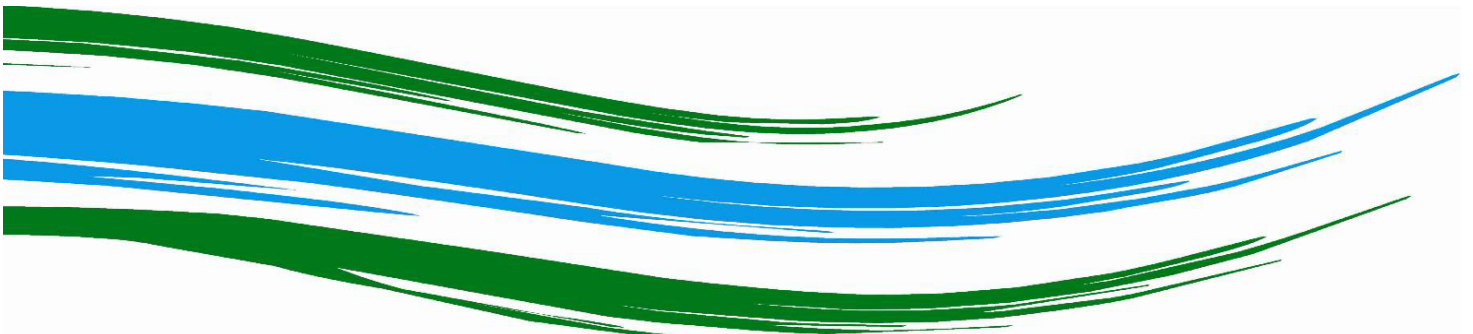




Camden Council

Business Paper

Ordinary Council Meeting



ORDINARY COUNCIL

SUBJECT: APOLOGIES

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

RECOMMENDED

That leave of absence be granted.

RESOLUTION

There were no leave of absence to be granted.

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

ORD136/10

ORDINARY COUNCIL

SUBJECT: DECLARATION OF INTEREST

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

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

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

This report provides an opportunity for Councillors to disclose any interest 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**.

ORD137/10

ORDINARY COUNCIL

SUBJECT: PUBLIC ADDRESSES

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

Speakers must book in with the Council office by 4.00pm on the day of the meeting and must advise the topic being raised. Only seven (7) speakers can be heard at any meeting. 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 Peter Lubrano addressed the Council in relation to Item ORD01.

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

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

ORD138/10

ORDINARY COUNCIL

SUBJECT: CONFIRMATION OF MINUTES

Confirm and adopt Minutes of the Ordinary Council Meeting held 22 June 2010.

RECOMMENDED

That the Minutes of the Ordinary Council Meeting held 22 June 2010, copies of which have been circulated, be confirmed and adopted.

RESOLUTION

Moved Councillor Anderson, Seconded Councillor Warren that the Minutes of the Ordinary Council Meeting held 22 June 2010, copies of which have been circulated, be confirmed and adopted.

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

ORD139/10

MAYORAL MINUTE

ORDINARY COUNCIL

SUBJECT: MAYORAL MINUTE - LGSA SUPPORT GROWTH COUNCILS
REGARDING \$20,000 SECTION 94 RATE CAP
FROM: Mayor
FILE NO:

Following a number of recent meetings with State Ministers and senior delegates from State Agencies, the Director – Governance and I attended an urgent meeting convened by the LGSA in Sydney on Wednesday 30 June 2010.

The meeting was well attended by various Mayors, General Managers and senior planners representing Councils most severely impacted by the State Government announcement.

As Councillors would be aware, Camden wrote to the Premier outlining our concerns, detailing the immediate action we wanted and requesting an urgent meeting with the Premier. The action demanded by Council is as follows:

- 1) Revoke the direction dated 4 June 2010;
- 2) Reinstate previous direction dated 31 May 2009 which acknowledged contributions in Oran Park and Turner Road as “appropriate and reasonable” and indicated that Spring Farm and Elderslie contributions could not “be reviewed without significantly impacting on land supply”;
- 3) Engage in meaningful discussions with all stakeholders to establish a workable solution for future land releases.

A summary of this letter was shared with the attendees of the LGSA Meeting and was unanimously supported. The President of the LGSA, Genia McCaffery was handed a summary of Council’s letter and agreed that a campaign based on the urgings of Camden Council be launched immediately. The campaign will include additional meetings with the Minister for Planning and the Premier as well as advertising flyers for Rate Notices due to be sent to our residents as early as mid July.

I was encouraged by the unity of Councils and the support of the LGSA. There is no doubt that Camden is among those Councils most profoundly impacted by this State Government decision. I was particularly pleased to see Camden’s views not only taken on board but supported unanimously. Our colleague Councils are right beside us and I have every faith the LGSA will wage an effective campaign against this diabolical decision.

There is still much work to do but I remain confident we can convince the State Government their decision is grossly irresponsible and that a more consultative approach with Local Government and other stakeholders will yield a far more balanced outcome.

RECOMMENDED

That the information be noted.

RESOLUTION

Moved Councillor Patterson that the information be noted.

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

ORD140/10

MAYORAL MINUTE
ORDINARY COUNCIL

SUBJECT: MAYORAL MINUTE - APPOINTMENT OF NEW DIRECTOR –
DEVELOPMENT & HEALTH
FROM: Mayor
FILE NO:

Following on from a very competitive recruitment and selection process, the General Manager and I are delighted to announce the appointment of Carey McIntyre to the position of Director – Development & Health.

Over the past seven years, Carey has demonstrated, in his current role as Manager – Development, his capacity and enthusiasm for the building of new communities in Camden. He has proven to be both committed to Council's firm objectives for its area and flexible in his approach to delivering on those objectives.

There was a very competitive field for this position and the other shortlisted candidates were all currently in Director-level positions at other Councils. In all honesty, there were at least three of the candidates that we would have willingly appointed, which is an enviable position to be in and speaks volumes for the regard Camden is held in within the broader industry. However, our knowledge of Carey's capability, commitment and work ethic provided him with an edge among the high class field of applicants.

I share the General Manager's confidence in Carey's ability to work with the elected councillors, staff and the community to both protect and enhance the quality of life for all members of the Camden community.

