

**MINUTES OF THE DEVELOPMENT COMMITTEE MEETING
HELD 9 AUGUST, 2004 CIVIC CENTRE, OXLEY STREET, CAMDEN
5.30PM**

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

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

APOLOGIES

An apology was received from Cr Whiteman from this meeting.

Resolved on the Motion of Cr Elliott, seconded Cr Campbell that leave of absence be granted to Cr Whiteman from this meeting.

DC099/04 THE MOTION ON BEING PUT WAS **CARRIED.**

DECLARATION OF PECUNIARY OR CONFLICT OF INTEREST

Cr Johnson declared a pecuniary interest in Item 1 of the Development Committee as clients from his Accounting Practice made submissions on the matter therefore, as the community may consider this as having an influence on his decision he will withdraw from discussions and voting in the matter.

(Cr Johnson took no part in discussion and voting on Item 1 and left the Chamber - the time being 5.36pm prior to Public Addresses).

In relation to Item 1 [Construction of Alterations and Additions to an Existing Building for Use as a 68 Place Child Care Centre, No 16 (Lot 2 DP 590368) Burnett Avenue, Mount Annan] the Mayor informed Council the owner, Mr Mark Martin, has requested the item be withdrawn from this meeting and be returned to the 13th September 2004 Development Committee meeting with a site inspection carried out prior to the meeting.

DEVELOPMENT COMMITTEE PUBLIC ADDRESSES

Mr Laurie Whitehead addressed the Committee in relation to Item 1 of the Development Committee.

Mr Mark Martin addressed the Committee in relation to Item 1 of the Development Committee.

1. Construction of Alterations and Additions to an Existing Building for Use as a 68 Place Child Care Centre, No 16 (Lot 2 DP 590368) Burnett Avenue, Mount Annan

File No: DA 1160.160-2 (Director, Development & Environment Division)
DA No: 190/2004
Owner: Mr M Martin
Zoning: 2 (d) Residential "D" (Release Areas)

Purpose of Report

The purpose of this report is to allow Council to consider an application to establish a 68 place Child Care Centre at 16 Burnett Avenue, Mount Annan. The application is referred to Council as there are a number of matters raised in submissions which cannot be resolved through mediation.

Summary of Recommendation

It is recommended that the Development Application (DA 190/2004) be refused.

Background

A Development Application has been received for the establishment of a 68-place Child Care Centre at 16 Burnett Avenue, Mount Annan. The matter was notified to neighbours and a number of submissions were received. The applicant was advised of the matters raised in the objections and Council's concerns. The applicant responded with a number of amended reports, which did not substantially change the application.

The Site

The subject site is known as No 16 (Lot 2 DP 590368) Burnett Avenue, Mount Annan and is located on the southern side of Burnett Avenue, between Dore Place and Channel Place. The property has an area of 2115m², with a 36.3m frontage to Burnett Avenue.

An older style single storey weatherboard dwelling is erected to the front of the property whilst still being well behind the established building line.

The front boundary is elevated above Burnett Avenue with a slight rise to the rear. A stone wall acts as a retaining wall for the front of the property and a Murraya hedge is located on top of the stone wall. A large eucalyptus tree is located at the rear and to the west of the dwelling, and is to remain as part of this

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Development Application. A site plan of the proposed development forms **Tabled Document "DC 1"**.

The Proposal

The Development Application seeks to construct an extension to the existing dwelling and use the existing dwelling and the proposed extension for the purpose of a 68-place Child Care Centre. The Centre is proposed to cater for the following number of children:

- 0-2 years old - 10
- 2-3 years old - 28
- 3-6 years old - 30

The Child Care Centre is proposed to operate from 7am to 6pm, Monday to Friday. The majority of children will be dropped off at the site between 7am and 9am and picked up between 4pm and 6pm.

The Development Application proposes to use the existing 6m wide vehicle accessway along the western boundary of the site, leading to 17 car parking spaces (11 adjacent to the western side of the building, and 6 along the rear boundary of the site). The Development Application proposes that the front and rear south eastern section of the property be used as a child play area. A plan of the proposed development forms **Tabled Document "DC 2"**.

Notification

In accordance with Council's Development Control Plan 116 – Notification, Advertisements and Mediation, the application was notified from 22 March, 2004 to 5 April, 2004. 18 persons were notified.

53 responses were received, as well as 5 petitions containing 180 signatures. Overall 115 signatures were received.

Planning Controls

The following planning instruments are relevant in the determination of this development application.

- Camden 2025
- Camden Local Environmental Plan No 47 (CLEP 47).
- Camden Scenic and Cultural Landscape Study
- Development Control Plan No 101 Child Care Centre policy (DCP 101).

Assessment

The application has been assessed in accordance with Section 79C of the Environmental Planning & Assessment (EP & A) Act 1979. The following comments are made with respect to the critical aspects of the application.

(a) The provision of any environmental planning instrument, development control plan (DCP) or matter prescribed in the regulations

Camden 2025

Of paramount importance to the strategic vision of Camden is that of accessibility to a range of services and facilities within places to all members of the community. The proposal would serve the residents of the area wishing to utilise the centre.

The Strategic Plan aims to increase and diversify business and employment opportunities and ensure facilities service the immediate needs of the new communities.

The proposal is consistent with these aims.

Camden LEP No 47

The subject site is zoned Residential 2 (d) Residential "D" (Release Area), wherein the proposed development is permissible as a child care centre with consent of Council. Child Care Centre is defined within CLEP 47 as follows:

"child care centre" means fixed premises at which a child care service is provided by a person for the purposes of educating, minding or caring (but without providing residential care) for 4 or more children (disregarding any children who are related to the person providing the service) who are under 6 years of age and who do not ordinarily attend school"

Camden Scenic and Cultural Landscape Study

The area is classified as Suburban residential/urban in the Camden Scenic and Cultural Landscape Study. As such a development of this nature is consistent with this classification.

