



Camden Council

Business Paper

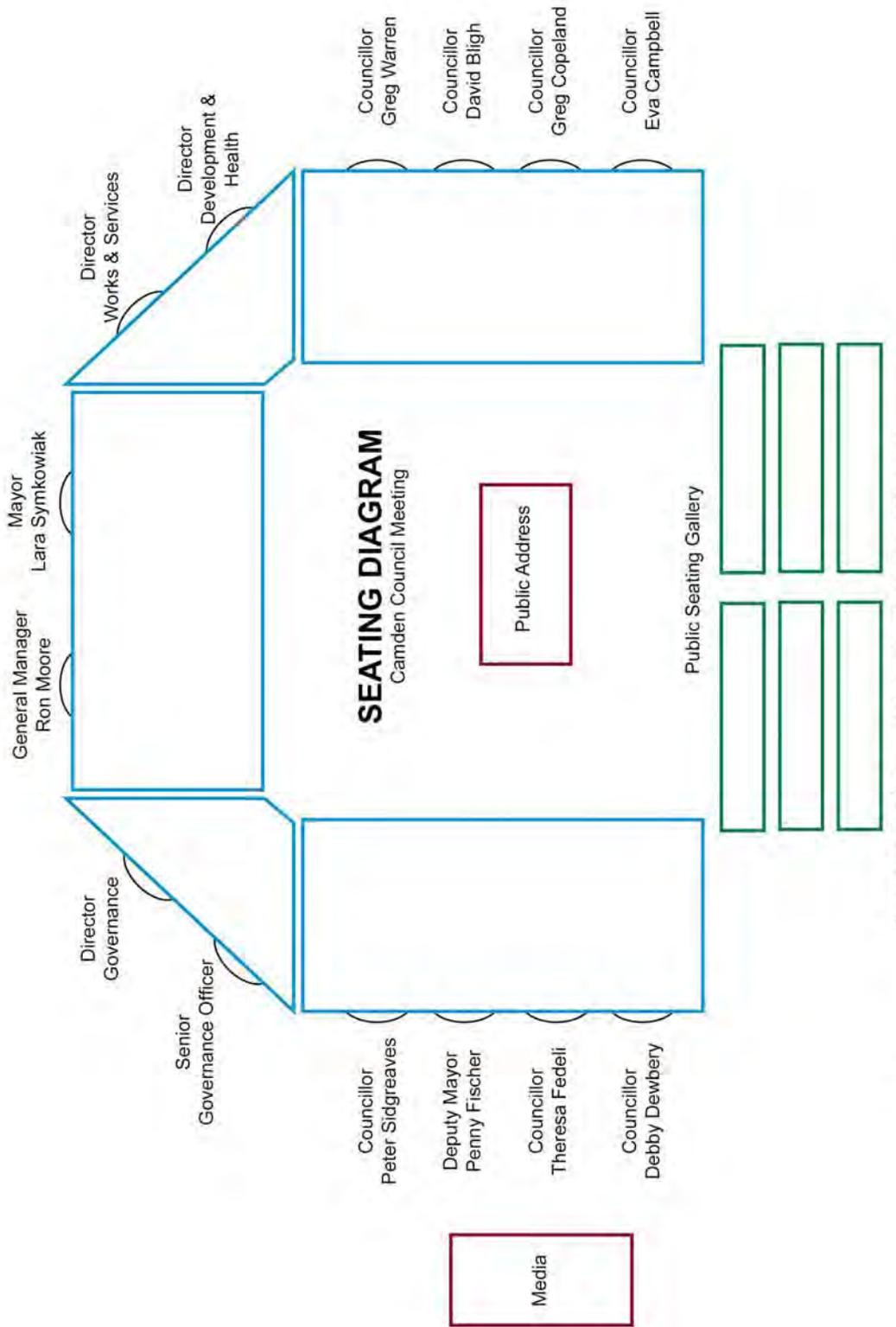
Ordinary Council Meeting
22 October 2013

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

ORDER OF BUSINESS - ORDINARY COUNCIL

Prayer	6
Acknowledgment of Country.....	7
Recording of Council Meetings.....	8
Apologies.....	9
Declaration of Interest.....	10
Public Addresses	11
Confirmation of Minutes.....	12
ORD01 Subdivision to Create 2 Residential Lots and the Construction of a Two Storey Dwelling, Removal of 2 Trees, Landscaping and Associated Site Works,11 Sunset Avenue, Elderslie	13
ORD02 Gregory Hills Voluntary Planning Agreement Amendment	63
ORD03 Emerald Hills Rezoning.....	202
ORD04 Camden LEP 2010 Amendment 30 - Orielton.....	307
ORD05 Housing Diversity Submission to the Department of Planning and Infrastructure	324
ORD06 New Central Administration Building - Masterplan.....	354
ORD07 Creation of an Easement for Underground Cables Over Council Owned Land.....	410
ORD08 Public Interest Disclosures Act Internal Policy	413
ORD09 Payment of Expenses and Provision of Facilities to the Mayor & Councillors Policy	427
ORD10 Investment Monies - September 2013	450
ORD11 Closure of the Meeting to the Public	459
Diary	460



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 8 October 2013.

RECOMMENDED

That the Minutes of the Ordinary Council Meeting held 8 October 2013, copies of which have been circulated, be confirmed and adopted.



ORDINARY COUNCIL

ORD01

ORD01

SUBJECT: SUBDIVISION TO CREATE 2 RESIDENTIAL LOTS AND THE CONSTRUCTION OF A TWO STOREY DWELLING, REMOVAL OF 2 TREES, LANDSCAPING AND ASSOCIATED SITE WORKS, 11 SUNSET AVENUE, ELDERSLIE

FROM: Director, Development & Health

TRIM #: 13/38953

APPLICATION NO: 543/2013

PROPOSAL: Subdivision to create 2 residential lots, the construction of a two storey dwelling, removal of 2 trees, landscaping and associated site works

PROPERTY ADDRESS: 11 Sunset Avenue, Elderslie

PROPERTY DESCRIPTION: Lot 14, DP 204897

ZONING: R2 Low Density Residential

OWNER: Mr B K & Mrs L R Smallsman

APPLICANT: Macarthur Architectural Drafting

PURPOSE OF REPORT

The purpose of this report is to seek Council's determination of a development application (DA) for a subdivision to create 2 residential lots, the construction of a two storey dwelling, removal of 2 trees, landscaping and associated site works at 11 Sunset Avenue, Elderslie.

The DA is referred to Council for determination as there remain unresolved issues received from 7 properties in the area. **A public notification and submissions map is provided with the Business Paper supporting documents.**

SUMMARY OF RECOMMENDATION

That Council determine DA 543/2013 for a subdivision to create 2 residential lots, the construction of a two storey dwelling, removal of 2 trees, landscaping 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 a subdivision to create 2 residential lots, the construction of a two storey dwelling, removal of 2 trees, landscaping and associated site works at 11 Sunset Avenue, Elderslie.

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 publicly exhibited in accordance with Camden Development Control Plan 2011 (DCP). Submissions were received from 7 properties in the area (all objecting to

the proposed development). **A copy of the submissions is provided with the Business Paper supporting documents.**

The issues raised in the submissions relate to:

- the loss of amenity;
- overshadowing and the use of 'True North' versus 'Magnetic North';
- the proposed front setback for the new dwelling;
- loss of trees and vegetation;
- no details on the proposed landscaping;
- lack of detail for the materials to be used for the driveway access;
- noise generation during construction works;
- damage to existing pavement during construction works;
- stormwater management;
- that access for the new dwelling should be gained from Sunset Avenue;
- that the existing pool should be removed to accommodate the proposal;
- increased traffic movements;
- that Silky Oak Grove is not wide enough to accommodate the proposed development;
- that the design of the dwelling is out of character with the area; and
- loss of property values.

The proposed dwelling will have a maximum height of 7.7m and this is consistent with a number of other dwellings located in Britton Close and Acorn Grove. Shadow diagrams have been provided which illustrate that there will be no adverse impact on adjacent properties as a result of the proposed development. The shadow diagrams have been formulated using 'True North' and have been assessed by Council staff and are deemed to be accurate.

The front setback of the dwelling is in excess of the requirements of the DCP. The DCP would allow for a front setback of 3.4m however the development proposes a setback of 4.5m. A front setback encroachment of up to 1.5m is permitted by the DCP if it can be demonstrated that the encroachment adds visual interest to the streetscape. It is considered that the proposed verandah, which will be set back by 3m, adds visual interest to the streetscape and is in keeping with the existing character of other dwellings in the street.

When lodged, the DA proposed the removal of 5 trees. Following discussions with Council staff, the applicant has agreed to retain 3 existing trees, being the large spotted gum tree, the small Jacaranda tree and the Silky Oak tree on the site's eastern boundary. The applicant has also provided a landscape plan which provides for additional landscaping (including 2 replacement trees) to offset the loss of the 2 trees.

The proposed location of the new dwelling necessitates the removal of 2 existing trees (a *Caloedendron capsense* (Cape Chestnut) and a *Brachychiton populneum* (Kurrajong)). The loss of these trees is unavoidable as the irregular shape of the site limits the location of where a dwelling can be constructed. If the proposed dwelling was relocated elsewhere on the site, it would not comply with other DCP controls, in particular setbacks. It is recommended that the existing landscape and the size of the replacement landscaping be increased to ensure sufficient screening and to enhance the landscaped character of the area. It is recommended that the additional landscape is cared for and maintained until established.

The applicant has provided details demonstrating that the materials to be used for the driveway access will be consistent with the existing paving in Silky Oak Grove.

It is not considered that there will be significant additional noise impacts generated from the development. Standard conditions that will control construction noise and work hours are recommended to protect the amenity of nearby residents during the construction of the proposed development.

A stormwater management plan has been provided which demonstrates that a pipe will be under bored (to protect the integrity of the road) across the property boundary into the existing surface inlet pit in Silky Oak Grove. The proposed stormwater management plan complies with Council's Engineering Specification and is considered to be acceptable.

The issue of access has been assessed and it is not considered that direct access from Silky Oak Grove will have any adverse impact on the existing amenity or character of Silky Oak Grove. Access from Sunset Avenue is not feasible given the irregular shape of the site, the locations of existing trees and the site's existing dwelling.

The suggested removal of the pool has been assessed however given the proposed development complies with all applicable planning controls, including the requirements of the Building Code of Australia, there is no need for the pool to be removed.

It is considered that the addition of one dwelling in Silky Oak Grove will not notably increase traffic movements. Silky Oak Grove is approximately 6m wide and this is sufficient to accommodate two-way traffic. It is a recommended condition that all cars are to be parked behind the property boundary line to reduce any potential traffic conflict.

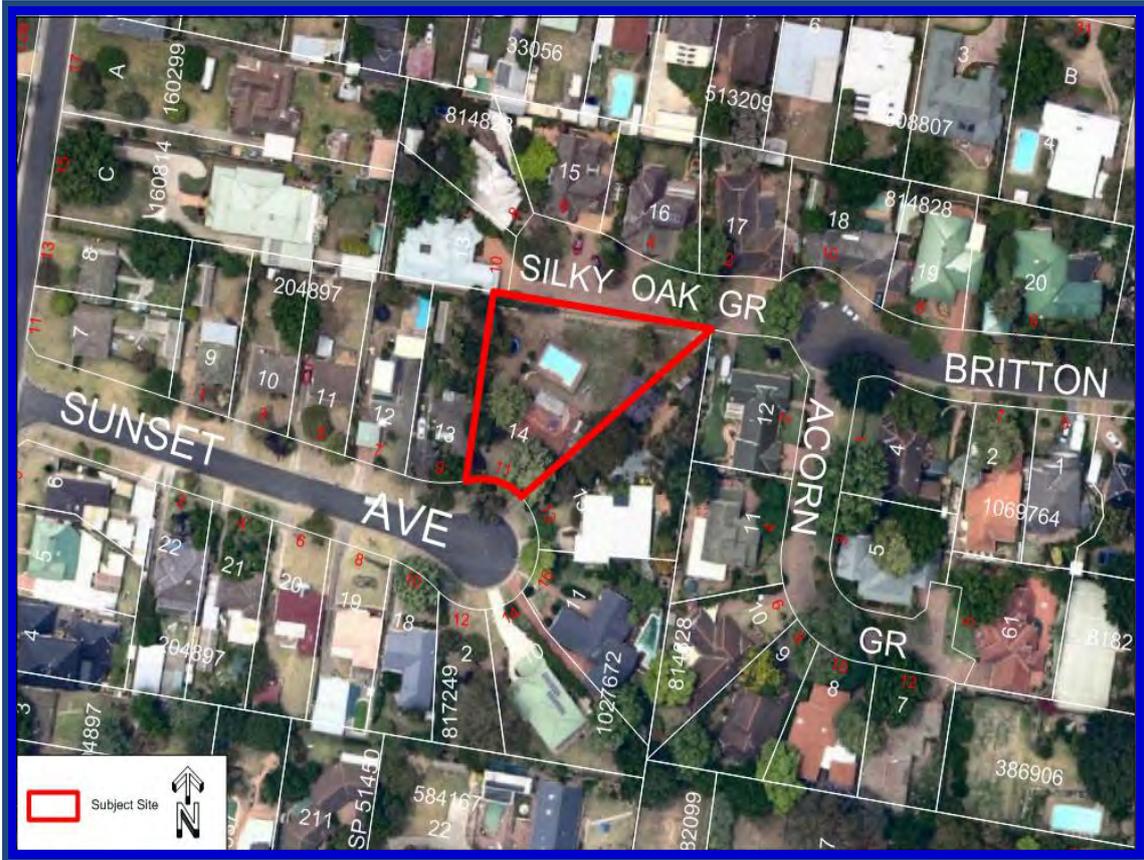
The proposed development is considered to be consistent with the existing character of the area which comprises a mix of single and two storey dwellings on a range of lot sizes, widths, depths and orientations. The proposed dwelling has been sufficiently designed and articulated to provide an attractive streetscape compatible with the immediate and surrounding area. The proposed replacement landscaping will ensure that the proposed dwelling further integrates with the mature vegetated character of the surrounding area.

The potential impact on property values is not a matter for consideration under Section 79C of the *Environmental Planning and Assessment Act 1979* in the assessment of a DA. However there is no evidence to suggest that the proposed development will have adverse economic impact on property values.

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



THE SITE

The site is commonly known as 11 Sunset Avenue, Elderslie and is legally described as lot 14, DP 204897.

The site has a frontage of approximately 15m to Sunset Avenue and a frontage of approximately 55m to Silky Oak Grove, a maximum depth of 59m and an overall area of 1,580.2m².

The site currently accommodates an existing detached single storey dwelling and associated car port, shed and swimming pool. The site is currently accessed from Sunset Avenue with Silky Oak Grove bounding it to the rear. The property boundary of the proposed dwelling faces Silky Oak Grove. A large component of the site is mapped as environmentally sensitive land.

The surrounding properties are characterised by a mix of low density single and two storey dwellings. The majority of these properties contain mature landscaping.

River Reserve is located to the south west with the Camden town centre to the west. To the north and east lie Macarthur Road and Mawarra Public School respectively. The Camden Bypass and the developing residential suburb of Spring Farm are located to the south.

HISTORY

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

Date	Development
5 December 2001	Approval of DA 2186/2001 for tree removal and pruning of vegetation
4 August 2011	Approval of DA 884/2011 for the removal of 5 trees

THE PROPOSAL

DA 543/2013 seeks approval for a subdivision to create 2 residential lots, construction of a two storey dwelling, removal of 2 trees, landscaping and associated site works.

Specifically the proposed development involves:

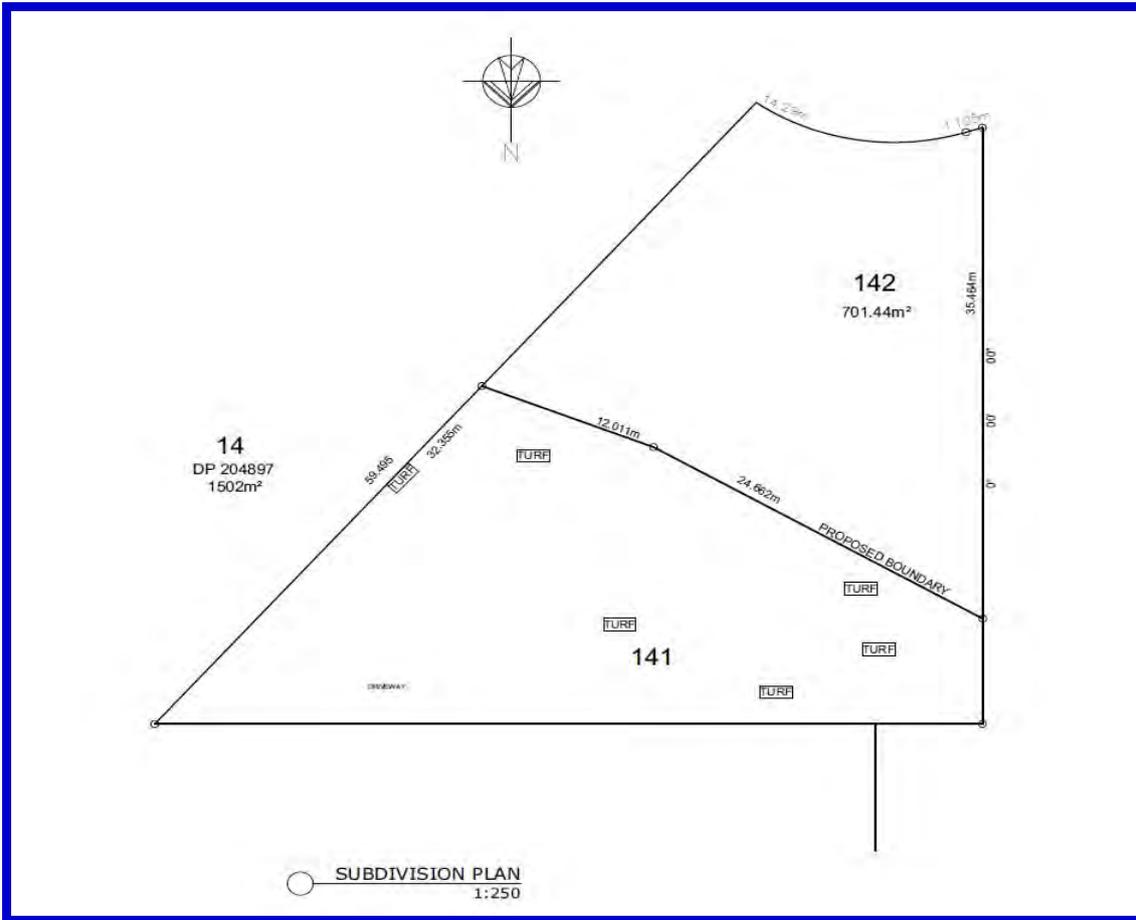
- subdivision to create 2 residential lots (known as proposed lots 141 and 142). Proposed lot 142 will have an area of 701.4m² and will contain the site's existing dwelling fronting Sunset Avenue. Proposed lot 141 will have an area of 878.3m² and will contain the existing swimming pool and new dwelling proposed by this DA;
- demolition of the laundry and pergola of the existing dwelling and demolition of the existing shed;
- construction of a two storey dwelling on proposed lot 2. The dwelling will have a maximum height of 7.7m from existing ground level, will contain 4 bedrooms and a double garage. The dwelling will have a painted brickwork texture finish in a neutral colour palette (beige and white) with a colorbond roof in Woodland Grey colour. The dwelling will have a gross floor area of 346m²;
- removal of 2 existing trees and pruning of 2 other existing trees;
- provision of landscaping including 2 replacement trees, an increase in the density of the existing Photinia fraseri hedge (Red Robin) located on the sites frontage to Silky Oak Grove, and the provision of additional planting on the sites southern and western boundaries;
- construction of a new paved driveway from the proposed garage to Silky Oak Grove;
- provision of a 1.5m timber lapped and capped fence on the sites southern boundary and the provision of a timber lapped and capped fence 1.8m high along the sites eastern boundary; and
- minor earthworks, drainage and associated site works.

The value of the works is \$350,000.

A copy of the proposed plans is provided as attachment 1 to this report. Existing floor plans showing alterations are provided with the Business Paper supporting documents.

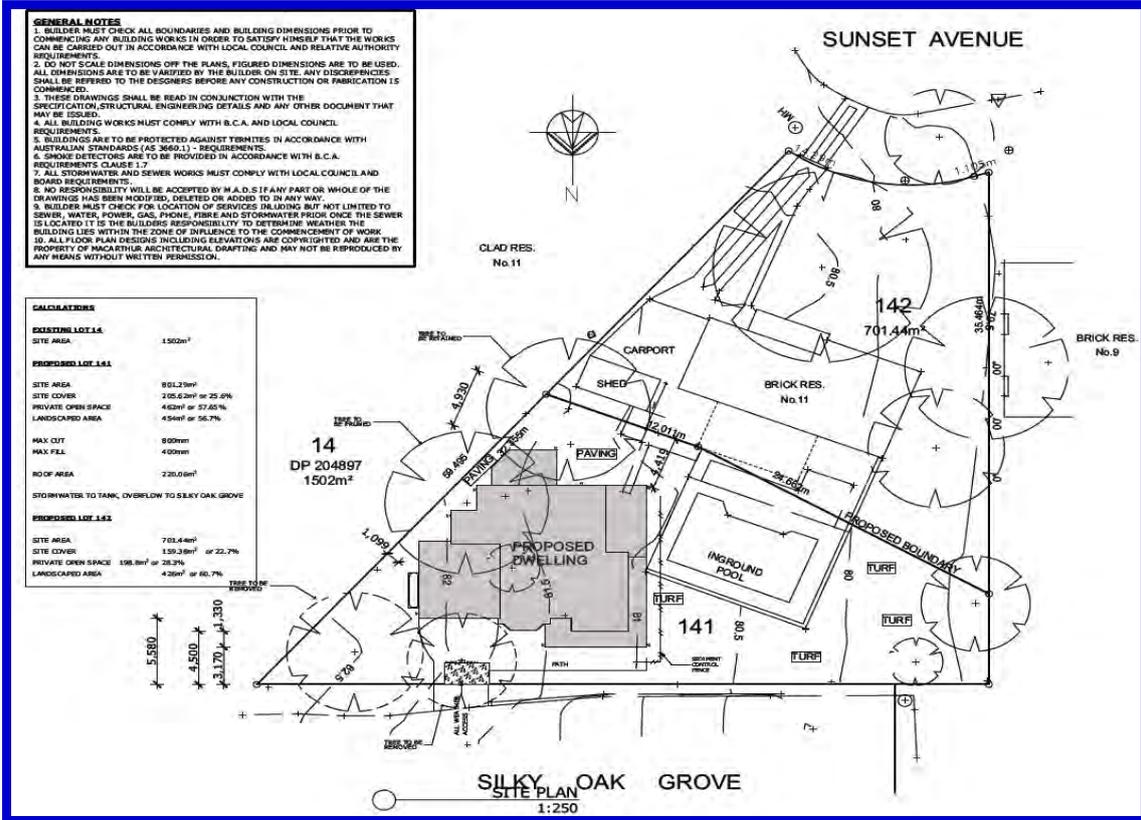
ORD01

PROPOSED SUBDIVISION PLAN

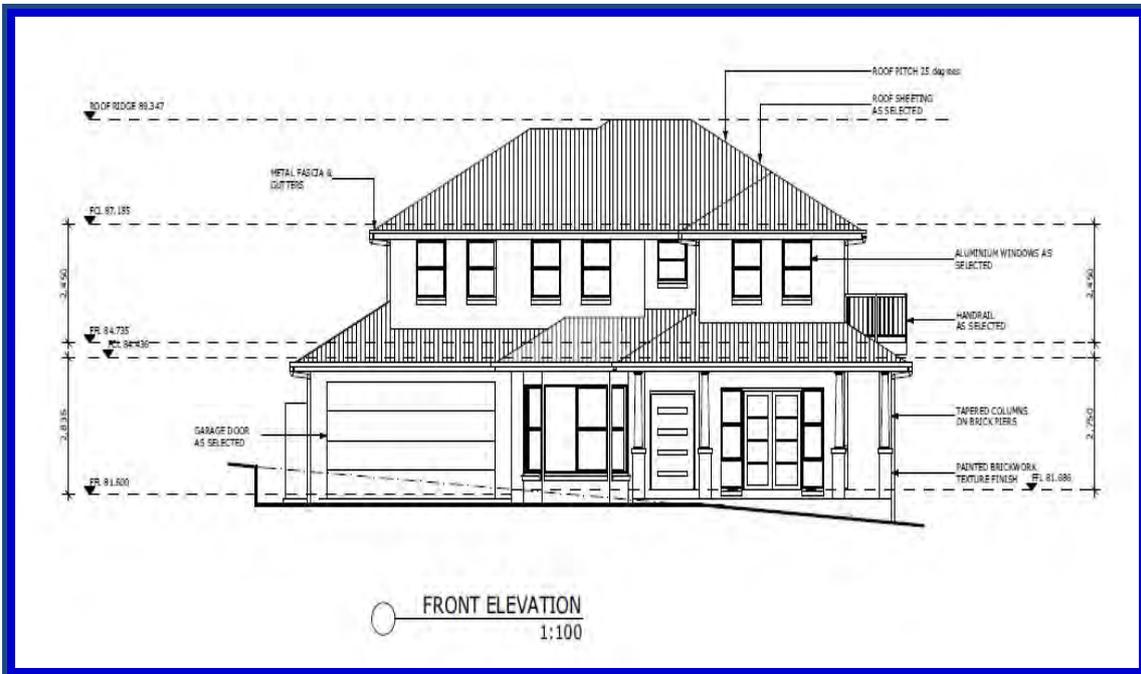


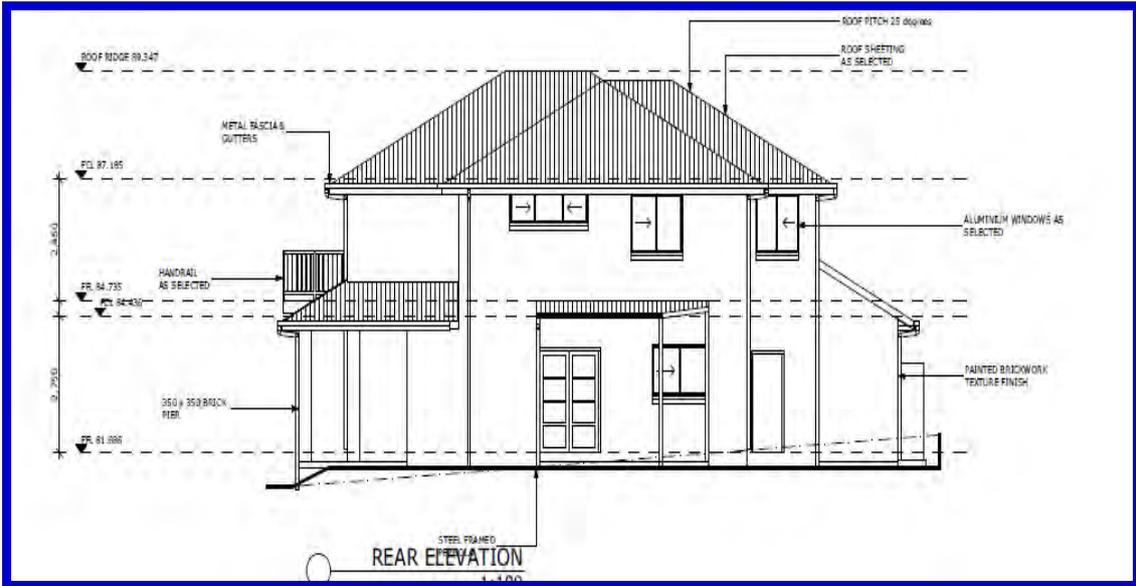
PROPOSED SITE PLAN

ORD01



PROPOSED DWELLING ELEVATIONS







3D MODEL OF THE PROPOSED DWELLING



ASSESSMENT

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:

- State Environmental Planning Policy No 55 – Remediation of Land
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- Deemed State Environmental Planning Policy No 20 – Hawkesbury-Nepean River
- Camden Local Environmental Plan 2010

An assessment of the proposed development under the Environmental Planning Instruments is detailed below.

State Environmental Planning Policy No 55 – Remediation of Land (SEPP)

The SEPP requires Council to be satisfied that the site is suitable for its intended use (in terms of contamination) prior to granting consent. Council staff have undertaken a detailed review of the site history and found no evidence to suggest that any contaminants are present on the site.

A condition is recommended that provides instruction in the instance any unexpected contamination finds are encountered during construction works. This will ensure the provisions of the SEPP are met.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (SEPP)

The SEPP aims to encourage sustainable residential development and requires DAs for such development to be accompanied by a list of BASIX commitments outlining the manner in which the development will be carried out.

Council staff have reviewed the BASIX certificate submitted for the proposed dwelling and are satisfied that it has been designed to achieve the minimum targets for water, thermal comfort and energy. It is a recommended condition that the proposed development is carried out in accordance with the commitments described in the submitted BASIX certificate.

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 modified development. A condition is recommended to provide soil erosion and sediment control measures as part of the proposed development.

Camden Local Environmental Plan 2010 (LEP)

Permissibility

The site is zoned R2 Low Density Residential under the provisions of the LEP. The proposed development is defined as a “dwelling” by the LEP which is a permissible land use in this zone. The subdivision of land is also permitted with consent in this zone.

Objectives

The objectives of the R2 are as follows:

- To provide for the housing needs of the community within a low density residential environment.

Officer comment:

The proposed development will provide housing for future residents within a low density residential environment and is consistent with this objective.

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

Officer comment:

This objective is not relevant to the proposed development as the proposal is for a residential subdivision and the construction of a dwelling.

- To allow for educational, recreational, community and religious activities that support the wellbeing of the community.

Officer comment:

This objective is not relevant to the proposed development as the proposal is for a residential subdivision and the construction of a dwelling.

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

Officer comment:

The proposed development has been assessed and it is not considered that it will conflict with land uses within the zone and land uses within adjoining zones.

Relevant Clauses

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

Clause	Requirement	Provided	Compliance
4.1 Minimum Lot Size	Minimum 600m ² lot area	A 2 lot residential subdivision is proposed. Proposed lot 1 will have an area of 701.4m ² and lot	Yes

Clause	Requirement	Provided	Compliance
		2 will have an area of 878.3m ²	
4.3 Height of Buildings	Maximum 9.5m building height	Proposed 7.7m building height	Yes
5.9 Preservation of Trees or Vegetation	Preserve the amenity of the area, including biodiversity values, through the preservation of trees and other vegetation	The proposed removal of 2 trees within the site has been assessed by Council staff and is not considered to be significant. Conditions are recommended to ensure suitable replacement trees (Crepe Myrtle and Fairview Flame) are installed. The replacement tree species selected have a natural and cultural connection to the area to offset the proposed tree removal. It is therefore considered that the removal of 2 trees is acceptable in this instance and necessary in order to allow for an additional dwelling to be built on the site	Yes
7.4 Earthworks	Earthworks must not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land	The proposed earthworks are minor in nature and it is not considered that there will be any adverse impacts as a result of them	Yes

(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.

ORD01

Control	Requirement	Provided	Compliance
B1.1 Erosion and Sedimentation	Erosion, sedimentation and dust control measures	Appropriate erosion, sedimentation and dust control measures are a recommended condition	Yes
B1.2 Earthworks	Building work must be designed to ensure minimal cut and fill is required Use of clean fill	The DA proposes minimal cut and fill and this is deemed to be acceptable Any importation of fill onto site will be required to comply with Council's standard requirements for clean fill material and this is a recommended condition	Yes Yes
B1.3 Salinity Management	Salinity resistant construction	The proposed development will be constructed to be salinity resistant	Yes
B1.4 Water Management	Stormwater management and drainage to comply with Council's Engineering Specifications	Plans detailing concept on-site stormwater detention and disposal have been lodged. These plans are considered acceptable. It is a recommended condition that the proposed development comply with Council's engineering specifications	Yes
B1.5 Trees and Vegetation	Council must not grant consent unless it has considered the aesthetic, botanical, ecological,	The proposed removal of 2 trees within the site has been assessed by Council staff and their removal is not considered to be	Yes

ORD01

Control	Requirement	Provided	Compliance
	cultural or heritage importance of the trees	significant. Conditions are recommended to ensure suitable replacement trees are installed. The replacement tree species selected will have a natural and cultural connection to the area to offset the proposed tree removal. It is therefore considered that the removal of 2 trees is acceptable in this instance and necessary in order to allow for an additional dwelling to be built on the site	
B1.6 Environmentally Sensitive Land	Council must consider the environmental impacts of proposed development on environmentally sensitive land (ESL) including its siting, design and construction	A large component of the site is mapped as being ESL. As aforementioned, the proposed tree removal is not considered significant on the basis that suitable replacement trees will be provided as part of the proposed development. On this basis, the siting, design and construction of the proposed development, subject to the recommended conditions contained within this report, are considered to be acceptable	Yes
B1.9 Waste Minimisation and Management	A Waste Management Plan (WMP) is required for subdivision work, for demolition work and for single dwellings	The applicant has provided a WMP for the proposed demolition and construction works and operational waste for the proposed dwelling. This WMP is deemed	Yes

Control	Requirement	Provided	Compliance
	<p>Details must include operational procedures for the ongoing management of waste</p>	<p>to be sufficient. In addition, it is a recommended condition that all waste management complies with the control set out in this section of the DCP</p> <p>All waste collection from Silky Oak Grove is currently picked up on the southern side of Silky Oak Grove (directly in front of the subject site). The construction of the proposed dwelling will not hinder this process in that the applicant has agreed to park all vehicles behind the property boundary line on the day of waste collection and this will facilitate the ongoing method of waste collection including sufficient area for the proposed dwelling to locate their bins. This has been assessed by Council staff and is deemed to be sufficient. A condition is recommended to ensure cars are parked behind the front boundary line on waste collection day</p>	<p>Yes</p>
<p>B1.12 Contaminated and Potentially Contaminated Land Management</p>	<p>A contamination assessment and remediation (if required)</p>	<p>Council staff have undertaken a detailed review of the site history and found no evidence to suggest that any contaminants are present on the site.</p> <p>A condition is</p>	<p>Yes</p>

ORD01

Control	Requirement	Provided	Compliance
		recommended that provides instruction in the instance any unexpected contamination finds are encountered during construction works. This will ensure the provisions of the control are met	
B1.13 Mine Subsidence	Applications for development in land identified in Figure B2 require approval of the Mine Subsidence Board (MSB) prior to the submission of a DA	The applicant has obtained the approval of the MSB prior to lodging the DA	Yes
B2 Landscape Design	A Landscape plan must be provided	The applicant has submitted a landscape plan which details the type, size and location of proposed planting. Council staff has assessed this plan and recommend the 2 replacement trees are increased in size to ensure the amenity of the area and surrounding residents is maintained. Subject to this this occurring, the DA complies with the requirements of this section of the DCP	Yes
B5.1 Off-street Car Parking Rates/ Requirements	Dwelling houses with more than 2 bedrooms require 2 car parking spaces, one of which must be behind the building line The DA proposes a dwelling with 4 bedrooms and	The proposed dwelling contains a double garage and in addition, parking is available in front of the garage forward of the building line	Yes

Control	Requirement	Provided	Compliance
	therefore requires 2 car parking spaces		
C2 General Subdivision Requirements	DAs must demonstrate how the development objectives and controls listed in the DCP has been addressed	The DA has demonstrated the proposed development's consistency with all relevant DCP controls	Yes
C4 Subdivision in Established Residential Areas	Minimum width of 15m at building line	Both lots have a minimum width of 23m at their building lines	Yes
	Minimum depth of 27m	The lots are irregularly shaped however will both achieve depths of 27m at certain locations. The proposed development's compliance with all other DCP controls demonstrate achievement of the intent of this control	Yes
	If lot is irregular in shape, the minimum area is to be 700m ²	Proposed lot 1 will have an area of 701.4m ² and proposed lot 2 will have an area of 878.3m ²	Yes
D2.1 Primary Residential Controls	Front setback to be calculated based on the an average of the setbacks of the nearest 2 dwellings fronting he same road The nearest 2 adjacent dwellings are 8 and 10 Silky Oak Grove. Therefore the required front setback is 3.4m Architectural	The building facade line will be 4.5m from the front boundary which in excess of the DCP's requirements. The front veranda will be set back 3.1m from the front boundary. This encroachment is deemed acceptable on the basis that it adds additional visual interest to the streetscape and is in keeping with the existing dwelling character of the area	Yes

ORD01

Control	Requirement	Provided	Compliance
	<p>building design elements on the front façade may encroach 1.5m into the prescribed front setback area where it can be demonstrated that such elements have a positive effect on the streetscape</p> <p>Front setback of garages and carports must be a minimum of 1m behind the principal front building line and a minimum 5.5m from the front boundary of the lot</p> <p>Side set back of 0.9m</p> <p>Rear setback of 4m for the single storey portion of a two storey dwelling</p> <p>Rear setback of 6m to a two storey portion of a two storey dwelling</p> <p>Walls along side boundary setbacks must be articulated with windows and other features</p>	<p>The garage will be set back 1m behind the building line and 5.5m from the front boundary of the lot</p> <p>A minimum 1m side setback is proposed</p> <p>A 4m rear setback for the single storey portion of the dwelling is proposed</p> <p>A 6m rear setback to the two storey portion of the dwelling is proposed</p> <p>The proposed side walls of the dwellings contain a range of features including windows recessing and height variation</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
<p>D2.1.3 Height, Massing and Siting</p>	<p>The highest point of a building containing residential accommodation must not exceed</p>	<p>The maximum building height proposed is 7.7m and this more than complies with the 9.5m height limitation</p>	<p>Yes</p>

Control	Requirement	Provided	Compliance
	<p>the height specified in the Height of Buildings Map in LEP 2010</p> <p>The ground floor level must be no more than 1m above natural ground level</p>	<p>as specified by the LEP</p> <p>The proposed ground floor level is a maximum of approximately 700mm above natural ground level</p>	<p>Yes</p>
D2.1.4 Visual and Acoustic Privacy	<p>The design and layout of dwellings must minimise the opportunity for sound transmission through the building structure</p>	<p>The dwelling has been designed to ensure that sound transmission is minimised where necessary</p>	<p>Yes</p>
	<p>Direct overlooking of main living areas and private open space areas of adjacent dwellings should be minimised through building layout, window and balcony location and design and the use of screening devices</p>	<p>The first floor sitting room is provided with a 'high sill' window which will not provide opportunities for overlooking of the adjoining property. In addition, the first floor bedroom balcony is located approximately 4.5m from the front setback however would provide some overlooking opportunities of the site's existing dwelling. It is a recommended condition that a 1.7m high privacy screen be installed and permanently maintained along the balcony's southern side to prevent any potential overlooking</p>	<p>Yes</p>
	<p>Balconies or decks are not permitted at the</p>	<p>As noted above, the proposed balcony for bedroom 1 will not</p>	<p>Yes</p>

ORD01

Control	Requirement	Provided	Compliance
	side or rear of the top floor of a two storey dwelling unless it can be demonstrated that no adverse privacy impacts occur	result in any privacy impacts for adjoining/adjacent residents subject to the installation and maintenance of a privacy screen	
D2.1.5 Private Open Space, Site Cover and Landscaped Area	The maximum site coverage for a two storey development must not exceed 50% of the site area for the ground floor and 30% for the upper floor	The development proposes maximum site coverage of 39% on the ground floor and 17% on the upper floor	Yes
	A minimum 30% of the site must be landscaped	A minimum 30% of the site will be landscaped	Yes
	Private open space (POS) shall be a minimum of 20% of the site area	A total of 58% of private open space is proposed	Yes
	The principal private open space (PPOS) must have an area of 24m ² , be connected to a living zone of the dwelling and not be steeper than 1:10 gradient	The PPOS proposed for this dwelling will achieve all of these requirements	Yes
	At least 50% of principal private open space (PPOS), including adjoining properties must achieve a minimum of 3 hours sunlight	The proposed plans demonstrate the ability of 50% of the PPOS to achieve a minimum 3 hours of sunlight	Yes
	North facing living area	North facing living area windows will	Yes

Control	Requirement	Provided	Compliance
	<p>windows of the dwelling and adjoining dwellings must receive a minimum of 3 hours sunlight</p> <p>At least one principal living are must face predominately north</p> <p>The PPOS shall be adequately screened for privacy from adjacent dwellings and passers-by.</p> <p>The POS must be at least 65% soft landscaping</p>	<p>receive a minimum of 3 hours sunlight</p> <p>The proposed media and study rooms are north facing</p> <p>The PPOS will be adequately screened by landscaping from the adjacent dwelling and public road</p> <p>The proposed POS will be at least 65% of soft landscaping</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
D2.1.6 Garages, Site Access and Parking	<p>Garages must be integrated with the house façade and must not dominate the dwelling or streetscape</p> <p>The garage must be set back 5.5m behind the property boundary and 1m behind the front building facade</p> <p>The width of garage doors must not be greater than 50% of the dwellings front elevation</p> <p>Garages are to be treated as an important element of the dwelling façade</p>	<p>The proposed garage is integrated into the dwelling façade and will not dominate the dwelling or streetscape</p> <p>The proposed garage will be set back 5.5m behind the property boundary and 1m behind the front building facade</p> <p>The proposed garage's width is approximately 37% of the dwelling's front elevation</p> <p>As aforementioned, the proposed garage is integrated into the dwelling design and is complementary to</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

ORD01

Control	Requirement	Provided	Compliance
	<p>and must be complimentary in terms of design and material to the dwelling and must comply with AS 2890</p> <p>Driveways must not be wider than 5.5m at the property boundary</p>	<p>the dwelling in terms of colour and materials. The garage fully complies with AS 2890</p> <p>The proposed driveway will be less than 5.5m wide at the property boundary</p>	<p>Yes</p>
D2.1.7 Streetscape and Architectural Design	<p>The form, scale and siting of the building and the materials and colours must be appropriate to the character of the area</p>	<p>The proposed dwelling consists of a painted brick veneer construction with a pitched colorbond roof. The scale of the development is considered consistent with residential two storey development in the immediate and surrounding area and is appropriate</p>	<p>Yes</p>
	<p>The facade facing a street frontage must provide at least two design features to enhance the existing and future desired built form and character of the neighbourhood</p>	<p>The proposed front facade provides the required design features including an entry feature, a mix of building materials and projecting elements</p>	<p>Yes</p>
	<p>Eaves are to provide sun shading, protect windows and doors, provide visual interest and be provided to at least 70% of the dwelling</p>	<p>The proposed dwelling incorporates eaves which will provide sun shading and add articulation to the dwelling. The eaves will have a 450mm overhand and are provided to more than 70% of the dwelling</p>	<p>Yes</p>

Control	Requirement	Provided	Compliance
	Colours, materials and finishes are to be from a predominantly neutral palette of colours	The applicant has provided a colour schedule which demonstrates that the materials and colours to be used are of a neutral palette including beige, woodland grey and white	Yes

(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.

(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 publicly exhibited in accordance with the DCP. 7 submissions were received (all objecting to the proposed development). **A public exhibition and submissions map is provided with the Business Paper supporting documents.**

The following discussion addresses the issues and concerns raised in the submissions.

1. Loss of amenity and overshadowing as a result of the proposed development.

Officer comment:

The issue of loss of amenity and overshadowing has been assessed and it is considered that the proposed two storey dwelling will not significantly affect the amenity of existing residents. The proposed dwelling will have a maximum height of 7.7m and this is consistent with a number of other dwellings located in nearby Britton Close and Acorn Grove.

Shadow diagrams have been provided which illustrate compliance with Council's DCP requirements in relation to solar access. The shadow diagrams have been formulated using 'True North' and have been assessed by Council staff and are deemed to be accurate. Suitable replacement landscaping will also be provided to compensate for the proposed removal of 2 trees.

2. *Proposed front setback of the dwelling does not comply with the setbacks of the existing dwellings in Silky Oak Grove.*

Officer comment:

The front setback of the dwelling is in excess of the requirements of the DCP. The DCP allows for a front setback of 3.4m however the development proposes a setback of 4.5m.

A front setback encroachment of up to 1.5m is permitted by the DCP if it can be demonstrated that the encroachment adds visual interest to the streetscape. It is considered that the proposed veranda, which will be set back 3m, adds additional visual interest to the streetscape and is in keeping with the existing dwelling character.

It is noted that there is no consistent established front setback for the existing dwellings within Silky Oak Grove.

3. *Loss of trees and vegetation and no details on the landscape proposed.*

Officer comment:

When originally lodged, the DA proposed the removal of 5 trees. Following discussions with Council staff, that applicant has agreed to retain 3 existing trees, being the large spotted gum tree, the small Jacaranda tree and the Silky Oak tree on the site's eastern boundary. The applicant has also provided a landscape plan which provides for additional landscaping (including 2 replacement trees) to offset the loss of the 2 trees.

The proposed location for the new dwelling necessitates the removal of 2 existing trees (being the Caloedendron capense (Cape Chestnut) and the Brachychiton populneum (Kurrajong)). The loss of these trees is unavoidable as the irregular shape of the site limits the location where a dwelling can be constructed. If the proposed dwelling was to be relocated elsewhere on the site it would not comply with other DCP controls.

It is a recommended condition that the 2 replacement trees located on the site's frontage to Silky Oak Grove be increased in size to a minimum 75 litre for the Crepe Myrtle and a minimum 200 litre for the Fairview Flame. These replacement trees will ensure that a "no net loss" approach to vegetation management is achieved. It is a recommended condition that these trees are cared for and maintained until they reach a height of 3m.

The applicant has also agreed to provide additional landscaping along the sites southern and eastern boundaries and this includes the installation of an additional 11 tall shrubs along the sites eastern boundary and additional infill planting on the sites southern elevation comprising an additional 8 to 10 Photinia fraseri (Red Robin). Subject to this occurring, it is considered that sufficient landscaping will be

provided to maintain, protect and enhance the visual amenity of the immediate and surrounding area.

4. *Lack of detail for the materials to be used for the driveway access and the proposed white pebbles parking area is not desirable.*

Officer comment:

The applicant has provided details demonstrating that the materials to be used for the driveway access will be consistent with the existing paving in Silky Oak Grove. It is also a recommended condition that the white pebbles are replaced with the existing pavement in Silly Oak Grove.

