courtyard;
- The proposal may reduce light into the adjoining courtyard;
- The wall of the building does not match the colorbond fence;
- The proposed building has the potential to become inhabited;
- The building should be located elsewhere on the site;
- Loss of property value.

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A copy of this submission is provided as **Tabled Document “DC 8”**.

Council officers carried out several mediation sessions with the applicant and the neighbour but the issues could not be resolved. Subsequent to the mediation, the application was assessed with specific regard to the concerns raised in the submission. Evaluation of the proposed work has established the following:

Loss of View

The current view from the neighbour’s property is limited by an existing Scout Hall in Engesta Park (refer to photographs which form **Tabled Document “DC 9”**), as well as advanced landscaping on No 53 Engesta Avenue and landscaping planted by the neighbour along their property boundary. The dwelling house is not oriented to take advantage of the view across the floodplain as no windows face this view. The view from the yard will be slightly reduced by the structure as shown on the photographs shown in **Tabled Document “DC 10”**. This shows the former building and fence before its height was reduced.

Number of Sheds

The property currently contains one small garden shed for the storage of garden tools and equipment. This shed has been relocated on the site in accordance with an earlier notice issued by Council. The proposed building is intended for use as a studio/workshop and for the storage of material. There are no controls in any of Council’s policies which would prohibit the construction of the proposed second outbuilding.

Encroachment

The applicant has indicated that the proposed storage/workshop would be located 900mm from the boundary. It is considered that the nominated distance will ensure that the structure is within the boundaries of the land. This setback from the boundary accords with the Building Code of Australia requirements for the erection of a dwelling and in fact it would be possible to build a two storey dwelling in this location.

Construction over Filled Area

The applicant has engaged the services of a structural engineer to design a slab suitable for the location. The pool was located in the vicinity of the area, however the majority of it would be located where the proposed courtyard is to be formed.

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Height

The height of the shed to the ridge of the roof is indicated as 2,900mm sloping down to 2,500mm at the rear which is similar to the height of garages located within the vicinity and complies with Council's Residential DCP. Council's DCP does not have a specific height restriction for sheds, the matter must be based on merit assessment. Dwellings can be constructed to a height of 9.0m to the ridge.

Glare

The application proposes zincalume custom orb sheeting for the roof. A condition of the consent would be imposed requiring any potential glare caused by the roof material to be mitigated by painting the roof a darker colour or providing alternative material with less reflectivity ie colorbond.

Light and Airflow

The adjoining neighbours have constructed an awning enclosed with a masonry courtyard wall at the front and side of their dwelling. The proposed shed, while higher than the existing brick wall, is located a sufficient distance from the courtyard to have negligible impact on available light and airflow. As stated previously, the 900mm setback is all that is required for a two storey dwelling and this could have a height far in excess of that proposed. The 900mm is required to ensure adequate light and ventilation of the building.

Design

The workshop has been purposely designed to be consistent with the traditional style of the existing dwelling and is consistent with the character of the immediate locality.

Habitable Use

The applicant has stated that the proposed building is intended for non-habitable use as a workshop/studio/storage area. In the event of a consent being issued, it is appropriate to require by way of conditions that the proposed structure shall not be converted or used as a habitable room. As the building is free-standing it does not accord with Council's two-dwelling requirements and therefore cannot be approved as a separate occupancy. No provision for the installation of plumbing has been made on the plans submitted with the application.

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Location of Building

The applicant proposes to construct the workshop on an existing slab behind the dwelling. The property is well landscaped and contains several mature trees. The proposed location of the building does not require the removal of any trees and is preferable to the site disturbance and tree removal required should the construction be located elsewhere on the property.

In addition, the northern half of the land is affected by the 1% flood event and to avoid a potential increase in flood risk it is considered desirable to maintain the work outside the flood line.

Loss of Property Value

The loss of property value is difficult to substantiate as the proposed development is consistent with existing development in the locality. This is not a matter for consideration by Council when determining development applications.

Conclusion

The proposed development was subject to evaluation with particular consideration of the neighbour's submission and potential impacts on the adjacent property.

When determining the effect on adjoining property Council is required to fairly balance the rights of a person to reasonably develop their property and the expectations of surrounding neighbours. The proposed development meets the objectives of Council's LEP 46 and DCP 58 and would satisfy the requirements for complying development. Further, the existing 2,200mm high masonry wall constructed along the boundary substantially reduces the impact of the proposal (refer to photographs which form **Tabled Document "DC 11"**).

With careful regard to the neighbour's issues, it is not considered the proposal will create:

- an unreasonable impact on surrounding property;
- a need for major site disturbance;
- a need for tree removal;
- an increase in flood risks.

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Recommended: That Development Application 37/2004 for a workshop/storage outbuilding at No 53 Engesta Avenue, Camden, be approved subject to conditions which form **Tabled Document “DC 12”**.

