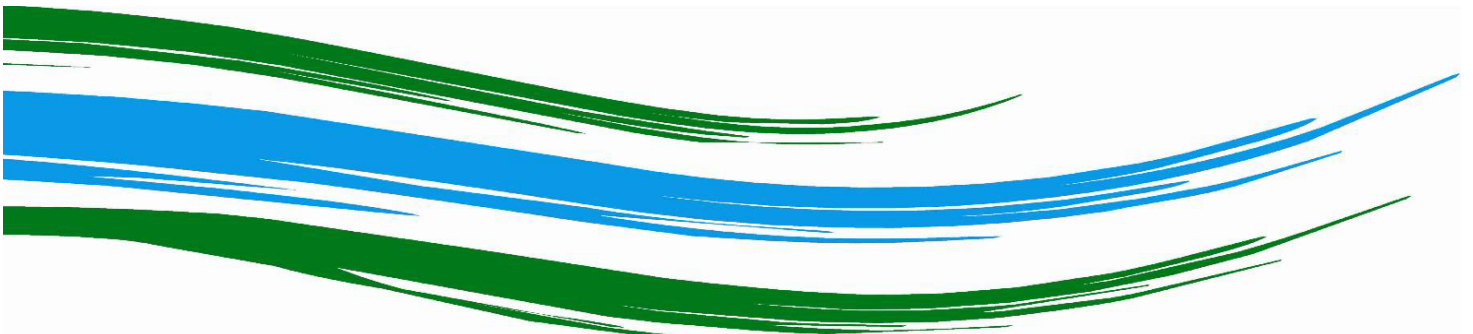




Camden Council

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

Moved Councillor Dewbery, Seconded Councillor Funnell that Councillor Campbell and Councillor Symkowiak be granted a leave of absence.

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

ORD123/10

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**.

ORD124/10

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

There were no the public addresses to be noted.

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

ORD125/10

ORDINARY COUNCIL

SUBJECT: CONFIRMATION OF MINUTES

Confirm and adopt Minutes of the Ordinary Council Meeting held 8 June 2010, and the Minutes of the Local Traffic Committee Meeting, held 7 June 2010.

RECOMMENDED

That the Minutes of the Ordinary Council Meeting held 8 June 2010, and the Minutes of the Local Traffic Committee Meeting held 7 June 2010, copies of which have been circulated, be confirmed and adopted.

RESOLUTION

Moved Councillor Anderson, Seconded Councillor Cagney that the Minutes of the Ordinary Council Meeting held 8 June 2010, and the Minutes of the Local Traffic Committee Meeting held 7 June 2010, copies of which have been circulated, be confirmed and adopted.

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

ORD126/10

MAYORAL MINUTE
ORDINARY COUNCIL

SUBJECT: MAYORAL MINUTE - MACARTHUR TEXTILE EXPO
FROM: Mayor
FILE NO:

Earlier this month I hosted a thank you lunch for the volunteer steering committee members who worked with Council staff to deliver the inaugural Macarthur Textile Expo.

The Expo was the culmination of a 12 month textile project funded by the Department of Immigration and Citizenship.

The Macarthur Textile Expo was organised by Council, representatives of several textile guilds in the Macarthur region who made up the steering committee for the project and Macarthur Diversity Services.

The Expo was held on 29 May 2010 and showcased the Macarthur Textile Challenge textile entries from across the region responding to the theme '*Seeing your way, Seeing our way*' and works completed in workshops at Narellan library by woman from diverse cultural backgrounds

The Expo also featured demonstrations and workshops by local Textile Guilds, several local traders' stalls and international scumbler Prudence Mapstone who traveled from Queensland to attend and open the exhibition. Over 500 people attend the event, the room looked amazing and the feedback has been great.

At the lunch I presented certificates of thanks to the committee members who have met every month for the past twelve months Assisted with the delivery of the textile workshops in the lead up to the expo and offered their time, dedication and expertise to the project consistently and professionally.

The committee members are:

Raelene McAdam
Vicki Davenport
Barbara Gower
Susan Wilson
Susan Hutchinson
Sandie O'Neill
Claudia Bromely
Sana Al-Ahmar
Sue Turner.

The committee is already looking toward the next expo.

RECOMMENDED

That the information be noted.

RESOLUTION

Moved Councillor Patterson that the information be noted.

THE MOTION ON BEING PUT WAS CARRIED.

ORD127/10

ORDINARY COUNCIL

ORD01

SUBJECT: SECTION 96 MODIFICATION TO MOTOR SHOWROOM - AMENDED BUILDING FACADES, MINOR BUILDING RELOCATION, AMENDED CAR PARKING SPACE LAYOUT AND REDUCED FILL LEVEL, NO 45 (LOT 1, DP 1134512) ANDERSON ROAD, SMEATON GRANGE

FROM: Acting Director Development and Health

FILE NO: Binder: Development Applications 2009/DA907/2009(2)

The purpose of this report is to allow Council to consider its inspection of the proposed site, scheduled prior to this meeting. A further purpose is to seek Council's determination of a development application originally referred to it at the Council meeting of 8 June 2010. At that meeting, Council resolved to defer the matter pending a site inspection.

A copy of the Council report of 8 June 2010 was provided to Councillors under separate cover.

RECOMMENDED

That Council approve Section 96 Modification 907/2009(2) for amended building facades, minor building relocation, amended car parking space layout and reduced fill level to motor showroom at No 45 (Lot 1, DP 1134512) Anderson Road, Smeaton Grange subject to the draft amended development consent conditions provided in the report to Council of 8 June 2010.

RESOLUTION

MOTION

Moved Councillor Funnell, Seconded Councillor Anderson that:

- i. Council approve Section 96 Modification 907/2009(2) for amended building facades, minor building relocation, amended car parking space layout and reduced fill level to motor showroom at No 45 (Lot 1, DP 1134512) Anderson Road, Smeaton Grange subject to the draft amended development consent conditions provided in the report to Council of 8 June 2010;
- ii. Council investigate the need for and the viability of extending the cul de sac that fronts the eastern boundary of the subject site, north towards Turner Road, but terminating before Turner Road, to give additional access to those existing lots between the subject site and Turner Road; and
- iii. a further report be provided to Council in respect of ii. above.

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

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

No Councillor voted against the Motion).

ORD128/10

ORDINARY COUNCIL

ORD02

**SUBDIVISION OF 4 LOTS INTO 6 TORRENS TITLE LOTS UNDER SEPP 1, NO 75
(LOTS 34, 35 & 36 DP 1070229 AND LOT 1 DP 64810) FOSTERS LANE,
WESTBROOK ROAD & DOWLES LANE, BICKLEY VALE**

FROM:	Director Development and Health
FILE NO:	Binder: Development Applications 2009
DA NO:	839/2009
OWNER:	A D Pastoral Co Pty Ltd
APPLICANT:	Pascoe Planning Solutions Pty Ltd
ZONING:	1(a) (Rural "A" (40ha) zone)
APPLICABLE PLANNING INSTRUMENT:	Camden LEP No 48

PURPOSE OF REPORT

The purpose of this report is to seek a determination from Council for a development application for the subdivision of 4 lots into 6 Torrens title lots. The property is located at 75 Fosters Lane, Bickley Vale and also has frontage to Westbrook Road and Dowles Lane.

The application is referred to Council as one of the proposed lots does not comply with the development standard for allotment size in the 1(a) Rural "A" (40ha) Zone under CLEP No 48. The development application is supported by an objection to the development standard pursuant to State Environmental Planning Policy (SEPP) No 1.

SUMMARY OF RECOMMENDATION

It is recommended that subject to the concurrence of the Director-General of the Department of Planning (the Department), Council grant consent to the Development Application subject to the draft conditions of consent in this report.

BACKGROUND

The properties have been owned by the Campbell family for in excess of 100 years. The land has been primarily utilised for livestock grazing.

