
ORDINARY COUNCIL

SUBJECT: APOLOGIES

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

RECOMMENDED

That leave of absence be granted.

RESOLUTION

Moved Councillor Johnson, Seconded Councillor Funnell that Councillors Patterson and Elliott be granted a leave of absence.

THE MOTION ON BEING PUT WAS CARRIED.

ORD20/08

ACTIONS

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

There were no declarations to be noted.

THE MOTION ON BEING PUT WAS **CARRIED**.

ORD21/08

ACTIONS

ORDINARY COUNCIL

SUBJECT: PUBLIC ADDRESSES

The Public Address segment (incorporating Public Question Time) in the Council Meeting provides an opportunity for people to speak publicly on any item on Council's Business Paper agenda or on any matter within the Local Government area which falls within Council jurisdiction.

Speakers must book in with the Council office by 4.00pm on the day of the meeting and must advise the topic being raised. Only seven (7) speakers can be heard at any meeting.

Where a member of the public raises a question during the Public Address segment, 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. There is a limit of one (1) question per speaker per meeting.

All speakers are limited to 4 minutes, with a 1 minute warning 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

Mr Jarvis addressed the Council in relation to Item ORD 01.

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

THE MOTION ON BEING PUT WAS **CARRIED**.

ORD22/08

ACTIONS

ORDINARY COUNCIL

SUBJECT: CONFIRMATION OF MINUTES

Confirm and adopt Minutes of Ordinary Council Meeting held 29 January 2008.

RECOMMENDED

That the Minutes of the Ordinary Council Meeting held 29 January 2008, copies of which have been circulated, be confirmed and adopted.

RESOLUTION

Moved Councillor Funnell, Seconded Councillor Johnson that the Minutes of the Ordinary Council Meeting held 29 January 2008, copies of which have been circulated, be confirmed and adopted.

THE MOTION ON BEING PUT WAS **CARRIED**.

ORD23/08

ACTIONS

ORDINARY COUNCIL

ORD01

SUBJECT: UNAUTHORISED TREE REMOVAL AT (MALOUF PROPERTY) NO 80 (LOT 31 DP 221082) ANTHONY ROAD AND NO 149 (LOT 30 DP 221082) ALMA ROAD, LEPPINGTON

FROM: Director Development and Health

FILE NO: Binder:Private Tree Requests & Complaints

PURPOSE OF REPORT

The purpose of this report is to seek a resolution from Council in relation to initiating legal action for unauthorised removal of trees at No 80 Anthony Road, and No 149 Alma Road, Leppington. This report has been prepared in accordance with the Council resolution of the 27 June, 2005 (ORD87/05) concerning the treatment of potential prosecutions. *"That Council... deal with potential prosecutions in public meetings with limited detail provided within the public reports to those meetings and further detail provided on a confidential basis only to Councillors as background material."*

Consistent with the above resolution, relevant background material including legal advice concerning this matter has been **handed out separately to Councillors with the Business Paper.**

BACKGROUND

The subject property at Leppington is known locally as the "The Malouf property" and is a 93 hectare parcel of land bound by Anthony Road to the north, Alma Road to the east and Rileys Creek on the south west. The subject land consists of two lots known as No 80 (Lot 31 DP 221082) Anthony Road, and No 149 (Lot 30 DP 221082) Alma Road, Leppington. The registered owner of both properties is Kia Ora Land Co Pty Ltd. An Australian Securities & Investments Commission (ASIC) search reveals that Malouf family members exclusively occupy director, secretary and shareholder positions within the company. The company has stated that it has held the property in excess of fifty years.

The land as viewed from the road is characterised by significant blocks of dense vegetation consisting mainly of eucalyptus and casuarina species with adjacent open pasture areas studded with small clumps and single gum trees. The land is bisected by natural tributaries of Rileys Creek and is part of the South Creek catchment. There are no improvements on the land and current use is limited to horse agistment and the keeping of goats.

Mapping attached to the Camden Natural Asset Policy identifies the land as core habitat of regional significance and locates it within a primary habitat corridor. More recently the land has been rezoned consistent with State Environmental Planning Policy (Sydney Region Growth Centres) 2006 (Amendment 1). A significant part of the land is now zoned RE1 - Public Recreation.

The alleged unauthorised work occurred when a fencing company engaged by the owners commenced fence work at the property. By the time Council was alerted to the work over one hundred trees were destroyed with many more damaged. Unauthorised work continued despite instructions to cease work.

Complaints were received from adjoining Deepfields Road land owners claiming that trees were being knocked down on their properties and furthermore a fence was being erected on land they believed to be theirs. The extent of tree removal observed by Council officers is considered serious and is in potential breach of provisions of the Environmental Planning & Assessment Act, 1979.

MAIN REPORT

On or about the beginning of April 2006, NSW Fencing employees commenced work at Kia Ora Land Company's property which comprises the two subject lots. **A location plan is provided at the end of the report.**

At about this time Council received a complaint from a resident of Anthony Road claiming that she could hear a machine knocking trees down on the subject land but could not actually see the machine from the road. Council officers attended the property and over ensuing weeks conducted a series of inspections and interviews with the fencing contractor, Mr Mark Pett and his employee Mr Jason Pett. According to Mr Jason Pett, NSW Fencing received their instructions from Paul Malouf and were in regular contact with him while working at the property. Staff instructed the contractors to cease work at this time.