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The proposal is not considered to have any adverse impact on the landscape or cultural features of the Camden area.

Development Control Plan (DCP) 101 – Child Care Centres

The application has been assessed against Council's adopted policy for Child Care Centres. The general aims and objectives of the policy are:

- To provide guidelines for the establishment of child care centres.
- To ensure that child care centres do not adversely impact upon the amenity or character of the area in which they are established.
- To provide locational preferences for child care centres.
- To ensure an acceptable standard of design, open space, landscaping and car parking.
- To ensure child care centres are of a scale which, having regard to their operation, do not detrimentally impact on the amenity of the adjoining neighbours by means of noise or traffic generation.
- To encourage a range of quality children's services to meet identified community needs for child care.

The application does not comply with the following clauses of DCP 101:

- Clause 5.3 expresses a preference for sites which maintain a degree of separation from residential activities. The site is immediately adjacent to six residential properties.
- Clause 6.1 states in residential areas child care centres should be located on allotments which have minimal common boundaries with residential properties so as to lessen the effects of noise and reduce privacy impacts on adjoining residents.

The proposed site abuts the rear yard of six adjoining residents, which greatly increases the impact of the proposed development on adjoining residents. In addition, the proposed development locates the vehicle accessway adjacent to the bedrooms of the adjoining dwelling to the west. This matter will be dealt with more fully later in the report.

- Clause 12.1 states outdoor areas shall be designed and located to maximise benefits for children whilst minimising the impact on adjoining properties and

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the streetscape, in this regard particular attention shall be paid to locating outdoor play areas as far as possible away from adjoining dwellings.

No attempt has been made to minimise the impact of the proposed development on adjoining dwellings. The main emphasis of the design has been to construct additions to the existing dwelling and design the other features of the Child Care Centre around this central feature. The appropriate approach would have been to consider the impacts on the adjoining residents and designing from this point.

In regard to the streetscape, it is proposed to construct a fence across the front of the property, and a sand pit with shade cloth sail in the eastern corner of the front yard. This area will then be used as the play area for the 0-2 year olds. It is considered that such a proposal would be totally out of keeping with the existing streetscape of the locality, adding to the impact of the proposed development on the amenity of the locality.

- Clause 12.5 states that no outdoor play areas will be permitted within the front boundary setback.

As suggested above it is proposed to locate the 0-2 years play area in the front yard of the property. This is a concern from a safety point of view, as children in a front yard no matter how well they are supervised are susceptible to a snatch and run situation, and as such should not be encouraged.

Noise

For a site to be acceptable, it should not be a source of "offensive noise". "Offensive noise" is defined within the protection of Environmental Operations Act 1997 as meaning:

Noise:

- (a) that by reason of its level, nature, character, or quality, or the time at which it is made, or any other circumstances:*

- (b) is harmful to (or is likely to be harmful to) a person who is outside the premises from which it is emitted, or*

- (c) interferes unreasonably with (or is likely to interfere unreasonably with) the comfort or repose of a person*

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*who is outside the premises from which it is emitted,
or*

*(d) that is of a level, nature, character or quality
prescribed by the regulations or that is made at a
time, or in other circumstances, prescribed by the
regulations.*

Noise from Children

The submitted Acoustic Report states that the Child Care Centre cannot comply with Council's requirements during boisterous play, and suggests that the children will be encouraged to play quietly.

The applicant states:

- 2-6 year old children will be allowed to play in the backyard between 8am and 9am and between 4pm and 6pm
- 0-2 year old children will play in the front yard between 9am and 10am.

The noise report submitted with the development application recommends:

Close supervision of the children in the rear play area, in accordance with Department of Community Services requirements, will limit the noise emissions from the children at play in the rear play area. Activities in the rear play area should be concentrated within the covered area.

The acoustic performance of the fence be enhanced along the western and eastern boundaries by cladding with profile metal deck sheeting. The fence will limit back noise emissions from the play areas and enhance the visual amenity of the rear area.

The windows and the sliding glass door on the western and eastern sides of the child care centre should be closed when the centre is in operation. The sliding glass doors can be opened for access to the western play area, when there are limited activities within the playrooms.

The car parking at the rear of the site should be allocated to the child care centre staff to limit vehicle movement in these areas.

Any air conditioning units for the child care centre should be located along the western wall of the child care centre.

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Comment on the submitted noise report:

While supervision of the children during play times will occur, it is not considered practical or reasonable to expect young children to play quietly. If quiet play cannot be maintained the play areas are likely to have an adverse impact on the amenity of the adjoining properties.

The internal noise levels can be controlled through adequate building design and the correct positioning of mechanical plant will enable noise levels from each source to achieve compliance.

External noise from children at play does not comply as the report clearly acknowledges by stating that *“it will not be possible to achieve the noise limit of 44 dB(A) at the boundary from the play areas along the eastern boundary during boisterous play”*.

With regard to motor vehicle noise impact from the parking area and driveway use, noise levels will also not comply. Levels exceed the criteria by levels in a range of +8 to +12 dB(A) when measured at the boundary. This is despite the provision of a 1.8 metre high approved fence.

With reference to the comment in the report that, *“Close supervision of the children in the rear play area, in accordance with Department of Community Services requirements, will limit the noise emissions from the children at play in the rear play area”*. There is nothing in the Centre Based and Mobile Child Care Services Regulations No 2 1996 which requires any such activity. Clause 8 of Schedule 2 of the above only talks about the authorised supervisor of a service providing a balance of indoor and outdoor activities. The fact that the report contemplates controlling children in the play environment clearly shows that the noise that will be generated from the centre will adversely impact on the amenity of adjacent residents.

Noise from Traffic

The RTA Guidelines to Traffic Generating Developments, 2002, suggests that child care centres have the following traffic generation rates and characteristics during the AM and PM peak periods:

- 1.4 trip/child in the 2 hour AM arrival period between 7am and 9am
- 0.7 trip/child in the 2 hour PM pick up period between 4pm and 6pm

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Mode split by car – 94%.

