
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**.

ORD290/08

ACTIONS

ORDINARY COUNCIL

SUBJECT: DECLARATION OF INTEREST

NSW legislation provides strict guidelines for the disclosure of pecuniary and non-pecuniary Conflicts of Interest and Political Donations.

Council's Code of Conduct also deals with pecuniary and non-pecuniary conflict of interest and Political Donations and how to manage these issues (Clauses 7.5 -7.27).

Councillors should be familiar with the disclosure provisions contained in the Local Government Act 1993, Environmental Planning and Assessment Act, 1979 and the Council's Code of Conduct.

This report provides an opportunity for Councillors to disclose any interest or Political Donation relating to a Report contained in the Council Business Paper and to declare the nature of that interest.

RECOMMENDED

That the declarations be noted.

RESOLUTION

Councillor Patterson declared an interest in Items ORD 01 and ORD 02 regarding Narellan Hotel as part owner/operator of the family run business "The Merino Tavern" in Camden.

Moved Councillor Warren, Seconded Councillor Campbell that the declarations be noted.

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

ORD291/08

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

Graham Tipper addressed the Council in relation to Item ORD 05 - Unauthorised Installation of Sewage Management Facility - 1037 (Lot 13 DP785645) The Northern Road, Bringelly.

John Mifsud addressed the Council in relation to Item ORD 05 - Unauthorised Installation of Sewage Management Facility - 1037 (Lot 13 DP785645) The Northern Road, Bringelly.

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

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

ORD292/08

ACTIONS

ORDINARY COUNCIL

SUBJECT: CONFIRMATION OF MINUTES

Confirm and adopt Minutes of Ordinary Council Meeting held 11 November 2008 and the Minutes of Local Traffic Committee Meeting held 10 November 2008.

RECOMMENDED

That the Minutes of the Ordinary Council Meeting held 11 November 2008, and the Minutes of the Local Traffic Committee held 10 November 2008, copies of which have been circulated, be confirmed and adopted.

RESOLUTION

Moved Councillor Symkowiak, Seconded Councillor Warren that the Minutes of the Ordinary Council Meeting held 11 November 2008, and the Minutes of the Local Traffic Committee held 10 November 2008, copies of which have been circulated, be confirmed and adopted.

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

ORD293/08

ACTIONS

ORDINARY COUNCIL

**SUBJECT: MAYORAL MINUTE - DELEGATION TO CANBERRA - 17 & 18
NOVEMBER 2008**
FROM: Mayor
FILE NO:

On Monday 17 November 2008 Council's General Manager and I traveled to Canberra in order to make representations in a number of areas to the Federal government. I am pleased to now report on the outcome of those representations:

FUNDING FOR CAMDEN POOL

With the great assistance of the Member for Werriwa, Chris Hayes MP, we met with the Minister for Youth and Sport, the Hon. Kate Ellis MP. We detailed the matters relating to the funding announced by the previous Prime Minister and the need to re-scope the Camden Pool redevelopment to suit a \$5 million grant rather than the original \$10 million grant that was indicated to Council. As a result, the Minister was happy to confirm that the current government had honoured the previous government's commitment, that the \$5 million was available to Council and that it was merely proceeding through a budgetary process within government. This was a very good outcome given some public speculation that the grant had been lost.

The opportunity was also taken to identify with the Minister the plans for a PCYC development in Camden. An invitation for the Minister to visit Camden will be extended, through Mr Hayes, early in the New Year.

INFRASTRUCTURE ISSUES

While in Canberra we took the opportunity to outline Council's concerns for the timely provision of basic infrastructure in urban release areas such as Camden. Our area's particular need for fundamental transport infrastructure was highlighted. These issues have become more urgent since the NSW Government's deferral of the South West Rail Link project without the escalation of road upgrades.

FUNDING ANNOUNCEMENT - INFRASTRUCTURE PROJECTS

During the inaugural Australian Council of Local Governments forum, convened by the Prime Minister, it was announced that the Federal Government would make \$300 million available to Australian Councils to fund "grassroots" infrastructure. I am delighted to confirm that Camden's allocation was \$606,000.

The funds are to be spent quickly (during the balance of the 2008/2009 budget year) as a stimulus to the economy and to provide basic facilities to local communities. This program has the capacity to be a model for the direct funding of local government by

the Commonwealth, bypassing State Treasuries.

It is my view that a program to quickly expend such a sum can be developed around a parks and playgrounds theme. This will have the advantages of:

- being able to be quickly expended
- having the capacity to be shared around the entire local government area
- targeting Camden's largest demographic – young families
- improving health and welfare of citizens by encouraging outdoor activity

For \$606,000 it is envisaged that the next major stage of the Narellan Urban Forest could be delivered (\$170,000) together with up to seven playground upgrades (at \$60,000 each).

However, Council staff will prepare a detailed report and program for Council to consider at its next meeting.

In all, the delegation was very successful and has led to certainty in a major capital project (Camden Pool Redevelopment) and the receipt of significant funding to accelerate the provision of basic infrastructure with the potential to reach a broad range of citizens and locations.

RECOMMENDED

That the information be noted.

RESOLUTION

Moved Councillor Patterson that the information be noted.

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

ORD294/08

ACTIONS

ORDINARY COUNCIL

SUBJECT: MAYORAL MINUTE - CYSTIC FIBROSIS FUNDRAISER
FROM: Mayor
FILE NO:

At the meeting of Camden Council held on 28 October 2008, Council provided funds to three groups through our Civic Centre Musical Fee Relief Policy.

Our Musical Fee Relief Policy provides an opportunity for "not for profit" community groups to access the Camden Civic Centre and for those undertaking a performance of direct benefit to the community and the people of Camden LGA to be supported with hire costs of the venue.

One of the applicants who received funding was Mr Colin Morrell who was organising a funding raising and awareness concert for Cystic Fibrosis. That event was held recently and was a great success.

Mr Morrell contacted me regarding the outcome of the event and I would like to share with you his comments:

"I thank you Mr Patterson for giving me this opportunity to acknowledge yourself and the board of Camden Councillors. Without your unanimous decision this community event would not have happened.

The Cystic Fibrosis Fundraiser was a great success!, we raised over \$2800 on the night with local businesses also donating over \$500. The local performances were great and had everyone up and dancing all night, even the oldies! The Civic Centre had around 300 people through its doors from all walks of life and all ages.

I just want to say how proud I am of my town and the amazing people in it.

Thankyou

Colin Morrell

Thankyou again Camden Council."

It is wonderful that we were able to assist this great project and can I also congratulate Mr Morrell on his fine efforts in not only staging this very enjoyable event but also in raising awareness within our community of Cystic Fibrosis.

RECOMMENDED

That the information be noted.

RESOLUTION

Moved Councillor Patterson that the information be noted.

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

ORD295/08

ACTIONS

ORDINARY COUNCIL

ORD01

MODIFICATION OF CONSENT ORDERS ISSUED BY THE LAND AND ENVIRONMENT COURT IN RELATION TO THE NARELLAN HOTEL- NO 279 (LOT A DP 399970) CAMDEN VALLEY WAY, NARELLAN- REMOVAL OF LOADING BAY AND REPLACEMENT WITH OUTDOOR ENTERTAINMENT AREA "BEER GARDEN".

FROM:	Director Development and Health
FILE NO:	1300.800-7/4
DA NO:	53/2003(4)
OWNER:	Jimnie Pty Ltd and Batasay Pty Ltd
APPLICANT:	Cooper Consulting and Construction Services
ZONING:	Business Support 3 (b1)
APPLICABLE PLANNING INSTRUMENT:	Camden Local Environmental Plan No. 46

PURPOSE OF REPORT

The purpose of this report is to seek a determination from Council of an application to modify a development approval under S96 of the Environmental Planning and Assessment Act (the Act). The modification relates to Development Consent orders issued by the Land and Environment Court (the Court) and is in relation to the removal of the loading bay and replacement with an outdoor entertaining area (beer garden). The modification application was notified in accordance with Council's Notification and Mediation Policy. The application is referred to Council due to the fact that the original application was issued by the Court.

SUMMARY OF RECOMMENDATION

It is recommended that Council grant consent to the requested modification subject to amended consent conditions outlined below in this report.

BACKGROUND

On 23 December 2003 the Land and Environment Court issued a consent (10527 of 2003) and on 15 February 2005 modified that consent for works at the Narellan Hotel. Council has subsequently assessed and determined a modification application to this consent for the purpose of carpark improvements and extension of trading hours [53/2003(1)]; extension of the trial period [53/2003(2)] and extension of time to complete carpark works [53/2003(3)]. Council currently has before it a further modification request for a recommencement of a continuous 12 month trial period [53/2003(5)] which is subject to a separate report to this meeting.

On 27 November 2007 Council objected to a request from the Hotel to extend its liquor licence area into the grassed area as well as the carpark.

On 19 March 2008 the subject S96 application was received.

On 8 April 2008 Council became aware that an approved yet unconstructed loading bay had been physically replaced with a beer garden without the consent of Council.

THE SITE

Narellan Hotel is located on the corner of Camden Valley Way and Graham Hill Road, Narellan. **A site location plan is provided at the end of this report.** The hotel building occupies only a small portion of the 8884m² site, the remainder of the site being used for carparking or is vacant.

THE PROPOSAL

The Development Consent for the extended trading hours at the Narellan Hotel (Land and Environment Court Consent No 10527 of 2003 granted 15 February 2005) currently reads (in part) as follows:

Condition 14

"All commercial vehicle movements, (including deliveries) and any other activities associated with the operation of the premises are restricted to approved hours of operation. Any alteration to these hours will require the prior approval of the Council."

The applicant seeks to formally amend this condition to permit deliveries to occur at the times detailed below to obtain formal approval for the removal of the loading/turning bay and inclusion of an outdoor eating area beer garden and allocation of a loading bay adjacent to the car park.

Specifically, the S96 requests approval for:

- Delivery times are proposed to be between 8.00am - 4.00pm Monday - Friday (1.5 tonne to 15 tonne vehicles) with up to 23 movements per week;
- Removal of turning bay along the northern side of the hotel (retrospective) and replacement with an outdoor eating area (existing) consisting of 17 tables of up to 8 seats each, immediately adjacent to the tiled deck structure; and
- Indentation of the carparking area into the existing open space to accommodate a loading bay having dimensions of 3.5m x 12.5m.

NOTIFICATION

The subject amendments were notified to all adjoining property owners and numerous other property owners in the vicinity and surrounding neighbourhood. At the close of the exhibition period no submissions were received.

PLANNING CONTROLS

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

- Camden Local Environmental Plan 46 (LEP)
- Camden Development Control Plan 2006 (DCP)

ASSESSMENT

The application has been assessed in accordance with Section 79C of the Environmental Planning and Assessment Act 1979. Section 96A of the Environmental Planning and Assessment Act 1979, enables a consent authority to modify a development consent granted by the Court upon application being sought by the applicant or any person entitled to act on the consent, provided that the consent authority, as part of the assessment process, takes into consideration the following matters. Comments made relate only to the assessment of the loading bay aspects of the application as it is argued later in the report that the beer garden addition fails the first test i.e. it is not substantially the same development that was approved by the Court.

a) Is the proposed development as modified substantially the same development as originally approved by Council?