5. *Noise generation during construction works.*

Officer comment:

It is not considered that there will be significant additional noise impacts generated from the development. Standard conditions that will control construction noise and work hours are recommended to protect the amenity of nearby residents during the construction of the proposed development.

6. *How will stormwater be managed?*

Officer comment:

A stormwater management plan has been provided which demonstrates that a pipe will be under bored (to protect the integrity of the road) across the property boundary into the existing surface inlet pit in Silky Oak Grove. From here, stormwater will join the existing stormwater flow which will cater for any additional stormwater generated as a result of the proposed development. The proposed stormwater management plan fully complies with Council's Engineering Specification and is considered to be acceptable.

7. *Access should be gained from Sunset Avenue and not from Silky Oak Grove.*

Officer comment:

The issue of access has been assessed and it is not considered that direct access from Silky Oak Grove will have any adverse impact on the existing amenity or character of Silky Oak Grove. Access from Sunset Avenue is not feasible given the irregular shape of the site, the locations of other existing trees and the site's existing dwelling.

8. *The existing pool should be removed to accommodate the proposal.*

Officer comment:

The suggested removal of the pool has been assessed, however given the proposed development fully complies with all applicable planning controls, including the requirements of the Building Code of Australia, there is no need for the pool to be removed.

9. *Traffic movements will increase as a result of the proposal and Silky Oak Grove is not wide enough to accommodate the proposal.*

Officer comment:

It is considered that the addition of one dwelling in Silky Oak Grove will not notably increase traffic movements. Silky Oak Grove is approximately 6m wide and this is sufficient to accommodate two-way traffic.

10. *The proposed design is out of character with the estate, lacks site analysis and is mediocre in design.*

Officer comment:

As aforementioned, the proposed development is considered to be consistent with the existing character of the area which comprises a mix of single and two storey dwellings on a range of lot sizes, widths, depths and orientations. The proposed dwelling has been sufficiently designed and articulated to provide an attractive streetscape compatible with the immediate and surrounding area. The proposed replacement landscaping will ensure that the proposed dwelling further integrates with the mature vegetated character of the surrounding area.

11. *The existing estate design never intended for access from Silky Oak Grove and existing residents bought into the estate on that basis.*

Officer comment:

There are no planning or legal restrictions which prevent access from the site to Silky Oak Grove. Council staff have assessed the proposed access and are satisfied that there will be no adverse impacts on traffic or amenity as a result of it.

12. *Original planning of the estate required significant landscaping along the site's boundary and this DA proposes to remove 5 mature trees.*

Officer comment:

When originally lodged the DA proposed the removal of 5 trees. Following discussions with Council staff, that applicant has agreed to retain 3 existing trees, being the large spotted gum tree, the small Jacaranda tree and the Silky Oak tree on the site's eastern boundary. The applicant has also provided a landscape plan which provides for additional landscape (including 2 replacement trees) to offset the loss of the 2 trees. There is also an existing hedge (Red Robin) along the site's frontage to Silky Oak Grove and this is to be retained. It is therefore considered that there will be no adverse impact on the existing landscape amenity as a result of the proposed development.

13. *Loss of property values*

Officer comment:

The potential impact on property values is not a matter for consideration under Section 79C of the *Environmental Planning and Assessment Act 1979* in the assessment of a DA. However there is no evidence to suggest that the proposed development will have adverse economic impact on property values.

14. *A number of trees and shrubs are proposed which will take a lot time to mature.*

Officer comment:

As aforementioned, the plant species have been selected to ensure that they are reflective of the existing landscape character of Silky Oak Grove and it is noted that a number of the plant species selected are of a fast growing variety to provide sufficient screening of the proposal. It is therefore considered that the proposed landscaping is sufficient in terms of the species proposed.

15. Information seems to have been 'drip fed' to Council making it difficult for Council to provide concerned residents with consistent information.

Officer comment:

The applicant has made a number of revisions to the plans in response to requests from Council staff. These revisions were necessary to ensure that the concerns of residents were addressed and to provide a better quality development that fits in with the existing character of the area.

16. The proposed fence on the sites southern boundary fronting silky Oak Grove should be increased to a height of 1.8m as opposed to 1.5m.

Officer comment:

Council staff have assessed the provision of a 1.5m fence along the sites southern boundary and are satisfied that a 1.5m fence is sufficient to screen the proposal. In addition, it is noted that further landscaping is proposed to soften and screen the provision. A 1.8m front boundary fence would not be consistent with the existing front boundary fencing in the area.

17. The perspective drawing (3D model) does not match the plans and this should be rectified.

Officer comment:

The proposed perspective (3D Model) is indicative only and is generally in accordance with the proposed plans.

18. The maintenance of the hedge at the sites southern boundary should be addressed.

Officer comment:

It is a recommended condition that this hedge is maintained in good order to ensure it provides the necessary softening and screening to protect the amenity of both the proposed dwelling and existing dwellings in Silky Oak Grove.

(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

Mine Subsidence Board (MSB)

The site is located within the South Campbelltown Mine Subsidence District. The proposed development is classed as Integrated Development pursuant to Section 91 of the *Environmental Planning and Assessment Act 1979* in that it requires the approval of the MSB. The applicant has submitted plans stamped by the MSB. The MSB have raised no objection to the proposed development.

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 543/2013 is recommended for approval subject to the conditions contained in this report.

CONDITIONS

1.0 - General Requirements

- (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
2476 Issue K	Perspective	Macarthur Architectural Drafting Service	10 October 2013
2476 Issue K	Lower Floor Plan	Macarthur Architectural Drafting Service	10 October 2013
2476 Issue K	Upper Floor Plan	Macarthur Architectural Drafting Service	10 October 2013
2476 Issue K	Elevations	Macarthur Architectural Drafting Service	10 October 2013
2476 Issue K	Elevations	Macarthur Architectural Drafting Service	10 October 2013
2476 Issue K	Sections	Macarthur Architectural Drafting Service	10 October 2013
2476 Issue K	Existing House Floor Plan	Macarthur Architectural Drafting Service	10 October 2013
2476 Issue K	Existing House Elevations	Macarthur Architectural Drafting Service	10 October 2013

		Service	
2476 Issue K	Site Plan	Macarthur Architectural Drafting Service	10 October 2013
2476 Issue K	Shadow Diagrams	Macarthur Architectural Drafting Service	10 October 2013
2476 Issue K	Landscape Plan	Macarthur Architectural Drafting Service	10 October 2013
-	BASIX Certificate	Macarthur Architectural Drafting Service	10 October 2013
2476 Issue K	Subdivision Plan	Macarthur Architectural Drafting Service	10 October 2013
2476 Issue K	Safety Notes	Macarthur Architectural Drafting Service	10 October 2013
-	Colour Schedule	Macarthur Architectural Drafting Service	-

ORD01

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.

- (2) **Modification to Landscape Plan** - The issuing of this Consent is conditioned upon the planting and maintenance of two (2) replacement trees as a means to achieve a “No Net Loss” approach to vegetation management. The plantings shall be in accordance with the landscape plan prepared by Macarthur Architectural Drafting Services, Drawing No. 2476 Revision K dated 10 October 2013 with the following amendments as highlighted in red on that plan;
- a) The proposed *Acer rubrum* (Fairview Flame) to be repositioned west of the proposed dwelling and within 4 metres of Silky Oak Grove. The planting shall consist of minimum 200 litre container stock.
 - b) The proposed *Largerstroemia Indica* “Yuma” (Crepe Myrtle) planting shall consist of minimum 75 litre container stock.
 - c) An additional tree to be planted generally in line with the above trees. The additional tree must be capable of achieving a mature height of six metres. The planting shall consist of minimum 75 litre container stock.
 - d) Photinia hedge – A hedge is to be installed along Silky Oak Grove frontage adjacent to the proposed new timber fence. The hedge shall consist of new and Infill planting of *Photinia fraseri* (Red Robin) planted with a maximum of 1 metre centres. To achieve this an additional 8 to 10 Photinias are to be installed between existing Photinia hedge. The new section of hedge and infill planting stock shall consist of minimum 25 litre container stock. Care must be exercised to maintain the existing drip irrigation system in working order. This hedge must be maintained in good order to ensure it provides the necessary softening and screening.

- e) Eastern boundary hedge – A hedge shall be installed on the eastern boundary consisting of 8 tall shrubs planted at 2 metres centres between the existing Silky oak and Jacaranda, 3 tall shrubs planted at 2 metre centres between the existing Jacaranda and Eucalyptus tree. The above planting shall consist of one or a combination of the following fast growing species;
- i. Syzygium francisii (Goodbye Neighbours)
 - ii. Viburnum odoratissimum (Sweet Viburnum)
 - iii. Pittosporum tenuifolium (Silver Sheen)
 - iv. or any other tall shrub capable of achieving a mature height of between 2 to 3 metres.
- f) Eastern boundary tree planting – Install four trees capable of achieving a mature height of eight (8) metres. The plantings must consist of minimum 45 litre container stock. *Pyrus ussuriensis* (Manchurian Pear) or similar species that has a column form is recommended.

The replacement trees must be cared for and maintained until they reach a height of 3m, the point at which the trees are further protected by Council's tree preservation provisions. Should any of the trees die before they reach the required height of 3m then they shall be replaced with the same type and size of tree specified above.

The plantings are to be installed on the subject property before the issuing of occupation certificate.

At the appropriate time, arrangements will be made for a Council officer to inspect the planting/s (referred to in the clause above) to ensure that Council's objectives for vegetation are being achieved.

- (3) **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
- (4) **Building Code of Australia** - All works must be carried out in accordance with the requirements of the *Building Code of Australia*.
- (5) **Demolition WorkCover NSW Licence** - Persons undertaking demolition work must be licensed under the Work Health and Safety Regulation 2011.

A copy of this licence must be obtained from WorkCover NSW and displayed on the site where demolition work is carried out.

- (6) **Demolition WorkCover NSW Notifications and Permits** - All demolition work must be notified to WorkCover NSW in accordance with the Work Health and Safety Regulation 2011.

Demolition work must not begin until a WorkCover NSW stamped copy of the notification has been received and is displayed on site for inspection by any interested party.

(7) **Tree Removal Works That Will Require a Public Road Activity Approval –**
Any proposed tree or vegetation removal or clearing that:

- a. will involve the use of a crane; or
- b. utilises any such equipment;

that will impact upon a Public Road in such a manner that the normal vehicle movement, peak hour and school zone traffic, immediate residents, area amenity or pedestrian thoroughfares are affected, must be approved by the Public Roads Authority (i.e. Camden Council).

That approval, in the form of a Public Road Activity approval, must be obtained prior to the commencement of the subject tree work.

Accordingly, an application for approval for a Public Road Activity must be submitted to the Public Roads Authority (i.e. Camden Council).

Public Road Activity (PRA) application forms are available from Council's Customer Service Counter or from Council's internet site www.camden.nsw.gov.au.

The PRA application shall include:

- i. Supporting information that details all proposed activities.
- ii. A Certificate of Currency for an appropriate Public Liability Policy
- iii. A Traffic Control Plan (TCP). A Roads & Traffic Authority (RTA) accredited person or organisation must prepare the TCP.
- iv. Details of the notification process to be applied, for affected street residents.

(8) **Conditional Approval for Tree Removal and Pruning** - Consent is granted for removal of two (2) trees, Caloedendron capense (Cape Chestnut) & Brachychiton populneum (Kurrajong) located within and forward of the proposed front building line towards as shown on the landscape plan prepared by Macarthur Architectural Drafting Services, Drawing No. 2476 dated 25/03/2013.

Consent includes the pruning of two (2) trees, Jacaranda mimosifolia (Jacaranda) and Corymbia maculate (Spotted Gum) located on the eastern boundary. The prescribed pruning recommended for each tree below must be completed in accordance with the standards, specified in the "Australian Standard of Pruning Amenity Trees - AS 4373-2007".

Pruning of the Jacaranda is limited to pruning to achieve crown thinning in accordance with clauses 7.2.3 and with reference to clause 3.16. and additional pruning to reduce current and future overhang of the proposed building. Pruning of the Spotted gum is limited to removal of any dead wood, removal of storm damage and hangers and pruning to achieve crown thinning in accordance with clauses 7.2.3 and with reference to clause 3.16.

Tree work should only be carried out by a fully insured and qualified Arborist. Suitable qualifications for an Arborist are to be a minimum standard of

Australian Qualification Framework (AQF) Level 3 in Arboriculture for the actual carrying out of tree works and AQF Level 5 in Arboriculture for Hazard, Tree Health and Risk Assessments and Reports.

Where possible all green waste generated from the approved tree work is to be recycled into mulch or composted at a designated facility. All reasonable measures must be taken to protect the remaining vegetation on the site from damage during the approved tree works.

- (9) **Waste Minimisation and Management** – All waste management must comply with the requirements set out in Section B1.9 of Camden Development Control Plan 2011.
- (10) **Approved Lots Sizes** – Proposed lot 142 is approved with an area of 701.4m². Proposed lot 141 must contain the remaining 878.3m² of the site area.
- (11) **Installation of Fencing** – A 1.5m timber lapped and capped fence must be installed in accordance with Drawing Title; Landscape Plan, No. 2476 Revision K dated 10 October 2013 on the sites southern boundary and must be maintained in good order. The fence must be setback behind the Photinia fraseri (Red Robin) hedge. In addition, a 1.8m timber lapped and capped fence must also be installed in accordance with Drawing Title; Landscape Plan, No. 2476 Revision K dated 10 October 2013 along the sites eastern boundary and must be maintained in good order.
- (12) **Car Parking** – All cars associated with the proposed dwelling must be parked behind the front boundary line on the day of bin collection to allow for the collection of all waste bins within Silky Oak Grove.

2.0 - Construction Certificate Requirements

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

- (1) **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.

- (2) **Performance Bond** - Prior to the issue of the Construction Certificate a performance bond of \$10,000 must be lodged with Camden Council in accordance with Camden Council's Engineering Construction Specifications.
- (3) **Roads Act 1993 Consent** - Prior to the issue of a Construction Certificate, consent pursuant to s.138 of the *Roads Act 1993* must be obtained from the Roads Authority for the design and construction of all the proposed work in, on or over the road reserves adjacent to the subject site.

The design must include, but not be limited to, plans/documents associated with:

- (a) the construction of kerb and gutter, road shoulder and drainage

- (b) footway formation
- (c) public utility service adjustment or installation
- (d) an Environmental Site Management Plan.

Further, all such plans and documents associated with the design must be certified by:

- (a) persons who are suitably accredited by a scheme approved by the NSW Department of Planning or where no scheme exists,
- (b) persons who are suitably qualified, are specialists and in that regard, currently practising in that specialist area, or
- (c) in the case of a Public Utility Authority, an appropriately delegated officer of that Authority or accredited person by that Authority,

and prepared in accordance with Camden Council's current Engineering Design Specifications.

- (4) **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 the following construction inclusions to 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 32MPa.
- (b) **Damp-Proofing 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 Principal 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):

- (a) The provision of drainage to the building perimeter (including subsoil drainage), to prevent water ponding or soil waterlogging in the building vicinity;
- (b) External finished ground levels, including pavements, should not be higher than the base of the first course of brickwork, or the brickwork and mortar below a damp proof course (DPC) should be exposure rated;
- (c) DPC material must be carried through to the face of any applied finishes;
- (d) Retaining walls should be built of salinity resistant materials;
- (e) 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.

- (5) **Privacy Screening** – Prior to the issue of a Construction Certificate, amended plans showing the provision of privacy screening on the south façade of the balcony on bedroom 1 shall be provided to the Principal Certifying Authority. The privacy screening shall comply with the following controls:
- Maintain a minimum height of 1.7 metres above the finished floor level; and
 - Maximum individual opening size no greater than 30mm; and
 - The total area of all openings shall not exceed 30 per cent of the surface area of the screen when viewed in elevation.
- (6) **Upgrade to Existing Swimming Pool Child Resistant Barrier** – The existing swimming pool barrier shall be upgraded to ensure the pool is at all times surrounded by a child resistant barrier that separates the swimming pool from any dwelling on the property as well as any public or private place adjoining the property. Prior to the issue of any construction certificate details on the child resistant barrier demonstrating compliance with the requirements of the Swimming Pool Act 1992 and AS1926-2012 shall be submitted to the Principal Certifying Authority.
- (7) **Swimming Pool Certificate of Compliance for Upgrading to Child Resistant Barrier** – Prior to the issue of any subdivision certificate or within 28 days of the issue of any construction certificate the existing swimming pool shall be surrounded by a child resistant barrier demonstrating compliance with the Swimming Pool Act and AS1926-2012. A certificate of compliance issued under the Swimming Pool Act 1992 shall be obtained from a suitably qualified individual in respect to the upgrading of the child resistant barrier within 28 days of the issue of any construction certificate.

3.0 - Prior To Works Commencing

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

- (1) **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.

- (2) **Erection of Signs** – The erection of signs must be undertaken in accordance with Clause 98A of the Environmental Planning and Assessment Regulation 2000.
- (3) **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.
- (4) **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.
- (5) **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*.
- (6) **Sydney Water Approval** – Prior to works commencing, the approved development plans must also be approved by Sydney Water.

4.0 - During Construction

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

- (1) **Subdivision, Building and Demolition Work Hours** - All such work must be restricted to the following hours: -
 - a) between 7am and 6pm Mondays to Fridays (inclusive);
 - b) between 8am to 5pm Saturdays,

Work is prohibited on Sundays and Public Holidays.

- (2) **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.

- (3) **BASIX Certificate** – Under clause 97A of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in each relevant BASIX Certificate for the development are fulfilled.

In this condition:

- (a) relevant BASIX Certificate means:
 - (i) a BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under Section 96 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or
 - (ii) if a replacement BASIX Certificate accompanies any subsequent application for a Construction Certificate, the replacement BASIX Certificate; and
 - (b) BASIX Certificate has the meaning given to that term in the Environmental Planning & Assessment Regulation 2000.
- (4) **External Materials and Finishes** - The development must be completed in accordance with the approved schedule of external materials, colours and finishes.
 - (5) **Unexpected Finds Contingency (General)** - Should any further suspect materials (identified by unusual staining, odour, discolouration or inclusions such as building rubble, asbestos, ash material etc) be encountered during any stage of earth works/ site preparation/ construction, then such works must cease immediately until a qualified environmental consultant has been contacted and conducted a thorough assessment. In the event that contamination has been identified as a result of this assessment and remediation is required, site works must cease in the vicinity of the contamination and the Consent Authority must be notified immediately.

Where remediation work is required the applicant will be required to comply fully with Council's Policy - Management of Contaminated Lands with regards to obtaining consent for the remediation works.

- (6) **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.

- (7) **Fill Material** - 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.

- (8) **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 7am - 6pm Monday to Friday, and between 8am - 4pm 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.
- (9) **Tree Protection During Construction Work** – In general all trees on the site must be protected in accordance with the standards, specified in the "Australian Standard for Protection of Trees on Development Sites - AS 4970-2009".

In particular special measures must be installed to protect the trunk and roots of the Grevilea robusta (Silky Oak), Jacaranda and Corymbia (Eucalyptus) from any form of damage either accidental or from approved construction processes. It is essential for ongoing tree health that damage to any bark or roots within the structural root zone is avoided as determined in clause 3.3.5 of the Standard for Protection of Trees on Development Sites.

Due to site constraints, protective fencing cannot be achieved for all the trees, therefore battens or similar method of protection must be installed in accordance with clause 4.5.3 of the Standard. Signage must be installed to inform builders and other workers to strictly observe installed tree protection measures. Nothing including the signage is to be nailed or screwed into the trees.

Careful means of excavation to avoid excessive root pruning is to be exercised. Where root damage is unavoidable, an arborist must be engaged to cleanly cut the effected roots by saw.

- (10) **Responsibility for Damage for Tree Removal** - The applicant is responsible for any damage caused to existing public utilities, footpaths or public roads during the cutting down, grinding, removal and disposal of the timber and roots. Care must also be taken by the applicant and the applicant’s agents to prevent any damage to adjoining properties. The applicant or the applicants’ agent may be liable to pay compensation to any adjoining owner if, due to tree works, damage is caused to such adjoining property.

- (11) **Shoring and Adequacy of Adjoining Property** - Shoring and Adequacy of Adjoining Property shall be in accordance with Clause 98E of the Environmental Planning and Assessment Regulation 2000.
- (12) **Driveway Construction** – The proposed driveway on to Silky Oak Grove must be constructed of pavers to match the existing pavement within Silky Oak Grove. The white pebbled parking area as shown on the Landscape Plan No. 2476 Revision J must be replaced with pavers to match the existing pavement.
- (13) **Construction Noise Levels** – Noise levels emitted during demolition and construction works must 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).

- (14) **Air Quality** - Dust emissions shall be confined within the site boundary at all times.

5.0 - Prior To Issue Of Occupation Certificate

The following conditions shall be complied with prior to the issuing of an Occupation Certificate. The issue of an “interim” Occupation Certificate may occur if the Principal Certifying Authority (PCA) is satisfied that outstanding matters will be completed within a reasonable time frame. Additional fees for the issue of interim Occupation Certificates may be applied by the PCA.

- (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) **Privacy Screening** – Prior to the issue of any Occupation Certificate, privacy screening to the south-western elevation of the balcony on bedroom 1 must be installed in accordance with the requirements of Condition 2.0 (5) of this consent. This privacy screening shall be retained and maintained in a complete condition for the life of the development.
- (3) **Subdivision Certificate** – Prior to the issue of an Occupation Certificate for approved the dwelling, a Subdivision Certificate for the subdivision approved by this consent must be issued by Council and registered with NSW Land and Property Information.
- (4) **Damage to Existing Pavement** – Any damage to the existing pavement in silky Oak Grove as a result of the construction works must be rectified to Council's satisfaction prior to the issue of an Occupation Certificate.

6.0 - Subdivision Certificate

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

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

- (a) a certificate pursuant to s.73 of the *Sydney Water Act 1994* stating that both water and sewerage facilities are available to each allotment.

Application for such a certificate must be made through an authorised Water Servicing Co-ordinator.

- (b) a Notification of Arrangements from Endeavour Energy.

- (c) Written advice from an approved telecommunications service provider (Telstra, Optus etc) stating that satisfactory arrangements have been made for the provision of underground telephone plant within the subdivision/development.

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

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

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

- (a) Easement to drain water.

- (5) **Section 94 Contributions** - Pursuant to Camden Contributions Plan 2011 adopted in April 2012, a contribution must be paid to Council of \$7,110 per

additional lot or dwelling, total \$7,110, for **Open Space, Recreation & Community Land.**

The contribution must be indexed by the methods set out in Paragraph 2.15.2 of the plan and paid prior to the issue of a Subdivision 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 Subdivision Certificate.

- (6) **Section 94 Contributions** - Pursuant to Camden Contributions Plan 2011 adopted in April 2012, a contribution must be paid to Council of \$9,697 per additional lot or dwelling, total \$9,697, for **Recreation & Community Facilities, Volunteer Emergency Services Facilities and Plan Preparation & Administration Services.**

The contribution must be indexed by the methods set out in Paragraph 2.15.1 of the plan and paid prior to the issue of a Subdivision Certificate.

RECOMMENDED

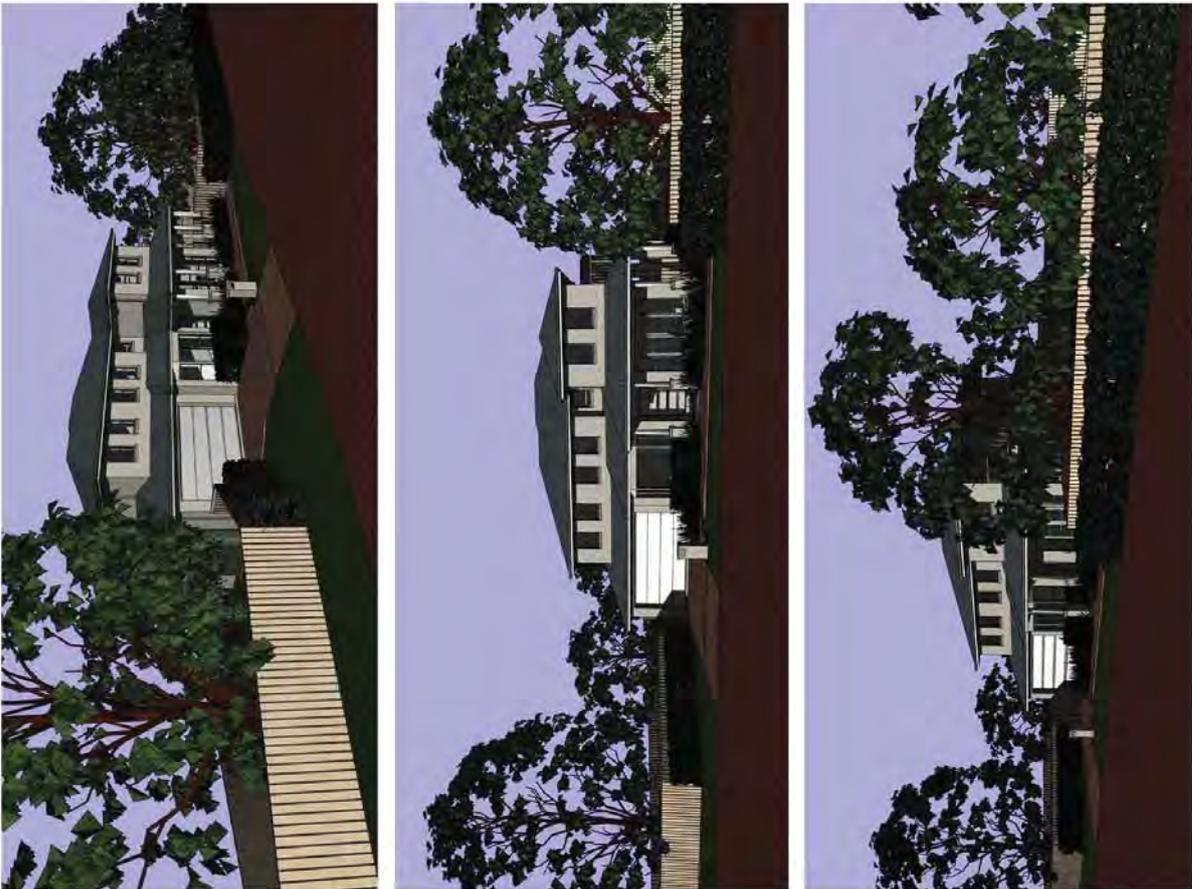
That Council approve DA543/2013 for a subdivision to create 2 residential lots, the construction of a two storey dwelling, removal of 2 trees, landscaping and associated site works at 11 Sunset Avenue, Elderslie subject to the conditions listed above.

ATTACHMENTS

1. Proposed Plans
2. Revised Landscape Plan A4
3. Floor Plans Proposed - *Supporting Document*
4. Existing Floor Plans - *Supporting Document*
5. Public Notification and Submissions Map - *Supporting Document*
6. Submissions - *Supporting Document*
7. Additional Submissions - *Supporting Document*
8. Late submission - *Supporting Document*

ORD01

Attachment 1

<p>NOTES: 1. DIMENSIONS SHOWN ARE APPROX. ONLY AND SHOULD BE VERIFIED ON SITE. 2. FIGURED DIMENSIONS ARE TO BE TAKEN IN PREFERENCE TO SCALING. 3. ALL DIMENSIONS ARE IN METRES UNLESS STATED OTHERWISE. 4. WINDOW SIZES ARE NOMINAL ONLY. FINAL WINDOW SCHEDULE BY BUILDER.</p>	
<p>CLIENT MR & MRS SMALLSMAN</p>	
<p>JOB: PROPOSED B/V RESIDENCE <small>LOT 34, PF SUNSET AVENUE, ELDERSLIE, NSW, 2579.</small></p>	
<p>DRAWING PERSPECTIVE</p>	
<p>SHEET SIZE TO SCALES A3</p>	<p>DATE: 25.3.13</p>
<p>DRAWING NO: 2476</p>	<p>SHEET: 1/15</p>
<p>ISSUE: K</p>	
	
<p>M.A.D.S. www.maccraft.com.au <small>(02) 4655 1390 info@maccraft.com.au MACARTHUR ARCHITECTURAL DRAFTING SERVICES PLOT DATE: Friday, 11 October 2013</small></p>	

NOTES:

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CLIENT:
**MR & MRS
SMALLSMAN**

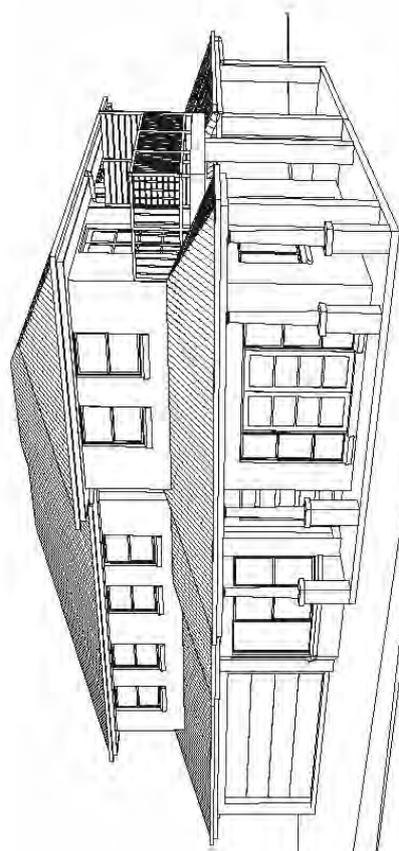
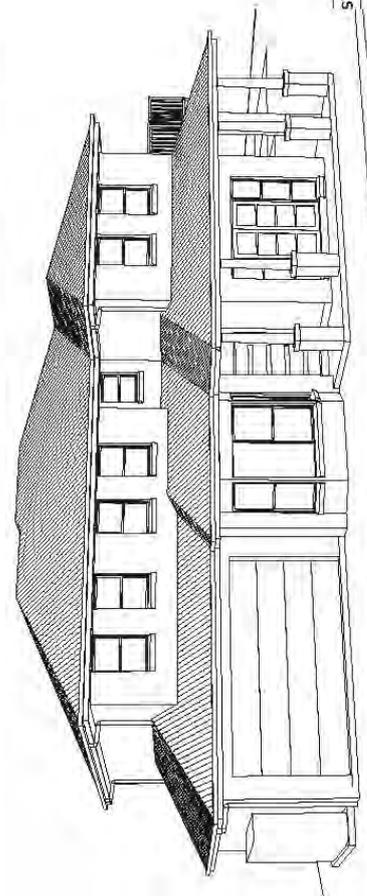
JOB:
**PROPOSED B/V
RESIDENCE**

LOT 14, DP 1181, SINGLET AVENUE, ELDESBIE, NSW, 2530.
DRAWING
PERSPECTIVE

SHEET SIZE TO SCALE: **A3** DATE: **25.3.13**

DRAWING No: **2476** SHEET: **1/15** ISSUE: **K**

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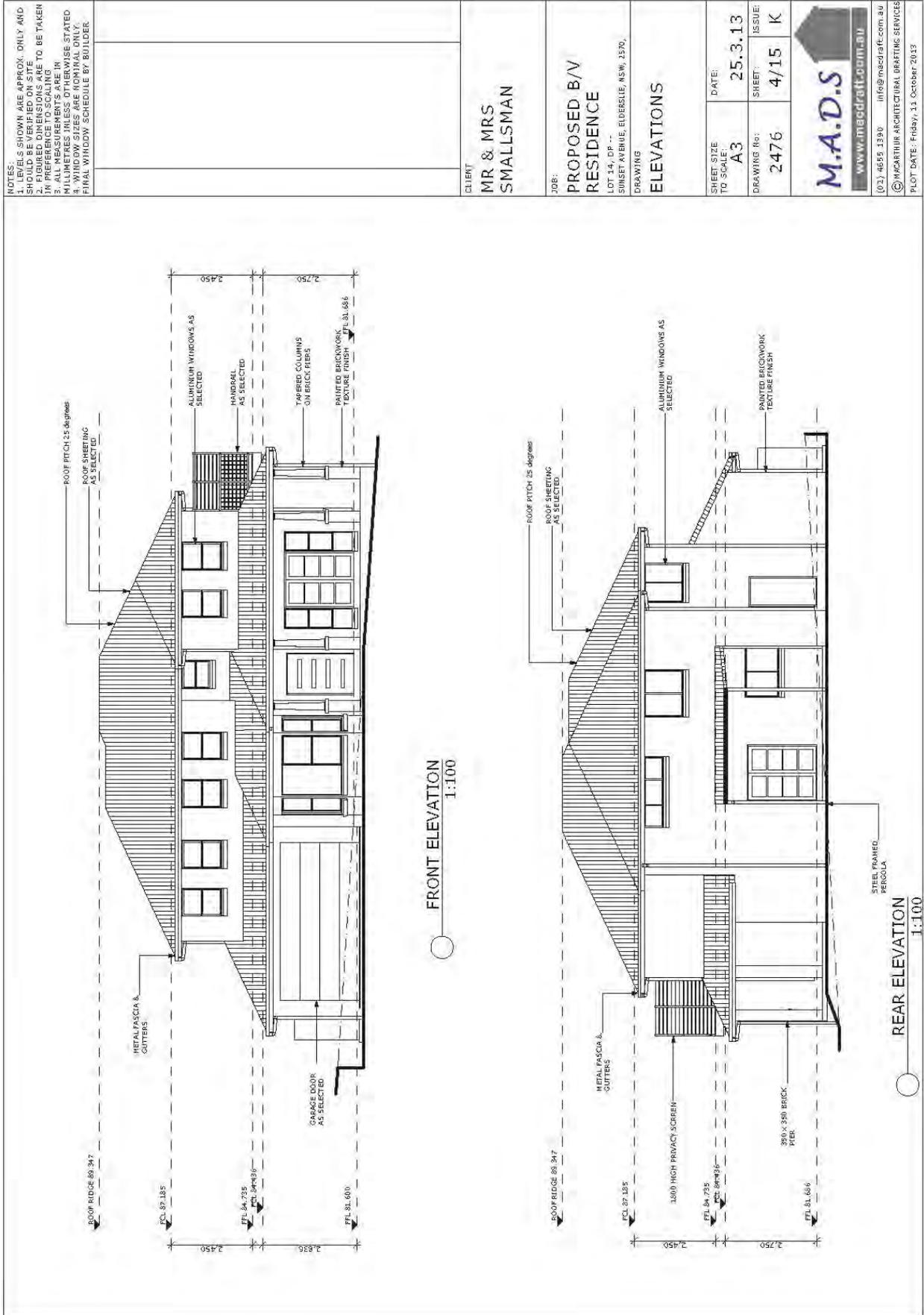



ISSUE	AMENDMENT	DATE
A		27/03/2013
B	VARIATIONS TO FLOOR PLAN	17/04/2013
C	VARIATIONS TO FLOOR PLAN	6/05/2013
D	VARIATIONS TO FLOOR PLAN	14/05/2013
E	VARIATIONS TO FLOOR PLAN	14/05/2013
F	VARIATIONS TO FLOOR PLAN	27/05/2013
G	PLAN ISSUED FOR DA	18/06/2013
H	EXTERNAL MATERIALS CHANGED	4/07/2013
I	LANDSCAPE PLAN & TREES RETAINED	4/09/2013
J	LANDSCAPE CALCULATIONS & FRONT COLUMNS CHANGED	1/10/2013
K	COUNCIL CHANGES	10/10/2013

Sheet Number	Sheet Name
1	PERSPECTIVE
2	LOWER FLOOR PLAN
3	UPPER FLOOR PLAN
4	ELEVATIONS
5	ELEVATIONS
6	SECTION
7	EXISTING HOUSE FLOOR PLAN
8	EXISTING HOUSE ELEVATIONS
9	SITE PLAN
10	SHADOW DIAGRAMS
11	LANDSCAPE PLAN
12	BASIX
13	SUBDIVISION PLAN
14	SAFETY NOTES

ORD01

Attachment 1



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 4. WINDOW SIZES ARE NOMINAL ONLY. FINAL WINDOW SCHEDULE BY BUILDER.

CLIENT:
 MR & MRS SMALLSMAN

JOB:
 PROPOSED B/V RESIDENCE
 LOT 14, DP 111, SUNSET AVENUE, ELDERSBIE, NSW, 2150.

DRAWING:
 ELEVATIONS

SHEET SIZE TO SCALE:	DATE:
A3	25.3.13
DRAWING No:	SHEET:
2476	5/15
ISSUE: K	

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Annotations for Top Elevation:
 ROOF PITCH 25 degrees
 ROOF SHEETING AS SELECTED
 ALUMINIUM WINDOWS/AS SELECTED
 PAINTED BRICKWORK/ TEXTURE FINISH
 STEEL FRAMED PERGOLA
 METAL FASCIA & GUTTERS
 HANDRAIL AS SELECTED
 TAPERED COLUMNS 100x50 x 350 BRICK PERG.
 LEVELS: RFL 89.347, RFL 87.105, FFL 84.735, FFL 84.836, FFL 81.686

Annotations for Bottom Elevation:
 ROOF PITCH 25 degrees
 ROOF SHEETING AS SELECTED
 PAINTED BRICKWORK/ TEXTURE FINISH
 TAPERED COLUMNS 100x50 x 350 BRICK PERG.
 METAL FASCIA & GUTTERS
 STEEL FRAMED PERGOLA
 LEVELS: RFL 89.347, RFL 87.106, FFL 84.735, FFL 84.836, FFL 81.686

Scale:
 SIDE ELEVATION 1:100

ORD01

Attachment 1

ORD01

Attachment 1

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EXISTING HOME REAR ELEVATION
 1:100

BRICKWORK TO MATCH EXISTING

DEMOLISH EXISTING PERGOLA IN THIS LOCATION

DEMOLISH EXISTING LAUNDRY

EXISTING HOUSE SIDE ELEVATION

CLIENT		MR & MRS SMALLSMAN	
JOB:		PROPOSED B/W RESIDENCE	
DRAWING		EXISTING HOUSE ELEVATIONS	
SHEET SIZE TO SCALE:	DATE:	SHEET:	ISSUE:
A3	25.3.13	2476	8/15 K
DRAWING No:		2476	
DRAWING No:		8/15	
DRAWING No:		K	

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 PLOT DATE: Friday, 11 October 2013

ORD01

Attachment 1

9AM SHADOW DIAGRAM
1:500

12PM SHADOW DIAGRAM
1:500

3PM SHADOW DIAGRAM
1:500

CLIENT: MR & MRS SMALLSMAN
JOB: PROPOSED B/V RESIDENCE
DRAWING: SHADOW DIAGRAMS

SHEET SIZE TO SCALE: A3
DRAWING NO.: 2476

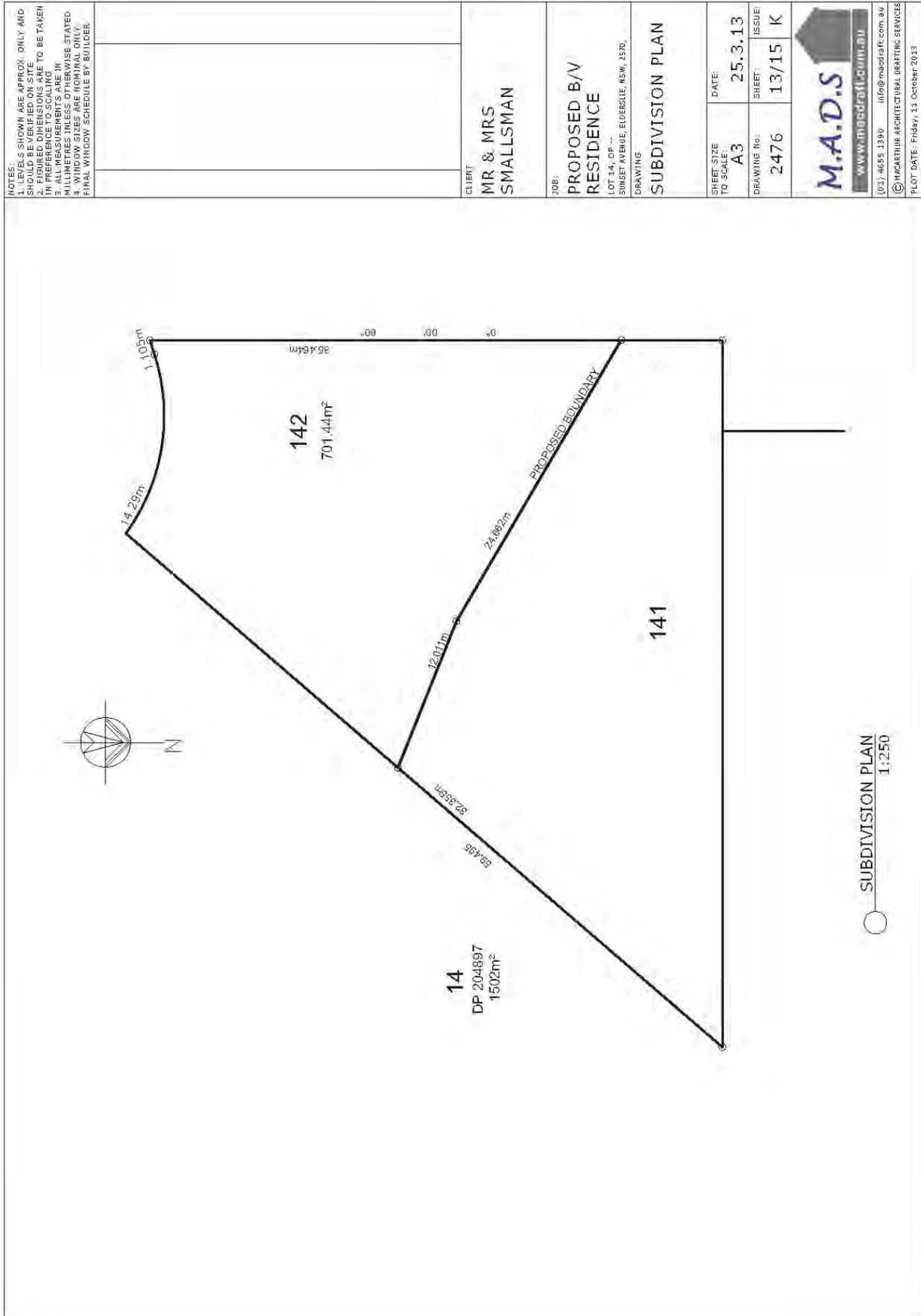
DATE: 25.3.13
SHEET: 10/14
ISSUE: K

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AMENDMENT: _____
DATE: _____
PLOT DATE: Friday, 11 October 2013

LOT 14, DP 203857
 SUNSET AVENUE, ELDERSLIE, NSW, 2570.



ORD01

Attachment 1



ORDINARY COUNCIL

ORD02

ORD02

**SUBJECT: GREGORY HILLS VOLUNTARY PLANNING AGREEMENT
AMENDMENT**
FROM: Director Governance
TRIM #: 13/2546

PURPOSE OF REPORT

The purpose of this report is to seek Council resolution to place amendments to the Gregory Hills Voluntary Planning Agreement (VPA) on public exhibition.

BACKGROUND

At its meeting of 27 March 2012 Council resolved to adopt the Gregory Hills VPA. The VPA applies to land within the Turner Road precinct of the South West Growth Centre (SWGCG) and comprises the residential component of the Gregory Hills development. This VPA will deliver the infrastructure, services and facilities related to the Gregory Hills development in accordance with the Oran Park Turner Road Contributions Plan (OPTR CP) and the Indicative Layout Plan (ILP). The total VPA package includes \$64.3M worth of works, land dedication and monetary contributions.

At its meeting on 26 February 2013, Council resolved to vary Schedule 3 of the Gregory Hills VPA in order to bring the VPA into line with the adopted Indicative Layout Plan (ILP) and the OPTR CP.

Council Officers have been in discussions with the developer, Dart West Developments in relation to potential amendments to the Gregory Hills VPA. The initial issues are primarily related to addressing the error in calculation of land area for drainage basins and open space on the western tributary of South Creek within Gregory Hills. Other changes proposed include amendments to operational clauses of the VPA.

As a result, draft amendments to the Gregory Hills VPA have been formulated. A copy of the proposed changes to the Gregory Hills VPA, in a tracked changed document has been provided as an **Attachment 1 to this report**. A Deed of Variation has been prepared for the implementation of the amendments to the Gregory Hills VPA. The Deed has been provided as **Attachment 2 to this report**.

This matter was workshopped with Council on 15 October 2013.

MAIN REPORT

The Gregory Hills VPA provides for substantial works and facilities over the duration of the development of the precinct. Following discussions, the proponent has requested Council make several amendments to the Gregory Hills VPA to amend minor ongoing issues and to bring it into line with existing development onsite and the development envisaged by the Precinct Plan and the OPTR CP. Minor amendments have also been proposed to rectify inconsistencies with the removal of incorrect or out-dated terminology and to ensure best practice.

The draft Gregory Hills VPA Amendments are now suitable to be placed on public exhibition subject to obtaining a resolution of Council. After this exhibition period the results of the public exhibition (and any submissions received) will be reported back to Council.

Below is a summary of the changes proposed to the Gregory Hills VPA. Further detail in regards to the specific amendments is available in **Attachment 1 to this report**.

The matter has been negotiated between Council officers and Dart West with the proposed amendments now supported by both parties.

In addition, the proposed amendments to the VPA were drafted in conjunction with Councils legal representative who has also undertaken a full legal review of the proposed changes and have considered them acceptable.

Double Counting - Open Space Area Calculations for Basins (B4, B7 & B8) and Open Space Areas (OS25, OS22 & OS20)

The proposed Gregory Hills VPA Amendments includes the rectification of the descriptions of the three open space and basin areas in the VPA which are located along the North-South tributary.

This is similar to the approach taken in Stage10 (and previously adopted by Council) for the stormwater basins and is consistent with the OPTR CP.

The VPA Schedule is currently set out so that the basins and open space areas for B4, B7, B8, OS25, OS22 & OS20 are accounted for separately. This is inconsistent with the requirements of the adopted OPTR CP and the ILP.

