



Camden Council

Business Paper

Ordinary Council Meeting
10 December 2013

Camden Civic Centre
Oxley Street
Camden



ORDINARY COUNCIL

ORD08

ORD08

SUBJECT: ELDERSLIE MASTER PLAN REVIEW
FROM: Acting Director Governance
TRIM #: 13/44307

PURPOSE OF REPORT

The purpose of this report is to outline proposed changes to Camden DCP 2011 in relation to the Elderslie Master Plan and to seek a resolution to place these changes on public exhibition. The proposed changes seek to provide for greater flexibility whilst maintaining the current vision and planning principles for Elderslie.

BACKGROUND

The Elderslie Release Area was rezoned in 2004. Council has received feedback from major land owners on the southern side of Lodges Road that the current Elderslie Master Plan (provided as **Attachment 1 to this report**) does not provide for the necessary flexibility to facilitate the variety of housing types planned for Elderslie and to achieve the required density targets. A review of the Master Plan has been undertaken by staff in consultation with the land owners.

The DCP amendment seeks to provide greater flexibility in how the density is distributed. An alternative road layout for the holdings located on the southern edge of Lodges Road is proposed. The amendment also seeks to identify an alternative medium density site at 83 lodges Road. It should be noted that only 3 land owners are affected by the proposed amendments to the DCP.

A Councillor Workshop was held on this matter on 22 October 2013.

MAIN REPORT

Subject Site

The land that is subject to this proposed DCP amendment is outlined in red on the map below.

Map 1 – Subject Site



Alternative road layout

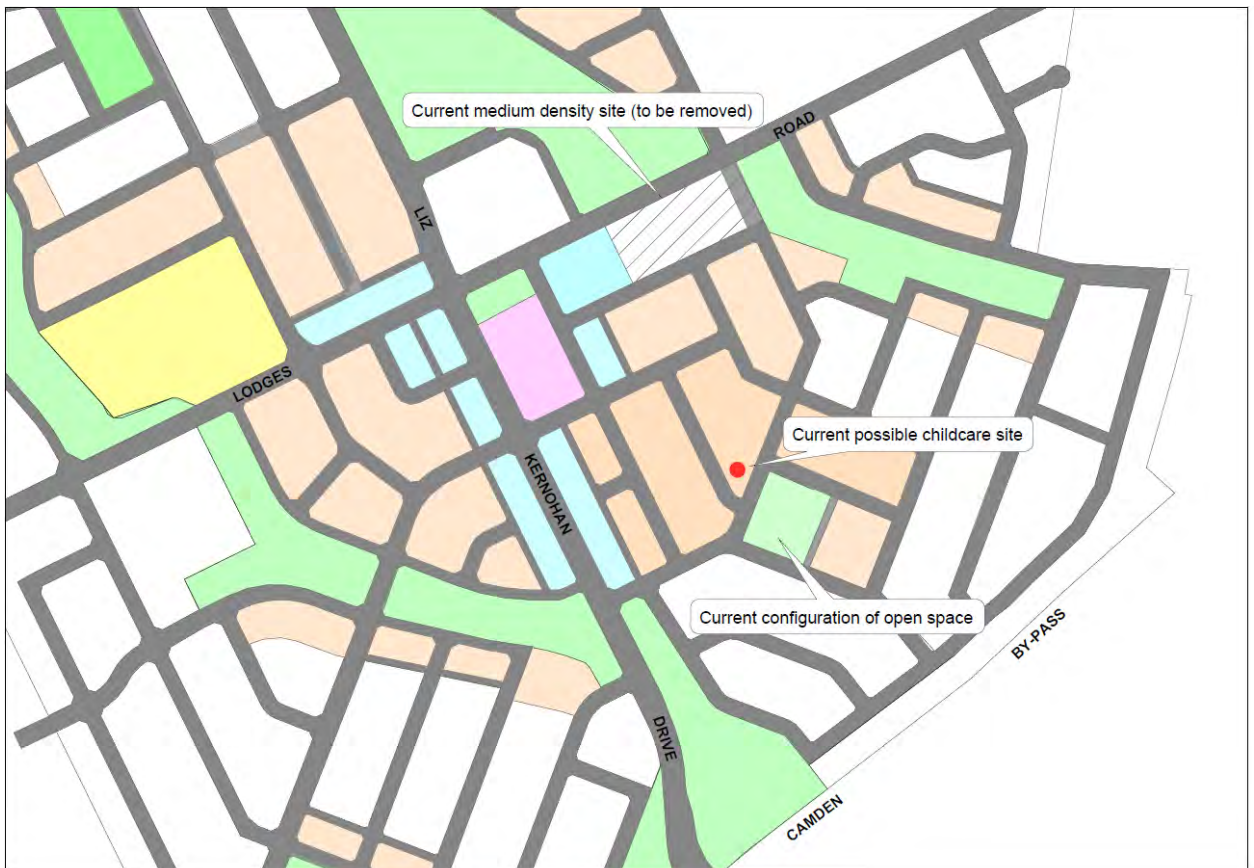
The two main landowners, AV Jennings and Investa, have proposed an alternative road layout for their holdings located on the southern edge of Lodges Road which integrates a clearer hierarchy of roads and which provides for inherent traffic control mechanisms by avoiding road cross junctions. The configuration and hierarchy of the revised road layout also makes for improved navigation for future motorists.

In addition to the revised road layout, it is proposed to insert a new control in Part C6.2 (Neighbourhood and Subdivision Design) to ensure that future dwellings are designed to present to Lodges Road. A schedule of proposed written changes to the DCP is provided as **Attachment 2 of this report**.

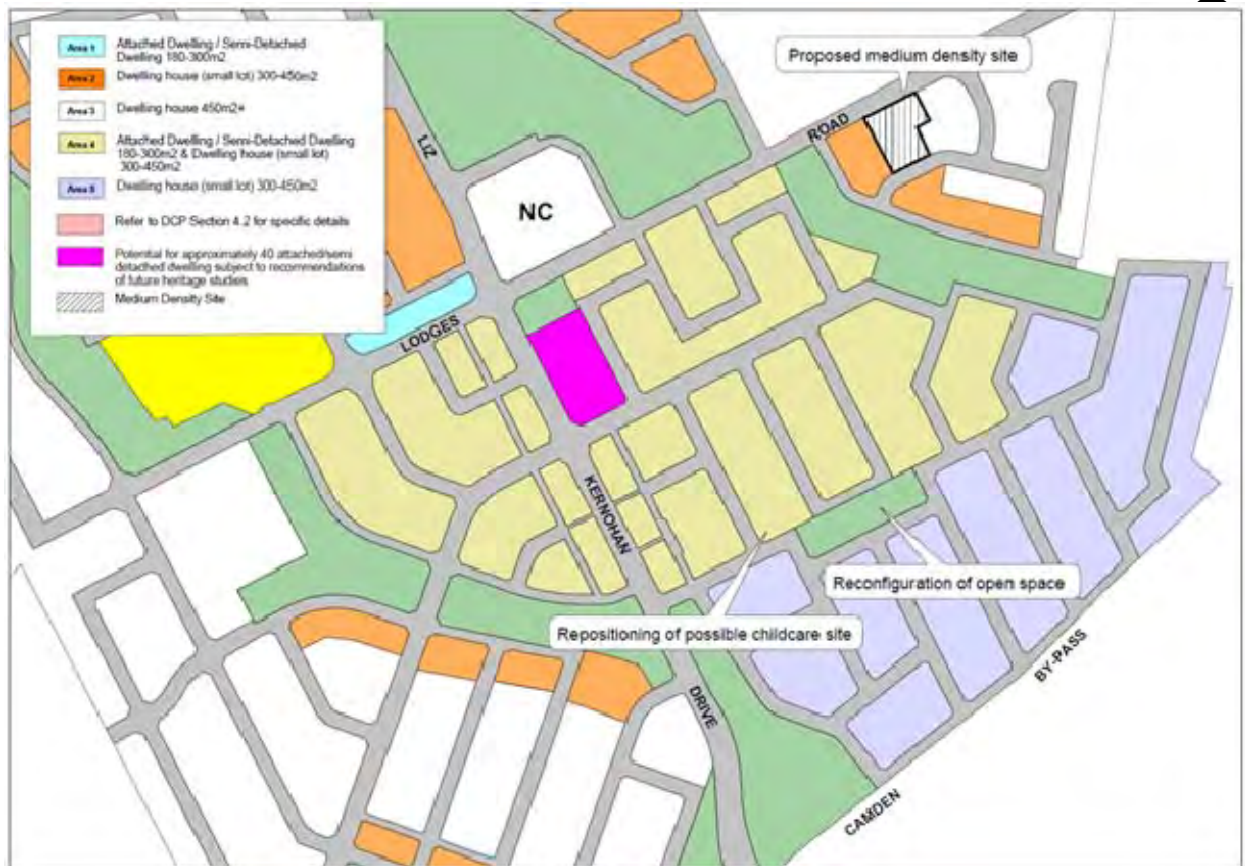
Reconfiguration of open space

It is proposed to relocate the open space reserve to improve access for future residents having regard to the reconfigured road layout and proposed revised housing density. The new reserve has an area which reflects Council's s94 plan as amended in 2012. As a result of the revised road layout and reconfiguration of open space, it is also necessary to reposition the proposed childcare site (refer to maps 2 & 3 below).

Map 2 - Current road layout



Map 3 – Proposed road layout



Review of density distribution

The DCP amendment seeks to provide greater flexibility to facilitate the variety of housing types planned for Elderslie and to achieve the required density target of approximately 1978 dwellings across the Elderslie release area.

The current Master Plan (provided as **Attachment 1 of this report**) specifies the locations for attached/semi-detached dwellings (Area 1), small lot housing (Area 2), and standard residential lots (Area 3) across the Elderslie release area. As a result of developer's request and in order to provide greater flexibility to facilitate the delivery of various housing types, it is proposed to replace the current areas on the subject land with a new area ('Area 4'). Area 4 will allow the dispersion of a variety of housing types including attached dwellings, semi attached/semi-detached dwellings and small lot housing. The new area 4 is only applicable to the land holdings of AV Jennings and Investa.

The current Master Plan also specifies the location of a medium density housing site with the potential for 78-80 dwellings in a two-storey development with a third storey located within the roof structure. This amendment seeks to remove the medium density housing site and to disperse the expected yield for the site (78-80 dwellings) across the holdings located on the southern edge of Lodges Road as part of Area 4. Reference to the medium density site on the Master Plan and on page C32 of the Camden DCP is proposed to be removed.

The new 'Area 4' is designed to simplify the controls by allowing a range of dwelling types across the area while maintaining the same number of dwellings.

The area shaded purple on the above map is currently noted as Area 3 with residential lots of 450m²+. The developer has indicated that they are not able to achieve the required dwelling yields for this area and has requested that it be designated as Area 5 with small lots of 300-450m². This will bring about a change to the individual yields identified for the new area as specified on the current master plan, however the overall yield across the release area will remain the same.

Proposed Medium Density Housing site

An alternative medium density site is proposed at 83 Lodges Road, Elderslie (shown hatched on map 3 above). The site is approximately 3,368m² and is well located within the precinct as it is located on lodges Road and close to the proposed Neighbourhood Centre (Refer to map 3 above). This would increase the dwelling yield for this area by approximately 10 dwellings.

All of the above amendments have been incorporated into a draft Elderslie Master Plan which is provided as **Attachment 3 of this report**.

Endeavour Energy Requirements

Endeavour Energy are proposing to underground a major 132kv transmission line through the Elderslie Release Area to service the development at Oran Park.

Prior to the reconstruction of Lodges Road and the construction of 550m of Liz Kernohan Drive by Council in 2012, Endeavour Energy had confirmed on a number of occasions that the proposed transmission line would follow the existing electrical easement on the eastern side of AV Jennings Lot 4050 DP 1153052. This would not affect Council's roads in any way.

Early this year, Endeavour Energy came to an agreement with AV Jennings to underground the power through their land under the proposed local road network and extinguish the existing overhead electrical easement. There is currently uncertainty of the road layout on the AV Jennings property until the Elderslie Master Plan Review is finalised. Accordingly the revised road layout will facilitate the construction of the transmission line.

Endeavour Energy have now advised Council that if the Master Plan review is not completed in time to meet their construction schedule, they will have no alternative but to install the 132kv transmission line within the road pavement in the newly constructed sections of Liz Kernohan Drive (500m) and Lodges Road (250m). Installing a major transmission line in the road pavement will require open trenching and it is considered that the road pavement and pavement 'life' will be compromised.

This work will require part road closures and have significant impacts on the Elderslie community, bus timetables and access to the Elderslie Schools. There is certain to be a public backlash that the newly constructed roads are being 'opened up', particularly considering Council closed Lodges Road for 17 weeks to reconstruct the road last year.

Public exhibition

Should Council resolve to support the proposed amendments to the DCP, these will be publicly exhibited in accordance with the *Environmental Planning and Assessment Regulation 2000*. The regulations stipulate a minimum 28-day public exhibition period,

but given the holiday period it is recommended that the exhibition period be extended by two weeks (i.e. an exhibition period of 42 days). The exhibition will be held between 18 December 2013 – 29 January 2013 which will enable a report back to Council in February.

A notification will be placed in the local newspaper and the exhibition material available at:

- Narellan Customer Service Centre and Narellan Library, Queen Street, Narellan (Hard Copy);
- Camden Customer Service Centre and Camden Library, John Street, Camden (Hard Copy); and
- Council website for the length of the exhibition period (Electronic Copy).

During the exhibition period, all major land owners in Elderslie will be sent a letter notifying them of the proposed changes. At the conclusion of the consultation period, a report will be submitted back to Council detailing the submissions received.

FINANCIAL IMPLICATIONS

This matter has no direct financial implications for Council.

CONCLUSION

The DCP amendment seeks to provide more flexibility in how density is distributed on the subject land. An alternative road layout is proposed which integrates a clearer hierarchy of roads and which provides for inherent traffic control mechanisms by avoiding road cross junctions. There is no change to the overall dwelling yield of the subject site. The amendment also seeks to identify an alternative medium density site at 83 Lodges Road which result in a minor increase in yield.

RECOMMENDED

That Council:

- i. support the proposed changes to Camden Development Control Plan 2011 outlined in this report;**
- ii. publically exhibit the draft DCP in accordance with the provisions of the Environmental Planning and Assessment Regulation 2000 for a period of 42 days;**
- iii. write to all major land owners in Elderslie notifying them of the exhibition; and**
- iv. consider a further report to consider the results of the exhibition.**

ATTACHMENTS

1. Current Elderslie Master Plan_1
2. Elderslie - Schedule of proposed changes
3. Elderslie Masterplan

ORD08

Attachment 1

Attachment 1 – Current Elderslie Master Plan



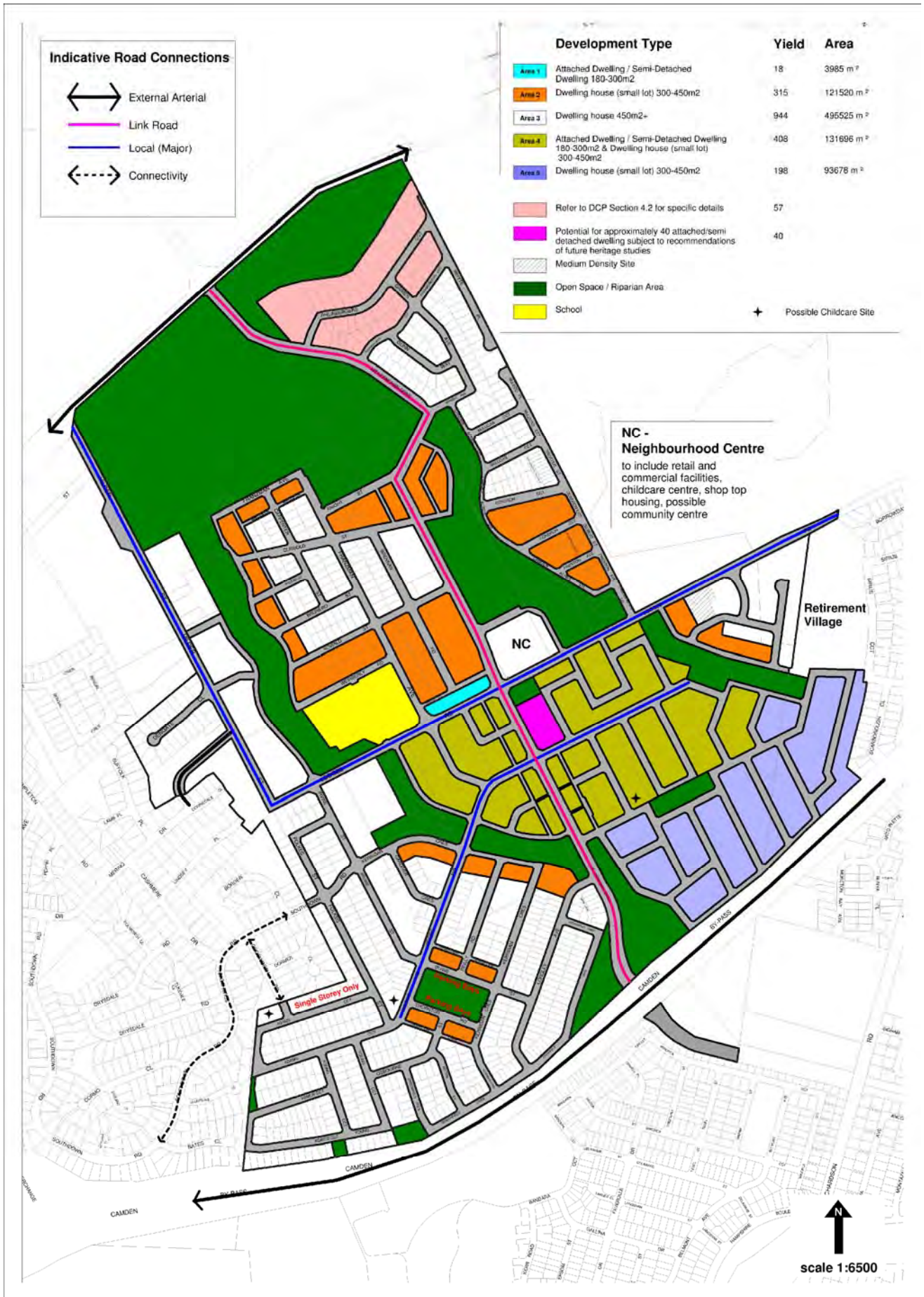
Attachment 2

Elderslie Master Plan Review – Schedule of proposed changes

DCP Reference	Summary of proposed changes
Figure C12	Figure C12 (Elderslie Master Plan) has been reviewed to incorporate: <ul style="list-style-type: none"> - Revised road layout; - Reconfiguration of open space; - Repositioning of proposed childcare site; - Alternative proposed medium density site; and - Changes to density distribution.
Figure C14	Figure C14 (Elderslie Street Hierarchy Plan) is to be amended to reflect revised road layout.
Elderslie Density Targets (Page C32)	Amend page C32 of the Camden DCP to: <ul style="list-style-type: none"> - Remove reference to multi dwelling housing site identified on Lodges Road overlooking the riparian corridor. - Add reference to multi dwelling housing site at 83 Lodges Road; and - Add reference to new 'Area 4' – allowing the dispersion of a variety of housing types including attached dwellings, semi attached/semi-detached dwellings and small lot housing.
C6.2 Neighbourhood and Subdivision Design	Insert new control to ensure future dwellings present to Lodges Road.

ORD08

Attachment 3



ORDINARY COUNCIL

ORD09

ORD09

SUBJECT: EAST LEPPINGTON VPA
FROM: Acting Director Governance
TRIM #: 13/43836

PURPOSE OF REPORT

The purpose of this report is for Council to review and adopt the draft Voluntary Planning Agreement (VPA) for the East Leppington development for the purposes of public exhibition.

BACKGROUND

East Leppington is a South West Growth Centre Precinct located in the Camden, Campbelltown and Liverpool LGAs. The Camden portion of the East Leppington precinct is bounded by Camden Valley Way, St Andrews Road, and the LGA boundary between Camden and Campbelltown. The location of the East Leppington site and the portion of the site located within the Camden LGA is shown at Figure 1 below.

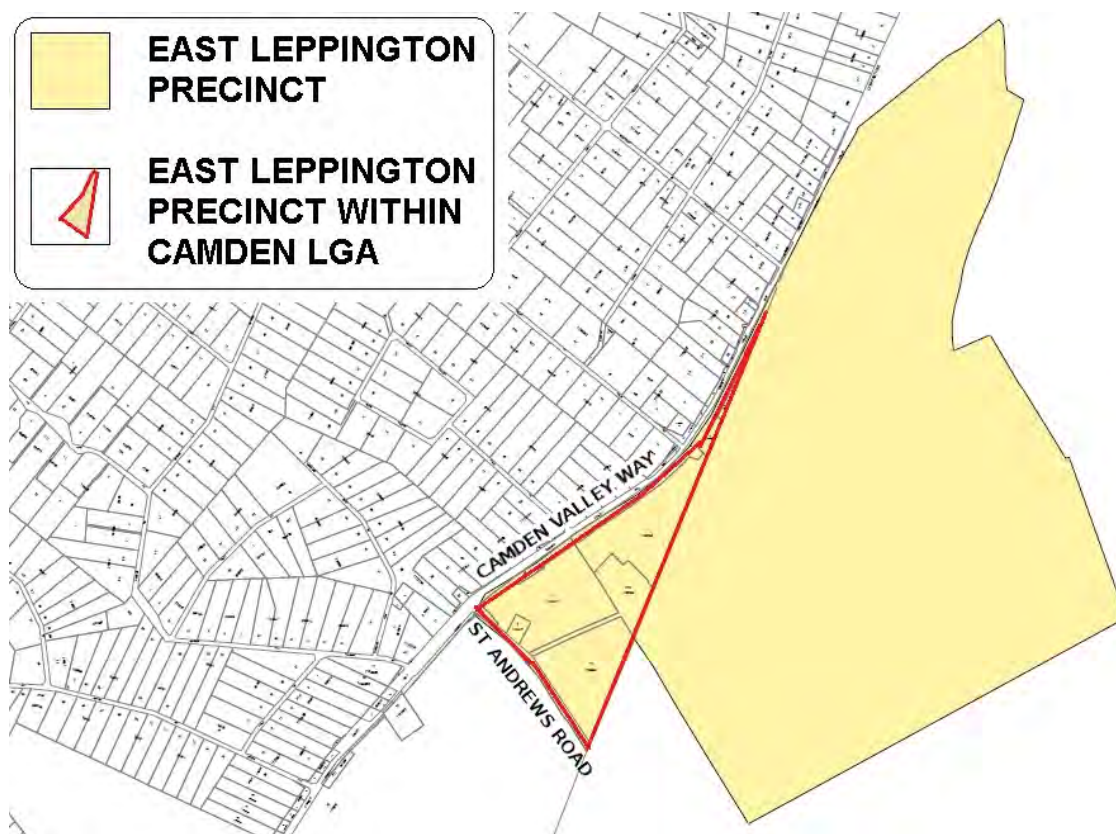


Figure 1 – East Leppington Precinct location plan

In March 2013 the Department of Planning and Infrastructure (DP&I) rezoned the Camden and Campbelltown portions of East Leppington for urban purposes, including residential, business, community, open space and conservation land uses. The entire East Leppington precinct will accommodate 4300 dwellings once fully developed, and 615 of those dwellings will be located in the Camden portion of the site. At the time of rezoning, a Section 94 Contributions Plan had not been prepared.

The developers and landowners of the East Leppington site indicated their intention to enter into a VPA for the Camden portion of the East Leppington site in May 2012. Since that time, the developers, landowners and their lawyers have negotiated the content of a draft VPA in conjunction with Council officers and Council's lawyers.

