
ORDINARY COUNCIL

SUBJECT: APOLOGIES

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

RECOMMENDED

That leave of absence be granted.

RESOLUTION

There were no leave of absence to be granted.

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

ORD92/08

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

Councillor Funnell declared a Pecuniary Interest in Item ORD 01 "Review of Order for the Removal of Outdoor Advertising, No 12 (Lot 1 SP 73062) Bluett Drive, Smeaton Grange" as the business that is the subject of the report is a competitor in the electrical trade business.

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

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

ORD93/08

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

Leanne Glen addressed the Council in relation to Item ORD 08 "Camden Civic Centre Musical Fee Relief Policy Applications for Funding"

Moved Councillor Campbell, Seconded Councillor Johnson that an extension of one (1) minute be granted.

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

Bill Ollis addressed the Council in relation to Item ORD 09 "Drysdale Reserve, Elderslie"

- Community Feedback"

Tara Grech addressed the Council in relation to Item ORD 07 "Donations Policy Request"

Tanja Richardson addressed the Council in relation to Item ORD 02 "Modification to Deferred Commencement Development Consent to allow for the Removal of a Rural Shed from Deferred Commencement Status to Active Development Consent Status, 850 Cut Hill Road, Cobbitty"

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

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

ORD94/08

ACTIONS

ORDINARY COUNCIL

SUBJECT: CONFIRMATION OF MINUTES

Confirm and adopt Minutes of Ordinary Council Meeting held 8 April 2008 and the Minutes of Local Traffic Committee Meeting held 7 April 2008.

RECOMMENDED

That the Minutes of the Ordinary Council Meeting held 8 April 2008 and the Minutes of Local Traffic Committee Meeting held 7 April 2008, copies of which have been circulated, be confirmed and adopted.

RESOLUTION

Moved Councillor Anderson, Seconded Councillor Elliott that the Minutes of the Ordinary Council Meeting held 8 April 2008 and the Minutes of Local Traffic Committee Meeting held 7 April 2008, copies of which have been circulated, be confirmed and adopted.

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

ORD95/08

ACTIONS

ORDINARY COUNCIL

ORD01

SUBJECT: REVIEW OF ORDER FOR THE REMOVAL OF OUTDOOR
ADVERTISING, NO 12 (LOT 1 SP 73062) BLUETT DRIVE,
SMEATON GRANGE
FROM: Director Development and Health
FILE NO: Binder: Development Applications 2007/DA466/2007

PURPOSE OF REPORT

The purpose of this report is to allow Council to review a decision to issue an order for the removal of an outdoor advertising sign at No 12 (Lot 1 SP 73062) Bluett Drive, Smeaton Grange .

BACKGROUND

At the meeting of 29 January, 2008 Council resolved to refuse a Development Application for an advertising sign at 12 Bluett Drive, Smeaton Grange which exceeded the maximum size allowed by Council's DCP for the following reasons:

- Non compliance with State Environmental Planning Policy 64
- Non compliance with Camden Development Control Plan 2006
- Excessive scale and proportion
- Adverse visual impact on the streetscape
- The proposal being contrary to the public interest

Council also resolved at the meeting to issue orders for the removal of the sign. The Notice of Order was issued in accordance with Council's resolution, and in accordance with the orders process the owner of the premises has made representations to the Notice of Order.

The owner of the sign has now requested Council review its decision to proceed to issue an order for removal. Because the decision to issue the order was passed by a resolution of Council, it is also necessary for this request to be considered by the Council.

MAIN REPORT

The owner of the sign has requested that Council review its decision to issue the order on the basis that Council Officers are currently conducting a review of its signage controls. It has been requested that Council considers suspending the order pending the outcome of the review. **A copy of the letter requesting the review is a provided with the Business Paper Supporting Documents.**

Council officers are currently undertaking a review of part of Camden Development Control Plan (DCP) 2006 and may recommend changes to the DCP regarding signage controls in industrial areas.

At this time it is not proposed that recommended changes to the DCP would include provisions which would make the sign in its current form permissible. It is considered that the sign on the site is excessive in scale and proportion, does not respect the viewing rights of other advertisers within a building that contains multiple units, and has an adverse visual impact on the streetscape.

Furthermore the provisions of a DCP are only one of several matters of consideration under s79C of the Environmental Planning and Assessment Act (the Act) for Council to consider in the evaluation of a Development Application.

Council officers for the reasons detailed in the report to Council on 29 January, 2008 are of the opinion that the proposed sign does not comply with the provisions of State Environmental Planning Policy No 64 - Advertising and Signage. The provisions of a State Environmental Planning Policy override those of a DCP, hence an amendment to the DCP would not affect the permissibility of the sign.

Given that the sign that exists on the site does not satisfy the matters for consideration under section 79C of the act and the sign has been refused through two separate Development Applications, Council officers are not able to recommend that Council suspend its order for removal of the sign.

CONCLUSION

Council has received a request to review its order for removal of an unauthorised advertising sign at 12 Bluett Drive, Smeaton Grange pending the outcome of a review of signage controls in Camden Development Control Plan 2006, which is currently under way and is anticipated to be brought to Council in the coming months. The sign has been displayed on the site for some time without prior consent from Council. Council has also received numerous complaints regarding the sign from the owner of a unit within the building complex, and Council has also refused two Development Applications which sought consent to display the sign retrospectively, initially for its current size, and more recently in a smaller size, however still in excess of that allowed by Council's DCP.

It is not anticipated that Council officers will be in a position to advise of any recommendations to amend the current DCP that would make the sign that exists on the site permissible. In any event, the sign that exists on the site does not comply with SEPP 64 and does not satisfy all relevant matters for consideration under s79C of the Act.

RECOMMENDED

That Council does not suspend its action in relation to the making of orders for the removal of unauthorised advertising at No 12 (Lot 1 SP73062) Bluett Drive, Smeaton Grange .

ATTACHMENTS

Letter from Owner
(Sup Doc)

RESOLUTION

Councillor Funnell left the Chamber, having previously declared a Pecuniary Interest, the time being 6.17pm.

Moved Councillor Cagney, Seconded Councillor Whiteman that Council does not suspend its action in relation to the making of orders for the removal of unauthorised advertising at No 12 (Lot 1 SP73062) Bluett Drive, Smeaton Grange .

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

Councillor Funnell returned to the Chamber, the time being 6.23pm.

ORD96/08

ACTIONS

[Link to CRMS document](#)

[CRMS: 6425384 23/04/2008, 03:00:07 PM](#)

ORDINARY COUNCIL

ORD02

MODIFICATION TO DEFERRED COMMENCEMENT DEVELOPMENT CONSENT TO ALLOW FOR THE REMOVAL OF A RURAL SHED FROM DEFERRED COMMENCEMENT STATUS TO ACTIVE DEVELOPMENT CONSENT STATUS, 850 CUT HILL ROAD, COBBITTY

FROM:	Director Development and Health
FILE NO:	DA2200.8505
DA NO:	1324/2006
OWNER:	J Wurth
APPLICANT:	J Wurth
ZONING:	1(a) Rural 40 ha
APPLICABLE PLANNING INSTRUMENT:	Camden Local Environmental Plan (LEP) No 48

PURPOSE OF REPORT

The purpose of this report is to enable Council to determine an application to modify a Development Consent which authorised the construction of a dwelling with detached shed at No 850 Cut Hill Road, Cobbitty. The application has been referred to Council in accordance with its delegations as there are unresolved matters raised in submissions received during the notification period.

SUMMARY OF RECOMMENDATION

It is recommended that Council approve the application for modification to Development Consent 1324/2006 for a dwelling and rural shed, subject to the draft conditions contained within the modified consent.

BACKGROUND

In 1991 'Shipton Lodge' completed a four lot subdivision which excised two 4ha lots and a 4.4ha lot from the original 380ha parcel (Lots 101 to 104 DP 810698). Lot 103, No 820 Cut Hill Road is a "battle axe" lot. Lot 102, No 826 Cut Hill Road has access to the building area from the "battle axe" handle via a right of carriageway to facilitate flood access and provide for a single creek crossing to service the two allotments.

In 1992 whilst the ownership of 820 Cut Hill Road was still with the subdivider of the land, a privately created right of carriageway and an easement for services was created over Lot 103, No 820 Cut Hill Road.

In 2003 a further subdivision occurred to the "Shipton Lodge" land with four parcels varying between 40 and 80 hectares being excised.

In 2006 the applicant submitted a development application to Council for the erection of dwelling and farm shed. The proposed dwelling and shed is to be located on the 700m² portion of land above the 1% AEP flood level which is located at the south-eastern boundary of the land.

To comply with Council's Flood Risk Management Policy, reliable flood safe access must be provided to the development. The right of carriageway that was created over Lot 103, No 820 Cut Hill Road, services the subject land and achieves such an access.

The right of carriageway is unformed and contains trees and a minor creek crossing. For the purposes of a dwelling on the subject site (Lot 8 DP 1056890), a dust free all weather access of approximately 200m in length is required to be constructed within the right of carriageway. Some tree removal is likely to be required and the piping/bridging of the minor creek will require some works to dissipate concentrated flows within No 820 created by the piping/bridging works.

The tree removal and works for the all weather access require development consent and the Environmental Planning and Assessment Act requires that a landowner provide written consent to an application for development on their land. At present the owners of No 820 (Lot 103) Cut Hill Road have not given the applicant the required consent for the works.

Deferred commencement consent for the development was issued on 12 December, 2007 to allow the applicant to further negotiate concurrence with the owners of No 820 (Lot 103) Cut Hill Road. The applicant has been unsuccessful in obtaining the consent of the owners of the land through which the right of carriageway exists and has listed the matter within the equity division of the Supreme Court with the first hearing date in May.

The flood safe all weather access is principally required for the dwelling and the applicant seeks to modify the consent to remove the deferred commencement requirements as they relate to the rural shed only and allow immediate commencement of the shed. **A copy of the deferred commencement development consent is provided with the Business Paper Supporting Documents.**

THE SITE

The site is known as No 850 (Lot 8 DP 1056890) Cut Hill Road, Cobbitty. The land is 40 ha and is bisected by Bringelly Creek. The site has approximately 750m of frontage to a private road/ right of carriageway and has a right of carriage way over No 820 Cut Hill Road. The private road connects the end of Cut Hill Road, Cobbitty to Orient Road, Greendale.

The land is located within Camden Council and Liverpool City Council areas with approximately half of the allotment in each Council zone.

The land is flood affected with two areas within the allotment above the 1% AEP flood line. One area of approximately 4,500m² is located at the northern boundary and the other area of approximately 700m² is located at the south-eastern boundary. Each area of land above the 1% AEP flood line has access via a right of carriageway. The

land contains a rural shed within the Liverpool Council controlled area. This shed has been subject to the unauthorised use as a dwelling with this use ceasing recently. **A location plan is provided at the end of the report.**

THE PROPOSAL

The applicant proposes to modify the deferred commencement consent to remove the rural shed from the deferred commencement requirement to an active development consent status that would allow immediate commencement of the shed construction. The proposed shed is a coloured metal shed of 91m² in floor area and 4.3m in height at the ridge.

Satisfactory physical access is available to the development site for a vehicle via the right of carriageway on No 820 (Lot 103) Cut Hill Road other than in a flood event.

NOTIFICATION

The application was notified to adjoining properties between 7 March and 20 March, 2008. Two written submissions were received. **Copies of the submissions are provided with the Business Paper Supporting Documents.**

Issues of Concern raised in the objections are as follows:

- 1 Concerns that if Council grants vehicle access to the development site from the right of carriageway, this will damage and change the quiet rural life currently enjoyed by the submitter.

Officer comment:

This application does not seek a grant of access to the land via the right of carriageway. The right of access via the right of carriageway exists and existed at the time the submitters acquired their land. The land within No 850 (Lot 8) Cut Hill Road, benefited by the right of carriageway over No 820 (Lot 103) Cut Hill Road has no other practical legal vehicular access other than the right of carriageway without the construction of a substantial bridge over Bringelly Creek, however this would not provide flood free access.

- 2 Concerns that dust from vehicle use of the right of carriageway will contaminate tank water and have an adverse affect on health.

Officer comment

The access driveway servicing the allotments is a crushed sandstone driveway which met Council's engineering standards at the time of the subdivision in 1991. The privately created right of carriageway over No 820 (Lot 103) Cut Hill Road did not provide for any driveway construction for 200m of the ROW.