Carey's appointment will take effect as soon as the appropriate contractual arrangements are finalised. Action to fill his current position will now commence.

I know that the General Manager welcomes Carey to the Management Executive (Manex) team and looks forward to the continuation of his commitment to Camden in this new role. We believe that he will be a very worthy - though different - successor to Sue Morris and that he will continue to build effective partnerships with our staff, our councillors and our community.

RECOMMENDED

That the General Manager's appointment of Carey McIntyre to the position of Director – Development & Health be endorsed.

RESOLUTION

Moved Councillor Patterson that the General Manager's appointment of Carey McIntyre

to the position of Director – Development & Health be endorsed.

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

ORD141/10

ORDINARY COUNCIL

ORD01

USE OF SHOP 4 AS A MEDICAL PRACTICE AND PHARMACY, NO 54 FLINDERS AVENUE, CAMDEN SOUTH

FROM:	Acting Director Development and Health
FILE NO:	Binder: Development Applications 2010
DA NO:	530/10
OWNER:	Peter Lubrano
APPLICANT:	Ranjan Gupta
ZONING:	3(c) - Neighbourhood Business
APPLICABLE PLANNING INSTRUMENT:	Camden Local Environmental Plan No 46

PURPOSE OF REPORT

The purpose of this report is to seek a determination from Council for a Development Application for the use of Shop 4, No 54-60 (Lots 801-804 DP 239634) Flinders Avenue, Camden South as a medical practice and pharmacy.

The application is referred to Council for determination as it was "called in" by Councillors in accordance with a resolution of Council.

SUMMARY OF RECOMMENDATION

It is recommended that Council grant consent to the Development Application subject to the draft conditions of development consent as shown below.

BACKGROUND

At the meeting of 28 August 2006, Council resolved to approve DA450/2006 for an awning and additions to the existing shops at 54-60 Flinders Avenue, Camden South. The approved additions to the shops form part of Shop 4 (the subject of this application).

Condition 4 of the development consent required a separate Development Application be submitted to Camden Council for the initial use of the new premises.

On 26 May 2010, Council received a development application (DA530/2010) for the use of the new premises as a medical practice and pharmacy. Adjoining neighbours were notified of the proposal and no objections were received. Fifty-four (54) letters of support were received in favour of the application.

On 8 June 2010 Councillors sought to have the application determined by Councillors

and three called in the application in accordance with a process resolved by Council.

THE SITE

The subject site comprises four lots known as No 54-60 (Lots 801-804 DP239634), Flinders Avenue, Camden South. The site is located on the western side of Flinders Avenue opposite its intersection with Berallier Drive. The northern and western boundaries are adjacent to low density residential development, with Flinders Reserve located to the south. **A Location Plan is provided at the end of the report.**

The site comprises a single storey building containing four shops, with parking for 6 vehicles to the rear and 10 vehicles within a designated parking area in front of the site.

This application relates specifically to Shop 4 which is located at the north-eastern end of the building. The shop has a gross floor area of approximately 138m² and is currently vacant following the recent extensions.

THE PROPOSAL

The applicant seeks the consent of Council for the use of Shop 4 as a medical practice and pharmacy.

The proposed development includes the internal fitout of the premises including construction of internal walls and storage areas. The medical practice and pharmacy is to employ five staff comprising two doctors, a pharmacist, pharmacy assistant and receptionist.

The proposed hours of operation are as follows:

- Monday - Friday: 8am to 8pm
- Saturday: 8am to 6pm
- Sunday: 8am to 4pm.

The medical practice and pharmacy is to make use of the parking approved as part of DA 450/2006.

NOTIFICATION

The proposed development was notified to adjoining properties in accordance with Part C: Chapter 2 (Notification Processes for Development Applications) of Camden Development Control Plan 2006, between 8 June 2010 and 22 June 2010. No submissions were received objecting to the application. 54 submissions were received supporting the proposed development (53 submissions were form letters). **A copy of the submission and an example of the form letter is provided with the Business Paper supporting documents.**

PLANNING CONTROLS

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

- Camden Local Environmental Plan No 46
- Sydney Regional Environmental Plan No 20 - Hawkesbury Nepean River
- Draft Camden Local Environmental Plan 2009
- Camden Development Control Plan 2006.

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:

The Provisions of any Environmental Planning Instrument

Camden Local Environmental Plan No 46 (Camden LEP)

The land is zoned 3(c) – Neighbourhood Business under Camden LEP No 46.

Permissibility

The medical centre is best described as a ‘commercial premises’ which is defined by the *Environmental Planning and Assessment Model Provisions 1990* as:

‘a building or place used as an office or for other business or commercial purposes, but does not include a building or place elsewhere specifically defined in this clause or a building or place used for a purpose elsewhere specifically defined in this clause.’

The pharmacy is considered ancillary to the medical practice but would otherwise be best described as a ‘shop’ which is defined as:

‘a building or place used for the purpose of selling, exposing or offering for sale by retail, goods, merchandise or materials, but does not include a building or place elsewhere specifically defined in this clause, a building or place used for a purpose elsewhere specifically defined in this clause.’

Both commercial premises and shops (including chemist’s shops as referred to in Schedule 3 of Camden LEP No 46) are permissible within the 3(c) – “Neighbourhood Business Zone.”

Objectives

The LEP requires that Council shall not grant consent to the proposed development unless it is satisfied the application is consistent with the objectives of the zone. The objective of the 3(c) – “Neighbourhood Business Zone” is:

‘The objectives of this zone are to accommodate the establishment of retail, commercial and professional services for local residents in conveniently located

business centres where the scale and type of business development is compatible with the amenity of the surrounding areas and is sufficient to meet the day to day retail needs of the immediate neighbourhood.'

The proposed medical centre and pharmacy would be of significant benefit to the community by providing an essential professional service to local residents within an established local centre. It is considered that the proposed use would have little impact on the amenity of adjoining residential properties. As such, it is considered that the proposed development is consistent with the objectives of this zone.

Sydney Regional Environmental Plan No 20 - Hawkesbury Nepean River

There will be no alteration to the catchment of the Nepean River as a result of the proposed development as suitable arrangements for the collection and disposal of stormwater drainage were addressed as part of the previously approved Development Application.