To enable development of the site to commence prior to the VPA being entered into, the developer's lawyers and Council's lawyers have agreed upon a process which enables Council to legally issue partial and conditional development consents. Under this process, Council has already issued partial development consents to allow the commencement of bulk earthworks and civil works on the East Leppington site. The developer has agreed that partial development consent for the subdivision of the site will be withheld until Council adopts the VPA offer. If the VPA offer is adopted by Council, the developer agrees to conditional development consent being issued in accordance with Section 93I(3) of the Environmental Planning and Assessment Act 1979 for the subdivision of the site, and agrees that subdivision certificates will be withheld until the VPA is adopted by Council and signed by all parties.

MAIN REPORT

A final VPA offer has been received from Stockland (landowner and developer), the Cornish Group (landowner and developer) and Leppington Park Pastoral (landowner). Following a review of the VPA offer, the proponents agreed to Council's lawyers preparing a draft VPA which incorporates the VPA offer into Council's standard VPA format. The draft VPA document which forms the final VPA offer to Council **is included as Attachment 1 to this report**. A letter of offer from all parties to the VPA **is included as Attachment 2 to this report**.

Under the final VPA offer, the developers and landowners will deliver all of the works, facilities, infrastructure, land dedication and monetary contributions required by the Camden portion of the East Leppington development. Additional monetary contributions on behalf of the Campbelltown component of the development will be made towards the provision of off-site facilities located within the Camden LGA. The total value of the VPA offer is \$7,093,902 which equates to \$11,535 per lot.

Whilst the effective 'per lot' contribution made by the VPA offer is lower than other VPAs and Section 94 Contribution Plans adopted by Council, the VPA offer provides all of the infrastructure and land dedication identified in the specialist studies and reports which were completed during the precinct planning process for East Leppington.

It is noted that the East Leppington precinct is located across the Camden, Campbelltown and Liverpool LGAs and the bulk of the works, facilities and infrastructure are primarily located within the Campbelltown and Liverpool LGAs. The effective 'per lot' developer contributions in Campbelltown and Liverpool are therefore higher than in the Camden LGA, and the average per lot developer contribution across the entire East Leppington precinct is slightly less than \$30,000 per lot. The future residents of the Camden land will benefit from the works, facilities and infrastructure located in the Campbelltown and Liverpool portions of the East Leppington site.

Works, facilities, infrastructure and land dedication

The VPA offer includes the construction of works, facilities and infrastructure as required by the East Leppington development, along with the dedication of the land upon which these items will be located. The works, facilities, infrastructure and land dedication are outlined below.

Transport management

The VPA offer includes the provision of 679 lineal metres of shared pedestrian and cycle paths, along with 369 lineal metres of collector road, and the dedication of the land upon which these works will be located. The total value of transport management works and land dedication is \$1,855,626.

Water cycle management

The VPA offer includes the provision of 16,110m² of drainage, bioretention and water cycle management infrastructure, and the dedication of the land upon which these works will be located. The total value of water cycle management works and land dedication is \$751,585.

Riparian corridor land

The VPA offer includes the embellishment and dedication of 5,480m² of riparian corridor land in accordance with Council's Dedication of Riparian Corridor Land Policy, and the maintenance of this land for a period of five years by the developers. Following the expiration of the developers' five year maintenance period, Council's Assets Branch will be required to maintain the riparian corridor land at an approximate cost of \$8,600 per annum.

The proposed dedication of riparian corridor land is consistent with Council's Dedication of Riparian Corridor Land Policy. The acceptance of the riparian corridor land by Council is consistent with the approach taken in other recent VPAs, and establishes a network of embellished and maintained riparian corridor land in the Camden LGA with associated environmental and ecological benefits.

The total value of the riparian corridor embellishment works is \$196,304.

Active and passive open space

The VPA offer includes the provision of the following within the Camden portion of East Leppington:

- A 6,611m² community park including a playground, picnic shelter and BBQ, toilet facility, seating, bins, bubblers, pathways, a kick-around area for ball sports, and landscaping works;
- 11,800m² of embellished passive open space; and
- The dedication of 18,411m² of land containing the community park and embellished passive open space.

The total value of active and passive open space works and land dedication in the Camden LGA is \$3,198,475.

The VPA offer also proposes to provide 8,000m² of junior playing fields adjacent to the double playing fields which are being provided in the Campbelltown portion of the East Leppington development. The provision of additional junior playing fields in the Campbelltown LGA has been negotiated with Stockland and Campbelltown Council to ensure that sufficient active open space is provided in the East Leppington precinct, and addresses concerns raised by specialist staff during the rezoning stage. Given that the junior playing fields are located within the Campbelltown LGA, Stockland propose that this land will be dedicated to Campbelltown Council via a separate VPA which is currently under negotiation.

Whilst the junior playing fields will be located in Campbelltown, the inclusion of the junior playing fields as a contribution item in the Camden VPA offer provides Council with certainty regarding the provision of these works. If the developer fails to construct the junior playing fields under the Camden VPA, and fails to dedicate the land to Campbelltown Council under the Campbelltown VPA, the developer will be in breach of both VPAs.

The total value of the junior playing field works in the Campbelltown LGA is \$653,000.

Monetary contributions

Administration of the VPA

The VPA offer includes a monetary contribution of \$30,032 towards Council's administration and management of the VPA. The contribution equates to 1% of the value of all works to be delivered under the VPA. This percentage is consistent with what has been negotiated via recent VPAs.

Contributions towards land acquisition for regional cultural facilities at Leppington North

The VPA offer includes a monetary contribution of \$332,793 towards the acquisition of land for the future Leppington North regional performing arts and community centre facilities proposed under the draft Leppington North Section 94 Contributions Plan. It is noted that the amount of \$332,793 comprises \$53,033 on behalf of the 615 lots proposed in the Camden LGA, as well as \$279,760 on behalf of the 3250 lots proposed in the Campbelltown LGA. The additional monetary contribution on behalf of the Campbelltown lots has been negotiated between the developers and Council and exceeds what Council would have been able to secure via a Section 94 Contributions Plan.

Security

The Environmental Planning and Assessment Act 1979 requires that VPAs must include suitable means for enforcement of the VPA in the event of a breach of the agreement by the developers or landowners. The VPA offer includes a number of security provisions as outlined below.

Development staging and monetary security

The developers have prepared a development staging plan which forms Map Sheet 4 in Schedule 2 of the VPA offer. Schedule 1 of the VPA offer itemises the contribution items to be provided within each stage of development and includes their monetary value.

Clause 26 of the VPA offer requires the developers to provide staged monetary security against the value of all incomplete works under the VPA offer prior to Council issuing each subdivision certificate for the development.

Schedule 1 of the VPA offer stipulates the timing requirements for delivery of works under the VPA. The VPA offer stipulates that Council shall not release the Subdivision Certificates for greater than 90% of lots within a stage unless the works tied to that stage have been completed, or the developer has provided security in the form of a bank guarantee for the value of any work not completed.

Registration of VPA on the title of the land

A key security provision is the registration of a VPA on land title, which binds all current and future owners of the land to comply with the VPA.

In the case of East Leppington, the major landowners are Stockland (who own 60% of the site) and the Cornish Group (who own 27% of the site), whilst Leppington Park Pastoral are the minor landowner with 13% of the site. Stockland and the Cornish Group have agreed to the registration of the VPA on their land.

The land owned by Leppington Park Pastoral is part of a large lot of land which is mostly located in the Campbelltown LGA. Accordingly, registering the VPA on this lot would also encumber the Campbelltown portion of the lot, which is undesirable to Leppington Park Pastoral.

In lieu of the registration of the VPA on the title of the Leppington Park Pastoral land, the VPA offer proposes security to the full value of works and land dedication located on the Leppington Park Pastoral land. The security will be payable prior to the release of the first subdivision certificate on the East Leppington site, and will be refunded once the VPA is registered on title by the current or future owner, or once the contribution items on the Leppington Park Pastoral land have been completed and dedicated to Council. The total amount of security to be provided in lieu of registration of the VPA on the Leppington Park Pastoral land is \$566,265.

The provision of security will enable Council to step-in and undertake works and acquire land if the landowners and developers fail to meet their obligations regarding the contribution items and land dedication associated with the Leppington Park Pastoral land. Council's lawyers have advised that this outcome is an acceptable alternative to having the VPA registered on the title of the Leppington Park Pastoral land.

Additional Security

Security will also be provided in the following ways:

- The works and land dedication are linked to the release of lots. If the developer fails to deliver works when required, Council will withhold the release of Subdivision Certificates;
- Council has the ability to acquire land to be dedicated under the terms of the VPA for \$1 if the land is not dedicated; and
- Council has the ability to take action under the *EP&A Act 1979* to remedy any breach of the agreement.

This package of security gives Council certainty that the agreed undertakings will be completed and reflects the scope of the land and works contributions being offered and the length of time the agreement will operate.

Next steps in the development and VPA process

Should Council resolve to adopt the VPA offer for the purposes of public exhibition, Council officers will then issue a conditional development consent which allows the finalisation of the physical subdivision works for part of the East Leppington site. As agreed to by the developers, the consent will require a VPA (which is consistent with the VPA offer attached to this report) to be entered into prior to Council releasing any subdivision certificates for the development. The ability of Council to issue a conditional development consent relating to a VPA offer is facilitated by Section 93I(3) of the Environmental Planning and Assessment Act 1979 and has been agreed to by Council's and the developer's lawyers.

Following the public exhibition of the draft VPA for a period of 28 days commencing on 15 January 2014, a further report will be prepared which outlines the results of the exhibition and allows Council to consider entering into the VPA. This report is likely to be submitted to the Council meeting on 25 February 2014. If a decision is made to enter into the Agreement, it will be signed by all parties and Council can then issue subdivision certificates as the conditional consent will have been satisfied.

FINANCIAL IMPLICATIONS

Under the VPA offer, the developers and landowners will undertake all of the works and dedicate all of the land required by the East Leppington development, at no cost to Council. The VPA offer also includes monetary contributions towards Council's administration and implementation of the VPA, and monetary contributions towards the acquisition of land for the regional cultural facilities at Leppington North. It is noted that under the VPA offer, the responsibility for meeting any cost overruns whilst delivering works for East Leppington will rest upon the developer, rather than Council as is the case under a Section 94 Contributions Plan.

Additionally, the VPA offer allows the developers to provide works, facilities and infrastructure in a more timely manner than if Council was required to collect developer contributions under a Section 94 Contributions Plan.

The VPA offer includes the dedication of 5,480m² of embellished riparian corridor land to Council at the conclusion of the developer's five year maintenance period. Once owned by Council, the riparian land will be maintained by Council's Assets Branch at an approximate cost of \$8,600 per annum. It is expected that funding for the maintenance of public land in East Leppington (inclusive of the riparian corridor land) will be derived from rates income generated via the future residents of East Leppington.

The net result of VPA offer is no foreseeable negative financial impact upon Council as a result of the Emerald Hills development. Additionally, the VPA secures monetary contributions for off-site land acquisition that would not have been able to be secured via a Contributions Plan.

CONCLUSION

The VPA offer from Stockland, the Cornish Group and Leppington Park Pastoral proposes to construct all of the works, infrastructure and facilities required by the Camden portion of the East Leppington development, as well as dedicating the works and associated land to Council, and the payment of monetary contributions for VPA implementation and administration and the acquisition of land for regional cultural facilities at Leppington North.

The VPA offer represents the developers' commitment to delivering works, infrastructure and facilities for the future residents of the East Leppington development in a timely manner.

The VPA offer is consistent with Council's standard VPA requirements and provides sufficient security and legal remedies to mitigate any financial risk to Council.

It is therefore recommended that Council proceed with a public exhibition of the draft VPA offer.

RECOMMENDED

That Council:

- i. adopts the draft VPA for the East Leppington site;**
- ii. proceeds to public exhibition of the draft VPA for a period of 28 days in accordance with the provisions of the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulation 2000; and**
- iii. consider a further report at the conclusion of the exhibition period.**

ATTACHMENTS

- 1. East Leppington draft VPA 27 November 2013 FINAL**
- 2. East Leppington VPA Letters of offer**

ORD09

Attachment 1

Deed

East Leppington
Planning Agreement

Under s93F of the *Environmental Planning and Assessment Act 1979*

Camden Council
Stockland Development Pty Limited
Leppington Park Pastoral Pty Limited
Cornish Group No. Two Pty Limited

[Insert Date]

© Lindsay Taylor Lawyers

East Leppington Planning Agreement
 Camden Council
 Stockland Development Pty Ltd
 Leppington Park Pastoral Pty Limited
 Cornish Group No. Two Pty Limited

East Leppington Planning Agreement

Table of Contents

Summary Sheet	4
Parties	6
Background	6
Operative provisions	6
Part 1 - Preliminary	6
1 Interpretation.....	6
2 Status of this Deed	11
3 Commencement	11
4 Application of this Deed.....	11
5 Warranties	11
6 Further agreements	11
7 Surrender of right of appeal, etc.	11
8 Application of s94, s94A and s94EF of the Act to the Development.....	11
Part 2 – Development Contributions	12
9 Provision of Development Contributions	12
10 Payment of monetary Development Contributions.....	12
11 Dedication of land	13
12 Carrying out of Work.....	13
14 Variation to Work	15
17 Council's obligations relating to Work.....	17
18 Protection of people, property & utilities	17
19 Repair of damage	17
20 Completion of Work	17
21 Rectification of defects.....	18
22 Works-As-Executed-Plan.....	18
23 Removal of Equipment	18
Part 3 – Dispute Resolution	18
24 Dispute resolution – expert determination	18
25 Dispute Resolution - mediation.....	19
Part 4 – Enforcement	20
26 Security for performance of obligations	20

DRAFT EAST LEPPINGTON VPA 27 NOVEMBER 2013

ORD09

Attachment 1

East Leppington Planning Agreement	
Camden Council	
Stockland Development Pty Ltd	
Leppington Park Pastoral Pty Limited	
Cornish Group No. Two Pty Limited	
<hr/>	
27 Acquisition of land required to be dedicated.....	21
28 Breach of obligations	21
29 Enforcement in a court of competent jurisdiction	22
Part 5 – Registration & Restriction on Dealings.....	23
30 Registration of this Deed	23
31 Restriction on dealings	23
Part 6 – Indemnities & Insurance.....	24
32 Risk.....	24
33 Release.....	24
34 Indemnity	24
35 Insurance	25
Part 7 – Other Provisions	25
36 Annual report by Developer.....	25
37 Review of Deed	25
38 Notices.....	26
39 Approvals and Consent	27
40 Costs.....	27
41 Entire Deed.....	27
42 Further Acts	27
43 Governing Law and Jurisdiction	27
44 No Fetter.....	28
45 Illegality	28
46 Severability	28
47 Amendment	28
48 Waiver.....	28
49 GST.....	28
50 Explanatory Note	30
Schedule 1	31
Schedule 2.....	45
Execution.....	49
Appendix	51

East Leppington Planning Agreement
Camden Council
Stockland Development Pty Ltd
Leppington Park Pastoral Pty Limited
Cornish Group No. Two Pty Limited

East Leppington Planning Agreement

Summary Sheet

Council:

Name: Camden Council
Address: 37 John Street, Camden NSW 2570
Telephone: (02) 4654 7777
Facsimile: (02) 4564 7829
Email: mail@camden.nsw.gov.au
Representative: The General Manager

Landowner and Developer:

Name: Stockland Development Pty Ltd
Address: Level 25, 133 Castlereagh Street, Sydney, NSW, 2000
Telephone: (02) 9035 2000
Facsimile: (02) 8988 2000
Email: Edward.Krushka@stockland.com.au
Representative: General Manager, Residential Development, NSW

Landowner and Developer:

Name: Cornish Group No. Two Pty Limited
Address: 7 Ferncreek Court, Kellyville NSW 2155
Telephone: (02) 9819 6966
Facsimile: (02) 9819 6977
Email: brett@cornishgroup.com.au
Representative: Brett Cornish

Landowner:

Name: Leppington Park Pastoral Pty Limited
Address: PO Box 501, Casula, NSW 2170
Telephone: (02) 4773 4291

DRAFT EAST LEPPINGTON VPA 27 NOVEMBER 2013

ORD09

East Leppington Planning Agreement
Camden Council
Stockland Development Pty Ltd
Leppington Park Pastoral Pty Limited
Cornish Group No. Two Pty Limited

Facsimile: (02) 9602 7234

Email: [Insert Details]

Representative: The Directors

Land:

See definition of *Land* in clause 1.1.

Development:

See definition of *Development* in clause 1.1.

Development Contributions:

See Clause 9 and Schedule 1.

Application of s94, s94A and s94EF of the Act:

See clause 8.

Security:

See Part 4.

Registration:

See clause 30.

Restriction on dealings:

See clause 31.

Dispute Resolution:

See Part 3.

DRAFT EAST LEPPINGTON VPA 27 NOVEMBER 2013

Attachment 1

East Leppington Planning Agreement
Camden Council
Stockland Development Pty Ltd
Leppington Park Pastoral Pty Limited
Cornish Group No. Two Pty Limited

East Leppington Planning Deed

Under s93F of the *Environmental Planning and Assessment Act 1979*

Parties

Camden Council ABN 31 117 341 764 of 37 John Street, Camden NSW 2570
(Council)

and

Stockland Development Pty Ltd ACN 000 064 835 of Level 25, 133
Castlereagh Street, Sydney, NSW 2000 (Stockland)

and

Leppington Park Pastoral Pty Limited ABN 33 080 266 048 of PO Box
501, Casula, NSW 2170 (LPP)

and

Cornish Group No. Two Pty Limited ACN 153 422 381 of 7 Ferncreek
Court, Kellyville NSW 2155 (Cornish Group)

Background

- A The Landowner is the owner of the Land.
- B The Developer is prepared to make Development Contributions in connection with the carrying out of the Development in accordance with this Deed.

Operative provisions

Part 1 - Preliminary

1 Interpretation

- 1.1 In this Deed the following definitions apply:

Act means the *Environmental Planning and Assessment Act 1979* (NSW).

Deed means this Deed and includes any schedules, annexures and appendices to this Deed.

DRAFT EAST LEPPINGTON VPA 27 NOVEMBER 2013

East Leppington Planning Agreement
 Camden Council
 Stockland Development Pty Ltd
 Leppington Park Pastoral Pty Limited
 Cornish Group No. Two Pty Limited

Approval includes approval, consent, licence, permission or the like.

Authority means the Commonwealth or New South Wales government, a Minister of the Crown, a government department, a public authority established by or under any Act, a council or county council constituted under the *Local Government Act 1993*, or a person or body exercising functions under any Act including a commission, panel, court, tribunal and the like.

Bank Guarantee means an irrevocable and unconditional undertaking without any expiry or end date in favour of the Council to pay an amount or amounts of money to the Council on demand issued by:

- (a) one of the following trading banks:
 - (i) Australia and New Zealand Banking Group Limited,
 - (ii) Commonwealth Bank of Australia,
 - (iii) Macquarie Bank Limited,
 - (iv) National Australia Bank Limited,
 - (iv) St George Bank Limited,
 - (v) Westpac Banking Corporation, or
- (b) any other financial institution approved by the Council in its absolute discretion.

Business Day means a day on which the banks are open for general banking business in Sydney (not being a Saturday, Sunday or public holiday).

Claim includes a claim, demand, remedy, suit, injury, damage, loss, Cost, liability, action, proceeding or right of action.

Cornish Group means Cornish Group No. Two Pty Limited (ACN 153 422 381).

Contribution Value means the \$ amount agreed between the Parties as the value of a Development Contribution made under this Deed as set out in Column 7 of Schedule 1.

Cost means a cost, charge, expense, outgoing, payment, fee and other expenditure of any nature.

Defect means anything that adversely affects, or is likely to adversely affect, the appearance, structural integrity, functionality or use or enjoyment of a Work or any part of a Work.

Defects Liability Period means the period of 1 year commencing on the day immediately after a Work is completed for the purposes of this Deed (not including any Maintenance Period).

Developer in relation to Development on:

- (a) that part of the Land in respect of which Stockland or LPP is the registered proprietor. means Stockland;
- (b) that part of the Land in respect of which Cornish Group is the registered proprietor, means Cornish Group..

Development means the development of the Land for urban purposes in accordance with the Indicative Layout Plan involving subdivision to accommodate approximately 615 dwellings, establishment of a road, utilities and stormwater management network, provision of open space and recreation areas and construction of dwellings and a maximum FLA of approximately 34 hectares.

DRAFT EAST LEPPINGTON VPA 27 NOVEMBER 2013

East Leppington Planning Agreement
 Camden Council
 Stockland Development Pty Ltd
 Leppington Park Pastoral Pty Limited
 Cornish Group No. Two Pty Limited

Development Application has the same meaning as in the Act.

Development Consent has the same meaning as in the Act.

Development Contribution means a monetary contribution, the dedication of land free of cost, the carrying out of work, or the provision of any other material public benefit, or any combination of them, to be used for, or applied towards a public purpose, but does not include any Security or other benefit provided by a Party to the Council to secure the enforcement of that Party's obligations under this Deed for the purposes of s93F(3)(g) of the Act.

Dispute means a dispute or difference between the Parties under or in relation to this Deed.

Equipment means any equipment, apparatus, vehicle or other equipment or thing to be used by or on behalf of the Developers in connection with the performance of their obligations under this Deed.

Final Lot means a lot created in the Development for separate residential occupation and disposition or a lot of a kind or created for a purpose that is otherwise agreed by the Parties, not being a lot created by a subdivision of the Land:

- (a) that is to be dedicated or otherwise transferred to the Council, or
- (b) on which is situated a dwelling-house that was in existence on the date of this Deed.

Final Lot Area (FLA) means the area of the ground (measured in hectares or fractions thereof) in Final Lots for which Subdivision Certificates have been issued.

FLA Stage A means 16.82 hectares.

FLA Stage B means 16.76 hectares.

GST has the same meaning as in the GST Law.

GST Law has the same meaning as in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and any other Act or regulation relating to the imposition or administration of the GST.

Indicative Layout Plan means sheet 1 of the Map.

Item means a Development Contribution specified in Column 1 of Schedule 1.

Just Terms Act means the *Land Acquisition (Just Terms Compensation) Act 1991*.

Land means all of the land in the East Leppington Precinct that is within the area of the Council as shown on Sheet 2 of the Map and comprising Part Lots 1 – 2 and Part Lot 3 in DP 1185269, Lot 1 in DP 1181417 and Lot 72 in DP 706546.

Landowner means the registered proprietor of the relevant part of the Land.

LG Act means the *Local Government Act 1993*.

Maintain, in relation to a Work, means keep in a good state of repair and working order, and includes repair of any damage to the Work whether as a result of adverse weather, other act of God or otherwise.

Maintenance Period for a Work means the period of years specified in Column 8 of Schedule 1 in respect of that Item of Work calculated from the date of completion of that Work under clause 19.

DRAFT EAST LEPPINGTON VPA 27 NOVEMBER 2013

East Leppington Planning Agreement
 Camden Council
 Stockland Development Pty Ltd
 Leppington Park Pastoral Pty Limited
 Cornish Group No. Two Pty Limited

Map means Sheets 1 - 4 in Schedule 2.

Option Land means Part Lot 3 DP 1185269 forming part of the Land.

Option Land Security means \$566,265

Party means a party to this Deed.

Permitted Encumbrance means easements in favour of utility service providers or required by any Authority or as otherwise agreed in writing by the Council.

Plan of Management has the same meaning as in the s36 of the LG Act.

Rectification Notice means a notice in writing:

- (a) identifying the nature and extent of a Defect,
- (b) specifying the works or actions that are required to Rectify the Defect,
- (c) specifying the date by which or the period within which the Defect is to be rectified.

Rectify means rectify, remedy or correct.

Registration Land means Lot 1 DP1185269, Lot 1 DP 1181417, Lot 72 DP 706546.

Regulation means the *Environmental Planning and Assessment Regulation 2000*.

Security means a Bank Guarantee or a bond indexed annually in accordance with the annual movements in the Consumer Price Index (All Groups Sydney) published by the Australian Bureau of Statistics on and from the date of this Deed.

Stage means a stage of the Development approved by a Development Consent or otherwise approved in writing by the Council for the purposes of this Deed.

