

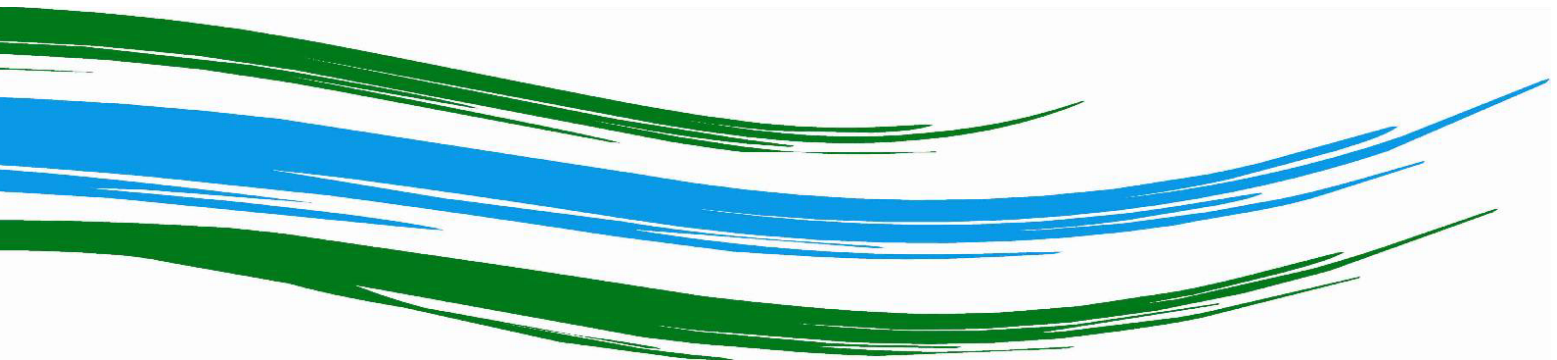


Camden Council

Business Paper

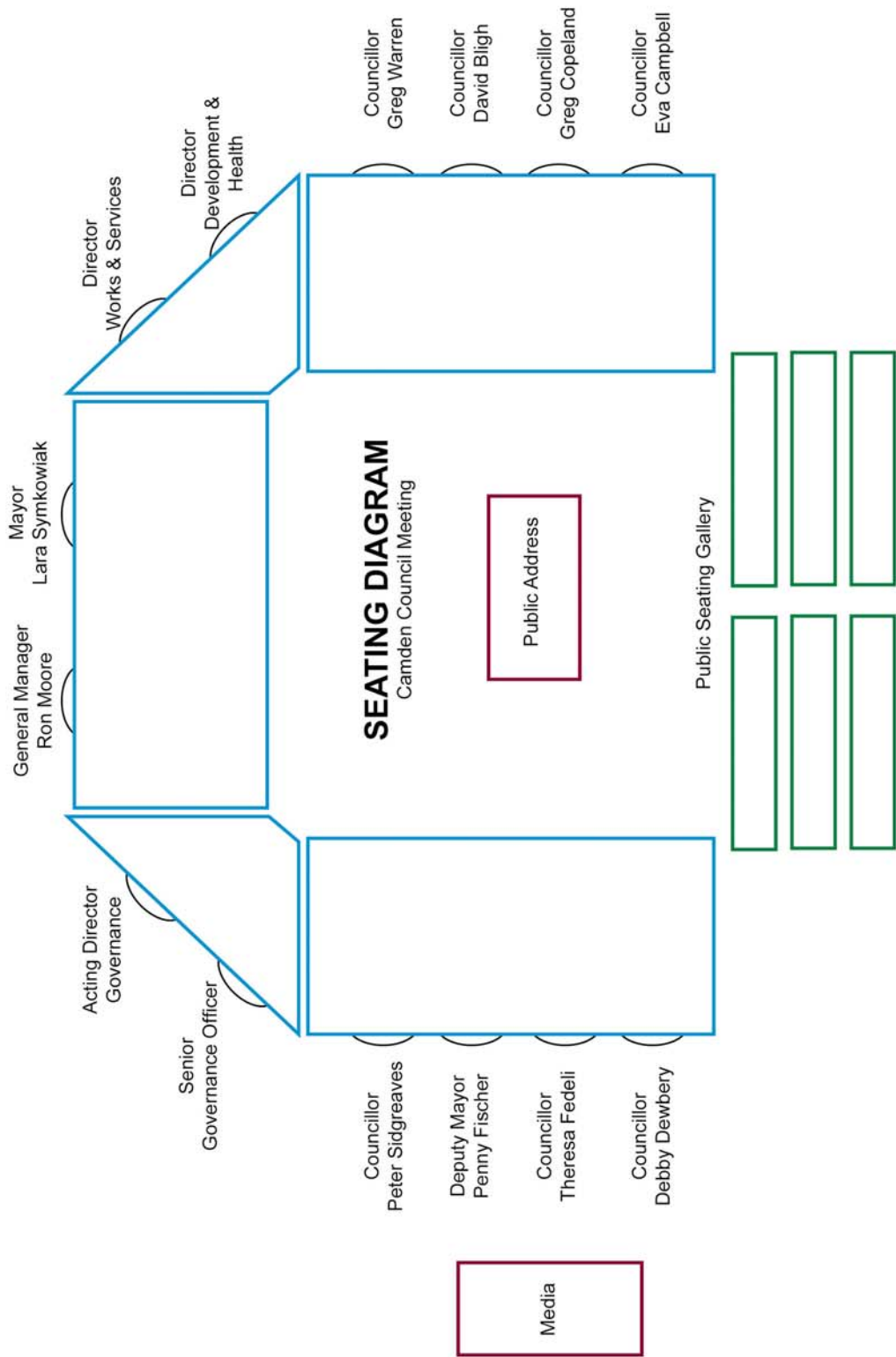
Ordinary Council Meeting
8 April 2014

Camden Civic Centre
Oxley Street
Camden



COMMON ABBREVIATIONS

AEP	Annual Exceedence Probability
AHD	Australian Height Datum
BCA	Building Code of Australia
CLEP	Camden Local Environmental Plan
CP	Contributions Plan
DA	Development Application
DECCW	Department of Environment, Climate Change & Water
DCP	Development Control Plan
DDCP	Draft Development Control Plan
DPI	Department of Planning & Infrastructure
DLG	Division of Local Government, Department of Premier & Cabinet
DWE	Department of Water and Energy
DoH	Department of Housing
DoT	NSW Department of Transport
EIS	Environmental Impact Statement
EP&A Act	Environmental Planning & Assessment Act
EPA	Environmental Protection Authority
EPI	Environmental Planning Instrument
FPL	Flood Planning Level
GCC	Growth Centres Commission
LAP	Local Approvals Policy
LEP	Local Environmental Plan
LGA	Local Government Area
MACROC	Macarthur Regional Organisation of Councils
OSD	Onsite Detention
REP	Regional Environmental Plan
PoM	Plan of Management
RL	Reduced Levels
RMS	Roads & Maritime Services (incorporating previous Roads & Traffic Authority)
SECTION 149 CERTIFICATE	Certificate as to zoning and planning restrictions on properties
SECTION 603 CERTIFICATE	Certificate as to Rates and Charges outstanding on a property
SECTION 73 CERTIFICATE	Certificate from Sydney Water regarding Subdivision
SEPP	State Environmental Planning Policy
SRA	State Rail Authority
SREP	Sydney Regional Environmental Plan
STP	Sewerage Treatment Plant
VMP	Vegetation Management Plan
WSROC	Western Sydney Regional Organisation of Councils



*Please do not talk during Council Meeting proceedings.
Recording of the Council Meeting is not permitted by members of the public at any time.*

ORDINARY COUNCIL

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ORDINARY COUNCIL

SUBJECT: PRAYER

PRAYER

Almighty God, bless all who are engaged in the work of Local Government. Make us of one heart and mind, in thy service, and in the true welfare of the people we serve: We ask this through Christ our Lord.

Amen

Almighty God, give thy blessing to all our undertakings. Enlighten us to know what is right, and help us to do what is good: We ask this through Christ our Lord.

Amen

Almighty God, we pause to seek your help. Guide and direct our thinking. May your will be done in us, and through us, in the Local Government area we seek to serve: We ask this through Christ our Lord.

Amen

AFFIRMATION

We affirm our hope and dedication to the good Government of Camden and the well being of all Camden's residents, no matter their race, gender or creed.

We affirm our hope for the sound decision making by Council which can improve the quality of life in Camden.

Either – "So help me God" or "I so affirm" (at the option of councillors)

We pledge ourselves, as elected members of Camden Council, to work for the provision of the best possible services and facilities for the enjoyment and welfare of the people of Camden.

Either – "So help me God" or "I so affirm" (at the option of councillors)

ORDINARY COUNCIL

SUBJECT: ACKNOWLEDGMENT OF COUNTRY

I would like to acknowledge the traditional custodians of this land on which we meet and pay our respect to elders both past and present.



ORDINARY COUNCIL

SUBJECT: RECORDING OF COUNCIL MEETINGS

In accordance with Camden Council's Code of Meeting Practice and as permitted under the Local Government Act this meeting is being audio recorded by Council staff for minute taking purposes.

ORDINARY COUNCIL

SUBJECT: APOLOGIES

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

RECOMMENDED

That leave of absence be granted.

ORDINARY COUNCIL

SUBJECT: DECLARATION OF INTEREST

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

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

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

This report provides an opportunity for Councillors to disclose any interest that they may have or Political Donation they may have received relating to a Report contained in the Council Business Paper and to declare the nature of that interest.

RECOMMENDED

That the declarations be noted.

ORDINARY COUNCIL

SUBJECT: PUBLIC ADDRESSES

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

Speakers must book in with the Council office by 4.00pm on the day of the meeting and must advise the topic being raised. Only seven (7) speakers can be heard at any meeting. A limitation of one (1) speaker for and one (1) speaker against on each item is in place. Additional speakers, either for or against, will be identified as 'tentative speakers' and should only be considered where the total number of speakers does not exceed seven (7) at any given meeting.

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

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

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

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

RECOMMENDED

That the public addresses be noted.

ORDINARY COUNCIL

SUBJECT: CONFIRMATION OF MINUTES

Confirm and adopt Minutes of the Ordinary Council Meeting held 25 March 2014

RECOMMENDED

That the Minutes of the Ordinary Council Meeting held 25 March 2014, copies of which have been circulated, be confirmed and adopted.

ORDINARY COUNCIL

SUBJECT: MAYORAL MINUTE

Consideration of Mayoral Minute (if any).



ORD01

ORDINARY COUNCIL

ORD01

**SUBJECT: CONSTRUCTION AND USE OF A NEW WAREHOUSE BUILDING,
NEW TRUCK ACCESS FROM CAWDOR ROAD AND ASSOCIATED
SITE WORKS AT 19A LITTLE STREET, CAMDEN**

FROM: Director, Development & Health

TRIM #: 14/41111

APPLICATION NO: 192/2013
PROPOSAL: Construction and use of a new warehouse building,
new truck access from Cawdor Road and associated
site works
PROPERTY ADDRESS: 19A Little Street, Camden
PROPERTY DESCRIPTION: Lot 2, DP 513744
ZONING: IN2 Light Industrial and RU1 Primary Production
OWNER: Shanklyn Investments Pty Ltd
APPLICANT: R & J Consultancy Pty Ltd

PURPOSE OF REPORT

The purpose of this report is to seek Council's determination of a development application (DA) for the construction and use of a new warehouse building, new truck access from Cawdor Road and associated site works at 19A Little Street, Camden.

The DA is referred to Council for determination as there remain unresolved issues received in 22 submissions and 5 petitions from the public.

SUMMARY OF RECOMMENDATION

That Council determine DA 192/2013 for the construction and use of a new warehouse building, new truck access from Cawdor Road and associated site works pursuant to Section 80 of the *Environmental Planning and Assessment Act 1979* by granting consent subject to the conditions contained in this report.

EXECUTIVE SUMMARY

Council is in receipt of a DA for the construction and use of a new warehouse building, new truck access from Cawdor Road and associated site works at 19A Little Street, Camden.

The DA was previously reported to the Ordinary Council meeting of 25 March 2014. At this meeting Council resolved to defer consideration of the DA to the subsequent meeting of 8 April 2014 in order to allow the community additional time to review the report and recommended conditions.

The DA has been assessed against the *Environmental Planning and Assessment Act 1979*, the Environmental Planning and Assessment Regulation 2000, relevant Environmental Planning Instruments, Development Control Plans and policies. The outcome of this assessment is detailed further in this report.

The DA was lodged on 13 March 2013 and was publicly exhibited between 12 and 26 April 2013. 4 submissions and 2 petitions (with 55 signatories) were received (all objecting to the proposed development).

Council staff have considered the issues raised in the submissions and petitions and met with the applicant to discuss them. Following negotiation, the applicant lodged amended plans between 3 September and 4 November 2013 that incorporated a number of amendments in order to address the concerns raised by the community.

The above amendments included reducing the length and height of the proposed warehouse building, changes to the building's design and articulation, additional landscaping, relocation of a proposed external stone storage area and provision of a new truck entry/exit from Cawdor Road.

The amended plans were publicly exhibited between 18 November and 2 December 2013. 18 submissions and 3 petitions (with 99 signatories) were received (all objecting to the proposed development). **A copy of the submissions and petitions from both public exhibition periods is provided with the Business Paper Supporting Documents.**

The issues raised in the submissions and petitions relate to the development being inappropriate for the site and area; negative impacts from additional heavy vehicles on Little Street; that an alternative entry/exit point should be provided from Cawdor Road; access to the site from Cawdor Road in the event of flooding; negative traffic impacts; that the land should be rezoned and redeveloped for affordable seniors housing or medium density housing; the development is inconsistent with the zone objectives; inappropriate design and heritage impacts; noise and air pollution impacts; that the development is in fact a heavy industry; development on flood prone land; loss of the area's semi-rural feel and inconsistency with Camden 2040; impacts upon surrounding properties during construction, loss of property values; inappropriate operating hours; impact upon services and the setting of a precedent for future development.

The area of the site that most of the warehousing activities will take place is zoned IN2 Light Industrial. Warehouses are a permissible land use in this zone and their provision is specifically stated as one of the zone's objectives. The front of the site adjacent to Little Street also contains an approved and operating warehouse.

The applicant has provided amended plans which show a new truck entry/exit point from/to Cawdor Road. All trucks servicing the site (including the existing warehouse building) will use this access except in the event of flooding when they will use the existing Little Street access. This will not be a regular occurrence and is considered to be acceptable. In addition, the proposed development proposes only 2 additional truck deliveries entering the site and 2 truck distributions leaving the site per day so the additional heavy traffic proposed is not significant. The surrounding street network will be able to accommodate the additional traffic generated by this development.

The desire to see the land rezoned is acknowledged, however the site is currently zoned a mix of IN2 Light Industrial and RU1 Primary Production and Council is required to assess the DA based on its current zoning. In addition, if the site was rezoned the warehouse use would retain existing use rights.

The proposed development is not inconsistent with the objectives of the RU1 Primary Production zone. The part of the site zoned RU1 is an isolated section of rural land with no existing agricultural activity taking place on it. The proposed development will not preclude agricultural activity taking place on it in the future. In addition, the proposed

landscaping will help to soften and screen the proposed driveway and external storage area on the land.

Following negotiation with Council staff the applicant made a number of amendments to the proposed development including reducing the length and height of the proposed building, changes to the building's design and articulation and additional landscaping. The overall design outcome is considered to be acceptable and will not negatively impact upon the heritage of Camden.

The proposed development is for a warehouse building and not a manufacturing activity and therefore it is not anticipated that significant noise or air pollution will occur. In relation to the beeping of forklift vehicles whilst reversing, it is a recommended condition that the reversing alarms on all forklifts be modified to ensure that noise levels from any forklift alarm not exceed background noise levels +5dB(a) when measured at the nearest residential boundary.

As no industrial activity is proposed as part of the development, the proposal is defined as a "warehouse or distribution centre" under the LEP and not a "heavy industry." The use of heavy vehicles to service warehouses and even light industries is a common occurrence and not out of character or unusual for a development of this kind.

The site is identified as being flood affected. The proposed development has been designed with regard to Council's Flood Risk Management Policy and is considered to be acceptable.

The site contains an approved and operating warehouse building together with associated hard stand areas and car parking. Subject to the amended plans negotiated between the applicant and Council staff and the recommended conditions, it is not considered that the proposed development will significantly negatively impact the semi-rural character of the area or be inconsistent with Camden 2040.

Standard conditions are recommended to ensure that adjacent properties are appropriately protected during construction works.

The loss of property values is not a matter for consideration under Section 79C of the *Environmental Planning and Assessment Act 1979*. No information has been provided to substantiate this claim.

The proposed operating hours are Monday to Friday, 7am-6pm and Saturday 8am-4pm only. These operating hours are considered to be appropriate for the proposed development and given that truck access will be from Cawdor Road, it is not considered that it will cause unreasonable disturbance to surrounding properties.

The site has access to appropriate services including electricity, sewer and water. It is not considered that the proposed development will adversely affect services in the surrounding area.

Any future development of this site or the surrounding area will be subject to the assessment of a separate DA. Each DA is assessed on its individual merits and the approval of this DA will not set an undesirable precedent.

The proposed development **fully complies** with all applicable planning controls.

Based on the assessment, it is recommended that the DA be approved subject to the conditions contained in this report.

AERIAL PHOTO



ORD01

THE SITE

The site is commonly known as 19A Little Street, Camden and is legally described as lot 2, DP 513744.

The site has a frontage of 54m to Little Street, 80m to Cawdor Road, a maximum depth of approximately 296m and an overall area of approximately 2ha. The site has a frontage to Little Street to the east and Cawdor Road to the west.

The Little Street side of the site currently accommodates an existing warehouse building with ancillary office and amenities, as well as a hardstand area used for parking. The rear of the site is vacant and slopes downwards towards Cawdor Road. The site is also identified as being flood prone land.

The surrounding area is characterised by a mix of light industrial land uses as well as residential housing.

The Camden town centre is located to the north of the site, whilst to the east lies the Nepean River and the Elderslie residential suburb. To the south exists the residential part of the Camden suburb, whilst to the west lies the rural residential suburb of Grasmere.

HISTORY

The relevant development history of the site is summarised in the following table:

Date	Development
11 August 1993	Approval of DA 72/1993 for the construction of three industrial units and use of a unit as a packaging and ancillary warehouse
14 May 2012	Approval of DA 464/2012 for the use of the site's existing building as a building materials warehouse

THE PROPOSAL

DA 192/2013 seeks approval for the construction and use of a new warehouse building, new truck access from Cawdor Road and associated site works.

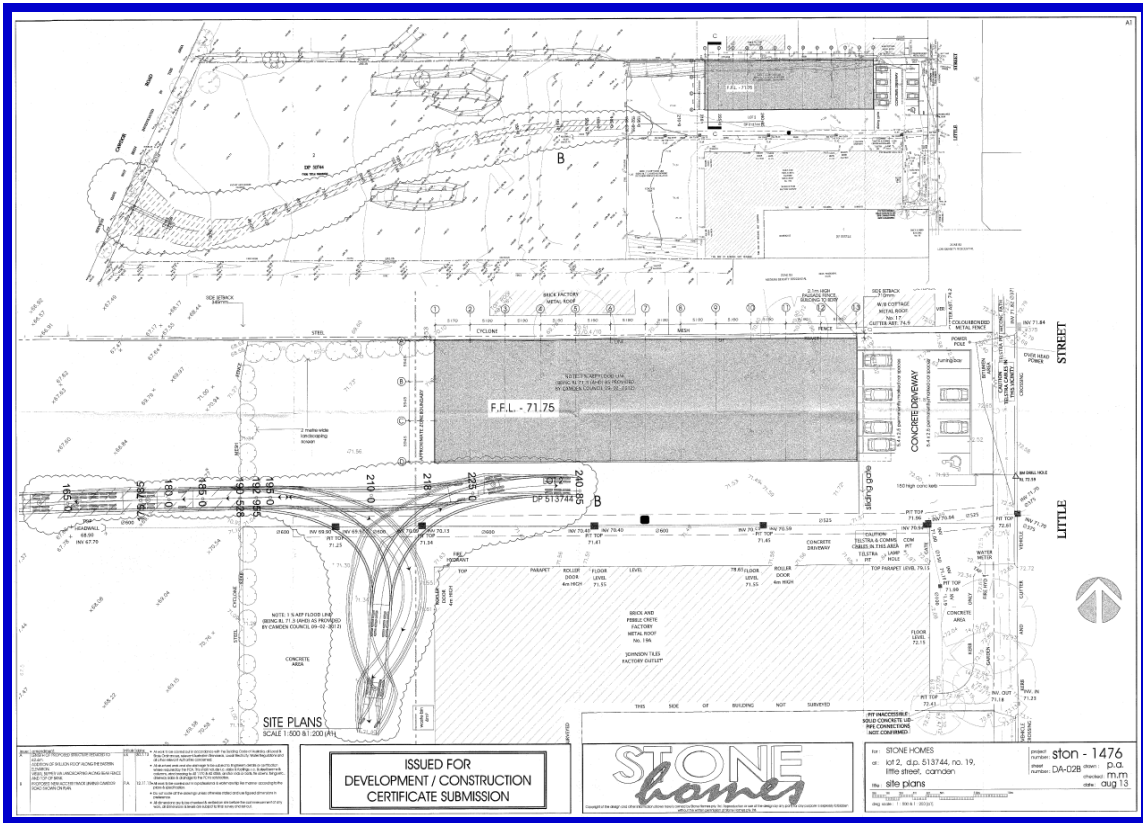
Specifically the proposed development involves:

- construction and use of a new warehouse building. The building will have a gross floor area of approximately 1,140.6m², a maximum height of approximately 8m from existing ground level and will be constructed of painted wall cladding on concrete panels and metal roof sheeting. The building will be used to store building materials including doors, windows and stone blocks;
- construction of an external storage area behind the proposed building. This area will be used to store stone blocks to a maximum height of 1.8m. This area will be bound by a 2.1m high fence and a 2m wide landscaped area to mitigate any visual impact;
- construction of a new truck entry/exit driveway from Cawdor Road. All trucks (including those which are already approved to service the existing warehouse on the site) will enter and exit the site via this new driveway off Cawdor Road. The only exception to this will be in the event of a flood where trucks will enter and exit the site via Little Street;
- construction of truck manoeuvring areas and 11 additional off-street car parking spaces for the site;
- minor earthworks and landscaping;
- operating hours of Monday to Friday, 7am-6pm and Saturday 8am-4pm. The proposed development will not operate on Sundays or public holidays;
- 2 building material deliveries in and 2 building material distributions out per day. This is in addition to the 2 building material deliveries in and 5 building material distributions out per week already approved for the existing warehouse building on the site; and
- the employment of 6 staff.