The provisions of any draft Environmental Planning Instrument

Draft Camden Local Environmental Plan 2009 (draft LEP)

Draft Camden Local Environmental Plan (LEP) 2009 was publicly exhibited between 2 September and 14 October 2009. The site's current 3(c) – "Neighbourhood Business Zone" is defined as the B1 "Neighbourhood Centre" zone under the draft LEP.

Permissibility

Under the Draft LEP the proposed medical centre and ancillary pharmacy would be best defined as a business premises with ancillary shop. Both business premises and shops are permissible uses within the B1 "Neighbourhood Centre" zone.

Objectives

The proposed objectives of the B1 "Neighbourhood Centre" zone are as follows:

- *To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.*
- *To ensure that mixed use developments present an active frontage to the street by locating business, retail and community uses at ground level.*

The proposed use of the premises as a medical centre and pharmacy would provide the neighbourhood with an important and much needed community use in the area. The proposed use is therefore consistent with the objectives of the zone.

The Provisions of any Development Control Plan – S79C (1)a(iii)

Camden Development Control Plan 2006 (DCP)

Part D: Chapter 1 Car Parking

There are currently 6 parking spaces located at the rear of the property, and 10 dedicated parking spaces are located in front of the site within the road reserve. As part of the previous approval, parking was assessed collectively for all 4 units and 14 of these spaces were deemed necessary to meet the requirements of the DCP. This assessment was carried out on the basis of the 4 commercial units being used as 'shops'.

The DCP demands a higher rate of parking for medical centre uses. To meet the requirements of the DCP, a total of 9 spaces are required to be provided for the medical practice, meaning an additional 5 spaces would need to be provided on site. Due to the size of the site and the location of the existing building, the provision of the additional parking is unachievable.

Although the development fails to provide adequate parking to meet the DCP requirements for medical centres, it is not considered to warrant refusal of the application in this instance. Currently Shop 1 is occupied by a pizza takeaway restaurant which operates only in the evenings, making available a number of additional spaces throughout the day when the medical centre and pharmacy would be at their busiest.

The NSW Roads and Traffic Authority's (RTA) *'Guide to Traffic Generating Developments'* only requires the provision of 4 parking spaces per 100m² of floor space for medical centres. Given the medical practice occupies only half of the shop, only 2.7 spaces are required for the medical practice to meet the RTA Guidelines. These spaces are currently available on site. Finally, following recent inspections of the site, it is considered there would be sufficient on-street parallel parking available to accommodate any potential overflow of vehicles if necessary.

In addition, it is recommended that one of the spaces at the front of the property be modified to provide a disabled car parking space and that all spaces be clearly linemarked. The inclusion of a disabled space at the front of the site will result in the overall loss of one car space due to the additional width required, however it is not considered that the loss of this space would result in any significant traffic/parking impacts, but will provide for increased access to all the shops, including the proposed medical practice.

Whilst the car parking provision is not consistent with the DCP, it is consistent with the RTA Guidelines and is considered appropriate to be approved on its merits.

The Provisions of any Planning Agreement – S79C (1)a(iii)

No planning agreements are applicable to this application.

The Provisions of the Regulations – S79C (1)a(iv)

Prescribed conditions would be placed on any development consent.

The Likely Impacts of the Development – S79C (1)(b)

The proposal is considered to be a positive contribution to the local centre. The

medical practice provides an important service to the community who would otherwise have to travel into Camden or further for General Practitioner (GP) services. The use of the shop as a medical practice and pharmacy would assist in the activation of the small row of shops, increasing patronage and in turn, the viability of the centre.

It is not considered that the proposed use would give rise to unreasonable traffic impacts and although extended hours of operation are proposed, given the nature of the business, adverse amenity impacts such as noise are unlikely.

The Suitability of the Site for the Development – S79C (1)(c)

The proposed medical practice and pharmacy is permissible pursuant to Camden LEP No 46 and meets the objectives of the 3(c) – “Neighbourhood Business” zone. The proposed use would not give rise to any adverse amenity impacts and it is considered the parking available on site and also on the street is sufficient to service the development.

The proposed medical practice and pharmacy is well located within a neighbourhood centre and would provide an important healthcare service to the residents of Camden South who currently have to travel to Camden for their nearest GP. As such, it is considered the site is suitable for the proposed development.

Any Submissions – S79C (1)(d)

No submissions were received objecting to the application. 54 submissions were received in support of the application.

The Public Interest – S79C (1)(e)

It is considered that the proposed development is in the public interest as it will provide a much needed service to the local community.

CONCLUSION

A Development Application has been received by Council for the use of Shop 4 at the site as a medical practice and pharmacy.

The proposal is consistent with the relevant legislation and would be a positive contribution to the locality. It is not considered the proposal would result in adverse traffic impacts or detrimentally affect the amenity of adjoining development.

The proposal has been considered on its merits and is now able to be recommended to Council for approval subject to the conditions of consent shown below.

DRAFT CONDITIONS OF CONSENT

1.0 - General Requirements

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

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

- Drawing No. 9556-4 by C.J Mackenzie Engineering dated 06-10-09
- Drawing titled 'Development application Stage 2' by C.J Mackenzie Engineering dated 19-08-06
- Layout plan received 01-06-10
- Statement of Environmental Effects dated 18-05-10 and addendum dated 23-06-10

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

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

(2) **Building Code Of Australia** - All works must be carried out in accordance with the requirements of the *Building Code of Australia* .

(3) **Development Application For Air Conditioning Unit** - A separate development application must be lodged for any air conditioning unit that does not meet the requirements as "Exempt Development" under *Camden Council Development Control Plan 2006 (DCP 2006)*.

2.0 - Prior To Works Commencing

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

(1) **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.

(2) **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.

(3) **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.

- (4) **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 \$600.00, 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.

