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## ORDINARY COUNCIL

SUBJECT: APOLOGIES

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

### RECOMMENDED

That leave of absence be granted.

### RESOLUTION

Moved Councillor Symkowiak, Seconded Councillor Funnell that Councillor Anderson be granted a leave of absence.

THE MOTION ON BEING PUT WAS CARRIED.

ORD227/10

### **ACTIONS**

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## **ORDINARY COUNCIL**

**SUBJECT: DECLARATION OF INTEREST**

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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 that they may have or Political Donation they may have received 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**

There were no declarations to be noted.

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

ORD228/10

### **ACTIONS**

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## **ORDINARY COUNCIL**

**SUBJECT: PUBLIC ADDRESSES**

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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. A limitation of one (1) speaker for and one (1) speaker against on each item is in place. Additional speakers, either for or against, will be identified as 'tentative speakers' and should only be considered where the total number of speakers does not exceed seven (7) at any given meeting.

Where a member of the public raises a question during the Public Address segment, a response will be provided where Councillors or staff have the necessary information at hand; if not a reply will be provided at a later time. There is a limit of one (1) question per speaker per meeting.

All speakers are limited to 4 minutes, with a 1 minute warning given to speakers prior to the 4 minute time period elapsing.

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

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

### **RECOMMENDED**

**That the public addresses be noted.**

### **RESOLUTION**

Mr John Vella addressed Council in relation to Item ORD 01.  
Mrs Danica Sajn addressed Council in relation to Item ORD 01.

### **MOTION**

Moved Councillor Campbell, Seconded Councillor Cagney that an extension of time of

two (2) minutes be granted.

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

Mr Ross Morton addressed Council in relation to Item ORD 01.

Moved Councillor Dewbery, Seconded Councillor Warren that the public addresses be noted.

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

ORD229/10

## **ACTIONS**

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## **ORDINARY COUNCIL**

**SUBJECT: CONFIRMATION OF MINUTES**

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Confirm and adopt Minutes of the Ordinary Council Meeting held 12 October 2010.

### **RECOMMENDED**

**That the Minutes of the Ordinary Council Meeting held 12 October 2010, copies of which have been circulated, be confirmed and adopted.**

### **RESOLUTION**

Moved Councillor Dewbery, Seconded Councillor Funnell that the Minutes of the Ordinary Council Meeting held 12 October 2010, copies of which have been circulated, be confirmed and adopted.

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

ORD230/10

### **ACTIONS**

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## ORDINARY COUNCIL

ORD01

**ERECTION AND USE OF CHURCH HALL BUILDING AS A PLACE OF PUBLIC WORSHIP, CONSTRUCTION OF CAR PARK AND ASSOCIATED SITE WORKS AT NO 124 (LOT 2, 200915) GEORGE ROAD, LEPPINGTON**

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<b>FROM:</b>	Director Development and Health
<b>FILE NO:</b>	3325.160-2
<b>DA NO:</b>	1107/2008
<b>OWNER:</b>	Australasian Conference Association Ltd
<b>APPLICANT:</b>	Australasian Conference Association Ltd
<b>ZONING:</b>	1(b) Rural (2 Hectares)
<b>APPLICABLE PLANNING INSTRUMENT:</b>	Camden Local Environmental Plan No 48

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### PURPOSE OF REPORT

The purpose of this report is to seek from Council a determination of a development application for the erection of a church hall building, its use as a place of public worship, construction of carpark and associated site works on the site. The application is referred to Council in accordance with its delegations as there are unresolved issues raised in submissions from the public.

### SUMMARY OF RECOMMENDATION

It is recommended that Council approve this development application subject to the draft development consent conditions provided at the end of this report.

### BACKGROUND

This development application was received by Council on 28 November, 2008. The application underwent a preliminary assessment and several fundamental issues were identified.

First among these issues was the proposed removal of remnant Cumberland Plain Woodland (CPW) from the site that is classified as "Support for Core Habitat" by Council's Natural Assets Policy.

A meeting was held with the applicant and the identified issues were discussed. The applicant agreed to consider the issues raised and provide amended plans and reports to address them. This information was submitted to Council between June/July 2009 and the application was publicly exhibited between 23 July and 6 August, 2009. Three submission letters were received as a result of this exhibition.

Subsequent to this, the plans have needed to be modified further and Council has been pursuing additional information from the applicant. Most notably, the issue of on site effluent disposal has required considerable work by both the applicant and Council staff to enable the assessment to be finalised.

The application was previously scheduled for determination at Council's Ordinary meeting of 9 March, 2010. However the application was removed from the meeting agenda due to an adjoining land owner removing their consent to provide a stormwater drainage easement on their land.

Subsequently the applicant and Council staff have undertaken redesign and reassessment respectively of the development's stormwater drainage system. The result is that the proposed amended stormwater drainage system no longer requires a drainage easement to be provided on any adjoining property as it will drain directly from the subject site to George Road to the south.

The amended plans, reports and public submissions have been assessed and the application is now able to be recommended to Council for approval.

## **THE SITE**

The site is known as No 124 (Lot 2, DP 200915) George Road, Leppington. The site has an area of 2.01 hectares (ha), is currently vacant and contains remnant CPW in the middle and rear of the site. The site rises from George Road before falling to the north at the rear. It generally sits at a higher level than the adjacent sites of 114 and 132 George Road.

The site is mapped as bush fire prone land in Council's current Bush Fire Prone Land Map. The site is located within the future Catherine Fields North precinct of the South West Growth Centre.

The surrounding area is characterised by low density detached dwellings set on large rural lots. Various agricultural activities are undertaken in open fields or within rural sheds/igloo structures. **A site location map is provided at the end of this report.**

## **THE PROPOSAL**

Development consent is sought to construct and operate a church building as a place of public worship on No 124 George Road. This will involve:

- the construction of a two storey church/hall building to be used as a place of public worship. The hall will have a maximum seating capacity of 390 people and will include internal storerooms, toilets, a kitchen/servery area and first floor office and board room;
- the use of the hall for sermons on Friday evenings between 7.00 pm and 8.30 pm. The maximum number of people at these events will be 195;
- the use of the hall for study groups, singing, music, youth meetings and pot luck lunches on Saturdays from 9.30 am - 5.00 pm. The maximum number of people at these events will be 390;

- the use of the hall for recreational activities including concerts, activity games, seminars, children's club meetings and basketball/volleyball on Saturday evenings between 8.00 pm and 10.00 pm. The maximum number of people at these events will be 195;
- the use of the first floor office and board room on Friday evenings between 7.00 pm and 8.30 pm and on Saturdays between 9.30 am and 5.00 pm and 8.00 pm -10.00pm;
- the provision of 88 off-street car parking spaces including 4 spaces each for motorcycles and bicycles adjacent to the hall;
- the provision of an overflow car parking area in the lawn in front of the hall with capacity for 56 cars. This overflow area will be retained as a maintained grassed area and will only be used when all formally constructed car parking spaces on the site are occupied;
- the revegetation and protection of remnant CPW in the middle and at the rear of the site; and
- ancillary site works including site regrading, landscape softening and screening and two 3.0m high acoustic barriers.

The applicant has stated in writing that no approval is sought for weddings or funerals on this site at this time. Any alterations to the proposed days or hours of operation, or the activities carried out thereon, will be subject to a further development application to Council.

The proposed plans also show an indicative location for a future church building in front of the currently proposed hall. This is indicative only and will be subject to a further development application to Council.

As the development is located within the future Catherine Fields North precinct of the South West Growth Centre it was referred to the Department of Planning (the Department) for comment. The Department has advised Council to consider Clause 16 and Part 6 of State Environmental Planning Policy (Sydney Region Growth Centres) 2006 when determining this application. Consideration of the SEPP is detailed in the "provisions of any environmental planning instrument" section of this report. **A copy of the proposed plans is provided at the end of this report.**

The application has been the subject of extensive assessment and is now able to be referred to Council for determination.

### **NOTIFICATION**

Public notification was carried out between 23 July and 6 August, 2009. Notification letters were sent to surrounding properties and the application was advertised in the local press in accordance with Camden Development Control Plan 2006. Three public submissions have been received as a result of this and are assessed in the "Any submissions" section of this report.

## **PLANNING CONTROLS**

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

- State Environmental Planning Policy (Sydney Region Growth Centres) 2006
- State Environmental Planning Policy No 55: Remediation of Land
- Deemed State Environmental Planning Policy No 20: Hawkesbury/Nepean River
- Camden Local Environmental Plan No 48
- Draft Camden Local Environmental Plan 2010
- Camden Development Control Plan 2006.

## **ASSESSMENT**

This application has been assessed in accordance with Section 79C of the Environmental Planning and Assessment Act 1979. The following comments are made with respect to the proposal:

### **(1)(a)(i) The provisions of any Environmental Planning Instrument**

#### **State Environmental Planning Policy (Sydney Region Growth Centres) 2006 (the SEPP)**

These sites are located in the future Catherine Fields North precinct of the South West Growth Centre. Clause 16 and Part 6 of the SEPP list several matters that Council must consider before granting development consent in future precincts. The proposed development is considered consistent with the relevant SEPP provisions.

#### **State Environmental Planning Policy No 55: Remediation of Land (SEPP 55)**

In accordance with SEPP 55, the applicant has prepared a detailed contamination assessment of the site. Following Council's staff review it is assessed that this site is not contaminated and that its use as a place of public worship does not present any public health issues.

#### **Deemed State Environmental Planning Policy No 20: Hawkesbury/Nepean River**

It is considered that the aims and objectives of this policy will not be prejudiced by this development and that there will be no detrimental impacts upon the Hawkesbury/Nepean River system. The draft development consent conditions provided at the end of this report will ensure that appropriate pollution control devices are provided on the site to remove gross pollutants, hydrocarbons and heavy metals from stormwater discharge. This will ensure an appropriate level of water quality is achieved for stormwater run-off from this site.

#### **Camden Local Environmental Plan No 48 (LEP 48)**

Camden Local Environmental Plan 2010 (draft LEP) was gazetted on 3 September, 2010. As this development application was lodged well before this gazettal date it must only be considered as if the LEP was still in draft form. Therefore LEP 48 is the

applicable Local Environmental Plan for this development.

These sites are zoned 1(b) Rural (2ha) pursuant to LEP 48. The proposed development is defined as a place of public worship pursuant to LEP 48 and the Environmental Planning and Assessment (Model Provisions) 1980.

Places of public worship are permissible with development consent in this zone.

Clause 9(3) of LEP 48 prohibits Council from granting consent to any development unless Council is of the opinion that the development is consistent with the objectives of the zone.

The objectives of this zone are:

- (a) to provide for rural residential living opportunities on land having ready access to urban areas and facilities;*
- (b) to ensure that development maintains and contributes to the rural character of the locality and minimises disturbances to the landscape and agricultural activities;*
- (c) to ensure that development does not adversely affect rural and residential amenity and does not create unreasonable or uneconomic demands for provision or extension of public amenities and services;*
- (d) to make provision for a reasonable range of suitable activities associated with rural residential occupations of the land; and*
- (e) to permit alternative forms of accommodation which do not imperil the rural productivity of the area and which are consistent with the environmental quality of the immediate area.*

The proposed development is considered to be consistent with the relevant objectives of this zone (objectives (b), (c) and (d)), in that its design will maintain and contribute to the rural character of the locality, will not adversely affect rural and residential amenity and will provide activities for use by residents of the rural residential area.

This will be achieved by the following design and site features:

- the hall building has a significant setback of between 63 - 79m from the front property boundary, setting it behind the building lines of the existing dwellings on either side of No 124 George Road;
- most of this front setback will be retained as a mown lawn with landscaping to soften and screen the appearance of the building from George Road;
- substantial side and rear setbacks will ensure that building does not cause any significant overshadowing to adjoining properties;
- the building's maximum height is 8.8m and is generally consistent with the existing dwellings and rural sheds in the surrounding area;

- a large portion of the site contains CPW which will be revegetated and maintained as part of the development;
- the overflow car parking area to the front will be retained as a mown lawn and so will not present as a hard, constructed surface in front of the building, thereby minimising the development's visual impact;
- the constructed car park area, mostly to the side and partially at the front of the building, will be largely obscured from public view by 3m high acoustic barriers which will protect neighbouring properties from potentially intrusive noise impacts;
- both acoustic barriers will be softened and screened by a 2m wide landscaped area. This is consistent with the existing character of the site which, from George Road, appears heavily vegetated with both exotic and native flora;
- the relatively sharp north west to north east 'bend' in George Road (when travelling north west along George Road), the existing and proposed vegetation and the undulating topography of the surrounding vicinity limits public views of the site over long distances. This helps restrict the development from significantly detracting from the established character of the area; and
- the size and siting of the building and constructed car park fit in with the overall character of other development in the area. The ratio of constructed development versus natural site achieves a reasonable balance between retaining the rural character of the site whilst allowing the site to be developed for a more intensive use.

These design and site features will help to maintain and add to the rural character and maintain the existing residential amenity of the surrounding area which consists of a range of detached dwellings on large lots, large storage sheds and agricultural activities undertaken in open fields.

The assessment of the development's impacts on rural character has also been made in the context of future development of this area as a South West Growth Centre precinct (Catherine Fields North). Whilst the ultimate form of development for this precinct is currently unknown and the existing rural character of the area is the primary consideration, it is recognised that the locality will be subject to significant urban development in the future.

The potential for traffic, noise and overshadowing impacts from the proposed development has been assessed with the applicant providing professional reports to support the proposal. Having assessed these, it is not considered that the proposal will adversely affect surrounding rural and residential amenity. Given the proposed use is self contained on this site in that it has its own on-site car parking spaces and waste water treatment system, it will not create unreasonable or uneconomic demands for the provision or extension of public amenities or services.

Overall it is considered the proposed development is acceptable in terms of the relevant objectives and controls of LEP 48.

### **(1)(a)(ii) The provisions of any Draft Environmental Planning Instrument**

## Camden Local Environmental Plan 2010 (draft LEP)

Although Camden Local Environmental Plan 2010 was gazetted on 3 September, 2010 as this development application was lodged well before this gazettal date it must only be considered as if it was still in draft form.

These site's 1(b) Rural (2ha) zone is replaced by the RU4 Rural Small Holdings zone in the draft LEP. Places of public worship are permissible with development consent in this zone.

The development is also considered to be consistent with the relevant objectives of the RU4 Small Holdings zone in that the rural and scenic character of the land will be maintained, no unreasonable demands for increased public services or facilities will be created and land use conflict between the subject development and the adjoining properties will be minimised.

The proposed building is approximately 8.8m high and therefore complies with the draft LEP's 9.5m maximum building height development standard for this area.

No other parts of the draft LEP are relevant to the proposed development.

### **(1)(a)(iii) The provisions of any Development Control Plan**

The following parts of Council's Development Control Plan (the DCP) are relevant:

#### Part D, Chapter 1: Car parking

The off-street car parking space calculations for this development are as follows:

Places of public worship require either 1 space for every 6 seats or 1 space for every 9m<sup>2</sup> of Nett Floor Area (NFA), whichever is greater. Therefore:

$$390 \text{ seats} / 6 = 65 \text{ or,}$$

$$660.7\text{m}^2 \text{ NFA} / 9\text{m}^2 = 73.4 \text{ (74).}$$

Therefore, the place of public worship element of the proposal requires **74 spaces**.

Offices require 1 space for every 35m<sup>2</sup> of NFA. Therefore:

$$84.4\text{m}^2 / 35 = 2.4 \text{ (3).}$$

Therefore the office element of the proposal requires **3 spaces**.

The development will therefore require a maximum of **77 car parking spaces**.

Eighty eight (88) off-street car parking spaces have been proposed including in addition to 4 spaces each for motorcycles and bicycles adjacent to the church hall. An overflow car parking area with capacity for 58 cars has also been provided in front of the hall building. This overflow area will be retained as a mown lawn and will only be

used when all formally constructed car parking spaces on the site are occupied. This will help ensure that adequate off-street parking areas are available if more cars than are expected are used to bring the maximum number of 390 worshippers to the site.

Therefore the development more than complies with this part of the DCP.

**(1)(a)(iia) The provisions of any Planning Agreement**

There are no relevant planning agreements applicable to this site or development.

**(1)(a)(iv) The provisions of the Regulations**

The Regulations do not specify any matters that are relevant to this development.

**(1)(b) The likely impacts of the development**

The likely impacts of this development include:

Visual impacts

The visual impacts of this development are considered to be acceptable. The hall building is set back between 63m and 79m from George Road and will be set within and behind grassed lawns and landscape screening. This will help soften the appearance of the building from George Road and help it blend into the surrounding landscape.

The design of the building is appropriate for this site and area being approximately 8.8m high, having a pitched roof design with projecting side awning and a portico at the front to provide articulation and visual relief to the bulk and massing of the hall. The materials will be a mix of light brown face brick and 'Dune' Colorbond colour roofing and wall cladding.

Although a substantial car park is provided at the side and front of the hall, the majority of the front setback is grassed lawns with landscaping. This will help soften and screen the carpark areas from passing pedestrian/motorist movements on George Road.

All of the above features will help the development fit in with the established rural character of the area and the existing heavily vegetated nature of the site. Therefore the visual impacts of the development are appropriate given this context.

Bush fire threat

This site is heavily vegetated and contain CPW, and most of the site is mapped as bush fire prone land in Council's current Bush Fire Prone Land Map. The potential for bush fire impact has been considered during the design of this development.

The applicant has submitted a bushfire assessment by a qualified professional in support of the application. This report identifies suitable asset protection zones for the hall building having regard to the CPW to be revegetated on the site and the surrounding buildings on the adjacent properties. The recommendations of the report have been incorporated into the development and on this basis it is not considered that

the proposed hall building will be unacceptably impacted by bushfire risk.

It is a recommended development consent condition that additional landscape softening and screening be provided in a 2m wide area between the side boundaries of 124 George Road and the 3m acoustic barriers. This will help to soften and screen the appearance of these barriers. The landscaping recommended for this has been chosen for its ignition resistance and to minimise the spread of fire in the event of a bushfire.

It is also a recommended development consent condition that the proposed 3m high acoustic barriers are constructed as a combination of masonry and lapped and capped timber.

It is not considered that the timber elements of the barriers will present a significant bushfire hazard (particularly given the separation distances to surrounding dwellings and the proposed hall building). Balancing this issue against achieving a good design for the barriers, a mix of masonry and timber construction is considered to be a reasonable outcome.

#### Safer by Design considerations

This development has been assessed against the NSW Police Safer by Design policies. It is considered that the development complies with the intent of these policies by:

- achieving good access control by having only one entry/exit driveway at the front of the site;
- the major trafficable areas of the site, ie. the carpark areas and lawns around the hall building, are highly visible by traffic entering, exiting and manoeuvring through the site and from the hall building including its first floor offices; and
- appropriate lighting will be provided along the driveway to improve visibility during evening hours.