The establishment of an adequate driveway to ensure flood safe access to the proposed dwelling prior to its construction is the subject of the deferred commencement requirement for the development consent.

Maintaining the existing portion of the formed driveway in a dust free condition is general maintenance of the driveway and a private matter for the parties burdened and

benefited by the rights of carriageway.

- 3 The number of related vehicle movements is likely to be many and varied. As such the principles which led Council to issue a deferred commencement approval remain abundantly evident.

Officer comment

Although the number of vehicle movements is likely to be varied, the access requirements of a rural shed in regard to vehicle movements would generally be significantly less than that of a dwelling. Practical access for most vehicles can currently occur within the right of carriageway during good weather, however a four wheeled drive vehicle may be required to traverse the unformed portion of the right of carriage way during and following wet weather.

The crossing of the two minor generally dry creeks, whilst water is running within them during rain periods, may cause unacceptable erosion within the creek beds.

Consideration should be given to limiting access to the land via the unformed portion of the right of carriageway whilst water is flowing within the creek beds.

PLANNING CONTROLS

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

- Camden 2025
- Camden Local Environmental Plan No 48
- Sydney Regional Environmental Plan 20-Hawkesbury-Nepean River.

ASSESSMENT

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

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

Camden 2025

Camden 2025 seeks to manage urban growth to ensure that 'growth occurs in a planned and orderly way' and conserves the traditional qualities of the Camden area. The proposed development achieves the intent of the strategic plan for Camden by effectively utilising the site while maintaining the established rural residential aspect of the locality.

Camden Local Environmental Plan No 48

The land is zoned 1(a) (Rural "A" (40ha) Zone) under Camden Local Environmental Plan 48 (LEP 48). The proposed development is permissible in the zone and meets the objectives of the LEP.

Sydney Regional Environmental Plan No 20

The provisions of Sydney Regional Environmental Plan No 20 (SREP 20) apply to the property as it falls within the Hawkesbury-Nepean River Catchments.

The SREP provides an overall direction for the protection of the environment of the river. Sediment and erosion control measures shall be implemented during construction to minimise erosion and soil loss from the site. Consequently, it is considered the proposed development is consistent with the intent of SREP 20.

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

The proposed development is consistent with the zoning and amenity of the locality. Conditions are to be imposed within the draft modified consent to restrict vehicular access whilst water is flowing within the creek beds prior to all weather access being constructed. As a result the impacts of the proposed development are considered acceptable.

(c) Any submissions

Two submissions were received during the notification period and have been discussed further earlier in this report.

CONCLUSION

Council has received an application to modify a deferred commencement Development Consent for a dwelling and rural shed. The modification to the deferred commencement Development Consent is to remove the rural shed from the deferred commencement status to active consent status which will allow for the immediate construction of the rural shed.

The effect of this modification is that construction of the shed may commence prior to the construction of an all weather access necessary for the reliable flood safe access requirements for the dwelling. Conditions limiting access to the development site via the unformed section of the right of carriageway whilst water is running within the creeks will minimise environmental damage and as such the development of the rural shed is able to be recommended for approval.

DRAFT CONDITIONS OF CONSENT

Stage 1 - Erection Of a Rural Shed and Water Tank

1.0 - General Requirements

The following conditions of consent are general conditions applying to the development.

- (1) **Approved Plans** – The development must be carried out strictly in accordance with the following approved plans or other documentation:
 - Plans prepared by Capital Steel Buildings Australia for shed, Ref: Wurth and numbered 1 of 1.
 - Site plan and engineers details prepared by Kneebone, Beretta and Hall

Consulting Engineers, Ref: 84977 and numbered 1 to 2, **for shed components only.**

- (2) **Building Code Of Australia** - All works must be carried out in accordance with the requirements of the *Building Code of Australia* .
- (3) Prior to the completion of the accessway required within stage two (2) shedule A of this development consent, vehicle access to and from the land, during and following construction of the rural shed, via the unformed portion of access driveway within the right of carriageway on lot 103 DP810698 820 Cut Hill Road Cobbitty, shall **not** occur during or following rain periods **where:**
 - i running water is present within stream tributaries within the unformed portion of access driveway within the right of carriageway on lot 103 DP 810698 No 820 Cut Hill Road Cobbitty.
 - ii running water is present within the stream triburary adjacent to the south western boundary of lot 8 DP1056890 No 850 Cut Hill Road Cobbitty.

2.0 - Construction Certificate Requirements

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

nil

3.0 - Prior To Works Commencing

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

- (1) **Sydney Water Approval** – Prior to works commencing, the approved development plans must also be approved by Sydney Water.
- (2) **Signs To Be Erected On Building And Demolition Sites** – Under Clause 98A of the *Environmental Planning and Assessment Regulation 2000* , a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (a) showing the name, address and telephone number of the Principal Certifying Authority (PCA) for the work, and
 - (b) showing the name of the ‘principal contractor’ (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (c) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

This clause does not apply to building work carried out inside an existing building that does not affect the external walls of the building.

Note: The PCA and principal contractor must ensure that signs required by this condition are erected and maintained.

- (3) **Notice Of Commencement Of Work** – Notice in the manner required by Section 81A of the *Environmental Planning and Assessment Act, 1979* and Clause 103 of the *Environmental Planning and Assessment Regulation 2000* shall be lodged with Camden Council at least two (2) days prior to commencing works. The notice shall include details relating to any Construction Certificate issued by a certifying authority, the appointed Principal Certifying Authority (PCA), and the nominated 'principal contractor' for the building works.
- (4) **Construction Certificate Before Work Commences** - This development consent does not allow site works, building or demolition works to commence, nor does it imply that the plans approved as part of the development consent comply with the specific requirements of *Building Code of Australia* . Works must only take place after a Construction Certificate has been issued, and a Principal Certifying Authority (PCA) has been appointed.
- (5) **Soil Erosion And Sediment Control** - Soil erosion and sediment controls must be implemented prior to works commencing on the site.

Soil erosion and sediment control measures must be maintained during construction works and must only be removed upon completion of the project when all landscaping and disturbed surfaces have been stabilised (for example, with site turfing, paving or re-vegetation).

Where a soil erosion and sediment control plan (or details on a specific plan) has been approved with the development consent, these measures must be implemented in accordance with the approved plans. In situations where no plans or details have been approved with the development consent, site soil erosion and sediment controls must still be implemented where there is a risk of pollution occurring.

An Infringement Notice issued under the Environmental Planning and Assessment Act, 1979, which imposes a monetary penalty of \$750.00 for an individual or \$1500.00 for a Corporation, may be initiated by the Principal Certifying Authority (PCA) and issued by Camden Council where the implementation or maintenance of measures is considered to be inadequate.

4.0 - During Construction

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

- (1) **Hours Of Work** – The hours for all construction and demolition work are restricted to between:
- (a) 7am and 6pm Monday to Friday (inclusive);
 - (b) 7am to 4pm Saturday (if construction noise is inaudible to adjoining residential properties), otherwise 8am to 4pm;
 - (c) work on Sunday and Public Holidays are prohibited.

- (2) **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 7am - 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.
 - 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.
- (3) **Building Inspections** - The Principal Certifying Authority (PCA) must determine when inspections of critical building components are necessary. The 'principal contractor' for the building works (as defined by the *Environmental Planning and Assessment Act, 1979*) 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, the Council agrees to the commencement inspection being 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) **Slab On Ground** – When steel reinforcement and associated formwork has been provided, prior to the slab being poured with concrete.
- (d) **Occupation Certificate (final inspection)** - Upon completion of the development and before occupation or commencement of use.

The *Environmental Planning and Assessment Act 1979* and *Regulation* may prescribe other 'critical stage inspections' of the works. It is recommended that you discuss and confirm all required inspections with the PCA.

Missed critical stage inspections are an offence under the *Environmental Planning and Assessment Act, 1979*, and may prohibit the issue of an Occupation Certificate.

- (4) **Support For Neighbouring Buildings** - If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:

- must preserve and protect the building from damage, and
- if necessary, must underpin and support the building in an approved manner, and
- must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land. In this condition, 'allotment of land' includes a public road and any other public place.

- (5) **Roof-Water Destination** - The roof of the subject building(s) shall be provided with guttering and down pipes and all drainage lines, including stormwater drainage lines from other areas and overflows from rainwater tanks, conveyed to:

(a) the water storage tank;

then to

(b) the existing dam and/or natural water course on the subject allotment.

5.0 - Prior To Issue Of Occupation Certificate

The following conditions of consent shall be complied with prior to the issue of an Occupation Certificate.

- (1) **Occupation Certificate** – An Occupation Certificate must be issued by the Principal Certifying Authority (PCA) prior to occupation or use of the development. In issuing an Occupation Certificate, the PCA must be satisfied that the requirements of Section 109H of the *Environmental Planning and Assessment Act 1979* have been satisfied.

The PCA must submit a copy of the Occupation Certificate to Camden Council (along with the prescribed lodgement fee) within two (2) days from the date of determination and include all relevant documents and certificates that are relied upon in issuing the 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.

6.0 - Operational Conditions

The following conditions of consent are operational conditions applying to the development.

- (1) **Use Limitations** - Garages, outbuildings, rural sheds and the like shall not be adapted, converted or used for commercial, industrial or residential purposes or any use that is not a permitted use of the land.
- (2) **Potable Water Supply** -Where water in rainwater tanks is intended for human consumption, the tank should maintained to ensure that the water is fit for human

consumption - see the Rainwater Tanks brochure produced by NSW Health and the publication titled "Guidance on the use of rainwater tanks 2004" published by the National Environmental Health Forum and available from www.health.nsw.gov.au

Stage 2 – Dwelling And Access Driveway

Deferred Commencement

Pursuant to s.80(3) of the Environmental Planning and Assessment Act, 1979, Council has determined Stage 2 of the Development Application No. 213/2005 by granted of a Deferred Commencement Consent ("the Stage 2 consent").

The applicant is given a period of 12 months to satisfy Council by producing satisfactory evidence relating to the matters listed in Schedule "A". Upon the submission of such evidence, and the application receiving written notification that Council is satisfied, then the Stage 2 Consent shall become operative, subject to compliance with the conditions specified in Schedule "B".

Schedule "A"

The conditions of Schedule "A" are as follows:

Access to the proposed dwelling shall be via a sealed driveway to be created within the unformed portion of accessway of the existing right of carriageway within Lot 103 DP64567. The sealed driveway shall have a minimum width of 2.5 metres and is to be designed to allow for the maximum retention of existing trees within the right of carriageway and the driveway shall generally allow for a one metre setback from trees. No cut or fill is permitted within the one metre setback area and proposed cut or fill is limited to a depth of 100mm in the area between the setback and drip zone of existing trees with the exception of the following trees.

Trees numbered 12, 13, 14 and 16 and one sapling located between trees 16 and 17, as indicated within survey plan prepared by Mathew Freeburn Surveyor, dated 22/11/2007, to which Council has no objection to their removal notwithstanding the following clause.

In this regard, the applicant is to submit to Camden Council evidence that the owner of the land burdened by the right of carriageway has consented to the removal of required trees for the driveway construction and the precise construction and location of the formed driveway and any underground services required.

The accessway is to be constructed prior to stage two of the consent becoming operational.

The conditions specified in Schedule B are as follows:

1.0 - General Requirements

(1) **Approved Plans** – The development must be carried out strictly in accordance with the following approved plans or other documentation:

- Plans prepared by John Gersteling and Associates for dwelling, Ref: 020296A2 and numbered 1 of 1.

- Plans prepared by Capital Steel Buildings Australia for shed, Ref: Wurth and numbered 1 of 1.
- Site plan and engineers details prepared by Kneebone, Beretta and Hall Consulting Engineers, Ref: 84977 and numbered 1 to 2.

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

Amendments or modification of the approved development requires the prior approval of Camden Council.

- (2) **Compliance with Fence Code** - Any fence erected on the property boundary or within the allotment must comply with Council's policy for the erection of fences in rural zones. Specific requirements exist with respect to the height, material and colour of boundary fencing erected in rural areas.
- (3) **Building Code of Australia** - All works must be carried out in accordance with the requirements of the *Building Code of Australia* .
- (4) **Non-Sewered Areas** - All sullage and effluent generated by the use of the building must be connected to the onsite sewage management facility.