Subdivision Certificate means a subdivision certificate within the meaning of the Act or a strata certificate within the meaning of the *Strata Schemes (Freehold Development) Act 1973* or in any other case, any other form of certificate which, on registration, authorises the creation of a new lot.

Vegetation Management Plan (VMP) means a document prepared by a suitably qualified person in relation to a Work and which includes, without limitation, the following:

- (a) the criteria for the establishment, protection and management of existing and new plants, grasses, trees, shrubs, other habitat and landscape features;
- (b) the establishment of all protective measures required to ensure the immediate safety and ongoing viability of existing vegetation on the land; and
- (c) an estimate of the actual maintenance costs of implementing the VMP over the Maintenance Period of the Work;
- (d) an estimate of annual maintenance costs following dedication to the Council of the land upon which the Work is located itemised in relation to the following matters:
 - a. materials,
 - b. labour for maintenance, monitoring, review and reporting,
 - c. irrigation,
 - d. damage caused by possible storm events,

DRAFT EAST LEPPINGTON VPA 27 NOVEMBER 2013

East Leppington Planning Agreement
 Camden Council
 Stockland Development Pty Ltd
 Leppington Park Pastoral Pty Limited
 Cornish Group No. Two Pty Limited

- e. plant loss replacement
- f. other
- g. total.

Work means those works identified in Items 1 – 9 of Schedule 1 and includes the physical result of any building, engineering or construction work in, on, over or under land.

- 1.2 In the interpretation of this Deed, the following provisions apply unless the context otherwise requires:
- 1.2.1 Headings are inserted for convenience only and do not affect the interpretation of this Deed.
 - 1.2.2 A reference in this Deed to a business day means a day other than a Saturday or Sunday on which banks are open for business generally in Sydney.
 - 1.2.3 If the day on which any act, matter or thing is to be done under this Deed is not a business day, the act, matter or thing must be done on the next business day.
 - 1.2.4 A reference in this Deed to dollars or \$ means Australian dollars and all amounts payable under this Deed are payable in Australian dollars.
 - 1.2.5 A reference in this Deed to a \$ value relating to a Development Contribution is a reference to the value exclusive of GST.
 - 1.2.6 A reference in this Deed to any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision.
 - 1.2.7 A reference in this Deed to any agreement, deed or document is to that agreement, deed or document as amended, novated, supplemented or replaced.
 - 1.2.8 A reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this Deed.
 - 1.2.9 An expression importing a natural person includes any company, trust, partnership, joint venture, association, body corporate or governmental agency.
 - 1.2.10 Where a word or phrase is given a defined meaning, another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.
 - 1.2.11 A word which denotes the singular denotes the plural, a word which denotes the plural denotes the singular, and a reference to any gender denotes the other genders.
 - 1.2.12 References to the word 'include' or 'including' are to be construed without limitation.
 - 1.2.13 A reference to this Deed includes the agreement recorded in this Deed.
 - 1.2.14 A reference to a Party to this Deed includes a reference to the servants, agents and contractors of the Party, the Party's successors, and assigns.
 - 1.2.15 A reference to 'dedicate' or 'dedication' in relation to land is a reference to dedicate or dedication free of cost.

DRAFT EAST LEPPINGTON VPA 27 NOVEMBER 2013

ORD09

Attachment 1

East Leppington Planning Agreement
 Camden Council
 Stockland Development Pty Ltd
 Leppington Park Pastoral Pty Limited
 Cornish Group No. Two Pty Limited

1.2.16 Any schedules, appendices and attachments form part of this Deed.

2 Status of this Deed

2.1 This Deed is a planning agreement within the meaning of s93F(1) of the Act.

3 Commencement

3.1 This Deed takes effect on the date when all Parties have executed one counterpart of this Deed.

3.2 The Party who executes this Deed last is to insert on the front page the date they did so and provide a copy of the fully executed and dated Deed to any other person who is a Party.

4 Application of this Deed

4.1 This Deed applies to the Land and to the Development.

5 Warranties

5.1 The Parties warrant to each other that they:

5.1.1 have full capacity to enter into this Deed; and

5.1.2 are able to fully comply with their obligations under this Deed.

6 Further agreements

6.1 The Parties may, at any time and from time to time, enter into agreements relating to the subject-matter of this Deed that are not inconsistent with this Deed for the purpose of implementing this Deed.

7 Surrender of right of appeal, etc.

7.1 The Developers are not to commence or maintain, or to cause or procure the commencement or maintenance, of any proceedings in any court or tribunal or similar body appealing against, or questioning the validity of this Deed, or the validity of an Approval relating to the Development in so far as the subject-matter of the proceedings relates to this Deed.

8 Application of s94, s94A and s94EF of the Act to the Development

8.1 This Deed excludes the application of s94 of the Act to the Development.

8.2 This Deed excludes the application of s94A of the Act to the Development.

DRAFT EAST LEPPINGTON VPA 27 NOVEMBER 2013

East Leppington Planning Agreement
 Camden Council
 Stockland Development Pty Ltd
 Leppington Park Pastoral Pty Limited
 Cornish Group No. Two Pty Limited

- 8.3 This Deed does not exclude the application of s94EF of the Act to the Development.
- 8.4 For the avoidance of doubt, clauses 7.1 and 7.2 do not exclude the application of s94 or s94A of the Act to the development of Final Lots although in that eventuality, the benefits provided under this Deed referable to the Final Lot may be taken into consideration in determining a development contribution under section 94 of the Act.

Part 2 – Development Contributions

9 Provision of Development Contributions

- 9.1 The Developers are to make (or procure to be made) Development Contributions to the Council in accordance with Schedule 1 and any other provision of this Deed relating to the making of Development Contributions
- 9.2 Except in relation to Item 18 and 19 of Schedule 1, any Contribution Value specified in this Deed in relation to a Development Contribution does not serve to define the extent of the Developers' obligations to make the Development Contributions and:
 - 9.2.1 in the event that the costs of the relevant Works or land dedication exceed the Contribution Value, the Developers are responsible for that exceedance in costs; and
 - 9.2.2 in the event that the costs of the relevant Works or land dedication do not exceed the Contribution Value, the Developers are not required to make any additional contributions to the Council to make up for any difference between the actual cost and the amount identified in Schedule 1.
- 9.3 The Council is to apply each Development Contribution made by the Developers under this Deed towards the public purpose for which it is made and otherwise in accordance with this Deed.
- 9.4 Despite clause 9.3, the Council may apply a Development Contribution made under this Deed towards a public purpose other than the public purpose specified in this Deed if the Council reasonably considers that the public interest would be better served by applying the Development Contribution towards that other purpose rather than the purpose so specified.
- 9.5 A monetary Development Contribution specified in column 7 of Items 18 and 19 of Schedule 1 is to be indexed from the date of this Deed to the date of payment in accordance with the quarterly movements of the Consumer Price Index (All Groups Sydney) published by the Australian Bureau of Statistics.

10 Payment of monetary Development Contributions

- 10.1 A monetary Development Contribution is made for the purposes of this Deed when the Council receives the full amount of the contribution payable under this Deed in cash or by unendorsed bank cheque or by the deposit by means of electronic funds transfer of cleared funds into a bank account nominated by the Council.

DRAFT EAST LEPPINGTON VPA 27 NOVEMBER 2013

East Leppington Planning Agreement
 Camden Council
 Stockland Development Pty Ltd
 Leppington Park Pastoral Pty Limited
 Cornish Group No. Two Pty Limited

11 Dedication of land

- 11.1 A Development Contribution comprising the dedication of land is made for the purposes of this Deed when:
- 11.1.1 a deposited plan is registered in the register of plans held with the Registrar-General that dedicates land as a public road (including a temporary public road) under the *Roads Act 1993* or creates a public reserve or drainage reserve under the *Local Government Act 1993*, or
- 11.1.2 the Council is given:
- (a) an instrument in registrable form under the *Real Property Act 1900* duly executed by the Developers (including where relevant, procuring LPP to do all things that LPP may reasonably be required to do) as transferor that is effective to transfer the title to the land to the Council when executed by the Council as transferee and registered,
 - (b) the written consent to the registration of the transfer of any person whose consent is required to that registration, and
 - (c) a written undertaking from any person holding the certificate of title to the production of the certificate of title for the purposes of registration of the transfer.
- 11.2 The Developers are to do all things reasonably necessary (including, where relevant, procuring LPP to do all things which LPP may reasonably be required to do) to enable registration of the instrument of transfer to occur.
- 11.3 The Developers are to do all things reasonably necessary (and where relevant procure that LPP does all things which LPP may reasonably be required to do) to ensure that land dedicated to the Council under this Deed is free of all encumbrances and affectations (whether registered or unregistered and including without limitation any charge or liability for rates, taxes and charges) except for the Permitted Encumbrances.
- 11.4 If, having used all reasonable endeavours, the Developers cannot ensure that land to be dedicated to the Council under this Deed is free from all encumbrances and affectations other than the Permitted Encumbrances, the Developers may request that Council agree to accept the land subject to those encumbrances and affectations, but the Council may withhold its agreement in its absolute discretion.

12 Carrying out of Work

- 12.1 Without limiting any other provision of this Deed, any Work that is required to be carried out by the Developers under this Deed is to be carried out in accordance with any design or specification specified or approved by the Council, any relevant Approval and any other applicable law.
- 12.2 The Developer at its own cost, is to comply with any reasonable direction given to it by the Council to prepare or modify a design or specification relating to a Work that the Developer is required to carry out under this Deed.
- 12.3 Notwithstanding the generality of clause 12.1 or clause 13.1, prior to commencing a Work for which a Maintenance Period applies, the Developers must provide, and the Council must have earlier approved:

DRAFT EAST LEPPINGTON VPA 27 NOVEMBER 2013

East Leppington Planning Agreement
 Camden Council
 Stockland Development Pty Ltd
 Leppington Park Pastoral Pty Limited
 Cornish Group No. Two Pty Limited

- 12.3.1 a draft Plan of Management for the land on which the Work is to be carried out; and
- 12.3.2 a suitable maintenance regime for the Work, and costings, prepared by a suitably qualified person, for the carrying out of the maintenance regime.

13 Approval of design of Works

- 13.1 Council must approve the design and specifications for each Work unless otherwise agreed in writing by the Council in relation to any particular Work.
- 13.2 Prior to commencing design of a Work, the Developer must request that the Council provide the Developer with its requirements for the location (generally as shown on the Map if at all), design, materials and specifications for the provision of the Work.
- 13.3 When requesting Council's requirements under clause 13.2, the Developer may provide a proposal, including preliminary concept designs to assist Council in preparing its requirements.
- 13.4 Once the Developer receives the Council's requirements for the Work under clause 13.2, the Developer is to provide the initial design for the Work to Council for the Council's approval.
- 13.5 The initial design for the Work is to include or be accompanied by such information as is required for the making of a Development Application for the Work including:
 - 13.5.1 a draft Plan of Management for the land on which the Work is to be located on its dedication to the Council, if that land will be classified as community land within the meaning of the LG Act; and
 - 13.5.2 a draft Vegetation Management Plan for the land on which the Work is to be located, if the Council has advised the Developer that a Vegetation Management Plan is required; and
 - 13.5.3 a detailed maintenance regime for the Work, and detailed costings, prepared by a suitably qualified person, for the carrying out of the maintenance regime.
- 13.6 The Council is to advise the Developer in writing whether it approves of the initial design of the Work within 2 months of receiving the initial design from the Developer.
- 13.7 The Developer will make any change to the initial design for the Work required by the Council.
- 13.8 The Developer is not to lodge any Development Application for a Work unless the Council has first approved the initial design for the Work and provided its written certification that the Development Application is consistent with the approved initial design of the Work.
- 13.9 The Council is to provide the written certification referred to in clause 13.8 within 14 days of being provided with a copy of the proposed Development Application by the Developer, unless the Council forms the view that the proposed Development Application is not consistent with the approved initial design of the Work.

DRAFT EAST LEPPINGTON VPA 27 NOVEMBER 2013

ORD09

Attachment 1

East Leppington Planning Agreement
 Camden Council
 Stockland Development Pty Ltd
 Leppington Park Pastoral Pty Limited
 Cornish Group No. Two Pty Limited

- 13.10 A Development Application for a Work is to be accompanied by the written certification referred to in clause 13.9 when lodged with the Council, as the consent authority.
- 13.11 The Developer is to bear all costs associated with obtaining the Council's approval to the initial design of a Work in Schedule 1 of this Deed under this clause.
- 13.12 Following Development Consent being issued for a Work, the Developer shall work with Council in the preparation of the detailed design for it and submit the detailed design to the Council for its approval.
- 13.13 The Developer is not to lodge any application for a Construction Certificate for a Work, with any Principal Certifying Authority, unless the Council has first approved the detailed design for the Work, and provided its written certification that the application for a Construction Certificate is consistent with the approved detailed design of the Work.
- 13.14 The Council is to provide the written certification referred to in Clause 13.13 within 14 days of being provided with a copy of the application for a Construction Certificate by the Developer, unless the Council forms the view that the application is not consistent with the approved detailed design of the Work.
- 13.15 Council's written certification outlined in clause 13.14 shall specify any particular milestones of construction of a Work and if so, the Developer is to provide the Council with a minimum of 24 hours notice prior to commencing a particular milestone and allow the Council access to the relevant land to inspect the Work.
- 13.16 An application for a Construction Certificate for a Work is to be accompanied by the written certification referred to in clause 13.14 when lodged with the Council, as the consent authority.
- 13.17 For the avoidance of doubt, nothing in the clause shall fetter the Council's discretion, as consent authority, in determining any Development Application for the Work.

14 Variation to Work

- 14.1 The design or specification of any Work that is required to be carried out by the Developers under this Deed may be varied by agreement in writing between the Parties, acting reasonably, without the necessity for an amendment to this Deed.
- 14.2 Without limiting clause 14.1, the Developers may make a written request to the Council to approve a variation to the design or specification of a Work in order to enable it to comply with the requirements of any Authority imposed in connection with any Approval relating to the carrying out of the Work.
- 14.3 The Council is not to unreasonably delay or withhold its approval to a request made by the Developers under clause 14.2.
- 14.4 The Council, acting reasonably and subject to clause 14.6, may from time to time give a written direction to the Developers requiring them to vary the design or specification of a Work before the Work is carried out in a specified manner and submit the variation to the Council for approval.
- 14.5 The Developers are to comply promptly with a direction referred to in clause 14.4 at its own cost.

DRAFT EAST LEPPINGTON VPA 27 NOVEMBER 2013

East Leppington Planning Agreement
 Camden Council
 Stockland Development Pty Ltd
 Leppington Park Pastoral Pty Limited
 Cornish Group No. Two Pty Limited

- 14.6 The Council, when approving a request under clause 14.2 or directing the Developers to vary the design under clause 14.4, must act in good faith towards the Developers and use its best endeavours to comply with the spirit and intention of this Agreement.

15 Deferral of Work

- 15.1 Notwithstanding any other provision of this Deed, if the Developers forms the view at any time, that they are unable to make a Development Contribution comprising a Work by the time specified in column 6 of Schedule 1, then:
- 15.1.1 the Developers must provide written notice to the Council to that effect;
- 15.1.2 the Developers must provide the Council with Security in an amount being 100% of the value of the uncompleted part of the Work (calculated with reference to and not exceeding the Contribution Value of the Work) before the date on which the application for the relevant Subdivision Certificate is made;
- 15.1.3 the Developers must provide to Council, for Council's approval, a revised completion date for the Work;
- 15.1.4 Council can approve, or not approve a revised completion date in its discretion, and if the Council does not approve the Developer's revised completion date for the Work, the Council and Developers must negotiate in good faith and agree upon a revised completion date for the Work; and
- 15.1.5 the time for completion of the Work under this Deed will be taken to be the revised completion date approved by the Council under clause 14.1.4.
- 15.2 If the Developers comply with clause 14.1, then:
- 15.2.1 it will not be considered to be in breach of this Deed as a result of a failure to complete a Work by the time for completion of the Work specified in Column 6 of Schedule 2; and
- 15.2.2 if applicable, any relevant Subdivision Certificate may be issued if the time for compliance for the completion of a Work is required prior to the issue of a Subdivision Certificate in Column 6 of Schedule 1.
- 15.3 If the Work is not completed by the revised date for completion of the Work agreed under clause 14.1.4, then the Council may call on the Security to meet any of its reasonable costs incurred under this Deed in respect of the failure to complete the Work by the revised date for completion.
- 15.4 The Developers are to ensure that the Security held by the Council at all times equals the amount of the Security as indexed.

16 Access to the Land

- 16.1 The Landowner and the Developers are to permit the Council, its officers, employees, agents and contractors to enter the Land or any other land at any time, upon giving reasonable prior notice, in order to inspect, examine or test any Work or to remedy any breach by the Developer relating to the carrying out of a Work.

DRAFT EAST LEPPINGTON VPA 27 NOVEMBER 2013

East Leppington Planning Agreement
 Camden Council
 Stockland Development Pty Ltd
 Leppington Park Pastoral Pty Limited
 Cornish Group No. Two Pty Limited

16.2 The Council is to permit the Developers to enter and occupy any land owned or controlled by the Council for the purpose of enabling the Developers to carry out any Work under this Deed that is required to be carried out on such land or to perform any other obligation imposed on the Developers by or under this Deed.

17 Council's obligations relating to Work

17.1 The Council is not to unreasonably delay, hinder or otherwise interfere with the performance by the Developers of their obligations under this Deed, and is to use its reasonable endeavours to ensure third parties unrelated to the Developers do not unreasonably delay, hinder or otherwise interfere with the performance of those obligations.

18 Protection of people, property & utilities

18.1 The Developers (and the Landowner, only in relation to clause 18.1.2) are to ensure to the fullest extent reasonably practicable in relation to the performance of their obligations under this Deed that:

18.1.1 all necessary measures are taken to protect people and property,

18.1.2 unnecessary interference with the passage of people and vehicles is avoided, and

18.1.3 nuisances and unreasonable noise and disturbances are prevented.

18.2 Without limiting clause 18.1, the Developers are not to obstruct, interfere with, impair or damage any public road, public footpath, public cycleway or other public thoroughfare, or any pipe, conduit, drain, watercourse or other public utility or service on any land except as authorised by an Approval or in writing by the Council or any relevant Authority.

19 Repair of damage

19.1 The Developers are to Maintain any Work required to be carried out by the Developers under this Deed until the Work is completed for the purposes of this Deed or if applicable, during the Maintenance Period.

19.2 The Developers are to carry out their obligation under clause 19.1 at their own cost and to the satisfaction of the Council.

20 Completion of Work

20.1 The Developers are to give the Council written notice of the date on which they will complete Work required to be carried out under this Deed.

20.2 The Council is to inspect the Work the subject of the notice referred to in clause 20.1 within 14 days of the date specified in the notice for completion of the Work.

20.3 Work required to be carried out by the Developers under this Deed, is completed for the purposes of this Deed when the Council, acting reasonably, gives a written notice to the Developers to that effect.

DRAFT EAST LEPPINGTON VPA 27 NOVEMBER 2013

East Leppington Planning Agreement
 Camden Council
 Stockland Development Pty Ltd
 Leppington Park Pastoral Pty Limited
 Cornish Group No. Two Pty Limited

- 20.4 If the Council is the owner of the land on which Work the subject of a notice referred to in clause 20.3 is issued, the Council assumes responsibility for the Work upon the issuing of the notice, but if it is not the owner at that time, it assumes that responsibility when it later becomes the owner.
- 20.5 Before the Council gives the Developers a notice referred to in clause 20.3, it may give the Developers a written direction to complete, rectify or repair any specified part of the Work to the reasonable satisfaction of the Council.
- 20.6 The Developers, at their own cost, are to promptly comply with a direction referred to in clause 20.5
- 20.7 The Developers will Maintain Items 2 to 8 during the Maintenance Period.

21 Rectification of defects

- 21.1 The Council may give the Developers a Rectification Notice during the Defects Liability Period.
- 21.2 The Developers, at their own cost, are to comply with a Rectification Notice according to its terms and to the reasonable satisfaction of the Council.
- 21.3 The Council is to do such things as are reasonably necessary to enable the Developers to comply with a Rectification Notice that has been given to it under clause 21.1

22 Works-As-Executed-Plan

- 22.1 No later than 60 days after Work is completed for the purposes of this Deed, the Developers are to submit to the Council a full works-as-executed-plan in respect of the Work.
- 22.2 The Developers, warrant that they are the licensee of the copyright in the plan referred to in clause 22.1, and are to procure for the Council by the time of submission a non-exclusive sub-licence to use the copyright in the plans for the purposes of this Deed and use of the Work.

23 Removal of Equipment

- 23.1 When Work on any Council owned or controlled land is completed for the purposes of this Deed, the Developers, without delay, are to:
 - 23.1.1 remove any Equipment from the land and make good any damage or disturbance to the land as a result of that removal; and
 - 23.1.2 leave the land in a neat and tidy state, clean and free of rubbish.

Part 3 – Dispute Resolution

24 Dispute resolution – expert determination

DRAFT EAST LEPPINGTON VPA 27 NOVEMBER 2013

East Leppington Planning Agreement
 Camden Council
 Stockland Development Pty Ltd
 Leppington Park Pastoral Pty Limited
 Cornish Group No. Two Pty Limited

- 24.1 This clause applies to a Dispute between any of the Parties to this Deed concerning a matter arising in connection with this Deed that can be determined by an appropriately qualified expert if:
- 24.1.1 the Parties to the Dispute agree that it can be so determined, or
- 24.1.2 the Chief Executive Officer of the professional body that represents persons who appear to have the relevant expertise to determine the Dispute gives a written opinion that the Dispute can be determined by a member of that body.
- 24.2 A Dispute to which this clause applies is taken to arise if one Party gives another Party a notice in writing specifying particulars of the Dispute.
- 24.3 If a notice is given under clause 24.2, the Parties are to meet within 14 days of the notice in an attempt to resolve the Dispute.
- 24.4 If the Dispute is not resolved within a further 28 days, the Dispute is to be referred to the President of the NSW Law Society to appoint an expert for expert determination.
- 24.5 The expert determination is binding on the Parties except in the case of fraud or misfeasance by the expert.
- 24.6 Each Party is to bear its own costs arising from or in connection with the appointment of the expert and the expert determination.
- 24.7 The Parties are to share equally the costs of the President, the expert, and the expert determination.

25 Dispute Resolution - mediation

- 25.1 This clause applies to any Dispute arising in connection with this Deed other than a Dispute to which clause 24 applies.
- 25.2 Such a Dispute is taken to arise if one Party gives another Party a notice in writing specifying particulars of the Dispute.
- 25.3 If a notice is given under clause 25.2, the Parties are to meet within 14 days of the notice in an attempt to resolve the Dispute.
- 25.4 If the Dispute is not resolved within a further 28 days, the Parties are to mediate the Dispute in accordance with the Mediation Rules of the Law Society of New South Wales published from time to time and are to request the President of the Law Society to select a mediator.
- 25.5 If the Dispute is not resolved by mediation within a further 28 days, or such longer period as may be necessary to allow any mediation process which has been commenced to be completed, then the Parties may exercise their legal rights in relation to the Dispute, including by the commencement of legal proceedings in a court of competent jurisdiction in New South Wales.
- 25.6 Each Party is to bear its own costs arising from or in connection with the appointment of a mediator and the mediation.
- 25.7 The Parties are to share equally the costs of the President, the mediator, and the mediation.

DRAFT EAST LEPPINGTON VPA 27 NOVEMBER 2013

East Leppington Planning Agreement
 Camden Council
 Stockland Development Pty Ltd
 Leppington Park Pastoral Pty Limited
 Cornish Group No. Two Pty Limited

Part 4 – Enforcement

26 Security for performance of obligations

26.1 In this clause 26 the following definitions apply:

FLA Subdivision Certificate means a Subdivision Certificate that:

- (a) authorises the registration of a plan of subdivision or strata plan which, on registration, will create additional Final Lot Area; and
- (b) is able to be issued because a Development Consent for the Development is in force with respect to the proposed subdivision.