The proposed alteration to the car park, drainage and landscaping works does not alter the nature of the initial development in any way. Accordingly the proposed development as modified is substantially the same as that originally approved. The inclusion of the outdoor eating area beer garden does however substantially increase the area allocated for the consumption of food and alcohol. For this reason it is considered that this aspect of the application is beyond the scope of S96 consideration and that the works would require separate development consent.

b) Whether the application requires the concurrence of the relevant Minister, public authority or approval body and any comments submitted by these licence bodies?

The nature of the proposal does not require any concurrence or public authority approval.

c) Whether any submissions were made in respect of the proposed modification?

The application was notified in accordance with Council policy and no submissions were received.

d) Any relevant considerations under Section 79C(1) of the Environmental Planning and Assessment Act 1979?

It is not considered that the proposed amendment to the carparking and loading regime will have any adverse environmental impact. The location of the loading facility has been determined to ensure the safety of both patrons and service vehicle drivers. **A copy of the plan demonstrating the position of the loading bay is provided with the business paper supporting documents.** Other conditions of consent in the

original Court orders impose environmental protection conditions which will ensure the appropriate carrying out of the works and operation of this facility. The plans submitted show a reduction in parking spaces provided on site from the Court requirements of 115 spaces to 109. Accordingly an additional 6 spaces must be constructed.

Applying the above tests to the beer garden it is clear that the eating area/beer garden is a new development and was never considered by the land & Environment Court in any of the proceedings. This area was constructed and is operating without development consent. The area provides for approximately 136 persons to be seated for the purpose of consuming food and drinks. The area is paved and includes 17 timber seats and benches arranged in an orderly configuration and is somewhat similar to a beer garden. It is immediately adjacent to the outdoor eating area of the Hotel known as the outdoor deck. In accordance with Council's DCP 2006 carparking requirements for a Hotel is required to provide car parking spaces at the rate of 1 space per 5m² of beer garden. The proposed beer garden has a total area of 170m² and therefore requires provision of 34 car parking spaces. These spaces are not proposed to be provided on site. Applying Council's DCP requirements and the Court consent a minimum of 149 parking spaces would be required. No provision has been made to address this need.

A copy of the current liquor license was provided to Council which clearly delineates the area covered by the license for the consumption of alcohol. The map provided and wording of the license indicate that the beer garden is not included within the area covered by the license. **A copy of the Licensed Area map is provided with the business paper supporting documents.**

On 27 November 2007 Council received a request from JPR Legal (acting on behalf of the owner) to endorse an application to the Liquor Administration Board for the extension of their current liquor licence to include the car parking area and the grassed area. It was stated that liquor would not be sold, supplied nor consumed in the car parking area or grassed area of the Hotel. The purpose of the application was to achieve 'internal communication' between the delivery areas and the Hotel building and to enhance the value of the Liquor Licence. Council subsequently responded to the Department of Gaming and Racing and advised them that Council objected to the application for the extension of the licence area on the basis that consumption of alcohol in the carpark would be inappropriate and because Council was currently pursuing legal action with regard to breaches of the Development Consent in regard to operation of the Hotel outside of approved trading hours.

In accordance with this previous position it is considered that approval of the beer garden cannot be supported. This work, as stated above, is not considered to be substantially the same as that development approved by the Court and would require separate development consent. Further, as the area is not covered by a current liquor licence it would be unreasonable to expect that people could consume food in this area and not consume alcohol. No further approach has been made to Council seeking endorsement of an extension to the licence area to include the proposed beer garden. Further, the additional parking required to comply with Council's DCP has not been provided for as part of the amendment. For this reason any modification of the consent should only address the loading dock relocation.

CONCLUSION

Council has received a Section 96 application requesting modifications to Court Consent No 10527 of 2003 granted on 15 February 2005. The application has been publicly notified and no submissions were received. The application has been assessed having regard to the matters for consideration under Sections 96A and 79C of the Environmental Planning and Assessment Act, 1979. It is considered that only that part of the application that relates to the relocation of the loading dock can be approved and if approved, would not have any adverse environmental impact. Accordingly this aspect is recommended to be approved in the manner outlined below. The unauthorised works involving the construction of a beer garden cannot be considered under the provisions of Section 79C and accordingly it is appropriate to issue orders requiring reinstatement of the area in accordance with the consent issued by the Land and Environment Court.

RECOMMENDED

That:

- 1. the S96 application seeking to amend Land and Environment consent 10527 of 2003 at No 279 Camden Valley Way, Narellan (Lot A DP 393370) as it relates to the relocation of the loading bay only be approved as follows:**

- a. Condition numbered 14. be amended to read:**

14. All commercial vehicle movements, (including deliveries) associated with the operation of the premises are restricted to the hours of 8am to 4pm Monday to Friday. Any other activities associated with the operation of the premises are restricted to the approved hours of operation. Any alteration to these hours will require the prior approval of the Council.

- b. The following conditions be added into the consent:**

- 1. All loading and unloading activities associated with the servicing of the hotel are to occur from the designated loading bay.**
- 2. The loading bay shall be 3.5m x 12.5m and constructed to Council's construction specification.**
- 3. A sign shall be erected indicating "Loading Bay- no general parking".**
- 4. Bollards are to be provided along the western edge of the approved parking space No. 63 directly behind the loading bay.**
- 5. A landscaping strip consisting of a hedging plant is to be planted along the western boundary of the carpark and loading bay to provide a barrier between the carpark and the open space/play area to the west.**

2. The applicant be reminded of the Court requirements to construct 115 parking spaces.
3. A Notice of Council's Intention to issue an Order pursuant to Section 121B of the Environmental Planning and Assessment Act 1979 be issued stating that the unlawfully constructed beer garden area be removed and the area reinstated as an extension of the adjacent landscaped area within 2 months of the date of this determination . Such area should include grass, shrub and tree plantings; and
4. That all other conditions of Development Consent No. 53/2003 remain valid and applicable.

ATTACHMENTS

1. Location Plan
2. Plan demonstrating position of loading bay (Sup. Doc)
3. Map of Licensed Area (Sup. Doc)



Location Plan - 279 Camden Valley Way.pdf



Map of Licensed Area - Narellan Hotel.pdf

RESOLUTION

CHAIRMANSHIP OF MEETING

The Mayor, Councillor Patterson, having previously declared a Pecuniary Interest in Items ORD 01 and ORD 02 vacated the Chair and left the Chamber, the time being 6.22pm.

The Deputy Mayor, Councillor Funnell assumed the role of Chairperson.

Moved Councillor Warren, Seconded Councillor Cottrell that:

- i. the S96 application seeking to amend Land and Environment consent 10527 of 2003 at No 279 Camden Valley Way, Narellan (Lot A DP 393370) as it relates to the relocation of the loading bay only be approved as follows:
 - a. Condition numbered 14. be amended to read:
 14. All commercial vehicle movements, (including deliveries) associated with the operation of the premises are restricted to the hours of 8am to 4pm Monday to Friday. Any other activities associated with the operation of the premises are restricted to the approved hours of operation. Any alteration to these hours will require the prior approval of the Council.

- b. The following conditions be added into the consent:
1. All loading and unloading activities associated with the servicing of the hotel are to occur from the designated loading bay.
 2. The loading bay shall be 3.5m x 12.5m and constructed to Council's construction specification.
 3. A sign shall be erected indicating "Loading Bay- no general parking".
 4. Bollards are to be provided along the western edge of the approved parking space No. 63 directly behind the loading bay.
 5. A landscaping strip consisting of a hedging plant is to be planted along the western boundary of the carpark and loading bay to provide a barrier between the carpark and the open space/play area to the west.
- ii. the applicant be reminded of the Court requirements to construct 115 parking spaces.
- iii. a Notice of Council's Intention to issue an Order pursuant to Section 121B of the Environmental Planning and Assessment Act 1979 be issued stating that the unlawfully constructed beer garden area be removed and the area reinstated as an extension of the adjacent landscaped area within 2 months of the date of this determination . Such area should include grass, shrub and tree plantings; and
- iv. that all other conditions of Development Consent No. 53/2003 remain valid and applicable.

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

(Councillors Anderson, Dewbery, Cagney, Campbell, Cottrell, Funnell, Symkowiak and Warren voted in favour of the Motion.
No Councillors voted against the Motion).

ORD296/08

ACTIONS

[Link to CRMS document](#)

[CRMS: 7789408 27/11/2008, 09:35:05 AM](#)

ORDINARY COUNCIL

ORD02

SUBJECT: NARELLAN HOTEL -SECTION 96 APPLICATION SEEKING
EXTENSION TO TRIAL PERIOD OF EXTENDED HOURS AT THE
NARELLAN HOTEL
FROM: Director Development and Health
FILE NO: 1300.800-7(6)

PURPOSE OF REPORT

To advise Council of the content of a submission received from the NSW Police regarding the recommencement of the trial period for the Narellan Hotel and make a recommendation in relation to the outstanding S96 application.

BACKGROUND

At its meeting of 14 October 2008 Council considered a report regarding an application seeking modification of the Land and Environment Court's consent which authorised 24 hour trading at the Narellan Hotel. The application sought a further 12 month trial period for extended trading hours. At that meeting Council resolved to defer consideration of the matter until such time as the Police had submitted to Council a report addressing the matter of the extended hours trial.

MAIN REPORT

On 7 November 2008 Council received a report from the NSW Police Camden Local Area Command. **A copy of the report is provided with the business paper supporting documents.** In general terms the report makes the following comments:

1. Nine (9) submissions have been made to the police over the past month from residents in the vicinity of the hotel. Such submissions relate to broken bottles, non-abidance with original court orders, noisy behaviour in the early hours, intoxicated persons damaging property, swearing, and urinating in local residents' yards.
2. Between May and October 2008 there have been 34 incidents linked to the Narellan Hotel involving persons affected by alcohol. Statistics since 2006 suggest that alcohol related incidents are increasing around the Narellan Hotel.
3. Persons moved-on in the vicinity of the hotel has increased by 56% between 2007-2008. Assault in the vicinity of the Hotel has increased by 28% in the same period. Malicious damage has decreased in the vicinity of the Hotel by 18%.
4. In September 2007 the Hotel received a reprimand from the licensing court.
5. In February 2008 an intoxication breach was identified at the Hotel and is currently before the Local Court.
6. In July 2008 the Hotel Licensee was charged with matters relating to hindering

the Police and a Council Officer in the execution of their duty to remove security log. This matter was dismissed on a legal ruling regarding the taking of records under an Act other than the Liquor Act.

The Police concluded their submission recommending that the Narellan Hotel not be permitted to continue their extended trading hours based on the above matters.

At the time of the previous report to Council the Police comments had not been forthcoming. In light of the serious nature of the concerns highlighted in the submission it is considered pertinent to re-consider the previous recommendation regarding DA 53/2003(5). The discussion in the previous Council Report under heading Assessment (d) clearly provided a significant concession to the Hotel regardless of its less than satisfactory behaviour and operation in the past. In consideration of the most recent submission by the Police it is considered appropriate to rescind such comments as they relate to permitting the recommencement of the 12 month continuous trial.

On planning grounds it is considered that recommencement of the extended hours trial period for another 12 months would likely result in further adverse impacts on the amenity of the neighbours in the vicinity of the Hotel, unacceptable noise impacts and anti-social behaviour. The recommencement of the trial period would therefore not be in the public interest. Accordingly it is therefore recommended that Council refuse the s96 Application and that the Hotel be advised that their trial period remains suspended and that base (existing approved) operating hours apply.