The value of the works is \$460,000.

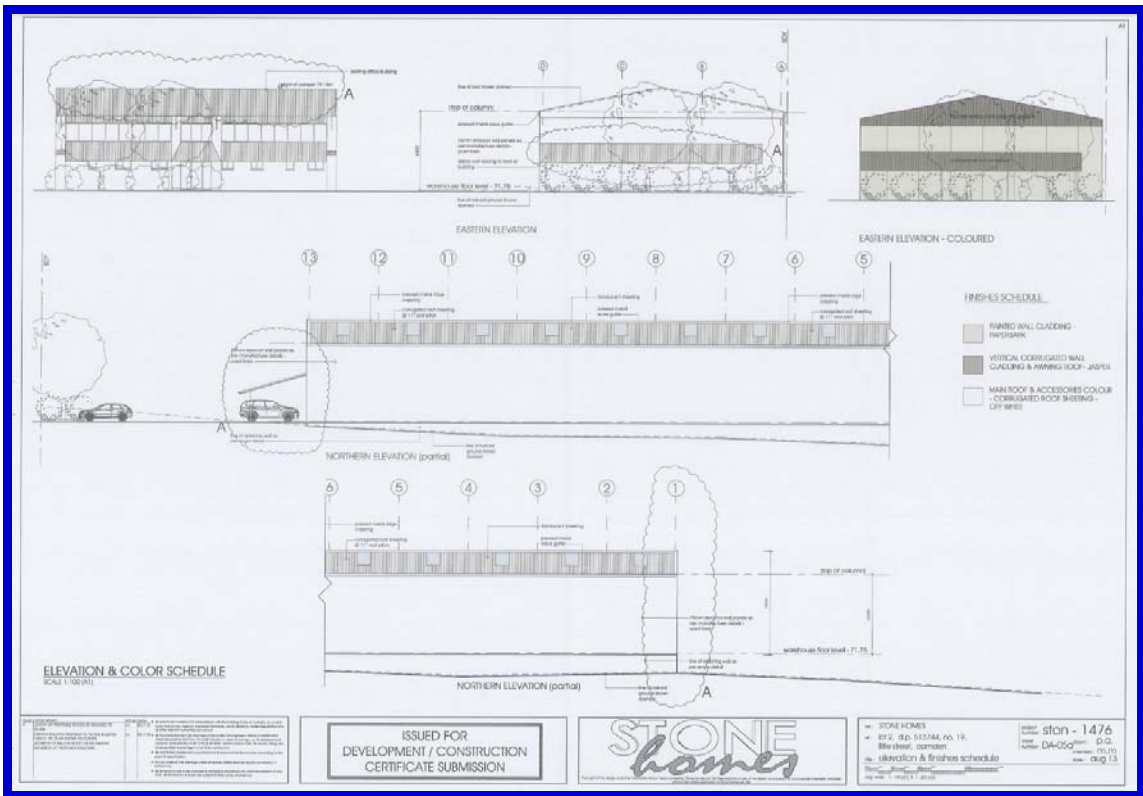
A copy of the proposed plans is provided as Attachment 1 to this report.

PROPOSED SITE PLAN



ORD01

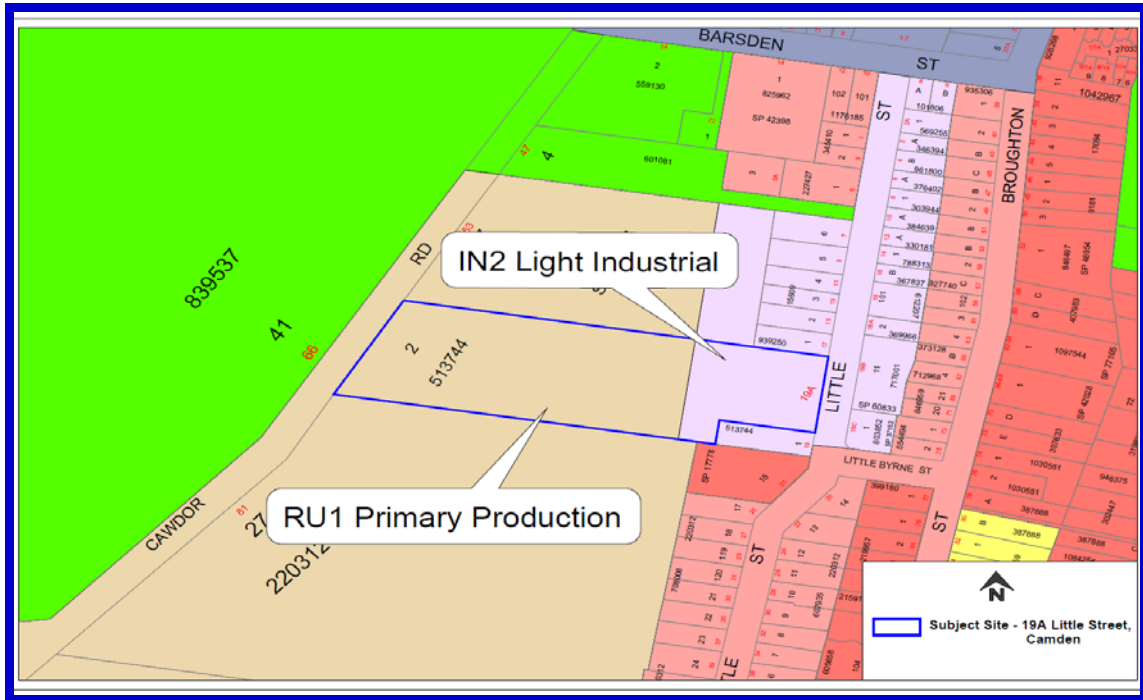
PROPOSED ELEVATIONS



Camden Local Environmental Plan 2010 (LEP)

Permissibility

The site is zoned IN2 Light Industrial and RU1 Primary Production under the provisions of the LEP. A map showing the mixed zoning of the site is provided below:



The above map identifies the site in blue and shows the IN2 Light Industrial and RU1 Primary Production zones that apply to it. The other zones shown on the map include the R2 Low Density Residential (pink), R3 Medium Density Residential (red), RE1 Public Recreation (green), B4 Mixed Use (dark blue) and SP2 Infrastructure (yellow) zones.

The proposed development is defined as a “warehouse or distribution centre” by the LEP which are permissible land uses in these zones.

Zone Objectives

The objectives of the IN2 Light Industrial Zone are as follows:

- To provide a wide range of light industrial, warehouse and related land uses.

Officer comment:

The proposed development will provide a warehouse land use and is therefore consistent with this objective.

- To encourage employment opportunities and to support the viability of centres.

Officer comment:

The proposed development will generate new employment opportunities and help support the viability of surrounding centres.

- To minimise any adverse effect of industry on other land uses.

Officer comment:

The proposed development has been assessed and subject to the recommended conditions, it is not considered that it will have any significant negative impacts upon other surrounding land uses including residential properties in the area.

- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.

Officer comment:

This objective is not relevant to the proposed development as the proposal is for a warehouse land use.

- To support and protect industrial land for industrial uses.

Officer comment:

The proposed development is an industrial land use type and therefore consistent with this objective.

- To enable non-industrial land uses that are compatible with and do not detract from the surrounding industrial and warehouse land uses.

Officer comment:

This objective is not relevant to the proposed development as the proposal is for a warehouse land use.

The objectives of the RU1 Primary Production zone are as follows:

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.

Officer comment:

The majority of the proposed physical works are located in the IN2 Light Industrial zone. The part of the site zoned RU1 Primary Production is a relatively small, isolated section of rural land that has no current agricultural activity occurring on it.

- To encourage diversity in primary industry enterprises and systems appropriate for the area.

Officer comment:

As aforementioned, the remaining undeveloped RU1 zone land on this site could be used for primary industry purposes in the future. The proposed development will not preclude the above from occurring.

- To minimise the fragmentation and alienation of resource lands.

Officer comment:

The site represents an already fragmented section of rural land and it is not considered that the proposed development will significantly compound this.

- To minimise conflict between land uses within this zone and land uses within adjoining zones.

Officer comment:

The proposed development has been assessed and subject to the recommended conditions, it is not considered that it will have any significant negative impacts upon other surrounding land uses including residential properties in the area.

- To permit non-agricultural uses which support the primary production purposes of the zone.

Officer comment:

Whilst the proposed development does not support the primary production purposes of the zone, neither will it preclude such development from occurring in the future. The proposed driveway from Cawdor Road (which is located within the RU1 zone) could also be used to provide access to a future primary production activity on the site. Consequently the proposed development is not considered to be inconsistent with this objective.

- To maintain the rural landscape character of the land.

Officer comment:

The proposed warehouse building will be located wholly within the IN2 Light Industrial zone. The proposed works in the RU1 zone will be for the new truck access from Cawdor Road, truck manoeuvring areas and a landscaped external storage area at the rear of the building. Landscaping is also proposed at the entry/exit to/from the site on Cawdor Road and it is a recommended condition that additional landscaping be provided within the RU1 section of the site to further soften the appearance of the proposed truck driveway. Consequently it is considered that the rural landscape character of the land will generally be maintained.

Relevant Clauses

The DA was assessed against the following relevant clauses of the LEP.

Clause	Requirement	Provided	Compliance
4.3 Height of	Maximum 9.5m building height	The proposed building will have a maximum height of 8m from	Yes

Clause	Requirement	Provided	Compliance
Buildings		existing ground level	
4.4 Floor Space Ratio	Maximum 1:1 floor space ratio	The proposed development, when combined with the existing building on the site, will result in an overall floor space ratio of 0.57:1	Yes
5.3 Development near Zone Boundaries	<p>Development may be carried out on land where it would ordinarily be prohibited, if that development is carried out within 50m of an adjoining zone where it is permissible. Council must be satisfied that:</p> <p>(a) the development is not inconsistent with the objectives for development in both zones; and</p> <p>(b) the carrying out of the development is desirable due to compatible land use planning, infrastructure capacity and other planning principles relating to the efficient and timely development of land</p>	<p>The proposed warehouse building is wholly located within the IN2 Light Industrial zone. However there is an external stone block storage area proposed at the rear of the building. This storage area will be located in the RU1 Primary Production zone where warehouse or distribution centres are prohibited.</p> <p>This storage area may be approved under this clause as it is located within 50m of the IN2 zone where warehouse or distribution centres are permissible.</p> <p>Council staff have considered the matters required by this clause and recommend that the external storage area be approved in the location proposed.</p> <p>As assessed in this report, the proposed development is not inconsistent with the objectives of either the IN2 or RU1 zones. In addition, allowing this area to be used for storage will enhance the economic viability of the operating business that will operate from the warehouse building in the IN2 zone. The provision of this external storage area behind the building, away from neighbouring residential properties and screened by landscaping will ensure that it does not have any significant negative impacts in terms of residential amenity of rural character</p>	Yes
7.1 Flood	Council must be satisfied that the	The site is identified as being flood affected. The proposed	Yes

Clause	Requirement	Provided	Compliance
Planning	proposed development is compatible with the flood hazard of the land, that it will not significantly adversely affect flood behaviour, incorporate appropriate measures to minimise risk of life to flood, will not significantly adversely affect the environment and will not results in unsustainable social or economic costs to the community as a consequence of flooding	development has been designed with regard to Council's Flood Risk Management Policy and is considered to be acceptable. The proposed building has been designed to provide a suitable floor level with a 350mm freeboard to protect the stored building materials. It is not considered that the proposed development will result in negative flood impacts on the surrounding environment or properties	

(a)(ii) The Provisions of any Draft Environmental Planning Instrument (that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved)).

There is no draft Environmental Planning Instrument applicable to the proposed development.

(a)(iii) The Provisions of any Development Control Plan

Camden Development Control Plan 2011 (DCP)

The following is an assessment of the proposed development's compliance with the controls in the DCP.

Control	Requirement	Provided	Compliance
B 1.1 Erosion and Sedimentation	Erosion, sediment and dust control measures	The provision of appropriate erosion, sedimentation and dust control measures is a recommended condition	Yes
B1.2 Earthworks	Ensure development takes into account the topography of the site and minimises disturbance	The proposed development minimises cut and fill and site disturbance.	Yes

Control	Requirement	Provided	Compliance
	Only clean fill is permitted to be used	It is a recommended condition that only clean fill be used	Yes
B1.3 Salinity Management	Salinity resistant construction	The development will be constructed to be salinity resistant which will be ensured via the recommended conditions	Yes
B1.4 Water Management	Demonstrate how stormwater will be managed in accordance with Council's Engineering Specifications	The DA was accompanied by stormwater design plans outlining how stormwater will be managed. It is a recommended condition that the proposed development comply with Council's Engineering Specifications	Yes
B1.8 Environmental and Declared Noxious Weeds	Noxious weeds are to be continuously suppressed and ensure machinery entering and leaving the site is free of noxious weeds material	It is a recommended condition that the proposed development comply with this part of the DCP	Yes
B1.9 Waste Management and Minimisation	Waste Management Plan	A suitable waste management plan has been provided	Yes
B1.11 Flood Hazard Management	Development must comply with Council's Flood Risk Management Policy	As aforementioned, the site is identified as being flood affected. The proposed development has been designed with regard to Council's Flood Risk Management Policy and is considered to be acceptable	Yes
B1.16 Acoustic Amenity	Compliance with Council's Environmental Noise Policy	Subject to a condition requiring the provision of a 2.1m high acoustic fence along part of the site's northern boundary adjacent to 17 Little Street, the proposed development is compliant with Council's Environmental Noise Policy	Yes
B2 Landscape	A landscape plan is required	An appropriate landscape plan has been	Yes

Control	Requirement	Provided	Compliance
Design		provided	
B5.1 Off-street Car Parking Rates and Requirements	<p>Warehouses require 1 car parking space space per 300m² of gross floor area (GFA).</p> <p>The proposed building has a GFA of 1,140.6m² and proposes an external storage area of approximately 409m².</p> <p>$1,140.6 + 409 = 1,549.6 / 300 = 5.2 (6)$</p> <p>Therefore the proposed development requires 6 spaces</p> <p>Therefore all the development on the site requires 12 spaces</p> <p>Provision for 1 service vehicle for the first 800m² GFA and thereafter on merit</p>	<p>6 spaces exist on the site for the existing building whilst the proposed development will provide an additional 11 for an overall total of 17</p> <p>Sufficient space is available on the site to provide for service vehicles delivering or distributing building materials</p>	<p>Yes</p> <p>Yes</p>
B5.2 Car Parking Design Criteria	<p>Visitor spaces to be clearly marked and conveniently located</p> <p>Garbage storage and collection areas to conveniently located without on-street conflict</p> <p>Appropriate landscaping to provide shade/amenity and reduce visual impacts of car park</p>	<p>Sufficient car parking spaces have been provided for both staff and visitors in the front car parking area</p> <p>The site contains adequate space for the storage and collection of garbage without on-street conflict</p> <p>The proposed landscaping and recommended conditions will ensure an appropriate level of visual amenity</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
D4.2.1 Lot Sizes & Proportions	<p>Minimum 2,000m² lot area</p> <p>32m lot width</p>	<p>The lot has an area of 2ha</p> <p>The site has a frontage of 55m to Little Street</p>	<p>Yes</p> <p>Yes</p>

Control	Requirement	Provided	Compliance
	Front building façade setback of 7.5m	A front building setback of 20m is proposed	Yes
D4.2.2 Building Materials & Appearance	Structural articulation and/or a mix of external finishes/colours. Freestanding developments to avoid blank wall surfaces where viewed from a public place or residential area	The proposed development incorporates a mix of painted wall cladding in mid earth tones of light brown, mid brown and off white. The proposed development includes the installation of an awning on the front elevation to help break up the building's bulk when viewed from Little Street	Yes
	All roof mounted equipment to be designed and screened in a manner that complements the parent building	All proposed roof/plant equipment will be integrated into the design of the development. A condition is recommended to ensure this	Yes
D4.2.4 External Storage	External storage areas are to be effectively screened and must not be visible from any public areas	An external storage area is proposed behind the proposed warehouse building. This area will have a mesh fence and 2m wide landscape area to screen the material stored from public view from Cawdor Road. The location of the external storage is approximately 161m set back from Cawdor Road and will not be visually intrusive in that streetscape	Yes
	Any materials to be stored that can impact water quality must be covered or runoff water must be treated	The external storage area will store stone blocks and it is not anticipated that this will cause any negative impacts on water quality	Yes
D4.2.5 Fencing	Open style fencing with a maximum height of 2.1m and a minimum front setback of 1m	A steel cyclone mesh fence is proposed at the rear of the external storage and	Yes

Control	Requirement	Provided	Compliance
		manoeuvring area. It is a recommended condition that this fencing be modified to be open style metal palisade fence with a maximum height of 2.1m	
D4.2.6 Environmental Management Plans	Environmental management plan (EMP)	The matters that are required to be addressed by an EMP have been addressed by the statement of environmental effects submitted with the DA and the recommended conditions	Yes
	A geotechnical report is required	An appropriate geotechnical report has been provided	Yes
D4.2.7 Stormwater	Stormwater quantity and quality management	Conditions are recommended to ensure that stormwater quantity and quality is appropriately managed in accordance with Council's engineering specifications	Yes
D4.2.9 Recycling and Waste Management	Waste management plan required	A suitable waste management plan has been provided	Yes
D4.2.10 Noise and Vibration	Compliance with Council's Environmental Noise Policy	Subject to a condition requiring the provision of a 2.1m high acoustic fence along part of the site's northern boundary adjacent to 17 Little Street, the proposed development is compliant with Council's Environmental Noise Policy	Yes
D4.3.1 Landscaping and Public Domain	Detailed landscaping plans and street tree planting at a rate of 1 tree for 15m of frontage	A detailed landscape plan has been provided. A condition is recommended to ensure that appropriate street trees are provided along the site's Little Street frontage	Yes
D4.4 Parking and	Compliance with DCP Section B5	The proposed development more than	Yes

Control	Requirement	Provided	Compliance
Access		complies with the DCP's Section B5 in that whilst overall 12 spaces are required 17 will be provided	

(a)(iia) The Provision of any Planning Agreement that has been entered into under Section 94F, or any draft Planning Agreement that a developer has offered to enter into under Section 93F

No relevant agreement exists or has been proposed as part of this DA.

(a)(iv) The Regulations

The Regulations prescribe several matters that are addressed in the conditions contained in this report.

(b) The likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

As demonstrated by the above assessment, the proposed development is unlikely to have a significant impact on both the natural and built environments, and the social and economic conditions of the locality.

Noise Impacts

The proposed development has been assessed against Council's Environmental Noise Policy. The development is for a warehouse and distribution building that will not involve any manufacturing processes. Additional deliveries and distributions to/from the site will be limited to an additional 2 per day and truck access to the site will only occur via the proposed Cawdor Road entry/exit driveway. The proposed development will operate between Monday to Friday 7am-6pm and Saturday 8am-4pm.

Council staff are satisfied that the development will be consistent with Council's Environmental Noise Policy and subject to compliance with the recommended conditions, not have any adverse acoustic impacts upon surrounding properties. A condition is recommended to provide a 2.1m high acoustic fence along part of the site's northern boundary with 17 Little Street adjacent of the proposed front car park area. This will ensure that the existing dwelling at 17 Little Street is afforded appropriate acoustic protection.