This application was also referred to Camden Local Area Command. The Command's Crime Prevention Officer has advised Council in writing that the Police do not have any objections to the proposed development and make no specific recommendations for it.

#### Aboriginal/European Heritage

At the request of Council, the applicant prepared and submitted a report on the site's Aboriginal and European heritage. This report revealed the existence of an Aboriginal relic near the rear of the site. The applicant has proposed to permanently retain this relic and protect it with fencing during the construction of this development. This will be acceptable protection for the relic and will ensure that it is not impacted upon by the surrounding construction works.

#### Threatened Species

The applicant has submitted a Flora and Fauna survey of this site which identifies threatened species at the site including remnant CPW and the Cumberland Plain Large

Land Snail. The survey assesses the impact of the development upon these threatened species and concludes that no significant impacts are anticipated subject to the implementation of a bushland management plan (designed to regenerate the site's CPW). This was submitted with the application.

Council staff have reviewed the bushland management plan, agree with the proposed works detailed therein and recommend that it be implemented with a more detailed management plan to be prepared prior to the issue of a Construction Certificate for the development.

All other likely impacts of the development, including noise, traffic and waste water disposal, have been assessed elsewhere in this report, including the "Any submissions" section of this report.

### **(1)(c) The suitability of the site for the development**

These sites are considered to be acceptable for the proposed development. All likely negative environmental impacts from the proposal, including noise, traffic generation and waste water disposal, have been addressed within professional reports submitted by the applicant and assessed by Council staff. As noted previously in the "likely impacts of the development" section of this report, these issues can be resolved by the recommended development consent conditions.

The development is compliant with the applicable SEPPs, LEP and Council's DCP and there are no site specific conditions that render these sites unsuitable for the proposal.

### **(1)(d) Any submissions**

Public notification was carried out between 23 July and 6 August, 2009. Notification letters were sent to surrounding properties and the application was advertised in the local press in accordance with Camden Development Control Plan 2006. Three public submissions have been received as a result of this and the issues raised include:

- 1 The size and design of the development is unneighbourly, it will have an overbearing effect and is not in keeping with the area*

#### *Officer Comment:*

As detailed in the "likely impacts of the development" section of this report, the siting and design of the proposed development is considered to be suitable for this site. The church hall building has been designed to respect the existing rural/residential character of the area and its visual impacts are significantly reduced by its front and side boundary setbacks.

It is also noted that the development will also include the revegetation and protection of existing CPW at the middle and rear of the site. This will help ensure that the important natural characteristics and existing rural character of the site are maintained despite the proposed buildings and use of the site.

It is recognised that a church building with capacity for 390 worshippers is a much more intensive development than those currently existing in the surrounding area.

However the infrequency of its use for this purpose, ie. primarily on Friday evenings and Saturdays, and the proposed acoustic barriers will minimise any potential land use conflicts in terms of noise and traffic generation to an acceptable level. Considering these factors, it is not considered that the proposal will be overbearing.

Overall the proposal achieves a reasonable balance between respecting and maintaining the existing rural/residential character of the area and allowing an appropriate form of development on the site. Rural sheds exist elsewhere in the area.

*2 Insufficient on-site car parking spaces have been provided which creates the potential for car parking overspill onto George Road and consequently impacts upon road safety*

*Officer Comment:*

As detailed in the "provisions of any Development Control Plan" section of this report, the proposed development exceeds the requirements of Council's Development Control Plan in terms of providing off-street car parking spaces.

It is also noted that the lawn area in front of the church hall building can be used as an overflow car parking area should a higher number than expected cars arrive at the site. This significantly reduces the likelihood of cars having to park on-street and consequently the development is not expected to detract from road safety on George Road.

*3 Concerns regarding sightlines and that the volume of cars entering and exiting the site may impact upon road safety on George Road, particularly given the sharp bend adjacent to the site, and may require upgrading*

*Officer Comment:*

The relatively sharp north-west to north-east bend in George Road (when travelling north-west along George Road) is recognised. The proposed church will have a maximum capacity of 390 worshippers and this will significantly increase the entry and exit movements from/to George Road during Friday evenings and Saturdays.

To ensure road safety it is a recommended development consent condition that George Road be upgraded with a type AUR (Auxiliary Right Turn) bay at the intersection of the site's entry/exit driveway with George Road. This road upgrade will provide a right turn bay for traffic seeking to enter the site from George Road and will help maintain local road safety. The sightlines at the site's entry/exit driveway comply with Australian Standard 2890 - Off-Street Parking Facilities and are therefore considered to be acceptable.

It should be noted that should subsequent development in the area occur or should Council need to upgrade George Road, this right turn bay may subsequently need to be removed and replaced with some other configuration.

Concerns have also been raised regarding the ability for occupiers of adjacent properties to safely and efficiently enter/exit their driveways given the increased traffic volumes on George Road. However the additional traffic volumes caused by this

development have been assessed and it is not considered that they will significantly impact upon entry/exit movements to/from neighbouring driveways. This is particularly due to the fact that the proposed church will operate only Friday evenings and Saturdays. As a result for the majority of each week there will be very few traffic movements to/from the site. Further, the traffic volumes in George Road are at the lower end of the capacity of the road.

*4 The increased traffic flows associated with the development will require the upgrade of the George and Riley Roads intersection*

*Officer Comment:*

The applicant has submitted a traffic report in support of this development application. This report has been assessed and demonstrates that the increased traffic volumes associated with this development do not warrant the upgrade of the George and Riley Roads intersection. It is unlikely that many vehicle movements attending the site would utilise Riley Road to access the property.

*5 Unacceptable road safety impacts (including turning right into George Road from Camden Valley Way) caused by the development's traffic generation*

*Officer Comment:*

Although the development will increase traffic volumes along Camden Valley Way (including the number of vehicles seeking to turn right into George Road from Camden Valley Way), the infrequent use of premises does not justify an upgrade of this intersection at this time.

*6 Noise will still occur after 10.00 pm on Saturday evenings as people will not actually leave the site until after 10.00 pm if events only end at 10.00 pm*

*Officer Comment:*

It is a recommended development consent condition that all Saturday evening activities must end before 10.00 pm and that all patrons must have actually left the site by 10.00 pm. This condition will ensure that noise from the site will end by 10.00 pm on Saturday evenings.

*7 Pollution impacts from increased traffic generated by the development*

*Officer Comment:*

The development will increase traffic flows to/from the site and around the local street network. This will result in additional car pollution, however given the relatively infrequent use of the site this increase is not considered to be a significant issue.

*8 Unreasonable noise impacts and disbelief that acoustic report properly addresses acoustic concerns*

*Officer Comments:*

Concerns have been expressed regarding the accuracy of, and methods to compile, the acoustic report that the applicant has submitted to Council in support of this application. The acoustic report and the noise mitigation measures proposed therein, are considered acceptable on the basis that:

- the acoustic report took noise readings from an existing church on another site to determine the likely noise levels that will result from this development. This existing church was only occupied by 90 people at the times the measurements were taken.

Although the subject development proposes a much higher maximum occupancy of 390 people, the overall noise levels are not expected to increase as a result due to the spacing and distribution of people within the proposed hall. Council staff have confirmed this with an independent acoustic consultant who has advised that there is not a direct correlation between the number of people in a building and the amount of noise that will result.

- the measurements taken at the existing church were over a 45 minutes period, far exceeding the minimum 15 minute period required for an LAeq reading. Although the activities at the existing church extended for more than this 45 minute period, the acoustic report has taken measurements across three 15 minute intervals in order to determine realistic noise levels from this existing church. This approach to define the likely noise levels from the proposed development is considered acceptable;
- the acoustic report has considered the existing 'rural' background noise levels of the subject site including noise from birds, insects and wind. Other acoustic reports submitted in support of other development applications have shown that such noise types can increase background noise levels. However the submitted acoustic report has not stated that these noise types will override the noise generated by the proposed development;
- Potential vehicle drive-by noise levels within this site were not measured (as there are currently little if any internal vehicles movements). Instead the potential noise levels have been modelled and are considered to be realistic for this development. Taking into account the proposed 3.0m high acoustic barriers and the separation distances to adjacent properties, drive-by vehicle noise is not considered to be an issue;
- the noise levels measured for drive-by vehicle noise at the existing church are generally appropriate for this type of development with the proposed level of occupancy. Noise measurements at the subject site were taken over longer periods to establish the background noise levels over full day periods. As vehicle noise levels are known, the two sets of data can be meaningfully compared; and
- the acoustic report makes several recommendations that the development must adopt in order to not cause unreasonable noise impacts upon surrounding properties. These recommendations have been derived from scientifically measuring noise levels and formulating solutions in order to reduce those levels to an acceptable level. These recommendations have been made draft development consent conditions.

The acoustic report has been assessed by Council staff and further clarification has been sought from the applicant's acoustic consultant regarding these concerns. Council staff are satisfied that subject to the implementation of the acoustic report's recommendations and the draft development consent conditions, this development will not cause any unreasonable noise impacts upon surrounding properties.

*9 Concerns regarding wastewater over spill from site*

*Officer Comments:*

This site is currently unsewered and therefore requires a wastewater treatment system to treat and dispose of wastewater. The applicant has submitted a wastewater report and a Section 68 application for approval to operate a wastewater system in support of this development. Council staff have reviewed this report and consider the proposed system to be adequate for this development.

It is a recommended development consent condition that Council approve the applicant's Section 68 application prior to a Construction Certificate being issued for this development and works commencing.

Approval of such a properly designed system will ensure that wastewater will not over spill onto adjoining properties.

*10 Upgraded fencing should be provided along No 124 George Road's north-western boundary to mitigate privacy, noise and barking dog impacts*

*Officer Comments:*

A request has been made by the owners of No 132 George Road that upgraded fencing be installed along the north-western boundary of this site to ensure their privacy, protection from noise and to mitigate the barking of their dogs.

It is noted that the development proposes the installation of 3.0m high acoustic fencing set 2.0m off the north-west boundary of the site. This is primarily to mitigate noise impacts, however it also has the secondary benefits of resolving the raised issues of privacy and barking dogs.

*11 The applicant should note the presence of nearby horticultural businesses and not find reasons to lodge complaints regarding their long-standing activities*

*Officer Comments:*

The applicant has confirmed that they are aware of the existence of horticultural businesses in close proximity to this site and that they do not foresee any potential land use conflicts. It is not anticipated that there will be any significant land use conflicts between the subject development and existing rural businesses in the area.

*12 The proposed development does not provide any benefit for the immediate local community*

*Officer Comments:*

The development will provide a place of public worship which will be open to anyone in the local community. The applicant has expressed an invitation for the local community to join in the activities of the church as they wish.

**A copy of the submissions are provided with the business paper supporting documents.**

## **CONCLUSION**

Council has received a development application for the erection of a church hall and its use as a place of public worship, construction of carpark and associated site works on the site.

The application has been publicly exhibited and the submissions received have been considered. The application has also been assessed under Section 79C of the Environmental Planning and Assessment Act 1979.

It is considered that the proposal represents the orderly development of the land and that subject to the draft development consent conditions, it will not result in any unreasonably negative impacts upon the surrounding rural/residential environment.

Consequently the development is recommended to Council for approval, subject to the draft development consent conditions shown below.

## **DRAFT CONDITIONS OF CONSENT**

### **1.0 - General Requirements**

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

- (1) Landscaping Maintenance and Establishment Period** - All Landscaping works associated with this Consent are to be maintained for a period of 12 months from the Date of Practical Completion.

At the completion of the 12 month landscaping maintenance period, all areas of lawn and plantings, including any nature strip/road verge areas and garden bed areas, shall have signs of healthy and vigorous growth. Any trees, shrubs, grasses, nature strip/road verge areas, garden areas or lawn areas in a state of decline, damaged or missing are to be replaced or restored to a healthy and vigorous condition.

At the completion of the 12 month landscaping maintenance period, the landscaping works must comply with the Consent approved Landscaping plans.

Any landscaping that requires repair or replacement at the end of the 12 month maintenance period is to be repaired or replaced within 60 days following the end date of the 12 month maintenance period.

- (2) **Protect Existing Vegetation and Natural Landscape Features** - Approval must be sought from Council prior to the removal, pruning, impact upon or any disturbance of the existing vegetation and natural landscape features, other than any existing vegetation and/or natural landscape feature authorised for removal, pruning, impact upon or disturbance by this Consent.

The following procedures shall be strictly observed:

- no additional works or access/parking routes, transecting the protected vegetation shall be undertaken without Council approval.
  - pedestrian and vehicular access within and through the protected vegetation shall be restricted to Council approved access routes.
- (3) **Wet Area Water Proofing** - The application of waterproof membranes in wet areas must comply with the requirements of the *Building Code of Australia* .
- (4) **Building Code of Australia** - All works must be carried out in accordance with the requirements of the *Building Code of Australia*
- (5) **Disability Discrimination Act** - This approval does not necessarily guarantee compliance with the Disability Discrimination Act 1992, and the applicant/owner is therefore advised to investigate their liability under the Act.

Your attention is drawn to AS1428 parts 2, 3 and 4 inclusive. This may be used as a comprehensive guide for disability access.

- (6) **Food Codes and Regulations Compliance** - The construction and fit-out of the premises or any part thereof to be used for the manufacture, preparation or storage of food for sale, must comply with Camden Council's Food Premises Code, the Food Act 2003 and the Food Regulations 2004 (incorporating the Food Standards Code).
- (7) **Flyscreens** - Flyscreens must be provided for all window openings and door openings.
- (8) **Salinity Management** – All buildings and services within lot 2, DP 200915, known as 124 George Road, Leppington shall be constructed in accordance with the salinity management plan and erosion and sediment control plan prepared by Ross Morton Sundesign dated 8 May 2009.
- (9) **Approved Plans** – The development must be carried out strictly in accordance with the following approved plans or other documentation:
- Site plan dwg no. 921DA.1/6C dated 1 February 2010 by Ross Morton Sundesign.
  - Ground and first floor plans dwg. no. 921DA.2/6A dated 20 November 2008 by Ross Morton Sundesign.
  - Building elevations and sections dwg. no. 921DA.3/6A dated 20 November 2008 by Ross Morton Sundesign.
  - Lighting layout concept dwg no. 921DA.5/6A dated 20 November 2008 by Ross Morton Sundesign

- Kitchen detail dated 9 May 2009.
- Stormwater concept plans CSW-01 and CSW-02 dated 2 August 2010 by Civil Engineering Services.
- Landscape concept plan dwg. no. 14000/L01/09B dated 11 May 2009 by Genesis Solutions Pty. Ltd.
- Artefact protection plan dated 8 May 2009.
- Statement of Environmental Effects prepared by Ross Morton Sundesign.
- Waste Management Plan prepared for the Australasian Conference Association Ltd
- Traffic and parking impact report dated July 2009 by ML Traffic Engineers.
- Noise assessment report no. 3691 by RSA Acoustic Consultants dated (including updates dated 22 September 2009 and 13 November 2009)
- Proposed waste water system report dated 11 January 2010.
- Salinity investigation report dated 25 September 2008 by Envirotech.
- Salinity management and erosion and sediment control plan dated 8 May 2009 by Ross Morton Sundesign
- Aboriginal and European Cultural Heritage Assessment dated November 2008 by Dominic Steele Consulting Archaeology.
- Flora and fauna survey and bushland management plan dated 11 January 2009 by Malcolm Bruce.
- Bush fire management plan by Malcolm Bruce.

**Note:** The tennis courts, associated access driveway and car parking spaces, as shown on any of the approved plans, are not approved by this Development Consent.

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

Where there is an inconsistency between the approved plans/documentation and conditions of consent, the conditions of consent take precedence to the extent of the inconsistency.

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

- (10) **Lighting** - All approved lighting must be designed, installed and permanently maintained to fully comply with AS 4282-1997 "Control of the obtrusive effects of outdoor lighting."
- (11) **Asset Protection Zone** – A 10 metre wide Asset Protection Zone must be provided and permanently maintained at the rear of the church hall building.
- (12) **Bushfire Construction Standards** – All structures must be constructed to Category 2 of AS 3959-2009 "Construction of buildings in bushfire prone areas."
- (13) **Relic Protection** – The aboriginal relic identified at the rear of the site must be fully protected during all construction works and the ongoing operations of the approved land use. This Development Consent does not approve this relic to be destroyed, defaced or damaged.

- (14) **Advertising Signs Application** - Outdoor advertising structures require prior development consent. A development application must be submitted and approval granted by the Consent Authority (ie. Camden Council) prior to the erection of any advertising signs.

The design, style, colour, height and type of any advertising sign must have regard to the character of the development, any existing advertising theme and Camden Development Control Plan (DCP) 2006.

- (15) **Stormwater Tanks** – In accordance with Part D, Chapter 3 of Council's Development Control Plan, a stormwater tank(s) with a minimum volume of 5,000 litres must be provided for this development. This tank(s) must capture a minimum of 80% of the stormwater runoff from the development's roof area and not impact on car parking spaces, accesses, driveways or landscaping areas. The stored stormwater must also be reticulated across the site as needed.

- (16) **External Glass** - The reflectivity index for glass used externally shall not exceed 20%.

- (17) **Roof Mounted Equipment** – Such as air conditioning units and communication towers, which protrude above the general roofline of the building, shall not be installed except where they have been appropriately integrated into the design of the building and do not dominate the skyline

- (18) **Additional Landscaping** - Additional landscape screening must be provided in the 2 metre set back area between the side boundaries of no. 124 George Road and the approved 3 metre high acoustic fence. This landscaping must comprise the following dwarf cultivars or hybrid crosses of:

Pittosporum undulatum  
Syzygium luemannii  
Syzygium paniculatum  
Loropetalum chinense

(at a rate of 1 for every 2.5 metres with a minimum container size of 35 litres)

Lomandra (particularly cultivars of Lamandra Longifolia) must be used to separate out the above planting. These must be planted at a rate of 2 for every 1m<sup>2</sup> with a minimum container size of 200mm.

This landscaping must be properly irrigated and be permanently maintained in a complete and healthy condition on the site.

- (19) **Approved Acoustic Report** – The recommendations outlined in Section 7 of the acoustic report prepared by RSA Acoustics report no. 3691 must be implemented. This includes roof/ceiling construction, external wall construction, window construction, external doors, acoustic barriers and ventilation.

**Notes:** The location of the 3 metre high acoustic barriers shall be in accordance with the updated configuration in the RSA acoustic report dated 13 November 2009 and as marked in red on the approved site plan dwg no. 921DA.1/6C dated 1

February 2010 by Ross Morton Sundesign.

The bottom 1.5 metres of each barrier must be constructed of masonry (to match the finish of the approved church hall building). The top 1.5 metres must be constructed of lapped and capped timber. The timber used must meet the requirements of the acoustic report approved by this Development Consent and also be selected for maximum fire ignition resistance.

The barriers must be set back 2 metres from the property boundaries unless otherwise identified on the approved plans/reports. This 2 metre setback area must be landscaped in accordance with condition 1.0(18) of this Development Consent.