It should be noted, as outlined in the previous report that the trial period is currently suspended. The wording of condition 2(i)(b) is such that a continuous trial period of 12 months was granted by the Land and Environment Court. Accordingly it is considered that 8 months of the trial period remain and that upon satisfactory compliance with conditions of the consent relating to the carpark that such trial could be re-instated.

It should further be noted that condition 2(iv) of the consent requires that a s96 application be lodged with Council at least 12 weeks prior to the expiration of the trial period to permit the extended hours to become permanent and provides that such application be considered having regard to the performance of the operator in relation to compliance with conditions of consent, complaints received and any views expressed by the Police.

RECOMMENDED

That:

- i. Section 96 application for DA 53/2003(5) seeking another 12 month trial period be refused. Condition 2(i)(b) therefore will remain as per the Land and Environment Court Consent**

ATTACHMENTS

1. NSW Police Submission Narellan Hotel (Sup Doc)
2. Council Report 14 October 08 - Narellan Hotel (Sup Doc)
3. Sup. Doc to Council Report 14 October 08 - Location Plan (Sup Doc)
4. Sup. Doc to Council Report 14 October 08 - Court Consent (Sup Doc)

5. Sup. Doc to Council Report 14 October 08 - Submission to Trial Period (Sup Doc)



NSW Police Submission Narellan Hotel.pdf



Council Report 14 October 08 - Recommencement of Trial Period Narellan Hotel.pdf



Sup. Doc. to Council report 14 October 08 - Location Plan 279 Camden Valley Way.pdf



Sup. Doc. to Council report 14 October 08 - Court Consent Narellan Hotel.pdf



Sup. Doc. to Council report 14 October 08 - Submission to Trial Period Narellan Hotel.pdf

RESOLUTION

Moved Councillor Warren, Seconded Councillor Cagney that the Section 96 application for DA 53/2003(5) seeking another 12 month trial period be refused. Condition 2(i)(b) therefore will remain as per the Land and Environment Court Consent.

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

(Councillors Anderson, Dewbery, Cagney, Campbell, Cottrell, Funnell, Symkowiak and Warren voted in favour of the Motion.

No Councillors voted against the Motion).

CHAIRMANSHIP OF MEETING

The Mayor, Councillor Patterson returned to the Chamber and resumed the Chair, the time being 6.35pm.

ORD297/08

ACTIONS

[Link to CRMS document](#)

[CRMS: 7789513 27/11/2008, 09:35:21 AM](#)

ORDINARY COUNCIL

ORD03

DEVELOPMENT APPLICATION FOR THE CONTINUATION OF CAMDEN PRODUCE MARKETS AT CAMDEN TOWN FARM AND JOHN STREET, CAMDEN

FROM:	Director Development and Health
FILE NO:	2925.90
DA NO:	DA 706/2008
OWNER:	Camden Council
APPLICANT:	Linda Galea - Macarthur Growers
ZONING:	Camden Town Farm - mixed zone being 3(f) Town Centre Support and 1(a) Rural pursuant to Local Environmental Plan 45 & 46 respectively John Street - 3(f) Town Centre Support pursuant to Local Environmental Plan 45
APPLICABLE PLANNING INSTRUMENT:	Camden Local Environmental Plan 45

PURPOSE OF REPORT

The purpose of this report is to seek the Council's determination of a Development Application by Macarthur Growers which is seeking approval for the continuation of Camden Produce Markets. The application proposes a change to the primary site presently located on John Street to the grounds of Camden Town Farm, with the original location to be maintained as an alternative wet weather site.

The proposal has been referred to the Council for determination as the market will be held on community land and the receipt of submissions during the notification process which could not be resolved through mediation or consent conditions.

SUMMARY OF RECOMMENDATION

That the application be approved subject to conditions for a trial period after which time a new application shall be lodged and re-assessed.

BACKGROUND

The Camden Fresh Produce Markets has been operating in Camden for the past seven years at the lower end of John Street bounded by Mitchell and Exeter Street. This was most recently approved by Council's Development Committee at its meeting of 8 August 2005 (Development Consent 603/2005).

The subject development application varies in that the proposed primary site for the markets would be the Camden Town Farm with John Street to be used only as a wet

weather alternative.

The relocation of the Produce Markets is primarily the result of the Camden Town Farm Masterplan adopted by Council on 28 May 2007. The Plan specifically identifies the produce markets to be relocated onto the farm stating that the use would provide 'a strategic initiative of promoting agricultural activity' (p37).

THE SITE

The primary site for the markets would be on the grounds of Camden Town Farm which is located on the fringe of Camden Town Centre. The Town Farm is under Council's ownership and is managed by the Camden Town Farm Committee pursuant to section 355 of the Local Government Act 1993.

An alternate site, the currently approved area, being the lower end of John Street bounded by Mitchell and Exeter Street would be continued to be used when the farm is inaccessible due to wet weather.

A site location map is provided at the end of this report.

THE PROPOSAL

The proposed development is essentially seeking approval for the continuation of Camden Produce Markets which would now be held on Camden Town Farm. The location of the markets on the Farm is generally in accordance with the Community Market Overlay as illustrated in Figure 27 of the Camden Town Farm Masterplan (p38). The arrangement of the stalls would be located within the open yard area centred around the cluster of buildings.

For the alternative wet weather site, being John Street, the arrangement of street stalls is not proposed to be changed and consists of two kerb side rows and a central row. The central row would have 3m x 3m sites while the kerb side rows would have 5m x 6m sites.

Overall, the market permits growers to sell locally grown produce directly to the public. The conditions imposed on DA 603/2005 specifies guidelines with regard to the selling of certain items and also defines what constitutes 'produce'. The Development Committee, at its meeting on 8 August, 2005 agreed to define 'produce' as:

Produce derived from land through agriculture, horticulture, animal husbandry, poultry and fish farming and specifically includes:

- All fruits and vegetables
- Flowers
- Nuts
- Poultry and game
- Eggs
- Meat and dairy products
- Fish and shellfish
- Honey, beeswax and propolis
- Plants, including flowers, bulbs, trees, shrubs and seeds

- Grains

In this regard, the markets would continue to operate under this definition and would be appropriately conditioned as part of the Development Consent.

Finally the markets would continue to operate on the second and fourth Saturday of the month all year round. As with the previous consent a condition may be imposed to ensure that the market cannot operate on John Street at times where there may be conflict with the Camden Show.

NOTIFICATION

The application was notified to a range of stakeholders. This included an advertisement in the local newspaper and adjacent property owners. Council received three submissions, the issues contained therein could not be resolved through mediation or conditions of consent. Relevant points will be discussed later in this report.

PLANNING CONTROLS

The following list identifies the controls that are relevant to the proposal. Each is discussed in further detail later in this report.

- Local Government Act 1993
- Roads Act 1993
- Camden Local Environmental Plan 45
- Camden Town Farm Masterplan

ASSESSMENT

The application has been assessed in accordance with Section 79c of the Environmental Planning and Assessment Act 1979.

(a) The Provisions of any Environmental Planning Instrument

Camden Local Environmental Plan 45

The land to which this plan applies includes both the Camden Town Farm and John Street.

The zoning of Camden Town Farm (noted as the Farm hereafter) is currently a split zone pursuant to Camden Local Environmental Plan No 45 and No 46. The split zones are 3(f) Town Centre Support and 1(a) Rural respectively. However the proposed location of the markets would be located within the zone 3(f) of Local Environmental Plan 45. In this regard, wholesale markets are permitted only with Development Consent.

Similarly with John Street this area is also zoned 3(f) Town Centre Support and wholesale markets are also permitted, again only with Development Consent.

Finally, the objective of the 3(f) Town Centre Support are:

- to encourage development that supports or complements the primary office and retail functions of the Town Centre Zone;
- to encourage development that will expand the range of services provided by the centre;
- to encourage development providing services to the rural community;
- to encourage development that assists the conservation of historic buildings and streetscape; and
- to permit development which adds to the vitality and diversity of the commercial centre while not prejudicing its principal function

It is considered that the development is consistent with the above objectives in that the markets will provide opportunities to complement and support the town centre commercial precinct on the markets days, expands the range of services available within the Camden Business Centre, provide a service to its rural community and will ultimately add to the vitality and diversity of the town.

(b) Likely Impacts on Both the Natural and Built Environments

Camden Town Farm Masterplan

The Camden Town Farm Masterplan acts as the guiding principle document for the strategic approach for the future uses of the Farm. The Plan specifically identifies the produce markets to be relocated onto the farm stating that the use would provide 'a strategic initiative of promoting agricultural activity' (p37).

As discussed above the Plan also provides a proposed location for the markets and further illustrates an extended footprint to the west should the event prove to be successful.

Noise Generation

While the market management controls the levels of noise generation, it is considered that the relocation to the Farm will further alleviate any noise issues that may arise from the market activity due to the new location being further away from residential dwellings. In addition, over the approved three year period the markets have been operating on John Street Council has not received any complaints.

Waste generation

It remains the responsibility of individual stall holders to remove all waste from the site for both locations. A condition of consent would be imposed on the market management to ensure the sites are left in a clean and tidy manner.

Hours of Operation

The produce market would operate on both sites under the existing time frame presently approved for John Street. That being, every second and fourth Saturday of the month with the following hours of operations:

Road Closed (when on John Street): 6.00am

Set up: 6.00am to 7.00am (all vehicles would be stationary by 7.00am)

Sales: 7.00am to 12.00pm
Pack up: 12.00pm to 2.00pm
Road Re-opens (when on John Street): 2.00pm

The allocated time frames are considered appropriate for the proposed use over both the Farm and John Street. In particular, Council has not received any objections/complaints with regard to the hours of operation of the produce markets during their approved three year period on John Street.

Duration of consent

The development proposal seeks approval for the permanent continuation of the produce markets to be held at Camden Town Farm (as the primary site) and on the lower section of John Street (being the alternative wet weather site).

It is considered that approval should not be granted for permanent continuation of the markets for the following reasons:

- 1) the location has changed and it is therefore considered appropriate to impose a time trial so that the impact of the event's operation can be reassessed in accordance with the Environment Planning and Assessment Act 1979 upon completion of the trial period, and
- 2) any future development in and around the subject area may affect the market's operations (particularly with any road closures). This is particularly relevant given the current development application before Council which proposes to redevelop the former Camden High School site with a mixed use commercial/residential development. Closure of John Street during construction of the development, if approved, may prove problematic and needs to be assessed.

Therefore for both the Farm and John Street sites, a time trial of three years and 12 months respectively is recommended. This would be imposed as a condition of consent.

Car Parking

During use of Camden Town Farm – it is proposed for all stall holders' vehicles be parked onsite. To ensure maximum safety, all stall holders would be on site before the opening hours of 7.00am with no traffic movement occurring onsite until after 12.00pm when the markets close.

With regard to visitor parking there would be no designated areas for visitors on the farm. However the area within its vicinity provides a generous number of parking spaces (that being along John and Exeter Streets, behind the Library and around the Council Building) which could be utilised by the farm visitors.

During closure of John Street – similarly to the above, car parking would be available in the surrounding streets. This has been considered adequate to date and has not appeared to impact on the adjacent premises. However it is still recommended that the Council limit the consent period as the impact of parking and the street closure may potentially alter in the future should development of the former Camden High School

site take place.