Last year Council received a Development Application for the site to rationalise the existing lots through the use of boundary adjustments and to create two lots of 2ha each.

As three of the four lots proposed pursuant to Clause 12 of the Camden LEP No 48 are below the minimum 40ha standard of lot size for the zone, a reduction in the standard

for the purposes of this development has been sought.

The two lots proposed pursuant to Clause 13 of the Camden LEP No 48 meet the minimum standard of lot size specified in the Clause.

This reduction needs the concurrence of the State Government and Council does not have delegation to approve this Development Application without that concurrence as it is:

- (a) a rural property; and
- (b) there is more than a 10% variation proposed from the development standard.

The application has been assessed on its merits and is now able to be referred to Council for determination, subject to receiving concurrence from the State Government.

THE SITE

The subject site is located at Bickley Vale and is bound by Westbrook Road, Dowles Lane and Fosters Lane. **A location plan is provided at the end of the report.**

The subject site consists of four (4) existing lots with a total area of 68.18ha. The lot sizes are as follows:

- Lot 34 DP1070229 166 Dowles Road – 18.98ha (vacant lot)
- Lot 35 DP1070229 216 Westbrook Road – 12.15ha (contains existing dwelling)
- Lot 36 DP1070229 75 Fosters Lane – 3.71ha (vacant lot)
- Lot 1 DP64810 120 Dowles Lane – 33.34ha (contains homestead)

The property comprises generally level cleared grazing land with select shade trees remaining. The property is located within a general rural landscape with a number of rural residential properties located around the perimeter.

Fosters Lane and Westbrook Road are sealed, fully formed roads whilst Dowles Lane remains largely unsealed, within a narrow road reservation.

THE PROPOSAL

Development Application DA839/2009 seeks the consent of Council to subdivide 4 existing lots into 6 Torrens title lots comprising:

- Lot 101 Fosters Lane – 2ha
- Lot 102 Westbrook Road – 2ha
- Lot 103 Westbrook Road – 2ha
- Lot 104 Westbrook Road – 2ha
- Lot 105 Westbrook Road – 16.8ha
- Lot 106 Westbrook Road (also fronts Dowles Lane) – 43.2ha

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 2 September and 18 September, 2009. No written submissions were received.

PLANNING CONTROLS

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

- Camden Local Environmental Plan No 48
- State Environmental Planning Policy No 1 - Development Standards
- Sydney Regional Environmental Plan No 20 - Hawkesbury Nepean River
- Draft Camden Local Environmental Plan 2009, and
- Camden Development Control Plan 2006.

ASSESSMENT

The Development 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 48

The land is zoned 1(a) Rural "A" (40ha) Zone) under Camden LEP No 48. Under that LEP, Council shall not grant consent to the proposed development unless it is satisfied the application is consistent with the objectives of the zone. The objectives of the 1(a) Rural zone are:

(a) to provide suitable land for agricultural use

Officer Comment:

The proposed subdivision provides for the majority of the site (Lots 105 and 106, being over 16.8ha and 43.2ha respectively) to be retained for agricultural use. The subdivision effectively consolidates the agricultural land into two larger parcels, maximising its potential for such use. The new lots have been maintained to be no smaller than 2ha in order to limit fragmentation of the property.

(b) to promote the conservation of economic units of productive agricultural land, particularly those areas designated as having prime crop and pasture potential, by regulating subdivision to prevent the fragmentation of actual or potentially productive rural holdings

Officer Comment:

The agricultural land classification map identified that proposed Lot 106 (43.2ha) was Class 2 Prime Agricultural Land, whereas the 2ha lots (Lots 103 and 104) are the lesser Class 3 Grazing Land. Further, the reduced size of these lots and the creation of two additional 2ha lots in accordance with Clause 13 of LEP 48, would not give rise to the fragmentation of the rural holding.

- (c) *to enable compatible forms of development, including recreation and tourist orientated uses to be carried out, if they are in keeping with the rural character of the locality, and carried out in an environmentally sensitive manner*

Officer Comment:

It is considered that the proposed development will be in keeping with the existing rural character of the locality, and conditions of consent will ensure development is carried out in an environmentally sensitive manner.

- (d) *to permit the development of extractive industries to occur in an environmentally acceptable manner*

Officer Comment:

There are no extractive industries identified in the locality as defined by Deemed SEPP (Sydney Regional Environmental Plan No 9 - Extractive Industry) which only includes the physical extraction of sand, gravel, clay, turf, soil, rock or stone.

- (e) *to ensure that development does not detract from the existing rural character of the area or create unreasonable or uneconomic demands for provision or extension of public amenities and services*

Officer Comment:

It is considered that the proposed development is consistent with the existing rural character of the locality, particularly the rural-residential use that surrounds the perimeter of the property to the south. Development will be serviced by existing utilities in Westbrook Road.

It is therefore considered that the proposed development is consistent with the objectives of this zone.

Relevant Clauses

Clause 12(2) of Camden LEP No 48 provides that the Council shall not consent to the subdivision of land to which this clause applies unless each separate allotment created by the subdivision will have an area of not less than, in the case of land within Zone No 1 (a), 40ha.

Lot 106 is proposed to have an area of 43.2ha, complying with the minimum lot size, however Lots 101, 102 & 105 are proposed to be 2.0ha, 2.0ha and 16.8ha respectively, and do not comply with the development standards of Clause 12(2).

Lots 103 and 104 are also less than this minimum but are dealt with separately under a separate clause in the LEP, dealing with "concessional lots" (see later in this report).

The development has been supported by a State Environmental Planning Policy (SEPP) No 1 objection, which provides flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would in any particular case be unreasonable or unnecessary, or tend to hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the Environmental Planning and Assessment Act 1979.

The applicant has provided the following reasons supporting the SEPP 1 objection:

Existing allotments Lots 36 and 35 are significantly below the prevailing 40ha standard, being 3.71ha and 12.15ha respectively. Each has a prevailing dwelling entitlement, and in the case of Lot 35, currently accommodates an existing dwelling.

The ultimate potential disposal of the proposed amended Lots 36 and 35 (proposed Lots 101 and 102) at an aggregate size of 4ha is considered less detrimental to the productive capacity of the farm than the loss of a possible aggregate 15.86ha.

Officer Comment: This view is supported. It is considered that the proposed subdivision is unlikely to impact on the potential of prime agricultural land.

The proposed amendments will importantly raise the "homestead" allotment (the core productive unit) in size from below 40ha (currently 33.34ha) by 1.7ha and 10.15ha (a total of 11.85ha) to 43.2ha.

In doing so, the current 6.66ha deficiency will be addressed and provide for the longer term viability of the "homestead" allotment as a rural unit.

Officer Comment: It is agreed that the increased "homestead" allotment would serve to maintain the viability of the property as an agricultural entity in accordance with the objectives of the zone.

Strict compliance with the standard is unwarranted, given the prevailing undersized nature of the allotments and the capacity to enhance the "homestead" allotment in terms of the principal underlying objectives of the zone.

Officer Comment: This reason is supported based on the prevailing allotment size already being less than 40ha and that the proposed subdivision is consistent with the objectives of the 1(a) Rural "A" (40ha) zone.

It is considered that the proposal will not detract from the existing rural character of the area or create unreasonable or uneconomic demands for the provision or extension of public amenities and services. Additionally there is a sufficient area of land within proposed lots 106 and 105 to support agricultural uses and this subdivision will not result in any fragmentation of actual or potentially productive rural holdings.

It is also believed that proposed lots 101, 102, 103 and 104 are consistent with existing and approved rural-residential developments in close proximity to the site and will promote and coordinate orderly development of land. Upgrading of existing infrastructure services is not required as all facilities are currently available to the property. It is considered that the cumulative effect on the locality will not be negative.