- (20) **Acoustic Attenuation Compliance Report** – A report from a qualified acoustic engineer that contains a certifying statement confirming that the provisions and noise criteria for the consent conditions have been implemented and are compliant must be submitted to the Principal Certifying Authority. The acoustic compliance assessment (that leads to the issue of the certifying statement) must be undertaken within 6 months from the commencement of the approved use.

The acoustic consultant must conduct sufficient inspections to verify that all construction aspects of the noise attenuation components/measures are being carried out in accordance with the final acoustic report – RSA Acoustics report no. 3691. The acoustic study is to be undertaken during operational hours.

Should the acoustic consultant confirm that:

1. any specific construction aspect does not comply with the final acoustic report recommendations; or
2. that the constructed noise attenuation components/measures do not achieve the criteria set by the final acoustic report and the consent conditions;

the acoustic consultant must advise the applicant and the Principal Certifying Authority of such non-compliance. The applicant must arrange for the submission of an application pursuant to Section 96 of the Environmental Planning and Assessment Act 1979 for the modification of the issued development consent to the Consent Authority, Camden Council, for determination. This modification must propose solutions to any identified acoustical non-compliance.

- (21) **Bush Fire Management Plan** – All of the recommendations of the bush fire management plan prepared by Malcolm Bruce and submitted with the development application must be fully implemented.

- (22) **Stormwater Pipes** - All proposed drainage pipes shall comply with the cover requirements specified by their manufacturer.

- (23) **Drainage Discharge to George Road** – All drainage discharge to George Road must be contained within the existing table drain in accordance with Council's engineering specifications.

- (24) **Stormwater Detention** - The capacity of the existing stormwater drainage system

must be checked to ensure its capability of accepting the additional run-off from this development. If necessary an on site detention system must be provided to restrict stormwater discharges from the site to pre-development flows. The system is to provide for all storms up to and including the 1% AEP event. Engineering details and supporting calculations must be prepared by a qualified Hydrology Engineer and submitted to the PCA for approval with the Construction Certificate.

On completion of the on-site detention system, Works-as-Executed plans are to be prepared by a registered surveyor or the design engineer and submitted to the Principal Certifying Authority. If Camden Council is not the Principal Certifying Authority, a copy is to be submitted to the Council prior to the issue of the Occupation Certificate. The plans are to be certified by the designer and are to clearly make reference to:

- the works having been constructed in accordance with the approved plans,
- actual storage volume and orifice provided; and
- the anticipated performance of the system with regard to the design intent.

The developer must prepare a Section 88B Instrument for approval by the Principal Certifying Authority which incorporates the following easements and restrictions to user:

Restriction as to user indicating that the on-site detention basin must be maintained at all times to a level sufficient to ensure efficient operation of the basin, and that the Consent Authority (ie. Camden Council) must have the right to enter upon the burdened lot with all necessary materials and equipment at all reasonable times and on reasonable notice (but at any time and without notice in the case of an emergency) to:

- (i) View the state of repair of the basin;
- (ii) To execute any work required to remedy a breach of the terms of this covenant if the proprietor has not within fourteen (14) days of the date of receipt by the proprietor of written notice from the Council, requiring remedy of a breach of the terms of this covenant, taken steps to remedy the breach and without prejudice to the Council's other remedies the Council may recover as a liquidated debt the cost of such remedial work from the proprietor forthwith upon demand; and
- (iii) Restriction as to user indicating that the on-site detention basin must not be altered, or removed in part, or structures erected thereon without the prior consent of Council.

**Note:** In this condition any reference to a basin refers to the surface on-site detention to be provided in the development's car park and as detailed in the approved stormwater concept plans CSW-01 and CSW-02 dated 2 August 2010 by Civil Engineering Services.

- (25) **Grassed Swale** - A grassed swale must be provided to direct stormwater flows, from the grass overflow car parking area at the front of the site along the site's north west boundary, along the south eastern side of the acoustic barrier to maintain existing water quality levels. The swale may only end at the termination of

the adjacent acoustic barrier where the stormwater flows must be dispersed as sheet flow to minimise stormwater impacts or loss on the adjacent properties to the north/north west of the subject site.

## 2.0 - Construction Certificate Requirements

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

(1) **Fire Safety Measures** – Prior to the issue of the Construction Certificate, the following information is to be submitted to the certifying authority:

(a) A list of any fire safety measures that are **proposed** to be implemented in the building or on the land on which the building is situated.

(2) **Access for People with Disabilities** - Access for people with disabilities shall be provided in accordance with the requirements of Part D3 of the Building Code of Australia. Prior to the issue of a construction certificate, the plans shall be amended to reflect the above.

(3) **Disabled Toilets** - Plans and details of the disabled toilet complying with the provision of AS1428.1 - 2001, shall be submitted to Council or an Accredited Certifier **prior to issue of a Construction Certificate**.

(4) **Civil Engineering Plans** - Indicating drainage, roads, accessways, earthworks, pavement design, details of linemarking and traffic management details must be prepared strictly in accordance with Camden Council's Development Control Plan 2006 and Engineering Specifications and are to be submitted for approval to the Principal Certifying Authority **prior to the Engineering Construction Certificate being issued**.

- under the Roads Act 1993, only the Council can issue a Construction Certificate for works within an existing road reserve.
- under section 109E of the Environmental Planning and Assessment Act 1997, Council must be nominated as the Principal Certifying Authority for subdivision work and has the option of undertaking inspection of physical construction works.

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

(5) **Development Certification** - As the allotment is flood affected, the following information must be submitted **prior to a Construction Certificate being issued**:

(a) a survey report indicating the position and level of the 1:100 year flood level (1% AEP) affecting the allotment and the proposed floor level of the buildings in relation thereto.

(6) **Structural Engineer's Certificate** - A certificate must be prepared by a practising structural engineer and must be submitted to Council attesting that the building

design is capable of withstanding the effects of water and water pressure due to flooding **prior to a Construction Certificate being issued.**

- (7) **George Road Entry/Exit** – The intersection of the site's access driveway with George Road must be upgraded to a Type AUR intersection in accordance with the RTA Road Design Guide for a design speed of 80km/hr. The intersection design is to be submitted to Council's Local Traffic Committee for approval **prior to the issue of a Construction Certificate.**
- (8) **Retaining walls** – All retaining wall details must be provided with appropriate certification from a structural engineer.
- (9) **Environmental Management Plan** - An Environmental Site Management Plan must be submitted to the Principal Certifying Authority for approval and inclusion in any application for a Construction Certificate. The plan must be prepared by a suitably qualified person in accordance with AS/NZ ISO 14000 - 2005 and must address, but not be limited to, the following issues:
  - (a) All matters associated with Council's Erosion and Sediment Control Policy.
  - (b) All matters associated with Occupational Health and Safety.
  - (c) All matters associated with Traffic Management/Control during construction, which should address issues of access of construction traffic, storage material, location of site office, and parking for workers, use of equipment and other matters which has an impact on the road network or immediate environment.
  - (d) All other environmental matters associated with the site works such as noise control, dust suppression, waste management and the like.
  - (e) Any construction work which involves access to public road shall be subject to an approval of a Public Road Activity Application to Council accompanied by a Traffic Control Plan prepared by a RTA accredited Certifier.
- (10) **Parking Spaces** – All car parking spaces, and associated access driveways and manoeuvring areas must conform with Camden Council's Car Parking Code (Camden Development Control Plan (DCP) 2006), and must be designed in accordance with a pavement design prepared by a Geotechnical Engineer and the Consent Authority's (ie. Camden Council) standard. Documentary evidence of compliance from an Accredited Certifier/suitably qualified person must be submitted to the Principal Certifying Authority **prior to a Construction Certificate being issued.**
- (11) **Car Parking Design** - The design, construction details of the parking spaces, access thereto and all other external hardpaved areas must conform to the Consent Authority's (ie. Camden Council) standard, and documentary evidence of compliance of above condition must be submitted by a Accredited Certifier/suitably qualified person/Council or the Principal Certifying Authority **prior to a Construction Certificate being issued.**

A work-as-executed plan and/or documentary evidence of compliance with the above, conditions must be provided by an Accredited Certifier or Council **prior to an Occupation Certificate being issued.**

For the purpose of this condition a parking space must only be used for the parking

of motorcycles, sedans, utilities, vans and similar vehicles up to two (2) tonne capacity.

- (12) **Design Standards** - Engineering design drawings are to be prepared strictly in accordance with Camden Council's Development Control Plan 2006 and Engineering Specifications.
- (13) **Civil Engineering Details** - The developer must submit details of all engineering works on engineering plans to the Certifying Authority for approval **prior to a Construction Certificate being issued.**
- (14) **Traffic Management Procedure** - Traffic management procedures and systems must be introduced during construction of the development to ensure safety and minimise the effect on adjoining pedestrian and traffic systems. Such procedures and systems must be in accordance with AS1742.3 1985 and to the requirements and approval of Council. Plans and proposals must be approved by Council **prior to a Construction Certificate being issued.**

The Traffic Management Plan must address the construction process and construction access for the development for all stages of the development, the storage of materials, import of fill materials, location of site offices, turning areas for the delivery vehicles, parking for construction staff, any casting and erection of building components. Appropriate Traffic Control Plans shall be submitted for all stages of constructions including the use of Council's road and foot path for construction purposes.

- (15) **Earthworks** – Proposed earthworks shall be designed to provide a cut and fill balance in order to achieve no loss of flood storage within the site. All proposed filling on the site must be compacted to 95% standard compaction and be tested in accordance with Camden Council's Engineering Construction Specification and AS 1289 by a NATA registered laboratory. The validation of the fill material must be done prior to use of any fill material from an external source and validation report must be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

- (16) **Public Risk Insurance Policy - Prior to the issue of a Construction Certificate**, the owner or contractor is to take out Public Risk Insurance Policy with a minimum cover of \$20 million in relation to the occupation of and works within Council's road reserve. The Policy is to note Council as an interested party and a certificate of currency from the insurer of such policy must be submitted to the Council as evidence of such policy. Where the coverage of such policy expires during the period of construction of the works, the policy must be renewed prior to the expiration of the policy and a Certificate of Currency from the insurer, provided to Council.

Failure to keep the works insured shall be reason for Council to make the works safe and all costs associated with making the works safe shall be a cost to the owner of the land.

- (17) **Drainage Design** - A stormwater management plan is to be prepared **prior to the issue of a Construction Certificate** to ensure that the final stormwater flow rate

off the site is no greater than the maximum flow rate currently leaving the development site for all storm events. This plan must be submitted and approved by the Principal Certifying Authority. Such designs must cater for future developments of land adjoining the site and overland flow from adjoining properties.

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

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

Plans containing a minimum of four (4) sets of the undermentioned information must be prepared and submitted to the Principal Certifying Authority for approval **prior to a Construction Certificate being issued:**

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

- (19) **Pre-Treatment of Surface Water** - The external ground surface of the site must be graded to a collection system and covered with a suitable hard surface. The drainage system must flow to a suitable pre-treatment device prior to discharge. The applicant is advised to contact the Appropriate Regulatory Authority for the design criteria.

The pre-treatment devices must collect and dispose of hydrocarbons and heavy metals

- (20) **Dilapidation Survey** - A photographic dilapidation survey of existing public roads, kerbs, foot paths, drainage structures and any other existing public infrastructure within the immediate area of the development site must be submitted to the Council prior to the issuing of the Construction Certificate.

The survey must include descriptions of each photo and the date when each individual photo was taken.

- (21) **Service Pipes** - All service pipes and electrical conduits shall be concealed within the floor, plinths, walls or ceilings.

*or*

All service pipes and electrical conduits which are not capable of being concealed within walls shall be mounted on brackets so as to provide at least 25mm clearance between the pipe and adjacent vertical surface and 100mm between the pipe and adjacent horizontal surface.

- (22) **Dishwashing Facilities** - The premises must be provided with a:

- (a) commercial dishwashing machine capable of achieving a hot water temperature of at least 77° celsius that is fitted with a temperature thermostat or gauge; and
- (b) at least one single bowl cleaning sink or tub containing at least one compartment.

- (23) **Detailed Vegetation Management Plan (VMP) - Prior to the issue of a Construction Certificate**, a detailed vegetation management plan for the site must be prepared and be submitted to Council for written approval. This plan must include:

- Vegetation species composition, planting layout and densities must be identified. Plantings should emulate the ecotone of vegetation naturally or previously occurring on the site.
- Seed/plant sources must be identified and where possible native plants and seed sources of local provenance should be utilised.
- Details of the planting program, rehabilitation methods and staging must be provided.
- Maintenance requirements must extend for a minimum of two years after the completion of works or until such time as a minimum 80% survival rate for all plantings and a maximum five percent (5%) weed cover is achieved.
- Project tasks must be defined and described, including a schedule detailing the sequence and duration of works necessary for the implementation of the VMP.
- Maps or diagrams which identify the above detailed works (including existing vegetation to be retained, vegetation to be cleared) etc. must be prepared.
- Photographs of the site must be supplied and photo points must be identified for future monitoring and reporting purposes.
- Processes for monitoring and review, including a method of performance evaluation, must be identified. This must include assessing the need for

replacing plant losses, addressing deficiencies, problems, climatic conditions, successful completion of works, etc.

- (24) **Special Infrastructure Contribution** - The applicant must obtain a Certificate from the Growth Centres Commission stating that the Special Infrastructure Contribution determined in accordance with Section 94EE of the Environmental Planning and Assessment Act 1979, and the Growth Centres Special Infrastructure Practice Note for this proposal has been paid. This Certificate must be presented to the Principal Certifying Authority (PCA) **prior to the issue of any Construction Certificate.**

Information on the Special Infrastructure Contribution can be found at the Growth Centre Commission's website [www.gcc.nsw.gov.au](http://www.gcc.nsw.gov.au). To obtain an estimate of the Special Infrastructure Contribution that may be payable for the application please e-mail [infrastructurecontribution@gcc.nsw.gov.au](mailto:infrastructurecontribution@gcc.nsw.gov.au).

- (25) **Section 68 Approval - Prior to the issue of a Construction Certificate**, a Section 68 approval to operate must be obtained from Camden Council.

This approval must be in accordance with the approved plans for this Development Consent. Should the Section 68 approval require amendments to the approved development a Section 96 modification application proposing these amendments must be submitted to and approved by Council.

- (26) **Water Supply** - Water services must be provided to the proposed development. Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) then refer to "Water Servicing Co-ordinator" under "Developing Your Land" or telephone 13 20 92.

Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Co-ordinator since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

The Notice must be submitted to the Principal Certifying Authority **prior to a Construction Certificate being issued.**

### **3.0 - Prior To Works Commencing**

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

- (1) **Sydney Water Approval** – Prior to works commencing, the approved development plans must also be approved by Sydney Water.
- (2) **Signs To Be Erected On Building And Demolition Sites** – Under Clause 98A of the *Environmental Planning and Assessment Regulation 2000*, a sign must be erected in a prominent position on any site on which building work, subdivision

work or demolition work is being carried out:

- (a) showing the name, address and telephone number of the Principal Certifying Authority (PCA) for the work, and
- (b) showing the name of the 'principal contractor' (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (c) stating that unauthorised entry to the work site is prohibited.

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

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

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

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

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

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

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

- (6) **Access from Public Places** - Construction access from public places (reserves, parks, walkways and the like) other than roads shall not occur without the prior consent of Camden Council. Bonds or legal agreements may be required to protect Council's assets if access from these places is approved.

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

Soil erosion and sediment control measures must be maintained during construction works and must only be removed upon completion of the project when

all landscaping and disturbed surfaces have been stabilised (for example, with site turfing, paving or re-vegetation).

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

An Infringement Notice issued under the Environmental Planning and Assessment Act, 1979, which imposes a monetary penalty of \$600, may be initiated by the Principal Certifying Authority (PCA) and issued by Camden Council where the implementation or maintenance of measures is considered to be inadequate. In the event that a risk of environmental pollution occurs an Infringement Notice issued under the Protection of the Environment Operations Act 1997, which imposes a monetary penalty of \$750 for an individual or \$1500 for a corporation maybe issued by Camden Council.

- (8) **WorkCover Approval** - It is the responsibility of the owner to contact WorkCover Authority with respect to any demolition work or use of any crane, hoist, plant or scaffolding prior to any work commencing on the site.
- (9) **Stabilised Access Point** - A Stabilised Access Point (SAP) incorporating a truck shaker must be installed and maintained at the construction ingress/egress location prior to the commencement of any work. The provision of the SAP is to prevent dust, dirt and mud from being transported by vehicles from the site. Ingress and egress of the site must be limited to this single access point
- (10) **Public Road Activity** – An approval under Public Road Act shall be obtained prior to the commencement of any work in public road subject to lodgement of application and relevant fees. Such application must include appropriate traffic control plans which provides details of traffic control measures to be installed to ensure the safety and unobstructed flow of vehicular and pedestrian traffic and such control plan must be prepared by a RTA Accredited Certifier.

#### **4.0 - During Construction**

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

- (1) **Nature Strip/Road Verge, Street Trees and Street Tree protective guards** - Any nature strip/road verge area, street tree, lawn area, tree guards if applicable, protective bollards if applicable which are disturbed, removed or damaged during the development and maintenance works, shall be repaired and the tree, lawn area, bollards, tree guards, nature strip/road verge area repaired or replaced with the same type, species and maturity.
- (2) **Survey Report (Peg Out)** - The building must be set out by a registered land surveyor. A survey report detailing the siting of the building in relation to the

allotment boundaries shall be submitted to the Principal Certifying Authority (PCA) prior to the placement of any concrete.

- (3) **Survey Report (Finished Floor Level)** - A survey report prepared by a registered land surveyor must be submitted to Principal Certifying Authority (PCA) verifying the finished floor level of the building. Finished floor levels must conform to levels approved by the development consent.
- (4) **Hours of Work** – The hours for all construction and demolition work are restricted to between:
  - (a) 7am and 6pm Monday to Friday (inclusive);
  - (b) 7am to 4pm Saturday (if construction noise is inaudible to adjoining residential properties), otherwise 8am to 4pm;
  - (c) work on Sunday and Public Holidays is prohibited.
- (5) **Damaged Assets** – All engineering works and public utility relocation shall incur no cost to Camden Council. Any damage to Camden Council's assets shall be rectified prior to the commencement of use or occupation of a building.

A security deposit of \$10,000 shall be lodged with Council prior to the issue of a Construction Certificate.