Finally, a review of Council's records indicates that the only time the markets have been an issue has been during the times that they have clashed with the Camden Show. Primarily the issues relate to traffic and parking due to the John Street road closures. To avoid such clashes it is recommended that the markets not be permitted to operate on the weekends when the Camden Show is held. This could be addressed by way of a condition of consent.

Traffic Generation

It is expected that issues relating to traffic generation would be improved due to the relocation of the markets because there would be no road closures when the Farm is being used.

As the John Street site is proposed to be used it is recommended that a condition of consent be imposed on the applicant to lodge a revised Traffic Management Plan (TMP) with Council. This would need to be approved by the Local Traffic Committee prior to the continuation of the markets in John Street. Given the timing of this work, a requirement for obtaining this approval by 1 March 2009 has been allowed.

Finally, the applicant has submitted letters from the local bus companies (Busways Group and Picton Buses) stating that the road closure would not affect the existing bus routes should approval be granted by the Traffic Committee.

(c) Any Submissions Made in Accordance with this Act or the Regulations

Three (3) submissions were received during the notification process. A discussion on these submissions is as follows. **Copies of the submissions are provided with the Business Paper supporting documents.**

1. The principal objection in two of the submissions was the closure of Exeter Street during the use of John Street. The submissions stated that the closure would create issues for people wanting to access the northern end of Bicentennial Equestrian Park (BEP) and private property.

Officer comment:

The closure of Exeter Street will now only occur during the use of John Street and only when the Farm grounds are deemed too wet to use. The information submitted by the applicant identifies that the section to which access may be required will be marshalled at all times during the road closure. To ensure that access to the BEP and the private dwelling in Exeter Street remains available, an appropriate condition of consent has been included in the draft conditions. Should access to the northern end of the Equestrian Park remain an issue during the John Street market days, despite this condition a benefit of a trial period would be that reassessment of the use can be undertaken at the end of its prescribed duration.

2. The markets should be relocated to Argyle Street between Hill Street and John Street or in John Street between Argyle and Mitchell Streets to attract people back to the main street.

Officer comment:

The relocation of the Produce Markets to the Town Farm is in accordance with the objectives of Town Farm Masterplan. As discussed above the Masterplan acts as a guiding document to not only promote agricultural activity on the Farm but also generate social and economic benefits to the wider community of Camden Town Centre. With this in mind, the proposed location of the markets on the farm is considered appropriate.

Limitations on footpath areas also restrict the proposed use of Argyle Street as the stall holders have larger area requirements than available and bus access in John Street would be constrained if this site was utilised.

(d) The Public Interest

The proposed development is considered to be acceptable and in the public interest. This is primarily supported by the economic benefit to both Camden Town and the wider community. Firstly, since the market has been operating visitation to the town has been noted to increase on the markets days. Secondly, the markets provide a business opportunity for local and regional producers to sell produce directly to the public.

Local Government Act 1993

Section 68 of the Local Government Act requires the prior approval of Council for the undertaking of any trade or business on community land. It is proposed to issue this approval concurrently with the Development Consent should the Council resolve to grant approval for the proposed use.

Roads Act 1993

The matter of temporary road closure has been raised with Council's Traffic Management Branch. Appropriate conditions of consent would be imposed to reflect the requirements.

CONCLUSION

Council has received a Development Application from Macarthur Growers Pty Ltd seeking approval for the continuation of Camden Produce Markets. The only change is that the primary site would now be on the grounds of Camden Town Farm and the original location of John Street would be left as the alternative wet weather site.

The Produce Markets run every second and fourth Saturday of the month and has been operating successfully for the past seven years. Principally, the markets permit growers to sell locally grown produce directly to the public.

Council received three submissions which related to the location of the markets and access to the Bicentennial Equestrian Park. The proposed location of the markets within Camden Town Farm is supported by the objectives of the Town Farm Masterplan to promote the agricultural use of the land and more recently Council's Tourism strategy and is therefore considered appropriate. With regard to access to the

Equestrian Park conditions of any consent are recommended to ensure that access is maintained at all times. Should access to the Equestrian Park remain an issue restricting the time period of the approval for the John Street operation would enable re-evaluation of the use following expiration of the consent.

The proposal has been assessed on its merits pursuant to Section 79C of the Environmental Planning and Assessment Act and is recommended for approval subject to the draft conditions below.

DRAFT CONDITIONS OF CONSENT

1.0 - General Requirements

- (1) **Approved Plans** – The development must be carried out strictly in accordance with the plans prepared by Macarthur Growers Pty Ltd, dated June 2005, drawing numbered DWG A1 and Community Market Overlay dated October 2008, drawing numbered DWG A2.

The development must also comply with the submitted 'Camden Fresh Produce Market Management Plan & Rules' (including addendum to the Statement for the inclusion of Site B) and the conditions of approval imposed by Council hereunder.

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

- (2) **Time Trial** – The development is subject to a time trial period after which time a modification to the development consent must be lodged with Camden Council. The time trial for each section of the development shall be in strict accordance with the following:

- Use of Camden Town Farm – 3 years as of the date of this consent
- Use of John Street – 12 months as of the date of this consent.

In the event that an extension is required then an application is required then it must be lodged with the Camden Council no later than 3 months prior to the expiration period.

- (3) **Advertising Signs Application** – Permanent outdoor advertising structures require prior development consent. A development application must be submitted and approval granted by the Camden Council prior to the erection of any advertising signs.

2.0 - Operational Conditions

- (1) **Participation As A Stallholder** – People can only be a stall holder in the Produce Market if they comply with all of the following requirements:-

Those who sell the below listed produce/value added farmgate products derived

from the Sydney basin that cannot be seasonally sourced from Macarthur at the time, provided the seller produces these goods.

The definition of “produce” as applied to the goods to be sold at the produce market is:

‘Produce derived from the land through agriculture, horticulture, animal husbandry, poultry and fish farming and specifically includes:

All fruits and vegetables
Flowers
Nuts
Poultry and game
Eggs
Meat and dairy products
Fish and shellfish
Honey, beeswax and propolis
Plants, including flowers, bulbs, trees, shrubs and seeds
Grains’

The definition of “value added farmgate produce” as applied to the goods to be sold at the Produce Market is:

“Produce derived from the land through agriculture, horticulture, animal husbandry, poultry and fish farming that is value added and materially forms the basis or character of the final product and specifically includes:

Jams, chutneys and sauces etc
Dried fruits/vegetables
Dried flowers (not in arrangements)
Split firewood
Organic fertilisers, worm castings and mulches
Fruit and vegetable juices
Salad and soup mixes
Roasted and or/ smoked nuts, meats etc
Dairy products and processed dairy products
Scented products such as soups and creams
Oils such as olive, lavender and other essential oils’

- (2) **Number Of Stalls** – The number of market stalls is limited to a maximum of sixty (60).
- (3) **Temporary Food Stall Registration** – all temporary food stalls are required to lodge an application form for Approval to Conduct Temporary Food Stall in a Public Place with Council prior to operating, complete with details of food to be served. A Certificate of Currency is to accompany each application from the stallholder's insurance company for a minimum of \$10million against any action that may arise from damage to property or injury to any person using the footpath or public road in the vicinity of the stall. Council Officers will be conducting annual inspections of the temporary food premises to ensure compliance with the Food Act 2003 and Food Standards Code. Fees for this inspection shall be in

accordance with the fees adopted in Council's Annual Management Plan.

- (4) **Offensive Noise** - The use and occupation of the premises including all plant and equipment installed thereon, must not give rise to any offensive noise within the meaning of the Protection of the Environment Operations Act, 1997.

Note: No PA system or other amplified sound equipment is to be used on the sites without prior approval of Council.

- (5) **Site Manager** – A site manager must be present on the site at all times during the market's duration.
- (6) **Bunting** - Bunting must not be used to attract customers.
- (7) **Flashing or Revolving Lights** - Flashing or revolving lights must not be used to attract customers.
- (8) **Hours For Display of Signage** – Signage may be displayed between the hours of 6.00am and 2.00pm of the day of the markets and removed upon the closure of the market.
- (9) **Hours of Operation** - The hours of operation for the approved land-use are:

(a) Camden Town Farm:

6.00am to 2.00pm on the 2nd & 4th Saturday of each month.

(b) Lower end of John Street

6.00am to 2.00pm on the 2nd & 4th Saturday of each month. **The markets are not to operate on John Street any Saturday that coincides with the Camden Show.**

- (10) All vehicle movements, deliveries and any other operations associated with the use of delivery vehicles to the premises must be restricted to set up 6am - 7am & pack up 12 noon - 2pm. Any alteration to these hours will require the prior approval of the Consent Authority.
- (11) **Water Pollution:** The operation of the proposed development must not cause or permit the pollution of waters as described under the Protection of the Environment Operations Act, 1997. Water discharged from temporary food stalls is classified as wastewater and is NOT PERMITTED to be discharged into Council's Waterways (this includes tipping of waste water into gutters). Stall holders are to be advised this is an offence under the provisions of the Protection of the Environment Operations Act 1997 and any offenders may be issued with on-the-spot fines that incur a penalty of \$750.00 per person, per incident.
- (12) **Waste disposal:** All waste generated from the event is to be removed on the day of the event. The market coordinator is responsible to ensure removal of all rubbish from the site.
- (13) **Public Risk Insurance Policy** - Prior to the commencement of any activity a

Public Risk Insurance Policy must be submitted to Camden Council with a minimum cover of \$10million in relation to the occupation of Council's road reserve and use of Camden Town Farm. The Policy is to note Council as an interested party and a certificate of currency from the insurer of such policy must be submitted to the Council as evidence of such policy. Where the coverage of such policy expires during the period of operation, the policy must be renewed prior to the expiration of the policy and a Certificate of Currency from the insurer.

Operational conditions relating to Camden Town Farm

- (14) **Usage charges** - Prior to the commencement of the markets operating on Camden Town Farm, the applicant is required to pay any fees payable associated with the use of Camden Town Farm.

In addition, any damage on the Farm Grounds will be the responsibility of the applicant to ensure full restoration to Council's satisfaction. Alternatively, should Council be required to carry out restoration work, all costs incurred will be charged against the applicant.

- (15) **Stallholder layout plan** - Prior to the commencement of the markets operating on the Farm, the applicant shall submit to council a layout plan of the market stalls. The layout plan is to be fully dimensional, to scale and in general accordance of the Community Market Overlay as illustrated in Figure 27 of the Camden Town Farm Masterplan.

Operational conditions relating to the closure of John Street

- (16) **Security bond payment** - Prior to the commencement of the markets operating on John Street, the applicant is required to pay a security bond and is to be in the form of cash or unconditional bank guarantee, in favour of the Camden Council.

This bond will only be returned at the expiration of this consent as prescribed in condition 1.2 above. Note: In accordance with Council's current Fees and charges an administration fee for processing of bonds into form of cash/cheque or bank guarantees is applicable.

- (17) **Damage Within Road Reserve** – The cost of any damage inflicted within the road reserve arising from the activities of the market is to be borne by the management of the market.

- (18) **Traffic Management Plan** – Prior to the closure and use of John Street a Traffic Management Plan (TMP) must be submitted and approved by the Local Traffic Committee. The TMP shall be prepared by a suitably qualified and RTA accredited traffic control practitioner and must include information as outlined within the Roads and Traffic Authority, Traffic and Transport Management of Special Events Version 3.4 document. The TMP is to be approved by 1 March 2009.

