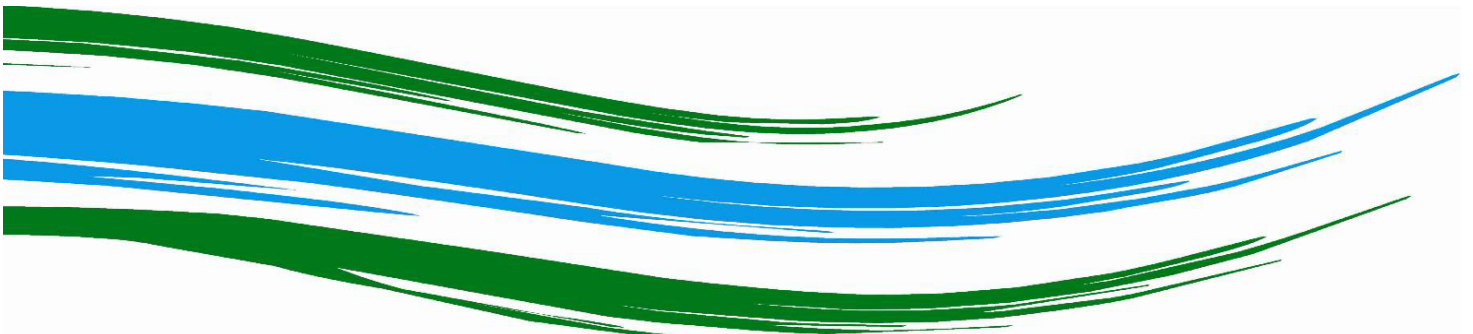




Camden Council

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 Funnell, Seconded Councillor Symkowiak that Councillors Anderson and Warren be granted a leave of absence.

THE MOTION ON BEING PUT WAS CARRIED.

ORD148/10

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

Councillor Funnell declared a non pecuniary interest in Item ORD05 regarding the public domain tree maintenance contract as his son and nephew work for the company.

Councillor Campbell declared a non pecuniary interest in Item ORD01 regarding the construction of a childcare centre at Macarthur Road, Elderslie as Councillor Campbell is elected resident of the area however it is not considered to be pecuniary interest and will take part in debate on the report.

Councillor Patterson declared a pecuniary interest in Item ORD02 regarding the proposed hours of operation for the Narellan Hotel as Councillor Patterson's family are the owners of the Merino Tavern.

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

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

ORD149/10

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 John Sorrenti addressed the Council in relation to Item ORD04.

Mr Alan Moss addressed the Council in relation to Item ORD04.

Mrs Emma Mottram addressed the Council in relation to Item ORD01.

Moved Councillor Campbell, Seconded Councillor Dewbery that a two (2) minute

extension be granted.

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

Mrs Maragaret Harding addressed the Council in relation to Item ORD01.

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

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

ORD150/10

ORDINARY COUNCIL

SUBJECT: CONFIRMATION OF MINUTES

Confirm and adopt Minutes of the Ordinary Council Meeting held 13 July 2010.

RECOMMENDED

That the Minutes of the Ordinary Council Meeting held 13 July 2010, copies of which have been circulated, be confirmed and adopted.

RESOLUTION

Moved Councillor Symkowiak, Seconded Councillor Dewbery that the Minutes of the Ordinary Council Meeting held 13 July 2010, copies of which have been circulated, be confirmed and adopted.

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

ORD151/10

ORDINARY COUNCIL

ORD01

DEMOLITION OF EXISTING BUILDING, CONSTRUCTION OF CHILDCARE CENTRE & REMOVAL OF TREES NO 64-66 (LOTS 9 & 10 DP25787) MACARTHUR ROAD, ELDERSLIE

FROM:	Acting Director Development and Health
FILE NO:	Binder: Development Applications 2009
DA NO:	1451/2009
OWNER:	Bazdaric Nominees Pty Ltd & Robyn Key
APPLICANT:	Camelot Homes Pty Ltd
ZONING:	2(a) Residential
APPLICABLE PLANNING INSTRUMENT:	LEP 46

PURPOSE OF REPORT

The purpose of this report is to enable Council to make a determination of an application for the construction of a childcare centre at No 64-66 (Lots 9 & 19 DP 25787) Macarthur Road, Elderslie. The application is referred to Council due to submissions being received which are unable to be resolved through mediation or with development consent conditions outlined in this report.

SUMMARY OF RECOMMENDATION

It is recommended that Development Application 1451/2009 be approved with the deletion of the proposed Out of School Hours Care (OOSHC) and subject to draft conditions of consent.

BACKGROUND

On 21 December, 2009 Council received an application for the construction of a two storey building for an 80 place child care centre at No 66 Macarthur Road, Elderslie. The construction of the new building would occur following the demolition of an existing dwelling on the site.

The application was notified to surrounding neighbours and an advertisement was placed in the local newspaper advising the general public of the proposed development. Notification commenced on 6 January, 2010 and due to the Christmas holiday period, was extended from the usual two week period to four weeks finishing 3 February, 2010.

Following completion of the initial notification period, 48 submissions were received. The applicant was satisfied he could address the concerns expressed by objectors and

decided as a result to proceed with the proposal.

On 15 February, 2010 the applicant submitted additional supporting documentation and as a result of that documentation Council staff determined to renotify surrounding neighbours and interested persons advising them of the availability of the additional documents for their perusal and possible comment.

On completion of the second notification period Council staff were in receipt of a total of 70 submissions. The issues raised in the submissions were unable to be resolved with mediation nor could they be resolved as conditions of consent.

During March and April Council staff corresponded with the applicant regarding issues which had been identified during the assessment of the application.

In May 2010 final documentation was received from the applicant enabling Council staff to complete the assessment of the proposed development. Due to the unresolved submissions, the application was then prepared for determination by Council.

THE SITE

The subject site is identified as No 64-66 (Lots 9 & 10 DP 25787) Macarthur Road, Elderslie and is located on the eastern side of the road between River Road and Merino Drive.

The site is approximately 2175m² in area and currently contains a residential dwelling which is centred across the boundary of the two lots. Mawarra Public School is located adjacent to the southern and eastern boundaries of the land with residential development to the north and across the road. **A location plan is provided at the end of this report.**

THE PROPOSAL

The application proposes the demolition of the existing dwelling and its associated structures for the construction of a two storey child care centre designed to accommodate a maximum of 80 children, generally aged 0-6 years old, plus out of school hours care. The hours of operation proposed are 7.00am to 6:00pm, Monday to Friday with no operation Saturdays, Sundays or public holidays.

The development would provide an on-site parking area for 20 vehicles. This would require the removal of 12 trees of varying size and age within the site. **A site plan and plans of the proposal are provided at the end of this report.**

NOTIFICATION

In accordance with the requirements of Council's Development Control Plan (DCP) 2006, the application was notified to surrounding residents and was also advertised in the local newspaper.

After this notification period had completed, the applicant provided additional supporting documentation which included reports relating to traffic, noise and contamination. The development application was then renotified to surrounding

residents and to the people who had previously made submissions.

PLANNING CONTROLS

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

- Camden Local Environmental Plan 46
- Camden Development Control Plan 2006
- Camden Draft LEP 2009.

ASSESSMENT

The application has been assessed in accordance with Section 79C of the *Environmental Planning and Assessment Act 1979* (the Act). The following comments are made with respect to the critical aspects of the applications.

(a) the provision of any environmental planning instrument

Camden Local Environmental Plan No 46

Council's prevailing Local Environmental Plan (LEP) 46 renders the OOSHC a use which is inconsistent with the definition of a childcare centre which is *'fixed premises at which a childcare service is provided by a person for the purpose of educating, minding or caring (but without providing residential care) for 4 or more children (disregarding any children who are related to the person providing the service) who are under 6 years of age and who do not ordinarily attend school'*, and therefore the OOSHC does not form part of the development that is recommended for approval.

When Camden LEP 2010 is gazetted, OOSHC will be permissible use, with development consent. Therefore if the applicant wishes to pursue this use at that time, they may lodge a Section 96 Modification Development Application with Council, seeking development approval.

The subject site is zoned 2(a) Residential under LEP 46. The use as a childcare centre only is permissible in the zone with development consent.

For new release precincts, Council has resolved to identify suitable locations for childcare centres as part of the early strategic land use planning of residential areas and that those sites be nominated in the relevant DCP.

Camden Development Control Plan 2006

The application has been assessed against Council's adopted policy for Child Care Centres. The aims and objectives of the Camden Development Control Plan 2006 (DCP 2006) are to provide childcare centres that are compatible with local residential environments.

The DCP aims to minimise adverse impacts on the environment and the amenity of residential areas with particular regard to noise and traffic generation. An assessment of the applicable controls follows:

Location of Child Care Centres

DCP 2006 states that Council will only consider sites which satisfy the location criteria. It is considered the proposal meets the criteria.

The site is located adjacent to a school on the eastern and southern boundaries but has a residential property located adjacent to the northern boundary. The applicant has addressed this issue of proximity and proposes to implement traffic and noise mitigation measures.

Following assessment by Council officers, those measures were considered adequate and are discussed in greater detail elsewhere in this report under the headings of 'Noise' and 'Traffic'.

Site Area and Outdoor Play Area

A minimum site area of 1,800m² is required for centres which allow placement for 50 or more children. The site area is 2175m² which meets the criteria for the placement of 80 children.

Car Parking

Car parking for childcare centres is required at a rate of 1 space per four children. The development proposes placement for 80 children and is therefore required to provide 20 spaces. The proposal provides 20 spaces and therefore meets the requirement.

Hours of Operation

Hours of operation are limited in DCP 2006 to between 7am and 6pm, Monday to Friday. The proposal would comply with these requirements.

Landscaping

A detailed plan submitted by the applicant indicates that the intended landscaping would enhance the proposed development and minimise impact on neighbours and the streetscape. The landscaping would be designed to provide screening for neighbours and to enable the development to blend with the existing environment.

Disabled Access

A condition of any consent would require the development to comply with the requirements of section D3.3 of the Building Code of Australia (BCA) 'Access for People with Disabilities' and Australian Standard 1428 'Design for Access and Mobility' (A.S. 1428).

As the application proposes a two storey building, the applicant has engaged the services of a qualified consultant to provide an Access Statement of Compliance. To meet the provisions of the Building Code of Australia (BCA), all required facilities for children with a disability would be provided to the front door, the ground floor and playground area.

Should a person with a disability require access to the upper floor (such as staff and visitors), a platform lift on the stair will be provided. The current building standards permit the use of such lifts and they are a practical solution in buildings where the rise is only one level.

The consultant has taken into consideration the proposed facilities for persons with disabilities, including the lift, and has determined that the proposal would comply with the performance requirements of the BCA as it permits safe and equitable access.

Traffic

The development application is accompanied by a comprehensive traffic report providing findings as a result of a local traffic assessment. This report has been considered by Council staff. Concerns have been raised by local residents that the childcare centre would generate additional traffic in Macarthur Road, and in particular would increase the number of traffic movements near the school and at the intersection with River Road, thereby raising risk levels for motorists and pedestrians.

As part of the applicant's traffic report, a traffic count and flow study was undertaken by the traffic consultant. This study suggests that there would be around 64 vehicle movements per hour (in and out) between 7.00 am and 9.00 am and around 56 vehicle movements per hour (in and out) between 4.00 pm and 6.00 pm. Outside of these hours traffic flows are substantially less and pedestrian movements minimal.

The impact of the traffic generated by the childcare centre in relation to the school traffic was also taken into consideration. It is suggested in the traffic study that, while school traffic has very sharp peak hours, childcare centres do not have similar concentrated peaks. This would reduce the impact on school traffic flow. Traffic generation around the period of 3.00 pm from the childcare centre is expected to be low.

Separate entry and exit driveways are proposed to an off-street car park with 20 marked spaces. The entry to the car park would be located further away from the pedestrian crossing with the provision of speed humps at both entry and exit points.

A stop sign could also be provided at the exit. It is suggested that this would address resident's concerns regarding potential conflicts with vehicles and parents/children walking on the adjacent footpath.

The proposed development is not anticipated to have a significant impact on street parking. The parking area would provide parking spaces for 20 vehicles and would have signage to indicate that there is parking on-site. As most parents prefer to drop off their children as close to the facility as possible, it is likely that most would use the car park. The staggered times for drop offs and collection would also contribute to ensuring that spaces are continuously available for parents to park on-site.

Further, the traffic study highlighted that even with the childcare centre traffic, the 40km/hr speed limit applying in Macarthur Road in before/after school times and the speed control provided by the wombat crossing, would also assist traffic safety.

Independent of the applicant's report, Council staff investigated the potential impact on traffic and it was concluded that the suitability of the site for the intended use could be achieved subject to specific conditions of consent. Such conditions would include the installation of speed humps on the entry and exit to the carpark of the childcare centre, a stop sign at the exit point and signage indicating on site parking.

Noise

An acoustic report was submitted by the applicant providing an assessment of the potential noise impact, associated with the operation of the proposed childcare centre, on the adjacent residential and school properties. The school property has existing noise generation which is of a similar nature to a childcare centre. The report found that the childcare centre should not detract from the present residential and school amenity subject to the implementation of the following noise mitigation measures:

- The proposed boundary fence along the northern side of the outdoor play area is to be increased to 2.1m in height. The remaining length of the northern boundary fence must be at least 1.8m in height. This must extend 15m to the west, then taper down to 1m for the last 3m where the fence extends to the front of the property;
- The eastern and southern boundary fences should have a minimum height of 1.8m;
- The boundary fences could be constructed from a durable material with sufficient mass to prevent direct noise transmission. A double skin 'colorbond' fence with an air gap of 50mm may be considered acceptable as a noise screen. Gaps should be fully sealed to create a solid barrier;
- Restrict the number of children participating in external play at any one time to no more than 30;
- Close windows and doors of playrooms while the children are inside;
- No amplified sound systems are to operate in the outdoor areas;
- Centre staff are to monitor and manage children when outside to limit noise generation from children's play activities;
- Centre staff are to supervise parents and children during drop off and pick up times to limit noise in the car park.