Security Amount means:

- (a) Security to the value of:
 - (i) \$TCSV/FLA per hectare or part thereof of Final Lot Area the subject of all previous FLA Subdivision Certificates and a proposed new FLA Subdivision Certificate; or
- (b) Security to the value of such other amount as the Developer and the Council agree in writing.

Security Party means the Developer from time to time who is seeking the issue of an FLA Subdivision Certificate.

TCSV means the sum of the Contribution Values of Item Nos 1 to 9 in Schedule 1 except those Items that have been completed in accordance with this Deed and are the responsibility of the Council.

FLA means the maximum Final Lot Area to be created as part of the Development, being 33.58 hectares.

- 26.2 Prior to the issuing of a FLA Subdivision Certificate, the Security Party is to provide the Council with a Security for the difference between the value of Security Amount and the Security already held (if any) in relation to the performance of the Security Party's obligations under this Deed.
- 26.3 The Council, in its absolute discretion and despite clause 15, may refuse to allow the Security Party to enter, occupy or use any land owned or controlled by the Council or refuse to provide the Security Party with any plant, Equipment, facilities or assistance relating to the carrying out of the Development if the Security Party has not provided the Security to the Council in accordance with this Deed.
- 26.4 The Council may call-up and apply the Security in accordance with clause 28 to remedy any breach of this Deed notwithstanding any other remedy it may have under this Deed, under any Act or otherwise at law or in equity.
- 26.5 The Council is to release and return the Security or any unused part of it to the Security Party within 14 days of completion of the obligation to which the Security relates.
- 26.6 The Security Party may at any time provide the Council with a replacement Security.

DRAFT EAST LEPPINGTON VPA 27 NOVEMBER 2013

East Leppington Planning Agreement
 Camden Council
 Stockland Development Pty Ltd
 Leppington Park Pastoral Pty Limited
 Cornish Group No. Two Pty Limited

- 26.7 On receipt of a replacement Security, the Council is to release and return the Security that has been replaced to the Security Party.
- 26.8 If the Council calls-up the Security or any portion of it, it may, by written notice to the Security Party, require the Security Party to provide a further or replacement Security to ensure that the amount of Security held by the Council equals the amount it is entitled to hold under this Deed.
- 26.9 The Security Party is to ensure that the Security provided to the Council is at all times maintained to the full current indexed value.

27 Acquisition of land required to be dedicated

- 27.1 If the Developers (or where relevant in its capacity as a Landowner, LPP) do not dedicate land required to be dedicated under this Deed at the time at which it is required to be dedicated, the Developers (or where relevant in its capacity as a Landowner, LPP) consent to the Council compulsorily acquiring the land for compensation in the amount of \$1 without having to follow the pre-acquisition procedure under the Just Terms Act.
- 27.2 The Council is to only acquire land pursuant to clause 27.1 if it considers it reasonable to do so having regard to the circumstances surrounding the failure by the Developers (or where relevant in its capacity as a Landowner, LPP) to dedicate the land required to be dedicated under this Deed.
- 27.3 Clause 27.1 constitutes an agreement for the purposes of s30 of the Just Terms Act.
- 27.4 If, as a result of the acquisition referred to in clause 27.1, the Council is required to pay compensation to any person other than the Landowner, the Developers are to reimburse the Council that amount, upon a written request being made by the Council, or the Council can call on any Security provided under clause 26.
- 27.5 The Developers (or where relevant in its capacity as a Landowner, LPP) are to promptly do all things necessary, and consent to the Council doing all things necessary, to give effect to this clause 27, including without limitation:
 - 27.5.1 signing any documents or forms,
 - 27.5.2 giving land owner's consent for lodgement of any Development Application,
 - 27.5.3 producing certificates of title to the Registrar-General under the *Real Property Act 1900*; and
 - 27.5.4 paying the Council's costs arising under this clause 27.

28 Breach of obligations

- 28.1 If the Council reasonably considers that either of the Landowner or Developers (**Breaching Party**) is in breach of any obligation under this Deed, it may give a written notice to the Breaching Party:
 - 28.1.1 specifying the nature and extent of the breach,

DRAFT EAST LEPPINGTON VPA 27 NOVEMBER 2013

East Leppington Planning Agreement
 Camden Council
 Stockland Development Pty Ltd
 Leppington Park Pastoral Pty Limited
 Cornish Group No. Two Pty Limited

- 28.1.2 requiring the Breaching Party to:
- (a) rectify the breach if it reasonably considers it is capable of rectification; or
 - (b) pay compensation to the reasonable satisfaction of the Council in lieu of rectifying the breach if it reasonably considers the breach is not capable of rectification,
- 28.1.3 specifying the period within which the breach is to be rectified or compensation paid, being a period that is reasonable in the circumstances.
- 28.2 Subject to clause 28.7, if the Breaching Party fails to fully comply with a notice referred to in clause 28.1, the Council may, without further notice to the Breaching Party, call-up the Security provided by the Breaching Party under this Deed and apply it to remedy the breach.
- 28.3 If the Breaching Party fails to comply with a notice given under clause 28.1 relating to the carrying out of Work under this Deed, the Council may step-in and remedy the breach and may enter, occupy and use any land owned or controlled by the Breaching Party and any Equipment on such land for that purpose.
- 28.4 Any costs incurred by the Council in remedying a breach in accordance with clause 28.2 or clause 28.3 may be recovered by the Council by either or a combination of the following means:
- 28.4.1 by calling-up and applying the Security provided by the Breaching Party under this Deed, or
 - 28.4.2 as a debt due in a court of competent jurisdiction.
- 28.5 For the purpose of clause 28.4, the Council's costs of remedying a breach the subject of a notice given under clause 28.1 include, but are not limited to:
- 28.5.1 the costs of the Council's servants, agents and contractors reasonably incurred for that purpose,
 - 28.5.2 all fees and charges necessarily or reasonably incurred by the Council in remedying the breach, and
 - 28.5.3 all legal costs and expenses reasonably incurred by the Council, by reason of the breach.
- 28.6 Nothing in this clause 28 prevents the Council from exercising any rights it may have at law or in equity in relation to a breach of this Deed by the Breaching Party, including but not limited to seeking relief in an appropriate court.
- 28.7 In exercising its rights under this clause 28, Council must act reasonably by seeking to minimise the cost of remedying a breach.
- 29 Enforcement in a court of competent jurisdiction**
- 29.1 Without limiting any other provision of this Deed, the Parties may enforce this Deed in any court of competent jurisdiction.
 - 29.2 For the avoidance of doubt, nothing in this Deed prevents:

DRAFT EAST LEPPINGTON VPA 27 NOVEMBER 2013

ORD09

East Leppington Planning Agreement
 Camden Council
 Stockland Development Pty Ltd
 Leppington Park Pastoral Pty Limited
 Cornish Group No. Two Pty Limited

- 29.2.1 a Party from bringing proceedings in the Land and Environment Court to enforce any aspect of this Deed or any matter to which this Deed relates; or
- 29.2.2 the Council from exercising any function under the Act or any other Act or law relating to the enforcement of any aspect of this Deed or any matter to which this Deed relates.

Part 5 – Registration & Restriction on Dealings

30 Registration of this Deed

- 30.1 The Parties agree to register this Deed on the Registration Land for the purposes of s93H(1) of the Act.
- 30.2 The Parties further agree that this Deed may be registered over the Option Land.
- 30.3 If this Deed is not registered over the Option Land, Stockland must provide the Council with an additional Security in the amount of the Option Land Security as security for the completion of all Items located on comprising any part of the Option Land.
- 30.4 The additional Security is to be provided prior to the issuing of the first construction certificate in respect of the Development and the provisions of clause 26 and 28 of this Deed apply in relation to that Security as relevant.
- 30.5 A Security provided under clause 30.3 is to be returned to Stockland as specified in clause 26 or sooner if this Deed becomes registered on the LPP Option Land.
- 30.6 On execution, the Landowner and the Developer are to provide to the Council in registrable form:
- 30.6.1 an instrument requesting registration of this Deed on the title to the relevant Land duly executed by the Landowner, and
- 30.6.2 the written irrevocable consent of each person referred to in s93H(1) of the Act to that registration.
- 30.7 The Landowner and the Developer are to do such other things as are reasonably necessary to enable registration of this Deed to occur.
- 30.8 The Parties are to do such things as are reasonably necessary to promptly remove any notation relating to this Deed from the title to any part of the Land:
- 30.8.1 in so far as the part of the Land concerned is a Final Lot,
- 30.8.2 in relation to any other part of the Land, once the Developer has completed its obligations under this Deed [to the reasonable satisfaction of the Council] or this Deed is terminated or otherwise comes to an end for any other reason.

31 Restriction on dealings

- 31.1 The Landowner and the Developers are not to:

DRAFT EAST LEPPINGTON VPA 27 NOVEMBER 2013

Attachment 1

East Leppington Planning Agreement
 Camden Council
 Stockland Development Pty Ltd
 Leppington Park Pastoral Pty Limited
 Cornish Group No. Two Pty Limited

- 31.1.1 sell or transfer the Land (or part), other than a Final Lot, or
- 31.1.2 assign their rights or obligations under this Deed, or novate this Deed, to any person unless:
 - 31.1.3 they have, at no cost to the Council, first procured the execution by the person to whom the Land or part is to be sold or transferred or the Landowner's or Developer's rights or obligations under this Deed are to be assigned or novated, of a deed in favour of the Council on terms reasonably satisfactory to the Council, and
 - 31.1.4 the Council has given written notice to the Landowner or Developer stating that it reasonably considers that the purchaser, transferee, assignee or novatee, is reasonably capable of performing its obligations under this Deed, and
 - 31.1.5 the Landowner and Developer are not in breach of this Deed, and
 - 31.1.6 the Council otherwise consents to the transfer, assignment or novation, such consent not to be unreasonably withheld.
- 31.2 Clause 31.1.1 does not apply in relation to any sale or transfer of the Land:
 - 31.2.1 if this Deed is registered on the title to the Land at the time of the sale; or
 - 31.2.2 any sale or transfer of the Land (or part) from LPP to Stockland;
 - 31.2.3 the Developers have completed all of their obligations under this Deed to the reasonable satisfaction of the Council; and
 - 31.2.4 as required by an Authority or an Approval issued by an Authority.

Part 6 – Indemnities & Insurance

32 Risk

- 32.1 The Developers and the Landowner are to perform their obligations under this Deed at their own risk and at their own cost.

33 Release

- 33.1 The Developers and the Landowner release the Council from any Claim they may have against the Council arising in connection with the performance of the Developer's obligations under this Deed except if, and to the extent that, the Claim arises because of the Council's negligence or default.

34 Indemnity

- 34.1 The Developers indemnify the Council from and against all Claims that may be sustained, suffered, recovered or made against the Council arising in connection with a breach of this Deed by the Developers or the performance of the Landowner or the Developer's obligations under this Deed except if,

DRAFT EAST LEPPINGTON VPA 27 NOVEMBER 2013

East Leppington Planning Agreement
 Camden Council
 Stockland Development Pty Ltd
 Leppington Park Pastoral Pty Limited
 Cornish Group No. Two Pty Limited

and to the extent that, the Claim arises because of the Council's negligence or default.

35 Insurance

- 35.1 Each Developer is to take out or procure its contractor to take out and keep current to the satisfaction of the Council the following insurances in relation to Work required to be carried out by the relevant Developers under this Deed up until the Work is taken to have been completed and is the responsibility of the Council in accordance with this Deed:
- 35.1.1 contract works insurance, noting the Council as an interested party, for the full replacement value of the Works (including the cost of demolition and removal of debris, consultants' fees and authorities' fees), to cover the Developers' and/or their contractor's liability in respect of damage to or destruction of the Works;
 - 35.1.2 public liability insurance for at least \$20,000,000.00 for a single occurrence, which notes the interest of the Council; and covers the Developers' and the Council's liability to any third party,
 - 35.1.3 workers compensation insurance as required by law; and
 - 35.1.4 any other insurance required by law.
- 35.2 If the Developers fail to comply with clause 35.1, the Council may effect and keep in force such insurances and pay such premiums as may be necessary for that purpose and the amount so paid shall be a debt due from the Developers to the Council and may be recovered by the Council as it deems appropriate including:
- 35.2.1 by calling upon the Security provided by the Developers to the Council under this Deed, or
 - 35.2.2 recovery as a debt due in a court of competent jurisdiction.
- 35.3 The Developers are not to commence to carry out any Work unless they have first provided to the Council satisfactory written evidence of all of the insurances specified in clause 35.1.

Part 7 – Other Provisions

36 Annual report by Developer

- 36.1 The Developers are to provide to the Council by not later than each anniversary of the date on which this Deed is entered into a report detailing the performance of their obligations under this Deed.
- 36.2 The report referred is to be in such a form and to address such matters as required by the Council from time to time.

37 Review of Deed

DRAFT EAST LEPPINGTON VPA 27 NOVEMBER 2013

East Leppington Planning Agreement
 Camden Council
 Stockland Development Pty Ltd
 Leppington Park Pastoral Pty Limited
 Cornish Group No. Two Pty Limited

- 37.1 The Parties agree to review this Deed annually, and otherwise if either Party is of the opinion that any change of circumstance has occurred, or is imminent, that materially affects the operation of this Deed.
- 37.2 For the purposes of clause 37.1, the relevant changes include (but are not limited to) any change to a law that restricts or prohibits or enables the Council or any other planning authority to restrict or prohibit any aspect of the Development.
- 37.3 For the purposes of addressing any matter arising from a review of this Deed referred to in clause 37.1, the Parties are to use all reasonable endeavours to agree on and implement appropriate amendments to this Deed.
- 37.4 If this Deed becomes illegal, unenforceable or invalid as a result of any change to a law, the Parties agree to do all things necessary to ensure that an enforceable agreement of the same or similar effect to this Deed is entered into.
- 37.5 A failure by a Party to agree to take action requested by the other Party as a consequence of a review referred to in clause 37.1 (but not 37.4) is not a Dispute for the purposes of this Deed and is not a breach of this Deed.

38 Notices

- 38.1 Any notice, consent, information, application or request that is to or may be given or made to a Party under this Deed is only given or made if it is in writing and sent in one of the following ways:
- 38.1.1 delivered or posted to that Party at its address set out in the Summary Sheet,
- 38.1.2 faxed to that Party at its fax number set out in the Summary Sheet, or
- 38.1.3 emailed to that Party at its email address set out in the Summary Sheet.
- 38.2 If a Party gives the other Party 3 business days' notice of a change of its address, fax number or email, any notice, consent, information, application or request is only given or made by that other Party if it is delivered, posted, faxed or emailed to the latest address or fax number.
- 38.3 Any notice, consent, information, application or request is to be treated as given or made if it is:
- 38.3.1 delivered, when it is left at the relevant address,
- 38.3.2 sent by post, 2 business days after it is posted,
- 38.3.3 sent by fax, as soon as the sender receives from the sender's fax machine a report of an error free transmission to the correct fax number, or
- 38.3.4 sent by email and the sender does not receive a delivery failure message from the sender's internet service provider within a period of 24 hours of the email being sent.
- 38.4 If any notice, consent, information, application or request is delivered, or an error free transmission report in relation to it is received, on a day that is not a business day, or if on a business day, after 5pm on that day in the place of the Party to whom it is sent, it is to be treated as having been given or made at the beginning of the next business day.

DRAFT EAST LEPPINGTON VPA 27 NOVEMBER 2013

East Leppington Planning Agreement
Camden Council
Stockland Development Pty Ltd
Leppington Park Pastoral Pty Limited
Cornish Group No. Two Pty Limited

39 Approvals and Consent

- 39.1 Except as otherwise set out in this Deed, and subject to any statutory obligations, a Party may give or withhold an approval or consent to be given under this Deed in that Party's absolute discretion and subject to any conditions determined by the Party.
- 39.2 A Party is not obliged to give its reasons for giving or withholding consent or for giving consent subject to conditions.

40 Costs

- 40.1 The Developers are to pay to the Council the Council's costs of preparing, negotiating, executing and stamping this Deed, and any document related to this Deed within 30 days of a written demand by the Council for such payment.
- 40.2 The Developers are also to pay to the Council the Council's reasonable costs of enforcing this Deed within 7 days of a written demand by the Council for such payment.

41 Entire Deed

- 41.1 This Deed contains everything to which the Parties have agreed in relation to the matters it deals with.
- 41.2 No Party can rely on an earlier document, or anything said or done by another Party, or by a director, officer, agent or employee of that Party, before this Deed was executed, except as permitted by law.

42 Further Acts

- 42.1 Each Party must promptly execute all documents and do all things that another Party from time to time reasonably requests to effect, perfect or complete this Deed and all transactions incidental to it.

43 Governing Law and Jurisdiction

- 43.1 This Deed is governed by the law of New South Wales.
- 43.2 The Parties submit to the non-exclusive jurisdiction of its courts and courts of appeal from them.
- 43.3 The Parties are not to object to the exercise of jurisdiction by those courts on any basis.

East Leppington Planning Agreement
Camden Council
Stockland Development Pty Ltd
Leppington Park Pastoral Pty Limited
Cornish Group No. Two Pty Limited

44 No Fetter

- 44.1 Nothing in this Deed shall be construed as requiring Council to do anything that would cause it to be in breach of any of its obligations at law, and without limitation, nothing shall be construed as limiting or fettering in any way the exercise of any statutory discretion or duty.

45 Illegality

- 45.1 If this Deed or any part of it becomes illegal, unenforceable or invalid as a result of any change to a law, the Parties are to co-operate and do all things necessary (as far as is lawfully possible) to ensure that an enforceable agreement of the same or similar effect to this Deed is entered into.

46 Severability

- 46.1 If a clause or part of a clause of this Deed can be read in a way that makes it illegal, unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way.
- 46.2 If any clause or part of a clause is illegal, unenforceable or invalid, that clause or part is to be treated as removed from this Deed, but the rest of this Deed is not affected.

47 Amendment

- 47.1 No amendment of this Deed will be of any force or effect unless it is in writing and signed by the Parties to this Deed in accordance with clause 25D of the Regulation.

48 Waiver

- 48.1 The fact that a Party fails to do, or delays in doing, something the Party is entitled to do under this Deed, does not amount to a waiver of any obligation of, or breach of obligation by, another Party.
- 48.2 A waiver by a Party is only effective if it is in writing.
- 48.3 A written waiver by a Party is only effective in relation to the particular obligation or breach in respect of which it is given. It is not to be taken as an implied waiver of any other obligation or breach or as an implied waiver of that obligation or breach in relation to any other occasion.

49 GST

- 49.1 In this clause:
Adjustment Event, Adjustment Note, Consideration, GST, GST Group, Margin Scheme, Money, Recipient, Supply and Tax Invoice have the meaning given by the GST Law.

DRAFT EAST LEPPINGTON VPA 27 NOVEMBER 2013

East Leppington Planning Agreement
 Camden Council
 Stockland Development Pty Ltd
 Leppington Park Pastoral Pty Limited
 Cornish Group No. Two Pty Limited

GST Amount means in relation to a Taxable Supply the amount of GST payable in respect of the Taxable Supply.

GST Law has the meaning given by the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Input Tax Credit has the meaning given by the GST Law and a reference to an Input Tax Credit entitlement of a party includes an Input Tax Credit for an acquisition made by that party but to which another member of the same GST Group is entitled under the GST Law.

Supplier means in relation to a Taxable Supply, the entity which made the Taxable Supply.

Taxable Supply has the meaning given by the GST Law excluding (except where expressly agreed otherwise) a supply in respect of which the supplier chooses to apply the Margin Scheme in working out the amount of GST on that supply.

- 49.2 Without limiting the operation of this clause 49, as at the date of this Deed, the Parties intend that:
- 49.2.1 Divisions 81 and 82 of the GST Law apply to the supplies made under and in connection with this Deed;
- 49.2.2 No tax invoices will be exchanged between the Parties in respect of the supplies to which Divisions 81 and 82 of the GST Law apply; and
- 49.2.3 No additional amount will be payable to the Supplier (as defined in clause 49.3 below) on account of GST.
- 49.3 Subject to clause 49.5, if GST is payable by a Party (**Supplier**) on a Taxable Supply made under, by reference to or in connection with this Deed, the Party providing the Consideration for that Taxable Supply must also pay the GST Amount as additional Consideration.
- 49.4 Clause 49.3 does not apply to the extent that the Consideration for the Taxable Supply is expressly stated in this Deed to be GST inclusive.
- 49.5 No additional amount shall be payable by the Council under clause 49.3 unless, and only to the extent that, the Council is entitled to an Input Tax Credit for its acquisition of the Taxable Supply giving rise to the liability to pay GST.
- 49.6 If there are Supplies for Consideration which is not Consideration expressed as an amount of Money under this Deed by one Party to the other Party that are not subject to Division 81 or Division 82 of the *A New Tax System (Goods and Services Tax) Act 1999*, the Parties agree:
- 49.6.1 to negotiate in good faith to agree the GST inclusive market value of those Supplies prior to issuing Tax Invoices in respect of those Supplies;
- 49.6.2 that any amounts payable by the Parties in accordance with clause 49.3 (as limited by clause 49.5) to each other in respect of those Supplies will be set off against each other to the extent that they are equivalent in amount.
- 49.7 No payment of any amount pursuant to this clause 49, and no payment of the GST Amount where the Consideration for the Taxable Supply is expressly agreed to be GST inclusive, is required until the supplier has provided a Tax Invoice or Adjustment Note as the case may be to the recipient.

DRAFT EAST LEPPINGTON VPA 27 NOVEMBER 2013

East Leppington Planning Agreement
Camden Council
Stockland Development Pty Ltd
Leppington Park Pastoral Pty Limited
Cornish Group No. Two Pty Limited

- 49.8 If an Adjustment Event arises in respect of a Taxable Supply made by a Supplier under this Deed, the GST Amount payable under clause 49.3 will be recalculated to reflect the Adjustment Event and a payment will be made by the Recipient to the Supplier or by the Supplier to the Recipient as the case requires.
- 49.9 Any reference in the calculation of Consideration or of any indemnity, reimbursement or similar amount to a cost, expense or other liability incurred by a party, must exclude the amount of any Input Tax Credit entitlement of that party in relation to the relevant cost, expense or other liability.
- 49.10 This clause continues to apply after expiration or termination of this Deed.

50 Explanatory Note

- 50.1 The Appendix contains the Explanatory Note relating to this Deed required by clause 25E of the Regulation.
- 50.2 Pursuant to clause 25E(7) of the Regulation, the Parties agree that the Explanatory Note is not to be used to assist in construing this Planning Deed.