(c) The suitability of the site

As demonstrated by the above assessment, the site is considered to be suitable for the proposed development.

(d) Any submissions made in accordance with this Act or the Regulations

The DA was lodged on 13 March 2013 and was publicly exhibited between 12 and 26 April 2013. 4 submissions and 2 petitions (with 55 signatories) were received (all objecting to the proposed development).

The proposed plans were subsequently amended and publicly exhibited between 18 November and 2 December 2013. 18 submissions and 3 petitions (with 99 signatories) were received (all objecting to the proposed development). **A copy of a public exhibition and submissions map is provided with the Business Paper Supporting Documents.** This map shows the location of the site, notified surrounding properties and those that made a submission. It should be noted that a number of people in the area surrounding the site also signed petitions objecting to the proposed development and that these are not specifically identified on the map.

The following discussion addresses the issues and concerns raised in the submissions and petitions:

1. The development is inappropriate for the site and area

Officer comment:

The area of the site that most of the warehousing activities will take place is zoned IN2 Light Industrial. Warehouses are a permissible land use in this zone and their provision is specifically stated as one of the zone's objectives. The front of the site adjacent to Little Street also contains an approved and operating warehouse.

It is acknowledged that the surrounding area contains a range of land uses including residential properties and zoned rural land. However the proposed development has been assessed against all relevant planning policies, is fully compliant with them and is not considered to have any significant negative impacts upon the surrounding area. Consequently it is considered to be an appropriate development for this site and area.

2. Concerns that there will be excessive heavy traffic through Little Street causing safety and access issues and amenity impacts upon surrounding residents

Officer comment:

Council staff have discussed this concern with the applicant who has provided amended plans showing a proposed truck entry/exit driveway from Cawdor Road. All trucks (including those that already access the site to service the existing warehouse development on it) will use this new driveway to enter/exit the site, thereby reducing the heavy vehicle traffic that currently uses on Little Street. Consequently it is considered that the proposed development will actually reduce impacts to residents in the surrounding area given the new entry/exit point from Cawdor Road.

3. An alternative entry/exit to the site from Cawdor Road would negate impacts on Little Street

Officer comment:

This suggestion has been discussed with the applicant with amended plans providing an entry/exit point from Cawdor Road being negotiated by Council staff. It is agreed that this alternative entry/exit point will negate traffic impacts upon Little Street.

4. Concern that if Cawdor Road and the driveway are flooded, how the trucks will service the site

Officer comment:

In the event of a flood, the existing Little Street entry/exit to the site will be used. This will only occur in the event of a flood that prevents access from Cawdor Road and therefore will not be a regular occurrence. In addition, the proposed development proposes only 2 additional truck deliveries entering the site and 2 truck distributions leaving the site per day so the additional heavy traffic on Little Street is not significant.

5. Traffic Impacts upon the surrounding road network

Officer comment:

As aforementioned the additional truck movements generated by this development are not significant and the surrounding street network will be able to accommodate them. It is noted that the proposed entry/exit point from Cawdor Road will keep both the existing and proposed truck movements off Little Street which is a better traffic outcome.

6. The land should be rezoned for residential purposes and potentially be redeveloped for an affordable over 55s development or medium density housing. The light industrial should be kept adjacent to Cawdor Road with residential development adjacent to Little Street.

Officer comment:

The desire to see the land rezoned is acknowledged however the site is currently zoned a mix of IN2 Light Industrial and RU1 Primary Production and Council is required to assess the DA based on its current zoning. In addition if the site was rezoned the warehouse use would retain existing use rights.

7. The application does not meet the objectives of the RU1 Primary Production zone

Officer comment:

As assessed in this report, it is considered that the proposed development is not inconsistent with the objectives of the RU1 Primary Production zone. The part of the site zoned RU1 is an isolated section of rural land with no existing agricultural activity taking place on it. The proposed development will not preclude agricultural activity taking place on it in the future. In addition, the proposed landscaping will help to soften and screen the proposed driveway and external storage are on the land and overall it is considered that the rural character of the land will not be adversely affected.

8. The proposed development is not of an appropriate design and will have negative heritage impacts

Officer comment:

The design of the proposed development is considered to be acceptable for the area taking into consideration the existing building on the site and its light industrial zoning. Following negotiation with Council staff the applicant has made a number of amendments to the proposed development including reducing the length and height of the proposed building, changes to the building's design and articulation and additional landscaping.

The overall design outcome is considered to be acceptable and will not negatively impact upon the heritage of Camden. It is noted that neither the site or street are located within a Heritage Conservation Area and that the nearest local heritage item

(Camden Hospital) is located approximately 140m away to the south east on the eastern side of Broughton Street.

9. There will be an increase in noise and air pollution as a result of the proposal. In particular, concerns are raised about the beeping of forklift vehicles whilst reversing

Officer comment:

The proposed development is for a warehouse building and not a manufacturing activity and therefore it is not anticipated that significant noise or air pollution will occur.

In relation to the beeping of forklift vehicles whilst reversing, it is a recommended condition that the reversing alarms on all forklifts be modified to ensure that noise levels from any forklift alarm shall not exceed background noise levels +5dB(a) when measured at the nearest residential boundary which is a reasonable approach.

10. Concerns that the proposal should be defined as a “heavy industry” activity due to the need to have large trucks servicing the site

Officer comment:

As no industrial activity is proposed as part of the development the proposal is defined as “warehouse or distribution centre” under the LEP and not a “heavy industry.” The use of heavy vehicles to service warehouses and even light industries is a common occurrence and not out of character or unusual for a development of this kind.

11. The loss of flood prone land should not be permitted, the semi-rural feel of the area should be maintained and the development is inconsistent with Camden 2040

Officer comment:

The site is identified as being flood affected. The proposed development has been designed with regard to Council’s Flood Risk Management Policy and is considered acceptable.

The proposed building has been designed to provide a suitable floor level with a 350mm freeboard to protect the stored building materials. It is not considered that the proposed development will result in negative flood impacts on the surrounding environment or properties.

It is noted that Council has approved various other developments on flood prone within Camden following a detailed assessment against Council’s Flood Risk Management Policy. This policy does not prohibit development on flood prone land but rather allows a merit based assessment of development that is proposed.

The site contains an approved and operating warehouse building together with associated hard stand areas and car parking. Subject to the amended plans and the recommended conditions, it is not considered that the proposed development will significantly negatively impact the semi-rural character of the area.

Given the above, the proposed development is not considered to be inconsistent with Camden 2040.

12. Impacts upon adjoining properties during construction

Officer comment:

It is noted that there are other properties in close proximity to where the proposed building will be constructed. Standard conditions are recommended to ensure that adjacent properties are appropriately protected during construction works.

13. Loss of property value

Officer comment:

The loss of property values is not a matter for consideration under Section 79C of the *Environmental Planning and Assessment Act 1979*. No information has been provided to substantiate this claim.

14. Inappropriate operating hours

Officer comment:

The proposed operating hours are Monday to Friday 7am-6pm and Saturday 8am-4pm only. These operating hours are considered to be appropriate for the proposed development and given that truck access will be from Cawdor Road, it is not considered that it will cause unreasonable disturbance to surrounding properties.

15. Impacts on services including electricity

Officer comment:

The site has access to appropriate services including electricity, sewer and water. It is not considered that the proposed development will adversely affect services in the surrounding area. The provision of any required services for the development will be subject to detailed design at the Construction Certificate stage of the development.

16. The development will set a precedent for other inappropriate developments in the area

Officer comment:

Any future development of this site or the surrounding area will be subject to the assessment of a separate DA. Each DA is assessed on its individual merits and the approval of this DA will not set an undesirable precedent.

(e) *The public interest*

The public interest is served through the detailed assessment of this DA under the *Environmental Planning and Assessment Act 1979*, the Environmental Planning and Assessment Regulation 2000, Environmental Planning Instruments, Development Control Plans and policies. Based on the above assessment, the proposed development is consistent with the public interest.

EXTERNAL REFERRALS

The DA was not required to be referred to any external agency for comment.

FINANCIAL IMPLICATIONS

This matter has no direct financial implications for Council.

CONCLUSION

The DA has been assessed in accordance with Section 79C(1) of the *Environmental Planning and Assessment Act 1979* and all relevant instruments, plans and policies. Accordingly, DA 192/2013 is recommended for approval subject to the conditions contained in this report.

CONDITIONS

1.0 - General Requirements

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

- (1) **Building Code of Australia** - All works must be carried out in accordance with the requirements of the *Building Code of Australia*.
- (2) **Landscaping Maintenance and Establishment Period** - Commencing from the Date of Practical Completion (DPC), the Applicant will have the establishment and maintenance responsibility for all hard and soft landscaping elements associated with this Consent.

The 24 month maintenance and establishment period includes (but not limited to) the Applicant's responsibility for the establishment, care and repair of all landscaping elements including all street tree installations, softscape elements such as plantings and lawn, hardscape elements including paths, walls, bins, seats, BBQ's, shelters, playground equipment, softfall treatments, associated water usage and electrical usage etc.

The Date of Practical Completion (DPC) is taken to mean completion of all civil works, soil preparation and treatment and initial weed control, and completion of all planting, turf installation, street tree installation and mulching.

It is the Applicant's responsibility to arrange a site inspection with the Principal Certifying Authority (PCA), upon initial completion of the landscaping works, to determine and agree upon an appropriate DPC.

Prior to Council accepting the maintenance responsibility, at the completion of the 24 month landscaping maintenance and establishment period, all hard and soft landscaping elements (including any nature strip and road verge areas, street trees, street tree protective guards and bollards) must be in an undamaged, safe and functional condition and all plantings have signs of healthy and vigorous growth.

At the completion of the maintenance and establishment period, the landscaping works must comply with the approved Landscaping Plans.

- (3) **Development in Accordance with Plans** – The development is to be in accordance with plans and documents listed below, except as otherwise provided by the conditions of this consent:

Plan/Development No.	Description	Prepared by	Dated
Project No. ston-1476 Sheet No. DA-02B	Site Plans	Stone Homes	12.11.13
Project No. ston-1476 Sheet No. DA-04a	Overall Floor Plan	Stone Homes	30.07.13
Project No. ston-1476 Sheet No. DA-05a	Elevation & finishes schedule	Stone Homes	30.07.13
Project No. ston-1476 Sheet No. DA-06a	Elevations	Stone Homes	30.07.13
Project No. ston-1476 Sheet No. DA-07a	Roof Plan	Stone Homes	30.07.13
Project No. ston-1476 Sheet No. DA-08a	Landscape Plan	Stone Homes	30.07.13
Project No.76543.00	Geotechnical Investigation	Douglas Partners	February 2013

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

- (4) **Design and Construction Standards** - All proposed civil and structural engineering work associated with the development must be designed and constructed strictly in accordance with:
- (a) Camden Council's current Engineering Specifications, and
 - (b) Camden Council's Development Control Plan 2011.

It should be noted that designs for line marking and regulatory signage associated with any proposed public road within this development **MUST** be submitted to and approved by Council prior to the issue of any Construction Certificate.

- (5) **Protection of the Environment Operations Act 1997** – All activities associated with the development must be carried out in an environmentally satisfactory manner as defined under Section 95 of the *Protection of the Environment Operations Act 1997*.
- (6) **Noxious Weeds Management** – Noxious Weeds management must occur in accordance with Section B1.8 of Camden Development Control Plan 2011.
- (7) **Fencing** – The proposed cyclone wire fencing at the rear of the external storage and manoeuvring areas must be modified to be an open style metal palisade fence, coloured black with a maximum height of 2.1m.
- (8) **Signage** – No business identification or advertising signage is approved as part of this development consent and must be subject to a separate DA.

2.0 - Construction Certificate Requirements

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

- (1) **Damage to Public Infrastructure** – All public infrastructure that adjoins the development site on public land shall be protected from damage during construction works.

Public infrastructure includes roadways, kerb and guttering, footpaths, service authority infrastructure (such as light poles, electricity pillar boxes, telecommunication pits, sewer and water infrastructure), street trees and drainage systems.

The Applicant shall advise Council, in writing, of any existing damage to Council property before commencement of the development. Where existing damage is present, a dilapidation survey of Council's assets, including photographs (with evidence of date) and written record, must be prepared by a suitably qualified person and submitted to Council prior to the commencement of construction works.

The applicant shall bear the cost of all restoration works to public property damaged during the course of this development. Any damage to public infrastructure will be required to be reinstated to Council's satisfaction prior to the issue of a Final Occupation Certificate.

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

Note:

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

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

- (a) all matters associated with Council's Erosion and Sediment Control Policy;
- (b) all matters associated with Occupational Health and Safety;
- (c) all matters associated with Traffic Management/Control; and
- (d) all other environmental matters associated with the site works such as noise control, dust suppression and the like.

- (4) **Traffic Management Procedure** - Traffic management procedures and systems must be introduced during construction of the development to ensure

safety and to minimise the effect on adjoining pedestrian and traffic systems. Such procedures and systems must be in accordance with AS 1742.3 1985 and to the requirements and approval of Council (and the Roads and Maritime Services). Plans and proposals must be approved by Council (and the Roads and Maritime Services) prior to the Construction Certificate being issued.

- (5) **Performance Bond - Prior to the issue of the Construction Certificate**, a performance bond of \$5,000 must be lodged with Camden Council in accordance with Camden Council's Engineering Construction Specifications.
- (6) **Public Risk Insurance Policy** - Prior to the issue of the Construction Certificate, the owner or contractor is to take out a Public Risk Insurance Policy in accordance with Camden Council's current Engineering Design Specifications.
- (7) **Drainage Design** - A stormwater management plan is to be prepared prior to the issue of a Construction Certificate to ensure that the final stormwater flow rate off the site is no greater than the maximum flow rate currently leaving the development site for all storm events. This Plan must be submitted and approved by the Principal Certifying Authority. Such designs must cater for future developments of land adjoining the site and overland flow from adjoining properties.
 - Detailed drainage design for the proposed drainage system shall be prepared by an engineer or qualified and experienced person on hydraulics and hydrology in accordance with the Council's Design Specifications and comply with the approved architectural plans.
 - The grading of the new pavement area and car park shall be designed to ensure flows are not directed towards the existing building. Flows shall be intercepted.
 - All the stormwater from the car park and driveway within the property shall be collected and pre-treated prior to discharging to Council's system. The drainage system shall be connected to the drainage pity provided in each lot.
 - The existing Council pipe shall be extended 1.0m beyond the proposed western fence and be provided with a headwall and swale to Cawdor Road.
 - The Principle Certificate Authority shall obtain a Design Compliance Certificate from a hydraulic engineer/consultant confirming that the proposed drainage design complies with the Council's Design Specifications and the relevant conditions of the Development Consent, prior to the issue of the Construction Certificate.
- (8) **Water Quality Measures** - The proposed surface water collection and disposal systems must incorporate adequate silt traps and grit and oil arrestors.

Only uncontaminated stormwater must be discharged to the stormwater drainage system. Details of the silt traps and grit arrestors must be shown on the submitted engineering plans prior to the Construction Certificate being issued.

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

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

- (10) **Detailed Landscaping Plans** – Prior to the issue of the Construction Certificate, a detailed Landscaping Plan prepared by a qualified Landscape Architect or qualified Landscape Designer, must be submitted with the Construction Certificate application and must be in accordance with Camden Council's current Engineering Design Specifications.

The following items listed must be included in the detailed Landscape Plan.

Street Tree Planting

- (a) 4 street trees to be installed in front of the development site within the Council road reserve.
- (b) Detail of the street tree installation is to be clearly shown in the detailed Landscape Plan and shall include detail of tree guards consisting of the following minimum installation; Three bollards per street tree. The bollards are to be installed approximately 1m from the main stem of the tree. The bollards are to be sourced in minimum 1.8m length, which will allow for 1.2m above ground exposure and 0.6m buried support. The bollards are to be timber (or other acceptable composite material) and a minimum 150mm x 150mm width. Timber bollards are to be a durability minimum of H4 CCA.
- (c) That all the street trees are sourced in a minimum 75 litre container size, are not multi-stemmed and can stand alone without the need for staking.
- (d) The Street tree selection is limited to the following species; *Liriodendron tulipifera fastigatum*.

Internal Landscaping

The detailed Landscaping Plan lodged for the issue of the Construction Certificate must detail the following planting schedule changes;

- (a) A minimum 12 *Melaleuca linariifolia* (sourced in minimum 300 mm container size) are to be added to the proposed landscaping along the Cawdor Road frontage. The *Melaleuca*'s are to be planted evenly spaced and planted a minimum distance of 15m from main stem to stem.
- (b) Additional 12 *Melaleuca linariifolia* (sourced in minimum 300 mm container size) are to be added to the proposed landscaping located between the rear building line and cyclone fence.
- (c) Substitute *Eucalyptus leucoxylon* with *Corymbia maculate*.
- (d) Substitute *Fraxinus excelsior* where shown in the landscaping between the cyclone fence and Little street with a combination of the following species; *Melaleuca bracteata*, *Leptospermum leuhmanii*, *Melaleuca incana*, *Callitris rhomboidea*.
- (e) Substitute *Fraxinus excelsior* where shown in the landscaping along the Cawdor road frontage with *Casuarina cunninghamiana*.

(f) All internal trees and shrubs are to be sourced in minimum 300 mm containers size.

- (11) **Civil Engineering Details** - The developer must submit details of all engineering works on engineering plans to the Certifying Authority for approval prior to a Construction Certificate being issued.
- (12) **Car Parking Design** - The design, construction details of the parking spaces, access thereto and all other external hardpaved areas must conform to the Consent Authority's (ie Camden Council) standard, and documentary evidence of compliance of above condition must be submitted by an Accredited Certifier/suitably qualified person/Council or the Principal Certifying Authority prior to the Construction Certificate being issued.

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

For the purpose of this condition, a parking space must only be used for the parking of motorcycles, sedans, utilities, vans and similar vehicles up to two (2) tonne capacity.

All disabled parking shall be designed and constructed to comply with AS 2890.6.

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

Such pre-treatment devices/strategy shall prohibit the discharge of hydrocarbons and heavy metals to Council's stormwater system at all discharge points and also be kept in good order with regular maintenance and removal of pollutants.

- (14) **Construction Traffic Management Plan** – A construction traffic management plan is required in accordance with Camden Council's current Engineering Design Specifications.
- (15) **Salinity** – Due to the inherent characteristics of the Camden Local Government Area, buildings erected in the area may be susceptible to soil salinity levels that may have a cumulative damaging effect over time.

Camden Council therefore requires:

- A salinity investigation report be undertaken; **OR**
- Compliance with the 'minimum requirements' specified in this condition.

Salinity Investigation Report

Prior to the issue of a Construction Certificate, a Salinity Investigation Report shall be prepared for the development in accordance with the requirements of "Site Investigation for Urban Salinity (Local Government Salinity Initiative)" prepared by the *Department of Land and Water Conservation (2002)*.

The recommendations from this report shall be followed and incorporated into the design and construction of the development and are to be approved by the certifying authority.

Minimum Salinity Requirements for Camden LGA

Where a Salinity Investigation Report is not undertaken, the following construction inclusions shall be incorporated as a minimum in the building design to reduce/prevent any detrimental affect to the building from accumulative salt deposits:

a. Concrete Strength: The minimum concrete strength to bored piers, piles, strip footings and concrete floor slabs in contact with the ground shall be 40MPa.

b. Damp-Proof Membrane: Concrete floor slabs in contact with the ground shall be provided with a damp-proofing membrane that is a 0.2mm thickness polyethylene film and of "high impact resistance" (as determined in accordance with AS2870).

The above minimum requirements shall be incorporated in the structural design and construction of the development and are to be approved by the certifying authority with the Construction Certificate application.

Note: Consideration in the design and construction of the development should also be made to the following matters (where relevant):

- the provision of drainage to the building perimeter (including subsoil drainage), to prevent water ponding or soil water logging in the building vicinity;
- retaining walls should be built of salinity resistant materials;
- porous pavement products such as cement and clay pavers may show permanent efflorescence and salt corrosion. The use of these products should be confirmed with the manufacturer as being suitable for use in a saline environment, prior to installation.

- (16) **Roof Mounted Equipment** – All roof mounted equipment must be adequately screened from public view and any screening devices must be designed in a manner which complements and is integrated with the approved building. Details of any screening devices must be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate.

3.0 - Prior To Works Commencing

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

- (1) **Sydney Water Approval** – Prior to works commencing, the approved development plans must also be approved by Sydney Water.
- (2) **Prescribed Conditions** – All conditions prescribed by Division 8A of the Environmental Planning and Assessment Regulation 2000 must be fully complied with.

- (3) **Toilet Facilities** - Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed, at a ratio of one toilet plus one toilet for every 20 persons employed at the site.

Each toilet must:

- (a) be a standard flushing toilet connected to a public sewer, or
- (b) have an on-site effluent disposal system approved under the *Local Government Act 1993*, or
- (c) be a temporary chemical closet approved under the *Local Government Act 1993*.