Correspondence was exchanged between Kia Ora in response to Council's requests for information, and later a site meeting was held with Mr Gerard Bulters (Director of a Chartered Accounting firm representing Kia Ora Land Co) and Mr Paul Malouf also on behalf of Kia Ora Land Co. The Company's position throughout the investigation has been that at no time did representatives of Kia Ora instruct the fencing contractor to remove trees or clear the land.

The affected land is of a significant size in relation to surrounding properties and is reflected in the zoning stemming from the Growth Commission. The land is host to native Cumberland Plain Woodland albeit in a modified state, but nevertheless it is an important native vegetation refuge and corridor link.

Camden Natural Asset Policy identifies the land as core habitat of regional significance and locates it within a primary habitat corridor. **An extract of the Natural Assets Ecological Sensitive Land map is provided with the Business Paper Supporting Documents.**

Rileys Creek is adjacent to the south-western boundary and is fed by a number of tributaries generally flowing in a westerly direction. Although in degraded condition the natural waterways provide an opportunity for other local native vegetation species belonging to Alluvial woodland community to flourish.

Council officers surveyed the extent of tree removal by following a track cleared by NSW Fencing. The track was mostly 3 to 4 metres wide with trees laying generally on

either side of the track. The track was over 1 kilometre in length and in several places crossed Rileys Creek. The majority of the track did not follow the property boundary and in places a fence was constructed approximately 100 metres inside the property boundary. In other places and according to neighbours, trees were felled and a fence was erected on their properties. These neighbours have retained legal services to represent them on issues stemming from the encroachment onto their land.

The path of the track was later explained by Kia Ora as being an error of the contractor as they mistakenly followed an old internal fence believing it to be a boundary. The other reason given for the deviation from the boundary was that the contractor wanted to avoid dense pockets of trees and to limit creek crossings.

The explanations provided by both Kia Ora and NSW Fencing do not support a significant number of trees being removed as in several instances the contractor managed to install long sections of fence in amongst stands of trees with minimal impact.

While there is some ambiguity over the exact instructions passed between the owner and the contractor concerning the fence, what is clear is that approximately 120 trees with trunk diameters of between 200 and 300 mm and between 8 and 10 metres tall were knocked down and pushed to the side of a track by an excavator. This was admitted by Mr Jason Pett of NSW Fencing who hired and operated the excavator.

It is considered most appropriate that Council initiate legal action against Jason and Mark Pett.

The main variety of tree species removed are *Eucalyptus terreticornis* (Forest Red Gum), *Eucalyptus moluccana* (Grey Box), *Casuarina cunninghamiana* (She Oak) and to a lesser extent *Melaleuca stypheloides* (Prickly Paperbark). These species belong to the threatened Cumberland Plain Woodland ecological community.

STATUTORY PROVISIONS

The subject land is zoned 1(b) (Rural B (2ha) Zone) under Camden Local Environment Plan No 48. This LEP adopts the Model Provisions of the Environmental Planning and Assessment (EPA) Act 1979. Under these provisions development is defined as the use of land, the subdivision of land and the carrying out of work. Works carried out on the land are therefore defined as development and require the consent of Council prior to being carried out.

The Local Environment Plan has been drafted with particular care to provide protection for trees in all areas of Camden. It has the express object of protecting trees on the land so that they can only be damaged or removed with the consent of the Council.

The various clauses of LEP 48 that apply to the subject land pertaining to trees are as follows:

Clause 5

"A tree is defined as follows:

Any tree, sapling or shrub which:

- a) is 3 metres or more in height;*
- (b) has a girth of 300mm or more at a height of 1 metre above natural ground surface; or*
- (c) has a branch span of 3 metres or more."*

Trees were removed with heights of between 8 and 10 metres tall and approximate trunk diameters ranging from 200 mm to 300 mm. The removed trees exceed the definition of a tree as specified in clause 5.

Clause 28 (1) (Protection of Trees)

"A person shall not ringbark, cut down, top, lop, remove, injure or wilfully destroy any living tree, or cause such tree to be ringbarked, cut down, removed or wilfully destroyed, without development consent."

The felling of trees required Council consent pursuant to this Clause.

Clause 29 (1) (Clearing)

"Land within Zone No 1(a), 1(b), 1 (c), 1(v), 5(a), 5(b), 6(a) or 7(d) must not be cleared for any purpose, except with the consent of the Council."

The subject property is zoned Rural 1(b) (2ha) and therefore Council consent is required to remove trees or clear any portion of this land. No development consent had been issued providing authorisation for the removal of the trees.