Taking into account the outlined supportive reasons and with the absence of a significant negative impact associated with the proposed subdivision, it is considered appropriate that the SEPP No 1 objection should be supported by Council, subject to the concurrence of the Director-General of the Department of Planning.

Clause 13 of the Camden LEP No 48 permits the subdivision of land for the purposes of dwellings subject to the following:

- (3) *Notwithstanding clause 12 but subject to subclause (5), the Council may consent to the subdivision of an existing holding to create allotments each of which it is satisfied will be used for the purposes of one dwelling-house where each allotment created has an area of not less than 2 hectares and not more than 10 hectares.*
- (5) *The total number of allotments that may be created under subclause (3) from an existing holding, whether by one or more successive subdivisions, shall not exceed:*
- (a) *nil, where the existing holding has an area of less than 10 hectares,*
 - (b) *1, where the existing holding has an area of 10 hectares or more but not more than 40 hectares,*
 - (c) *2, where the existing holding has an area of more than 40 hectares but not more than 80 hectares, or*
 - (d) *3, where the existing holding has an area of more than 80 hectares.*

The practice has been to apply this clause to the number of additional lots allowable, rather than the total number of lots created.

The existing holding has a total site area of 68.18ha, therefore in principle 2 additional allotments (Lots 103 and 104) may be created under Clause 13 of the LEP.

- (7) *In determining an application to subdivide land under this clause, the Council shall have regard to:*
- (a) *the effect of the creation of an allotment on the remainder of the land the subject of the application, particularly on its agricultural production potential and the desirability of limiting the size of new allotments,*
 - (b) *whether a proposed allotment intended to be used for the purpose of a dwelling-house has been located on land of inferior agricultural production potential,*
 - (c) *the appropriateness of the size of the proposed allotments for the purpose for which they are intended to be used, and*
 - (d) *whether the subdivision and any subsequent development will have the effect of creating demands for the provision of services by the Council, in particular for the upgrading and sealing of public roads.*

The proposed allotments have been kept to the minimum 2ha so as not to jeopardize the potential of allotments 105 and 106 for agricultural uses. Further, the location of proposed Lots 103 and 104 preserves the prime agricultural land located nearer to the homestead on Lot 106.

The 2ha lots are considered sufficient for the purposes of a single dwelling house, providing an opportunity for rural residential living with little impact on the character of the area.

As mentioned above, upgrading of existing infrastructure services is not required as all facilities are currently available to the property and the proposed subdivision would not generate a demand for the provision of services by Council as both Westbrook Road and Fosters Lane are already sealed.

The creation of Lots 103 and 104 is considered consistent with Clause 13 of the Camden LEP.

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 subdivision. Suitable arrangements for the collection and disposal of stormwater drainage can be made and addressed through consent conditions.

The provisions of any draft Environmental Planning Instrument

Draft Camden Local Environmental Plan 2009 (draft LEP)

Draft Camden LEP 2009 was publicly exhibited between 2 September and 14 October, 2009. The site's current 1(a) Rural (40ha) zone is defined as the RU1 Primary Production zone by the draft LEP.

Clause 4.1 of the Draft LEP allows the subdivision of land provided the size of any subsequent lot is not less than the minimum lot size shown on the Lot Size Map. According to the Lot Size Map, the minimum permitted lot size for the land subject of this application would be 40ha.

Clause 4.2 of the Draft LEP permits a variation to the minimum lot size for subdivision in rural zones to allow a greater opportunity to achieve zone objectives. However, although a variation to the minimum lot size is allowed, the construction of a dwelling on any lot created under Clause 4.2 is prohibited.

It is also noted that when draft Camden LEP 2009 is gazetted, SEPP 1 will no longer apply to land to which the application relates, however clause 4.6 will introduce similar provisions where variations to development standards may be considered.

As such, whilst the proposed boundary adjustment is considered acceptable pursuant to the above clauses, the creation of 2 x 2ha 'concessional' lots would be inconsistent with the Draft LEP and would not be supported. It is noted that given the 'draft' status of the Draft LEP, whilst it is a planning consideration, refusal of this application on this basis alone is not justified.

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

Camden DCP 2006

There are no specific sections of the Camden DCP 2006 that apply to the proposed development.

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

No planning agreements are applicable to this development application.

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

Prescribed conditions will be placed on any development consent.

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

The development application, if approved, would permit a boundary realignment of existing lots and permit the creation of two additional lots (Lots 103 and 104) which are considered to be of sufficient size and appropriately located to be in keeping with the rural character of the land.

It is considered the development would not give rise to increased traffic or negatively impact on the agricultural potential of land in the locality.

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

Having regard to the objectives of the Rural 1(a) zone, the development is considered to be suitable for the site. The SEPP 1 objection lodged in favour of this proposal puts forward the position that the 40ha standard is unwarranted given the prevailing undersized nature of the existing allotments and the capacity to enhance the homestead allotment (lot 105) in terms of maintaining the core agricultural use of the property.

The creation of two additional 2ha lots is considered to be consistent with the adjoining development pattern to the south of the site along Westbrook Road and this position is supported for the reasons addressed in this report.

The property is identified as potentially saline and a Contamination and Salinity Assessment Report has been submitted to address these issues. The Contamination and Salinity Assessment report identifies the natural soil to be saline and moderately aggressive to concrete structures. Appropriate conditions are recommended to be imposed to address the issue and it is not considered the saline soils would preclude subdivision of the site.

The applicant has submitted a bushfire assessment report with the development application which advises the subdivision complies with Planning for Bushfire Protection 2006. The subdivision is satisfactory given it can accommodate bushfire hazard reduction measures as imposed by the NSW Rural Fire Services.

The site is also considered to be suitable for the proposed development because it does not fall within a mine subsidence area.

Any Submissions – S79C (1)(d)

No written submissions were received by Council.

The Public Interest – S79C (1)(e)

It is considered that the proposed development is not contrary to the public interest.

CONCLUSION

Development consent is sought for boundary adjustments and subdivision to create

two (2) additional lots at 75 Fosters Lane, Bickley Vale.

The proposed development is consistent with the existing approved subdivisions of similar or smaller scaled lots to the north-east and south of the subject site. It is considered that the proposed subdivision is consistent with the objectives of the zone and is unlikely to negatively impact upon the potential of agricultural land in the locality. The subdivision enables rural residential living in the area and supports the viability of lots 105 and 106 for agricultural purposes.

The proposal has been considered on its merits and is recommended to Council for approval and referral to the DoP for its concurrence.

DRAFT CONDITIONS OF CONSENT

1.0 - General Requirements

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

- Plan of Subdivision prepared by John M Daly & Associates Pty Ltd marked DA 839/2009 dated 18 August 2009 (Ref: 09139PS)

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) **Salinity Management Plan** – For Lots 101, 103 and 104 all proposed construction works that includes earthworks, imported fill, buildings and associated infrastructure proposed to be constructed on the land must be carried out or constructed in accordance with the management strategies as contained within “Section 8.2 Salinity Assessment” in the report titled *“Preliminary Contamination and Salinity Assessment: Proposed Lots 101, 103, and 104 in the Subdivision of Lots 34 and 36 DP 1070229 No 166 Dowles Lane and No 75 Fosters Lane Bickley Vale NSW, Prepared for AD Pastoral Co, Prepared by Geo Enviro Consultancy Pty Ltd, Ref JE10438A(Rev), Dated April 2010”* and *“Addendum to Report Ref JE10438A(rev) Dated April 2010: Salinity Issue – Soil Aggressiveness: Proposed Lots 101, 103 and 104 in the subdivision of Lots 34 and 36 DP 1070229: No 166 Dowles Lane and No 75 Fosters Land Bickley Vale, Prepared by GeoEnviro Consultancy, Dated 4 May 2010.”*

(3) **Fill Material** -- No fill material is to be placed on the site without the prior consent of Camden Council.

