

CAMDEN COUNCIL

MINUTES OF THE ORDINARY COUNCIL

28 AUGUST 2006

PRESENT

Cr Anderson (Mayor/Chairperson), Cr Cagney, Cr Campbell, Cr Dewbery, Cr Elliott, Cr Funnell, Cr Johnson, Cr Patterson, Cr Whiteman.

STAFF

Acting General Manager (Director Governance), Director Development and Health, Director Works and Services, Manager Corporate Services, Manager Environmentally Sustainable Design, Manager Capital Works, Manager Strategic Planning, Manager Employee & Community Relations, Manager Development, Manager Community Services, Manager Assets, Senior Governance Officer.

APOLOGIES

No Apologies

ORD226/06

DECLARATION OF INTEREST

Resolution:

Councillor Funnell declared a pecuniary interest in relation to Item ORD04, as his company has tendered for the electrical work for the refurbishment of the building.

Councillor Whiteman declared a pecuniary interest in relation to Item ORD04, due to the ongoing investigation by the Department of Local Government and the applicant being the previous landlord of the building for the business conducted on the premises.

Councillor Patterson declared a pecuniary interest in relation to Item ORD04 as owner and director of a company which owns two restaurants at 37 and 47 Argyle Street.

Moved Councillor Funnell, Seconded Councillor Dewbery that the declarations be noted.

ORD227/06 THE MOTION ON BEING PUT WAS **CARRIED**

PUBLIC ADDRESSES

Resolution:

Peter Lyons addressed the meeting in relation to item ORD02

Peter Lubrano addressed the meeting in relation to item ORD01

Moved Councillor Funnell, Seconded Councillor Whiteman that the public addresses be noted.

ORD228/06 THE MOTION ON BEING PUT WAS **CARRIED**

PUBLIC QUESTION TIME

Resolution:

Joan Scott asked the following question:

Q. Congratulated Council on the work carried out on the Camden Bike Track or also known as the Nepean Cycleway and requested the name 'Cycleway' be changed to encompass other forms of use, such as scooter and walkers.

A. The Director Works and Services stated Council will investigate an appropriate title for use for all types, not only bicycles.

Kylie Lyons asked the following question:

Q. Why all Councillors don't have email addresses and why some of the email addresses are sending out reject messages from emails. It is a very good method of communication in this day and age.

A. Acting General Manager stated it is the choice of each Councillor to have email access and would need to investigate which email addresses are rejecting the emails. If further details could be provided, the matter will be addressed.

Moved Councillor Funnell, Seconded Councillor Johnson that the public questions be noted.

ORD229/06 THE MOTION ON BEING PUT WAS **CARRIED**

CONFIRMATION OF MINUTES

Resolution: That the Minutes of the Ordinary Council Meeting and the Traffic Committee held 14 August 2006, copies of which have been circulated, be confirmed and adopted.

Moved Councillor Elliott, Seconded Councillor Whiteman that the recommendation as above be adopted.

ORD230/06 THE MOTION ON BEING PUT WAS **CARRIED**

**SITE INSPECTION - AWNING & ADDITIONS TO EXISTING SHOPS, 54 FLINDERS AVENUE, CAMDEN SOUTH - DA450/2006
ORD231/06**

ORD01 AWNING & ADDITION TO EXISTING SHOPS AT NO 54-60 (LOT 801 DP 239634) FLINDERS AVENUE, CAMDEN SOUTH

Resolution: That Development Application 450/2006 for an awning and addition at No 54-60 (Lot 801-804 DP239634) Flinders Avenue, Camden South, be approved subject to the conditions of development consent.

Moved Councillor Funnell, Seconded Councillor Johnson that the recommendation as above be adopted.

ORD232/06 THE MOTION ON BEING PUT WAS **CARRIED**

ORD02 SECTION 82A REVIEW OF DEVELOPMENT APPLICATION NO 782/2005

**TO CONSTRUCT A SINGLE STOREY CHILD CARE CENTRE ON NO 2-4
(LOT 3 DP 737284) RICHARDSON ROAD, NARELLAN**

Resolution: That Council approve development application No 782/2005 for the construction of an 89 place single storey child care centre subject to the conditions provided in the report.

Moved Councillor Elliott, Seconded Councillor Funnell that the recommendation as above be adopted.

ORD233/06 THE MOTION ON BEING PUT WAS **CARRIED**
(*Councillors Whiteman, Cagney and Campbell voted against the Motion*)

**ORD03 LAND & ENVIRONMENT COURT PROCEEDINGS IN RELATION TO
ILLEGAL TREE REMOVAL, NO 39 (LOT 28 DP221083) GREGORY
ROAD, LEPPINGTON**

Resolution: That Council note the result of the Land and Environment Court action against the owner, Mr Runko at 39 Gregory Road, Leppington.

Moved Councillor Funnell, Seconded Councillor Johnson that the recommendation as above be adopted.

ORD234/06 THE MOTION ON BEING PUT WAS **CARRIED**

**ORD04 LEASE OF AIR SPACE - ADJACENT TO LOT 1 DP 1027952 76-100
ARGYLE STREET, CAMDEN**

(*Councillors Funnell, Whiteman and Patterson, having previously declared a pecuniary interest in this item, took no part in discussion or voting in this matter, left the Chamber - the time being 7.12pm*)

Resolution: That:

- i) Council consent to the Deed of Agreement for Lease and the Lease in respect of air space above part of the footway located generally on the southern side of Argyle Street, Camden in accordance with Option 3 and agree to all other terms and conditions of the lease as outlined; and
- ii) Affix the Council Seal to all documents relating to this matter.

Moved Councillor Elliott, Seconded Councillor Johnson that the recommendation as above be adopted.

ORD235/06 THE MOTION ON BEING PUT WAS **CARRIED** ON THE CASTING
VOTE OF THE MAYOR.

(*Councillors Campbell, Cagney and Johnson voted against the motion*)

(*Councillors Funnell, Whiteman and Patterson, returned to the Chamber, the time being 7.43pm*)

ORD05 CAMDEN GOLF CLUB LTD – EXECUTION OF DOCUMENTS

Resolution: That Council agree to consent to the Mortgage between the Camden Golf

Club Limited and the St. George Bank Limited and sign the Deed of Consent to Mortgage of Lease and affix the Council Seal to the document.

Moved Councillor Funnell, Seconded Councillor Whiteman that the recommendation as above be adopted.

ORD236/06 THE MOTION ON BEING PUT WAS **CARRIED**

ORD06 TENDER 2006/06 - CONSTRUCTION OF AN AMENITIES BUILDING AT WANDARRAH RESERVE, MOUNT ANNAN

Resolution: That:

- i. Council accept the tender of Avoca Constructions (NSW) Pty Limited for the lump sum price of \$195,027 (exclusive of GST) to undertake construction of the amenities building at Wandarrah Reserve, Mount Annan;
- ii. an additional \$34,527 be allocated to the 06/07 Works Programme (Work Order W4757) in order to meet the total required construction costs of the project;
- iii. Authorise the necessary documentation to be completed with Avoca Constructions(NSW) Pty Limited to undertake the proposed works covered by the contract; and for the documentation to be completed under Seal of Council.

Moved Councillor Elliott, Seconded Councillor Johnson that the recommendation as above be adopted.

ORD237/06 THE MOTION ON BEING PUT WAS **CARRIED**

ORD07 LGAG PARTNERSHIP FUNDING FOR CAMDEN NEPEAN RIVER RESERVES RESTORATION PROJECT

Resolution: That Council:

- i. Accept the \$141,000 funding from the Hawkesbury Nepean Local Government Advisory Group Partnership Program for the Camden Nepean River Reserves Restoration Project.
- ii. Authority be granted for all relevant documentation to be completed under Seal of Council if applicable.

Moved Councillor Whiteman, Seconded Councillor Johnson that the recommendation as above be adopted.

ORD238/06 THE MOTION ON BEING PUT WAS **CARRIED**

ORD08 RTA PROJECT FUNDING - 2006/2007

Resolution: That Council:

- i. Accept the RTA's offer of \$55,000 for the Camden to Narellan Cycleway Project.
- ii. Match the RTA's funding from the Capital Works Reserve.
- iii. Accept the RTA's offer of \$37,500 for recurrent operational costs associated with the Camden Community Road Safety Officer Program; to be matched through Council's adopted budget.

Moved Councillor Johnson, Seconded Councillor Funnell that the recommendation as above be adopted.

ORD239/06 THE MOTION ON BEING PUT WAS **CARRIED**

ORD09 REQUEST FOR COUNCILLOR REPRESENTATION ON THE CULTURAL PLAN COMMUNITY ADVISORY GROUP

Resolution: That the Council representative to participate on the Cultural Plan Community Advisory Group be Councillor Anderson.

Moved Councillor Patterson, Seconded Councillor Johnson that the recommendation as above be adopted.

ORD240/06 THE MOTION ON BEING PUT WAS **CARRIED**

ORD10 EXPENDITURE REVOTES CARRIED FORWARD FROM 2005/06 BUDGET

Resolution: That Council:

- (i) Adopt the list of projects requiring revote as identified at the end of this report.
- (ii) Endorse the inclusion of these projects to the 2006/07 Budget and the necessary additional funding be sourced from the following areas

| Source of Funds | \$ |
|---------------------------------------|------------------|
| Section 94 Contributions | 1,134,736 |
| Grants | 426,306 |
| Trust/Reserves | 402,194 |
| Other Contributions or Sale of Assets | 9,000 |
| General Revenue (ie Council Funds) | 428,418 |
| TOTAL | 2,400,654 |

Moved Councillor Johnson, Seconded Councillor Whiteman that the recommendation as above be adopted.

ORD241/06 THE MOTION ON BEING PUT WAS **CARRIED**

ORD11 INVESTMENT MONIES

Resolution: That:

- i. Council note that the Principal Accounting Officer has certified that all investments held by Council have been made in accordance with the Local Government Act, Regulations, and Council's Investment Policy.
- ii. The list of investments for July 2006 be noted.
- iii. The average monthly interest rate return of 6.04% for the month of July 2006 be noted.

Moved Councillor Johnson, Seconded Councillor Elliott that the recommendation as above be adopted.

ORD242/06 THE MOTION ON BEING PUT WAS **CARRIED**

ORD12 MANAGEMENT PLAN REVIEW - 30 JUNE 2006

Resolution: That the 30 June 2006 Management Plan Review be noted.

Moved Councillor Funnell, Seconded Councillor Johnson that the recommendation as above be adopted.

ORD243/06 THE MOTION ON BEING PUT WAS **CARRIED**

QUESTIONS WITHOUT NOTICE

Vandalism – weekend 26-27 August

Cr Funnell drew Council's attention to the weekend vandalism in Ellis Lane, Sheathers Lane roundabout when plants, irrigation systems were ripped out. The community is disgusted with this behaviour.

The Director Works and Services stated Council staff were aware of the matter. Staff were contacted over the weekend and have been working on the restoration. The Civic Centre was also attacked with graffiti on the walls. All the damage was cleaned up on the weekend.

Cr Funnell also asked could Council include the cost of security in the hire of the hall in Harrington Park. A lot of vandalism occurs when functions are held in the hall.

The Manager Community Services stated Council has had a recent incident with the hire of the Hall. Functions considered a high risk, Council requires an alcohol permit and security guard employed. Since the incident, Council now also requires the local Police be contacted concerning the function.

Cr Funnell asked is one security guard sufficient.

The Manager Community Services stated Council talks to security companies and consider the size of the function.

The Director Works and Services stated Council work with Police on these issues. Each time Council is subject to graffiti, photographs are taken and go on the Police Identification system and action has been taken against offenders.

Camden West Bush Fire Brigade

Cr Funnell requested a response in writing on the request for a change room and toilets.

The Director Works and Services stated a report will be provided to all Councillors.

Barsden Street traffic management

Cr Funnell drew Council's attention to the traffic problems in Barsden Street and the installation of traffic counters. Could a traffic management plan be drawn up for the street.

The Director Works and Services stated a report will be presented to the Traffic Committee about the matter.

Kirkham Meadows Estate

Cr Funnell drew attention to the removal of the grates from the stormwater pipes, could the matter be looked into.

The Director Works and Services stated staff will investigate the matter.

Gundungurra Reserve – Renaming

Cr Cagney referred to a memo issued relating to the change of name of the reserve and the concerns expressed by an Aboriginal group. Has Council had any further communication with the group, maybe Council should have a second look at the resolution.

The Director Works and Services stated staff did try and communicate with both groups, with one group not responding.

The Manager Environmental Sustainable Design (ESD) stated Council has forwarded the information to the Names Board and will be considering the submissions in September.

Cr Cagney stated it is important that Council has the correct and most appropriate name and maybe Council has to reconsider the matter.

The Director Works and Services stated Council did try and communicate and will try to obtain updated information and it will be circulated to Councillors. The resolution has been followed through.

Narellan Hotel – Trading Hours

Cr Whiteman requested information on the trading hours for the Narellan Hotel, and Councillors be provided with a memo.

Vandalism – Chellaston Street

Cr Whiteman drew attention to the garbage bins at the bottom of Chelleston Street, which are regularly burnt out. Could they be replaced with metal bins rather than plastic bins. They have been burnt out about 4 times this year.

Camden Swimming Pool

Cr Whiteman drew attention to the recent newspaper report concerning the Pool. Cr Whiteman suggested Council revisit the Pool issues. Land is available adjacent, currently owned by the primary school.

Vandalism – weekend 26-27 August

Cr Patterson drew attention to the vandalism over the weekend and thanked staff for the co-operation and availability.

Government Inquiry into Long Wall Mining

Cr Campbell requested to be advised on the progress of Council resolution calling on the NSW Government to hold an inquiry into Long Wall Mining.

The Director Development and Environment stated there has been no decision made, the matter is moving through the Government Department.

Jack Nash Reserve – irrigation

Cr Elliott requested an update on the installation of the irrigation system in Jack Nash Reserve, Currans Hill.

Growth Centre Commission – Dept of Planning – Infill development

Cr Elliott referred to an item at MACROC and requested clarification on the request by Dept of Planning for all regions to put “infill” population on top of Bringilly development of around 44,000 homes. Where is Council positioned with this matter with the Camden LGA.