The relevant section of the Environmental Planning and Assessment Act, 1979 are as follows:

Section 76A of the Environmental Planning and Assessment Act (the Act), 1979 cites *"if an environmental planning instrument provides that specified development may not be carried out except with development consent, a person must not carry the development out on land to which the provision applies unless:*

- (a) such a consent has been obtained and is in force, and*
- (b) the development is carried out in accordance with the consent and the instrument."*

A breach of the Act has occurred in so far as work has been done without consent. This is an offence as described in Section 125 of the Act.

Further, under Section 126 of the Act, a person guilty of an offence against this Act shall be liable to a penalty. Where a person is guilty of an offence involving the destruction of or damage to a tree or vegetation, the court dealing with the offence may, in addition to or in substitution for any pecuniary penalty imposed or liable to be imposed, direct that person:

- (a) to plant new trees and vegetation and maintain those trees and vegetation to a mature growth, and
- (b) to provide security for the performance of any obligation imposed under paragraph

(a).

It is open to Council to commence proceedings at either the Local Court or Land and Environment Court. The matter of tree removal without proper assessment and development consent is a serious one. In this case Council could issue an Infringement Notice, however given the circumstances of the case it is considered appropriate for Council to pursue this matter in the Local Court.

CONCLUSION

A significant number of trees have been removed from the subject land at Leppington. The removal of the trees was by admission conducted by NSW Fencing Pty Ltd and its employees. No development consent had been obtained before the work took place.

Observations, photographs and notes taken from site inspections found a significant number of removed trees. With care many of the destroyed trees need not have been removed.

Council's LEP does not operate to prevent tree removal, it operates to facilitate it under approved conditions with appropriate assessment of ecological values. This particular site is host to an endangered ecological community and within a primary habitat corridor, therefore in this case it is important that the damage that has been done is restored.

This action will also send a message to the community that Council takes its responsibilities in conserving Natural Assets seriously. As such it is recommended that Council pursue legal action in this case.

RECOMMENDED

That:

- i. The matter be referred to Council's Solicitors to proceed with action in the Local Court against NSW Fencing Pty Ltd for unauthorised tree removal at No 80 (Lot 31 DP 221082) Anthony Road, and No 149 (Lot 30 DP 221082) Alma Road, Leppington.**
- ii. Council proceed with action in the Local Court against Mr Jason Pett, employee of NSW Fencing Pty Ltd, for unauthorised tree removal at No 80 (Lot 31 DP 221082) Anthony Road, and No 149 (Lot 30 DP 221082) Alma Road, Leppington.**

ATTACHMENTS

Location Plan Natural Assets Plan
(Sup Doc)

RESOLUTION

MOTION

Moved Councillor Campbell, Seconded Councillor Johnson that this Item be moved to the end of this evenings Agenda and close the meeting to the public.

THE MOTION ON BEING PUT WAS **CARRIED**.
(Councillor Funnell and Dewbery voted against the Motion)

ORD24/08

ACTIONS

[Link to CRMS document](#)

[CRMS: 5992554 14/02/2008, 09:33:10 AM](#)

ORDINARY COUNCIL

ORD02

SUBJECT: ADOPTION OF ORAN PARK AND TURNER ROAD SECTION 94 PLAN
FROM: Director Governance
FILE NO: Binders: Oran Park Precinct, Turner Road Precinct

PURPOSE OF REPORT

The purpose of this report is to seek the adoption of the Oran Park and Turner Road Section 94 Plan by Council.

BACKGROUND

In early to mid 2007 Council prepared and exhibited Draft Section 94 Plans for Oran Park and Turner Road. While awaiting the rezoning of the Precincts, these plans were adopted in-principle by Council. In November 2007 the Department of Planning issued a planning circular that necessitated further amendments to the Draft Section 94 Plans.

At the Ordinary Council Meeting held on 11 December 2007, Council resolved to place on exhibition an amended Section 94 Plan for the Oran Park and Turner Road Precincts in the South West Growth Centre. The plans were amended on the basis of a Planning Circular issued by the Department of Planning on 6 November 2007 relating to proposed changes to Section 94 Planning in NSW and in consultation with the Growth Centres Commission. At the time of amending the plans a Ministerial Direction to provide further details in relation to the proposed changes to Section 94 Planning in the Growth Centres was being prepared. The Ministerial Direction had not been issued prior to Council resolving to place the amended Section 94 Plans on exhibition.

The exhibition commenced on 19 December 2007 and closed on 16 January 2008. The exhibition was conducted over the Christmas period and without any extended timeframe on the basis that the rezoning of the land was imminent and it was critical that Council have an adopted Section 94 Plan in place soon after the rezoning. Four submissions were received to the exhibition.

The land within the Oran Park and Turner Road Precincts was rezoned on 21 December 2007. The Ministerial Direction was issued on 2 January 2008. **A copy of the Ministerial Direction is included as Attachment No.1 to this report.**

The Section 94 Plan for Oran Park and Turner Road has been amended further in response to the Ministerial Direction, by including back into the Plan the leisure centre and additional sports facilities. These facilities were previously reduced in scale to a swimming pool and one sports park on the basis of advice received from the Department of Planning and the Growth Centres Commission, prior to the release of the Ministerial Direction. The Direction allows for facilities that cater to the demand generated by up to 25,000 lots. On this basis, the leisure centre and sports facilities have been re-included in the plan.