NOTE: Consultation with Council is highly encouraged in preparing the TMP. In addition, should the proposed TMP necessitate changes to the market layout plan a Section 96 application may be required to be lodged in accordance with the

Environmental Planning and Assessment Act 1979.

(19)**Closure To General Traffic** – Notwithstanding the above condition, the market site in John Street may be closed to general traffic between the hours of 6.00am and 2.00pm on the day of the market. Where vehicle access for the properties is required within the closed area then it must be suitably barricaded and must be manned by a Marshall at all times. The Marshall shall ensure that access is provided to all vehicles which require access along Exeter Street to the Bicentennial Equestrian Park and resident access to No 33 Exeter Street.

END OF CONDITIONS

RECOMMENDED

That:

- i. **Development Application No 706/2008 for the Macarthur Growers to use Camden Town Farm as the primary site and a section of John Street as an alternative wet weather site for the purposes of Produce Markets to be held every second and fourth Saturday of the month be approved subject to the draft conditions of consent.**
- ii. **Those people making submissions be notified of Council's decision.**

ATTACHMENTS

1. Location Plan
2. Submissions (Sup. Doc.)



Location Plan 40 Exeter Street Camden.pdf Submissions Camden Town Farm.pdf

RESOLUTION

Moved Councillor Funnell, Seconded Councillor Symkowiak that:

- i. **Development Application No 706/2008 for the Macarthur Growers to use Camden Town Farm as the primary site and a section of John Street as an alternative wet weather site for the purposes of Produce Markets to be held every second and fourth Saturday of the month be approved subject to the draft conditions of consent.**
- ii. **Those people making submissions be notified of Council's decision.**

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

(Councillors Anderson, Dewbery, Cagney, Campbell, Cottrell, Funnell, Symkowiak, Patterson and Warren voted in favour of the Motion.
No Councillors voted against the Motion).

ORD298/08

ACTIONS

Link to CRMS document

[CRMS: 7789645 27/11/2008, 09:35:34 AM](#)

ORDINARY COUNCIL

ORD04

SUBJECT: COURT PROCEEDINGS IN RELATION TO AN APPEAL TO
THE LAND AND ENVIRONMENT COURT AGAINST THE
SEVERITY OF SENTENCE IMPOSED BY CAMDEN LOCAL
COURT AGAINST JASON PETT

FROM: Director Development and Health

FILE NO: Development & Building Controls/Illegal Tree Removal

PURPOSE OF REPORT

The purpose of this report is to advise Council of the result of an appeal by Jason Pett to the Land and Environment Court against the severity of sentence handed down in Camden Local Court on 27 June 2008 in relation to a prosecution by Camden Council of Jason and Mark Pett. Council had taken the proceedings for the unauthorised removal of 172 trees without development consent at the properties 80 Anthony Road Leppington and two other adjoining properties.

BACKGROUND

At the meeting of 12 February 2008 Council considered a report concerning unauthorised tree removal at 80 Anthony Road Leppington and resolved to commence legal action against the contractors Jason and Mark Pett for unauthorised tree removal at that property and two adjoining properties.

In accordance with the resolution the matter was referred to Council's solicitors to proceed with action against Jason and Mark Pett. The matter was heard at the Camden Local Court. A judgement was handed down on 23 June 2008 whereby Jason and Mark Pett were convicted of the offence, collectively fined \$35,300.00 with Court costs of \$4,000.00 awarded to Council. Remediation Orders were imposed by the Court. Council was previously advised of these outcomes in a report to the 12 August 2008 meeting.

MAIN REPORT

Jason Pett lodged an appeal with the District Court of Campbelltown against the severity of his sentence. The appeal appropriately, was referred to and heard in the Land and Environment Court on 9 October 2008 before Justice Sheehan. Verbal and written submissions were tendered by Jason Pett and subsequently Council's solicitor.

After hearing the lengthy submissions, Justice Sheehan delivered his judgement as follows.

1. The appeal was dismissed.
2. The Orders of the Local Court are reinstated.
3. Jason Pett was to pay Council's costs in the matter in the sum of \$2,000.00.

The Court issued a formal written judgement on the matter . As the Local Court orders have been reinstated both the Petts must comply with the s.126(3) order to remediate the damaged area. In the event that they do not comply, then it is open to Council to take contempt proceedings against the Petts. This was affirmed by Justice Sheehan.

CONCLUSION

This is a significant result for Council and a landmark decision in terms of reaffirming the approach for prosecutions in the Local Court whereby Council now has the benefit of a judgement from a higher Court. This judgement has already been used by Council's compliance officers in subsequent successful proceedings.

RECOMMENDED

That Council note the outcome of the Land and Environment appeal action by Jason Pett.

RESOLUTION

Moved Councillor Funnell, Seconded Councillor Anderson that Council note the outcome of the Land and Environment appeal action by Jason Pett.

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

ORD299/08

ACTIONS

[Link to CRMS document](#)

[CRMS: 7789704 27/11/2008, 09:35:50 AM](#)

ORDINARY COUNCIL

ORD05

SUBJECT: UNAUTHORISED INSTALLATION OF SEWAGE
MANAGEMENT FACILITY – 1037 (LOT 13 DP785645) THE
NORTHERN RD, BRINGELLY
FROM: Director Development and Health
FILE NO: (ST5850.650)

PURPOSE OF REPORT

To recommend legal proceedings be commenced for failure to obtain approval for the installation of a new Aerated Wastewater Treatment System (AWTS) and related effluent application area at No 1037 (Lot 13 DP785645) The Northern Road, Bringelly against the plumber and the distributor of the system.

BACKGROUND

It was brought to Council's attention that the very old on-site sewage management system (septic tank and transpiration bed) at 1037 The Northern Rd was causing a health risk to the tenants of the dwelling. Council officers subsequently undertook an inspection on 18 June 2008 and dye tested the system which showed that effluent from the septic tank was discharging from the transpiration bed onto the ground surface in close proximity to the dwelling. The tenants vacated the property due to tenancy disputes with the Real Estate Agent and therefore no Orders were issued at the time by Council.

Council officers undertook a further inspection on 1 August 2008 to ascertain whether the dwelling had been re-occupied and if any works had been done. The inspection showed that a new Aerated Wastewater Treatment System (AWTS) and moveable irrigation line had been installed without prior Council approval. It is becoming apparent that an increasing number of systems are being installed without Council approval and in many cases contrary to the requirements of Council's strategy. In the majority of cases the owners of these properties are faced with additional costs in rectifying non-compliant work.

MAIN REPORT

Under Section 68 of the Local Government Act, 1993 (the Act) '*A person may only carry out the installation, construction or alterations to a waste treatment device or a human waste storage facility or a drain connected to any such device or facility with the prior approval of the Council*'. Similarly, the operation of a system of sewage management also requires prior approval of the Council.

Under section 626(3) of the Act '*A person who carries out an activity specified in Parts B-F of the Table to section 68 without having obtained a prior approval of the council under Part 1 of Chapter 7 required for the carrying out of that activity is guilty of an*

offence '.

The maximum penalty is 20 penalty units. At present a penalty unit is currently \$110 and therefore the maximum penalty that can apply is \$2,200.

Further, Section 669 of the Local Government Act provides that:

A person:

- (a) who causes the commission of an offence against this Act or the regulations, or*
- (b) by whose order or direction such an offence is committed, or*
- (c) who aids, abets, counsels or procures or by act or omission is directly or indirectly concerned in the commission of such an offence;*

is guilty in the same degree and liable to the same penalty as the principal offender.

There are several practical reasons for the legislation requiring a person to gain the prior approval of the Council prior to installing drainage and waste treatment devices.

These reasons include assessing the application for compliance with relevant legislation, guidelines and Council's Sewage Management Strategy which all serve to ensure that the health of residents, their neighbours and the environment are protected from the spread of disease. If an approval is granted by Council, numerous conditions are placed on the approval again in an effort to protect the health and safety of residents and the environment.

Such conditions of consent would include the requirement for inspections of drainage and tank excavation; for works to be undertaken by licensed tradespeople; that the system and related effluent application area (irrigation area) be located in an appropriate position and for ongoing servicing of the system.

The distributor of this brand of system is AAA Wastewater. The owner of that company, Graeme Tipper, has advised Council's Officers that he had supplied the System to the Plumber. He had arranged delivery of the system to the site and had not forwarded any advice of the installation of the system to Council.

Council Officers believe that not forwarding service sheets to Council minimises the chances of Council becoming aware of illegal installations.

The plumber John Mifsud (trading as Australian Plumbing Services) has advised that he undertook the works.

It is considered that distributors of AWTS and plumbers are employed in the industry of drainage and installation of AWTS and are therefore well aware of requirements to gain approvals from Councils to install septic systems. Similarly, such operators are well aware of requirements to call for drainage and tank excavation inspections.

It is considered that the owners of the property, the distributor of the AWTS and the plumber are all responsible under the Local Government Act, 1993 for gaining approvals to install systems of sewage management.

Orders will be issued to the owners of the premises in an effort to gather the outstanding information, certifications and to have the Related Effluent Application Area (REAA - or irrigation area) installed. All of these matters should have been approved as part of the installation process. The work as installed did not comply with Council requirements.

The breaches are considered serious and worthy of prosecution.

Council Officers have come across several installations where Council Approval has not been sought. In these instances, due to statutory timeframes, prosecution has not been an option. Rather, Council Officers are placed in a time consuming position of having to gain the relevant paperwork, certification, issuing Orders to ensure the system operates in a satisfactory manner and does not result in health risks to the occupants of the property. Further, inspections of the installations cannot be undertaken and Council is placed in a difficult position of having to accept certifications. Further, the owners may have an installation of which they have no certainty as to the quality of the installation or the ongoing Council requirements. In many circumstances the owners are faced with additional costs as the installers do not rectify works which have not been conditioned by Council to meet certain standards.

Council's Solicitors have provided legal advice in respect of this matter and they have advised that that the principal offender in this case would be the Plumber John Mifsud. Further, that the supplier of the system Graeme Tipper could also be prosecuted due to his actions. On the evidence available, Council's Solicitors do not recommend prosecuting the owners.

CONCLUSION

It is clear that the new AWTS installed at 1037 The Northern Road, Bringelly has been installed without the prior consent of Council which is a breach of the provisions of the Local Government Act, 1993. The plumber and distributor of the system should be held accountable for not gaining the relevant Council approvals.

RECOMMENDED

That:

- i. Council instigate legal proceedings under section 626(3) of the Local Government Act 1993 for carrying out an activity specified in Parts B–F of the Table to Section 68 without having obtained a prior approval of the council under Part 1 of Chapter 7 required for the carrying out of that activity, individually against:**
 - (a) John Mifsud trading as Australian Plumbing Solutions; and**
 - (b) Graeme Tipper of AAA Wastewater.**

RESOLUTION

Moved Councillor Funnell, Seconded Councillor Dewbery that Council instigate legal proceedings under section 626(3) of the Local Government Act 1993 for carrying out an activity specified in Parts B–F of the Table to Section 68 without having obtained a

prior approval of the Council under Part 1 of Chapter 7 required for the carrying out of that activity, individually against:

- (a) John Mifsud trading as Australian Plumbing Solutions; and
- (b) Graeme Tipper of AAA Wastewater.