These figures indicate that 45 vehicles would attend the site in the morning peak and 23 vehicles in the afternoon peak; these movements would result in at least 135 car doors being closed between 7am and 9am and 69 times between 4pm and 6pm.

The site diagram [which forms **Tabled Document “DC 2”**] shows the following:

- the vehicular access to the site is located on the western side of the property;
- eleven (11) car parking spaces located between the accessway and the Child Care Centre building;
- the entrance to the Child Care Centre is located at the front of the building.

Situated 900mm on the other side of this western boundary are the three bedrooms of the adjoining dwelling.

The noise report states that *“Drivers of 4WDs and SUVs should, if possible, park on the street during drop-off and collection and walk their children into the Child Care Centre. These vehicles tend to be noisier and more intrusive than conventional vehicles”*.

The traffic report suggests that *“No Standing signs 7-9am and 3-6pm Monday to Friday be installed in Burnett Ave adjacent to the site”*. This is contrary to the recommendations of the acoustic consultant. The placement of these No Standing signs in Burnett Ave would mean that all vehicles including 4WDs and SUV vehicles would have to access the site, thus adding to the noise impact on the residents of the adjoining dwelling to the west. Alternately, those vehicles would, to park legally, need to stop in front of adjoining residences thereby adding to the noise impacts from the use.

It is considered the design of the development being an adaptation of existing buildings rather than purpose designed has not allowed proper considerations. Therefore, the noise generated by this development will be of a level, nature and character and at a time, which will interfere unreasonably with the comfort or repose of the residents of the adjoining dwelling to the west.

Traffic

A traffic study was submitted by the applicant in support of the development. These have been reviewed and the proposal is not expected to have any significant

impact on traffic flow or peaks in either the AM or PM period.

The access provided, manoeuvring areas and number of car parking spaces are adequate, however the location of car parking space number 12 is a concern. If a car were to be parked in both car parking spaces 12 and 13, a vehicle exiting either of these sites would not be able to do so without extensive reversing. This is unacceptable in a child care centre which requires quick turnover of spaces. If Council were to grant approval to this development a condition should be imposed requiring the redesign of these car parking spaces.

Playground Design

Section 12.1 of the DCP states *"Outdoor areas shall be designed and located to maximise benefits for children whilst minimising the impact on adjoining properties and the streetscape. In this regard particular attention shall be paid to locating outdoor play areas as far as possible away from adjoining dwellings"*.

The impact on streetscape of this development has not been addressed. The proposal to construct a covered sand pit, as well as provide an outside play area in the front portion of the site will adversely impact on the existing streetscape. The proposal also creates a child security risk. The proximity of the playground to the road reserve presents a child abduction risk, as well as exacerbating traffic accident risk.

Section 12.5 of the DCP required *"No outdoor play areas will be permitted within the front boundary setback"*. A sand pit is proposed approximately 3 m from the front boundary.

(b) Likely impacts of the development, including impacts on both the natural and built environment including social and economic impacts

The noise generated from the vehicle use on site and the children in outdoor play area will have a significant impact on the amenity of the surrounding residents. The proposal has little impact on the natural environment. The development impacts the built environment in that streetscape will be compromised as a result of the location of the playground facilities in close proximity to the front property boundary.

The provision of childcare facilities in the areas would provide some positive social and economic impacts as it

may create employment opportunities and provide a choice for parents of children in need of care.

[c] Suitability of the Site for the Development

The site is fully serviced with water, sewer, electricity and telephone being provided. The impacts of the development on local traffic have been considered and are not significant. Should Council resolve to approve the application it would need to be made subject to a Contamination Report in accordance with the requirements of State Environmental Planning Policy No 55 - Remediation of Land. This report would need to be received and any recommendations of the report being implemented prior to an Occupation Certificate being issued.

The suitability of the site is limited by the existing features within it. The applicant, having purchased the house and land, is endeavouring to fit a child care centre around the existing house. By doing this they have created many of the elements of the development which are adversely impacting on adjoining properties, and the streetscape.

[d] Any submissions made in accordance with this Act or the Regulations

As stated elsewhere in this report Council received 53 submissions as a consequence of the notification process. Copies of these submissions form **Tabled Document "DC 3"**. The concerns raised in the submissions are summarised as follows:

"Noise"

Comment:

This matter has been addressed elsewhere in this report.

"Traffic"

Comment:

This matter has been addressed elsewhere in this report.

"Decrease in security for adjoining properties, because of the unattended nature of the site of an evening and at weekends".

Comment:

The owner of the property will ensure that the subject site is secure at all times. Camden Police have been contacted and they have advised that there is no evidence to support this concern.

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“Residents have purchased their properties with the expectations that the property would be used for residential purposes not as a Child Care Centre.”

Comment:

The property is zoned 2(d) Residential “D” Release Area Zone wherein a Child Care Centre has always been possible with Council consent.

“Reduction in land value”.

Comment:

A letter has been received from Starr Partners of Campbelltown stating that it is their opinion that the property immediately to the west of the subject site in Burnett Avenue would see the resale value of their property diminish instantly by as much as 10%, which on today’s market could see a reduction of as much as \$40,000.00. Whilst this is an opinion, it would need to be market tested and supported by evidence of similar properties being marketed for less than properties which don’t adjoin child care centres. It is however agreed that the noise impacts on the property’s bedrooms would be significant and that this may contribute to a perception of poor amenity. It is important to note however that child care centres are a conforming use in the zone and therefore contemplated under planning provisions. Value of land therefore takes this factor into account.

“Light spill from security lights and vehicles.”

Comment:

The applicant has advised that there will be no security lights placed on the property.

Light spill from vehicles exiting the site will occur into properties on the northern side of Burnett Avenue during a short period in the middle of winter. The applicant has failed to address this adverse impact.