The proposed amendments to the Gregory Hills VPA for these water cycle management facilities B4, B7 & B8 show that they will be located in open space areas (i.e. basin and open space located on the one lot of land) this is consistent with the OPTR CP which states that all water cycle management facilities are located in open passive areas and should not be included as separate land Acquisition costs.

For Basin 4 the ILP shows 4,300m² of the basin being located within Open Space 25. The VPA double counted the 4,300m² area- requiring 4,300m² of land for basin PLUS 4,300m² of land for open space.

For Basin 7 the ILP shows 4,500m² of the basin being located within Open Space 22. The VPA double counted the 4,500m² area- requiring 4,500m² of land for basin PLUS 4,500m² of land for open space.

For Basin 8 the ILP shows 3,500m² of the basin being located within Open Space 20. The VPA double counted the 4,000m² area- requiring 4,000m² of land for basin PLUS 4,000m² of land for open space.

The VPA inadvertently required an additional 12,300m² of land that does not exist – it should have only been counted once as either basin or open space – not BOTH.

The changes to the land areas will fix the errors in the calculations and Council will still receive the land area that was intended to be delivered for basins and open space as set out in the OPTR CP and the ILP.

It is important to note that the same amount of open space as indicated on the ILP will be provided to Council and that no further development land will be created.

Other changes to the VPA will allow for some flexibility in the design of the basins so that they can be sized according to water management needs.

It is recommended that Council support this recommendation as this approach to basins is consistent with the OPTR CP and ILP and similar previously adopted amendments for water basins for Stage 10 in Gregory Hills VPA.

Other Minor VPA Clause Amendments:

Original Clause number	New Clause number	Comments
Clauses 12 and 13	Clause 12	These clauses relate to the process for the approval of facilities. Changes have been made to ensure Council has rights to approve design of the facilities prior to submission of a DA. Clauses 12 and 13 have been amalgamated into one singular clause 12 and further references have been added to include more approvals at the Construction Certificate stage. The intent of the clause remains the same.
Clause 25	Clause 24	<p>The “provision of Security” clause has been updated to increase the amount of security that Council requires for the community facility. This is due to the change in timing of the community facility from the 1051st final lot to the 1801st final lot. The change in timing has been requested due to the delay in the delivery of the school and the community centre is intended to be delivered at or around the same time as the school.</p> <p>Minor item number amendments have also been made to ensure correct referencing.</p>
Clause 36	Clause 35	<p>The developer has requested that changes be made to clause 35 in regards to the staging of development and variations to contribution items to allow greater flexibility and to allow the approval of minor staging variations by Council staff.</p> <p>This flexibility is needed as changing circumstances on the ground occurs as more detailed design is undertaken and development proceeds.</p> <p>The changes to clause 35 also allows for the inclusion of sub-staging which better reflects the progress of development occurring on the ground.</p>

Schedule 1 (Plan Package) Amendments

Schedule 1 of the Gregory Hills VPA contains the staging plans for land covered by the Gregory Hills VPA. As part of the Gregory Hills VPA Amendments the developer has

requested that Council update the staging plans to reflect the current sub-staging that is occurring for Gregory Hills as the current plans are out of date.

The updated staging plans have been inserted into the tracked changed version of the Gregory Hills VPA.

Schedule 3 (Developer Contributions) Amendments:

Schedule 3 sets out the Development Contributions that the Developer and Landowner are to provide under the VPA. This section of the VPA contains information relating to the carrying out of works, dedication of land and the payment of monetary contributions. Amendments are required in this section to provide greater flexibility in the delivery of works contained within proposed Schedule 3. This improves clarity and streamlines the approvals process.

Below is a discussion on the proposed changes.

Column/ Item	Comments
Changes to “Dedication of Land”- Column 6 Timing	<p>Column 6 relates to the timing of contributions by the Developer. At present, there are specific timing requirements set out with little flexibility for Council to vary requirements by agreement. It is proposed to amend relevant line items to allow for greater flexibility by adding “...or such other date agreed to by Council.”.</p> <p>This involves the minor amendment being the use of the word ‘other’ as opposed to ‘later’. The reason for this is that some ‘other date agreed to by Council’ may in fact be earlier than the actual completion of works.</p>
Additional References to Clause 11 “Deferral of Work”	<p>Wording changes have been made which allows for Council to take security for 100% of the value of the uncompleted part of the Work before issuing a subdivision certificate for the relevant stage or sub stage. This gives Council the security that if the developer fails to meet the expectations of the VPA, Council can call upon that security to ensure that objective is met.</p>
Changes to - Column 2 Relevant Stage – Updating numbers to include sub staging.	<p>Minor amendments have been made to the staging column in Schedule 3 to include sub-stage numbering for clarity.</p>
Additions to timing thresholds for Major Facilities (double playing fields and community facility)	<p>In order to provide Council with further legal reassurance that the major facilities or works will be completed under the VPA as scheduled, it has been decided to amend schedule 3 to add lot thresholds to the two major facilities being provided under the VPA. These two items being the double playing fields and the community facility.</p> <p>It is proposed to add the following wording to Schedule 3 for</p>

Column/ Item	Comments
	<p>the community facility: <i>“Prior to the earlier of the following:</i></p> <ul style="list-style-type: none"> a) <i>the issue of the Subdivision Certificate that creates the 1801st Final Lot within the Development, or</i> b) <i>the completion of construction of the primary school that is to be located generally in the area shown as ‘Primary School’ on the Plan titled ‘VPA Plan 2’, or such other date agreed to by Council under Clause 11.</i> <p><i>For the purposes of paragraph (b) above, the primary school is taken to be complete when the Council is notified in writing as such by the Developer or the Department of Education and Communities</i></p> <p>This change is proposed to be made as Dart West have told Council that it would be unlikely that they would deliver the community facility prior to the 1051st lot as originally intended in the VPA wording this is due to the delay (and uncertainty) of the delivery of the school by NSW Department of Education and Communities. This would ultimately provide some degree of flexibility, whilst also giving Council some certainty regarding the timing of delivery of the item.</p> <p>It is proposed to add the following wording to schedule 3 for the double playing fields <i>“Prior to the issue of the Subdivision Certificate that creates the 2001st final lot”</i>. This was seen as a necessary change by Council as the new staging plans show the double playing fields being located within stage 15C which is not tied to the release of any final lots. By tying the double playing fields to the 2001st Final Lot in the development it provides Council with the security that the double playing fields will be delivered prior to the 2001st Final Lot in the development.</p> <p>As a result of this change the security amounts in clause 24 have been updated and increased (see clause 24 changes).</p>
<p>Changes to Transport Management Items</p>	<p>It is proposed to amend wording to eliminate any conflict in relation to the overall length / area of the shared path to be provided. The changes include the insertion of the wording to include the approximate numerical length of the bike path for example <i>“2.5m wide shared path for an approximate length of 308m generally in the location identified as TM4 on the Plan Package provided in Schedule 1”</i>.</p> <p>The addition of the word “approximate” allows some flexibility in the delivery of the contribution items for shared paths as they can be either slightly longer or shorter and are not often 100% accurate in size.</p>
<p>Changes to Riparian</p>	<p>It is proposed to insert the applicable wording to include the</p>

Column/ Item	Comments
Corridor Protection and Enhancement items	<p>approximate area of the riparian land for example <i>“Embellishment of approximately 18,000m² riparian land generally in the location identified as RP1 on the Plan Package provided in Schedule 1”</i></p> <p>This would be consistent with the approach to the changes to the transport management contribution items as mentioned above. The addition of the word “approximate” allows some flexibility in the delivery of the riparian corridors as riparian corridors are restricted by the riparian corridor easements and can be either slightly bigger or larger and are not often 100% accurate in size.</p>
Changes to Open Space Corridor and Transmission Line Easement	<p>The wording has been amended in Schedule 3 to reflect the approach taken with transport management items (shared paths) and riparian corridors, in that the prescribed area has been amended. It is proposed to insert the applicable wording to include the approximate area of the embellishment of transmission line easement for example <i>“Embellishment of approximately 17,000m² of transmission line easement land generally in the location identified as TL5 on the Plan Package provided in Schedule 1, including cycle/pedestrian/access path”</i>. The proposed changes are considered acceptable.</p> <p>The addition of the word “approximate” allows some flexibility in the delivery of the contribution items for the embellishment transmission line easements and Open Space Corridors as they can be either slightly bigger or smaller and are not often 100% accurate in size.</p>
Deletion of Swales	<p>The rows relating to Swales are to be removed from the VPA Schedule. This is due to the fact that Dart West and Council have agreed that they can achieve the same water cycle management outcomes without the need for swales in Gregory Hills. The monetary contribution amounts for Swales will remain within the VPA and be contained within the new contribution item 91 in schedule 3 titled “water cycle management”.</p>
Relocation/Amalgamation of Open Space contribution item OS21 (OSR4.3) to Open Space OS20.	<p>This open space area has been documented on the VPA Plans in the incorrect location. In accordance with the OPTR CP, this open space area should be located south of the Town Centre site and on the western side of the riparian corridor RP5 (contained within Stage 12).</p> <p>It is appropriate to amalgamate this small area of open space OS21 (OSR4.3) (400sqm) with OS20 as it results in a more functional, useable and larger open space area.</p> <p>The Plan Package in Schedule 1 has been updated accordingly.</p>

Column/ Item	Comments
<p>Changes to “Dedication of Land and “Carrying out of works” Water Cycle Management & addition of Appendix A Water Cycle Management.</p>	<p>The following changes relate to the ‘carrying out of work and the ‘dedication of land’ in schedule 3 for the water cycle management contribution items (Basins/Swales).</p> <p>All items relating to the ‘Carrying out of Work’, Water Management are to be deleted from the schedule and instead a ‘Miscellaneous Works – Item 91 is to be added.</p> <p>The Contribution Value for Item 91 is the sum of all the Contribution Values of the previous referenced ‘Carrying out of Work’ Water Management Items plus the Contribution Value of the Swales (also to be deleted) and the dedication of land contribution values. Item 91 will also apply to all Basins 1-B15.</p> <p>The Grand total for Item 91 in the new schedule 3 would therefore come to \$12,670,966.97. This results in no net loss to Council in the value of the VPA.</p> <p>Appendix A has been added to the Gregory Hills VPA to include the Water Cycle Management DCP requirements. This addition is necessary to help provide more information and guidance at the development assessment stage or when the developer is constructing the works.</p> <p>The proposed wording changes ensures that the basin size is ultimately determined and set by the catchment area, that is identified as part of the civil design, as opposed to a set figure provided in the VPA. There may be a requirement for a larger or smaller basin for that particular site and this allows some flexibility. Furthermore, the wording ensures basins are provided in accordance with the VPA plans and specifically indicates that the basin area does not include the area of Open Space which surrounds the basin.</p> <p>The proposed changes do not result in any net monetary loss under the VPA and they result in a satisfactory planning outcome as the design of the basins is based on engineering design at the time of development rather than a specific size.</p>
<p>Changes to the Plan Staging to accurately reflect Transport Management items TM6, TM7, TM8 & TM9. and riparian corridor and enhancement items RP7 & RP8</p>	<p>There are numerous changes proposed which relate to the transport management contribution items (bike paths) and embellishment of riparian corridor items which are located within South Creek and the Tributary bisecting Stage 10, Stage 11, Stage 15 & Stage 19.</p> <p>These proposed changes are necessary due to the proposed amendments to the staging plans (in Schedule 1 of the amendment) to include sub-staging. This has resulted in some of the bike paths and riparian corridors being amalgamated or split into different stages from what they were previously.</p> <p>Contribution item TM8 & TM9 (Bike Paths):</p> <ul style="list-style-type: none"> It is proposed to amalgamate contribution item (bike

Column/ Item	Comments
	<p>paths) TM8 & TM9 to form a singular contribution item called TM8.</p> <ul style="list-style-type: none"> The bike path for TM8 and TM9 in the current adopted VPA runs along the riparian corridor between stage 15 & 19. These bike paths have now been amalgamated and are located wholly within stage 19. The proposed changes to TM8 & TM9 also include the amalgamation of the contribution values for these items. <p>Contribution item TM6 (Bike path):</p> <ul style="list-style-type: none"> It is proposed to split contribution item TM6 (bike path) into two separate contribution items called TM7 & TM9. Contribution item TM6 in the adopted VPA runs through the middle of the riparian corridor located in Stage 11. This bike path has now been split into two separate stages. Stage 15B includes the new contribution item TM7 (bike path) and Stage 11C includes the new contribution item TM6 (bike path). This change reflects the current development on the ground. The contribution values have also been updated and apportioned to reflect these changes. <p>Contribution item RP7 & RP8 (embellished riparian corridor):</p> <ul style="list-style-type: none"> It is proposed to amalgamate contribution item RP7 & RP8 (embellished riparian land) to form one singular contribution item called RP7 (embellished riparian land). Contribution item RP7 under the adopted VPA runs along the South Creek riparian corridor and is currently located across Stage 15. Under the proposed Gregory Hills VPA amendments this contribution item will be known as singular contribution item RP7 and will be located in stage 19. Contribution item RP8 under the adopted VPA runs along the South Creek riparian corridor and is currently located across Stage 19. Under the proposed Gregory Hills VPA amendments this contribution item will be known as singular contribution item RP7 and will be located in stage 19. Contribution Values for RP7 & RP8 are also to be amalgamated to form one singular contribution value titled RP7.
Settle Up Amount	The issue of the double counting of basin and open space land (discussed earlier in this report), was first discovered when the

Column/ Item	Comments
	<p>applicant was seeking approval for Stage 10 of their development. Council’s legal advice at the time provided two options for resolution. The first option was to amend the VPA, which takes time and would have caused significant delay to the development of Stage 10 as the amendment would need to be placed on public exhibition. The second option was to “vary” the VPA, but could only be done if there was no change to the total value of the works and land to be provided.</p> <p>To facilitate the release of Stage 10, the decision was taken to vary the VPA and agree on a “settle up amount”, which was a monetary amount that reflected the difference in the land area required under the VPA (calculated in error), and the actual land area that was to be dedicated as part of Stage 10 (consistent with the ILP and CP). The settle up amount only existed to ensure that the total contribution amount (land and works) for Stage 10 had the same total value as stated in the VPA so that it could be dealt with as a ‘variation’. The settle up amount was a temporary measure until the amendment could be facilitated and was not income that Council could reasonably expect to receive, given that it relates to the land area that was ‘double counted’.</p> <p>The VPA amendments address the errors in land calculation, including for Stage 10. The errors are now rectified as part of this VPA amendment. As a result, there is no further need for the Council to hold a bank guarantee for the ‘settle up amount’. Consequently, this reference is removed from the VPA and the bank guarantee that was provided with Stage 10 to cover this amount is to be returned to the applicant upon execution of the amended VPA.</p>

Public Exhibition

Should Council resolve to support the proposed amendments to the Gregory Hills VPA, these will be publicly exhibited for a period of 28 days in accordance with the *Environmental Planning and Assessment Regulation 2000*. A notification will be placed in the local newspaper with the exhibition material made available at:

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

At the conclusion of the consultation period, a report will be submitted back to Council detailing the submissions received.

FINANCIAL IMPLICATIONS

Council is to return the bank guarantee amount of \$690,520.07 to the developers (Dart West Developments) as this contribution item in Schedule 3 is resolved through the proposed amendments to the VPA and is no longer required.

There are no other matters that have a direct financial implication for Council.

CONCLUSION

This report seeks to make several minor amendments to the Gregory Hills VPA including changes to clauses 12, 13, 24, 35, Schedule 1 (Plan Package) and Schedule 3 (Developer Contributions) and the inclusion of a new Appendix A (Water Cycle Management). The changes to the Gregory Hills VPA are necessary to bring the VPA in line with the underpinning document Oran Park Turner Road Contribution Plan and the Indicative Layout Plan and to allow more flexibility in the clauses contained within the VPA. These amendments will ensure that the development is delivered in accordance with the original intent and vision for the site. They are also to simplify the operation and intention of the VPA and are consistent with Council's goals for the Gregory Hills Precinct.

It is recommended that the proposed changes to the Gregory Hills VPA and the Deed of Variation be placed on public exhibition for 28 days. At the conclusion of the consultation period, a report will be submitted back to Council detailing submissions received.

RECOMMENDED

That:

- i. Council publicly exhibit the Draft amended Gregory Hills Voluntary Planning Agreement and Deed of Variation for a period of 28 days in accordance with the provision of the Environmental Planning and Assessment Regulations 2000;**
- ii. a further report be prepared and submitted to Council to allow consideration of submissions received during the exhibition period; and**
- iii. Council is to return the bank guarantee upon execution of this agreement in the amount of \$690,520.07 to Dart West Developments as the contribution item 137 in schedule 3 has been deleted from the Gregory Hills VPA.**

ATTACHMENTS

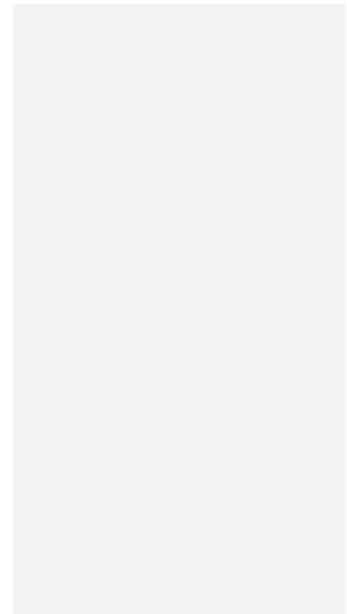
1. Gregory Hills VPA Amendment - Tracked changed version
2. Deed of Variation to Gregory Hills VPA

Gregory Hills
Planning Agreement

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

Camden Council
Dart West Developments Pty Limited
Trustees of the Marist Brothers

Date:



ORD02

Attachment 1

Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

ORIGIN AND AMENDMENTS

Gregory Hills Planning Agreement (VPA) Origin:

Execution as an Agreement Dated: 4 May 2012

Amendments to Gregory Hills Planning Agreement (VPA):

<u>Amendment No.</u>	<u>Date Adopted</u>	<u>Date in Effect</u>	<u>Description</u>
<u>1</u>	<u>26 February 2013</u>	<u>31 May 2013</u>	<u>Gregory Hills VPA Variation includes changes to schedule 3 (Clause 35-39, 107-111 and 137).</u>
<u>2</u>	<u>TBC</u>	<u>TBC</u>	<u>Gregory Hills VPA Amendments including changes to clauses 12, 13, 25, 36, schedule 1 & schedule 3 and the inclusion of a new Appendix A.</u>

Gregory Hills VPA - Origin and Amendments

Adopted: 26 February 2013

Date in Effect: 31 May 2013

2

Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

Dart West Gregory Hills
 Planning Agreement

Table of Contents

Summary Sheet	5
Parties	7
Background	7
Operative provisions	7
Part 1 - Preliminary	7
1 Definitions & Interpretation	7
2 Application of this Agreement.....	11
3 Further agreements relating to this Agreement.....	11
4 Surrender of right of appeal, etc.	11
5 Application of s94, s94A and s94EF of the Act to the Development.....	11
6 Conditions of Consent	11
Part 2 – Development Contributions.....	12
7 Provision of Development Contributions	12
8 WIK Agreement and application of Surplus Credit	12
9 Procedures relating to payment of monetary Development Contributions.....	13
10 Procedures relating to the dedication of land	13
Part 3 - Provisions regarding the Carrying out of Work.....	14
11 Deferral of Work.....	14
12 Approval of design of Work.....	15
13 Staging of Works	18 ¹⁶
14 Carrying out of Work.....	19 ¹⁶
15 Access to the Land	19 ¹⁷
16 Protection of people and property	19 ¹⁷
17 Damage and repairs to Work.....	19 ¹⁷
18 Variation of Work	20 ¹⁷
19 Procedures relating to the completion of Work.....	20 ¹⁸
20 Procedures relating to the rectification of defects	20 ¹⁸
21 Failure to carry out Work	21 ¹⁹
22 Works-As-Executed-Plan.....	21 ¹⁹
Part 4 – Indemnities and Insurances	21 ¹⁹
23 Indemnity and Insurance	21 ¹⁹
Part 5 - Security	22 ²⁰

ORD02

Attachment 1

Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

24	Provision of Security	2220
25	Release & return of Security	2321
26	Call-up of Security	2321
Part 6 - Other Provisions.....		2422
27	Recovery of cost of Work carried out by the Council	2422
28	Enforcement in a court of competent jurisdiction.....	2422
29	Dispute Resolution – expert determination.....	2422
30	Dispute Resolution – mediation	2523
31	Registration of this Agreement	2523
32	Compulsory Acquisition	2624
33	Assignment, sale of Land, etc	2725
34	Monitoring & review of this Agreement.....	2826
35	Variations to Contribution Items and Staging	2927
36	Notices.....	2927
37	Approvals and Consent	3028
38	Legal costs.....	3028
39	Entire Agreement.....	3028
40	Further acts.....	3129
41	Notations on section 149(2) Planning Certificates	3129
42	Governing law and jurisdiction.....	3129
43	Joint and individual liability and benefits.....	3129
44	No fetter	3129
45	Representations and Warranties	3129
46	Severability	3230
47	Modification.....	3230
48	Waiver.....	3230
49	GST.....	3230
50	Explanatory Note relating to this Agreement.....	3331
Schedule 1		3432
Schedule 2.....		4338
Schedule 3.....		4439
Execution.....		11188
Appendix A.....		11390
1.1	Flooding and Watercycle Management.....	11390

Gregory Hills Planning Agreement
Camden Council
Dart West Developments Pty Limited
Trustees of the Marist Brothers

Dart West Gregory Hills Planning Agreement

Summary Sheet

Council:

Name: Camden Council
Address: 37 John Street, CAMDEN NSW 2570
Telephone: (02) 4654 7777
Facsimile: (02) 4654 7829
Email: mail@camden.nsw.gov.au
Representative: Mr ~~Greg Wright~~ ~~Ron Moore~~ – General Manager

Developers:

Name: Dart West Developments Pty Limited
Address: PO Box 228, NARELLAN NSW 2567
Telephone: (02) 4648 5511
Facsimile: (02) 4623 8925
Email: david.taylor@dartwest.com.au
Representative: Mr David Taylor – General Manager, Property

Landowner:

Name: Trustees of the Marist Brothers
Address: PO Box 138, DRUMMOYNE NSW 1470
Telephone: (02) 9819 6622
Facsimile: (02) 9819 6184
Email: anthony.robinson@marists.org.au
Representative: Br Anthony Robinson – Provincial Secretary

Land:

See definition of *Land* in clause 1.1.

Gregory Hills Planning Agreement
Camden Council
Dart West Developments Pty Limited
Trustees of the Marist Brothers

Development:

See definition of *Development* in clause 1.1.

Development Contributions:

See Schedule 3.

Application of s94, s94A and s94EF of the Act:

See clause 5.

Security:

See clauses 11.1.2, [2524](#) and [3332](#).

Registration:

Yes. See clause [3231](#).

Restriction on dealings:

See clause [3433](#).

Dispute Resolution:

Expert determination and mediation. See clauses [3029](#) and [3430](#).

Gregory Hills Planning Agreement
Camden Council
Dart West Developments Pty Limited
Trustees of the Marist Brothers

Dart West Gregory Hills Planning Agreement

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

Parties

Camden Council ABN 31 117 341 764 of 37 John Street, Camden, New South Wales
(Council)

and

Dart West Developments Pty Limited ABN 32 107 685 370 of PO Box
228, Narellan NSW 2567 (Developer)

and

Trustees of the Marist Brothers ABN 91 064 875 510 of PO Box 138,
Drummoyne NSW 1470 (Landowner)

Background

- A The Landowner is the owner of the Land.
- B The Developer proposes to carry out the Development.
- C The Developer and the Landowner propose to make Development Contributions in connection with the carrying out of the Development in accordance with this Agreement.

Operative provisions

Part 1 - Preliminary

1 Definitions & Interpretation

- 1.1 In this Agreement the following definitions apply:

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

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

Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

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

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

Construction Certificate has the same meaning as in the Act.

Contribution Item or Item means an item or part of an item specified or described in Column 1 of Schedule 3.

Contribution Value means:

- (a) the amount contained in Column 7 of Schedule 3, in respect of Contribution Items contained in Schedule 3 as at the date of this Agreement; or
- (b) the amount agreed between the Parties in respect of any Contribution Items not included in Schedule 3 at the date of this Agreement,

indexed from September 2011 in accordance with the *Consumer Price Index (All Groups - Sydney)* published by the Australian Bureau of Statistics

CP means the *Oran Park and Turner Road Precincts Section 94 Contributions Plan*.

Defects Liability Period means the period commencing on the date on which a Work is taken to be complete under clause 20.19 of this Agreement and ending 12 months after that date.

Deferred Work Security means the Security provided under clause 11.1.2 of this Agreement.

Development means the development specified or described in Schedule 2.

Development Application has the same meaning as in the Act.

Development Consent has the same meaning as in the Act.

Development Contribution means a monetary contribution, the dedication of land free of cost, the carrying out of work, or the provision of any other material public benefit, or any combination of them, to be used for, or applied towards a public purpose.

Facilities means Contribution Items 1 to 77 inclusive but excluding Items 21 and 22.

Final Lot means a lot which is not intended to be further subdivided (by any means including strata subdivision) for the purposes of the Development.

GST has the same meaning as in the GST Law.

Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

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

Indicative Staging Plan means the Plans entitled *VPA Plan 1 – Gregory Hills, VPA Plan 2 – Gregory Hills, VPA Plan 3 – Gregory Hills*, as varied by agreement between all of the Parties from time to time.

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

Land means the land shown edged in heavy red on the Plan entitled *Land Covered by VPA – Gregory Hills*.

LG Act means the *Local Government Act 1993*.

LPI means Land and Property Information.

Maintenance Period means, in relation to a Contribution Item, a period of 5 years from the date of completion of the Contribution Item within the meaning of this Agreement.

~~**Major Facilities** means Contribution Items 21 and 22.~~

Masterplan means the Plan entitled *Gregory Hills Masterplan*.

Party means a party to this agreement, including their successors and assigns.

Plan means a plan in the Plan Package.

Plan Package means the suite of plans contained in Schedule 1.

Plan of Management means a plan of management within the meaning of s36 of the LG Act.

~~**Principal Certifying Authority** has the same meaning as in the Act.~~

Rectification Notice means a notice in writing that identifies a defect in a Work and requires rectification of the defect within a specified period of time.

Registrar-General means the Registrar-General referred to in the *Real Property Act 1900*.

Registration Security means a Security provided under clause ~~3231~~ 3 of this Agreement.

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

Relevant Stage means:

- (a) in respect of a Contribution Item that is located wholly within a Stage, the Stage within which that Contribution Item is located,
- (b) in respect of a part of a Contribution Item where that Item is located in more than one Stage, the Stage within which the part of the Contribution Item is located,

as identified in the Indicative Staging Plan and Column 2 of the Table to Schedule 3.

Security means a Bank Guarantee, or a bond or other form of security to the satisfaction of the Council.

Stage means a stage of the Development, as shown on the Indicative Staging Plan.

Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

Subdivision Certificate has the same meaning as in the Act.

Superlot means any part of the Land in relation to which the Developer proposes to sell Final Lots which are not yet created, and which does not include any part of the Land to be dedicated under this Agreement.

Surplus Credit means \$426,459.00 indexed in accordance with clause 9.3 in the same manner as monetary Development Contributions.

Vegetation Management Plan means a plan that contains provisions relating to the establishment and maintenance of land.

WIK Agreement means the works-in-kind agreement entered into between the Developer and the Council on 12 January 2011.

Work means the physical result of any building, engineering or construction work in, on, over or under land required to be carried out by the Developer under this Agreement.

- 1.2 In the interpretation of this Agreement, the following provisions apply unless the context otherwise requires:
- 1.2.1 Headings are inserted for convenience only and do not affect the interpretation of this Agreement.
 - 1.2.2 A reference in this Agreement to a business day means a day other than a Saturday or Sunday on which banks are open for business generally in Sydney.
 - 1.2.3 If the day on which any act, matter or thing is to be done under this Agreement is not a business day, the act, matter or thing must be done on the next business day.
 - 1.2.4 A reference in this Agreement to dollars or \$ means Australian dollars and all amounts payable under this Agreement are payable in Australian dollars.
 - 1.2.5 A reference in this Agreement to a \$ value relating to a Development Contribution is a reference to the value exclusive of GST.
 - 1.2.6 A reference in this Agreement to any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision.
 - 1.2.7 A reference in this Agreement to any agreement, deed or document is to that agreement, deed or document as amended, novated, supplemented or replaced.
 - 1.2.8 A reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this Agreement.
 - 1.2.9 An expression importing a natural person includes any company, trust, partnership, joint venture, association, body corporate or governmental agency.
 - 1.2.10 Where a word or phrase is given a defined meaning, another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.
 - 1.2.11 A word which denotes the singular denotes the plural, a word which denotes the plural denotes the singular, and a reference to any gender denotes the other genders.

Gregory Hills Planning Agreement
Camden Council
Dart West Developments Pty Limited
Trustees of the Marist Brothers

- 1.2.12 References to the word 'include' or 'including' are to be construed without limitation.
- 1.2.13 A reference to this Agreement includes the agreement recorded in this Agreement.
- 1.2.14 A reference to a party to this Agreement includes a reference to the servants, agents and contractors of the party, and the party's successors and assigns, but does not include the owner of a Final Lot.
- 1.2.15 Any schedules, appendices and attachments form part of this Agreement.
- 1.2.16 Notes appearing in this Agreement are operative provisions of this Agreement.

2 Application of this Agreement

- 2.1 This Agreement applies to the Land and to the Development.

3 Further agreements relating to this Agreement

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

4 Surrender of right of appeal, etc.

- 4.1 The Developer or the Landowner are not to commence or maintain, or cause to be commenced or maintained, any proceedings in the Land and Environment Court involving an appeal against, or questioning the validity of, a Development Consent relating to the Development or an approval under s96 of the Act to modify a Development Consent relating to the Development to the extent that it relates to the existence of this Agreement or requires any aspect of this Agreement to be performed according to the terms of this Agreement.

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

- 5.1 This Agreement excludes the application of s94 to the Development.
- 5.2 This Agreement excludes the application of s94A to the Development.
- 5.3 This Agreement does not exclude the application of s94EF to the Development.

6 Conditions of Consent

- 6.1 Nothing in this Agreement, other than clauses 5.1 and 5.2, limits or restricts the ability of Council to impose conditions on Development Consents

Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

pursuant to the Act, and no action which the Developer takes in compliance with any such conditions constitutes a breach of this Agreement.

Part 2 – Development Contributions

7 Provision of Development Contributions

- 7.1 The Developer is to make Development Contributions to the Council in accordance with this Agreement and otherwise to the satisfaction of the Council, other than Development Contributions which comprise the dedication of land owned by the Landowner.
- 7.2 The Landowner is to make Development Contributions comprising the dedication of land to the Council in accordance with this Agreement and otherwise to the satisfaction of the Council.
- 7.3 Schedule 3 has effect according to its terms.
- 7.4 The Council is to apply each Development Contribution made by the Developer or Landowner under this Agreement towards the public purpose for which it is made and otherwise in accordance with this Agreement.
- 7.5 Despite clause 7.3, the Council may apply a Development Contribution made under this Agreement towards a public purpose other than the public purpose specified in this Agreement if the Council considers that the public interest would be better served by applying the Development Contribution towards that other purpose rather than the purpose so specified.

8 WIK Agreement and application of Surplus Credit

- 8.1 Subject to clause 8.2, for the purposes of s94(5)(b) of the Act, the Council accepts the Development Contributions made by the Developer under the WIK Agreement in full satisfaction of the obligations imposed on the Developer under s94 of the Act by the following conditions of the following Development Consents:
 - 8.1.1 condition 6.15 of the Development Consent granted to DA No. 140/2010 by the Council on 6 April 2011,
 - 8.1.2 condition 4.25 of the Development Consent granted to DA No. 81/2009 by the Council on 28 September 2009,
 - 8.1.3 condition 4.8 of the Development Consent granted to DA No. 797/2010 by the Council on 12 October 2010, and
 - 8.1.4 condition 6 of the Development Consent granted to DA1193/2007, in relation to stage 1A of that development, and
 - 8.1.5 condition 7 of the Development Consent granted to DA1193/2007, in relation to stage 1B of that development.
- 8.2 The Parties agree that the Development Contributions made by the Developer under the WIK Agreement satisfy the Developer's obligation to pay the project management component of the contributions required by the conditions referred to in clauses 8.1.

Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

- 8.3 The Parties agree that on and from the date of this Agreement, the Council holds the Surplus Credit in favour of the Developer which is to be applied in satisfaction of:
- 8.3.1 any requirement imposed on the Developer under s94 of the Act by a Development Consent relating to the Development that has not yet been complied with, or
- 8.3.2 any monetary Development Contributions required to be made under this Agreement,
 but only to the extent of the Surplus Credit.
- 8.4 The Parties agree that on and from the date of this Agreement:
- 8.4.1 all works required to be carried out under the WIK Agreement have been completed;
- 8.4.2 any land required to be dedicated to Council under the WIK Agreement which has not already been dedicated to Council is to be dedicated to Council free of cost, pursuant to this Agreement; and
- 8.4.3 the WIK Agreement will be terminated.

9 Procedures relating to payment of monetary Development Contributions

- 9.1 A monetary Development Contribution is made for the purposes of this Agreement when the Council receives the full amount of the contribution payable under this Agreement in cash or by unendorsed bank cheque or by the deposit by means of electronic funds transfer of cleared funds into a bank account nominated by the Council.
- 9.2 The Developer is to give the Council not less than 2 business days written notice of its intention to pay a monetary Development Contribution.
- 9.3 Monetary Development Contributions are to be indexed in accordance with the methodology for indexing contributions under the CP between the date of this Agreement, and the date of payment of the monetary Development Contributions.

10 Procedures relating to the dedication of land

- 10.1 A Development Contribution comprising the dedication of land is made for the purposes of this Agreement when:
- 10.1.1 a deposited plan is registered in the register of plans maintained by the Registrar-General, that dedicates land as a public road (including a temporary public road) under the *Roads Act 1993* or creates a public reserve or drainage reserve under the LG Act, or
- 10.1.2 the Council is given an instrument in registrable form under the *Real Property Act 1900* that is effective to transfer the title to the land to the Council when registered.
- 10.2 For the purposes of clause 10.1.2:

Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

- 10.2.1 the Landowner is to give the Council, for execution by the Council as transferee, an instrument of transfer under the *Real Property Act 1900* relating to the land to be dedicated,
- 10.2.2 the Council is to execute the instrument of transfer and return it to the Developer within 7 days of receiving it from Landowner,
- 10.2.3 the Landowner is to lodge the instrument of transfer for registration with the Registrar-General within 7 days of receiving it from the Council duly executed, and
- 10.2.4 the Landowner is to do all things reasonably necessary to enable registration of the instrument of transfer to occur.
- 10.3 If this Agreement requires the Landowner to dedicate land to the Council on which the Developer is required to carry out a Work under this Agreement, the Landowner is to give to the Council the instrument of transfer of the land under clause 10.2.1 not later than 7 days after the Work is taken to have been completed in accordance with this Agreement.
- 10.4 The Developer must notify the Landowner of any notices issued under clause 2019 of this Agreement, so that the Landowner can determine when a Work is taken to have been completed in accordance with this Agreement.

Part 3 - Provisions regarding the Carrying out of Work

11 Deferral of Work

- 11.1 Notwithstanding any other provision of this Agreement, if the Developer forms the view at any time, that it is unable to make a Development Contribution comprising a Work by the time the Developer expects to apply for the issue of the Subdivision Certificate before which the Work is required to be completed under this Agreement, then:
 - 11.1.1 the Developer must provide written notice to the Council to that effect;
 - 11.1.2 the Developer must provide the Council with Security in an amount being 100% of the value of the uncompleted part of the Work (calculated with reference to and not exceeding the Contribution Value of the Work) before the date on which the application for the relevant Subdivision Certificate is made;
 - 11.1.3 the Developer must provide to Council, for Council's approval, a revised completion date for the Work;
 - 11.1.4 Council can approve, or not approve a revised completion date in its discretion, and if the Council does not approve the Developer's revised completion date for the Work, the Council and Developer must negotiate in good faith and agree upon a revised completion date for the Work; and
 - 11.1.5 the time for completion of the Work under this Agreement will be taken to be the revised completion date approved by the Council under clause 11.1.4.

Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

- 11.2 If the Developer complies with clause 11.1, then it will not be considered to be in breach of this Agreement as a result of a failure to complete a Work by the time for completion of the Work specified in Column 6 of Schedule 3.
- 11.3 If the Work is not completed by the revised date for completion of the Work agreed under clause 11.1.4, then the Council may call on the Security to meet any of its costs incurred under this Agreement in respect of the failure to complete the Work by the revised date for completion.
- 11.4 The amount of Security is to be indexed annually from September 2011 in accordance with the *Consumer Price Index (All Groups - Sydney)* published by the Australian Bureau of Statistics.
- 11.5 The Developer is to ensure that a Security held by the Council at all times equals the amount of the Security so indexed.
- 11.6 The Developer need not provide any additional Security under this clause if at the time the Security would be payable under this clause, Council holds Security under the other provisions of this Agreement in an amount which covers the amount of Security required to be held under those other clauses, and the amount of Security required to be held under this clause.

12 Approval of design of ~~Major Facilities~~Work

- 12.1 Council must approve the design and specifications for each Work unless otherwise agreed in writing by the Council in relation to any particular Work.
- 12.2 Prior to commencing design of a Work, the Developer must request that the Council provide the Developer with its requirements for the location (generally in accordance with the Indicative Staging Plan), design, materials and specifications for the provision of the Work.
- 12.3 When requesting Council's requirements under clause 12.2 the Developer may provide a proposal, including preliminary concept designs to assist Council in preparing it's requirements.
- 12.4 Once the Developer receives the Council's requirements for the Work under clause 12.2, the Developer is to provide the initial design for the Work to Council for the Council's approval.
- 12.5 The initial design for the Work is to include or be accompanied by such information as is required for the making of a Development Application for the Work including:
 - 12.5.1 a draft Plan of Management for the land on which the Work is to be located on its dedication to the Council, if that land will be classified as community land within the meaning of the LG Act; and
 - 12.5.2 a draft Vegetation Management Plan for the land on which the Work is to be located, if the Council has advised the Developer that a Vegetation Management Plan is required.
 - 12.5.3 a detailed maintenance regime for the Work, and detailed costings, prepared by a suitably qualified person, for the carrying out of the maintenance regime.
- 12.6 The Council is to advise the Developer in writing whether it approves of the initial design of the Work within 2 months of receiving the initial design from the Developer.

Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

- 12.7 The Developer will make any change to the initial design for the Work required by the Council.
- 12.8 The Developer is not to lodge any Development Application for a Work unless the Council has first approved the initial design for the Work and provided its written certification that the Development Application is consistent with the approved initial design of the Work.
- 12.9 The Council is to provide the written certification referred to in clause 12.8 within 14 days of being provided with a copy of the proposed Development Application by the Developer, unless the Council forms the view that the proposed Development Application is not consistent with the approved initial design of the Work.
- 12.10 A Development Application for Work is to be accompanied by the written certification referred to in clause 12.9 when lodged with the Council, as the consent authority.
- 12.11 The Developer is to bear all costs associated with obtaining the Council's approval to the initial design of a Work in Schedule 3 of this Agreement under this clause.
- 12.12 Following Development Consent being issued for a Work, the Developer shall work with Council in the preparation of the detailed design for it and submit the detailed design to the Council for its approval.
- 12.13 The Developer is not to lodge any application for a Construction Certificate for a Work, with any Principal Certifying Authority, unless the Council has first approved the detailed design for the Work, and provided its written certification that the application for a Construction Certificate is consistent with the approved detailed design of the Work.
- 12.14 The Council is to provide the written certification referred to in Clause 12.13 within 14 days of being provided with a copy of the application for a Construction Certificate by the Developer, unless the Council forms the view that the application is not consistent with the approved detailed design of the Work.
- 12.15 Council's written certification outlined in clause 12.14 shall specify any particular milestones of construction of a Work and if so, the Developer is to provide the Council with a minimum of 24 hours notice prior to commencing a particular milestone and allow the Council access to the relevant land to inspect the Work.
- 12.16 An application for a Construction Certificate for a Work is to be accompanied by the written certification referred to in clause 12.14 when lodged with the Council, as the consent authority.
- ~~11.7~~12.17 For the avoidance of doubt, nothing in the clause as lettering the Council's discretion, as consent authority, in determining any Development Application for the Work.
- ~~11.8 Council must approve the design and specifications for the Major Facilities.~~
- ~~11.9 Prior to commencing any work on the design of a Major Facility, the Developer must request that Council provide the Developer with its requirements for the location, design, materials, specifications, capacity and timing for the provision of the Major Facility.~~
- ~~11.10 The Council must act reasonably when specifying its requirements for any Major Facility for which specifications are contained in the CP.~~

Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

- ~~11.11~~ Once the Developer receives Council's requirements for the Major Facility under clause 12.2, the Developer must prepare a concept plan for the Major Facility for Council's approval.
- ~~11.12~~ Council must advise the Developer whether it approves of the concept plan for a Major Facility within 1 month of its receipt.
- ~~11.13~~ Any approval granted by the Council under clause 12.5 must specify the requirements for the detailed design of the Major Facility.
- ~~11.14~~ The Developer must make any changes to the concept plan for the Major Facility requested by the Council.
- ~~11.15~~ Once a concept plan for the Major Facility has been approved by the Council, the Developer may proceed with the detailed design of the Major Facility.
- ~~11.16~~ The Developer must provide the detailed design for the Major Facility to Council for Council's approval.
- ~~11.17~~ The detailed design submitted to Council under clause 12.9 must be accompanied by:
- ~~11.17.1~~ a draft Plan of Management for the land on which the Major Facility is to be located, if the Council has advised the Developer that, on its dedication to Council, that land will be classified as community land within the meaning of the LG Act; and
 - ~~11.17.2~~ a detailed maintenance regime for the Major Facility, and detailed costings, prepared by a suitably qualified person, for the carrying out of the maintenance regime.
- ~~11.18~~ Council must advise the Developer whether it approves of the detailed design of a Major Facility within 2 months of its receipt.
- ~~11.19~~ The Developer will make any reasonable change to the detailed design for the Major Facility required by the Council.
- ~~11.20~~ Within 21 days of being provided with a copy of the Development Application by the Developer, the Council must provide a written certification that the Development Application is consistent with the approved detailed design of the Major Facility, unless the Council forms the view that the Development Application is not consistent with the approved detailed design of the Major Facility.
- ~~11.21~~ The Developer must not lodge any Development Application for a Major Facility unless the Council has first approved of the detailed design for the Major Facility, and provided the written certification referred to in clause 12.13.
- ~~11.22~~ A Development Application for a Major Facility must be accompanied by the written certification referred to in clause 12.13 when lodged with Council, as the consent authority.
- ~~11.23~~ For the avoidance of doubt, nothing in this clause can be construed as fettering the Council's discretion, as consent authority, in determining any Development Application for a Major Facility.
- ~~11.24~~ The Developer is to bear all costs associated with obtaining the Council's approval to the detailed design of a Major Facility under this clause.

~~12~~ Approval of design of other Facilities

Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

- ~~12.1 Council must approve the design and specifications for the Facilities.~~
- ~~12.2 Prior to commencing any work on the design of a Facility, the Developer must request that Council provide the Developer with its requirements for the location, design, materials, specifications, capacity and timing for the provision of the Facility.~~
- ~~12.3 The Council must act reasonably when specifying its requirements for any Facility for which specifications are contained in the CP.~~
- ~~12.4 Once the Developer receives Council's requirements for the Facility under clause 13.2, the Developer must provide the detailed design for the Facility to Council for Council's approval.~~
- ~~12.5 The detailed design submitted to Council under clause 13.4 must be accompanied by:~~
- ~~12.5.1 a draft Plan of Management for the land on which the Facility is to be located, if the Council has advised the Developer that, on its dedication to Council, that land will be classified as community land within the meaning of the LG Act; and~~
- ~~12.5.2 a draft Vegetation Management Plan for the land on which the Facility is to be located, if the Council has advised the Developer that a Vegetation Management Plan is required,~~
- ~~12.5.3 a detailed maintenance regime for the Facility, and detailed costings, prepared by a suitably qualified person, for the carrying out of the maintenance regime.~~
- ~~12.6 Council must advise the Developer whether it approves of the detailed design of a Facility within 2 months of its receipt.~~
- ~~12.7 The Developer will make any reasonable change to the detailed design for the Facility required by the Council.~~
- ~~12.8 The Developer must not lodge any Development Application for a Facility unless the Council has first approved of the detailed design for the Facility, and provided its written certification that the Development Application is consistent with the approved detailed design of the Facility.~~
- ~~12.9 The Council must provide the written certification referred to in clause 13.8 within 14 days of being provided with a copy of the Development Application by the Developer, unless the Council forms the view that the Development Application is not consistent with the approved detailed design of the Facility.~~
- ~~12.10 A Development Application for a Facility must be accompanied by the written certification referred to in clause 13.8 when lodged with Council, as the consent authority.~~
- ~~12.11 For the avoidance of doubt, nothing in this clause can be construed as fettering the Council's discretion, as consent authority, in determining any Development Application for a Facility.~~
- ~~12.12 The Developer is to bear all costs associated with obtaining the Council's approval to the detailed design of a Facility under this clause.~~

13 Staging of Works

- 13.1 In order to ensure that the Developer can provide the Contribution Items comprising Works at the time required under this Agreement, the Developer

Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

must ensure that Development Applications are lodged which seek consent for the Works, in conjunction with the Relevant Stage.

14 Carrying out of Work

- 14.1 Any Work that is required to be carried out by the Developer under this Agreement is to be carried out:
- 14.1.1 in accordance with any design or specification specified by the Council,
 - 14.1.2 any relevant Development Consent, [Construction Certificate](#) and any other applicable law,
 - 14.1.3 in a good and workmanlike manner and to the accepted industry standards,
 - 14.1.4 and otherwise to the satisfaction of the Council.
- 14.2 If the Developer is required by the Council to prepare or modify a design or specification relating to a Work for approval by the Council under clause [4514.1](#), the Developer is to bear all costs relating to the preparation or modification and approval of the design and specification.