The Manager Strategic Planning stated as previously advised, the Dept of Planning has allocated Council residential targets, which do not include the South West sector. The target allocated to the region is 40,000, including the 4 Local Government areas, Camden figures indicate approximately 3,000 and would appear on the current planning programme that the projected growth of 10,000 lots and Council will meet the target. As a region, it would appear, the target will also be met.

Disabled Parking – Argyle Street

Cr Dewbery requested the Traffic Committee consider a Disabled Parking allocation, near Blooms Chemist, as there is no disabled parking at the end of the town.

Narellan Road Extension

Cr Anderson asked the completion date for this project.

The Director Works and Services stated the RTA advise the completion would be early 2007, it has been suggested February, 2007.

Pedestrian Bridges – Public Safety

Cr Anderson referred to requests from local papers for comments on rock throwing from bridges and stated there are 3 places where barriers do not exist. They are either end of Macarthur Bridge and Narellan Road bridge. Has Council contacted RTA requesting barriers be installed.

The Manager ESD stated Council has contacted both the Police and RTA, as the By Pass is an RTA road requesting barriers be installed. Local Police have also been requested to increase patrols in those areas. No reply has been received from the RTA.

Cr Anderson requested Council raise the issue at a Community Safety Committee and the Traffic Committee.

The Director Works and Services advised the matter will be raised with the Traffic Committee and also raised at Community Safety Committee.

THE MEETING CLOSED AT 8.32PM.

ORDINARY COUNCIL

SUBJECT: APOLOGIES

Leave of absence tendered on behalf of Councillors from this meeting.

RECOMMENDED

That leave of absence be granted.

RESOLUTION

No leave of absences to be granted.

ORD226/06

ORDINARY COUNCIL

SUBJECT: DECLARATION OF INTEREST

Council Policy requires Councillors who have a Pecuniary Interest in an item on the Agenda to declare the Interest at this stage and to leave the Meeting during consideration of the item.

Councillors may also use this opportunity to disclose any non-pecuniary interests and to identify how they will be dealing with those interests.

RECOMMENDED

That the declarations be noted.

RESOLUTION

Councillor Funnell declared a pecuniary interest in relation to Item ORD04, as his company has tendered for the electrical work for the refurbishment of the building.

Councillor Whiteman declared a pecuniary interest in relation to Item ORD04, due to the ongoing investigation by the Department of Local Government and the applicant being the previous landlord of the building for the business conducted on the premises.

Councillor Patterson declared a pecuniary interest in relation to Item ORD04 as owner and director of a company which owns two restaurants at 37 and 47 Argyle Street.

Moved Councillor Funnell, Seconded Councillor Dewbery that the declarations be noted.

THE MOTION ON BEING PUT WAS **CARRIED**

ORD227/06

ORDINARY COUNCIL

SUBJECT: PUBLIC ADDRESSES

The Public Address segment in the Ordinary Council Meeting provides an opportunity for people to speak publicly on an item listed for consideration by the Council at the meeting or to speak on any item within the Council jurisdiction. Speakers must book in with the Council office by 4.00pm on the day of the meeting and nominate the item or topic on which they wish to speak. Only 7 speakers can be heard at any meeting.

Speakers may make a statement only and not direct questions to councillors or staff and only one speaker for and one speaker against any item are permitted. A second speaker for and against will be allowed, if time permits. All speakers are limited to 4 minutes and a 1 minute warning is given to speakers prior to the 4 minute time period elapsing.

Public Addresses are tape recorded for administrative purposes. It should be noted that speakers at Council meetings do not enjoy any protection from parliamentary-style privilege. Therefore they are subject to the risk of defamation action if they make comments about individuals. In the event that a speaker makes potentially offensive or defamatory remarks about any person, the Mayor/Chairperson will ask them to refrain from such comments. A copy of the tape recording may be available to third parties (in certain circumstances).

The Mayor/Chairperson has the discretion to withdraw the privilege to speak where a speaker continues to make inappropriate or offensive comments about another person.

RECOMMENDED

That the public addresses be noted.

RESOLUTION

Peter Lyons addressed the meeting in relation to item ORD02
Peter Lubrano addressed the meeting in relation to item ORD01

Moved Councillor Funnell, Seconded Councillor Whiteman that the public addresses be noted.

THE MOTION ON BEING PUT WAS **CARRIED**

ORD228/06

ORDINARY COUNCIL

SUBJECT: PUBLIC QUESTION TIME

Public Question Time provides an opportunity for members of the public to ask questions on any matter within Council jurisdiction. A response will be provided where Councillors or staff have the necessary information at hand, if not a reply will be provided at a later time.

Generally only one question will be permitted per person, further questions may be allowed if time permits, with the consent of Council.

RECOMMENDED

That the public questions be noted.

RESOLUTION

Joan Scott asked the following question:

Q. Congratulated Council on the work carried out on the Camden Bike Track or also known as the Nepean Cycleway and requested the name 'Cycleway' be changed to encompass other forms of use, such as scooter and walkers.

A. The Director Works and Services stated Council will investigate an appropriate title for use for all types, not only bicycles.

Kylie Lyons asked the following question:

Q. Why all Councillors don't have email addresses and why some of the email addresses are sending out reject messages from emails. It is a very good method of communication in this day and age.

A. Acting General Manager stated it is the choice of each Councillor to have email access and would need to investigate which email addresses are rejecting the emails. If further details could be provided, the matter will be addressed.

That the public questions be noted.

Moved Councillor Funnell, Seconded Councillor Johnson that the recommendation as above be adopted.

THE MOTION ON BEING PUT WAS **CARRIED**

ORD229/06

ORDINARY COUNCIL

SUBJECT: CONFIRMATION OF MINUTES

Confirm and adopt Minutes of Ordinary Council Meeting and Traffic Committee held 14 August 2006.

RECOMMENDED

That the Minutes of the Ordinary Council Meeting and the Traffic Committee held 14 August 2006, copies of which have been circulated, be confirmed and adopted.

RESOLUTION

That the Minutes of the Ordinary Council Meeting and the Traffic Committee held 14 August 2006, copies of which have been circulated, be confirmed and adopted.

Moved Councillor Elliott, Seconded Councillor Whiteman that the recommendation as above be adopted.

THE MOTION ON BEING PUT WAS **CARRIED**

ORD230/06

ORDINARY COUNCIL

SUBJECT: SITE INSPECTION - AWNING & ADDITIONS TO EXISTING SHOPS, 54
FLINDERS AVENUE, CAMDEN SOUTH - DA450/2006
FROM: Director Development and Health
FILE NO: 3125.500 (Binder: Development Applications 2006)

A report was submitted to the meeting of 14 August, 2006. At that meeting Council resolved to defer a decision until a site inspection had been carried out.

A site inspection is to be held prior to the matter going before Council. Councillors to meet in the Council carpark at 4.15pm or on site at 4.30pm.

RECOMMENDED

N/A

RESOLUTION

N/A

ORD231/06

ORDINARY COUNCIL

ORD01

**AWNING & ADDITION TO EXISTING SHOPS AT NO 54-60 (LOT 801 DP 239634)
FLINDERS AVENUE, CAMDEN SOUTH**

| | |
|--|---|
| FROM: | Director Development and Health |
| FILE NO: | 3125.500 (Binder Development Applications 2006) |
| DA NO: | 450/2006 |
| OWNER: | Fordham Laboratories Pty Ltd |
| APPLICANT: | Fordham Laboratories Pty Ltd |
| ZONING: | 3(c) Neighbourhood Business |
| APPLICABLE PLANNING INSTRUMENT: | LEP 46 |

PURPOSE OF REPORT

The purpose of this report is to allow Council to consider its inspection of the proposed development site, conducted prior to this meeting. Also, the report seeks Council's determination of a development application originally referred to it at the Council meeting of 14 August, 2006.

SUMMARY OF RECOMMENDATION

It is recommended that Council approve Development Application 450/2006 for an awning and additions to existing shops subject to the draft conditions of consent shown at the end of the report.

BACKGROUND

At the meeting of 14 August, 2006, Council considered a report on the assessment of a development application for an awning and additions to the existing shops at 54-60 Flinders Avenue, Camden South. Council resolved to refer the matter for a site inspection. The inspection was scheduled to be held prior to this meeting.

THE SITE

The site is known as No 54-60 (Lot 801 DP 239634) Flinders Avenue, Camden South.

THE PROPOSAL

The proposal is for the construction of an awning and additions to the existing shops.

NOTIFICATION

In accordance with Council's DCP No 116 'Notifications, Advertisement and Mediation', the proposed development was notified to adjoining owners. Council received eight (8) submissions in regard to the proposed development.

Officer comment on the submissions formed part of the report referred to Council at the

meeting of 14 August, 2006.

PLANNING CONTROLS

The previous report discusses the planning controls pertaining to this development application.

ASSESSMENT

The subject application has been assessed in accordance with Section 79c of the Environmental Planning & Assessment Act 1979. The application was assessed against planning instruments appurtenant to the land being Camden LEP 46 and DCP 97 'Car Parking' and in particular, the concerns of local residents. **A copy of the report is provided with the Business Paper Supporting Documents.**

The detailed assessment of the application in respect of these controls was provided within the report to Council of 14 August, 2006.

CONCLUSION

Council has received a development application for construction of an awning and additions at 54-60 Flinders Avenue, Camden South. The application is considered to comply with the relevant planning instruments which are designed in the interests of the general community.

Consequently, when assessed on its merits, the development application is able to be recommended for approval.

RECOMMENDED

That Development Application 450/2006 for an awning and addition at No 54-60 (Lot 801-804 DP239634) Flinders Avenue, Camden South, be approved subject to the following conditions of development consent:

Draft Details of Conditions:

1.0 - General Requirements

- (1) **Approved Plans** – The development must be carried out strictly in accordance with the plans prepared by C.J. Mackenzie Engineering, dated 19/1/2006 and numbered 9556-1a.

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

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

- (2) **Development Application for Air Conditioning Unit** - A separate development application must be lodged for any air conditioning unit that does not meet the requirements of Camden Development Control Plan No 112 - "Exempt and

Complying Development”.

- (3) **Building Code of Australia** - All works must be carried out in accordance with the requirements of the Building Code of Australia.
- (4) **Development Application for Use** - A separate Development Application shall be submitted to Camden Council for the initial use of the new premises.
- (5) **Advertising Signs Application** - Outdoor advertising structures require prior development consent. A development application must be submitted and approval granted by the Consent Authority (ie Camden Council) prior to the erection of any advertising signs.

The design, style, colour, height and type of any advertising sign must have regard to the character of the development, any existing advertising theme and DCP 96 “Outdoor Advertising Code”.

- (6) **Graffiti** – The finishes of structures and buildings are to be maintained at all times and any graffiti or vandalism immediately removed or repaired.
- (7) **Line marking** – Line marking and appropriate signage is to be provided in the front parking area to clearly identify parking bays.

2.0 - Construction Certificate Requirements

The following conditions of consent shall be complied with prior to the issue of a Construction Certificate.

- (1) **Parking Spaces** - A minimum of 14 car parking spaces must be provided on site. These spaces, and associated access driveways and manoeuvring areas must conform with Camden Council's Car Parking Code (Development Control Plan No 97), and must be designed in accordance with a pavement design prepared by a Geotechnical Engineer and the Consent Authority's (ie Camden Council) standard. Documentary evidence of compliance from a Accredited Certifier/Suitably qualified person must be submitted to the Principal Certifying Authority **prior to the Construction Certificate being issued.**
- (2) **Driveway Illumination** - All common open space areas and internal driveways must be appropriately illuminated by the use of bollard lighting or the like to provide for the safety of residents at night. Details are to be provided prior to the Construction being issued.
- (3) **Driveway Design** – The design of the driveway must comply with Council's Engineering Design Specifications and must be designed by a Structural Engineer. The design is to provide for possible future access to the sewer line servicing No 62 Flinders Avenue, Camden South, for possible repair and maintenance.

3.0 - Prior To Works Commencing

The following conditions of consent shall be complied with prior to any works commencing on the construction site.

- (1) **Signs to be Erected on Building and Demolition Sites** - A sign must be erected in a prominent position in the erection or demolition of a building that is being

carried out:

- (i) stating unauthorised entry to the site is **prohibited**; and
- (ii) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.

Any such sign is to be removed when the work has been completed.

This clause does not apply to:

- a. building work carried out inside an existing building, or
- b. building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.

- (2) **Toilet Facilities** - Toilet facilities must be provided at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

Each toilet provided:

- a. must be standard flushing toilet, and
- b. must be connected:
 - (i) to a public sewer, or
 - (ii) if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the council, or
 - (iii) if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the council.

The provision of toilet facilities in accordance with this clause must be completed before any other work is commenced.

In this clause:

accredited sewage management facility means a sewage management facility to which Division 4A of Part 3 of the *Local government (Approvals) Regulation 1993* applies, being a sewage management facility that is installed or constructed to a design or plan the subject of a certificate of accreditation referred to in clause 95B of the Regulation;

approved by the council means the subject of an approval in force under Division 1 of Part 3 of the *Local Government (Approvals) Regulation 1993* ;

public sewer has the same meaning as it has in the *Local Government (Approvals) Regulation 1993* ;

sewage management facility has the same meaning as it has in the *Local Government (Approvals) Regulation 1993* .

- (3) **Notice of Commencement of Work** – Notice in the form prescribed by the *Environmental Planning and Assessment Regulation 2000* shall be lodged with the Consent Authority (ie Camden Council) **at least 2 days prior** to commencing building works. The notice shall provide details relating to any Construction Certificate issued by a certifying authority and the appointed Principal Certifying Authority.
- (4) **Construction Certificate Before Work Commences** - This consent does not allow site works, building or demolition works to commence, nor does it imply that the plans attached to this consent comply with the specific requirements of the Building Code of Australia. Such works must only take place after a Principal

Certifying Authority (PCA) has been appointed and a Construction Certificate has been issued.

4.0 - During Construction

The following conditions of consent shall be complied with during the construction phase.