“Air-conditioning noise.”

Comment:

As mentioned previously, noise generated by air conditioning units is not considered to be a problem, as the units can be relocated to less offensive locations and can be screened to suppress their noise.

“Special event days”

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Comment:

The application makes no mention of special event days, however it would be reasonable to assume that a number of such days would be arranged during the year. It is also reasonable to assume that such events would have an adverse impact on the amenity of the locality by means of additional traffic and parking. Overall however, as these events would happen on a very infrequent occasion, there overall impact on the amenity of the locality would be insignificant. If Council were of a mind to grant approval to this development a condition should be imposed limiting the number of such occasions to not more than 4 a year and require the operators of the facility to advise all neighbours prior to the events.

“Signage”

Comment:

The applicant will not be the operator of the child care centre, he is therefore unaware of what signage will be required by the eventual operator. Council has a signage policy which requires development consent to be obtained for any signage prior to it being erected.

“Fencing”

Comment:

Concern has been expressed that the report refers to perimeter fencing 1.8m high whereas some of the existing fencing is only 1.5m high. This matter has been clarified in additional information received which states fences will need to be increased in height to 1.8m. This is an extension of the statement in the noise report which states *“the acoustic performance of the fence should be enhanced by cladding with profiled metal deck sheeting”*.

This can be achieved in two ways:

- with the co-operation of the adjoining owner in the construction of a new fence, or
- the cladding of the fence on the Child Care Centre side with a profiled metal deck sheeting.

Considering the amount of opposition to the proposal from adjoining residents the latter method seems the most plausible. This could result in some less than aesthetic fencing when viewed from the adjoining properties, as it could result in one form and colour of fence protruding above another form and colour of fence. If Council were of a mind to grant approval to this

development a condition should be imposed requiring all fencing within one metre of the property boundary to be constructed in a manner acceptable to the adjoining property owners.

“Lack of adequate landscaping buffers”

Comment:

If adequate fencing is provided in accordance with the above there would be no need for landscape buffers.

“Impact on the amenity of adjoining properties”

Comment:

This matter has been addressed elsewhere in this report.

[e] The Public Interest

In terms of amenity the public interest will not be served by this development. Noise will be unacceptably increased. Streetscape will be diminished. In these respects, the development is not in accordance with DCP 101. The security of the front play area is reduced by its proximity to the front property boundary. The submissions received during the exhibition period generally indicate that the development proposal is not considered by the community to be in the public interest.

The public interest may however be served with respect to employment creation and choice of care facilities.

Conclusion

An assessment of the application has shown that the development has not been designed in a manner that can mitigate the noise, parking and amenity issues addressed in DCP 101. For this reason the application in its present form is not considered appropriate. Clearly, there are some provisions of the DCP that cannot be addressed through redesign such as the proximity to a number of residences, however the applicant has not demonstrated that the objectives of the plan have been satisfied and has called on Council to determine the application. For this reason it is appropriate for Council to refuse the application.

Recommended: It is recommended that:

- (i) That Development Application No 190/2004 to establish a Child Care Centre at No 16 (Lot 2 DP 590368) Burnett Ave, Mount Annan be refused for the following reasons:

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- (a) The proposal does not comply with objectives (b) and (e) of Development Control Plan No 101 – Child Care Centre.
 - (b) The proposal will have an adverse impact on the amenity of the adjoining residents, in particular the residents of 14 Burnett Ave, Mount Annan.
 - (c) The proposed development will have an adverse impact on the streetscape of the locality by the establishment of a child playing area in front of the dwelling.
 - (d) The proposed development will generate a possible security problem by the establishment of child play area in front of the dwelling.
- (ii) That the objectors be advised of Council's determination.

MOTION

Moved Cr Funnell, seconded Cr Kernohan that Development Application No 190/2004 to establish a Child Care Centre at No 16 (Lot 2 DP 590368) Burnett Ave, Mount Annan be deferred and heard at the 13th September 2004 Development Committee meeting with a site inspection to be carried out prior to the meeting.

DC100/04 THE MOTION ON BEING PUT WAS **CARRIED**.

(Cr Johnson returned to the Chamber – the time being 5.46pm).

2. Rezoning and Masterplan for Land at 2A (Lot 218 & 219 DP 1048551) Porrende Street, Narellan
(File No: TC 4766) (Director, Development & Environment Division)

Purpose of Report

For Council to consider a proposal to prepare a local environmental plan to apply to certain land in Narellan that would permit the development of a Club House, Motel and Function Centre, and Sporting/Recreational Facilities on that land in addition to the uses already permitted within the zone. A development application in the form of a masterplan for the site has been submitted to Council that proposes the development of the "Narellan Country Club" in three stages.

Proposal

Council is in receipt of an application to vary the current 4(b) Service Industrial zoning as it applies to the land pursuant to Camden Local Environmental Plan No 46 (CLEP 46) to allow the development of a Club House, Motel and Function Centre and Sporting/Recreation Facilities. The proposed Club would be a licensed premises and proposes the inclusion of 180 Electronic Gaming Machines (EGM). A proposed Masterplan for the site that details the intended stages of development accompanies the application. A copy of the proposed masterplan forms **Tabled Document "DC 4"**.

Subject Land

The subject site is known as 2A Porrende Street, Narellan, being Lots 218 and 219 DP 1048551. Under this subdivision, the land is affected by the following restrictions and easements:

- Easement for landscaping 3 metres wide
- Easement to drain water 15 metres wide
- Easement to drain water variable width
- Restriction on the use of the land relating to the floor level of any future buildings on the Lot.

The land lies at the interface of the Narellan Industrial zone and falls to agriculturally zoned land and Narellan Creek. The residential suburb of Harrington Park is located approximately 150m from the site. A locality plan forms **Tabled Document "DC 5"**.