6.0 - Operational Conditions

(1) **Fill Material For Residential Subdivision** - 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 6000m³ - 3 sampling locations,
- vi) greater than 6000m³ - 3 sampling locations with 1 extra location for each additional 2000m³ or part thereof.

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

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

Classification of Fill Material	No of Samples Per Volume	Volume of Fill (m³)
Virgin Excavated Natural Material	1 (see Note 1)	1000

**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.

(2) **Noxious Weeds** - As per the requirements of the Noxious Weeds Act 1993, the applicant must fully and continuously suppress and destroy, by appropriate means, the following noxious weeds found to be present on the property.

- African Boxthorn (*Lycium ferocissimum*)
- Sweet briar (*Rosa rubiginosa*)
- African Olive (*Olea europaea* subsp *cuspidate*)
- Fire Weed (*Senecio astertaceae*)

(3) The applicant must also ensure other noxious or invasive weed infestations that occur during or after subdivision and prior to sale of the new lots, must be reported to Council and fully eradicated by appropriate means.

(4) The applicant must ensure at all times any machinery, vehicles or other equipment entering or leaving the site must be cleaned and free from any noxious weed material, to prevent the spread of noxious weeds to or from the property.

7.0 - Subdivision Certificate

The following conditions of consent shall be complied with prior to the Council or an Accredited Certifier issuing a Subdivision Certificate.

(1) **Services - Prior to the issue of the Subdivision Certificate** the following service authority clearances must be obtained and submitted to the Principal Certifying Authority for inclusion in any Subdivision Certificate application:

- a certificate pursuant to s73 of the *Sydney Water Act 1994*. Application for such a certificate must be made through an authorised Water Servicing Co-Coordinator.
- 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 subdivision/development.

(2) The following works must be constructed **prior to the issue of the Subdivision/Occupation Certificate** and under the Roads Act 1993 must be approved by Camden Council:

- (a) provision of a rural driveway crossing at all points of ingress and egress.

All works must be carried out strictly in accordance with Camden Council's specifications. **Prior to works commencing** the applicant must contact Council on (02) 4654 7777 to arrange payment of fees and inspection of the works.

(3) **Show Easements on the Plan of Subdivision** - The developer must acknowledge all existing easements on the final plan of subdivision.

(4) **Show Restrictions on the Plan of Subdivision** - The developer must acknowledge all existing restrictions on the use of the land on the final plan of subdivision.

(5) **Subdivision Certificate Release** - The issue of a Subdivision Certificate is not to occur until all conditions of this consent have been satisfactorily addressed and all engineering works are complete, unless otherwise approved in writing by the Principal Certifying Authority.

(6) Pursuant to **Contributions Plan No 20** adopted in October 1996, a contribution must be paid to Council of \$25 per additional lot or dwelling, total \$50, for **Fire and Other Emergency Facilities and Equipment**.

The contribution must be indexed by the Consumer Price Index, **paid prior to issue of the Subdivision Certificate**.

(7) Pursuant to **Camden Contributions Plan** amended July 2004, a contribution must be paid to Council of \$365 per additional lot or dwelling, total \$730, 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 Subdivision Certificate**.

(8) Pursuant to **Camden Contributions Plan** amended in July 2004, a contribution must be made to Council of \$3,652 per additional lot or dwelling, total \$7,304, for **s.94 Open Space Land Acquisition and Community Land Acquisition**.

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

(9) Pursuant to Camden Contributions Plan amended July 2004, a contribution must be paid to Council of \$5,827 per additional lot or dwelling, total \$11,654, for **Community & Recreation Facilities**.

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

The monetary contribution for Community Facilities, Recreation Facilities and Open Space may be offset by the value of land transferred to Council or by works in kind at the 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 Subdivision Certificate**.

(10) **Section 88b Instrument** - The developer must prepare a Section 88B Instrument for approval by the Principal Certifying Authority which incorporates the following restriction as to user:

(a) For Lots 101, 103 and 104 all proposed construction works that includes

earthworks, imported fill, buildings, and associated infrastructure proposed to be constructed on the land must be carried out or constructed in accordance with the management strategies as contained within "Section 8.2 Salinity Assessment" in the report titled *"Preliminary Contamination and Salinity Assessment: Proposed Lots 101, 103, and 104 in the Subdivision of Lots 34 and 36 DP 1070229 No 166 Dowles Lane and No 75 Fosters Lane Bickley Vale NSW, Prepared for AD Pastoral Co, Prepared by Geo Enviro Consultancy Pty Ltd, Ref JE10438A(Rev), Dated April 2010"* and *"Addendum to Report Ref JE10438A(rev) Dated April 2010: Salinity Issue – Soil Aggressiveness: Proposed Lots 101, 103 and 104 in the subdivision of Lots 34 and 36 DP 1070229: No 166 Dowles Lane and No 75 Fosters Land Bickley Vale, Prepared by GeoEnviro Consultancy, Dated 4 May 2010."*

END OF CONDITIONS

RECOMMENDED

That Council approve DA839/2009, being a subdivision of 4 into 6 Torrens Title lots at No 75 (Lots 34, 35 & 36 DP 1070229 and Lot 1 DP 64810) Fosters Lane, Bickley Vale, subject to the draft conditions provided above and concurrence of the Director General of the Department of Planning.

ATTACHMENTS

1. Location plan
2. Proposed subdivision plan



Location Plan Bickley Vale Lots 34-36 DP1070229 etc.pdf Proposed subdivision plan - Bickley Vale.pdf

RESOLUTION

Moved Councillor Funnell, Seconded Councillor Dewbery that Council approve DA839/2009, being a subdivision of 4 into 6 Torrens Title lots at No 75 (Lots 34, 35 & 36 DP 1070229 and Lot 1 DP 64810) Fosters Lane, Bickley Vale, subject to the draft conditions provided above and concurrence of the Director General of the Department of Planning.

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

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

No Councillor voted against the Motion).

ORD129/10

ORDINARY COUNCIL

ORD03

SUBJECT: COMMENCEMENT OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT AMENDMENT (DEVELOPMENT CONSENTS) ACT 2010 - LAPSING PERIOD OF DEVELOPMENT CONSENTS
FROM: Acting Director Development and Health
FILE NO: Binder: Development Procedures

PURPOSE OF REPORT

The purpose of this report is to inform Council of the commencement of new legislation with respect to the lapsing period of development consents.

The report is being provided to Council because at the meeting of 23 October 2000, Council adopted a policy for the purpose of Lapsing of Development Consent which is now inconsistent with the legislation.

BACKGROUND

Council, at the meeting of 23 October 2000, adopted a policy that limits consents to a period of two years. The reason for this limitation was the rapid change in expectations of the community and subsequent changes to planning controls brought about by the growth of the area. This resolution became known as Policy 1.11.

However Council, at the meeting of 12 June 2007, further resolved to:

'allow a variation to its policy No 1.11 - Lapsing of Development Consents where those applications relate to masterplanned subdivisions, and no impediments are placed on adjoining landowners in relation to the provision of necessary infrastructure, including those facilities which are to be delivered through s94 contribution'.

This variation was supported on the basis that adequate land needed to be made available to meet the market need and was limited to masterplanned subdivisions, provided that the proponents of the development applications ensure that adequate access to infrastructure is available.

MAIN REPORT

On 1 June 2010 the Department of Planning (DoP) released a circular to advise of the commencement of the Environmental Planning and Assessment Amendment (Development Consents) Act 2010.

The primary purpose of this new legislation is to extend the lapsing period of existing development consents that have been granted by Council for a lesser period, to a period of 5 years. As a result the lapsing period has been extended to the maximum 5 years allowed under the Act.

Council's own policy allows for shorter periods and this will now be overridden by this legislation.

Therefore all development application consents which were still operational on 22 April 2010, will last for a period of 5 years from the date of consent. This includes any consent that was originally granted for a period of less than 5 years.