3.0 - 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) **Site Management** – To safeguard the local amenity, reduce noise nuisance and to prevent environmental pollution during the construction period, the following practices are to be implemented:

- The delivery of material shall only be carried out between the hours of 7am - 6pm Monday to Friday, and between 8am - 4pm on Saturdays.
- Stockpiles of topsoil, sand, aggregate, spoil or other material shall be kept clear of any drainage path, easement, natural watercourse, kerb or road surface and shall have measures in place to prevent the movement of such material off the site.
- Builder's operations such as brick cutting, washing tools, concreting and bricklaying shall be confined to the building allotment. All pollutants from these activities shall be contained on site and disposed of in an appropriate manner.
- Waste must not be burnt or buried on site, nor should wind blown rubbish be allowed to leave the site. All waste must be disposed of at an approved Waste Disposal Depot.
- A waste control container shall be located on the development site.

(3) **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.

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

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

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

4.0 - Prior To Issue Of Occupation Certificate

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

- (1) **Disabled Car Parking Spaces** – The parking area at the front of the site is to be amended to include one disabled space. The disabled person’s parking space must have a minimum dimension of 3.2m by 5.5m and located to maximise accessibility to the building. This space is to be provided with a suitable access ramp to off-street paths.
- (2) The existing parking area at the front of the site is to be linemarked to clearly delineate each car parking space.
- (3) Pursuant to clause 168 of the Environmental Planning and Assessment Act Regulation 2000, the following is a schedule of existing and/or proposed Fire Safety Measures required to be installed in the building, and the minimum standard to which these measure shall be designed and maintained.

a.	Portable Fire Extinguisher	BCA Clause E1.6 BCA AS 2444-2001.
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On completion of the building works and prior to occupation of the building the **owner of the building shall furnish** to Council a Fire Safety Certificate for each fire safety measure in the building.

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

5.0 - Operational Conditions

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

- (1) **General Requirement** - The use and operation of the Doctor's Surgery (the premises) shall comply with the requirements of:
 - (a) The Australian Medical Association
 - (b) The NSW Department of Health
- (2) A maximum of two doctors are to operate at the premises at any one time.
- (3) **Medical Waste Collection** - All medical waste must be collected by an appropriately licensed contractor and the receipts of collection retained for viewing by authorised officers.
- (4) **Refuse Containers** - The premises must be provided with suitable waste receptacles with tight fitting lids. Such receptacles must be smooth and impervious to moisture.
- (5) **Needle Safe To Be Provided** - Where disposable instruments are used, a sharps container must be provided for the disposal of sharp instruments used in any skin penetration procedure. Sharps waste containers must comply with the following Australian Standard:

AS 4031-1992 Non-reusable containers for the collection of sharp items used in

health care areas.

Note: The sharps waste container(s) shall be stored in such a manner as to prevent access by visitors and small children.

The proprietor must enter into a service contract with a licensed contractor for the safe collection, removal and disposal of the sharps waste generated within the premise.

- (6) **Waste Disposal** - All non-sharps waste shall be double bagged, tied and sealed before being disposed.

Note: Waste bags and containers must not be overfilled as this prevents closure and increases the risk of rupture.

- (7) **Hand Basin** - A wash hand basin must be installed in each of the consultation rooms and must have:

- a) an adequate supply of potable water at a temperature of at least 40°C mixed from a hot and cold water supply through a single outlet;
- b) hand free taps;
- c) soap, or other substance for the cleaning of hands, located next to it; and
- d) single-use towels or other suitable hand drying equipment located next to it.

- (8) **Equipment Sink** - The premises must have a sink, for the cleaning of equipment, which has an adequate supply of potable water at a temperature of at least 40°C mixed from a hot and cold water supply. Hand basins are in addition to and separate from kitchen and equipment cleaning sinks.

- (9) **Walls In Wet Area** - The wall(s) in wet areas must be constructed of, or covered with, a material that is durable, smooth, impervious to moisture and capable of being easily cleaned. This material must comply with the following dimensions:

- a) from floor level or from the top of the wash basin and extend to a height of 450mm above the top of the wash basin; and
- b) from the centre of the wash basin and extend to a distance of 150 mm beyond each side of the basin.

- (10) **Floor Finish** - The Floor in the treatment area must be constructed of, or covered with, a material that is durable, smooth, impervious to moisture and capable of being easily cleaned.

- (11) **Single Use Disposable Gloves** - An appropriate stock of single use gloves must be provided on the premises at all times for use by staff. These gloves must be correctly sized and fit for purpose of use and be worn for all skin penetration procedures where there is a risk of blood contamination.

- (12) **Sterile Gloves** - An appropriate supply of sterile gloves must be provided and worn where direct contact with sterilised items will occur during a procedure.

- (13) An exhaust fan is to be provided to the toilet.

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

Monday to Friday:	8am to 8pm
Saturday:	8am to 6pm
Sunday & Public Holidays:	8am to 4pm

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.

(15) **No Signs on Public Land** - Sandwich boards including 'A' frame advertising panels and any other sign shall not be placed on a public footpath or road reserve.

END OF CONDITIONS

RECOMMENDED

That Council approve DA530/2010, being the use of Shop 4 as a medical practice and pharmacy at No 54-60 (Lot 801-804 DP 239634) Flinders Avenue, Camden South subject to the draft conditions shown above.

ATTACHMENTS

1. Location plan
2. Proposed plans
3. Submissions (sup doc)



Location Plan 54-60 Flinders Av Camden South.pdf



Proposed Plans DA530-2010.pdf



Submissions - 54 Flinders Ave.pdf

RESOLUTION

MOTION

Moved Councillor Funnell, Seconded Councillor Campbell that Council approve DA530/2010, being the use of Shop 4 as a medical practice and pharmacy at No 54-60 (Lot 801-804 DP 239634) Flinders Avenue, Camden South subject to the draft conditions shown above with the following amendment:

"Operational Conditions - (14) **Hours of Operation** - The hours of operation for the approved land-use are:

Monday to Friday:	8am to 8pm
Saturday:	8am to 6pm
Saturday, Sunday & Public Holidays:	8am to 6pm

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."

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

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

No Councillor voted against the Motion).

ORD142/10

ORDINARY COUNCIL

ORD02

SUBJECT: IMMINENT GAZETTAL OF CAMDEN LEP 2010 AND
INTERIM INTERPRETATION OF CAMDEN DCP 2006
FROM: Director Governance
FILE NO: Binder: Draft Camden LEP 2010

PURPOSE OF REPORT

The purpose of this report is to seek Council's adoption of an interim interpretation to Camden Development Control Plan (DCP) 2006 following the gazettal of Camden Local Environmental Plan (LEP) 2010 prior to Camden DCP 2010 coming into force.