The two school buildings located on the eastern boundary are used for administration and as a library. As the buildings either have no openings or fixed windows on the closest facade, it is determined that the noise criteria would be met.

Council staff have assessed the methodology, results and recommendations by the acoustic consultant and are generally satisfied that noise can be addressed, subject to the inclusion of the above recommendations as conditions of any consent.

Contamination

A detailed investigation report was provided by the applicant which determined that the

site was suitable for the proposed development of a childcare centre. However due to past building practices and the possibility of hazardous building materials following demolition of existing buildings, a Remedial Action Plan (RAP) was also provided.

The RAP outlines any remedial works to ensure that the site would be suitable for the intended use. Council staff have assessed the RAP and consider its recommendations acceptable. The recommendations made in the contamination assessment are included as conditions of the draft consent.

Design Requirements

The proposed development would comply with the relevant design requirements in terms of design and site area for the children and staff facilities. Fences and gates would be provided with childproof mechanisms to prevent passage by children. Shade facilities in accordance with the Children's Services Regulation and DCP 2006 would also be provided.

Advertising

The developer has not included details of any proposed advertising signage. This would be subject to a separate development application. Any such application would need to comply with the requirements of DCP 2006 and would be limited to two signs, to a maximum total combined area of 4m². Internally illuminated signage would not be permitted.

Outside of School Hours Care

DCP 2006 defines Outside School Hours Care as a service to provide care for primary school children before and after school, on pupil free days and during school holidays, for a maximum of 10 children.

The applicant seeks consent to provide outside school hours care to meet a demand for such a facility in the locality. The hours proposed are 7.00am to 9.00am and 3:00pm to 6:00pm. The number of children requiring outside school hours care would not exceed 10 and would be included in the 80 child placement calculation.

As detailed above, LEP 46 renders the OOSHC a use which is inconsistent with the definition of a childcare centre which is *'fixed premises at which a childcare service is provided by a person for the purpose of educating, minding or caring (but without providing residential care) for 4 or more children (disregarding any children who are related to the person providing the service) who are under 6 years of age and who do not ordinarily attend school'*. Therefore the OOSHC does not form part of the development that is recommended for approval.

As described earlier in the report, when Camden LEP 2010 is gazetted, the use of the building and land as an OOSHC could be considered as part of an application to modify any consent for the childcare centre.

Safer by Design

Having regard for the nature of the development, the application was referred to the

NSW Police Service for comment. The Safer by Design Evaluation provided by the Crime Prevention Officer raised several items relating to the development such as lighting, signage, traffic control, surveillance and access design.

The traffic issues and access design are discussed further in this Council report. The remaining items are able to be addressed as conditions of consent.

In particular, the use of the car park is able to be addressed as follows:

- gates should be provided to the car park outside hours of operation to prevent traffic offences such as burn-outs;
- front fences should be constructed in an open nature so as not to restrict casual surveillance;
- signage to be installed advising that the car park is restricted for the use of the centre patrons and staff only, and
- provision of adequate external lighting.

The above matters would be included as conditions of the draft consent.

(b) the likely impacts on both the natural and built environment

The proposed site design and management controls for the childcare centre are anticipated to alleviate potential impacts from traffic and noise.

The scale and form of the building has been designed to blend with the surrounding school and residential development, thereby maintaining the traditional character of the area.

Stormwater and drainage systems have been designed by hydraulic engineers to avoid impacting on the existing stormwater disposal system or adjoining properties.

(c) suitability of the site for development

The site is fully serviced with water, sewer, electricity and telephone being available. The property presents itself well for the use of a childcare centre in terms of adequate land area and access to the road system and public transport. The main concerns of the site relating to noise and traffic have been considered and addressed elsewhere in this report. The site has sufficient frontage to accommodate easy access and egress for traffic while providing the required number of parking spaces.

The Camden 2025 Strategic Plan provides objectives to manage urban development in a planned and orderly way while including the provision of appropriate infrastructure. The plan seeks to maintain the historic, social and cultural values of Camden, but also acknowledges the need to support new services and facilities for the community.

It is considered that with proper management and appropriate controls, the proposed childcare centre would make a positive contribution to meeting the needs of both current and future members of the community. As such, the application is considered consistent with objectives in Camden 2025.

(d) any submissions made in accordance with the Act or Regulation

Upon completion of the two notification periods Council staff were in receipt of 70 submissions. **A copy of the submissions received are provided with the Business Paper supporting documents.**

The submissions raised issues which are summarised as follows:

- adverse impact on traffic,
- adverse impact from noise,
- loss of property value,
- increased on-street parking,
- additional stormwater runoff from parking areas,
- inappropriate development in a residential area,
- use is prohibited in this zone,
- unwarranted tree removal,
- heritage values,
- height of building.

Each item of concern was investigated and assessed in the following manner:

Adverse impact of traffic

'The childcare centre will increase the current level of traffic on Macarthur Road.'

Officer Comment:

The traffic impact assessment submitted by the applicant has concluded that the traffic and parking implications can be satisfactorily managed. It is considered the concerns of local residents with respect to traffic management issues have been recognised and addressed and it has been assessed that the recommended conditions for traffic control previously discussed in this report would maintain effective operation of the surrounding road network.

Noise

'There would be an increase of noise in the area due to noise generated by children.'

Officer Comment:

Noise arising from the children on the site was assessed by the applicant's acoustic consultant and Council staff. It is considered that the proposed noise mitigation measures, together with management procedures, would adequately address potential noise impact from children on the site.

Loss of property value

'The childcare centre would result in a decrease in the value of local properties'.

Officer Comment:

The DCP 2006 controls are designed to enable new development to integrate with the existing local environment. Assessment of the proposal has established that the childcare centre meets the requirements of the DCP. Acoustic and traffic measures would be implemented to reduce any potential impact on the locality.

Section 79(C) of the Act does not provide for Council to consider the effect of development proposals on land values given that compliance with relevant legislation and planning controls would ensure that any proposed development is compatible with that of the local built and natural environment.

On-street parking

'The development would increase on-street parking, removing parking spaces for local residents.'

Officer Comment:

Council's DCP requires that parking spaces be provided at the rate of 1 space per 4 children. This includes staff parking. The proposal for a 80 place childcare centre intends to provide the 20 spaces required for the site.

This number is in accordance with DCP 2006 and would be clearly marked and signed to indicate parking on-site. In general, drop off and pick ups are usually staggered and are considered in the calculation for the parking requirements. The availability of an adequate number of parking spaces in conjunction with signage would ensure sufficient available for parents to park within the centre's grounds.

Stormwater runoff from parking areas

'Additional stormwater runoff will impact on neighbours and the existing stormwater drainage system.'

Officer Comment:

Stormwater and drainage systems have been designed by hydraulic engineers for the control of stormwater to avoid impacting on the existing stormwater disposal system or adjoining properties. This includes the provision of on-site detention storage. Those systems have been assessed and are recommended by Council staff.

Inappropriate development in a residential area

'The development is inappropriate for a residential area and will result in loss of amenity.'

Officer Comment:

The childcare centre component is permissible in the zone and complies with the requirements of DCP 2006, and as a conforming land use in this zone, has been considered under the relevant planning provisions for the area. The OOSHC component is not permitted in conjunction with the childcare centre under the current LEP.

Council's Urban Designer requested the applicant amend the facade of the building to greater reflect the existing character of the locality and reduce any potential impact on the neighbour's amenity, while providing appropriate internal floorspace for the operation of a child care.

Discussions were held with the applicant and the design process was described to

Council officers. The process started with a two storey building with roof form on top. This created a very bulky form. The design was then developed through a process to reduce the physical height as much as possible, whilst conforming to BCA and other technical requirements. Council officers were satisfied with this process.

The following changes were made to colour palette as a result of these discussions;

1. Portico feature to be rendered and painted to enhance visual articulation.
2. Face brick for the remainder of building, to reduce bulk and to present a more "residential" building
3. Gable to be painted in a light colour to break up the expanse of the roof

As a result, the building is now considered to be more compatible with existing one and two storey residential development in the locality.

It is considered that the overall design of the proposed childcare centre and the proposed building form and facade articulation, combine to present a development compatible with the surrounding residential area.

Use is prohibited in this zone

'The proposed development is not permitted in the residential zone'.

Officer Comment:

The land is zoned 2(a) Residential under Camden LEP 46. The LEP defines a childcare centre as 'fixed premises at which a childcare service is provided by a person for the purpose of educating, minding or caring (but without providing residential care) for 4 or more children (disregarding any children who are related to the person providing the service) who are under 6 years of age and who do not ordinarily attend school'.

The use is not listed as prohibited and is therefore permissible with consent.

Tree removal

'The removal of the trees is unacceptable.'

Officer Comment:

The proposed development would require the removal within the site of approximately 12 trees of varying size and age for the provision of the carpark area. It is considered that the removal of the trees is essential given the proposed use of the land and the potential risk to small children.

The development does not propose to remove any of the well established Jacaranda street trees, thereby maintaining the visual avenue of trees along Macarthur Road. The individual trees required to be removed on site are not listed as significant trees on Council's tree register.

Further, the proposed landscaping and replanting of the site has been designed to blend with the established environment of the locality and to reduce the visual impact on neighbours and the streetscape.

Heritage

'The existing dwelling has heritage value.'

Officer Comment:

According to the provisions of LEP 46 the land is not identified as containing a heritage item, nor is the land located within a heritage conservation area.

Whilst suggestions have been made the existing dwelling may have heritage significance, officers are of the view that the dwelling would not satisfy the assessment criteria that determines heritage significance which has been established by the NSW Heritage Branch.

The impact of the development on the character of the locality has been considered and it has been determined that setback, facade treatment, colour palette, together with the proposed landscape design, would mitigate impact on the traditional theme of the streetscape.

Building height

'The building would be too high for a residential area.'

Officer Comment:

The DCP provisions for dwellings advise that the height should not exceed two floors and should not measure more than 9.5m when measured from ground level to roof ridge height. The building would not exceed two storeys and the lowest ground level to ridge height for the building is proposed to be approximately 7.7m.

Even though the building would not be used as a dwelling, the use of these DCP provisions is considered appropriate for the proposal given its residential location.

CONCLUSION

Council has received a development application for a new 80 place childcare centre at No 64-66 Macarthur Road, Elderslie. The application has been considered with regard to the relevant legislation and has been found to be acceptable apart from the inclusion of the OOSHC in regard to the controls.

The proposal is permissible in the zone and is consistent with the relevant DCP. The new centre would be purpose-built, ensuring compatibility with the local surrounding area.

Noise and traffic control measures have been considered by Council staff and are deemed appropriate for the proposed development and the surrounding environment. The proposal is considered acceptable and in the public interest.

The application has been assessed by Council officers on its merits and is now able to be recommended to Council for approval, subject to draft conditions of development consent.

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:

- Plans numbered 1231, dated 12/11/2009 Issue C.
- Statement of Environmental Effects,
- Noise Assessment Report prepared by RSA Acoustics, numbered 4603, dated January 2010,
- Traffic & Parking Impact Assessment prepared by Christopher Hallam & Associates Pty Ltd, numbered 2942, dated February 2010 & 7 June 2010,
- BCA Access Statement prepared by Accessible Building Solutions, dated 1 February 2010,
- Remediation Action Plan, numbered JE09437A-r2, dated April 2010.

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) **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)*.

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

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

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

(5) **Demolition (Tree Preservation)** - Existing trees, other than those approved for removal, both on the site and adjoining footpath reserve, must be protected with fencing to prevent damage during demolition and construction, and retained in accordance with Council's Tree Preservation Order.

(6) **Coving** - Intersections of the floor with walls and plinths shall be coved so that the area can be easily cleaned.

- (7) **Ceilings** - Ceilings are to be constructed of a rigid smooth faced, non-absorbent material and could include fibrous plaster, plasterboard, fibrous cement, cement render or other approved material painted with a washable gloss paint of light colour.
- (8) **Storage Cupboards** - Adequate provision must be made for the storage of cleaning chemicals and staff personal belongings.
- (9) **Dishwashing Facilities** - The premises must be provided with:
- (a) commercial dishwashing machine capable of achieving a hot water temperature of at least 77° Celsius that is fitted with a temperature thermometer or gauge; and
 - (b) at least one single bowl cleaning sink or tub containing at least one compartment.
- (10) **Fixtures & Fittings** - All benches, fixtures, refrigeration cabinets and cooking appliances must be butted against walls or other equipment. Junctions with vertical surfaces must be sealed to eliminate the accumulation of grease and food particles. Alternatively, clearances are to be provided from vertical surfaces in accordance with Council's Food Premises Code.
- (11) **Closed Cupboards** - Closed cupboards are to be butted against walls or other equipment. Junctions with vertical surfaces must be sealed to eliminate the accumulation of grease and food particles. Cupboards are to be supported on plinths in accordance with Council's Food Premises Code.

2.0 - Construction Certificate Requirements

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

- (1) Pursuant to **Camden Contributions Plan** amended in July 2004, a contribution must be paid to Council of \$8.89 per square metre, total \$6,674.00, for **Community Facilities**.

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

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

- (2) Pursuant to **Camden Contributions Plan** amended in July 2004, a contribution must be paid to Council of \$4,086.00 per hectare, total \$819.00, for **s.94 Administration and Management**.