- (1) **Survey Peg Out** - The building must be set out by a registered land surveyor and a survey report detailing the siting of the building in relation to the allotment boundaries submitted to the Principal Certifying Authority prior to the placement of any concrete.
- (2) **Hours Of Operation** - All construction and demolition work must be restricted to between:
 - (a) 7am and 6pm Mondays to Fridays (inclusive);
 - (b) 7am to 4pm Saturdays, if construction noise is inaudible to adjoining residential properties, otherwise 8am to 4pm;
 - (c) work on Sundays and Public Holidays is prohibited.
- (3) **Damaged Assets** – All engineering works and public utility relocation shall incur no cost to Council. Any damage to Council's assets shall be made good prior to commencement of use/occupation.
- (4) **Site Management** – To safeguard the local amenity, reduce noise nuisance and to prevent environmental pollution during the construction period, the following practices are to be implemented:
 - a. The delivery of material shall only be carried out between the hours of 7 am - 6pm Monday to Friday and between 8am - 4pm on Saturdays.
 - b. Stockpiles of topsoil, sand, aggregate, spoil or other material shall be kept clear of any drainage path, easement, natural watercourse, kerb or road surface and shall have measures in place to prevent the movement of such material off the site.
 - c. Builder's operations such as brick cutting, washing tools, concreting and bricklaying shall be confined to the building allotment. All pollutants from these activities shall be contained on site and disposed of in an appropriate manner.
 - d. Builder's waste must not be burnt or buried on site, nor should wind-blown rubbish be allowed to leave the site. All waste must be disposed of at an approved Waste Disposal Depot.
 - e. A waste control container shall be located on the development site.
- (5) **Footpath Levels** - The ground levels of the footpath area within the road reserve (between the boundary of the subject site to the kerb and gutter) must not be altered (by cut or fill) as a consequence of building design and/or construction.
- (6) **Building Inspections** - The Principal Certifying Authority (PCA) must determine when inspections of critical building components are necessary. The applicant must notify the PCA for the inspection of the building components. Where Camden Council has been nominated as the PCA, the following stages must be inspected and passed prior to proceeding to the subsequent stage of construction.

Note: If Council is appointed as the PCA, Council agrees to the commencement inspection to be combined with the first required inspection.

- (a) **Pier Holes** – Excavated pier holes prior to pouring of concrete.
- (b) **Slab On Ground** – When steel reinforcement and associated form-work has been provided prior to the slab being poured with concrete.
- (c) **Wall & Roof Framing** - When the wall and roof frame have been completed (with plumbing and electrical wiring installed), brick work complete and the roof covering fixed prior to internal lining.
- (d) **Wet Area Flashing** - When wall and floor junctions have been flashed with an approved product prior to installation of floor/wall coverings. Wet areas include bathrooms, laundries, sanitary compartments, en suites and the like.
- (e) **Stormwater Line-work** - When stormwater drainage lines have been laid and connection to a street kerb or, drainage easement prior to backfilling.
- (f) **Occupation Certificate (final inspection)** - Upon completion of the development and before occupation or commencement of use.

Note: That the *Environmental Planning and Assessment Act 1979* and *Regulation* may prescribe other mandatory inspections of the works. It is recommended that you discuss and confirm all required inspections with the PCA.

- (7) **Soil Erosion and Sediment Control Plans** - Soil erosion and sediment control must be designed and installed in accordance with the Consent Authority's (ie Camden Council) "Soil Erosion and Sediment Control Policy".

Control measures must be maintained during the entire development procedure and can only be removed upon completion of the project when all landscaping and disturbed surfaces have been stabilised.

5.0 - Prior To Issue Of Occupation Certificate

The following conditions shall be complied with prior to the issuing of an Occupation Certificate. The issue of an "interim" Occupation Certificate may occur if the Principal Certifying Authority (PCA) is satisfied that outstanding matters will be completed within a reasonable time frame. Additional fees for the issue of interim Occupation Certificates may be applied by the PCA.

- (1) **Completion of Building** - A Surveyor's Certificate showing the distances between the allotment boundaries and the walls/eaves of the proposed building must be submitted to the Principal Certifying Authority upon completion of the building and **prior to the Occupation Certificate being issued.**
- (2) **Occupation Certificate** - An Occupation Certificate must be issued by the Principal Certifying Authority **prior to occupation or use of the development.** The Principal Certifying Authority must submit a copy of the Occupation Certificate to the Consent Authority (ie Camden Council) within seven (7) days from the date of determination, together with all relevant documentation including the Fire Safety Certificate.

The use or occupation of the approved development must not commence until such time as all conditions of this development consent have been complied with. The use or occupation of the development prior to compliance with all conditions of development consent may render the applicant/owner liable to legal proceedings.

6.0 - Operational Conditions

- (1) **Light Spillage** - The lighting of the premises must be directed so as not to cause nuisance to owners or occupiers of adjoining premises .
- (2) **Vehicles that Service the Site** - Vehicles that service the site must comply with the following requirements at all times:
 - (a) All vehicular must enter and exit the site in a forward direction.
 - (b) All vehicles awaiting loading, unloading or servicing must be parked on-site and not on adjacent or nearby public roads.
 - (c) Articulated or heavy rigid vehicles in excess of 11m in length shall not service the premises due to the limited manoeuvring capabilities of the site.

7.0 - Fire Safety Schedule

- (1) Pursuant to clause 168 of the Environmental Planning and Assessment Act Regulation 2000, the following is a schedule of existing and/or proposed Fire Safety Measures required to be installed in the building, and the minimum standard to which these measure shall be designed and maintained.

On completion of the building works and prior to occupation of the building the **owner of the building shall furnish** to Council a Fire Safety Certificate for each fire safety measure in the building.

The owner of the building shall then furnish Council with a Fire Safety Statement annually for each Fire Safety Measure in the building.

Portable Fire Extinguisher - Clause E1.6 BCA - AS 2444, AS/NZS 1841, AS 1851

END OF CONDITIONS

ATTACHMENTS

Council Report
140806 (Supp Doc)

RESOLUTION

That Development Application 450/2006 for an awning and addition at No 54-60 (Lot 801-804 DP239634) Flinders Avenue, Camden South, be approved subject to the conditions of development consent.

Moved Councillor Funnell, Seconded Councillor Johnson that the recommendation as above be adopted.

THE MOTION ON BEING PUT WAS **CARRIED**

ORD232/06

ORDINARY COUNCIL

ORD02

SUBJECT: SECTION 82A REVIEW OF DEVELOPMENT APPLICATION
NO 782/2005 TO CONSTRUCT A SINGLE STOREY CHILD
CARE CENTRE ON NO 2-4 (LOT 3 DP 737284)
RICHARDSON ROAD, NARELLAN

FROM: Director Development and Health

FILE NO: Binder Development Application Pre-EDMS

PURPOSE OF REPORT

The purpose of this report is to allow Council to determine an application for review of a decision to refuse initial plans for a child care centre.

BACKGROUND

Council, at the meeting of 14 August, 2006, deferred consideration of the matter to allow Councillors to view scale plans of the development. The report to that meeting recommended that Council approve the application as the amended plans submitted by the applicant addressed those issues of concern raised by Council in refusal of the original application at the 8 May, 2006 meeting. The applicant has lodged an appeal in the Land and Environment Court against Council's refusal of the initial plans. Subsequent to this action, following discussion with staff to clarify the reasons for refusal and the matters included in Council's resolution, amended plans were prepared. It is those amended plans that form the basis of the Section 82A review.

MAIN REPORT

Coloured copies of the plans submitted with the application have been made available to Councillors prior to this meeting.

The report to the 14 August meeting provides detail of the amended proposal, discusses issues made by parties who made submissions to the application and addresses the matters for consideration by Council in determination of the application. That report concluded that the amended plans should be approved. **A copy of this report is provided with the Business Paper Supporting Documents.**

CONCLUSION

The amended plans for the child care centre are considered appropriate for the site in a heritage precinct and subject to appropriate conditions, consent should be granted.

DETAILS OF CONDITIONS

1.0 - General Requirements

- (1) **Approved Plans** – The development must be carried out strictly in accordance with the plans prepared by Baker Kavanagh Architects, dated June 2006 and numbered DA 101-103, DA 201- 202, DA 301 and Siteplus dated June 2006 LC01/01 and as amended in red.

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

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

- (2) **Amendments To Approved Plans** - The amendments indicated and described below must be incorporated in the overall development and must be reflected in any plans prepared for the purpose of obtaining a Construction Certificate.
1. Deletion from plans of proposed ‘low mound for active play’;
 2. No permanent play structures or fixtures to be located in the primary view corridor;
 3. The identification and provision of clear (see through) acoustic barriers as required by acoustic study.
 4. Existing hedge and signage to be removed from the perimeter of the site to allow landscaping in accordance with the landscape concept plan, drawing number LC01/01.
 5. The car park is to be redesigned to locate the two disabled car parking spaces on the western side of the turning head or the northern side to allow direct access to a paved area not associated with the car park to improve disabled safety. Car parking space width is a minimum of 2.6m. The altered design must not impact on the existing trees on-site which are to be returned.
 6. Perimeter fencing to Richardson Road, Camden Valley Way and the site’s western boundary shall be a modern form of rural fencing which incorporates metal/Perspex post and wire. Details are to be approved by Council’s Heritage Adviser prior to the issue of the Construction Certificate.
 7. All shade sails shall be flat rather than curved to improve view lines to the heritage precinct.
- (3) **Building Code of Australia** - All works must be carried out in accordance with the requirements of the Building Code of Australia.
- (4) **Installation, Establishment And Maintenance Costs** – All costs involved with the landscaping installation, establishment and maintenance works as detailed in the approved Landscaping plans and Development Consent, will be paid for by the applicant. The costs involved will include, but not limited to, such items as electricity costs and water usage.
- (5) **Maintenance Period – Landscaping Works** – All works associated with the approved Detailed Landscaping Plans are to be maintained for a period of 12 months from that time, the landscaping works, are deemed complete by Camden Council Landscaping Development Officer.

At the completion of the landscaping maintenance period all lawn and garden areas are to have signs of healthy, vigorous growth. The plantings as detailed in the Camden Council approved Landscaping Plans are to have a successful establishment rate of not less than 95%.

Camden Council's Landscaping Development Officer is to be notified within 21 days of the completion of the landscaping maintenance period, by the Development applicant and an inspection arranged of the landscaping works. If any defects, deficiencies or variations from the approved Landscaping Plans are found, they are to be rectified within 14 days of the landscaping inspection and the cost of any rectification works will be the responsibility of the Development applicant.

- (6) **Clothing** - Persons engaging in any food handling operations must be appropriately attired in clothing and footwear that is clean and relevant to their task.
- (7) **Advertising Signs Application** - Outdoor advertising structures require prior development consent. A development application must be submitted and approval granted by the Consent Authority (ie Camden Council) prior to the erection of any advertising signs.

The design, style, colour, height and type of any advertising sign must have regard to the character of the development, any existing advertising theme and Part D Chapter 4 of Camden DCP 2006.

- (8) **Food Codes and Regulations Compliance** - The construction and fit-out of the premises or any part thereof to be used for the manufacture, preparation or storage of food for sale, must comply with Camden Council's Food Premises Code, the Food Act, 2003 and the Food Regulations 2004 (incorporating the Food Standards Code).

2.0 - Construction Certificate Requirements

The following conditions of consent shall be complied with prior to the issue of a Construction Certificate.

- (1) **Obscured Glazing** - All windows from bathrooms including any ensuite and sanitary facilities must be fitted with translucent or obscure glazing for the purposes of providing adequate privacy between adjoining residents.
- (2) **Fire Safety Measures** – The following information must be submitted with any application for a Construction Certificate:
 - (a) A list of any fire safety measures that are **proposed** to be implemented in the building or on the land on which the building is situated, and
 - (b) If the application relates to a proposal to carry out any alteration or rebuilding of, or addition to, and existing building, a separate list of those measures **currently** implemented in the building or on the land on which the building is situated.
- (3) **Alternative Solution** – Where the application for a Construction Certificate involves an alternative solution to meet the performance requirements of the Building Code of Australia, the application must be accompanied by:
 - (a) Details of the performance requirements that the alternative solution is intended to meet, and
 - (b) Details of the assessment methods used to establish compliance with those performance requirements.
- (4) **Design Plans - Prior to the issue of any Construction Certificate** design plans for drainage, roads, accessways, carparks, earthworks, pavement design, footpaths,

linemarking, signage, vehicle turning paths and traffic management details must be prepared in accordance with:

- a) Barker Kavanagh Architects, General Arrangement Plan - Drawing No DA 130, Revision F.
- b) Camden Council's Draft Engineering Design Specification – May 2003.
- c) Relevant Australian Standards.

Such plans must be prepared and certified by:

- a civil engineer registered on the National Professional Engineering Register being an accredited certifier in Civil Engineering

and must be submitted to the Certifying Authority for approval and inclusion in any application for a Construction Certificate.

It should be noted that any work required in, on or under an existing public road requires consent pursuant to s.139 of the *Roads Act 1993* for the design and construction of such work. An application for such consent must be submitted, and approved by, the Roads Authority, Camden Council, **prior to the issue of any Construction Certificate.**

Note: the developer must obtain a Construction Certificate prior to commencement of any physical site works.

All works associated with the development are to be undertaken at no cost to Council.