Current Zone

The site is currently zoned 4(b) Service Industrial under CLEP 46. This plan was gazetted on the 13 January 1989. The

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following extract from the LEP indicates the zone objectives and the land use table:

ZONE No. 4(b) SERVICE INDUSTRIAL

1. Objectives of zone

The objectives of this zone are -

(a) to set aside sufficient land for -

(i) the purposes of service industry as defined in this plan; and

(ii) the display and retailing by shops of generally large scale merchandise requiring extensive site areas or a free standing location for the transfer of goods, but only where such activities cannot be appropriately located in, or would not adversely affect the range of merchandise offered in, Zone Nos. 3(a) and 3(b);

(b) to permit the sale in shops of spare parts and finished goods where such goods would, under normal circumstances, require maintenance or repair services by the industry located on the same land; and

(c) to permit the sale of low volume goods that are completely or almost completely manufactured on the same land.

2. Without development consent

Nil.

3. Only with development consent

Any purpose other than a purpose included in item 4.

4. Prohibited

Airline terminals; amusement centres; animal boarding establishments; bed and breakfast establishments; boarding houses; brothels; bus depots; caravan parks; commercial premises, dwelling-houses and residential flat buildings (other than those used in conjunction with industry and situated on land on which such industry is conducted); educational establishments; extractive industries; forestry; gas holders; generating works; health care practices; heliports; hospitals; hotels; institutions; intensive animal husbandry; junk yards; liquid fuel depots; mines; motels; multi-unit housing development; offensive or hazardous industries; places of assembly; recreation establishments; refreshment rooms; roadside stalls; sawmills; shops (other than those described in item 1(a)(ii) and 1(b)); stock and sale yards; road transport terminals; taverns; tourist facilities; transport terminals; warehouses.

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The zone objectives listed above guide the types of development that are permissible with Council consent. Whilst a club and recreation facility are not prohibited in the zone, they do not meet the zone objectives. The motel component of the use is currently prohibited. The EP&A Act Model Provisions which are adopted by LEP 46 define the following uses: a 'club', 'recreation establishment', 'recreation facility' and 'motel'. These are defined as being:-

“club” means a building used by persons associated, or by a body incorporated, for social, literary, political, sporting, athletic or other lawful purposes whether of the same or of a different kind and whether or not the whole or a part of such building is the premises of a club registered under the Registered Clubs Act 1976.

“recreation establishment” means health farms, religious retreat houses, rest homes, youth camps and the like but does not include a building or place elsewhere specifically defined in this clause or a building or place used or intended for use for a purpose elsewhere specifically defined in this clause.

“recreation facility” means a building or place used for indoor recreation, a billiard saloon, table tennis centre, squash court, swimming pool, gymnasium, health studio, bowling alley, fun parlour or any other building of a like character used for recreation and whether used for the purpose of gain or not, but does not include a place of assembly.

“motel” means a building or buildings (other than a hotel, boarding-house or residential flat building) substantially used for the overnight accommodation of travellers and the vehicles used by them whether or not the building or buildings are also used in the provision of meals to those travellers or the general public.

Masterplan

The proposed “Narellan Country Club” masterplan incorporates sports and lifestyle facilities for the local community and would provide a wide range of recreational and entertainment facilities. The development is proposed in the following three stages:

Stage 1: Construct the club house comprising administration, foyer, kitchen amenities, function area and gaming area, lounge area including 180 electronic gaming machines, café, TAB, dining and bistro, terraces, pavilion and BBQ area. This building would have a gross floor area of 2,776 m².

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Stage 2: Construct gymnasium and aquatic areas (25m pool) and four tennis courts. Gross floor area of stage 2 is 2567m².

Stage 3: Construct motel building comprising 100 rooms with reception/administration, conference and function area, second pool area and 135 basement car spaces. Gross floor area of stage 3 is 3,348m².

Assessment

It is necessary to consider the appropriateness of what is proposed and whether the site is the best location for the development. In this regard the applicant has submitted comprehensive documentation in support of the proposal which includes a Social Impact Assessment, Rezoning Submission, Landscape Context Report, Water Management Plan, Traffic and Parking Assessment, Preliminary Contamination Assessment and Salinity Hazard Assessment. A thorough examination of these reports would be conducted with the development application in the event that Council resolve to approve the rezoning application and the LEP is made by the Minister. In the interim, staff have reviewed the documentation and brief comments are made in relation to each issue.

Environmental Issues

The reports submitted with the application that address environmental issues do not identify any problems with the development on the land proposed. There are however a number of matters that would require further investigation should Council resolve to proceed with making a Local Environmental Plan for the development. These are:

- Earthworks that took place in relation to recent subdivision works and disposal of building material, impact of filling on former dam.
- Relationship with adjacent industrial area in terms of odour.
- Noise impacts from adjacent industrial and sporting areas and road traffic noise. This is particularly in relation to the motel component of the development.
- Light spill from the adjacent hockey complex which is again relevant to the design of the motel.
- Salinity.
- Flood considerations.
- Water management systems and the need to ensure best practice Water Sensitive Urban Design (WSUD) techniques are employed.

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- The need to use salt tolerant vegetation in the landscaping design for the site.

Stormwater Drainage

Assessment of the documents submitted in relation to trunk drainage and water management issues also reveals that additional work would be required should the project proceed to full development application. These are:

- The need to address overland flowpaths from upstream sites.
- The need to address runoff from Porrende Street.
- The inconsistency between the water management document and the masterplan drawings.
- The use of basement carpark may present salinity issues that have previously been raised in the subject location. (note, the basement carpark is proposed beneath the motel component).
- Appropriateness of grey-water re-use in relation to salinity issues.
- Dam outlets/treatment.
- Provision of on-site runoff treatment.
- The need to create easements for drainage/water quality purposes.
- The need to ensure that works regarding water quality take into account the design of Council's Waterbody 4 adjacent to Narellan Creek.
- Flood considerations.