MOTION

Moved Cr Campbell, seconded Cr Kernohan that further consideration of this matter be deferred for a works inspection.

DC056/04 THE MOTION ON BEING PUT WAS **CARRIED.**

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4. Revision of Determination – Proposed Timber Deck, Inground Swimming Pool and Detached (Rear Yard) Brick Garage Including Driveway Access at No 5 (Lot 1613 DP 1015960) Mannix Court, Harrington Park

File No: DA5137.50-2 (Director, Development & Environment Division)
DA No: 1079/2003
Owner: Mr D and Ms K Bobyreff
Zoning: 2(d) 'Residential' pursuant to Camden LEP 74

Purpose of Report

Council is in receipt of a request to review a Development Application determination. As the original determination was determined and approved by Council, the review of the determination is also referred to Council.

Background

At the Development Committee meeting of 23 February, 2004, Council resolved to approve a Development Application (DA 1079/2003) for a proposed timber Deck, inground swimming pool and detached brick garage at No 5 (Lot 1613 DP 1015960) Mannix Court, Harrington Park. The original report and recommendation forms **Tabled Document "DC 13"**.

The application was approved by Council subject to conditions as a deferred commencement consent. A copy of the consent conditions forms **Tabled Document "DC 14"**.

On 20 March, 2004, Council received a request from the owners and applicants, David and Kristy Bobyreff, to have the determination reviewed. A copy of their submission in support of the review forms **Tabled Document "DC 15"**.

The review was sought under section 82A (6) of the Environmental Planning and Assessment Act, 1979. That section states that if the council reviews the determination, and if the determination was made by Council, the review must be made by the Council.

Main Report

The submission from the owners seeks particular review of the schedule of deferred commencement conditions 1(a), 1(b), 1(c), 1(d) and 1(e) (refer to Schedule A of **Tabled Document "DC 14"**). Specific comment from Council officers is provided for each of these deferred commencement conditions below.

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The applicant seeks approval of the plans originally submitted to Council which proposes a garage 9m x 7m or 63m², and cut and fill of 1.3m and 1.1m respectively.

1(a) - A reduction in the garage size to a maximum floor area of 50m². The reduction is to be achieved by increasing the setback from the northern and eastern boundaries.

In the original Development Application, the proposed area for the garage was 63m². Council approved a garage size of 50m². This is considered a reasonable size given the size of the existing garage and dwelling when compared with the size of the allotment. The scale and density of development in the vicinity of the site should not be increased, given the lot sizes. The potential cumulative effect of approving sheds of the size originally proposed in neighbourhoods such as Harrington Park will result in overdevelopment and significant loss of amenity.

A smaller size garage would be more consistent with the guidelines that have limited such development in the past. Further it would also reduce the amount of excavation required on the site.

1(b) - A clarification and change to the garage floor levels on Plan No “Mannix C05” in relation to other approved floor levels on the plans

Consistency of submitted plans is of great importance in development assessment. It is both reasonable and appropriate that the plans be amended by the applicant to be consistent in regard to floor levels.

1(c) - The design and materials of the proposed garage are to be consistent with the existing dwelling

This condition is not considered critical as the plans show the brickwork and roof tiles as matching the existing dwelling.

1(d) - The maximum cut for the swimming pool as 0.9m. The maximum fill as 0.3m

Council currently has a policy on cut and fill known as “Council of Camden Local Policy No 7 – Cut and Fill on Residential Land”. The provisions of the policy restrict the maximum cut or fill on any allotment of land to a maximum of 500mm.

The current deferred commencement consent already delivers a concession on this policy in that it allows for a cut of 900mm.

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1(e) - The maximum cut for the garage as 0.9m. The maximum fill as 0.3m.

The plans for the original development showed the garage incorporating a cut of approximately 1.3m. Although the development has a cut level greater than 500mm, the approved cut of up to 900mm is considered to be satisfactory as appropriate retaining details are provided.

Consideration

The matters that Council need to consider are whether the size and bulk of the building are appropriate in the circumstances of the case. It is argued that the scale of the development and its impact on the land because of the excessive amounts of cut/fill required is inappropriate and the original decision of Council should stand.

Conclusion

The review of the deferred commencement Development Consent at the site has been assessed. It is considered that all parts of Schedule A of the deferred commencement Development Consent should remain part of the consent, with the single exception of item 1(c) which could be deleted by Council with little effect, however is not relevant in this case as the proposed construction matches the existing dwelling. After completing the assessment, it is considered the original Development Consent granted by Council should remain.

Recommended: That

- (i) The review application made in respect of deferred Development Consent D1079/2003, by the owners of Lot 1613 DP 1015960 (5) Mannix Court, Harrington Park be received and determined by Council.
- (ii) The deferred commencement Development Consent DA1079/2003, granted by Council on 23 February 2004 be confirmed.
- (iii) The applicants for the review be advised of Council's determination.