DRAFT EAST LEPPINGTON VPA 27 NOVEMBER 2013

ORD09

Attachment 1

East Leppington Planning Agreement
 Camden Council
 Stockland Development Pty Ltd
 Leppington Park Pastoral Pty Limited
 Cornish Group No. Two Pty Limited

Schedule 1
 (Clause 9)

Development Contributions

Column 1 Item No.	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Nature / Extent	Column 6 Timing	Column 7 Contribution Value	Column 8 Maintenance Period (if applicable)
Carrying Out of Work							
1	A	TM1	Transport Management	310 linear metres of pedestrian paths and cycle ways.	Immediately prior to the issue of a Subdivision Certificate for the creation of Final	\$40,300	1 year

DRAFT EAST LEPPINGTON VPA 27 NOVEMBER 2013

East Leppington Planning Agreement
 Camden Council
 Stockland Development Pty Ltd
 Leppington Park Pastoral Pty Limited
 Cornish Group No. Two Pty Limited

Column 1 Item No.	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Nature / Extent	Column 6 Timing	Column 7 Contribution Value	Column 8 Maintenance Period (if applicable)
2	B	OS1/WM1	Passive Open Space/Water Management	9,890sqm of multipurpose drainage/open space.	Lots within Stage A which will take the Final Lot Area within that Stage in respect to which Subdivision Certificates have been issued to 90% or more of FLA Stage A. Immediately prior to the issue of a Subdivision Certificate for the creation of Final Lots within Stage B which will take the Final Lot Area within that Stage in respect to which	\$145,362	1 year

DRAFT EAST LEPPINGTON VPA 27 NOVEMBER 2013

Attachment 1
ORD09

East Leppington Planning Agreement
Camden Council
Stockland Development Pty Ltd
Leppington Park Pastoral Pty Limited
Cornish Group No. Two Pty Limited

Column 1 Item No.	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Nature / Extent	Column 6 Timing	Column 7 Contribution Value	Column 8 Maintenance Period (if applicable)
3	B	RP1	Riparian Corridor protection and embellishment	5,480sqm of embellished riparian corridor.	Subdivision Certificates have been issued to 90% or more of FLA Stage B. Immediately prior to the issue of a Subdivision Certificate for the creation of Final Lots within Stage B which will take the Final Lot Area within that Stage in respect to which Subdivision Certificates have been issued to 90% or more of FLA Stage B.	\$196,304	5 years

DRAFT EAST LEPPINGTON VPA 27 NOVEMBER 2013

East Leppington Planning Agreement
 Camden Council
 Stockland Development Pty Ltd
 Leppington Park Pastoral Pty Limited
 Cornish Group No. Two Pty Limited

Column 1 Item No.	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Nature / Extent	Column 6 Timing	Column 7 Contribution Value	Column 8 Maintenance Period (if applicable)
4	B	OS2	Active Open Space and Recreation	<p>6,611sqm of community park with</p> <ul style="list-style-type: none"> 1 x Local Picnic Shelters/facilities (similar in standard to Narellan Urban Forest, Elyard Street, Narellan) including a stainless steel electric BBQ with shelter. 1 x Playground to be similar in standard and value as that provided at Sedgwick Reserve, Currans Hill including fencing. 	<p>Immediately prior to the issue of a Subdivision Certificate for the creation of Final Lots within Stage B which will take the Final Lot Area within that Stage in respect to which Subdivision Certificates have been issued to 70% or more of FLA Stage B.</p>	\$760,265	1 year

DRAFT EAST LEPPINGTON VPA 27 NOVEMBER 2013

Attachment 1 **ORD09**

East Leppington Planning Agreement
 Camden Council
 Stockland Development Pty Ltd
 Leppington Park Pastoral Pty Limited
 Cornish Group No. Two Pty Limited

Column 1 Item No.	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Nature / Extent	Column 6 Timing	Column 7 Contribution Value	Column 8 Maintenance Period (if applicable)
				seating and concrete edging otherwise to Council's specifications. • Landscaping and informal "kick-around" area to the requirements of Council. • Pathways • Bollards in appropriate locations to prevent vehicle ingress • Seating and Bins to Council's requirements • 2 x Bubblers			

DRAFT EAST LEPPINGTON VPA 27 NOVEMBER 2013

East Leppington Planning Agreement
 Camden Council
 Stockland Development Pty Ltd
 Leppington Park Pastoral Pty Limited
 Cornish Group No. Two Pty Limited

Column 1 Item No.	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Nature / Extent	Column 6 Timing	Column 7 Contribution Value	Column 8 Maintenance Period (if applicable)
5	B	WM2	Water Management	<ul style="list-style-type: none"> 1 x Toilet facilities of masonry/brick construction featuring two cubicles which are family/disabled appropriate. 	Immediately prior to the issue of a Subdivision Certificate for the creation of Final Lots within Stage B, but only to the extent as is necessary for the Final Lots concerned to be	\$483,489	1 year

DRAFT EAST LEPPINGTON VPA 27 NOVEMBER 2013

Attachment 1

ORD09

East Leppington Planning Agreement
 Camden Council
 Stockland Development Pty Ltd
 Leppington Park Pastoral Pty Limited
 Cornish Group No. Two Pty Limited

Column 1 Item No.	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Nature / Extent	Column 6 Timing	Column 7 Contribution Value	Column 8 Maintenance Period (if applicable)
6	B	OS3	Passive Open Space	11,800sqm of riparian style embellishment.	serviced by the system. Immediately prior to the issue of a Subdivision Certificate for the creation of Final Lots within Stage B which will take the Final Lot Area within that Stage in respect to which Subdivision Certificates have been issued to 90% or more of FLA Stage B.	\$413,000	5 years
7	B	TM2	Traffic	226m of collector	Immediately prior	\$443,750	

DRAFT EAST LEPPINGTON VPA 27 NOVEMBER 2013

East Leppington Planning Agreement
 Camden Council
 Stockland Development Pty Ltd
 Leppington Park Pastoral Pty Limited
 Cornish Group No. Two Pty Limited

Column 1 Item No.	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Nature / Extent	Column 6 Timing	Column 7 Contribution Value	Column 8 Maintenance Period (if applicable)
8	B	TM3	Management	143m of collector road and shared pathway.	to the issue of a Subdivision Certificate for the creation of Final Lots within Stage B which will take the Final Lot Area within that Stage in respect to which Subdivision Certificates have been issued to 30% or more of FLA Stage B.	\$280,800	

DRAFT EAST LEPPINGTON VPA 27 NOVEMBER 2013

ORD09

Attachment 1

East Leppington Planning Agreement
 Camden Council
 Stockland Development Pty Ltd
 Leppington Park Pastoral Pty Limited
 Cornish Group No. Two Pty Limited

Column 1 Item No.	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Nature / Extent	Column 6 Timing	Column 7 Contribution Value	Column 8 Maintenance Period (if applicable)
9	B	OS4	Active Open Space	Approximately 8000sqm of mini playing fields which form part of the major playing fields in the Campbelltown LGA.	B which will take the Final Lot Area within that Stage in respect to which Subdivision Certificates have been issued to 50% or more of FLA Stage B.	\$653,000	1 year

DRAFT EAST LEPPINGTON VPA 27 NOVEMBER 2013

East Leppington Planning Agreement
 Camden Council
 Stockland Development Pty Ltd
 Leppington Park Pastoral Pty Limited
 Cornish Group No. Two Pty Limited

Column 1 Item No.	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Nature / Extent	Column 6 Timing	Column 7 Contribution Value	Column 8 Maintenance Period (if applicable)
Dedication of Land							
10	A	TM1	Transport Management	Dedication of 310 linear metres of pedestrian paths and cycle ways.	Within 28 days of the completion of Item 1 or at a later date agreed between the Parties.	\$93,000	
11	B	OS1/WM1	Passive Open Space/Water Management	Dedication of 9,890sqm site on which Item 2 is located.	On the expiration of the Maintenance Period for Item 2 or at a date agreed between the Parties.	\$62,298	
12	B	RP1	Riparian Corridor protection and	Dedication of 5,480sqm site on which Item 3 is	On the expiration of the Maintenance	\$56,087	

DRAFT EAST LEPPINGTON VPA 27 NOVEMBER 2013

ORD09

Attachment 1

East Leppington Planning Agreement
 Camden Council
 Stockland Development Pty Ltd
 Leppington Park Pastoral Pty Limited
 Cornish Group No. Two Pty Limited

Column 1 Item No.	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Nature / Extent	Column 6 Timing	Column 7 Contribution Value	Column 8 Maintenance Period (if applicable)
13	B	OS2	Active Open Space and Recreation	Dedication of 6,611sqm site on which Item 4 is located.	On the expiration of the Maintenance Period for Item 4 or at a date agreed between the Parties.	\$727,210	
14	B	WM2	Water Management	Dedication of 6,220sqm site on which Item 5 is located.	Within 28 days of the completion of Item 5 or at a later date agreed between the Parties.	\$60,436	
15	B	OS3	Passive Open	Dedication of	On the expiration	\$1,298,000	

DRAFT EAST LEPPINGTON VPA 27 NOVEMBER 2013

East Leppington Planning Agreement
 Camden Council
 Stockland Development Pty Ltd
 Leppington Park Pastoral Pty Limited
 Cornish Group No. Two Pty Limited

Column 1 Item No.	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Nature / Extent	Column 6 Timing	Column 7 Contribution Value	Column 8 Maintenance Period (if applicable)
			Space	11,800sqm site on which Item 6 is located.	of the Maintenance Period for Item 6 or at a date agreed between the Parties.		
16	B	TM2	Traffic Management	Dedication of 4,520sqm site on which Item 7 is located.	Within 28 days of the completion of Item 7 or at a later date agreed between the Parties.	\$611,104	
17	B	TM3	Traffic Management	Dedication of 2,860sqm site on which Item 8 is located.	Within 28 days of the completion of Item 8 or at a later date agreed between the Parties.	\$386,672	

DRAFT EAST LEPPINGTON VPA 27 NOVEMBER 2013

East Leppington Planning Agreement
 Camden Council
 Stockland Development Pty Ltd
 Leppington Park Pastoral Pty Limited
 Cornish Group No. Two Pty Limited

Column 1 Item No.	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Nature / Extent	Column 6 Timing	Column 7 Contribution Value	Column 8 Maintenance Period (if applicable)
Monetary Contributions							
18	B	N/A	Community Facility	Contribution towards community facilities at Leppington Town Centre per hectare of Final Lot Area.	Prior to the issue of a Subdivision Certificate for the creation of a Final Lot.	\$9,910.45 per hectare	

DRAFT EAST LEPPINGTON VPA 27 NOVEMBER 2013

East Leppington Planning Agreement
 Camden Council
 Stockland Development Pty Ltd
 Leppington Park Pastoral Pty Limited
 Cornish Group No. Two Pty Limited

Column 1 Item No.	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Nature / Extent	Column 6 Timing	Column 7 Contribution Value	Column 8 Maintenance Period (if applicable)
19	N/A	N/A	Administration	Contribution towards the administration of this Deed.	Prior to the issue of a Subdivision Certificate for the creation of a Final Lot.	\$883.30 per hectare	

DRAFT EAST LEPPINGTON VPA 27 NOVEMBER 2013

ORD09

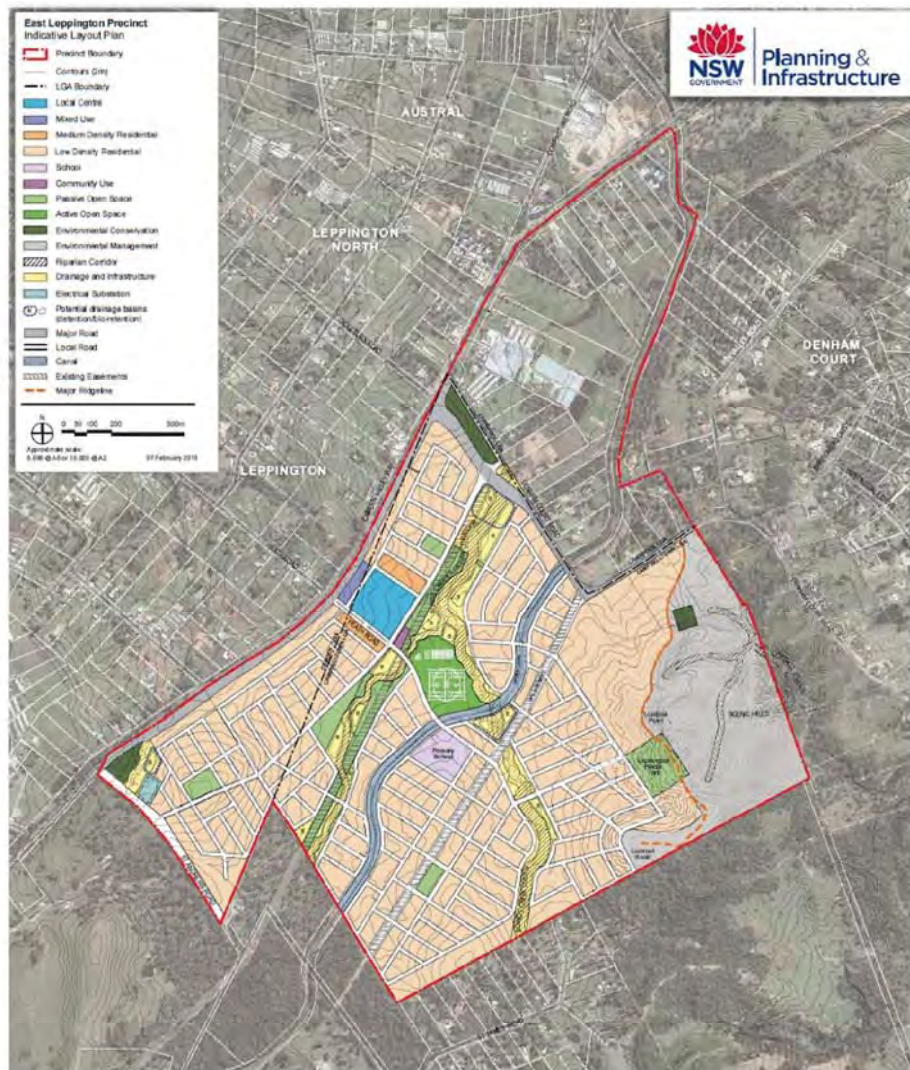
East Leppington Planning Agreement
 Camden Council
 Stockland Development Pty Ltd
 Leppington Park Pastoral Pty Limited
 Cornish Group No. Two Pty Limited

Schedule 2

(Clause 1.1)

Map – Sheet 1

Attachment 1



DRAFT EAST LEPPINGTON VPA 27 NOVEMBER 2013

East Leppington Planning Agreement
Camden Council
Stockland Development Pty Ltd
Leppington Park Pastoral Pty Limited
Cornish Group No. Two Pty Limited

Map

Sheet 2

ORD09

Attachment 1

DRAFT EAST LEPPINGTON VPA 27 NOVEMBER 2013

ORD09

East Leppington Planning Agreement
 Camden Council
 Stockland Development Pty Ltd
 Leppington Park Pastoral Pty Limited
 Cornish Group No. Two Pty Limited

Map

Sheet 3

Attachment 1

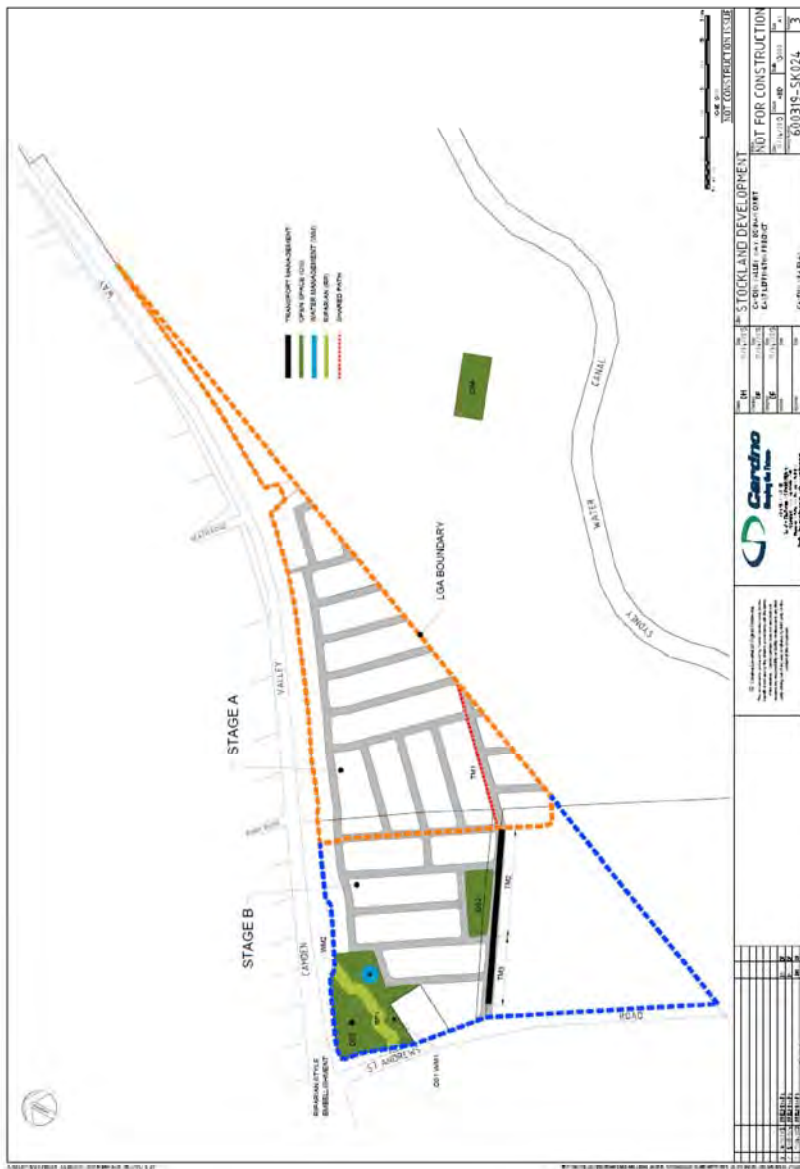


DRAFT EAST LEPPINGTON VPA 27 NOVEMBER 2013

East Leppington Planning Agreement
 Camden Council
 Stockland Development Pty Ltd
 Leppington Park Pastoral Pty Limited
 Cornish Group No. Two Pty Limited

Map

Sheet 4



DRAFT EAST LEPPINGTON VPA 27 NOVEMBER 2013

ORD09

East Leppington Planning Agreement
 Camden Council
 Stockland Development Pty Ltd
 Leppington Park Pastoral Pty Limited
 Cornish Group No. Two Pty Limited

Execution

Executed as a Deed

Dated:

Executed on behalf of the Council

General Manager

Witness

Mayor

Witness

Executed on behalf of Stockland Development Pty Limited (ACN 000 064 835) by its attorney pursuant to power of attorney registered Book No _____ who states that no notice of revocation of the power of attorney has been received in the presence of

Attorney

Witness

Executed by Cornish Group No. Two Pty Limited in accordance with s127(1) of the Corporations Act (Cth) 2001

Name/Position

Name/Position

DRAFT EAST LEPPINGTON VPA 27 NOVEMBER 2013

East Leppington Planning Agreement
Camden Council
Stockland Development Pty Ltd
Leppington Park Pastoral Pty Limited
Cornish Group No. Two Pty Limited

Executed by Leppington Park Pastoral Pty Limited (ACN 080 266 048)
in accordance with s127(1) of the Corporations Act (Cth) 2001

Name/Position

Name/Position

DRAFT EAST LEPPINGTON VPA 27 NOVEMBER 2013

ORD09

East Leppington Planning Agreement
Camden Council
Stockland Development Pty Ltd
Leppington Park Pastoral Pty Limited
Cornish Group No. Two Pty Limited

Appendix

(Clause 54)

Environmental Planning and Assessment Regulation 2000

(Clause 25E)

Explanatory Note

Attachment 1

DRAFT EAST LEPPINGTON VPA 27 NOVEMBER 2013

East Leppington Planning Agreement

Explanatory Note

Prepared by:

Camden Council
Stockland Development Pty Limited
Leppington Pastoral Company Pty Limited
Cornish Group No. Two Pty Limited

Contents

	Page Number
Executive summary	ii
1. Introduction	3
2. Objectives of the planning agreement	4
3. Nature and effect of the planning agreement	5
3.1 Summary	5
3.2 Land and works contributions	5
3.3 Monetary contributions	6
4. Merits of the planning agreement	7
4.1 Promotion of the public interest	7
4.2 Promotion of the Council's charter	8
4.3 Planning purposes and the objects of the EP&A Act	10
4.4 Conformity with Council's works program	11
4.5 Requirements to be complied with before a certificate is issued	11

Executive summary

Stockland Development Pty Limited (**Stockland**) and Cornish Group No. Two Pty Limited (**Cornish Group**) are developing the portion of the East Leppington site which is located in the Camden LGA.

When completed, the Camden portion of East Leppington will be home to approximately 2000 people, and include 615 dwellings, a local shopping centre and community and recreation facilities.

Stockland, the Cornish Group, Leppington Park Pastoral Pty Limited (**LPP**) who own part of the land, and Camden Council (**Council**) propose to enter into a planning agreement under section 93F of the Environmental Planning and Assessment Act 1979 (**EP&A Act**) to facilitate the provision of local infrastructure to meet the East Leppington development.

In summary, the proposed planning agreement requires the developer and land owner to:

- dedicate land to the Council and construct works and facilities required to serve the future residents of East Leppington;
- make 'settle-up' and 'project management' monetary contributions to the Council that can then be used by the Council to deliver other regional infrastructure included in Draft Camden Section 94 Contributions Plan 2012 (Leppington North Precinct); and
- embellish and dedicate to the Council over 4.3 hectares of active and passive open space land and riparian corridor land.

There are considered to be many public benefits that would accrue as a result of the proposed planning agreement, some of which include:

- utilisation of the developers' expertise in infrastructure provision;
- timely completion of infrastructure items through the developer delivering the infrastructure at the same time as land is subdivided and developed;
- shifting the infrastructure project risk from Council to the land developer;
- allowing the Council to concentrate its planning effort on other parts of the LGA that will need a more proactive approach to infrastructure provision;
- streamlining contributions arrangements and minimising the resources required by Council to manage development contributions over the life of the development; and
- clarity for the Council and the community on the future development and management of riparian corridors located within the East Leppington development.

There are not considered to be any negative impacts of the proposed planning agreement.

1. Introduction

Stockland, the Cornish Group and LPP own the East Leppington site. Stockland and the Cornish Group are the developers of the East Leppington development.

The Camden portion of the East Leppington development is bound by Camden Valley Way, St Andrews Road and the LGA boundary between Camden and Campbelltown Councils. To the north of the site is the Campbelltown portion of the East Leppington site, and to the south of the site is the proposed Emerald Hills rezoning. To the west of the site are the Leppington and Leppington North Growth Centre Precincts. The Leppington North precinct was rezoned in March 2013 whilst the Leppington precinct is currently undergoing the precinct planning process.

The Camden portion of East Leppington will be home to approximately 2000 people, and include 615 dwellings.

There is a significant amount of local infrastructure that is required to be provided to meet the demands of the urban development expected in the East Leppington development. Stockland, the Cornish Group, LPP and Council propose to enter into a planning agreement under section 93F of the EP&A Act to provide public purposes.

The proposed planning agreement will be the mechanism for Stockland and the Cornish Group to provide all of the onsite infrastructure, works and facilities required by the East Leppington development. In addition, Stockland and the Cornish Group will make monetary contributions towards off-site infrastructure under the Draft Camden Section 94 Contributions Plan 2012 (Leppington North Precinct). The proposed agreement will also establish how riparian corridors on East Leppington site will be managed.

This document (the **Explanatory Note**) has been prepared to assist in the public's understanding of the proposed agreement and its impacts, and has been prepared to meet the requirements of Environmental Planning and Assessment Regulation 2000 (**EP&A Regulation**).

2. Objectives of the planning agreement

(This matter is required under clause 25E(1)(a) of the EP&A Regulation to be addressed in the Explanatory Note)

The objectives of the proposed planning agreement are as follows:

- To deliver the local infrastructure required as a result of the urbanisation of the East Leppington site.
- To ensure that local infrastructure is delivered in a timely manner, harmonising the delivery of public assets with the delivery of subdivided lots for sale.
- To maximise provision efficiencies by supporting the delivery of local infrastructure by the developer at or around the same time as land is subdivided and developed.
- To minimise the potential exposure to Council of infrastructure cost overruns which may have occurred if Council was required to provide infrastructure under a section 94 contributions plan, and to remove the need for piecemeal and incremental calculation of section 94 contributions with every affected development application involving the East Leppington site if a section 94 contributions plan was adopted.
- To lock-in the infrastructure program for the entire East Leppington development, thereby allowing the Council to concentrate its planning effort on those parts of the Camden LGA that will need a more proactive approach to infrastructure provision (i.e. smaller landholdings and fragmented ownership areas).
- To provide clarity on the future development and management of the riparian corridors and electricity transmission easements located within the East Leppington site.

3. Nature and effect of the planning agreement

(This matter is required under clause 25E(1)(a) of the EP&A Regulation to be addressed in the Explanatory Note)

3.1 Summary

The proposed agreement imposes the following obligations on Stockland, the Cornish Group and LPP:

- Dedicate land and undertake all of the works required to facilitate the urbanisation of the East Leppington site.
- Make a cash contribution to the Council in accordance with the rates identified regional facilities under the Draft Camden Section 94 Contributions Plan 2012 (Leppington North Precinct).
- Make a cash contribution to the Council for the purposes of planning agreement implementation. The contribution amount will be 1% of the total monetary value of the open space and recreation, community and transport management facilities to be provided under this agreement.
- Restore and / or embellish riparian corridor land situated within the East Leppington site, and dedicate that land to the Council.