2.0 - Construction Certificate Requirements

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

nil

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) **Sydney Water Approval** – Prior to works commencing, the approved development plans must also be approved by Sydney Water.
- (2) **Signs To Be Erected On Building And Demolition Sites** – Under Clause 98A of the *Environmental Planning and Assessment Regulation 2000* , a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (a) showing the name, address and telephone number of the Principal Certifying Authority (PCA) for the work, and
 - (b) showing the name of the 'principal contractor' (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (d) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been

completed.

This clause does not apply to building work carried out inside an existing building that does not affect the external walls of the building.

Note: The PCA and principal contractor must ensure that signs required by this condition are erected and maintained.

- (3) **Toilet Facilities** - Toilet facilities must be provided at 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.

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

- (4) **Notice Of Commencement Of Work** – Notice in the manner required by Section 81A of the *Environmental Planning and Assessment Act, 1979* and Clause 103 of the *Environmental Planning and Assessment Regulation 2000* shall be lodged with Camden Council at least two (2) days prior to commencing works. The notice shall include details relating to any Construction Certificate issued by a certifying authority, the appointed Principal Certifying Authority (PCA), and the nominated 'principal contractor' for the building works.

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

- (6) **Soil Erosion And Sediment Control** - Soil erosion and sediment controls must be implemented prior to works commencing on the site.

Soil erosion and sediment control measures must be maintained during construction works and must only be removed upon completion of the project when all landscaping and disturbed surfaces have been stabilised (for example, with site turfing, paving or re-vegetation).

Where a soil erosion and sediment control plan (or details on a specific plan) has been approved with the development consent, these measures must be implemented in accordance with the approved plans. In situations where no plans or details have been approved with the development consent, site soil erosion and sediment controls must still be implemented where there is a risk of pollution occurring.

An Infringement Notice issued under the Environmental Planning and Assessment Act, 1979, which imposes a monetary penalty of \$750.00 for an individual or \$1500.00 for a Corporation, may be initiated by the Principal Certifying Authority (PCA) and issued by Camden Council where the implementation or maintenance of measures is considered to be inadequate.

4.0 - During Construction

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

- (1) **Fill Quality** – Any fill material brought in for the construction of the dwelling must only contain uncontaminated soil, clay, shale or rock. No effluent, garbage or trade waste including building or demolition waste must be included in the fill. The extent and depth of filling must only occur in accordance with the approved plans and any other conditions of the development consent. Evidence of the certification of the fill as uncontaminated shall be provided to the Principal Certifying Authority.
- (2) **Salinity** - The development site is located in an area likely to have, or has been confirmed as having soil salinity levels that will have a cumulative damaging effect on the building over time.

The following construction inclusions shall be incorporated in the building design to reduce/prevent any detrimental affect to the building from accumulative salt deposits:

- a) provide a damp proofing membrane with high impact resistance to the underside of concrete slabs in accordance with the NSW provisions of Part 3.2.2.6 of the *Building Code of Australia* ,
- b) concrete strength to bored piers, floor slabs and strip footings shall be a minimum of 32MPa and vibrated and adequately cured,
- c) drainage shall be provided to the building perimeter (including subsoil drainage) to prevent water ponding or soil water logging in the building vicinity,
- d) external finished ground levels, including paving, should not be higher than the base of the first course of brick work, or the brick work and mortar below the damp proof course (DPC) should be exposure rated,
- e) DPC material must be carried through to the face of any applied finishes,
- f) Retaining walls should be built of salinity resistant materials.

Porous pavement product such as cement and clay pavers may show permanent efflorescence and salt corrosion. The use of these products should be confirmed with the manufacturer as being suitable for use in a saline environment, prior to installation.

- (3) **Works By Owner** - Where a portion of the building works do not form part of a building contract with the principal contractor (builder) and are required to be completed by the owner, such works must be scheduled by the owner so that all works coincide with the completion of the main building being erected by the principal contractor.
- (4) **Survey Report (Peg Out)** - The building must be set out by a registered land surveyor. A survey report detailing the siting of the building in relation to the allotment boundaries shall be submitted to the Principal Certifying Authority (PCA) prior to the placement of any concrete.
- (5) **Building Platform** - This approval restricts excavation or fill for the purposes of creating a building platform. This area should not exceed 2 metres from the external walls of the building. Furthermore, any excavation or fill must not exceed

500mm in height and must in all other respects comply with *Camden Council Development Control Plan 2006 (DCP 2006)* , unless otherwise specifically approved by Camden Council.

(6) **Retaining Walls** - If the soil conditions require it:

- retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil must be provided, and
- adequate provision must be made for drainage.

The following restrictions apply to any retaining wall erected within the allotment boundaries:

- (a) where the height of an approved retaining wall exceeds 600mm above or below natural ground level, structural engineering details must be obtained prior to any works commencing on the site. Manufacturers installation details may satisfy this requirement for treated timber products and some dry stacked masonry products;
- (b) adequate provisions must be made for surface and subsurface drainage of retaining walls and all water collected must be diverted to, and connected to a stormwater disposal system within the property boundaries;
- (c) retaining walls shall not be erected within drainage easements;
- (d) retaining walls shall not be erected in any other easement present on the land without the approval of the relevant authority benefited by the easement or entitled to release or vary the restrictions applying to the easement (electrical easement and the like), or if the erection of the retaining wall makes the purpose of the easement inconvenient or redundant (such as, easements for support and maintenance).

(7) **Hours Of Work** – The hours for all construction and demolition work are restricted to between:

- (a) 7am and 6pm Monday to Friday (inclusive);
- (b) 7am to 4pm Saturday (if construction noise is inaudible to adjoining residential properties), otherwise 8am to 4pm;
- (c) work on Sunday and Public Holidays are prohibited.

(8) **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 7am - 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.
- 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.

(9) **Surface Drainage** – To prevent surface water from entering the building:

- The floor level for slab on ground construction shall be a minimum of 300 mm above finished ground level for habitable rooms;
- Seepage and surface water shall be collected and diverted clear of the building by a sub-surface/surface drainage system;
- The control of surface water drainage shall in all respects comply with the *Building Code of Australia (Housing Provisions)* ;
- Where a rainwater tank is required on the site, all surface water drainage lines shall be connected to the outlet overflow drainage line from the rainwater tank.

(10) **Support For Neighbouring Buildings** - If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:

- must preserve and protect the building from damage, and
- if necessary, must underpin and support the building in an approved manner, and
- must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land. In this condition, 'allotment of land' includes a public road and any other public place.

(11) **Protection Of Public Places** – If the work involved in the erection or demolition of a building:

- is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
- building involves the enclosure of a public place,

a hoarding or fence must be erected between the work site and the public place.

If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with the work falling into the public place. The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place. Any such hoarding, fence or awning is to be removed when the work has been completed.

(12) **Drainage Easements** - No changes to site levels, or any form of construction shall occur within any drainage easements that may be located on the allotment.

(13) **Finished Floor Level** - A survey report confirming that the finished floor level for the dwelling is at or above RL66.6 AHD must be submitted to the principal certifying

authority prior **to construction proceeding above that level.**

(14) **Roof-Water Destination** - The roof of the subject building(s) shall be provided with guttering and down pipes and all drainage lines, including stormwater drainage lines from other areas and overflows from rainwater tanks, conveyed to:

(a) the water storage tank;

then to

(b) the existing dam and/or natural water course on the subject allotment.

(15) **Building Inspections (Dwellings)** - The Principal Certifying Authority (PCA) must determine when inspections of critical building components are necessary. The 'principal contractor' for the building works (as defined by the *Environmental Planning and Assessment Act, 1979*) 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, the council agrees to the commencement inspection being 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 formwork 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) **Drainage Line-work** - When roof water or stormwater drainage lines have been laid and connection to a street kerb or drainage easement, prior to backfilling of lines.

(f) **Sewer Line-work** - When external line-work has been laid and connected to the approved waste-water treatment system.

Note: Septic tank(s) excavation must be inspected prior to backfilling.

(g) **Occupation Certificate (final inspection)** - Upon completion of the development and before occupation or commencement of use.

The *Environmental Planning and Assessment Act 1979* and *Regulation* may prescribe other 'critical stage inspections' of the works. It is recommended that you discuss and confirm all required inspections with the PCA.

Missed critical stage inspections are an offence under the *Environmental*

***Planning and Assessment Act, 1979* , and may prohibit the issue of an Occupation Certificate.**

- (16) **BASIX Certificate** – Under Clause 97A of the *Environmental Planning & Assessment Regulation 2000* , it is a condition of this development consent that all the commitments listed in each relevant BASIX Certificate for the development are fulfilled.

In this condition:

- (a) relevant BASIX Certificate means:
- (i) a BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under Section 96 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or
 - (ii) if a replacement BASIX Certificate accompanies any subsequent application for a Construction Certificate, the replacement BASIX Certificate; and
- (b) BASIX Certificate has the meaning given to that term in the *Environmental Planning & Assessment Regulation 2000*.

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) **Component Certificates** - Where Camden Council is appointed as the Principal Certifying Authority (PCA) for the development, the following component certificates, as relevant to the development, shall be provided prior to the issued of a Final Occupation Certificate:
- (a) Termite management system installation certificates.
 - (b) Smoke alarm installation certificate from installing licensed electrician .
 - (c) Survey certificate(s), prepared by a registered land surveyor, certifying that the building has been correctly and wholly located upon the subject allotment.
 - (d) All certificates or information relating to BASIX compliance for the development.
 - (e) An ‘Approval to Operate a Sewage Management System’ issued by Camden Council (for areas that are not serviced by a Sydney Water sewer).
 - (f) A certificate certifying that the wet areas have been waterproofed in accordance with the requirements of the *Building Code of Australia* .
 - (g) All certificates relating to salinity, as required by conditions of the development consent. These include evidence of the required construction inclusions, such

as evidence of concrete strength (MPa), membranes and damp proof course material used, and/or the use of saline resistant materials.

- (h) Any other certificates relating to the development (for example, engineering certification for foundations, piers, reinforcing steel or hydraulic certification for all stormwater drainage works).

Where the appointed PCA is not Camden Council, the matters listed in this condition should be regarded as advisory only.

Note: The above certification does not override any requirements of the *Environmental Planning and Assessment Act, 1979* with respect to any required critical stage inspections.

- (2) **Sewage Management System** - prior to occupation or use of the dwelling an 'Approval to Operate a Sewage Management System' shall be issued by Camden Council.
- (3) **Occupation Certificate** – An Occupation Certificate must be issued by the Principal Certifying Authority (PCA) prior to occupation or use of the development. In issuing an Occupation Certificate, the PCA must be satisfied that the requirements of Section 109H of the *Environmental Planning and Assessment Act 1979* have been satisfied.

The PCA must submit a copy of the Occupation Certificate to Camden Council (along with the prescribed lodgement fee) within two (2) days from the date of determination and include all relevant documents and certificates that are relied upon in issuing the 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.

- (4) **New South Wales Fire Brigades Requirement** – The "FRIDG" (Fire Risk Identification Guide) sticker supplied by Camden Council with this development consent shall be completed with a permanent marker and fixed to the inside of the electrical meter box.

6.0 - Operational Conditions

- (1) **Use Limitations** - Garages, outbuildings, rural sheds and the like must not be adapted, converted or used for commercial, industrial or residential purposes or any use that is not a permitted use of the land.
- (2) **Potable Water Supply** -Where water in rainwater tanks is intended for human consumption, the tank should be maintained to ensure that the water is fit for human consumption-see the Rainwater Tanks brochure produced by NSW Health and the publication titled "Guidance on the use of rainwater tanks 2004" published by the National Environmental Health Forum and available from www.health.nsw.gov.au

RECOMMENDED

That the application for the modification to deferred commencement Development

Consent D1324/2006, being for a single storey dwelling and coloured metal shed, to allow for the removal of the rural shed from the deferred commencement status to active development consent status be approved, subject to the attached draft conditions of development consent.

ATTACHMENTS

1. Location Plan

Deferred Consent (Sup Doc)	Location Plan	Submissions (Sup Doc)
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RESOLUTION

Moved Councillor Funnell, Seconded Councillor Whiteman that the application for the modification to deferred commencement Development Consent D1324/2006, being for a single storey dwelling and coloured metal shed, to allow for the removal of the rural shed from the deferred commencement status to active development consent status be approved, subject to the attached draft conditions of development consent.

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

(Councillors Patterson, Campbell, Anderson, Cagney, Johnson, Funnell, Dewbery and Elliott voted against the Motion).