- (4) **Notice of Commencement of Work and Appointment of Principal Certifying Authority** – Notice in the manner required by Section 81A of the *Environmental Planning and Assessment Act 1979* and Clauses 103 and 104 of the *Environmental Planning and Assessment Regulation 2000* shall be lodged with Camden Council at least two (2) days prior to commencing works. The notice shall include details relating to any Construction Certificate issued by a certifying authority, the appointed Principal Certifying Authority (PCA), and the nominated 'principal contractor' for the building or subdivision works.

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

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

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

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

Provide a stabilised entry/exit point. The access should be a minimum of 2.5m wide and extend from the kerb to the building line. The access should consist of aggregate at 30-40mm in size.

Vehicle access is to be controlled so as to prevent tracking of sediment onto adjoining roadways, particularly during wet weather or when the site has been affected by wet weather.

- (7) **Stabilised Access Point** - A Stabilised Access Point (SAP) incorporating a truck shaker must be installed and maintained at the construction ingress/egress location prior to the commencement of any work. The provision of the SAP is to prevent dust, dirt and mud from being transported by vehicles

from the site. Ingress and egress of the site must be limited to this single access point. Council's standard details as per SD 31 shall be used for construction.

- (8) **Public Road Activity Application** – A Public Road Activity Application shall be lodged for approval of the Council (Road Authority) with Public Liability Insurance and a Traffic Control Plan prepared by a RMS accredited Traffic Controller prior to commencement of any work in public roads.

4.0 - During Construction

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

- (1) **Survey Report (Peg Out)** - The building must be set out by a registered Land Surveyor. A Survey Report detailing the siting of the building in relation to the allotment boundaries shall be submitted to the Principal Certifying Authority (PCA) prior to the placement of any concrete.
- (2) **Survey Report (Completion)** - A survey report prepared by a registered land surveyor shall be provided upon completion of the building. The survey report shall be submitted to the Principal Certifying Authority (PCA) upon completion of the building and prior to the issue of an Occupation Certificate.
- (3) **Retaining Walls** - If the soil conditions require it:
- (a) retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil must be provided, and
 - (b) retaining walls must be constructed a minimum of 300mm from any property boundary to ensure all associated drainage and backfill remain wholly within the subject property.

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

- (a) where the height of an approved retaining wall exceeds 600mm above or below natural ground level, structural engineering details must be provided to the Principal Certifying Authority, prior to any works commencing on the site. Manufacturers' installation details may satisfy this requirement for treated timber products and some dry stacked masonry products;

Note: Where Council is nominated as the Principal Certifying Authority, construction of the retaining wall must be inspected at critical stages as nominated in the Mandatory Inspection Notice. Prior to issue of an Occupation Certificate, certification will also be required attesting that the wall has been built in accordance with the relevant standard.

- (b) adequate provisions must be made for surface and subsurface drainage of retaining walls and all water collected must be diverted to, and connected to, a stormwater disposal system within the property boundaries;
- (c) retaining walls shall not be erected within drainage easements;

- (d) retaining walls shall not be erected in any other easement present on the land without the approval of the relevant authority benefited by the easement or entitled to release or vary the restrictions applying to the easement (electrical easement and the like), or if the erection of the retaining wall makes the purpose of the easement inconvenient or redundant (such as easements for support and maintenance).
- (4) **Hours of Work** – The hours for all construction work are restricted to between:
- (a) 7.00am and 6.00pm, Monday to Friday (inclusive);
 - (b) 7.00am to 4.00pm on Saturday (if construction noise is inaudible to adjoining residential properties), otherwise 8.00am to 4.00pm;
 - (c) work on Sunday and Public Holidays is prohibited.
- (5) **Site Management** – To safeguard the local amenity, reduce noise nuisance and to prevent environmental pollution during the construction period, the following practices are to be implemented:
- (a) the delivery of material shall only be carried out between the hours of 7.00am and 6.00pm, Monday to Friday, and between 8.00am and 4.00pm on Saturdays;
 - (b) stockpiles of topsoil, sand, aggregate, spoil or other material shall be kept clear of any drainage path, easement, natural watercourse, kerb or road surface and shall have measures in place to prevent the movement of such material off the site;
 - (c) builder's operations such as brick cutting, washing tools, concreting and bricklaying shall be confined to the building allotment. All pollutants from these activities shall be contained on site and disposed of in an appropriate manner;
 - (d) waste must not be burnt or buried on site, nor should wind-blown rubbish be allowed to leave the site. All waste must be disposed of at an approved Waste Disposal Depot;
 - (e) a waste control container shall be located on the development site.
- (6) **Footpath Levels** - The ground levels of the footpath area within the road reserve (between the boundary of the subject site to the kerb and gutter) must not be altered (by cut or fill) as a consequence of building design and/or construction.
- (7) **Excavation and Backfilling** – All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards. All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.
- (8) **Protection of Public Places** – If the work involved in the erection or demolition of a building:
- (a) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
 - (b) building involves the enclosure of a public place,

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

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

(9) **Civil Engineering Inspections** - Where Council has been nominated as the Principal Certifying Authority, inspections by Council's Engineer are required to be carried out at the following stages of construction:

- (a) prior to installation of sediment and erosion control measures;
- (b) prior to backfilling pipelines and subsoil drains;
- (c) prior to casting of pits and other concrete structures, including kerb and gutter, roads, accessways, aprons, pathways and footways, vehicle crossings, dish crossings and pathway steps;
- (d) proof roller test of subgrade and sub-base;
- (e) roller test of completed pavement prior to placement of wearing course;
- (f) prior to backfilling public utility crossings in road reserves;
- (g) prior to placement of asphaltic concrete;
- (h) final inspection after all works are completed and "Work As Executed" plans, including work on public land, have been submitted to Council.

Where Council is not nominated as the Principal Certifying Authority, documentary evidence in the form of Compliance Certificates stating that all work has been carried out in accordance with Camden Council's Development Control Plan 2011 and Engineering Specifications must be submitted to Council prior to the issue of the Subdivision/Occupation Certificate.

(10) **Compaction** - All filling on the site must be compacted in accordance with Camden Council's current Engineering Design Specifications.

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

The validation report and associated sampling location plan must:

- (a) be prepared by a person with experience in the geotechnical aspects of earthworks, and
- (b) be endorsed by a practising Engineer with Specific Area of Practice in Subdivisional Geotechnics, and
- (c) be prepared in accordance with:

For Virgin Excavated Natural Material (VENM):

- (i) the Department of Land and Water Conservation publication "Site investigation for Urban Salinity", and
- (ii) the Department of Environment and Conservation - Contaminated Sites Guidelines "Guidelines for the NSW Site

Auditor Scheme (Second Edition) - Soil Investigation Levels for Urban Development Sites in NSW".

- (d) confirm that the fill material:
 - (i) provides no unacceptable risk to human health and the environment;
 - (ii) is free of contaminants;
 - (iii) has had salinity characteristics identified in the report, specifically the aggressiveness of salts to concrete and steel (refer Department of Land and Water Conservation publication "Site investigation for Urban Salinity");
 - (iv) is suitable for its intended purpose and land use; and
 - (v) has been lawfully obtained.

Sampling of VENM for salinity of fill volumes:

- (e) less than 6000m³ - 3 sampling locations,
- (f) greater than 6000m³ - 3 sampling locations with 1 extra location for each additional 2000m³ or part thereof.

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

Sampling of VENM for Contamination and Salinity should be undertaken in accordance with the following table:

Classification of Fill Material	No of Samples Per Volume	Volume of Fill (m ³)
Virgin Excavated Natural Material	1 (see Note 1)	1000 or part thereof

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

- (12) **Fill Quality** – Any fill material brought in for the construction of the development must only contain uncontaminated soil, clay, shale or rock. No effluent, garbage or trade waste, including building or demolition waste, must be included in the fill. The extent and depth of filling must only occur in accordance with the approved plans and any other conditions of the Development Consent. Evidence of the certification of the fill as uncontaminated shall be provided to the Principal Certifying Authority.
- (13) **Affected Services** – All services affected due to the proposed work shall be adjusted in consultation with the appropriate Service Authority at no cost to Council.
- (14) **Construction Noise Levels** – Noise levels emitted during remediation works shall be restricted to comply with the construction noise control guidelines set out in Chapter 171 of the NSW EPA's Environmental Noise Control Manual. This manual recommends;

Construction period of 4 weeks and under:

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

Construction period greater than 4 weeks:

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

- (15) **Acoustic Boundary Fence** - A solid colourbond metal fence 2.1m in height is required to be constructed along part of the northern boundary. The fence is to begin where the proposed "2.1 metre high palisade fence" from the building meets the northern boundary and must extend along the northern boundary (parallel to the proposed car park) towards Little Street and then taper down in height from 2.1m to 1m from the end of the car park alignment and continue until it reaches the front property boundary. The fence is to protect the adjoining residential dwelling at 17 Little Street from car park noise.
- (16) **Damaged Assets** – Any work and public utility relocation within a public place shall incur no cost to Council.
- (17) **Street Trees, their Tree Root Barrier Guards, Protective Guards and Bollards** - During any earthworks and development works relating to this Consent, the Applicant is advised:
- (a) That any nature strip street tree, the tree guards, protective bollards, garden bed surrounds or root barrier installation which are disturbed, relocated, removed, or damaged must be successfully restored at the time the damage or disturbance occurred.
 - (b) Any repairs, relocations, reinstallations or replacements needed to the street trees, bollards, garden bed surrounds, tree guards or existing root guard barriers, are to be completed with the same type, species, plant maturity, materials and initial installation standards and the works and successful establishment of the tree carried out prior to the issue of the Occupation Certificate.
 - (c) An inspection must be arranged with Council's Landscape Development Officer, to determine that the street tree and any protective or installation measures have been restored correctly and some degree of re-establishment has occurred.
 - (d) The inspection must occur prior to the issue of the Occupation Certificate.
- (18) **Dust Control** – During all construction works, appropriate measures must be undertaken to ensure that surrounding properties and the environment are not adversely affected by dust.
- (19) **Development Construction** – If the development involves an excavation that extends below the level of the base of the footings of a building, structure or

work on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

- (a) protect and support the building, structure or work from possible damage from the excavation; and
- (b) where necessary, underpin the building, structure or work to prevent any such damage.

5.0 - Prior To Issue Of Occupation Certificate

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

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

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

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

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

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

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

- (a) must cause a copy of the certificate (together with a copy of the current fire safety schedule) to be given to the Commissioner of Fire & Rescue New South Wales, and
- (b) must cause a further copy of the certificate (together with a copy of the current fire safety schedule) to be prominently displayed in the building.

- (3) **Reinstate Verge and Kerb** - Prior to the issue of an Occupation Certificate the following works shall be completed within Little Street:

- remove existing asphalt on the verge area and reinstate with turf;
 - extend existing footpath across entire frontage;
 - reconstruct the butterfly inlet grate; and
 - replace the existing dish drain with kerb and gutter.
- (4) **Works As Executed Plan** - Prior to the Occupation Certificate being issued, a works-as-executed plan must be submitted to the Principal Certifying Authority in accordance with Camden Council's current Engineering Construction Specifications.
- (5) **Footpath Crossing Construction** - Prior to the issue of any Occupation Certificate a footpath crossing must be constructed in accordance with Camden Council's issued footpath crossing information.
- (6) **Easement Creation** - Prior to the issue of any Occupation Certificate an easement shall be created from Little Street to Cawdor Road over the drainage line and flow path that conveys public stormwater in favour of Camden Council.
- (7) **Gutter/Footway Crossings** - The following works must be constructed prior to the issue of the Occupation Certificate and under the *Roads Act 1993* must be approved by Camden Council:
- (a) Provision of a heavy duty industrial gutter crossing at all points of ingress and egress.

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

- (8) **Section 73 Compliance Certificate** – A Section 73 Compliance Certificate must be obtained for the approved development prior to the issue of an Occupation Certificate.

6.0 - Operational Conditions

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

- (1) **Graffiti Management Plan** - A graffiti management plan must be incorporated into the maintenance plan for the development. All graffiti shall be removed within 48 hours of the offence occurring.
- (2) **Offensive Noise, Dust, Odour and Vibration** – The operation of the business shall not give rise to offensive noise or dust, odour, and vibration as defined in the *Protection of the Environment Operations Act 1997* when measured at the property boundary.
- (3) **Plant Noise Restriction** - The level of total continuous noise emanating from operation of all the plant or processes on the site (LAeq) (measured for at least 15 minutes) must not exceed the background level by more than 5dB(A) when measured at any point on any residential boundary. The noise levels must also comply with relevant noise criteria within Council's Environmental Noise Policy.

- (4) **Operating Hours** – The approved operating hours for this development are Monday to Friday 7am-6pm and Saturday 8am-4pm.
- (5) **Truck Access** – All truck access to the site must only be via the new Cawdor Road entry/exit driveways at all times. The only exception to this is in the event of a flood that prevents entry/exit from/to Cawdor Road. In such an event entry/exit to the site by trucks can be gained from Little Street but only for as long as access to/from the site from Cawdor Road is prevented by flooding.

A sign must be displayed at the access to the site (within the property boundary) off Little Street clearly stating that trucks may not enter and exit from that access point.

- (6) **Truck Deliveries/Distributions** – The approved development is limited to having a maximum of 2 truck deliveries and 2 truck distributions to/from the site per day. This is in addition to the 2 truck deliveries and 5 truck distributions to/from the site per week approved by DA 464/2012.
- (7) **External Storage of Goods and Screening** – The external storage of stone blocks is limited to occupy only, and must not extend beyond, the area of hardstand located behind the new building as shown on approved site plan DA-02B dated August 2013.

This external storage area is approved to store stone blocks to a maximum height of 1.8m.

This area is to be screened by landscaping as shown on the approved landscaping plan and as detailed in the conditions of this development consent. This landscaping is to be permanently maintained in a complete and healthy condition.

- (8) **Forklift Reversing Alarm** – The reversing alarms on all forklifts must be modified to ensure that any person in the immediate area is alerted to the forklift operation. Noise levels from any forklift alarm shall not exceed background +5dB(a) measured at the nearest residential boundary.
- (9) **Car Parking Spaces** – The 11 new car parking spaces approved for this development and the 6 existing car parking spaces (total 17) must be permanently maintained on the site for use by staff and visitors.
- (10) **Approved Use** – The approved use for this development is the warehousing of building materials within the approved building and the warehousing of stone blocks in the external storage area at the rear of the building. No manufacturing of any kind is approved and any such proposal will require the approval of Council.

RECOMMENDED

That Council approve DA 192/2013 for the construction and use of a new warehouse building, new truck access from Cawdor Road and associated site works at 19A Little Street, Camden subject to the conditions listed above.

ATTACHMENTS

1. Proposed Plans

2. Submissions and Petitions - *Supporting Document*
3. Late Submission - *Supporting Document*
4. Public Exhibition and Submissions Map - *Supporting Document*

ORD01



ORD02

ORDINARY COUNCIL

ORD02

SUBJECT: SECTION 96(AA) MODIFICATION - MODIFICATION TO MAKE TRIAL OPERATING HOURS PERMANENT FOR AN APPROVED SEX SERVICES PREMISES AT 1 KIBBLE PLACE, NARELLAN
FROM: Director, Development & Health
TRIM #: 14/30057

APPLICATION NO: 27(3)/2011
PROPOSAL: Section 96(AA) Modification Application – Modification to make trial operating hours permanent for an approved sex services premises
PROPERTY ADDRESS: 1 Kibble Place, Narellan
PROPERTY DESCRIPTION: Lot 11, DP 834527
ZONING: IN1 General Industrial
OWNER: G and S Diesel Pty Limited
APPLICANT: Mr N Whittle

PURPOSE OF REPORT

The purpose of this report is to seek Council's determination of a Section 96(AA) Modification application to modify a previously approved development application (DA) for a sex services premises at 1 Kibble Place, Narellan.

The application is referred to Council for determination as there remain unresolved issues received in two submissions from the public.

SUMMARY OF RECOMMENDATION

That Council determine Section 96(AA) Modification Application 27(3)/2011 to make trial operating hours permanent for an approved sex services premises pursuant to Section 96(AA) of the *Environmental Planning and Assessment Act 1979* subject to the modified conditions contained in this report.

EXECUTIVE SUMMARY

Council is in receipt of a Section 96(AA) Modification application to make trial operating hours permanent for an approved sex services premises at 1 Kibble Place, Narellan.

The original DA for the sex services premises was refused by Council at the Council meeting of 28 June 2011, however was subsequently approved by the NSW Land and Environment Court (the Court) on 12 January 2012.

When the Court approved the sex services premises, it permitted it to operate Monday to Sunday 9am-10pm. In addition, the Court imposed a condition allowing the premises to have extended operating hours of Monday to Sunday 10pm-3am for a trial period of 12 months, beginning once an Occupation Certificate was issued for the development.

The condition also required the applicant to lodge a Section 96 Modification application in order to make these trial operating hours permanent. The condition specified a number of matters that Council would consider in deciding whether or not to make the

trial operating hours permanent. The matters listed in the condition are addressed in this report.

The modification application has been assessed against the *Environmental Planning and Assessment Act 1979*, the Environmental Planning and Assessment Regulation 2000, relevant Environmental Planning Instruments, Development Control Plans and policies. The outcome of this assessment is detailed further in this report.

The modification application was publicly exhibited for a period of 14 days in accordance with Camden Development Control Plan 2011 (DCP). Two submissions were received (both objecting to the proposed development). **A copy of the submissions is provided with the Business Paper supporting documents.**

The issues raised in the submissions include that the premises should have a trial period; that the premises should be investigated to ensure workers are not being exploited; car parking availability; WH&S and public health concerns; inspections by appropriate authorities; that the premises is a hazardous storage establishment; undesirable influences on people attending events at Narellan Park; and negative social and economic impacts on the community.

The sex services premises is an approved land use. The premises has operated with a trial period for the extended operating hours to 3am since 1 March 2013. In that time no complaints regarding its operations have been received by the Camden Local Area Command (CLAC) or Council staff. The matters for consideration listed by the trial hours condition imposed by the Court have been considered and no issues or concerns have been identified.

The remuneration of staff or their hours of work is not a matter for Council to consider. The on-site car parking provision for the premises will not be altered as part of the proposed modification and are considered acceptable.

The modification application proposes to make the trial extended operating hours for the premises permanent. There are no additional WH&S or public health issues that require consideration by Council. The premises are still required to operate in accordance with the conditions of the original consent, including compliance with WorkCover's health and safety guidelines.

Council staff undertook inspections of the premises on 21 November 2013 and 2 April 2014. These inspections did not identify any breach of the conditions of the premises' development consent.

The application proposes modifications to an approved and operating sex services premises. Based on the assessment, it is recommended that the application be approved subject to the modified conditions contained in this report.

AERIAL PHOTO



THE SITE

The site is commonly known as 1 Kibble Place, Narellan and is legally described as lot 11, DP 834527.

The site occupies the south eastern corner of Kibble Place and Millwood Avenue. The site has frontages of 37.5m to Kibble Place and 62m to Millwood Avenue with an overall area of 2,317.8m². The site contains three buildings, car parking and landscaped areas. The building on the northern corner of the site operates as a sex services premises.

The surrounding area includes a range of industrial land uses together with their associated driveways, car parking spaces, landscaping, fencing and signage.

To the north lies Narellan Park, hockey fields and Kirkham, whilst to the east lies The Northern Road and Harrington Park. Camden Valley Way and the residential part of Narellan lies to the south, whilst the “The Links” developer estate is located to the west.

HISTORY

The relevant development history of the site is summarised in the following table:

Date	Development
28 June 2011	Refusal of DA 27/2011 for a change of use from an office building to a sex services premises
12 January 2012	Approval of DA 27/2011 for a change of use from an office building

	to a sex services premises by the Court
4 February 2013	Approval of Section 96(AA) Modification Application 27(2)/2011 for internal modifications to an approved sex services premises
1 March 2013	Occupation Certificate for the sex services premises issued by a private certifier

THE PROPOSAL

Section 96(AA) Modification Application 27(3)/2011 seeks approval to modify a reviewable condition of consent for an approved sex services premises.

The original DA for the sex services premises was refused by Council at its meeting of 28 June 2011, however was subsequently approved by the NSW Land and Environment Court (the Court) on 12 January 2012.

When the Court approved the sex services premises it permitted it to operate Monday to Sunday 9am-10pm. In addition, the Court imposed a reviewable condition allowing the premises to have extended operating hours of Monday to Sunday 10pm-3am for a trial period of 12 months, beginning once an Occupation Certificate was issued for the development.

An Occupation Certificate was issued for the premises by a private certifier on 1 March 2013 and the sex services premises has been operating since that time.

The reviewable condition required the applicant to lodge a Section 96 Modification application to make the trial operating hours permanent. The reviewable condition specified a number of matters that Council would consider in deciding whether or not to make the trial operating hours permanent. The matters to be considered include:

- (a) the implementation, management and compliance of the Plan of Management approved by Condition 6.7;
- (b) the Complaints and Incidents Register required by Condition 6.7;
- (c) any comments received by Camden Police (the application will be referred to Camden Police upon lodgement of the s96 Modification);
- (d) any comments received by Council's Compliance and Environment Branch;
- (e) any submissions received during the public notification period for the s96 Modification; and
- (f) any matters required to be considered and assessed for the purpose of the s96 Modification.