BACKGROUND

Draft Camden LEP 2009 (now referred to as LEP 2010) was placed on public exhibition from 2 September to 14 October 2009. A report on the outcome of the exhibition was presented to Council at its meeting held on 24 November 2009. Council resolved to adopt the exhibited draft LEP subject to a number of amendments and then forward the plan to the Department of Planning for gazettal.

In addition to the above Council also resolved to amend the Camden DCP 2006 to ensure compliance with the Camden LEP 2010. While it is the LEP that provides the statutory planning framework, it is the DCP which provides the detailed development controls.

MAIN REPORT

Staff have been undertaking a review of the Camden DCP 2006 since late last year. The review of Camden DCP 2006 can be split into two components. The first is to ensure that all references to LEPs and zones, in the DCP, now refer to Camden LEP 2010 and the new LEP zone/s. In addition, all definitions referred to in the DCP must now match the definitions in the Camden LEP 2010 Dictionary. There are a number of other controls contained in the LEP which are no longer referred to in the DCP such as building heights and floor space ratios.

The second component to the DCP review is a more thorough review of all existing controls to ensure compliance with current legislation and best practice. This will also involve the addition of other development controls to address areas of concern, which are not currently contained within Camden DCP 2006.

Work on the review has been delayed due to a number of factors such as staff being required to undertake further work on the LEP to ensure compliance with changing state government policies and guidelines. In addition the scope of the work on the DCP review has increased.

It is anticipated that Camden LEP 2010 will be gazetted by the end of July 2010.

It was initially envisaged that the review of Camden DCP 2006 would have been completed to coincide with the gazettal of Camden LEP 2010. However due to the time constraints outlined above, an amended draft DCP will not be ready for presentation to Council until some time later in the year.

Of concern to Council is the period between the gazettal of the Camden LEP 2010 and the making of Camden DCP 2010.

In this interim period it is proposed to rely on the development controls provided in Camden DCP 2006. To ensure the integrity of Camden LEP 2010 the following criteria is proposed:

- 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
- where there is any inconsistency between Camden LEP 2010 and Camden DCP 2006, Camden LEP 2010 takes precedence to the extent of the inconsistency.

The above approach will provide certainty with both developers and the community prior to the introduction of the revised DCP.

CONCLUSION

Whilst it would be preferred to have had the DCP review completed to coincide with the gazettal of the Camden LEP 2010, it is necessary that Council undertake the above action to ensure continuity in its planning controls until the review of Camden DCP 2006 is completed later this year.

RECOMMENDED

That Council resolve 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 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.**

RESOLUTION

CHAIRMANSHIP OF MEETING

The Mayor, Councillor Patterson, vacated the Chair and left the Chamber, the time being 6.46pm.

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

Moved Councillor Funnell, Seconded Councillor Dewbery that Council resolve 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 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.

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

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

No Councillor voted against the Motion).

ORD143/10

ORDINARY COUNCIL

ORD03

SUBJECT: 2010/11 SPECIAL RATE VARIATION APPLICATION -
DETERMINATION BY THE MINISTER FOR LOCAL GOVERNMENT
FROM: Director Governance
FILE NO:

PURPOSE OF REPORT

The purpose of this report is to inform Council of the outcome of its application to the Minister for Local Government for a Special Rate Variation under Section 508(2) (Category 2) of the Local Government Act, and to adopt the revised rates for the 2010/11 rating year as per the Local Government Act, 1993.

BACKGROUND

Council undertook extensive survey consultation which included a phone of residents as part of its Community Strategic Plan (Camden 2040). As part of this survey residents identified the condition of community infrastructure as its number one concern in relation to Council services.

Council at its meeting 16 February 2010, approved the public exhibition of the Community Infrastructure Renewal Program, which proposed that Council make application to the Minister for Local Government for a 4.50% rate increase under Section 508(2) (Category 2) of the Local Government Act.

This program would allow Council to address a significant shortfall in funds for asset renewal. Asset modelling has identified an additional \$24.5 million will be required over the next twenty years to assist in bringing essential community infrastructure back to a satisfactory condition.

Council at its meeting on 23 March 2010 adopted the 2010/11 Management Plan and Budget. After considering all public submissions made during the exhibition period, Council approved a 4.50% rate increase above the Minister's allowable limit of 2.60%.

Council submitted its application to the Minister for Local Government on the 26 March 2010. A copy of this application is available to residents on Council's website, www.camden.nsw.gov.au

MAIN REPORT

The Minister for Local Government informed Council on 2 July 2010 that its application for a Special Rate Variation was approved for a period of three years.

Council's application to the Minister was for a 4.50% increase in total rate income in

perpetuity (forever). The time restriction of three years will only allow Council to address approximately \$3.7 million of the works identified in Council's twenty year program of \$24.5 million.

The reasons given by the Division of Local Government (DLG) for the restriction on the term of the variation was to align the expiration of the special variation with the first full Integrated Planning and Reporting cycle and Council's election cycle.

It should be noted that, as a result of this time limitation, Council will be required to reduce its rating income in the 2013/14 budget by \$1,227,700 including the compounding effect associated with future Ministerial increases.

At the completion of the three years, Council may elect to apply for a continuation of the increase or alternatively, the funding for infrastructure renewal may be incorporated as part of a Section 508(A) application in line with the new Integrated Planning and Reporting framework.

As a result of the time limit placed on the variation, an amended three year Community Infrastructure Renewal Program has been developed on a priority basis and is **provided as an attachment to this Report.**

Community Infrastructure Renewal Program Reserve

To ensure transparency and accountability with the additional revenue generated through the rate increase, it is proposed to establish a "Community Infrastructure Renewal Program" Reserve, where funds will be restricted for the purpose of expenditure identified within the three year renewal program.

2010/11 Rating Income

As a result of a number of valuation objections and supplementary rate adjustments, it is necessary to re-adopt the base charge and ad-valorem for the 2010/11 rating year.