ORD97/08

ACTIONS

[Link to CRMS document](#)

[CRMS: 6425471 23/04/2008, 03:00:19 PM](#)

ORDINARY COUNCIL

ORD03

SUBJECT: VARIATION TO ROAD LAYOUT - CAMDEN DCP 2006
ELDERSLIE RELEASE AREA
FROM: Director Development and Health
FILE NO: DA844/2007, DA305/07 & DA1335/06

PURPOSE OF REPORT

The purpose of this report is to seek a resolution from Council to approve the relocation of two proposed local access roads within the Elderslie Release Area. The applicant, J Wyndham Prince, is seeking a variation to Map No 1 Elderslie Urban Release Area Masterplan and Street Network Plan contained within Part G: Chapter 4 (Elderslie Release Area) of Camden Development Control Plan (DCP) 2006 for the purposes of providing acoustic amenity, while at the same time ensuring significant views are protected.

BACKGROUND

Council has received three (3) development applications for the subdivision and construction of new roads on A V Jennings' landholding adjoining Camden Bypass. The applications are known as:

- DA 305/07 (Stage 10);
- DA 844/06/2 (modification to Stage 4); and
- DA 1335/2006 (including Stage 5).

Two key constraints affect the land, the subject of these applications. These constraints are road noise from Camden Bypass and the protection of significant views of Camden and beyond to the Blue Mountains.

Council officers met with the applicant's representatives to work towards a way of facilitating development on this land in a way that addressed the noise and view issue. A proposed solution was developed which necessitates the relocation of two local access roads. **Plans showing the proposed road relocations and the current DCP road layout are provided at the end of this report.**

The proposed solution is now able to be recommended to Council for adoption and also resolution to amend Camden DCP 2006.

MAIN REPORT

Council has received three (3) development applications for subdivision and construction of new roads on A V Jennings' Elderslie Release Area landholding adjoining Camden Bypass. The three developments applications seek the consent of Council for:

- **DA 305/07** for 18 Lots (ranging in size from 450m² to 539m²), 4 superlots and 3 roads (Stage 10);
- **DA 844/06/2** for 47 Lots (ranging in size from 450m² to 615m²) 1 superlot and 2 roads (modification to Stage 4); and
- **DA 1335/2006** for 65 lots (ranging in size from 495m² to 652m²) and 3 roads (including Stage 5).

Council officers and the applicant have examined many options to provide protection from road traffic noise while protecting significant views, including service roads, re-orientation of dwellings to Camden Bypass and the erection of 2.4m high continuous noise walls. Many options were tested and found to be unsatisfactory in terms of either not providing adequate noise attenuation, adverse impact upon significant views or poor urban design outcomes.

A revised noise modelling and revised acoustic study was undertaken by PKA Acoustics Consultants (dated 19 March, 2008) that supported the three Development Applications, the subject of this report. Support was based on a tested option involving the placement of "service road" arrangement of a local access road with landscaping running parallel to Camden Bypass, dwellings setback from the access road with the façade providing noise attenuation and the private open space being located in the rear yard.

The development applications represent a departure from Camden DCP 2006 as the proposed location of Road Nos 36 and 103 vary from that shown in Map No 1 Elderslie Urban Release Area Masterplan and Street Network Plan contained within Part G: Chapter 4 (Elderslie Release Area) of DCP 2006. The development applications, which seek approval of the amended road layout plan that will facilitate noise reduction, will have no negative impact upon the relevant road hierarchy contained within the remainder of DCP 2006 and will not give rise to a change in traffic volume or circulation patterns.

CONCLUSION

Based upon the design goals to reduce the impact of road noise from Camden Bypass on new residential developments and taking into account the detailed noise modelling prepared by PKA Acoustic Consultants, it is considered that a variation to DCP 2006 is well justified and able to be supported. It relates only to the relocation of proposed road Nos 36 & 103 and minor relocation of water quality facility. The Development Applications, with this variation considered, will be able to satisfy the noise goals set out in *DECC's Environmental Criteria for Road Traffic Noise*.

In addition, negative impacts on view corridors associated with noise barriers are mitigated as a result of the proposed amendment being utilised.

Consequently it is recommended that Council support the proposed variation to Map No 1 Elderslie Urban Release Area Masterplan and Street Network Plan contained within Part G: Chapter 4 (Elderslie Release Area) of Camden Development Control Plan 2006 as they relate to the location of proposed Road Nos 36 and 103.

Furthermore it is recommended that the proposed amended road layout be

incorporated in the next review of DCP 2006. The next review of DCP 2006 is anticipated to include other amendments and a further resolution of Council will be sought at a later time, prior to publicly exhibiting the amended DCP.

RECOMMENDED

That Council resolve to:

- i. approve the proposed variation the to road layout of Map No 1 Elderslie Urban Release Area Masterplan and Street Network Plan contained within Part G: Chapter 4 (Elderslie Release Area) of Camden Development Control Plan 2006 as they relate to the location of proposed Road Nos 36 and 103;**
- ii. that the proposed variation be incorporated in the next review of DCP 2006.**

ATTACHMENTS

1. Road layout plan
2. Existing DCP road layout plan

Existing DCP Road Road Layout Plan
Layout Plan

RESOLUTION

Moved Councillor Anderson, Seconded Councillor Johnson that Council resolve to:

- i. approve the proposed variation the to road layout of Map No 1 Elderslie Urban Release Area Masterplan and Street Network Plan contained within Part G: Chapter 4 (Elderslie Release Area) of Camden Development Control Plan 2006 as they relate to the location of proposed Road Nos 36 and 103;
- ii. that the proposed variation be incorporated in the next review of DCP 2006.

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

ORD98/08

ACTIONS

[Link to CRMS document](#)

[CRMS: 6425532 23/04/2008, 03:00:30 PM](#)

ORDINARY COUNCIL

ORD04

SUBJECT: NSW PLANNING - DRAFT EXPOSURE BILLS
FROM: Director Development and Health
FILE NO: Binder: Landuse & Planning/Planning/Regional Planning/Local Government Planning

PURPOSE OF REPORT

The purpose of this report is to inform Council of the recently released draft exposure Bills proposing to amend the NSW planning system, highlight the issues that affect Camden and provide comments that will form the basis of Council's submission to the Department of Planning (DoP).

BACKGROUND

The NSW government has been undertaking a review of the NSW planning system, especially with regard to the length and complexity of the planning process. In November 2007 the DoP released a discussion paper titled "Improving the NSW Planning System". The paper highlighted the following key planning problems:

- Land use changes & plan-making - extensive delays, inconsistencies and uncertainty of process.
- Lengthy plan-making - time taken to prepare LEPs, lack of responsibility throughout the process, process driven and one size fits all.
- Unsatisfactory regime for major development applications - unnecessary Ministerial involvement, excessive delays and unnecessary cost to applicants.
- Inefficient and overregulated processing of minor or routine development applications - delays due to over-regulation, substantial waste of planning resources at local government level, excessive local planning disputes at neighbourhood level.
- Lack of confidence in certification - conflicts of interest and lack of confidence in certifiers.
- Outdated DA Technology - outdated paper based process, limited flexibility, inconsistency between councils and poor databases.
- Inflexible system relating to paper subdivisions.
- Weak protection of strata residential owners in new buildings.

A report on the discussion paper was submitted to Council at the meeting held on 29 January, 2008. The report identified numerous concerns of Council in relation to the proposed reforms and formed the basis of a submission subsequently forwarded to the DoP. The closing date for submissions to the discussion paper was 8 February, 2008. The draft bills follow-on from the paper however, fails to address some issues and introduces new matters that have not been the subject of notification or review. This is an unsatisfactory aspect of the bills as is the fact that the supporting regulations have not been made available. These regulations define important details and without the benefit of knowing what is proposed, understanding and comment on the drafts is

difficult.

As a result of the proposed changes, the LGSA is mounting a campaign objecting to the Bill and mandating a "Keep it Local" theme. Detail of this action will be forwarded to Councillors as it becomes available.

MAIN REPORT

On the 3 April, 2008 the NSW Government released two draft exposure Bills titled:

- Environmental Planning and Assessment Amendment Bill 2008 and
- Building Professionals Amendment Bill 2008.

Comments to the draft exposure Bills are to be submitted to the DoP by 24 April, 2008. A copy of the Community Guide to the draft legislation and associated planning reforms dated April 2008 is available on the DoP web site and **a copy of the document has been forwarded to Councillors under separate cover**. The Minister has indicated that he will introduce the legislation into Parliament in May 2008.

The key aspects to the draft legislation from Camden Council's perspective are:

- Changes to plan making
- Changes to development assessment including appeals and public interest development
- Exempt and complying development
- Building and subdivision certification
- Developer contributions
- E-Planning

The above changes will now be discussed individually.

1. Changes to Plan Making

The Draft EP&A Bill proposes the deletion of Part 3 Divisions 2, 3, 4 and 4A of the EP&A Act which relate to the making of State Environmental Planning Policies (SEPPs), Regional Environmental Plans (REPs) and Local Environmental Plans (LEPs). These divisions are proposed to be replaced with new divisions relating to SEPPs and LEPs. REPs are proposed to be removed from the NSW planning system.

While the whole of these divisions are proposed to be replaced, the new divisions are not substantially different from the current divisions in their effect. The changes proposed to the EP&A Act principally relate to the process of making an LEP, and shift much of the detail about this process to the regulations or to individual determinations or directions to be made by the Minister for Planning or the Director-General of the Department of Planning from time to time.

However proposed regulations and other directions have not been released with the Draft Exposure Bills and therefore the details that councils will need to comply with are not available at this time for comment. This is highly unsatisfactory as it does not allow informed comment on the proposals.

The key changes provided for in the draft legislation or to be provided for in the regulations or other directions are:

- To remove Regional Environmental Plans from the planning system.
- To require councils to prepare “planning proposals” instead of draft LEPs. The planning proposal is to state the intent of a proposed LEP. The drafting of the LEP will be undertaken by the Department of Planning. The Director-General of the Department of Planning will be required to consult with councils in drafting LEPs in accordance with the regulations.
- To allow the Minister to determine that the Director-General of the Department of Planning is the relevant planning authority responsible for the preparation of a planning proposal if the matter is of regional or state significance.
- To establish a “gateway determination” process. The planning proposal prepared by a council is to be submitted to the Minister who will then determine whether the matter should proceed, the community consultation requirements, the timeframes to be met and the further studies that need to be undertaken to support the proposal amongst other matters. The Minister may determine that a planning proposal is to be reviewed by the Planning Assessment Commission or a Joint Regional Planning Panel (bodies established under the proposed development assessment amendments to the Act). The Minister may also delegate the function of making the LEP to the council. The regulations may provide standards for the above for various categories of LEPs.
- To allow the Minister to direct that community consultation is not required, or is not required to be undertaken a second time (if changes are proposed to be made following the first consultation period).
- To provide for the regulations to outline further requirements in relation to a range of matters, including the contents of a planning proposal and concurrence requirements.
- To provide for the fast tracking of LEPs that comply with the Standard LEP template if they are simply replacing existing LEPs and not making substantial changes to the effect of the existing LEPs.
- To broaden the ability of a land owner to request that council commence the process of preparing an LEP and provide for the council to seek costs from the land owner in accordance with the regulations.

Comments

Generally the changes relating to plan-making are supported, however the details that will be provided in the Regulations are critical to the process of plan-making and are not available for review at this time. The implementation of the amendments to the Act should not take place until draft regulations have been released for public comment.

In Council's submission to the discussion paper, the point was made that the suggested amendments to the Act would not achieve the timeframe reductions sought by Government and would in fact delay the involvement of relevant state agencies in the process. This comment has not been heeded in the Draft Bill. The Draft Bill removes the requirement to consult with the Department of Environment and Climate Change (DECC) on threatened species before preparing a draft LEP or undertaking an environmental study. The proposed amendment delays this consultation until after the gateway determination is made, unless the regulations provide otherwise. If the regulations do not provide for earlier consultation on threatened species, the council

and/or a land owner will be required to prepare a planning proposal along with any required studies to support the proposal (often at great expense and time) before being required to consult with DECC.

It is in fact unclear what level of studies will need to be undertaken to support a planning proposal. The draft Bill states that a planning proposal is to include:

- a statement of the objectives or intended outcomes of the proposed instrument;
- an explanation of the provisions that are to be included in the proposed instrument;
- the justification for those objectives, outcomes and provisions and the process for their implementation;
- maps, if required; and
- details of proposed community consultation.