Traffic

- The need for a traffic control facility to be installed at the access from Graham Hill Road.
- The unsatisfactory suggestion to install a roundabout in Porrende St and a suggestion that the site provide exit only in this location.
- The need to review priority treatment of the Porrende St/Graham Hill Road intersection
- The need to ensure the continuity of the cycleway along the river and the provision of cycle storage within the development.
- Modification of carparking layout to delete dead-end aisles and ensure compliance with relevant standards in relation to aisle width and parking bays.
- Clarification of on-site traffic movements and turning paths.
- Access arrangements for the underground car park need to comply with the Australian Standards and should not include any dead end car parking aisles and ensure that turning paths comply.
- Turning paths for delivery and service vehicles need to cater for the full range of vehicles likely to service the site.

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- Provision of Disabled parking spaces.

Place Management

- Need to better address the social impacts of the development in view of the current high level of electronic gaming machines (EGMs) per adult in the LGA (0.011 for Camden and 0.004-0.005 for NSW). The additional 180 machines will see the ratio rise to 0.017. Despite the expected growth in Camden's population the ratio is expected to remain high until 2011. The annual gaming machine expenditure by Camden residents is expected to increase from \$1437pa to \$2,333.00pa per adult.
- The need to ensure wider community consultation, particularly in relation to the community groups.
- Recognise the advantage of the site location in terms of its distance from residential areas which limits the impact of noise from entertainment, patron arrival/departure, delivery and service vehicles however this also has the disadvantage of being remote from the established commercial/retail centre thereby limiting the potential for development of an active entertainment precinct, provide casual surveillance of travel routes, carparks and the club premises.
- Poor accessibility in terms of public transport, taxi service and footpaths for staff and patrons.
- Impact of noise on patrons and staff from surrounding industrial uses.
- The site is well located to take advantage of the northern aspect and views across the floodplain and sits well into the landscape.
- The sense of arrival to the club for guests is poor given the journey through the industrial area and carpark.
- Suggest that the conflict between delivery vehicle loading docks and guest entry points should be addressed.

Draft Narellan Township Development Control Plan

Whilst the draft DCP is only to perform the function of a guide to development where a particular use is not currently permitted, the draft includes the land within area 3D – Narellan Industrial Area. The Statement of Desired Future Character states:- “.....It is an important location for employment generating development. A broad range of additional land uses, including those associated with recreation and entertainment will see additional activity within the place during both weekend and evening periods.....” The draft plan also includes as uses that are appropriate in the place:- conference facility, motel, recreation area and recreation facility. A copy of the provisions of the draft plan is included as **Tabled Document “DC 6”**.

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Economic Considerations

In the short term, the proposed Club is likely to impact on existing facilities in terms of competition however as the population increases, so to does the demand for facilities and therefore the impact will be short term.

There is currently a relationship between the proponents of the Club (Eastern Suburbs Leagues Club) and the Narellan Jets Football Club. The applicant submits that this relationship will continue thereby assisting in the provision of local recreational opportunities.

The Club would provide employment opportunities in a range of occupations together with support services such as supply contracts.

The issue of Electronic Gaming Machines has been discussed earlier however is an issue that needs to be considered by Council in relation to the negative impacts of gambling.

Conclusion

The development of the site provides a unique opportunity for the provision of a broad range of services to the Narellan and Harrington Park community. The development will also contribute to economic growth in the region through the creation of jobs for local people and businesses.

The proposed masterplan outlines in detail the scope of the intended use of the land following the rezoning process. Whilst the site was previously highlighted as a site suitable for such uses in Council's Draft Development Control Plan No 126 – Draft Narellan Township, it is recommended that Council initiate the planning process to consider the rezoning by preparing an amending LEP and publicly exhibit the masterplan and rezoning application.

The decision to prepare a draft LEP does not commit Council to making the final plan, it allows exhibition of the plan thereby determining the views of the community in relation to the proposal. On completion of the exhibition period, a further report would be submitted to Council when the decision as to whether Council resolve to forward the plan to the Minister for making is made.

Recommended: That:

- (i) Council resolve to prepare an amending LEP to allow the development of a Club with ancilliary recreation facility and motel and generally in accordance with the masterplan drawings prepared by Altis Architecture at

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2A Porrende Street, Narellan pursuant to Section 54 of the Environmental Planning & Assessment Act 1979.

- (ii) The Director of the Department of Infrastructure Planning & Natural Resources be advised of Council's decision to prepare an amending LEP.
- (iii) The proposed rezoning and proposed masterplan be publicly exhibited in accordance with the requirements of Section 66 of the Environmental Planning & Assessment Act 1979, as amended.

Resolved on the Motion of Cr Elliott, seconded Cr Johnson that:

- (i) *Council resolve to prepare an amending LEP to allow the development of a Club with ancillary recreation facility and motel and generally in accordance with the masterplan drawings prepared by Altis Architecture at 2A Porrende Street, Narellan pursuant to Section 54 of the Environmental Planning & Assessment Act 1979.*
- (ii) *The Director of the Department of Infrastructure Planning & Natural Resources be advised of Council's decision to prepare an amending LEP.*
- (iii) *The proposed rezoning and proposed masterplan be publicly exhibited in accordance with the requirements of Section 66 of the Environmental Planning & Assessment Act 1979, as amended.*

DC101/04 THE MOTION ON BEING PUT WAS **CARRIED.**

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

3. Proposed Dwelling Entitlement, No 35 (Lot 14 DP 817828 & Lot 1 DP 1054270) Dowles Lane, Bickley Vale

File No: DA2500.60 (Director, Development & Environment Division)
DA No: 407/2004
Applicant: Mr Cliff Doust
Owner: Mr Cliff Doust
Zoning: Rural 1(A) pursuant to LEP 48

Purpose of the Report

The purpose of the report is to allow Council to consider the merits of a State Environmental Planning Policy (SEPP) 1 application to vary a development standard within Camden LEP 48 to enable a dwelling entitlement on an undersized allotment of land.