3.2 Land and works contributions

Type of provision	Details
Open space and recreation (land and works)	<ul style="list-style-type: none"> • One community park • Embellished passive open space • A total active and passive open space provision of 3.8 hectares in the Camden portion of the East Leppington site • The provision of 0.8 hectares of mini playing fields which form part of the major playing fields in the Campbelltown portion of the East Leppington site.
Transport management facilities	<ul style="list-style-type: none"> • 679 linear metres of shared pedestrian and cycle paths • 369 linear metres of collector road
Water cycle management facilities	Approximately 1 hectare of detention and bio-retention facilities that serve the entire development.
Embellished riparian corridor land (land and works)	A total of 0.54 hectares of riparian corridor land embellished and handed over to Council in accordance with its requirements.

Details regarding the staging of these contributions are included in Schedule 1 to the proposed planning agreement.

Maps showing the extent and staging of proposed land and works are shown in Schedule 2 of the proposed planning agreement.

3.3 Monetary contributions

There is no existing section 94 contributions plan applying to the East Leppington site, therefore the proposed planning agreement is to be the sole development contributions mechanism for the East Leppington site. A section 94 contributions plan may be adopted in future, however any such contributions plan will have no effect upon land where the proposed planning agreement applies.

However, the Draft Camden Section 94 Contributions Plan 2012 (Leppington North Precinct) identifies regional facilities which will service the East Leppington development.

In addition, it is a policy of Camden Council to require the payment of a 'project management' cash contribution which is the equivalent of 1% of the total value of all works relating to the development.

Accordingly, Stockland and the Cornish Group are offering to make cash contributions as shown in Items 18 and 19 of Schedule 1 to the agreement, and may be summarised as follows:

- A total 'settle-up' amount of \$9,910.45 per hectare of final lot area . This contribution has been determined by multiplying the 'per lot' rate for regional facilities in the Draft Camden Section 94 Contributions Plan 2012 (Leppington North Precinct) by 615 (which is the approximate number of lots to be developed at East Leppington).
- A total 'VPA implementation' amount of \$30,032 which is 1% of the value of all works to be undertaken by Stockland and the Cornish Group and provided to the Council.

These amounts have been indexed to CPI as at March 2013.

Both settle-up and VPA implementation cash contributions will be used by the Council to deliver the off-site infrastructure envisaged by the Draft Camden Section 94 Contributions Plan 2012 (Leppington North Precinct) and to administer the planning agreement.

Details regarding the staging of the payment of these amounts are included in Schedule 1 to the agreement.

4. Merits of the planning agreement

(This matter is required under clause 25E(1)(b) of the EP&A Regulation to be addressed in the Explanatory Note)

The merits of the proposed planning agreement are evident in:

- its promotion of the public interest (Part 4.1 of the Explanatory Note);
- its promotion of the Council's charter (Part 4.2);
- its delivery of planning purposes (Part 4.3);
- its delivery of Council's works program (Part 4.4); and
- its provisions require developer commitments to be provided prior to the issue of certificates (Part 4.5).

4.1 Promotion of the public interest

(This matter is required under clause 25E(2)(a) of the EP&A Regulation to be addressed in the Explanatory Note)

The public benefits to be secured by this planning agreement will flow from the achievement of the planning agreements' objectives (refer to Part 2 of the Explanatory Note).

Significant efficiencies will be achieved through the agreement by allowing Stockland and the Cornish Group both:

- greater involvement in the timing and scope of the Contributions Plan infrastructure items that affect their development; and
- the ability to coordinate the concurrent roll-out of urban lots and local infrastructure.

The expected efficiencies, together with anticipated public benefits of the proposed agreement, are described below:

- The agreement relieves Council of the project risk associated with the provision of local infrastructure on the East Leppington site. Any cost overruns, rather than being met by the Council, would be met by Stockland and the Cornish Group.
- The agreement is likely to result in, over the development life, a significant reduction in the resources required by the parties to calculate and administer development contributions associated with the development.
- The agreement allows the Council to concentrate its planning effort on those parts of the Precinct that will need a proactive approach to infrastructure provision. By entering into the agreement Council is relieved of the obligation of delivering infrastructure in East Leppington (which is more ably delivered by the developers) and can instead focus on providing infrastructure in locations where it is less likely that developers would directly provide that infrastructure.
- The East Leppington riparian corridor land comprises significant environmental value and is also integral to the achievement of the development's water cycle management planning objectives. Appropriate arrangements for the sustainable ongoing management of the riparian corridors are therefore in the interests of the wider community. The planning agreement addresses these matters.

There are various provisions in the proposed planning agreement relating to the implementation of the agreement that protect and uphold the public interest. These include the following:

- Under clause 9.4 of the agreement the Council has discretion in the way it may apply contributions it receives under the agreement.
- Provisions (including clauses 19 and 21) requiring the developer to repair and make good works or rectify defects in works provided under the agreement.
- Under clause 36 of the agreement, Stockland and the Cornish Group are required to prepare, at least annually, a report detailing the performance of their obligations under this Agreement; and the Council is to keep a written register of the development contributions made by Stockland and the Cornish Group under the agreement.
- Various provisions relating to security including:
 - (i) Where the developer proposes a deferral of work (clause 15 of the agreement);
 - (ii) Provision of a security amount covering the outstanding contributions obligations under the agreement (clause 26);
 - (iii) Compulsory acquisition of land by Council for a nominal amount in the event the land is not dedicated at the time required under the agreement (clause 27); and
 - (iv) The registration of the VPA on the title of the land owned by Stockland and the Cornish Group, and the provision of monetary security for the full value of works and land located within the LPP in lieu of registering the VPA on the title of this land. Such security will not be required (or if already paid, will be refunded) if the VPA is registered on the title of the LPP land in future (clause 30).

4.2 Promotion of the Council's charter

(This matter is required under clause 25E(2)(d) of the EP&A Regulation to be addressed in the Explanatory Note)

A planning agreement should promote elements of the Council's charter, which is established under section 8 of the Local Government Act 1993.

It is considered that the proposed planning agreement would further a number of elements of the charter, as shown below:

Element of the Council's charter (section 8 of the Local Government Act 1993)	How does the agreement promote the element?
To provide directly or on behalf of other levels of government, after due consultation, adequate, equitable and appropriate services and facilities for the community and to ensure that those services and facilities are managed efficiently and effectively.	This element is embedded in the purposes and objectives of the proposed planning agreement. That is: <ul style="list-style-type: none"> • the proposed agreement will be the subject of community input prior to its consideration by the Council; • the services and facilities to be provided reflect the objectives of the Contributions Plan and the Council's Dedication of Riparian Corridors Policy; and • the proposed agreement includes arrangements for the staged handover of completed facilities following a developer-sponsored maintenance period.
To exercise community leadership.	The proposed agreement: <ul style="list-style-type: none"> • Secures the means of providing local infrastructure to meet the needs of a major development in one of Camden's key growth areas. • Taps into and applies the expertise offered by land

Element of the Council's charter (section 8 of the Local Government Act 1993)	How does the agreement promote the element?
To promote and to provide and plan for the needs of children.	<p>developers towards providing substantial public benefits for the future East Leppington community.</p> <ul style="list-style-type: none"> • Together with other similar agreements that have been negotiated, establishes Camden Council as an innovative facilitator of greenfield urban development schemes.
To properly manage, develop, protect, restore, enhance and conserve the environment of the area for which it is responsible, in a manner that is consistent with and promotes the principles of ecologically sustainable development.	<p>The proposed agreement provides for the delivery of various facilities focused on the needs of children, including various sports facilities, cycleways, and natural areas for exploring.</p> <p>The development site's more significant natural areas include its extensive riparian corridors. It is considered the optimum long term management regime for most of the riparian corridor land will be achieved if the land is embellished and dedicated to Camden Council in accordance with its standards, specifications and policies.</p> <p>As a result, over 0.54 hectares of the development site's riparian corridor lands are proposed to become public assets under the proposed agreement.</p> <p>Response to ESD principles:</p> <ul style="list-style-type: none"> • The precautionary principle, inter-generational equity; and conservation of biological diversity and ecological integrity: Proposed agreement supports natural areas being retained, protected and integrated into the development scheme. • Improved valuation, pricing and incentive mechanisms: Proposed agreement establishes a framework whereby infrastructure users are accountable for the provision of that infrastructure; allows earlier provision of the infrastructure (by the developer) than would be the case with 'business as usual'; and allows the most efficient means of delivering that infrastructure (i.e. by the developer).
To have regard to the long term and cumulative effects of its decisions.	<p>The development has a life of at least 5 years. The proposed agreement sets out a framework for the efficient delivery and sustainable ongoing management of a substantial amount of public infrastructure on the development site.</p> <p>The agreement would relieve Council of the project risk associated with the provision of local infrastructure on the development site and allows the Council to concentrate its planning effort on other parts of the Camden LGA that will need a proactive approach to infrastructure provision.</p>
To bear in mind that it is the custodian and trustee of public assets and to effectively plan for, account for and manage the assets for which it is responsible.	<p>The proposed agreement includes provisions placing asset maintenance obligations on the developers for a period after the works are completed.</p> <p>The proposed agreement also includes appropriate</p>

Element of the Council's charter (section 8 of the Local Government Act 1993)	How does the agreement promote the element?
	asset handover and defects liability provisions.
To engage in long-term strategic planning on behalf of the local community.	The proposed agreement spans at least a 5 year time frame, assuring the long-term provision and management of public assets and infrastructure.
To exercise its functions in a manner that is consistent with and promotes social justice principles of equity, access, participation and rights.	The proposed agreement creates spaces and places for public interaction and provides facilities for the delivery of public services to the local community.
To raise funds for local purposes by the fair imposition of rates, charges and fees, by income earned from investments and, when appropriate, by borrowings and grants.	The proposed agreement includes the payment of monetary contributions to the Council for its management of infrastructure projects and for the provision of other district level infrastructure in Leppington North not proposed to be delivered under this agreement. The monetary contribution amounts reflect the total value of the balance of the infrastructure needs that will not be provided directly by the developer.

4.3 Planning purposes and the objects of the EP&A Act

(This matter is required under clause 25E(2)(a), (c) and (e) of the EP&A Regulation to be addressed in the Explanatory Note)

The planning purposes served by the planning agreement can best be addressed by reference to the objects of the EP&A Act.

It is considered that this planning agreement would further each of the following objectives of the EP&A Act:

Objective of the EP&A Act (section 5)	How does the agreement promote the objective?
To encourage the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment.	The proposed agreement provides a basis for the comprehensive management of the delivery of the local infrastructure requirements of the East Leppington development. The proposed agreement also establishes land use management arrangements for the site's riparian corridor lands.
To encourage the promotion and co-ordination of the orderly and economic use and development of land.	Orderly development of land is encouraged by (through the agreement) establishing a basis whereby local infrastructure is delivered at or around the same time as surrounding development.
To encourage the provision of land for public purposes.	The proposed agreement includes provision of around 3.8 hectares of land for public purposes.
To encourage the provision and co-ordination of community services and facilities.	The proposed agreement will sustain provision and coordination of local infrastructure (which includes, community, open space, recreation, transport

Objective of the EP&A Act (section 5)	How does the agreement promote the objective?
To encourage the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats.	management and water cycle management facilities) delivered at or around the same time as surrounding development. Additionally, the proposed agreement would result in some of the facilities planned for the East Leppington precinct (for example, the community park) occurring sooner than would have been achieved with a business-as-usual approach.
To encourage ecologically sustainable development	Refer to comments on ecologically sustainable development in Part 4.1.2.
To encourage ecologically sustainable development	Refer to comments on ecologically sustainable development in Part 4.1.2.

4.4 Conformity with Council's works program

[\(This matter is required under clause 25E\(2\)\(f\) of the EP&A Regulation to be addressed in the Explanatory Note\)](#)

The proposed agreement is a vehicle for Stockland and the Cornish Group to complete all of the works required by the East Leppington development in a more timely and efficient fashion than if Council were to be required to deliver these works via a s94 contributions plan and via Council's works program.

4.5 Requirements to be complied with before a certificate is issued

[\(This matter is required under clause 25E\(2\)\(g\) of the EP&A Regulation to be addressed in the Explanatory Note\)](#)

Schedule 1 of the agreement contains details of when contributions of land, works or money are to be met by the developers.

The Schedule states that land will be required to be dedicated, works will be required to be completed, and cash contributions will be required to be paid before the issue of a Subdivision Certificate for stages of development. If the developer seeks the issue of a Subdivision Certificate prior to the completion of these works, Clause 15 of the planning agreement requires the payment of security against the value of the incomplete works within the relevant stage.

29 November 2013

Mr Ron Moore
General Manager
Camden Council
PO Box 183
Camden NSW 2570

East Leppington Precinct Voluntary Planning Agreement (VPA)

Dear Mr Moore,

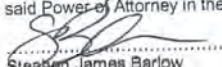
Under section 93F of the Environmental Planning and Assessment Act 1979 (EPA Act), Stockland Development Pty Limited propose to enter into a Voluntary Planning Agreement (VPA) with Camden Council.

The draft VPA document attached to this correspondence (prepared by Lindsay Taylor Lawyers and described as 'DRAFT EAST LEPPINGTON VPA 27 NOVEMBER 2013' within the footer of the document) is an irrevocable VPA offer made pursuant to section 93(3) of the Environmental Planning & Assessment Act 1979 from Stockland Development Pty Limited to Camden Council.

Yours sincerely,

Stockland Development Pty Limited

Signature & Date

Executed for and on behalf of
Stockland Development Pty Limited
ACN 000 064 835 by its duly authorised
attorney under Power of Attorney registered
in Book 4642 No. 568 who declares that
he has no notification of revocation of the
said Power of Attorney in the presence of:
 29/11/13
Stephen James Barlow


Signature of Witness
CHARE ROBERTS
Name of Witness
133 Castlereagh Street, Sydney
Address of Witness

ORD09

Attachment 2



27 November 2013

Mr Ron Moore
General Manager
Camden Council
PO Box 183
Camden NSW 2570

East Leppington Precinct Voluntary Planning Agreement (VPA)

Dear Mr Moore,

Under section 93F of the Environmental Planning and Assessment Act 1979 (EPA Act), Cornish Group No. Two Pty Limited propose to enter into a Voluntary Planning Agreement (VPA) with Camden Council.

The draft VPA document attached to this correspondence (prepared by Lindsay Taylor Lawyers and described as 'DRAFT EAST LEPPINGTON VPA 27 NOVEMBER 2013' within the footer of the document) is an irrevocable VPA offer made pursuant to section 93I(3) of the Environmental Planning & Assessment Act 1979 from Cornish Group No. Two Pty Limited to Camden Council.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "B.C.", representing Brett Cornish.

Cornish Group No. Two Pty Ltd
Brett Cornish, Managing Director.

suite 5
3 - 7 park avenue
drummoyne nsw 2047

po box 1175
rozelle nsw 2039

t 02 9819 6966
f 02 9819 6977

www.cornishgroup.com.au

29 November 2013

Mr Ron Moore
General Manager
Camden Council
PO Box 183
Camden NSW 2570

East Leppington Precinct Voluntary Planning Agreement (VPA)

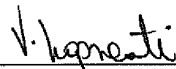
Dear Mr Moore,

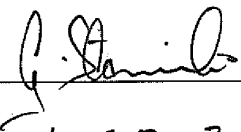
Under section 93F of the Environmental Planning and Assessment Act 1979 (EPA Act) Leppington Park Pastoral Pty Limited propose to enter into a Voluntary Planning Agreement (VPA) with Camden Council.

The draft VPA document attached to this correspondence (prepared by Lindsay Taylor Lawyers and described as 'DRAFT EAST LEPPINGTON VPA 27 NOVEMBER 2013' within the footer of the document) is an irrevocable VPA offer made pursuant to section 93I(3) of the Environmental Planning & Assessment Act 1979 by Leppington Park Pastoral Pty Limited to Camden Council.

Yours sincerely,

Leppington Park Pastoral Pty Ltd


Signature & Date


1-12-2013



ORD10

ORDINARY COUNCIL

ORD10

SUBJECT: DELEGATIONS TO THE MAYOR - CHRISTMAS/NEW YEAR PERIOD
FROM: Acting Director Governance
TRIM #: 13/45808

Council will be in recess from 11 December 2013 until Tuesday 28 January 2014. During this period, it is appropriate to provide delegated authority to exercise the development approval function and allow Council to fulfil its statutory obligations between meetings. It may be necessary to approve development applications or other urgent matters requiring a decision, which are required to be approved as a matter of necessity and which may not fall within the delegations to staff, ie. matters of a contentious nature or where objections have been made.

The *Local Government Act 1993* ("the Act") allows Council to delegate functions and in addition, authority is also provided to the Mayor under section 226 of the Act, to exercise functions between meetings.

It has been the normal practice to provide a delegation to the Mayor for the period to the next Ordinary Meeting and that the delegation is limited to approval of development applications and matters of a critical nature.

This delegation would only be exercised in matters of extreme urgency and in the event of an issue of significant magnitude and impact occurring, a special Council Meeting would be convened. A report outlining the exercise of this delegation will be made to the Council meeting on 28 January 2014.

RECOMMENDED

That authority be delegated to the Mayor and Deputy Mayor (in the absence of the Mayor) for the approval of development applications and cases of necessity, during the period 11 December 2013 to 28 January 2014 as provided under sections 226 and 377 of the *Local Government Act 1993*, and Council be informed of any use of such delegation in a report to Council on 28 January 2014.

ORDINARY COUNCIL

ORD11

ORD11

SUBJECT: TENDER FOR CONSULTANCY SERVICES FOR WORK HEALTH AND SAFETY MANAGEMENT SYSTEM

FROM: Acting Director Governance

TRIM #: 13/72697

PURPOSE OF REPORT

To provide details of the tenders received for Tender T004/2014 Consultancy Services for the Work Health and Safety Management System and to recommend that Council accept the tender submitted by The Brief Group.

BACKGROUND

Camden Council is committed to the safety of all current and future workers, including employees, volunteers and contractors, and has over time developed systems, policies and procedures to address and manage workplace health and safety.

The introduction of the Work Health & Safety (WHS) Act 2011 & the WHS Regulation 2011 (the Acts), replacing the Occupational Health and Safety Act and Regulations 2000, highlighted the need to further develop a fully integrated WHS Management System to ensure continued compliance with relevant safety requirements, codes and the Australian Standard.

After carefully considering the scope of this project it was determined that additional resources would be required. In accordance with Council's Purchasing and Procurement Policy and the Local Government Tendering Regulation (2005) Council sought tenders from suitably qualified professionals to work in partnership with the Executive and Senior Management Teams, and the Corporate Safety Team (and all staff) to further develop a fully compliant and integrated WHS System and to embed a safety culture across the organisation.

MAIN REPORT

Invitation to Tender

The tender for Consultancy Services for Work Health and Safety System was advertised on the NSW e-tendering website from 24 September to 15 October 2013, in the Macarthur Advertiser on 25 September & 2 October 2013 and the Sydney Morning Herald on 24 September and 1 October 2013.

Tenders opened on 25th September 2013 and closed on 15th October 2013. Tenderers were asked to provide information on their fee proposal, methodology and understanding of the project, provide a program with key milestones, details of their organisation as well as information regarding relevant experience and references.

Scope of Works

The consultant will be required to work in partnership with Council's Corporate Safety Team to implement a systematic approach to further develop and improve Council's WHSMS. This will include:

- Reviewing current workplace, health and safety practices, policies and procedures
- Identifying and prioritising areas for further development and improvement
- Developing an action plan to address identified priorities, including identification of resources and agreed milestones
- Working with the Council Executive and Senior Management Team and the Corporate Safety Team (and all staff) to meet agreed milestones
- Providing expert advice and guidance on the development and implementation of WHSMS components
- Developing a range of strategies and actions to create a safety culture within the organisation.

Project Outcomes

- Fully functional and integrated WHSMS
- Culture of commitment and compliance
- Legislative compliance

Tender Submissions

A total of 32 tenders have been received.

Tenders were received from 32 companies listed below in alphabetical order:

Tenderer	Location
AQUAS Consulting	North Sydney NSW
AusSAFE Solutions	Newtown NSW
Australian Industry Group	North Sydney NSW
AW Workwise	Warners Bay NSW
Clarity Business	City East QLD
Compliance Occupational Health	Miranda NSW
Executive Project Management	Chatswood NSW
Feddersen Consulting	Narromine NSW
Framework	Young NSW
GHD Innovation	Sydney NSW
Hamblin Management Systems	Lisarow NSW
Hibbs & Associates	Homebush NSW
InMotion Rehab	Narellan NSW
JTA	Gordon NSW
M.A.C.S.S	Adelaide SA
MPE Safety Solutions	Singleton NSW
National Safety Council	Surry Hills NSW
Noel Arnold & Associates	North Ryde NSW
OHP Health Professionals	Parramatta NSW
OSHEM	Parramatta NSW
QRMC Risk Management	Paddington QLD
Recovery Partners	Sutherland NSW
Recovre	Sydney NSW

Reliance Consultant Services	Lalor Park NSW
Resource Risk Management	Ultimo NSW
Safety Australia Group	Oatley NSW
Safety Services Australia	Baulkham Hills NSW
SRC Solutions	Mawson ACT
Strategic Project Management	Gymea Bay NSW
TC Link	Homebush NSW
The Brief Group	Sydney NSW
WSP	North Sydney NSW

Tender Evaluation

The tender process is intended to appoint a consultant with proven capacity and experience in similar scale projects as well as providing good value and quality services to Council.

The tenders that have been submitted to Council have been assessed based upon the selection criteria:

- a) Schedule of Rates;

And the following non-price factors

- b) Demonstrated relevant experience, capacity and technical ability to carry out the work under the Contract. Previous experience in similar local government projects will be considered highly;
- c) Methodology & understanding of the project objectives; AND
- d) Conformity with the request for tender.

A tender evaluation panel was established and the submissions were assessed on price and non-price factors as agreed by the evaluation panel. Price was given weighting of 40 % and non-price factors a weighting of 60 % as the experience and the tenderer's ability to complete the work was considered a higher priority than price alone.

The level of application was of a very high calibre and offered a wide breadth of expertise.

The panel members all agreed that the tender by The Brief Group represented the best value to Council. The Brief Group has demonstrated a proven track record in delivering projects of a similar scale and nature. The Brief Group has provided the most competitive tender overall in terms of price & non-price factors, whilst also meeting all requirements of Council's tender documentation. Past clients were contacted and gave positive feedback for The Brief Group. **A copy of the evaluation spread sheet is attached in Supporting Documents.**

One tender was deemed non-conforming due to a failure to sufficiently respond to the selection criteria.

A Tender Evaluation Plan is supplied in **Supporting Documents**. Please note this information is considered Commercial in Confidence.

This plan contains the results of the highest rated tenders as a result of a panel review process.

Relevant Legislation

The tender has been conducted in accordance with the Local Government Act 1993, the Local Government Regulations (2005) and Council's Purchasing and Procurement Policy.

FINANCIAL IMPLICATIONS

The Brief Group has quoted a daily rate of \$1,800 and analysis of the scope of works indicates that the current allocation of \$200,000 over two financial years will be sufficient to finalise this project.

CONCLUSION

The appointment of The Brief Group will assist in ensuring Council meets both legislative compliance as well as improving Council's ongoing commitment to the provision of workplace health and safety which is of paramount importance.