A press release issued from the Urban Development Institute of Australia (NSW) states that *"this Bill is an important measure to ensure that stakeholders who have secured DA consents in recent times are afforded sufficient flexibility within the planning system to act on their consents in a reasonable amount of time. Importantly, this Bill ensures that developers who have been unable to secure finance for new projects now have a guaranteed 5 year consent period to begin works"* .

This amendment applies to all developments including but not limited to dwellings, garages and sheds, commercial, industrial and subdivision.

This new legislation prevents a consent authority from reducing the lapsing period of any consent granted to not less than the maximum 5 year period.

The legislation states that these arrangements will remain in place until 1 July 2011. Therefore from that date a consent authority will again be able to reduce the lapsing period to less than 5 years (unless an alternative regulation is made). If after the 1 July 2011 the 5 year lapse period is made permanent, Policy No 1.11 will be rendered redundant. It is not proposed to make Policy No 1.11 redundant at this time, rather it will be overridden until 1 July 2011 by the legislative change.

CONCLUSION

Council has received advice from the DoP with respect to the commencement of the Environmental Planning and Assessment Amendment (Development Consents) Act 2010. This Act makes provision for all existing development consents subject to a lapsing period of less than 5 years to extend the lapsing periods to a maximum of 5 years.

This will allow all consents issued until 1 July 2011 to benefit from this legislation, unless otherwise amended by the Minister of Planning.

The above amendments are inconsistent with Camden Council's Policy No 1.11 Lapsing of Development Consents, in that all consents issued (except for masterplanned subdivision development applications) were required to be limited to two (2) years.

The Planning Circular issued by the DoP states that these arrangements will remain in place until 1 July 2011. As a result Policy No 1.11 will be overridden until 1 July 2011.

RECOMMENDED

That Council:

- i. receive and note the commencement and provisions of the Environmental Planning and Assessment Amendment (Development Consents) Act 2010; and
- ii. allow for the lapsing period of development consents to revert back to the policy statement of Policy No 1.11 Lapsing of Development Consents as adopted by Council on 12 June 2007 unless otherwise directed by the Minister of Planning.

RESOLUTION

Moved Councillor Dewbery, Seconded Councillor Anderson that Council:

- i. receive and note the commencement and provisions of the Environmental Planning and Assessment Amendment (Development Consents) Act 2010; and
- ii. allow for the lapsing period of development consents to revert back to the policy statement of Policy No 1.11 Lapsing of Development Consents as adopted by Council on 12 June 2007 unless otherwise directed by the Minister of Planning.

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

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

No Councillor voted against the Motion).

ORD130/10

ORDINARY COUNCIL

ORD04

SUBJECT: CHANGES TO DEVELOPMENT CONTRIBUTIONS
FROM: Director Governance
FILE NO: Development Contributions - Legislative Reform

PURPOSE OF REPORT

To provide an update on recently announced changes to development contributions, which limit levies for key community infrastructure to a maximum of \$20,000 per residential lot/dwelling.

BACKGROUND

On Friday, 4 June 2010 the NSW State Government directed that the maximum development contribution that Councils can levy on new residential development will be capped at \$20,000 per lot/dwelling. The introduction of the cap became effective from Monday, 7 June 2010 without warning or any consultation with Local Government. Further, there has been no guidance or detail provided on the implementation or transition provisions.

The announcement included the potential for Councils to apply to the Independent Pricing and Regulatory Tribunal (IPART) for a special rate variation for "legitimate Council costs arising from development". That is, development contributions would remain capped at \$20,000 per lot, with the intention that any difference accepted and approved by IPART being funded through Council rate revenue. At the time of preparing this report, no information had been made available regarding the IPART special rate variation application process and timeframe.

MAIN REPORT

Local development contributions in their current form sit within a robust and transparent system, with checks and balances that have operated generally satisfactorily and withstood several Government-appointed reviews over many years.

In December 2008, the State Government announced that development contributions on residential development above \$20,000 per lot would be subject to review by the Local Contributions Review Panel, which consisted of representatives from Treasury, Department of Planning (DoP), Local Government and the development industry. Camden Council made a submission to the Review Panel that was reported to Council at its meeting of 10 March 2009 and related to the following contributions plans:

- Camden Contributions Plan 2004, which applies to the whole of the LGA excluding the Growth Centre Precincts;
- Contributions Plan No. 3 - Upper Narellan Creek Catchment - Trunk Drainage & Water Quality Facilities;

- Contributions Plan No. 8 - Narellan Release Area - Primary & Secondary Roundabouts;
- Contributions Plan No. 20 - Fire and Other Emergency Services;
- Oran Park and Turner Road Precincts Section 94 Contribution Plan.

The contributions plans submitted to the Review Panel were subject to significant review. Council demonstrated the need for key community infrastructure in greenfield release areas and justified the contribution rates that are levied on residential development to fund this essential infrastructure. The review resulted in the Minister for Planning issuing a S94E Direction on 31 May 2009 limiting Council's contribution rates as follows:

- Spring Farm release area - maximum rate of \$58,970
- Elderslie release area - maximum rate of \$50,141
- Other urban development (excluding Growth Centre precincts) - maximum rate of \$27,505
- Oran Park and Turner Road Contributions Plan allowed to continue to operate unchanged resulting in contributions of approximately \$32,000 per lot for Oran Park and \$27,200 for Turner Road.

The limits set by the Minister for Camden Council on 31 May 2009 reflected the need to provide essential infrastructure and the associated costs.

Council has been working to review the Camden Contributions Plan to bring it into line with the 31 May 2009 Ministerial Direction. In accordance with that Direction, Council was required to submit a draft version of the revised plan to the DoP for their comment prior to being allowed to publicly exhibit the draft plan. The Draft Plan was reported to Council at its meeting on 10 November 2009 and submitted to the Department in mid December 2009. However, no response has been received and, as a result, the plan had not been publicly exhibited.

Cap on residential development contribution levies of \$20,000 per lot

The \$20,000 cap on residential contribution rates announced on Friday, 4 June 2010 was made without consultation or warning to Local Government either at Council level or with industry bodies. The cap became effective from Monday, 7 June 2010 with no transitional arrangements in place and little information regarding the implementation of the cap. The announcement includes the provision for Council to be able to apply to IPART for a special rate increase to fund the costs of providing infrastructure that will not be met by the \$20,000 cap. However, to date no information has been made available on the process for applying for such a rate increase or the timeframes involved. As a result, Council does not have certainty or clarity regarding how essential infrastructure will be delivered to support our new communities. It is conservatively estimated that the cap will result in a \$1.3 billion (in today's dollars) infrastructure funding shortfall for the Spring Farm, Elderslie and Growth Centre release areas.

The imposition of a \$20,000 cap to residential development in Camden is inappropriate and unreasonable for a number of reasons:

- Camden's development context, which is characterised by high growth with Camden's population increasing from 50,000 to 250,000 over the next 50 years

through the creation of housing in greenfields releases results in high infrastructure costs. The transition from paddocks to urban development has a much higher demand for new infrastructure provision than infill development in established areas. The cost of providing the infrastructure needed to support housing in Camden is unavoidably high. If development contributions are not going to fund the cost of providing this infrastructure, then alternate funding must be made available.

- Camden Council does not have a large rate base and as a result, does not have the capacity to generate the significant funds needed for infrastructure provision from existing residents without massive rate increases that will adversely affect household budgets. It is manifestly unreasonable to require Camden's existing residents to pay increased rates to fund the provision for infrastructure to new development, particularly as existing residents have already paid their own development contributions for the infrastructure they required.
- The existing established contributions arrangements have obligations for both developers and Council. By adopting a contributions plan and collecting levies under these plans, expectations and obligations to deliver the infrastructure have been created.
- Council has entered into a number of Works in Kind and Voluntary Planning Agreements with developers to provide local infrastructure. These agreements contain contractual obligations for developers to construct infrastructure and generate credit obligations for Council. The imposition of a \$20,000 cap will affect Council's ability to meet these credit obligations.
- Council faces significant challenges in meeting current and backlog infrastructure demands, without also having to deal with the challenges of providing infrastructure that is entirely generated by new development.
- The need for Council to find alternative revenue sources to fund the balance of the developer's contribution obligation will likely extend the time in which local infrastructure can be delivered, and severely compromise Council's ability to satisfy section 93E(1) to provide all infrastructure in a reasonable time.