- (6) **Site Management** – To safeguard the local amenity, reduce noise nuisance and to prevent environmental pollution during the construction period, the following practices are to be implemented:
  - The delivery of material shall only be carried out between the hours of 7am - 6pm Monday to Friday, and between 8am - 4pm on Saturdays.
  - Stockpiles of topsoil, sand, aggregate, spoil or other material shall be kept clear of any drainage path, easement, natural watercourse, kerb or road surface and shall have measures in place to prevent the movement of such material off the site.
  - Builder's operations such as brick cutting, washing tools, concreting and bricklaying shall be confined to the building allotment. All pollutants from these activities shall be contained on site and disposed of in an appropriate manner.
  - Waste must not be burnt or buried on site, nor should wind blown rubbish be allowed to leave the site. All waste must be disposed of at an approved Waste Disposal Depot.
  - A waste control container shall be located on the development site.
- (7) **Footpath Levels** - The ground levels of the footpath area within the road reserve (between the boundary of the subject site to the kerb and gutter) must not be altered (by cut or fill) as a consequence of building design and/or construction.
- (8) **Excavation and Backfilling** – All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards. All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

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

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

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

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

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

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

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

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

(12) **Compaction** - Any filling up to 1 metre on the site must be compacted to 95% standard compaction and be tested in accordance with Camden Council's Engineering Construction Specification and AS 1289 by a NATA registered laboratory. The validation of the fill material must be done prior to use of any fill material and validation report must be submitted to the Principal Certifying Authority prior to the issues of the Construction Certificate.

(13) **Construction Standards** - All civil engineering work associated with the development must be carried out strictly in accordance with Camden Council's Development Control Plan 2006 and Engineering Specifications for roadworks, drainage and other works associated with subdivisions and other developments.

(14) **Affected Services** – All services within 1 metre of the crossing and any affected services due the proposed work shall be adjusted in consultation with the appropriate service authority.

- (15) **Gaps Sealed** - All gaps between shelves and vertical surfaces must be sealed to prevent the accumulation of grease and food particles. Alternatively 25mm clearance is required to allow the area to be cleaned.
- (16) **Construction Noise Levels** – Noise levels emitted during construction works shall be restricted to comply with the construction noise control guidelines set out in Chapter 171 of the NSW EPA's Environmental Noise Control Manual. This manual recommends;

Construction period of 4 weeks and under:

The L10 level measured over a period of not less than 15 minutes when the construction site is in operation must not exceed the background level by more than 20 dB(A).

Construction period greater than 4 weeks:

The L10 level measured over a period of not less than 15 minutes when the construction site is in operation must not exceed the background level by more than 10 dB(A).

- (17) **Fill Material - Prior to the importation and/or placement of any fill material on the subject site** a validation report and sampling location plan for such material must be submitted to and approved by the Principal Certifying Authority.

The validation report and associated sampling location plan must: -

- i) be prepared by a person with experience in the geotechnical aspects of earthworks, and
- ii) be endorsed by a practising engineer with Specific Area of Practice in Subdivisional Geotechnics, and
- iii) be prepared in accordance with:
  - a) the Department of Land and Water Conservation publication "Site investigation for Urban Salinity", and
  - b) the Department of Environment and Conservation - Contaminated Sites Guidelines "Guidelines for the NSW Site Auditor Scheme (Second Edition) - Soil Investigation Levels for Urban Development Sites in NSW".
- iv) confirm that the fill material:
  - a) provides no unacceptable risk to human health and the environment;

- b) is free of contaminants;
- c) has had salinity characteristics identified in the report, specifically the aggressiveness of salts to concrete and steel (refer Department of Land and Water Conservation publication "Site investigation for Urban Salinity");
- d) is suitable for its intended purpose and land use, and
- e) has been lawfully obtained.

Sampling of VENM for salinity of fill volumes: -

- v) less than 6000m<sup>3</sup> - 3 sampling locations,
- vi) greater than 6000m<sup>3</sup> - 3 sampling locations with 1 extra location for each additional 2000m<sup>3</sup> or part thereof.

For (v) and (vi) a minimum of 1 sample from each sampling location must be provided for assessment.

Sampling of Contamination should be undertaken in accordance with the following table:-

Classification of Fill Material	No of Samples Per Volume	Volume of Fill (m <sup>3</sup> )
Virgin Excavated Natural Material	1 (see Note 1)	1,000

*\*Note 1: Where the volume of each fill classification is less than that required above, a minimum of 2 separate samples from different locations must be taken.*

(18) **Unexpected Findings Contingency** – Upon the identification of any contamination or hazardous materials at any stage of the construction process all construction works in the vicinity of the findings shall cease and the affected area must be made secure from access by personnel. A qualified environmental consultant must assess the extent of the contamination / hazard in accordance with the NSW DECCW Guidelines. The assessment results together with a suitable management plan must be provided to the Consent Authority (Camden Council) for written approval prior to the removal or treatment of such findings contamination / hazardous materials.

(19) **Dewatering of Dams** – No dams are to be breached for the purpose of water removal. All surplus dam water must be irrigated onto the property and this irrigated water must be contained within the property boundary. Alternatively, the dam water may be used for dust suppression during construction works. No dam water is allowed to discharge or flow directly into any stream, creek, or river unless the water being discharged has been further tested to meet the relevant water quality discharge criteria as contained within Australian and New Zealand Guidelines for

Fresh and Marine Water Quality 2000.

## 5.0 - Prior To Issue Of Occupation Certificate

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

- (1) **Survey Report (Completion)** - A survey report prepared by a registered land surveyor shall be provided upon completion of the building. The survey report shall be submitted to the Principal Certifying Authority (PCA) upon completion of the building and prior to the issue of an Occupation Certificate.
- (2) **Structural Certification (Completed Building)** – Prior to the issue of an Occupation Certificate, a certificate prepared by a practising structural engineer, certifying the structural adequacy of the building, shall be submitted to the Principal Certifying Authority (PCA).
- (3) **Footpath Crossing Construction** – Prior to use or occupation of the development, a footpath crossing must be constructed in accordance with Camden Council's issued footpath crossing information.

To obtain such information a Public Road Activity application must be submitted to Camden Council with the appropriate fee. Applications forms are available from Council's Customer Service Centre, and/or Internet site – [www.camden.nsw.gov.au](http://www.camden.nsw.gov.au)

- (4) **Fire Safety Certificates** – A Fire Safety Certificate is to be submitted to the Principal Certifying Authority (PCA) prior to the issue of an Occupation Certificate in accordance with the requirements of the *Environmental Planning and Assessment Regulation 2000*. The Fire Safety Certificate is to certify that each fire safety measure specified in the current fire safety schedule for the building to which it relates:
  - (a) has been assessed by a properly qualified person; and
  - (b) was found, when it was assessed, to be capable of performing to at least the standard required by the current fire safety schedule for the building for which the certificate is issued.

As soon as practicable after the Final Fire Safety Certificate has been issued, the owner of the building to which it relates:

- (a) must cause a copy of the certificate (together with a copy of the current fire safety schedule) to be given to the Commissioner of New South Wales Fire Brigades, and
  - (b) must cause a further copy of the certificate (together with a copy of the current fire safety schedule) to be prominently displayed in the building.
- (5) **Works as Executed Plan - Prior to the Occupation Certificate being issued**, a works-as-executed drawing signed by a registered surveyor must be submitted to

the Principal Certifying Authority showing that the stormwater drainage and finished ground levels have been constructed as approved.

- (6) **Registration and Notification** - Proprietor/s of a business are required to register the business with Camden Council and complete a Food Business Notification Form. The registration form must be returned to Council, whereas the Notification Form may be completed on-line on the Internet (free of charge) or returned to Council with an administration processing fee of \$55 (inclusive of GST).
- (7) **Certification of Exhaust System** - Where an exhaust ventilation system is installed, a Certificate of Compliance must be submitted to Camden Council, prior to occupation. The certificate must be issued by a suitably qualified person and verify that the kitchen exhaust system as installed, has been tested and complies with Australian Standard 1668 – 1991 Parts 1 & 2 and the Building Code of Australia.
- (8) **Thermometers** - Any appliance used for the storage of hot and cold food must be provided with a numerically scaled and accurate thermometer.
- (9) **Compliance Letter** - Where the consent authority is not the Principal Certifying Authority (PCA) an additional inspection of the commercial kitchen must be undertaken by the Consent Authority) **prior to the issue of an Occupation Certificate**. A letter is to be issued from the Consent Authority certifying that the kitchen complies with the Food Codes and Regulations.
- (10) **Acoustic Compliance** – A certificate of compliance shall be issued to the certifying authority prior to the issue of the occupation certificate that all the recommendations as outlined in Section 7 of the Acoustic report prepared by RSA Acoustics Report No. 3691 have been implemented.
- (11) **Lighting Compliance – Prior to the issue of an Occupation Certificate**, a lighting compliance report, certifying that all installed lighting complies with AS 4282-1997 "Control of the obtrusive effects of outdoor lighting," shall be submitted to and approved by the Certifying Authority.
- (12) **Services** - All services (water, sewer, electricity, telephone and gas including the provision of service conduits and stub mains) are to be installed within the proposed public roads before final inspection of the engineering works.

**Prior to the issue of an Occupation Certificate** the following service authority clearances must be obtained and submitted to the Principal Certifying Authority:

- A Section 73 Compliance Certificate under the Sydney Water Act 1994 shall be obtained from Sydney Water Corporation.
- A letter from Integral Energy stating that all its requirements and any conditions of this consent have been satisfied.
- A letter from an approved telecommunications service provider (Telstra, Optus etc) stating that satisfactory arrangements have been made for the provision of underground telephone plant within the development.

## 6.0 - Operational Conditions

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

- (1) **Hot Storage** - All equipment (including pie warmers, hot food display units, etc) used for the display or storage of hot food shall maintain the food at a temperature of not less than 60°C.
- (2) **Cold Storage** - All equipment used for the display or storage of cold food shall maintain the food temperature of not more than 5°C.
- (3) **Soap Towels** - An adequate supply of liquid soap and single use clean hand towels or other suitable hand drying facilities shall be provided to the staff toilet and near the hand basin, and must be maintained at all times.
- (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.
- (5) **Maximum Occupancy** - The maximum number of people approved to attend church sermons (Fridays: 7.00pm-8.30pm) and social and sport events (Saturdays: 8.00pm-10.00pm) at the approved church hall is 195.

The maximum number of people approved to attend congregation worship activities (Saturdays: 9.30am-5.00pm) is 390.

**Note:** The only approved activities are those detailed in the development application documentation submitted to Council with the development application.

- (6) **Hours of Operation** - The hours of operation for the approved land-use are:

Church sermons: Fridays between 7.00pm-8.30pm only.

Congregation worship: Saturdays between 9.30am-5.00pm only.

Social and sport events: Saturdays between 8.00pm-10.00pm only.

First floor office/meeting room: Fridays between 7.00pm-8.30pm only.

Saturdays between 9.30am-5.00pm only.

Saturdays between 8.00pm-10.00pm only.

**Note:** The social and sport events and first floor office/meeting room, used on Saturday evenings between 8.00pm-10.00pm must end before 10.00pm and all vehicles must have left the site by 10.00pm.

**Note:** The only approved activities are those detailed in the development application documentation submitted to Council with the development application.

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

- (7) **Overflow Car Park** - The overflow car park area in front of the church hall building is only to be used once all other constructed car parking spaces on the site have been fully occupied.

All vehicular access to, within and from the overflow car park area is to be controlled and managed by accredited traffic controllers.

This overflow car park area is to be regularly maintained as a mown grass lawn when not in use.

- (8) **Lighting** - All of the approved lighting must be turned off outside of the development's approved hours of operation.
- (9) **Amenity** - The business shall be conducted and patrons controlled at all times so that no interference occurs to the amenity of the area, adjoining occupations, and residential premises.
- (10) **Ancillary Office Area** - The use of the office area shall be ancillary to the use of the premises at all times.
- (11) **Graffiti Removal** – All graffiti must be removed from the building within 48 hours of occurring.
- (12) **Unloading of Deliveries** - All unloading of deliveries must only ever take place within the approved site.
- (13) **Vehicles Entering and Existing the Site** – All vehicles entering and exiting the site must only do so in a forward direction.
- (14) **Occupation Certificate** – An Occupation Certificate must be issued by the Principal Certifying Authority (PCA) prior to occupation or use of the development. In issuing an Occupation Certificate, the PCA must be satisfied that the requirements of Section 109H of the *Environmental Planning and Assessment Act 1979* have been satisfied.

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

The use or occupation of the approved development must not commence until such time as all conditions of this development consent have been complied with.

END OF CONDITIONS

**RECOMMENDED**

**That Council approve Development Application 1107/2008 for the erection and use of a church hall building as a place of public worship at No 124 (Lot 2, DP 200915) George Road, Leppington, subject to the draft development consent conditions shown above.**

### **ATTACHMENTS**

1. Site Location Map
2. Proposed Plans
3. Submissions (sup doc)



George Road No 124 Site Location Map.pdf



George Road No 124 Proposed Plans.pdf



George Road No 124 Submissions.pdf

### **RESOLUTION**

Moved Councillor Dewbery, Seconded Councillor Cottrell that Council approve Development Application 1107/2008 for the erection and use of a church hall building as a place of public worship at No 124 (Lot 2, DP 200915) George Road, Leppington, subject to the draft development consent conditions shown above.

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

(Councillors Patterson, Warren, Dewbery, Funnell, Symkowiak voted in favour of the Motion.

Councillors Campbell, Cagney, Cottrell voted against the Motion).

### **ADJOURNMENT OF MEETING**

At this stage, the Mayor adjourned the meeting for two (2) minutes, the time being 6.57pm.

### **RESUMPTION OF MEETING**

The meeting reconvened with all previous Councillors present as recorded, the time being 6.59pm.

ORD231/10

### **ACTIONS**

[Link to CRMS document](#)

[CRMS: 12568109 28/10/2010, 09:23:06 AM](#)

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## ORDINARY COUNCIL

ORD02

**8 IRONBARK AVENUE CAMDEN, DP 827622 LOT 60 - UPGRADE OF GYMNASIUM & FITNESS CENTRE - INTERNAL AND EXTERNAL WORKS INCLUDING NEW INTERNAL SWIMMING POOL, ADDITIONAL GYMNASIUM AREA, CAR PARKING.**

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<b>FROM:</b>	Director Development and Health
<b>FILE NO:</b>	DA 841/2010
<b>DA NO:</b>	841/2010
<b>OWNER:</b>	Aaron Bell and Karl Damien
<b>APPLICANT:</b>	Michael Brown Planning Strategies
<b>ZONING:</b>	3 (d) Business Automotive
<b>APPLICABLE PLANNING INSTRUMENT:</b>	Camden Local Environmental Plan No. 46

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### PURPOSE OF REPORT

The purpose of this report is to seek Council's determination of a development application for the upgrade of a property located at No. 8 Ironbark Avenue, Camden to a gymnasium and fitness centre.

The application is referred to Council in accordance with its delegations as the proposed development does not meet the car parking controls contained in Camden Development Control Plan 2006.

### SUMMARY OF RECOMMENDATION

It is recommended that Council approve the application subject to the draft conditions of Development Consent set out below.

### BACKGROUND

The current use of this site was approved by Council at its meeting of 10 June, 1997 (DA 79/1997). That approval was for the conversion of the previously existing squash centre to a sports, health and fitness centre. The existing (at that time) service station was intended to remain.

The approved development included the construction of 8 sports medicine consultant rooms in place of the existing 8 squash courts, a sports pharmacy, relocation of the gymnasium area to the first floor, line marked parking for 32 motor vehicles (including 2 disabled) and hours of operation of Monday to Friday - 6:30 am to 9:00 pm and Saturday and Sunday - 8:30 am to 5:00 pm.

Three landuses were considered in the assessment of the 1997 development application (DA):

- Professional consulting rooms(specialist medical)
- Shop (pharmacy)
- Recreation facility (gymnasium).

It was considered that the professional consulting rooms formed the principal use and the two latter uses were considered ancillary to the principal use. All three uses are prohibited under the 3(d) Business Automotive zone and were approved using existing use rights provisions.

Council records indicate the site was a squash centre that had been operating since December 1975.

In 1983 consent was issued for a Fuel Sales Outlet and Shop including parking for 29 vehicles. In 1985 approval was granted for the construction of two underground fuel storage tanks. In 1992, Council issued consent for minor internal alterations to the existing squash and gym centre. In 1997, consent was issued for alterations to the existing squash centre.

More recently, the owner of the subject property commenced carrying out alterations and additions to the building without prior development consent and on 25 May, 2010 was issued a Notice under Section 121B of the Environmental Planning and Assessment Act, 1979 (the Act) to cease all works and lodge a DA which is now the subject of this report.

That application has been assessed in accordance with the Act and is now able to be referred to Council for determination.

## **THE SITE**

The subject site is described as Lot 60, DP 827622 (No. 8) Ironbark Avenue, Camden and has an area of 2,444m<sup>2</sup>. Existing on site are a two storey building containing the former squash centre and a canopy that covered the bowsers of the former service station. The development is serviced by separate vehicle ingress/egress points from Ironbark Avenue.

The Ironbark Avenue precinct contains mixed land uses including:

- automotive (caravan sales centre, motor vehicle showroom)
- commercial (veterinary clinic, child care centre)
- residential.

Residential properties in close proximity to the proposed development are concentrated on Belar Road, Dobroyd Avenue, Old Hume Highway and Pindari Avenue.

The operations of the service station have since been discontinued and the approved professional consulting rooms and shop have also ceased to operate. It is however considered that existing use rights have not been abandoned, due to the continued use of the gym.

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

## **THE PROPOSAL**

The proposal is to use the premises to provide fitness exercise, fitness classes and learn to swim classes. The proposed alteration and additions to the building are as follows:

### **Internal works**

#### *Ground floor*

- Demolition of the squash courts and internal partitioning walls on the ground floor and removal of the swimming pool on the first floor.
- Provision of new 18m x 2 lane pool, including disabled access.
- Gymnasium area.
- Crèche for clients.
- Women's area.
- Reception and administration areas.
- Change rooms.
- Seating and waiting areas.

#### *First floor*

- Aerobics centre and change room facilities to remain.
- Provision of new floor area above squash courts to provide for offices, aerobics and boxing. The floor area of the new area is 575.7m<sup>2</sup>.

### **External works**

- Provision of 39 on site car parking spaces.
- Provisions of landscaping.
- Provision of fire egress stairs (northern boundary).
- Re-surfacing of existing hard paved areas.
- Demolition of canopy over previous petrol bowsers.

### **Hours of Operation**

- Monday to Wednesday 6 am to 10 pm
- Thursday and Friday 6 am to 9 pm

### **Staff**

There will be a staff member on site at all times in the gymnasium and rotating casual staff as required to conduct swim lessons, classes and exercise prescription. **A copy of the proposed plans are provided at the end of this report.**

## **NOTIFICATION**

Public notification was carried out between 17 September and 1 October, 2010 with notification letters being sent to all adjoining/adjacent properties in accordance with

Camden Development Control Plan 2006. At the expiration of the exhibition period, no written submissions had been received.

## **PLANNING CONTROLS**

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

- Camden Local Environmental Plan No. 46;
- Camden Local Environmental Plan 2010;
- Camden Development Control Plan, 2006 (CDCP);
- State Environmental Planning Policy 55 – Remediation of Land; and
- Sydney Regional Environmental Plan No. 20 (REP 20).