The Director-General may issue requirements with respect to the preparation of a planning proposal. No draft requirements have been released with the Draft Bill to provide further clarification of the level of justification that is to be provided. If past experience is any guide, it can be expected that any requirements issued would be changed from time to time, providing for the Director-General to continue to add requirements as issues arise, with the effect that the expectations of councils will continue to move and inevitably add further complexity to the planning system, despite this attempt to simplify it. As mentioned above, the proposed amendments to the Act should not be implemented until such time as draft directions, regulations and other requirements have been released for public comment.

Despite these concerns, it appears from both the Discussion Paper and the Draft Bill that the intention is that any timeframes established in the regulations will commence from the date of the gateway determination, so the length of time taken to prepare a planning proposal (which will be driven by the requirements that are yet to be written) will not be counted. Any statistics released that measure the time taken to prepare a LEP from the date of the gateway determination will be false and misleading. This has the potential result of considerable pressure being placed on councils from land owners and developers to prepare planning proposals in an overly rushed fashion so that they get to the gateway determination period quickly. However such planning proposals may be rejected by the Minister at the gateway determination period or may be returned to the council for further information. Again councils may receive undue pressure to respond to requests for further information. These concerns can be allayed if the process of developing planning proposals is recognised as part of the LEP making process and accordingly recognised in the timeframes.

Other issues raised by Council in its submission to the Department of Planning on the Discussion Paper that are not reflected in the Draft Bill are:

- the amendment of a LEP by means other than the making of a new LEP, particularly for minor amendments;
- the direct amendment of a LEP when a SEPP is introduced that directly affects that LEP, subject to consultation with the affected council (to avoid the need for the council to separately amend the LEP to be consistent with the SEPP);
- exhibiting a draft LEP with a planning proposal, so that the actual instrument is available for public comment;
- requiring the Minister to consult with a council if he makes a decision that a LEP is

to be prepared by a person or body other than the council.

In addition to the above, Council's previous submission pointed out that two of the most common and lengthy delays in the current plan-making process are the negotiations with State Agencies on often conflicting comments and the time taken by Parliamentary Counsel to draft the final instrument. The Draft Bill does not address either of these matters. It is recommended that Council's submission raise again these matters that have not been addressed in the Draft Bill for further consideration by Government.

Finally, the Draft EP&A Bill proposes to delete Part 5 of the Heritage Act 1977 which provides for the Heritage Council to request preparation of a LEP and for consultation with the Heritage Council in the preparation of certain LEPs. The explanatory note to the Draft Bill states that appropriate consideration of heritage matters will be included as part of the gateway determination for proposed LEPs along with other relevant planning issues. In the absence of guidelines for the gateway determination, the Minister will be making such determinations on a case by case basis. This is considered to be a significant erosion of heritage control in the State and is not supported.

2. Changes to development assessment appeals and public interest development

The focus of the bills has been to improve the time taken to assess development applications, to simplify the process and to make that process more transparent. It is not considered the changes proposed will achieve this, and in fact are likely to add to the time it takes to determine the more complex applications. In addition, the proposal introduces additional tiers of assessment which complicate the process and will add to the costs of determining applications.

The key changes provided in the draft legislation or alluded to by way of regulation or other directions are:

- the introduction of new tiers of development assessment bodies being an independent hearing and assessment panel, a joint regional planning panel, a planning arbitrator, a Planning Assessment Commission and a planning assessment panel and the abolition of the Commission of Inquiry provisions;
- the introduction of third party appeals to some types of developments, to be known as public interest developments;
- the ability to impose conditions on a consent that allow the review of hours of operation;
- changing the provisions regarding to the lapsing of consent to clarify when a consent will lapse;
- abolition of S82A reviews and replacing those with new tiers of review authorities;
- reduction in time during which an applicant may appeal to the Land & Environment Court;
- introduction of costs in Land & Environment Court proceedings where significant changes are made to plans;
- establishment of new statutory timeframes for development assessment but removal of the "stop-the-clock" provisions;
- introduction of time limits within which a council can request additional information.

Comments

There are some aspects of the draft bill that are supported, however much of the changes are unclear in that the government has not released the regulations that will support the amended Act. These regulations will clarify what forms of development are subject to third party appeals, the costs of lodging applications to the additional tiers of determining authorities, and the types of development where a consent authority could attach conditions regarding review of the hours of operation.

Rather than is currently the case where development applications are either determined by the local council or the Minister or, in cases of appeals, the Land and Environment Court, the amendments introduce a hierarchy of consent authorities. The Minister for Planning retains a consent role, however may delegate to a Planning Assessment Commission (PAC) the majority of his functions.

Below the PAC it is proposed to establish a Joint Regional Planning Panel (JRPP). Again the regulations which will define the range of applications to be dealt with have not been provided, however the explanatory notes that have been published with the Bill suggest that development applications for designated development, nominated development over \$5 million, including Crown development, private infrastructure (for example hospitals, educational facilities, water supply works and waste facilities and development where council is the proponent or has a significant financial interest in the proposal), residential, commercial or retail development over \$50 million and nominated subdivisions and certain other development in the coastal zone that are currently dealt with under Part 3A of the EP&A Act would all be determined by the JRPP. This further downgrades local government's role in determining applications within its area.

Local Government would be left to determine the remaining development applications and may constitute an Independent Hearing and Assessment Panel (IHAP) to assess any aspect of a development application, although in these circumstances the panel is optional. An Environmental Planning Instrument may also require that an IHAP assesses development applications and in this case the panel would be mandatory. This aspect of the legislation is of further concern as it is seen as removal of local government's ability to determine applications in its area.

The ability for the Minister to appoint a Planning Assessment Panel (PAP) to replace councils' role with regard to planning matters remains. This is an alternative to dismissing the whole council and appointing an administrator. PAPs have been appointed to Burwood (for town centre issues), Wagga Wagga and Ku-Ring-Gai Councils to date.

The legislation removes the current S82A review provisions and introduces an alternate review process whereby applications are reviewed by the higher level authority e.g. applications determined by a local council would be reviewed by the JRPP. Decisions of the JRPP are reviewed by the PAC. Where an application has been the subject of a review by the PAC, that application cannot be then appealed to the Land and Environment Court. It is important that this remains the case.

The creation of a PAC will allow the independent assessment of the majority of development applications currently determined by the Minister for Planning. Whilst the

Commission membership will be government appointees, they must have relevant qualifications and are appointed for a maximum period of three years although members may be reappointed. The Act still makes provision for "major developments" to be determined by this new body rather than reinstating a local council's ability to determine applications in its own LGA. The PAC would also determine those Part 3A projects and concept applications under delegation from the Minister, both of which are currently determined by the Minister. Where there has not been a JRPP, an IHAP or a planning assessment panel established, the function of those bodies will be conferred on the PAC. This is of concern as the other levels of determining authorities (other than the IHAP) are also government appointees and may not be established. This further removes any possible local assessment of a greater range of applications. No appeals or applications for review of decisions made by the PAC are allowed where the PAC has held a public hearing in relation to that application.

The JRPP would comprise 5 members, 3 state members appointed by the Minister (one of whom would be chairperson) and 2 council members nominated by the relevant council. All state members must have expertise in at least one of a list of nominated areas of expertise and at least one of the two council nominees must have expertise in planning or architecture. Where a JRPP operates over more than one LGA, the council nominees will rotate, having regard to the area in which the relevant development or matter under consideration by the JRPP is located. The Minister determines whether a JRPP is to be established and for which area the panel is to apply.

Whilst the JRPP would contain two representatives of the local council, it is considered to be an unnecessary tier of authority and that the matters to be determined by the panel should remain with the council of the local area.

There is an expectation that council will service the panel and the draft bill introduces penalties for not assisting the panel exercise its functions. Such penalties apply to the council, its General Manager and its staff. This aspect of the legislation is of major concern. Much of the reason that councils take longer than desired is the lack of staff resources, which is an Australia-wide problem. The need for a council to service its own development assessment unit, the JRPP and a PAC will not achieve the desired outcome of a more efficient planning process and will in fact have the opposite effect of spreading already inadequate resources and therefore slowing the process.

The Minister has been promoting the legislation as speeding up the 'Mums and Dads' applications, however with the additional levels of consent authorities having to be serviced by the local authority, this will not happen. Introducing monetary penalties will further erode limited funds available to a council and its ability to pay the staff needed to assess the applications.

Members of the PAC and JRPP will be remunerated for their costs, however no details of the level of remuneration have been provided. Where a council staff member is on the panel, the costs take into account the salary of the member. The costs of the Panels are to be paid by the council of the area from general funds. Whilst there is provision for the Minister to exempt a council from paying the fees, if this does not occur, the payment will impact on a council's ability to deliver services. It is considered a more appropriate means of funding those panels would be to increase the fees associated with lodging a development application or applying some of the fees already taken by the State government from DA fees to fund the operation of the Building

Professionals Board and any other purpose deemed appropriate by the Minister. Provided the fees are increased and there is no net reduction in the costs to council, this is considered the fairest means of covering the additional costs brought about by the establishment of the panels.

The establishment of an IHAP is optional unless a panel is required under an Environmental Planning Instrument to assess a particular form of development. Currently no such provisions apply to Camden, however it could be possible that a SEPP or other EPI is introduced with such provisions. As Camden Council has provided staff with high levels of delegations to determine Development Applications, the establishment of an IHAP has been unnecessary and is not considered appropriate.

An intermediate step of review of certain matters by a planning arbitrator has been proposed. Currently matters proceed to the Land & Environment Court, however the changes allow an applicant to refer a matter to a planning arbitrator. Circumstances where this would apply include minor development (described in the notes as being certain classes of residential development under \$1 million), deemed refusals, Development Applications where a council has asked for additional information or the application does not comply with the Act or Regulation.

Little information has been provided on how a planning arbitrator will consider a matter and whether the process involves legal representation as is the case with appeals to the Court. The Community Guide states the process is to be non-adversarial and free of legal argument, however no other information has been provided. Additional information is required to assess the suitability of the process and an applicant should not be able to have further ability to appeal to the Court in the event that both council and the planning arbitrator have made a decision to refuse an application. By allowing a further appeal on a council's and then a planning arbitrator's decision, the costs of assessment of such an application would be high. Further, the use of a planning arbitrator would become superfluous.

The legislation also introduces the ability of an objector to seek a review of an approval where that development is known as a "public interest development." Such a review would be heard by the JRPP or the PAC, however only one right of review is allowed. A fee is payable to lodge the application. Unfortunately no details of what would constitute public interest development are provided, other than a suggestion in the community guide that it would include development such as where it exceeds controls (such as height or building bulk limits) by more than 25%. The regulations which will clarify these developments have not been provided. It is hoped that adequate limitations are placed on this right so that applicants and councils are not faced with defending a determination against vexatious objectors.

The draft changes to the Regulation propose the introduction of provisions that would allow the attachment of a condition of consent that would allow the review of operating hours. The types of development that this is appropriate to would be entertainment facilities, hotel or motel accommodations, nightclubs, pubs, registered clubs. Currently all conditions are subject to the 'certainty' provisions whereby on the grant of a consent, councils have no ability to review a condition and therefore approve a development on the basis of a time limited consent whereby the use is trialled. It is considered the opportunity to review the hours of operation is a positive aspect of the draft.

Time limits to appeal a decision of the council, JRPP or PAC have been reduced from 12 to 3 months and this is considered a positive aspect of the changes as it will allow some form of certainty to all those involved in the assessment process as to the likely outcome of a consent authority's decision.

The changes are not considered to go far enough to encourage an applicant to resolve its proposal before it goes to Court. Currently the court allows an applicant to change its plans throughout the proceedings to such an extent that the proposal bears no resemblance to that which was initially determined by the council. Rather than amend the legislation to require the court to determine the suitability or otherwise of the proposal considered by the council, it is now proposed to introduce a costs provision for significant changes to plans during court proceedings. It is considered that the former suggestion of limiting proposals to that considered by the council would be more appropriate as the applicant becomes aware of a council's views in relation to its proposal through the assessment phase and when the matter is reported to council with the reasons for refusal. Once these are known, a new development application could be prepared to address the council's concerns and the need for an appeal would be removed.

Whilst again not fully articulated in the draft bill, the explanatory note advises that it is intended to amend the EP&A Regulation to remove the stop-the-clock provisions and amend the various deemed refusal time for development applications to provide amended determination times. Currently all development applications must be determined within 40 days of lodgement, other than designated development where 60 days is allowed. Where a council has requested additional information the "clock stops" whereby the time taken by the applicant to submit the information is not included in calculation of assessment times.