Financial Impact of the \$20,000 per lot cap

Some preliminary figures have been prepared regarding the financial impact of the \$20,000 cap. Officers are currently working on more detailed financial analysis.

- Growth in Camden Local Government Area through the Elderslie, Spring Farm, and Growth Centre Precincts is likely to result in an additional 66,500 residential lots and a population increase of 200,000 people.
- The planning for the future and current release areas indicates an infrastructure provision cost of \$2.6 billion.
- The \$20,000 cap on development contributions will result in a funding shortfall of at least \$1.3 billion. This means Council will only have funds available to construct **half** of the infrastructure needed to facilitate new development.
- The \$1.3 billion shortfall over 20 years equates to \$65 million annually which is 3 times Council's current rate base.
- If Council were to apply for a special rate variation through IPART to make up the funding shortfall, this would result in a 117% rate increase on all new residents for the next 15 years. If the funding shortfall were spread over all ratepayers (which is unreasonable) this would still be a rate increase of 90% for the next 15 years. The rate increase can be reduced by increasing the period of time for collection of the

funds, however, this will also reduce Council's ability to provide infrastructure in a timely manner and would still result in rates increases of the order of 88% and 68% respectively over 20 years.

Elderslie and Spring Farm Release Areas

Draft legislation, known as the "new Part 5B", which overhauled the legal framework for development contributions was passed by Parliament in 2008 but has not yet come into effect. The recent announcement included advice that the draft legislation will come into effect on 1 July 2010. The new legislation includes a provision that councils will not be able to levy for the acquisition of riparian corridor land through contributions plans. This creates significant difficulties for the Elderslie and Spring Farm release areas as they have been masterplanned based on riparian corridors and the trunk drainage system being intrinsically interlinked, with these lands to be publicly owned and maintained. The masterplans, and principle of public ownership of the riparian corridor land was an outcome negotiated with State Government agencies when the land was rezoned for urban development.

Council has made numerous representations to the DoP regarding the difficulties of the new legislation for delivering release areas that are already under construction. The letter from then Minister of Planning, Kristina Keneally, that was issued with the s94E Direction on 31 May 2009 acknowledges the specific difficulties for Spring Farm and Elderslie, stating:

"A substantial component of the contributions in Spring Farm and Elderslie arise from the acquisition and embellishment of riparian areas, which, given the advanced stage of development of the estate, cannot be reviewed without significantly impacting on land supply in an area that is currently providing for first home buyers".

Council will need to re-masterplan and rezone land in these release areas as a matter of urgency as Council will not be able to implement the masterplans for these release areas. This work is complicated by development approvals and construction that has already commenced and development applications that will continue to be lodged while the re-masterplanning work is being undertaken. Changes to the location of roads and lot layouts will be required, and are likely to create a poor "patchwork" urban and environmental outcome.

Council's Local Environmental Plan contains provisions for the acquisition of land in these release areas, which will need to be removed as Council will no longer have a secure source of funding for these land acquisitions. The urgent assistance of the DoP to fast-track these LEP amendments will be sought.

Oran Park and Turner Road Precincts

While the financial impact of the \$20,000 cap is comparatively lower for Oran Park and Turner Road, the contributions plan was developed with the involvement and cooperation of the former Growth Centres Commission and key landowners and developers and has the continued support of those parties. The contributions for these precincts is lower than for Spring Farm and Elderslie release areas, primarily due to the land being in a small number of holdings. As a result, some infrastructure was most

effectively delivered by the land owner and therefore did not need to be included in the contributions plan. However, it should be noted that the development costs are similar for all release areas despite not being reflected in similar contribution rates.

The infrastructure that is identified in the contributions plan for these precincts was subject to review and was reduced at the time of preparing the contributions plan, so that the infrastructure that remained in the contributions was essential base-line infrastructure only.

The imposition of the \$20,000 cap raises fundamental questions around Council's ability to deliver the essential infrastructure needed to support further release of land in the growth centre.

Ability to fund Infrastructure Projects

Council has recently accepted an interest free loan from the DoP for \$11.8M to fund the reconstruction of Lodges Road and Hilder Street, Elderslie to an urban standard. The bulk of this loan was to be repaid by development contributions that were to be levied under the draft revised Camden Contributions Plan. The future of this draft plan is now uncertain, as is Council's ability to levy contributions under that plan. As a result, Council may not be in a position to repay the loan as was originally intended. Further consideration of the impact of the \$20,000 cap on the financial viability of being able to repay the loan is required before Council proceeds with the project. It may be necessary to return the funds to the Department and not complete the project. In this circumstance, Council would only undertake the reconstruction of Lodges Road on the frontage to the new public school.

It should be noted that while the cap of \$20,000 per residential lot will impact on Council's ability to deliver infrastructure that was identified in contributions plans, there are other items of infrastructure that are needed, but are not included in contributions plans. An example is the construction of a new Council Administration Centre and Depot expansion required for servicing increased population. The estimations of the shortfall in infrastructure funding highlighted in this report do not include the funds required for these types of projects. As a result, the total infrastructure cost to Council is considerably higher than the shortfall quoted.

Next Steps

The General Managers of Growth Centre councils have met to discuss the specific impact of the \$20,000 cap on Councils' ability to deliver housing in the growth centres. All councils at this meeting agreed to take the policy position of not issuing development consents where a development contribution was required until there is certainty and clarity regarding the implementation of the cap. Development applications are being assessed as normal, however the applications are not being determined. Development applications that are not affected by the \$20,000 cap are being processed and issued as normal. Applications that are not affected include:

- residential development not requiring payment of Section 94 Developer Contributions levies. This type of development typically includes single dwellings, additions and tree removals.
- development applications for industrial and commercial development.

- Section 96 applications to vary a development consent issued prior to Monday 7 June 2010.

At this meeting, it was also agreed that the councils will jointly fund the engagement of a media consultant to assist in directing and managing a media campaign regarding the imposition of the cap. 'Media Savvy' have been appointed for this project.

Council has also taken the policy position to suspend all current Works In Kind and Voluntary Planning Agreements negotiations with developers until there is certainty regarding what infrastructure can be delivered and Council's ability to meet credit obligations these agreements may create.

An urgent meeting with the Minister for Planning was held on Tuesday 15 June, 2010. A briefing of the Opposition is scheduled for Thursday 24 June 2010. Due to the timing of the preparation of this report, an update will be provided at the Council Meeting.

Growth Centre Councils are also making representations to the following groups:

- Local Government and Shires Association (LGSA)
- Urban Development Institute of Australia (UDIA)
- Property Council of Australia
- Landcom

This information is accurate at the time of preparing the report. A further update on action and outcomes will be provided at the meeting.

CONCLUSION

Council's submission in 2009 to the Local Contributions Review Panel expressed support for the government's desire to address the issue of housing affordability in NSW. However, it also expressed very serious concern regarding the potential impact that any cap on contributions would have on current and future communities, particularly those in greenfield areas and specifically those in Camden given the significant growth the area is set to experience. These concerns have been ignored by the recent imposition of a \$20,000 cap.

Council is wrestling with the impacts of the \$20,000 cap, which have been introduced without consultation or any appropriate transitional arrangements. For Council's existing release areas of Spring Farm, Elderslie, Oran Park and Turner Road, the impacts will be severe and require an urgent re-masterplanning and rezoning of land. This will delay land supply and will create a drain on Council's planning resources. This is also likely to result in a poor urban and environmental outcome. The assistance of the DoP will be sought to fast track any LEP amendments and remove provisions relating to land acquisition, which can no longer be funded.