## **ASSESSMENT**

The application has been assessed in accordance with Section 79C of the Environmental Planning and Assessment Act 1979. The following comments are made with respect to the proposal:

### **(a)(i) The provisions of any Environmental Planning Instrument**

#### **Camden Local Environmental Plan No. 46**

At the time of lodgement of this DA, Camden Local Environmental Plan (LEP) 2010 (the LEP) was not gazetted. Therefore, for the purposes of determining this DA, LEP 46 is the applicable Environmental Planning Instrument.

The proposed development fits within the definition of a *recreation facility* :

*a building or place used for the purpose of or consisting of:*

- (a) a swimming pool (longer than 20 metres),*
- (b) a bowling green,*
- (c) 2 or more tennis courts, or*
- (d) a table tennis centre, squash court, gymnasium, health studio, bowling alley, or any other similar recreational facility, whether used for the purpose of gain or not,*  
*but does not include a place of assembly or a club licensed under the Registered Clubs Act 1976.*

The subject site is zoned 3 (d) Business Automotive under the provisions of LEP 46 and the objectives of the zone are as follows:

- (a) to provide opportunities for the development of automotive orientated activities and activities generating numerous short duration vehicle movements in positions with exposure and controlled access, and*
- (b) to ensure that such development fulfils a transitional land use role.*

The proposed use does not meet the zone objectives.

The following uses are the only ones permissible in the zone:

*Auto electricians' workshops; automotive spare parts sales; bus depots; bus stations; car battery supplies and repairs; car repair stations; motor showrooms; service stations; agricultural machinery sales and repairs; motels; refreshment rooms; transport terminals; utility installations (other than gas holders or generating works).*

Recreation facilities are therefore not permissible under the zone.

At the Council meeting of 10 June, 1997 Council acknowledged the use of the squash courts was operating under existing use rights and consent was granted for the conversion of the squash courts to a sports health and fitness centre.

The proposed development can therefore be approved under the existing use rights provisions of the Act, even if prohibited under LEP 46.

### **(a)(ii) The provisions of any Draft Environmental Planning Instrument**

#### Camden Local Environmental Plan 2010

At the time the application was lodged, the LEP had not yet been gazetted. That occurred on 3 September 2010. Therefore for the purposes of determining this DA, the LEP is to be considered only.

The proposed use fits in the definition of recreation facility (indoor):

*a building or place used predominantly for indoor recreation, whether or not operated for the purposes of gain, including a squash court, indoor swimming pool, gymnasium, table tennis centre, health studio, bowling alley, ice rink or any other building or place of a like character used for indoor recreation, but does not include an entertainment facility, a recreation facility (major) or a registered club.*

Recreation facilities (indoor) are permissible with consent in the zone.

Under the LEP, the subject site is zoned IN2 – Light Industrial. The objectives of this zone are:

- *To provide a wide range of light industrial, warehouse and related land uses.*
- *To encourage employment opportunities and to support the viability of centres.*
- *To minimise any adverse effect of industry on other land uses.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.*

It is considered that the development complies with the objectives of the now gazetted LEP, as the proposal would create employment opportunities for full-time and casual staff and provide facilities that meet the needs of workers and others within the area.

### **(a)(iii) The provisions of any Development Control Plan**

#### Part D, Chapter 1: Car parking

The development consent issued by Council in 1997 (DA 79/1997) conditioned the provision of 30 off-street car parking spaces according with the proposed uses under the DCP in effect at the time (DCP 97). That DCP required:

- Professional Consulting Rooms: 19 spaces
- Gymnasium (203.65 sqm): 8 spaces
- Shop (pharmacy): 1 space
- Service Station: 2 spaces

A total of 30 car parking spaces.

The proposal actually provided for 32 spaces with the 2 additional spaces being designated to the gym users after the hours of operation of the service station.

Under the current DCP 2006, the car parking requirements for Gymnasium (the only use common to the two proposals) remains unchanged at 1 space per 25sqm. Therefore there is no historic deficiency of car parking on the site for that use.

The car parking requirements for the proposed development according to DCP 2006 are as follows: The DCP assumes each use generates parking need. Therefore, where multiple uses are made of the facility by one person, parking needs reduce.

Component/Area	DCP Requirement (spaces)	Total (spaces)	Comment
crèche	-	0	It is considered that the crèche is for use by customers of the facilities only and will not be operated as a child care centre. As such, additional car parking for the crèche would not be required. A condition of consent is proposed to restrict the use of the crèche strictly to customers.
offices on ground floor and 1st floor = 217m <sup>2</sup>	1 per 35m <sup>2</sup>	6.2	The offices on the ground floor are for carrying out general administration work and those on the first floor are for health and fitness consultation of gym customers only. A condition of consent is proposed in order to prevent the use of the space as professional consulting rooms that would generate greater car parking needs.
swimming pool = 2 lanes	3 spaces per lane	6	Is for any size lane. Therefore, it is unlikely to have 3 people per 18m lane.
main gym and cardio areas on ground floor = 432m <sup>2</sup>	1 per 25m <sup>2</sup>	17.2	
spin room studio and aerobic studio on 1st floor = 111.4m <sup>2</sup>	1 per 25m <sup>2</sup>	4.5	
studios 1 and 2 on	1 per 25m <sup>2</sup>	11.2	

1st floor (boxing studio and aerobics) = 279.5m <sup>2</sup>			
<b>Total</b>		<b>45.1</b>	

The proposal provides for 39 spaces, out of which 8 are stacked spaces designated for staff parking.

However, to provide for safer operation of the car park and reduce the potential for off-street queuing of vehicles it is recommended that a condition of consent is issued to ensure that vehicles enter and leave the site in a forward direction utilising the existing separated ingress and egress points.

To satisfy this condition it is envisaged that 4 of the proposed aisle spaces will be eliminated, leaving the total off-street parking at **35 spaces**.

Therefore a deficit of 10 car parking spaces would be created by this development. This deficit is still considered acceptable given the following considerations:

1. Although it is acknowledged that the majority of persons would drive to the centre, the Old Hume Highway is serviced by local buses and a bus stop is located a short distance from the centre and some of the users could thus access the development via public transport.
2. It is unlikely that all the uses would operate at the same time, i.e. the learn to swim may operate at a different times to the gymnasium and the offices.
3. The RTA's Guide to Traffic Generating Developments states that:

*The peak activity period for gymnasiums generally occurs between 5.30 pm and 6.30 pm hours on week days. The peak parking accumulation is usually characterised by a short pronounced peak just prior to the commencement of the main evening class.*

This peak period is unlikely to clash with other uses within Ironbark Avenue, which is basically a mixed-use area with caravan display business, veterinary clinic, truck display centre and child care centre operating in the street.

4. Some users of the swimming pool, gym, cardio areas, spin room, boxing studio and aerobics will be the same person, necessitating only one vehicle, while the DCP provides for each as if each is being used by a different person. This will reduce actual car parking space needs.

Since the area has been zoned IN2 – Light Industrial in the now current Camden LEP 2010, it is considered that significant on-street parking will continue to be available in the future to accommodate any shortfall.

#### **(1)(a)(iii) The provisions of any Planning Agreement**

There are no relevant planning agreements applicable to this site or development.

#### **(1)(a)(iv) The provisions of the Regulations**

The Regulations do not specify any matters that are relevant to this development.

#### **(1)(b) The likely impacts of the development**

The likely negative impacts of this development are noise and traffic generation. Traffic generation and use of on-street parking spaces are most likely to occur after normal business hours and would not impact the existing and future land uses in the area that is being zoned Light Industrial.

Development consent conditions can be issued to prohibit transmission of offensive noise to any place of different occupancy, prevent off-street queuing of vehicles and increase pedestrians and drivers' safety.

It is considered that the impact of the proposed development on the amenity of the area will be positive due to the removal of the old service station canopy, landscaping and overall improvements on the building façade.

#### **(1)(c) The suitability of the site for the development**

The site is considered to be suitable for the proposed development since sports related uses have been operating on the site for more than 30 years. Overall, the Ironbark Avenue precinct is in need of activation and the use of the site as a recreational facility may help to achieve this objective while complementing the use of the precinct as a Light Industrial area.

#### **(1)(d) Any submissions**

Public notification was carried out and no submissions were received.

### **CONCLUSION**

Council has received a development application for the upgrade of a property located at No. 8 Ironbark Avenue, Camden into a gymnasium and fitness centre.

The application has been notified and no submissions were received. The application has also been assessed under Section 79C of the Act.

It is considered that the proposal represents the orderly development of the land and that subject to the draft development consent conditions, it will not result in any unreasonably negative impacts upon the current and future uses on the Ironbark Avenue precinct.

Consequently the development is recommended to Council for approval, subject to the draft development consent conditions.

#### **DRAFT CONDITIONS OF CONSENT**

#### **Approved Development:**

This development consent approves the following development subject to and specifically referred to in the Development Consent Conditions set out below:

Upgrade of Gymnasium & Fitness Centre to use the premises to provide fitness exercise, fitness classes and learn to swim classes. The proposed alteration and additions to the building include:

### **Internal works**

#### *Ground floor*

- Demolition of the squash courts and internal partitioning walls on the ground floor and removal of the swimming pool on the first floor.
- Provision of new 15m x 2 lane pool, including disabled access.
- Gymnasium area.
- Crèche for clients.
- Women's area.
- Reception and administration areas.
- Change rooms.
- Seating and waiting areas.

#### *First floor*

- Aerobics centre and change room facilities to remain.
- Provision of new floor area above squash courts to provide for offices, aerobics and boxing.

### **External works**

- Provision of 35 on site car parking spaces.
- Landscaping.
- Fire upgrades and egress stairs (northern boundary).
- Re-surfacing of existing hard paved areas.
- Demolition of canopy over previous petrol bowsers.

### **Details of Conditions:**

#### **1.0 - General Requirements**

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

- (1) **Building Code Of Australia** - All works must be carried out in accordance with the requirements of the *Building Code of Australia* .
- (2) **Disability Discrimination Act** - This approval does not necessarily guarantee compliance with the Disability Discrimination Act 1992, and the applicant/owner is therefore advised to investigate their liability under the Act.

Your attention is drawn to AS1428 parts 2, 3 and 4 inclusive. This may be used as a comprehensive guide for disability access.

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

- Approved plans prepared by Procorp Designs, drawing no. 2928 r.m, Issue A, sheets 1 to 4, dated 22 July 2010.
- Statement of Environmental Effects prepared by Michael Brown Planning Strategies.

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

Where there is an inconsistency between the approved plans/documentation and development consent conditions, the development consent conditions override the approved plans/documentation to the extent of the inconsistency.

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

(4) **Retailing Prohibited** - This consent does not authorise the sale or display of goods for retail to the general public.

## **2.0 - Construction Certificate Requirements**

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

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

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

Plans containing a minimum of four (4) sets of the following information must be prepared and submitted to the Certifying Authority for approval **prior to a Construction Certificate being issued**.

All required soil erosion and sediment control measures must be maintained during the entire construction period until all disturbed areas are restored by turfing, paving or re-vegetation.

An Infringement Notice which impose a monetary penalty of \$750 for an individual or \$1500 for a corporation may be issued by the Consent Authority (ie Camden Council) where the maintenance of measures is inadequate.

(2) **Access & Facilities For People With Disabilities** – Access & facilities for people

with disabilities shall be provided in accordance with the requirements of the Building Code of Australia and AS 1428. Prior to the issue of a construction certificate detailed plans shall be submitted to the Certifying Authority.

- (3) Pursuant to **Camden Contributions Plan** amended in July 2004, a contribution must be paid to Council of \$9.00 per square metre of additional gross floor area, total \$5,181.00 for **Community Facilities**.

The contribution must be indexed by the methods set out in Paragraph 2.4 of the plan paid **prior to issue of the Construction Certificate**.

The monetary contribution may be offset by the value of land transferred to Council or by works in kind at the sole discretion of Camden Council. Such works cannot commence until an agreement is made with Council pursuant to the Contributions Plan. If such an agreement is to be undertaken, it must be signed **prior to the release of a Construction Certificate**.

Advice:

- (a) The Contributions Plans referred to in this Consent can be viewed at Council's Administration Offices, 37 John Street, Camden during business hours.
- (b) Immediately prior to payment of s.94 contributions, contact Council for the amount of the indexed contribution payable.
- (4) Pursuant to **Camden Contributions Plan** amended in July 2004, a contribution must be paid to Council of \$4,135.00 per hectare, total \$238.00 for **s.94 Administration and Management**.

The contribution must be indexed by the methods set out in Paragraph 2.4 of the plan and paid **prior to issue of the Construction Certificate**.

Advice:

- (a) The Contributions Plans referred to in this Consent can be viewed at Council's Administration Offices, 37 John Street, Camden during business hours.
- (b) Immediately prior to payment of s.94 contributions, contact Council for the amount of the indexed contribution payable.
- (5) **Parking Spaces** - A minimum of 35 car parking spaces must be provided on site comprising:
- (a) Ingress and egress from the site must be through two separated vehicular driveways. The first driveway reached by using the kerbside lane adjacent to the site shall be the entrance.
- (b) A circulation aisle should be provided connecting both driveways to allow all vehicles to enter and leave the site in a forward direction.
- (c) A minimum of 35 car parking spaces must be provided of which a maximum of

4 spaces can be stacked parking spaces destined exclusively to staff members. The 2 allocated disabled parking spaces should remain unchanged.

These spaces, and associated access driveways and manoeuvring areas must conform with Camden Council's Car Parking Code (Camden Development Control Plan (DCP) 2006), and must be designed in accordance with a pavement design prepared by a Geotechnical Engineer and the Consent Authority's (ie Camden Council) standard. Documentary evidence of compliance from an Accredited Certifier/Suitably qualified person must be submitted to the Principal Certifying Authority **prior to the Construction Certificate being issued.**

- (6) **Amended Plans Required** - An amended car parking plan is required indicating the change required in condition (6) (b) above and the elimination of spaces 6, 7, 9 & 10.

**Note:** Such information must be shown on amended plans **prior to a Construction Certificate being issued.**

- (7) **Structural Certification (Existing Building)** - A practising structural engineer must certify that the existing building is structurally capable of supporting the loads imposed by the proposed development. A copy of the certificate shall accompany the application for a Construction Certificate.

- (8) **Fire Safety Upgrade** - Pursuant to Clause 94 of the Environmental Planning and Assessment Regulation 2000, the existing building is to be upgraded as Camden Council considers that the measures contained in the building are inadequate:

- to protect persons using the building, and to facilitate their egress from the building, in the event of fire; and
- to restrict the spread of fire from the building to other buildings nearby.

Compliance with the following Parts of the Building Code of Australia(BCA) is to be achieved in the fire safety upgrade of the existing building:

- a) Part C2 (in particular C2.13)
- b) Part C3
- c) Part D1
- d) Part D2
- e) Part E1
- f) Part E2 (in particular NSW Table E2,2(b))
- g) Part E4

If an Alternative Solution is proposed to achieve compliance with these Parts of the Building Code of Australia, it is to be prepared by a properly qualified and accredited Fire Engineer.

Details on the method of compliance are to be submitted to the certifying authority prior to the issue of a Construction Certificate.

All work required as part of the Fire Safety Upgrade of the existing building is to be completed prior to the issue of an Occupation Certificate.

(9) **Fire Safety Measures** – Prior to the issue of the Construction Certificate, the following information is to be submitted to the certifying authority:

- (a) A list of any fire safety measures that are **proposed** to be implemented in the building or on the land on which the building is situated, and
- (b) If the application relates to a proposal to carry out any alteration or rebuilding of, or addition to, an existing building, a separate list of those measures **currently** implemented in the building or on the land on which the building is situated.

(10) **Noise Nuisance Prevention** - The motor, filter, pump, and all sound producing equipment associated with or forming part of the swimming pool filtration system must be located so as not to cause a nuisance to adjoining property owners.

Should a noise nuisance arise, Camden Council may serve Orders issued pursuant to the *Environmental Planning and Assessment Act, 1979* requiring remedial works to be carried out. Action may also be initiated by the Principal Certifying Authority (PCA) where the PCA is not Council.

The location of equipment that causes offensive noise may require the equipment to be located within a suitable acoustic enclosure, or the relocation of such equipment.

(11) **Trade Waste Bins** - Provision must be made for the storage of the trade waste bin within the building/external to the building which does not compromise the allocated number of off street parking spaces. Trade waste bins must be emptied on a regular basis to prevent odour and fire hazard occurring.

The location of the trade waste bin must be clearly indicated on building plans and submitted to the Principal Certifying Authority for approval prior to a Construction Certificate being issued.

### **3.0 - Prior To Works Commencing**

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

(1) **Signs to be Erected on Building and Demolition Sites** – Under Clause 98A of the *Environmental Planning and Assessment Regulation 2000* , a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- (a) showing the name, address and telephone number of the Principal Certifying Authority (PCA) for the work, and
- (b) showing the name of the 'principal contractor' (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (c) stating that unauthorised entry to the work site is prohibited.

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

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

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

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

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

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

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

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

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

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

An Infringement Notice issued under the Environmental Planning and Assessment Act, 1979, which imposes a monetary penalty of \$600, may be initiated by the Principal Certifying Authority (PCA) and issued by Camden Council where the implementation or maintenance of measures is considered to be inadequate. In the

event that a risk of environmental pollution occurs an Infringement Notice issued under the Protection of the Environment Operations Act 1997, which imposes a monetary penalty of \$750 for an individual or \$1500 for a corporation maybe issued by Camden Council.

#### **4.0 - During Construction**

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

- (1) **Hours of Work** – The hours for all construction and demolition work are restricted to between:
  - (a) 7am and 6pm Monday to Friday (inclusive);
  - (b) 7am to 4pm Saturday (if construction noise is inaudible to adjoining residential properties), otherwise 8am to 4pm;
  - (c) work on Sunday and Public Holidays is prohibited.
- (2) **Damaged Assets** – All engineering works and public utility relocation shall incur no cost to Camden Council. Any damage to Camden Council's assets shall be rectified prior to the commencement of use or occupation of a building.
- (3) **Site Management** – To safeguard the local amenity, reduce noise nuisance and to prevent environmental pollution during the construction period, the following practices are to be implemented:
  - The delivery of material shall only be carried out between the hours of 7am - 6pm Monday to Friday, and between 8am - 4pm on Saturdays.
  - Stockpiles of topsoil, sand, aggregate, spoil or other material shall be kept clear of any drainage path, easement, natural watercourse, kerb or road surface and shall have measures in place to prevent the movement of such material off the site.
  - Builder's operations such as brick cutting, washing tools, concreting and bricklaying shall be confined to the building allotment. All pollutants from these activities shall be contained on site and disposed of in an appropriate manner.
  - Waste must not be burnt or buried on site, nor should wind blown rubbish be allowed to leave the site. All waste must be disposed of at an approved Waste Disposal Depot.
  - A waste control container shall be located on the development site.
- (4) **Footpath Levels** - The ground levels of the footpath area within the road reserve (between the boundary of the subject site to the kerb and gutter) must not be altered (by cut or fill) as a consequence of building design and/or construction.
- (5) **Construction Site Noise** - Noise Levels emitted during construction works shall be restricted to comply with the construction noise control guidelines set out in Chapter 171 of the NSW EPA's Environmental Noise Control Manual. This manual recommends the following level restrictions;

(i) Construction period of 4 weeks and under:

The L10 level measured over a period of not less than 15 minutes when the construction site is in operation must not exceed the background level by more than 20 dB(A).