The contribution must be indexed by the methods set out in Paragraph 2.4 of the

plan and **paid prior to issue of the Construction Certificate.**

- (3) **Parking Spaces** - A minimum of 20 car parking spaces must be provided on site. These spaces, and associated access driveways and manoeuvring areas must conform with Camden Council's Car Parking Code (Camden Development Control Plan (DCP) 2006), and must be designed in accordance with a pavement design prepared by a Geotechnical Engineer and the Consent Authority's (ie Camden Council) standard. Documentary evidence of compliance from an Accredited Certifier/suitably qualified person must be submitted to the Certifying Authority **prior to the Construction Certificate being issued.**
- (4) **Prior to the issue of a Construction Certificate**, a written clearance is to be obtained from Integral Energy stating that electrical services have been made available to the development or that arrangements have been entered into for the provision of services to the development. In the event that a padmounted substation is necessary to service the development, Camden Council shall be consulted over the proposed location of the substation before the Construction Certificate for the development is issued as the location of the substation may impact on other services and building, driveway or landscape design already approved by Council.
- (5) **Department of Community Services** - Compliance with any requirements of the Department of Community Services in relation to this development is required. In this regard, a letter from the Department of Community Services which details the approved number and age of children to be accommodated at the facility and any conditions of operation must be submitted to the Consent Authority (ie Camden Council) **prior to the Construction Certificate being issued.**
- (6) **Fire Safety Measures** – Prior to the issue of the Construction Certificate, the following information is to be submitted to the certifying authority:
 - (a) A list of any fire safety measures that are **proposed** to be implemented in the building or on the land on which the building is situated, and
 - (b) If the application relates to a proposal to carry out any alteration or rebuilding of, or addition to, an existing building, a separate list of those measures **currently** implemented in the building or on the land on which the building is situated.
- (7) **Access For People With Disabilities** - Access for people with disabilities shall be provided in accordance with the requirements of Part D3 of the Building Code of Australia. Prior to the issue of a construction certificate, the plans shall be amended to reflect the above.
- (8) **Kitchen Fit-out Plans** – The proposed kitchen is required to be constructed to a commercial standard and a set of drawn to scale kitchen fit-out plans must be provided to reflect this higher standard. The plans must also demonstrate full compliance with Council's Food Premises Code, The Food Act 2003 and the Food Regulations 2004, and be provided to, and approved by, the Consent Authority. The fitout plans must be received **prior to the issue of the Construction Certificate.**

- (9) **Sydney Water** - The Sydney Water Trade Waste section must be contacted regarding their requirements for the installation of a greasetrap and a trade waste agreement.

A written response must be submitted to the Consent Authority (ie Camden Council) **prior to the Construction Certificate being issued.**

- (10) **Lift Details** – Details of the stair lift demonstrating compliance with A.S. 1735 shall be submitted **prior to the issue of the Construction Certificate.**

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

Please note that:

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

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

- (12) **Environmental Management Plan** - An Environmental Site Management Plan must be submitted to the Principal Certifying Authority for approval and inclusion in any application for a Construction Certificate. The plan must be prepared by a suitably qualified person in accordance with AS/NZ ISO 14000 - 2005 and must address, but not be limited to, the following issues:

- (a) All matters associated with Council's Erosion and Sediment Control Policy.
- (b) All matters associated with Occupational Health and Safety.
- (c) All matters associated with Traffic Management/Control during construction, which should address issues of access of construction traffic, storage of material, location of site office, and parking for workers, use of equipment and other matters which has an impact on the road network or immediate environment.
- (d) All other environmental matters associated with the site works such as noise control, dust suppression, waste management and the like.
- (e) Any construction work which involves access to a public road shall be subject to an approval of a Public Road Activity Application to Council accompanied by a Traffic Control Plan prepared by a RTA accredited Certifier.

- (13) **Performance Bond** - **Prior to the issue of the Construction Certificate** a performance bond of \$5000.00 must be lodged with Camden Council. Should any

of Council's property sustain damage or the development place the environment or public at risk, Council will perform any works necessary on behalf of the applicant to rectify these works. This bond will be refunded once all works have been completed to the satisfaction of Council. The applicant must be responsible for any damage caused to existing public utilities, footpaths or public roads during construction works.

In accordance with Council's Fees and Charges a non refundable administration fee of \$110 for cash/cheque bonds and \$220 for bank guarantees must be paid to Council upon lodgement of such bond.

It should be noted that Council will not refund/release the bond unless a suitable replacement bond is submitted.

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

(15) **Civil Engineering Details** - The developer must submit details of all engineering works on engineering plans to the Certifying Authority for approval **prior to a Construction Certificate being issued**.

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

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

(17) **Drainage Design** - A stormwater management plan is to be prepared **prior to the issue of a Construction Certificate** to ensure that the final stormwater flow rate off the site is no greater than the maximum flow rate currently leaving the development site for all storm events. This plan must be submitted and approved by the Principal Certifying Authority. Such designs must cater for future developments of land adjoining the site and overland flow from adjoining properties.

Any connection to the Council's stormwater drainage system and all work on public roads shall be subject to approval of a Public Road Activity Application and inspection by Council.

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

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

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

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

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

Such pre-treatment device shall control the discharge of hydrocarbon and heavy metals to the Council's drainage system and the system shall be maintained in good order at all times.

A maintenance strategy shall be provided with the Construction Certificate Plans.

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

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

- (21) **Stormwater Detention** - The capacity of the existing stormwater drainage system must be checked to ensure its capability of accepting the additional run-off from this development. If necessary an on site detention system must be provided to restrict

stormwater discharges from the site to pre-development flows. The system is to provide for all storms up to and including the 1% AEP event. Engineering details and supporting calculations must be prepared by a qualified Hydrology Engineer and submitted to the PCA for approval with the Construction Certificate.

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

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

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

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

- (i) view the state of repair of the basin;
- (ii) execute any work required to remedy a breach of the terms of this covenant if the proprietor has not within fourteen (14) days of the date of receipt by the proprietor of written notice from the Council, requiring remedy of a breach of the terms of this covenant, taken steps to remedy the breach and without prejudice to the Council's other remedies the Council may recover as a liquidated debt the cost of such remedial work from the proprietor forthwith upon demand.

Restriction as to user indicating that the on-site detention basin must not be altered, or removed in part, or structures erected thereon without the prior consent of Council.

- (22) **Traffic Management Procedure** - Traffic management procedures and systems must be introduced during construction of the development to ensure safety and minimise the effect on adjoining pedestrian and traffic systems. Such procedures and systems must be in accordance with AS1742.3 1985 and to the requirements and approval of Council (and the Roads and Traffic Authority).

The construction access shall be located at the proposed entry to the site.

Plans and proposals must be approved by Council (and the Roads and Traffic Authority) **prior to the Construction Certificate being issued**.

- (23) **On-Site Traffic Management** - A plan indicating the traffic (entry and exit), parking signage, line making and directional signs shall be submitted and implemented prior to the occupation to the development.
- (24) **Location of Speed Hump** - A speed hump shall be provided at the exit from the development so as to improve the safety of pedestrians using the existing footpath. The location of the speed hump shall be determined in consultation with the Council.

3.0 - Prior To Works Commencing

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

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

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

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

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

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

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

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

authority, the appointed Principal Certifying Authority (PCA), and the nominated 'principal contractor' for the building works.

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

- (7) **WorkCover Approval** - It is the responsibility of the owner to contact WorkCover Authority with respect to any demolition work or use of any crane, hoist, plant or scaffolding prior to any work commencing on the site.
- (8) **Disconnection of Services** - All services (ie sewer, phone, gas, water and electricity) must be disconnected prior to commencement of demolition works. The applicant is obliged to consult with the various service authorities regarding their requirements for the disconnection of services.
- (9) **Destination of Waste Material** – Demolition materials must be disposed of to an approved land-fill site and where appropriate to an approved recycling outlet. Details of the method of waste disposal must be lodged with the Consent Authority (ie Camden Council) prior to commencement of work.
- (10) **Information Required by Council Prior to Demolition** - The demolisher shall lodge with Council at least forty-eight (48) hours prior to the commencement of work:

- (i) written notice indicating the date when demolition of the building is to commence;
 - (ii) details of name, licence, address and business hours contact number;
 - (iii) a copy of the demolisher's current public liability/risk insurance policy indicating cover of at least \$20,000,000.
- (11) **Demolition (WorkCover Licence)** - Persons undertaking demolition work shall be licensed under the Occupational Health and Safety (Demolition Licensing) Regulation 1995. WorkCover issue demolition licences to applicants who successfully undertake the Demolition Supervision Course, and who can demonstrate their ability and experience in the field.
- (12) **Protection of Council Property** - All reasonable care must be taken to protect Council's roads, including the made footway, kerbs, trees, etc. when plant and vehicles enter the site. The footway shall be protected against damage by deep sectioned timber members laid crosswise, held together by hoop iron straps and chamfered at their ends.
- (13) **Giving Notice to Other Statutory Authorities** - The notice does not preclude the requirement of the demolisher from giving notice to other Statutory Authorities as the Sydney Water, WorkCover, etc.
- (14) **Site Security for Demolition Works** - The site shall be secured prior to the commencement of demolition and to the satisfaction of the Council or the Accredited Certifier and in accordance with Clause 78H of the Environment Planning and Assessment (Amendment) Regulation 1998.
- (15) **Notice to Adjoining Owners of Demolition** - The following matters must be satisfied prior to and during demolition:
- (a) the applicant shall give written notice to adjoining land owners and residents seven (7) days prior to the commencement of demolition, advising of commencement date;
 - (b) safe access to and from adjoining buildings shall be maintained at all times;
 - (c) no demolition activity shall cause damage to or adversely affect the structural integrity of any adjoining building;
 - (d) consideration shall be given to the need for shoring and underpinning, and to changes in soil conditions as a result of the demolition, and appropriate measures implemented;
 - (e) the effects of vibration and concussion on adjoining buildings and their occupants must be minimised;
 - (f) where the surface of an adjoining building is exposed by demolition, the need for weatherproofing the exposed surface shall be investigated and temporary or

permanent protection provided as appropriate;

- (g) the demolition of below ground walls which support the adjoining ground shall not be undertaken until it is established that demolition will not cause the collapse of the adjoining ground, or effective lateral support is provided to prevent collapse.
- (16) **Demolition Sign Name of Builder** - A sign shall be displayed on the site indicating the name of the builder or another person responsible for the site and a telephone number of which the builder or other person can be contacted outside normal working hours or when the site is unattended.
- (17) **Access From Public Places** - Construction access from public places (reserves, parks, walkways and the like) other than roads shall not occur without the prior consent of Camden Council. Bonds or legal agreements may be required to protect Council's assets if access from these places is approved.
- (18) **Stabilised Access Point** - A Stabilised Access Point (SAP) incorporating a truck shaker must be installed and maintained at the construction ingress/egress location prior to the commencement of any work. The provision of the SAP is to prevent dust, dirt and mud from being transported by vehicles from the site. Ingress and egress of the site must be limited to this single access point.

4.0 - During Construction

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

- (1) **Survey Report (Peg Out)** - The building must be set out by a registered land surveyor. A survey report detailing the siting of the building in relation to the allotment boundaries shall be submitted to the Principal Certifying Authority (PCA) prior to the placement of any concrete.
- (2) **Building Platform** - This approval restricts excavation or fill for the purposes of creating a building platform. This area should not exceed 2 metres from the external walls of the building. Furthermore, any excavation or fill must not exceed 500mm in height and must in all other respects comply with *Camden Council Development Control Plan 2006 (DCP 2006)*, unless otherwise specifically approved by Camden Council.
- (3) **Retaining Walls** - If the soil conditions require it:
- retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil must be provided, and
 - adequate provision must be made for drainage.

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

- (a) where the height of an approved retaining wall exceeds 600mm above or below

natural ground level, structural engineering details must be obtained prior to any works commencing on the site. Manufacturers installation details may satisfy this requirement for treated timber products and some dry stacked masonry products;

- (b) adequate provisions must be made for surface and subsurface drainage of retaining walls and all water collected must be diverted to, and connected to a stormwater disposal system within the property boundaries;
 - (c) retaining walls shall not be erected within drainage easements;
 - (d) retaining walls shall not be erected in any other easement present on the land without the approval of the relevant authority benefited by the easement or entitled to release or vary the restrictions applying to the easement (electrical easement and the like), or if the erection of the retaining wall makes the purpose of the easement inconvenient or redundant (such as, easements for support and maintenance).
- (4) **Hours Of Work** – The hours for all construction and demolition work are restricted to between:
- (a) 7am and 6pm Monday to Friday (inclusive);
 - (b) 7am to 4pm Saturday (if construction noise is inaudible to adjoining residential properties), otherwise 8am to 4pm;
 - (c) work on Sunday and Public Holidays is prohibited.
- (5) **Damaged Assets** – All engineering works and public utility relocation shall incur no cost to Camden Council. Any damage to Camden Council's assets shall be rectified prior to the commencement of use or occupation of a building.
- (6) **Site Management** – To safeguard the local amenity, reduce noise nuisance and to prevent environmental pollution during the construction period, the following practices are to be implemented:
- The delivery of material shall only be carried out between the hours of 7am - 6pm Monday to Friday, and between 8am - 4pm on Saturdays.
 - Stockpiles of topsoil, sand, aggregate, spoil or other material shall be kept clear of any drainage path, easement, natural watercourse, kerb footpath or road surface and shall have measures in place to prevent the movement of such material off the site.
 - Builder's operations such as brick cutting, washing tools, concreting and bricklaying shall be confined to the building allotment. All pollutants from these activities shall be contained on site and disposed of in an appropriate manner.
 - Waste must not be burnt or buried on site, nor should wind blown rubbish be allowed to leave the site. All waste must be disposed of at an approved Waste Disposal Depot.
 - A waste control container shall be located on the development site.
- (7) **Connect Downpipes** – All roofwater must be connected to the approved roofwater disposal system immediately after the roofing material has been fixed to the framing members. The Principal Certifying Authority (PCA) must not permit construction works beyond the frame inspection stage until this work has been carried out.
- (8) **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.

- (9) **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) **Floor Joists & Bearers** - When sub-floor wall and/or floor framing are completed and damp-proofing, ant-capping and drains are in position **before** they are covered with flooring.
- (c) **Pier Holes** – Excavated pier holes prior to pouring of concrete.
- (d) **Strip Footings** – When foundation excavations have been undertaken and steel reinforcement provided, prior to footings being poured with concrete.
- (e) **Slab On Ground** – When steel reinforcement and associated formwork has been provided, prior to the slab being poured with concrete.
- (f) **Drainage Line-work** - When roofwater or stormwater drainage lines have been laid prior to backfilling of lines.
- (g) **Wall & Roof Framing** - When the wall and roof frame have been completed (with plumbing and electrical wiring installed), brick work complete and the roof covering fixed, prior to internal lining.
- (h) **Wet Area Flashing** - When wall and floor junctions have been flashed with an approved product, prior to installation of floor/wall coverings. Wet areas include bathrooms, laundries, sanitary compartments, en suites and the like.
- (i) **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.