15 Access to the Land

- 15.1 The Landowner is to permit the Council, its officers, employees, agents and contractors to enter the Land or any other land at any time, upon giving reasonable prior notice, in order to inspect, examine or test any Work or to remedy any breach by the Developer relating to the carrying out of a Work.
- 15.2 The Council is to permit the Developer to enter and occupy any land owned or controlled by the Council for the purpose of enabling the Developer to carry out any Work under this Agreement that is required to be carried out on such land or to perform any other obligation imposed on the Developer by or under this Agreement.

16 Protection of people and property

- 16.1 The Developer is to ensure to the fullest extent reasonably practicable in relation to the carrying out of any Work that:
- 16.1.1 all necessary measures are taken to protect people and property, and
 - 16.1.2 unnecessary interference with the passage of people and vehicles is avoided, and
 - 16.1.3 nuisances and unreasonable noise and disturbances are prevented.

17 Damage and repairs to Work

- 17.1 The Developer, at its own cost, is to repair and make good to the satisfaction of the Council any loss or damage to a Work from any cause whatsoever which occurs prior to the date on which the Work is taken to have been completed under this Agreement.

Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

18 Variation of Work

- 18.1 A Work is not to be varied by the Developer, unless:
- 18.1.1 the Parties agree in writing to the variation, and
 - 18.1.2 any consent or approval required under the Act or any other law to the variation is first obtained, and
 - 18.1.3 the Developer bears all of the Council's costs of and incidental to agreeing to and approving the variation.
- 18.2 For the purposes of clause ~~19~~18.1 a variation may relate to any matter in relation to the Work that is dealt with by this Agreement.
- 18.3 If Council requests a variation to a Work after a Construction Certificate has been issued for the Work, then the Council shall be liable to pay to the Developer an amount equal to the increase in the costs of completing the Work, which results from the variation requested by the Council.
- 18.4 Council shall pay the amount referred to in clause ~~19~~18.3 to the Developer after the Work is complete, and within 28 days of receipt of:
- 18.4.1 a tax invoice for the amount claimed by the Developer; and
 - 18.4.2 documentation which demonstrates to Council's satisfaction the increase in costs as a result of the variation requested by the Council.
- 18.5 For the avoidance of doubt, a variation to a Work under this clause does not require the variation of this Agreement, provided the Council is satisfied that the variation is generally consistent with the intended objectives and outcomes of this Agreement at the date of this Agreement.

19 Procedures relating to the completion of Work

- 19.1 A Development Contribution comprising the carrying out of a Work is made for the purposes of this Agreement when the Council accepts the completion of the Work in accordance with this clause.
- 19.2 Subject to this Agreement, when the Developer considers that a Work required to be carried out by the Developer under this Agreement is complete, the Developer is to give to the Council a notice in writing to that effect.
- 19.3 The Council is taken to have accepted the completion of a Work that is the subject of a notice referred to in clause ~~20~~19.2, if the Council gives the Developer a notice to that effect.
- 19.4 On completion of the Work, the Council accepts responsibility for the Work subject to anything to the contrary in this Agreement.

20 Procedures relating to the rectification of defects

- 20.1 During the Defects Liability Period, the Council may give to the Developer a Rectification Notice.
- 20.2 The Developer is to comply with a Rectification Notice at its own cost according to its terms and to the satisfaction of the Council.

Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

- 20.3 If the Developer breaches clause [21.20.2](#), the Council may have the relevant defect rectified and may recover its costs of so doing as a debt due in a court of competent jurisdiction.

21 Failure to carry out Work

- 21.1 If the Council considers that the Developer is in breach of any obligation under this Agreement relating to the carrying out of any Work, the Council may elect to give the Developer a notice requiring:
- 21.1.1 the carrying out of further work relating to the Work to immediately cease except in relation to the rectification of the breach, and
- 21.1.2 the breach to be rectified to the Council's satisfaction.
- 21.2 A notice given under clause [22.21.1](#) is to allow the Developer a period of not less than 28 days or such further period as the Council considers reasonable in the circumstances to rectify the breach.
- 21.3 Without limiting any other rights the Council has to enforce this Agreement, the Council may, if the Developer does not comply with a notice given under clause [22.21.1](#):
- 21.3.1 call upon any Security, and
- 21.3.2 carry out and complete the Work the subject of the Developer's breach.
- 21.4 Clauses [30.29](#) and [31.30](#) do not prevent a notice being given under clause [22.21.1](#) and do not apply to such a notice or the circumstances relating to the giving of that notice, and any procedure commenced under clause [30.29](#) or clause [31.30](#) ceases to apply when such a notice is given.
- 21.5 The Council is not required to give the Developer a notice under clause [22.21.1](#) as a pre-condition to calling-up any Security in relation to the Developer's breach if the Council reasonably believes that the Developer is unlikely to comply with a Rectification Notice.
- 21.6 If the Council calls up a Security pursuant to clause [22.21.5](#), the Council is to notify the Developer in writing immediately following the calling up of that Security.

22 Works-As-Executed-Plan

- 22.1 No later than 60 days after a Work is taken to have been completed in accordance with this Agreement, the Developer is to submit to the Council a full works-as-executed-plan in respect of the Work the subject of the notice.

Part 4 – Indemnities and Insurances

23 Indemnity and Insurance

- 23.1 The Developer indemnifies the Council, its employees, officers, agents, contractors and workmen from and against all losses, damages, costs

Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

(including legal costs on a full indemnity basis), charges, expenses, actions, claims and demands whatsoever which may be sustained, suffered, recovered or made arising in connection with:

- 23.1.1 Council's approval of the design and specifications of any ~~Major Facility or Facility~~ Work;
 - 23.1.2 the carrying out by the Developer of any Work; and
 - 23.1.3 the performance by the Developer of any other obligation under this Agreement.
- 23.2 The Developer is to take out and keep current to the satisfaction of the Council the following insurances in relation to Work required to be carried out by the Developer under this Agreement up until the Work is taken to have been completed in accordance with this Agreement:
- 23.2.1 contract works insurance, noting the Council as an interested party, for the full replacement value of the Works (including the cost of demolition and removal of debris, consultants' fees and authorities' fees), to cover the Developer's liability in respect of damage to or destruction of the Works,
 - 23.2.2 public liability insurance for at least \$20,000,000.00 for a single occurrence, which covers the Council, the Developer and any subcontractor of the Developer, for liability to any third party,
 - 23.2.3 workers compensation insurance as required by law, and
 - 23.2.4 any other insurance required by law.
- 23.3 If the Developer fails to comply with clause ~~24~~23.2, the Council may effect and keep in force such insurances and pay such premiums as may be necessary for that purpose and the amount so paid shall be a debt due from the Developer to the Council and may be recovered by the Council as it deems appropriate including:
- 23.3.1 by calling upon any Security provided by the Developer to the Council under this Agreement, or
 - 23.3.2 recovery as a debt due in a court of competent jurisdiction.
- 23.4 The Developer is not to commence to carry out any Work unless it has first provided to the Council satisfactory written evidence of all of the insurances specified in clause ~~24~~23.2.

Part 5 - Security

24 Provision of Security

- 24.1 To secure the performance of the Developer's obligations in relation to Contribution Items ~~21, 22~~12, 13 and ~~61~~44 the Developer is to provide the Council with Security such that the amount of Security held by the Council from the time set out in Column 1 of the Table to this clause equals the amount set out in Column 2 of the Table to this clause corresponding to that time.

Table

Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

Column 1 Time	Column 2 Amount
On execution of this Agreement	\$ 717,040.00 <u>740,137.02</u>
Prior to the issuing of the Subdivision Certificate that creates the 501 st Final Lot in the Development.	\$ 1,505,784.00 <u>480,274.04</u>
Prior to the issuing of the Subdivision Certificate that creates the 1,051 st Final Lot in the Development.	\$ 1,363,335.00 <u>2,220,411.07</u>
Prior to the issuing of the Subdivision Certificate that creates the 1501 st Final Lot in the Development.	\$ 1,817,780.00 <u>2,664,493.28</u>
<u>Prior to the issuing of the Subdivision Certificate that creates the 1801st Final Lot in the Development.</u>	<u>\$1,876,324.79</u>

- 24.2 The amount of the Security is to be indexed annually from September 2011 in accordance with the Consumer Price Index (All Groups - Sydney) published by the Australian Bureau of Statistics and the Developer must ensure that the Security held by the Council at all times equals the indexed amount notified to the Developer by Council.

25 Release & return of Security

- 25.1 The Council is to return the Security or any remaining part of it to the Developer, within 28 days of the completion by the Developer of all of their obligations under this Agreement to the satisfaction of the Council.
- 25.2 At any time following the provision of the Security, the Developer may provide the Council with a replacement Security in the amount of the Security required to be provided under this Agreement.
- 25.3 On receipt of a replacement Security, the Council is to release and return to the Developer as directed, the Security it holds which has been replaced.

26 Call-up of Security

- 26.1 The Council may call-up any Security provided under this Agreement if, in its absolute discretion and despite clauses ~~3029~~ and ~~3130~~, it considers that the Developer has breached this Agreement.
- 26.2 If the Council calls on the Security, it may use the amount so paid to it in satisfaction of any costs incurred by it in remedying the breach.
- 26.3 If the Council calls on the Security, the Council may, by notice in writing to the Developer, require the Developer to provide a further or replacement Security in an amount that, when added to any unused portion of the Security held by

Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

the Council, equals, but does not exceed the amount of the Security the Council is entitled to hold under this Agreement.

26.4 Notwithstanding clause ~~27~~26.1 or any other provision of this Agreement:

26.4.1 a Deferred Work Security can only be called-up in relation to a breach of this Agreement in respect of the carrying out of the Work in relation to which the Deferred Work Security was provided; and

26.4.2 a Registration Security can only be called-up in relation to a breach of this Agreement in respect of the Development Contributions required in relation to the Superlot for which the Registration Security was provided.

Part 6 - Other Provisions

27 Recovery of cost of Work carried out by the Council

27.1 If the Council incurs a cost in carrying out, completing or rectifying a defect in a Work that is not met by a Security provided under this Agreement, the Council may recover the cost from the Developer in a court of competent jurisdiction.

27.2 For the purpose of clause ~~28~~27.1, the Council's costs of carrying out, completing or rectifying a defect in a Work includes, but is not limited to:

27.2.1 the reasonable costs of the Council's servants, agents and contractors reasonably incurred for that purpose,

27.2.2 all fees and charges necessarily or reasonably incurred by the Council in order to have the Work carried out, completed or rectified, and

27.2.3 without limiting clause ~~28~~27.2.2, all legal costs and expenses reasonably incurred by the Council, by reason of the Developer's failure to comply with this Agreement.

28 Enforcement in a court of competent jurisdiction

28.1 Without limiting any other provision of this Agreement, the Parties may enforce this Agreement in any court of competent jurisdiction.

28.2 For the avoidance of doubt, nothing in this Agreement prevents:

28.2.1 a Party from bringing proceedings in the Land and Environment Court to enforce any aspect of this Agreement or any matter to which this Agreement relates,

28.2.2 the Council from exercising any function under the Act or any other Act or law relating to the enforcement of any aspect of this Agreement or any matter to which this Agreement relates.

29 Dispute Resolution – expert determination

Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

- 29.1 This clause applies to a dispute under this Agreement which relates to a matter that can be determined by an appropriately qualified expert.
- 29.2 Any dispute between the Parties as to whether a dispute to which this clause applies can be determined by an appropriately qualified expert is to be referred to the Chief Executive Officer of the professional body that represents persons with the relevant expertise for determination, which is to be final and binding on the Parties.
- 29.3 Such a dispute is taken to arise if one Party gives another Party a notice in writing specifying particulars of the dispute.
- 29.4 If a notice is given under clause ~~3029~~3, the Parties are to meet within 14 days of the notice in an attempt to resolve the dispute.
- 29.5 If the dispute is not resolved within a further 28 days, the dispute must be referred to the President of the NSW Law Society to appoint an expert for expert determination.
- 29.6 The expert determination is binding on the Parties except in the case of fraud or misfeasance by the expert.
- 29.7 Each Party must bear its own costs arising from or in connection with the appointment of the Expert and the expert determination.

30 Dispute Resolution – mediation

- 30.1 This clause applies to any dispute under this Agreement other than a dispute to which clause ~~3029~~ applies.
- 30.2 Such a dispute is taken to arise if one Party gives another Party a notice in writing specifying particulars of the dispute.
- 30.3 If a notice is given under clause ~~3430~~2, the Parties are to meet within 14 days of the notice in an attempt to resolve the dispute.
- 30.4 If the dispute is not resolved within a further 28 days, the Parties must mediate the dispute in accordance with the Mediation Rules of the Law Society of New South Wales published from time to time and must request the President of the Law Society, or the President's nominee, to select a mediator.
- 30.5 If the dispute is not resolved by mediation within a further 28 days, or such longer period as may be necessary to allow any mediation process which has been commenced to be completed, then the Parties may exercise their legal rights in relation to the dispute, including by the commencement of legal proceedings in a court of competent jurisdiction in New South Wales.

31 Registration of this Agreement

- 31.1 Subject to clauses ~~3231~~2 and ~~3231~~3, and subject to the Developer or Landowner obtaining the agreement of the persons specified in section 93H(1) of the Act, the Parties agree that this Agreement will be registered as a planning agreement with the Registrar-General on the title to the Land as permitted by s93H of the Act.
- 31.2 The Parties agree that:

Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

- 31.2.1 this Agreement will not be registered on the title to any part of the Land which is a Final Lot; and
- 31.2.2 on lodgement of any plans of subdivision of the Land with the LPI that create Final Lots, the LPI will be directed not to register this Agreement on the title to the Final Lots being created by that plan.
- 31.3 The Parties also agree that the registration of the Agreement will be removed from the title to a Superlot, before the Developer has met its obligations under this Agreement in relation to the Superlot, if:
- 31.3.1 The Landowner or Developer has notified the Council that it wishes to commence selling Final Lots to be created on the Superlot;
- 31.3.2 The Landowner or Developer has provided Council with a copy of the proposed plan of subdivision for the Superlot;
- 31.3.3 The Landowner and Developer are not in breach of this Agreement; and
- 31.3.4 The Developer provides the Council with a Security in an amount equal to the Contribution Value of all Contribution Items involving the carrying out of Work and monetary Development Contributions which must be made under this Agreement in connection with the creation of Final Lots on that Superlot.
- 31.4 The Landowner agrees to sign all forms necessary, and do all things reasonably necessary to allow this Agreement to be registered under clause 2231.1 including obtaining the consent of any mortgagee or other person with an interest in the Land to that registration, and having the certificates of title for the Land delivered to the Registrar-General.
- 31.5 The Parties agree to sign such documents and do such things as may be required to achieve the said registration within seven (7) days of the execution of this Agreement.
- 31.6 Upon completion of the obligations of the Developer and Landowner pursuant to this Agreement, the Parties must do such things as may be required to remove the recording of this Agreement as a planning agreement from the title of the Land, including removing the recording of the Agreement from the title to part of the Land in respect of this the Developer has met its obligations.
- 31.7 The Developer need not provide any additional Security under this clause if at the time the Security would be payable under this clause, Council holds Security under the other provisions of this Agreement in an amount which covers the amount of Security required to be held under those other clauses, and the amount of Security required to be held under this clause.

32 Compulsory Acquisition

- 32.1 In the event that the Landowner does not dedicate any land required to be dedicated under this Agreement, at the time at which it is required to be dedicated, the Landowner consents to the Council compulsorily acquiring that land, for compensation in the amount of \$1 without having to follow the pre-acquisition procedure under the Just Terms Act.
- 32.2 Council must only acquire land pursuant to clause 3332.1 if to do so is reasonable, having regard to the circumstances surrounding the failure by the Landowner to dedicate the land required to be dedicated under this Agreement.

Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

- 32.3 Clause 3332.1 constitutes an agreement for the purposes of section 30 of the Just Terms Act.
- 32.4 If, as a result of the acquisition referred to in clause 3332.1, the Council must pay compensation to any person other than the Landowner, the Developer or Landowner must reimburse the Council for that amount, upon a written request being made by the Council, or the Council can call on any Security.
- 32.5 Except as otherwise agreed between the Parties, the Landowner must ensure that the land to be dedicated under this Agreement is free of all encumbrances and affectations (whether registered or unregistered and including without limitation any charge or liability for rates, taxes and charges), on both the date that the Landowner is liable to transfer that land to the Council under this Agreement, and the date on which the Council compulsorily acquires the whole or any part of that land in accordance with the Just Terms Act.
- 32.6 The Developer and the Landowner indemnify and keep indemnified the Council against all claims made against the Council as a consequence of the acquisition by the Council of the whole or any part of the Land except in relation to any claim that arises from the manner in which the the land so acquired is used or managed by the Council.
- 32.7 The Landowner will promptly do all things necessary, and consents to the Council doing all things necessary, to give effect to this clause 3332, including without limit:
- 32.7.1 signing any documents or forms;
 - 32.7.2 giving land owner's consent for lodgement of any Development Application;
 - 32.7.3 producing certificates of title to the Registrar-General under the *Real Property Act 1900*; and
 - 32.7.4 paying the Council's costs arising from clause 3332.
- 32.8 Notwithstanding clause 3332.5, if, despite having used its best endeavours, the Landowner cannot ensure that the land to be dedicated is free from all encumbrances and affectations, then the Landowner may request that Council agree to accept the land subject to those encumbrances and affectations, and:
- 32.8.1 Council cannot withhold its agreement unreasonably if the encumbrance or affectation does not prevent the future use of the land for the public purpose for which it is to be dedicated under this Agreement, unless the encumbrance or affectation is a charge arising as a result of unpaid taxes or charges; and
 - 32.8.2 in all other cases, Council may withhold its agreement in its absolute discretion.
- 33 Assignment, sale of Land, etc
- 33.1 Unless the matters specified in clause 3433.2 are satisfied:
- 33.1.1 Landowner is not to transfer any part of the Land, other than a Final Lot, to any person, or

Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

- 33.1.2 the Developer is not to assign to any person the Developer's rights or obligations under this Agreement or novate the Agreement to any person.
- 33.2 The matters required to be satisfied for the purposes of clause 34.3.1 are as follows:
- 33.2.1 the relevant Party has, at no cost to the Council, first procured the execution by the person to whom that Party's rights or obligations under this Agreement are to be assigned or novated, of an agreement in favour of the Council on terms satisfactory to the Council, and
- 33.2.2 the Council, by notice in writing to the relevant Party, has stated that evidence satisfactory to the Council has been produced to show that the transferee, assignee or novatee, is reasonably capable of performing its obligations under the Agreement,
- 33.2.3 the relevant Party is not in breach of this Agreement, and
- 33.2.4 the Council, acting reasonably, otherwise consents to the transfer, assignment or novation.
- 34 Monitoring & review of this Agreement
- 34.1 The Developer is to provide to the Council by not later than each anniversary of the date on which this Agreement is entered into a report detailing the performance of its obligations under this Agreement.
- 34.2 The report referred to is to be in such a form and to address such matters as may be notified by the Council to the Developer from time to time.
- 34.3 The Council, at its own cost, is to keep a written register of the Development Contributions made by the Developer under this Agreement.
- 34.4 The register is to contain (but is not limited to) particulars of the following:
- 34.4.1 each Development Contribution made,
- 34.4.2 the form of the Development Contribution,
- 34.4.3 the Contribution Item to which the Development Contribution relates by reference to Schedule 3 of this Agreement,
- 34.4.4 the date on which the Development Contribution is made, and
- 34.4.5 particulars of any Development Contributions that are required by this Agreement to have been made that the Developer has not made.
- 34.5 The Council is to allow the Parties to have access to the register during the ordinary business hours of the Council and at no cost.
- 34.6 The register is to be conclusive evidence of the matters it contains relating to the making of Development Contributions by the Developer under this Agreement.
- 34.7 The Parties agree to review this Agreement annually, and otherwise if either party is of the opinion that any change of circumstance has occurred, or is imminent, that materially affects the operation of this Agreement.
- 34.8 For the purposes of clause 35.4.7, the relevant changes include (but are not limited to) any change to a law that restricts or prohibits or enables the Council or any other planning authority to restrict or prohibit any aspect of the Development.

Gregory Hills Planning Agreement
Camden Council
Dart West Developments Pty Limited
Trustees of the Marist Brothers

- 34.9 For the purposes of addressing any matter arising from a review of this Agreement referred to in clause ~~35~~34.7, the Parties are to use all reasonable endeavours to agree on and implement appropriate amendments to this Agreement.
- 34.10 If this Agreement becomes illegal, unenforceable or invalid as a result of any change to a law, the Parties agree to do all things necessary to ensure that an enforceable agreement of the same or similar effect to this Agreement is entered into.
- 34.11 A failure by a Party to agree to take action requested by the other Party as a consequence of a review referred to in clause ~~35~~34.7 is not a dispute for the purposes of clauses ~~30~~29 and ~~31~~30 and is not a breach of this Agreement.

35 Variations to Contribution Items and Staging

- 35.1 The Developer may request that the Council approve a variation to the Contribution Items to be provided under this Agreement.
- 35.2 The Council may, in its absolute discretion agree to a variation of the Contribution Items, provided that the variation does not result in the sum of the Contribution Values of all Contribution Items falling below the sum of the Contributions Values of all Contribution Items as at the date of this Agreement and the variation is generally consistent with the intended objectives and outcomes of this Agreement at the date of this Agreement.
- 35.3 The Developer may request that the Council approve a variation to the staging of the provision of the Contribution Items.
- ~~35.4~~ The Developer may request that Council approve a variation to the proposed staging of the Development but only if the variation involves creation of sub-stages within a Stage of the Development.
- ~~35.4~~35.5 The Council must act reasonably in determining whether to grant a variation to the staging of the provision of the Contribution Items or the staging of the Development.
- ~~35.5~~35.6 If a variation is made to the Contribution Items pursuant to this clause, then Schedule 3 will be deemed to be amended to include the varied Contribution Items, and their Contribution Values.
- ~~35.6~~35.7 A variationSubject to clause 35.8, a variation to the Contribution Items or the staging of the provision of Contribution Items or to the staging of the Development under this clause does not require a variation to this Agreement.
- 35.8 If required in writing by the Council, the Plan Package is to be amended to reflect any approved variation referred to in clause 35.3 or clause 35.4.

36 Notices

- 36.1 Any notice, consent, information, application or request that must or may be given or made to a Party under this Agreement is only given or made if it is in writing and sent in one of the following ways:
- 36.1.1 delivered or posted to that Party at its address set out in the Summary Sheet,
- 36.1.2 faxed to that Party at its fax number set out in the Summary Sheet, or

Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

- 36.1.3 emailed to that Party at its email address set out in the Summary Sheet.
- 36.2 If a Party gives the other Party 3 business days notice of a change of its address or fax number, any notice, consent, information, application or request is only given or made by that other Party if it is delivered, posted or faxed to the latest address or fax number.
- 36.3 Any notice, consent, information, application or request is to be treated as given or made if it is:
- 36.3.1 delivered, when it is left at the relevant address,
- 36.3.2 sent by post, 2 business days after it is posted,
- 36.3.3 sent by fax, as soon as the sender receives from the sender's fax machine a report of an error free transmission to the correct fax number, or
- 36.3.4 sent by email and the sender does not receive a delivery failure message from the sender's internet service provider within a period of 24 hours of the email being sent.
- 36.4 If any notice, consent, information, application or request is delivered, or an error free transmission report in relation to it is received, on a day that is not a business day, or if on a business day, after 5pm on that day in the place of the Party to whom it is sent, it is to be treated as having been given or made at the beginning of the next business day.
- 37 Approvals and Consent
- 37.1 Except as otherwise set out in this Agreement, and subject to any statutory obligations, a Party may give or withhold an approval or consent to be given under this Agreement in that Party's absolute discretion and subject to any conditions determined by the Party.
- 37.2 A Party is not obliged to give its reasons for giving or withholding consent or for giving consent subject to conditions.
- 38 Legal costs
- 38.1 The Developer is to pay to the Council the Council's legal costs of preparing, negotiating, executing and stamping this Agreement, and any documents related to this Agreement within 7 days of a written demand by the Council for such payment.
- 38.2 The Developer is also to pay to the Council the Council's costs of enforcing this Agreement within 7 days of a written demand by the Council for such payment.
- 38.3 The Developer is to pay the Council's costs of preparing, negotiating, executing and stamping any amendment to this Agreement.
- 39 Entire Agreement
- 39.1 This Agreement contains everything to which the Parties have agreed in relation to the matters it deals with.

Gregory Hills Planning Agreement
Camden Council
Dart West Developments Pty Limited
Trustees of the Marist Brothers

39.2 No Party can rely on an earlier document, or anything said or done by another Party, or by a director, officer, agent or employee of that Party, before this Agreement was executed, except as permitted by law.

40 Further acts

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

41 Notations on section 149(2) Planning Certificates

41.1 The Parties agree that the Council may, in its absolute discretion, make a notation under section 149(5) of the Act regarding this Agreement on any certificate issued under section 149(2) of the Act relating to the Land, other than a Final Lot.

42 Governing law and jurisdiction

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

43 Joint and individual liability and benefits

- 43.1 Except as otherwise set out in this Agreement:
- 43.1.1 any agreement, covenant, representation or warranty under this Agreement by 2 or more persons binds them jointly and each of them individually, and
- 43.1.2 any benefit in favour of 2 or more persons is for the benefit of them jointly and each of them individually.

44 No fetter

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

45 Representations and Warranties

45.1 The Parties represent and warrant that they have power to enter into this Agreement and comply with their obligations under the Agreement and that entry into this Agreement will not result in the breach of any law.

Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

46 Severability

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

47 Modification

- 47.1 No modification of this Agreement will be of any force or effect unless it is in writing and signed by the Parties to this Agreement.

48 Waiver

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

49 GST

- 49.1 In this clause:

Adjustment Note, Consideration, GST, GST Group, Margin Scheme, Money, Supply and Tax Invoice have the meaning given by the GST Law.

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

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

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

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

- 49.2 Subject to clause ~~5049~~ 4, if GST is payable on a Taxable Supply made under, by reference to or in connection with this Agreement, the Party providing the Consideration for that Taxable Supply must also pay the GST Amount as additional Consideration.

Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

- 49.3 Clause 5049.2 does not apply to the extent that the Consideration for the Taxable Supply is expressly stated in this Agreement to be GST inclusive.
- 49.4 No additional amount shall be payable by the Council under clause 5049.2 unless, and only to the extent that, the Council (acting reasonably and in accordance with the GST Law) determines that it is entitled to an Input Tax Credit for its acquisition of the Taxable Supply giving rise to the liability to pay GST.
- 49.5 If there are Supplies for Consideration which is not Consideration expressed as an amount of Money under this Agreement by one Party to the other Party that are not subject to Division 82 of the *A New Tax System (Goods and Services Tax) Act 1999*, the Parties agree:
 - 49.5.1 to negotiate in good faith to agree the GST inclusive market value of those Supplies prior to issuing Tax Invoices in respect of those Supplies;
 - 49.5.2 that any amounts payable by the Parties in accordance with clause 5049.2 (as limited by clause 5049.4) to each other in respect of those Supplies will be set off against each other to the extent that they are equivalent in amount.
- 49.6 No payment of any amount pursuant to this clause 5049, and no payment of the GST Amount where the Consideration for the Taxable Supply is expressly agreed to be GST inclusive, is required until the supplier has provided a Tax Invoice or Adjustment Note as the case may be to the recipient.
- 49.7 Any reference in the calculation of Consideration or of any indemnity, reimbursement or similar amount to a cost, expense or other liability incurred by a party, must exclude the amount of any Input Tax Credit entitlement of that party in relation to the relevant cost, expense or other liability.
- 49.8 This clause continues to apply after expiration or termination of this Agreement.

50 Explanatory Note relating to this Agreement

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

ORD02

Attachment 1

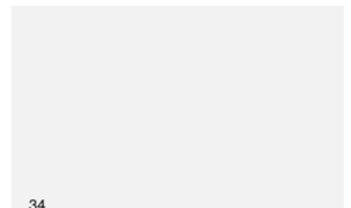
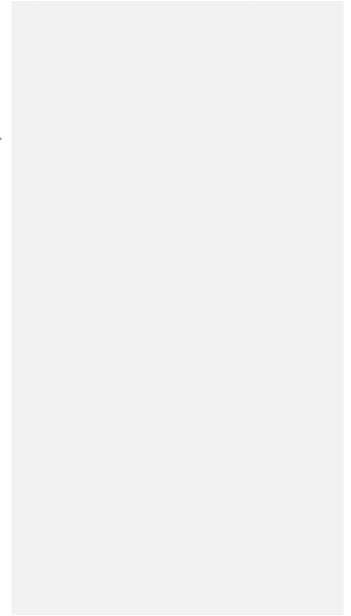
Gregory Hills Planning Agreement
Camden Council
Dart West Developments Pty Limited
Trustees of the Marist Brothers

Schedule 1

(Clause 1.1)

Plan Package

Plan Package on following pages.



Gregory Hills Planning Agreement
Camden Council
Dart West Developments Pty Limited
Trustees of the Marist Brothers



ORD02

Attachment 1

Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

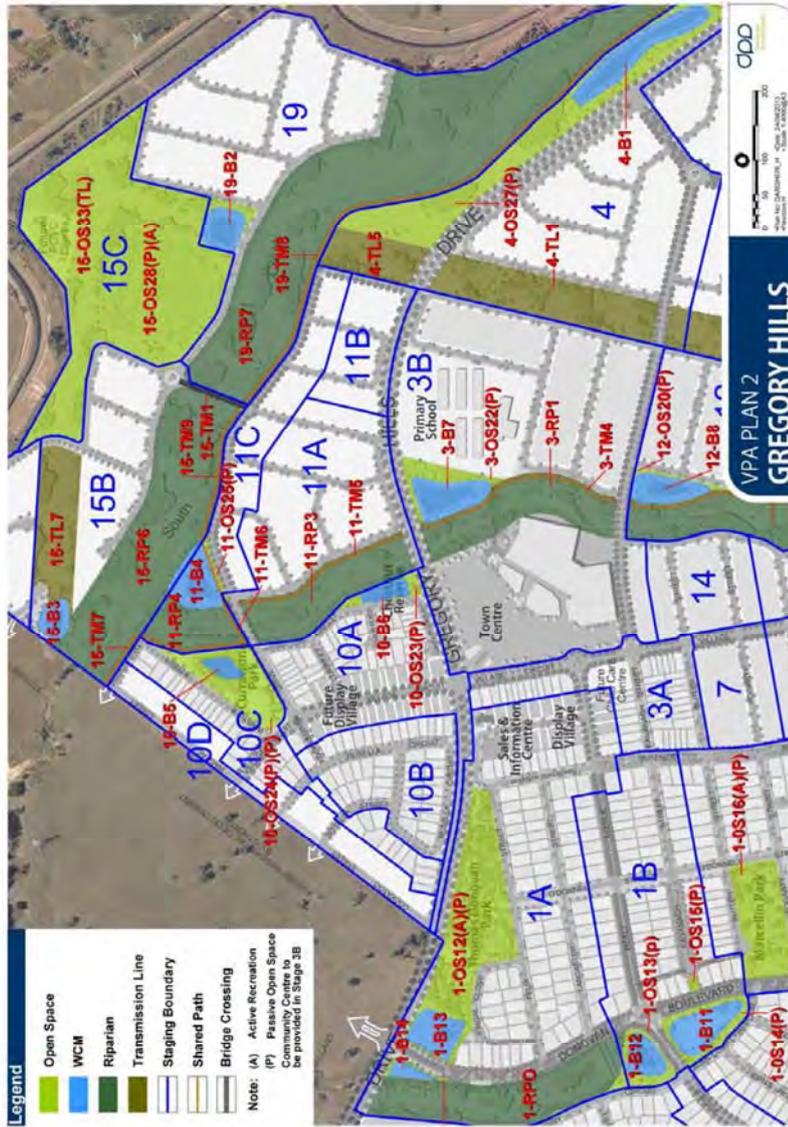


Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers



Attachment 1
ORD02

Gregory Hills Planning Agreement
Camden Council
Dart West Developments Pty Limited
Trustees of the Marist Brothers



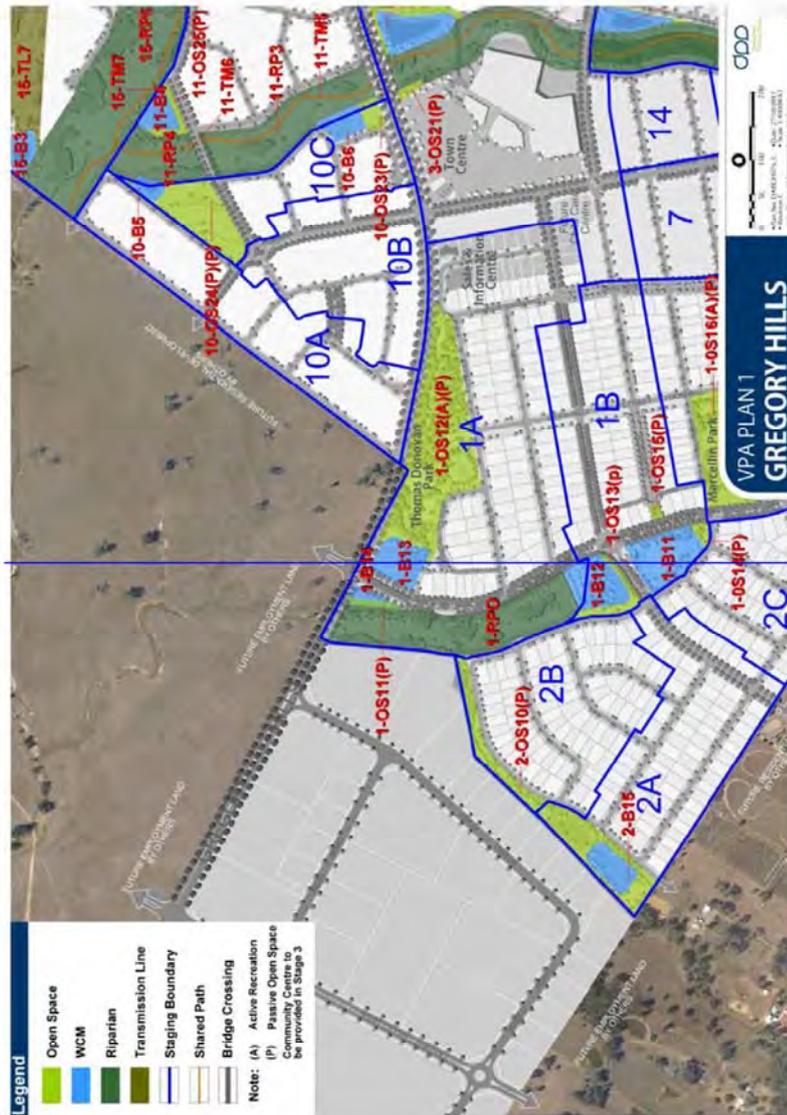
Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers



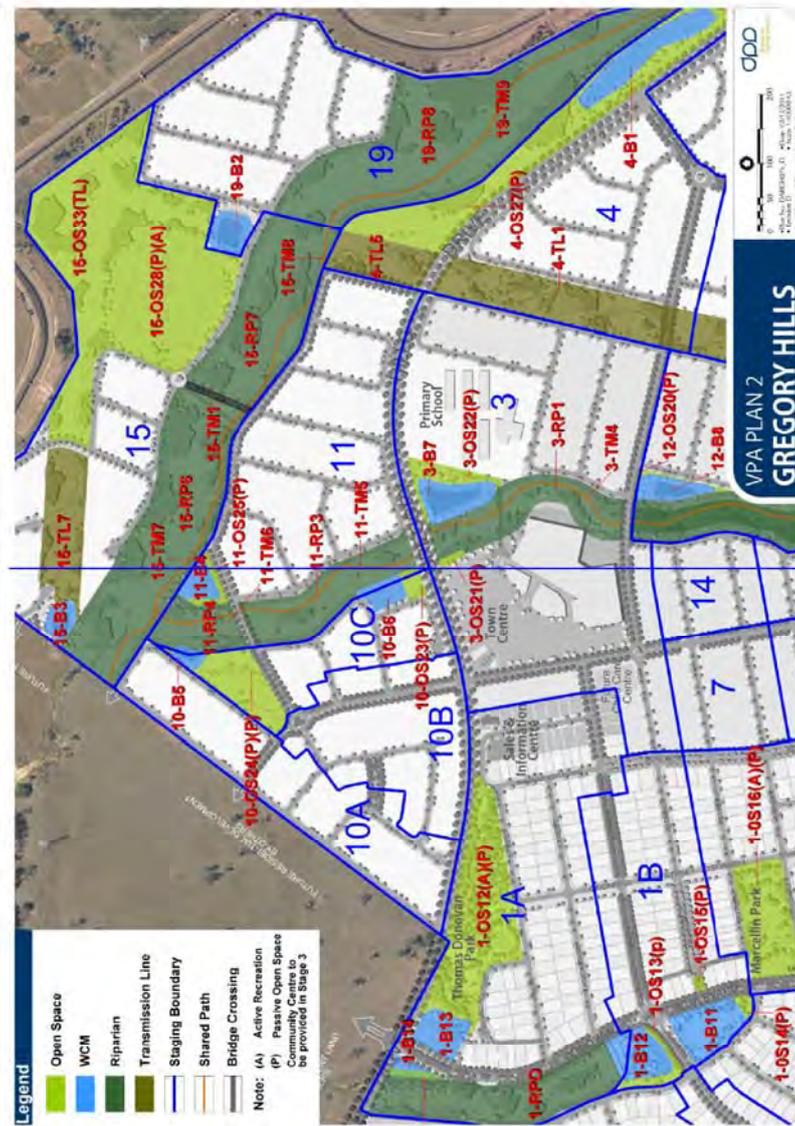
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Attachment 1

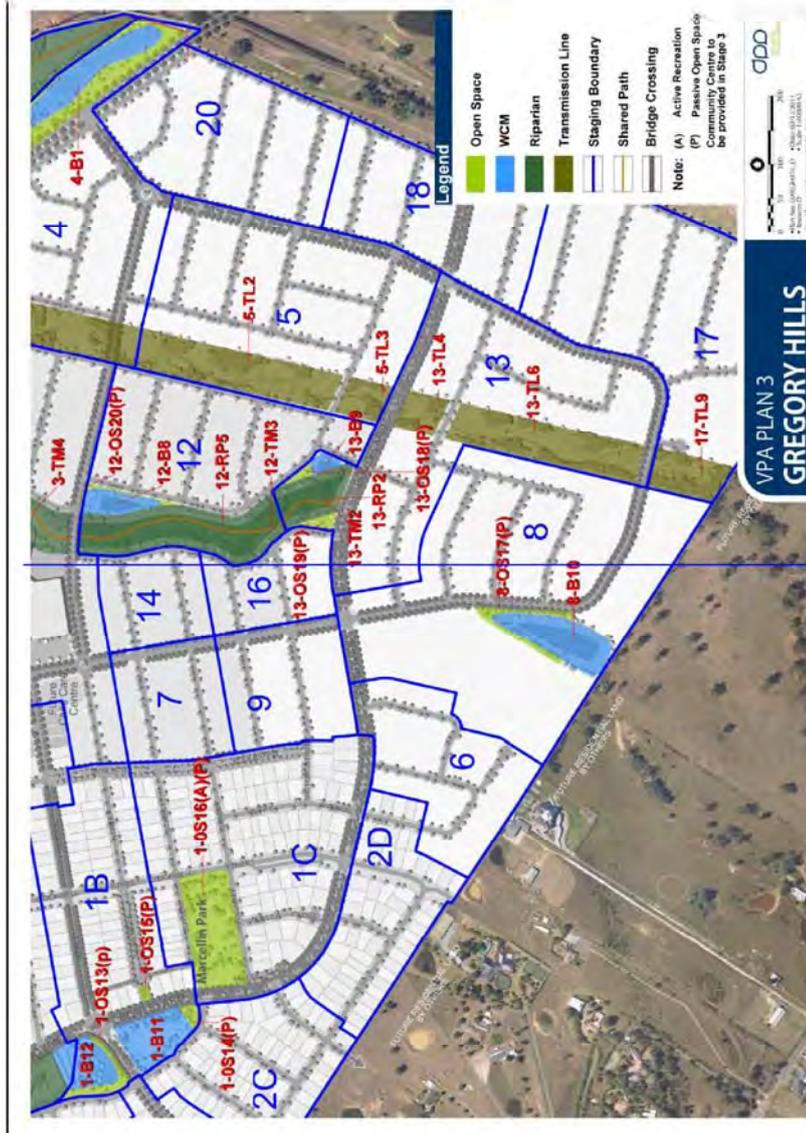
Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers



Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers



Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers



Gregory Hills Planning Agreement
Camden Council
Dart West Developments Pty Limited
Trustees of the Marist Brothers

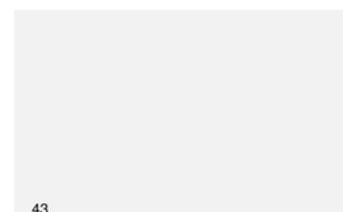
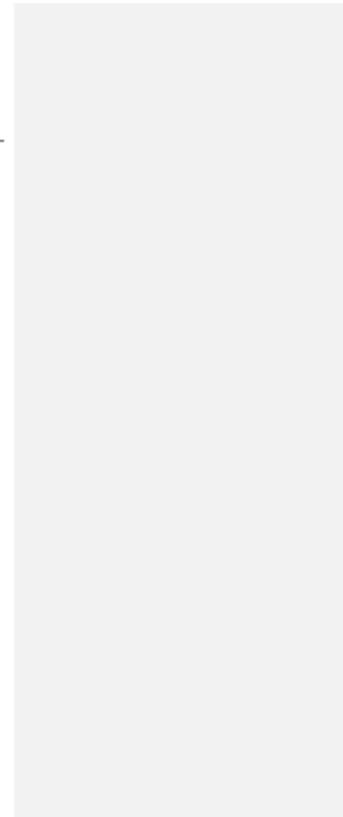
Schedule 2

(Clause 1.1)

The Development

Development of the Land for urban purposes generally as shown on the Masterplan, involving:

- the subdivision of the Land to accommodate approximately 2,400 dwellings and
- establishment of a road, utilities and stormwater management network,
- provision of various types of open space and creation of recreation areas
- provision of community and other facilities
- construction of residential housing, and
- construction of non residential development, including a local shopping centre.



Attachment 1
ORD02

Dart West Gregory Hills Planning Agreement
Camden Council
Dart West Developments Pty Limited
Trustees of the Marist Brothers

Schedule 3

(Clause 7)

Development Contributions

Note: The following table sets out the Development Contributions that the Developer and Landowner are to provide under this Agreement. Items 1 to 7 relate to the carrying out of Work. Items 8 to 11 relate to the dedication of land. Items 12 to 14 relate to payment of monetary contributions.