(ii) Construction period greater than 4 weeks:

The L10 level measured over a period of not less than 15 minutes when the construction site is in operation must not exceed the background level by more than 10 dB(A).

(6) **Building Inspections** - The Principal Certifying Authority (PCA) must determine when inspections of critical building components are necessary. The 'principal contractor' for the building works (as defined by the *Environmental Planning and Assessment Act, 1979*) must notify the PCA for the inspection of the building components. Where Camden Council has been nominated as the PCA, the following stages must be inspected and passed prior to proceeding to the subsequent stage of construction.

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

(a) **Commencement of Building Works** - When environmental controls are in place.

(b) **Formwork and Steel Placement** - When formwork and reinforcement of structural components (such as concrete lintels, beams, columns, walls, swimming pools, etc) have been completed, prior to pouring of concrete.

(c) **Framework** - When the framework has been completed (with plumbing and electrical wiring installed), brick work complete and the roof covering fixed, prior to internal lining.

(d) **Wet Area Flashing** - When wall and floor junctions have been flashed with an approved product, prior to installation of floor/wall coverings. Wet areas include bathrooms, laundries, sanitary compartments, en suites and the like.

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

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

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

## 5.0 - Prior To Issue Of Occupation Certificate

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

- (1) **Graffiti Management Plan** - A graffiti and vandalism management plan needs to be incorporated into the maintenance plan for the development. All graffiti/vandalism shall be removed or repaired within 48 hours of the offence.
- (2) **Fire Safety Certificates** – A Fire Safety Certificate is to be submitted to the Principal Certifying Authority (PCA) prior to the issue of an Occupation Certificate in accordance with the requirements of the *Environmental Planning and Assessment Regulation 2000* . The Fire Safety Certificate is to certify that each fire safety measure specified in the current fire safety schedule for the building to which it relates:
  - (a) has been assessed by a properly qualified person; and
  - (b) was found, when it was assessed, to be capable of performing to at least the standard required by the current fire safety schedule for the building for which the certificate is issued.

As soon as practicable after the Final Fire Safety Certificate has been issued, the owner of the building to which it relates:

- (a) must cause a copy of the certificate (together with a copy of the current fire safety schedule) to be given to the Commissioner of New South Wales Fire Brigades, and
  - (b) must cause a further copy of the certificate (together with a copy of the current fire safety schedule) to be prominently displayed in the building.
- (3) **Notification of Swimming Pool Use** - That Prior to Occupation Certificate being issued, Council's Environment and Health section are to be notified of the premises being used as a Public Swimming Pool and the premises will be registered on Council's database.
  - (4) **Warning Notice** - A warning notice complying with the provisions of Clause 10 of the *Swimming Pools Regulation 2008*, must be displayed and maintained in a prominent position in the immediate vicinity of the swimming pool, in accordance with Section 17 of the *Swimming Pools Act, 1992* .

The Principal Certifying Authority (PCA) shall ensure that this warning notice is provided and displayed prior to the issue of the Occupation Certificate.

Council also recommends that all owners and/or users of swimming pools obtain a copy of the 'Cardiopulmonary Resuscitation Guideline' known as "*Guideline 7: Cardiopulmonary Resuscitation*" published in February 2006 by the Australian Resuscitation Council (available through [www.resus.org.au](http://www.resus.org.au))

- (5) **On Site Parking Signs** - Sign/s measuring 600mm x 900mm must be erected which is visible to persons driving along the street that indicates on-site parking is available. Visitor spaces must be suitably signposted indicating their use for visitor

parking only. The sign/s shall be maintained in good repair at all times.

- (6) **No Reverse Driving Signs - prior to the Occupation Certificate being issued**, sign/s must be conspicuously displayed indicating that no vehicles are to be driven in reverse across the footway and that vehicles must stop before crossing the footpath. The sign/s shall be maintained in good repair at all times.
- (7) **Directional Traffic Flow Signs** - The northernmost driveway must be used for ingress purposes only, and the southernmost driveway for egress purposes only. Both driveways must be suitably signposted and directional arrows painted on the internal roadway **prior to the Occupation Certificate being issued**. Sign/s shall be maintained in good repair at all times.

## 6.0 - Operational Conditions

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

- (1) **Swimming Pool Water Health Standards** - To maintain hygienic conditions, the swimming pool must be maintained in a clean and healthy condition at all times. The Swimming Pool and Pool surrounds must be maintained in accordance with the Public Health (Swimming Pools and Spa Pools) Regulation 2000.

**Note:** Guidance may also be obtained from the NSW Health Departments' Public Swimming Pools and Spa Pools Guidelines.

- (2) **Storage of Chemicals** - That all pool chemicals shall be stored within a covered bunded area. The bund shall be effective to store 25% of the total volume of the stored product.
- (3) **Spill Kit** - A spill kit must be provided for accidental spills. The spill kit must contain items suitable for cleaning up spills of any liquids stored at the premises.
- (4) **Light Spillage** - The lighting of the premises must be directed so as not to cause nuisance to owners or occupiers of adjoining premises.
- (5) **Swimming Pool Supervision** – The swimming pool area must be monitored and supervised at all times during the hours of operation.
- (6) **Offensive Noise** - That the use of the premises shall not give rise to:
  - a. Transmission of 'offensive noise' to any place of different occupancy, and,
  - b. A sound pressure level at any affected premises that exceeds the background (LA90) noise level in the absence of the noise under consideration by more than 5dB(A). The source noise level shall be assessed as an LAeq, 15min and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content, and,
  - c. A Sound pressure level at any affected premises that exceed the recommended planning levels outlined in the NSW EPA Industrial Policy.

- (7) **Water Pollution** - That the operation of the proposed business must not cause or permit the pollution of waters as described under the Protection of the Environment Operations Act 1997.
- (9) **Trade Waste Removal** - The applicant shall enter into a commercial contract for the collection of trade waste and recycling. A copy of this agreement shall be held on the premises at all times.
- (10) **Hazardous Materials, Oils and Chemical Management** - To ensure correct handling of hazardous materials, Material Safety Data Sheets (MSDS) are required to be held at the premises for all hazardous materials. These can be obtained free of charge from the supplier. MSDS information is to be provided upon request by an authorised Council officer.
- (11) **Hours of Operation** - The hours of operation for the approved land-use are:

Monday to Wednesday: 6am to 10pm

Thursday and Friday: 6am to 9pm

Saturday, Sunday & Public Holidays: TO BE CLOSED

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

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

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

The use or occupation of the approved development must not commence until such time as all conditions of this development consent have been complied with.

END OF CONDITIONS

### **RECOMMENDED**

**That Council approve Development Application 841/2010 for the upgrade of a property located at No. 8 Ironbark Avenue (Lot 60, DP 827622), Camden to a gymnasium and fitness centre subject to the draft development consent conditions attached.**

### **ATTACHMENTS**

1. Location Plan

## 2. Proposed Plans



Location Plan 8 Ironbark Av Camden.pdf Plans.PDF

### RESOLUTION

Moved Councillor Warren, Seconded Councillor Campbell that Council approve Development Application 841/2010 for the upgrade of a property located at No. 8 Ironbark Avenue (Lot 60, DP 827622), Camden to a gymnasium and fitness centre subject to the draft development consent conditions attached.

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

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

No Councillor voted against the Motion).

ORD232/10

### **ACTIONS**

[Link to CRMS document](#)

[CRMS: 12568267 28/10/2010, 09:23:15 AM](#)

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## ORDINARY COUNCIL

**ORD03**

**SUBJECT:** EXHIBITION OF THE DRAFT ENVIRONMENTAL PLANNING  
AND ASSESSMENT REGULATION 2010  
**FROM:** Director Development and Health  
**FILE NO:** Development & Building Controls/Building Regulations

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### PURPOSE OF REPORT

The purpose of this report is to inform Council of the exhibition of the Draft Amended Environmental Planning and Assessment Regulation 2010 (Draft Regulation 2010) by the Department of Planning (the Department).

In addition, the report seeks Council's endorsement of a draft submission to the Department on the Draft Regulations 2010.

### BACKGROUND

The Environmental Planning and Assessment Regulation 2000 plays an important role in the planning provisions of the Environmental Planning and Assessment Act 1979 (the Act). The Regulation is reviewed and updated regularly. However these proposed amendments are perhaps one of the most comprehensive reviews undertaken by the Department for some time.

The Draft Regulation 2010 has been prepared by the Department for public consultation. Comments are being sought up to Friday, 5 November 2010. **A copy of an overview of the draft Environmental Planning and Assessment Regulation 2010, prepared by the Department, is attached to the Business papers Supporting Documents.**

**A copy of the full document has been provided to Councillors on a CD.**

In summary, the key features of the Draft Regulation 2010 are:

- retention of most of the existing provisions of the regulation, with minor administrative changes, restructuring and an update of the numbering system;
- implementation of significant changes to the Part 4 Development Application (DA) assessment system (Part 7 under the Draft Regulation 2010), that have been the subject of previous consultation through the planning reforms program; and
- a number of other amendments proposed relating to fees, planning certificates, designated development, development certification procedures and other miscellaneous changes.

A draft response to the draft Environmental Planning and Assessment Regulation 2010

has been prepared by Council officers. **A copy of this draft response is attached to the end of this report.**

## **MAIN REPORT**

The Draft Regulation 2010 consists of various parts which relate to different planning processes including preparation of Local Environmental Plans and Development Control Plans, Development Contributions, Existing Use Rights and Development Assessment. Below is a summary of each part where changes have been made and a summary of Council officer's assessment to the proposed changes.

### **Part 2: Major projects**

Changes which are proposed include;

- allowing the Director General to reject major project applications if an Environmental Assessment is not submitted within 2 years of the Director General's Requirements (DGRs) being issued;
- clarifying timeframes for various notification requirements for Part 3A major projects;
- providing standard timeframes (and clarification of how timeframes are measured) for public disclosure of documents related to Part 3A major projects; and
- outlining the manner in which the Director General is required to give notice of the determination to the proponent and those who made submissions to a Part 3A major project application.

*Officer comment:* No objection is raised to the above amendments.

### **Part 4: Development control plans**

The main change is the implementation of a six month period after the gazettal of the Standard Instrument Local Environmental Plan (LEP) (in the case of Camden Council, Camden Local Environmental Plan 2010) within which time Councils are required to update their Development Control Plans (DCP's) to meet the DCP requirements in the Act and to also match and support the new provisions in the Standard Instrument LEP.

*Officer comment:* No objection is raised to the above amendment.

### **Part 6: Existing uses**

Removal of the 1000 square metre floor space limit for 'change of use' provisions relating to light industrial and commercial existing uses. This will allow for broader use of existing use provisions and flexibility for existing commercial and light industrial uses with larger floor areas.

*Officer comment:* There are concerns that the removal of the floor cap restriction may be contrary to any future State Government Centres Policies and strategies that place controls and caps on the maximum allowable floor space that is permitted.

In any event it could also allow incompatible land uses, such as bulky goods shops, which generate more traffic in areas not capable of supporting these uses and which may not result in positive outcomes to the amenity for the proposed locality.

## **Part 7: Development applications**

The main changes that are being proposed are as follows:

- Upon receipt of the DA, Council will have 14 days to review it for legibility, clarity, completeness and inclusion of fees in accordance with the DA lodgement requirements outlined in the Regulations, before deciding to accept the application. If the application is deemed inadequate then Council will have the ability to reject the application, provided a written justification is given to the applicant which justifies the reasons for the rejection.

*Officer Comment:* It is recommended that the requirements of the Regulation be extended to allow documents which are required to be provided by a DCP, LEP or State Environmental Planning Policy (SEPP).

For example, the Child Care Centres chapter in the Camden DCP 2006 requires a traffic study, an acoustic study and a contamination study. If these documents are not lodged with any application, they should be satisfactory grounds to reject a DA on the grounds that it is incomplete. This direction would then be in accordance with the Regulation. This runs the risk of applications needing to be refused, which would have previously been able to be rejected.

- Any request for additional information can only be made once, and only within the first 21 days (day 1 is the second full day after the DA is lodged).

*Officer Comment:* It is recommended that the maximum time permitted to request additional information is extended to 28 days. This will permit a more realistic timeframe in situations such as more complex development applications in which there is a number of technical specialists from within Council involved and who need to be consulted, and also where external agencies are required to provide comment, allowing for the administrative procedures involved such as the mailing of the correspondence and the record keeping required at the recipient's end.

Additionally, there are concerns that there is no scope to request additional information in the situation where the additional information is deemed unsatisfactory upon receipt. With the proposed provisions only permitting additional information to be asked for once, it places consent authorities in a situation where applications must be refused rather than allowing the applicant to resubmit the information which is required (the withdrawing of applications is a voluntary measure taken by the applicant).

These reasons for refusal of the application may not be robust enough to stand up to the modes of appeal available to applicants, in particular with the Land and Environment Court.

Therefore, it is recommended that provisions are made for exceptions that allow follow up additional information in the instance that the received information is deemed to be

not satisfactory to continue the assessment of the application.

- The “stop the clock” provisions can only be used once, and only for a maximum of 21 days. The clock re-starts after this period, irrespective of whether the outstanding information is received or not.

*Officer comment:* If the provisions suggested in the above dot point are adopted, they should also apply to this follow up requirement, as it is considered unnecessary to impose the possibility of the clock running on an application when no possible assessment could be done when inadequate information was lodged in the first instance.

- All agencies have a maximum of 21 days to respond to referrals from Council for DAs, irrespective of whether it is an Integrated Development application or for concurrence.

*Officer comment:* No objection is raised to the above amendment.

- The deemed refusal period for DA's is increased to 50 days, and 90 days for Integrated Development, development requiring concurrence or DA's that require to be determined by the Joint Regional Planning Panel (JRPP).

*Officer comment:* No objection is raised to the above amendment.

### **Part 8: Complying development certificates**

The main change proposed is the requirement to reference all relevant plans, specifications and other reports on the Complying Development Certificate consent, as well as the requirement to list accreditation details.

*Officer comment:* No objection is raised to the above amendments.

### **Part 9: Certification of development**

It is noted that the main change is for BASIX completion receipts to be required prior to the issue of a Final Occupation Certificate. The remaining changes are generally minor administrative changes.

*Officer comment:* No objection is raised to the above amendments.

### **Part 10: Fire safety and matters concerning the Building Code of Australia**

The main changes are the requirement for moveable dwellings to have smoke alarms, an extension of current exemptions for construction certificates and occupation certificates for certain temporary structures and minor administrative changes to certification procedures.

*Officer comment:* Notwithstanding the concerns that there are resource implications for Council associated with the implementation and monitoring of this requirement, it is recommended that the changes are to be supported.

## **Part 11: Environmental assessment under Part 5 of the Act**

Changes are proposed, however, this is commonly applied to works undertaken by public authorities that do not need development consent, such as transport infrastructure and public utilities.

*Officer comment:* No objection is raised to the above amendments.

## **Part 12: Fees and Charges**

The Draft Regulation 2010 proposed minor increases in fixed fees and charges in line with movements in the Consumer Price Index (CPI) since 2001, when the Regulation 2000 was first in force. A number of these fees set in the Regulation relate to development assessment and certification. The current fees are shown in Council's Fees and Charges.

*Officer comment:* This is noted, and it is suggested that an amendment to Council's Fees and Charges 2010/2011 is undertaken once the Draft Regulation 2010 is gazetted.

## **Part 15: Miscellaneous**

This relates to provisions that do not fit into the previous parts, including the South West Growth Centres. However, there are no changes proposed that are relevant to Council procedures.

*Officer comment:* No objection is raised to the amendments.

## **Schedules**

The Schedules relate to miscellaneous provisions, such as requirements in development applications, entertainment venues, planning certificates and penalty notice offences.

The main changes relate to planning certificates in that there are measures to reduce the information that has to be recorded on the basic s149 (2) certificate that has to be attached to a contract for the sale of land. The same information will still need to be collected for disclosure on the full planning certificate (the s149 (5) certificate)

*Officer comment:* As stated earlier in this report, documentation required to be provided with a DA (in Schedule 1) should be expanded to include those matters listed in a DCP, LEP or SEPP, such as traffic reports, acoustic reports, contamination studies and the like.

## **CONCLUSION**

The Department has publicly exhibited the Draft Environmental Planning and Assessment Regulation 2010. Council staff have reviewed the amended Regulation and have prepared a draft submission on its contents.

Most of the changes in the Draft Regulation 2010 do not impact on current procedures

and only need to be noted. However, proposed changes to Part 7 (Development Applications) raise concerns in relation to the scope for the rejection of applications, the request for additional information and the stop the clock provisions. Concerns are also raised about existing use rights and fire safety matters.

It is recommended that Council endorse Council staff's draft submission on the Draft Regulation 2010 and that it be forwarded to the Department of Planning.

### **RECOMMENDED**

**That Council:**

- (i) endorse the draft submission to the Draft Environmental Planning and Assessment Regulation 2010 and;**
- (ii) forward the submission to the Department of Planning.**

### **ATTACHMENTS**

- 1. Draft Submission
- 2. Overview of the draft Environmental Planning & Assessment Regulation (sup doc)



Draft Submission to Department of Planning for BP of 26 10 10 (correct one).doc



overview of the draft Environmental Planning and Assessment Regulation LinkClick.pdf

### **RESOLUTION**

Moved Councillor Dewbery, Seconded Councillor Cottrell that Council:

- i. endorse the draft submission to the Draft Environmental Planning and Assessment Regulation 2010 and;
- ii. forward the submission to the Department of Planning.

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

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

No Councillor voted against the Motion).

ORD233/10

### **ACTIONS**

[Link to CRMS document](#)

[CRMS: 12568357 28/10/2010, 09:23:24 AM](#)

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## ORDINARY COUNCIL

ORD04

**SUBJECT:** AMENDMENT TO SMEATON GRANGE DEVELOPMENT CONTROLS  
**FROM:** Director Governance  
**FILE NO:** Binder: Smeaton Grange

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### PURPOSE OF REPORT

The purpose of this report is to seek Council's endorsement of amendments to development controls relating to the future road layout of a section of land in the north western section of the Smeaton Grange industrial area. This is due to the proposed extension of Dunn Road through to Turner Road, which will facilitate a safer exit onto Camden Valley Way via the signalised intersection with Anderson Road. A map showing this area is **provided as attachment 1 to this report**.