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

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

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

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

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

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

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

(12) **Retaining Works** - All retaining works are to be a minimum of 300mm off all property boundaries.

(13) **External Materials and Finishes** - The development shall be completed in accordance with the approved schedule of external materials, colours and finishes.

(14) **Burying of Demolition Materials** - No demolition materials shall be buried on the site, other than with the consent of Council.

(15) **Prevention of Nuisance to Inhabitants** - All possible and practical steps shall be taken to prevent nuisance to the inhabitants of the surrounding neighbourhood from wind blown dust, debris, noise and the like.

(16) **Vehicles Leaving the Site** - The demolisher shall:

- (i) cause motor lorries leaving the site with demolition material and the like to have their loads covered;

- (ii) ensure the wheels of vehicles leaving the site do not track soil and other waste material onto the public roads adjoining the site.
- (17) **Removal of Hazardous and/or Intractable Wastes** - Hazardous and/or intractable wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of the relevant Statutory Authorities, and receipts submitted to Council for verification of appropriate disposal.
- (18) **Demolition Australian Standard** - Demolition of the building shall be carried out in accordance with the requirements of Australian Standard 2601 - 1991 where applicable.
- (19) **Demolition Access Authorised Persons** - Access to the site shall be restricted to Authorised Persons only and the site shall be secured against unauthorised entry when building work is not in progress or the site is otherwise unoccupied.
- (20) **Demolition Access Not to Obstruct Footpath** - Any access to the site by way of temporary gates or movement of the fencing shall be directed into the site and shall not obstruct Council's footway.
- (21) **Clear Footpath** - The footpath and roadway must be kept clear at all times and must not be obstructed by any demolition material or construction vehicle.
- (22) **Demolition (On Site Burning)** - The burning of any demolished material on the site is not permitted. Offenders will be prosecuted under the Environmental Protection Operations Act.
- (23) **Asbestos** - All material in the building which contains asbestos shall be removed in accordance with the guidelines of the WorkCover Authority (telephone 9370 5099) and requirements of the Environmental Protection Authority.
- (24) **Asbestos Removal** – With regard to the identification of asbestos as contained within the *“Hazardous Materials Survey and Register: 64 and 66 Macarthur Road Elderslie NSW 2570, Prepared for Camelot Homes, by David Land Associates, Ref DL2484, Dated April 2010”*, the removal of all asbestos contained within the building must be undertaken by a licensed professional contractor in accordance with the methods and procedures as outlined in the Guide to Control of Asbestos Hazards and Structures, the Code of Practice for the Safe Removal of Asbestos, and Guidance Note on the Membrane Filter Method for Estimating Airborne Asbestos Dust.
- (25) **Salinity Management for Construction of Buildings and Landscaping** – all buildings and landscaping proposed to be constructed on the land must be built in accordance with Camden Council's current Policy – Building in Saline Prone Environments.
- (26) **Glazing and Acoustic Seals** – All windows on the western façade of the building (facing Macarthur Road) must be 6.38mm thick laminated glass with acoustic seals.
- (27) **Acoustic Fence Heights and Location** – The proposed boundary fence along

the northern side of the outdoor play area is to be increased to 2.1m in height. The remaining length of the northern boundary fence must be at least 1.8m in height. This must extend 15m to the west, then taper down to 1m for the last 3m where the fence extends to the front of the property;

(28) **Acoustic Fence Heights and Location** – A 2.1 metre high solid acoustic fence relative to finished ground level is to be constructed along the entire Northern boundary. The height of the fence must taper down to only 1 metre high for the last 3 metres as the fence reaches the front property boundary. The fence is to be constructed from durable material with a minimum mass of 10 kg/m² to prevent noise transmission and have no gaps. A double skin 'colorbond' fence may be considered as suitable.

(29) **Remediation Works** - All works proposed as part of the Remediation Action Plan that includes: remediation, excavation, stockpiling, onsite and offsite disposal, that includes storage, cut, fill, backfilling, compaction, monitoring, validations, site management and security, health and safety of workers, must be undertaken on the site in accordance with the Remediation Action Plan Report titled "*Report Remediation Action Plan: Proposed Child Care Centre: Lots 9 and 10 DP 25787*" Nos 64-66 Macarthur Road Elderslie, Prepared for Camelot Homes Pty Ltd, Prepared by GeoEnviro Consultancy, Ref JE09437A-r2, Dated April 2009." and "*Addendum to Report Ref JE09437A-r2 Dated April 2010 Remediation Action Plan Clean Up Criteria Proposed Child Care Centre No 64-66 Macarthur Road Elderslie, Prepared by GeoEnviro Consultancy Pty Ltd, Dated 5/05/10.*"

Any variation or modification to the Remediation Action Plan in terms of compliance work must be requested from the Consent Authority (Camden Council) in writing prior to variation. With regard to remediation work, any proposed variation of works must be approved by the Consent Authority (Camden Council) in writing prior to the works being undertaken.

(30) **Remediation Works Inspections** – A qualified environmental consultant or scientist will be required to inspect the remediation works to confirm compliance with the RAP and all health and safety requirements.

(31) **Wall Finish** - Walls in food preparation, service and scullery areas must be finished with glazed ceramic tiles, stainless steel or laminated plastics adhered directly to the wall, to a height of at least 2 metres above floor level and to the underside of canopy hoods. Walls that are not tiled or otherwise finished, must be cement rendered to a smooth even surface and painted with a light coloured washable paint or sealed with other approved materials.

(32) **Floor Finish** - Floors in the food preparation areas, sculleries and food storage areas shall be constructed of approved materials that are non-slip, impervious and meet the requirements of Council's Food Premises Code.

(33) **Coving** - In the kitchen/food preparation and storage area intersections of the floor with walls and plinths shall be coved so that the area can be easily cleaned.

(34) **Light Fittings** - Light fittings must be recessed into the ceiling or flush mounted and edges sealed. They must be enclosed in unbreakable diffusers.

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

or

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

(36) **Exhaust Ventilation** - Mechanical exhaust ventilation must be provided where cooking appliances are installed. Exhaust ventilation systems shall be installed in accordance with the requirements of Australian Standard 1668-1991 Parts 1 & 2.

(37) **Gaps Sealed** - All gaps between shelves and vertical surfaces must be sealed to prevent the accumulation of grease and food particles. Alternatively 25mm clearance is required to allow the area to be cleaned.

(38) **Shelving** - Shelving shall be constructed with at least 150mm clearance from the floor. Wall shelves must have at least 25mm clearance from vertical surfaces.

(39) **Seal Up Redundant Laybacks** - In the event that the existing driveway and layback does not align with the proposed access, a new concrete layback must be constructed to Council's standards and the existing layback sealed up to match the existing concrete gutter **prior to the Occupation Certificate being issued.**

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

(41) **Workcover Authority** - All remediation work must comply with relevant requirements of NSW WorkCover Authority.

(42) **Licenses** – It is the responsibility of the applicant / land owner / site operator to ensure that all relevant licenses are obtained from all appropriate authorities in accordance with relevant legislation requirements prior to the commencement of remediation works.

(43) **Offensive Noise, Dust, Odour, Vibration** - Remediation work shall not give rise to offensive noise or give rise to dust, odour, vibration as defined in the Protection of the Environment Operations Act 1997” when measured at the property boundary.

(44) **Location of Stockpiles** - Stockpiles of soil should not be located on / near any drainage lines or easements, natural watercourses or water bodies, footpath or

roadway without first providing suitable protective measures adequate to protect these water bodies. All stockpiles of contaminated materials shall be suitably covered to prevent dust and odour nuisance.

(45) **Disposal of Stormwater** - Water seeping into any site excavations is not to be pumped into the stormwater system unless it complies with relevant EPA and ANZECC standards for water quality discharge.

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

The validation report and sampling location plan must be prepared: -

- i) by a practising engineer with National Professional Engineering Registration and with a Specific Area of Practice in Subdivisional Geotechnics, and
- ii) 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”.
- iii) and 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;
 - d) is suitable for its intended purpose and land use, and
 - e) has been lawfully obtained.

The sampling for salinity of fill volumes less than 6000m³ must provide for 3 sampling locations; fill volumes exceeding 6000m³, require one sampling location for each additional 2000m³. A minimum of 1 sample from each sampling location must be provided for assessment.

The sampling for Contamination should be undertaken in accordance with the following table:-

Classification of Fill Material	No. of samples per volume	Volume of fill (m ³)

Virgin Excavated Natural Material	1 (see note 1)	1000
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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.

(47) **Delivery Register** - In order to comply with the above, the applicant must maintain a register of deliveries which includes date, time, truck registration number, quantity of fill, origin of fill and type of fill delivered. This register must be made available to Camden Council officers on request and be submitted to the Council at the completion of the development.

(48) **Demolition and Construction Noise Levels** – Noise levels emitted during remediation works shall be restricted to comply with the construction noise control guidelines set out in Chapter 171 of the NSW EPA's Environmental Noise Control Manual. This manual recommends:

Construction period of 4 weeks and under:

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

Construction period greater than 4 weeks:

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

(49) **Removal Of Waste Materials** - Where there is a need to remove any identified materials from the site that contain fill / rubbish / asbestos, this material will need to be assessed in accordance with the NSW DECC Waste Classification Guidelines (April 2008) (refer www.environment.nsw.gov.au/waste/envguidlns/index.htm) Once assessed, the materials will be required to be disposed to a licensed waste facility suitable for the classification of the waste with copies of tipping docket supplied to Council.

(50) **Compliance Of Remediation Work** - All remediation work must also comply with the following requirements:

- Contaminated Land Management Act 1997;
- Department of Urban Affairs and Planning – Contaminated Land Planning Guidelines 1998;
- SEPP55 – Remediation of Land;
- Sydney Regional Plan No. 20 Hawkesbury Nepean River (No.2 –1997); and,
- Camden Council's Adopted Policy for the Management Of Contaminated Lands.

5.0 - Prior To Issue Of Occupation Certificate

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

Occupation Certificate.

- (1) **Survey Report (Completion)** - A survey report prepared by a registered land surveyor shall be provided upon completion of the building. The survey report shall be submitted to the Principal Certifying Authority (PCA) upon completion of the building and prior to the issue of an Occupation Certificate.
- (2) **Landscaping** – All landscaping shall be completed in accordance with the approved landscape plan as amended by Council.
- (3) **Occupation Certificate** – An Occupation Certificate must be issued by the Principal Certifying Authority (PCA) prior to occupation or use of the development. In issuing an Occupation Certificate, the PCA must be satisfied that the requirements of Section 109H of the *Environmental Planning and Assessment Act 1979* have been satisfied.

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

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

- (4) **Fire Safety Certificates** – A Fire Safety Certificate is to be submitted to the Principal Certifying Authority (PCA) prior to the issue of an Occupation Certificate in accordance with the requirements of the *Environmental Planning and Assessment Regulation 2000*. The Fire Safety Certificate is to certify that each fire safety measure specified in the current fire safety schedule for the building to which it relates:

- (a) has been assessed by a properly qualified person; and
- (b) was found, when it was assessed, to be capable of performing to at least the standard required by the current fire safety schedule for the building for which the certificate is issued.

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

- (a) must cause a copy of the certificate (together with a copy of the current fire safety schedule) to be given to the Commissioner of New South Wales Fire Brigades, and
 - (b) must cause a further copy of the certificate (together with a copy of the current fire safety schedule) to be prominently displayed in the building.
- (5) **Site Validation Report** – A validation report incorporating a notice of completion must be submitted to the Consent Authority in accordance with the requirements of clause 7.2.4 (a) - (d) and clause 9.1.1 of Council's Management of Contaminated Lands Policy and clause 17 & 18 of SEPP 55 for the completed remediation works.

The notice/s or report/s must confirm that all decontamination and remediation works have been carried out in accordance with the remediation plan and must be submitted to the Consent Authority within 30 days following the completion of the works.

- (6) **Compliance Letter.** - Where the consent authority is not the Principal Certifying Authority (PCA), an additional inspection of the commercial kitchen must be undertaken by the Consent Authority (involving an Environmental Health Officer from the Consent Authority) **prior to the issuing of an Occupation Certificate.** A letter is to be issued from the Consent Authority certifying that the kitchen complies with the Food Codes and Regulations.
- (7) **Registration and Notification** - Proprietor/s of a business are required to register the business with Camden Council and complete a Food Business Notification Form. The registration form must be returned to Council, whereas the Notification Form may be completed on-line on the Internet (free of charge) or returned to Council with an administration processing fee of \$55 (inclusive of GST).
- (8) **Carpark Gates** – Gates shall be provided to the entry and exit points of the carpark. The gates must be closed during the times when the child care centre is not operating.
- (9) 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 light duty industrial footway crossing at all points of ingress and egress.

All services within 1.0m of the crossing and all affected services due to the proposed work shall be adjusted in consultation with the appropriate Service Authority. A minimum splay of 1.0m shall be provided on either side of the proposed driveways at the gutter.

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.

- (10) All redundant gutter crossings and footpath crossing must be reinstated to the existing standards on the road.

Any connection to the Council's system and all work on Public Road shall be subject to approval of a Public Road Activity Application and inspection by Council.

- (11) **Footpath Crossing Construction** - Prior to the issue of any Occupation Certificate a footpath crossing must be constructed in accordance with Camden Council's issued footpath crossing information.

To obtain such information a Public Road Activity application must be submitted to Camden Council with the appropriate fee. Application forms are available from Council's:

- Customer Service Centre, and/or
- Internet site - www.camden.nsw.gov.au

(12) **Works as Executed Plan - Prior to the Occupation Certificate being issued**, a works-as-executed drawing signed by a registered surveyor must be submitted to the Principal Certifying Authority showing that the stormwater drainage and finished ground levels have been constructed as approved.