In cases where there is no agency involvement, the draft requires the application to be determined within 50 days and where the development application is integrated or requires concurrence a period of 90 days is allowed. For all other applications, a period of 70 days is prescribed. Whilst the longer period for assessment is welcomed, the removal of the stop-the-clock provisions is not supported because it can be the fault of the applicant by not providing necessary information to assess an application that a council would not meet the statutory deadline. To avoid possible deemed refusal appeals to the Court, councils would be forced to reject the applications on receipt for insufficient information rather than attempt to resolve the matters which are outstanding. This doesn't assist applicants.

3. Exempt and complying development

The prime approach is to amend the exempt and complying development provisions by removing these provisions from council's LEPs and introducing standard provisions in the regulations. The detail of these changes has not been provided other than advising there will be a number of codes that will standardise assessment and that these codes are being developed by the DoP in association with a number of local councils and organisations such as the Local Government and Shires Association and the Housing Industry Association. The community guide publicised by the DoP suggests that councils will be able to add to these codes to take into consideration locational differences, however no details of how this is to be achieved are provided. The focus of

the amendments are for the construction and alteration and addition to dwelling houses, change of use, internal alterations and the erection of small new industrial, commercial and retail premises.

The draft suggests that the code will adopt provisions for a range of lot sizes and building types e.g. terrace houses, single story alterations and additions. Concern is expressed once again at the lack of detail available to ensure that the expectations of our local community are met through the development of the codes and that the government deliver on their promise to allow councils to add to the codes to take into consideration locational differences.

4. Building and subdivision certification

Changes are proposed to the provisions of the Act that regulate certification. It is proposed to retain the ability of a developer to choose to have the local council or an accredited certifier certify the construction work. A summary of the amendments proposed are:

- the broadening of complying development to allow the council or a private certifier to issue a Complying Development Certificate where there is a minor variation to a development standard or condition;
- enabling a consent authority to require payment of security as a condition of consent or by agreement with an applicant for the purposes of ensuring compliance with the development consent during the construction phase of development subject to limitations to be regulated, the details of which have not been provided;
- increases in the penalties for matters such as commencing building or subdivision work in breach of the Act (requirement for construction certificate and appointment of PCA);
- retention of the provisions that allow a council to retain the PCA role. It is possible to identify a type of subdivision which an accredited certifier may issue a subdivision certificate and to place restrictions on the issue of such certificates;
- the ability to appoint separate PCAs for the building and subdivision components of a development;
- changes to the orders provisions including a compliance costs order to recoup the costs of ensuring compliance with development consents;
- a requirement for council staff to hold accreditation and to allow the Building Professionals Board (BPB) to oversee the conduct of a council employed certifier;
- designers of specified fire safety systems to gain accreditation and to certify their design complies with required standards;
- a requirement for councils to register receipt, action taken and response in relation to complaints received;
- introduction of a stop work order;
- tightening of requirements for mandatory inspections;
- broadening of the BPB's role in relation to compliance.

Comments

One of the two main areas of concern is the ability of a private certifier to issue a construction certificate which does not require full compliance with relevant development standards. Whilst there is a mandatory requirement for the certifier to advise council of his/her intention to issue the certificate, an insufficient period has

been allowed for a response by council and no fee is payable for council's assessment of whether the proposal will cause any substantial net adverse impact on the owners of adjoining or adjacent land nor to seek the views of those parties.

The other concern is the introduction of a requirement for council staff to obtain accreditation. Again no detail of the type of accreditation required is provided, nor are details of the likely costs associated with obtaining that accreditation and the impact on a council's insurance policies. As all councils in the state must act as a certifier, this is considered an unreasonable impost.

The ability of a council to recoup its compliance costs are a positive aspect of the legislation, provided the regulations do not introduce unrealistic limits on the amount of costs that can be recovered.

5. Changes to Development Contributions

The proposed legislation intends to deliver the following key reforms:

- Providing opportunity for the State Government to direct a council to spend funds, where a council has not been able to satisfactorily justify a delay in spending.
- Increased reporting of development contributions collection and use, including the timeframe for the spending of contributions.
- Restricting contributions plans to containing levies for “key community infrastructure” and “additional community infrastructure” only where it has been approved by the Minister.
- Introducing the following issues that council must consider when creating contributions plans:
 - can the funds be spent in a timely manner?
 - what will be the impact on housing affordability?
 - is the infrastructure required because of new demand created by the development?
 - are the contributions based on reasonable cost estimates?
- Deferral of a State Government proposal to introduce a staged State contribution for all future greenfield release areas. Contributions will now be required at Subdivision Certificate stage and not at rezoning.
- Where a council contribution plan is currently funding infrastructure that is not considered “key community infrastructure”, it can continue doing this provided that it has already entered into legally-binding arrangements to use the money, and the Department has been informed.
- Contributions collected in Growth Centre Areas will be held in trust by the Treasury.

Generally the changes to Development Contributions are supported, however there are some areas of concern.

Comments

Limitation to types of services and amenities that can be levied for in Contributions Plans

Previously council was able to levy for public amenities and public services within the area provided there was a nexus to the development. It is proposed that council may only levy for “key community infrastructure”, which is defined in the draft Regulations as being:

- (a) *local roads,*
- (b) *local bus infrastructure,*
- (c) *local parks,*
- (d) *local sporting, recreational, cultural, civic and social services facilities,*
- (e) *drainage and stormwater management works,*
- (f) *land for any community infrastructure (except land for riparian corridors),*
- (g) *district infrastructure of the kind referred to in paragraphs (a)-(d) but only if there is a direct connection with the development to which a contribution relates.*

Councils may also levy for “additional community infrastructure”, but only if the purpose is approved by the Minister.

It is unclear how council will be required to demonstrate a “direct connection with the development” for district level facilities. For example, developers currently pay a contribution toward the provision of a leisure centre which is needed to meet the cumulative demand from new development in the area. A development of 10 dwellings would only have a “direct connection” to the need for a leisure centre if it were considered as part of a “cumulative” demand for the facility. It is not known whether this “cumulative demand” argument would satisfactorily demonstrate a “direct connection”. Further information is required from the Department on this matter.

For the Oran Park/Turner Road Section 94 Plan, Council was advised that it should not include a levy for a district administration building. This view is supported by comments in the Community Guide that accompanies the exposure draft bill. Yet paragraph (g) implies that Council could levy for district civic facilities. Clarification on the issue of “administration buildings” is needed in order that Council can determine whether this would be a civic facility.

Riparian Corridors

The Camden Contributions Plan includes a levy toward the acquisition and embellishment of riparian corridors in Spring Farm and Elderslie. This is no longer permitted in Contributions Plans. Council will need to adopt a new Camden Contributions Plan that excludes riparian corridors before 30 June 2009, when the plan will be automatically repealed by the proposed Act. As a result there is a significant financial burden for Spring Farm and Elderslie developers that have riparian corridors on their land. The cost of dedication and embellishment will no longer be shared by all of the developers within the area. It is requested that the State Government reconsider its position on riparian corridors or provide clarity on the issue in order that Camden Council can determine whether it will accept the Spring Farm corridor.

Increased powers for Minister

The proposed legislation strengthens the Minister’s powers in relation to the making of Contributions Plans. It is proposed that the Minister be able to direct a council to provide the Minister with a draft of a contributions plan for review by the Minister before

the council approves the plan. The council is not to approve the contributions plan until the Minister has notified the council that the Minister's review of the plan has been completed.

Additionally the Minister may approve, amend or repeal a contributions plan on behalf of the council without first having directed the council to do so in writing. Previously it was only if a council failed to act on the Minister's direction that the Minister would step in to approve, amend or repeal the plan.

There is potential for the Minister to request that council provide a draft contributions plan for review, and could then approve or amend the plan without consulting council. It is requested that the draft be amended to ensure that the Minister will not approve (with or without amendments) a draft contributions plan that has been provided by council and that councils can retain, without reference to the council, their decision making ability on the context of the plan.

Right to appeal plan made by Minister

The current legislation provides that a person cannot appeal a plan approved, amended or repealed at the direction of the Minister. The legislation also provides for councils to request that the Minister approve a plan on their behalf. It appears that these provisions have been removed in the proposed legislation. As a result, Council could potentially face a challenge (and incur legal costs) of defending a plan that has been approved or amended by the Minister. Therefore it is requested that the current provisions that prevent appeals on plans made by the Minister be included in the draft legislation. If not, then it is requested that funds be made available to fully support councils who find they have to defend a plan approved or amended by the Minister.

Repeal of Plans

It is proposed that existing contributions plans that contain items other than "key community infrastructure" will be repealed on 30 June, 2009 unless Council has entered into legal arrangements for the provision of that type of infrastructure. Most of Council's plans will not fall into this category and will be repealed on 30 June, 2015. Plans that may be repealed on 30 June, 2009 include:

- Camden Contributions Plan 2004 (a review of this plan is commencing)
- Narellan Town Centre.

Some plans contain provisions for streetscape improvements and public carparking which do not appear to fall into any of the categories of works defined as "key community infrastructure". Council may be able to seek the Minister's permission to continue to levy for these works. However it is unclear whether the plan would then be repealed on 30 June, 2009 or 30 June, 2015 as the draft legislation does not make provision for plans where the Minister has approved "additional community infrastructure". Advice from the Department is required on whether streetscape improvements are key community infrastructure, and on what date would the relevant plan be repealed.

It is important that councils can retain the ability to levy for carparking in nominated commercial centres. The State Government has released the Metropolitan Strategy

and supporting Regional Strategies which nominate important business centres, most of which include an expectation for growth. In these circumstances there are many existing properties that have not been developed to the maximum site potential, however are land locked and therefore cannot accommodate any additional parking. Council's s94 Contributions Plans address this issue through the provision of orderly, well located car parks funded by the developer. For this reason the ability to levy for parking must be retained.

In addition the 30 June, 2009 deadline for adopting a new plan is particularly difficult to manage as there may be more than one plan requiring review and limited Council resources to dedicate to the project. A plan would need to be reviewed, publicly exhibited and adopted by Council before 30 June, 2009 in order to avoid a situation where there is no contributions plan in place. It is recommended that 30 June, 2009 deadline be reconsidered and given until 30 June, 2010 to enable a proper review and consultation process.

Limited scope of Planning Agreements

Planning Agreements could previously contain contributions for any public purpose and there did not necessarily have to be a connection between the development and the object of expenditure. While it is proposed that planning agreements may contain contributions towards services and facilities that are not necessarily connected to the development, the contributions can only be for "key community infrastructure" or "additional community infrastructure" which must first be approved by the Minister. This has potential to reduce the flexibility of planning agreements and delay their negotiation as permission from the Minister may be required for some types of infrastructure.

Council will not be able to include riparian corridors in Planning Agreements. Dedication of riparian corridors will continue to be an issue for Oran Park and Turner Road, in addition to Spring Farm and Elderslie. If Council wants to continue to accept the dedication of riparian corridors, Council may need to consider alternative methods, such as Deeds of Agreement.

It is requested that these provisions be reconsidered and councils be given flexibility in negotiating the content of Planning Agreements.

Definition of "Development Contribution"

The current legislation provides that a development contribution may be satisfied by the payment of a monetary contribution or the dedication of land free of cost, or both. The proposed legislation provides that a development contribution is either the dedication of land free of cost or a monetary contribution. It appears that removal of the words "or both" may limit Council's ability to require the dedication of land and the payment of a monetary contribution. This is problematic where the value of the land will not fully satisfy the value of the contribution required. Further clarification on this issue is needed.

Key Considerations for Development Contributions

It is proposed to introduce new provisions requiring key considerations for development

contributions to be taken into account when preparing contributions plans and planning agreements. These relate to funding, affordability of development, apportionment and the cost of the infrastructure. While it is clearly intended that these provisions apply to contributions plans and planning agreements prepared by councils, the term “public infrastructure” is used. “Public infrastructure” relates to State Infrastructure Contributions, while “community infrastructure” relates to contributions plans and agreements prepared by councils. The wording of Section 903 should be reviewed accordingly to include both “public” infrastructure and “community” infrastructure.

References to Maps

The proposed legislation makes reference to the “South West Growth Centre (Version 2)” map in Schedule 3, Clause 1. By referencing a specific plan, an amendment to the legislation will be required every time the map is amended. The map is likely to need an amendment each time a precinct within the South West Growth Centre Corridor is released. A review of this reference is needed to avoid the need for legislative amendments.