The inclusion of these larger and additional facilities has not significantly increased the contribution rate per dwelling, as a portion of the cost of these facilities will be shared by future development in the Maryland and/or Catherine Fields Precincts as per the previous approach. The average contribution per dwelling in the combined plan is now \$30,029 for Oran Park and \$25,470 for Turner Road. This is an average 4.9% increase from the rates that were exhibited but 37% lower than the original amount exhibited.

The proposed Oran Park and Turner Road Section 94 Contributions Plan is considered to be consistent with the Ministerial Direction. Given the changes made to the plan are consistent with the Direction, only re-introduce facilities previously included (as exhibited in May/June 2007) and do not significantly increase the contribution rate per lot, no further exhibition of the plan is considered necessary. It is therefore recommended that Council adopt the Oran Park and Turner Road Section 94 Plan.

MAIN REPORT

Camden Council and the Growth Centres Commission (GCC) have worked together to develop precinct plans for the Oran Park and Turner Road precincts of the South West Growth Centre.

The Precinct Plans consist of:

- an amendment to the State Environmental Planning Policy (Sydney Region Growth Centres) 2006 to rezone the subject land and set development standards;
- Development Control Plans to establish detailed development controls and define the development footprint in accordance with the Indicative Layout Plan; and
- Section 94 Contributions Plans to provide a funding mechanism for local infrastructure provision to support the development of these precincts.

The SEPP Amendment, the DCPs and a Special Infrastructure Contribution are the responsibility of the Minister for Planning and the GCC. The Section 94 Plans are Council's responsibility.

Separate Draft Section 94 Contributions Plans were developed and exhibited for the Oran Park and Turner Road Precincts in May/June 2007. Following exhibition, the Draft Section 94 Plans were adopted in-principle by Council on 25 September 2007 while awaiting the rezoning of the precincts. The Plans were then to be reported back to Council for final adoption following the rezoning of the land.

The circular issued by the Department of Planning states that a Section 94 Plan can only include local infrastructure required for the new population of a development area or precinct. The circular also states that a Section 94 Plan cannot levy for facilities benefiting existing communities, council or district-wide facilities or for riparian corridors.

It appeared from the circular that the common practice of apportioning the cost of larger facilities (such as a leisure centre or a library) over a number of development areas or precincts was no longer possible.

As a result of the circular, the Section 94 Plans for Oran Park and Turner Road were

amended as follows:

- The two plans were combined into one plan.
- Only facilities that benefit the combined population of Oran Park and Turner Road were included.
- Riparian corridors were removed.
- Administration building removed.
- Child care provision removed.

The Ministerial Direction provides directions on the types of facilities that may be funded through local infrastructure contributions (that is, section 94 contributions or section 94A levies). Clause 5.1 of the Direction states that contributions will only fund 'the provision, extension or augmentation of the following types of public amenities and public services:

- a. local roads;
- b. local bus infrastructure;
- c. local parks;
- d. drainage and stormwater management works;
- e. capital costs (including land) associated with local community infrastructure;
- f. land for other community infrastructure and recreation facilities, excluding land for the purposes referred to in clause 5.3(d)'.

Clause 5.3(d) states that a contributions plan may not provide for facilities required for existing populations or as a result of general population growth, council-wide community or recreation facilities or acquisition of land for riparian corridors, unless required for local parks or stormwater management.

The Direction provides further clarification in relation to the scale of the public amenities and public services that can be funded through Section 94 in clause 5.2. This clause states that 'the public amenities and public services referred to in Clause 5.1(a), (b), (c), (d) and (e) are limited to public amenities and public services which will service a development site, Precinct or Precincts, being an area of up to no greater than 25,000 lots'.

The Section 94 Plan for Oran Park and Turner Road has been amended in response to the Ministerial Direction, by including back into the Plan the leisure centre and additional sports facilities. These facilities were originally included in the Section 94 Plans that were first exhibited in May/June 2007 but, based on advice from the Department of Planning and the Growth Centres Commission, prior to the issue of the Ministerial Direction, were reduced in scale to a swimming pool and one sports park for the exhibition recently undertaken.

The re-inclusion of these facilities in the Plan is on the basis that a share of the cost of these facilities will be apportioned to future development in the Maryland and/or Catherine Field Precincts of the Growth Centre. This is consistent with the Ministerial Direction that allows for local facilities that cater to the demand generated by up to 25,000 lots. Oran Park and Turner Road together provide approximately 11,500 lots. For the leisure centre, which is designed to service 25,000 lots, a further 13,500 lots in Maryland or Catherine Fields Precincts will be levied. For the additional sports facilities, which cater to approximately 17,500 lots, a further 6,000 lots will be levied.

The above approach is similar to the approach used to develop the Mount Annan

Leisure Centre, as contributions to the centre were spread across all of the Narellan release areas, including Mount Annan, Narellan Vale, Currans Hill and Harrington Park.