All of the above matters are addressed in this report.

The modification application proposes to delete the trial period condition and make the trial operating hours permanent.

ASSESSMENT

Pursuant to Section 96 of the *Environmental Planning and Assessment Act 1979*, the modified development is considered substantially the same as the originally approved

development. In addition, the DA has been publicly exhibited and the submissions received have been considered. An assessment against Section 79C of the *Environmental Planning and Assessment Act 1979* is provided below:

Environmental Planning and Assessment Act 1979 – Section 79(C)(1)

In determining a DA, the consent authority is to take into consideration the following matters as are of relevance in the assessment of the DA on the subject property:

(a)(i) The Provisions of any Environmental Planning Instrument

The Environmental Planning Instruments that relate to the proposed development are:

- Deemed State Environmental Planning Policy No 20 – Hawkesbury-Nepean River
- Camden Local Environmental Plan 2010

An assessment of the proposed modifications against this Environmental Planning Instrument is detailed below.

Deemed State Environmental Planning Policy No 20 – Hawkesbury-Nepean River (SEPP)

The proposed development is consistent with the aim of the SEPP (to protect the environment of the Hawkesbury-Nepean River system) and all of its planning controls.

There will be no detrimental impacts upon the Hawkesbury-Nepean River system as a result of the proposed modification.

Camden Local Environmental Plan 2010 (LEP)

Permissibility

The site is zoned IN1 General Industrial under the provisions of the LEP. “Sex services premises” are prohibited in this area, however the premises was previously approved by the Court in January 2012. This application proposes modifications to the approved conditions of consent.

Zone Objectives

The objectives of the IN1 General Industrial zone are as follows:

- To provide a wide range of industrial and warehouse land uses.

Officer comment:

This objective is not relevant to the application as it proposes modifications to an approved and operating sex services premises.

- To encourage employment opportunities.

Officer comment:

The application will help maintain the viability of the development and therefore help maintain employment opportunities.

- To minimise any adverse effect of industry on other land uses.

Officer comment:

This objective is not relevant to the application as the premise is not an industry. However Council staff have assessed how the premise has operated during its extended operating hours trial period and do not consider that it will have any adverse effects on other land uses.

- To support and protect industrial land for industrial uses.

Officer comment:

This objective is not relevant to the application as it proposes modifications to an approved and operating sex services premises.

- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.

Officer comment:

This objective is not relevant to the application as it proposes modifications to an approved and operating sex services premises.

- To enable non-industrial land uses that are compatible with and do not detract from the surrounding industrial and warehouse land uses.

Officer comment:

As aforementioned, this application proposes modifications to an approved and operating sex services premises. Council staff have assessed how the premises has operated during its extended operating hours trial period and do not consider that it is incompatible with or detracts from surrounding industrial and warehouse land uses.

(a)(ii) The Provisions of any Draft Environmental Planning Instrument (that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved)).

There is no draft Environmental Planning Instrument applicable to the proposed modifications.

(a)(iii) The Provisions of any Development Control Plan

Camden Development Control Plan 2011 (DCP)

The following is an assessment of the modified development's compliance with the controls in the DCP.

Control	Requirement	Provided	Compliance
D5.4 Sex Services Premises	Premises must not affect the	The premises has operated extended	Yes

Control	Requirement	Provided	Compliance
	amenity or cause disturbance to the surrounding neighbourhood	hours since 1 March 2013. In that time no complaints have been received by the CLAC or Council staff. In addition, the CLAC has confirmed in writing that they raise no objection to the extended hours becoming permanent. Consequently it is not considered that allowing he extended hours to become permanent will adversely affect the amenity of or cause disturbance to the surrounding neighbourhood	

(a)(iia) The Provision of any Planning Agreement that has been entered into under Section 94F, or any draft Planning Agreement that a developer has offered to enter into under Section 93F

No relevant agreement exists or has been proposed as part of this application.

(a)(iv) The Regulations

The Regulations do not prescribe any matters that are relevant to the proposed modifications.

(b) The likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

As demonstrated by the above assessment, the modified development is unlikely to have a significant impact on both the natural and built environments, and the social and economic conditions of the locality.

General Amenity Impacts

The Court's approval of the trial hours required the applicant to lodge a Section 96 modification application to make the operating hours permanent. The condition specified a number of matters that Council would consider in deciding whether or not to make the operating hours permanent. Below is a list of the matters specified by the condition and Council's staff's assessment:

- (a) the implementation, management and compliance of the Plan of Management approved by Condition 6.7;

Officer comment:

Council staff undertook inspections of the premises on 21 November 2013 and 2 April 2014. These inspections did not identify any breach of the conditions of the premises' development consent. In addition, neither the operator of the premises, the CLAC nor Council staff have received any complaints regarding the premises.

- (b) the Complaints and Incidents Register required by Condition 6.7;

Officer comment:

The applicant has advised that no complaints or incidents have been recorded on the register. Council has not received any complaints regarding the operation of the premises during the trial period.

- (c) any comments received by Camden Police (the application will be referred to Camden Police upon lodgement of the s96 Modification);

Officer comment:

The modification application was referred to the CLAC for comment.

The CLAC advised that there has been no complaints regarding the premises and raised no objection to making the extended operating hours permanent. **A copy of the response from the CLAC is provided as Attachment 1 to this report.**

- (d) any comments received by Council's Compliance and Environment Branch;

Officer comment:

Council staff undertook inspections of the premises on 21 November 2013 and 2 April 2014. These inspections did not identify any breach of the conditions of the premises' development consent. In addition, Council staff have not received any complaints regarding the premises.

- (e) any submissions received during the public notification period for the s96 Modification;

Officer comment:

The two submissions received during the public exhibition period for the modification application have been considered in the "(d) Any submissions made in accordance with this Act or the Regulations" section of this report.

- (f) any matters required to be considered and assessed for the purpose of the s96 Modification.

Officer comment:

All matters required to be considered and assessed for the modification application have been considered and assessed throughout this report.

It is not considered that the extended operating hours will have any detrimental impacts upon the general amenity of the surrounding area. The extended hours will be from 10pm-3am when the businesses in the surrounding area are not operating. In addition,

over the last 12 months the premises has operated as a discreet land use with no impacts upon surrounding properties (as evidenced by the lack of complaints received by Council staff or objections from the CLAC).

The following table outlines the proposed modifications to the conditions that were imposed on the original consent. Council staff assessment of the modifications are also provided.

Condition No.	Condition Requires	Proposed Change	Officer Comment
1.0(2) Reviewable Condition for Hours of Operation	Extended operating hours of Monday to Sunday 10pm-3am are approved for a 12 month trial period only with a Section 96 Modification application needing to be made to Council to make these extended hours permanent	That this condition be deleted to allow the extended operating hours to become permanent	Supported. It is recommended that this condition be deleted to allow the extended operating hours to become permanent
6.0(1)	This condition references condition 1.0(2)	The applicant has not proposed that this condition be modified	It is recommended that this condition be modified to delete a reference to condition 1.0(2) which is also recommended for deletion as aforementioned

(c) The suitability of the site

As demonstrated by the above assessment, the site is considered to be suitable for the modified development.

(d) Any submissions made in accordance with this Act or the Regulations

The modification application was publicly exhibited for a period of 14 days in accordance with the DCP. The exhibition period was from 14 to 28 November 2013. Council staff also notified all those persons who made a submission to the original DA for the sex services premises. Two submissions were received (objecting to the proposed modifications). **A copy of a public exhibition and submissions map is provided with the Business Paper supporting documents.** It is noted that the two submissions received were from persons outside the area shown on the map.

The following discussion addresses the issues and concerns raised in the submission and petition.

1. The premises should have a trial period as per the conditions imposed by the Land and Environment Court.

Officer comment:

The premises has operated with a trial period for the extended operating hours to 3am since 1 March 2013. In that time no complaints regarding its operations have been received by the Camden Local Area Command or Council staff. The matters for consideration listed by the trial hours condition imposed by the Court have also been considered and no issues or concerns have been identified.

2. The hours should be investigated to ensure that workers are not being exploited and are being fairly remunerated.

Officer comment:

The remuneration of staff or their hours of work is not a matter for Council to consider. Council staff undertook inspections of the premises on 21 November 2013 and 2 April 2014. These inspections did not identify any breach of the conditions of the premises' development consent.

3. Are sufficient car parking spaces available?

Officer comment:

The on-site car parking provision for the premises will not be altered as part of this application and are considered acceptable.

4. WH&S and public health concerns.

Officer comment:

The modification application proposes to make the trial extended operating hours for the premises permanent. There are no additional WH&S or public health issues that require further consideration by Council. The premises are still required to operate in accordance with the conditions of the original consent, including compliance with WorkCover's health and safety guidelines.

5. The premises should be inspected by the appropriate authorities to ensure that all required WH&S and public health practices are being undertaken.

Officer comment:

Council staff undertook inspections of the premises on 21 November 2013 and 2 April 2014. These inspections did not identify any breach of the conditions of the premises' development consent which require compliance with WorkCover's health and safety guidelines.

6. The premises is a hazardous storage establishment and is prohibited.

Officer comment:

The application proposes modifications to an approved and operating sex services premises. The premises is not defined as a "hazardous storage establishment" but rather as a "sex services premises" under Camden Local Environmental Plan 2010.

7. The proximity of the brothel to the hockey grounds is not supported and will have undesirable influences on people attending events thereon.

Officer comment:

The sex services premises was approved by the Court on 12 January 2012. This modification application only proposes to make its trial extended operating hours permanent. It is not considered the extended hours are inappropriate due to the proximity of the site to the hockey fields in Narellan Park (approximately 240m away to the north west), particularly given that the extended hours will be from 10pm-3am each day.

8. The premises will have negative social and economic impacts upon the community and is not in the public interest.

Officer comment:

The premises was previously approved by the Court and the application only proposes to make its trial extended operating hours permanent. It is not considered that the premises will have any negative social or economic impacts if it operates these extended operating hours permanently. It is also considered that the proposed modifications are not contrary to the public interest.

(e) The public interest

The public interest is served through the detailed assessment of this modification application under the *Environmental Planning and Assessment Act 1979*, the Environmental Planning and Assessment Regulation 2000, Environmental Planning Instruments, Development Control Plans and policies. Based on the above assessment, the proposed development is consistent with the public interest.

EXTERNAL REFERRALS

Camden Local Area Command (CLAC)

The modification application was referred to the CLAC for comment.

The CLAC advised that there has not been any issues or complaints regarding the premises and raised no objection to making the extended operating hours permanent.

FINANCIAL IMPLICATIONS

This matter has no direct financial implications for Council.

CONCLUSION

The modification application has been assessed in accordance with Section 79C(1) of the *Environmental Planning and Assessment Act 1979* and all relevant instruments, plans and policies. Accordingly, Section 96(AA) Modification Application 27(3)/2011 is recommended for approval subject to the modified conditions contained in this report.

CONDITIONS

1.0 - General Requirements

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

- (1) **Development in Accordance with Plans** – The development is to be in accordance with plans and documents listed below, except as otherwise provided by the conditions of this consent:

Plan / Development No.	Description	Prepared by	Dated
2895 – 8 r.m issue K	Lower Floor plan	Accurate design and drafting	15 November 2012
2895 – 8 r.m issue K	Upper Floor plan	Accurate design and drafting	15 November 2012
2895 – 8 r.m issue K	Elevations	Accurate design and drafting	15 November 2012
2895 – 8 r.m issue K	Elevations and Sections A – A	Accurate design and drafting	15 November 2012
2895 – 8 r.m issue K	Proposed Site Plan	Accurate design and drafting	15 November 2012

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

(This condition was modified by Section 96 Modification 27(2)/2011 on 4 February 2013).

- (1A) The gate between the sex services premises and residue industrial lot and door on the western elevation shall be deleted.
- (1B) Permanent external lighting to the car park area and to the entry way into the sex services premises and an additional CCTV camera is to be provided over the entry doorway for visual recognition of customers to the premises.
- (2) (This condition was deleted by Section 96 Modification 27(3)/2011 on 8 April 2014).
- (3) **Building Code of Australia** – All works must be carried out in accordance with the requirements of the *Building Code of Australia*.
- (4) **Change of Management and/or Operator** – Should the operator and/or management of the premises change from that indicated within the Plan of Management, then written notification to Council is required of the change of name and/or address.
- (5) **Deleted**
- (6) **Modification of Development Consent 257/1994** - Development Consent 257/1994 is required to be modified as referred to in s80A(1)(b) of the *Environmental Planning and Assessment Act 1979* as follows:

Land to be Developed:

Insert the word 'Part' before 'Lot 11 DP 834527, No. 1 Kibble Place, Narellan'.

Condition 1:

Insert the words 'as amended by DA27/2011 for the change of use of part of the premises for sex services premises'.

Condition 5:

Delete the condition and insert in lieu 'The parking bays shown on the site plan as amended shall be provided and maintained in accordance with DA27/2011'.

Condition 5A:

Insert a new condition: There shall be no storage of machinery, trailers or vehicles in the open manoeuvring areas within the site or in designated parking spaces.

Condition 9:

Delete the words: 'in accordance with a separate detailed landscape plan to be submitted and approved by Council prior to the occupation of buildings. The landscape plan shall include following:' and insert in lieu 'in accordance with Site Plan; Drawing No. 2895 r.m; Date 18-11-2011; Issue E'.

Delete paragraph iv).

Condition 11:

Delete the condition.

(7) **Deleted**

2.0 - Construction Certificate Requirements

- (1) **Construction Certificate Before Work Commences** – This development consent does not allow site works, building or demolition works to commence, nor does it imply that the plans approved as part of the development consent comply with the specific requirements of *Building Code of Australia*. Works must only take place after a Construction Certificate has been issued, and a Principal Certifying Authority (**PCA**) has been appointed.
- (2) **New Parking Spaces** – A minimum of eight (8) car parking spaces including one space for people with disabilities must be provided for the sex service premises.
- (3) Car parking must be designed and provided as indicated on the approved plans except as required to:
 - conform with *Camden Council's Car Parking Development Control Plan 2010 (CP DCP)* and relevant Engineering Specifications.
 - ensure parking allocation for people with disabilities is designed and constructed to comply with AS/NZS 2890.6 – 2009;
 - ensure spaces and aisles widths are otherwise compliant with AS/NZS 2890.1: 2004.

Prior to the issue of a Construction Certificate the plans shall be amended to reflect the above.

- (4) **Car park requirement** – Car parking provided for the sex services premises is not to extend beyond the area enclosed by the security mesh fence shown in Plan Sheet 4 Issue E dated 18 November 2011.
- (5) **Signposting** – Prior to an Occupation Certificate being issued, car parking spaces No 1 and No 4 of the sex services premises shall be signposted in the following way:
 - (a) space No 1 - to be signposted as staff parking only; and
 - (b) space No 4 – to be signposted to require rear to fence parking.
- (6) **Existing Parking Spaces** – The remainder of the site shall be provided with nine (9) car parking spaces as indicated on the site plan.. The car parking area must be designed in accordance with AS2890.1 off-street car parking and AS 2890.5. Documentary evidence of compliance from an Accredited Certifier or suitably qualified person must be submitted to the Principal Certifying Authority **prior to the Construction Certificate being issued.**
- (7) **Fire Safety Upgrade** – Pursuant to Clause 94 of *the Environmental Planning and Assessment Regulation 2000* the existing building is to be upgraded, as Camden Council considers that the measures contained in the building are inadequate:
 - to protect persons using the building and to facilitate their egress from the building in the event of fire; and
 - to restrict the spread of fire from the building to other buildings nearby.

Compliance with the following parts of the Building Code of Australia is to be achieved in the fire safety upgrade of the existing building:

- a) Required exit doors shall be upgraded to comply with Part D2.20 and D2.21 of the Building Code of Australia.
- b) Doors in the path of travel to an exit shall be upgraded to comply with Part D2.21 of the Building code of Australia.
- c) Doorways and doors to comply with Part D2.19 of the Building Code of Australia.

Details on the method of compliance are to be submitted to the Certifying Authority **prior to the issue of a Construction Certificate.**

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

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

- (9) **Structural Certification (Existing Building)** - A practising structural engineer must certify that the existing building is structurally capable of supporting the loads imposed by the proposed development. A copy of the certificate shall accompany the application for a Construction Certificate.
- (10) **Crime Prevention through Environmental Design** – The applicant is to submit to Council a schedule of measures proposed to be implemented in the construction of the development in order to minimise the risk of crime. Details are to be provided **prior to the release of the Construction Certificate**. Such measures are to be consistent with the conditions outlined in the recommended conditions of consent noted by the NSW Police Camden Local Area Command assessment dated 2 February 2011, attached to this development consent.
- (11) **Section 94 conditions - Prior to the issue of any Construction Certificate**, the following Section 94 contributions shall be paid at Camden Council. Documentary evidence must be provided to the Principal Certifying Authority that the below payments have been made;
- (a) Pursuant to **Contributions Plan No 3** amended in February 1998, a contribution must be paid to Council of \$54,128.00 per hectare, totalling \$1,550.00, for **Trunk Drainage, Water Quality Facilities and Professional Services**.
- The contribution must be indexed by the Consumer Price Index and paid **prior to issue of the Construction Certificate**.
- The monetary contribution may at the sole discretion of Council be offset by the value of land transferred to Council or by works in kind. Such works cannot commence until an agreement is made with Council pursuant to
- (b) Pursuant to **Camden Contributions Plan** amended in July 2004, a contribution must be paid to Council of \$9.10 per square metre, totalling \$2,606.00, for **Community Facilities**.
- The contribution must be indexed by the methods set out in Paragraph 2.4 of the Plan and paid **prior to issue of the Construction Certificate**.
- The monetary contribution may at the sole discretion of Council be offset by the value of land transferred to Council or by works in kind. Such works cannot commence until an agreement is made with Council pursuant to the Contributions Plan. If such an agreement is to be undertaken, it must be signed **prior to the release of a Construction Certificate**.
- (c) Pursuant to **Camden Contributions Plan** amended in July 2004, a contribution must be paid to Council of \$4,183.00 per hectare, total \$120.00, for **s94 Administration and Management**.
- The contribution must be indexed by the methods set out in Paragraph 2.4 of the plan and **paid prior to issue of the Construction Certificate**.
- (12) **Payment of Long Service Levy** - The Long Service Levy payment must be paid **prior to a Construction Certificate being issued**. Documentary evidence must be submitted to the Principal Certifying Authority verifying that payment has been made.

3.0 - Prior To Works Commencing

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

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

4.0 During Construction

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

- (1) **Site Management** – To safeguard the local amenity, reduce noise nuisance and to prevent environmental pollution during the construction period, the following practices are to be implemented:
 - The delivery of materials shall only be carried out between the hours of 7.00am and 6.00pm, Monday to Friday, and between 8.00am – 4.00pm on Saturday.
 - Stockpiles of topsoil, sand, aggregate, spoil or other material shall be kept clear of any drainage path, easement, natural watercourse, kerb or road surface and shall have measures in place to prevent the movement of such material off the site.
 - Builder's operations such as brick cutting, washing tools, concreting and bricklaying shall be confined to the building allotment. All pollutants from these activities shall be contained on site and disposed of in an appropriate manner.
 - Waste must not be burnt or buried on site, nor should wind blown rubbish be allowed to leave the site. All waste must be disposed of at an approved Waste Disposal Depot.
 - A waste control container shall be located on the development site.
- (2) **Hours of Work** – The hours for all construction and demolition work are restricted to between:
 - (a) 7.00am and 6.00pm, Monday to Friday (inclusive);
 - (b) 7.00am and 4.00pm Saturday (if construction noise is inaudible to adjoining residential properties), otherwise 8.00am and 4.00pm;
 - (c) work on Sunday and Public Holidays is prohibited.
- (3) **Roofwater to Street** - The roof of the subject building(s) shall be provided with guttering and downpipes and all drainage lines, including stormwater drainage lines from other areas and overflows from rainwater tanks, conveyed to the street gutter.

Connection to the street gutter shall occur at the existing drainage outlet point in the street gutter. Where no existing stormwater kerb outlet is provided, a Public Road Activity application, with the designated fee, must be lodged with and approved by Council, prior to the carrying out of any drainage work, which includes connection to the gutter, within the Road reserve.

All roofwater must be connected to the approved roofwater disposal system immediately after the roofing material has been fixed to the framing members. The Principal Certifying Authority (PCA) must not permit construction works beyond the frame inspection stage until this work has been carried out

5.0 - Prior To Issue Of Occupation Certificate

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

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

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

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

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

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

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

- (a) must cause a copy of the certificate (together with a copy of the current fire safety schedule) to be given to the Commissioner of New South Wales Fire and Rescue, and
- (b) must cause a further copy of the certificate (together with a copy of the current fire safety schedule) to be prominently displayed in the building.