- (5) **Car Parking Design** - The design, construction details of the parking spaces, access thereto and all other hardpaved areas must be prepared in accordance with the current edition of AS2890.1 & AS2890.2 and include:

- a) Provision for an internal manoeuvring area sufficient for cars and a Medium Rigid Vehicle (MRV) so as to ensure that such vehicles can enter and exit the carpark in a forward direction.
- b) Pavement design for all proposed roads and accessways based upon Council's Pavement Design specification must be submitted and approved by the Principal Certifying Authority **Prior To Roadworks Proceeding Past Subgrade Level.**

Documentary evidence of compliance of above condition must be submitted by a Accredited Certifier/suitably qualified person/Council or the Principal Certifying Authority **prior or the Construction Certificate being issued.**

- (6) The applicant must engage an approved geotechnical consultant to prepare a report to be submitted to the Certifying Authority for approval **prior to a Construction Certificate being issued.** The report must cover, but not be limited to:

- (a) extent and stability of proposed embankments (particularly those acting as retarding basins);
- (b) recommended geotechnical testing requirements;
- (c) required level of geotechnical supervision for each part of the works as defined under AS 3798 - Guidelines on Earthworks for Commercial and Residential Developments;

- (d) compaction specification for all fill;
 - (e) the level of risk to existing adjacent buildings as a result of a construction contractor using vibratory rollers anywhere within the site the subject of these works. In the event that vibratory rollers could affect adjacent buildings, high risk areas must be identified on a plan and the engineering plans must be amended to indicate that no vibratory roller,5 must be used within that zone;
 - (f) the impact of the installation of services on overall site stability and recommendations on short term drainage methods, shoring requirements and other remedial measures that may be appropriate during installation;
 - (g) the preferred treatment of any unstable areas within privately owned allotments;
 - (h) requirement for sub-surface drainage lines;
 - (i) overall suitability of the engineering plans for the proposed development;
 - (j) pavement design for all proposed roads and accessways based upon Council's Pavement Design specification must be submitted and approved by the Principal Certifying Authority **prior to roadworks proceeding past subgrade level.**
- (7) **Traffic Management Procedure** – A traffic management plan must be submitted to and approved by the Roads Authority, Camden Council prior to the issue of any Construction Certificate. The plan must indicate all systems/mechanisms to be employed in and adjacent to the site during the construction of the development so as to minimise any adverse impacts on existing vehicular and pedestrian traffic.

Also, any adjustments to on-street signs and linemarking, should it be required, be submitted to the local traffic committee, prior to the issue of any **Construction Certificate** for consideration and shall be undertaken, if approved, at the expense of the applicant prior to an **Occupation Certificate** being issued.

The plan must be included in a Public Road Activity Application (Other) submitted to and approved by the Roads Authority, to Camden Council **prior to the issue of any Construction Certificate**. Such application is available at Camden Council's Customer Service Counter.

- (8) **Public Risk Insurance Policy - Prior to the release of the Construction Certificate**, the owner or contractor is to take out Public Risk Insurance Policy with a minimum cover of \$10 million in relation to the occupation of and works within Council's road reserve. The Policy is to note Council as an interested party and a certificate of currency from the insurer of such policy must be submitted to the Council as evidence of such policy. Where the coverage of such policy expires during the period of construction of the works, the policy must be renewed prior to the expiration of the policy and a Certificate of Currency from the insurer provided to Council as evidence of the currency of the policy before the policy expires.

Failure to keep the works insured shall be reason for Council to make the works safe and all costs associated with making the works safe shall be a cost to the owner of the land. A Subdivision Certificate will only be issued where any amount required to be paid to Council is not outstanding in relation to this matter.

- (9) **Drainage Design** - A stormwater management plan is to be prepared **prior to the issue of a Construction Certificate** to ensure that the final stormwater flow rate off the site is no greater than the maximum flow rate currently leaving the development site for all storm events. This plan must be submitted and approved by the Principal

Certifying Authority. Such designs must cater for future developments of land adjoining the site and overland flow from adjoining properties.

- (10) **Stormwater Disposal** - Stormwater run-off from the whole development must be properly collected and discharged to the Council drainage system or kerb. Outlets to the kerb must be limited to 30 litres/second with intervals no less than 25 metres. Surface discharge across the footpath to the road gutter is not permitted. Surface discharge across the footpath from the proposed carpark is not permitted and must be collected by a grated drain at the property boundary. Provision must also be made to cater for existing stormwater overland flow from adjoining properties.
- (11) **Soil Erosion And Sediment Control Plans** - Erosion and sediment control plans must be designed in accordance with the Camden Council's "Erosion and Sediment Control" Policy – Policy No 3.11.

Such plans must detail the following:

- (a) existing and final contours
- (b) the location of all earthworks including roads, areas of cut and fill and re-grading
- (c) location of impervious areas other than roads
- (d) location and design criteria of erosion and sediment control structures
- (e) location and description of existing vegetation
- (f) site access (to be minimised)
- (g) proposed vegetated buffer strips
- (h) catchment area boundaries
- (i) location of critical areas (vegetated buffer strips, drainage lines, water bodies, unstable slopes, flood plains and seasonally wet areas)
- (j) location of topsoil or other stockpiles
- (k) signposting
- (l) diversion of uncontaminated upper catchment around areas to be disturbed
- (m) proposed techniques for re-grassing or otherwise permanently stabilising all disturbed ground
- (n) procedures for maintenance of erosion and sediment controls
- (o) details for staging of works
- (p) details and procedures for dust control.
- (q) location of the Stabilised Access Point (SAP)

The Erosion and Sediment Control Plan must be submitted to the Certifying Authority for approval and inclusion in any application for a Construction Certificate.

Control measures must be maintained during the entire construction procedure.

- (12) **Salinity** - Due to the inherent characteristics of the Local Government Area landscape, buildings erected in the area maybe susceptible to soil salinity levels that will have a cumulative damaging effect on the building over time.

As such, the Structural Engineer may have to incorporate in the design of the structural elements of the building measures to reduce/prevent any detrimental effect to the building from accumulative salt deposits. A Structural Engineer's Certificate is to be submitted to the Principal Certifying Authority **prior to the issue of a Construction Certificate** stating that the soil salinity was considered when designing the structural elements of the building.

- (13) **Access For People With Disabilities** - Access for people with disabilities shall be provided in accordance with the requirements of Part D3 of the Building Code of Australia. Prior to the issue of a construction certificate, the plans shall be amended to reflect the above.
- (14) **Disabled Toilets** - Plans and details of the disabled toilet complying with the provision of AS1428.1 - 2001, shall be submitted to Council or an Accredited Certifier **prior to issue of a Construction Certificate**.
- (15) **Parking Spaces and Design** - A minimum of 23 car parking spaces must be provided on site plus the car park is to be increased by the number of on-street car parking spaces lost because of the construction of the driveway and the required sight distances along Richardson Road as per AS2890. The proposed disabled access spaces are to be relocated to the northern side of the carpark, or on the western side of the turning head to allow direct access to the centre on a paved area off the carpark. The staff car parking is to be allocated (appropriately sign posted) on the southern side of the car park. All short term parking bays are to 2.6m wide. These spaces, and associated access driveways and manoeuvring areas must conform with Camden Council's Car Parking Code (Camden DCP 2006), and must be designed in accordance with a pavement design prepared by a Geotechnical Engineer and the Consent Authority's (ie Camden Council) standard. Documentary evidence of compliance from a Accredited Certifier/Suitably qualified person must be submitted to the Principal Certifying Authority **prior to the Construction Certificate being issued**.
- (16) **WorkCover** - If gas is to be utilised, the requirements of WorkCover must be sought in relation to the provision of gas for cooking purposes and any other particular requirement they may have for this development.

A written response must be submitted to the Principal Certifying Authority **prior to the Construction Certificate being issued**.

- (17) **Wall Finish** - Walls in food preparation, service and scullery areas must be finished with glazed ceramic tiles, stainless steel or laminated plastics adhered directly to the wall, to a height of at least 2m above floor level and to the underside of canopy hoods. Walls that are not tiled or otherwise finished must be cement rendered to a smooth even surface and painted with a light coloured washable paint or sealed with other approved materials.
- (18) **Floor Finish** - Floors in the food preparation areas, sculleries and food storage areas shall be constructed of approved materials that are non-slip, impervious and meet the requirements of Council's Food Premises Code.
- (19) **Coving** - Intersections of the floor with walls and plinths shall be coved so that the area can be easily cleaned.
- (20) **Ceilings** - Ceilings are to be constructed of a rigid smooth faced, non-absorbent material and could include fibrous plaster, plasterboard, fibrous cement, cement

render or other approved material painted with a washable gloss paint of light colour.

- (21) **Drop In Panels** - Drop in panels for ceilings are prohibited over food preparation areas.
- (22) **Storage Cupboards** - Adequate provision must be made for the storage of cleaning chemicals and staff personal belongings.
- (23) **Dishwashing Facilities** - The premises must be provided with a:
- (a) commercial dishwashing machine capable of achieving a hot water temperature of at least 77° celsius that is fitted with a temperature thermometer or gauge; and
 - (b) at least one single bowl cleaning sink or tub containing at least one compartment.
- (24) **Hand Wash Basins & Dishwasher** - The premises must be provided with a wash basin in, or convenient to:
- (a) each toilet;
 - (b) each kitchen area.

The wash basin must be:-

- (a) provided with water at least 40°C from a mixed hot and cold water supply;
- (b) supplied with liquid soap and an adequate supply of single use towels or other suitable hand drying facilities located adjacent to the hand basins;
- (c) kept in clean and sanitary conditions and in good repair at all times;
- (d) not used for any other purpose other than the washing of hands.

A commercial dishwasher is to be provided in the commercial kitchen fit-out.

- (25) **Light Fittings** - Light fittings must be recessed into the ceiling or flush mounted and edges sealed. They must be enclosed in unbreakable diffuses.
- (26) **Service Pipes** - All service pipes and electrical conduits shall be concealed within the floor, plinths, walls or ceilings.
- or**
- All service pipes and electrical conduits which are not capable of being concealed within walls shall be mounted on brackets so as to provide at least 25mm clearance between the pipe and adjacent vertical surface and 100mm between the pipe and adjacent horizontal surface.
- (27) **Exhaust Ventilation** - Mechanical exhaust ventilation must be provided where cooking appliances are installed. Exhaust ventilation systems shall be installed in accordance with the requirements of Australian Standard 1668-1991 Parts 1 & 2.
- (28) **Fixtures & Fittings** - All benches, fixtures, refrigeration cabinets and cooking appliances must be butted against walls or other equipment. Junctions with vertical surfaces must be sealed to eliminate the accumulation of grease and food particles. Alternatively, clearances are to be provided from vertical surfaces in accordance with Council's Food Premises Code.
- (29) **Closed Cupboards** - Closed cupboards are to be butted against walls or other equipment. Junctions with vertical surfaces must be sealed to eliminate the accumulation of grease and food particles. Cupboards are to be supported on plinths in accordance with Council's Food Premises Code.

- (30) **Shelving** - Shelving shall be constructed with at least 150mm clearance from the floor. Wall shelves must have at least 25mm clearance from vertical surfaces.
- (31) **Registration and Notification** - Proprietor/s of a business are required to register the business with Camden Council and complete a Food Business Notification Form. The registration form must be returned to Council, whereas the Notification Form may be completed on-line on the Internet (free of charge) or returned to Council with an administration processing fee of \$55 (inclusive of GST).
- (32) **Dilapidation Survey** – A photographic dilapidation survey of existing public roads, drainage reserves, drainage easements and any other existing public infrastructure within the immediate area of the development site must be submitted to the Certifying Authority for inclusion in any application for a Construction Certificate.
- The survey must include descriptions of each photo and the date when each individual photo was taken.
- (33) **Public Utility Service Plans** – Public Utility Service plans must be submitted to the Certifying Authority for inclusion in any Construction Certificate application. The plan/s must:-
- i) be prepared by a designer accredited by a scheme approved by relevant Public Utility Service Authorities,
 - ii) be suitable for approval by relevant Public Utility Service Authorities,
 - iii) incorporate any relevant conditions associated with this Development Consent,
 - iv) recognise all provisions and requirements of the current Streets Opening Conference.
- (34) **Vehicular Access** - Vehicular access to the site from Richardson Road shall be restricted to left-in, left-out only. In this regard a median is to be constructed in Richardson Road to the satisfaction of Council. Approvals and costs are the responsibility of the applicant.

3.0 - Prior To Works Commencing

The following conditions of consent shall be complied with prior to any works commencing on the construction site.

- (1) **Survey Peg Out** - The building must be set out by a registered land surveyor and a survey report detailing the siting of the building in relation to the allotment boundaries submitted to the Principal Certifying Authority prior to the placement of any concrete.
- (2) **Signs to be Erected on Building and Demolition Sites** - A sign must be erected in a prominent position in the erection or demolition of a building that is being carried out:
 - (i) stating unauthorised entry to the site is **prohibited**; and
 - (ii) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.

Any such sign is to be removed when the work has been completed.

This clause does not apply to:

- building work carried out inside an existing building, or
- building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.

(3) **Toilet Facilities** - Toilet facilities must be provided at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

Each toilet provided:

- must be standard flushing toilet, and
- must be connected:
 - (i) to a public sewer, or
 - (ii) if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the council, or
 - (iii) if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the council.

The provision of toilet facilities in accordance with this clause must be completed before any other work is commenced.

In this clause:

- **accredited sewage management facility** means a sewage management facility to which Division 4A of Part 3 of the *Local government (Approvals) Regulation 1993* applies, being a sewage management facility that is installed or constructed to a design or plan the subject of a certificate of accreditation referred to in clause 95B of the Regulation;
- **approved by the council** means the subject of an approval in force under Division 1 of Part 3 of the *Local Government (Approvals) Regulation 1993*
- **public sewer** has the same meaning as it has in the *Local Government (Approvals) Regulation 1993* ;
- **sewage management facility** has the same meaning as it has in the *Local Government (Approvals) Regulation 1993* .

(4) **Notice of Commencement of Work** – Notice in the form prescribed by the *Environmental Planning and Assessment Regulation 2000* shall be lodged with the Consent Authority (ie Camden Council) **at least 2 days prior** to commencing building works. The notice shall provide details relating to any Construction Certificate issued by a certifying authority and the appointed Principal Certifying Authority.

(5) **Construction Certificate Before Work Commences** - This consent does not allow site works, building or demolition works to commence, nor does it imply that the plans attached to this consent comply with the specific requirements of the Building Code of Australia. Such works must only take place after a Principal Certifying Authority (PCA) has been appointed and a Construction Certificate has been issued.

- (6) **Public Road Activity Application** - This application involves works to be constructed at or near the road alignment and/or involves construction of a vehicular access onto the property, footpath levels shall be obtained from Council **prior to the issue of a Construction Certificate**, and all such structures and internal driveways must be constructed to suit these levels.

To obtain such information a Public Road Activity application must be submitted to Camden Council with the appropriate fee.