In relation to riparian corridors, they have not been re-included in the S94 Plan, with the exception of one small area adjacent to Turner Road in the Turner Road Precinct. This small area was considered to be worthy of inclusion in the S94 Plan as open space on the grounds that it is a small patch of riparian land unconnected to other riparian land in the precinct. In addition, it was considered that the relationship between this riparian corridor and the existing lot pattern was not conducive to the achievement of the environmental outcomes for the creek and that public ownership in this instance was preferred.

As a result of these changes to the S94 Plan, the average contribution per dwelling is now \$30,029 for Oran Park and \$25,470 for Turner Road. The following table charts the changes to the S94 rates during the making and amending of the plan.

	Oran Park (average)	Turner Road (average)	Discussion
First Exhibition	\$48,425	\$40,600	
Plan Adopted In-Principle by Council	\$40,500	\$35,200	Change principally resulted from more detailed land valuations.
Second Exhibition	\$28,700	\$24,100	Change principally from removal of riparian corridors and reduction in scale of recreation facilities.
Current Plan	\$30,029	\$25,470	Change principally from re-introduction of larger-scaled recreation facilities.

A copy of the amended Section 94 Plan for Oran Park and Turner Road is included as Attachment No. 2 to this report.

As mentioned above, four submissions were received to the exhibition. The main issues raised in the submissions are:

- The appropriateness of re-introducing certain facilities that may not be considered local facilities.
- The affordability of the total cost of contributions to development.
- The staging plan identifying certain lands as being developed later than other land.
- Certain facilities having a wider nexus than the subject development.

None of the issues raised in the submissions necessitate substantial changes to the Section 94 Plan. **Full details of the issues raised in submissions and responses to them are contained in Supporting Document 1 to this report.**

The Ministerial Direction confirms that there is a certain type of facility that is not appropriate to be funded through Section 94, being those types of facilities that cater to an entire council area population. Such facilities would include administration buildings, cultural centres, major libraries, art galleries and the like. These types of facilities have not been included in the Oran Park and Turner Road Section 94 Plan

and will need to be funded through other sources, such as Council revenue or grants from State or Federal Governments. Council however, will continue to make representations regarding funding opportunity for these larger facilities.

CONCLUSION

The proposed Oran Park and Turner Road Section 94 Contributions Plan is considered to be consistent with the Ministerial Direction issued on 2 January 2008. Given the further changes made to the plans are consistent with the Direction, only re-introduce facilities previously included (as exhibited in May/June 2007) and do not significantly increase the contribution rate per lot, no further exhibition of the plan is considered necessary. It is recommended that Council adopt the Oran Park and Turner Road Section 94 Plan.

RECOMMENDED

- i. That Council adopt the Oran Park and Turner Road Section 94 Plan as amended.
- ii. That, pursuant to clause 31 (2) of the Environmental Planning and Assessment Regulation 2000, a notice be placed in a local newspaper within 28 days to bring the Oran Park and Turner Road Section 94 Plan into effect.

ATTACHMENTS

Attachment 1 - Ministerial direction
Attachment 2 - Amended S94 plans
Supporting Document 1 - Responses

supporting attachment 1 attachment 2
document 1

RESOLUTION

Moved Councillor Funnell, Seconded Councillor Johnson that:

- i. Council adopt the Oran Park and Turner Road Section 94 Plan as amended.
- ii. Pursuant to clause 31 (2) of the Environmental Planning and Assessment Regulation 2000, a notice be placed in a local newspaper within 28 days to bring the Oran Park and Turner Road Section 94 Plan into effect.

THE MOTION ON BEING PUT WAS **CARRIED**.

ORD25/08

ACTIONS

[Link to CRMS document](#) [CRMS: 5992684 14/02/2008, 09:33:19 AM](#)

ORDINARY COUNCIL

ORD03

SUBJECT: CAFE SPACE AT NARELLAN LIBRARY
FROM: Director Works and Services
FILE NO:

PURPOSE OF REPORT

To gain Council approval to proceed to seek tenders for the café space at Narellan library.

BACKGROUND

In 2004 a report to Council provided the following information in relation to the proposed Cafe at Narellan Library;

"The café provided within the facility will be tendered to a private operator or business. The space for the café will be provided as a shell with basic services provided. However, the successful tenderer will be required to fit out the café and will be required to provide details relating to this in their submission.

As part of the tender process all tenderers will be required to attend a pre-tender meeting where tenderers will be provided with the requirements in order to provide a conforming tender and will have an opportunity to clarify any areas of concern prior to submissions of their tender.

The tender will be advertised for a period of 28 days during July – August 2004 in the press, on council's website and through hospitality networks. Once the tenders have been received they will be assessed with a further report presented to Council providing an assessment and recommendation of the successful tenderer. It is intended that the café commences operation in line with the operating of the new Library Service."

A subsequent memo in February 2005 provided the following information in relation to the outcome of the tender process;

"At the time of designing the facility it was envisaged that the café would be tendered to a private operator under a lease arrangement.

Council advertised the tender for the operation of the café for a period of 28 days concluding on the 16 November 2004. Following this period no tender was submitted for the fit out and operation of the tender.