RECOMMENDED

That Council:

- i. appoint The Brief Group to undertake consultancy services to further develop & implement a WHSMS based upon the terms and conditions set out in their tenders and Tender Brief T004/2013; and**
- ii. authorise the relevant documentation to be completed under Council's Power of Attorney, granted on 27 August 2013, Minute Number ORD215/3.**

ATTACHMENTS

1. Tender Evaluation Sheet - *Supporting Document*
2. Tender Evaluation Sheet - Non Price Factors - *Supporting Document*



ORDINARY COUNCIL

ORD12

ORD12

SUBJECT: NEW CENTRAL ADMINISTRATION CENTRE - REVISED SCOPE OF STAGE 1

FROM: Director Works & Services

TRIM #: 13/73287

PURPOSE OF REPORT

The purpose of this report is to:

1. Confirm the revised size the building area for Stage 1 of Council's new central administration centre;
2. Confirm the type of parking structure for the administration centre site and the revised number of carparking spaces in Stage 1;
3. Confirm that Council should not vary the Oran Park VPA and integrate the Library Community/ resource centre in Stage 1, but rather proceed with a stand-alone Library / Community Resource Centre as the preferred masterplan option; and
4. Provide details on the budget implications of the above changes to the scope of Stage 1.

BACKGROUND

On 22 October 2013 Council resolved to:

- i. Accept and endorse the Civic Precinct Masterplan including the change in shape of the site for the new central administration building together with the relocation of the Leisure Centre to a site adjacent to the new central administration building and Library and two (2) indoor courts from the youth facility to the Leisure Centre;
- ii. Undertake the necessary amendments required to the relevant Part B DCP and the SEPP required to give effect to the Civic Precinct Masterplan;
- iii. Acknowledge that further work will be undertaken in relation to the potential for integration of the Library and new central administration building and the car parking requirements for the Civic Precinct site; and
- iv. Authorise the relevant documentation to be completed under Council's Power of Attorney, granted on 27 August 2013, Minute Number ORD 215/13.

MAIN REPORT

Since the above resolution, Council Officers have undertaken further analysis of workforce projections and the size and capacity of Stage 1, provision rates for carparking and the risks and opportunities associated with integrating the Library/Community Resource Centre with the administration centre building.

Size of Stage 1

The original facility plan, prepared by Hassell Architects, in September 2009 allowed 5086m² for Stage 1 of the administration centre. A review of Council's workforce growth projections indicates that a building of this size would reach capacity at approximately 2023. It is considered more appropriate to provide a building with additional capacity to accommodate 300 staff which is anticipated in approximately 2028. In order to provide this additional capacity, it is recommended that Stage 1 be increased to 6,500m².

Carparking

The same facility plan allowed for 150 at grade carparking spaces in Stage 1, and an additional 100 decked carparking spaces in Stage 2. The anticipated number of staff in 2016 when the new administration centre is scheduled to be completed is approximately 195. Following discussions with Councillors at previous workshops, it was agreed that additional carparking spaces should be provided in Stage 1. At the workshop of 26 November 2013 it was recommended that 250 spaces should be provided in Stage 1, which would allow sufficient parking for staff and visitors to the administration centre.

An assessment of the costs to provide semi basement carparking on the administration centre site was considered not affordable.

Should Council vary the Oran Park VPA and integrate the Administration Centre and Library Community Resource Centre?

The most practical approach to integrating the Library/Community Resource Centre with the administration centre building is to deliver the building as a single contract. This would require Council to vary the existing Oran Park VPA and take on all risks associated with delivery of the Library/Community Resource Centre.

As outlined in the workshop with Councillors on 26 November 2013, there are a number of potential risks associated with varying the VPA, which may impact on Council's ability to deliver other priority works in Council's Operational Delivery Plan and the timeline for completion of the administration centre.

Whilst it is acknowledged that integration offers a number of potential benefits, there is opportunity to design the administration centre and Library/Community Resource Centre to allow for possible future connection of the buildings without compromising the areas provided in Stage 1.

FINANCIAL IMPLICATIONS

It is estimated that additional funds of \$3.4M will be required to increase the size of Stage 1 to 6,500m² and an additional \$3.3M to provide 250 carparking spaces. These spaces would be provided as 150 at grade spaces and 100 decked spaces.

Council can fund the proposed additional works in Stage 1 without increasing future loan borrowings, additional property sales or removal of proposed works from Council's Operational Delivery Plan.

It is noted that the increase in scope and budget of Stage 1 does not increase the scope and overall project budget, but rather bring forward works and funding from Stage 2 of the project.

CONCLUSION

Following review of Council's future workforce projections, the original size of Stage 1 of the administration centre should be increased from 5086m² to 6500m². This will have capacity to accommodate anticipated staff numbers expected by approximately 2028. This will reduce the scope and cost of Stage 2.

150 carparking spaces in Stage 1 is considered inadequate and should be increased to 250 carparking spaces.

There are a number of potential risks, associated with varying the VPA which may impact on Council's ability to deliver other priority works in Council's Operational Delivery Plan.

The masterplan option developed for the civic precinct site which shows the Library Community Resource Centre and the administration centre as alone buildings is considered the most appropriate for Council in Stage 1 of the works. The design of these buildings should consider possible future integration in Stage 2.

Council can fund the transfer of works previously proposed in Stage 2, to increase the scope of Stage 1 without increasing future loan borrowings, additional property sales or removal of proposed works from Council's Operational Delivery Plan.

RECOMMENDED

That Council:

- i. increase the size of Stage 1 of the administration centre from 5086m² to approximately 6500m²;**
- ii. increase the number of carparking spaces in Stage 1 of the administration centre from 150 to 250 spaces;**
- iii. proceed with the masterplan option for the civic precinct site which shows the Library/Community Resource Centre and the administration centre as stand-alone buildings in Stage 1; and**
- iv. bring forward funding of \$6.7M, which would have previously been required in Stage 2, to fund the increased scope of Stage 1 for the administration centre project budget, as part of the 2014/15 budget review process.**



ORDINARY COUNCIL

ORD13

**SUBJECT: MACARTHUR REGIONAL RECREATIONAL TRAIL INCORPORATING
THE AUSTRALIAN BOTANIC GARDEN RECREATIONAL PATH -
ACCEPTANCE OF GRANT FUNDING**

FROM: Director Works & Services

TRIM #: 13/545

PURPOSE OF REPORT

To advise Council of a successful grant application submitted to the NSW Department of Planning and Infrastructure under the Metropolitan Greenspace Program 2011 and seek approval to accept the grant and commit matching funding.

BACKGROUND

Council made a submission for grant funding towards the Macarthur Regional Recreational Trail to the Metropolitan Greenspace Program. The Department of Planning and Infrastructure, which manages the Program, has advised that Council has been successful in securing funding.

MAIN REPORT

Council has developed the Macarthur Regional Recreational Trail concept in partnership with Campbelltown City Council, UrbanGrowth NSW, the Australian Botanic Garden and the University of Western Sydney. The trail is planned as a pedestrian/bicycle shared path linking Macarthur Railway Station to Camden town centre via the Australian Botanic Garden. Sections of the trail are being constructed in conjunction with residential developments identified in various Development Control Plans. Development consent was given by Council in March 2013 for two sections of the trail, now being constructed through this project.

The Metropolitan Greenspace Program is open to Councils in the Sydney Metropolitan area to fund capital projects for regional trails and regional parks. The objectives of the Program include enhancing regionally significant open space by providing links between bushland, parks, major centres, and waterways, enabling more effective public use of regionally significant open space. Support for projects that demonstrate a commitment to the design and future management of open space including improved outcomes for health, sustainability and community is also a priority.

Council successfully secured \$50,000 of grant funding in the Metropolitan Greenspace Program 2010 funding round towards design and development of the Macarthur Regional Recreational Trail within the Australian Botanic Garden. A joint grant application was made by Camden Council and Campbelltown City Council to the 2011 funding round towards ongoing design and development and construction of elements of the trail.

The funding submission was for \$580,000 (exclusive of GST) and Council has been advised that \$455,000 (exclusive of GST) has been awarded. A condition of the grant is that it is matched on a dollar-for-dollar basis and expended within 24 months of execution of the agreement (Refer Agreement **Attachment 1**). A component in Spring

Farm was excluded from the grant award with the advice that this should be incorporated into a future grant submission. The Program has since agreed to removal of Clause 4.4 (h) (i), which excludes expenditure in Spring Farm, in view of the progress of the project since the Grant application was made. The funded Stages of the project are now as follows:

Macarthur Regional Recreational Trail Stage	Value
Australian Botanic Garden Recreation Trail 1a – Construction	\$ 455,000
Mount Annan Garden Gates Trail 1b - Construction	\$ 278,000
Spring Farm Trail 2 - Detailed Planning	\$80,000
UWS Trail 3 – Detailed Planning	\$ 100,000
TOTAL	\$ 913,000

(refer plan **Attachment 2** for stages in Camden LGA)

The State Government body, UrbanGrowth NSW has made a commitment to meet the matching funding requirement though an existing works-in-kind agreement with Camden Council for Garden Gates and other funding mechanisms (refer to the letter in the **Supporting Documents**). This is subject to formal agreement between Council, Campbelltown City Council, UrbanGrowth NSW and the Australian Botanic Garden. It is proposed that Council enters into a Memorandum of Understanding to engage UrbanGrowth NSW as the delivery partner for the project.

The grant funding will be used to fund construction of the first stage of the trail within the Australian Botanic Garden itself, which is Crown Land. Ongoing maintenance and management of this section of the trail will be the responsibility of the Royal Botanic Gardens & Domain Trust reporting to the Minister for the Environment. Council will be responsible for ongoing maintenance of elements of the trail in Garden Gates after the land is handed over to Council.

FINANCIAL IMPLICATIONS

It is acknowledged that there are no direct financial implications for Council resulting from the awarded grant of \$455,000, subject to the aforementioned commitment by UrbanGrowth NSW to meet the matching funding requirements. Notwithstanding this point, it is noted that of the funding mechanisms articulated in the supporting documents to this report, currently the value of \$278,000 (via the Works-In-Kind Agreement for Garden Gates at Mount Annan) is subject to an existing legally binding agreement with Council. UrbanGrowth NSW has provided a Letter of Undertaking, *“committing to the expenditure for trail planning in Spring Farm and UWS sites irrespective of the Voluntary Planning Agreements being executed.”* It is proposed that this further commitment is formalised through a Memorandum of Understanding, on acceptance of the grant funding.

CONCLUSION

The NSW Department of Planning and Infrastructure has awarded a grant to Council through the Metropolitan Greenspace Program. The grant for \$455,000 (exclusive of GST) is towards construction of a shared pedestrian / bicycle path as part of the Macarthur Regional Recreational Trail. UrbanGrowth NSW has made a commitment to meet the matching funding requirement through existing and future funding arrangements with Council.

RECOMMENDED

That Council:

- i. accepts the offer of the grant of \$455,000 (exclusive of GST) from the Metropolitan Greenspace Program 2011 for the Australian Botanic Garden Recreational Path project as part of the Macarthur Regional Recreational Trail;**
- ii. undertakes to enter into a Memorandum of Understanding with UrbanGrowth NSW, Campbelltown City Council and the Australian Botanic Garden to deliver the project;**
- iii. commits matching funding for the grant, via works undertaken by UrbanGrowth NSW on behalf of Camden Council and Campbelltown City Council, to a value of \$458,000 (exclusive of GST);**
- iv. authorises the relevant documentation, including deletion of Clause 4.4 (h) (i) of the funding agreement, to be completed under Council's Power of Attorney, granted on 27 August 2013, Minute Number ORD215/13; and**
- v. writes to the funding bodies – NSW Department Planning and Infrastructure, and Urban Growth NSW – thanking them, the Minister and Local State Member for their assistance.**

ATTACHMENTS

1. Grant Conditions
2. Macarthur Regional Recreational Trail Path Plan
3. Urban Growth Letter of Undertaking - *Supporting Document*

DIRECTOR-GENERAL OF THE DEPARTMENT OF PLANNING & INFRASTRUCTURE
("the Director-General")
And
Camden Council
("the Grantee")

Australian Botanic Gardens Recreational Path
- METROPOLIAN GREENSPACE PROGRAM FUNDING AGREEMENT

THIS AGREEMENT is made the 18 day of October 2012

PARTIES

Between: THE DIRECTOR-GENERAL OF THE DEPARTMENT OF PLANNING & INFRASTRUCTURE
for and on behalf of the State of New South Wales.
ABN 38 755 709 681
of 23-33 Bridge Street, Sydney, NSW 2000.

And: Camden Council being a body politic constituted under section 219 of the Local Government Act 1993
ABN 31 117 341 764
of PO Box 183
Camden NSW 2570

1. RECITALS

- 1.1 The Department of Planning and Infrastructure has established the Metropolitan Greenspace Program ("MGP") to provide funding across metropolitan Sydney in relation to land conservation, embellishment and improvement of parklands and urban spaces. In implementing the program, the Department of Planning and Infrastructure works closely with local councils to plan and improve regionally significant greenspace, including parks, trails and reserves.
- 1.2 The MGP Guidelines set out in detail the objectives and working structure of the Program the objectives are summarised as:
1. To improve regionally significant open space including links between bushland, parks, centres and waterways.
 2. To enable more effective public use of regionally significant open space.
 3. To promote planning and improve access to a diverse mix of open space opportunities for Sydney's community.
 4. To promote partnerships between state and local government.
 5. To support projects that demonstrates a commitment to the design and future management of open space including improved outcomes for health, sustainability, climate change and community.
- 1.3 The MGP Management team has agreed to assist with the funding of the project through the provision of \$ 455,000.00 granted to the Grantee.
- 1.4 The Grantee desires to undertake the Project in accordance with the Project Objectives as set out in the Grant Application form. The Project is known as **Australian Botanic Gardens Recreational Path**.
- 1.5 The Director-General has agreed that the Grant will be paid to the Grantee, as a grant towards the Project, in accordance with the terms and conditions contained in this Agreement.

OPERATIVE PROVISIONS

2. DEFINITIONS

- 2.1 In this Agreement unless the context otherwise requires the following words and expressions shall have the following meanings:

Agreement means this agreement, and includes the Schedules and Attachments to this Agreement;

Clause means any clause of this Agreement;

Conflict of Interest includes, but is not limited to, situations where a personal interest, including a proprietary interest, could lead to or be perceived to lead to a person being improperly influenced in the way he or she carries out the Project and other requirements under or pursuant to this Agreement;

Department means the Department of Planning and Infrastructure;

Director-General means the Director-General of the Department of Planning and Infrastructure and includes the authorised delegates of the Director-General;

Grant means the financial assistance (exclusive of GST) provided by the Director-General to the Grantee in accordance with clause 3 for the purpose of the Project, and includes any interest earned thereon;

Grant Application Form means the Metropolitan Greenspace Program application form;

GST means a tax, levy, duty, charge, deduction imposed by the GST law together with any related additional tax, interest, penalty, fine, or other charge calculated by reference to the value of anything supplied other than one imposed on net income;

GST Law means any law imposing a GST and includes A New Tax System (Goods & Services Tax) Act 1999, or if that Act does not exist for any reason, means any Act imposing, or relating, to a GST and any regulation made pursuant to any such Acts;

Input Tax Credit has the same meaning given to it in the GST Law;

Intellectual Property Rights means all rights in copyright, patents, letters patent, registered and unregistered trademarks, designs, trade secrets, trade, business names, confidential or other proprietary rights, or any rights to registration and all other rights of intellectual property as recognised by New South Wales and Australian law and whether created before or after the date of this Agreement and whether created in Australia or elsewhere and includes rights acquired by way of a licence for the use of such Intellectual Property Rights;

MGP Management Team means the group of people within the Department coordinating the MGP Program.

Milestones means the Milestones for the Project as detailed in the Works Program;

Minister means the Minister for Planning and Infrastructure and includes the authorised delegates of the Minister as well as any other Minister, government department, or body which may from time to time take over the functions of the Minister;

Project means the project referred to and as detailed in the Grant Application Form and if required by this agreement and as amended by the Works Program.

Project Completion Report means the report described in Clause 4.1(c)(i)-(iii);

Project Manager means the person or organisation appointed to manage and facilitate the Project (as nominated in the Grant Application Form) in accordance with the Works Program;

Project Objectives means the objectives of the Project set out in the accepted Application;

Supply has the same meaning given to it in the GST Law;

Taxable Supply has the same meaning given to it in the GST Law;

Term means the period of 24 months, or any such time as agreed by the parties and evidenced in writing, commencing on the date on which this Agreement is signed;

Works Program means the works schedule with Milestones prepared by the Grantee and approved in writing by the MGP Management Team;

2.2 Except where the context otherwise requires a reference in this Agreement to:-

- (a) The singular includes a reference to a plural and visa versa.
- (b) A gender includes a reference to the other genders and each of them.
- (c) Any person or the Grantee shall mean and include the legal personal representative, successor in title, and permitted assigns of such person or the Grantee as the circumstances may require.

- (d) A company includes a corporation and person and visa versa.
 - (e) Any organisations, associations, societies, groups or bodies shall, in the event of them ceasing to exist or being reconstituted, renamed, replaced or incorporated or if the powers or functions of any of them are transferred to any other entity, body or group, refer respectively to any such entity, body or group, established, constituted or incorporated in lieu thereof or succeeding to similar powers or functions;
 - (f) Statutes, regulations, ordinances or by-laws shall be deemed for all purposes to be extended to include a reference to all statutes, regulations, ordinances or by-laws amending, consolidating or replacing same from time to time;
 - (g) A month shall be construed as a reference to a calendar month.
- 2.3 A business day means any day which is not a Saturday, Sunday or Public Holiday in the State of New South Wales.
- 2.4 Where any time limit pursuant to this Agreement falls on a Saturday, Sunday or Public Holiday in the State of New South Wales then that time limit shall be deemed to have expired on the next business day.
- 2.5 Where any covenant, condition, agreement, warranty or other provision of this Agreement expressly or impliedly binds more than one person then it shall bind each such person separately and all such persons jointly.
- 2.6 No amendment of or addition to the provisions of this Agreement shall be valid and binding unless it is in writing and signed by all of the Parties.
- 2.7 The headings and boldings used in this Agreement are for convenience only and shall not affect the interpretation of this Agreement.
- 2.8 Where a word or phrase is given a defined meaning in this Agreement, any other part of speech or other grammatical form in respect of such word or phrase shall unless the context otherwise requires have a corresponding meaning.
- 3. PROVISION OF GRANT**
- 3.1 The Director-General agrees to provide the amount of \$455,000 to the Grantee, as a Grant to assist with the implementation of the Project, on the terms and conditions contained in this Agreement that include matching on a dollar for dollar basis by the Grantee.
- 3.2 Payment of the Grant will be made upon completion of the Project and receipt of the Project Completion Report to the satisfaction of the MGP Management Team.
- 3.3 Progress payments may be made only if one of the following criteria are met;
- (a) grant funds offered are \$40,000 or above; or
 - (b) Exceptional circumstances as agreed by the MGP Management Team with the Grantee.
- 3.4 Progress payments will be made in accordance with Project Milestones identified in the Works Program, and to the satisfaction of the MGP Management Team.
- 3.5 Final payment will require submission of a Project Completion Report to the satisfaction of the MGP Management Team.
- 4. CONDITIONS OF GRANT**
- The Grantee acknowledges and agrees that the grant is provided subject to and they are able to meet the conditions in this clause 4.0 of this agreement.
- 4.1 The Grantee must provide to the MGP Management Team to their satisfaction:
- (a) An updated and agreed Works Program (including Project start date, finish date and Milestones) no later than 4 weeks after the date this Agreement is executed.
 - (b) Associated sketch plan(s) which identify the staging of work in accordance with Works Program. These plans should include a location map and concept plan (reducible to A3 size).

Where the Project involves additional studies or planning, a brief shall be agreed prior to the commencement of the studies.

- (c) Upon completion of the Project and before final payment is made, a Project Completion Report that includes the following:
- (i) An audited financial statement of receipts and payments, in respect of the Project, certified by the chief financial officer of the Grantee's organisation using a Certificate of Expenditure in a format acceptable to the MGP Management Team. An independent audit of accounts is to be provided where requested. The statement shall also include receipts and payments and a balance sheet in respect to the Grant.
 - (ii) Appropriate documentation including photographs, providing a visual record of the 'before' and 'after', to demonstrate physical site outcomes from the completed work, or submission of completed studies and plans.
 - (iii) A Statement regarding the Project outcomes achieved and compliance with Project objectives as stated in the Grant Application Form.

4.2 The Project must be commenced within six months from the date of execution of this agreement.

4.3 The Project must be completed within the term of this agreement, being 24 months, in accordance with the Works Program.

4.3 The Grantee acknowledges that the Grant is for the sole purpose of the Project and in accordance with the terms and conditions contained in this agreement.

4.4 The Grantee must:

- (a) manage and monitor expenditure of funds for the Project (whether those funds are progress payments, as referred to in clause 3.2 or the Grantee's funds) in accordance with this Agreement and in accordance with sound financial practices;
- (b) at all times act properly and diligently in the application of funds for the Project (whether those funds are progress payments, as referred to in clause 3.3 or the Grantee's funds) subject to such variations as may be agreed to from time to time in writing between the Parties;
- (c) observe at all times the Project Objectives and the MGP Objectives;
- (d) effectively carry out the Project in accordance with all the provisions of any Statutes, Regulations and By-Laws and requirements of any Commonwealth, State, Territory or Local Authority;
- (e) maintain a regular consultative relationship with the Director-General with respect to the Project;
- (f) keep accurate and up to date financial and operational records in respect of the Project;
- (g) make provision in the Grantee's estimates of income and expenditure to provide for the Project to match on a dollar for dollar basis, the Grant to be provided by the Director-General under the MGP.
- (h) Funding is not to be directed towards 'Spring Farm' component
- (i) of the trail project - instead, this should be the subject of a future application.

5. GOODS AND SERVICES TAX (GST)

5.1 Notwithstanding any other provision of this Agreement, if any Supply by the Grantee to the Director-General in Consideration for the Grant from the Director-General, is deemed to be a Taxable Supply for the purposes of the GST Law and the Grantee is or becomes liable to pay GST:

- (a) the Grant will, subject to clauses 5.1(b), 5.3, 5.4 and 5.5, be increased by any such GST liability of the Grantee PROVIDED the Supply is deemed to be a Creditable Acquisition so that the Director-General is or will be entitled to receive an Input Tax Credit;

- (b) The Grantee will issue to the Director-General a relevant tax invoice in respect of such Taxable Supply at the time of the supply or within 14 days of a request;
- (c) the Director-General will in respect of the Taxable Supply pay to the Grantee the amount shown on such tax invoice at the time and in the manner payment is otherwise due under this Agreement for the Supply.

- 5.2 PROVIDED HOWEVER that if as a result of the abolition or reduction in the rate of any tax, duty, excise or other Government impost associated with the introduction of a GST (excluding income tax) whether or not such abolition or reduction takes place at the same time as the commencement of the GST, the Grantee's costs of making the Supply are reduced ("Cost Reduction"), the Grantee shall reduce the amount payable by the Director-General in respect of the Supply by the amount of Cost Reduction.
- 5.3 The Grantee warrants and undertakes that at the time any Supply on which GST is imposed is made by it to the Director-General under this Agreement it is or will be registered under the GST Law. If the Director-General requests written evidence of registration, the Grantee will promptly produce evidence satisfactory to the Director-General.
- 5.4 The Grantee agrees and acknowledges that in the event it is not registered under the GST Law it will not under any circumstances be entitled to receive the increase in the Grant in accordance with cl.5.1 by any amount of GST liability.
- 5.6 If the amount of GST paid or payable by the Grantee on any Supply made under this Agreement differs from the amount of GST paid by the Director-General by reason of the Commissioner of Taxation lawfully adjusting the value of the Taxable Supply for the purpose of calculating the GST, then the amount of GST paid by the Director-General shall be adjusted by a further payment by the Director-General to the Grantee or the Grantee to the Director-General, as the case requires.

6. PROJECT VARIATIONS

- 6.1 Any request for a variation to the agreed scope of the work, period of Project completion or conditions specified in this agreement must be endorsed and approved by the Director-General in writing prior to the variation works being undertaken or funding committed for the variation.