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

ORD300/08

ACTIONS

[Link to CRMS document](#)

[CRMS: 7789897 27/11/2008, 09:36:23 AM](#)

ORDINARY COUNCIL

ORD06

SUBJECT: COUNCILLOR'S ATTENDANCE AT CONFERENCES
CONDUCTED BY UDIA AND PIA
FROM: Director Development and Health
FILE NO: Binder: Employee Relations/Training &
Development/Conferences

PURPOSE OF REPORT

The purpose of this report is to recommend that Council approve attendance at conferences conducted by the Urban Development Institute of Australia (UDIA) and the Planning Institute of Australia (PIA) in view of the information and education offered by both in relation to development of new release areas and other relevant local government planning and development issues.

BACKGROUND

The UDIA and the PIA hold annual, national conferences which provide an opportunity for practitioners, local government Councillors and staff, the development industry and other interested parties to gain an understanding of current issues associated with planning and development. Both conferences are well conducted and offer a range of interesting speakers from Australia and overseas.

MAIN REPORT

UDIA Conference

This conference will be held in Brisbane from 30 March to 2 April 2009 and its theme is "Making the Difference". At the time of writing this report limited information was available in terms of program however, as is usual practice, speakers will be from both Australia and overseas.

The UDIA is an industry group which attempts to ensure good development occurs and its conferences have provided valuable insight into best practice. Brisbane is a venue which can demonstrate major development projects and it is usual that site visits of planning excellence are incorporated into the event. It is expected at least one of the three proposed tours would involve release area planning.

PIA Conference

PIA will also hold their national planning congress in Darwin from 29 March to 1 April, 2009. Its theme is "Northern Exposure, Exploring New Horizons".

Preliminary information available on this conference is available on the PIA website. This conference also offers a range of tours however, again, limited details are

provided at this stage.

Costs

Both conferences offer early bird discount for advance registration. PIA offer a saving of \$179 for registrations made prior to 31 December 2008. Similarly, the UDIA offer early registrations which usually close in January with a saving for each delegate of around \$200.

Allowing for accommodation and airfares, it is likely that the cost of each delegate would be approximately \$2,700 for the PIA Conference and \$2,300 for UDIA, with staff who are members of each group entitled to further discounts. These costs are estimates only and in particular those to Darwin are based on airfares available at the time of writing the report. Given the limited number of direct flights to Darwin, the cost of attendance may increase and also involve staying additional nights due to flight times. Whilst the PIA conference is always of a high standard, it is considered unlikely that the tour component to be offered in Darwin will be relevant to Camden as a release area Council.

CONCLUSION

Both conferences will offer Councillors and staff exposure to current planning and development issues and should provide valuable learning experience for those who attend. They are particularly relevant to major growth issues facing Camden.

With the rapid growth facing Camden, it is imperative that its officers and Councillors are familiar with best practice initiatives in the development field and both conferences provide an opportunity to learn and see leading edge developments.

In order that any Councillors wishing to attend the conference can take advantage of the savings offered by early registration and making flight bookings in advance, a decision on attendance is required at this meeting. Councillors should note that limited refunds are available for cancellations.

RECOMMENDED

That Councillors nominate Councillor delegates as appropriate.

RESOLUTION

MOTION

Moved Councillor Funnell, Seconded Councillor Symkowiak that:

- i. the following Councillors be nominated as Councillor delegates:
 - a. Councillors Cagney, Symkowiak, Warren and Patterson to attend UDIA Conference;
 - b. Councillor Anderson to attend PIA Conference;
 - c. Councillor Campbell to nominate either Conference to attend in sufficient time to allow for Early Bird registration;

- ii. Councillors who are nominated to attend any Conference, who withdraw from attendance at the Conference, without reasonable cause, will be liable for any costs incurred by Council;
- iii. the Mayor and General Manager to assess and determine the appropriateness of such withdrawal and liability for costs.

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

ORD301/08

ACTIONS

[Link to CRMS document](#)

[CRMS: 7789993 27/11/2008, 09:36:32 AM](#)

ORDINARY COUNCIL

ORD07

SUBJECT: PAYMENT OF EXPENSES AND PROVISION OF FACILITIES TO
MAYOR AND COUNCILLORS POLICY
FROM: Director Governance
FILE NO: Expenses Policy

PURPOSE OF REPORT

To provide Council with a review of the Expenses and Facilities Policy and re-adopt such Policy as required by the Local Government Act, 1993.

BACKGROUND

In 2006, the Local Government Act was amended to provide for a more rigid regime for adopting a Policy for payment of expenses and provision of facilities to the Mayor and Councillors to ensure a level of consistency in the content of Council policies. The Department of Local Government issued guidelines to assist Councils in the preparation of the Policy. As part of the requirements, all Councils are to review and adopt the Policy by 30 November each year.

Council adopted the initial Expenses Policy in February 2007 and re-confirmed the Policy on 11 September 2007.

REPORT

Councillors were provided with a full copy of the Policy by way of memo prior to this Meeting and the Policy was the subject of a Councillor Workshop on 18 November 2008. **A further copy of the Policy is appended to this Report for the information of Councillors.**

CONCLUSION

The Policy is submitted for adoption as required by the legislation and as there are no significant changes, it may be adopted without the need for an exhibition period.

RECOMMENDED

That Council adopt the "Payment of Expenses and Provision of Facilities to Mayor and Councillors Policy" for the ensuing 12 month period as provided under the Local Government Act, 1993.

ATTACHMENTS



Expenses & Facilities Policy.doc

RESOLUTION

Moved Councillor Warren, Seconded Councillor Campbell that Council adopt the "Payment of Expenses and Provision of Facilities to Mayor and Councillors Policy" for the ensuing 12 month period as provided under the Local Government Act, 1993.

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

ORD302/08

ACTIONS

CRMS number , Finalised 27/11/2008 9:37:30 AM

Action: Finalised,

Completed

Letter sent to the Dept advising of adopted policy by Tony Cartwright 27/11/08.

Link to CRMS document [CRMS: 7790017 27/11/2008, 09:36:44 AM](#)

ORDINARY COUNCIL

ORD08

SUBJECT: CODE OF CONDUCT
FROM: Director Governance
FILE NO: Cofe of Conduct

PURPOSE OF REPORT

To submit the Code of Conduct for adoption by Council in accordance with legislative requirements.

BACKGROUND

Council is required by the Local Government Act to adopt a Code of Conduct and to review such Code within 12 months of each Council election. The Department of Local Government reviewed the Code during 2007/08 and issued a revised Code in June 2008. Council then, adopted the revised Code of Conduct at the Meeting on 22 July 2008. Nonetheless, Council is still required to review the adopted Code within 12 months of the election.

A copy of the Code is attached at the end of this Report.

MAIN REPORT

Councillors should now be familiar with the details and requirements of the Code having attended an Induction Seminar conducted by the Department of Local Government in early October 2008 and the Code was also discussed at a Councillor Workshop on 18 November 2008.

The Code of Conduct is a key mechanism to assist Council officials to act honestly, ethically, responsibly and with accountability. The community expects Councillors and staff to be honest, reasonable and equitable in their dealings and have the public interest at heart.

The Code applies to all Council officials. The term Council official is used to describe Councillors, members of staff of Council, administrators, members of Council Committees, Conduct reviewers and other delegates of Council.

The Code has been organised into three parts - Context, Standards of Conduct and Procedures.

Part 1 - Context - establishes the purpose and principles used to interpret the standards in the Code;

Part 2 - Standards of Conduct - sets out the conduct obligations required of Council officials. These provisions are enforceable.

Part 3 - Procedures - contains the complaint handling procedures, complaint

assessment criteria and the operating guidelines for the Conduct Review Committee/Reviewer.

The revised Code now provides significant changes and additions and it is worthwhile to highlight these at this stage.

- Councils are required to establish a Conduct Review Committee or Sole Conduct Reviewer, which is independent of Council. The General Manager and Mayor are no longer included on these Committees, although the General Manager is still responsible for assessing complaints and causing enquiries to be made into complaints alleging a breach of the Code;
- The Code outlines procedures for the operation of the Conduct Review Committee;
- The Code requires the General Manager to report annually to Council on the number of complaints received, the nature and issues raised and the outcome of the complaints;
- The distinction is drawn between a non-pecuniary conflict of interest as either significant or insignificant.
- Political donations exceeding \$1,000 now give rise to a non-pecuniary interest and a Councillor must not take part in discussion or voting on the matter. Donations under \$1,000 may also give rise to a non-pecuniary conflict depending on the matter.

The "Complaint Handling Procedures and Sanctions" (Part 3) and the "Complaint Assessment Criteria" also provide for the use of a range of methods for the resolution of complaints and gives clearer guidance about the referral of complaints to the Conduct Review Committee.

Appointment of Conduct Review Committee.

As part of the adoption of the Code in July, 2008, Council resolved to call for Expressions of Interest for appointment to the Conduct Review Committee. In this regard, Council staff have held discussions with senior staff of neighbouring Councils in relation to implementing a regional approach to membership of the Review Committee. These discussions are still being finalised and a Report will be provided to Council on the outcome and suggested process as soon as possible.

CONCLUSION

The new Code has made significant changes and impacts the manner in which Councillors and Council officials deal with pecuniary interests, political donations and how breaches are reported and dealt with by the General Manager and Conduct Review Committee.

Councillors, members of Council staff and Council Committees, must comply with the provisions of the Code of Conduct in carrying out of their functions as Council officials. It is the personal responsibility of all Council officials to comply with the standards of the Code and regularly review their personal circumstances with this in mind. Failure by any Council official to comply constitutes misbehaviour under the Code. The Local Government Act, 1993 provides for suspension of Councillors from civic office for up to six months for proven misbehaviour and may give rise to disciplinary action to be taken

against Council staff.

It is intended to conduct further information sessions on crucial aspects of the Code with Councillors in the early part of 2009 to promote awareness for compliance with the requirements.

RECOMMENDED

That Council:

- i. adopt the Code of Conduct for application to Councillors, members of Staff and delegates of Council, as attached to the Report as required by the Local Government Act, 1993;**
- ii. a further report be provided to Council on the procedure for the appointment of the Conduct Review Committee.**

ATTACHMENTS



Code of Conduct.doc

RESOLUTION

Moved Councillor Campbell, Seconded Councillor Anderson that Council:

- i. adopt the Code of Conduct for application to Councillors, members of Staff and delegates of Council, as attached to the Report as required by the Local Government Act, 1993;
- ii. a further report be provided to Council on the procedure for the appointment of the Conduct Review Committee.

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

ORD303/08

ACTIONS

CRMS number , Finalised 27/11/2008 9:38:37 AM

Action: Finalised,

Completed

Letter sent to the Dept advising of newly adopted Code by Tony Cartwright 27/11/08

[Link to CRMS document](#)

[CRMS: 7790161 27/11/2008, 09:37:44 AM](#)

ORDINARY COUNCIL

ORD09

SUBJECT: MANAGEMENT PLAN - SEPTEMBER 2008
FROM: Director Governance
FILE NO:

Council prepares a Management Plan and Budget annually, which sets out strategies and actions for the next three years. The Local Government Act requires quarterly reports to be submitted to Council showing progress to date on each of the strategies and actions within the Management Plan for the current 12 months.