As such it is proposed that the café space in the short term be used as supplementary community space until the Cinema complex is constructed within the Narellan Town Centre."

MAIN REPORT

The café space has not been used as a supplementary community space as it has only been completed to the “shell” stage as originally planned. Enquires were made to investigate partnering with a not for profit educational organisation to utilise the space as a potential hospitality training venue. However, a variety of obstacles meant that this was not a viable option.

With the completion of current construction of the cinema complex opposite the café space expected in early December this year, a higher rate of pedestrian exposure should then result in greater potential in attracting an operator for the café space. It therefore would be appropriate to have the café available at the same time as the opening of the cinema operation.

Fit out of the area for a café would be expected to take around 6 weeks, which would mean that a decision on tenders would need to be made at least 2 months before expected cinema opening. This then sets the timeframe for entering into the tender process.

CONCLUSION

The increase in pedestrian traffic and general activity that is expected with the opening of the cinema should assist to attract a suitable tender to operate the cafe space.

RECOMMENDED

That Council schedule a calling for tenders to operate the café from a time which coincides with the opening of the cinema complex.

RESOLUTION

Moved Councillor Anderson, Seconded Councillor Campbell that Council schedule a calling for tenders to operate the café from a time which coincides with the opening of the cinema complex.

THE MOTION ON BEING PUT WAS **CARRIED**.
(Councillors Dewbery and Funnell voted against the Motion).

ORD26/08

ACTIONS

[Link to CRMS document](#)

[CRMS: 5992778 14/02/2008, 09:33:33 AM](#)

ORDINARY COUNCIL

ORD04

SUBJECT: ADOPTION OF FEES AND CHARGES FOR CAMDEN POOL
FROM: Director Works and Services
FILE NO: Council Properties/Leases/Swimming Pool Leases

At its meeting of 13 November 2007 Council resolved that the Fees and Charges for Camden Pool be placed on public exhibition for a period of 28 days. The exhibition period was from 28 November 2007 to 23 January 2008 and no objections were received.

RECOMMENDED

That the amended fees and charges for Camden Pool as provided in the talbe at the end of the report be adopted by Council.

ATTACHMENTS

Fees and Charges
Camden Pool

RESOLUTION

Moved Councillor Campbell, Seconded Councillor Anderson that the amended fees and charges for Camden Pool as provided in the talbe at the end of the report be adopted by Council.

THE MOTION ON BEING PUT WAS **CARRIED**.

ORD27/08

ACTIONS

[Link to CRMS document](#)

[CRMS: 5992865 14/02/2008, 09:33:46 AM](#)

ORDINARY COUNCIL

ORD05

SUBJECT: ADOPTION OF FEES AND CHARGES FOR MOUNT ANNAN LEISURE CENTRE
FROM: Director Works and Services
FILE NO: Council Properties/Leases/Swimming Pool Leases

At its meeting of 13 November 2007 Council resolved that the Fees and Charges for Mount Annan Leisure Centre be placed on public exhibition for a period of 28 days. The exhibition period was from 28 November 2007 to 23 January 2008 and no objections were received.

RECOMMENDED

That the amended fees and charges for Mount Annan Leisure Centre as provided at the end of the report be adopted by Council.

ATTACHMENTS

Fees and Charges
t Annan Leisure Cen

RESOLUTION

Moved Councillor Johnson, Seconded Councillor Campbell that the amended fees and charges for Mount Annan Leisure Centre as provided at the end of the report be adopted by Council.

THE MOTION ON BEING PUT WAS **CARRIED**.

ORD28/08

ACTIONS

[Link to CRMS document](#)

[CRMS: 5992981 14/02/2008, 09:33:59 AM](#)

ORDINARY COUNCIL

ORD06

SUBJECT: ALCOHOL FREE ZONES
FROM: Director Works and Services
FILE NO:

PURPOSE OF REPORT

To examine the need for the re-establishment of existing Alcohol Free Zones (AFZs) in Narellan and Camden central business districts, due to expire on 1 June 2008. Plans of the zones are provided **at the end of this report**.

BACKGROUND

At the meeting of 23 May 2005 Council resolved that the existing Alcohol Free Zones in the central business districts of Camden and Narellan be renewed for the period of three years from 1 June 2005. These AFZ's are due to expire on 1 June 2008.

MAIN REPORT

The Local Government Act requires the zones to be re-established if they are to continue and in considering the matter "Council should consider that the factors that originally supported a zoning, the success or otherwise of previous zoning and other additional matters," remain applicable (Ministerial guidelines on Alcohol Free Zones, December 1995).

The proposal to re-establish (or to establish), AFZ's must include reasons supporting the zone and must reflect the fact that irresponsible behaviour arising from the consumption of alcohol is occurring. It is not appropriate to consider an alcohol free zone for reasons that are unrelated to the irresponsible behaviour of drinkers.

Council must consult with the local police, licensees and secretaries of registered clubs inviting representations or objections within thirty days of informing them of the proposal. Local licensing Police have already requested an extension of these zones.