Summary of Recommendation

It is recommended that Council endorse the SEPP 1 objection in relation to Development Application 407/2004 and seek the concurrence of the Director of the Department of Infrastructure Planning and Natural Resources [DIPNR].

The Site

The subject site comprises 21.55ha and is located on the eastern side of Dowles Lane, Bickley Vale. It is approximately 200m from the Burragorang Road intersection. A site plan forms **Tabled Document "DC 7"**.

The site is currently vacant and has previously been used for grazing of livestock associated with the decommissioned dairy situated on the adjoining property.

The site falls to the east, to Matahill Creek West. The 1% AEP flood level affects a portion of the property.

The Proposal

The applicant seeks to vary the development standards set out within Clause 14 of Camden Local Environmental Plan No 48 (CLEP 48). The clause relates to a minimum lot size on which a dwelling house may be erected.

This report does not seek a determination of any Development Application for a dwelling. Should Council endorse this Development Application and allow the SEPP 1 Objection and should concurrence be obtained from DIPNR, an application for a dwelling will then be submitted as a separate development application.

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Background

Prior to 1967 the applicant owned two rural properties known as Farm 22 (which fronted Cawdor Road) and Farm 29 (which fronted Dowles Lane). In 1986 Council granted approval to subdivide Farm 22 into three allotments. In 1990 Council also granted approval to subdivide Farm 29 into two allotments. It was the 1990 approval that resulted in the creation of Lot 14 [the subject of the current application for building entitlement]. Councillors should note that at all times when approval has been given to subdivision, the land, being Lots 14 and Lot 1 as shown on the locality plan, was considered as a whole rather than as two separate allotments.

Notification

The application was notified to adjoining owners and occupants of the property in accordance with Council's Development Control Plan 116 - Notifications, Advertisements and Mediation. At the close of the exhibition period no submissions were received.

Planning Controls

The following planning provisions have been considered in the assessment of this application:

- Camden 2025
- State Environmental Planning Policy No 1
- Camden Local Environmental Plan No 48
- Camden Scenic and Cultural Landscape Study

Assessment

The application has been assessed in accordance with Section 79C of the Environmental Planning & Assessment (EP & A) Act 1979. The following comments are made with respect to the critical aspects of the application.

(a) The provision of any environmental planning instrument

Camden 2025

Council's Strategic Plan outlines a number of key areas for Council to consider in the development of the Camden LGA. The strategy applicable to this development is "Managing Urban Growth" and "Environmental Systems".

The proposal meets the objectives and outcomes of these strategies in that the proposal will not contribute to

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undesirable urban growth. In addition, the provision of a dwelling on this lot will enable the current owners to sell this lot, which in turn may result in improved management of the existing degraded land and water body on site.

Camden LEP No 48

Under the current 1(a) rural "A" zone, a dwelling house is permissible with the consent of the Council. Council is obligated to consider the development standards contained in the planning instrument. The objectives of this zone are:

- (a) to provide suitable land for agricultural use;*
- (b) to promote the conservation of economic units of productive agricultural land, particularly those areas designated as having prime crop and pasture potential, by regulating subdivision to prevent fragmentation of actual or potentially productive rural holdings;*
- (c) to enable compatible forms of development, including recreation and tourist orientated uses to be carried out, if they are in keeping with the rural character of the locality, and carried out in an environmentally sensitive manner;*
- (d) to permit the development of extractive industries to occur in an environmentally acceptable manner; and*
- (e) to ensure that development does not detract from the existing rural character of the area or create unreasonable or uneconomic demands for the provision or extension of public amenities and services.*

The proposed dwelling entitlement is not inconsistent with the objectives of the 1(a) Rural zone. The proposal will not require the extension or provision of any additional public amenities and services. Furthermore a dwelling house could be located on site to ensure minimal impact on the scenic and cultural landscape quality of the locality.

Clause 14 of CLEP 48 contains a relevant development standard applicable to the assessment of this application. The provision states:

"This clause applies to land within zone No 1(a), 1(b), 1(c), 1(v) or 7(d).

Except as provided by subclause (3), a single dwelling house may be erected:

- on each allotment created pursuant to clause 12 or 13;*

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- *on land which has an area equal to or greater than the allotment area required by clause 12 [ie 40 hectares] in respect of land within the same zone.*

Notwithstanding subclause (2), a single dwelling house may be erected on an allotment of land lawfully created or approved by the Council before the appointed day [ie 21/2/1992], and upon which a dwelling house could have been lawfully erected immediately prior to that day.”

The applicant has lodged a SEPP 1 objection to Clause 14 [2][b] above. Discussions with Council’s legal adviser have confirmed that the planning provision is amenable to a SEPP 1 variation. The merits of the request are discussed below.

It should be noted that Council could equally consider the request under Clause 14 [3] shown above. This subclause states that the lot must have been lawfully created or approved by the Council before the appointed day. A search of Council’s archives has disclosed that approval to subdivide Farm 29, which led to the creation of Lot 14, occurred prior to the appointed date. The second requirement of clause 14 [3] relates to whether a dwelling house could have been lawfully erected immediately prior to 21/2/1992. Prior to LEP 48 Interim Development Order No 3 (IDO3) was the relevant planning instrument. Under Clause 6B [3] Council was given discretion to grant approval for a dwelling house. The provision states:

“6B [3] The Council was permitted to approve of the erection of a dwelling-house on any land which the Town Clerk certified was an existing parcel of land and on which there is erected no other dwelling-house if the council is satisfied:

- [a] the dwelling house will have adequate access;*
- [b] the erection of a dwelling house will not create or increase the effect of ribbon development along any main or arterial road: and*
- [c] adequate public utility services will be available to the land.”*

The suitability of the site is discussed elsewhere in this report. It should be noted that power granted to Council pursuant to clause 6B [3] of IDO No 3 was subject to concurrence being granted by the State Planning Authority [currently DIPNR].