Based on these adjustments, the revised ad-valorem and base charges for the 2010/11 rating year are proposed as follows:

Rate Category	7.10% Rate Increase		Contribution of the base amount to the total rate category
	Base Charge	Ad-valorem Rate	
Residential	\$585.00	0.220213	48.93%
Business	\$585.00	0.594575	12.14%
Farmland (Ordinary)	\$585.00	0.110107	20.21%
Farmland (Intensive)	\$585.00	0.198192	22.85%

2010/11 Budget

Due to the early adoption of the 2010/11 budget, a number of budget variances have been identified including additional financial assistance grant income and

supplementary rate income. A further report will be presented to Council identifying the variances and a revised budget position for 2010/11 before the September review.

CONCLUSION

This rate increase is the first in 13 years for Camden residents to be above the Minister's allowable limit. It will allow Council to begin to address its ageing infrastructure and respond to resident's concerns regarding the standard of community assets.

This rate increase will only address those works which require attention in the short term, the time frame placed on the increase only allowing Council to address \$3.7 million of a \$24.5 million works program. Council will need to continue to look for alternative methods of funding infrastructure renewal, to ensure that the standard of infrastructure currently enjoyed by the residents of Camden is not compromised.

RECOMMENDED

That Council:

- i. **in accordance with Section 537(b) of the Local Government Act, 1993, note the percentage of base amount to total yield for the 2010/11 financial year for each class of rate is:**

Residential	48.93%
Business	12.14%
Farmland Ordinary	20.21%
Farmland Intensive	22.85%

- ii. **adopt the following ad valorem rates to be levied on the land value of all rateable assessments for 2010/11 financial year:**

Residential	0.220213
Business	0.594575
Farmland Ordinary	0.110107
Farmland Intensive	0.198192

- iii. **adopt a base amount of \$585.00 to be levied for each rateable assessment for the 2010/11 financial year;**
- iv. **approve the three year program of works for the Community Infrastructure Renewal Program; and**
- v. **approve the creation of a Community Infrastructure Renewal Program Reserve.**

ATTACHMENTS



Community Infrastructure Renewal Program.pdf Ministers' Determination.pdf

RESOLUTION

Moved Councillor Anderson, Seconded Councillor Dewbery that Council:

- i. in accordance with Section 537(b) of the Local Government Act, 1993, note the percentage of base amount to total yield for the 2010/11 financial year for each class of rate is:

Residential	48.93%
Business	12.14%
Farmland Ordinary	20.21%
Farmland Intensive	22.85%

- ii. adopt the following ad valorem rates to be levied on the land value of all rateable assessments for 2010/11 financial year:

Residential	0.220213
Business	0.594575
Farmland Ordinary	0.110107
Farmland Intensive	0.198192

- iii. adopt a base amount of \$585.00 to be levied for each rateable assessment for the 2010/11 financial year;
- iv. approve the three year program of works for the Community Infrastructure Renewal Program; and
- v. approve the creation of a Community Infrastructure Renewal Program Reserve.

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

CHAIRMANSHIP OF MEETING

At this stage, the Mayor, Councillor Patterson returned to the Chamber and resumed the Chair, the time being 6.53pm.

ORD144/10

ACTIONS

CRMS number , Finalised 15/07/2010 1:03:14 PM

Action: Finalised,

[Link to CRMS document](#)

[CRMS: 11833458 14/07/2010, 01:49:30 PM](#)

ORDINARY COUNCIL

ORD04

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

PURPOSE OF REPORT

To obtain Council endorsement of amendments to the Code of Conduct following a Councillor Workshop.

BACKGROUND

Councils are encouraged to periodically review the Code of Conduct (the Code) to ensure relevance to current practices and circumstances. In that regard, Council held a Councillor workshop to review of the Code on 27 April 2010 which was facilitated by Council's Solicitor.

The review highlighted certain aspects of the Code where different interpretations created some uncertainty as to when a Councillor is bound by the Code.

This report intends to clarify these issues and proposes amendments to provide certainty on the continuing obligations of Councillors under the Code.

MAIN REPORT

Part 2 of the Code deals with "Standards of Conduct" and in particular Clause 6 addresses "General Conduct Obligations" and states:

"You must not conduct yourself in carrying out your functions in a manner that is likely to bring the Council or holders of civic office into disrepute."

Clause 6.1 then nominates specific circumstances which would contravene the Code.
A copy of the relevant Clause is provided at the end of this Report.

During discussions on the Code, it would appear uncertainty has arisen due to the varying interpretations being placed on the words "carry out your functions" as set out in Clause 6.1.

The word "functions" is not defined in the current Code. However, a reference to a Councillor's functions can be found in Section 232 of the Local Government Act, 1993. The Section distinguishes between the role of a Councillor as "a member of the governing body" and "as an elected person". The Section states, inter alia:

"The role of a Councillor is, as an elected person:

- *To provide leadership and guidance to the community."*

Therefore, whilst an elected person, the Councillor's role or function as imposed under the Act, is to provide leadership and guidance to the community. This obligation only ceases when a Councillor is no longer an elected person.

In addition to this requirement on Councillors, Clause 4 of the Code sets out certain "Key Principles", which outline standards of conduct. Under the heading "Leadership", the Code states, *"You have a duty to promote and support the key principles by leadership and example and to maintain and strengthen the public's trust and confidence in the integrity of the Council. This means promoting public duty to others in the Council and outside, by your own ethical behaviour."* (Emphasis added).

A copy of the Key Principles are provided at the end of this Report.

This principle and obligation suggests it is not only imposed at times when a Councillor is carrying out a role as a member of the governing body, but also extends to all situations that a Councillor may be in, whether or not they are undertaking official duties.

PROPOSED AMENDMENTS TO THE CODE

In order to provide more appropriate guidance within the Code, it is recommended, firstly, to add to a definition of the word "function" in the Definition Section as follows:

"Functions" - *"where it relates to the conduct of Councillors, functions has the same meaning as "the role of a Councillor" as set out in Section 232 of the Act and in addition, in relation to the Mayor, any additional functions as set out in Section 226 of the Act".*

Secondly, it is also proposed to amend Clause 6.3 of the Code, adding a new Part (b) as follows:

"You must:

- a) treat others with respect at all times; and*
- b) while you are a Councillor provide leadership and guidance to the community at all times and not just at times when you are carrying out your role as a member of the governing body of the Council."*

CONCLUSION

In response to an identified need to add clarity and provide certainty, a review of the Code has been undertaken.