After complying with procedures and giving proper consideration to any representations, submissions or objections received, which may result in an amendment or decision to withdraw the proposal, Council may, by resolution, adopt the proposal to establish an AFZ.

Following resolution, Council must advise by publication of a notice in a newspaper of the establishment (or re-establishment) of the AFZ. The AFZ comes into force 7 days after the publication of the notice.

CONCLUSION

The consultation process will provide an opportunity to examine the impact of the existing zones in addressing the original factors leading to the establishment of the zones and to gather information to inform a decision on the future of the zones.

RECOMMENDED

That Council undertake necessary consultations to consider reestablishment of Alcohol Free Zones in the Camden and Narellan town areas, as indicated in the plans provided at the end of the report.

ATTACHMENTS

1. Current Zone Camden
2. Current Zone Narellan



AFZ Narellan



AFZ Camden

RESOLUTION

Moved Councillor Campbell, Seconded Councillor Johnson that Council undertake necessary consultations to consider reestablishment of Alcohol Free Zones in the Camden and Narellan town areas, as indicated in the plans provided at the end of the report.

THE MOTION ON BEING PUT WAS **CARRIED**.

ORD29/08

ACTIONS

[Link to CRMS document](#)

[CRMS: 5993094 14/02/2008, 09:34:10 AM](#)

ORDINARY COUNCIL

ORD07

SUBJECT: RENEWAL OF LICENCE AGREEMENTS
FROM: Director Works and Services
FILE NO: Council Properties/ Usage/ Hire/ License Agreements

PURPOSE OF REPORT

To seek Council's approval to renew licence agreements with five community organisations for use of Council's office facilities within Harrington Park Community Centre, Currans Hill Community Centre, Narellan Community Hall and Narellan Library for a twelve-month period.

BACKGROUND

Council provides office space to not-for-profit community groups at prices below market rates in recognition of the valuable contribution that they make to the local community under the provisions of Section 608 of the Local Government Act. The 2007/2008 Fees and Charges, as adopted by Council, are applicable to the current license agreements and are subject to change when Fees and Charges are reviewed.

MAIN REPORT

Renewal of Licence Agreements

Families in Partnership is a not-for-profit community organisation that works with families who have a member with a disability. Their existing 12 month licence agreement for an office in Harrington Park Community Centre expires on 12 March 2008. The organisation has requested a renewal of this agreement for a further 12 months.

Macarthur District Temporary Family Care is a not-for-profit community organisation that provides services to families with children with a disability and families in crisis. Their existing 12 month licence agreement for an office in Harrington Park Community Centre expires on 12 March 2008. They also have an office at Narellan Library with the license agreement expiring on 1 March 2008. The organisation has requested a renewal of both agreements for a further 12 months.

Community Links Wollondilly (formed from combining Wollondilly Camden Family Support Service and Wollondilly Community Development Committee in 2006) is a not-for-profit community organisation that assists families with a range of social issues. The existing 12 month licence agreement for an office in Currans Hill Community Centre expires on 12 March 2008. The organisation has requested a renewal of this agreement for a further 12 months.

Camden Community Connections (CCC) previously known as Camden Area Community Resource Centre (CACRC) is a not-for-profit community organisation providing a Toy Library Service in the small meeting room at Narellan Community Centre. This existing 12 month

licence agreement is due to expire on 12 March 2008. CCC also has an office in the Narellan Library Building and the license agreement is due to expire on 1 March 2008. The organisation has requested a renewal of both agreements for a further 12 months. CCC also has requested that Council consider a \$1 peppercorn lease for a 12 month period at the Toy Library in the Narellan Community Hall. The group maintains that this would enable the Toy Library to increase its service in the 12 months and become self funding in future years. Council meets all outgoings associated with the building, including cleaning, maintenance and utilities costs. The recommendation in this report does not support the request for a peppercorn rental agreement but rather supports the referral of the group to apply for assistance under Council's donations policy, which would be the subject of a further report to Council.

Macarthur Diversity Services is a not-for-profit community organisation which operates multicultural programs for families in the region. Their existing 12 month licence agreement for the use of an office at Narellan Library is due to expire on 1 March 2008. Macarthur Diversity Services has requested a renewal of this agreement for a further 12 months.

The charges for the premises outlined above are according to current 2007/2008 Fees and Charges but are subject to change when Council reviews charges each year.

CONCLUSION

All groups provide a valuable contribution to the local community which will benefit with these organisations accommodated and operating within local community facilities.