6. E-planning

The Community Guide advises that "the reforms seek to ensure greater community involvement, a transparent and accountable process, efficiency in the eplanning process and consistency of decision making through greater use of technology." No details have been provided to allow assessment of the impact of these changes nor is it possible to assess the financial costs to an individual council brought about by the suggested changes. As was outlined in the 29 January, 2008 report to Council, local government does not have the funds available for immediate implementation of new computer systems to deliver those initiatives outlined on page 12 of the Community guide and will require time and funding to implement the changes required. It is of considerable concern that the legislation already contains provisions to allow the Minister to appoint a planning administrator or assessment panel where a council does not comply with its obligations under the Act.

7. Miscellaneous

There are a number of proposed amendments which propose to resolve the issue of paper subdivisions and problems associated with management of strata plans. As the former does not apply to Camden, and the latter does not have a direct impact on Council operations, comment on the proposed changes is not provided in this report.

There are however a number of concerns raised to proposed changes to the EP&A Regulation, particularly in relation to offences. Again no detail has been provided on any of the amendments to the Regulation, however the Explanatory Notes suggest the adoption of penalties where a person is required to do a certain thing within a specified period of time and uses an example of the requirement of an accredited certifier having to give the council a copy of a construction certificate within 2 days of the certificate being issued. The proposed amendments will enable a Penalty Infringement Notice (PIN) to impose differing fines depending on the time taken to comply, ranging from \$750 for longer than 2 days but less than 7 days up to \$1,250 when the notice was given after 14 days. As there are a number of provisions within the Act that require certain things to be done within a specified time, e.g. the issue of a complying

development certificate within 7 days, concern is expressed at the possible misuse of these provisions. It is unfortunate that the government has resorted to regulation through fines as a first step of achieving compliance and it is hoped the Minister will not misuse this authority.

CONCLUSION

The proposed amendments to the NSW planning legislation are generally accepted as being an improvement to the overall system, however there are certain elements of the draft legislation that have been highlighted above that are unreasonable and should be removed prior to the legislation being adopted. Limited time has been allowed to all interested parties to review the draft bill and provide comment, and an application to increase the time for submissions has been denied. Accordingly it has not been possible to fully comprehend the potential impacts of the legislation within the short period of 3 weeks allowed by the government from release of the draft bills to closing date for submissions, particularly in the absence of the Regulation.

Of particular concern is the timing of implementation of the new legislation which will have significant impacts on councils and also private certifiers in terms of processes and systems that will need to be amended to reflect the final provisions. For this reason a period of at least 12 months should be allowed until the Act takes effect in order that the necessary work can be undertaken to ensure the successful implementation of the changes.

RECOMMENDED

That Council:

- i. Make a submission identifying the specific issues it believes ought to be addressed before the draft legislation is enacted and that the submission reflect those issues raised in the above report;**
- ii. Advise the Minister for Planning and the State Member for Camden that, despite a number of positive initiatives within the proposed reforms, it is extremely concerned at the highly unsatisfactory process utilised in this matter, with particular reference to:**
 - the unrealistic timeframes provided to councils and the community with regard to consideration of the draft bills;**
 - the lack of detail and in particular the failure to provide the supporting Regulation, and more importantly the fact that there will be no further consultation before those Regulations are made.**

RESOLUTION

Moved Councillor Elliott, Seconded Councillor Dewbery that Council:

- i. Make a submission identifying the specific issues it believes ought to be addressed before the draft legislation is enacted and that the submission reflect those issues raised in the above report;**

- ii. Advise the Minister for Planning and the State Member for Camden that, despite a number of positive initiatives within the proposed reforms, it is extremely concerned at the highly unsatisfactory process utilised in this matter, with particular reference to:
- the unrealistic timeframes provided to councils and the community with regard to consideration of the draft bills;
 - the lack of detail and in particular the failure to provide the supporting Regulation, and more importantly the fact that there will be no further consultation before those Regulations are made.

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

ORD99/08

ACTIONS

[Link to CRMS document](#)

[CRMS: 6425622 23/04/2008, 03:00:44 PM](#)

ORDINARY COUNCIL

ORD05

SUBJECT: REPORT ON PUBLIC EXHIBITION PROCESS OF DRAFT
LOCAL PLANNING AGREEMENT AND CONSERVATION
MANAGEMENT PLANS FOR HARRINGTON GROVE

FROM: Director Governance

FILE NO: Harrington Park 2 and Mater Dei

PURPOSE OF REPORT

The purpose of this report is to provide feedback to Council from the public exhibition of the Draft Voluntary Planning Agreement (VPA) and the Draft Conservation Management Plans (CMPs) for Harrington Grove East and West, and seek Council endorsement of both documents.

BACKGROUND

A requirement of the LEP 138 - Harrington Park was the execution of a Heads of Agreement between Council and Dandaloo, the developer. The Heads of Agreement were interim agreements until a VPA could be negotiated when the detail required became available. Once this detail became available it was used to develop the draft VPA.

Management of the bushland is also crucial to this development. The CMPs were developed to provide guidelines for the management and conservation of the bushland.

At its meeting of 26 February 2008 Council resolved to place on public exhibition the Harrington Grove draft VPA and CMPs.

MAIN REPORT

Exhibition

The draft Harrington Grove VPA and CMPs were exhibited from 6 March 2008 to 8 April 2008 and no submissions were received.

Because of the size of the complete VPA only the Contract, Definitions and Contribution Schedule and Plans will be **provided as attachment 1**. The rest of the VPA, which includes the CMPs has previously been provided to Councillors and can be provided in CD form to anyone interested at the time of this report by contacting the Strategic Planning Unit within Council.

Draft Voluntary Planning Agreement

The draft VPA comprises the following:

- a) The Heritage homesteads Orielson and Harrington Park House:

The heritage works will be completed either before the final Subdivision Certificate is issued or 5 years from the date of the Agreement, whichever is earlier and includes the complete restoration of both heritage buildings. The VPA requires the works to be in accordance with the Harrington Park and Orierton Heritage Agreements (Annexures 3 and 4 to the complete VPA) whether made with Council or the Heritage Office.

b) The bushland conservation zone:

The developer's obligations to the bushland conservation zone are outlined in the VPA. The works required for the conservation zone are outlined in the Conservation Management Strategy (CMS) and the CMPs (Annexures 5 and 6 to the complete VPA) and include the restoration and long term maintenance of the bushland conservation zone.

c) Developer financial contributions:

The developer financial contributions are outlined within the VPA and detailed within the Schedule of Works attached to the Agreement and **provided as attachment 1**. These contributions include facilities such as a local community centre; two local neighbourhood centres; hard courts; three swimming pools; various playgrounds; and a site for a child care centre. These facilities will all be owned and maintained by the community that lives within Harrington Grove as part of a Community Title.

Developer contributions also include facilities for the general public and are a district playing and amenities building; district public reserves; and district cycleway and pedestrian paths.

Developer contributions also include cash contributions for a district and local library; the leisure centre; and S94 Administration.

Clause 18 of the VPA applies to any financial contribution, outlining that these shall not exceed any amount that could be levied if a Contributions Plan applied to this development. That is, if the contribution rates in the Camden Contributions Plan on which these rates were based change, the agreement will also change to reflect any reduction for non works-in-kind (ie monetary contributions) related projects. Given the recent State Government announcements on the reduction of developer levies and the good will of this particular developer in providing facilities in excess of what is required, it was felt that this was a fair and equitable clause to include.

Draft Conservation Management Plans

CMPs which are attached as annexures 5 and 6 to the complete VPA, have been developed for both East and West Harrington Grove. These CMPs are needed to guide the detailed conservation and restoration activities within the conservation land of Harrington Grove. The CMPs build on the CMS commissioned by Council to provide guidance for the protection, restoration and ongoing management for the environmental values of the site. The CMPs also aim to deliver the broader conservation objectives of the LEP and Council's Natural Assets Policy.

The CMPs outline the monitoring and record keeping requirements, the performance indicators are identified, and costs estimated. The final section of the CMP describes the tasks to be undertaken. This section focuses on bushfire management, and measures to protect or improve environmental conditions across the conservation land.

Miscellaneous Issues

A partial consent for Development Application (DA) 1267/2006, being the subdivision of the Harrington Grove Precincts A and B , has been given to facilitate a timely release of land. This was necessary because of the delay in exhibiting the VPA over the Christmas holiday period.

To help facilitate this partial consent the developer has submitted correspondence to Council with a completed VPA. Legal advice was sought on this procedure and it was determined that providing this correspondence with the VPA would be enough to legally compel the developer to sign the VPA.

The Environment Planning and Assessment Act requires that the VPA is exhibited with a relevant DA. To facilitate this, the Harrington Grove East DA 1267/2006 was exhibited in conjunction with the VPA.

CONCLUSION

The Harrington Grove VPA and CMPs are an important step in achieving good and timely outcomes for heritage and bushland conservation on the site. The VPA and associated Schedule of Works is also an important step in achieving a good level of community facilities within the development and the wider community.

RECOMMENDED

That:

- i. Council adopt the Harrington Grove Draft Voluntary Planning Agreement and Draft Conservation Management Plans as exhibited.**
- ii. Council's General Manager and Mayor be delegated to sign the Voluntary Planning Agreement and affix the Common Seal of Council.**

ATTACHMENTS

Attachment 1: VPA - contract, definitions, contribution schedule & plans, schedule works

definitions attach 1 VPA Attachment 1 attachment1 attachment 1

RESOLUTION

Moved Councillor Funnell, Seconded Councillor Anderson that:

- i. Council adopt the Harrington Grove Draft Voluntary Planning Agreement and Draft Conservation Management Plans as exhibited.
- ii. Council's General Manager and Mayor be delegated to sign the Voluntary Planning Agreement and affix the Common Seal of Council.

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

(Councillor Campbell voted against the Motion).

ORD100/08

ACTIONS

Link to CRMS document

[CRMS: 6425702 23/04/2008, 03:00:53 PM](#)

ORDINARY COUNCIL

ORD06

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 March 2008 is provided.

It is 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 weighted average return on all investments was 7.71% p.a. for the month of March 2008.

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 March 2008 be noted.
- iii. the weighted average interest rate return of 7.71% p.a. for the month of March 2008 be noted.

ATTACHMENTS



Investments
March 2008

RESOLUTION

Moved Councillor Johnson, Seconded Councillor Elliott 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 March 2008 be noted.

iii. the weighted average interest rate return of 7.71% p.a. for the month of March 2008 be noted.

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

ORD101/08

ACTIONS

[Link to CRMS document](#)

[CRMS: 6425850 23/04/2008, 03:01:11 PM](#)

ORDINARY COUNCIL

ORD07

SUBJECT: DONATIONS POLICY REQUEST
FROM: Director Works and Services
FILE NO: Community and Recreation Services/ Grants and Subsidies/
Funding/ Donations 2008

PURPOSE OF REPORT

To seek Council's approval of a request from Ms Tara Grech of Bringelly for financial assistance of \$500 under Council's Donations Policy to support an 'Everyone can Dance Danceparty' in support of three charities.

BACKGROUND

Council provides either monetary or in-kind assistance to individuals, not for profit groups and organisations for charitable purposes through Council's Donations Policy.

Requests greater than \$500 or when the distribution of funds extends outside the Camden LGA require the request to be referred to Council for consideration.

At 10 April 2008, there was \$2,486.73 remaining in the Donations Policy budget with \$1,000 in requests awaiting approval.

MAIN REPORT

The Donations Policy aims to promote and enhance community well-being in the Camden Local Government Area through the provision of funds to assist members of the community or for causes of benefit to the community where there is demonstrated community need.

Funding is for one off donations only and must provide benefit to residents of the Camden LGA.

Assessment Criteria

Applications are assessed under the following criteria:

1. Purpose of donation;
2. Previous donations made to applicant;
3. Annual budget allowance;
4. Amount requested; and
5. Applicant's access to alternative sources of funding.

Council has received one request under the Donations Policy that requires Council's consideration. The request is provided with the **business paper supporting documents**.

The Event

Everyone Can Dance Danceparty

The 'Everyone Can Dance Danceparty' is an event planned by Tara Grech to raise money for the Spastic Centre, Autism Spectrum Australia and Down Syndrome NSW. Ms Grech's interest in disability is as a result of having a brother with cerebral palsy. This personal experience has led her to want to contribute to improving the quality of life for young people with a disability. The stated aim of the Dance Party is to 'create awareness and inclusion of children with additional needs in Macarthur'.