- (3) **Required Inspection** - Where the Consent Authority is not the Principal Certifying Authority (PCA), an additional inspection of the premises must be undertaken by the Consent Authority **prior to the issuing of the Occupation Certificate**.

6.0 - Operational Conditions

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

- (1) **Hours of Operation** - The hours of operation for the approved land use are Monday to Sunday: 9.00am to 3.00am.

All vehicle movements related to deliveries and any other operations associated with the operation of the premises must be restricted to 7.00am and 6.00pm, Monday to Friday.

Any alteration to the above hours will require the prior approval of the Consent Authority.

(This condition was modified by Section 96 Modification 27(3)/2011 on 8 April 2014).

- (2) **Number of Sex Workers** – The maximum number of sex workers shall not be more than five (5) at any one time.

- (3) **Security Personnel** – Security personnel shall be employed and present on the site between 8.00pm and 3.00am, or until such time as the last staff member has left the premises.

- (4) **Maintenance of Operation** – The premises is to strictly operate in accordance with the WorkCover publication, Health and Safety Guidelines for Brothels 2001 and in addition to the following requirements:

(a) The premises must be maintained in a clean, sanitary condition and kept in a satisfactory state of repair at all times.

(b) Clean linen and towels must be provided for the use of each client.

(c) Adequate receptacles with fitting lids must be provided for the separate storage of used and clean linen.

(d) All linen, toweling and other bed coverings which come into contact with clients must be changed immediately after each use. While the premises is operating, coverings used on beds, furnishings or the like must be regularly changed.

(e) Used and clean linen must be stored separately and if laundering is carried out on site, adequate, sealable receptacles are to be used.

(f) All mattresses used for sex must be fitted with washable mattress covers. It is recommended that covers are made from a waterproof material. Mattresses with minimal linen cover must be waterproof. While the premises is operating all coverings used on beds, furnishing or the like that are visibly stained with body fluids must be immediately changed.

- (g) Evidence of a commercial contract to launder linen must be provided or a commercial washing machine capable of washing at a temperature of not less than 70°C must be installed.
- (h) All workrooms must be provided with an adequate level of lighting to allow sex workers to conduct health checks on their clients for any visible signs of sexually transmittable diseases.
- (i) An adequate supply of condoms, dental dams and water based lubricant must be supplied free of charge for sex workers and their clients.
- (j) All hazardous waste including sharps waste must be stored in an appropriate container and disposed of in accordance with the DECCW's requirements.
- (k) All required wash hand basins must be provided with an adequate supply of potable warm water under mains pressure, mixed through a common outlet, together with a bactericidal pump action soap and single use towels or electric hand dryers.
- (l) Waterproof waste bins fitted with disposable plastic liners must be provided in all rooms for the disposal of used condoms, soiled paper and other waste products of sexual activity.
- (m) Current written information such as pamphlets, brochures and notice board displays in a variety of languages, on sexually transmitted infectious diseases and occupational health and safety material, must be made available to all sex workers. Sex workers must be given access to health service providers for information and educational activities on disease transmission issues.
- (n) All sex workers must receive appropriate induction, be adequately trained and continually be provided with updated information about how to examine clients for any visible evidence of sexually transmittable disease. Examination of clients must be conducted before any sexual contact.
- (o) The following sign must be displayed on the premises in a prominent position, accessible to all sex workers, including but not restricted to the staff notice board, and must state the following information in typed print in a clearly legible font not less than 6 millimetres in size; *“Under Section 13 of the Public Health Act 1991, any person who knows that they are suffering from a sexually transmittable disease and then has sexual intercourse with another person is committing an offence, unless the person has been informed of the risk and has voluntarily agreed to accept the risk. Similarly, the proprietor is also guilty of an offence if they knowingly permit sex workers suffering from a sexually transmittable disease to have sexual intercourse with other persons at their premises unless the client has been informed of the risk and has agreed to accept the risk.”*
- (p) A cleaning register is to be kept on the premises at all times and must be made available for inspection to the Consent Authority. The register must include, but not be restricted to, date/time of all cleaning activities, printed name and signature of the employee(s) conducting the cleaning and notation of specific areas requiring spot cleaning attention.
- (q) Provisions must be made for the storage of trade waste bins within the premises. The operator must enter into a commercial contract for the removal of waste and hazardous waste, with a copy of these receipts kept on the premises.

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- (5) **Selling and Preparation of Food** – The preparation and selling of food on the premises is prohibited. Where there is a requirement to prepare and sell food on the premises, a separate development application must be lodged with the Consent Authority.
- (6) **Selling or Offering of Alcohol** – The selling or offering of alcohol on the premise is prohibited.
- (7) **Plan of Management** – Notwithstanding any other condition of this development consent, the sex services premises must strictly operate in accordance with the approved Plan of Management at all times (titled Plan of Management, Sex Services Premises, 11 Millwood Road, Narellan). The Plan of Management shall be submitted to Council prior to the opening of the business with the following amendments to be included:
- (a) a section for the handling of incidents or complaints associated with the operation of the premises. This shall include a separate Complaints and Incidents Register which includes:
 - i. complaint or incident date and time;
 - ii. nature of complaint or incident;
 - iii. name, contact and address details of person(s) making the complaint;
 - iv. action taken by the operator to resolve the complaint or incident;
 - (b) Section 2.4 of the Plan to be amended to also include the Police, should they require access to the files.
 - (c) Include that no food or alcohol is to be served/sold at the premises.
- The premises' operator and manager must ensure compliance with the approved Plan of Management.
- (8) **Lighting** - To ensure the safety of all staff and visitors as they arrive, use and leave the premise, adequate lighting must be provided to all entrances and exits of the sex services premise.
- (9) **Public Display** – The premise must not display sex related products, sex workers or nude or semi-dressed staff from windows, doors or outside of the premise.
- The interior of the premise must not be visible from any place in the public domain.
- (10) **Security Measures for the Premises** – The following safety and surveillance systems shall be incorporated within the building:
- (a) secure entry and controlled internal and external access points that have a remote door release mechanism;
 - (b) the design of the working rooms must include entry doors that do not lock and intercoms and duress alarm systems which are linked to a central base and monitored at all times; and

(c) a mechanical surveillance system (i.e. CCTV) to be installed on the exterior walls of the building which provide surveillance around the entire perimeter of the building and all entry and exit points.

The operator of the premises is responsible for the good working order of the system at all times and must be in operation during all times of the premises' opening hours.

- (11) **Swimming Pools** - No swimming pool or spa pool is permitted without development consent.
- (12) **Amenity** - The business shall be conducted and patrons controlled at all times so that no interference occurs to the amenity of the area, adjoining occupations, and residential premises.
- (13) **Signs** – Any proposal for an advertising sign or advertising structure requires development consent.
- (14) **Offensive Noise** - The use and occupation of the premises, including all plant and equipment installed thereon, must not give rise to any offensive noise within the meaning of the *Protection of the Environment Operations Act 1997*.

RECOMMENDED

That Council approve Section 96(AA) Modification Application 27(3)/2011 for the modification of a previously approved sex services premises at 1 Kibble Place, Narellan premises subject to the modified conditions listed above.

ATTACHMENTS

1. Safer By Design Evaluation - NSW Police Force
2. Submissions - *Supporting Document*
3. Public Exhibition and Submissions Map - *Supporting Document*

ORDINARY COUNCIL

ORD03

ORD03

SUBJECT: EMERALD HILLS REZONING

FROM: Acting Director Governance

TRIM #: 14/29147

PREVIOUS ITEMS: ORD03 - Emerald Hills rezoning - Ordinary Council - 22 October 2013

PURPOSE OF REPORT

The purpose of this report is to provide Council with an update following the public exhibition of the Emerald Hills planning package, and to seek a Council resolution to:

- endorse the planning package which includes the amended Indicative Layout Plan (ILP), Camden LEP 2010 map amendments, Camden DCP 2011 amendments, Voluntary Planning Agreement, amended Planning Proposal and supporting documentation;
- forward the planning package to Planning and Infrastructure so that the planning proposal can be made;
- enter into the Emerald Hills Voluntary Planning Agreement; and
- adopt the amendments to Camden DCP 2011 for the Emerald Hills site.

BACKGROUND

The Emerald Hills site is bound by Camden Valley Way, Raby Road, St Andrews Road and the Sydney Water Upper Canal. The total area of the site is 151.1 hectares and the land is currently zoned RU2 Rural Landscape under the Camden LEP 2010. A location plan of the site is **provided as Figure 1 in this report**.

The Emerald Hills rezoning proposes to create 1,280 residential lots with approximately 4,100 residents, and proposes to rezone the land from the existing RU2 Rural Landscape zone to a combination of R2 Low Density Residential, B2 Local Centre, E2 Environmental Conservation and SP2 Infrastructure zones.

A key component of the rezoning is the retention of over 20 hectares of remnant Cumberland Plain Woodland (CPW) at the north-eastern corner of the site. The CPW will be zoned E2 Environmental Conservation and the proponent intends that this land will become a Biobanking site.

At the meeting of 14 February 2012, Council considered a report on a planning proposal to rezone the land for urban purposes. Council subsequently resolved to:

- Support the Planning Proposal to amend the Camden Local Environmental Plan 2010 as outlined in this report;*
- Forward the Planning Proposal to the Department of Planning and Infrastructure for Gateway Determination*
- Upon receipt of a favourable Gateway Determination:*
 - Obtain written agreement from the proponent to fund all the costs associated with the planning proposal,*
 - Consult relevant Public Authorities in accordance with the terms of the Gateway Determination;*

- iv. Subject to (iii (a)) above and following the conclusion of further studies and technical advice, prepare a further report to Council prior to the public exhibition period.

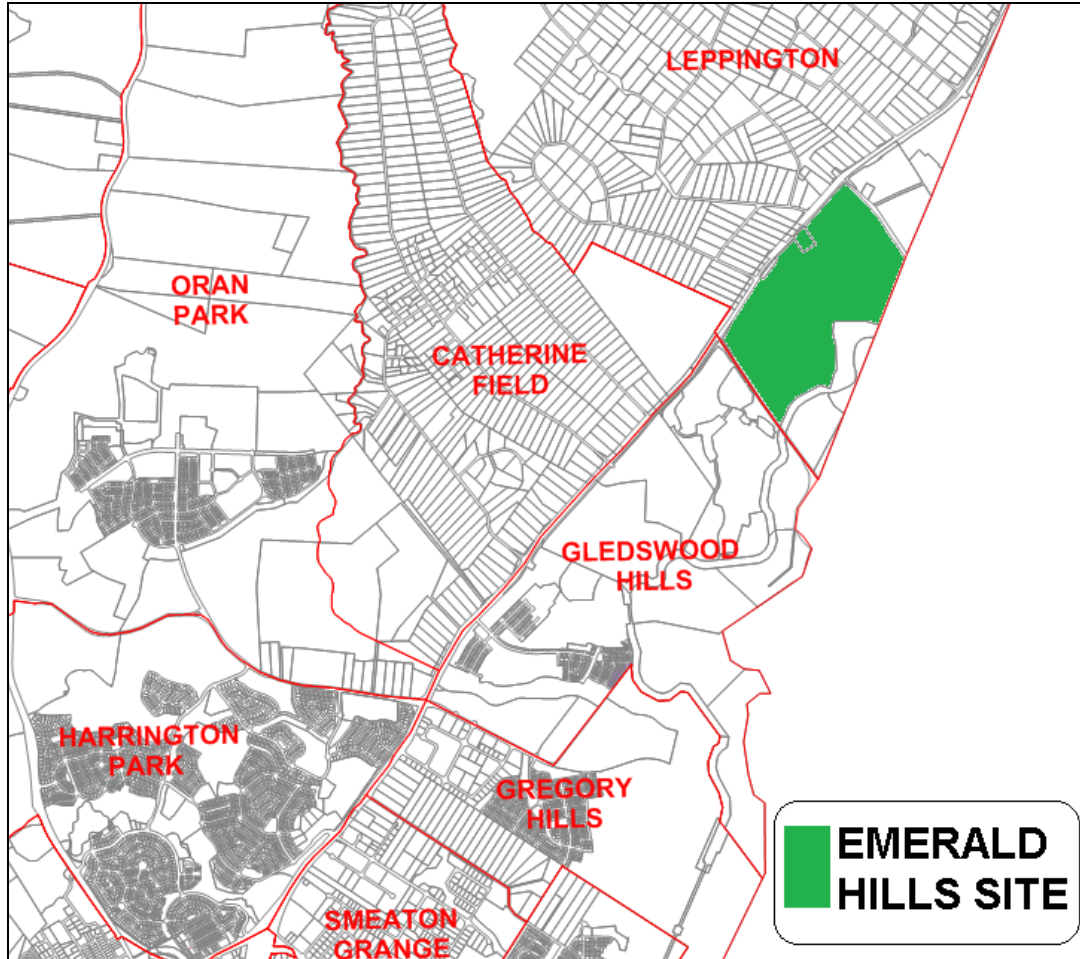


Figure 1 – Location plan for Emerald Hills site

Council received a Gateway Determination from Planning and Infrastructure on 8 July 2012 which advised that the Planning Proposal may proceed. Following the receipt of the Gateway Determination, officers obtained written agreement from the proponents to fund all of the costs associated with the planning proposal and prepared a detailed project plan and probity plan to guide the planning process.

The Emerald Hills rezoning was workshopped with Council on 8 October 2013 and a subsequent report was considered at the meeting of 22 October 2013, where Council resolved to endorse the planning package for Emerald Hills and to proceed to public exhibition and state agency consultation.

Following the public exhibition and state agency consultation period, a follow-up workshop was held with Council on 11 March 2014 to provide an update regarding the submissions received during the exhibition period, and to review the amended land zoning and dwelling density provisions contained in the amended planning package.

MAIN REPORT

Exhibition period and submissions

The Emerald Hills planning package was exhibited from 30 October to 27 November 2013, and in accordance with the Council resolution and Gateway Determination, state agencies were also provided with the opportunity to comment. A total of thirteen submissions were received including ten state agency submissions, one submission from Campbelltown Council, and two resident submissions. The content of the submissions and detailed responses and actions to all submissions are **tabled in Attachment 1 to this report**. Four of the more substantial agency submissions are discussed in greater detail below.

Transport for NSW (TfNSW) inclusive of RMS

Issue

TfNSW requested that a 43m road reservation be provided to accommodate future road widening of Raby Road to a 'transit boulevard' standard, which includes four travel lanes and two bus lanes (six lanes in total).

Response

The draft ILP and Land Acquisition Map for Emerald Hills sets aside land to facilitate a 29.4m road reservation width for Raby Road. This includes a widening of the existing road reservation by 9.3m to 12.3m into the Emerald Hills site. This width is consistent with the approved road width of Gregory Hills Drive which also has 'transit boulevard' status.

The topographical constraints and existing land holdings along Raby Road present significant challenges to achieving a road reservation width of 43m to facilitate the future construction of a six lane 'transit boulevard'. A 29.4m road reservation with four travel lanes is considered to be a more appropriate outcome. TfNSW understands this issue and has advised that the planning proposal may proceed, with Council officers to participate in a future working group with TfNSW and RMS regarding Raby Road.

Issue

TfNSW requested that St Andrews Road be provided with a 35m road reservation to accommodate a future sub-arterial road.

Response

The existing road reservation at St Andrews Road is sufficient to accommodate a four lane road with narrow verges. Further widening of St Andrews Road is constrained by the residential land to the north (which was rezoned via the East Leppington rezoning) and the Cumberland Plain Woodland (CPW) which is proposed to be zoned E2 Environmental Conservation under the Emerald Hills rezoning, and is intended to be Biobanked as part of the biodiversity offset strategy for Emerald Hills.

TfNSW have noted the constraints associated with St Andrews Road and have advised that a review of the South West Growth Centre Road Network Strategy will commence shortly. Council officers will participate in a future working group with TfNSW and RMS to determine the most appropriate outcome for St Andrews Road. TfNSW has advised

that the planning proposal may proceed prior to the resolution of the road reservation width for St Andrews Road.

Office of Environment and Heritage (OEH)

Issue

OEH requested that greater certainty be provided regarding the protection of the CPW at the north-eastern corner of the site, and that clarification be provided regarding the method of offsetting the removal of the CPW scattered across the remainder of the site.

Response

The planning proposal intends to zone the CPW land as E2 Environmental Conservation. This zoning provides for the fundamental protection of this land by restricting the permissible uses on the land, and by preventing any future development that is not related to the conservation of the land.

Planning and Infrastructure has advised that applying an E2 Environmental Conservation zoning to the land provides a sufficient level of protection for the land to enable the planning proposal to proceed. Planning and Infrastructure further advised that biodiversity offsetting is a matter which can be resolved prior to development consent being granted on the Emerald Hills site.

It is also noted that the proponent intends to lodge a Biobanking Application with OEH to enable the CPW land to become a Biobanking Site under the *Threatened Species Conservation Act 1995*. This will provide certainty regarding the enhancement and maintenance of the CPW land into the future, and will also establish the site's role in meeting the necessary biodiversity offset credits to permit the removal of the scattered CPW across the remainder of the site.

To inform the proposed Biobanking Agreement, the proponent commissioned the preparation of a Biodiversity Certification Assessment Report (BCAR) to identify the number of biodiversity credits required to offset the proposed CPW removal. The BCAR report has been reviewed by OEH and Council officers and is supported in principle. The BCAR is included in the suite of specialist studies referenced later in this report.

The BCAR identifies that the proponent must enter into a Biobanking Agreement with the OEH for the 20.27 hectares of CPW located within the E2 Environmental Conservation zoned land at Emerald Hills, as well as acquiring off-site credits. To achieve this, the proponent has acquired land at The Oaks which contains a significant amount of CPW. The BCAR also identifies that it is necessary to Biobank both of these sites in order to generate sufficient overall credits to offset the proposed CPW removal on the Emerald Hills site.

The proposed Biobanking Agreements will need to be finalised prior to granting of development consent for any works which require the removal of CPW on the site, as the proponent will need to demonstrate compliance with the *Threatened Species Conservation Act 1995* via future development applications on the site

Department of Education and Communities (DEC)

Issue

DEC provided criteria which needed to be considered in determining the appropriateness of future school sites, including the size of the site, accessibility, traffic management, car parking, and adequate road frontage for bus access.

Response

Council officers and the proponent met with DEC officers to review the proposed primary school site at Emerald Hills. As a result of this meeting, the ILP was amended by reconfiguring the school and double playing field sites to allow pedestrian and vehicular access to be improved. The road hierarchy diagram shown at Figure C70 in the draft DCP controls for Emerald Hills was amended to indicate the provision of a roundabout at the front of the school site which provides shared vehicular access to both the school site and adjacent double playing fields. The roundabout will be constructed at the proponent's cost as part of the internal road network under the draft Emerald Hills VPA. Following these changes, DEC has advised Council in writing that it is now satisfied with the proposed school site.

Heritage Council of NSW

Issue

The Heritage Council of NSW reiterated the previous comments and associated requirements received during the pre-exhibition agency consultation, including the submission of a photographic archival record, the preparation of a heritage interpretation strategy, and the commencement of an Aboriginal Cultural Heritage Assessment (ACHA).

Response

The background of the Emerald Hills site is that it housed the former St Andrews Home for Boys which was established in 1934 and used in various capacities until 1987. The buildings on the site were never listed as items of local, state or national heritage significance.

Council granted development consent on 17 February 2011 to demolish the existing buildings on the site, with demolition commencing on 11 April 2012. The demolition was suspended in July 2012 due to a Gateway Determination condition which required heritage assessment of the site to be undertaken. This assessment was finalised in late February 2013 and a detailed review was undertaken in consultation with the Heritage Branch of the Office of Environment & Heritage. In light of the partial demolition of the buildings on the site, and the recent State Heritage Listing of 'Tocal' (located in the Dungog Shire) which is considered to be a better and more complete example of the architectural style featured in the buildings of the St Andrews Home for Boys, it was considered appropriate that the remaining buildings be demolished following the preparation of an archival photographic record. Subsequently, an archival photographic record was prepared and the demolition of the buildings was completed in June/July 2013.

In response to the Heritage Council's comments, the proponent has edited the archival photographic record by digitally lightening the photographs to improve legibility. The draft DCP controls for Emerald Hills includes specific controls relating to Aboriginal and European heritage which require the preparation of a heritage interpretation strategy prior to the lodgement of development applications for the proposed public open space in the vicinity of the former school site.

Amended planning package

The exhibited planning package has been updated to reflect the matters discussed throughout this report, along with minor corrections and amendments. The amended planning package comprises the following documents:

- Amended planning proposal which includes proposed amendments to the Camden LEP 2010 which **is included as Attachment 2 to this report;**
- Draft amendment to Camden DCP 2011 for Emerald Hills which **is included as Attachment 3 to this report;**
- Draft Indicative Layout Plan which **is shown at Figure 3 in this report;**
- Draft VPA which **is provided under separate cover as Attachment 4 to this report; and**
- Specialist Studies which due to their physical size, have been **provided to Councillors in electronic format via CD under separate cover.**

The amendments to the planning package are discussed below.