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SEPP1

SEPP1 was gazetted in 1980 and sets out the general principle that a development standard in an environmental planning instrument may be varied where it can be demonstrated to Council that strict compliance with the standard is unreasonable or unnecessary.

In their submission to Council, the applicant has argued that the development standard is unreasonable and / or unnecessary on the following grounds:

- (a) the proposal does not increase the incidence of rural land use conflict;
- (b) the proposal preserves the current visual link of the site in its rural setting;
- (c) the current land use will be retained;
- (d) the vegetated areas will not be disturbed by the proposed development;
- (e) the proposal will not require an upgrade of the existing road;
- (f) the proposal will not result in an unreasonable increase in demand on the existing infrastructure, services and facilities of the locality and region;
- (g) the proposed development is not likely to cause significant impacts upon the existing and future amenity of the neighbourhood with regard to such matters as scenic quality, overshadowing, privacy, noise or loss of views;
- (h) the proposal can be designed so that the existing streetscape is not affected;
- (i) there will be no significant increase in traffic.
- (j) the land has sufficient capability to accommodate on – site effluent disposal;
- (k) the allotment size is consistent with other parcels of land in the vicinity [which have building entitlements];
- (l) the development proposal is not inconsistent with the objectives of the planning instrument and the Environmental Planning & Assessment Act.

Camden Scenic and Cultural Landscape Study

This study identifies landscape types throughout Camden. The site falls within the “Broadacre Grazing Land” type that covers most of the Cawdor Valley locality. This landscape is typified by cleared grazing land, large-scale settlement patterns and tributaries lined with natural vegetation. The landscape type has a highly visually sensitive category. The study discourages prominent buildings and groups located in highly visible locations or which interrupt sensitive sight lines.

Opportunities exist to permit a dwelling house on the land that does not interrupt sensitive sight lines and will maintain the broadacre character of the locality.

(b) Likely impacts on both the natural and built environment

The impact on the natural environment is anticipated to be minimal. Any future dwelling on Lot 14 could be sited so as to minimise the impact on view corridors from Cawdor Road and to maintain visual access through the property.

[c] Social & economic impacts in the locality

The proposed dwelling entitlement will have negligible impacts on the social and economic impacts in the locality. The property has previously been used for agricultural purposes. A change in ownership may result in the property being used again for such uses.

[d] Suitability of the site for the development

Whilst the 1% AEP flood level affects the site, there is sufficient land available for a dwelling, outbuildings and on site effluent disposal. Access during flood events is available from the road frontage of Dowles Lane.

[e] The Public Interest

It is considered that the proposed building entitlement is in the public interest, as it is not expected to detriment the agricultural productivity. A dwelling-house could be sited on the land to ensure that sensitive sight lines through the property are maintained.

It should be noted that section 94 contributions will be levied if a building entitlement is granted to the property. The contributions will be in the order of \$11,042.00 [subject to indexation].

Conclusion

This application is a SEPP 1 objection to the development standards set out in Clause 14(3) of LEP 48. The proposed development seeks to allow a dwelling to be erected on a vacant and undersized allotment of land.

The presence of a dwelling-house on Lot 14 is not inconsistent with the objectives of the zone. The applicant has argued that strict compliance with the development standard is unreasonable, unnecessary and would tend to hinder the attainment of the objects of Section 5(a)(i) and (ii) of the EA & A

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Act 1979. Based on the above, the approval of the SEPP 1 Objection application is recommended. If concurrence from DIPNR is obtained, any application for a dwelling can then be determined.

Recommended: That Council endorse Development Application No 407/2004, being a SEPP 1 application to vary the requirements of Clause 14(3) of LEP 48, and seek the concurrence of the Director of the Department of Infrastructure Planning & Natural Resources.

Resolved on the Motion of Cr Funnell, seconded Cr Campbell that Council endorse Development Application No 407/2004, being a SEPP 1 application to vary the requirements of Clause 14(3) of LEP 48, and seek the concurrence of the Director of the Department of Infrastructure Planning & Natural Resources.

DC102/04 THE MOTION ON BEING PUT WAS **CARRIED.**

4. Community Reference Group for Narellan Local Environmental Study

(File 4768/2) (Director Governance and Outcomes)

Purpose of the Report

For Council to consider the nomination by a resident of Narellan to participate on the Narellan Local Environmental Study Community Reference Group (CRG).

Background

At its meeting of 9 February 2004, Council resolved to adopt a Masterplan for Narellan and prepare a Local Environmental Study and Draft Local Environmental Plan.

At a further meeting held on 12 July 2004, Council resolved to adopt a consultation strategy for the Narellan LES /Draft LEP process. The strategy included the establishment of a Community Reference Group with Councillors and delegates from seven community groups participating. Council also requested that an advertisement be placed in the local paper to call for two further nominations from community members.

Nominations

All seven community groups have accepted Council's invitation to participate in the Community Reference Group.

The advertisement calling for two additional community members appeared in the Camden Advertiser on 21 July 2004, with the closing date for nominations being 30 July 2004.

Expressions of Interest have been received from Ms Joan Scott and Ms Lizzie Lamerton. Both Ms Scott and Ms Lamerton are long-term residents of Narellan and have informed Council that they are not affiliated with any of the participating community groups.

No further interest in participating in the CRG has been received to date.

Conclusion

The CRG established for the Narellan LES comprises delegates from seven community groups and three Councillors.

It is recommended that Council accept Ms Scott and Ms Lamerton as community representatives on the CRG.

Recommended: That Council accept Ms Joan Scott and Ms Lizzie Lamerton as community representatives on the Narellan CRG.

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*Resolved on the Motion of Cr Johnson, seconded Cr Campbell
that Council accept Ms Joan Scott and Ms Lizzie Lamerton as
community representatives on the Narellan CRG.*

DC103/04 THE MOTION ON BEING PUT WAS **CARRIED.**

The Meeting closed at 6.11pm