7. **CONSULTATION & EVALUATION**

- 7.1 The Grantee and the Director-General will at all times make available a representative to meet and hold discussions as often as deemed necessary by the MGP Management Team to discuss the ongoing satisfaction of the Conditions of the Grant, participate in an evaluation of the Project's progress and outcomes and to discuss initiatives which could be undertaken within the scope of this Agreement.
- 7.2 The Grantee should ensure the MGP Management Team have reasonable access to the Project site in order to monitor the Project progress.

8. **WARRANTIES**

8.1 **Authority**

- 8.1.2 The Grantee warrants that it is empowered and authorised to enter into this Agreement in relation to the warranties and agreements and undertakings set out in this clause and elsewhere in this Agreement.
- 8.1.3 The Grantee acknowledges and agrees that by receiving the Grant there is no guarantee that further grants to the Grantee for the Project, or for any other reason, will be available from the Director-General in the future, and that the Director-General is under no obligation to provide the Grantee generally with any further monies beyond those which have been granted under this Agreement.

8.2 **Conflict of Interest**

- 8.2.1 The Grantee warrants that, to the best of its knowledge, no Conflict of Interest exists or is likely to arise in the performance of the obligations under this Agreement, and warrants to notify the Director-General immediately in writing should any Conflict of Interest arise during the Term and the Director-General may exercise its rights of termination under this Agreement.
- 8.2.2 The Grantee agrees and acknowledges that in the interests of sound administration and fair dealing, it must deal with all Conflicts of Interest, whether real or perceived in a manner acceptable to the Director-General.
- 8.2.3 The Grantee agrees and warrants that once a Conflict of Interest arises whether real or perceived, it will ensure that the particular person involved from the Grantee, will not have any further involvement in the matter or decision to which the Conflict of Interest relates.

8.3 **Corrupt and Unethical Conduct**

- 8.3.1 The Grantee agrees and warrants that it must notify the Director-General immediately it becomes aware of any corrupt or unethical conduct or possible corrupt or unethical conduct relating to the carrying out of the Project, and the Director-General may exercise its rights of termination under this Agreement.

- 8.4 The Grantee agrees and acknowledges that compliance with clause 8.0 of this agreement is an essential term.

9. **INDEMNITY**

- 9.1 The Grantee shall indemnify the Director-General on demand against any costs, demands, claims, liability, proceedings or loss including, but not limited to, actions in respect of injury to any person or damage to any property, and actions in respect of any infringement of any Intellectual Property Rights arising out of or in connection with the Grant or the Project or the Grantee's failure for any reason to act in accordance with the requirements of this Agreement.
- 9.2 The Grantee hereby agrees to release and discharge the Director-General from any such costs, demands, claims, liability or proceedings or loss described in subclause (1).
- 9.3 In this clause 9.0 the words "any person" includes the Grantee.

10. **INSURANCE**

- 10.1 The Grantee agrees to arrange and maintain with a reputable insurance firm during the Term the following insurance policies:-
- (a) workers compensation insurance in accordance with applicable legislation in respect of all employees of the Grantee;
 - (b) a broad form public liability insurance policy of not less than the amount of \$10,000,000 in respect of each and every occurrence for any one period of cover; and
 - (c) a professional indemnity insurance policy in the amount of \$10,000,000 in respect of each and every occurrence for any one period of cover.
- 10.2 The Grantee will provide to the Director-General satisfactory evidence of the insurance policies referred to in clause 10.1 within one week of the date of execution of this Agreement and at any time during the Term upon request by the Director-General.
- 10.3 The Grantee agrees and warrants that it will ensure all third parties involved in the carrying out of the Project are also covered by the above mentioned insurance policies, or by insurance policies equivalent to those set out above at clause 10.1 which, in the case of clause 10.1(b) and (c), extend coverage to the Director-General, for such time as they carry out that Project.
- 11. PUBLICATIONS MARKETING, PROMOTION AND PUBLIC COMMENT**
- 11.1 A sign identifying the project as part of the MGP (including logo(s)) shall be placed on a prominent street frontage or other visible parts of the site during the construction period of the Project.
- 11.2 An opening ceremony for the Project if held should, as a matter of protocol, include an invitation to the Minister for Planning and Infrastructure and / or nominees.
-
- 11.3 Construction information signage or plaque attached to the completed Project must make reference to the MGP. Where such signage or a plaque contains wording describing or providing information about the Project, the signage or plaque shall include the NSW Government logo together with the standard text of acknowledgement that the Project was jointly funded by the New South Wales Government under the MGP. Where the signage or plaque does not contain such wording it is sufficient to include the NSW Government logo
- 11.4 All promotional material, including newsletters, public reports and press coverage associated with the Project shall make reference to the joint funding of the project by the State Government under the Metropolitan Greenspace Program. This will include use of the logos together with the standard text of acknowledgment to the effect that the project was jointly funded by the New South Wales Government under the MGP.
- 11.5 The Grantee agrees to consult with the MGP Management Team before any press announcements that relate to the major Project.
- 11.6 The Grantee acknowledges and agrees that it must not make any public statements or give undertakings which would commit the Director-General or the Government of New South Wales to a particular action or expenditure, without the prior written approval of the Director-General. This position should be made clear in any negotiations which the Grantee, its employees or representatives may undertake with any person, firm or other body, or a member of the public.
- 12. TERMINATION**
- 12.1 The Director-General may terminate this Agreement in whole or in part without reason at any time during the Term by giving the Grantee 3 month's prior written notice. Termination pursuant to this clause will not expose the Director-General to any liability for any claim for damages whether direct, indirect, special or consequential by reason of such termination.
- 12.2 Without limiting the generality of clause 9.1 of this Agreement, the Director-General may terminate this Agreement, by giving one month's notice to the Grantee if the Director-General considers that the Grantee and any representative has:

- (a) breached any material obligation under this Agreement and fails to correct or remedy such breach within 21 days of a notice being served by the Director-General requesting that the breach be rectified; or
- (b) failed to carry out the Project diligently and competently under the Agreement.

12.3 Upon termination pursuant to clauses 12.1 or 12.2 of this Agreement, the Grantee must:

- (a) prepare and deliver to the Director-General an audited statement of expenditure incurred by the Grantee for the Project together with a statement from an external firm of accountants appointed by the Grantee certifying that such expenditure is in accordance with the terms of this Agreement; and
- (b) prepare and deliver to the Director-General a report in respect of the Project in a form reasonably acceptable to the Director-General; and
- (c) return any unexpended amount of the Grant to the Director-General.

12.4 If, in the Director-General's reasonable opinion, the Grantee has acted negligently and/or without good faith and/or not in accordance with the terms of this Agreement in respect of the use of the Grant, the Director-General may in the notice of termination, require the Grantee to repay the Grant or such part of the Grant as is stated in the notice of termination within the time specified in the notice of termination.

12.5 The Grantee agrees and acknowledges that the sums referred to in cls. 12.3(c) and 12.4 shall be debts due and recoverable by the Director-General as against the Grantee.

13. ASSIGNMENT

13.1 It is agreed by the Parties that the rights and obligations of each Party under this Agreement are personal.

13.2 The Agreement shall not be assigned nor notated in whole or in part by the Grantee without the prior permission or approval and consent of the Director-General.

14. NOTICES

14.1 Any notice given under this Agreement:

- (a) must be in writing addressed to the intended recipient at the address shown below or the address last notified by the intended recipient to the sender:
 - (i) Director-General - Department of Planning and Infrastructure
c/o The Metropolitan Greenspace Management Team
23-33 Bridge Street
GPO Box 39
Sydney NSW 2001

Attention: MGP Coordinator
Facsimile: 9228 2041
Telephone: 9228 6111
 - (ii) General Manager
Camden Council
PO Box 183
Camden NSW 2570
- (b) must be signed by a person duly authorised by the sender; and
- (c) will be taken to have been given or made:
 - (i) in the case of delivery in person or by post when delivered or received, or left at the above address; and
 - (ii) in the case of delivery by facsimile when a confirmation report is received on the facsimile machine showing confirmation of receipt;

BUT if delivery or receipt occurs on a day other than a business day at the place to which the communication is sent or is later than 4pm (local time) it will be taken to have been duly given or made at the commencement of business on the next day.

15. DISPUTE RESOLUTION

- 15.1 If any dispute or difference arises out of or in relation to this Agreement, the Parties agree that it will initially be resolved in a spirit of good faith and on a commercially realistic basis.
- 15.2 If the dispute or difference is not resolved by negotiation, then the dispute or difference shall be referred to mediation conducted by the Australian Commercial Disputes Centre, each Party bearing its own costs of the resolution.
- 15.3 The Grantee agrees to continue carrying out the Project while the dispute is being dealt with in accordance with this clause.
- 15.4 Nothing in this clause will preclude either Party from seeking urgent interlocutory relief.

16. MISCELLANEOUS

Negation of Employment, Agency and Partnership

- 16.1 The Grantee will not represent itself, and will ensure that its employees and sub-contractors do not represent themselves, as being employees, agents, partners or representatives of the Director-General.
- 16.2 The Grantee and its employees and agents will not, by virtue of this Agreement, be, or for any purposes be, deemed to be a partner, employee, representative or agent of the Director-General.

No Waiver

- 16.3 No right under this Agreement shall be deemed to be waived except by notice in writing signed by each Party.
- 16.4 No waiver by the Director-General of one breach by the Grantee of any obligation or provision contained or implied in this Agreement shall operate as a waiver of another breach by the Grantee of the same or of any other obligation or provision contained or implied in this Agreement.

Entire Agreement

- 16.5 This Agreement (including the Attachments and Schedules) constitutes the entire Agreement between the Parties. Any prior arrangements, agreements, representations or undertakings are superseded. No notification of alteration of any clause of this Agreement will be valid except in writing signed by each Party.

Severability

- 16.6 If any provision of this Agreement is held invalid, unenforceable or illegal for any reason, this Agreement will remain otherwise in full force apart from such provision which shall be deemed to be deleted.

Governing Law

- 16.7 This Agreement will be governed and construed in all respects in accordance with the laws of the State of New South Wales and the Parties to this Agreement hereby submit to the non exclusive jurisdiction applicable to the courts of the State of New South Wales and the Commonwealth of Australia in respect of all matters arising under this Agreement or relating to this Agreement.

No Merger

- 16.8 The rights and obligations of the Parties will not merge on completion of any transaction under this Agreement. They will survive the execution and delivery of any assignment or other document entered into for the purpose of implementing any transaction.

Rights Cumulative

- 16.9 The rights and remedies provided under this Agreement are cumulative and not exclusive of any rights or remedies provided by law or any other such right or remedy.

THIS AGREEMENT is entered into in consideration of the benefits to be realised by the Grantee under this Agreement and the mutual promises between the Parties.

EXECUTED as a Deed

SIGNED
Director-General
of the Department of Planning and Infrastructure or
delegate

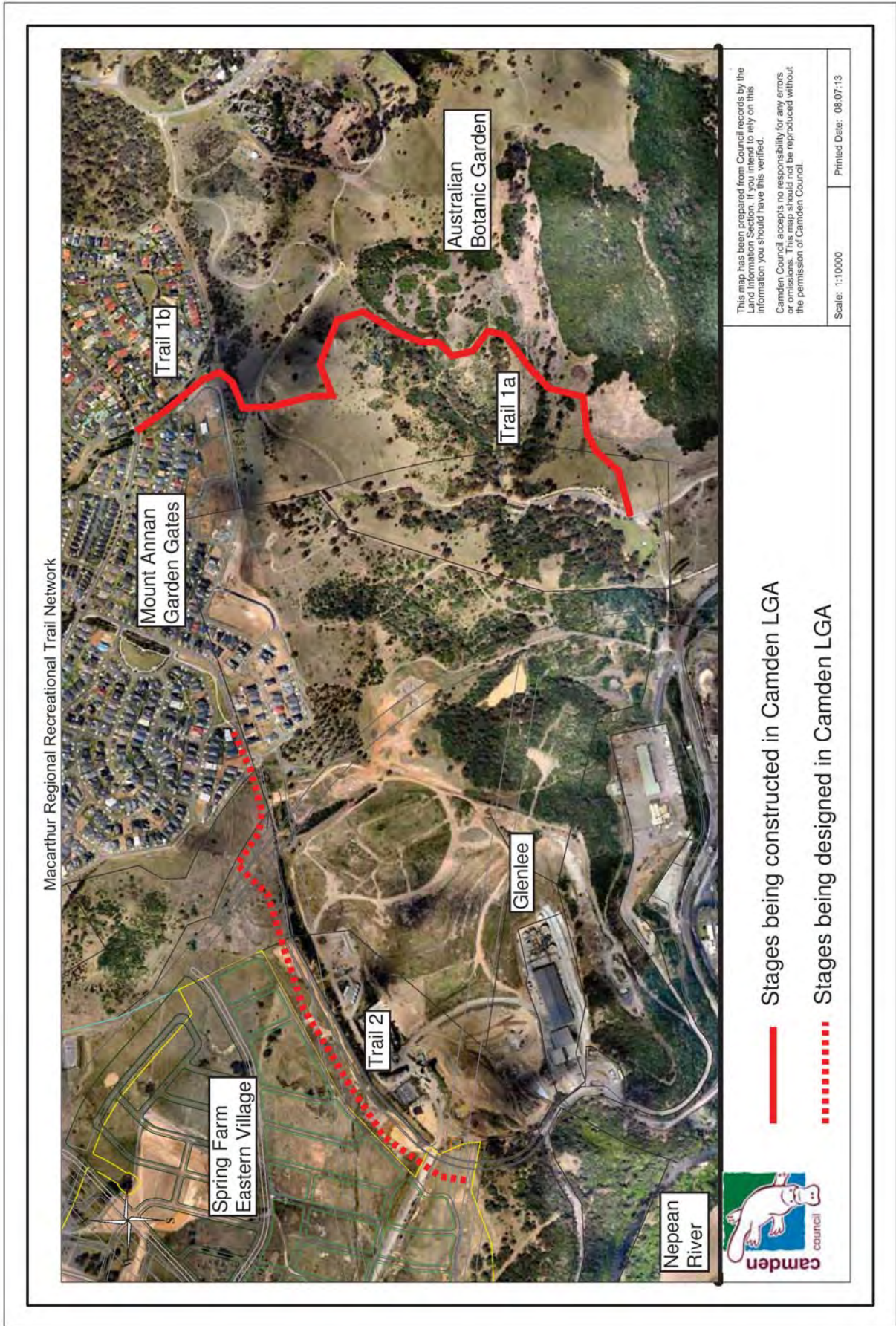
.....
Date:  19/10/12

SIGNED
General Manager
of Camden Council
or delegate

.....
Date:

ORD13

Attachment 1



ORDINARY COUNCIL

ORD14

SUBJECT: DRAFT RECREATION DEMAND STUDY

FROM: Director Works & Services

TRIM #: 13/68503

PURPOSE OF REPORT

To consider the draft report undertaken to determine the community recreation demands, and place the document on public exhibition for comment. This report is intended to inform Council on the preferences, gaps and (where relevant) oversupply of recreation settings and facilities.

The outcome of this work will assist Council with strategic decisions, the allocation of limited resources, as well as act as supporting material for future grant submissions. This document was the subject of a Councillor workshop held in November where a hard copy of the document was provided. An updated version, with improved graphics will be issued under separate cover.

BACKGROUND

Council has developed a broad vision for the future of Camden in Camden 2040. One of the key outcomes relates to the importance of well-functioning, healthy public places and recreation facilities which facilitate all aspects of social, recreational and economic lives.

In order to obtain input from local residents on a more detailed level on preferences of recreation activities and desired facilities, a study was commissioned in June 2013. The team, Parkland Planners in association with Strategic Leisure Group, were engaged to undertake the work involved in assessing the recreation needs of the Camden LGA residents.

MAIN REPORT

Council has engaged the services of Parkland Planners in association with Strategic Leisure Group to assess the recreational needs for the Camden LGA.

The scope of the work involved in the development of the draft report included:

- a review of existing outdoor and indoor recreation opportunities;
- comparison of recreation facilities and settings in the neighbouring LGA's;
- consideration of comparative data on State and National trends;
- development of short, medium and long term recommendations with recommendations on high, medium and low priorities; and
- identification of the top 10 priorities.

The process undertaken in the preparation of the report involved includes:

- establishing a steering group;
- reviewing background information;
- relevant documents and studies;
- site inspections;

- community engagement through a household survey, online survey on Council's website, as well as Facebook;
- assessment of outcomes of the Draft Sportsground Strategy; and
- consultation with relevant staff.

The Draft Recreation Demand Study has now been completed. In order to finalise the study it is proposed that it be placed on public exhibition to determine if there are any further comments or suggestions that may assist. Due to the holiday period the exhibition period will be an extended one, with comment invited until Friday 31st January.

FINANCIAL IMPLICATIONS

There are no financial implications in adopting the Draft Recreation Demand Study for the purpose of public exhibition.

CONCLUSION

The outcomes of the work undertaken in developing the Draft Recreation Demand Study will enable Council to allocate resources in the short, medium and long term for a wide range of activities including capital works, maintenance and specific studies.

RECOMMENDED

That Council:

- adopt in principle the Draft Recreation Demand Study;**
- place the study on public exhibition for comment; and**
- submit a further report to Council to allow consideration of submissions received during the exhibition period.**

ORDINARY COUNCIL

ORD15

SUBJECT: DRAFT CAMDEN SPORTSGROUND STRATEGY
FROM: Director Works & Services
TRIM #: 13/68533

PURPOSE OF REPORT

The aim of the Draft Camden Sportsground Strategy is to:

- provide Council and the community, with a consolidated document providing information on the future direction for each site and sporting code;
- identify opportunities for establishing strategic partnerships for the provision of sporting facilities and infrastructure;
- define the level and quality of facility provision, to service new urban areas; and
- define the principles which should guide future planning for sporting infrastructure.

The rapid urban growth and the increasing number of demands being placed on the existing sporting facilities, has resulted in the development of the Draft Camden Sportsground Strategy. This document was the subject of a Councillor workshop in November, where Councillors were provided a copy of the document. An upgraded hard copy version, with improved graphics, will be issued under separate cover to Councillors.

BACKGROUND

Council is committed to an enriched and connected community. As stated in the Camden 2040 vision, community objective 5.4.1:

“Developing a healthy community through the promotion of healthy lifestyles, education and the provision and support of a range of sporting, leisure and recreational facilities and opportunities that improve health as well as contribute to vibrant community life and a connected community.”

Council manages over 21 sites that host 47 sporting fields, catering to 17 different sports. In the winter season of 2013 in just six (6) sports codes of Soccer, Netball, Rugby League, Cricket, AFL and Rugby Union, there were 665 teams (473 juniors and 192 seniors) using the existing sportsgrounds. In other sports, some of which are predominantly individual competitors, (Athletics, Oztag, Hockey, BMX Cycling and Rossmore Pony Club), there are a total of 2,121 individual competitors.

There are a wide range of facilities and sites accommodating the numerous sporting pursuits. In summary there are seven (7) sites that have only a single field, seven (7) sites with two fields, three (3) sites with three fields, and two (2) sites with four fields, in addition to the unique sites of the Bicentennial Equestrian Park and adjoining land, Rossmore Reserve, and Cowpasture Reserve.

There are over 35 new fields to be developed at 12 different sites as part of the urban growth planning.

In order to guide Council in resource planning and allocation, the Draft Camden Sportsground Strategy was developed to consolidate relevant information on existing sites, provide principles and definitions for future planning, design and construction, identify opportunities and also where relevant, constraints.

In addition, a guideline has also been developed to assist sporting clubs and organisations who partner Council on the process of undertaking capital works improvements on Council sites.

MAIN REPORT

In order to develop a comprehensive picture of the facilities and use of existing sportsgrounds, the Draft Camden Sportsground Strategy has developed an outline of each existing site which includes a site analysis, description of facilities on and adjacent to the fields, summary of facility users and an indication of identified future direction for each site.

The Sportsground Strategy was based on work undertaken over a 2 year period which included written surveys to all clubs and schools in March and September 2012, meetings and discussions with sporting clubs, Associations and State level governing bodies of various sporting codes. An assessment was made of existing site conditions, expressed desires and existing master plans, level of use and trends in participation over time, and level of competition undertaken. In addition a review was undertaken of issues being experienced, existing literature on facility planning and provision in NSW and other States, and adopted strategic planning documents.

The key features of the Sportsground Strategy are:

- recommended improvements to existing sites, which include major improvements such as field reconstruction where necessary, to improve the useability of grounds, installation of floodlights to increase use capacity by enabling an increase in number of hours of use in the evenings;
- where appropriate the recommended relocation of existing users and development of new facilities;
- the development of a sporting precinct in Narellan to build on the existing infrastructure and take advantage of opportunities that are available, resulting in new opportunities at other sites such as Kirkham Park and Onslow Park; and
- the identification of guiding principles for the future planning, construction and provision of infrastructure for new sportsgrounds.

FINANCIAL IMPLICATIONS

There are no immediate financial implications in adopting the Draft Camden Sportsground Strategy for public exhibition.

CONCLUSION

The Draft Camden Sportsground Strategy will become a consolidated resource for Council and the community on the existing provision of sportsgrounds throughout the LGA. The Strategy also provides an outline of principles to guide future directions in the planning and development of sporting facilities, based on the information currently available.

It is recognised that the Strategy will need to be reviewed on a periodic basis to ensure any new or significant changes in participation, planning or funding of sporting facilities, or unexpected opportunities that may arise, are taken into consideration and the Draft Camden Sportsground Strategy revised as necessary. The exhibition period will be extended until 31st January due to the timing of the exhibition.

RECOMMENDED

That Council:

- i. adopt in principal the Draft Camden Sportsground Strategy;**
- ii. place the Draft Camden Sportsground Strategy on public exhibition; and**
- iii. submit a further report to Council to allow consideration of submissions received during the exhibition period.**



ORDINARY COUNCIL

ORD16

ORD16

NOTICE OF MOTION

SUBJECT: NOTICE OF MOTION - CCTV CAMERAS AT SWIMMING POOL FACILITIES

FROM: Cr Symkowiak

TRIM #: 13/74492

“I, Councillor Symkowiak hereby give notice of my intention to move the following at the Council Meeting of 10 December 2013:

That Council install CCTV cameras at its swimming pool facilities located at Mount Annan Leisure Centre and Camden War Memorial Pool in order to improve community experience, with funding to be sourced from supplementary funds at the Quarterly Budget Review where funding is currently not available.”

RECOMMENDED

That Council install CCTV cameras at its swimming pool facilities located at Mount Annan Leisure Centre and Camden War Memorial Pool in order to improve community experience, with funding to be sourced from supplementary funds at the Quarterly Budget Review where funding is currently not available.

ORDINARY COUNCIL

ORD17

SUBJECT: CLOSURE OF THE MEETING TO THE PUBLIC
FROM: Acting Director Governance
TRIM #: 13/74146

In accordance with the Local Government Act 1993 and the Local Government (General) Regulation 2005, in the opinion of the General Manager, the following business is of a kind as referred to in Section 10A(2) of the Act and should be dealt with in a part of the meeting closed to the media and public.

- Alleged Unauthorised Tree Removal

Council may, by resolution, allow members of the public to make representations as to whether the meeting should be closed before any part of the meeting is closed to the public. A representation by a member of the public as to whether a part of the meeting should be closed to the public can only be made for a fixed period immediately after the motion to close the part of the meeting is moved and seconded. That period would be limited to four minutes, in line with Council's Public Address Policy.

The meeting will only be closed during discussion of the matters directly the subject of the report and no other matters will be discussed in the closed section of the meeting.

Members of the public will be readmitted to the meeting immediately after the closed section is completed and if the Council passes a resolution during that part of the meeting that is closed to the public, the Chairperson will make the resolution public as soon as practicable after that closed part of the meeting has ended.

RECOMMENDED

That:

- i. the meeting be now closed to the media and public to discuss a report concerning commercial information of a confidential nature dealing with Alleged Unauthorised Tree Removal, in accordance with the provisions of Section 10A(2 (g) of the Local Government Act, 1993; and**
- ii. any objections or submissions as to the closure of the meeting be now heard and be limited to a period of four minutes.**