Applications forms are available from Council's:

- Customer Service Centre, and/or
- Internet site – www.camden.nsw.gov.au

The following works must be constructed **Prior To The Issue Of The Subdivision/Occupation Certificate** and under the Roads Act 1993 must be approved by Camden Council:

- (a) provision of a vehicular gutter crossing at all points of ingress and egress
 - (b) provision of a footway crossing min. 6.0 metres wide at point of ingress and egress.
 - (c) provision of concrete footpath 1.2 metres wide for the length required to satisfactorily suit the new footway crossing levels in Richardson Road.
- (7) **Footpath Paving** - Council's standard concrete footpath paving must be constructed by the developer at no cost to Council for a suitable distance either side of the new property access and to ensure a satisfactory transition from the existing footpath to the new property access levels in Richardson Road **prior to the Occupation Certificate being issued**. The area of the footway not paved must be topsoiled and turfed. Any necessary transitioning to the existing footway in all areas of new work must be completed by the developer at no cost to Council.
- (8) **Hoarding and Ancillary Requirements – Prior to the commencement of any construction work** a 2.4m high temporary hoarding/security fence must be erected on the boundary of the site and reflect the approved location of the Stabilised Access Point (SAP).
- (9) **Stabilised Access Point** – A Stabilised Access Point (SAP) must be installed at the site prior to the commencement of work. Ingress and egress of the site must be limited to this single access point. Refer to the approved Soil Erosion and Sediment Control plan for details.

4.0 - During Construction

The following conditions of consent shall be complied with during the construction phase.

- (1) **Thermal Insulation** – In accordance with Camden DCP 2006 Part D Chapter 3 – Energy Conservation, the subject building shall be designed to achieve the energy targets of clause 3.5.
- (2) **Energy Efficiency** - Prior to issue of the Construction Certificate, an Energy Efficiency Report shall be submitted to the Consent Authority (Camden Council). The

report shall analyse all relevant matters affecting the energy efficiency of the proposed building structure to ensure that the energy targets in Camden DCP 2006 Part D Chapter 3 – Energy Conservation, are achieved.

- (3) **Hours Of Operation** - All construction and demolition work must be restricted to between:
- (a) 7am and 6pm Mondays to Fridays (inclusive);
 - (b) 7am to 4pm Saturdays, if construction noise is inaudible to adjoining residential properties, otherwise 8am to 4pm;
 - (c) work on Sundays and Public Holidays is prohibited.
- (4) **Damaged Assets** – All engineering works and public utility relocation shall incur no cost to Council. Any damage to Council's assets shall be made good prior to commencement of use/occupation.
- (5) **Site Management** – To safeguard the local amenity, reduce noise nuisance and to prevent environmental pollution during the construction period, the following practices are to be implemented:
- The delivery of material shall only be carried out between the hours of 7 am - 6pm Monday to Friday and between 8am - 4pm on Saturdays.
 - Stockpiles of topsoil, sand, aggregate, spoil or other material shall be kept clear of any drainage path, easement, natural watercourse, kerb or road surface and shall have measures in place to prevent the movement of such material off the site.
 - Builder's operations such as brick cutting, washing tools, concreting and bricklaying shall be confined to the building allotment. All pollutants from these activities shall be contained on site and disposed of in an appropriate manner.
 - Builder's waste must not be burnt or buried on site, nor should wind-blown rubbish be allowed to leave the site. All waste must be disposed of at an approved Waste Disposal Depot.
 - A waste control container shall be located on the development site.
- (6) **Roofwater Destination** - The roof of the subject building(s) must be provided with guttering and down pipes and all stormwater conveyed to:
- (a) the existing stormwater drainage system.
- Note:** Only Council approved stormwater "connection adaptors" must be used to connect line-work to the street gutter.
- (b) an approved water storage tank;
 - (c) such other method(s) as approved by Council.
- (7) **Sewered Areas** - All sillage and effluent generated by the use of the building must be connected to the sewer of the Sydney Water Corporation. The plans approved by Council must be lodged with the Corporation for concurrence prior to the commencement of work.
- (8) **Provide a Truck Shaker** - An approved truck shaker must be provided at the construction entry point in accordance with Council's standards **prior to commencement of work** to prevent dust, dirt and mud falling on roadways. Ingress

and egress from the site must be limited to this single access point only.

- (9) **Connect Downpipes** - Stormwater from roof areas must be connected to a Council approved stormwater disposal system immediately after the roofing material has been fixed to the framing members. The Principal Certifying Authority must not permit construction works beyond the frame inspection stage until this work has been carried out.
- (10) **Building Inspections (Class 5, 6, 7, 8 or 9)** - In accordance with the requirements of the Environmental Planning and Assessment Amendment (Quality of Construction) Bill 2003. The Principal Certifying Authority (PCA) shall complete the following critical stage inspections of construction prior to the issue of the Occupation Certificate. The following stages must be inspected and passed prior to proceeding to the subsequent stage of construction.

Note: If Council is appointed as the PCA, the Council agrees to the commencement inspection to be combined with the first required inspection.

- (a) **Commencement of Building Works** - When environmental controls are in place.
- (b) **Pier Holes** – Excavated pier holes prior to pouring of concrete.
- (c) **Strip Footings** – When foundation excavations have been undertaken and steel reinforcement provided prior to footings being poured with concrete.
- (d) **Slab On Ground** – When steel reinforcement and associated formwork has been provided prior to the slab being poured with concrete.
- (e) **Formwork and Steel Placement** - When formwork and reinforcement of structural components (viz: concrete lintels, beams, columns, walls, swimming pools, etc) have been completed prior to pouring of concrete.
- (f) **Wall & Roof Framing** - When the wall and roof frame have been completed (with plumbing and electrical wiring installed), brick work complete and the roof covering fixed prior to internal lining.
- (g) **Wet Area Waterproofing** - Prior to covering of waterproofing in any wet areas for a minimum of 10% of rooms with wet areas within the building.
- (h) **Stormwater Line-work** - When stormwater drainage lines have been laid and connection to a street kerb, drainage easement, or rubble pit prior to backfilling.
- (i) **Occupation Certificate (final inspection)** - Upon completion of the development and before occupation or commencement of use.

Note: That the *Environmental Planning and Assessment Act 1979* and *Regulation* may prescribe other mandatory inspections of the works. It is recommended that you discuss and confirm all required inspections with the PCA.

- (11) **Principal Certifying Authority (PCA) Signs** - where Camden Council is appointed as the PCA, a sign (minimum size of 300mm x 400mm) shall be displayed for the duration of the Construction works including the following details:
- (i) PCA is Camden Council
 - (ii) DA No
 - (iii) Builder's Name
 - (iv) Builder's contact telephone numbers.

5.0 - Prior To Issue Of Occupation Certificate

The following conditions shall be complied with prior to the issuing of an Occupation Certificate. The issue of an "interim" Occupation Certificate may occur if the Principal Certifying Authority (PCA) is satisfied that outstanding matters will be completed within a reasonable time frame. Additional fees for the issue of interim Occupation Certificates may be applied by the PCA.

- (1) **External Materials and Finishes** - The development shall be completed in accordance with an approved (to be submitted to the Consent Authority - Camden Council prior to the issue of a Construction Certificate) schedule of external material and finishes. Any alterations to the schedule must be submitted to the Consent Authority for consideration.

| | |
|---------------------|--|
| External walls: | to be sympathetic to the heritage precinct |
| Roof Covering: | to be sympathetic to the heritage precinct |
| Fascia & Guttering: | neutral colour |
| Other: | neutral colour. |

- (2) **Completion of Building** - A Surveyor's Certificate showing the distances between the allotment boundaries and the walls/eaves of the proposed building must be submitted to the Principal Certifying Authority upon completion of the building and **prior to the Occupation Certificate being issued.**
- (3) **Structural Certification (Completed Building)** – Upon completion of the building a practising Structural Engineer should attest to the building's structural adequacy and ability to support the imposed loads.
- (4) **Occupation Certificate** - An Occupation Certificate must be issued by the Principal Certifying Authority **prior to occupation or use of the development.** The Principal Certifying Authority must submit a copy of the Occupation Certificate to the Consent Authority (ie Camden Council) within seven (7) days from the date of determination, together with all relevant documentation including the Fire Safety Certificate.

The use or occupation of the approved development must not commence until such time as all conditions of this development consent have been complied with. The use or occupation of the development prior to compliance with all conditions of development consent may render the applicant/owner liable to legal proceedings.

- (5) **Compliance with Conditions** - The Principal Certifying Authority must submit a copy of the Occupation Certificate to the Consent Authority (ie Camden Council) within seven (7) days from the date of determination and include all relevant documents and certificates that are asked for as conditions of development approval.

The use or occupation of the approved development must not commence until such time as all conditions of this development consent have been complied with. **The use or occupation of the development prior to compliance with all conditions of development consent may make the applicant/developer liable to legal proceedings.**

- (6) **Works as Executed Plan - Prior to the Occupation Certificate being issued,** a works-as-executed drawing signed by a registered surveyor must be submitted to the Principal Certifying Authority showing that the stormwater drainage and finished ground levels have been constructed as approved.

(7) **Nature Strip, Street Trees and Street Tree protective guards** - Where applicable, any nature strip area, street tree, tree guards if applicable, protective bollards if applicable which are disturbed, removed or damaged during the course of construction, or during the agreed maintenance period of the landscaping works, shall be repaired and the tree, bollards, tree guards, nature strip area repaired with the same type, species and maturity.

(8) **Fire Safety Certificates** - When issuing a Construction Certificate, a certifying authority must attach a Fire Safety Schedule specifying all of the fire safety measures required for the building so as to ensure the safety of the persons in the building in the event of fire.

A Final Fire Safety Certificate must be issued for the building **prior to the Occupation Certificate being issued**. As soon as practicable after a Final Fire Safety Certificate is issued, the owner of the building to which it relates must:

(a) cause a copy of the certificate (together with a copy of the current fire safety schedule) to be given to the Commissioner of New South Wales Fire Brigades; and

(b) cause a further copy of the certificate (together with a copy of the current fire safety schedule) to be prominently displayed in the building.

(9) **Additional Inspections Incur Additional Fee** - All inspections carried out by the Consent Authority (ie. Camden Council) during the development incur a fee. A fee has been paid to Council in accordance with Council's current Schedule of Fees and Charges. Should additional inspections be carried out by the Council (in excess of the charged fee), additional payment must be submitted to Council **prior to an Occupation Certificate being issued**.

(10) **Certification of Exhaust System** - Where an exhaust ventilation system is installed, a Certificate of Compliance must be submitted to Camden Council, prior to occupation. The certificate must be issued by a suitably qualified person and verify that the kitchen exhaust system as installed, has been tested and complies with Australian Standard 1668 – 1991 Parts 1 & 2 and the Building Code of Australia.

(11) **Thermometers** - Any appliance used for the storage of hot and cold food must be provided with a numerically scaled and accurate thermometer.

(12) **Compliance Letter** - Where the consent authority is not the Principal Certifying Authority (PCA) an additional inspection of the commercial kitchen must be undertaken by the Consent Authority) **prior to the issue of an Occupation Certificate**. A letter is to be issued from the Consent Authority certifying that the kitchen complies with the Food Codes and Regulations.

(13) **Noise Attenuation** – the following noise attenuation measures shall be implemented:

(a) The applicant provide amended plans in line with the original acoustic report (The Acoustic Group, Ref No. 35.4450.R1:ZSC, Dated 22 July 2005) that provides a 1.2 metre high perspex noise fence adjacent to Richardson Road and a 1.5 metre high perspex noise fence adjacent to Camden Valley Way that protects all external play areas from road traffic noise.

(b) Further, the applicant must ensure that windows of the 0-2 years playroom located adjacent to the eastern boundary on Richardson Road) are sealed to achieve internal noise criterion and investigate the issue of ventilation in accordance with BCA requirements where the upper levels windows are required to be closed to achieve internal noise criterion.

(14) **Contamination** - The applicant is to undertake a detailed contamination assessment of this land that involves soil sampling and analysis and report to the consent authority Camden Council. The investigations is to be in accordance with the requirements of Council's Policy for the Management of Contaminated Lands and the Environment Protection Authority's (EPA) Contamination Sites Guidelines, prior to the issue of a Construction Certificate.

Where a detailed investigation reveals the existence of contamination above pre-determined thresholds set out in the ANZECC & NHMRC 1992 documents, a site remedial action plan (RAP) must be submitted to Camden Council for consideration and approval in accordance with the requirements of clause 7.2.3 (a) - (c) of Council's adopted policy for the management of contaminated lands.

(15) **Sydney Water Clearance – Prior to the issue of an Occupation Certificate** a section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water and submitted to the Principal Certifying Authority.

6.0 - Operational Conditions

(1) **Historical Significance** – Given the location of the subject site and its proximity to other sites and buildings of historical significance, no alterations to the external appearance of the building including painting must be carried out unless the **prior written approval** of the Consent Authority has been obtained.

(2) **On Site Parking Signs** - Signs measuring 600mm x 900mm must be erected which is visible to persons driving along the street that indicates on-site parking is available. Customer, employee, disabled and drop off spaces must be suitably signposted indicating their use. The signs shall be maintained in good repair at all times.

(3) **Storage Of Stock** - Floors throughout the premises must be maintained free of stored stock so as to allow cleaning and removal of waste.

(4) **Hours of Operation** - The hours of operation for the approved land-use are Monday to Friday - 7.30am to 5.30pm.

All vehicle movements, deliveries and any other operations associated with the use of the premises must be restricted to approved hours of operation. Any alteration to these hours will require the prior approval of the Consent Authority.

(5) **Trade Waste Bins** - Provision must be made for the storage of the trade waste bin within the building. Trade waste bins must be emptied on a regular basis to prevent odour and fire hazard occurring.

The location of the trade waste bin must be clearly indicated on building plans and submitted to the Principal Certifying Authority for approval **prior to a Construction Certificate being issued**. The location chosen for storage of the bins should not diminish the allocated number of off-street parking spaces nor have any detrimental impact upon access to fire services and emergency exit doorways.