The September 2008 review has been completed and is **provided in the Business Paper Supporting Documents**. The attachment highlights the progress of Council's adopted strategies and provides comments on each of the items.

RECOMMENDED

That the September 2008 Management Plan review be noted.

ATTACHMENTS



Management Plan Sept 2008.xls

RESOLUTION

Moved Councillor Funnell, Seconded Councillor Symkowiak that the September 2008 Management Plan review be noted.

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

ORD304/08

ACTIONS

[Link to CRMS document](#)

[CRMS: 7790399 27/11/2008, 09:38:50 AM](#)

ORDINARY COUNCIL

ORD10

SUBJECT: SEPTEMBER REVIEW OF THE 2008/09 BUDGET
FROM: Director Governance
FILE NO:

PURPOSE OF REPORT

This report presents the September Quarterly Budget Review for the 2008/09 financial year in accordance with Part 9, Division 3, Clause 203 of the Local Government (General) Regulation 2005.

Its purpose is to inform Council of the necessary changes to the 2008/09 Budget since the adoption of the 2008/09 Management Plan and Budget, and to consider other changes put forward for determination.

SUMMARY OF BUDGET REVIEW

In adopting the 2008/09 Management Plan, Council authorised a projected working funds surplus of \$225,092 for the 2008/09 financial year.

Budget adjustments identified in the September Review represent a decrease in the projected working funds surplus for the 2008/09 financial year of \$81,949. This results in a total available working funds balance of \$143,143.

Further information and explanation of the decrease in available working funds, and proposed variations within the budget are as follows:

NOTE 1 – MAJOR VARIATIONS TO BUDGET

Variations between the adoption of the 2008/09 Budget and the September Review for 2008/09 led to a decrease in working funds of \$81,949. A list of these variations (greater than \$10,000) is provided in the following table and brief explanations below.

September Budget Variations	Impact on W/ Funds Increase/ (Decrease)
INCOME ADJUSTMENTS	
Increase in income is a increase in working funds Shortfall in income is a decrease in working funds	
1. General Fund Interest on Investments Shortfall	(\$110,000)
2. Federal Assistance Grant Income Increase	\$73,569
3. Cultural Development Grant Income Increase	\$13,062
Variations under \$10,000 - Various Increases	\$26,527
Sub Total - Income Adjustments	\$3,158
EXPENDITURE ADJUSTMENTS	
Increase in expenditure is a decrease in working funds Savings in expenditure is a increase in working funds	
4. Information Technology Licensing Costs Increase	(\$25,000)
5. Risk Management Insurance Premiums Savings	\$24,899
6. Corporate Management Valuation Services Increase	(\$23,138)
7. Corporate Loan Repayments Increase	(\$18,190)
Variations under \$10,000 - Various Increases	(\$43,678)
Sub Total - Expenditure Adjustments	(\$85,107)
TOTAL PROPOSED WORKING FUNDS INCREASE	(\$81,949)

1. General Fund Interest on Investments - Decrease in Working Funds of \$110,000

Budget projections for interest on investments (general fund) identifies a budget shortfall of \$110,000 to the 30 June 2009. This is a result of the Reserve Bank decreasing the official cash rate to address the effects of the current world economic crisis. The interest income projections are reviewed quarterly and may need to be adjusted again if rates continue to decline.

2. Federal Assistance Grant Income - Increase in Working Funds of \$73,569

Council has received confirmation that funding under the Federal Assistance Grant Program has exceeded original budget expectations. The total income for 2008/09 of \$2,047,569 represents a 3.7% increase on the adopted budget for 2008/09.

3. Cultural Development Grant Income - Increase in Working Funds of \$13,062

Funding for the Cultural Development Officer has been secured and will be used to partially offset the costs of the program until the end of the funding agreement (December 2008).

4. Information Technology Licensing Costs - Decrease in Working Funds of \$25,000

Council's Microsoft licensing requirements have increased by \$25,000 due to rising costs and a change in the procurement process. In previous year's the procurement of Microsoft licenses was negotiated by the Department of Commerce for State and Local

Government. The State Government no longer supports the licensing of Microsoft products. As a result, the economies of scale has been reduced, increasing the license fee.

5. Risk Management Insurance Premiums - Increase in Working Funds of \$24,899

Savings primarily relate to a reduction in Council's Public Liability insurance premium compared to the adopted budget.

6. Corporate Management Valuation Services - Decrease in Working Funds of \$23,138

In 2007/08 all Councils were required to adopt "fair value" (market valuation) accounting for operational land and buildings. The total cost of valuation is \$35,460, of which \$12,322 was already funded.

7. Corporate Loan Repayments- Decrease in Working Funds of \$18,190

Council authorised loan borrowings of \$1,600,000 for the 2007/08 financial year (24 June 2008 - ORD 165/08) at a fixed rate of 8.75%. Council's original budget forecasted a borrowing rate of 7.00%. This adjustment represents the additional principal and interest repayments for 2008/09.

NOTE 2 – AUTHORISED VARIATIONS

Council has authorised five (5) budget variations since the adoption of the 2008/09 Budget

DESCRIPTION	Expenditure Increase/ (Decrease)	Income Increase/ (Decrease)	Impact on W/ Funds Increase/ (Decrease)
Smeaton Grange Rd Roadworks Council Minute ORD215/08 - 12/08/2008	\$739,852	\$739,852	\$0
RTA Repair Program Road Improvements Council Minute EX10/08 - 30/09/2008	\$198,000	\$198,000	\$0
Camden Cycleway Improvements Council Minute EX10/08 - 30/09/2008	(\$10,000)	(\$10,000)	\$0
Traffic Facilities Linemarking Program Council Minute EX10/08 - 30/09/2008	\$3,000	\$3,000	\$0
Road Safety Drive to Stay Alive Program Council Minute ORD239/08 - 09/09/2008	\$2,500	\$2,500	\$0
TOTAL AUTHORISED VARIATIONS	\$933,352	\$933,352	\$0

NOTE 3 – CONTRA ADJUSTMENTS

This section deals with all offsetting adjustments between income and expenditure or a transfer of funds between allocations. These adjustments have NO impact on Council's working funds as both movements of income and expenditure are of equal value.

During the period 1 July to the 30 September 2008, a number of contra adjustments have taken place amounting to a total of \$1,044,170 (an increase in both income and expenditure). For a detailed list of these adjustments, **please refer to the supporting**

documents in the business paper.

NOTE 4 – EXPENDITURE REVOTES

To assist Council in framing a realistic and accurate 2009/10 Budget, Managers and Directors were encouraged to identify any programmed works/projects that will not commence or be completed by 30 June 2009. There were no proposed revotes submitted by Managers and Directors for the September Review.

NOTE 5 – 2008/09 BUDGET DISCRETIONARY LIST

As part of the adoption of the 2008/09 Management Plan, Council endorsed the Budget Discretionary List. The Discretionary List identifies works or services that Council is unable to fund or commence at this point in time. Items are added or deleted from the list via Council reports or by Council officers as a result of Councillor or community feedback.

There were no items recommended for inclusion on the Discretionary List during the period 1 July to the 30 September 2008. **A copy of the Discretionary List adopted by Council has been included as an attachment to this report.**

NOTE 6 – COUNCILLOR CONSOLIDATED WARD FUNDS

To further assist Councillors in understanding the total available funds for consideration at each budget review, the following table is provided. This table is to inform Councillors of the current balance of consolidated Ward Funds, and where funds have been spent in this financial year. As requested by Council, all unspent Ward Funds at the end of 2007/08 have been allocated and/or revoted into the 2008/09 Budget.

It should be noted that the balance of consolidated Ward Funds is over and above the available working funds of \$143,143 as advised in this report.

Description		
Councillor Consolidated Ward Funds 2008/09	\$30,000	
Unspent Ward Funds - Revote 2007/08	\$9,500	
Macarthur BMX Club - Revote 2007/08	\$6,000	
Light Up Camden Donation - Revote 2007/08	\$3,000	
Camden Quota Club - Revote 2007/08	\$2,000	
Total Funds Available 2008/09		\$50,500
Projects Funded in 2008/09		
Macarthur BMX Club Improvements (Completed)	\$5,478	
Light Up Camden Contribution	\$3,000	
Camden Quota Club Donation	\$2,000	
Camden District Junior Cricket Fee waived	\$640	
Total Projects Funded 2008/09		\$11,118
Total Funds Available as at 30/09/2008		\$39,382

SUMMARY OF SEPTEMBER REVIEW ADJUSTMENTS

The following table is a summary of budget adjustments up to 30 September 2008.

Description	Expenditure	Income	Impact on Working Funds
	Increase / (Decrease)	Increase / (Decrease)	Increase / (Decrease)
2007/08 Carried Forward Working Funds Balance			\$1,000,000
2008/09 Adopted Budget Surplus			\$225,092
Available Working Funds 01/07/2008			\$1,225,092
LESS: Minimum Desired Level of Working Funds			(\$1,000,000)
Total Available Working Funds as at 30/09/08			\$225,092
2008/09 September Review Adjustments:			
NOTE 1: Proposed Variations	\$85,107	\$3,158	(\$81,949)
NOTE 2: Authorised Variations	\$933,352	\$933,352	\$0
NOTE 3: Contra Adjustments	\$1,044,170	\$1,044,170	\$0
NOTE 4: Revotes	\$0	\$0	\$0
Total of September Review Adjustments			(\$81,949)
Total Available Working Funds			\$143,143

FUTURE BUDGET CONSIDERATIONS

Supplementary Rate Income

Supplementary Rate Income is received upon the re-zoning or subdivision of land. It is additional rate income to the amount adopted as part of the original budget.

During the first quarter of 2008/09, Council received a significant increase in supplementary rate income due to the rezoning of land within the Oran Park and Turner Road land release areas. The anticipated increase in supplementary rate income is in excess of \$1,000,000. However, due to a number of objections submitted by residents to the Valuer General it would be prudent not to commit funds to projects and/or services until Council is formally advised of the Valuer General's determination. The objections are expected to be resolved prior to the December Quarterly Budget Review, at which time Council will be informed of the additional supplementary rate income available.

CONCLUSION

As explained in this report, upon adoption of the September Quarterly Budget Review variations, the budget surplus will decrease to \$143,143. Council should consider that

future quarterly budget reviews will allow for the allocation of some surplus funds to projects and/or services with the income to be received from supplementary rates. It is recommended that until such time as Council confirms the value of the supplementary rate income that the surplus remains uncommitted.

It should be noted that the uncommitted balance in Council's Capital Works Reserve is \$1,870,000.

RECOMMENDED

That:

- i. Council approve the necessary budget adjustments as identified in the categories of 'Proposed Variations', 'Contra Variations', and 'Discretionary List Adjustments' of this report.**
- ii. The budget surplus of \$143,143 remain uncommitted for consideration at future Quarterly Reviews.**

ATTACHMENTS



5 - September Budget Result Appendix.xls 4 - Adopted Discretionary List.xls

RESOLUTION

Moved Councillor Warren, Seconded Councillor Funnell that:

- i. Council approve the necessary budget adjustments as identified in the categories of 'Proposed Variations', 'Contra Variations', and 'Discretionary List Adjustments' of this report.
- ii. The budget surplus of \$143,143 remain uncommitted for consideration at future Quarterly Reviews.