RECOMMENDED

That:

- i. Council renew the licence agreement with Families in Partnership for an office in Harrington Park Community Centre for 12 months at a rate according to the Council's Fees and Charges Schedule, currently \$63 per week, to take the licence to March 2009.**
- ii. Council renew the licence agreement with Macarthur District Temporary Family Care for an office in Harrington Park Community Centre for 12 months at a rate according to the Council's Fees and Charges Schedule, currently \$63 per week. Further Council renew the licence agreement for an office in Narellan Library for 12 months at a rate according to the Council's Fees and Charges Schedule, currently \$168 per week. This will take both licences to March 2009.**
- iii. Council renew the licence agreement with Community Links Wollondilly for an office in Currans Hill Community Centre for 12 months at a rate according to the Council's Fees and Charges Schedule, currently \$63 per week, to take the licence to March 2009.**
- iv. Council renew the licence agreement with Camden Community Connections for use of the small meeting room at Narellan Community Centre at a rate according to the Council's Fees and Charges Schedule, currently \$82 per week, to take the licence to March 2009; and that Council do not provide a peppercorn lease but to refer Camden Community Connections to make an application through the Donations Policy for financial assistance.**
- v. Council renew the licence agreement with Camden Community Connections for the use of an office at Narellan Library at a rate according to the Council's Fees and**

- Charges Schedule, currently \$168 per week, to take the licence to March 2009.**
- vi. **Council renew the licence agreement with Macarthur Diversity Services for an office in the Narellan Library at a rate according to the Council's Fees and Charges Schedule, currently \$168 per week, to take the licence to March 2009.**

RESOLUTION

Moved Councillor Johnson, Seconded Councillor Funnell that:

- i. Council renew the licence agreement with Families in Partnership for an office in Harrington Park Community Centre for 12 months at a rate according to the Council's Fees and Charges Schedule, currently \$63 per week, to take the licence to March 2009.
- ii. Council renew the licence agreement with Macarthur District Temporary Family Care for an office in Harrington Park Community Centre for 12 months at a rate according to the Council's Fees and Charges Schedule, currently \$63 per week. Further Council renew the licence agreement for an office in Narellan Library for 12 months at a rate according to the Council's Fees and Charges Schedule, currently \$168 per week. This will take both licences to March 2009.
- iii. Council renew the licence agreement with Community Links Wollondilly for an office in Currans Hill Community Centre for 12 months at a rate according to the Council's Fees and Charges Schedule, currently \$63 per week, to take the licence to March 2009.
- iv. Council renew the licence agreement with Camden Community Connections for use of the small meeting room at Narellan Community Centre at a rate according to the Council's Fees and Charges Schedule, currently \$82 per week, to take the licence to March 2009; and that Council do not provide a peppercorn lease but to refer Camden Community Connections to make an application through the Donations Policy for financial assistance.
- v. Council renew the licence agreement with Camden Community Connections for the use of an office at Narellan Library at a rate according to the Council's Fees and Charges Schedule, currently \$168 per week, to take the licence to March 2009.
- vi. Council renew the licence agreement with Macarthur Diversity Services for an office in the Narellan Library at a rate according to the Council's Fees and Charges Schedule, currently \$168 per week, to take the licence to March 2009.

THE MOTION ON BEING PUT WAS **CARRIED**.

ORD30/08

ACTIONS

[Link to CRMS document](#)

[CRMS: 5993110 14/02/2008, 09:34:21 AM](#)

ORDINARY COUNCIL

ORD08

SUBJECT: CLOSURE OF MEETING - UNAUTHORISED TREE REMOVAL AT
(MALOUF PROPERTY) NO 80 (LOT 31 DP 221082) ANTHONY ROAD
AND NO 149 (LOT 30 DP 221082) ALMA ROAD, LEPPINGTON

FROM: Director Development and Health

FILE NO:

Council may, by resolution, deem it necessary to close a meeting to the public during discussion of a confidential report.

The Local Government Act, 1993, as amended, permits the closure under Section 10A(2) under various circumstances. These include:

- personnel matters
- personal hardship of a resident or ratepayer
- commercial advantage
- commercial information of a confidential nature
- matters affecting the security of Council
- advice concerning litigation and
- information concerning the nature and location of the place or an item of aboriginal significance on community land

It is recommended Council close this meeting to the public due to the nature of detail of discussion of this item. The meeting should be closed under Section 10A(2) (g) to discuss the report relating to the proposed legal action.

Council may also, by resolution, allow members of the public to make representations as to whether the meeting should be closed before any part of the meeting is closed to the public. A representation by a member of the public as to whether a part of the meeting should be closed to the public, can only be made for a fixed period immediately after the motion to close the part of the meeting is moved and seconded and prior to the vote being taken.

The meeting will only be closed during discussion of the matters directly subject of the report and no other matters will be discussed in the closed section of the meeting.

Members of the public will be readmitted to the meeting immediately after the closed section is completed and if the Council passes a resolution during that part of the meeting that is closed to the public, the Chairperson will make the resolution public as soon as practicable after that closed part of the meeting has ended.

RECOMMENDED

That the meeting be closed to the public to discuss the report dealing with proposed legal action in accordance with the provisions of Section 10A(2)(g) of the Local Government Act 1993 and allow members of the public to make

representations on the closure.

RESOLUTION

Moved Councillor Campbell, Seconded Councillor Johnson that the meeting be closed to the public to discuss the report dealing with proposed legal action in accordance with the provisions of Section 10A(2)(g) of the Local Government Act 1993 and allow members of the public to make representations on the closure.

THE MOTION ON BEING PUT WAS **CARRIED**.
(Councillors Dewbery and Funnell voted against the Motion).

The meeting closed, the time being 7.05pm.

ORD31/08

ACTIONS