Column 1 Item	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Description	Column 6 Timing	Column 7 Contribution Value
Carrying out of Work						
1	1	OS 11 (OSR4.3)	Passive open space and recreation	603m ² of embellished passive open space.	Prior to the issue of the Subdivision	\$13,724.05

Dart West Gregory Hills Planning Agreement
Camden Council
Dart West Developments Pty Limited
Trustees of the Marist Brothers

Column 1 Item	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Description	Column 6 Timing	Column 7 Contribution Value
2	1	OS 12 (OSR3.3)	Active open space and recreation	One children's playspace on a 3,000m ² site near the centre of the Land south of Gregory Hills Drive, meeting the specifications provided in the CP.	Prior to the issue of the Subdivision Certificate that creates the first Final Lot in the Relevant Stage.	\$227,591.66
3	1	OS 12 (OSR4.2)	Passive open space and recreation	22,300m ² of passive open space.	Prior to the issue of the Subdivision Certificate that creates the first Final Lot in the Relevant Stage.	\$1,827,105.82
4	1	OS 13 (OSR4.3)	Passive open space and recreation	766m ² of embellished passive open space.	Prior to the issue of the Subdivision Certificate that creates the first	\$17,661.47

Attachment 1
ORD02

Dart West Gregory Hills Planning Agreement
Camden Council
Dart West Developments Pty Limited
Trustees of the Marist Brothers

Column 1 Item	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Description	Column 6 Timing	Column 7 Contribution Value
5	1	OS 14 (OSR4.3)	Passive open space and recreation	2,633m ² of embellished passive open space.	Prior to the issue of the Subdivision Certificate that creates the first Final Lot in the Relevant Stage.	\$59,926.08
6	1	OS 15 (OSR4.3)	Passive open space and recreation	335m ² of embellished passive open space.	Prior to the issue of the Subdivision Certificate that creates the first Final Lot in the Relevant Stage.	\$7,624.47
7	1	OS 16 (OSR3.2)	Active open space and recreation	One children's playground on a 3,000m ² site in the south-western part of Gregory Hills, meeting the specifications provided in the CP.	Prior to the issue of the Subdivision Certificate that creates the first Final Lot in the Relevant Stage.	\$227,591.66

Dart West Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

Column 1 Item	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Description	Column 6 Timing	Column 7 Contribution Value
8	1	OS 16 (OSR4.3)	Passive open space and recreation	7,540m ² of embellished passive open space.	Prior to the issue of the Subdivision Certificate that creates the first Final Lot in the Relevant Stage.	\$171,607.54
9	1	B11	Water management	5,000m ² of water-cycle management infrastructure.	Prior to the issue of the Subdivision Certificate that creates the first Final Lot in the Relevant Stage.	\$559,558.48
10	1	B12	Water management	4,000m ² of water-cycle management infrastructure.	Prior to the issue of the Subdivision Certificate that creates the first Final Lot in the Relevant Stage.	\$447,646.79
11	1	B13	Water management	2,000m ² of water-cycle	Prior to the issue of the Subdivision	\$223,823.39

Attachment 1
ORD02

Dart West Gregory Hills Planning Agreement
Camden Council
Dart West Developments Pty Limited
Trustees of the Marist Brothers

Column 1 Item	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Description	Column 6 Timing	Column 7 Contribution Value
				management infrastructure.	Certificate that creates the first Final Lot in the Relevant Stage.	
12	1	B14	Water management	1,000m ² of water-cycle management infrastructure.	Prior to the issue of the Subdivision Certificate that creates the first Final Lot in the Relevant Stage.	\$111,911.70
13	1	SWALES	Water management	5786.33m ² of water quality swales.	Prior to the issue of the Subdivision Certificate that creates the first Final Lot in the Relevant Stage.	\$599,544.90
149	1	RP0	Riparian corridor protection & enhancement	24,500m ² of embellished riparian land.	Prior to the issue of the Subdivision Certificate that creates the first	\$367,500.00

Dart West Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

Column 1 Item	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Description	Column 6 Timing	Column 7 Contribution Value
1510	2	OS 10 (OSR4.2)	Passive open space and recreation	10,710m ² of passive open space.	Final Lot in the Relevant Stage.	\$877,502.39
16	23A	B15	Water management	3,000m² of water-cycle management infrastructure	Prior to the issue of the Subdivision Certificate that creates the first Final Lot in the Relevant Stage.	\$335,735.09
1711	33B	OS 22 (OSR 4.2)	Passive open space and recreation	7,474m² 2,971m² of passive open space.	Prior to the issue of the Subdivision Certificate that creates the first Final Lot in the Relevant Stage.	\$546,130,002 17,180.06

Attachment 1
ORD02

Dart West Gregory Hills Planning Agreement
Camden Council
Dart West Developments Pty Limited
Trustees of the Marist Brothers

Column 1 Item	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Description	Column 6 Timing	Column 7 Contribution Value
18	3	OS-24 (OSR4-3)	Passive open space and recreation	400m ² of embellished passive open space.	or such other date agreed to by Council under clause 11. Prior to the issue of the Subdivision Certificate that creates the first Final Lot in the Relevant Stage.	\$9,103,85
19	3	B7	Water management	5,000m ² of water cycle management infrastructure.	Prior to the issue of the Subdivision Certificate that creates the first Final Lot in the Relevant Stage.	\$559,558.48
20	3	SWALES	Water management	2453m ² of water quality swales.	Prior to the issue of the Subdivision Certificate that creates the first	\$223,086.12

Dart West Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

Column 1 Item	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Description	Column 6 Timing	Column 7 Contribution Value
<u>2412</u>	<u>33B</u>	C2.2	Community facility	One 515m ² multi-purpose community centre on a 1,288m ² site generally in the central part of the Land, meeting Council's specifications.	<u>Final Lot in the Relevant Stage.</u> Prior to the earlier of the following: (a) the issue of the Subdivision Certificate that creates the #ref1801 st Final Lot within the <u>Relevant Stage-Development, or</u> (b) the completion of construction of the primary school that is to be located generally in the area shown as <u>Primary School</u> on the Plan titled <u>VPA Plan</u>	\$1,941,127.91

Attachment 1 ORD02

Dart West Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

Column 1 Item	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Description	Column 6 Timing	Column 7 Contribution Value
<u>2213</u>	<u>33B</u>	C2.2a	Community facility	One 773m ² car park and landscaped area located within the 1,288m ² site for the multi-purpose community centre.	<p><u>2.</u> or such other date agreed to by Council under Clause 11.</p> <p>For the purposes of paragraph (b) above, the primary school is taken to be complete when the Council is notified in writing as such by the Developer or the Department of Education and Communities</p> <p>Prior to the <u>earlier of the following:</u> (a) the issue of the Subdivision Certificate that creates the <u>#ref1801</u> Final Lot within the</p>	\$93,135.18

Dart West Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

Column 1 Item	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Description	Column 6 Timing	Column 7 Contribution Value
					<p>Relevant Stage-Development, or</p> <p>(b) the completion of construction of the primary school that is to be located generally in the area shown as 'Primary School' on the Plan titled 'VPA Plan 2',</p> <p>or such other date agreed to by Council under Clause 11.</p> <p>For the purposes of paragraph (b) above, the primary school is taken to be complete when the Council is notified in writing as such by the</p>	

Attachment 1 ORD02

Dart West Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

Column 1 Item	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Description	Column 6 Timing	Column 7 Contribution Value
<u>2314</u>	<u>33B</u>	TM4	Transport management	<u>762m² of bike paths with a width of 2.5m-2.5m wide shared path for an approximate length of 304.8m, generally in the location identified as TM4 on the Plan Package provided in Schedule 1.</u>	<u>Prior to the issue of the Subdivision Certificate that creates the first Final Lot in the Relevant Stage, or such other date agreed to by Council under clause 11.</u>	\$87,219.39
<u>2415</u>	<u>33B</u>	RP1	Riparian corridor protection & enhancement	<u>Embellishment of approximately 18,000m² of embellished-riparian land generally in the location identified as RP1 on the Plan Package provided in Schedule 1.</u>	<u>Prior to the issue of the Subdivision Certificate that creates the first Final Lot in the Relevant Stage, or such other date</u>	\$270,000

Dart West Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

Column 1 Item	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Description	Column 6 Timing	Column 7 Contribution Value
2616	4	OS 27 (OSR4.2)	Passive open space and recreation	19,030m ² of passive open space.	agreed to by Council under clause 11. Prior to the issue of the Subdivision Certificate that creates the first Final Lot in the Relevant Stage, or such other date agreed to by Council under clause 11.	\$1,559,184.92
26	4	B4	Water management	10,000m ² of water-cycle management infrastructure.	Prior to the issue of the Subdivision Certificate that creates the first Final Lot in the Relevant Stage.	\$1,119,116.96
27	4	SWALES	Water management	2825.5m ² of water quality	Prior to the issue	\$292,763.64

Attachment 1
ORD02

Dart West Gregory Hills Planning Agreement
Camden Council
Dart West Developments Pty Limited
Trustees of the Marist Brothers

Column 1 Item	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Description	Column 6 Timing	Column 7 Contribution Value
2017	4	TL1	Open space corridor and transmission line easement	embellished- embellishment of approximately 20,000m ² of transmission line easement land generally in the location identified as TL1 on the Plan Package provided in Schedule 1, including cycle/pedestrian/access path.	Prior to the issue of the Subdivision Certificate that creates the first Final Lot in the Relevant Stage, or such other date agreed to by Council under clause 11.	\$143,490.35
2018	4	TL5	Open space corridor and transmission line easement	embellished- embellishment of approximately 17,000m ² of transmission line easement land generally in the location identified as TL5 on the	Prior to the issue of the Subdivision Certificate that creates the first Final Lot in the Relevant Stage,	\$121,966.79

Dart West Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

Column 1 Item	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Description	Column 6 Timing	Column 7 Contribution Value
3019	5	TL2	Open space corridor and transmission line easement	Embellishment of approximately 19,200m² of embelished-transmission line easement land generally in the location identified as TL2 on the Plan Package provided in Schedule 1, including cycle/pedestrian/access path.	Prior to the issue of the Subdivision Certificate that creates the first Final Lot in the Relevant Stage₂ or such other date agreed to by Council under clause 11.	\$137,750.73
3+20	5	TL3	Open space corridor and transmission line easement	Embellishment of approximately 3,500m² of embelished-transmission line easement land generally in the location identified as TL3 on the Plan Package provided in	Prior to the issue of the Subdivision Certificate that creates the first Final Lot in the Relevant Stage₂ or such other date	\$25,110.81

Attachment 1
ORD02

Dart West Gregory Hills Planning Agreement
Camden Council
Dart West Developments Pty Limited
Trustees of the Marist Brothers

Column 1 Item	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Description	Column 6 Timing	Column 7 Contribution Value
	6&7	-		<u>Schedule 1</u> , including cycle/pedestrian/access path.	<u>agreed to by Council under clause 11.</u>	
3221	8	OS 17 (OSR4.2)	Passive open space and recreation	200m ² of passive open space.	Prior to the issue of the Subdivision Certificate that creates the first Final Lot in the Relevant Stage, <u>or such other date agreed to by Council under clause 11.</u>	\$16,386.60
33	8	B10	Water management	10,000m² of water-cycle management infrastructure.	Prior to the issue of the Subdivision Certificate that creates the first Final Lot in the Relevant Stage.	\$1,119,116.06

Dart West Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

Column 1 Item	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Description	Column 6 Timing	Column 7 Contribution Value
34	B	TL4	Open-space-corridor and-transmission-line easement	5,000m ² of embellished transmission-line easement land including cycle/pedestrian/access path.	Prior to the issue of the Subdivision Certificate that creates the first Final Lot in the Relevant Stage.	\$35,872.59
3522	10A	OS23 (OSR4.3)	Passive open space and recreation	1,152m ² of embellished passive open space.	Prior to the issue of the Subdivision Certificate that creates the first Final Lot in the Relevant Stage or at such later date agreed to by Council, or such other date agreed to by Council under clause 11.	\$26,219.08

Attachment 1 **ORD02**

Dart West Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

Column 1 Item	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Description	Column 6 Timing	Column 7 Contribution Value
	<u>10B</u>	-				
<u>3623</u>	<u>10C</u>	OS 24 (OSR4.1)	Passive open space and recreation	One community park/green space of 5,000m ² .	Prior to the issue of the Subdivision Certificate that creates the first Final Lot in the Relevant Stage or at such later date agreed to by Council, or such other date agreed to by Council under clause 11.	\$1,297,273.03
<u>3724</u>	<u>10C</u>	OS 24 (OSR4.2)	Passive open space and recreation	3,120m ² of passive open space.	Prior to the issue of the Subdivision Certificate that creates the first Final Lot in the Relevant Stage or at such later date agreed to by	\$255,630.95

Dart West Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

Column 1 Item	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Description	Column 6 Timing	Column 7 Contribution Value
<u>3825</u>	<u>4011A</u>	<u>B5TMS</u>	<u>Water Transport management</u>	<u>2,100m² of water-eye management infrastructure- 2.5m wide shared path for a length of approximately 244.8m, generally in the location identified as TMS on the Plan Package provided in Schedule 1.</u>	<u>Council, or such other date agreed to by Council under clause 11.</u> Prior to the issue of the Subdivision Certificate that creates the first Final Lot in the Relevant Stage, or at such a later date agreed to by Council under clause 11.	<u>\$295,014,5670,050.22</u>
<u>3926</u>	<u>4011A</u>	<u>B6RP3</u>	<u>Water management Riparian corridor protection & enhancement</u>	<u>2,248m² of water-eye management infrastructure- Embellishment of approximately 16,000m² of riparian land generally in the location identified as RP3 on the Plan Package</u>	<u>Prior to the issue of the Subdivision Certificate that creates the first Final Lot in the Relevant Stage, or at such a later</u>	<u>\$251,577,49240,000.00</u>

Attachment 1
ORD02

Dart West Gregory Hills Planning Agreement
Camden Council
Dart West Developments Pty Limited
Trustees of the Marist Brothers

Column 1 Item	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Description	Column 6 Timing	Column 7 Contribution Value
40	1011B	SWALES	Water management	1143.8m² of water quality swales.	date agreed to by Council under <u>clause 11.</u>	\$118,541.73
41Z	11C	OS 25 (OSR4.3)	Passive open space and recreation	4,834m² 531m² of embellished passive open space.	Prior to the issue of the Subdivision Certificate that creates the first Final Lot in the Relevant Stage, <u>or such other date agreed to by Council under clause 11.</u>	\$109,951,7312,085.36
42	11	B4	Water management	5,000m² of water-cycle	Prior to the issue	\$559,558.48

Dart West Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

Column 1 Item	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Description	Column 6 Timing	Column 7 Contribution Value
43	11	SWALES	Water management	1149.35m ² of water-quality swales.	of the Subdivision Certificate that creates the first Final Lot in the Relevant Stage.	\$118,514.73
4428	11C	TM56	Transport management	612m ² of bike-paths with a width of 2.5m-2.5m wide shared path for a length of approximately 125.2m, generally in the location identified as TM6 on the Plan Package provided in Schedule 1.	Prior to the issue of the Subdivision Certificate that creates the first Final Lot in the Relevant Stage, or such other date agreed to by Council under clause 11.	\$70,050,2272,682.83

Attachment 1
ORD02

Dart West Gregory Hills Planning Agreement
Camden Council
Dart West Developments Pty Limited
Trustees of the Marist Brothers

Column 1 Item	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Description	Column 6 Timing	Column 7 Contribution Value
45	11	TM6	Transport management	313m ² of bike-paths with a width of 2.5m.	Prior to the issue of the Subdivision Certificate that creates the first Final Lot in the Relevant Stage.	\$35,826.34
46	11	RP3	Riparian corridor protection & enhancement	16,000m ² of embellished riparian land.	Prior to the issue of the Subdivision Certificate that creates the first Final Lot in the Relevant Stage.	\$240,000.00
4729	11C	RP4	Riparian corridor protection & enhancement	Embellishment of approximately 10,000m ² of embellished riparian land generally in the location identified as RP4 on the Plan Package provided in Schedule 1.	Prior to the issue of the Subdivision Certificate that creates the first Final Lot in the Relevant Stage, ¹ or such other date agreed to by Council under	\$150,000.00

Dart West Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

Column 1 Item	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Description	Column 6 Timing	Column 7 Contribution Value
4830	12	OS 20 (OSR4.3)	Passive open space and recreation	3-676m² 576m ² of embellished passive open space.	clause 11. Prior to the issue of the Subdivision Certificate that creates the first Final Lot in the Relevant Stage, <u>or such other date agreed to by Council under clause 11.</u>	\$89,664,3713,109.54
49	12	B8	Water management	4,000m ² of water-cycle management infrastructure.	Prior to the issue of the Subdivision Certificate that creates the first Final Lot in the Relevant Stage.	\$447,646.79
50	12	SWALES	Water management	1614.79m ² of water quality swales.	Prior to the issue of the Subdivision Certificate that	\$167,314.85

Attachment 1
ORD02

Dart West Gregory Hills Planning Agreement
Camden Council
Dart West Developments Pty Limited
Trustees of the Marist Brothers

Column 1 Item	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Description	Column 6 Timing	Column 7 Contribution Value
<u>5131</u>	12	TM3	Transport management	1400m² of bike paths with a width of 2.5m, 2.5m wide shared path for a length of approximately 560m generally in the location identified as TM3 on the Plan Package provided in Schedule 1.	creates the first Final Lot in the Relevant Stage. Prior to the issue of the Subdivision Certificate that creates the first Final Lot in the Relevant Stage, <u>or such other date agreed to by Council under clause 11.</u>	\$160,245.60
<u>5232</u>	12	RP5	Riparian corridor protection & enhancement	Embellishment of approximately 20,000m² of embellished riparian land generally in the location identified as RP5 on the Plan Package provided in Schedule 1.	Prior to the issue of the Subdivision Certificate that creates the first Final Lot in the Relevant Stage, <u>or such other date agreed to by</u>	\$300,000.00

Dart West Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

Column 1 Item	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Description	Column 6 Timing	Column 7 Contribution Value
5333	13	OS 18 (OSR4.3)	Passive open space and recreation	680m ² of embellished passive open space.	Council under clause 11. Prior to the issue of the Subdivision Certificate that creates the first Final Lot in the Relevant Stage ² or such other date agreed to by Council under clause 11.	\$15,476.54
5434	13	OS 19 (OSR4.3)	Passive open space and recreation	824m ² of embellished passive open space.	Prior to the issue of the Subdivision Certificate that creates the first Final Lot in the Relevant Stage ² or such other date agreed to by Council under	\$18,753.93

Attachment 1
ORD02

Dart West Gregory Hills Planning Agreement
Camden Council
Dart West Developments Pty Limited
Trustees of the Marist Brothers

Column 1 Item	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Description	Column 6 Timing	Column 7 Contribution Value
55	13	B9	Water management	1,000m ² of water-cycle management infrastructure.	clause 11. Prior to the issue of the Subdivision Certificate that creates the first Final Lot in the Relevant Stage.	\$111,911.70
56	13	SWALES	Water management	2960.45m ² of water-quality swales.	Prior to the issue of the Subdivision Certificate that creates the first Final Lot in the Relevant Stage.	\$306,743.86
6735	13	TM2	Transport management	163m ² of bike-paths with a width of 2.5m, 2.5m wide shared path for a length of approximately 652m generally in the location identified as TM2 on the Plan Package provided in	Prior to the issue of the Subdivision Certificate that creates the first Final Lot in the Relevant Stage., or such other date.	\$18,657.17

Dart West Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

Column 1 Item	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Description	Column 6 Timing	Column 7 Contribution Value
5836	13	RP2	Riparian corridor protection & enhancement	Embellishment of approximately 6,000m² of embellished-riparian land generally in the location identified as RP2 on the Plan Package provided in Schedule 1.	agreed to by Council under clause 11. Prior to the issue of the Subdivision Certificate that creates the first Final Lot in the Relevant Stage, or such other date agreed to by Council under clause 11.	\$90,000.00
5937	13	TL4	Open space corridor and transmission line easement	Embellishment of approximately 5,000m² of embellished-transmission line easement land generally in the location identified as TL4 on the Plan Package provided in Schedule 1, including	Prior to the issue of the Subdivision Certificate that creates the first Final Lot in the Relevant Stage, or such other date agreed to by	\$35,872.59

Attachment 1 ORD02

Dart West Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

Column 1 Item	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Description	Column 6 Timing	Column 7 Contribution Value
6038	13	TL6	Open space corridor and transmission line easement	cycle/pedestrian/access path. Embellishment of approximately 15,000m ² of embellished-transmission line easement land generally in the location identified as TL6 on the Plan Package provided in Schedule 1, including cycle/pedestrian/access path.	Council under clause 11. Prior to the issue of the Subdivision Certificate that creates the first Final Lot in the Relevant Stage, or such other date agreed to by Council under clause 11.	\$107,617.76
61	14 & 15A 15	- GS-26 (GSR2-1)	Active open space and recreation	A-2 The double playing field on a site north of South Creek, meeting the specifications provided in the GR.	Prior to the issue of the Subdivision Certificate that creates the first Final Lot in the Relevant Stage.	\$2,259,222.02

Dart West Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

Column 1 Item	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Description	Column 6 Timing	Column 7 Contribution Value
62	15	OS-28 (OSR4-2)	Passive open-space and recreation	11,518m ² of passive open space.	Prior to the issue of the Subdivision Certificate that creates the first Final Lot in the Relevant Stage.	\$943,704.25
63	15	OS-33	Passive open-space	41,000m ² of embellished passive open-space.	Prior to the issue of the Subdivision Certificate that creates the first Final Lot in the Relevant Stage.	\$759,000.00
64	15	B3	Water management	3,000m ² of water-cycle management infrastructure.	Prior to the issue of the Subdivision Certificate that creates the first Final Lot in the Relevant Stage.	\$335,735.09
65	15	SWALES	Water management	1614.79m ² of water quality	Prior to the issue of the Subdivision	\$467,314.85

Attachment 1
ORD02

Dart West Gregory Hills Planning Agreement
Camden Council
Dart West Developments Pty Limited
Trustees of the Marist Brothers

Column 1 Item	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Description	Column 6 Timing	Column 7 Contribution Value
6639	15B	TM1	Transport management	swales. A two lane bridge crossing of South Creek in the northern part of the Land, meeting the specifications provided in the CP.	Certificate that creates the first Final Lot in the Relevant Stage. Prior to the issue of the Subdivision Certificate that creates the first Final Lot in the Relevant Stage, ² or such other date agreed to by Council under clause 11.	\$1,408,173.31
6740	15B	TM7	Transport management	1,025m² of bike paths with a width of 2.5m-2.5m wide shared path for an approximately length of 410m consistent with identifier TM7 on the Plan Package provided in	Prior to the issue of the Subdivision Certificate that creates the first Final Lot in the Relevant Stage, ² or such other date	\$117,322,672,747.61

Dart West Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

Column 1 Item	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Description	Column 6 Timing	Column 7 Contribution Value
6841	15B	TM89	Transport management	638m² of bike paths with a width of 2.5m-2.5m wide shared path for a length of approximately 255.2m generally in the location identified as TM9 on the Plan Package provided in Schedule 1.	agreed to by Council under clause 11. Prior to the issue of the Subdivision Certificate that creates the first Final Lot in the Relevant Stage, or such other date agreed to by Council under clause 11.	\$73,026,2158,718.57
6842	15B	RP6	Riparian corridor protection & enhancement	Embellishment of approximately 43,500m² of embellished-riparian land generally in the location identified as RP6 on the Plan Package provided in Schedule 1.	Prior to the issue of the Subdivision Certificate that creates the first Final Lot in the Relevant Stage, or such other date agreed to by	\$652,500.00

Attachment 1
ORD02

Dart West Gregory Hills Planning Agreement
Camden Council
Dart West Developments Pty Limited
Trustees of the Marist Brothers

Column 1 Item	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Description	Column 6 Timing	Column 7 Contribution Value
70	45	RPZ	Riparian corridor protection & enhancement	27,500m² of embellished riparian land.	Council under clause 11. Prior to the issue of the Subdivision Certificate that creates the first Final Lot in the Relevant Stage.	\$412,500.00
7443	15B	TL7	Open space corridor and transmission line easement	Embellishment of approximately 12,000m² of embellished transmission line easement land generally in the location identified as TL7 on the Plan Package provided in Schedule 1, including cycle/pedestrian/access path.	Prior to the issue of the Subdivision Certificate that creates the first Final Lot in the Relevant Stage, or such other date agreed to by Council under clause 11.	\$86,094.21
44	15C	QS 28 (OSR3.1)	Active open space and recreation	A 2.7ha double playing field on a site north of South	Prior to the issue of the Subdivision	\$3,359,232.92

Dart West Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

Column 1 Item	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Description	Column 6 Timing	Column 7 Contribution Value
45	15C	OS 28 (OSR4.2)	Passive open space and recreation	Creek, meeting the specifications provided in the CP.	Certificate that creates the 2001st Final Lot in the Development, or such other date agreed to by Council under clause 11.	\$943,704.25
46	15C	OS 33	Passive open space	41,000m² of embellished passive open space.	Prior to the issue of the Subdivision Certificate that creates the 2001st Final Lot in the Development, or such other date agreed to by Council under clause 11.	\$759,000.00

Attachment 1 ORD02

Dart West Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

Column 1 Item	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Description	Column 6 Timing	Column 7 Contribution Value
					creates the 2001st Final Lot within the Development, or such other date agreed to by Council under clause 11.	
	16					
7247	17	TL9	Open space corridor and transmission line easement	Embellishment of approximately 7,000m² of embelished-transmission line easement land generally in the location identified as TL9 on the Plan Package provided in Schedule 1, including cycle/pedestrian/access path.	Prior to the issue of the Subdivision Certificate that creates the first Final Lot in the Relevant Stage, or such other date agreed to by Council under clause 11.	\$50,221.62
73	18	SWALES	Water management	2422-18m ² of water quality swales.	Prior to the issue of the Subdivision	\$205,972.28

Dart West Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

Column 1 Item	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Description	Column 6 Timing	Column 7 Contribution Value
74	19	B2	Water management	4,000m ² of water cycle management infrastructure.	Certificate that creates the first Final Lot in the Relevant Stage. Prior to the issue of the Subdivision Certificate that creates the first Final Lot in the Relevant Stage.	\$447,646.79
7548	19	TM98	Transport management	1,587m ² of bike paths with a width of 2.5m-2.5m wide shared path for a length of approximately 634.8m generally in the location identified as TM8 on the Plan Package provided in Schedule 1.	Prior to the issue of the Subdivision Certificate that creates the first Final Lot in the Relevant Stage, ¹ or such other date agreed to by Council under clause 11.	\$181,649,842,54,676.05

Attachment 1 ORD02

Dart West Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

Column 1 Item	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Description	Column 6 Timing	Column 7 Contribution Value
<u>7649</u>	19	RP8Z	Riparian corridor protection & enhancement	Embellishment of approximately 57,000m ² of embellished-riparian corridor land generally in the location identified as RPZ on the Plan Package provided in Schedule 1.	Prior to the issue of the Subdivision Certificate that creates the first Final Lot in the Relevant Stage, or such other date agreed to by Council under clause 11.	\$ 855,000 1,267,500.00
<u>77</u>	20	SWALES	Water management	538.26m ² of water quality swales.	Prior to the issue of the Subdivision Certificate that creates the first Final Lot in the Relevant Stage.	\$55,771.61
Dedication of Land						
<u>7850</u>	1	OS 11	Passive open space	Dedication of a 603m ² site	On completion,	\$64,219.50

Dart West Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

Column 1 Item	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Description	Column 6 Timing	Column 7 Contribution Value
		(OSR4.3)	and recreation	on which Item 1 is to be provided.	within the meaning of this Agreement, of Item 1, and otherwise in accordance with this Agreement, or at such later date as agreed to by Council.	
7951	1	OS 12 (OSR3.3)	Active open space and recreation	Dedication of a 3,000m ² site near the centre of the Land south of Gregory Hills Drive, on which Item 2 is to be provided.	On completion, within the meaning of this Agreement, of Item 2, and otherwise in accordance with this Agreement, or at such later date as agreed to by Council.	\$285,000.00
8052	1	OS 12 (OSR4.2)	Passive open space and recreation	Dedication of 22,300m ² of passive open space.	On completion, within the meaning	\$2,118,500.00

Attachment 1
ORD02

Dart West Gregory Hills Planning Agreement
Camden Council
Dart West Developments Pty Limited
Trustees of the Marist Brothers

Column 1 Item	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Description	Column 6 Timing	Column 7 Contribution Value
8453	1	OS 13 (OSR4.3)	Passive open space and recreation	Dedication of 766m ² of embellished passive open space.	On completion, within the meaning of this Agreement, of Item 4, and otherwise in accordance with this Agreement, or at such later date as agreed to by Council	\$73,270.00
8254	1	OS 14 (OSR4.3)	Passive open space and recreation	Dedication of 2,633m ² of embellished passive open space.	On completion, within the meaning of this Agreement,	\$250,135.00

Dart West Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

Column 1 Item	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Description	Column 6 Timing	Column 7 Contribution Value
					of item 5, and otherwise in accordance with this Agreement, or at such later date as agreed to by Council	
8355	1	OS 15 (OSR4.3)	Passive open space and recreation	Dedication of 335m ² of embellished passive open space.	On completion, within the meaning of this Agreement, of item 6, and otherwise in accordance with this Agreement, or at such later date as agreed to by Council	\$31,825.00
8456	1	OS 16 (OSR3.2)	Active open space and recreation	Dedication of land containing one children's playground on a 3,000m ² site near the south-western	On completion, within the meaning of this Agreement, of item 7, and	\$285,000.00

Attachment 1 ORD02

Dart West Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

Column 1 Item	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Description	Column 6 Timing	Column 7 Contribution Value
<u>85</u>	1	OS 16 (OSR4.3)	Passive open space and recreation	part of Gregory Hills, meeting the specifications provided in the CP. Dedication of 7,540m ² of embellished passive open space.	otherwise in accordance with this Agreement, or at such later date as agreed to by Council On completion, within the meaning of this Agreement, of Item 8, and otherwise in accordance with this Agreement, or at such later date as agreed to by Council	\$716,300.00
<u>86</u>	4	B11	Water management	Dedication of 5,000m ² of water cycle management infrastructure.	On completion, within the meaning of this Agreement, of Item 9, and otherwise in	\$475,000.00

Dart West Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

Column 1 Item	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Description	Column 6 Timing	Column 7 Contribution Value
87	1	B12	Water management	Dedication of 4,000m ² of water cycle management infrastructure.	On completion, within the meaning of this Agreement, of this Agreement, or at such later date as agreed to by Council	\$380,000.00
88	1	B13	Water management	Dedication of 2,000m ² of water cycle management infrastructure.	On completion, within the meaning of this Agreement, of this Agreement, or at such later date as agreed to by Council	\$190,000.00

Attachment 1
ORD02

Dart West Gregory Hills Planning Agreement
Camden Council
Dart West Developments Pty Limited
Trustees of the Marist Brothers

Column 1 Item	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Description	Column 6 Timing	Column 7 Contribution Value
<u>89</u>	4	B14	Water management	Dedication of 1,000m ² of water cycle management infrastructure.	On completion, within the meaning of this Agreement, of Item 12, and otherwise in accordance with this Agreement, of this Agreement, at such later date as agreed to by Council	\$95,000.00
<u>9058</u>	1	RP0	Riparian corridor protection & enhancement	Dedication of 24,500m ² of embellished riparian land.	On the expiration of the Maintenance Period for Item <u>914</u> .	\$367,500.00
<u>9159</u>	2	OS 10	Passive open space	Dedication of 10,710m ² of	On completion,	\$1,017,450.00

Dart West Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

Column 1 Item	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Description	Column 6 Timing	Column 7 Contribution Value
		(OSR4.2)	and recreation	passive open space.	within the meaning of this Agreement, of item 10 ¹⁵ , and otherwise in accordance with this Agreement, or at such later ^{agother} date as agreed to by Council	
92	23A	B15	Water management	Dedication of 3,000m ² of water-cycle management infrastructure	On completion, within the meaning of this Agreement, of item 16 , and otherwise in accordance with this Agreement, or at such later date as agreed to by Council	\$285,000.00
93B	33B	OS 22 (OSR 4.2)	Passive open space and recreation	Dedication of 7,474m² ^{2,971m²} of passive	On completion, within the meaning	\$709,745 ^{282,245.00}

Attachment 1 ORD02

Dart West Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

Column 1 Item	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Description	Column 6 Timing	Column 7 Contribution Value
94	3	OS-21 (OSR4-3)	Passive open-space and recreation	Dedication of 400m ² of embellished passive open space.	On completion, within the meaning of this Agreement, of Item 18, and otherwise in accordance with this Agreement, or at such later date as agreed to by Council	\$38,000.00
95	3	B7	Water management	Dedication of 5,000m ² of water cycle management infrastructure.	On completion, within the meaning of this Agreement,	\$475,000.00

Dart West Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

Column 1 Item	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Description	Column 6 Timing	Column 7 Contribution Value
<u>9661</u>	<u>33B</u>	C2.2	Community facility	Dedication of a 1,288m ² site containing one 515m ² multi-purpose community centre and one 773m ² car park and landscaped area.	On completion, within the meaning of this Agreement, of Item 21 <u>Items 12 and 13</u> , and otherwise in accordance with this Agreement, or at such another date as agreed to by Council	\$122,360.00
<u>9762</u>	<u>33B</u>	RP1	Riparian corridor protection & enhancement	Dedication of approximately 18,000m ² of embellished riparian land <u>generally in the</u>	On the expiration of the Maintenance	Nil

Attachment 1 ORD02

Dart West Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

Column 1 Item	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Description	Column 6 Timing	Column 7 Contribution Value
				location identified as RP1 on the Plan Package provided in Schedule 1.	Period for Item 24.15.	
9863	4	OS 27 (OSR4.2)	Passive open space and recreation	Dedication of 19,030m ² of passive open space.	On completion, within the meaning of this Agreement, of item 26.16 and otherwise in accordance with this Agreement, or at such later date as agreed to by Council	\$1,807,850.00
99	4	B+	Water management	Dedication of 10,000m ² of water cycle management infrastructure.	On completion, within the meaning of this Agreement, of item 26 , and otherwise in accordance with this Agreement, or at such later date	\$950,000.00

Dart West Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

Column 1 Item	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Description	Column 6 Timing	Column 7 Contribution Value
10064	4	TL1	Open space corridor and transmission line easement	Dedication of approximately 20,000m ² of embellished transmission line easement land generally in the location identified as TL1 on the Plan Package provided in Schedule 1, including cycle/pedestrian/access path.	as-agreed-to-by Council On the expiration of the Maintenance Period for Item 2817 .	Nil
10165	4	TL5	Open space corridor and transmission line easement	Dedication of approximately 17,000m ² of embellished transmission line easement land generally in the location identified as TL5 on the Plan Package provided in Schedule 1, including cycle/pedestrian/access path.	On the expiration of the Maintenance Period for Item 2918 .	Nil

Attachment 1 ORD02

Dart West Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

Column 1 Item	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Description	Column 6 Timing	Column 7 Contribution Value
10266	5	TL2	Open space corridor and transmission line easement	Dedication of approximately 19,200m ² of embellished transmission line easement land generally in the location identified as TL2 on the Plan Package provided in Schedule 1, including cycle/pedestrian/access path.	On the expiration of the Maintenance Period for Item 3019 .	Nil
10367	5	TL3	Open space corridor and transmission line easement	Dedication of 3,500m ² of approximately embellished transmission line easement land generally in the location identified as TL3 on the Plan Package provided in Schedule 1, including cycle/pedestrian/access path.	On the expiration of the Maintenance Period for Item 3120 .	Nil
	6&7	-				

Dart West Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

Column 1 Item	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Description	Column 6 Timing	Column 7 Contribution Value
10468	8	OS 17 (OSR4.2)	Passive open space and recreation	Dedication of 200m ² of passive open space.	On completion, within the meaning of this Agreement, of Item 3221 , and otherwise in accordance with this Agreement, or at such later date as agreed to by Council	\$19,000.00
105	8	B10	Water management	Dedication of 10,000m² of water-cycle management infrastructure.	On completion, within the meaning of this Agreement, of Item 33, and otherwise in accordance with this Agreement, or at such later date as agreed to by Council	\$950,000.00

Attachment 1 ORD02

Dart West Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

Column 1 Item	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Description	Column 6 Timing	Column 7 Contribution Value
106		TL4	Open space corridor and transmission line easement	Dedication of 5,000m ² of embellished transmission line easement land including cycle/pedestrian/access path.	On the expiration of the Maintenance Period for Item 34.	Nil
	9					
107 69	10A	OS23 (OSR4.3)	Passive open space and recreation	Dedication of 1,152m ² of embellished passive open space.	On completion, within the meaning of this Agreement, of Item 3622, and otherwise in accordance with this Agreement, or at such later date as agreed to by Council	\$109,440.00
	10B					
108 70	10C	OS 24	Passive open space	Dedication of one community park/green	On completion, within the meaning	\$475,000.00

Dart West Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

Column 1 Item	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Description	Column 6 Timing	Column 7 Contribution Value
		(OSR4.1)	and recreation	space of 5,000m ² .	of this Agreement, of Item 3623 , and otherwise in accordance with this Agreement, or at such later date as agreed to by Council	
14071	10C	OS 24 (OSR4.2)	Passive open space and recreation	Dedication of 3,120m ² of passive open space.	On completion, within the meaning of this Agreement, of Item 3724 , and otherwise in accordance with this Agreement, or at such later date as agreed to by Council	\$296,400.00
14072	1011A	B5RP3	Riparian corridor protection & enhancement Water	Dedication of 2,100m² of water-cycle management infrastructure. Dedication of	On completion, within the meaning of this Agreement,	\$199,500.00 Nil

Attachment 1 ORD02

Dart West Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

Column 1 Item	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Description	Column 6 Timing	Column 7 Contribution Value
			management	approximately 16,000m ² embellished riparian land generally in the location identified as RP3 on the Plan Package provided in Schedule 1.	of Item 38, and otherwise in accordance with this Agreement, or at such later date as agreed to by Council. On the expiration of the Maintenance Period for Item 26.	
411	1011B	B6	Water management	Dedication of 2,248m ² of water cycle management infrastructure.	On completion, within the meaning of this Agreement, of Item 39, and otherwise in accordance with this Agreement, or at such later date as agreed to by Council	\$213,560.00
41273	11C	OS 25	Passive open space	Dedication of 4,834m ² 531m ²	On completion,	\$458,94550,445.00

Dart West Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

Column 1 Item	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Description	Column 6 Timing	Column 7 Contribution Value
		(OSR4.3)	and recreation	of embellished passive open space.	within the meaning of this Agreement, of Item 41 <u>Item 27</u> , and otherwise in accordance with this Agreement, or at such later <u>later</u> date as agreed to by Council	
113	11	B4	Water management	Dedication of 5,000m ² of water-cycle management infrastructure.	On completion, within the meaning of this Agreement, of Item 42 , and otherwise in accordance with this Agreement, or at such later date as agreed to by Council	\$475,000.00
114	11	RP3	Riparian corridor protection &	Dedication of 16,000m ² of embellished riparian land.	On the expiration of the	Nil

Attachment 1
ORD02

Dart West Gregory Hills Planning Agreement
Camden Council
Dart West Developments Pty Limited
Trustees of the Marist Brothers

Column 1 Item	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Description	Column 6 Timing	Column 7 Contribution Value
11574	11C	RP4	enhancement Riparian corridor protection & enhancement	Dedication of 10,000m ² of embellished riparian land generally in the location identified as RP4 on the Plan Package provided in Schedule 1.	Maintenance Period for Item 46. On the expiration of the Maintenance Period for Item 4729.	Nil
11675	12	OS 20 (OSR4.3)	Passive open space and recreation	Dedication of 3-676m² 576m ² of embellished passive open space.	On completion, within the meaning of this Agreement, of Item 4830, and otherwise in accordance with this Agreement, or at such later date as agreed to by Council	\$ 349,229 54,720.00
117	12	B8	Water management	Dedication of 4,000m ² of water cycle management	On completion, within the meaning	\$ 980,000 .00

Dart West Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

Column 1 Item	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Description	Column 6 Timing	Column 7 Contribution Value
				infrastructure.	of this Agreement, of Item 49, and otherwise in accordance with this Agreement, or at such later date as agreed to by Council	
44876	12	RP5	Riparian corridor protection & enhancement	Dedication of approximately 20,000m ² of embellished riparian land in the location identified as RP5 on the Plan Package provided in Schedule 1.	On the expiration of the Maintenance Period for Item 5232.	Nil
44977	13	OS 18 (OSR4.3)	Passive open space and recreation	Dedication of 680m ² of embellished passive open space.	On completion, within the meaning of this Agreement, of Item 5933, and otherwise in accordance with this Agreement, or	\$64,600.00

Attachment 1 ORD02

Dart West Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

Column 1 Item	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Description	Column 6 Timing	Column 7 Contribution Value
12078	13	OS 19 (OSR4.3)	Passive open space and recreation	Dedication of 824m ² of embellished passive open space.	at such later date as agreed to by Council	\$78,280.00
121	13	B9	Water management	Dedication of 1,000m ² of water cycle management infrastructure.	On completion, within the meaning of this Agreement, of Item 54 Item 34 , and otherwise in accordance with this Agreement, or at such later date as agreed to by Council	\$95,000.00

Dart West Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

Column 1 Item	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Description	Column 6 Timing	Column 7 Contribution Value
12279	13	RP2	Riparian corridor protection & enhancement	Dedication of approximately 6,000m ² of embellished riparian land generally in the location identified as RP2 on the Plan Package provided in Schedule 1.	as agreed to by Council On the expiration of the Maintenance Period for Item 5836 .	Nil
12380	13	TL4	Open space corridor and transmission line easement	Dedication of approximately 5,000m ² of embellished transmission line easement land generally in the location identified as TL4 on the Plan Package provided in Schedule 1, including cycle/pedestrian/access path.	On the expiration of the Maintenance Period for Item 5937 .	Nil
12481	13	TL6	Open space corridor and transmission line easement	Dedication of approximately 15,000m ² of embellished transmission line easement	On the expiration of the Maintenance	Nil

Attachment 1 ORD02

Dart West Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

Column 1 Item	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Description	Column 6 Timing	Column 7 Contribution Value
				land generally in the location identified as TL6 on the Plan Package provided in Schedule 1, including cycle/pedestrian/access path.	Period for Item 693B.	
	14 & 15A	-				
82	15B	RP6	Riparian corridor protection & enhancement	Dedication of approximately 43,500m ² of embellished riparian land generally in the location identified as RP6 on the Plan Package provided in Schedule 1.	On the expiration of the Maintenance Period for Item 42.	Nil
83	15B	TL7	Open space corridor and transmission line easement	Dedication of approximately 12,000m ² of embellished transmission line easement land generally in the location identified as TL7 on the Plan Package provided in Schedule 1, including	On the expiration of the Maintenance Period for Item 43.	Nil

Dart West Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

Column 1 Item	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Description	Column 6 Timing	Column 7 Contribution Value
12584	15C	OS 28 (OSR3.1)	Active open space and recreation	cycle/pedestrian/access path. Dedication of a 2.7ha double playing field on a site north of South Creek.	On completion, within the meaning of this Agreement, of Item 6144 , and otherwise in accordance with this Agreement, or at such later date as agreed to by Council	\$2,565,000.00
12685	15C	OS 28 (OSR4.2)	Passive open space and recreation	Dedication of 11,518m ² of passive open space.	On completion, within the meaning of this Agreement, of Item 6245 , and otherwise in accordance with this Agreement, or at such later date as agreed to	\$1,094,210.00

Attachment 1
ORD02

Dart West Gregory Hills Planning Agreement
Camden Council
Dart West Developments Pty Limited
Trustees of the Marist Brothers

Column 1 Item	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Description	Column 6 Timing	Column 7 Contribution Value
12786	15C	OS 33	Passive open space	Dedication of 41,000m ² of embellished passive open space.	by Council On completion, within the meaning of this Agreement, of item 6346 , and otherwise in accordance with this Agreement, or at such later date as agreed to by Council	\$2,665,000.00
128	15	B3	Water management	Dedication of 3,000m ² of water cycle management infrastructure.	On completion, within the meaning of this Agreement, of item 64 , and otherwise in accordance with this Agreement, or at such later date as agreed to by Council	\$285,000.00

Dart West Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

Column 1 Item	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Description	Column 6 Timing	Column 7 Contribution Value
129	15	RP6	Riparian-corridor protection & enhancement	Dedication of 43,500m ² of embellished riparian land.	On the expiration of the Maintenance Period for Item 69.	Nil
130	15	RP7	Riparian-corridor protection & enhancement	Dedication of 27,500m ² of embellished riparian land.	On the expiration of the Maintenance Period for Item 70.	Nil
131	15	TL7	Open space corridor and transmission line easement	Dedication of 12,000m ² of embellished transmission line easement land including cycle/pedestrian access path.	On the expiration of the Maintenance Period for Item 71.	Nil
	16	-				
132 87	17	TL9	Open space corridor and transmission line easement	Dedication of approximately 7,000m ² of embellished transmission line easement land generally in the location identified as TL9 on	On the expiration of the Maintenance Period for Item	Nil

Attachment 1
ORD02

Dart West Gregory Hills Planning Agreement
Camden Council
Dart West Developments Pty Limited
Trustees of the Marist Brothers

Column 1 Item	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Description	Column 6 Timing	Column 7 Contribution Value
	18			the Plan Package provided in Schedule 1, including cycle/pedestrian/access path.	7247.	
133	19	B2	Water management	Dedication of 4,000m ² of water cycle management infrastructure.	On completion, within the meaning of this Agreement, of Item 74, and otherwise in accordance with this Agreement, or at such later date as agreed to by Council	\$980,000.00
13488	2019	RP87	Riparian corridor protection & enhancement	Dedication of approximately 57,000m ² of embelished riparian land generally in the location identified as RP7 on the Plan Package	On the expiration of the Maintenance Period for Item 7649.	Nil

Dart West Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

Column 1 Item	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Description	Column 6 Timing	Column 7 Contribution Value
Monetary Contributions						
13589	N/A	N/A	Various	An amount determined by deducting the Contribution Value for all Contribution Items comprising Works (other than Items 14, 24, 28 to 31 inclusive, 34, 46, 47, 52, 58 to 60 inclusive, 69 to 72 inclusive and 76, 15, 17 to 20 inclusive, 26, 29, 32, 36 to 38 inclusive, 42, 43, 47 and 49) from the amount that would otherwise be payable by the Developer in respect of the Development, under the CP.	Payment of an amount per lot prior to the issuing of the Subdivision Certificate for each Final Lot created after the 2009 ¹ th Final Lot The amount payable per lot will be determined by dividing the value of Item 13589 (minus any early cash contributions towards Item	\$10,499,155.35

Attachment 1 ORD02

Dart West Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

Column 1 Item	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Description	Column 6 Timing	Column 7 Contribution Value
13690	N/A	N/A	Administration	An amount which is one third of the total project management costs allowed for in the CP, in respect of all items involving Works provided to Council under this Agreement.	Payment of an amount per lot prior to the issuing of the Subdivision Certificate for each Final Lot. The amount payable per lot will be determined by the following formula: \$N = Balance / L	\$268,638.00

Dart West Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

Column 1 Item	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Description	Column 6 Timing	Column 7 Contribution Value
					<p>Where \$N is the contribution amount for the 'N'th lot Balance is the amount of Item 13690 that remains to be paid at the date of calculation (being the value of Item 13690 minus any previous cash contributions towards Item 13690 before the date of calculation) L is the number of lots for which Item 136 <u>remains</u></p>	

Attachment 1
ORD02

Dart West Gregory Hills Planning Agreement
Camden Council
Dart West Developments Pty Limited
Trustees of the Marist Brothers

Column 1 Item	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Description	Column 6 Timing	Column 7 Contribution Value
<p>17 <u>Miscellaneous Works</u> 40 B5, B6, OS24 and OS23 Various Stage 10 residue monetary contributions Prior to the issue of the Subdivision Certificate that creates the first Final Lot in the Relevant Stage or at such later date agreed to by Council: \$690,521.07</p>					to be paid, including the lot the subject of the payment (being 2,375 - N + 1)	
91	3-20	B1 to B15 inclusive	Water cycle Management	Construction of and dedication of land for a water cycle management system in the locations identified as B1 to B15 on the Plan Package provided	Work to be completed immediately prior to the issuing of a Subdivision Certificate that	\$12,670,966

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Dart West Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

Column 1 Item	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Description	Column 6 Timing	Column 7 Contribution Value
				<p>in Schedule 1, to the satisfaction of the Council which:</p> <ul style="list-style-type: none"> achieves the flooding and watercycle management objectives and controls (as described in Appendix A of this Agreement) for each sub-catchment (as determined by the Council) on the Land; insofar as the deployment of the system requires the dedication of land it is to be generally consistent with the Plan Package provided in Schedule 1; and may incorporate a range of engineering devices 	<p>creates a Final Lot that is serviced by the water cycle management system, or such other date agreed to by Council under clause 11.</p> <p>Land on which a water cycle management work is located is to be dedicated on completion, within the meaning of the Agreement, of that work, or at such other date as agreed to by Council.</p>	

Attachment 1 **ORD02**

Dart West Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

Column 1 Item	Column 2 Relevant Stage	Column 3 Identifier on Indicative Staging Plan	Column 4 Public Purpose	Column 5 Description	Column 6 Timing	Column 7 Contribution Value
				including open water bodies, bioretention, wetlands and dry basins.		