- (6) **No Signs on Public Land** - Sandwich boards including 'A' frame advertising panels and any other sign shall not be placed on a public footpath or road reserve.
- (7) **Dust Control** - Potential dust sources on-site must be minimised through the maintenance of vegetation cover and the use of water sprays to suppress dust from exposed areas during periods of dry and/or windy weather.
- (8) **Number of Children** - A maximum of 89 places, including before and after school care places, shall be provided at the centre.

RECOMMENDED

That Council approve development application No 782/2005 for the construction of an 89 place single storey child care centre subject to the conditions provided in the report.

ATTACHMENTS

Council Report
140806 (Supp Doc)

RESOLUTION

That Council approve development application No 782/2005 for the construction of an 89 place single storey child care centre subject to the conditions provided in the report.

Moved Councillor Elliott, Seconded Councillor Funnell that the recommendation as above be adopted.

THE MOTION ON BEING PUT WAS **CARRIED**

(Councillors Whiteman, Cagney and Campbell voted against the Motion)

ORD233/06

ORDINARY COUNCIL

ORD03

SUBJECT: LAND & ENVIRONMENT COURT PROCEEDINGS IN
RELATION TO ILLEGAL TREE REMOVAL, NO 39 (LOT 28
DP221083) GREGORY ROAD, LEPPINGTON

FROM: Director Development and Health

FILE NO: Binder: Private Tree Requests & Complaints

PURPOSE OF REPORT

The purpose of this report is to advise Council of the outcome of Land and Environment Court proceedings against Mr Robert Runko for unauthorised trees removal at No 39 Gregory Road, Leppington.

BACKGROUND

At its meeting of 27 June, 2005, Council resolved to refer the matter to Council's solicitors to commence legal proceedings against Mr Robert Runko and Mrs Melissa Marie Runko for unauthorised tree felling and land clearing at 39 Gregory Road, Leppington. In addition it resolved that a plan for the remediation of the property be attached to any legal orders that may result.

Proceedings commenced in accordance with Council's resolution. The matter was first mentioned in the Land & Environment Court on the 28 April, 2006. Subsequently, a plea of guilty was entered on 19 May, 2006. The matter was then listed for a sentencing hearing before the Land and Environment Court on 7 August, 2006.

Subsequently, Mr Runko made further representation to Council. That representation was the subject of a report which was considered by Council at the meeting of the 10 July, 2006. Council resolved to defer the matter to allow for negotiations to be held, with the view of entering into an agreement with Mr Runko that would effect the remediation of the site, along with payment of Council's legal fees.

The matter was again brought to Council for consideration at a closed session of the Ordinary meeting held on 24 July, 2006. Included in that report was legal opinion which was subject to legal professional privilege. That advice outlined a number of difficulties that may have arisen from seeking alternatives to proceeding with legal action.

Council resolved to continue with the prosecution, seeking an order for remediation of site with the imposition of a bond for protection of the trees and the meeting of Council's costs of the proceedings, on the basis that Council makes submissions to the Court seeking the discretion of the Court in not imposing a punitive penalty.

Council's Solicitor modified the prosecution submission to reflect Council's resolution by submitting that "the Court, applying its discretion and given the Defendant's early plea of guilty, should record a conviction but not impose a monetary penalty upon the Defendant. Instead, it would seek the imposition of an order". A draft order detailing the number of replacement trees, specification for the provision and maintenance of fencing, details of performance and security bond amount and inspection regime, was prepared for the Court.

Further, the submission stated that the Council sought an order for the Defendant to pay the

Council's legal costs.

MAIN REPORT

On 7 August, 2006, the matter was listed in the Land and Environment Court before Justice Biscoe. Appearing for Council was Mr Thompson (Barrister) and for the Defendant, Mr Feerick (Solicitor). The hearing was for the purpose of sentencing the defendant who had earlier pleaded guilty to the charge of illegally clearing approximately 30 trees from 39 Gregory Road, Leppington. In accordance with Council's resolution, Council's legal representative proposed the Court Order rehabilitation of the site and pay Council's costs without recording a conviction. The Judge considered the possibility of Section 10 of the Crimes (Sentencing Procedure) Act, 1996 which allows discretion in imposing of a conviction, even when a plea of guilty has been made. Judgement was reserved.

On 9 August, 2006, Justice Biscoe delivered judgement citing that he had regard to Mr Runko's good character and the extenuating circumstances in which the offence was committed. Justice Biscoe said "The defendant purchased land which was found to be contaminated. He was told by the prosecutor and the Environment Protection Authority that clearing up the contamination was his responsibility. In clearing up the contaminants he found that the trees were a danger to persons or property and their roots were intertwined with the contaminants. A clean-up order by the Council soon afterwards required him to remove the contaminants. On the evidence before me, it is difficult to see how he could have done so without removing the trees, or how a development consent to remove the trees could have been rationally refused if it had been applied for."

Justice Biscoe continued "it is proper to consider the defendant's despair and emotional state on finding that his dream of his family living on a rural property was threatened by the presence of contaminants. The contaminants included asbestos which had killed the defendant's grandfather after a prolonged, painful illness which left the defendant traumatised and caused him to react emotionally upon finding asbestos on the property. It is also proper to consider that he is contrite and remorseful, and has offered from the outset to remediate the property by planting trees to meet the prosecutor's requirements."

In concluding the Justice said "The defendant is guilty of a strict liability offence. However, in the extraordinary circumstances of this case, I have decided, without proceeding to conviction, to make an order that the charge be dismissed."

The agreed orders as to the remediation of the site and costs was reaffirmed. **A copy of the Court order detailing the conditions of remediation is provided with the Business Papers Supporting Documentation.**

CONCLUSION

In accordance with the resolution of Council, officers have pursued the illegal removal of trees at No 39 Gregory Road, Leppington. The action has resulted in the charge against Mr Runko being dismissed and no monetary fine imposed. However orders for the replanting and maintenance of replacement trees, secured by a bond of \$8,000 to be held until the planted trees reach a height of 3 metres, has been made and agreed.

It is also agreed that Mr Runko is to pay Council's costs within 24 months to the sum of \$8,000.

Council's costs in the matter totalled \$13,725.56, the additional costs being incurred for the advice in relation to Council's resolution which were not included in the Court Order.

Although the charge against Mr Runko has been dismissed, the orders imposed by the Court sends a strong message to the community that Council is committed to appropriate tree preservation and that serious penalties exist where trees and vegetation are removed without appropriate development consent. It is noted that unusual circumstances existed in this case due to site contamination and it would be unlikely that similar circumstances would arise in other cases.

RECOMMENDED

That Council note the result of the Land and Environment Court action against the owner, Mr Runko at 39 Gregory Road, Leppington.

ATTACHMENTS

L&E Court Decision
(Supp Doc)

RESOLUTION

That Council note the result of the Land and Environment Court action against the owner, Mr Runko at 39 Gregory Road, Leppington.

Moved Councillor Funnell, Seconded Councillor Johnson that the recommendation as above be adopted.

THE MOTION ON BEING PUT WAS **CARRIED**

ORD234/06

ORDINARY COUNCIL

ORD04

SUBJECT: LEASE OF AIR SPACE - ADJACENT TO LOT 1 DP 1027952
76-100 ARGYLE STREET, CAMDEN
FROM: Director Governance
FILE NO: 350.350

PURPOSE OF REPORT

To obtain Council endorsement of leasing of air space above the footpath adjacent to 76-100 Argyle Street, Camden to be used as a first floor verandah as part of a restaurant and office occupying the first floor of that building and to affix the Council Seal to the necessary documents.

BACKGROUND

Council received a development application in 2005 (DA 231/2005) for a two stage development of premises at 76-100 Argyle Street, Camden, which was dealt with in two stages. The first stage was for the use of the first floor of the existing building, partly as a restaurant and partly as an office and Stage Two for the construction of a balcony/verandah over the adjacent footway ultimately approved for use as partly additional restaurant seating and partly for use with the office.

The application was duly considered with the necessary processes, including public notification. No objections from the public were received. Council subsequently approved the application under Delegation in September, 2005, subject to conditions, with Stage 2 of the consent, the construction of the balcony/verandah, being a deferred commencement.

MAIN REPORT

The Stage 2 deferred commencement approval was conditioned and would not become operative until the applicant and Council enter into an Agreement for Lease. The agreement contains details, outlining the works to be constructed by the applicant and the requirement to obtain from Council the necessary Roads Act consent to carry out those works. Following completion of the installation of the balcony, the applicant is required to complete a survey of the exact area of the air space, containing the balcony and register a stratum deposited plan, which identifies the air space lot to be leased. The agreement for lease also has attached to it a copy of the lease, which is to commence once the Applicant has completed the works required by the development consent, the Roads Act consent and the Agreement for Lease itself.

It is now necessary for Council to agree to the terms of the Agreement for Lease and resolve to affix the Council Seal to those documents.

The lease contains many matters in common with usual commercial leases, dealing with such things as termination, alterations and additions, insurance and indemnity, however, because of the special nature of the lease, some additional provisions apply.

Air Space Leases Generally

In the normal course of consideration of air space leases, the following provisions would apply and what follows are the terms that would be appropriate if this method is utilised. However, there are other options available and these are discussed later in the report.

1. Rent - The conditions of consent specify that Council shall notify the applicant of the amount which Council assess to be the current market rent for the first year of the term of the lease. If Council and the applicant fail to agree on the current rent, the consent also requires Council shall nominate a valuer, who is licensed to practice as a valuer with experience in dealing with the kind of premises subject of the Lease. The nominee shall act as an expert, not an arbitrator.

The area to be leased in respect of the balcony/verandah is 89.8 square metres. In determining the quantum of rent payable, Council's Valuer adopted the direct comparison method of valuation and paid due regard to commercial rents, both achieved and being sought, in the Camden Central Business District. The rents obtained were analysed and adjusted in accordance with the date of attainment, review clauses and prominence of location. Council's Valuer assessed the fair market rent payable for the proposed stratum lot to be \$11,920 per annum (incl GST and outgoings).

The applicant disputed the amount of the valuation and put forward a submission that the amount of the rental be Nil. Council could not agree to this suggestion and in accordance with the mechanism outlined in the DA consent, Council requested the Australian Property Institute to appoint an independent valuer to complete an alternate rental determination.

The appointed Valuer determined the rent to be \$7,857 per annum as being applicable for the first year of the Lease. This determination is final and binding on both parties.

2. Length of the Lease - The original period of the lease was suggested to be 5 years. The applicant disputed this period and suggested the Lease be a 10 + 10 + 10 year period. Council was mindful of the changing character and streetscape of Argyle Street and considered it unrealistic to lock both parties into a 30 year lease. However, due to the significant expense involved in the design, construction and installation of the balcony outlaid by the applicant, Council has negotiated a lease period of 10 years, with no option for renewal beyond that term. The new lease can then be renegotiated between the parties at that time.

3. Rental Review - The lease provides for annual rental of \$7,857 with annual adjustments according to the CPI. At the end of the first 5 years of the lease, a full market rent review will be conducted by an independent valuer. The revised amount of rental will then apply for the sixth year of the lease and will be adjusted each year thereafter until the end of the term of the lease according to the CPI.

4. Assignment and Sub-Letting - The head Lease is between Council as lessor and the owner of the building as Lessee and contains provisions permitting the sub-letting of the relevant parts of the balcony from the current owners of the existing building to the lessee from it, in relation to the restaurant business and office operated on the first floor of that existing building.

Other Lease Options

In further consideration on establishing the rental in this matter, Councillors may wish to consider several options available to vary the amount of rental payable by the

Lessee.

The lease provides for 10 year lease, with a full rental review at the end of the first 5 years.

Option 1 - Endorse the amount of the rental as \$7,857 per annum as assessed by the 3rd party independent Valuers and discussed above. The methodology used in arriving at this figure is considered fair and reasonable for both parties and is supported by the 3rd party valuer appointed by the Australian Property Institute and is the typical approach adopted by many Councils throughout Sydney.

Option 2 - Apply the "Footpath Outdoor Cafe" Policy rate of \$30 per seat per year for the duration of the lease. While the number of exact seats has not been discussed during negotiations, several plans do indicate 66 seats occupying the Balcony area. If the Footpath Outdoor Cafe rate was to apply, the annual rental would be \$1,980 per annum. It is becoming quite common for eateries such as coffee shops and general cafe's to place tables and chairs on the footpath in order to create an outdoor extension of their tenancy. The rental amount for a balcony and these footpath settings is not comparable. The balcony represents an extension of the existing commercial floor space and the rental should reflect the benefit being gained from the exclusive use of the additional area. Agents active in retail leasing would confirm restaurants with an outdoor dining area are highly sought after and the rentals reflect the demand.

Option 3 - Apply the "Footpath Outdoor Cafe" Policy rate for the first 3 years of the lease period, with a full market rental review to be conducted in accordance with the proposed lease conditions. This option represents a compromise position and while the income for Council would not be as high as option 1, it would allow the Lessee a settling in period and be subject to a review after 3 years, once the business established.

CONCLUSION

Following the issue of the original consent, Council staff have been working with the applicant's representatives to work towards the completion of all the necessary consents including plans and specifications for the balcony, agreements and leasing documents. The various stages of the process have been intricate, as has been highlighted in the report.

The applicant, during the course of the proceedings, requested a Section 96 modification of the Consent, dealing with some of the issues raised above. An amended "Notice of Determination for Modifications to Development Consent 231/2005" has been issued to the applicant's representative. The Deed of Agreement for Lease and the Lease have been delivered to the Applicant's solicitor. The documents are awaiting signature by the applicant.

It is considered Option 1 provides Council with the full market value for the asset and is consistent with the valuations obtained. The application proposes a premium seating location in a high quality restaurant and as such, the rental reflects commercial rates.

Option 3 however, recognises that there is an element of uncertainty in the establishment of a new restaurant venture and that, in this case, the owner/operator is assuming all of the capital costs and risks of the venture. Council would receive a return on providing exclusive use of Council property and still support the new business venture.

RECOMMENDED

That:

i) Council consent to the Deed of Agreement for Lease and the Lease in respect of air space above part of the footway located generally on the southern side of Argyle Street, Camden in accordance with Option 3 and agree to all other terms and conditions of the lease as outlined; and

ii) Affix the Council Seal to all documents relating to this matter.