Indicative Layout Plan

The Indicative Layout Plan (ILP) for Emerald Hills has been amended as follows:

- The environmental conservation land has been shown in brown which provides greater contrast against the adjacent low density residential land. This amendment **is indicated by the number '1' on both the exhibited and amended ILPs;**
- Following consultation with DEC, the proposed primary school site (shown pink on the ILP) has been amended so that the location of the shared vehicular access to both the school site and double playing fields is now shown in grey. This amendment **is indicated by the number '2' on both the exhibited and amended ILPs;** and
- The proposed cul-de-sac within the development have been amended by showing a round turning head instead of a square turning head. This is a visual change on the ILP only and has no material impact upon the actual road network design.

The exhibited ILP **is shown at Figure 2 below** and the amended ILP **is shown at Figure 3 on the following page.**

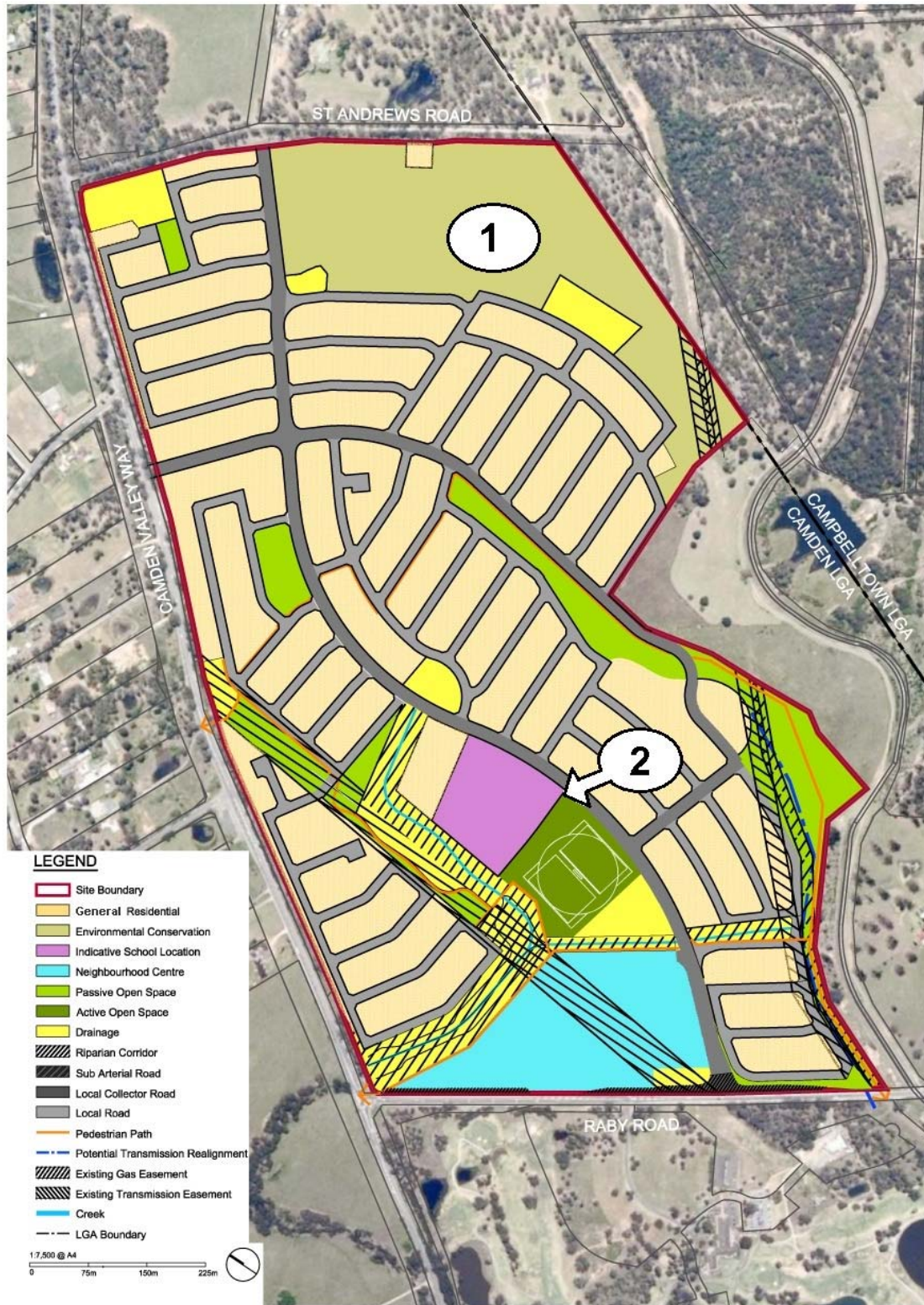


Figure 2 –exhibited Emerald Hills ILP (November 2013)



Figure 3 – amended Emerald Hills ILP (March 2014)

Dwelling density controls and zoning

The draft planning proposal and draft Emerald Hills DCP controls have been amended in response to Councillor comments at the workshop of 8 October 2013 and the subsequent Council meeting on 22 October 2013. The amendments provide certainty regarding the land zoning, location of different lot sizes and types, and the proposed residential density at Emerald Hills.

Land zoning via planning proposal

The planning proposal was exhibited with a R1 General Residential zoning applying to the residential component of the Emerald Hills site. The intention of this land zoning was to maintain consistency with the land zoning applied in similar urban release areas in the Camden LGA. The R1 General Residential zone permits a wide range of residential and non-residential land uses subject to development consent, including dwelling houses, attached dwellings, semi-detached dwellings, multi dwelling housing and residential flat buildings. The exhibited Land zoning Map is shown at **Figure 4 below**.

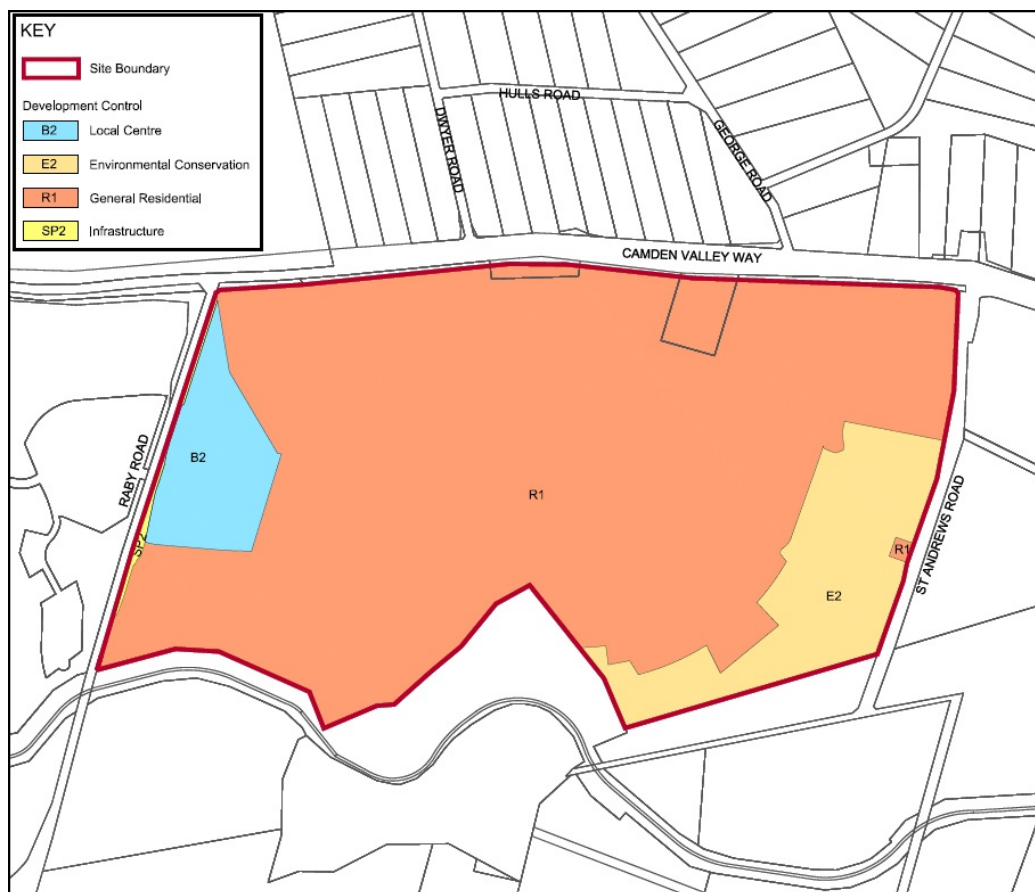


Figure 4 – Exhibited draft Land Zoning Map with R1 General Residential

Following the exhibition of the Emerald Hills planning package, Council officers and the developer have reviewed the intended future land uses on the Emerald Hills site. The developer has confirmed that they have no intention of developing residential flat buildings, multi dwelling housing, attached dwellings and semi-detached dwellings at Emerald Hills. As a result, alternative zoning options for the residential component of Emerald Hills were investigated.

The R2 Low Density Residential zone only permits dwelling houses and dual occupancies with development consent, whilst all other forms of residential development are prohibited in this zone. This is consistent with the developer's intentions for Emerald Hills and facilitates a low density urban outcome. Accordingly, the R2 Low Density Residential zone is considered to be the most appropriate residential zoning for Emerald Hills.

The amended Land Zoning Map is shown at **Figure 5 below**.

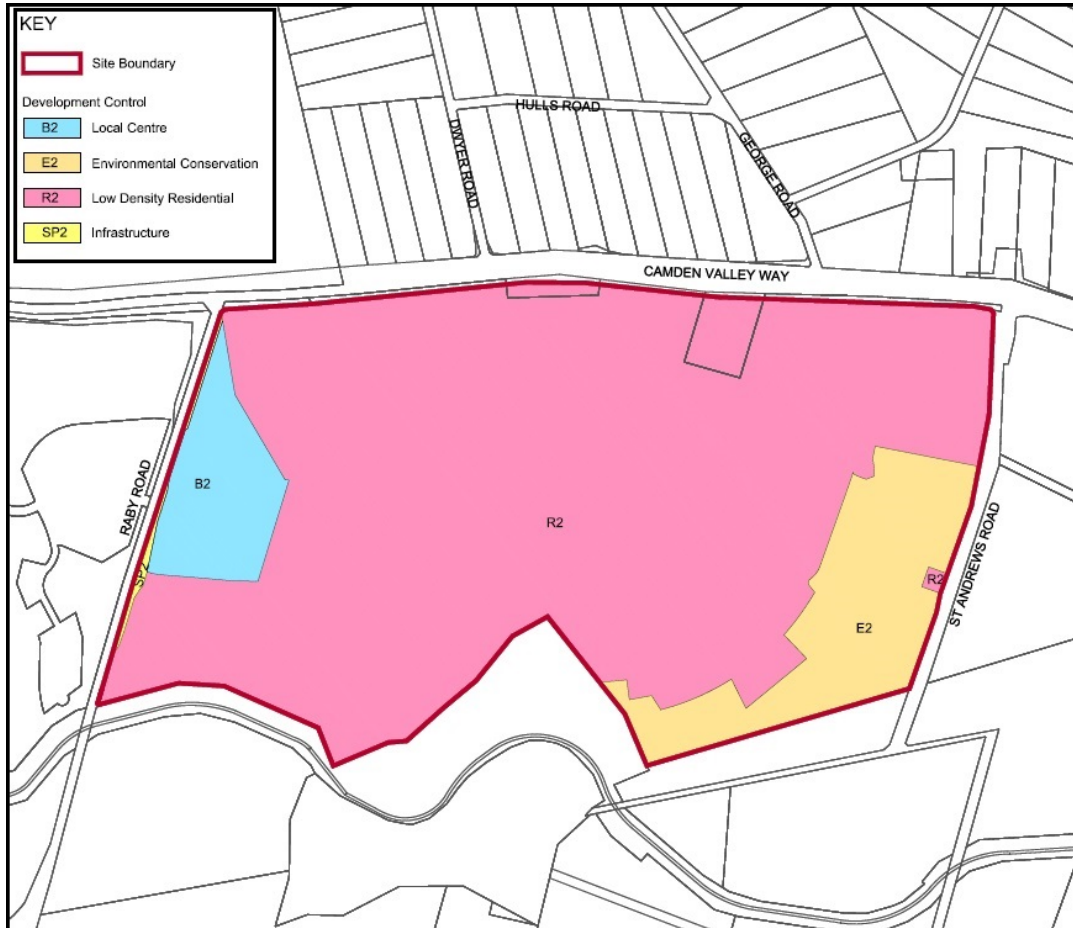


Figure 5 – Amended draft Land Zoning Map with R2 Low Density Residential

Exhibition homes as an Additional Permitted Use

Amending the zoning from R1 General Residential to R2 Low Density Residential results in exhibition homes becoming a prohibited land use in Emerald Hills, as exhibition homes are prohibited in the R2 General Residential zone under the Camden LEP 2010. The proponent has advised that they intend to incorporate exhibition homes into the first stage of development at the southern corner of the site fronting Raby Road. To enable this to occur, the planning proposal has been updated to include an amendment to Schedule 1 (Additional Permitted Uses) of Camden LEP 2010 which permits exhibition homes on part of the Emerald Hills site, and the Additional Permitted Uses map will be updated to show the subject land with a heavy blue outline. The draft Additional Permitted Uses map **is shown at Figure 6 below**.

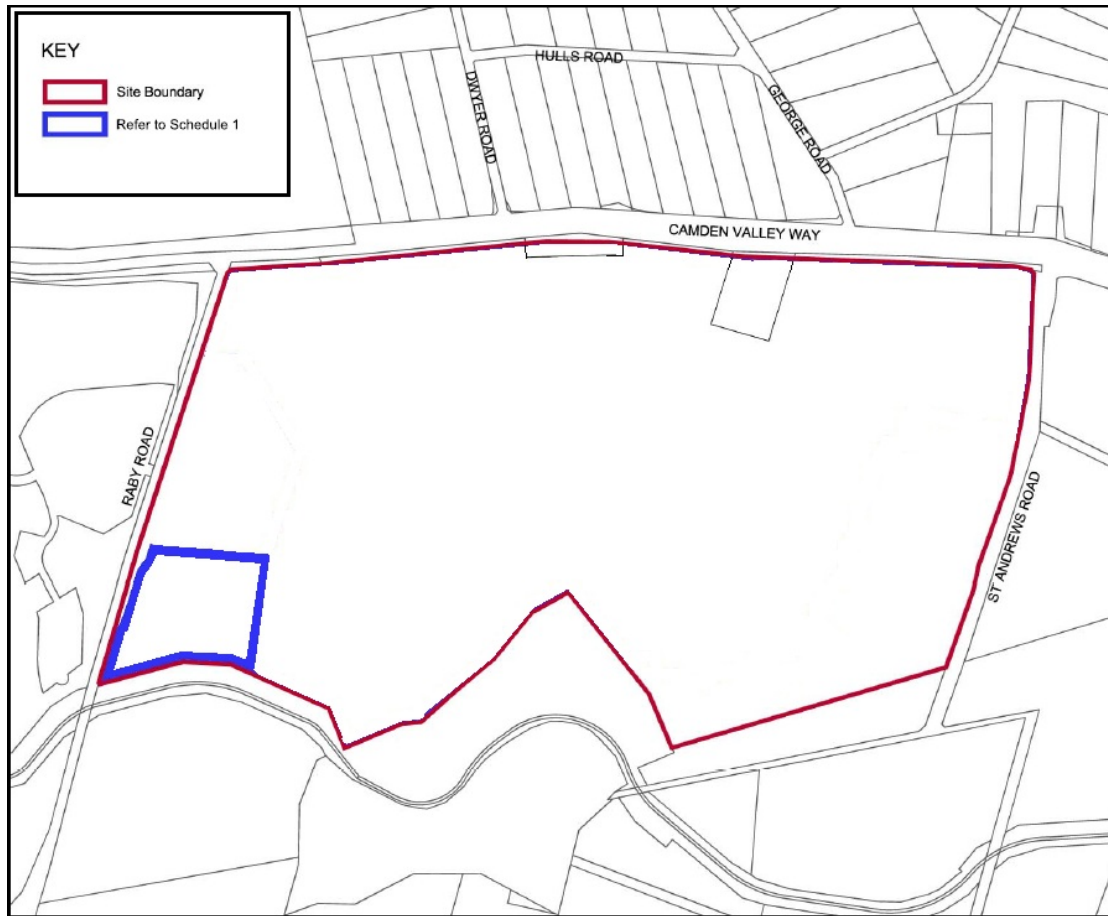


Figure 6 – draft Additional Permitted Uses Map

The amendment to the Land Zoning Map is considered to be minor given that the R2 Low Density Residential zone will continue to facilitate the development of dwelling houses and dual occupancies at Emerald Hills. These development types are in-keeping with the intended low density urban environment envisaged by Council and the proponents, and will continue to deliver a maximum of 1280 dwellings as noted in the exhibited planning package.

The amendments to the planning proposal do not require re-exhibition as there are no significant changes to the principles and objectives of the exhibited planning proposal.

Amendments to draft Emerald Hills DCP controls regarding dwelling density

The draft Emerald Hills DCP controls have been amended to correlate with the change in zoning from R1 General Residential to R2 Low Density Residential, and to provide greater certainty regarding the maximum dwelling density to be delivered on the site. The amendments to the DCP associated with dwelling density are summarised as follows:

- a) Re-wording several objectives and controls to reinforce the low-density nature of Emerald Hills;
- b) A dwelling density cap of 1280 dwellings and 15 dwellings per hectare;
- c) A dwelling density map which shows the land included in the dwelling density calculations shaded pink, along with the possible locations of smaller residential lots at Emerald Hills hatched red; and

d) A list of the range of lot sizes which will be provided to achieve the dwelling density prescribed under the DCP, including:

- Smaller lot housing (single or two storey detached, semi-detached or zero lot line dwellings) on 220-300m² lots in areas of high amenity as shown hatched red on the Dwelling Density Map;
- Conventional low density housing lots of between 300-600m² which allow for single or two storey detached dwellings; and
- Large lots of between 1,000 and 4,000+ m² which are located where attention to landscape visual character, environmental protection, and management of bushfire hazard and noise impact is required.

The locations for smaller residential lots on the dwelling density map have been chosen because of their proximity to the local centre, school, active and passive open space areas, environmental conservation land and bus routes.

The dwelling density map is shown at Figure 7 below.



Figure 7 – Dwelling Density Map

Other planning proposal amendments

Height of Buildings Map

The exhibited Height of Buildings Map proposed a maximum height of 12.5m for the local centre, 15.5m for residential flat buildings, 8.5m for buildings on the visually prominent ridgeline, and 9.5m for the remainder of the site. The exhibited Height of Buildings Map is shown at Figure 8 below.

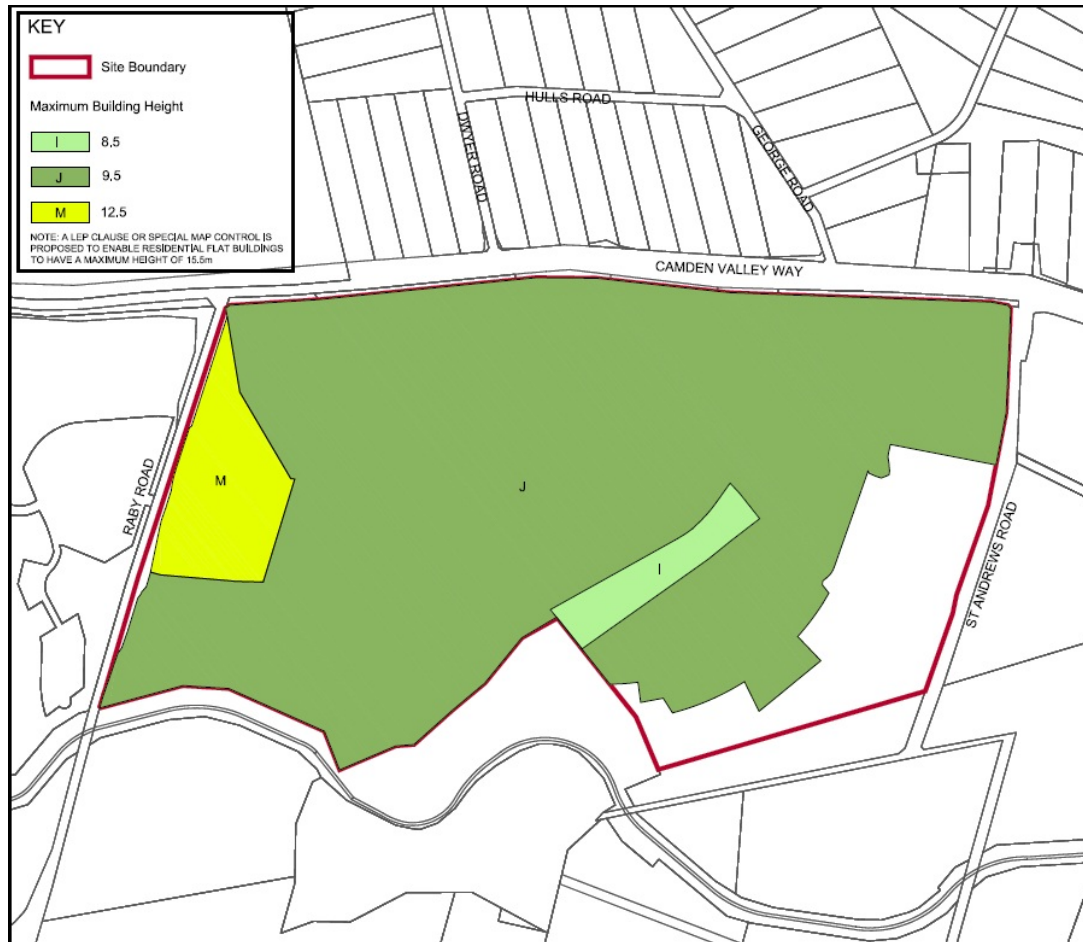


Figure 8 – Exhibited Height of Buildings Map

The notation regarding a 15.5m height limit for residential flat buildings has been deleted from the legend of the Height of Buildings Map as the change in zoning from R1 General Residential to R2 Low Density Residential means that residential flat buildings are now prohibited.