Dart West Gregory Hills Planning Agreement
Camden Council
Dart West Developments Pty Limited
Trustees of the Marist Brothers

Execution

Executed as an Agreement

Dated:

Executed on behalf of the Council

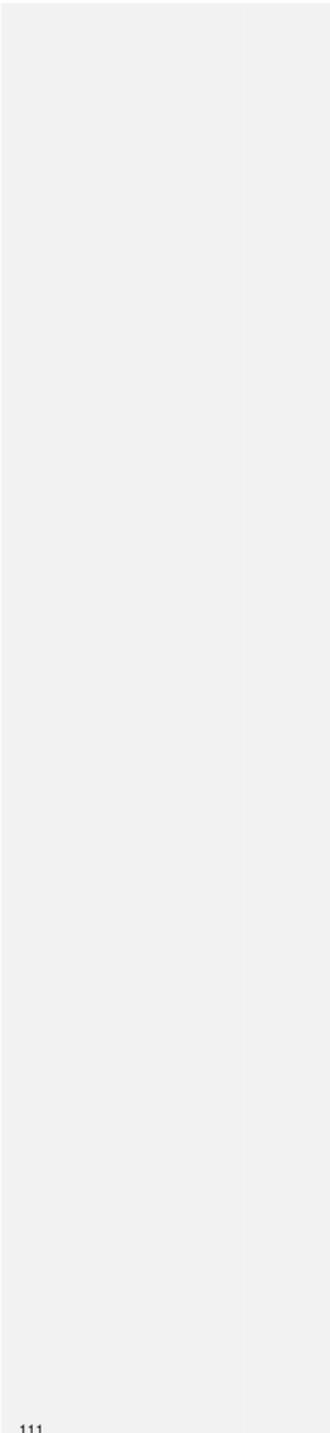
General Manager

Witness/Name/Position

Executed on behalf of Dart West Developments Pty Limited in accordance with s127(1) of the Corporations Act (Cth) 2001

Name/Position

Name/Position



ORD02

Attachment 1

Dart West Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

Executed on behalf of Trustees of the Marist Brothers. Each attorney signing this document under a power of attorney certifies, by the attorney's signature, that the attorney has no notice of the revocation of the power of attorney.

I certify that the person signing opposite, with whom I am personally acquainted or as to whose identity I am otherwise satisfied, signed the instrument in my presence.

Signed, sealed and delivered by the persons named below who signed this instrument on behalf of **Trustees of the Marist Brothers** pursuant to power of attorney dated 12 May 2008 registered with Land & Property Information (NSW) Book 4543 No. 900.

 Witness (Signature)

 Attorney (Signature)

 Name of Witness (Print Name)

 Name of Attorney (Print Name)

I certify that the person signing opposite, with whom I am personally acquainted or as to whose identity I am otherwise satisfied, signed the instrument in my presence.

Signed, sealed and delivered by the persons named below who signed this instrument on behalf of **Trustees of the Marist Brothers** pursuant to power of attorney dated 12 May 2008 registered with Land & Property Information (NSW) Book 4543 No. 900.

 Witness (Signature)

 Attorney (Signature)

 Name of Witness (Print Name)

 Name of Attorney (Print Name)

Dart West Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

Appendix A

(Clause 51)

(Schedule 3, Miscellaneous Works item 91, Column 5)

Note: This is the relevant text extracted from the Turner Road Precinct Development Control Plan as in existence on 18 March 2013.

1.1 Flooding and Watercycle Management

Objectives

- (1) To minimise the potential impact of flooding on development.
- (2) To incorporate best practice stormwater management principles and strategies in development proposals.
- (3) To mitigate the impacts of urban development on stormwater quality.
- (4) To control the impacts of urban development on channel bed and bank erosion by controlling the magnitude and duration of sediment-transporting flows.
- (5) Limit changes in flow rate or flow duration within the receiving waterway as a result of development.

Controls

- (1) No residential allotments are to be located at a level lower than the 1% Annual Exceedance Probability (AEP) flood level plus a freeboard of 500mm (i.e. within the 'flood planning area'). Pedestrian and cycle pathways and open space may extend within the 1% AEP flood level, provided that the safe access criteria contained in the *NSW Floodplain Manual* are met.
- (2) Management of 'minor' flows using piped systems for the 20% AEP (residential land use) and 10% AEP (commercial land use) shall be in accordance with Camden Council's *Engineering Design Specification – Subdivision and Development Works*. Management measures shall be designed to:
 - prevent damage by stormwater to the built and natural environment.
 - reduce nuisance flows to a level which is acceptable to the community.
 - provide a stormwater system which can be economically maintained and which uses open space in a compatible manner.
 - control flooding.
 - minimise urban water run-off pollutants to watercourses, and
 - meet the standards for a 20% AEP flood level.

Dart West Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

- (3) Management of 'major' flows using dedicated overland flow paths such as open space areas, roads and riparian corridors for all flows in excess of the pipe drainage system capacity and above the 20% AEP shall be in accordance with Camden Council's *Engineering Design Specification*. Management measures shall be designed to:
- prevent both short term and long term inundation of habitable dwellings,
 - manage flooding to create lots above the designated flood level with flood free access to a public road located above the 1% AEP flood level,
 - control flooding and enable access to lots, stabilise the land form and control erosion,
 - provide for the orderly and safe evacuation of people away from rising floodwaters,
 - stabilise the land form and control erosion, and
 - meet the standards for a 1% AEP flood level.
- (4) Where practical, development shall attenuate up to the 50% AEP peak flow for discharges into the local tributaries, particularly Category 1 and 2 creeks. This will be achieved using detention storage within water quality features and detention basins.
- (5) The developed 1% AEP peak flow is to be reduced to pre-development flows through the incorporation of stormwater detention and management devices.
- (6) All development is to incorporate water sensitive urban design (WSUD). WSUD is to be adopted throughout the development to promote sustainable and integrated management of land and water resources incorporating best practice stormwater management, water conservation and environmental protection. A WSUD Strategy is to be submitted as part of any subdivision DA and shall include:
- identification of water management and other relevant objectives (relating, for example, to salinity hazard),
 - identification and assessment of relevant site characteristics and constraints, including flood evacuation routes,
 - identification of potentially feasible (storm) water management strategies, which may comprise stormwater reuse options, best planning practices, stormwater treatment measures (in both public and private domain),
 - assessment of the potential strategies, including the nature, basis and outcomes of stormwater modelling used to assess alternative solutions. This assessment of alternative strategies should address compliance with management objectives, life cycle costs, ongoing operations and maintenance requirements, land take requirements, expected reliability and future management responsibilities,
 - assessment of the likely construction costs associated with the WSUD strategy as well as a maintenance framework addressing maintenance strategies and costs, and
 - a suitably detailed description of the preferred WSUD strategy and elements therein, in the form of documents, plans and conceptual diagrams (as appropriate).
- (7) The WSUD Strategy shall demonstrate how the stormwater quality targets set by the Department of Environment and Climate Change (DECC) (Table 10) will be achieved and shall be consistent with 'Technical Note: Interim Recommended Parameters for Stormwater Modelling – North-West and South-West Growth Centres' and 'Managing Urban Stormwater: Stormwater Planning' (DECC) and *Australian Runoff Quality* (Engineers Australia). A monitoring plan that encompasses strategies for water sampling, maintenance of WSUD facilities and risk management in the short, medium and longer terms is to be included as part of the WSUD strategy.
- (8) Compliance with the targets at Table 10 is to be determined through stormwater quality modelling in accordance with the parameters outlined in the relevant technical guidance from DECC.
- (9) The WSUD strategy is to take into account riparian zone and creek management and include the following measures:
- the ephemeral hydrology of creeks is to be maintained or restored, where possible, by diverting excess flow via intercepting stormwater pipes to downstream storages for reuse,

Dart West Gregory Hills Planning Agreement
 Camden Council
 Dart West Developments Pty Limited
 Trustees of the Marist Brothers

- flow attenuation and/or diversion via the intercepting stormwater pipes will be required to meet the stream erosion index objectives established by DECC (Table 10).
- flow in excess of the 20% AEP peak flow may flow into the creek and be conveyed to detention basins that form part of the major drainage system, and
- erosion control and bank stabilisation measures shall be incorporated within the waterway where required.

Table 10: Environmental *Planning and Assessment Regulation 2000* Stormwater Objectives
 (Clause 25F)

	WATER QUALITY % reduction in pollutant loads				ENVIRONMENTAL FLOWS Stream erosion control ratio Post-development duration of paved stream forming flow Natural duration of above stream forming flow ¹
	Dissolved Pollutants (SODI)	Total Suspended Solids	Total phosphorus	Total nitrogen	
Stormwater management objective	90	85	65	45	3.5 – 5.0 : 1 ²
'Ideal' stormwater outcome	100	95	95	85	1 : 1

1 For the purposes of these objectives, the 'stream forming flow' is defined as 50% of the 50% AEP flow rate estimated for the catchment under natural conditions
 2 This ratio should be minimised to limit stream erosion to the minimum practicable. Development proposals should be designed to achieve a value as close to one as practicable, and values within the nominated range should not be exceeded. A specific target cannot be defined at this time

ORD02

Dart West Gregory Hills Planning Agreement
Camden Council
Dart West Developments Pty Limited
Trustees of the Marist Brothers

|

Explanatory Note

Explanatory Note is on the following pages.

Attachment 1



**Gregory Hills Planning Agreement
Deed of Variation**

Under cl25C(3) of the *Environmental Planning and Assessment Regulation 2000*

**Camden Council
Dart West Developments Pty Limited
Trustees of the Marist Brothers**

Date:

© Lindsay Taylor Lawyers

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ORD02

Gregory Hills Planning Agreement – Deed of Variation
Camden Council
Dart West Developments Pty Limited
Trustees of the Marist Brothers



Gregory Hills Planning Agreement
Deed of Variation

Table of Contents

Summary Sheet.....3

Parties.....4

Background.....4

Operative provisions.....4

 1 Interpretation.....4

 2 Status of this Deed5

 3 Commencement5

 4 Warranties5

 5 Amendment of Planning Agreement.....6

 6 Costs.....6

 7 Entire Deed.....6

 8 Governing law and jurisdiction.....6

 9 No fetter6

 10 Severability6

 11 Explanatory Note7

Execution.....8

Appendix 1 10

Appendix 2 11

Attachment 2

Gregory Hills Planning Agreement – Deed of Variation
Camden Council
Dart West Developments Pty Limited
Trustees of the Marist Brothers



ORD02

Gregory Hills Planning Agreement Deed of Variation

Summary Sheet

Council:

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

Developer:

Name: Dart West Developments Pty Limited
Address: PO Box 228, NARELLAN NSW 2567
Telephone: (02) 4648 5511
Facsimile: (02) 4623 8925
Email: david.taylor@dartwest.com.au
Representative: Mr David Taylor – General Manager, Property

Landowner:

Name: Trustees of the Marist Brothers
Address: PO Box 138, DRUMMOYNE NSW 1470
Telephone: (02) 9819 6622
Facsimile: (02) 9819 6184
Email: anthony.robinson@marists.org.au
Representative: Br Anthony Robinson – Provincial Secretary

Attachment 2

ORD02

Gregory Hills Planning Agreement – Deed of Variation
Camden Council
Dart West Developments Pty Limited
Trustees of the Marist Brothers



Gregory Hills Planning Agreement – Deed of Variation

Under cl25C(3) of the *Environmental Planning and Regulation 2000*

Parties

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

and

Dart West Developments Pty Limited ABN 32 107 685 370 of PO Box 228, Narellan NSW 2567 **(Developer)**

and

Trustees of the Marist Brothers ABN 91 064 875 510 of PO Box 138, Drummoyne NSW 1470 **(Landowner)**

Background

- A The Parties are parties to the Planning Agreement.
- B The Parties have agreed to amend the Planning Agreement by amending the procedure for design of Works, the Development Contributions to be provided under the Planning Agreement, the Security to be provided under the Planning Agreement and for other purposes.

Operative provisions

1 Interpretation

- 1.1 In this Deed the following definitions apply:

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

Planning Agreement means the Gregory Hills Planning Agreement pursuant to s93F of the *Environmental Planning and Assessment Act 1979* entered into between the Parties on 4 May 2012 and amended on 26 February 2013.

- 1.2 Except as provided by clause 1.1 all capitalised words used in this Deed that are defined in clause 1.1 of the Planning Agreement have the same meaning in this Deed as in the Planning Agreement.

Attachment 2

Gregory Hills Planning Agreement – Deed of Variation
Camden Council
Dart West Developments Pty Limited
Trustees of the Marist Brothers



ORD02

Attachment 2

- 1.3 In the interpretation of this Deed, the following provisions apply unless the context otherwise requires:
- 1.3.1 Headings are inserted for convenience only and do not affect the interpretation of this Deed.
 - 1.3.2 A reference in this Deed to any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision.
 - 1.3.3 A reference in this Deed to any agreement, deed or document is to that agreement, deed or document as amended, novated, supplemented or replaced.
 - 1.3.4 A reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this Deed.
 - 1.3.5 Where a word or phrase is given a defined meaning, another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.
 - 1.3.6 A word which denotes the singular denotes the plural, a word which denotes the plural denotes the singular, and a reference to any gender denotes the other genders.
 - 1.3.7 A reference to this Deed includes the agreement recorded in this Deed.
 - 1.3.8 A reference to a party to this Deed includes a reference to the servants, agents and contractors of the party, and the party's successors and assigns.
 - 1.3.9 Any schedules, appendices and attachments form part of this Deed.

2 Status of this Deed

- 2.1 This Deed is an amendment to the Planning Agreement within the meaning of clause 25C(3) of the Regulation.

3 Commencement

- 3.1 This Deed takes effect on the date when all Parties have executed this Deed.
- 3.2 The Party who executes this Deed last is to insert on the front page the date they did so and provide a copy of the fully executed and dated Deed to any other person who is a Party.

4 Warranties

- 4.1 The Parties warrant to each other that they:
- 4.1.1 have full capacity to enter into this Deed, and
 - 4.1.2 are able to fully comply with their obligations under this Deed and the Planning Agreement as modified by this Deed.

Gregory Hills Planning Agreement – Deed of Variation
Camden Council
Dart West Developments Pty Limited
Trustees of the Marist Brothers



5 Amendment of Planning Agreement

- 5.1 On and from the date this Deed takes effect, the Planning Agreement is amended in accordance with the marking-up shown on the copy of the Planning Agreement contained in Appendix 1.

6 Costs

- 6.1 The Developer is to pay to the Council the Council's costs of preparing, negotiating, executing and stamping this Deed, and any document related to this Deed within 7 days of a written demand by the Council for such payment.

7 Entire Deed

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

8 Governing law and jurisdiction

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

9 No fetter

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

10 Severability

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

Gregory Hills Planning Agreement – Deed of Variation
Camden Council
Dart West Developments Pty Limited
Trustees of the Marist Brothers



ORD02

11 Explanatory Note

- 11.1 Appendix 2 contains the Explanatory Note relating to this Deed required by clause 25E of the Regulation.
- 11.2 Pursuant to clause 25E(7) of the Regulation, the Parties agree that the Explanatory Note is not to be used to assist in construing this Deed.

DRAFT

Attachment 2

ORD02

Gregory Hills Planning Agreement – Deed of Variation
Camden Council
Dart West Developments Pty Limited
Trustees of the Marist Brothers



Execution

Executed as a Deed

Dated:

Executed on behalf of the Council

General Manager

Witness

Mayor

Witness

Executed on behalf of Dart West Developments Pty Limited in
accordance with s127(1) of the Corporations Act (Cth) 2001

Name/Position

Name/Position

Gregory Hills Planning Agreement – Deed of Variation
Camden Council
Dart West Developments Pty Limited
Trustees of the Marist Brothers



ORD02

Executed on behalf of Trustees of the Marist Brothers by its attorney.
 Each attorney signing this Deed under a power of attorney certifies, by the attorney's signature, that the attorney has no notice of revocation of the power of attorney:

I certify that the person signing opposite, with whom I am personally acquainted or as to whose identity I am otherwise satisfied, signed the instrument in my presence.

Signed, sealed and delivered by the persons named below who signed this instrument on behalf of **Trustees of the Marist Brothers** pursuant to power of attorney dated 12 May 2008 registered with Land & Property Information (NSW) Book 4543 No. 900.

 Witness (Signature)

 Attorney (Signature)

 Name of Witness (Print Name)

 Name of Attorney (Print Name)

I certify that the person signing opposite, with whom I am personally acquainted or as to whose identity I am otherwise satisfied, signed the instrument in my presence.

Signed, sealed and delivered by the persons named below who signed this instrument on behalf of **Trustees of the Marist Brothers** pursuant to power of attorney dated 12 May 2008 registered with Land & Property Information (NSW) Book 4543 No. 900.

 Witness (Signature)

 Attorney (Signature)

 Name of Witness (Print Name)

 Name of Attorney (Print Name)

Attachment 2

ORD02

Gregory Hills Planning Agreement – Deed of Variation
Camden Council
Dart West Developments Pty Limited
Trustees of the Marist Brothers



Appendix 1

(Clause 5)

Amended Planning Agreement

The Planning Agreement as amended by this Deed appears on the following pages.

DRAFT

Attachment 2

Gregory Hills Planning Agreement – Deed of Variation
Camden Council
Dart West Developments Pty Limited
Trustees of the Marist Brothers



ORD02

Appendix 2

(Clause 7)

Environmental Planning and Assessment Regulation 2000

(Clause 25E)

Explanatory Note

Draft Deed

Under cl25C(3) of the *Environmental Planning and Assessment Regulation 2000*

Parties

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

and

Dart West Developments Pty Limited ABN 32 107 685 370 of PO Box 228, Narellan
NSW 2567 (Developer)

and

Trustees of the Marist Brothers ABN 91 064 875 510 of PO Box 138, Drummoyne
NSW 1470 (Landowner)

Description of the Land to which the Draft Deed Applies

The Draft Deed applies to the same Land the subject of the Planning Agreement.

Description of Proposed Development

The Draft Deed relates to the same Development the subject of the Planning Agreement.

Attachment 2

Gregory Hills Planning Agreement – Deed of Variation
Camden Council
Dart West Developments Pty Limited
Trustees of the Marist Brothers



Summary of Objectives, Nature and Effect of the Draft Deed

Objectives of Draft Deed

The objective of the Draft Deed is to amend the Planning Agreement

Nature of Draft Deed

The Draft Deed is a deed of variation to the Planning Agreement under cl25C(3) of the Environmental Planning and Assessment Regulation 2000.

Effect of the Draft Deed

The Draft Deed amends the Planning Agreement with respect to amending the procedure for design of Works, the Development Contributions to be provided under the Planning Agreement, the Security to be provided under the Planning Agreement and for other purposes.

Assessment of the Merits of the Draft Deed

The Planning Purposes Served by the Draft Deed

The Draft Deed requires the provision of community facilities and provides increased opportunity for public involvement and participation in environmental planning and assessment of the Development.

How the Draft Deed Promotes the Public Interest

The Draft Deed promotes the objects of the Act as set out in s5(a)(v) and (c).

For Planning Authorities:

Development Corporations - How the Draft Deed Promotes its Statutory Responsibilities

N/A

Other Public Authorities – How the Draft Deed Promotes the Objects (if any) of the Act under which it is Constituted

N/A

Councils – How the Draft Deed Promotes the Elements of the Council's Charter

The Draft Deed promotes the elements of the Council's charter by:

- *to provide directly or on behalf of other levels of government, after due consultation, adequate, equitable and appropriate services and facilities for the community and to ensure that those services and facilities are managed efficiently and effectively*

Gregory Hills Planning Agreement – Deed of Variation
Camden Council
Dart West Developments Pty Limited
Trustees of the Marist Brothers



The Draft Deed amends the Planning Agreement to require amended works and land to be provided to the Council to be maintained by the Council.

- *to keep the local community and the State government (and through it, the wider community) informed about its activities*

The Draft Deed is to be placed on public exhibition in accordance with cl25D of the *Environmental Planning and Assessment Regulation 2000*.

All Planning Authorities – Whether the Draft Deed Conforms with the Authority’s Capital Works Program

The Planning Agreement to be amended by this Draft Deed conforms with the Council’s capital works program.

All Planning Authorities – Whether the Draft Deed specifies that certain requirements must be complied with before a construction certificate, occupation certificate or subdivision certificate is issued

The Draft Deed amends the Planning Agreement to require works to be commenced before the issue of subdivision certificates.

ORDINARY COUNCIL

ORD03

SUBJECT: EMERALD HILLS REZONING
FROM: Director Governance
TRIM #: 13/41864

PURPOSE OF REPORT

The purpose of this report is for Council to review and adopt the draft rezoning package for Emerald Hills including the Indicative Layout Plan, Camden LEP 2010 map amendments, Camden DCP 2011 amendments, Voluntary Planning Agreement, amended Planning Proposal and supporting documentation for the purposes of public exhibition.

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** below.

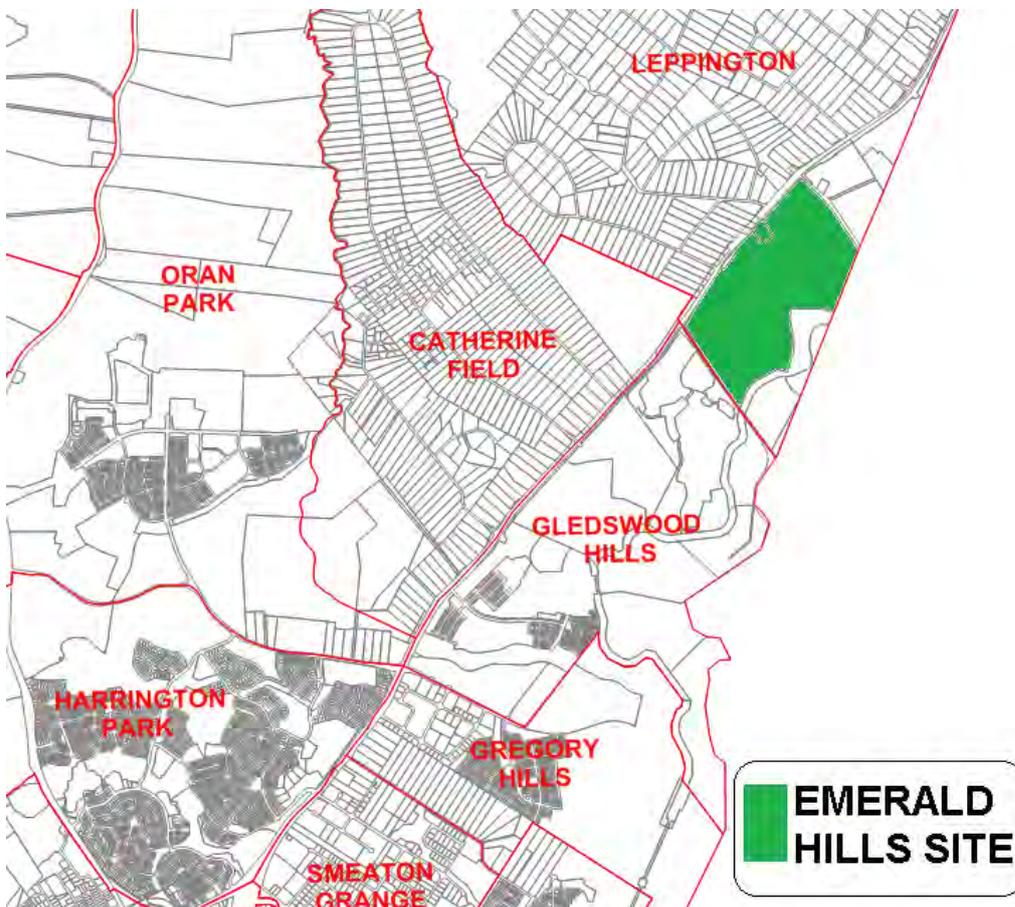


Figure 1 – Location plan for Emerald Hills site

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:

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

Council received a gateway determination from the Department of Planning and Infrastructure (DP&I) 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 rezoning proposes to create approximately 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 R1 General Residential, B2 Local Centre, E2 Environmental Conservation and SP2 Infrastructure zones.

This matter was workshopped with Council on 8 October 2013.

MAIN REPORT

The Emerald Hills planning process

The planning of Emerald Hills has been undertaken by a multi-disciplinary team of Council officers and external consultants. A number of specialist studies were undertaken and the outcomes and recommendations of these studies have determined the content of the key rezoning documents which form the planning package. The planning package and specialist studies are discussed below.

Planning package

The Planning Package for Emerald Hills comprises the following documents:

- Amended planning proposal which includes proposed amendments to the Camden LEP 2010
- Draft amendment to Camden DCP 2011 for Emerald Hills
- Draft Indicative Layout Plan
- Draft VPA
- Planning report
- Specialist studies

The amended planning proposal, draft Camden DCP 2011 amendment, draft VPA and planning report documents are explained in greater detail below.

Amended planning proposal

The original planning proposal submitted by the proponents to Council in December 2011 has been amended to include the outcomes of the planning process, the recommendations of the specialist studies, the proposed amendments to the Camden LEP 2010, and reference to the matters raised in the Gateway Determination. The amended planning proposal **is included as Attachment 1 to this report.**

Draft amendment to Camden DCP 2011 for Emerald Hills

A draft amendment to Camden DCP 2011 has been prepared which inserts specific subdivision, residential development, commercial development, environmental conservation and environmental management controls into the Camden DCP. A copy of the draft amendment to Camden DCP 2011 **is included as Attachment 2 to this report.**

Draft Indicative Layout Plan

The draft Indicative Layout Plan (ILP) for Emerald Hills has been prepared based upon the outcomes and recommendations of the specialist studies and input from Council officers. The ILP makes provision for the orderly and economic development of the site for urban purposes and includes:

- residential land which will accommodate a variety of lot sizes with an average size of 450m², and will accommodate a variety of housing sizes and types;
- a neighbourhood centre which will accommodate up to 10,000m² of retail floorspace and associated commercial floorspace;
- active and passive open space, including a double playing field;
- a site to house a K-6 public primary school;
- environmental conservation zoned land in the north-eastern corner of the site to preserve the Cumberland Plain Woodland (CPW) on that land;
- water cycle management land;
- embellished riparian corridor and transmission easement land; and
- a road and shared pedestrian and cycle path network which provides access and connectivity both within, and external to, the site.



Figure 2 – Draft Emerald Hills Indicative Layout Plan

Planning report

A detailed planning report has been prepared which summarises the key outcomes of the specialist studies and addresses the compliance of the proposed rezoning with the statutory requirements of the rezoning under the Environmental Planning and Assessment Act 1979 and the requirements of the Gateway Determination. The planning report **is provided under separate cover as Attachment 3 to this report.**

Voluntary Planning Agreement

The developer and landowner have offered to enter into a Voluntary Planning Agreement (VPA) for the Emerald Hills development, in lieu of preparing a Section 94 Contributions Plan for the site. Given that the Emerald Hills site is a substantial land holding which is owned by one entity, entering into a VPA which is underpinned by appropriate specialist studies is considered to be an appropriate, timely and efficient method of securing developer contributions compared to drafting a Section 94 Contributions Plan in the first instance, and subsequently entering into a VPA. It is noted that the VPA will be registered on title; therefore obligations will be binding upon not only the existing landowner, but any future landowner. Importantly for Council, the contribution value of the VPA is not restricted by the State Government's cap on contributions. This has allowed the negotiation of a package of contribution items between the developer, the landowner and Council which may not have been secured via a Section 94 Contributions Plan, and is appropriate to the future needs of the Emerald Hills residents.

The draft VPA has been drafted in accordance with Council's standard VPA provisions by Council's lawyer. The draft VPA including the schedule of works and explanatory note **is provided under separate cover as Attachment 4 to this report.**

The draft VPA contains a staging plan and schedule of contribution items which are derived from the relevant specialist technical studies undertaken during the planning process. The specifications and costs for each item have been prepared and reviewed by Council officers in conjunction with input from consultants.

Under the draft VPA, the developer will provide all of the infrastructure required by the development, along with monetary contributions to Council. The total value of the draft VPA package is \$47 million and includes:

- A double sports playing field which includes an integrated multi-purpose community hall and amenities building of approximately 360m²;
- 13.9 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;
- 7.5 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; and
- Monetary contributions towards the district cultural facilities at Leppington North and Council's costs in administering the agreement.

The draft VPA includes appropriate security provisions including:

- The payment of progressive stage-by-stage monetary security via bank guarantee which enables Council to step in and complete any incomplete works if the developer is unable to fulfil its obligations;
- The registration of the agreement on the title of the land, binding all current and future landowners;
- The ability of Council to withhold subdivision certificates if works within the relevant stage are not completed when required;
- The ability of Council to acquire any land not dedicated under the terms of the VPA for \$1; and

- The ability of Council to take action under the EP&A Act to remedy any breach of the VPA.

Contributions towards State infrastructure

In addition to the VPA for the provision of local infrastructure, the developer will be required to negotiate a contribution to the State Government towards the provision of State infrastructure. As part of these negotiated contributions, the developer intends to upgrade Raby Road to four lanes and dedicate the proposed primary school land. The total value of these contributions is in the order of \$15 million.

Specialist studies

The Gateway Determination and project plan identified a number of specialist studies to be undertaken to identify existing conditions and inform the planning process. These studies include:

- Site capability
- Salinity
- Odour
- Contamination
- Acoustics
- Biodiversity
- Bushfire
- Water cycle management
- European and Aboriginal Heritage
- Visual Impact
- Traffic
- Social infrastructure and demographics
- Retail need/economic impact
- Infrastructure servicing and delivery plan
- Planning report

The studies have been reviewed by Council officers and external peer reviews have been undertaken regarding the water cycle management and retail need/economic impact reports. The outcomes and recommendations of the specialist studies have informed the preparation of the Planning Package for Emerald Hills. Due to the physical size of the specialist studies, they will be provided to Councillors in electronic format via a CD **under separate cover**.

The key outcomes of the specialist studies are summarised below and have been incorporated into the ILP, draft DCP amendment and draft LEP amendment which are discussed later in this report.

Open space, recreation and community land uses

The social infrastructure and demographics report identifies that the projected population of Emerald Hills will generate demand for 11.4 hectares of active and passive open space. This calculation is based upon the South West Growth Centre open space provision rate of 2.83 hectares per 1000 persons, which has been deemed appropriate by Council officers given the proximity of the site to the South West Growth Centre, and the rate of open space provision within the Growth Centre precincts.

The ILP contains 13.92 hectares of open space which exceeds the minimum rate of provision required for the development, and includes a double sports playing field, a 360m² multi-purpose building which includes toilets, amenities and 170m² of community floorspace, three playgrounds, a fitness trail with exercise equipment, dog-off-leash areas, and embellished riparian and transmission easement corridors.

The Department of Education and Communities (DEC) have been consulted regarding the provision of a K-6 primary school on the Emerald Hills site. Following these discussions, a site of approximately 3 hectares has been allocated towards a possible future primary school. The site is adjacent to the proposed double playing fields and community hall/amenities building and will form part of a community hub within the Emerald Hills development. The developer proposes to dedicate the land to DEC as part of an agreement with the State Government to satisfy part of the developer's contribution towards state infrastructure. If DEC declines to construct the school as planned, the future of this land will be re-considered and will be subject to a future report to Council.

Environmentally sensitive land

The biodiversity report has identified a total of 42.36 hectares of critically-endangered Cumberland Plain Woodland (CPW) on the Emerald Hills site. The north-eastern corner of the site contains a substantial 20.26 hectare portion of CPW which forms part of a larger expanse of remnant CPW within the area known as the Scenic Hills. The remaining 22.1 hectares of CPW is dispersed throughout the remainder of the site.

The draft ILP proposes the removal of the 22.1 hectares of CPW which is within the development footprint proposed by the ILP. The removal of the CPW will be offset by retaining the 20.26 hectares of CPW in the north-western corner of the site and applying an E2 Environmental Conservation zone to this land **as shown on the diagram at Figure 3**. The ongoing preservation and maintenance of the land will be secured via a Biobanking Agreement (BA) between the landowner and the Office of Environment and Heritage (OEH). A BA is a legally enforceable agreement which is binding upon the current and future owners of the CPW land. The BA prevents development from occurring on the land and provides a perpetual income source for conservation and maintenance works. The BA will need to be finalised between the OEH and the landowner prior to development consent being granted for subdivision works which require the removal of CPW.

It is currently proposed that the E2 Environmental Conservation zoned land will be located within two large private lots. Each of these lots will include a small portion of R1 General Residential zoned land which can accommodate a single dwelling house and an appropriate bushfire Asset Protection Zone (APZ). The future owners of the E2/R1 zoned lots will benefit from the BA and will be responsible for applying funds received from the BA towards the conservation and maintenance of the E2 zoned land.

As an alternative, the developer and landowner have indicated that they would be willing to consider dedicating the E2 zoned land to Council. Under this option, Council would become the beneficiary of the BA funding and would require Council to perform the conservation and maintenance works for the land. The option is considered to have merit. However, there is currently insufficient information available regarding the income generated by the BA and the financial implications to Council to enable a recommendation to be made to Council regarding the acceptance of this land. Should public ownership of the land be proposed, a future report would be submitted to Council subject to the outcomes of the BA process, the income to be generated by the BA, and the viability of Council accepting the E2 land.

It is important to note that the OEH have been consulted regularly throughout the planning process in determining the appropriate zoning and ownership outcome for the CPW land and support the proposed approach.



Figure 3 – E2 Environmental Conservation land shown in beige

Visual impact

The visual impact assessment explored the visual impact of future development when viewed from both the Scenic Hills in the Campbelltown LGA and the Raby homestead within the Camden LGA. The assessment identified a section of the ridgeline **shown in the diagram at Figure 4** as being visually prominent. Section C12.13 of the draft DCP amendment for Emerald Hills includes the diagram and a number of development controls which seek to minimise the visual impact of development in terms of height, colours, materials, landscaping, and street lighting which is designed to minimise the spill of light.

In addition, the proposed amendment to the Height of Buildings map for Emerald Hills in the Camden LEP 2010 will limit the height of buildings in the vicinity of the ridgeline to 8.5m.

The proposed DCP and LEP controls are consistent with the recommendations of the expert consultant who undertook the visual impact assessment, and will mitigate the visual impact of future development on the site.



Figure 4 – Visually prominent ridgeline area shown green

Heritage

The Emerald Hills site 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' 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.

The draft DCP amendment for Emerald Hills includes specific controls relating to Aboriginal and European heritage which require the preparation of a heritage interpretation strategy as part of the development of the site.

Infrastructure servicing and delivery plan

The infrastructure servicing and delivery plan notes that potable water, wastewater, electricity, communications and natural gas utility services will be available to service the first stage of the Emerald Hills site by December 2014.

FINANCIAL IMPLICATIONS

The Emerald Hills rezoning will result in the development of 1280 residential lots which will yield additional rates income for Council, and will allow Council to provide the necessary services and maintenance to the future residents of Emerald Hills. The draft VPA avoids Council being obligated to coordinate the project management and delivery of infrastructure for the development, and transfers the financial risk associated with cost overruns to the developer. The draft VPA proposes to dedicate 7.5 hectares of embellished riparian corridor and transmission easement land and 13.9 hectares of passive and open space land to Council. The maintenance of the combined open space, riparian corridor and transmission easement network can be offset via the rates income as noted above.

CONCLUSION

The proposed Emerald Hills rezoning follows best-practice guidelines for the masterplanning of new residential developments in a greenfield context. The proposed ILP, aided by the proposed LEP and DCP amendments, will create a rich and vibrant community. The draft VPA will ensure the timely and efficient provision of infrastructure to support the needs of future residents.

RECOMMENDED

That Council:

- i. endorses the planning package for Emerald Hills for the purpose of public exhibition 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;**
- ii. publicly exhibits the planning package for Emerald Hills for a period of 28 days and consults with the relevant agencies in accordance with the requirements of the Gateway Determination;**
- iii. requires a further report to Council at the conclusion of the public exhibition and agency consultation period.**

ATTACHMENTS

1. Emerald Hills Planning Proposal
2. Draft Emerald Hills DCP amendment
3. Emerald Hills Planning Report - Provided under separate cover
4. Draft Emerald Hills VPA - Provided under separate cover

ORD03



Attachment 1

EMERALD HILLS PLANNING PROPOSAL

Amendment to Camden LEP 2010

Emerald Hills, 1100 – 1150 Camden Valley Way, Leppington

Lot 10 DP 1173819 (formerly Lot 2 in DP 650698)

Lot 10 DP 1161557 (formerly Lot B in DP 418632)

Lot 1 in DP 301830

10 October 2013

TABLE OF CONTENTS

History of Emerald Hills Planning Proposal	2
Executive Summary	3
Introduction	7
1 Background	5
2. Site Details	9
3. Development Vision	11
Part 1 - Objectives or Intended Outcomes	20
Part 2 - Explanation of Provisions	20
Part 3 – Justification	22
Section A – Need for the planning proposal	22
Section B – Relationship to Strategic Planning Framework	23
Section C – Environmental, social and economic impact	31
Section D – State and Commonwealth interests	33
Part 4 – Community Consultation	34

APPENDICES

- A- Achievement of State Plan 2021 Goals and Strategies.
- B- Achievement of Metropolitan Plan 2036 Strategic Directions, Objectives and Actions.
- C- Achievement of Metropolitan Plan Sustainability Criteria.
- D- Emerald Hills Planning Report
- E- Existing and Proposed LEP Amendment Maps
- F- Copy of Gateway Determination issued 7 July 2012

History of Emerald Hills Planning Proposal

The Emerald Hills Planning Proposal was received by Camden Council in late 2011.

At the meeting of 14 February 2012, Council considered a report on the planning proposal and resolved to forward the planning proposal to the DP&I to seek a Gateway Determination.

A Gateway Determination was issued on 7 July 2012. A copy of the Gateway Determination is included as Attachment F to this planning proposal.

A detailed planning report was undertaken by Whelan InSites to assist Council in the preparation of the suite of planning documents and to address statutory matters and the requirements and conditions of the Gateway Determination. The planning report is included as Attachment D. Particular reference is made to the following components of the planning report as they address matters of relevance to the planning proposal and the conditions of the Gateway Determination:

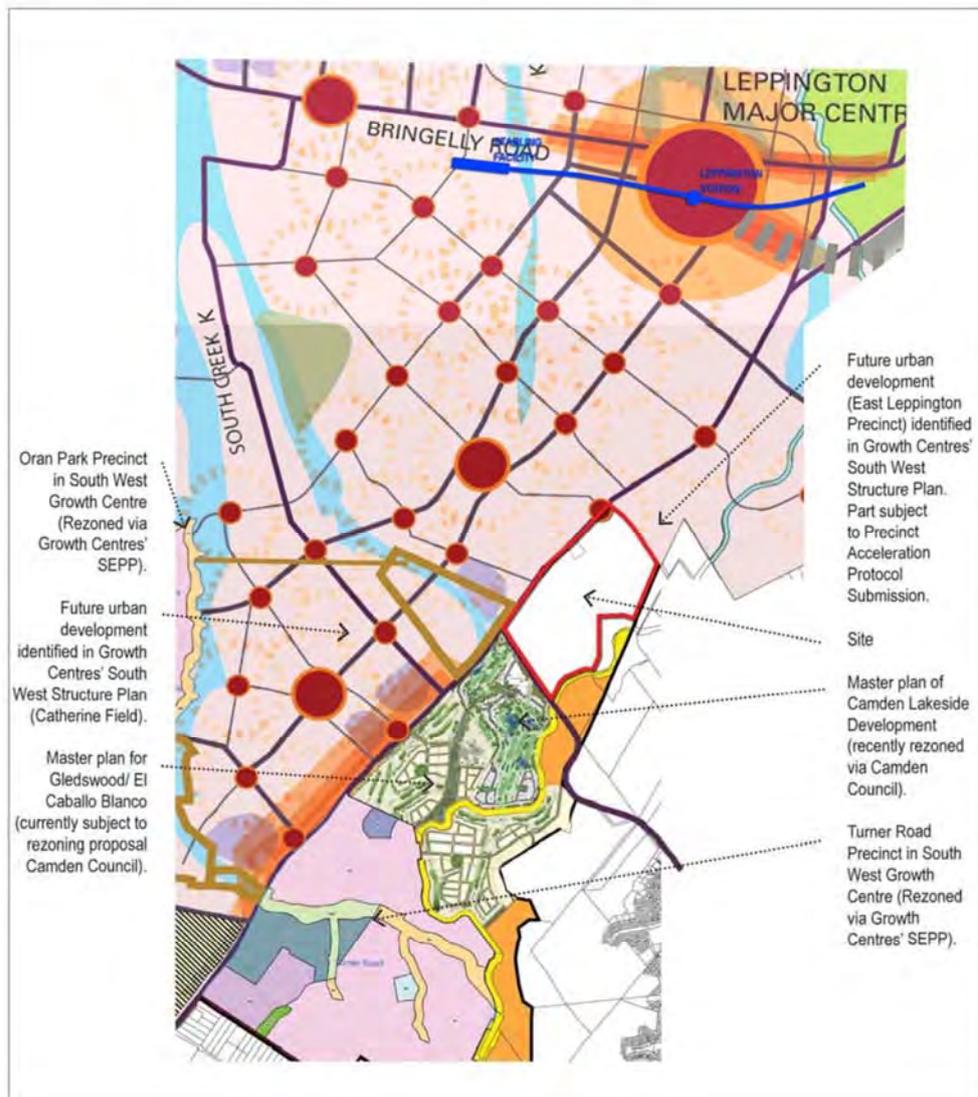
- Part 3 – Strategic and Statutory Planning Frameworks
- Part 4 – Gateway Determination (includes an assessment against the fifteen conditions issued with the Gateway Determination)
- Part 5 – Sydney Regional Environmental Plan No. 20 - Hawkesbury-Nepean River (No.2 – 1997)
- Part 6 – Specialist Investigations (includes a summary of key outcomes from the specialist studies undertaken during the planning phase)

The original planning proposal has been amended as of 3 October 2013 to reflect the outcomes of the planning process.

Executive Summary

Emerald Hills comprises 151 hectares of land at No. 1100 – 1150 Camden Valley Way in Leppington. It is located 3.2 kilometres from the Leppington Town Centre. It adjoins the South West Growth Centre and lands subject to recent rezoning for urban purposes on Camden Valley Way, Leppington.

It is located in the heart of a committed development corridor in the Camden Local Government Area in South Western Sydney that is being transformed by new residential communities, infrastructure construction and employment precincts.



Map showing location of site and the proposed urban development surrounding the site

There is significant unmet demand for new housing in the Sydney Metropolitan Area. The property is generally cleared, unconstrained and unencumbered and preliminary planning suggests that it can deliver approximately 1200 dwellings. This yield will meet the 15 dwellings per hectare benchmark density sought by Government. Evolving market preferences that indicate greater acceptance of smaller lots suggest that there is potential scope to achieve a higher density than this benchmark.

Importantly, the property has extensive frontage to Camden Valley Way and Raby Road. Both roads are proposed to be upgraded. Recently, ramps to the Hume Highway / M5 were added to Raby Road to enable direct northbound access onto the M5/M7. The ramps are 5 kilometres from Emerald Hills.

Thus the site can easily be serviced by existing road and bus based public transport and is located only 3.2 kilometres from the new Leppington Station, when construction finishes in 2016. It can also be efficiently serviced by sewer, water and power.

With these foundations it presents a new opportunity to augment the supply of affordable housing in South West Sydney. It also provides a new opportunity to assist in the funding of infrastructure and income via rates to contribute to ongoing maintenance of community assets.

Development of the site can be served by a full range of education, community, recreation and retail and commercial services (and associated local employment) within existing neighbouring centres and the future Leppington Town Centre. Adoption of contemporary technologies and design can ensure water quality objectives and other environmental considerations can be met.

In this context, the current rural zoning of the property is an anomaly. The zoning is clearly not the highest and best use for the land. Furthermore, the property remains the only land on the eastern side of Camden Valley Way not identified, or zoned, for urban development in the future.

There is significant strategic support for the proposed rezoning of the property to urban purposes. Specifically:

- The Strategic Directions of the Metropolitan Plan for Sydney 2036 and the Draft South West Sub-regional Strategy both recognise that an adequate supply of land for residential purposes is required to meet Sydney's growth. Sites for new homes should be within 30 minutes by public transport to jobs and services in a major centre and should be located where there is available or planned public transport capacity. The location of the site meets these directions; and
- Both Strategies apply the Sustainability Criteria of the Metropolitan Strategy 2005 to test the appropriateness of locations for new urban development. The proposed rezoning of the property is assessed against the criteria and found to achieve the criteria in all respects.
- In recognition of the opportunity, Emerald Hills Estate has embarked on a Gateway Rezoning Proposal to amend the zoning of the property to enable urban development. A Planning Proposal report has been prepared in accordance with the Department of Planning's Guidelines and is supported by a positive assessment of the proposal against the Sustainability Criteria in the Metropolitan Strategy 2005. The ability of the property to achieve State Government objectives and deliver significant public benefits with minimal environmental and economic impacts is the genesis of the draft

LEP amendment contained in this Planning Proposal and support for the rezoning proposal is requested.