### BACKGROUND

Smeaton Grange was rezoned Industrial in the 1990s. At that time land adjoining on the northern side of Turner Road was zoned rural residential (Rural 1(b) under LEP 48). Camden DCP 121, which provided development controls for Smeaton Grange, was prepared in 2002. This DCP was subsequently consolidated into Camden DCP 2006.

Approximately two thirds of the Smeaton Grange industrial area has been developed. One of the last sections to be developed is the north western section which is the subject of this report.

### MAIN REPORT

#### **Current Controls**

##### Zoning

A map showing the current zoning of this section of Smeaton Grange and the surrounding area is **provided as attachment 2 to this report**. Land on the southern side of Turner Road between Camden Valley Way and the prolongation of Dunn Road is zoned IN1 General Industrial. The remainder of the land on the southern side of Turner Road is zoned IN2 light Industrial. The land on the northern side of Turner Road is contained within the Turner Road Urban Release Area and was rezoned in 2007. Land on the northern side of Turner Road between Camden Valley Way and the creek is now zoned IN1 General Industrial. The creek area is zoned RE1 Public Recreation with the remaining land to the east being R1 General Residential.

##### Development Controls

The current development controls for Smeaton Grange are contained within Part G Chapter 16 of Camden DCP 2006. **Attachment 3 to this report** highlights the proposed road layout. In particular, it highlights the proposed extension of Dunn Road into Turner Road, thereby negating the need for the original proposed future road. There is also a Landscape Master Plan which states that "Access to Turner Road is denied from the estate and landscaping is intended to provide a buffer between the estate and adjoining rural residential area". This control was responding to the interface of the industrial land with the adjoining rural/residential land to the north.

Accordingly, future access to Turner Road from the industrial land was denied. Access for those properties fronting Turner Road would be through a future internal road network which would connect with Anderson Road. It should be noted that these properties currently have access directly onto Turner Road and Council has no provision to deny such access unless it is proposed by the owners to redevelop the land.

The Turner Road DCP 2007 provides an indicative lot layout for land zoned IN1 on the northern side of Turner Road. This plan shows lots being serviced by an internal road however there is no reference in the DCP to the denial of access directly onto Turner Road. There is a proposed road connection to Turner Road. A map showing the future street network for the Turner Road Precinct is **provided as attachment 4 to this report**.

#### Current Development Situation

Dunn Road has now been constructed off Anderson Road. It currently ends in a cul-de-sac and provision has been made, through a restriction as to user, for a future connection to Turner Road. There has been no Council funding allocated for this road connection including any allowance under S94 Plans. The Turner Road Precinct DCP 2007 provides for a future industrial road connection through to Badgally Road at this point.

The proposed road which runs parallel with Turner Road straddles the rear boundaries of properties fronting both Turner Road and Anderson Road. There is no provision for funding of any of these internal roads in Council's Section 94 plan for Smeaton Grange.

#### **Connection from Turner Road to Dunn Road**

BMD Constructions are undertaking the reconstruction of Camden Valley Way, on behalf of the RTA, between north of Turner Road and Smeaton Grange Road. During the construction phase they will be undertaking a temporary closure of the Turner Road intersection with Camden Valley Way. This has necessitated the need to establish a temporary access from Turner Road through to Dunn Road to provide Turner Road traffic with access to Camden Valley Way from Anderson Road.

Negotiations between BMD and the owner of the property where the road connection is required, Investa Property Group, has resulted in an agreement to the construction of a permanent road access to an industrial road standard. This road will be dedicated to Council.

The future intersection of Dunn Road and Turner Road aligns with the future road connection to the Turner Road industrial area.

### **Review of Existing Development Controls**

It is considered appropriate to review the development controls for this section of the Smeaton Grange industrial area due to the following;

- Residents of Turner Road have for some time expressed concerns in regard to the safety of the Turner Road intersection with Camden Valley Way. This proposal provides safe access at a signalised intersection via Anderson Road onto Camden Valley Way for the Turner Road residents.
- The connection of Dunn Road to Turner Road provides a road connection at no cost to Council. This will also provide an eventual road connection with the Turner Road industrial precinct which will enable access through to the future Badgally Road.
- The land on the northern side of Turner Road has now been rezoned to IN1 General Industrial from its previous zoning of Rural/Residential. This then negates the need for a buffer. It should be noted that any application to develop the land will need to take into account the amenity of existing residents. This was also the situation when the concerns of the nearby poultry farm were considered when applications for nearby development were being assessed.
- The proposed future road that runs parallel to Anderson is unlikely to ever be constructed as there is no Council mechanism for funding the road, especially given that a majority of the industrial estate has now been developed. Those properties fronting Anderson Road have no need for a road at the rear of their land therefore providing them with no incentive to develop the road and dedicate the land.

### **Proposal**

To address the above, it is proposed to amend the future road layout for this section of Smeaton Grange by undertaking the following:

1. Removing the proposed internal roads bounded by Dunn Road and Anderson Road,
2. Permitting those properties in Smeaton Grange that front Turner Road, which are located opposite the land now zoned IN1 General Industrial in the Turner Road Precinct to have access to Turner Road. (It should be noted access onto Turner Road is denied for the remainder of properties on the southern side of Turner Road which are opposite land Zoned R1 General Residential.)
3. To insert a clause in the DCP controls requiring that owners of properties which front Turner Road, upgrade Turner Road to an industrial standard should they wish to develop. The first property to develop would need to fund the upgrading of that section of Turner Road to an industrial standard, on both sides, from that property to the proposed intersection of Dunn Road.

### **Exhibition of proposed amendments to Camden DCP**

There is a separate report in this Business Paper in relation to the review of Camden DCP 2006 and the draft Camden DCP which is recommended for public exhibition. It

is proposed to conduct the variation to the Smeaton Grange controls as a separate exercise to ensure that it does not impede the general review of the Camden development controls. While the exhibition period will be the same period as the draft Camden DCP, the documentation will be separate.

All owners of land adjoining in Turner Road will be notified in writing of the exhibition.

### **Process from here**

Following the conclusion of the exhibition a report will be presented to Council on submissions received. Should Council then resolve to adopt the amendments to the Smeaton Grange controls so they can be added to the new Camden DCP at the appropriate time.

### **CONCLUSION**

The proposed amendments to the internal/linking road network, in this section of Smeaton Grange, reflect the changes that have occurred to the locality over the time since the land was initially rezoned. It also takes advantage of the new road connection between Dunn Road and Turner Road and the future connection through the Turner Road precinct to Badgally Road. This will also provide the existing Turner Road residents with an opportunity for safe access onto Camden Valley Way from Anderson Road which is signalised.

### **RECOMMENDED**

**That Council resolve to place the amendments to the Smeaton Grange development controls in Part G Chapter 16 of Camden DCP 2006, on public exhibition for a period of 28 days.**

### **ATTACHMENTS**

Attachment 1 - Map showing subject area

Attachment 2 - Map showing the current zoning of this section of Smeaton Grange

Attachment 3 - Map showing the future street network for the Turner Road Precinct

Attachment 4 - Smeaton Grange Strategy Plan



Smeaton Grange Attachment 1 - Location Map.pdf



Smeaton Grange Attachment 2 Smeaton Grange zoning map.pdf



Smeaton Grange Attachment 3 - Future Road Layouts.pdf



Smeaton Grange Attachment 4 Smeaton Grange Strategy Plan.pdf

### **RESOLUTION**

Moved Councillor Warren, Seconded Councillor Cottrell that Council resolve to place the amendments to the Smeaton Grange development controls in Part G Chapter 16 of

Camden DCP 2006, on public exhibition for a period of 28 days.

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

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

No Councillor voted against the Motion).

ORD234/10

### **ACTIONS**

[Link to CRMS document](#)

[CRMS: 12568500 28/10/2010, 09:23:32 AM](#)

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## ORDINARY COUNCIL

ORD05

**SUBJECT:** PLANNING PROPOSAL - 23 HARRINGTON STREET  
ELDERSLIE  
**FROM:** Director Governance  
**FILE NO:** 23 Harrington Street

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### PURPOSE OF REPORT

The purpose of this report is to consider a Planning Proposal for an amendment to Camden LEP 2010 to list additional uses at 23 Harrington Street Elderslie as being permissible with development consent.

### BACKGROUND

23 Harrington Street Elderslie is currently zoned RE2 Private Recreation with an additional schedule of permitted uses pursuant to Camden LEP 2010.

Identification of the site and its relationship to the surrounding land **is provided on the map on page 6 of the document shown in Attachment 1 to this report.** A strip of Harrington Green Public Reserve separates the site from Camden Valley Way. The land opposite the site on the western side of Camden Valley Way is part of the Nepean Floodplain zoned RU1 Primary Production. Hilder Public Reserve is located on the opposite (eastern side) of Harrington Street. A Church, Camden Christadelphian Ecclesia and house is located on the south/south-western side of the site. The caravan/camper sales business adjoins the site to the north. Blinky Bill Child Care Centre and Camden Preschool Kindergarten with frontage to Lowe Street are each located nearby. A pedestrian pathway runs adjacent to the southern boundary of the site linking Harrington Green with Hilder Reserve.

On 27 May 1996 Council approved Development Consent 124/1995 for the erection of a single storey convention centre, comprising three function rooms, an attached two-storey motel with 45 rooms, a tennis court and a swimming pool. Construction commenced and the footings were built but no further work was carried out until the submission of a new Development Application (936/2002) on 20 June 2002. This application sought consent for the construction of a convention centre, restaurant and 25 serviced apartments. The serviced apartments had been the subject of a rezoning process with the gazettal of LEP 129 permitting the use and the strata subdivision of the serviced apartments (maximum four week stay period).

Following Council consideration Development Application 936/2002 was approved on 25 November 2002. Construction on the site resumed and additional footings in accordance with Development Consent 936/2002 were built and found to be satisfactory following inspections by Council staff. On 9 February 2006 Council received an application for modification of Consent 936/2002 to revise the approved 25 serviced apartments to 43 motel rooms. The application was considered and approved

by Council on 27 March 2006. An additional application for modification was received on 5 June 2006 for minor alterations and additions to improve the use and operation of the development. This was approved by Council on 14 August 2006.

No further work has been undertaken on the site for some time. The landowner has advised that the development has proven to be unviable with attempts to attract an operator for the development proving unsuccessful.

The owner of the property lodged a submission requesting rezoning of the site during the exhibition of draft Camden LEP 2009. It was noted in the Council report of 24 November 2009 that while the request to review the zoning may have merit, it was beyond the scope of the draft LEP. The owner was advised that he should meet with Council to discuss the matter further.

## **MAIN REPORT**

### **Camden LEP 2010**

While 23 Harrington Street Elderslie is zoned RE2 Private Recreation, Clause 6 of Schedule 1 - Additional Permitted Uses of Camden LEP 2010, permits development for the purposes of functions centres, landscape and garden supplies, restaurants and serviced apartments with or without strata subdivision, with development consent. The RE2 zone table also lists a number of permissible uses that are discussed further below. Prior to Camden LEP 2010 taking effect, the site was zoned 6(c) Private Open Space pursuant to Camden LEP 46.

### **Site Location & Attributes**

The Harrington Green strip of land between the site and Camden Valley Way and the gentle land grade associated with the floodplain means the site and its future development will be a prominent feature of the Camden Valley Way visual catchment at the northern entry point into the Camden town centre.

The site is flood affected and a flood study report was completed as part of the 2002 DA for the convention centre, serviced apartments and restaurant. A copy of the flood study report is provided as **Annexure B to Attachment 1 to this report**

With the above matters in mind, the owner has been in discussion with Council staff as to the most appropriate zoning for the land. The owner initially sought to have the land rezoned to a business zone however this was not supported given the proximity to the Camden town centre.

It was acknowledged that the current Private Recreation zoning for the site is not entirely appropriate and that the site's location and attributes/constraints lends itself to a site specific LEP amendment approach. It was considered that inserting a number of additional landuses to Schedule 1 - Additional Permitted Uses of Camden LEP 2010 as being permissible with consent was the most appropriate way to proceed.

Following a number of meetings between the owner and his representatives and Council staff, a range of possible land uses which could be undertaken on the site has been developed. It should be noted that while these could be listed as additional uses on the site, the uses would ultimately be subject to the DA assessment and determination process. The landowners consultant has submitted a Planning Proposal

for Council's consideration seeking Council's support for the LEP amendment and to initiate the LEP amendment process.

#### Details of the Planning Proposal

A Planning Proposal in support of the LEP amendment is **shown in Attachment 1 to this report**. The Planning Proposal is the initial report submitted seeking Council resolution to proceed with the LEP amendment of the land in accordance with the requirements of the Act.

The stated objectives of the Planning Proposal is *to enable the development of No 23 Harrington Street, Elderslie for commercial purposes having regard to the 'gateway' attributes the land possesses on the entrance to the Camden Township and within the established area of Elderslie and the new urban release area of Elderslie.*

The Planning Proposal is site specific in response to the site's location and attributes. The Planning Proposal seeks an amendment to Camden LEP 2010 Schedule 1 - Additional Permitted Uses, to include entertainment facility, funeral chapel, funeral home, hotel or motel accommodation, information and educational facility (but not child care centres), office premises, place of public worship, restaurant, serviced apartments, tourist and visitor centre, veterinary hospital as additional permitted uses on the site.

The Planning Proposal seeks to retain the RE2 Private Recreation Zone for the property. Under this zone community facilities, function centres, recreation facilities (indoor), recreation facilities (major), recreation facilities (outdoor) are permissible with consent. This means that Schedule 1 - Additional Permitted Uses only needs to address those additional uses that are not already permissible under the zone with development consent.

The Planning Proposal suggests that landscape and garden supplies is not a suitable development for the site and should be deleted from the draft clause. This is supported.

**Attachment 2 to this report** provides a table that summarises the current and proposed list of permissible land uses at 23 Harrington Street Elderslie. The suggested list of commercial uses is considered to be compatible with the site's location and attributes whilst protecting the core business function of Camden town centre.

#### Environmental Impact Assessment

Some environmental assessments would be appropriate to be undertaken at any future development application stage such as a salinity assessment and potential contamination assessment. For the purposes of assessing the Planning Proposal Council staff have given detailed consideration to flood risk assessment, traffic impact assessment and noise impact assessment and these are discussed in more detail below.

#### Assessing New Development with Council's Flood Risk Management Policy

The land is classified as high hazard flood fringe with the following flood levels applying to the property (Australian Height Datum - AHD):

Probable Maximum Flood:	75.6m
1% Average Exceedance Probability (1 in 100 year flood)	71.6m
5% Average Exceedance Probability (1 in 20 year flood):	69.9m

Based on Council's flood mapping, the highest point in Harrington Street on the frontage of the property is approximately 71m AHD. Finished floor levels for the original approved development were as follows: Basement carpark: 69.5m, Conference Centre: 71.0m, First Floor of Units 72.2m.

Any new development on the property would ordinarily have to comply with the Council's Flood Risk Management Policy Development Guidelines. While the flooding on the property obviously is a development constraint, it is likely that a suitably scaled and designed development would be able to satisfy the relevant development guidelines with the exception of "reliable and safe access for pedestrians and vehicles required during the Probable Maximum Flood event". This is because the depth of water in a probable maximum flood event is approximately 4.6m in Harrington Street. This means that this requirement could not be satisfactorily addressed.

Section 4.6 in the Flood Risk Management Policy "Redevelopment of Commercial Areas of the Floodplain" makes concessions for the redevelopment requirements of sites in areas zoned commercial. As the land is zoned RE2 Private Recreation pursuant to Camden LEP 2010 and it is not proposed to rezone the land to a commercial zoning, this section would not directly apply to this site. However, it could be argued that the intent of the section would still apply, namely, that a commercial development on the site would be built with flood proof materials and that the development will not increase the number of people at risk residing in high hazard areas. This is also consistent with the primary objective of the NSW Floodplain Management Manual 2005 - "to reduce the impact of flooding and flood liability on individual owners and occupiers of flood prone property, and to reduce private and public losses resulting from floods".

#### Traffic Impact Assessment

Whilst the current development consent includes access from Camden Valley Way (across Harrington Green Public Reserve), any future development application cannot assume access from Camden Valley Way. Consideration has been given to the implications of restricting site access to Harrington Street and to increasing the range of permissible uses on the site. Addressing the potential traffic impacts associated with the access and traffic along Harrington Street and Macarthur Road in particular will be a key consideration. A final determination on access will be made on its merits as part of any future development application.

#### Noise Impact Assessment

A noise impact assessment was undertaken as part of the approved development. It is considered that a noise impact assessment for the range of proposed land uses and associated traffic impacts should be completed.

#### Further Studies Required

It is considered that Council should recommend to the DoP that studies are required to be completed to address traffic impact, noise impact and flooding impact assessment. These studies would need to be completed prior to the public exhibition of the Planning Proposal. Further studies may be requested by the DoP once the Planning Proposal goes through the Gateway Determination process. In terms of flood impact assessment, the Planning Proposal should be accompanied by an assessment of permissible uses, development potential of the site and the requirements of the NSW Floodplain Development Manual and Council's Flood Risk Management Policy.

### Consultation

Council will recommend a 28 day exhibition period for the draft LEP amendment. It is not considered necessary to consult with public authorities for this LEP amendment.

### The Process From Here

Should Council determine to send the proposal to the DoP the following steps will occur:

- Gateway Determination by the DoP to ensure there is sufficient justification for the proposal early in the process. The Gateway Determination will determine whether the proposal should proceed, whether it needs to be resubmitted with additional information, and community and public authority consultation requirements;
- Report to Council to seek resolution to publicly exhibit the Studies and Planning Proposal;
- Public Exhibition of the Studies and Planning Proposal as required by Council and the DoP;
- Report to Council on the exhibition and to seek resolution to send the Planning Proposal to the DoP for final assessment;
- DoP final assessment of Planning Proposal
- DoP arrange the legal instrument in consultation with Council;
- Plan is made.

It should be noted that all costs associated with the preparation of studies and instruments will be borne by the proponent.

### CONCLUSION

The Planning Proposal to prepare an LEP amendment to permit additional permitted uses at 23 Harrington Street Elderslie has merit for a number of reasons. The Planning Proposal considers that a commercial use is a good outcome for this site and will allow the site to be developed rather than allow the approved use remaining in an underdeveloped manner on the land. The site's location on the northern entry to Camden town centre lends itself to a site specific LEP amendment as the best means to increase the range of permissible uses for the site whilst at the same time protecting the core business function of Camden town centre. The ultimate development decision for the site will rest with Council at any future DA assessment and determination stage.

### RECOMMENDED

**That Council:**

- i. support a planning proposal to include the following additional permitted uses on the site known as 23 (Lot 2 DP 1008301) Harrington Street Elderslie:- Entertainment facility, Funeral chapel, Funeral home, Hotel or motel accommodation, Information and educational facility, Office premises, Place of public worship, Restaurant, Serviced apartments, Tourist and visitor centre, Veterinary hospital as additional permitted uses;
- ii. forward the Planning Proposal to the Department of Planning for Gateway Determination with a recommendation for a 28 day public exhibition period of the amending LEP; and
- iii. recommend to the Department of Planning that the applicant be directed to prepare a flooding impact assessment, traffic impact assessment & noise impact assessment to the satisfaction of Council prior to the public exhibition stage of the Planning Proposal.