6.0 - Operational Conditions

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

- (1) **Light Spillage** - The lighting of the premises must be directed so as not to cause nuisance to owners or occupiers of adjoining premises.
- (2) **On-Site Parking Signs** - Sign/s measuring 600mm x 900mm must be erected which are visible to persons driving along the street to indicate on-site parking is available. The sign/s shall be maintained in good repair at all times.
- (3) **Directional Traffic Flow Signs** - The northern driveway must be used for ingress purposes only and the southern driveway for egress purposes only. Both driveways must be suitably signposted and directional arrows painted on the internal roadway **prior to the Occupation Certificate being issued**. Sign/s shall be maintained in good repair at all times.
- (4) **Graffiti/Vandalism Management Plan** - A graffiti & vandalism management plan needs to be incorporated into the maintenance plan for the development. All graffiti or vandalism shall be removed or repaired within 48 hours of the offence.
- (5) **Hours of Operation** - The hours of operation for the approved land-use are:

Monday to Friday:	7.00am to 6:00pm
Saturday:	Closed
Sunday & Public Holidays:	Closed

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

- (6) **Music and/or Amplifiers** – No music or other amplified sound, including recorded or broadcast programmes shall be played in the outdoor areas.
- (7) **Child Care Centre** - This approval is given for the use of the existing dwelling house and land for a Child Care Centre (Day Care Centre) for a maximum of 80 children and for the employment of a total of 11 employees only.
- (8) **Maximum Number of Children at External Play** – A maximum of 30 children at any one time will be allowed to occupy and participate in external play within the

external play area.

- (9) **Mechanical Plant Noise Restriction** – The noise level from the use and operation of mechanical plant must not exceed 65 dB(A) when measured at the Eastern boundary (School Boundary) and not exceed 49 dB(A) LAeq 15 minutes when measured at the nearest residential boundary.
- (10) **Vehicular Movements** - Noise emitted from carpark vehicular movements on the site shall not exceed LAeq, 15min 49 dB(A) when assessed within any residential property boundary.
- (11) **Kitchen Exhaust Fans** – Noise emitted from any kitchen exhaust fans installed on the site shall not exceed LAeq, 15min 49 dB(A) when assessed within any residential property boundary.
- (12) **Children at External Play** – Noise emitted from activities associated with the outdoor playground activities shall not exceed the LAeq, 15min 51 dB(A) when assessed within any residential property boundary.
- (13) **Cooking and Cleaning Appliances** - Cooking and cleaning appliances intended to be used for cooking or preparation of food or cleaning of food equipment must be of a commercial quality / standard.
- (14) **Kitchen Access** - Access to the kitchen whilst in use is to be restricted to staff only. Suitable doors shall be provided and fitted to all openings that lead into the kitchen with self closing devices fitted to ensure that access remains restricted.
- (15) **Hand Wash Basins** - The premises must be provided with a wash basin in, or convenient to:
- (a) each toilet;
 - (b) each kitchen area.
- The wash basin must be:-
- (a) provided with water at least 40°C from a mixed hot and cold water supply;
 - (b) supplied with liquid soap and an adequate supply of single use towels or other suitable hand drying facilities located adjacent to the hand basins;
 - (c) kept in clean and sanitary conditions and in good repair at all times;
 - (d) not used for any other purpose other than the washing of hands.
- (16) **Hot Storage** - All equipment (including pie warmers, hot food display units, etc) used for the display or storage of hot food shall maintain the food at a temperature of not less than 60°C.
- (17) **Cold Storage** - All equipment used for the display or storage of cold food shall maintain the food temperature of not more than 5°C.

7.0 - Subdivision Certificate

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

Subdivision Certificate.

- (1) **Consolidation** - Lots 9 and 10 are to be consolidated as one allotment. A copy of the registered plan of consolidation (from the Department of Lands) is to be submitted to the Certifying Authority **prior to the issue of any Occupation Certificate for the development.**
- (2) **Construction Standards** - All civil engineering work associated with the development must be carried out strictly in accordance with Camden Council's Development Control Plan 2007 and Engineering Specifications for roadworks drainage and other works associated with subdivisions and other developments.

END OF CONDITIONS

RECOMMENDED

That Development Application 1451/2009 for the construction of a 80 place childcare centre (excluding the use as Out of School Hours Care) at No 64-66 (Lots 9 & 10 DP 25787) Macarthur Road, Elderslie, be approved subject to the above draft conditions of consent.

ATTACHMENTS

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



Location Plan 64-66 Macarthur Rd Elderslie.pdf



Proposed plan 64-66 Macarthur Road.pdf



Submissions - DA1451-09.pdf

RESOLUTION

MOTION

Moved Councillor Funnell, Seconded Councillor Dewbery that Development Application 1451/2009 for the construction of a 80 place childcare centre (excluding the use as Out of School Hours Care) at No 64-66 (Lots 9 & 10 DP 25787) Macarthur Road, Elderslie, be approved subject to the above draft conditions of consent and the following additional consent conditions:

After 1.0(1), add:

" The plans are to be amended to show the northern driveway which is to be shown as the ingress driveway and is to be located at the northern limit of the car park. The southern driveway which is to be shown as the egress driveway is to be located three car parking spaces from the southern limit of the car park. Each driveway is to be 3.1m wide. The plans are also to show a pedestrian pathway, to be located between the driveways and adjacent to the southern driveway."

After 2.0(2), insert a condition:

"Prior to the issue of a Construction Certificate, the construction plans are to be amended to show "No Stopping: restriction signage to be installed between the entry and exit driveways of the proposed development. The "No Stopping" restrictions are to be signposted to be from 8.30 to 9.30am and from 2.30 to 4.00pm, Monday to Friday."

After the new condition above, add another new condition:

"Prior to the issue of a Construction Certificate and subject to the approval by Council's Local Traffic Committee (the Committee), the construction plans are to be amended to show short term parking restrictions (from 8.30 to 9.30am and from 3.00 to 4.00pm) for a distance (to be determined by the Committee) on both sides of Macarthur Road north of the proposed development to facilitate dropping off and picking up of children from Mawarra Public School."

Additional new conditions as follows:

"Prior to the issue of a Construction Certificate and subject to approval by Council's Local Traffic Committee, the construction plans are to be amended to show signage requiring only a left in and left out traffic manoeuvres to and from the Child Care Centre."

"Prior to the issue of a Construction Certificate and subject to approval by Council's Local Traffic Committee, the construction plans are to be amended to show signage requiring no U-Turn in Macarthur Road, at Britton Close."

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

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

ORD152/10

ORDINARY COUNCIL

ORD02

PROPOSED HOURS OF OPERATION FOR NARELLAN HOTEL LOCATED AT LOT A DP393370, 279 CAMDEN VALLEY WAY, NARELLAN

FROM:	Acting Director Development and Health
FILE NO:	
DA NO:	DA 1231/2009
OWNER:	Jimnie Pty Ltd & Batasty Pty Ltd
APPLICANT:	City Plan Strategy and Development
ZONING:	3(b1) Business Support
APPLICABLE PLANNING INSTRUMENT:	Local Environment Plan 46

PURPOSE OF REPORT

The purpose of this report is to seek a determination from Council of a development application which has been received to modify the operating hours of the Narellan Hotel.

The application is being reported to Council given its previous involvement in determining development applications of a similar nature for the same site and due to the fact that the original application, for the hours of operation of the hotel, was determined by the Land and Environment Court (the Court) as a result of an appeal against a development application refusal by Council.

In addition, two submissions were received during the notification period which are also appropriate to be considered by Council.

SUMMARY OF RECOMMENDATION

It is recommended that Council approve the development application subject to the draft development consent conditions following the report. These draft consent conditions include a reviewable condition, which is explained further in this report.

BACKGROUND

In December 2003 the Court granted consent for the Hotel to trial extended hours of operation (hours) for a period of 12 months.

The Court approved time trial hours were as follows;

- Monday 5am – Sunday 5am: open
- Sunday 5am – Sunday 10am – closed

- Sunday 10am – Sunday/Monday midnight 12am: open
- Sunday/Monday 12 midnight – Monday 5am – closed
- Restricted trading hours (as defined in the Liquor Act): in accordance with the requirements of the Liquor Act

The permanent hours of operation for the hotel were restricted to between 10am to 12 midnight Monday to Saturday (inclusive) and between 10am and 10pm Sunday and public holidays.

The consent issued by the Court contained a number of conditions relating to the 12 month trial period for the trial hours and other conditions in regards to the staged construction of the car park.

Since the issuing of this consent, various applications to modify the development approval have been lodged under Section 96 (s96) of the Environmental Planning and Assessment Act, 1979. A detailed summary of the s96 applications and Councils' compliance investigations findings were reported to Council at the meeting on 14 October, 2008.

The primary purpose of the s96 application reported at that meeting was to seek an 'extension of the trial period for a proper 12 month period in order to demonstrate good operational procedures'. This was the result of the time trial period being 'temporarily suspended' due to various conditions, not being complied with. Therefore the trial period was delayed. The trial was from July 2009 to October 2009.

At the meeting of 12 October, 2008 Council determined to refuse the s96 modification application and as a result, in March 2009 an appeal was lodged in the NSW Land Environment Court. This resulted in a conciliation conference being held on site which is permitted under Section 34 of the Land and Environment Court Act, 1979.

In summary, a conciliation conference may be agreed by both parties prior to undertaking a Court hearing. This conference provides opportunities for the parties to first conciliate with a view to finding an agreement between them. If the parties reach an agreement, the Commissioner is required to dispose of the proceedings in accordance with the agreement and therefore a hearing is not pursued. In this way, the outcome of a successful Section 34 Conference (conference) becomes binding on all parties.

This conference was held on 11 March, 2009 and was attended by Council staff, representatives of the Narellan Hotel and Commissioner Murrell of the Court. As a result, an agreement was reached and a consolidated set of conditions were issued by the Court. These conditions included all the conditions originally issued as part of the Court consent on 23 December, 2003 with various amendments based on the agreements reached at the conciliation meeting.

In November 2009, the proponent lodged a new Development Application with Council to modify the hours. That application is the subject of this report. The proposed hours of operation are:

- Monday - 9.00 am - midnight
- Tuesday - 12.00 am - 4.00 am, then 9.00 am - midnight

- Wednesday - 12.00 am - 4.00 am, then 9.00 am - midnight
- Thursday - 12.00 am - 4.00 am, then 9.00 am - midnight
- Friday - 12.00 am - 4.00 am, then 9.00 am - midnight
- Saturday - 12.00 am - 4.00 am, then 9.00 am - midnight
- Sunday - 12.00 am - 4.00 am, then 10.00 am - midnight

In addition to any restricted trading days in accordance with the requirements of the Liquor Act 2007 or any shorter period imposed by the liquor and gambling license authority, Office of Liquor, Gaming and Racing.

It should be noted that the proposed hours of operation are greater than those that exist permanently now, but are less than those hours that were approved by the Court as part of the trial extended trading.

The applicant states that should this development application be approved, it is intended that all operational functions, relating to the operating hours of the hotel, are to be controlled under this consent to the extent that conditions may be imposed under the Environmental Planning and Assessment Act, 1979. The proposed draft conditions are following this business paper report.

With respect to the current approved hours, the hotel is operating under the Court approved hours as described above. Under this consent, the hotel operator was required to keep a log of patronage numbers for a three month period and also advise Council of the starting date of the reporting period.

The purpose of these logs was to ensure that the number of patrons within the premises was in compliance with the following Court imposed limitations;

- Prior to 10pm – 225 within the hotel and 100 on the balcony, and
- After 10pm – 325 within the hotel only
- The licensee shall restrict the maximum number of patrons on the premises to 100 after midnight.

A review of the submitted logs demonstrates compliance with these requirements.

In addition, condition No 22 required the following;

The applicant shall appoint a suitably qualified acoustic engineer to certify whether the premises complies with condition 21 within one month of the starting dates (as referred in condition 2(i)(b)) and shall make any necessary recommendations to ensure the premises does comply with condition 21.

Condition 21 of the Court consent of 2003, relates to noise and in particular, noise level limits.

The intent of this condition was to assess the noise impact during the extended trading hours within one month of the starting date.

However as noted, the reporting time trial began July 2009 and the acoustic report was produced on 5 November, 2009.

Whilst a site noise survey was undertaken once during the time trial period, this report was produced for the purpose of the subject development application which only captures the hours of operations proposed under this development application.

The report makes recommendations to ensure noise compliance is achieved and the appropriate conditions of development consent would be imposed within the draft conditions of consent attached to this report.

Officers are not aware of any complaints as a result of the hours of operation during the extended trading time trial. Consequently it is considered the time trial did not lead to unacceptable adverse impacts on the amenity of the area. In any event, it should be noted that the hours being applied for in this application are less than the extended time trial hours.

The application has now been assessed and is able to be referred to Council for determination.

THE SITE

Narellan Hotel is located at Lot 4; DP 399970; No 279 Camden Valley Way, Narellan. **A site location plan is provided at the end of this report.**

The site is surrounded by various land uses, including industrial, commercial and residential. In addition, the site is located opposite the future Camden Police Local Area Command building which is currently under construction.

The nearest residential development is at Wilson Crescent, Narellan.

THE PROPOSAL

The application seeks consent for the following hours:

- Monday - 9.00 am - midnight
- Tuesday - 12.00 am - 4.00 am, then 9.00 am - midnight
- Wednesday - 12.00 am - 4.00 am, then 9.00 am - midnight
- Thursday - 12.00 am - 4.00 am, then 9.00 am - midnight
- Friday - 12.00 am - 4.00 am, then 9.00 am - midnight
- Saturday - 12.00 am - 4.00 am, then 9.00 am - midnight
- Sunday - 12.00 am - 4.00 am, then 10.00 am - midnight

In addition to any restricted trading days in accordance with the requirements of the Liquor Act 2007 or any shorter period imposed by the liquor and gambling license authority, Office of Liquor, Gaming and Racing.

In addition, the application seeks approval to extend the operating hours of the outdoor dining area at the rear of the premises from 8am to 10pm each day to 9am to 12 midnight each day.