Introduction

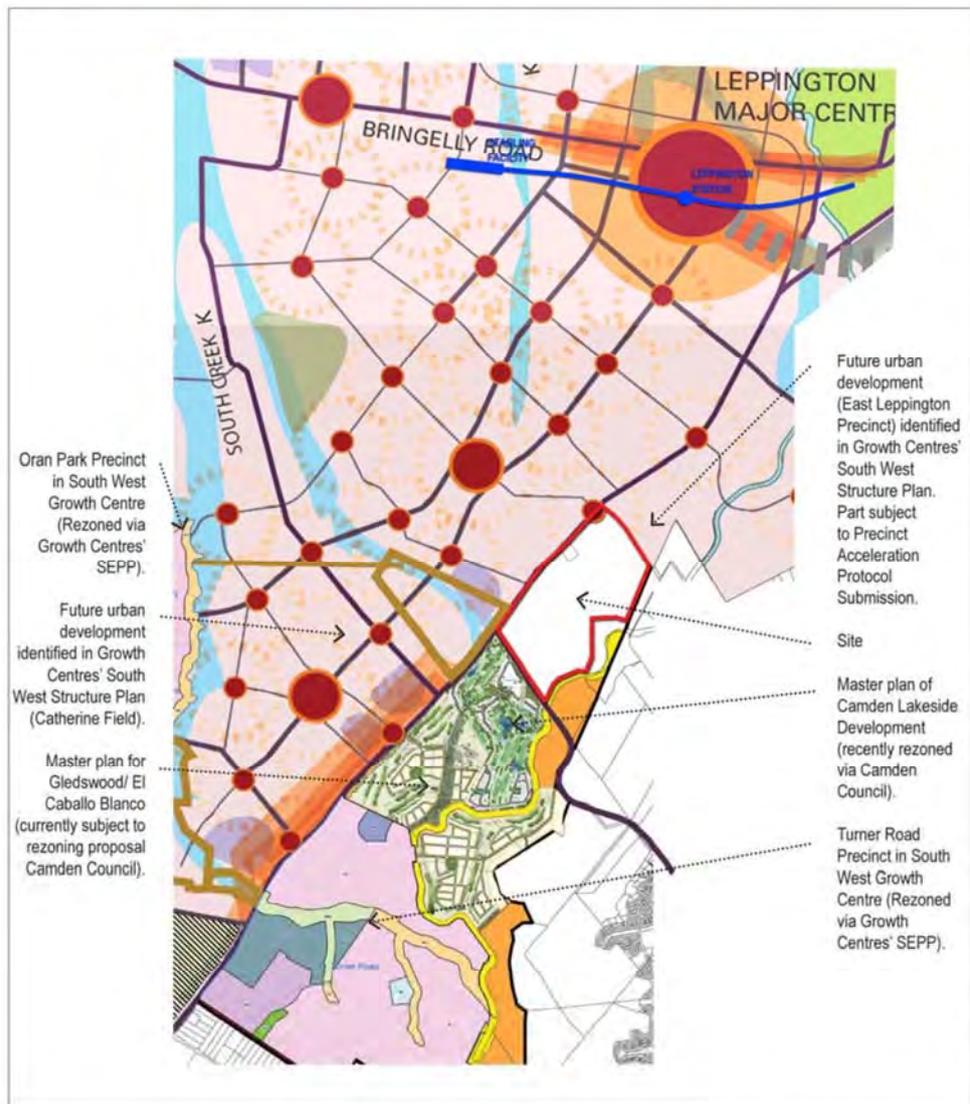
Background

Emerald Hills, No. 1100 - 1150 Camden Valley Way, is located in the suburb of Leppington in the Camden Local Government Area in south west Sydney. A small part of the site in the north east corner is also located within the Campbelltown LGA. However it does not form part of this proposal.



The Emerald Hills site on Camden Valley Way in the Camden LGA

Emerald Hills is located 3.2 kilometres from the future Leppington Town Centre. It lies on the eastern edge of the South Creek Valley on Camden Valley Way in Leppington. It is located in the heart of a committed development corridor in the Camden Local Government Area in South Western Sydney that is being transformed by new residential communities, infrastructure construction and employment precincts. The lands to the north and west of the site are located in the South West Growth Centre and are earmarked to be rezoned for urban development in the near future. Land to the south has recently been rezoned for urban development and subdivision development applications have been approved to commence development.



Map showing proposed urban development surrounding site

It has extensive frontage to Camden Valley Way (1.7 km) and Raby Road (0.85 km). Camden Valley Way is subject to proposals for its upgrading by the RTA in the near future. Raby Road is also proposed to be upgraded as part of the development of the South West Growth Centre. Recently, ramps to the Hume Highway / M5 were added to Raby Road to enable direct northbound access onto the M5/M7. The ramps are 5 kilometres from Emerald Hills.

The property is generally cleared, unconstrained and unencumbered. Preliminary planning suggests that the site can deliver approximately 1200 dwellings. This target will meet the 15 dwellings per hectare benchmark density sought by Government. The density promotes sustainable development underwritten by a viable and convenient public transport service. Evidence from recent market preferences from sales at nearby Oran Park and Gregory Hills indicate that smaller lots are enjoying greater acceptance. This, in turn, suggests that there may be potential scope to exceed the 15 dwellings per hectare density target.

Thus the site will provide new opportunities for, and additional supply of, affordable housing in South West Sydney. It also provides new opportunities to assist in funding of infrastructure and income via rates to contribute to ongoing maintenance of infrastructure.

However, with its remarkable position, elevation and distinctive landscape character, the site can not only increase supply of housing but also increase the choice in housing types and living environments available to households in South West Sydney.

Development of the site can be served by a full range of education, community, recreation and retail and commercial services (and associated local employment) within existing neighbouring centres and the future Leppington town Centre. Adoption of contemporary technologies and design can ensure water quality objectives and other environmental considerations can be met.

The site can easily be serviced by existing road and bus based public transport and is located only 3.2 kilometres from the new Leppington Station, when construction finishes in 2016. It can efficiently be serviced by sewer, water and power. Construction of the upgrading of Camden Valley Way from a two lane rural road to a four lane highway is to commence shortly.

In this context, the current rural zoning of the property is an anomaly. The zoning is clearly not the highest and best use for the land. Furthermore, the property remains the only land addressing, and on the eastern side of, Camden Valley Way not identified, or zoned for urban development in the future.

Therefore it is a leading candidate for rezoning to urban purposes.

Site Details

Emerald Hills Estate is a Partnership comprising the Directors of D&AI Pty Ltd that owns the land.

The Site comprises an irregularly shaped rectangular parcel of land generally situated along a SW to NE alignment. It has a total area of 151.1 ha and is bounded by Camden Valley Way to the west, Raby Road to the south and St Andrews Road to the north (much of which is an unmade road comprising a gravel track). The eastern side of the site generally follows the alignment of the water canal owned by Sydney Water Corporation. The easternmost portion of the site which falls within the Campbelltown LGA is excluded from this planning proposal.



Copy of Survey and Aerial View of Site Looking North East

It is legally described as:

- Lot 10 DP 1173819 (formerly Lot 2 in DP 650698)
- Lot 10 DP 1161557 (formerly Lot B in DP 418632)
- Lot 1 in DP 301830

The survey plan indicates a number of existing easements on the title including two aligned roughly along the eastern boundary for a 132kV electrical transmission line and a gas pipeline and a major 60 metre wide easement for a 330 kV Transgrid power line that crosses the south west corner of the site, which must be considered in any master planning. There is an opportunity to realign the 132kV easement with the gas pipeline easement.

The landowners have undertaken a number of studies:

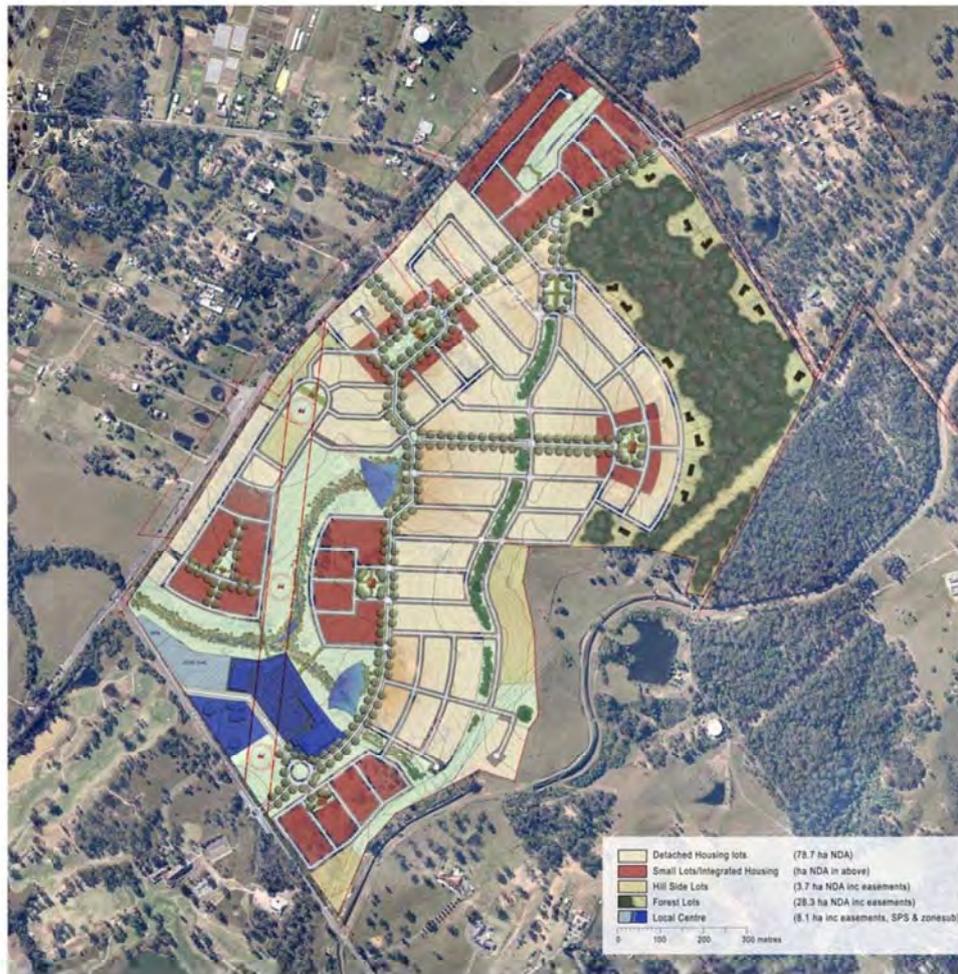
- Ecological investigation confirms the presence of Cumberland Plain Woodland on site in the north east corner. It will need to be protected;
- Lean Lackenby and Heyward investigation confirms that infrastructure connections may be available;
- Creek corridors and classifications have been mapped;
- The RTA is to upgrade Camden Valley Way in stages. It will improve the road access and provide a new bus based public transport corridor adjoining site;
- Camden Council investigations as part of preparation of its new LEP 2010 show no heritage or significant flooding;
- Some Bushfire Hazard is expected at the Cumberland Plain woodland interface;
- There is no known contamination and none expected.

Generally the site is cleared and unencumbered, with good access and proximity to services and facilities.

Existing use is a working farm and previously it also included the St Andrews Home for Boys.

Development Vision - 2011

The development vision for Emerald Hills comprises an integrated residential development of nine mini neighbourhoods oriented around parkland with a local shopping centre and encircled by public open space. It provides for a mix of dwellings and includes retention of large areas of land for environmental protection, riparian corridor improvement and landscape protection. The development vision dated 2011 is included below, and the draft Indicative Layout Plan derived from the planning process follows.



The Urban Design Vision for the Site – taken from 2011 pre-Gateway planning proposal

Draft Indicative Layout Plan

Planning principles facilitate the development of the Draft Indicative Layout Plan. Derived from NSW planning legislation, specialist studies and best practice guidelines the following planning principles have been utilised in the evolution of the Draft Indicative Layout Plan:

Public Domain

- Facilitation of an active public domain for the use as an outdoor living space where individuals and communities are encouraged to interact;
- Encouragement of a strong neighbourhood character around the school, playing fields, neighbourhood centre and integrated walking trails; and
- Walking trails that promote inter community interaction with adjoining residential developments;

Natural Environment

- Integration of the natural environment with residential development;
- Local and neighbourhood parks take advantage of and retain the key landscape and environmental features of the Precinct, including view corridors, high points, the riparian corridor and existing vegetation;
- Facilitate the protection and enhancement of the riparian corridor through the development of pride in the community vision; and
- Retain prominent Cumberland Plain Woodland in private residential land to assist in the retention and enhancement of the community.

Land use

- Develop a mixture of housing opportunities within the site with a range of lot sizes and higher densities within close proximity to services; and
- Define the local centre as a focal point of the community.

Transport

- Create clear definition between collector roads and local streets to facilitate safe and quiet neighbourhoods;
- Develop a clear hierarchy of roads with optimal connectivity to ensure efficient movement of pedestrians and vehicles throughout the development precinct;
- Develop the local road network to respond directly to the topography of the site, facilitate optimal WSUD and enhance the landscape context; and
- Promote walking and cycling by providing safe connections throughout the development precinct.

Overview of the Draft ILP

Neighbourhood Design

- The site's character is capitalised upon by proposing a series of residential neighbourhoods immersed within the landform, open spaces and the pathway network;

- Distinctive neighbourhoods are established and visually and structurally contained predominantly by landform. Each neighbourhood therefore has the potential to offer and exhibit their own distinctive character and sense of place; and
- View corridors to, and the presence of, prominent local natural features are celebrated within the road and local open space network and intended to distract and orient views away from the energy transmission power lines.

Land Use

- A local centre comprising retail, sports fields and primary school in the south west corner of the site provides possibilities for residents to walk or cycle to a small range of facilities. It is located at the most convenient point of the site to capitalise on connectivity with the existing and future development to the south and is thus better located to service its host catchment. The economic benefit that may be generated by a location adjoining and exposed to Raby Road facilitates the viability and effectiveness of servicing the households within the catchment. The location adjoining the creek also provides the opportunity to establish a distinctive high quality public domain;
- A variety of dwelling forms is proposed in appropriate locations which either reinforce the scenic values of the site or contribute to the accessibility, vitality and character of the local centre, the amenity offered by open spaces and the viability of public transport. Higher density housing forms are located around areas within the site exhibiting high amenity such as the local centre (to capitalise on access to retail and commercial facilities and the community 'hub' role that the centre will offer) and open space and riparian corridors (to capitalise on the attractive aspect and passive recreation function that these areas will offer). The housing forms comprise:
 - Transitional large lots of around 1,000 sqm in area where attention to landscape visual character and environmental protection and management of bushfire hazard and noise impact is required. The lots provide for low density residential development that permits the private management and rehabilitation of vegetation interface areas, protection of prominent scenic areas, and the management of bushfire asset protection zones;
 - Family Housing comprising conventional residential lots of approximately 450 sqm in area that provide housing opportunities to meet the demand by conventional household types; and
 - Small lot (Lifestyle or integrated) housing on 220-350 square metre lots. Lots would be comparatively wide allowing for two storey detached or semi-detached dwellings suitable for a wide range of household types. A wider frontage permits good internal planning allowing outlook from most rooms in the dwelling. An indicative dwelling yield within the site of 1280 dwellings which, when assessed against the potential net developable area (NDA) of the site (approximately 78 hectares) achieves a minimum density of 15 dwellings per hectare, which may contribute to supporting the provision of bus based public transport.

Traffic and Access

- A legible interconnected 'grid pattern' of walkable streets which seeks to address site topography and encourage walking and cycling as well as provide a choice of alternate routes for vehicles. The road network includes:
 - The adoption of a local grid pattern that reflects and responds to landform where best it can with minimal modification;

- The provision of a major local collector road that is located parallel to Camden Valley Way and incorporates distinctive entries into the site from Camden Valley Way. St Andrews Road and Raby Road facilitating vehicle access. Road character and route is designed to minimise attractiveness for 'rat-running' and through traffic seeking to avoid the Camden Valley Way / Raby Road intersection; and
- Local roads addressing frontages to public open space to avoid the provision of rear fences and contributing to protecting and enhancing the character of the site.
- The potential for a bus route and bus stops located along a major local collector road that links the local centre with any potential routes beyond the site to the Leppington Town Centre and railway station.
- A permeable local road network within the majority of the urban part of the site that would ensure dwellings are located within a 400 metres/5 minutes walking catchment of the bus route and 250 metres of public open space.
- A simple hierarchy of road design and character comprising:
 - The collector road with a minimum width to provide for the provision of two parking lanes, two traffic lanes and a landscaped median strip. Footpaths and street trees should be provided within the verge; and
 - Local roads incorporating street tree planting;
- A flexible and connected pedestrian and cycle pathway network that utilises open space corridors in order to can respond to the constraints that will be imposed on the plan as detailed civil and environmental design proceeds.

Open Space and Environment

- Preservation of the existing remnant vegetation in the northern part of the site with a reconfiguration of the urban / vegetation interface by dedication in private ownership and re-vegetation.
- The provision of local neighbourhood parks located within a 250 metres or 5 minutes walking catchment.
- The adoption of non-traditional environmental management techniques to support environmental protection in concert with the provision of public open space and stormwater management in urban development by:
 - The rehabilitation of riparian corridors, which will be integrated into the stormwater management system which, with the adoption of water quality detention ponds and bioswales in public open spaces, will provide the mechanism to ensure that water exiting the site will have no downstream environmental impact;
 - The provision and use of public open space to capitalise on vegetation protection and rehabilitation; and
 - Creating streets as green corridors, which by careful selection of street tree species will also play a role in environmental enhancement.

Landscape and Visual Protection and Enhancement

- The western lee side of the elevated ridgeline is kept free from development to provide opportunities to re-vegetate this visually prominent part of the site, provide opportunities for publicly accessible views of the district to the west and to effectively accommodate the slope constraints exhibited by landform in this location;
- View axes at the entries to the site of the prominent hills to the south east of the site are secured through location of roads to provide opportunities for public enjoyment and appreciation of the locality's landform, contributing to the establishment of a distinctive sense of place and character to the area; and

- The low lying part of the site accommodates water quality protection basins and the riparian corridor.
- Promotion of streetscape character along Camden Valley through re-establishment of streetscape vegetation and minimisation of noise walls.

Draft Indicative Layout Plan Design

The indicative layout plan provides for a village centre including 10,000sqm of retail space, a primary school and approximately 1280 lots in a 10 year timeframe. The proposal includes the protection of endemic flora and fauna through the integration of urban development within the natural landscape and bushland to provide a high amenity living environment for future residents.

The proposed development incorporates parks and reserves that are connected through walking trails, cycle ways and public transport routes as well as providing similar access to facilities external to the site. It is envisaged that the provision of walking trails and cycle ways will further facilitate a lesser need for the day to day reliance on the motor vehicle.

Features of the Draft Indicative Layout Plan include:

- Provides a range of housing choices with high densities located nearer the neighbourhood centre;
 - Average lot size of 450sqm range; and
 - Larger lot sizes bridging across the eastern ridge.
- Provides a neighbourhood centre;
 - Located adjacent to Raby Road, the primary entrance into the site;
 - Linked with pedestrian and cycle routes throughout the precinct; and
 - Provides for up to 10,000sqm of retail and additional office or business premise space.
- Protects the Environment;
 - Protection and enhancement of the natural features of the site including the visual character of the ridgeline and the riparian corridors; and
 - Existing native vegetation, including areas of Cumberland Plain Woodland retained.
- Provides for accessible open space
 - Designed to ensure that every lot is within 400m safe walking distance of public open space; and
 - Public open space enhances through the retention of natural landscape features, flora and fauna.
- Provision of school facility;
- Integrated walking and cycling network;
 - On and off road cycling opportunities in a safe environment to provide access on within the present;
 - Cycling and walking connections to adjoining growth centre precincts to encourage the combination of transport methods daily;
 - Off road pedestrian footpaths; and
 - Pedestrian walking paths facilitating interaction with the natural environment in the riparian zones, public parks and the fringes of the development area.
- Road network;

ORD03

EMERALD HILLS PLANNING PROPOSAL

- Clear hierarchy of road infrastructure;
- Road design that incorporates that natural features of the landscape to optimise amenity to residents and visitors; and
- Design for connectivity with through road access on the majority of residential and collector roads.
- Public transport;
 - Potential bus routes concentrated on collector roads;
 - Bus stop proposed to be located within 400m of all dwellings in the precinct to discouraged the use of the motor vehicle, especially for school trips; and
 - Utilisation of existing bus routes around the site.

Attachment 1

EMERALD HILLS PLANNING PROPOSAL



Draft Indicative Layout Plan (taken from draft amendment to Camden DCP 2011) dated October 2013

The proposed urban development is consistent with the form, density and character being supported in other neighbouring greenfield land releases such as Oran Park and Turner Road in South West Sydney.

The Vision is described in detail in the report that accompanies this Planning Proposal. Key elements comprise:

- A Plan that adopts, as a guide, the Growth Centres Development Code to inform the layout of land uses and character and configuration of access, public transport service, and the configuration and preservation of areas with environmental value;
- An indicative yield of 1280 dwellings and a minimum density of 15 dwellings per hectare net developable area (NDA as defined in the Code); and
- Neighbourhood retail focussed in a local centre to serve residents.

Master planning indicates that the development vision can be achieved without offending the environmental and landscape values of the area. It can also be achieved whilst minimising amenity impacts (traffic, access to services etc.). Traffic and access issues can be addressed by providing direct access to Camden Valley Way via Raby Road and St Andrews Road.

The proposed release of the land for urban development satisfies State Government housing supply and metropolitan planning objectives with regard to appropriately located and serviced land for new housing.

It is these opportunities to achieve State Government objectives and deliver a significant public benefit (cost effective supply of serviceable land for housing) with minimal environmental impacts that are the genesis of the draft LEP contained in this planning proposal.

Part 1 - Objectives or Intended Outcomes

The intended outcome of this proposal is the development of a large parcel of land on the east side of Camden Valley Way for a mix of residential, retail, open space and environmental protection purposes.

The objectives of the development are:

- To satisfy State Government objectives in the Metropolitan Plan for Sydney 2036 to locate the majority of new housing within walking catchments of centres and enable residential growth in areas where there is good public transport service;
- To satisfy State Government priorities in the NSW State Plan to increase housing supply; and
- To achieve compliance with the NSW State Government's current Sustainability Criteria contained in the 2005 Metropolitan Strategy (Table G2), pending their replacement with new criteria in accordance with the Delivery Plan in the Metropolitan Plan 2036 (Action I 6.4).

Part 2 - Explanation of Provisions

The site is subject to zoning by Camden LEP 2010. It zones the majority of the land "RU2 Rural Landscape."

The objectives of the Camden RU2 zone are:

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To maintain the rural landscape character of the land.
- To provide for a range of compatible land uses, including extensive agriculture.
- To protect and enhance areas of scenic value by minimising development and providing visual contrast to nearby urban development.
- To maintain the visual amenity of prominent ridgelines.
- To permit non-agricultural uses which support the primary production purposes of the zone.

The zone is limited in terms of the range of permissible land uses and subdivision that may take place. Urban subdivision and development is prohibited in the zone.

None of the existing planning controls facilitate the achievement of the objectives and outcomes listed in Part 1 of this proposal.

The Planning Proposal seeks, therefore, to amend the LEP for the site based on the draft Indicative Layout Plan as follows:

1. Rezones the site as follows (as indicated on the proposed amendment to the LZN map included in Appendix E):
 - Residential areas to be zoned 'R1 General Residential';
 - The Cumberland Plain Woodland conservation area to be zoned 'E2 Environmental Conservation';
 - The local centre to be zoned 'B1 Neighbourhood Centre';
 - The Raby Road road widening land to be zoned 'SP2 Infrastructure';
2. Introduces a floor space control clause that specifies a maximum floor space of 10,000 sqm gross floor area for retail premises (excluding food and drink premises) for buildings in the land zoned B1 Neighbourhood Centre within the proposed amendment to Camden DCP 2011; and
3. Amends the Lot Size Map as indicated on the proposed amendment to the LSZ map included in Appendix E by:
 - applying a minimum lot size of 220 sqm over the land proposed to be zoned R1 General Residential; and
 - applying a minimum lot size of 2 hectares to the land within the E2 zoned land in the north east corner of the site.
4. Amends the Height of Buildings Map as indicated on the proposed amendment to the HOB map included in Appendix E by:
 - applying a maximum height of 8.5 or 9.5 metres across the site for dwellings
 - applying a maximum height of 12.5 metres in the local centre site
 - applying a maximum height of 15.5 metres for residential flat buildings

It is noted that the draft zoning map includes a note relating to the maximum 15.5m height for residential flat buildings, and that this control will either be included on the final height of buildings map, or via a suitable clause in the Camden LEP 2010, subject to future advice and direction from the DP&I. The residential height limits are consistent with those adopted in the adjacent Camden LGA Growth Centre Precincts.
5. Amends the Urban Release Areas Map as indicated in the proposed amendment to the URA map included in Appendix E by mapping the Emerald Hills site in blue so that Part 6 of the Camden LEP applies to the land.
6. Create a new Land Reservation Acquisition map sheet LRA_016 and show the land fronting the northern side of Raby Road as per the proposed LRA map detail in Appendix E.

Appendix E of this planning proposal contains the existing Camden LEP 2010 maps applying the Emerald Hills site, and the proposed amendment maps under this planning proposal.

Part 3 – Justification

Section A – Need for the planning proposal

1. Is The Planning Proposal a Result of any Strategic Study or Report?

The proposal itself has not been the result of a specific strategic study or report. However the existing zoning of the site does not reflect a number of State Government strategic initiatives that will impact on the potential future use of the site, and the planning proposal responds to these initiatives. These strategies are discussed in Section B below.

2. Is The Planning Proposal The Best Means of Achieving The Objectives or Intended Outcomes, or is There a Better Way?

Yes. The planning proposal is the most appropriate method to enable development applications to be submitted for development within the site. Other methods investigated will not achieve the intended result that is sought.

Other options identified:

- (i) A site specific provision enabled by inclusion of the site in Schedule 1 of Camden LEP 2010

This option was considered. However, due the geographical size of the area and the precedent such an approach would set, the approach advocated in the Planning Proposal was considered to be the most appropriate method.

- (ii) A Planning Proposal to amend the boundaries of the South West Growth Centre shown in the maps of State Environmental Planning Policy (Sydney Region Growth Centres) 2006

This option was not considered viable. The amending process would have been significant, and would have exceeded generally accepted parameters for the consideration of such matters.

- (iii) Await a review of the Growth Centre Boundaries in the future.

This option was considered. However, the process whereby the landowner awaits a review at an unknown time introduces too much uncertainty in terms of timeframe and outcome. The uncertainty jeopardise the opportunity for the achievement of the objectives identified in Part 1 above in the short term.

Rather, it is considered that the progress of this Planning Proposal is the most suitable mechanism to achieve the objectives in Part 1.

3. Will The Net Community Benefit Outweigh The Cost of Implementation and Administering The Planning Proposal?

Yes. The outcome of the Planning Proposal will be an increase in the supply of new housing in the Camden LGA. New residents will be able to support existing and proposed public investment in public transport, road and service infrastructure.

Residents will also support the Government's recent commitment to commence, and invest public monies in, the Leppington Town Centre by increasing the number of households within the Centre's catchment.

The increased demand on new infrastructure generated by the additional population is negligible and can be achieved without costly augmentation of existing services, or provision of new services. Rather it will facilitate the viability of, and supports the investment in, infrastructure in the locality.

Thus the net community benefit is considered to far outweigh the cost of implementing the proposal.

Section B – Relationship to Strategic Planning Framework

4. Is The Planning Proposal Consistent with the Objectives and Actions Contained Within the Applicable Regional or Sub-Regional Strategy (Including The Sydney Metropolitan Strategy and Exhibited Draft Strategies)?

Yes. There are a number of State Government Strategies and Policies that provide the strategic context for the development of the Precinct. They comprise:

1. The NSW State Plan; and
2. The Metropolitan Plan for Sydney 2036 (The new 'Metro Strategy'); and
3. The Draft Subregional Strategies

The NSW State Plan

The NSW State Plan 2021 was recently released. It replaces the previous Plan of 2010 as "the NSW Government's strategic business plan, setting priorities for action and guiding resource allocation" (p.2). The rezoning and development of the site is consistent with many of the 32 goals in the five strategies of the Plan; particularly with regard to improving the NSW economy, growing patronage on public transport, and placing downward pressure on the cost of living. This is detailed in Appendix 1.

The Metropolitan Plan for Sydney 2036

The Metropolitan Plan for Sydney 2036 was released on 16 December 2010. It comprises the "new" Metropolitan Strategy for Sydney and replaces the previous "City of Cities – a Plan for Sydney's Future" prepared in 2005 (Metropolitan Strategy 2005).

Of relevance to the Proposal:

Its policy settings reinforce the targets of the State Plan including the enabling of residential and employment growth in areas where there is available or planned public transport capacity;

It advises that the current sustainability criteria (contained within the Metropolitan Strategy 2005) will be replaced with new criteria to help assess land release options outside the Growth Centres during the annual land supply assessment. Government will consult stakeholders on the new criteria before they are adopted. The criteria will aim to:

- maintain the integrity of urban containment;
- achieve efficient use of land and cost effective development;
- ensure the continuity of significant rural and resource activities;
- avoid use of biodiversity rich land and high risk areas; and.
- provide certainty about delivery of dwellings in the short term.

The rezoning and development of the site contributes to the achievement of a number of the Plan's strategic directions and objectives. This is detailed in Appendix 2. Rezoning and Development is also consistent with the current sustainability criteria as summarised in the table in Appendix 3.

Draft South West Subregional Strategy

The site is located in the Draft "South West Subregional Strategy." The aim of the Subregional Strategy is to translate the objectives of the NSW Government's Metropolitan Strategy 2005 and State Plan to the local level.

The Draft Strategy remains a draft document and will be superseded/updated by new investigations required as part of the Metropolitan Plan 2036. Notwithstanding this, it remains today the only document that provides any published advice on State Government objectives at a local level.

Of relevance to this proposal, the Subregional Strategy:

- Seeks to ensure adequate supplies of land and sites for residential development and applies the Sustainability Criteria of the Metropolitan Strategy 2005 for new urban development; and
- Seeks to focus residential development around centres, town centres, villages and neighbourhood centres.

In summary, the Strategy seeks increased housing supply in the subregion on well-located sites. The Planning Proposal is consistent with the Strategy as it can contribute to the achievement of all of these goals.

5. Is The Planning Proposal Consistent with The Local Council's Community Strategic Plan, or Other Local Strategic Plan?

Yes. There is one relevant principal Strategic Plan:

The Camden Residential Strategy 2008.

The Camden Residential Strategy 2008 aims to "guide the form and character of housing in Camden into the future" (p.7). It supersedes the Residential Strategy for Camden, undertaken in 1997. The 2008 Strategy outlines the challenges facing Camden today and in the future and responds to these challenges by identifying a "New Model for Change" and presenting a series of recommendations to implement the approach.

The proposed rezoning and development of the site advocated in the Urban Design Vision achieves the recommendations of the Strategy and is consistent with The Strategy's intent as illustrated in the table below.

Strategy Recommendation	Comment on Planning Proposal
That Council further promote, in appropriate locations, alternative and affordable housing forms.	The development proposed in the rezoning of the site achieves this recommendation by offering the potential for a range of housing types appropriately located within walking distance of a local centre, open space and public transport. Furthermore, by increasing supply and choice of housing, affordability is assisted via improvements to the housing demand and supply equation.
That Council include within its development control framework appropriate locational criteria for housing redevelopment as outlined in this Strategy.	The proximity of the site to public transport, the Leppington Town Centre and existing and future employment and commercial areas satisfies locational criteria.
That Council consider the inclusion of appropriate adaptable housing controls in the Camden DCP 2006.	Development in the site would comply with the controls in the Camden DCP.
That Council explore appropriate mechanisms for any necessary upgrading of public domain areas adjoining redevelopment sites.	The Urban Design Vision seeks the development of high quality public domain areas and the proponent of the Planning Proposal would support such endeavours.
That Council investigate alternative methods, for the provision of alternative and affordable housing.	As noted above, by increasing supply, the proposed rezoning facilitates affordable housing.

Strategy Recommendation	Comment on Planning Proposal
<p>That Council adopt the new model for housing change as outlined in this Strategy, by:</p> <p>Supporting housing diversity through a review of planning controls;</p> <p>Supporting a greater distribution of diverse housing in appropriate locations through a review of LEP and DCP controls;</p> <p>Supporting fine-grained planning of existing residential areas, where re development is proposed, by requiring site-specific controls to be developed in accordance with the locational criteria;</p> <p>Supporting improved local character as a result of housing redevelopment, by the development of high quality housing and landscaping controls and the development of appropriate mechanisms for the funding of public domain improvements.</p>	<p>The Urban Design Vision supports these recommendations through the design approach advocated for master planning and public domain establishment.</p> <p>In particular, the careful placement of open space areas and revegetation of prominent hillsides is intended to preserve and improve the recognised character of Camden along the Camden Valley Way streetscape and from further afield at vantage points that offer views to the ridgeline.</p>
<p>That Council encourage mixed use development, including residential-commercial development, within town centres.</p>	<p>While not providing for vertical mixed use development, the Urban Design Vision seeks a mix of uses by the placing of higher density residential with retail and commercial uses in close proximity (within comfortable walking distance).</p>
<p>That Council encourage a range of housing opportunities for seniors, from independent living in retirement villages through to nursing homes, in appropriate locations.</p>	<p>These housing forms could be accommodated within the development of the site, and are not excluded by the Urban Design Vision.</p>
<p>That Council, when considering any applications for rezoning of land to permit rural residential or large-lot residential development, have regard to the on-going viability of Camden's rural landscapes and economy.</p>	<p>The Urban Design Vision seeks a density of a minimum of 15 dwellings per hectare to satisfy Government Sustainability Criteria. As part of this approach it seeks to preserve the landscape and visual character of the environs of the site, due to its visually prominent location (elevated character and frontage to major arterial roads).</p>

6. Is The Planning Proposal Consistent with Applicable State Environmental Planning Policies?

The following State Environmental Planning Policies are relevant to the planning proposal:

SEPP	Requirement	Planning Proposal	Consistent
No. 19 - Bushland in Urban Areas	The making of LEPs must consider the aims of the Policy, and give priority to retaining bushland, unless it is satisfied that significant environmental, economic or social benefits will arise which outweigh the value of the bushland	The planning proposal is consistent with SEPP 19 by seeking to reserve remnant vegetation, riparian corridors and associated areas of environmental significance.	Yes
No.55 – Remediation of Land	Introduces state-wide planning controls for the remediation of contaminated land. If the land is unsuitable, remediation must take place before the land is developed. Clause 6 of the SEPP requires consideration of contamination in any change in use that may permit residential use.	The known history of the use of the lands in the site suggests that they have not contained any activities that would have generated any unreasonable contamination that cannot be readily remediated.	Yes
No. 65 – Design Quality of Residential Flat Development	This Policy aims to improve the design quality of residential flat development in New South Wales.	Detailed compliance with SEPP 65 will be demonstrated at the time of making an application for development should any development trigger consideration of the SEPP.	Yes
(BASIX)2004	Aims to encourage sustainable residential development. SEPP relates to certain kinds of residential development which must be accompanied by a list of commitments by the applicant as to the manner in which development must be carried out.	Detailed compliance with BASIX will be demonstrated at the time of making an application for development consent.	Yes
(Exempt and Complying Development Codes) 2008	The Exempt and Complying SEPP applies to the site and permits development of minor environmental significance without the need for development consent. The SEPP lists developments that are exempt development and do not require consent and some developments which are complying development for	The provisions of the SEPP in permitting developments of minor environmental significance without the need for development consent will be considered in future development of the site.	

EMERALD HILLS PLANNING PROPOSAL

SEPP	Requirement	Planning Proposal	Consistent
	the purposes of the EP&A Act.		
(Housing for Seniors or People with a Disability) 2004	The SEPP aims to increase the supply and diversity of residences suitable for seniors or people with a disability while making efficient use of existing infrastructure and services.	Any future applications for seniors' housing projects on the site will be made with consideration of the provisions of the SEPP. Criteria and standards relating to such developments will be addressed in the relevant development application.	
(Affordable Rental Housing) 2009	The SEPP facilitates the delivery of new affordable rental housing by providing incentives by way of expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards. It also facilitates an expanded role for not-for profit- providers of affordable rental housing.	Any future applications for affordable housing projects on the site will be made with consideration of the provisions of the SEPP.	
(Infrastructure) 2007	The relevant matters for consideration include the requirement to address traffic impact and acoustic impact	Detailed compliance with the SEPP will be demonstrated at the time of making an application for development consent. In particular, the impact from noise generated by traffic on Camden Valley Way will be required to be addressed in detailed subdivision and building design.	Yes
Sydney Region Growth Centres 2006	The lands to which the policy applies do not encompass the site. However the neighbouring South West Growth Centre has an influence on the development within the site, which can contribute to the achievement of the SEPP's aims.	The SEPP does not apply to the site. However development within the site can contribute to the SEPP's aim of: “(d) to enable the establishment of vibrant, sustainable and liveable neighbourhoods that provide for community well-being and high quality local amenity.”	Yes

7. Is The Planning Proposal Consistent with Applicable Ministerial Directions (S.117 Directions)?

The S.117 Directions that are relevant to a Planning Proposal lodged under the LEP Gateway are:

S.117 Direction	Contents	Planning Proposal	Consistent
3.1 Residential Zones	Planning proposals must broaden the choice of building types in the housing market, make more efficient use of infrastructure and services, reduce consumption of land on the fringe, and are of good design.	The Planning Proposal provides a new opportunity for increased housing choice, efficient use of infrastructure and services, reduces consumption of land on the fringe by seeking higher residential densities, and can provide good urban design to improve the locality.	Yes
3.4 Integrating land use and transport	Planning proposals must be consistent with DUAP publications "Improving Transport Choice" and "The Right Place for Business and Services".	The Planning Proposal is consistent with these documents in providing an opportunity for development of a new community in close proximity to the Leppington Town Centre in an area well served by existing infrastructure, transport and services.	Yes
4.1 Acid Sulphate Soils	The relevant planning authority must consider the Acid Sulphate Soils Planning Guidelines adopted by the Director-General of the Department of Planning when preparing a planning proposal that applies to any land identified on the Acid Sulphate Soil Risk Maps prepared by the Department of Natural Resources.	The elevated character of the site and its landform is such that it is considered that there will be a low probability of the presence of acid sulphate soils. Detailed investigation will be undertaken at the time of making an application for development consent.	Yes
4.3 Flood Prone Land	LEP provisions to ensure that development on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.	Only a minor part of the site in the creek corridor is understood to be flood affected. Development is located away from this area and would have no impact on hydrological regimes.	Yes
4.4 Planning for Bushfire Protection	The objectives of this direction are to protect from bush fire hazards, by discouraging the Establishment of incompatible land uses in bush fire prone areas, and encourage sound management of bush fire prone areas.	The configuration of land uses, roads and access in the Urban Design Vision considers bushfire hazard and protection from bushfire events.	Yes

EMERALD HILLS PLANNING PROPOSAL

6.2 Reserving Land for Public Purposes	Planning proposals (where relevant) are to facilitate the provision of public services and facilities by reserving land for public purposes.	The Proposal does not reduce the area of land reserved for public purposes. Rather, it improves the use of and access to this land adjoining and within the site.	Yes
6.3 Site Specific Provisions	The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.	The proposed LEP zoning, height and FSR standards are not considered to be particularly restrictive and therefore are consistent with this Direction.	Yes
7.1 Implementation of the Metropolitan Plan for Sydney 2036	The objective of this direction is to give legal effect to the vision, transport and land use strategy, policies, outcomes and actions contained in the Metropolitan Plan for Sydney 2036.	The Planning Proposal is considered to be consistent with the Plan as described in Part 3B above.	Yes

Section C – Environmental, social and economic impact

8. Is There any Likelihood That Critical Habitat or Threatened Species, Populations or Ecological Communities, or Their Habitats, Will Be Adversely Affected as a Result of The Proposal?

Ecological investigation confirms the presence of Cumberland Plain Woodland on site in the north east corner. Given the modified character of the remainder of the site, and the proposal to preserve and protect the vegetation that has been identified by consultants as having environmental value, it is considered that there is no critical habitat, and no threatened species, populations or ecological communities or their habitats on the lands that will be adversely affected as a result of the proposal. Refer to Part 6.11 of Appendix D - Planning Report for further information.

9. Are There any Other Likely Environmental Effects as a Result of The Planning Proposal and How are They Proposed to be Managed?

The proposed development of the precinct in accordance with the Vision will require consideration of the following potential environmental impacts:

- noise;
- access, traffic and parking;
- visual impact;
- built character;
- streetscape and public domain;
- safety and security; and
- environmental protection.

The specialist studies undertaken during the rezoning process have indicated that the above impacts are manageable. In particular:

Noise: subdivision and building design will ensure that the noise standards for internal rooms are achieved, particularly for dwellings adjoining Camden Valley Way. Refer to Part 6.5 of Appendix D - Planning Report for further information.

Access, Traffic and Parking: Access to the site will be achieved via upgraded intersections to Camden Valley Way and Raby Road already identified and/or agreed. These roads are planned to be upgraded as part of the development of the Growth Centre and the additional traffic generated by the increase in housing in the site is considered to be negligible and manageable. Refer to Part 6.14 of Appendix D - Planning Report for further information.

Visual: The layout of roadways within the site will celebrate and promote local landmarks, recreation and amenity features and elevated land. These considerations will contribute to a development with high visual quality. Where land is elevated along the ridgeline a woodland corridor is proposed in order to retain a green treed canopy along the edge of both the site (for internal local views) and South Creek Valley (for more distant views). Refer to Part 6.9 of Appendix D - Planning Report for further information.

Built Character: Building guidelines to be incorporated within a site specific part of Camden DCP 2010 will provide the mechanism to promote buildings with architectural character;

Streetscape and Public Domain: Attention to streetscape public domain works (trees, noise attenuation measures, relationship to open space design and siting etc.), particularly along Camden Valley Way to address noise, and internally to promote a high level of neighbourhood amenity, will reinforce the visual contribution of the site to the character of the Camden LGA;

Safety and Security: Subdivision and building design (guided in the site specific DCP) will adopt the principles of Crime Prevention Through Environmental Design (CPTED), particularly with regard to the layout and design of roads, parks and other public domain areas, as well as the non-residential buildings within the local neighbourhood centre; and

Environmental Protection: All areas with recognised environmental value (existing woodland areas and riparian corridors) are proposed to be protected via a Biobanking Agreement and kept free from development. Protection will comprise a mix of measures already adopted and used in the Growth Centre including physical rehabilitation and improvement of key areas and preservation by the application of appropriate zones and subdivision controls. Refer to Part 6.10 and 6.11 of Appendix D - Planning Report for further information.

A thorough assessment of the environmental impacts will be undertaken in accordance with S.97C of the Environmental Planning and Assessment Act following lodgement of the development applications for subdivisions and development, should the proposal be supported and published.

10. How Has The Planning Proposal Adequately Addressed any Social and Economic Effects?

A successful planning proposal will:

- Satisfy demand for increased housing supply and housing choice in Metropolitan Sydney (and resulting construction multiplier effects) providing positive social and economic benefits;
- Facilitate the integration of land use and transport satisfying sustainability criteria; and
- Facilitate monetary contributions and works in kind public benefits achieved through a Voluntary Planning Agreement, thus providing positive social and economic benefits.

In accordance with recognised planning strategies, the proposal will provide convenient access to public transport and encourage walking and cycling. It will, thereby, reduce dependence on private vehicles, provide opportunities for healthy lifestyles and enhance and provide improved access by the community to public open space and recreation facilities in the Camden LGA.

Section D – State and Commonwealth interests

11. Is There Adequate Public Infrastructure for the Planning Proposal?

Public Infrastructure encompasses:

- Public transport;
- Civil Infrastructure (sewer, stormwater, power, potable water, gas);
- Emergency Services;
- Road Access; and
- Satisfactory Arrangements for Urban Release Areas

Public Transport: Currently existing services are underutilised and level of service reflects the low patronage. However, as the South West Growth Centre progresses, particularly the neighbouring suburbs of Oran Park and Gregory Hills (and their respective employment centres) in the short term, and the Leppington Town Centre and Railway Station to the north in the longer term, public transport networks servicing the Camden LGA will improve to meet the new demands placed upon them by new residents and activities. In this context development of the site can capitalise on (and assist justification in) Government investment in improvements in transport infrastructure.

Civil Infrastructure: All civil infrastructure networks can serve the site as discussed in the Infrastructure Servicing and Delivery Plan prepared during the planning phase. The proposed development within the site can connect to these networks. Augmentation of services will require resolution via further discussion with relevant agencies and corporations.

Emergency Services: Existing fire and police emergency services are located in Narellan and can effectively service the site.

Road Access: The site is bound on all three sides by roads and the upgrading of Camden Valley Way is to commence in the near future. Amendments and improvements to the existing and approved intersections to accommodate the increased volumes of traffic accessing and egressing the site are expected. This will require liaison with, and concurrence of, the RTA.

Satisfactory Arrangements for Urban Release Areas: The Camden LEP 2010 Urban Release Areas Map (URA) will be amended to require the developer to make contributions towards State Infrastructure prior to the development of the site.

12. What are The Views of State and Commonwealth Public Authorities Consulted in Accordance with The Gateway Determination?

As part of the Gateway rezoning process Council will consult with a range of government agencies that are relevant. No consultation with Commonwealth authorities has been undertaken to date on the Planning Proposal.

In addition, a draft Voluntary Planning Agreement with a total contribution value of \$47 million is being placed on public exhibition as part of the planning package for Emerald Hills. The VPA provides all of the works and land dedication required by the Emerald Hills development, as well as monetary contributions towards district and regional facilities at Leppington North.

Part 4 – Community Consultation

The Gateway Determination issued on 7 July 2012 sets out public exhibition period of 28 days for this planning proposal. Following the adoption of the draft planning package by Council, the planning proposal will be exhibited for 28 days and newspaper advertisements will be placed in local newspapers. The planning proposal will be available for review and comment on Council's website and at the Camden and Narellan Customer Service Centres and Camden and Narellan Libraries.