## ATTACHMENTS

Attachment 1 - Planning Proposal

Attachment 2 - Table Explaining Permissible Uses – 23 Harrington Street Elderslie



23 Harrington Street Elderslie Attachment 2.doc 23 Harrington Street Planning Proposal Attachment 1.pdf

## RESOLUTION

Moved Councillor Funnell, Seconded Councillor Warren that Council:

- i. support a planning proposal to include the following additional permitted uses on the site known as 23 (Lot 2 DP 1008301) Harrington Street Elderslie:- Entertainment facility, Funeral chapel, Funeral home, Hotel or motel accommodation, Information and educational facility, Office premises, Place of public worship, Restaurant, Serviced apartments, Tourist and visitor centre, Veterinary hospital as additional permitted uses;
- ii. forward the Planning Proposal to the Department of Planning for Gateway Determination with a recommendation for a 28 day public exhibition period of the amending LEP; and
- iii. recommend to the Department of Planning that the applicant be directed to prepare a flooding impact assessment, traffic impact assessment & noise impact assessment to the satisfaction of Council prior to the public exhibition stage of the Planning Proposal.

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

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

Councillor Campbell voted against the Motion).

ORD235/10

## **ACTIONS**

Link to CRMS document

[CRMS: 12568530 28/10/2010, 09:24:55 AM](#)

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## ORDINARY COUNCIL

**ORD06**

**SUBJECT:** DRAFT CAMDEN DEVELOPMENT CONTROL PLAN (DCP)  
**FROM:** Director Governance  
**FILE NO:** Binder: DCP

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### PURPOSE OF REPORT

The purpose of this report is to seek Council's endorsement of the draft Camden DCP for the purposes of public exhibition.

### BACKGROUND

Council's current DCP is Camden DCP 2006. This DCP was initially adopted by Council on 10 July 2006 and came into force on 19 July 2006. Camden DCP 2006 combined 58 existing DCPs into 1 comprehensive document. Since the adoption of the DCP there have been several amendments.

During the preparation of Camden LEP 2010 it became apparent that DCP 2006 would need to be reviewed. At its meeting held on 24 November 2009 Council considered a report on the exhibition of draft Camden LEP 2009 (subsequently renumbered 2010). In that report, there was acknowledgement that a number of clauses previously contained in Camden LEPs would need to be transferred to a DCP format. In addition DCP 2006 needed to be reviewed to ensure full compliance with the LEP.

The need to align LEP and DCP instruments is recognised by the Department of Planning (DoP), which proposes to allow six months after the making of a LEP for required DCP amendments. This has been considered in the review of Draft Amended EP&A Regulations 2010 earlier in this Council meeting.

To provide for adequate development controls in the period between the publishing of the Camden LEP 2010 and the making of the revised DCP, Council at its meeting held on 13 July 2010 resolved to:

*"Continue to rely on the controls provided in Camden DCP 2006, following the gazettal of Camden LEP 2010, until such time as the revised Camden DCP comes into force, subject to the following criteria:*

- i. any reference to a local environmental plan or LEP in Camden DCP 2006 is to be regarded as a reference to Camden LEP 2010; and*
- ii. where there is any inconsistency between Camden LEP 2010 and Camden DCP 2006, Camden LEP 2010 takes precedence to the extent of the inconsistency."*

As Camden LEP 2010 was published on 3 September 2010, DCP 2006 needs to be updated as practicable as possible.

## MAIN REPORT

### **Draft Camden DCP**

#### Introduction

It was initially proposed to update the existing Camden DCP 2006 to simply comply with Camden LEP 2010. This would have entailed amending all references to previous Camden LEPS to now reference Camden LEP 2010 and amending all terms used in the DCP to comply with the terminology contained in Camden LEP 2010. However it was decided that it was far more beneficial to undertake a more comprehensive review.

This ensures that Camden's development controls reflect current good practice. Whilst there is no significant change to the general controls, the residential controls have been based on the existing Oran Park and Turner Road DCPs. The DCP has been prepared with assistance from a large cross section of Council staff as well as a variety of other stakeholders. **Copies of the draft Camden DCP have been provided to Councillors under separate cover.**

#### General overview of Camden DCP

The DCP consists of 4 parts. These are:

- Part A which sets out the administration and operational provisions of the DCP;
- Part B which sets out the general objectives and controls that apply to all development types in the Camden LGA;
- Part C contains all the general objectives and controls relating to subdivision together with unique specific place based controls; and
- Part D provides the controls that apply to specific land uses/activities.

A table listing the background to each clause of the draft DCP is **provided as attachment 1 to this report**. New clauses have been listed separately later in this report.

It should be noted that, as with Camden DCP 2006, the draft Camden DCP does not apply to the growth areas of Oran Park and Turner Road. Both of these areas currently have a State Government DCP. Controls for these areas will ultimately be incorporated into the Camden DCP after the State Environmental Planning Policy (SEPP) (Sydney Region Growth Centre 2006) has been incorporated into the Camden LEP 2010. Preliminary discussions have been held with the DoP to progress this work. However, a report on this matter is not anticipated until mid 2011.

#### General changes

The draft DCP has been redesigned to ensure a consistent approach. Accordingly the following methodology has been adopted:

- The DCP is fully compliant with Camden LEP 2010. This applies to all definitions and zonings;
- All controls have been reviewed to ensure legislative requirements are current together with references to Australian Standards and Building Code of Australia (BCA);
- The DCP has been written to be published on Council's website so that the full features of web publishing can be maximised;
- Where a document is referenced there is a link provided and a copy of the referenced document is also available on Council's web site, or is linked to the appropriate host site;
- Technical information has been removed from the DCP, if it is contained with Council's Engineering Specifications and a link to that document has been provided;
- The format of the DCP has been changed to make it easier to navigate. Matrices have been included which are designed to be more user friendly and assist the user to understand the controls;
- A majority of the DCP has been rewritten to ensure consistency in format; and
- Obsolete information has also been removed.

### Urban Release Areas

The controls for Camden's urban release areas have been extensively reformatted. The controls have been divided into general and specific. For example under 'Cycleways' the general objectives and controls provide Council's current requirements for cycleways which are applicable for the entire Camden LGA together with a link to the relevant engineering design criteria and standards. Under each release area, only those controls which are 'site specific' are provided. Therefore the overall cycle route is provided together with any other control that is unique to that particular area.

### New controls

There are a number of new clauses which are listed in the 'comment' column of the clause background, which is **provided as attachment 1 to this report**. The new clauses are made up of the following types;

1. Clauses which are contained in the Oran Park and Turner Road DCPs which are considered to be appropriate to cover the entire Camden LGA. These include B1.1.3 Salinity Management.
2. Clauses which were within site specific sections of Camden DCP 2006, where relevant, have been rewritten to cover the entire Camden LGA and updated to reflect current legislation and good practice. These include the following:
  - B1.3.3 Environmental and declared noxious weeds
  - B1.5.4 Mine Subsidence
  - B1.5.5 Proximity of the Sydney Upper Canal
  - B1.5.6 Development near Camden Airport
  - B1.7 Air Quality
  - C5.5 Exhibition Homes and Villages
3. Clauses which relate to rural land uses, some of which were previously contained in

a number of Council policies. These controls have been updated to reflect the definitions provided in Camden LEP 2010 and current good practice. These include the following:

- D1.1 Rural Dwellings and outbuildings
  - D1.2 Farm Buildings
  - D1.3.1 Intensive Plant Agriculture
  - D1.4.1 Rural Industries
  - D1.4.2 Truck Depots
4. B1.8 Trial Periods – this clause enables Council to impose a condition of development consent for a trial period of up to 12 months to allow time to assess the actual impact of the proposed development on surrounding uses. This clause is in response to a recent Land and Environment Court decision.
  5. C3.1 Business Zone and Retail Hierarchy – this clause establishes Camden’s retail hierarchy and reflects the DoP’s draft Centres Policy and draft South West Sub-Regional Strategy.
  6. D4.2.2 Lighting – this clause provides lighting controls for industrial land uses and reflects current best practice.
  7. D5.4 Restricted Premises – this clause contains provisions to ensure the amenity of an area is not unacceptably impacted upon by restricted premises. The provisions in this clause are in addition to the controls contained within Camden LEP 2010.

### **Review of Existing Council Policies**

During the preparation of the draft DCP, all of Council’s existing policies, which related to development control, were reviewed. The purpose of this was to ensure that they were still relevant and to see if they could be incorporated into the draft DCP. As a result of this review the following Council policies are recommended to be revoked because they have been incorporated into the DCP or are no longer relevant:

- 1.3 Erection of Fences in 2,000sq metres Rural/Village Area
- 1.4 Erection of Fences in 4,000sq metres Rural/Village Area
- 1.5 Outbuildings in 2,000sq metres - Rural/Village Areas
- 1.6 Erection of Large Outbuildings - Rural Areas 4,000sq metres
- 1.8 Hail net Protective Structures in Rural Areas
- 1.10 Spot Rezoning Requirements
- 1.12 Development of Flood Affected Land Within the Camden Town Centre
- 3.15 Cut & Fill on Residential Land - Local Policy No 7
- 3.17 Natural Assets

A table outlining the purpose of each of the above policies together with the justification for their revocation is **provided as attachment 2 to this report**.

### **Exhibition**

It is proposed to place the draft Camden DCP on exhibition for a period of 28 days, from Wednesday 3 November until Wednesday 1 December 2010. All relevant documentation will be available on Council's web site and advertised in the local press. In addition, copies will be made available to the community at Council Customer Service Centres in Camden and Narellan as well as the Camden and Narellan Libraries.

It is also proposed to conduct a stakeholder forum during the first week of the exhibition. This will provide an opportunity for stakeholders to seek further information on the draft DCP, to assist in their understanding of the rationale behind the document and to assist them in the preparation of any submission they may wish to make.

### **Process from here**

Following the conclusion of the exhibition, a report will be presented to Council on submissions received. Council can then adopt the draft DCP as exhibited or with amendments. The proposed revocation of the above listed Council policies will also be considered and formalised at that time.

Following Council's adoption of the draft DCP, with or without amendments, the DCP will be notified in the local newspaper and it will come into force on the day that such newspaper is published together with the revocation of the superseded Council policies.

### **CONCLUSION**

The draft Camden DCP is a full review of Council's current DCP 2006. It reflects the provisions of Camden LEP 2010, current legislation, good practice, current Australian Standards and BCA provisions. The format of the DCP has been designed to be user friendly and to also enable for all documents referenced to be linked when viewed on Council's web site.

### **RECOMMENDED**

#### **That Council:**

- i. place the draft Camden DCP on public exhibition for a period of 28 days;**
- ii. advertise its intention to revoke the following Council policies:**
  - **Erection of Fences in 2,000sq metres Rural/Village Area**
  - **Erection of Fences in 4,000sq metres Rural/Village Area**
  - **Outbuildings in 2,000sq metres - Rural/Village Areas**
  - **Erection of Large Outbuildings - Rural Areas 4,000sq metres**
  - **Hail net Protective Structures in Rural Areas**
  - **Spot Rezoning Requirements**
  - **Development of Flood Affected Land Within the Camden Town Centre**
  - **Cut & Fill on Residential Land - Local Policy No 7**
  - **Natural Assets; and**
- iii. consider a further report, following consideration of any submissions, to adopt a revised DCP and to revoke the related policies.**

## ATTACHMENTS

Attachment 1 - Table providing background to Camden DCP clauses

Attachment 2 - Table of Council policies to be revoked



Draft Camden DCP - Attachment No 1 - Clause history.doc



Draft Camden DCP - Attachment No 2 - Policies to be revoked.doc

## RESOLUTION

Moved Councillor Warren, Seconded Councillor Cagney that Council:

- i. place the draft Camden DCP on public exhibition for a period of 28 days;
- ii. advertise its intention to revoke the following Council policies:
  - Erection of Fences in 2,000sq metres Rural/Village Area
  - Erection of Fences in 4,000sq metres Rural/Village Area
  - Outbuildings in 2,000sq metres - Rural/Village Areas
  - Erection of Large Outbuildings - Rural Areas 4,000sq metres
  - Hail net Protective Structures in Rural Areas
  - Spot Rezoning Requirements
  - Development of Flood Affected Land Within the Camden Town Centre
  - Cut & Fill on Residential Land - Local Policy No 7
  - Natural Assets; and
- iii. consider a further report, following consideration of any submissions, to adopt a revised DCP and to revoke the related policies.

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

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

No Councillor voted against the Motion).

ORD236/10

## **ACTIONS**

[Link to CRMS document](#)

[CRMS: 12568617 28/10/2010, 09:25:06 AM](#)

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# ORDINARY COUNCIL

**ORD07**

**SUBJECT:** RATES AND CHARGES AND LEVIES WRITTEN OFF 2009/2010  
**FROM:** Director Governance  
**FILE NO:**

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## PURPOSE OF REPORT

The purpose of this report is to advise Council of the 2009/10 Rates and Charges and Stormwater Management Levies to be written-off as permitted under the Local Government Act and Stormwater Management Policy.

## BACKGROUND

The Local Government Act (Clause 131) requires the General Manager to advise Council of all Rates and Charges to be written off in the previous financial year.

Council's Stormwater Management Policy exempts pensioners from paying the Stormwater Management Levy if the ratepayer is an eligible pensioner as at 1 July of any given year.

## MAIN REPORT

The amounts proposed in respect of the 2009/10 financial year are set out below and discussed.

### 1. Postponed Rates

An owner of rural land or land used as a principal dwelling where the land is not being used for the purpose for which it is zoned, may apply to Council for postponed rates. The rating of land is on the basis of use, not zoning. The Valuer General approves and provides Council with a discounted land value to calculate the rates payable on these properties. The amount discounted is referred to as postponed rates. Under Section 595 of the Local Government Act on the 6th year the first year's postponed rates and interest are to be written off. Upon sale of the property the amount postponed (up to 5 years) is payable. There are currently 24 properties which qualify for postponed rates within the Camden LGA. The total amount of postponed rates and charges as at 30 June 2010 is \$54,712.21.

The amounts written off for the 2009/10 rating year are as follows:

Rates written off from 2005	\$2,925.62
Interest written off from 2005	<u>\$1,214.44</u>
Total	<u><b>\$4,140.06</b></u>

## 2. Pensioner Rebates

Section 583 of the Act requires Council to write off amounts of Rates, Charges and Interest reduced or waived under Division 1 of Part 8 of Chapter 15 of the Act (concessions for pensioners).

Amount of Pension Rebates for 2009/10 - **\$526,904.04**

Council has claimed 55% reimbursement (\$289,797.22) from the DLG for the amount written off.

## 3. Accrued Interest (minor amounts outstanding)

Section 567 of the Local Government Act allows Council to write off accrued interest on amounts that would be uneconomical to recover.

Amounts written off under \$3.00 - **\$1,188.96**

## 4. Stormwater Management Levy

Council's Stormwater Management Policy exempts pensioners from paying the levy providing they are an eligible pensioner as at 1 July. The amount of Stormwater Management Levy written off during 2009/10 is a result of new pensioners who qualified for the exemption as at 1 July 2009.

Amounts written off for Stormwater Management Levy - **\$740.00**

## **CONCLUSION**

In accordance with the relevant sections of the Local Government Act and Stormwater Management Policy, the total amount to be written off in the 2009/10 financial year is \$532,973.06. The majority of the amount to be written off pertains to pensioner rebates, 55% of which is recovered from the DLG.

The amount to be written off each financial year is considered as part of the annual budget process and is reviewed at each quarterly budget review. Adjustments which arise as a result of exemptions or write-offs are included within budget projections to minimise the impact they may have on Council's budget position.

## **RECOMMENDED**

**That all Rates and Charges and Levies outlined in this report totalling \$532,973.06 in respect of the 2009/10 financial year be noted and written off.**

## **RESOLUTION**

Moved Councillor Warren, Seconded Councillor Cagney that all Rates and Charges and Levies outlined in this report totalling \$532,973.06 in respect of the 2009/10 financial year be noted and written off.

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

ORD237/10

**ACTIONS**

[Link to CRMS document](#)

CRMS: 12568749 28/10/2010, 09:25:15 AM

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## ORDINARY COUNCIL

**ORD08**

**SUBJECT: ANNUAL FINANCIAL STATEMENT OF ACCOUNTS - YEAR ENDING  
30 JUNE 2010**  
**FROM: Director Governance**  
**FILE NO:**

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### **PURPOSE OF REPORT**

The purpose of this report is three-fold:

- to inform Council that the Annual Financial Statement of Accounts for year ending 30 June 2010 have been completed.
- to inform Council of the management representation made to Council's auditor, Pitcher Partners, in accordance with Section 413(2)(c) of the Local Government Act, and
- to set a date for presentation of the 'Audit Report' to Council and give public notice of the date so fixed in accordance with Section 418 (1a) & (1b) of the Local Government Act.

### **ANNUAL FINANCIAL STATEMENT OF ACCOUNTS**

The Annual Financial Statement of Accounts has been completed and is in the final stages of audit.

A copy of the management representation made to Council's auditor, Pitcher Partners, is provided as an attachment to this report. Upon signing, this representation acknowledges Council's responsibility for ensuring that the Annual Financial Statement of Accounts has been prepared in accordance with relevant Australian Accounting Standards and the Code of Accounting Practice and Financial Reporting.

Council's auditor will present a summary of his findings to Council at the meeting of 23 November 2010. Public notice of this meeting will be advertised in local newspapers and placed on Council's website from Wednesday 17 November 2010.

The Annual Financial Statement of Accounts will be distributed, under separate cover, to Councillors on 18 November 2010 for consideration at the meeting of 23 November 2010 in accordance with the notice provisions of the Local Government Act.

### **RECOMMENDED**

**That:**

- i. Council note the management representation letters which are to be signed by the Mayor, Deputy Mayor, General Manager and Responsible Accounting Officer; and
- ii. the public be notified that the Annual Financial Statement of Accounts and Audit Report will be presented to Council on 23 November 2010.

## ATTACHMENTS



Statement by Councillors-SP 2010.doc



Statement by Councillors-GP 2010.doc

## RESOLUTION

Moved Councillor Warren, Seconded Councillor Dewbery that:

- i. Council note the management representation letters which are to be signed by the Mayor, Deputy Mayor, General Manager and Responsible Accounting Officer; and
- ii. the public be notified that the Annual Financial Statement of Accounts and Audit Report will be presented to Council on 23 November 2010.

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

**THE MEETING CLOSED AT 7.25PM.**

ORD238/10

## **ACTIONS**

[Link to CRMS document](#)

[CRMS: 12568829 28/10/2010, 09:25:25 AM](#)