Further, as part of this development application, the existing acoustic barrier on the south-western boundary is proposed to be extended to achieve the required noise criteria for the extended hours of the outdoor dining area.

This wall is approximately 2m high and it is proposed to extend the barrier 3m either side at the same height.

NOTIFICATION

The development application was notified to 97 properties around the site and an advertisement was placed in the local newspaper.

Notification letters were sent to residences along Wilson Crescent and Camden Valley Way up to the round-about at Wilson Crescent and Camden View Drive. In addition, all residences along Richardson Road and up to Elyard Street were also notified.

Various other properties around the subject site were also notified, including Narellan Child Care Centre and Narellan Public School. Further, three locally known community groups were also notified, including Wilson/Richardson Area Resident Group. A referral was also sent to Camden Police.

The development application was notified for a period of two weeks and two submissions were received. Camden Police lodged one of these submissions, which is discussed further in this report. **A copy of the submissions are provided with the business paper supporting documents.**

PLANNING CONTROLS

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

- Local Environment Plan 46;
- Draft Exhibited Local Environmental Plan 2010;
- Camden Development Control Plan 2006

ASSESSMENT

The following assessment is made in accordance with the requirements of the Environmental Planning and Assessment Act, 1979, Section 79c - Evaluation.

The provisions of any Environmental Planning Instrument

Camden Local Environment Plan 46

The zoning of the subject site is 3(b1) Business Support.

Considerations of permissibility are not subject to evaluation for the purpose of this application because the proposal only relates to the hours of operation to the already approved hotel.

Notwithstanding, the proposal is not inconsistent with the objectives of the above zone.

Any draft Environmental Planning Instrument

Exhibited Draft Local Environmental Plan 2010

The proposed zone of subject site is B5 Business Development.

As noted above, considerations of permissibility are not subject to evaluation for the purpose of this application because the proposal only relates to the hours of operation to the already approved hotel.

Notwithstanding, the proposal is not inconsistent with the objectives of the above zone.

There are no other relevant development controls in the Draft Plan that apply to this development.

Any development control plan

Camden Development Control Plan 2006 applies to the subject land. Whilst the Plan does not have any site specific controls relating to the development proposal it is required to comply with general controls. This has been achieved.

Any planning agreements

There is no planning agreement applicable to this site or development.

The provisions of the Regulations

Clause 98D of the Environmental Planning and Assessment Regulation 2000 requires a sign specifying maximum number of persons permitted in the building to be displayed in a prominent position for the following types of premises:

- (i) entertainment venue;
- (ii) function centre;
- (iii) pub;
- (iv) registered club;
- (v) restaurant.

The relevant development consent conditions have been imposed to ensure this is provided and maintained.

The likely impacts of the development

Social Impact

There are negative social impacts related to increased opportunity for alcohol consumption and gambling for development applications of this nature. This proposal is for hours less than what the Court approved for the time trial period and as such is not expected to add to the social impact experienced during the trial. The current application seeks to increase permanent trading hours above those which are currently approved at the Hotel.

In addition, it is considered that through the conditions of development consent and

through the implementation of the following strategies, the social impact to the community is minimised through controlled operational requirements. These specific operational requirements have been produced in consultation with both the applicant and Camden Police and form part of the Plan of Management. The requirement to apply the Plan of Management is assured by way of condition of development consent.

Such strategies include:

- a) The hotel will arrange for taxis to collect any patrons from it upon receipt of a request from the patron to do so. Where possible patrons who are waiting for taxis should do so inside the hotel.
- b) The licensee shall arrange for booking taxi transport, sighting and recording identification from the patron(s) and issuing a voucher, which the taxi driver uses to identify the job. The licensee takes the responsibility for ensuring that the patrons(s) are in a reasonable state to be transported in a taxi.
- c) Compliance with the requirements of the Office of Liquor, Gaming and Racing. Such requirements include meeting the requirements of Responsible Service of Alcohol and promoting responsible gambling practices.

Noise Impact

The Narellan Hotel commissioned Day Design to undertake the necessary acoustic assessment. The noise site survey was undertaken at one point during the time trial period (October 2009) and once shortly after the trial (November 2009). Subsequent to further requests from Council two additional noise surveys were undertaken in January 2010.

The noise control recommendations provided three strategies to ensure compliance with the required noise levels and relate to both the management and control of noisy patrons, extension of existing noise barrier at the south western boundary and restricting patrons from leaving via the Camden Valley Way entrance after midnight.

Conditions of consent relating to these recommendations would be imposed on any development approval. These are shown in the draft conditions of consent below.

Impact on locality

It is considered that the likely impacts on the locality will be managed by noise mitigation measures, operational requirements and provision of reviewable conditions as discussed further in this report.

The suitability of the site for the development

As discussed the proposal is to reduce the number of permanent operating hours below those permitted by the extended time trial hours approved by the Land and Environment Court in 2009. The proposed permanent hours of operation will be greater than those that exist now. The proposed conditions of draft development consent have been designed to limit possible impacts of this type of land use at this site.

Any submissions made

Camden Police submission

The development application was referred to the Crime Prevention Unit within the Camden Police Command.

During the assessment process Council staff met with the Crime Prevention Officer to discuss the referral and the following provides a summary of the outcome of that meeting:

- 1 *Comments on time trial* - It was agreed that a 'reviewable condition' of development consent be imposed as permitted under Section 80A Imposition of Conditions of the Environmental Planning and Assessment Act, 1979.

In summary, Section 80A was recently amended to allow Council to impose a condition of consent which is reviewable. The Council has the authority to set the condition so that it can be reviewed at any time or at any intervals as specified in the condition of consent.

For the purposes of this section of the Act, a reviewable condition has been defined to include:

- a) A condition that permits extended hours of operation (in addition to other specified hours of operation); and
- b) A condition that increases the maximum number of persons permitted in a building (in addition to the maximum number otherwise permitted);

On this note, a decision by a consent authority to change a reviewable condition is taken to be a determination of a development consent for the purposes of the Act. This means that the holder of a consent who is dissatisfied with Council's determination has a right of appeal.

The proposed wording for the reviewable conditions is within the draft development consent conditions attached to this report.

- 2 *Use of entry door at Camden Valley Way after 12 midnight.* - At the meeting, the Crime Prevention Officer explained that the purpose of this objection was to highlight the possible issues which may arise from the use of the door at Camden Valley Way (CVW) if the rear access door (the only other alternative access point) was access denied after midnight.

It was stated that patrons may wish to walk outside onto the footpath and onto CVW to smoke which may cause a safety concern if the patrons are intoxicated or may result in a noise impact if large groups congregate outside of the premises.

At the meeting it was noted that the rear access door will be in use for the entire time of the operating hours of the hotel however will be access controlled from 12 midnight to ensure this door is used only for patrons wishing to leave the premises and not congregate on the verandah.

Further, the applicant has agreed to ensure the door located on CVW is to be used only as an emergency exit door after midnight. To manage this, the hotel will station security personal in and around this door from 11.45 pm and will also display appropriate signage inside and outside this door informing patrons that after midnight the door is only to be used in case of emergency.

Other submissions

The second submission was lodged by residents of The Links estate which also highlighted the social problems relating to drinking and gambling. However the primary point within the submission was based on the noise impact of patrons of the hotel who take a shortcut through a vacant lot.

A meeting was held with the objectors and it was agreed that once the vacant lot is developed then pedestrians will need to access the estate via the footpath network and not cross on the unformed alleyways or private property.

This land used for a shortcut is zoned for residential purposes, therefore would be expected to be subject to future development at some time.

The public interest

Consideration of the public interest for this proposal relates to both the wider community and the interests of the residents in the immediate locality of the hotel. For the wider community, this proposal will continue to provide late night entertainment for which the area will benefit the area from socially and economically through the employment of staff.

For the immediate locality, the public interest is impacted by the hotel's proximity to residential houses. However based on the operational requirements outlined in this report and provision of the reviewable condition, the public interest is not expected to be adversely impacted as it allows Council to review the hours of the hotel at any given point. It is important to reiterate that a reviewable development consent condition, once reviewed (and potentially changed) by the determining authority (here, Council), is appealable.

The results of the trial extended trading hours, as well as the proposed development consent conditions would suggest the permanent extension of trading hours as proposed, will not adversely affect the public interest.

CONCLUSION

Council has received a Development Application for the modification of the hours of operation for the Narellan Hotel, Narellan. The permanent operating hours and the hours of the extended operation trial were approved by the Court in 2003. Subsequently, the hours and time of the trial extended operating hours was considered in a conciliation conference convened by the Court, between the hotel operator and Council.

The current development application seeks approval for permanent trading hours which are less than the Court approved extended time trial hours, but greater than the existing permanent trading hours. It also seeks to include a Plan of Management for the operational requirements of the Hotel with a view to minimising any impacts on the local community.

Council received two submissions during the exhibition period. The submissions primarily relate to the previous trialing of proposed hours and noise impact. With respect to the trial period, a reviewable condition of development consent would be imposed which allows council to review the hours at any given point. With respect to the noise impact, where possible, mitigation measures have been incorporated within the draft conditions and relate to construction of an acoustic barrier, restricted use of front access door and operational requirements to manage patron noise.

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

DRAFT CONDITIONS OF CONSENT

1.0 - General Requirements

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

- (1) **Hours of Operation** - The hours of operation of the Hotel premises being restricted to the following hours:
 - a) Monday 9am - Saturday 4am: Open Daily;
 - b) Daily closed from 4am until 9am;
 - c) Sunday 10am - Sun/Mon 12am (midnight): Open;
 - d) Sun/Mon 12am (midnight) - Monday 9am: Closed;
The outdoor eating area at the rear of the premises must not be used by patrons between the hours of midnight (12am midnight) – 9am the following day. Except for Sunday morning which is not to be used until 10am and;
 - e) Restricted trading hours (as defined in the Liquor Act) in accordance with the requirements of the Liquor Act or;
 - f) If amended, for a shorter period by the liquor and gambling license authority, Office of Liquor, Gaming and Racing.

- (2) **Patronage number** – The maximum number of patrons in the Hotel shall be in accordance with the following:
 - a) prior to midnight (12am midnight) – 225 patrons within the hotel and 100 patrons on the balcony
 - b) after midnight (12am midnight) – 325 patrons within the hotel and nil patrons on the balcony

- (3) **Prescribed condition for maximum patronage signage** - A sign must be displayed at the entry points to the building in a prominent position stating the

maximum number of persons, as specified in this development consent, that are permitted in the building.

Note: Clause 98D of the Environmental Planning and Assessment Regulation 2000 requires a sign specifying maximum number of persons permitted in the building to be displayed in a prominent position for the following types of premises:

- (i) entertainment venue;
- (ii) function centre;
- (iii) pub;
- (iv) registered club;
- (v) restaurant.

- (4) **Reviewable Condition for Hours of Operation** - Camden Council may review condition no. 1.0(1) and 1.0(2) at any time and this reviewable condition may be changed on any such review. Pursuant to Section 80 (A) of the Environmental Planning and Assessment Act, 1979, Subsection 10 (D), a decision by Camden Council to review and change the subject condition on any such review, will be taken to be a determination of a development consent for the purposes of the Act.
- (5) **Commercial vehicle movements** – All commercial vehicle movements, (including deliveries) associated with the operation of the premises are restricted to the hours of 8am – 4pm Monday to Friday. Any other activities associated with the operation. Any alteration to those hours will require the prior approval of the Council.

2.0 - Operational Conditions

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

- (1) **Noise Control Recommendations** – All noise control recommendations that relate to the “Outdoor Gaming Room” and “Outdoor Eatery on the Balcony” must be implemented in accordance with “Section 7.0 – Noise Control Recommendations” of the report titled “*Environmental Noise Compliance Report*”:

Narellan Hotel At 279 Camden Valley Way Narellan NSW, Prepared for Narellan Hotel, Prepared by Day Design Pty Ltd, Ref No 3737-4, Dated 18/01/10.

The use of the premise must be controlled so that any emitted noise is at a level so as not to create an “*offensive noise*” as defined in the *Protection of the Environment Operations Act 1997* to any affected receiver.

- (2) **Extension of Noise Barrier** – The existing noise barrier located on the western boundary of the hotel site is to be extended in length by 3 metres on both ends to further protect the residence at 271 Camden Valley Way Narellan. The height and materials used in the extension is to be consistent with that of the existing barrier. No gaps or holes are permitted in the barrier.

The construction of this barrier shall occur no later than one month after the issuing of this consent.

- (3) **Noise mitigation strategies** – Effective perimeter seals on all egress doors and doorframes (specifically on the threshold of the door) are to be provided and maintained at all times.
- (4) **Plan of Management** - The operation of the Hotel premises must comply at all times with the approved Plan of Management (titled Plan of Management for Narellan Hotel; dated June 2010). The Plan of Management as approved is not to be further amended without the prior written approval of Camden Council. If there are any inconsistencies between the Plan of Management and the conditions of this consent, the conditions of consent shall prevail to the extent of the inconsistencies.
- (5) **Accord with Licensed Premises** – The licensee shall continue as a member of the Camden (Licensing) Liquor Accord.
- (6) **Pedestrian access** – Pedestrian access to the hotel is to be restricted to the eastern entrance from the car park after midnight (12.00am) and shall be managed in accordance with the Plan of Management as approved by Condition 2.0(4).
- (7) **Protection of Neighbourhood Amenity** – The business shall be conducted and patrons controlled at all times so that no interference occurs to the amenity of the area, adjoining occupations and residential premises. In this regard, the following must be incorporated within the operation of the premises;
 - (a) Signs must be placed in clearly visible positions within the licensed premises requesting patrons upon leaving the premises to do so quickly and quietly, having regard to maintaining the amenity of the area.
 - (b) The licensee must ensure that the behaviour of patrons entering and leaving the premises does not detrimentally affect the amenity of the neighbourhood. In this regard, the licensee must be responsible for the control of noise and litter generated by patrons of the premises and must ensure that patrons leave the vicinity of the premises in an orderly manner to the satisfaction of Council.
- (8) **Security Staff** - The number of security personnel employed must be consistent with any other requirement imposed by law or conditions on the licence.
- (9) **Fire safety measures** - The essential fire safety measures must be maintained in accordance with clause 182 of the Environmental Planning and Assessment Regulation 2000.