The proposed amendments to the Definitions Section and Clause 6.3, will now give added clarity to the meaning of the term "function" and clearly outlines the duties and continuing obligations imposed on Councillors, at all times under the Code of Conduct.

RECOMMENDED

That Council endorse the amendments to the Code of Conduct to incorporate a definition of the term "functions" in the Definition Section and additional wording in Clause 6.3 (b) as outlined in this Report.

ATTACHMENTS



Code of Conduct extract.doc

RESOLUTION

Moved Councillor Dewbery, Seconded Councillor Symkowiak that Council endorse the amendments to the Code of Conduct to incorporate a definition of the term "functions" in the Definition Section and additional wording in Clause 6.3 (b) as outlined in this Report.

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

ORD145/10

ORDINARY COUNCIL

ORD05

SUBJECT: NSW GOVERNMENT'S SPORT AND RECREATION FACILITY GRANT PROGRAM - \$100,000
FROM: Director Works and Services
FILE NO: Community Services/Community and Recreation Service/Grants and Subsidies/Grants and Subsidies/Programs/Sport and Recreation

PURPOSE OF REPORT

To seek Council acceptance of one-off grant funding under the NSW Government's Sport and Recreation Facility grant program of \$100,000 (GST excl) . The grant will be used to further improve accessibility at Camden Pool, with a focus on inclusion of people with a disability or access issues.

BACKGROUND

The Camden Pool is currently being redeveloped and associated with this, Council's Access Community Advisory Group (ACAG) undertook an access audit of the Camden Pool in April 2009. The audit identified access improvements that were not possible to fund under the Federal Government's redevelopment grant of \$5 million.

MAIN REPORT

The ACAG audit identified various access issues at the facility. Further consultation with the ACAG was undertaken to understand the practical issues and experiences that persons with a disability, family members, carers or disability service providers had encountered at swimming pool facilities. A consistent message was that most swimming pool facilities only delivered a part of the access solution considered to be needed.

One of the priorities identified by ACAG was to provide enhanced accessible unisex sanitary facilities and change rooms. Many accessible sanitary facilities and change rooms meet the technical requirements of access but they fall short in providing the practical components needed. Therefore the facility cannot be used by everyone with a disability, and those that do use the facilities, do so in an unsafe manner.

The unisex sanitary facilities and change rooms would include extra circulation space and the provision of an adult change table, large enough to accommodate a teenager/adult and height adjustable for independent transference from a wheelchair. A ceiling hoist would also be added in case the person with a disability needed assistance from a carer. The addition of these two items will allow family members and carers to change the person with a disability with dignity and greater ease.

Any balance of funds remaining at the completion of the accessible sanitary facilities

will contribute toward access improvement currently included in the project scope. These include improving access to the entry and kiosk areas, providing a level area around the leisure pool, adding accessible stairs to the 50m pool and installing ramps and shade structures. Flow on effects would enable additional improvements to be included in the redevelopment work.

The proposed modifications will also assist other members of the community who may not consider themselves as having a disability, but for whom providing easier access would be of great benefit. These groups include seniors, people with limited mobility, even on a temporary basis, and parents or carers of young children – particularly those with strollers or prams.

It was apparent that the access improvements proposed by Council's ACAG were not able to be fully funded under the Federal Government's redevelopment grant of \$5 million. Another funding source would be required to deliver a more complete access solution. Grant funding was sought via the NSW Sport and Recreation facility grant program.

The program works on a partnership basis with the NSW Government providing 50% of the total cost of the project. Council's contribution of 50% was offset by the \$5 million Federal Government redevelopment grant, thereby Council has not had to contribute any further monies to this project.

CONCLUSION

The one-off funding will assist to improve accessibility and in turn the participation and inclusion of people with access issues at Camden Pool.

RECOMMENDED

That Council;

- i. accept the funding offer of \$100,000 (GST exclusive) to include upgraded disability access as part of the Camden Pool Refurbishments;**
- ii. Council's matching contribution be provided as part of the Federal Government's \$5 million grant; and**
- iii. authorise the execution of documentation necessary in conjunction with acceptance of the grant under Council Seal.**

RESOLUTION

Moved Councillor Warren, Seconded Councillor Cagney that Council:

- i. accept the funding offer of \$100,000 (GST exclusive) to include upgraded disability access as part of the Camden Pool Refurbishments;
- ii. Council's matching contribution be provided as part of the Federal Government's \$5 million grant; and
- iii. authorise the execution of documentation necessary in conjunction with acceptance of the grant under Council Seal.

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

ORD146/10

ORDINARY COUNCIL

ORD06

SUBJECT: FUNDING AGREEMENT WITH NSW DEPARTMENT OF
EDUCATION – LODGES ROAD, ELDERSLIE
FROM: Director Works and Services
FILE NO: Assets/Roads and Drainage/Roads/Design and
Construction/Construction/Works

PURPOSE OF REPORT

To provide Council with an update on funding of the Lodges Road and Hilder Street reconstruction project and to seek Council's acceptance to rescind a previous motion regarding entering into a Funding Agreement with the NSW Department of Education and Training (DET) for the provision of a loan to support reconstruction of part of Lodges Road in the vicinity of Elderslie Public School.

BACKGROUND

Following the construction of Elderslie Public School, Council explored a number of options regarding the reconstruction of Lodges Road in the area in front of the school to help improve pedestrian and motorist safety. These considerations took into account the obligation of the developer of the land in the area to undertake a half road reconstruction and that DET was prepared to negotiate a loan to fund the full road width reconstruction to supplement the developer's obligation.