RESOLUTION

(Councillors Funnell, Whiteman and Patterson, having previously declared a pecuniary interest in this item, took no part in discussion or voting in this matter, left the Chamber - the time being 7.12pm)

That:

i) Council consent to the Deed of Agreement for Lease and the Lease in respect of air space above part of the footway located generally on the southern side of Argyle Street, Camden in accordance with Option 3 and agree to all other terms and conditions of the lease as outlined; and

ii) Affix the Council Seal to all documents relating to this matter.

Moved Councillor Elliott, Seconded Councillor Johnson that the recommendation as above be adopted.

THE MOTION ON BEING PUT WAS **CARRIED** ON THE CASTING VOTE OF THE MAYOR.

(Councillors Campbell, Cagney and Johnson voted against the motion)

(Councillors Funnell, Whiteman and Patterson, returned to the Chamber, the time being 7.43pm)

ORD235/06

ORDINARY COUNCIL

ORD05

SUBJECT: CAMDEN GOLF CLUB LTD – EXECUTION OF DOCUMENTS
FROM: Director Governance
FILE NO: Camden Golf Club

Council became the registered proprietor of the Camden Golf Course land (Lots 4, 5 & 7 DP 859872) transferred from the Commonwealth of Australia on 8th December, 2005. The land is subject to an existing 99 year lease to the Camden Golf Club Limited and all terms and conditions of that lease are inherited by Council as the new Lessor. In addition, the Camden Golf Club has a mortgage over the lease to St George Bank Ltd.

The Golf Club has been negotiating for further funding from its banker utilising the existing mortgage over the lease for improvements to the course and work on the Club house. These course works are required to be carried out in the early Spring growing season. As Council is now the owner of the land and to cover the additional funding arrangements, a Deed of Consent to the Mortgage will need to be executed by Council under Seal.

Extensive discussions have been held between all parties, including Council and the Bank's Solicitors, to draw up an appropriate agreement to protect both the Bank's and Council's interests.

An agreement has now been reached and Council's legal advice has confirmed there are no legal liabilities adversely affecting Council or the community as a result of consenting to the mortgage.

As the new owner of the Golf Course land, Council has no desire to impede the effective operation of the Club and signing the Consent will enable the Club to proceed with the funding and carry out the works necessary. This report is therefore, to obtain a Council resolution to sign the Deed and to affix the Seal to the document as requested.

RECOMMENDED

That Council agree to consent to the Mortgage between the Camden Golf Club Limited and the St. George Bank Limited and sign the Deed of Consent to Mortgage of Lease and affix the Council Seal to the document.

RESOLUTION

That Council agree to consent to the Mortgage between the Camden Golf Club Limited and the St. George Bank Limited and sign the Deed of Consent to Mortgage of Lease and affix the Council Seal to the document.

Moved Councillor Funnell, Seconded Councillor Whiteman that the recommendation as above be adopted.

THE MOTION ON BEING PUT WAS **CARRIED**

ORD236/06

ORDINARY COUNCIL

ORD06

SUBJECT: TENDER 2006/06 - CONSTRUCTION OF AN AMENITIES BUILDING AT WANDARRAH RESERVE, MOUNT ANNAN
FROM: Director Works and Services
FILE NO: Redesign and Construction of Wandarrah Reserve Clubhouse : 4919

PURPOSE OF REPORT

This report provides details of the tenders received for construction of an amenities building at Wandarrah Reserve, Mount Annan (Contract No. 2006/06) and recommends that Council approve additional funding required for the construction and accept the tender submitted by Avoca Constructions (NSW) Pty Limited .

BACKGROUND

In September 2005 Council sought quotations from seven consultants to provide architectural services for the proposed project. As a result of this process, England & Kydd, Architects, Planners & Landscape Consultants were engaged to undertake the architectural and structural design for a fee of \$7,400.00 (excluding GST).

Throughout the design process, Council has been in contact with the sporting groups that use Wandarrah Reserve, namely Mount Annan Soccer Club (Mustangs) Inc. and Camden District Cricket Association, in order to assess their needs and to keep them advised with the progress of the project.

Upon Completion of the original design in January 2006, tenders were obtained, all of which exceeded the original construction budget of \$190,000. The lowest tender received based on this design was \$376,559 (excluding GST).

Council resolved to not accept any tenders and revise the design with a view to reducing the scope and cost of the project.

By altering construction materials, finishes, fixtures and design layout, significant savings were made. The changes are summarised below:

- Official's room deleted.
- The floor area of the building was reduced from 149 sq m with 40 sq m verandah to 63.5 sq m with 23.0 sq m verandah.
- The curved wall of the building was deleted and female and male amenities are squared off.
- The dry concrete block retaining wall was deleted and replaced with a sloped bank .
- External skin of concrete blockwork to female and male amenities building has been deleted and is now brickwork
- The size of the kiosk has been reduced.
- Ceiling lining deleted from the verandah
- Replaced curved roof with flat roof. Curved guttering not required.
- Stepped concrete seating deleted.

A copy of the redesigned plan showing the proposed works is **provided at the end of the report.**

MAIN REPORT

Invitation to Tender

The tender for this work was advertised in the Sydney Morning Herald and the local press. Tenders opened on 4 July 2006 and closed on 25 July 2006. During the tender period 14 sets of tender document were purchased.

Tenderers were asked to provide a lump sum price for the works.

Tender Submissions

| Name | Location | Tender Price (Excl GST) | Average Score |
|---------------------------------|-------------------|--------------------------------|----------------------|
| Avoca Constructions P/L | Wetherill Park | \$195,027 | 100.0% |
| Reitsma Constructions | Baulkham Hills | \$195,132 | 80.0% |
| Patterson Building Group | Rosebery | \$200,192 | 98.5% |
| Dewram Constructions | Carlingford Court | \$205,200 | 90.5% |
| Bellamy Builders | Llandilo | \$207,805 | 84.7% |
| Trudecon Builders & Contractors | Bexley South | \$208,592 | 94.5% |
| AMFM Constructions Pty Ltd | Alexandria | \$211,596 | 90.3% |
| Kinsley Constructions Pty Ltd | St. Leonards | \$212,595 | 95.1% |
| Able 1 Construction Pty Ltd | Kellyville | \$248,124 | 70.1% |
| JMC Coyle Building Contractors | Blaxland | \$255,540 | 78.0% |
| Bilas Knight Pty Ltd | Narellan | \$332,735 | 56.5% |

Tender Evaluation

The aim of the tender evaluation process is to assess the capability of each tenderer to provide the best value and quality services to Council and recommend the preferred tenderer.

A tender evaluation panel of three council staff was established and submissions were assessed on price and non-price factors as agreed by the evaluation panel. Price was given a weighting of 70% and non-price factors a weighting of 30%.

Non-price factors considered for this project were:
Quality of submission showing understanding of the project.
Outline program of work (including duration).
Similar past projects completed.
Contract management, staff and planning.

The relative rankings of the tenderers as determined from the total weighted score is provided in the above table - tender submissions.

All panel members agreed that Avoca Constructions (NSW) Pty Limited are capable of completing the works required by the contract and provide Council with the best value for money.

Budget Considerations

The Section 94 Plan (CP2) in its Schedule of Works included an estimated amount of \$200,000 (excluding GST) for this project. The following table summarises the current financial position:

| | |
|---|----------------------------------|
| Current approved project budget | \$200,000 |
| Commitments for Design and Approvals | <u>\$ 10,000</u> |
| Amount Currently available for Construction | \$190,000 |
| Construction tender from Avoca Constructions (NSW) Pty Limited. | \$195,027 |
| Allowance required for connection of power and water to the building. | \$ 10,000 |
| Contingency required. 10% | <u>\$ 19,500</u> |
| Total required for Construction | \$224,527 |
| Additional funds required | (\$224,527-\$190,000) = \$34,527 |

These additional funds are currently available in the Camden Consolidated Plan to meet the required additional costs of this project.

Relevant Legislation

The tender has been conducted in accordance with the Local Government Act 1993, the Local Government (General) Regulation 2005 Part 7 Tendering, and Camden Council's Purchasing and Procurement Policy.

Critical Dates/Time Frames

Subject to Council's endorsement of this report's recommendation, works are anticipated to commence in September and be completed by late November 2006.

CONCLUSION

From the tender assessment process undertaken, the tender by Avoca Constructions (NSW) Pty Limited is considered to represent the best value for money for Council. The additional budget allocation of \$34,527 is available from Camden Consolidated Plan to complete the project.

RECOMMENDED

That:

- i. Council accept the tender of Avoca Constructions (NSW) Pty Limited for the lump sum price of \$195,027 (exclusive of GST) to undertake construction of the amenities building at Wandarrah Reserve, Mount Annan;**
- ii. an additional \$34,527 be allocated to the 06/07 Works Programme (Work Order W4757) in order to meet the total required construction costs of the project;**
- iii. Authorise the necessary documentation to be completed with Avoca**

Constructions(NSW) Pty Limited to undertake the proposed works covered by the contract; and for the documentation to be completed under Seal of Council.

RESOLUTION

That:

- i. Council accept the tender of Avoca Constructions (NSW) Pty Limited for the lump sum price of \$195,027 (exclusive of GST) to undertake construction of the amenities building at Wandarra Reserve, Mount Annan;
- ii. an additional \$34,527 be allocated to the 06/07 Works Programme (Work Order W4757) in order to meet the total required construction costs of the project;
- iii. Authorise the necessary documentation to be completed with Avoca Constructions(NSW) Pty Limited to undertake the proposed works covered by the contract; and for the documentation to be completed under Seal of Council.

Moved Councillor Elliott, Seconded Councillor Johnson that the recommendation as above be adopted.

THE MOTION ON BEING PUT WAS **CARRIED**

ORD237/06

ORDINARY COUNCIL

ORD07

SUBJECT: LGAG PARTNERSHIP FUNDING FOR CAMDEN NEPEAN RIVER RESERVES RESTORATION PROJECT
FROM: Director Works and Services
FILE NO: Land Use & Planning/Hawkesbury Nepean/River Restoration Project

PURPOSE OF REPORT

To advise Council of Local Government Advisory Group Partnership Funding for restoration of three sites along the Nepean River in the vicinity of Camden township.

BACKGROUND

The NSW Natural Resources Minister announced on 26 June 2006 that Camden Council received \$141,000 under the Hawkesbury Nepean Local Government Advisory Group Partnership Program for the Camden Nepean River Reserves Restoration Project. Camden Council will match the grant through resources such as provision of trees and in-kind activity such as project administration, and community involvement. The funding program was launched at Penrith on the same day by the Local Government Advisory Group as part of a \$1.9 million funding package for local councils in the Hawkesbury Nepean catchment to carry out environmental projects to restore catchment and river health. The program is a partnership between the Commonwealth, State and Local Governments with funding from the Natural Heritage Trust matched by catchment Councils funding.

MAIN REPORT

The 3 sites identified in Camden as part of the project include Bicentennial Park (currently being acquired northern portion), Camden Town Farm (adjoining Nepean River), Kings Bush Reserve (between cycleway and Nepean River). The work chiefly involves removal and control of invasive woody weeds, including Privet, Honey Locust and African Olive with follow-up revegetation and weed maintenance; the project will proceed over the next 12 months.

Expected outcomes from the grant include:

- 3 sites treated and site management plan developed for each site
- 3005 trees and 7930 shrubs planted
- 1.08 ha. of riparian vegetation protected by fencing
- 6.5 ha of riparian zones re-vegetated and rehabilitated (extra 1.5 ha of adjoining woody weeds removed)
- each site treated for erosion control
- Bushcare group operating at each site (total of 30 volunteers & 900 hours for duration of the project)
- Feral animal control undertaken at CBEP & Camden Town Farm

Community involvement is a prominent part of the project including community liaison, community tree planting and Bushcare. Also there will be various promotional activities undertaken including field days and workshop on the various woody weed removal methodology and follow-up revegetation.

Financial Consideration:

Sixty five percent of the grant will be matched in-kind with Camden Council officer project administration, supervision and promotion, and Bushcare volunteers and general community planting hours.

A total of \$41,000 of Camden Council operational budget for the 06/07 financial year has been allocated to be the remaining 35 percent matching of the grant.

Operational budgetary programs include Noxious Weed and Feral Animal Control, Bushcare. National Tree Day 2007, Cycleway and Tree Planting. The actions within the overall Camden Nepean River Reserves Restoration project have been identified to fit in with the above mentioned operational budgetary programs. Camden Council is required to sign a Project Services Agreement for the grant.

CONCLUSION

The Local Government Advisory Group Partnership Funding for the Camden Nepean River Reserves Restoration Project grant to Camden Council in the 2006/07 financial year creates the opportunity to undertake extensive environmental rehabilitation / restoration works at 3 sites along the Nepean River incorporating woody weed removal, re-vegetation and bush regeneration with strong community involvement and education.

RECOMMENDED

That Council:

- i. Accept the \$141,000 funding from the Hawkesbury Nepean Local Government Advisory Group Partnership Program for the Camden Nepean River Reserves Restoration Project.**
- ii. Authority be granted for all relevant documentation to be completed under Seal of Council if applicable.**

RESOLUTION

That Council:

- i. Accept the \$141,000 funding from the Hawkesbury Nepean Local Government Advisory Group Partnership Program for the Camden Nepean River Reserves Restoration Project.
- ii. Authority be granted for all relevant documentation to be completed under Seal of Council if applicable.

Moved Councillor Whiteman, Seconded Councillor Johnson that the recommendation as above be adopted.

THE MOTION ON BEING PUT WAS **CARRIED**

ORD238/06

ORDINARY COUNCIL

ORD08

SUBJECT: RTA PROJECT FUNDING - 2006/2007
FROM: Director Works and Services
FILE NO: Programs/Strategic Plan and Transport & Traffic Facility
Investigation and Design

PURPOSE OF REPORT

To outline to Council recent advice by the RTA of funding being made available for two programs in 2006/2007, subject to Council matching the funds.