Reasons for Conditions:

- (1) To ensure that the proposed development complies with the requirements of the *Environmental Planning and Assessment Act, 1979* and *Regulations* made thereto.

- (2) To ensure that the building complies with the *Local Government Act, 1993* and *Regulations* .
- (3) To ensure that the building complies with the requirements of the *Building Code of Australia* and applicable Australian Standards.
- (4) To ensure that the development meets the aims, objectives and requirements of Camden Council's *Local Environmental Plan* and *Camden Development Control Plan 2006* which relate to the subject land.
- (5) To ensure that the use will minimise the impact on the existing and likely future amenity of the neighbourhood and environment.

Advisory Conditions:

- (1) **Offences** - Section 125 of the Environmental Planning and Assessment Act provides that any person who contravenes or causes or permits to be contravened the conditions of this consent is guilty of an offence against this Act.
- (2) **Penalties** - Section 126 of the Environmental Planning and Assessment Act provides that a person guilty of an offence against this Act shall, for every such offence, be liable to the penalty expressly imposed and if no penalty is so imposed to a penalty not exceeding \$100,000 and to a further daily penalty not exceeding \$10,000.
- (3) **Tree Preservation** - Under the provision of "Local Environmental Plan (LEP) 97", a person must not ringbark, cut down, top, lop, remove, injure or willfully destroy any living tree, or cause such a tree to be ringbarked, cut down, removed, willfully destroyed or clear land, without prior development Consent having been obtained from the Consent Authority (ie Camden Council). Further information in this regard can be obtained from Camden Council during office hours.
- (4) **Disability Discrimination Act** - Your attention is drawn to the existence of the Disability Discrimination Act. The approval issued by Council is in accordance with the Building Code of Australia however the application may not comply with the requirements of the *Disability Discrimination Act* . Compliance with the provisions of this Act is the sole responsibility of the owner and operator of the Hotel.
- (5) **Compliance with Building Code** - Your attention is drawn to the Building Code of Australia. Compliance with the provisions of this Code is the sole responsibility of the owner and operator of the Hotel.
- (6) **Smoke-free Environment Act 2000 No 69** - Your attention is drawn to the Smoke-free Environment Act 2000 No 69. Compliance with the provisions of this Act is the sole responsibility of the owner and operator of the Hotel.

"END OF CONDITIONS"

RECOMMENDED

That Council approves Development Application No 1231/2009 for the modification of the hours of operation for Narellan Hotel located at 279 (Lot 4 DP 399970), Camden Valley Way, Narellan subject to draft development consent conditions.

ATTACHMENTS

1. Locality Plan
2. Submissions (Sup. doc)



Location Plan - 279 Camden Valley Way.pdf Submission Narellan Hotel.pdf

RESOLUTION

CHAIRMANSHIP OF MEETING

The Mayor, Councillor Patterson, having previously declared his intention to leave the Chamber in Item ORD02, vacated the Chair and left the Chamber, the time being 6.50pm.

Councillor Symkowiak, as the only nominated Councillor, assumed the role of Chairperson.

Councillor Funnell left the Chamber, the time being 7.00pm.

Councillor Funnell returned to the Chamber, the time being 7.01pm.

Moved Councillor Dewbery, Seconded Councillor Cottrell that Council approves Development Application No 1231/2009 for the modification of the hours of operation for Narellan Hotel located at 279 (Lot 4 DP 399970), Camden Valley Way, Narellan subject to draft development consent conditions.

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

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

CHAIRMANSHIP OF MEETING

At this stage the Mayor returned to the Chamber and resumed the Chair, the time being 7.07pm.

ORD153/10

ORDINARY COUNCIL

ORD03

SUBJECT: PETITION - PEDESTRIAN ACCESS ALONG HILDER STREET,
ELDERSLIE
FROM: Director Works and Services
FILE NO:

PURPOSE OF REPORT

To note receipt of a petition from students from Elderslie High School, Elderslie regarding safety concerns with pedestrian access along Hilder Street, Elderslie.

BACKGROUND

Council has received a number of copies of a petition (containing 140 signatures in total) from a representative of the student body of Elderslie High School, Elderslie. A copy of this letter **is provided with the business paper supporting documents.**

MAIN REPORT

A letter and accompanying petition from a student representative from Elderslie High School raises concerns about pedestrian movement along Hilder Street, particularly given that there are more students using Hilder Street to access the school.

The letter states that students are often forced to walk on the road shoulder as there is no footpath.

The letter requests Council to construct a footpath in Hilder Street "as a matter of urgency".

Council has included a footpath and a shared cycleway in preliminary designs for Hilder Street, as part of the work to be funded by the NSW Government's \$11.8 million Infrastructure Loan. As Council is aware and as reported on 13 July 2010, continuation of the Lodges Road and Hilder Street reconstruction project is subject to satisfactory resolution of the issues relating to changes in developer contribution arrangements and the impact on the loan repayments.

Nevertheless, the requirement to provide pedestrian access has been included in recent approvals of subdivisions on the north-east side of Hilder Street. These will help provide improvements to pedestrian safety.

CONCLUSION

Concerns have been raised by students from Elderslie High School regarding pedestrian access and safety along Hilder Street, Elderslie.

The petition has requested construction of a footpath along Hilder Street. This is already in Council plans but the timing of this construction will be influenced by the outcome of negotiations with the State Government and/or development progress.

RECOMMENDED

That Council:

- i. note the petition regarding pedestrian safety in Hilder Street;**
- ii. advise the lead petitioner of the current status of plans already in place for construction of a footpath along Hilder Street.**

ATTACHMENTS

SUPPORTING DOCUMENT



Petition from students of EHS.pdf

RESOLUTION

Moved Councillor Funnell, Seconded Councillor Dewbery that Council:

- i. note the petition regarding pedestrian safety in Hilder Street;
- ii. advise the lead petitioner of the current status of plans already in place for construction of a footpath along Hilder Street.

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

ORD154/10

ORDINARY COUNCIL

ORD04

SUBJECT: PROJECTS UNDER THE FEDERAL GOVERNMENT'S REGIONAL AND LOCAL INFRASTRUCTURE PROGRAM - ROUND 3
FROM: Director Works and Services
FILE NO: Capital Works/Grants and Subsidies/Programs RLCIP

PURPOSE OF REPORT

To provide information to Council on the conditions of, and to seek Council's decision on, projects to be progressed under the Federal Government's Regional and Local Community Infrastructure Grant Program - Round 3 (Infrastructure Grant).

BACKGROUND

The Australian Government has opened Round 3 of the Regional and Local Community Infrastructure Program (RLCIP) worth \$100 million.

The total of Round 3 of the Infrastructure Grant is shared between councils on a non-competitive basis. The Federal Government has used the same formula to divide the total across Councils, and Camden Council has been allocated \$263,000. This amount is \$2,000 less than the Round 2 allocation. Council is required to confirm the projects to be undertaken with these funds.

Applications for the Round 3 grant close on 30 July 2010. The Department of Infrastructure, Transport, Regional Development and Local Government will continue to receive, assess and approve compliant projects in the period leading up to the Federal election. However funding agreements will not be finalised until after the election.

One of the key goals of the Infrastructure Program is to stimulate additional growth and economic activity in Australia through accelerating 'ready-to-proceed' projects and for additional stages of projects currently underway.

Projects eligible to be funded are community infrastructure projects related to social, cultural, recreational, tourism, access and environment initiatives and can relate to specific (age based) groups such as seniors, youth or children. Roads and related transport infrastructure, as well as operational or maintenance work, cannot be funded from the Infrastructure Grant.

Projects will need to be completed by 31 December 2011.

The guidelines provided by the Australian Government are **included in the Supporting Documents**.

MAIN REPORT

In considering projects to which the Infrastructure Grant could be applied, reference has been made to Council's Budget Discretionary List to identify projects which may be candidates. These and other projects have been considered by Councillors through correspondence and earlier discussion.

Taking into account the goals of the Infrastructure Grant, the demographics of the LGA and current community demands, it is recommended that the Infrastructure Grant be applied to projects as prioritised in the table below:

Project Name	Priority	Cost	Cumulative total
Recommended projects to consider			
Irrigation playing fields - Belgenny Reserve, Camden (Note 1)	1	\$153,000	\$153,000
Car park extension at Charker Reserve, Harrington Park	2	\$70,000	\$223,000
Kirkham Reserve Footbridge Replacement at Netball	3	\$40,000	\$263,000
Fencing Leash Free Area fencing – River Road, Elderslie (Note 2)	4	\$60,000	\$323,000 (Note 2)
Additional Lighting – Fairfax Reserve (AFL/cricket)(see Note 3)	5	\$55,000	\$378,000
Macarthur Park irrigation upgrade and additional pumps	6	\$10,000	\$388,000
Onslow Park - Canteen Upgrade	7	\$15,000	\$403,000
Onslow Park - Gazebo Roof Replacement	8	\$15,000	\$418,000
Other possible projects			
Additional lighting – Charker Reserve	9	\$90,000	
Surfacing Road access to BEP	10	\$128,000	
Learn to Ride Cycle track – Curry Reserve	11	\$60,000	
Birriwa Reserve Additional Parking	12	\$80,000	
Car park at Wandarra Reserve	13	\$100,000	
Catherine Field tennis court lighting	14	\$40,000	
New Toilets at Nepean Share Way	15	\$110,000	
No Smoking signage implementation	16	\$22,000	
Signage Policy Implementation	17	\$80,000	

Note 1: The amount to be sought for the Belgenny Reserve irrigation project has been increased as additional information has been provided which indicates the value of the project will exceed the originally suggested \$150,000. The project includes rainwater harvesting and will exceed the value of the amount to be applied for under the grant. The user clubs have indicated a willingness to contribute to the project. These contributions can be applied to the project scope.

Note 2: Section 94 funds could be utilised as part of this work to supplement/reduce the amount required under the Infrastructure Grant program.

Note 3: Council has been offered \$25,000 contribution from NSW AFL and the Club to contribute toward the total project cost of \$80,000.

Projects with priorities 1 to 8 reflect feedback from Councillors, who have indicated support for a number of these projects. Each project will deliver benefit to the community. The priorities allocated are according to the views and feedback received and are for the purposes of discussion.

The Belgenny Reserve and Charker Reserve projects were consistently identified as high priority projects. Belgenny Reserve is a heavily used reserve and irrigation will help improve the condition of the playing fields for both winter and summer sports. Charker Reserve at Harrington Park is also a heavily used facility. Extension of the car park will help alleviate parking constraints at the reserve, and in turn, reduce the impact on traffic circulation in the area, especially during weekends.

Various Councillors have indicated support for a number of other projects (listed as priorities 3 to 8). However within this group, Council needs to confirm its relative priorities to ensure that the Federal Government considers projects preferred by Council.

Therefore, Council is asked to confirm the priority of the projects as listed in the earlier table to give direction for the application for the Infrastructure Grant.

Once again, the Federal Government's information has indicated that Councils should not limit their grant application to projects which, in Camden's case, total \$263,000. Applying for more can act as a protection against any of the proposed projects being rejected as not meeting the guidelines. For this round, it is considered all projects included in the table above would meet the criteria. However, it is only intended to apply for those projects with priorities 1 - 8.

CONCLUSION

The Federal Government's Infrastructure Grant of \$263,000 will allow a number of projects which are in planning or require short lead times to progress. In order to meet the requirements, an application must be submitted by 30 July 2010 and funds spent on the approved projects before 31 December 2011. To help stimulate economic activity, the Infrastructure Grant will be spread over a number of projects and across the LGA. At the same time, projects will provide direct benefits to the community, while supporting active lifestyles and community wellbeing.

RECOMMENDED

That Council;

- i. confirm the priority of projects as listed in the table within this report, to be included in the application for Round 3 of the Federal Government's RLCIP;**
- ii. advise the Australian Government as to this selection via the application for the grant;**

- iii. approve the inclusion of only those projects listed as priorities 1 to 8 in the application;
- iv. authorise the negotiation of a suitable funding agreement to progress these projects according to the terms and conditions of the Infrastructure Grant as outlined in the Federal Government's guidelines; and
- v. agrees to execute documents and affix the Council seal as necessary.

ATTACHMENTS

SUPPORTING DOCUMENT



RLCIP Guidelines.pdf

RESOLUTION

Moved Councillor Dewbery, Seconded Councillor Cottrell that Council:

- i. confirm the priority of projects as listed in the table within this report, to be included in the application for Round 3 of the Federal Government's RLCIP;
- ii. advise the Australian Government as to this selection via the application for the grant;
- iii. approve the inclusion of only those projects listed as priorities 1 to 8 in the application;
- iv. authorise the negotiation of a suitable funding agreement to progress these projects according to the terms and conditions of the Infrastructure Grant as outlined in the Federal Government's guidelines; and
- v. agrees to execute documents and affix the Council seal as necessary.

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

ORD155/10

ORDINARY COUNCIL

ORD05

SUBJECT: PUBLIC DOMAIN TREE MAINTENANCE CONTRACT NO. 2008/08
FROM: Director Works and Services
FILE NO: Parks and Reserves/Horticultural Services/Street Trees/Public Domain Tree Maintenance Contract 2008-08

PURPOSE OF REPORT

To advise Council of the intention to grant a 12 month extension to the current Council's Public Domain Tree Maintenance Contract No. 2008/08.

BACKGROUND

At the Council meeting held on 24 June 2008, Council resolved to accept a tender for Public Domain Tree Maintenance Services submitted by CPE Tree Services for Council's Public Domain Tree Maintenance Contract 2008/08 for a two year period, to 30 June 2010.

MAIN REPORT

Under the Key Conditions of Contract (*Total Performance Period*), Council has the option to extend the contract period for a further twelve month period, until 30 June 2011, subject to satisfactory performance of the existing contractor.