The proposed height limit of 8.5m along the ridgeline has been replaced with a height limit of 9.5m which is consistent with the rest of the R2 Low Density zoned land. This amendment has occurred as a result of detailed design work undertaken by the proponent which demonstrates that the ridgeline can be lowered by 3m during the bulk earthworks on the site, rather than 2m as per the exhibited planning proposal. The additional 1m of excavation means that the 1m reduction in building height in this part of the site is no longer required. Section C12.12 of the draft DCP chapter provides a specific control requiring the excavation of the ridgeline by 3m.

This amendment achieves consistency with the recommendations of the Visual Impact Assessment prepared for the Emerald Hills proposal by maintaining an overall height reduction of future development on the ridgeline by 3m.

An omission in the exhibited Height of Buildings Map has been corrected via the addition of a 9.5m height limit to the portion of R2 General Residential zoned land fronting St Andrews Road. This piece of R2 General Residential zoned land requires a maximum building height limit given that it may accommodate a future dwelling house as part of the ownership of the E2 Environmental Conservation land as discussed later in this report.

The amended Height of Buildings Map is shown at Figure 9 below.



Figure 9 – Amended Height of Buildings Map

Ownership of E2 Environmental Conservation land

The planning package currently proposes that the E2 Environmental Conservation land will be held in private ownership, with the land being subdivided into two lots of approximately 10 hectares each. A small parcel of R2 Low Density Residential zoned land of approximately 1500m² is provided within each of the 10 hectare lots to allow the construction of a single dwelling house, along with appropriate bushfire asset protection zones. The future owners of the 10 hectare lots will become the beneficiaries of the future Biobanking Agreement which will apply to the land, and will be responsible for applying funds received towards the conservation and maintenance of the E2 zoned land.

As an alternative, the developer and landowner have indicated that they are willing to consider dedicating the E2 zoned land to Council. Under this option, Council would become the beneficiary of the Biobanking Agreement funding and Council would be required to perform the conservation and maintenance works for the land. Council officers are currently investigating the financial implications for Council and the likely Biobanking funding to be generated via the Biobanking Agreement.

As a result of this work, should it be considered appropriate for Council to consider ownership of this land, a further report would be brought to Council at that time.

Voluntary Planning Agreement

As a result of undertaking detailed design work to inform future development applications on the Emerald Hills site, the developer has requested the following amendments to the draft VPA. The amended Draft VPA including the staging maps is **provided under separate cover as Attachment 4 to this report**

Amendment to the land area for OS1, OS2, TL1 and TL2

The developer has advised that the draft VPA contains minor discrepancies regarding the land area for OS1 and OS2 (open space land) and TL1 and TL2 (transmission line easement land) as follows:

Item Reference	Original size	Amended size	Difference
OS1	24,560m ²	25,711m ²	1,151m ²
OS2	22,600m ²	24,060m ²	1,460m ²
TL1	23,950m ²	25,013m ²	1,063m ²

The amended land area for OS1 and OS2 results in a net increase of 2,611m² of embellished passive open space, and the amended land area for TL1 results in a net increase of 1,063m² of transmission line easement land. This results in additional embellished open space and transmission line easement land of 3,674m² for the future residents of Emerald Hills at no up-front capital cost to Council.

The draft VPA has been assessed against Council's policies regarding the dedication of riparian and transmission easement land. It is considered that the dedication of this land to Council will provide a net community benefit as it will increase the amount of embellished open space land within the Emerald Hills development.

Amendment to the contribution value of embellishment works

The developer has reviewed the cost of undertaking the proposed embellishment works throughout the VPA and proposes the following amendments to the contribution value of the items below:

Item Reference	Original contribution value	Amended contribution value	Difference
OVAL	\$1,596,600	\$1,646,600	\$50,000
OS2	\$1,372,635	\$1,554,938	\$182,303
OS4	\$606,500	\$626,500	\$20,000

The increased embellishment costs for the double playing fields (OVAL) reflects a construction cost of \$200,000 for the proposed seating and shade structure, rather than \$150,000 as per the exhibited draft VPA.

The increased embellishment costs for the passive open space in Stage 2 (OS2) reflects the provision of a toilet facility (which is proposed to be relocated from OS1 as discussed below) at a cost of \$100,000, plus the additional embellishment costs resulting from the extra 1,640m² land area to be provided as part of OS2.

The increased embellishment cost for the passive open space in Stage 3 (OS4) relates to the provision of \$20,000 of public art in accordance with a future Heritage Interpretation Strategy relating to the former St Andrews School for Boys which stood on the site.

Amendment to staging map for Stage 1

The developer has requested the amendment of the staging plan to delay the provisions of some of the Stage 1 works until Stage 2. These works include the double playing fields, playground/skate equipment, and a 360m² combined community facility and amenities building at a total construction cost of \$2,862,400.

An assessment has indicated that these facilities are not required until Stages 1 and 2 are fully developed and 407 lots have been provided.

The developer has also requested the relocation of the proposed sheltered picnic area and toilet block from OS1 to OS2. This will ensure that the facilities are not constructed on the visually prominent hilltop which forms part of OS1 (as recommended by the Visual Impact Assessment), and will instead be constructed at OS2 which is not visible from outside the Emerald Hills site.

Council officers are satisfied that the amended VPA staging plan will continue to deliver high-quality and timely recreation and social infrastructure for the future residents of Emerald Hills.

Summary of amended VPA

The amendments proposed result in a total increase in the value of the VPA of \$700,785.

The increase in the contribution value of the VPA is a result of good-will from the landowner and developer, and reflects their dedication and vision in seeking to provide a high quality community for the future residents of the Emerald Hills development. The amended draft Emerald Hills Voluntary Planning Agreement (VPA) represents an offer from the developer to provide \$47.8 million in infrastructure, land dedication and monetary contributions, including:

- A double sports playing field which includes an integrated multi-purpose community hall and amenities building of approximately 360m²;
- 14.1 hectares of local parks, playgrounds, fitness stations and dog-off-leash areas;
- 3,677 linear metres of shared pedestrian and cycle path networks;
- Four bus shelters;
- 7.6 hectares of embellished riparian and electricity easement corridors which will be maintained for five years by the developer;
- A comprehensive water cycle management strategy for the entire site;

- Monetary contributions towards the district cultural facilities at Leppington North; and
- Monetary contributions towards Council's costs in administering the agreement.

FINANCIAL IMPLICATIONS

There are no direct financial implications for Council other than standard servicing requirements.

CONCLUSION

The Emerald Hills planning package was exhibited for 28 days and a total of thirteen submissions were received. The planning package has been amended to address the matters raised in these submissions where relevant.

The ILP, DCP and LEP controls have been amended to provide certainty regarding the dwelling density at Emerald Hills for both Council and the future landowners at Emerald Hills.

The amended draft VPA will ensure the timely and efficient provision of infrastructure to support the needs of future residents, and includes an additional \$700,785 in works, land dedication and monetary contributions over the exhibited draft VPA.

The Emerald Hills planning package is now ready to be forwarded to Planning and Infrastructure so that the plan can be made.

The Emerald Hills VPA can be entered into when the Council receives advice that the making of the plan is imminent.

The draft amendment to Camden DCP requires adoption following the publishing of the amendment to Camden LEP 2010 for Emerald Hills. Given the different timing of the Planning Proposal and DCP adoption processes, the draft DCP amendment cannot be adopted until the publishing of the LEP amendment. In accordance with *Environmental Planning and Assessment Act 1979* and its regulations, Council can endorse the proposed amendments to the DCP pending the publishing of the associated LEP amendment. Council may then grant delegations to the General Manager to adopt the DCP following the publishing of the LEP amendment. In this regard, this report also seeks to grant delegations to the General Manager for the adoption of the DCP following the publishing of the LEP amendment.

RECOMMENDED

That Council:

- endorse the amended planning package for Emerald Hills which includes the amended planning proposal, draft amendment to the Camden LEP 2010 and associated maps, draft amendment to the Camden DCP 2011, draft Indicative Layout Plan, draft Voluntary Planning Agreement including the explanatory note and attachments, and the suite of supporting documents and specialist studies;**
- forward the amended planning package for Emerald Hills to Planning and Infrastructure so that the planning proposal can be made;**

-
- iii. **execute the Emerald Hills Voluntary Planning Agreement pursuant to Council's Power of Attorney granted on 27 August 2013, Minute Number ORD215/13, or by affixing the Common Seal of Council;**
 - iv. **notify the Minister of Planning and provide a copy of the Emerald Hills VPA in accordance with the Environmental Planning and Assessment Act and the Regulations;**
 - v. **grant delegations to the General Manager to adopt the proposed amendments to the Camden DCP 2011 upon the gazettal of the planning proposal;**
 - vi. **following the adoption of the amendment to the Camden DCP 2011 and in accordance with Clause 21 of the *Environmental Planning and Assessment Regulation 2000*, place a notification in the local newspaper notifying the public of its decision to adopt the proposed amendments to the Camden DCP 2011; and**
 - vii. **notify all agencies and persons who made a submission during the exhibition period of the outcome.**

ATTACHMENTS

- 1. Attachment 1 Summary of submissions to Emerald Hills exhibition
- 2. Attachment 2 Emerald Hills Planning Proposal FINAL
- 3. Attachment 3 Draft Emerald Hills DCP controls March 2014
- 4. Attachment 4 Draft Emerald Hills VPA March 2014 FINAL

ORDINARY COUNCIL

ORD04

ORD04

SUBJECT: AMENDMENT 34 - MAPPING AMENDMENT TO REFLECT GROWTH CENTRE PRECINCTS

FROM: Acting Director Governance

TRIM #: 14/35877

PURPOSE OF REPORT

The purpose of the report is to seek Council's endorsement to amend Camden Local Environmental Plan 2010 (Camden LEP 2010) pursuant to Section 73A of the Environmental Planning and Assessment Act 1979 (EP&A Act) to correct a series of maps to reflect rezoned precincts as defined by State Environmental Planning Proposal (Sydney Region Growth Centres) 2006 (Growth Centres SEPP).

BACKGROUND

The New South Wales Government formally established the Growth Centres Commission in July 2005 to co-ordinate the release of greenfield land. To provide a streamlined process, Planning and Infrastructure (PI) created a Growth Centres SEPP over land identified as Growth Centres. The SEPP is the principle zoning instrument for Camden's Growth Centre Precincts and overrides Councils LEP 2010 controls.

At the time of the rezoning for the Catherine Fields (part), Leppington North, East Leppington, Oran Park and Turner Road precincts, Camden's LEP was not amended to reference the Growth Centres SEPP, this has created an inconsistency between the two documents.

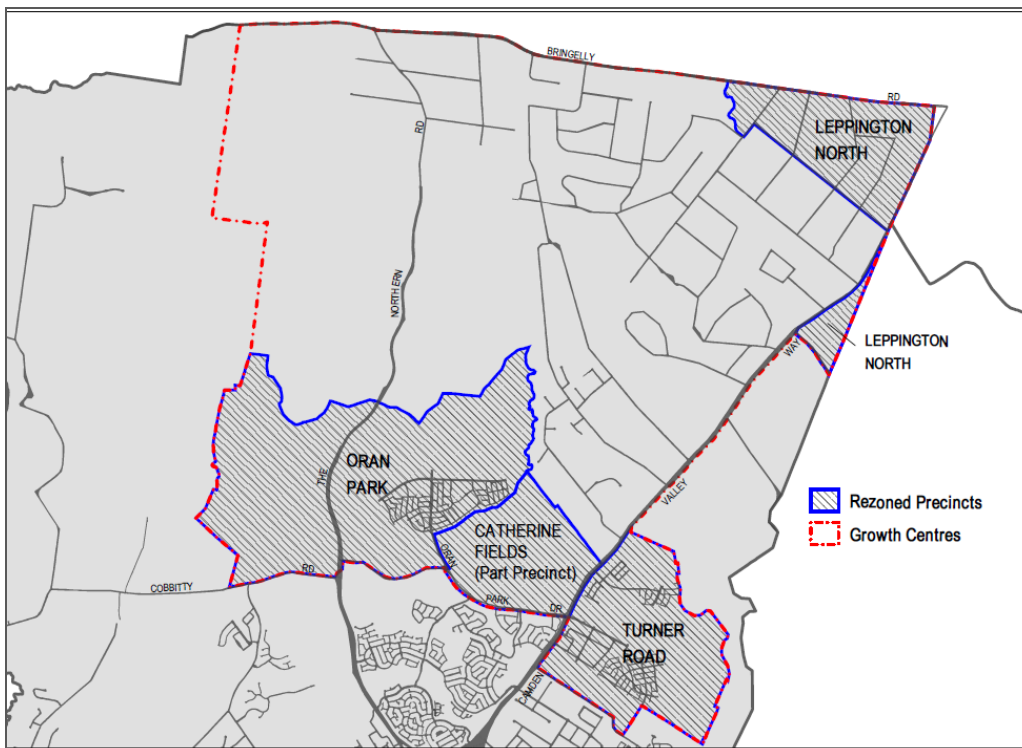


Figure 1: Growth Centre precincts rezoned for development.

MAIN REPORT

Under Section (73A) of the EP&A Act 1979, Council has the ability to make application to Planning and Infrastructure to undertake amendments to a Planning Instrument (LEP) without the need to follow the standard gateway procedures set out in Part 3 of the Act, which includes such requirements as community consultation.

The amendment must comply with the below criteria:

- a. Correct an obvious error in the principal instrument consisting of a misdescription, the inconsistent numbering of provisions, a wrong cross-reference, a spelling error, a grammatical mistake, the insertion of obviously missing words, the removal of obviously unnecessary words or a formatting error;
- b. address matters in the principle instrument that are of an inconsequential, transitional, machinery or other minor nature;
- c. deal with matters that the Minister considers do not warrant compliance with the conditions precedent for the making of the instrument because they will not have any significant adverse impact on the environment or adjoining land.

The draft LEP amendment has been considered by Planning and Infrastructure and it is satisfied that the amendment is in accordance with the above criteria and can be considered under S73A of the Act. The Pro-Forma S73A submission forms **Attachment 1 to this report**.

Camden LEP 2010 maps covering the growth centres precincts of Catherine Fields (part), Leppington North, East Leppington, Oran Park and Turner Road will be amended to show the SEPP boundaries. The proposed amendment will not make any changes to zoning or permissible uses. The SEPP is the prevailing document for these lands not the Camden LEP 2010, as such the lands covered by the SEPP (where rezoning has occurred) will be excluded from the Camden LEP 2010.

This administrative amendment will remove any confusion over the prevailing document applying to that land.

Where to from here

Should Council endorse the recommendation of this report, the attached submission form will be forwarded to the Minister for Planning and Infrastructure in accordance with the requirements of Planning Circular PS 06-014.

FINANCIAL IMPLICATIONS

This matter has no direct financial implications for Council.

CONCLUSION

The Section 73A amendment will amend a series of Camden LEP 2010 maps to ensure they reflect that the Growth Centres SEPP, which is the Environmental Planning Instrument that applies to those lands. This amendment will remove any confusion over which is the prevailing instrument affecting the land.

RECOMMENDED

That Council:

- i. endorse the Section 73A amendment and associated map corrections; and**
- ii. submit a Section 73A Environmental Planning and Assessment Act Submission to Planning and Infrastructure for amendments to Camden Local Environmental Plan 2010 to correct minor mapping errors.**

ATTACHMENTS

- 1. Attachment Pro-Forma S73A submission form**

ORDINARY COUNCIL

ORD05

SUBJECT: ADOPTION OF PHASE 3 GOVERNANCE DOCUMENTS FOR THE CENTRAL ADMINISTRATION BUILDING PROJECT

FROM: Acting Director Governance

TRIM #: 14/30803

PURPOSE OF REPORT

The purpose of this report is to seek Council's endorsement of the governance documents for Phase 3 of the Central Administration Building Project ("the Project") at Oran Park – Procurement, Design and Construction (as **attached** to this report).

BACKGROUND

The planning and execution of this project follows three phases as follows:

- Phase One – Site Selection;
- Phase Two – Contract Negotiation; and
- Phase Three – Procurement, Design and Construction.

Phase One - "Site Selection" - was to determine the site that best served the needs of a modern Central Administration Building for a Council experiencing sustained rapid growth. Oran Park was selected and a contract has been entered into with the developer pursuant to Council's resolution.

Phase Two - "Contract Negotiation"- was to negotiate a contract for the sale of land to Council.

Phase Three - "Procurement, Design and Construction" - is to determine the most appropriate project delivery structure and design and construction procurement method.

The primary purpose of the documents is to ensure that there is clear and transparent decision making with the appropriate internal controls to ensure that the role of the Council as a developer and regulator is clearly separated.

MAIN REPORT

The Phase 3 governance documents consist of:

- Project Management Plan;
- Governance Structure;
- Probity Plan;
- Separation of Planning Powers;
- Risk Management Plan; and
- Communications Plan.

The suite of documents above and attached, have been endorsed by the Project Control Group for the Administration Building Project. The main changes to the Phase 3 documents are the change in governance structure and minor edits to ensure that all documents read consistently with Phase 3 of the project.

Change in Governance Structure

The Governance Structure has been amended as follows:

The elected Council remains the ultimate decision making body.

The Project Control Group now consists of the Executive Leadership Group, being the General Manager, Director of Development and Heath, Director of Works and Services and Director of Governance.

The Project Control Group may retain any external consultants or internal staff as it sees fit in order to deliver a high quality outcome for the Council.

The Project Control Group will continue to provide communication updates to Council and the community and report matters for decision through the Ordinary Council Meeting process.

The Project Control Group (“PCG”) is supported by an implementation team, consisting of the Manager of Capital Works and Council’s Project Manager – Administration Centre.

Furthermore, a new Central Administration Building Advisory Group has been proposed which is made up of a number of internal staff with various backgrounds as follows:

Role	Expertise
Manager of Capital Works	Project Management, Design & Procurement
Project Manager – Administration Centre (Chair)	Project Management, Design & Procurement
Manager of Corporate Services	Finance, Governance, Probity, CMS and Property (Land Transfer matters)
Senior Governance Officer	Governance, Probity, CMS and Property (Land Transfer matters).

The Central Administration Building Advisory Group will report monthly to the PCG. The sub-advisory group may also engage assistance from the Public Relations/Communications teams, Employee Relations Team, Council’s Risk Management Officer and any internal/external consultants as the need arises.

It is also noted that Council’s external Probity Advisor reports directly to the Project Control Group on all matters relating to the project to maintain a level of impartiality and independence.

Probity and Separation of Planning Powers

Now that Council has achieved Phase 3 of the project, Council’s external Probity Advisor has conducted a rigorous review of the documentation to ensure that probity principles, particularly relating to procurement and separation of planning powers are adequately addressed and managed.

Council’s external Probity Advisor has reviewed and approved the Probity Plan, Separation of Planning Powers and Governance Structure.

Risk Management Plan and Communication Plan

The Risk Management Plan and Communication Plan have been reviewed by Council's Risk Management Team, Communications Team and Employee Relations Team Leader respectively. Only minor amendments (including grammatical changes and the change in governance structure) have been made to these documents to ensure that the governance structure has been updated and they are consistent with the objectives of Phase 3 of the project.

FINANCIAL IMPLICATIONS

There are no financial implications arising from this report.

CONCLUSION

It is noted that training will be provided to relevant staff on the Probity Plan and Separation of Planning Powers document. The suite of governance documents for Phase 3 of the project will also be available on Council's website.

Given that Council is the ultimate decision making body with respect to the Central Administration Building project, it is appropriate that Council endorse the Phase 3 suite of governance documents as attached to this report and note that the documentation has been reviewed by appropriate staff/consultants (including the Probity Advisor) and endorsed by the Project Control Group.

RECOMMENDED

That Council adopt the governance documentation for Phase 3 of the Administration Building Project as attached to this report.

ATTACHMENTS

1. Suite of Phase 3 Governance Documents