Council's submission in 2009 stated that should a cap be imposed, the State Government should identify alternative funding resources for the provision of baseline local infrastructure required by new communities. The State Government's proposal of requiring these facilities to be funded through local rates increases places an unfair burden on the residents of Camden, and indeed Western Sydney. The State Government's Metropolitan Strategy indicates that the bulk of housing supply to meet

the demands of a growing Sydney will be met by development in the South West and North West Growth Centres. The State Government is now also proposing that the residents of these areas bear the cost of providing infrastructure to service this growth. Any positive impact that reduced contribution rates may have on "affordable housing" prices in the short term, will be more than offset as the rates increases needed to support the growth erodes affordability for all residents.

Council is firmly of the view that cost shifting of developer's obligations to the existing population through general rates is inequitable and unreasonable. Further, the proposal also assumes that savings to the developer achieved by the lower Section 94 levies will be passed on in its entirety to the buyer.

Council's estimated funding shortfall of \$1.3 billion is conservative and does not include the funds needed for other infrastructure projects needed as a result of Camden's population growth, such as an administration building and depot and district and regional level facilities that have already been excluded from contributions plans. Nor does it factor in the costs of debt servicing if shortfall infrastructure is to be funded for loan borrowings.

Camden Council has been, and remains, committed to reviewing its contribution rates to assist in the delivery of housing affordability, while balancing the needs to deliver essential infrastructure to support our new communities. However, the imposition of a \$20,000 cap on development levies will result in an inability to meet basic community infrastructure needs and will without doubt result in poor urban and environmental outcomes.

RECOMMENDED

That Council:

- i. note the report; and**
- ii. seek an urgent deputation to the Premier in order to outline Camden's concerns and its inability to deliver the Government's urban release program under the current circumstances.**

RESOLUTION

Moved Councillor Anderson, Seconded Councillor Warren that Council:

- i. note the report; and
- ii. seek an urgent deputation to the Premier in order to outline Camden's concerns and its inability to deliver the Government's urban release program under the current circumstances.

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

ORD131/10

ORDINARY COUNCIL

ORD05

SUBJECT: PLANNING PROPOSAL TO INCORPORATE MINOR
AMENDMENTS INTO CAMDEN LEP 2010
FROM: Director Governance
FILE NO: LEP Template

PURPOSE OF REPORT

The purpose of this report is to update Council regarding the status of draft Camden LEP 2010 (LEP 2010) and to seek a resolution to forward a planning proposal to the Department of Planning (DoP) to make minor amendments to LEP 2010 following its gazettal.

BACKGROUND

At the Ordinary Council Meeting of 24 November 2009 Council considered a report on the exhibition of LEP 2010. In accordance with Council's resolution, LEP 2010 and the accompanying maps were forwarded to the DoP so that the gazettal process could commence. Since that time Council officers have participated in lengthy and protracted negotiations with various sections of the DoP.

The negotiations focussed on the content of the minimum lot size maps and the introduction of supplementary dwelling density clauses. The insertion of new dwelling density clauses into the LEP at this late stage is not possible without significantly delaying the gazettal of the LEP. A planning proposal will be prepared which will amend the LEP once it has been gazetted.

Council officers have also identified matters of a minor nature that should be included in the planning proposal. They include the amendment of the minimum lot size maps for Camden Lakeside and Manooka Valley, the insertion of 'multi dwelling housing' as a permissible use on land zoned B2 Local Centre at Mount Annan, and the amendment of heritage map for 56 Hilder Street Elderslie.

MAIN REPORT

Minimum lot size maps and clauses

The existing minimum lot size controls for Elderslie, Spring Farm, Manooka Valley and Camden Lakeside are currently contained within Camden DCP 2006. The preparation of the new comprehensive LEP 2010 in accordance with the LEP template format has required that these controls be removed from the DCP and inserted in LEP 2010. However, the DCP controls are complex and do not conform to the standard LEP template clauses and mapping guidelines.

During the final review of the minimum lot size maps, DoP officers raised concerns of a

technical nature regarding the maps and requested that they be amended. To address matters that could not be covered in the amended maps, the DoP has suggested that new minimum lot size and dwelling yield clauses could be added to LEP 2010. Given that LEP 2010 has already been exhibited, the dwelling yield clauses will need to be added via a planning proposal and subsequent LEP amendment.

The insertion of these new clauses and maps into LEP 2010 at this stage would delay the progress of the LEP. To avoid the such delays and allow LEP 2010 to be gazetted in a timely manner, these clauses and maps have been included in a planning proposal which will amend the LEP following its gazettal. This process has the support of the DoP.

Other minor amendments

Council officers have identified two matters that are of a minor nature and can be included in the planning proposal to amend LEP 2010 following its gazettal.

The first matter is the insertion of 'multi dwelling housing' as a permissible use on the land zoned B2 Local Centre at Mount Annan. This reflects the provisions of Camden LEP 47 and is therefore consistent with the 'status quo' philosophy adopted during the preparation of LEP 2010.

The second matter is the amendment of the heritage map to reflect the recent subdivision which revised the heritage curtilage of the heritage item at 56 Hilder Street Elderslie (known as 'Hilsyde').

Planning proposal

The objectives and intended outcomes of the planning proposal are as follows:

Camden Lakeside Urban Release Area - to amend the LEP 2010 Lot Size Map to reflect the existing minimum lot sizes for the Camden Lakeside development and to insert a new clause in the LEP which restricts the maximum number of dwellings to 380. A map showing the subject land is **provided as Attachment 1A**. The proposed amendment to the minimum lot size map for Camden Lakeside is **provided as Attachment 1B**.

Spring Farm Urban Release Area – to insert a new clause in LEP 2010 to ensure that not less than 3717 dwellings are produced in the Spring Farm Urban Release Area. This requirement is currently existing in the DCP. It is considered appropriate to include this requirement in the LEP to ensure the desired density is achieved.

Elderslie Urban Release Area – to insert a new clause in LEP 2010 to ensure that not less than 1978 dwellings are produced in the Elderslie Urban Release Area. This requirement is currently existing in the DCP. It is considered appropriate to include this requirement in the LEP to ensure the desired density is achieved.

Manooka Valley Urban Release Area – to amend the Lot Size Map to reflect the current minimum lot sizes for the Manooka Valley Urban Release Area. A map showing the subject land is **provided as Attachment 2A**. The proposed amendment to the minimum lot size map for Manooka Valley is **provided as Attachment 2B**.

B2 Zone at Mount Annan – to amend LEP 2010 to permit Multi dwelling housing on three lots at Mount Annan. Multi dwelling housing was a permissible use in the previous LEP however it was inadvertently omitted from LEP 2010.

Heritage Item “Hilsyde” – 56 Hilder Street Elderslie – to amend the Heritage map by reducing the heritage curtilage of the heritage item to reflect the current subdivision layout for which development consent has been issued. A map showing the subject land is **provided as Attachment 3A**. The proposed amendment to the heritage map is **provided as Attachment 3B**.

The planning proposal provides additional detail regarding each of the proposed amendments and includes the proposed dwelling yield clauses for the Spring Farm, Elderslie and Manooka Valley release areas. The planning proposal is **provided as Attachment 4**.

Community and government agency consultation

The planning proposal seeks to amend LEP 2010 by introducing provisions which reinforce the existing minimum lot size provisions applying to land, introduce new dwelling yield clauses which are consistent with existing DCP 2006 clauses, make minor amendments to make multi dwelling housing permissible in the B2 zone at Mount Annan and amend the heritage map for Hilsyde at Elderslie. All of these amendments are consistent with the ‘status quo’ approach adopted in the preparation of LEP 2010 and the amendments reflect planning controls and provisions that already apply to the land but have not yet been reflected in LEP 2010.