Over the course of the contract period, Council has assessed the performance of CPE Tree Services against criteria such as response time, quality of work, Occupational Health & Safety for staff and the public, compliance with Council's various policies and value for money.

CPE Tree Services has complied with all required Conditions of Contract and have exercised a high standard of workmanship consistent with Council's expectations and the relevant Australian Standards. The tendered rates submitted by CPE Tree Services are considered to continue to represent the best value for Council.

CPE Tree Services has indicated its willingness to continue under the current contract conditions for a further twelve months.

CONCLUSION

It is considered that CPE Tree Services have adequately complied with the contract conditions and demonstrated their capacity to fulfil the service requirements of Council's Public Domain Tree Maintenance Contract 2008/08. The price schedule submitted by CPE Tree Services under the contract continues to represent good value to Council and that the 12 month contract extension provision in the contract should be

exercised.

RECOMMENDED

That Council:

- i. approve the exercise of its option under the Key Conditions of Contract (Total Performance Period) to extend the Public Domain Tree Maintenance Contract 2008/08 for a further twelve (12) months, until 30 June 2011.**
- ii. advise CPE Tree Services in writing that the option for the extension of the contract is being exercised by Council under the terms of the contract.**

RESOLUTION

Councillor Funnell, having previously declared his intention to leave the Chamber in Item ORD05, left the Chamber, the time being 7.15pm.

Moved Councillor Dewbery, Seconded Councillor Symkowiak that Council:

- i. approve the exercise of its option under the Key Conditions of Contract (Total Performance Period) to extend the Public Domain Tree Maintenance Contract 2008/08 for a further twelve (12) months, until 30 June 2011.
- ii. advise CPE Tree Services in writing that the option for the extension of the contract is being exercised by Council under the terms of the contract.

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

Councillor Funnell returned to the Chamber, the time being 7.15pm.

ORD156/10

ORDINARY COUNCIL

ORD06

SUBJECT: UNIVERSITY OF WESTERN SYDNEY PARTNERSHIP WITH LIBRARY SERVICES
FROM: Director Works and Services
FILE NO: Community and Recreation Services/Community Services/Library and Public Information Access/Library Programs/Youth Programs

PURPOSE OF REPORT

To seek Council's endorsement of a proposed partnership between Camden Council Library Service and the University of Western Sydney (UWS) to extend access to the 'Your Tutor' on-line tutoring service.

BACKGROUND

Camden Libraries launched 'Your Tutor' in mid February 2010 as a pilot project.

'Your Tutor' is an innovative on-line service that delivers one-to-one tutoring and learning support in core academic subjects to students from years 4 through to year 12 between the hours of 4pm and 8pm on weekdays.

The on-line program assists students with homework, assignments, exam preparation and study questions and is available from Camden and Narellan Library and from home through the Library's website. Tutors are qualified teachers or final year university (including UWS) students. All tutors are vetted to comply with working with children requirements.

Between mid February and June 2010 more than 248 students from Camden LGA's Library Service members accessed this free program. Feedback from students provided via an on-line survey at the completion of tutor sessions indicate a greater than 75% satisfaction level and that the users would recommend others to the Your Tutor service. The majority of sessions indicate students access the program from home.

MAIN REPORT

The access to the 'Your Tutor' service requires membership of Council's Library Service. Council's expenses for this service are included in the Library Services Children and Youth Services Programs. The libraries' participation allows access by an average over the year of approximately 30 students per month.

The partnership between Camden's Libraries and the UWS will ensure that more than double the current number of students can experience and benefit from the 'Your Tutor' service.

The UWS will match Council's funding and will contribute \$5,500 (GST inclusive) to the Your Tutor service for 12 months as part of its community engagement strategy. The University believes that this partnership would help to increase local students' skills, confidence, educational and vocation options and educational attainment. This partnership will be the subject of a Memorandum of Understanding (MOU) between Council and UWS.

The development of this new partnership is increasingly important in the provision of Library and Information Services in order to enable the delivery of high quality and innovative services to the community.

A signing ceremony will be arranged with UWS and Council representatives.

CONCLUSION

The introduction of access to the Your Tutor service via Council's Library Services has had a good take up rate and provides valuable assistance for students in years 4 to 12. A proposed partnership with the UWS will help extend access to more students and assist UWS in their community engagement which is aimed at improving educational opportunities for local communities.

RECOMMENDED

That Council:

- i. endorse entering into a MOU for the partnership between Camden Council Library Service and the University of Western Sydney to extend access capacity for the Your Tutor on-line tutoring service; and**
- ii. agree to execute documents and affix the Council seal as necessary.**

RESOLUTION

Moved Councillor Symkowiak, Seconded Councillor Dewbery that Council:

- i. endorse entering into a MOU for the partnership between Camden Council Library Service and the University of Western Sydney to extend access capacity for the Your Tutor on-line tutoring service; and
- ii. agree to execute documents and affix the Council seal as necessary.

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

ORD157/10

ORDINARY COUNCIL

ORD07

SUBJECT: CODE OF MEETING PRACTICE - AMENDMENTS
FROM: Director Governance
FILE NO: Corporate Services/Governance/Cnl Meetings/Mtg Procedural Matters

PURPOSE OF REPORT

To seek Council approval of proposed changes to the Code of Meeting Practice brought about by a review of meeting procedures by the Division of Local Government (DLG).

BACKGROUND

In August, 2009, the DLG issued a revised and updated Practice Note 16 relating to the conduct of Council and Committee Meetings and amendments to the Code of Meeting Practice. This was followed up with another Circular in May 2010 which dealt with the reaction and specific issues raised in the Practice Note.

The major concern raised in the Practice Note relates to Councils including an agenda item "Questions Without Notice". Considerable debate has been generated as to the legalities of having "Questions Without Notice" as an item on a Council Meeting agenda.

These issues were raised at a Councillor's Workshop following the Council Meeting on 13 July 2010.

REPORT

The Practice Note states that including an agenda item "Questions Without Notice" is inconsistent with the provisions of the Local Government (General) Regulation in that Council requires notice to be given of matters to be discussed at Council Meetings (Clause 241).

Under Council's current Code of Meeting Practice, three (3) days' notice is required for matters to be discussed in the agenda for a Council or Committee Meeting (Clause 3.7.1). This provision enables all Councillors and the public to be aware, by reading the Agenda, of matters that will be raised at each Council or Committee Meeting. It also enables Councillors to give careful thought to any pecuniary interest or conflict of interest they might have in a matter on the Agenda, rather than having to hastily confront an issue during the meeting. It also enables members of the public to make representations to Councillors and enables members of the public to book into the public address segment.

The Division contends that allowing "Questions Without Notice" avoids the notice provisions of the Regulation.

Several Councils challenged the edict, however the DLG has responded by confirming a "Questions Without Notice" item on the agenda is inconsistent with the Regulations. It is clear that, irrespective of the arguments in support of such a practice, it is, in essence, unlawful.

It is pointed out, this ruling only relates to "Questions Without Notice" and Councillors may continue to ask questions during the meeting on matters in the Business Paper relating to reports.

In addition, a Councillor may endeavour to raise a matter not on the Business Paper as a matter of urgency, if the matter is, firstly ruled by the Chairperson to be of great urgency and then after a motion is passed to allow this particular business to be dealt with. (Clause 3.7.3).

Suggested new approach

In view of the various advices, it would appear Council should now formally dispense with "Questions Without Notice" in the Business Paper.

As an alternative, it is firstly proposed that Councillors wishing to call for a report on an issue, request action to be taken by Council or to amend a Policy, lodge a Notice of Motion to be dealt with at the following Council Meeting. The Notice of Motion will be included in the Business Paper for the appropriate Meeting, debated and a formal decision made. The Motion will then be followed through by Council staff with suitable action taken to carry out the resolution. Notices of Motion should be lodged in writing with the General Manager's Secretary no later than 7 days prior to the relevant Council Meeting.

Secondly, so far as operational matters are concerned, such as rubbish removal, vandalism or requests for general information, Councillors should follow the existing practice of contacting the General Manager or relevant Director by phone or email to raise the matter and obtain a response.

Thirdly, should Councillors wish to draw matters of interest to Council's attention, such as a successful Council function, community event or a thank you to members of the community, it is suggested that the item be included in a Mayoral Minute as an "information item". During the Council Meeting the particular Councillor may then speak on the matter and advise the details in full to Council. In order to lodge an item to be included in a Mayoral Minute, Councillors should contact the General Manager's Secretary no later than 7 days prior to the relevant Council Meeting.

The suggested changes to Council Meeting procedure will result in an amendment to Council's current Code of Meeting Practice by the deletion of the reference in the "Order of Business" (Clause 3.4) of "Questions Without Notice" item and the inclusion of a standard item "Notice of Motion" and "Mayoral Minute" in order to accommodate the new requirements. The Clause dealing with the Mayoral Minute (Clause 3.9) will also be suitably amended to reflect the ability of Councillors to provide general information to Council through this avenue.

Other Minor Variations to the Code

The DLG also drew reference to several additional matters which, should be included in the Meeting Code. They are as follows:

Petitions

The DLG advised it is a matter for each Council to decide what to do with petitions and to set this out in the Meeting Code. Council's current practice is that any petitions received are reported to Council for notation and for consideration at a later date in conjunction with the deliberation of the issue concerned.

This practice was originally put in place to ensure that Councillors were aware, as early as possible, of petitions lodged with Council even though the issues contained within the petition were not actually dealt with at the time of noting. However technological change, particularly the widespread use of email, has brought the capacity to provide councillors with this information even more quickly. Waiting to notify Councillors of petitions received through an agenda item actually delays the transmission of the information to them.

Council currently complies with the requirement in the Practice Note but it is recommended that in future petitions are communicated to Councillors upon receipt by email rather than waiting for a Business Paper notification and that an appropriate item be inserted in the Code of Meeting Practice.

Workshops

Similarly, the DLG is of the view that Workshops should be chaired by the General Manager or another senior Council officer to assist in placing workshops in their proper perspective, that is, an information sharing session. Workshops are a forum for sharing views and canvassing the concerns of Councillors only and not to garner support for a particular issue. Again, a section will be included in the Code to outline the procedures for the conduct of workshops.

The suggested additional clauses to the Meeting Code are attached to this Report.

The Local Government Act, 1993 requires a proposed Code of Meeting Practice and amendments to be publicly exhibited prior to adoption, unless the Council is of the opinion the amendments are not substantial. Section 362(2) states if Council is of the opinion the changes are not substantial, the Code may be adopted without the need for public exhibition. In addition, the Practice Note also advises that any amendments triggered by changes to the Act or Regulation effectively amend the Code, therefore public exhibition is also not required.

It is considered the proposed amendments to the Code, in these circumstances, are not substantial as they mainly reflect amendments which are compulsory to bring the Code into line with the legislative requirements as described above.

CONCLUSION

The amendments to the Code are proposed in response to the compulsory changes imposed by the DLG and are considered to be reasonable in the circumstances and

will bring Council meeting practices in line with the Regulation and local government practice. The changes to the Code will also add to the smoother operation of Council Meetings.

RECOMMENDED

That :

i. the Code of Meeting Practice be amended as follows:

- a. delete reference to "Questions without Notice" in the Order of Business section and insert a "Notice of Motion" and "Mayoral Minute" item;**
- b. clause 3.9 "Official Minutes (Mayoral Minute) be amended by including a new Point 4 as follows:**

"In accordance with sub clause (1) above, a Councillor, may by way of information, have included in any Mayoral Minute, an item of general interest to be drawn to the attention of Council." ;

c. Include new Clauses 6.3 and 6.4 as follows:

"6.3 RECEIPT OF PETITIONS

On receipt of a petition, a report noting the receipt of the petition shall be submitted to the next available Council Meeting. The report is to note the nature of the petition and number of signatories. The Chairperson must not permit discussion or debate on the petition with the petition being noted for further consideration in conjunction of the subject matter.

6.4 CONDUCT OF WORKSHOPS

Council may hold regular workshops in accordance with its adopted meeting timetable. Workshops are informal gatherings or briefing sessions and may involve Councillors, Council staff and invited participants. Such workshops shall be chaired by the General Manager or another senior Council officer and should not be used for detailed or advanced discussions where agreement is reached. In conducting such workshops Council is cognisant of its obligations and responsibilities in terms of open decision making and transparency of process."

- ii. it be noted Councillors may lodge a Notice of Motion to a Council Meeting in order to request a report on an issue, request action be taken or to amend Policy; and**
- iii. in accordance with Section 362(2) of the Local Government Act 1993, Council is of the opinion, the amendments are not substantial and are made to ensure legislative compliance, therefore public exhibition is not required.**

RESOLUTION

Moved Councillor Funnell, Seconded Councillor Symkowiak that:

- i. the Code of Meeting Practice be amended as follows:
 - a. delete reference to "Questions without Notice" in the Order of Business section and insert a "Notice of Motion" and "Mayoral Minute" item;
 - b. clause 3.9 "Official Minutes (Mayoral Minute) be amended by including a new point 4 as follows:

"In accordance with sub clause (1) above, a Councillor, may by way of information, have included in any Mayoral Minute, an item of general interest to be drawn to the attention of Council.";

- c. include new Clauses 6.3 and 6.4 as follows:

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On receipt of a petition, a report noting the receipt of the petition shall be submitted to the next available Council Meeting. The report is to note the nature of the petition and number of signatories. The Chairperson must not permit discussion or debate on the petition with the petition being noted for further consideration in conjunction of the subject matter.

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 - iii. in accordance with Section 362(2) of the Local Government Act 1993, Council is of the opinion, the amendments are not substantial and are made to ensure legislative compliance, therefore public exhibition is not required.

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

ORD158/10

**THE MINUTES OF THE ORDINARY COUNCIL MEETING HELD ON 27 JULY 2010
WERE ADOPTED AT AN ORDINARY COUNCIL MEETING HELD 10 AUGUST
2010. MIN. NO. ORD 162/10**

A handwritten signature in black ink, consisting of several fluid, connected strokes, positioned above the title 'CHAIRPERSON'.

CHAIRPERSON