At its meeting of 25 August 2009, Council considered an option to enter into a loan agreement with the DET and resolved (resolution ORD195/09), among other things;

- i. authorise to reconstruction by Council of Lodges Road immediately fronting Elderslie Public School;*
- ii. authorise the negotiation of a suitable loan agreement to progress this project;*
- iii. note the obligation for council to repay this loan from Section 94 funds and general funds in the future, and apply a part of the developer's obligations under DA 800/2005 supported by a Performance Bond to this work and/or financing;*
- iv. endorse the pursuit of an early agreement with the Developer for fulfillment of obligations relating to a half road construction along the full frontage of the land the subject of DA 800/2005 and supported by a performance bond, but in the event of a failure to reach such agreement in a timely way, authority be granted to pursue appropriately the funds available by the performance bond;*
- v. authorise the execution of documents and affixing of Council seal as required to the loan agreement and any other documents necessary to achieve the reconstruction;*

vi. *authorise further reconstruction of Lodges Road to finalise the developer's obligations, with funding of up to \$119,066 in 2009/10 as follows:*

- a. *\$27,582 from Section 94 funds;*
- b. *\$86,447 from the developer's obligation; and*
- c. *\$5,037 from General Funds*

vii. *note the requirement in 2012/13 to repay \$630,934 from Council's funds as follows:*

- a. *\$37,580 from Section 94 funds;*
- b. *\$396,977 from the Developer's obligation; and*
- c. *\$196,377 from General Funds;*

In summary, this resolution related to entering into a loan agreement with DET, an agreement with the developer of the land subject of DA800/2005 and provided details regarding the source of funding for loan repayments and project work.

Around the same time, the NSW Government invited applications for interest free loans from the NSW Infrastructure Fund. Council applied for a loan for \$11.8 million to be applied to the upgrade of Lodges Road and Hilder Street. Approval was granted for this loan and Council resolved at its meeting on 9 February 2010 to accept this loan.

With the finalisation of the agreement for the NSW Infrastructure Fund loan, the DET loan, if received, would have delivered duplicate financing (at least in part) for the upgrade of Lodges Road and Hilder Street. The granting of the Infrastructure loan also gave rise to amendments in the arrangements with the developer.

MAIN REPORT

In order to progress the reconstruction of Lodges Road and Hilder Street, Council has pursued a number of different financing options. With granting of the \$11.8 million NSW Infrastructure loan announced in January 2010, and the loan agreement now having been executed and the loan drawn down, the full project value can be financed utilising the Infrastructure loan, without the need for any additional financing (however see comments below).

Following the announcement of the Infrastructure loan in January, contact was made with DET which was advised that, pending suitable arrangements being entered into for the Infrastructure loan, the DET financing would not be pursued.

The Infrastructure Loan agreement was concluded on 15 April 2010 and drawdown of the loan occurred in June 2010.

With the change of funding source and amount, the terms of the agreement with the developer for the provision of the developer's contribution as required to meet the obligation for half road reconstruction for a section of Lodges Road were also amended. Such an agreement was necessary to formalise the timing and amount of contribution from the developer toward this work. This agreement was finalised in May 2010.

Reconstruction has proceeded for the section of Lodges Road in the area the subject

of DA800/2005, immediately in front of Elderslie Public School, and is almost complete.

As a result of the Infrastructure loan providing sufficient finance to cover the estimated value of the upgrade of Lodges Road and Hilder Street, the DET financing is no longer required for the section fronting the land relating to DA800/2005.

As such, the resolution of Council from 25 August 2009 relating to the negotiation of a loan agreement, specifically related to an agreement with DET, and the related repayment information, is no longer required and can be rescinded. The resolution of Council on 9 February 2010 relating to the acceptance and execution for the NSW Infrastructure loan has effectively replaced the earlier DET option.

However it needs to be noted that, as reported to Council on 22 June 2010, the application for the \$11.8 million NSW Infrastructure loan was dependent upon repayments totalling \$7.95 million being provided from developer contributions. Changes by the NSW Government to the developer contribution arrangements, through the imposition of a cap on contributions, has placed in doubt Council's ability to repay this loan. Accordingly, continuation of this project beyond the section about to be completed will be subject to a satisfactory resolution of the issues raised by Council to the NSW Government in relation to the developer contribution arrangements.

CONCLUSION

On 25 August 2009, Council resolved to enter agreements with DET and a developer to progress reconstruction of a portion of Lodges Road fronting the land subject to DA800/2005, near Elderslie Public School.

Reconstruction work for this section of Lodges Road is almost complete.

Soon after, Council applied for an \$11.8 million NSW Infrastructure loan which was subsequently approved. The acceptance, execution and drawdown of the NSW Infrastructure loan was to finance the work required for the upgrade of Lodges Road and Hilder Street, Elderslie. An agreement has been concluded with the developer of land, which had an obligation under DA 800/2005 to provide a half road reconstruction of a section of Lodges Road, to formalise the contribution to this work to satisfy the developer's obligation.

In finalising these arrangements, financing offered by DET was no longer required and project payments and repayments have varied. Accordingly, points ii, iii, v, vi and vii of resolution 195/09, which directly relate to the proposed loan from DET, no longer apply.

Continuation of the project beyond the scope considered at the 25 August 2009 meeting and repayment of the Infrastructure loan associated with the reconstruction of the full length of Lodges Road and part of Hilder Street will be the subject of satisfactory resolution of issues associated with the NSW Government's changes to developer contribution arrangements.

RECOMMENDED

That Council:

- i. note that an agreement has been reached with the developer regarding contributions toward half road reconstruction of a section of Lodges Road in keeping with the developer's obligations under DA 800/2005 and the subject of point iv of resolution 195/09; and**
- ii. rescind points ii, iii, v, vi and vii of resolution 195/09.**

RESOLUTION

Moved Councillor Anderson, Seconded Councillor Symkowiak that Council:

- i. note that an agreement has been reached with the developer regarding contributions toward half road reconstruction of a section of Lodges Road in keeping with the developer's obligations under DA 800/2005 and the subject of point iv of resolution 195/09; and**
- ii. rescind points ii, iii, v, vi and vii of resolution 195/09.**

THE MOTION ON BEING PUT WAS CARRIED.

ORD147/10

**THE MINUTES OF THE ORDINARY COUNCIL MEETING HELD ON 13 JULY 2010
WERE ADOPTED AT AN ORDINARY COUNCIL MEETING HELD 27 JULY 2010.
MIN. NO. ORD 151/10**

A handwritten signature in black ink, consisting of several fluid, overlapping strokes that form a stylized, cursive name.

CHAIRPERSON