BACKGROUND

The RTA seeks applications each year for projects under a number program headings. Advice has been received from the RTA advising support to Camden Council under two programs, these being:

1. Cycleways Program
2. Road Safety Officer (RSO) Program

Council has successfully submitted applications to the RTA under the Cycleways Program for several years. The priority for Council has been the completion of the Camden to Narellan Offroad Bicycle Link with a project amount of \$90,000 being made available in 2005/2006 (50:50 funding with Council and the RTA) to complete widening works across a drainage culvert on Camden Valley Way adjacent the Camden Golf Club.

The completion of these works now permit the next stage of pathway to be constructed, being between Wilson Crescent and Rheinbergers Hill.

The RSO Program continues to deliver quality education and awareness programs to the community. The RTA has supported the program at Camden for the last four years with 50% funding of recurrent operational costs to an amount of \$35,000.

MAIN REPORT

Cycleway Program

The Camden to Narellan Cycleway has been a long standing priority project under the Camden Bicycle Plan, which was adopted by Council in 1996. The 1996 Plan is currently listed for review to ensure currency and relevance in 2006, particularly given changes in population and land release in recent years.

Earlier this year Council submitted an application to the RTA for the next stage of the Camden to Narellan Cycleway. Funding was sought for a 450 metre length extending from Wilson Crescent to connect with a new cycleway linking with the new Camden Acres Estate at Rheinbergers Hill (refer to **Attachment 1** at the end of this report).

The proximity of the path to the Camden Golf Course requires consideration of an appropriate fence to protect users of the path from errant golf balls. This is costed within the project budget that was submitted to the RTA to a value of \$110,000.

The RTA have confirmed grant funding up to 50% of this project cost is available in 2006-2007. Therefore Council's cost share is \$55,000, for which no funding has been allocated within the adopted budget for 2006/2007.

If Council resolve to support the project, then funding would need to be approved from the Capital Works Reserve.

Road Safety Officer Program

Council has received advice from the RTA that funding support to an amount of \$37,500 is available for 2006/2007 for recurrent operational costs. This represents a 7.1% increase on previous years funding of \$35,000.

Council has allocated funding in the 2006/2007 budget to match the allocation of the RTA and to support the Community Road Safety Officer Program.

CONCLUSION

The Camden to Narellan Cycleway is an important and longstanding project that has received Council and RTA support in the past. The next stage is estimated to cost \$110,000, extending from Wilson Crescent to Rheinbergers Hill.

The RTA has offered Council up to 50% funding (\$55,000) this financial year for the next stage of this project, with remaining funds to be matched by Council.

The RTA funding in support of the Road Safety Officer Program has increased over previous years. This increased funding has already been allowed for Council's budget.

RECOMMENDED

That Council:

- i. Accept the RTA's offer of \$55,000 for the Camden to Narellan Cycleway Project.**
- ii. Match the RTA's funding from the Capital Works Reserve.**
- iii. Accept the RTA's offer of \$37,500 for recurrent operational costs associated with the Camden Community Road Safety Officer Program; to be matched through Council's adopted budget.**

ATTACHMENTS

Attachment 1 -
Cycleway Sketch Plan

RESOLUTION

That Council:

- i. Accept the RTA's offer of \$55,000 for the Camden to Narellan Cycleway Project.**
- ii. Match the RTA's funding from the Capital Works Reserve.**

- iii. Accept the RTA's offer of \$37,500 for recurrent operational costs associated with the Camden Community Road Safety Officer Program; to be matched through Council's adopted budget.

Moved Councillor Johnson, Seconded Councillor Funnell that the recommendation as above be adopted.

THE MOTION ON BEING PUT WAS **CARRIED**

ORD239/06

ORDINARY COUNCIL

ORD09

SUBJECT: REQUEST FOR COUNCILLOR REPRESENTATION ON THE CULTURAL PLAN COMMUNITY ADVISORY GROUP
FROM: Director Works and Services
FILE NO: Projects/Community Projects/Cultural Development 2006

PURPOSE OF REPORT

This report seeks Council's nomination of a Councillor to be a representative on the Cultural Plan Community Advisory Group (CPCAG) to oversee the development and implementation of Camden's Cultural Plan and it's strategies for the Camden LGA.

BACKGROUND

Council received funding from Arts NSW (formerly the NSW Ministry for the Arts) to employ a Cultural Development Coordinator. A key task for the position is the development of a Cultural Plan for the Camden LGA. The Cultural Plan will provide a framework for decisions relating to the scope and quality of cultural activities and opportunities to meet the needs of Camden residents, workers and visitors. The Cultural Plan will include strategies to promote cultural tourism, cultural industries that provide local job opportunities and extended business skills, provide programs for the local community and inform the development of future infrastructure.

As part of Council's role to develop a Cultural Plan for Camden, a Community Advisory Group has been initiated to assist with the process of the plan's development.

MAIN REPORT

Draft Terms of Reference

Set out below is a draft Terms of Reference. The role of CPCAG will be to:

- Provide advice, support and direction to Council staff in regard to strategic cultural planning issues in the local community;
- Provide expert advice and guidance to ensure that the Cultural Plan is relevant and meets the needs of our communities across the LGA;
- Provide links and promote cultural initiatives to individual artists, groups, networks and organisations they come into contact with;
- Provide support to the Cultural Development Coordinator in order to facilitate the Plan's completion and implementation of strategies to time and budget;
- Support and facilitate communication between Council and possible external partners for future project developments;
- Review the process at regular intervals and advise on directions; and
- Support the development of strategic links with other relevant projects, networks and organisations from many sectors including educational, business, State and Federal Government as well as community organisations.

Proposed Membership, Representation and Selection

It is proposed that the total membership will not exceed 14 persons, with membership

to be formed through invitation as well as advertising for community representatives through advertisements in the local papers. It will include representatives from:

- Community Organisations (x3) – CALD (Culturally and Linguistically Diverse), Seniors, Youth
- Arts NSW Representative
- Department of Education and Training Representative
- Artists (x2)
- Community Representative
- Councillor Representative
- Local Business Representative
- Tharawal Land Council Representative

Special Interest Groups and Individuals will also be consulted as the need arises for their input.

Selection to the CPCAG will be based on membership categories, experience and knowledge of Cultural/Tourism/Creative Industry issues in the local community and key strategic representatives.

Meetings

It is envisaged that meetings will initially be held at six weekly intervals and then reviewed based on the needs of the members and activities. At this stage the following dates are anticipated:

Plan Development phase

Wednesday 20 September 2006

Wednesday 1 November 2006

Plan Implementation phase

Wednesday 24 January 2007

Wednesday 14 March 2007

Wednesday 9 May 2007

The actual timing of the meetings will be determined in conjunction with the CPCAG members.

CONCLUSION

It is proposed to form a Cultural Plan Advisory Group (CPCAG) to work with Council and other agencies to address short, medium and long term strategies to bring about strategic planning objectives for the Camden LGA.

RECOMMENDED

That Council nominate a Councillor representative to participate on the Cultural Plan Community Advisory Group.

RESOLUTION

That the Council representative to participate on the Cultural Plan Community Advisory Group be Councillor Anderson.

Moved Councillor Patterson, Seconded Councillor Johnson that the recommendation as above be adopted.

THE MOTION ON BEING PUT WAS **CARRIED**

ORD240/06

ORDINARY COUNCIL

ORD10

SUBJECT: EXPENDITURE REVOTES CARRIED FORWARD FROM 2005/06
BUDGET
FROM: Director Governance
FILE NO:

PURPOSE OF REPORT

The purpose of this report is to seek Council's approval to revote a list of specific projects that were incomplete as at 30 June 2006.

INTRODUCTION

At the end of each financial year a review is undertaken to identify the status of specific projects with a view to having funds carried forward in order to complete the works.

Most of the projects have been committed in terms of works or services rendered but not yet paid for by Council as at 30 June 2006.

All projects submitted for revote have satisfied the criteria outlined in Council's adopted 'Expenditure Revotes Policy' and have been determined as essential to meet either the strategic or operational requirements of Council.

TOTAL VALUE OF EXPENDITURE REVOTES

The reports titled 'Budget Review as at 30 September 2005', 'Budget Review as at 31 December 2005' and 'Budget Review as at 31 March 2006' identified a list of projects totalling \$11,916,509 that would require funds to be carried forward (ie revote) in order to complete the works.

The final list of projects totals \$14,317,163 and whilst the final result of year ending 30 June 2006 is yet to be formally audited, a preliminary review of all restricted cash reserves indicates sufficient allocations are available to fund the general revenue portion (\$428,418) of all additional expenditure revotes.

Please Note: Council has already adopted a list of projects totalling \$11,916,509 that were identified in the September, December and March Reviews. It is only the additional \$2,400,654 (\$14,317,163 less the \$11,916,509) that requires Council's authorisation.

The following table shows a comparison of the combined September, December and March Review revote estimates to the actual year-end revote required. The last column highlights the **additional revotes** requiring Council's authorisation:

| | | | |
|--|--|--|--|
| | | | |
|--|--|--|--|

| Source of Funds | September, December & March Review Estimate | Actual Year-end Revote Required | Additional Revotes Requiring Authorisation |
|---------------------------------------|--|--|---|
| Section 94 Contributions | 8,713,592 | 9,848,328 | 1,134,736 |
| Grants | 238,968 | 665,274 | 426,306 |
| Trust/Reserves | 1,653,612 | 2,055,806 | 402,194 |
| Other Contributions / Loan Borrowings | 1,100,000 | 1,109,000 | 9,000 |
| General Revenue (ie Council Funds) | 210,337 | 638,755 | 428,418 |
| TOTAL | 11,916,509 | 14,317,163 | 2,400,654 |

There are a number of factors that have influenced the revotes result for 2005/06. The following is a summary of those factors:

- Grants – Council received (or budgeted to receive) a number of substantial grants with restrictions/conditions associated with them. These funds must be carried forward as they are tied to specific works
- Section 94 – Some section 94 funded works scheduled for commencement in 2005/06 have been delayed for reasons outside Council's controls

CONCLUSION

The attached table includes the list of projects requiring Council's approval for revote. If approved by Council, the General Revenue (ie Council funds) portion will be transferred to the 'Works in Progress Reserve' in 2005/06 and transferred from this Reserve in 2006/07 to fund the completion of projects. This is in accordance with procedures as set out in Council's adopted Expenditure Revotes Policy.

RECOMMENDED

That Council:

- (i) Adopt the list of projects requiring revote as identified at the end of this report.**
- (ii) Endorse the inclusion of these projects to the 2006/07 Budget and the necessary additional funding be sourced from the following areas**

| Source of Funds | \$ |
|---------------------------------------|------------------|
| Section 94 Contributions | 1,134,736 |
| Grants | 426,306 |
| Trust/Reserves | 402,194 |
| Other Contributions or Sale of Assets | 9,000 |
| General Revenue (ie Council Funds) | 428,418 |
| TOTAL | 2,400,654 |

ATTACHMENTS

RESOLUTION

That Council:

- (i) Adopt the list of projects requiring revote as identified at the end of this report.
- (ii) Endorse the inclusion of these projects to the 2006/07 Budget and the necessary additional funding be sourced from the following areas

| Source of Funds | \$ |
|---------------------------------------|-----------|
| Section 94 Contributions | 1,134,736 |
| Grants | 426,306 |
| Trust/Reserves | 402,194 |
| Other Contributions or Sale of Assets | 9,000 |
| General Revenue (ie Council Funds) | 428,418 |
| TOTAL | 2,400,654 |

Moved Councillor Johnson, Seconded Councillor Whiteman that the recommendation as above be adopted.

THE MOTION ON BEING PUT WAS **CARRIED**

ORD241/06

ORDINARY COUNCIL

ORD11

SUBJECT: INVESTMENT MONIES
FROM: Director Governance
FILE NO: Investment Business Papers

In accordance with Part 9, Division 5, Section 212 of the Local Government (General) Regulation 2005, a list of investments held by Council as at 31 July 2006 is provided.

It is further certified that all investments have been made in accordance with Section 625 of the Local Government Act 1993, the relevant regulations and Council's Investment Policy.

The average return on all investments was 6.04% for the month of July 2006.

RECOMMENDED

That:

- i. Council note that the Principal Accounting Officer has certified that all investments held by Council have been made in accordance with the Local Government Act, Regulations, and Council's Investment Policy.**
- ii. The list of investments for July 2006 be noted.**
- iii. The average monthly interest rate return of 6.04% for the month of July 2006 be noted.**

ATTACHMENTS



July 06
Investments

RESOLUTION

That:

- i. Council note that the Principal Accounting Officer has certified that all investments held by Council have been made in accordance with the Local Government Act, Regulations, and Council's Investment Policy.**
- ii. The list of investments for July 2006 be noted.**
- iii. The average monthly interest rate return of 6.04% for the month of July 2006 be noted.**

Moved Councillor Johnson, Seconded Councillor Elliott that the recommendation as above be adopted.

THE MOTION ON BEING PUT WAS **CARRIED**

ORD242/06

ORDINARY COUNCIL

ORD12

SUBJECT: MANAGEMENT PLAN REVIEW - 30 JUNE 2006
FROM: Director Governance
FILE NO:

Council prepares the Management Plan and Budget annually, which sets out strategies and actions for the next three years. The Local Government Act requires quarterly reports to be submitted to Council showing progress to date on each of the strategies and actions within the Management Plan.

The 30 June 2006 review has been completed and is attached to this report as a **Supporting Document**. The attachment highlights the progress of Council's adopted strategies and actions during each of the quarters for the financial year and provides comments on each of those items.

The review is submitted for information.

RECOMMENDED

That the 30 June 2006 Management Plan Review be noted.

ATTACHMENTS

Man Plan
Review 30 June

RESOLUTION

That the 30 June 2006 Management Plan Review be noted.

Moved Councillor Funnell, Seconded Councillor Johnson that the recommendation as above be adopted.

THE MOTION ON BEING PUT WAS **CARRIED**

ORD243/06

**THE MINUTES OF THE ORDINARY COUNCIL MEETING HELD ON 28 AUGUST
2006 WERE ADOPTED AT AN ORDINARY COUNCIL MEETING HELD 11
SEPTEMBER 2006. MIN. NO. 248/06**

A handwritten signature in black ink, appearing to read "A. Anderson", written in a cursive style.

CHAIRPERSON