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

ORD305/08

ACTIONS

[Link to CRMS document](#)

CRMS: 7790472 27/11/2008, 09:39:04 AM

ORDINARY COUNCIL

ORD11

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

In accordance with Part 9, Division 5, Section 212 of the Local Government (General) Regulation 2005, a list of investments held by Council as at 31 October 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 7.10% p.a. for the month of October 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 October 2008 be noted.**
- iii. the weighted average interest rate return of 7.10% p.a. for the month of October 2008 be noted.**

ATTACHMENTS



Investment Report October 08.xls

RESOLUTION

Moved Councillor Symkowiak, Seconded Councillor Funnell 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 October 2008 be noted.

iii. the weighted average interest rate return of 7.10% p.a. for the month of October 2008 be noted.

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

ORD306/08

ACTIONS

[Link to CRMS document](#)

[CRMS: 7790513 27/11/2008, 09:39:17 AM](#)

ORDINARY COUNCIL

ORD12

SUBJECT: KEEP AUSTRALIA BEAUTIFUL NSW 2008 TIDY TOWNS AWARDS
FROM: Director Works and Services
FILE NO: Environmental Management/Programs/KAB-Tidy Towns

PURPOSE OF REPORT

To advise of Council's success at the recent Keep Australia Beautiful NSW 2008 Tidy Towns Awards.

BACKGROUND

At the Extraordinary Council meeting of 30 September 2008, Councillors considered a report in relation to the Keep Australian Beautiful NSW 2008 Tidy Towns Awards.

Councillors will recall that Camden had entered two projects in separate categories for consideration at the Dorrigo Awards weekend. It was subsequently resolved to send a delegation to the Awards weekend in Dorrigo which was held on Friday 31 October through to Sunday 1 November 2008.

MAIN REPORT

The 2008 Tidy Towns Awards celebrations were held in Dorrigo on the weekend of 31 October -1 November 2008. Council was represented by Councillor Anderson and Committee Representative (Mr Edward Van Vlemen). Camden Council won the "Wildlife Corridors and Habitats Conservation Award" for The Nepean River Reserves Restoration Project. This project involved the control of invasive and noxious weeds and replanting with local indigenous species to help stabilise the riverbank. In total 10 ha of woody weeds were removed, 10 ha of land was revegetated with 11,525 trees and shrubs and 2000 sedges.

In addition, Camden received a Highly Commended Award in the "Cultural Heritage Award" for *Camden, Our Living History project*. The Camden Library Redevelopment, Work for the Dole 'Blasts from the Past' and Narellan Urban Forest all contributed to the enhancement of the *Camden, Our Living History* project. The Camden Creative Studios Work for the Dole 'Blasts from the Past 1 and 2 project' has transferred Camden Museum's oral history tapes to digital format and created digital stories for the whole community to enjoy. The Narellan Urban Forest restoration connected the community to its living heritage through involvement in the creation of the park and its public art.

The overall Tidy Towns State winner for 2009 of the Keep Australia Beautiful (NSW) Tidy Town Award was Tamworth, which covers an area of 184 sq km and has a population of 36,000 people.

RECOMMENDED

That Council acknowledge the success of Camden, and the partnership members, in winning the Keep Australia Beautiful NSW 2008 Tidy Towns “Wildlife Corridors and Habitats Conservation Award” and for receiving a Highly Commended as part of the “Cultural Heritage Award”.

RESOLUTION

(Councillor Funnell left the Chamber and took no part in voting, the time being 7.30pm.)

MOTION

Moved Councillor Anderson, Seconded Councillor Campbell that Council:

- i. acknowledge the success of Camden, and the partnership members, in winning the Keep Australia Beautiful NSW 2008 Tidy Towns “Wildlife Corridors and Habitats Conservation Award” and for receiving a Highly Commended as part of the “Cultural Heritage Award”;
- ii. arrange a 'Thank You' function for all volunteers involved in these Awards at the first available opportunity.

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

ORD307/08

ACTIONS

[Link to CRMS document](#)

[CRMS: 7790668 27/11/2008, 09:39:27 AM](#)

ORDINARY COUNCIL

ORD13

SUBJECT: NRMA COMMUNITY ROAD SAFETY GRANT - CHOOSE RIGHT
BUCKLE RIGHT
FROM: Director Works and Services
FILE NO: Traffic & Transport/Programs/Community Safety Programs

PURPOSE OF REPORT

To inform Council of a recently received grant of \$2,545 excluding GST (\$2,800 GST inclusive) under NRMA's Community Road Safety Grants program for the "Choose Right Buckle Right" project.

BACKGROUND

The "Choose Right Buckle Right" campaign is a community based restraint fitting and checking program. Occupant restraints are fitted and checked free of charge. It is designed to promote to the community the importance of correctly installing and using child restraints appropriate to each child's size and height. Particular focus is on children aged 0-5 years.

MAIN REPORT

Council applied for funding (\$2,800) through NRMA's Community Road Safety Grants program to continue with the "Choose Right Buckle Right" project and deliver the restraint fitting and checking days to the community four times a year.

Council has been advised that its application was successful and it is planned to organise a presentation to coincide with the next Occupant Restraint Checking Day.

CONCLUSION

The "Choose Right Buckle Right" program has proven to be a successful initiative in the community and much appreciated by the residents. The funding provided by the NRMA will pay for the RTA Authorised Restraint Fitter to attend the four annual restraint checking and fitting days, and assist in the ongoing success of the project.

RECOMMENDED

That Council:

- i. acknowledge receipt of \$2,800 from the NRMA's Community Road Safety**

- Grants program; and**
- ii. **write to the NRMA thanking them for their contribution to this program.**

RESOLUTION

(Councillor Funnell returned to the Chamber, the time being 7.40pm)

Moved Councillor Warren, Seconded Councillor Dewbery that Council:

- i. acknowledge receipt of \$2,800 from the NRMA's Community Road Safety Grants program; and
- ii. write to the NRMA thanking them for their contribution to this program.

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

ORD308/08

ACTIONS

[Link to CRMS document](#)

[CRMS: 7790780 27/11/2008, 09:39:41 AM](#)

ORDINARY COUNCIL

ORD14

SUBJECT: AUSTRALIAN SAFER COMMUNITY AWARDS
FROM: Director Works and Services
FILE NO: Traffic and Transport/Programs/Community Safety Programs

PURPOSE OF REPORT

To advise of Council's success at the recent Australian Safer Community Awards.

BACKGROUND

On 24 September 2008, Council, along with Campbelltown and Wollondilly Councils, was awarded the NSW state award for Australian Safer Community Award (Local Government Category) for the "Drives for Learners in Macarthur booklet" and "Log Book Run" events.

This resulted in the Councils' entry going into the National competition.

MAIN REPORT

Representatives from Camden Council attended Parliament House in Canberra on Tuesday 11 November 2008 where Camden Council, along with Campbelltown and Wollondilly Councils, received a Highly Commended Award (Local Government - Collective Category) in the National Australian Safer Community Awards for 2008. This award was again for the "Drives for Learners in Macarthur booklet" and "Log Book Run" events.

Drives for Learners in Macarthur involved the development of a booklet containing nine planned routes for learners and their supervisors to undertake in the Macarthur area. The drives vary in experience and conditions and provide progressive stages for the learners to move through. Similarly the Log Book Run was designed to expose learner drivers to a diverse cross section of driving conditions while helping them increase their mandatory driving hours.

The Drives for Learners in Macarthur booklet is a great educative initiative to help L-plate drivers receive on-road driving practice in a variety of road conditions.

Likewise the Log Book Run events allow learner drivers the opportunity to learn valuable driving skills while helping them build up their 120 hours of driving experience.

RECOMMENDED

That Council acknowledge the success of Council and its partner Councils in receiving this National Award.

RESOLUTION

Moved Councillor Funnell, Seconded Councillor Symkowiak that Council acknowledge the success of Council and its partner Councils in receiving this National Award.

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

ORD309/08

ACTIONS

[Link to CRMS document](#)

[CRMS: 7790889 27/11/2008, 09:39:53 AM](#)

ORDINARY COUNCIL

ORD15

SUBJECT: TENDER NO. 2008/1- FOR THE SUPPLY AND DELIVERY OF 4WD
LOADER
FROM: Director Works and Services
FILE NO: Tenders

PURPOSE OF REPORT

To obtain Council's approval for the acceptance of a tender for the supply and delivery of a four wheel drive loader. The loader is to be used on Council's construction and maintenance works for the loading of materials and general earthmoving.

MAIN REPORT

Tenders were called for the supply and delivery of a four wheel drive loader to replace an existing Volvo L70D loader under the annual plant placement program. Tenders closed 2.00pm Friday 7 November 2008. Five companies submitted tenders. **A summary of the tenders received is included in the supporting documents.**

The tender assessment was evaluated based on the following criteria:-

- Tenders must be from a recognised manufacturer of loaders, with the ability to supply a suitable machine and good availability of spare parts;
- Information provided by Tenderer is as requested;
- Tenderer's commitment to the provision of quality products as evidenced by demonstrated experience and a well-developed quality management system;
- Price tendered for plant to Council;
- Client focus and customer service record of the Tenderer;
- Operating and maintenance costs;
- Delivery time; and
- Trade-in value

Council currently operates three loaders, two for road construction and maintenance, and one for depot yard work. Current models are Volvos (2) and Case (1). The oldest Volvo L70D is 8 years old and is to be traded in.

Evaluation

The Volvo L60F does not meet the specification (lower output) and is not considered suitable for the construction requirement. Council currently has a L60F loader to manage depot yard works and stockpiles.

The three lowest tenders were further evaluated in regard to comparisons on fuel consumption costs, based on 1200 hrs per year over 7 years' life expectancy and

diesel price of \$1.40/litre, on a medium duty level. This is **summarised in the supporting documents.**

Servicing costs and trade in value after 7 years are expected to be similar on all three loaders.

In conclusion, the L70F Volvo is slightly quieter, has very good cabin visibility all round, controls are easy to access by the operator and taking into account the fuel savings, has a cost advantage of \$31,088 over the alternative machines, over its life cycle. Therefore L70F is the preferred loader.

The Volvo L70F is a similar sized machine to the current Volvo being traded in. To date, the two existing Volvo loaders have performed very well with minimal down time, therefore have a good proven track record. The existing Volvo being traded in has retained its value as can be seen by the trade in offered.

CJD Equipment Pty Ltd, the Volvo supplier, is located in Smeaton Grange and has provided excellent after sales service in the past.

The 2008/09 plant replacement budget for the loader is \$153,000. The shortfall of \$11,500, can be managed within the plant program budget through anticipated savings from other plant purchases.

CONCLUSION

It is considered that the Volvo L70F will suit Council's needs and has a cost advantage based on overall operating costs.

RECOMMENDED

That the tender from CJD Equipment Pty Ltd for a Volvo L70F loader be accepted at a net change over price of \$164,500 excluding GST.

ATTACHMENTS

SUPPORTING DOCUMENTS



Summary of Tenders & Fuel Consumption Costs.doc

RESOLUTION

Moved Councillor Funnell, Seconded Councillor Symkowiak that the tender from CJD Equipment Pty Ltd for a Volvo L70F loader be accepted at a net change over price of \$164,500 excluding GST.

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

ORD310/08

ACTIONS

Link to CRMS document

[CRMS: 7790965 27/11/2008, 09:40:04 AM](#)