MOTION

Moved Cr Elliott, seconded Cr Funnell that Development Application 1079/2003 for a proposed timber deck, inground swimming pool and detached (rear yard) brick garage having an area of 63m² including driveway access and having a cut and fill of approximately 1.3metres and 1.1metres respectively at No. 5 (Lot 1613 DP1015960) Mannix Court, Harrington Park be

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approved subject to normal conditions with the inclusion of an additional condition that the garage not to be used as habitable room.

DC057/04 THE MOTION ON BEING PUT WAS **CARRIED.**

(Cr Campbell voted against the Motion).

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5. Outcome of Prosecution Proceedings Initiated Against the Proprietors of “Kum Hor” Chinese Restaurant, 47 Argyle Street, Camden

File No: PF350.190 (Director, Development & Environment Division)

Proprietors: Mr Dominic Ho and Mr Xing Wu

Purpose of Report

The purpose of this report is to advise Council of results of the legal proceedings against the proprietors of Kum Hor Chinese Restaurant for breaches of the Food Regulations 2001 and Food Standards Code.

Background

At the meeting of 15 December, 2003 Council resolved to institute legal proceedings against the proprietors of the restaurant for failing to comply with sections of the Food Safety Standards.

It was considered that the poor history pertaining to the premise and unsatisfactory conditions observed by Council's Environmental Health Officers on the 9 October, 2003 warranted legal action by Council as our conciliatory approach was obviously not achieving the desired effect.

Court Action

Council resolved at the meeting of 15 December, 2003 to commence legal proceedings against the food shop proprietors, Mr Dominic Ho and Mr Xing Wu for breaches of the Food Act, 1989, Food Regulation 2001 and Food Safety Standards as follows:

- (a) Failure to comply with Standard 3.2.2 Division 5, Clause 19 (1) (c), (d) and (e) of the Food Safety Standards *“Failure to maintain food premises to a standard of cleanliness where there was no accumulation of food waste, dirt, grease and other visible matter.”*
- (b) Failure to comply with Standard 3.2.2 Division 5, Clause 19-(2) (a), (b), (c), and (d) of the Food Safety Standards – *“Failure to maintain equipment, having regard to its use, to a standard of cleanliness where there was no accumulation of food waste, and grease.”*
- (c) Failure to comply with Standard 3.2.2 Division 3, Clause 6 (1) (a) of the Food Safety Standards – *“Failure to store the food in such a way, as to protect such food from the likelihood of contamination.”*

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The matter was listed for mention on 25 March, 2004 at Camden Court. The defendants pleaded guilty in relation to each offence.

Council's Solicitor made submissions to the Magistrate, Mr Andrews, presenting the Court with Council's report of the offences committed.

Mr Ho and Mr Wu, with the interpretive assistance of Mr Ho, submitted to the Court matters in their favour. In particular they submitted a recent Council inspection sheet that found a number of areas to be satisfactory. They advised the Court that they were participating in a program with Council's assistance to increase the standards within the restaurant. They sought that the maximum penalty not apply. (The maximum penalty for each offence being 25 penalty units or \$2750).

The Magistrate found the defendants guilty of each offence. He fined each defendant \$400.00 in relation to each offence and court costs of \$250 each. In total the defendants were fined \$2,400.00 and Court costs of \$500.00. They were allowed 28 days to pay.

The Magistrate noted that these were the first offences for each defendant in relation to the Food Safety Standards.

Conclusion

Council has been successful in initiating legal proceedings against the defendants for the reported breaches of the Food Regulations 2001 and Food Standards Code.

Recommended: That:

- (i) The information is noted.
- (ii) Council prepare a media release on the proceedings and outcome.

MOTION

Moved Cr Campbell, seconded Cr Kernohan That:

- (i) *The information is noted.*
- (ii) *Council prepare a media release on the proceedings and outcome.*

**MINUTES OF THE DEVELOPMENT COMMITTEE
MEETING HELD 27 APRIL, 2004
CIVIC CENTRE, OXLEY STREET, CAMDEN – 5.30PM**

AMENDMENT

Moved Cr Cagney, seconded Cr Dewbery That:

- (i) The information is noted.*
- (ii) Council prepare a media release on the proceedings and outcome and the media release to be submitted to Council on 10th May, 2004.*

*DC058/04 THE AMENDMENT ON BEING PUT WAS CARRIED BECAME THE
*****` MOTION AND WAS **CARRIED**.*

(Cr Elliott, Cr Campbell, Cr Kernohan and Cr Whiteman voted against the Amendment).

(Cr Elliott, Cr Campbell, Cr Kernohan and Cr Whiteman voted against the Motion).

The Meeting closed at 6.33pm.