It is considered that community and government agency consultation is not necessary in this instance given that the proposed amendments to LEP 2010 reflect the status quo and do not seek to impose new planning provisions that have not already been subject public exhibition at a previous stage.

CONCLUSION

The DoP has advised that the gazettal of LEP 2010 is imminent. The planning proposal aims to make minor amendments to the LEP, as a first amendment following its gazettal. These amendments are consistent with existing planning controls and will ensure the LEP is robust.

RECOMMENDED

That Council:

- i. adopt the planning proposal and associated map amendments**
- ii. forward the planning proposal to the DoP for Gateway Determination.**
- iii. pending a favourable response from DoP, proceed directly to gazettal.**

ATTACHMENTS

Attachment 1 - Camden Lakeside
Attachment 2 - Manooka Valley

Attachment 3 - Hilsyde
Attachment 4 - Planning Proposal



Attachment 1 Camden Lakeside.pdf



Attachment 2 Manooka Valley.pdf



Attachment 3 Hilsyde.pdf



Attachment 4 Planning Proposal.doc

RESOLUTION

Moved Councillor Warren, Seconded Councillor Anderson that Council:

- i. adopt the planning proposal and associated map amendments;
- ii. forward the planning proposal to the DoP for Gateway Determination; and
- iii. pending a favourable response from DoP, proceed directly to gazettal.

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

ORD132/10

ORDINARY COUNCIL

ORD06

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

Purpose of Report

In accordance with Part 9, Division 5, Section 212 of the Local Government (General) Regulation 2005, a list of investments held by Council as at 31 May 2010 is provided.

It is certified that all investments have been made in accordance with Section 625 of the Local Government Act 1993, the relevant regulations and Council's Investment Policy.

The weighted average return on all investments was 5.55% p.a. for the month of May 2010.

RECOMMENDED

That:

- i. Council note that the Principal Accounting Officer has certified that all investments held by Council have been made in accordance with the Local Government Act, Regulations, and Council's Investment Policy.**
- ii. the list of investments for May 2010 be noted.**
- iii. the weighted average interest rate return of 5.55% p.a. for the month of May 2010 be noted.**

ATTACHMENTS



Report May 2010.xls

RESOLUTION

Moved Councillor Funnell, Seconded Councillor Dewbery that:

- i. Council note that the Principal Accounting Officer has certified that all investments held by Council have been made in accordance with the Local Government Act, Regulations, and Council's Investment Policy.**

- ii. the list of investments for May 2010 be noted.
- iii. the weighted average interest rate return of 5.55% p.a. for the month of May 2010 be noted.

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

ORD133/10

ORDINARY COUNCIL

ORD07

SUBJECT: LOAN BORROWINGS 2009/2010
FROM: Director Governance
FILE NO:

Council's adopted 2009/10 Program Budget made provision for a loan income of \$1,600,000 to be utilised for infrastructure assets.

Following a call for quotations from four (4) Banks, two (2) Credit Unions, and one (1) Building Society, a recommendation to accept the offer from the Westpac Bank is proposed. The term of the offer is based on a ten (10) year loan with bi-annual principal and interest repayments at a fixed interest rate of 7.79% per annum.

RECOMMENDED

That:

- i. the offer of loan funds of \$1,600,000 from the Westpac Bank for a period of ten (10) years with bi-annual principal and interest payments at a fixed rate of 7.79% per annum be accepted; and
- ii. the seal of Council be authorised to be affixed to the necessary security documents.

RESOLUTION

Moved Councillor Warren, Seconded Councillor Anderson that:

- i. the offer of loan funds of \$1,600,000 from the Westpac Bank for a period of ten (10) years with bi-annual principal and interest payments at a fixed rate of 7.79% per annum be accepted; and
- ii. the seal of Council be authorised to be affixed to the necessary security documents.

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

ORD134/10

ORDINARY COUNCIL

ORD08

SUBJECT: INCREASE IN MEMBERSHIP FEES AND INTRODUCTION OF "OFF PEAK" FITNESS MEMBERSHIP AT MOUNT ANNAN LEISURE CENTRE
FROM: Director Works and Services
FILE NO:

PURPOSE OF REPORT

To seek Council's endorsement for a \$1.00 per week increase in membership fees and the introduction of an "off peak" membership fee at Mount Annan Leisure Centre, (MALC).

BACKGROUND

Membership fees at MALC cover access to the MALC gym and pools. There has been no increase in membership fees for the past two years. The proposed increase will help fund increases in operations' expenditure due to inflation.

Membership has continued to grow at MALC with around 100 new members each month over the past year. The centre is experiencing high congestion periods, generally 5pm - 9pm, but there are also periods where attendance is much lower - usually between 11am - 3pm. The introduction of the "off-peak" fee will make it more attractive to use the facility during the "off-peak" period.

MAIN REPORT

General membership fee increase

The proposed fee increase of \$1.00 per week will bring the membership fee (which is levied fortnightly) to \$27.00 per fortnight (inclusive of GST). The YMCA, which operates the centre on behalf of Council, believes the increase will not be a barrier to meeting predicted membership goals.

Introduction of an increase in fees would take effect from 1 August 2010, allowing the YMCA to provide 30 days' notice to members as required under the membership contract.

Off Peak Membership

Recent attendances at MALC gym show that between 5pm and 9pm an average of 209 members attend, compared to an average of around 70 between 11am and 3pm. The YMCA believe that introducing an "off peak" membership may benefit the centre financially by increasing membership without further increasing use during congested periods. The YMCA has targeted 200 "off peak" memberships during the coming

financial year.

It is possible the centre may have an initial income reduction as some current members move their membership to the cheaper "off peak" option, but the YMCA are confident that there will be a longer term benefit with increased centre patronage overall.

As indicated above, the proposed new standard membership fee during the peak period is \$27.00 per fortnight. The proposal is to introduce an "off peak" membership of \$23.50 per fortnight.

However, this new membership contract will only provide for use in the 'off peak' period. Should a member choose to use the facility outside the designated period, the member will be offered the option of amending their membership to the standard membership, paying the casual visit fee or using the facility at an alternate, 'off peak' time.

Being a new membership option, this fee option can be introduced from 1 July 2010, and members choosing this option will be made aware of the constraints and implications of this choice at the time of selection.

CONCLUSION

Membership fees for MALC have not increased over the past two years, while inflation has pushed up operational costs. The proposed \$1.00 per week increase in the membership fee (taking the fortnightly fee to \$27.00) will help cover these increased costs of operations. It is expected that the increase will have minimal impact on membership levels. The YMCA will provide 30 days' notice of the increase to members.

The proposal from the YMCA to introduce an "off peak" membership fee will provide a cheaper alternative for some members who are able to use the facilities during low demand periods and will encourage greater use during those times. In doing so, it will also increase the capacity for usage of the facility by other members during peak times.

RECOMMENDED

That Council:

- i. approve an increase of \$1.00 per week to the membership fee at Mt Annan Leisure Centre from 1 August 2010; and**
- ii. endorse the "Off Peak" Membership fee at Mount Annan Leisure Centre of \$23.50 per fortnight, limited for attendances during designated periods only, with this membership option being available from 1 July 2010.**

RESOLUTION

Moved Councillor Warren, Seconded Councillor Dewbery that Council:

- i. approve an increase of \$1.00 per week to the membership fee at Mt Annan Leisure Centre from 1 August 2010; and
- ii. endorse the "Off Peak" Membership fee at Mount Annan Leisure Centre of \$23.50 per fortnight, limited for attendances during designated periods only, with this membership option being available from 1 July 2010.

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

ORD135/10

**THE MINUTES OF THE ORDINARY COUNCIL MEETING HELD ON 22 JUNE 2010
WERE ADOPTED AT AN ORDINARY COUNCIL MEETING HELD 13 JULY 2010.
MIN. NO. ORD 139/10**

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

CHAIRPERSON