The following agencies are providing in-kind support for the event: Macarthur Disability Services, Macarthur Lions Club and Telstra. Macarthur Disability Services is one of the primary service providers of in home and out of home services in Camden LGA.

The Danceparty is to be held at the Narellan Community Hall on Saturday 17 May from 11.30am - 4.30pm.

Recipients of funds raised.

The following groups will receive the proceeds of the event:

- The Spastic Centre
- Down Syndrome NSW
- Autism Spectrum Australia.

These services each act as peak organisations for the disability group they represent and provide direct services to people with disabilities, their families and carers.

Each group receives government funding but relies on the additional financial resources from fundraising and marketing to run all of their projects.

CONCLUSION

Council's donation policy provides a valuable opportunity for Council to support individuals and community groups and organisations in charitable causes to promote and enhance community well being for residents of the Camden LGA.

The 'Everyone Can Dance Danceparty' requests meets the Council's Donation Policy criteria.

RECOMMENDED

That:

- i. Council approve allocation of \$500 under the Council's Donations Policy to the organisers of the Everyone Can Dance Danceparty; and**
- ii. Council write to Ms Grech to advise of the outcome.**

ATTACHMENTS

Donation Request

RESOLUTION

Moved Councillor Funnell, Seconded Councillor Whiteman that:

- i. Council approve allocation of \$500 under the Council's Donations Policy to the organisers of the Everyone Can Dance Danceparty; and
- ii. Council write to Ms Grech to advise of the outcome.

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

ORD102/08

ACTIONS

[Link to CRMS document](#)

[CRMS: 6425926 23/04/2008, 03:01:23 PM](#)

ORDINARY COUNCIL

ORD08

SUBJECT: CAMDEN CIVIC CENTRE MUSICAL FEE RELIEF POLICY
APPLICATIONS FOR FUNDING
FROM: Director Works and Services
FILE NO: Community Services/Grants and Subsidies/Funding/Donations
2008

PURPOSE OF REPORT

This report seeks Council approval to allocate funding to three local community groups or persons under Council's Civic Centre Fee Relief for Musical Performance Policy. The three requests are for:

- Watoto Children's Choir performance
- High School Harvest Celebration
- Gift to Camden Concert

BACKGROUND

Council provides a small amount of funds as fee relief for not-for-profit groups providing musical or performing arts performances at the Camden Civic Centre. These funds increase venue accessibility to groups wishing to provide such performances to the community. The funding rounds are open for application in March and September of each year in accordance with the policy for amounts of \$440 - \$1320.

Council provides an allocation of \$10,000 annually for consideration of fee relief under this policy. Throughout the year several minor applications have been approved and the current available budget is sufficient to cover this round of applications.

MAIN REPORT

Objectives

The objectives of the policy are as follows:

- to increase accessibility to the Civic Centre venue, providing improved opportunities for musical and performance groups to utilise the facility.
- to enhance community awareness and involvement in performance arts.
- to enhance community well-being, sense of belonging through exposure to high quality cultural events and activities.

Categories

Applications for Musical Performance Fee Relief are open to:

- local, not-for-profit musical groups,

- projects where there may be no other source of funding available, or
- performances which offer free entry or nominal entry fee.

Applicants and performances can include musical groups, individual performers, musical theatre, theatre plays and dance performances.

Eligibility

- Applications are specific to musical performances scheduled to be held at Camden Civic Centre and must coincide with the availability of the facility.
- Fee subsidy is available to non government organisations who are not for profit and/or community groups based in the Camden LGA or undertaking a performance of direct benefit to the community and people of Camden LGA; and
- Applications may be for a portion of venue costs up to the value of the cost and not exceeding \$1,320.

Promotion of the Program

The March 2008 funding round was advertised through the Camden Advertiser, Council website, Civic Centre website, Civic Centre Newsletter, Let's Connect community newsletter and a mail out to organisations listed on the Civic Centre data base and in the Camden Community Directory.

Applications received in the March Funding Round

Council received three applications for Musical Fee Relief in this funding round with requests totalling \$3,960 in funding. Details as follows:

- \$1,320 for a performance by the Watoto Children's Choir organised by Camden Uniting Church - Amazing Grace. The Choir is made up of children from Uganda who have been orphaned by HIV/Aids and war crisis. The choir has been touring internationally since 1994. The programme they present is a blend of African Rhythm, contemporary gospel and ethnic dance and will appeal to a broad demographic and is expected to attract a capacity audience.
- \$1,320 for a High School harvest combined churches celebration. The evening will include presentation of items from local schools including Camden and Elderslie High Schools. Presentation of the work of chaplains and school workers at each high school will appeal to members of all churches and school communities and is expected to attract a large crowd.
- \$1,320 for a "Gift to Camden" concert given by Lachlan Glen. The concert will be given as a thank you to the people of Macarthur for the support shown to Lachlan as he prepares to leave the country in August to complete his Bachelor of Music in New York under Min Kwon, a renowned international pianist. Born and raised in Camden, Lachlan's repertoire will appeal to a broad demographic and is expected to attract a large crowd.

The **table provided with business paper supporting documents** provides a summary of each application received with an assessment against criteria.

CONCLUSION

Applications received were assessed against policy guidelines and available funds for 2007/2008.

RECOMMENDED

That Council:

- i. provide funds under the Council's Civic Centre Musical Fee Relief Policy for the Watoto Children's Choir performance, the High School Harvest Celebration and the 'Gift to Camden' Concert applications; and
- ii. write to Camden Uniting Church Amazing Grace Group, the High School Chaplains and Lachlan Glen, each of whom submitted applications, to advise them of the outcome.

ATTACHMENTS

SUPPORTING DOCUMENT - Musical Fee Relief Summary

Musical Fee Relief
Summary

RESOLUTION

Moved Councillor Campbell, Seconded Councillor Dewbery that Council:

- i. provide funds under the Council's Civic Centre Musical Fee Relief Policy for the Watoto Children's Choir performance, the High School Harvest Celebration and the 'Gift to Camden' Concert applications; and
- ii. write to Camden Uniting Church Amazing Grace Group, the High School Chaplains and Lachlan Glen, each of whom submitted applications, to advise them of the outcome.

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

ORD103/08

ACTIONS

[Link to CRMS document](#)

CRMS: 6426044 23/04/2008, 03:01:35 PM

ORDINARY COUNCIL

ORD09

SUBJECT: DRYSDALE RESERVE, ELDESLIE - COMMUNITY FEEDBACK
FROM: Director Works and Services
FILE NO: Parks and Reserves/Horticulture Services/Street Trees

PURPOSE OF REPORT

To advise Council of feedback received in relation to a request to remove a grove of Robinia trees and replacement with suitable alternatives within Drysdale Reserve, Elderslie.

MAIN REPORT

At the Ordinary Council Meeting held on 26 February 2008, a report was presented requesting Council consider a proposal for tree removal and replacement within Drysdale Reserve to be included on the Discretionary Budget List. The resolution from this meeting was to consult with all residents adjoining Drysdale Reserve, requesting direction from residents on whether the area should be replanted with suitable native species or left as an open grassy reserve if the original trees are removed.

On the 6 March 2008, all adjoining properties received correspondence from Council requesting their feedback on the issue by Friday 20 March.

Council received two verbal responses (one from the original complainant) and one written response from a total of nine properties contacted. Of the three responses received, one resident requested that new trees be planted to assist with the amenity of the Park. The second verbal response opposed the removal of the subject trees. The third response received by Council strongly objected to the removal of the subject trees and criticised Council's approach to the management of the subject trees.

In summary the comments received indicated that residents:

1. would like to see new trees planted to help with the amenity of the Park;
2. would hate to see the existing trees removed as they provide such a nice environment in the Park. This resident has had problems with the trees suckering in their property. However, it is easy to manage when suckers are cut and painted with tree and blackberry killer;
3. have lived next to those trees for 14 years without them creating a single problem. While there has been the occasional sucker sprouting in a garden bed which has been easily removed simply by pulling it out;
4. the trees and the reserve were a part of the attraction when purchasing the property in the first place. They have provided much appreciated shade in summer, beautiful colour in autumn, let the sun shine through in winter and most importantly helped clean the air all year round. The trees were loved and the

- resident is very upset at the prospect of their removal;
5. asked "why not simply remove the trees that are close to the property or properties in question, why removal **all** of the trees?";
 6. are strongly opposed to the suggestion of leaving a 'grassy open space', however could see the advantage to Council as far as maintaining the reserve. If it is a 'grassy open space' then it simply requires 1 Council staff member to mow the grass and there is no need for an extra person to trim the grass around the trees with a 'whipper snipper'. "This may be very well in cutting costs but at what cost to our environment? Our environment needs trees";
 7. felt that deciduous trees are perfect for the reserve, Drysdale Reserve is a beautiful, peaceful, tranquil setting and believed that the absence of trees will destroy this.

In terms of item 5 above, Council officers again inspected the site and noted three trees in close proximity to the rear of the original complainant's property. As discussed in the original report (26 February 2008), it is unclear whether these trees are the source of the root system and associated suckers which have reportedly impacted upon this property. That said, Council may consider a compromise alternative that simply removes these three trees and monitor the situation into the future.

Given the above information and the feedback from residents, it is considered that there are 4 possible options (with estimated costs in brackets) for the trees in this reserve:

- a) no removal of any trees (\$0);
- b) poison and remove all trees and leave as an open grassy area (\$7,500);
- c) poison and remove all trees and replant with suitable native species (\$12,000);
- d) poisoning and future removal of the three (only) trees closest to the original complainant's property, replacement with three suitable native species and then staged removal of the other trees if further requests are received (\$2,000 initially).

It is considered that option (d) is a compromise solution which may achieve the desired outcome for residents without completely removing all trees in this reserve. Importantly Council will need to monitor future complaints.

Funding will be sourced from the public tree maintenance budget.

RECOMMENDED

That Council:

- i. approve the poisoning and removal of the three Robinia trees found within close proximity to No. 41 Drysdale Road, Elderslie;**
- ii. replace the three trees with a suitable tree species within Drysdale Reserve; and**
- iii. provide a written response to the residents who made submissions advising of Council's resolution.**

RESOLUTION

Moved Councillor Campbell, Seconded Councillor Johnson that Council:

- i. approve the poisoning and removal of the three Robinia trees found within close proximity to No. 41 Drysdale Road, Elderslie;
- ii. replace the three trees with a suitable tree species within Drysdale Reserve; and
- iii. provide a written response to the residents who made submissions advising of Council's resolution.

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

ORD104/08

ACTIONS

[Link to CRMS document](#)

[CRMS: 6426133 23/04/2008, 03:01:48 PM](#)

ORDINARY COUNCIL

NOTICE OF MOTION

SUBJECT: NOTICE OF MOTION - DEVELOPMENT APPLICATIONS UNDER SEPP33
FROM: Cr Eva Campbell
FILE NO:

I, Councillor Eva Campbell hereby give notice of my intention to move the following at the Council Meeting of 22 April 2008:

"Development Applications under SEPP 33 involving potentially hazardous and offensive industries and including any DA's for manufacturing and mixing dangerous goods, be notified to Councillors."

RECOMMENDED

A matter for Council.

OFFICE NOTE

State Planning Policy No 33 (SEPP 33) is a policy which applies to Hazardous & Offensive Development. To assist Councillors, the following is an extract from the policy which details its effect.

The Policy aims:

- (a) to amend the definitions of hazardous and offensive industries where used in environmental planning instruments, and
- (b) to render ineffective a provision of any environmental planning instrument that prohibits development for the purpose of a storage facility on the ground that the facility is hazardous or offensive if it is not a hazardous or offensive storage establishment as defined in this Policy, and
- (c) to require development consent for hazardous or offensive development proposed to be carried out in the Western District, and

- (d) to ensure that in determining whether a development is a hazardous or offensive industry, any measures proposed to be employed to reduce the impact of the development are taken into account, and
- (e) to ensure that in considering any application to carry out potentially hazardous or offensive development, the consent authority has sufficient information to assess whether the development is hazardous or offensive and to impose conditions to reduce or minimise any adverse impact, and
- (f) to require the advertising of applications to carry out any such development.

RESOLUTION

MOTION

Moved Councillor Campbell, Seconded Councillor Johnson that Development Applications under SEPP 33 involving potentially hazardous and offensive industries and including any DA's for manufacturing and mixing dangerous goods, be notified to Councillors.

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

ORD105/08

ACTIONS

[Link to CRMS document](#)

[CRMS: 6427556 23/04/2008, 03:18:17 PM](#)