Appendix 1: Achievement of State Plan 2021 Goals and Strategies

Strategy and Goal	Contribution to Achievement	Comment
Rebuild the Economy		
Improve the performance of the NSW economy	Yes	Rezoning in accordance with this planning proposal will be the catalyst for significant investment by the private sector in development and construction. Construction that responds to the rezoning of the site will provide access to increased locally based employment and potential 'on-the-job' and apprenticeship training opportunities. Furthermore, there will be enhanced investment and economic benefits achieved by the multiplier effects of the injection of wages into the economy and the increased business confidence and certainty that may emerge in undertaking investment in South West Sydney and the Camden LGA.
Rebuild state finances		
Drive economic growth in regional NSW		
Increase the competitiveness of doing business in NSW		
Place downward pressure on the cost of living		
Strengthen the NSW skill base		
Quality services		
Reduce travel times	Yes	Due to the close proximity of the Leppington Town Centre, and siting of higher density residential environments adjoining a proposed local centre within the site, trip generation and travel times for access to local and wider services will be reduced. The attractiveness and viability of public transport that serves the Leppington Centre for local trips due to the diminished need to commute out of the area to gain access to services and employment will also be enhanced.
Grow patronage on public transport by making it a more attractive choice		
Improve customer experience with transport services		
Improve road safety		
Keep people healthy and out of hospital	Yes	Rezoning of the site provides greater opportunities for active, healthy lifestyles by the promotion of healthy planning principles in urban design.
Provide world class clinical services with timely access and effective infrastructure	n/a	
Better protect the most vulnerable members of our		

EMERALD HILLS PLANNING PROPOSAL

Strategy and Goal	Contribution to Achievement	Comment
community and break the cycle of disadvantage		
Increase opportunities for people with a disability by providing supports that meet their individual needs and realise their potential	n/a	
Improve education and learning outcomes for all students		No impact.
Prevent and reduce the level of crime	Yes	Contemporary urban design will incorporate 'Crime Prevention Through Environmental Design' (CPTED) design principles offering improved performance in reducing the propensity for crime.
Prevent and reduce the level of re-offending		
Improve community confidence in the justice system		No impact.
Renovate infrastructure		
Invest in critical infrastructure	Yes	Development undertaken in response to the rezoning in this planning proposal will: Result in more efficient use of existing infrastructure; and Justify and support Government investment in road and public transport infrastructure, and other costs to investments to support planned urban growth in the Camden LGA and South West Growth Centre.
Build liveable centres	Yes	Increased patronage in the catchment of the Leppington Town Centre will encourage a wide range of conveniently accessible, locally based services, reducing travel times, enhancing personal and household quality of life and improving the functionality and attractiveness of urban areas.
Secure potable water supplies	Yes	Contemporary development will incorporate water saving and other 'green building' measures.
Strengthen our Local Environment and Communities		
Protect our natural environment	Yes	Contemporary urban design will incorporate measures that seek to protect areas with

ORD03

Attachment 1

EMERALD HILLS PLANNING PROPOSAL

Strategy and Goal	Contribution to Achievement	Comment
		recognised environmental value.
Increase opportunities for people to look after Their own neighbourhoods and environments	Yes	Development undertaken in response to the rezoning in this planning proposal will provide greater opportunities for social interaction and community pride by providing a range of local meeting places focused on open space and local neighbourhood centre.
Make it easier for people to be involved in their communities		
Increase opportunities for seniors in NSW to fully participate in community life		
Fostering opportunity and partnership with Aboriginal people		Will not hinder achievement of goal.
Enhance cultural, creative, sporting and recreation opportunities	Yes	Development undertaken in response to the rezoning in this planning proposal will provide greater opportunities for social interaction and community pride by provision of a range of passive recreation opportunities.
Ensure NSW is ready to deal with major emergencies or natural disasters		Will not hinder achievement of goal.
Restore Accountability to Government		
Restore confidence and integrity in the planning system	Yes	The Gateway Rezoning Process is a transparent and accountable process. Emerald Hills Estate has been liaising with both Camden Council and the NSW State Government prior to the lodgement of the proposal.
Restore trust in State and Local Government as a service provider		
Improve government transparency by increasing access to Government information		
Involve the community in decision-making on Government policy, services and projects	Yes	The rezoning proposal, should it receive preliminary support by Council and the State Government will be placed on public exhibition for community comment prior to any decision being. Community comments will be considered in the assessment of the rezoning proposal.

Appendix 2: Achievement of Metropolitan Plan 2036 Strategic Directions, Objectives and Actions

Strategic Directions, Objectives and Relevant Actions	Contribution to Achievement	Comment
C: Transport for a Connected City		
Objective C2: To Build on Sydney's strengths by further integrating transport and land use planning and decision – making to support increased public transport mode share.	Yes	The density of development proposed, coupled with the proximity of the Leppington Town Centre (3.2 km from the site) will enhance the attractiveness and viability of public transport that serves the centre for local trips.
D. Housing Sydney's Population		
Objective D1: To ensure an adequate supply of land and sites for residential development.	Yes	The dwelling target for the South West Subregion is 155,000 dwellings, of which only 83,000 are identified within the South West Growth Centre. The development of the site will provide an additional well located opportunity to assist in the achievement of the target.
Objective D3: To improve housing affordability.	Yes	The proposal meets this objective by providing for the development of lands for new housing, therefore increasing supply and providing the mechanism for improved affordability by reducing the scarcity of land and proving greater competition between land and housing developers that provides greater potential to lower prices or restrain price increases.
E: Growing Sydney's Economy		
Objective E4: To provide for a broad range of local employment types in dispersed locations.		The construction sector is a major provider of jobs. Development will provide employment opportunities in the housing and construction industries in South West Sydney. The local neighbourhood centre will also provide jobs in the retail sector.
F: Balancing Land Use on the City Fringe		
Objective F1: To contain Sydney's urban footprint.	Yes	The proposal essentially represents an infill rezoning opportunity of a well serviced site adjoining lands identified for future urban development and anew rail based town centre. It will not result in any outward

ORD03

Attachment 1

EMERALD HILLS PLANNING PROPOSAL

Strategic Directions, Objectives and Relevant Actions	Contribution to Achievement	Comment
		expansion of the urban footprint.
Objective F2: To maintain and protect agricultural activities and resource lands.	Yes	The land is an unconnected pocket of rural zoned land distant from other larger rural areas. As the South West Growth Centre develops its isolation will magnify. The land has no known resource value.
G: Tackling Climate Change and Protecting Sydney's Natural Environment		
Objective G1: To reduce Sydney's greenhouse gas emissions.	Yes	Rezoning improves the viability of public transport as a convenient alternative to car use, reducing trip generation and private car's contribution to greenhouse gas production.
Objective G6: To protect Sydney's unique diversity of plants and animals.	Yes	Areas with recognised environmental value (riparian zones and Cumberland Plain Woodland areas) within the site will be protected and enhanced by the proposed appropriate application of environmental conservation zones
H: Achieving Equity, Liveability and Social Inclusion		
Objective H3: To provide healthy, safe and inclusive places based on active transport.		Rezoning of the site provides greater opportunities for active, healthy lifestyles by the promotion of greater use of public transport and walking due to an improved concentration of homes and locally based range of services.

Appendix 3: Achievement of Metropolitan Plan Sustainability Criteria

Table G2 Threshold Sustainability Criteria for Listing of Site on MDP	Measurable Explanation of Criteria	Comment
<p>1 Infrastructure Provision</p> <p>Mechanisms in place to ensure utilities, transport, open space and communication are provided in a timely and efficient way.</p>	<p>Development is consistent with any relevant residential development strategy, subregional strategy, regional infrastructure plan and Metropolitan Strategy.</p> <p>The provision of infrastructure (utilities, transport, open space, and communications) is costed and economically feasible based on Government methodology for determining infrastructure contribution.</p> <p>Preparedness to enter into development agreement.</p>	<p>The proposal will provide 1,200 dwellings and jobs in construction, services and the local centre that will support the housing and employment targets of the Sydney Metropolitan Strategy.</p> <p>It will also promote intensification around centres, by locating a new community close to the Leppington Town Centre and Railway Station, thus integrating land use and transport generally.</p> <p>Only minor augmentation of existing infrastructure services will be required, which will be cost effective and economically feasible.</p> <p>The Proponent is prepared to enter into a Voluntary Planning Agreement to deliver agreed public benefits and works.</p>
<p>2 Access</p> <p>Accessible transport options for efficient and sustainable travel between homes, jobs, services and recreation to be existing or provide.</p>	<ul style="list-style-type: none"> • Accessibility of the area by public transport and appropriate road access in terms of: <ul style="list-style-type: none"> Location/land use; to existing networks and related activity centres. Network: the areas potential to be serviced by economically efficient public transport services. Catchment: the area's ability to contain, or form part of the larger urban area which contains adequate transport services. Capacity for land use/transport patterns to make a positive contribution to achievement of travel and vehicle use goals. 	<p>The development site is located 3.2 kilometres from the new Leppington Railway Station, which will offer regular services to Parramatta and Central Sydney.</p> <p>Bus services will be re-oriented towards the public transport interchange adjacent to the station when it commences operation in 2016 enabling bus access to surrounding suburbs and centres.</p> <p>Comprehensive pedestrian access is provided across the site to link homes with the local centre, bus routes on roads adjoining the site (as well as any that may be located within the site) and the Leppington and Narellan town centres.</p> <p>The location of the site adjacent to public transport services will support the viability of such services.</p> <p>Development within the site will contribute to the new centre at Leppington, thereby supporting</p>

Table G2 Threshold Sustainability Criteria for Listing of Site on MDP	Measurable Explanation of Criteria	Comment
	<ul style="list-style-type: none"> No net negative impact on performance of existing subregional road, bus, rail, ferry and freight network. 	the viability of public transport services within that centre.
<p>3 Housing Diversity</p> <p>Provide a range of housing choices to ensure a broad population can be housed.</p>	<ul style="list-style-type: none"> Contributes to the geographic market spread of housing supply, including any government targets established for aged, disabled or affordable housing. 	<p>As noted above, the proposal will contribute towards the achievement of Sydney Metropolitan housing targets,</p> <p>Increase the variety of housing types available in the Camden LGA and South West Sydney generally and facilitate the increase the supply of affordable housing.</p>
<p>4 Employment Lands</p> <p>Provide regional/local employment opportunities to support Sydney's role in the global economy.</p>	<ul style="list-style-type: none"> Maintain or improve the existing level of subregional employment self-containment. Meets subregional employment capacity targets: <p>Employment related land is provided in appropriately zoned areas.</p>	As noted above, the proposal will provide 1,200 dwellings and an 8 hectare local centre. Activity will provide associated jobs in construction, services and the local centre that will support the employment targets of the Sydney Metropolitan Strategy.
<p>5 Avoidance of Risk</p> <p>Land use conflicts, and risk to human health and life, avoided.</p>	<p>Available safe evacuation route (Flood and Bushfire).</p> <p>No residential development within 1:100 floodplain.</p> <p>Avoidance of physically constrained land: high slope; highly erodible.</p> <p>Avoidance of land use conflicts with adjacent, existing or future land use and rural activities as planned under regional strategy.</p>	<p>Land on the majority of the site is not bushfire prone and the connected pattern of roads advocated in the urban design concept will offer choice and safety in evacuation routes.</p> <p>A small part of the site in the South West corner where the creek meets Camden Valley Way is understood to be subject to minor flooding.</p> <p>The proposal will not cause significant flood impacts on other properties.</p> <p>The urban design vision does not advocate development on land that is constrained by slope.</p> <p>Residential uses along Camden Valley Way and Raby Road will incorporate building layouts and construction details to enable sufficient mitigation for noise impacts on the site and that the relevant noise criteria can be achieved.</p>

Table G2 Threshold Sustainability Criteria for Listing of Site on MDP	Measurable Explanation of Criteria	Comment
		Any noise walls required along roads will be designed and obscured by landscape treatment to minimise visual impact.
6 Natural Resources Natural resource limits not exceeded/ environmental footprint minimised.	Demand for water does not place unacceptable pressure on infrastructure capacity to supply water and on environmental flows. Demonstrates most efficient/suitable use of land. Avoids identified significant agricultural land. Avoids impacts on productive resource lands; extractive industries, coal, gas and other mining, and quarrying. Demand for energy does not place unacceptable pressure on infrastructure capacity to supply energy; requires demonstration of efficient and sustainable supply solution.	Preliminary investigations provided by Lean Lackenby and Heyward consultants confirm that the site can be viably serviced as: Potable water is available on all road frontages of the site and a water main currently passes through the site linking the reservoir at the Ingleburn Dam with the elevated water reservoir in Catherine Field; There are a number of scenario options to available to provide a sewerage service to the site. A feasible scenario comprises draining the site into the south west corner from where it is transported by rising main along Raby Road to connect with Sydney Water's trunk main at Kearns; and The presence of the transmission lines enable a cost effective connection to. A zone substation will be required within proximity of, or possibly within, the site. Dwellings on the site will be constructed in accordance with BASIX requirements for the reduction of the consumption of energy and water. The proposal involves the development of presently underutilised land for the provision of housing and retail space. The site is suitable for development being close to existing community services and public transport. The site adjoins future urban land and will not be impacted by agricultural activity; An efficient use of land will be affected through the provision of medium density residential development on the site. Development will not result in adverse impacts to agricultural land or natural resources.
7 Environmental	Consistent with Government approved Regional	Areas of Cumberland Plain Woodland (CPW) on the site are consistent with the listing of CPW as

Table G2 Threshold Sustainability Criteria for Listing of Site on MDP	Measurable Explanation of Criteria	Comment
<p>Protection</p> <p>Protect and enhance biodiversity, air quality, heritage, and waterway health.</p>	<p>Conservation Plan (if available).</p> <p>Maintains or improves areas of regionally significant terrestrial and aquatic biodiversity (as mapped and agreed by DEC and DPI). This includes regionally significant vegetation communities; critical habitat; threatened species; populations; ecological communities and their habitats.</p> <p>Maintain or improve existing environmental condition for air quality.</p> <p>Maintain or improve existing environmental condition for water quality and quantity.</p> <p>Consistent with community water quality objectives for recreational water use and river health (DEC and CMA).</p> <p>Consistent with catchment and stormwater management planning (CMA and local council).</p> <p>Protects areas of Aboriginal cultural heritage value (as agreed by DEC).</p>	<p>a Critically Endangered Ecological Community under the NSW Threatened Species Conservation Act 1995). The most intact areas will be retained on the site.</p> <p>Targeted planting of appropriate species will be undertaken so as to improve their ecological condition.</p> <p>The proposal will comply with any relevant statutory requirements for water quality.</p>
<p>8 Quality and Equity in Services Quality health, education, legal, recreational, cultural and community development and other government services are</p>	<ul style="list-style-type: none"> • Available and accessible services. <ul style="list-style-type: none"> > Do adequate services exist? > Are they at capacity or is some available? > Has Government planned and budgeted to further service provision? 	<ul style="list-style-type: none"> • <i>The site can be serviced with electricity, gas, water, telecommunications and electricity, subject to further consultation with utilities providers and any required upgrades.</i>

Table G2 Threshold Sustainability Criteria for Listing of Site on MDP	Measurable Explanation of Criteria	Comment
accessible.	<ul style="list-style-type: none"> Developer funding for required service upgrade/access is available. 	

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EMERALD HILLS PLANNING PROPOSAL

Appendix D: Emerald Hills Planning Report

Note: Due to the size of the Emerald Hills Planning Report, it is provided as a separate document. Please refer to Attachment 3 to Council Report ORD03 of the meeting of 22 October 2013

Attachment 1

Appendix E: Existing and Proposed LEP Amendment Maps

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Attachment 1

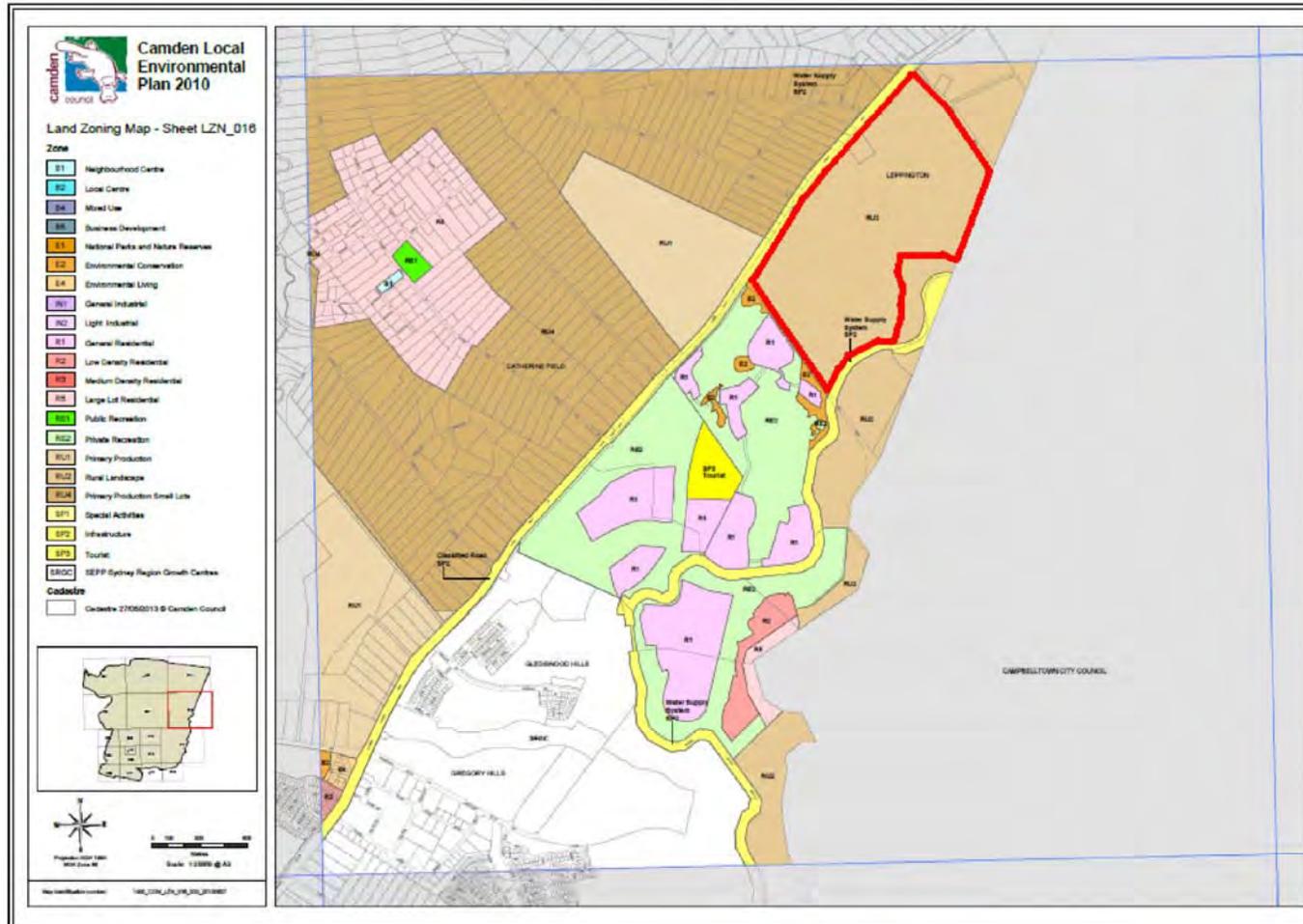
APPENDIX E to EMERALD HILLS PLANNING PROPOSAL

The maps contained in this appendix are the existing Camden LEP 2010 Maps applying to the Emerald Hills site (map tile no. ***_016) and proposed amendments to each map as it relates to the Emerald Hills site.

The maps are ordered as follows:

- 1A Existing Land Zoning Map LZN_016
- 1B Proposed amendment to LZN_016 as it relates to the Emerald Hills site
- 2A Existing Lot Size Map LSZ_016
- 2B Proposed amendment to LSZ_016 as it relates to the Emerald Hills site
- 3A Existing Height of Buildings Map HOB_016
- 3B Proposed amendment to HOB_016 as it relates to the Emerald Hills site*
- 4A Existing Urban Release Area Map URA_016
- 4B Proposed amendment to URA_016 as it relates to the Emerald Hills site
- 5A Proposed detail on new Land Reservation Acquisition MAP LRA_016 to be created by planning proposal (there is no existing LRA_016 map)

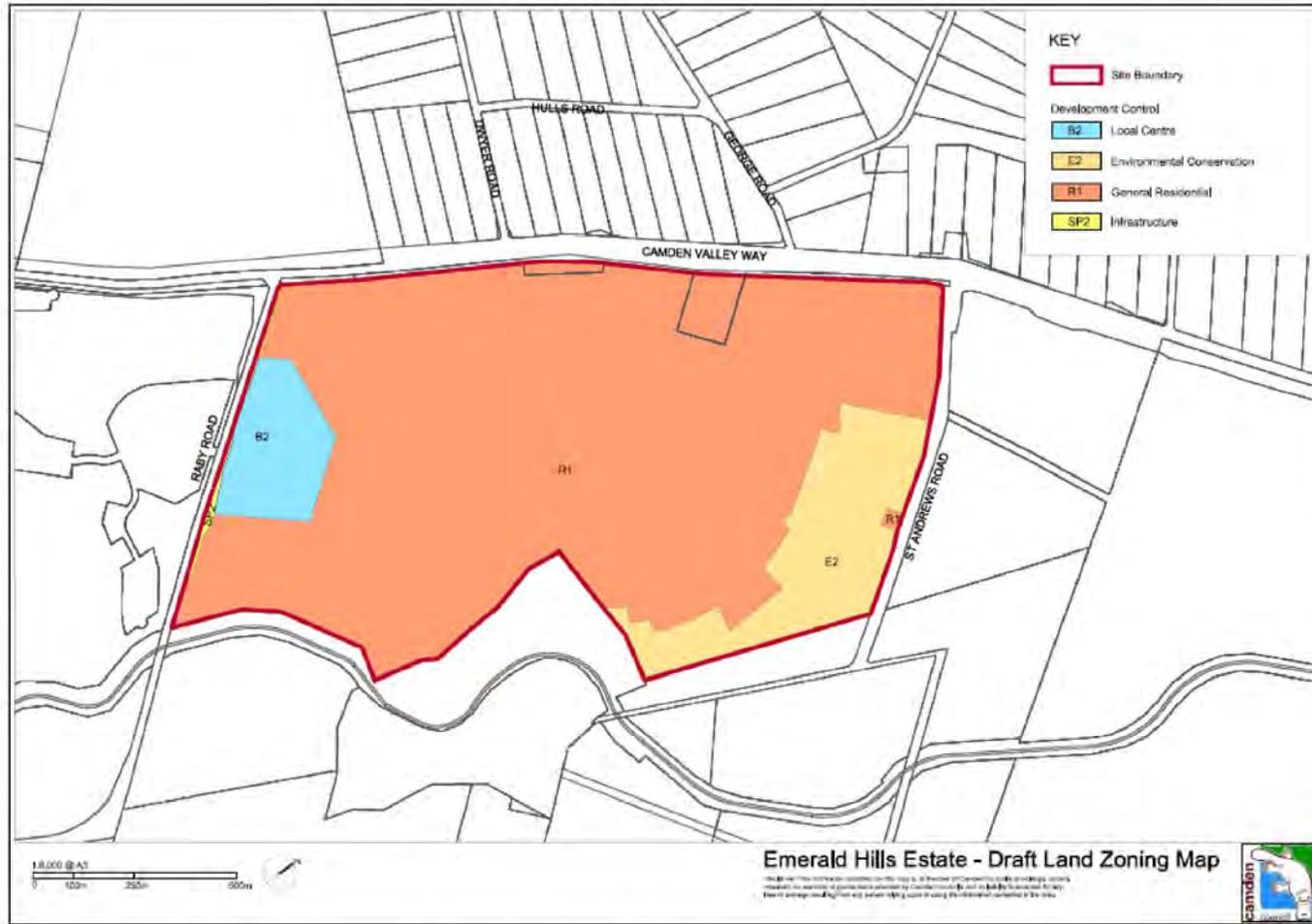
*It is noted that a maximum building height for residential flat buildings of 15.5m to land within the proposed R1 General residential zone is an intended outcome of this planning proposal. This is noted within the planning proposal itself, and within the legend of the proposed amendment to HOB_016 map. Subject to the recommendation of the DP&I, this control may be either included on the amended HOB_016 map, or within a clause in the Camden LEP 2010.



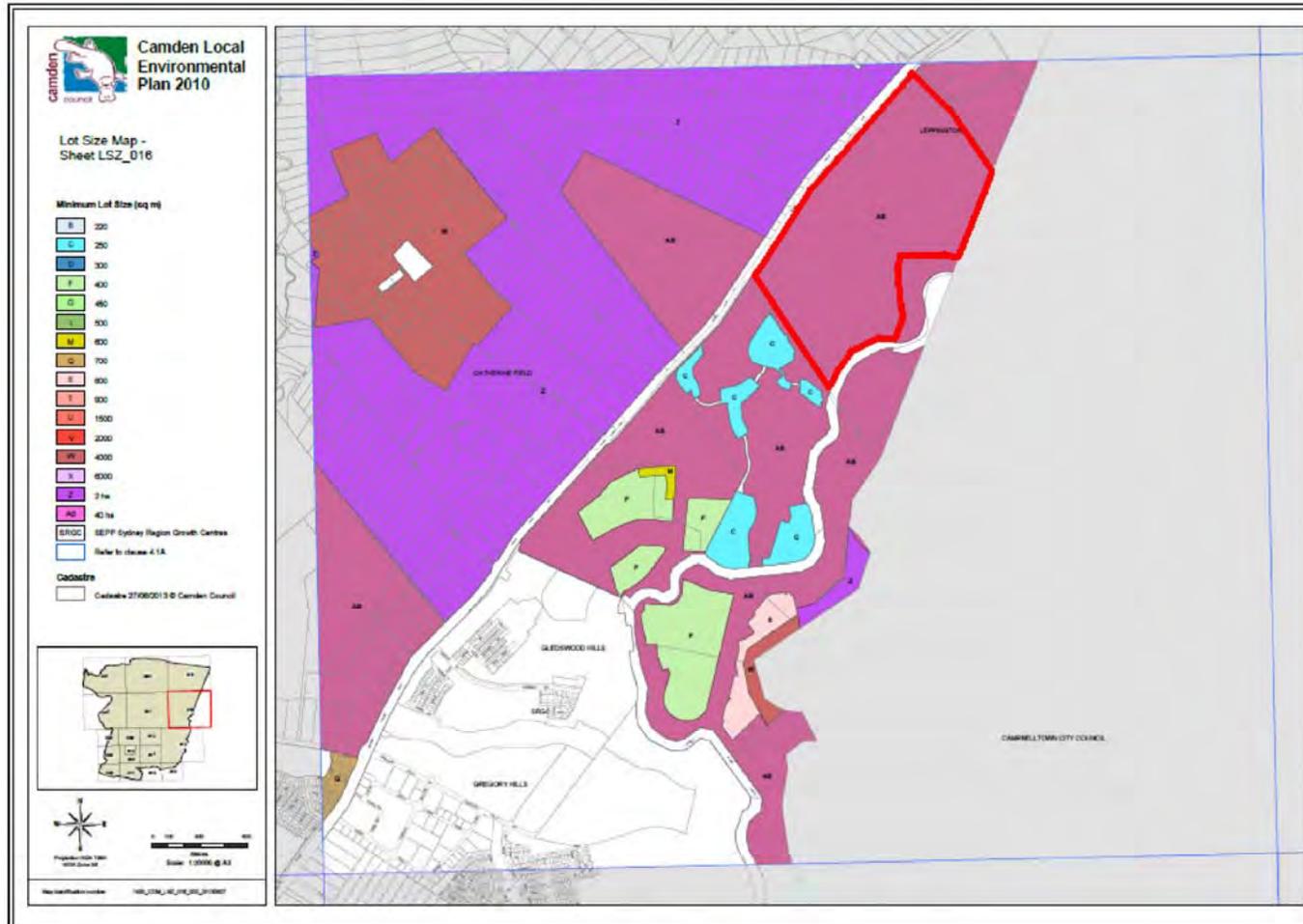
1A Existing Land Zoning Map LZN_016

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Attachment 1



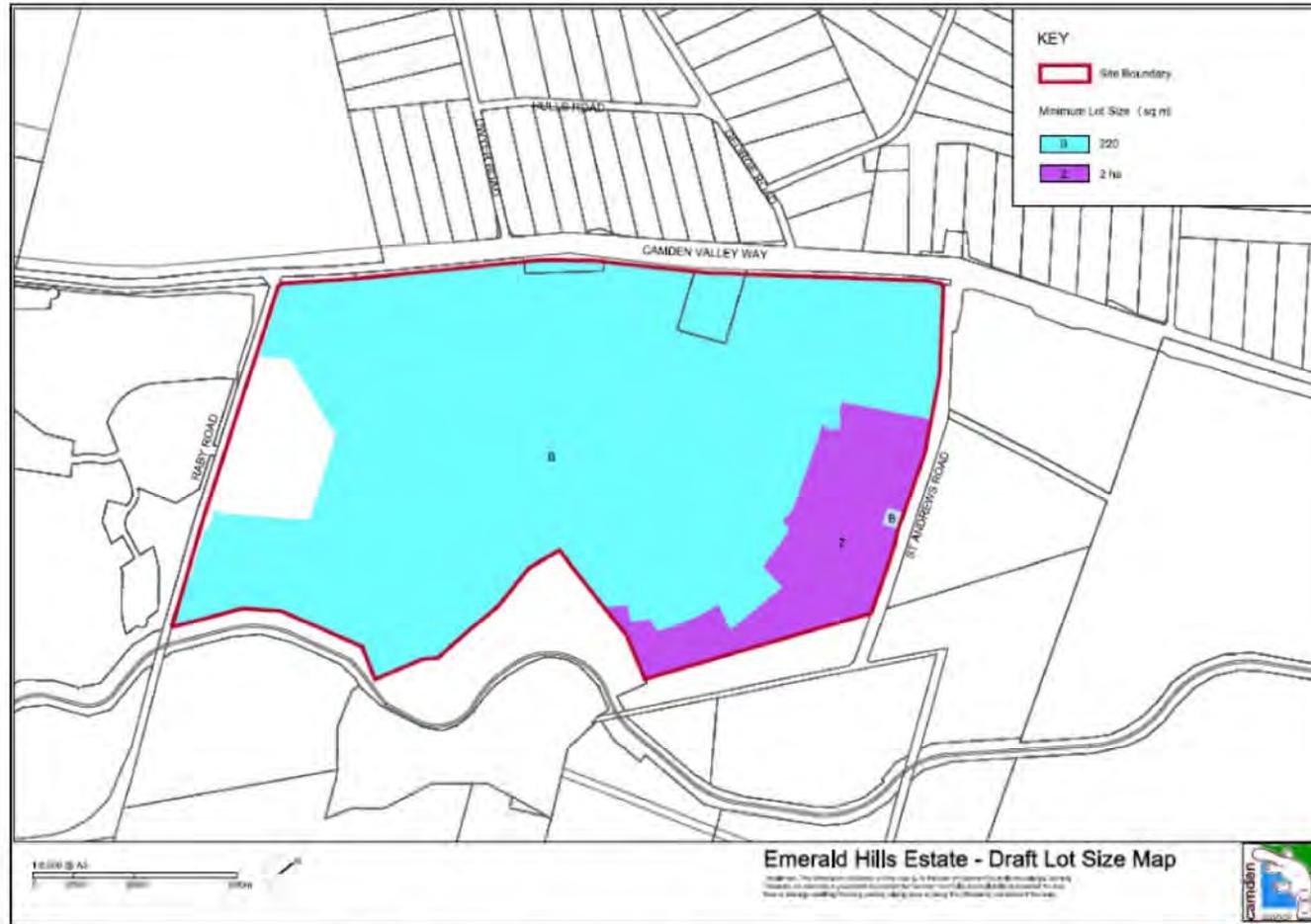
1B Proposed amendment to LZN_016 as it relates to the Emerald Hills site



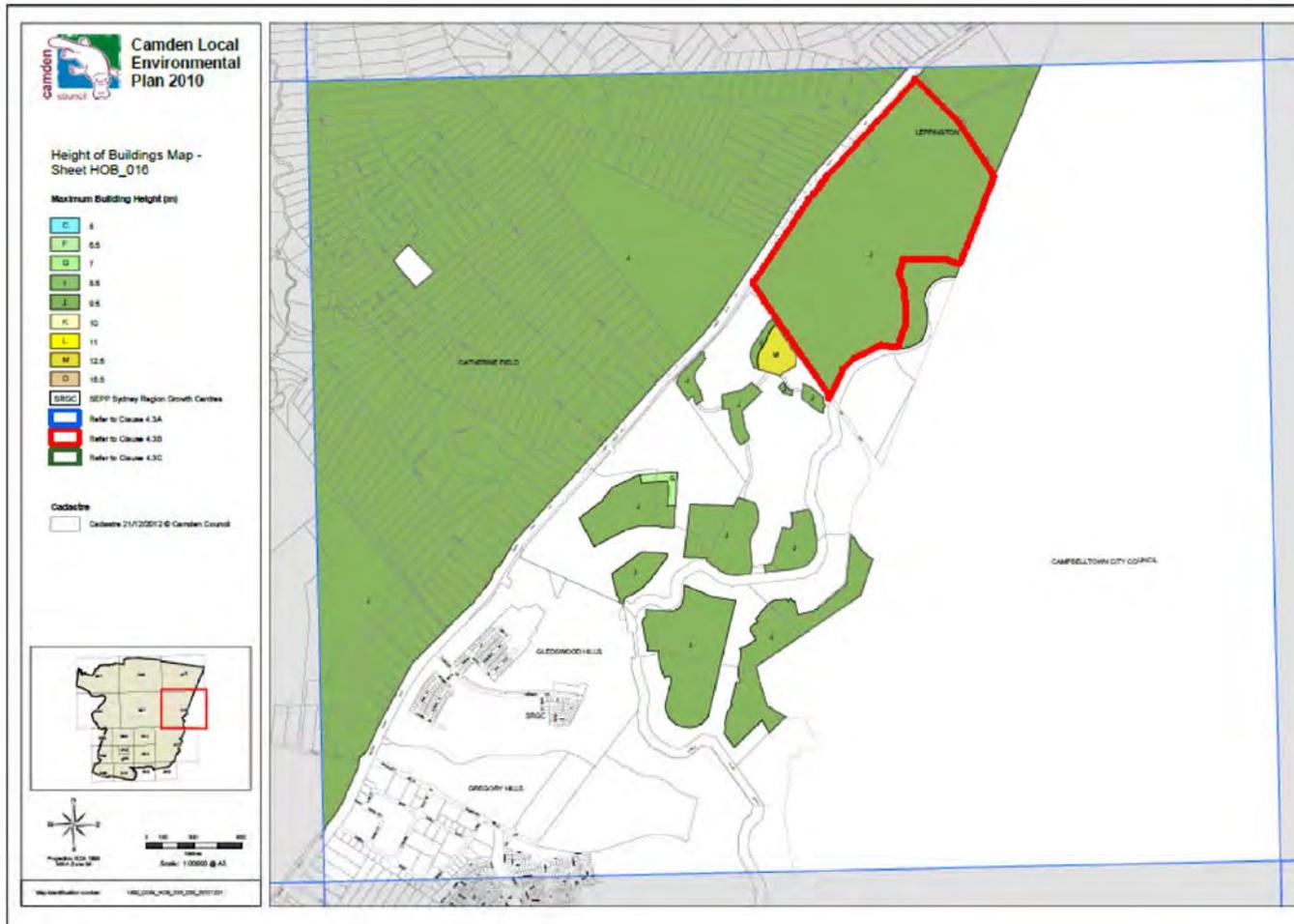
2A Existing Lot Size Map LSZ_016

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Attachment 1



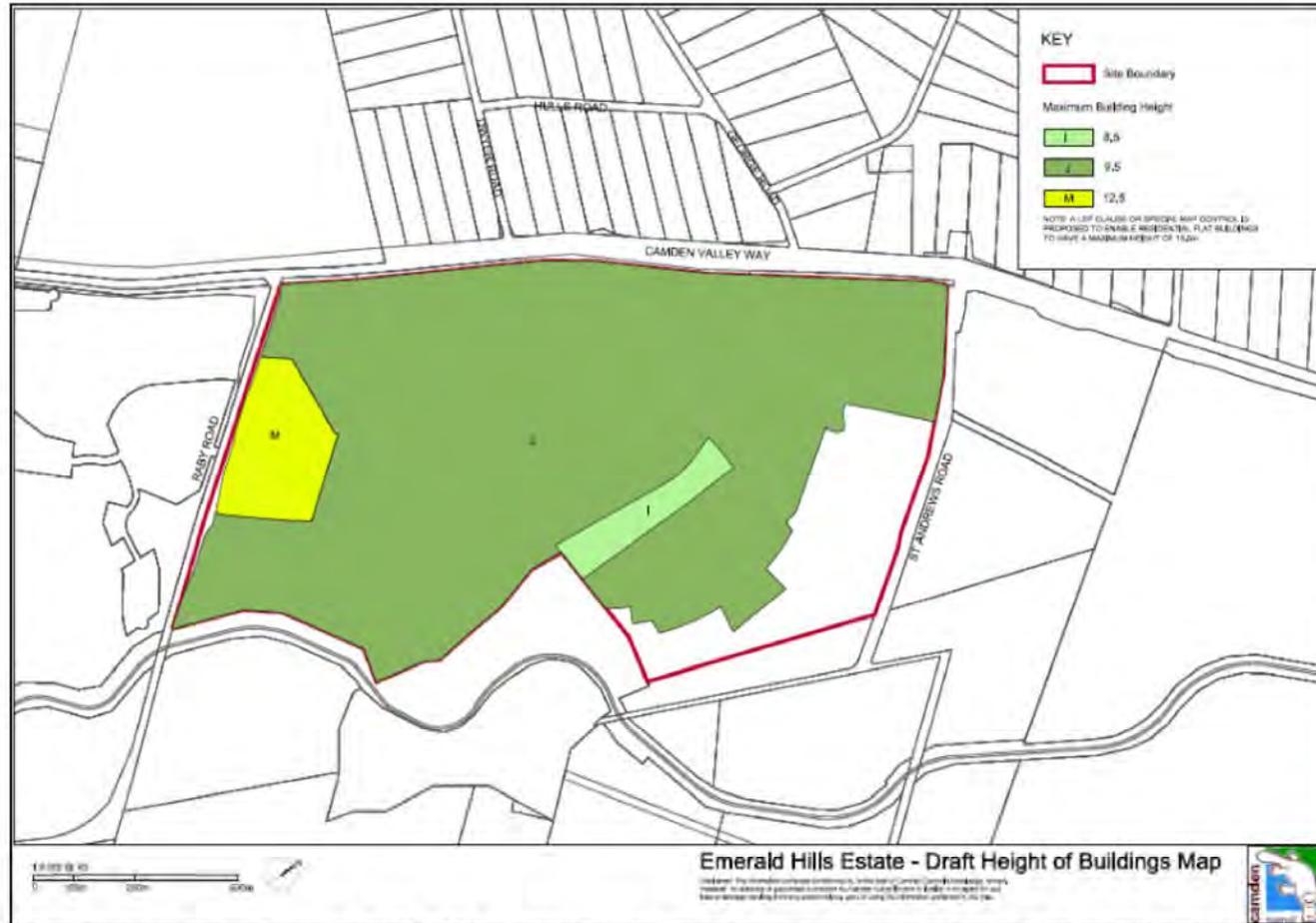
2B Proposed amendment to LSZ_016 as it relates to the Emerald Hills site (NOTE: light blue colour used to provide contrast against white background. For the avoidance of doubt, the proposed Lot Size shown in blue is B – 220)



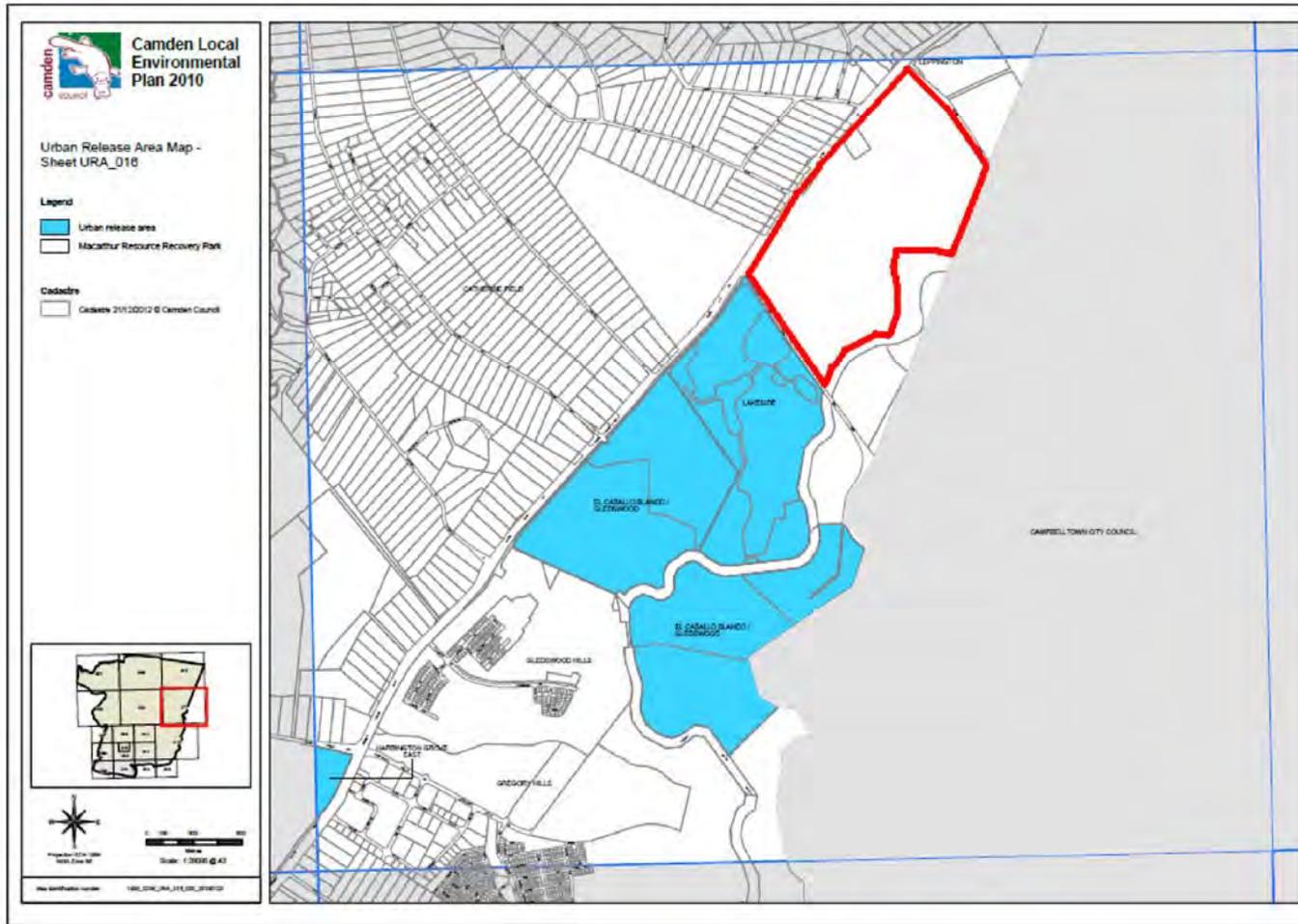
3A Existing Height of Buildings Map HOB_016

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Attachment 1



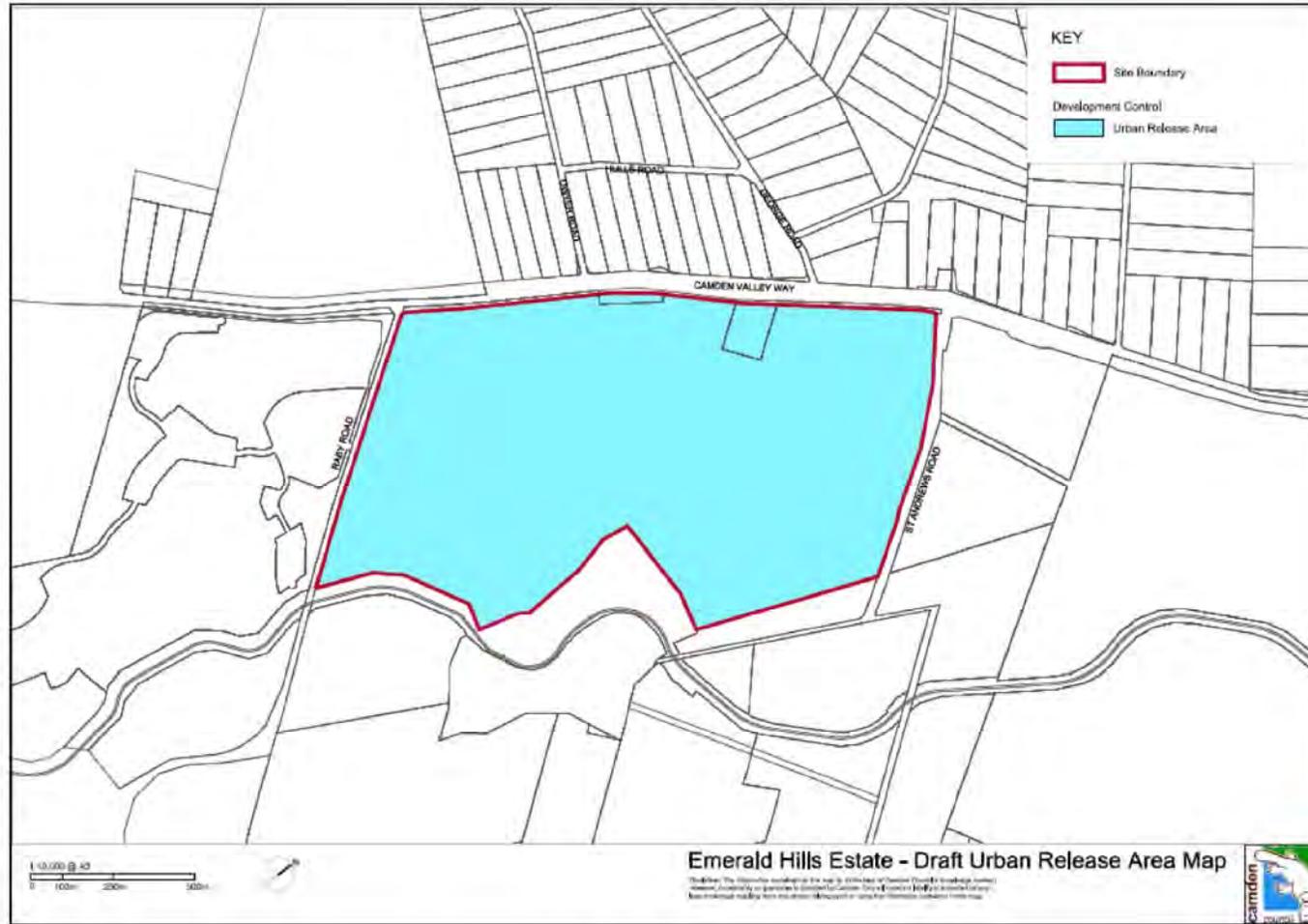
3B Proposed amendment to HOB_016 as it relates to the Emerald Hills site (refer to Appendix 5 cover sheet for notation regarding proposed 15.5m height limit for residential flat buildings)



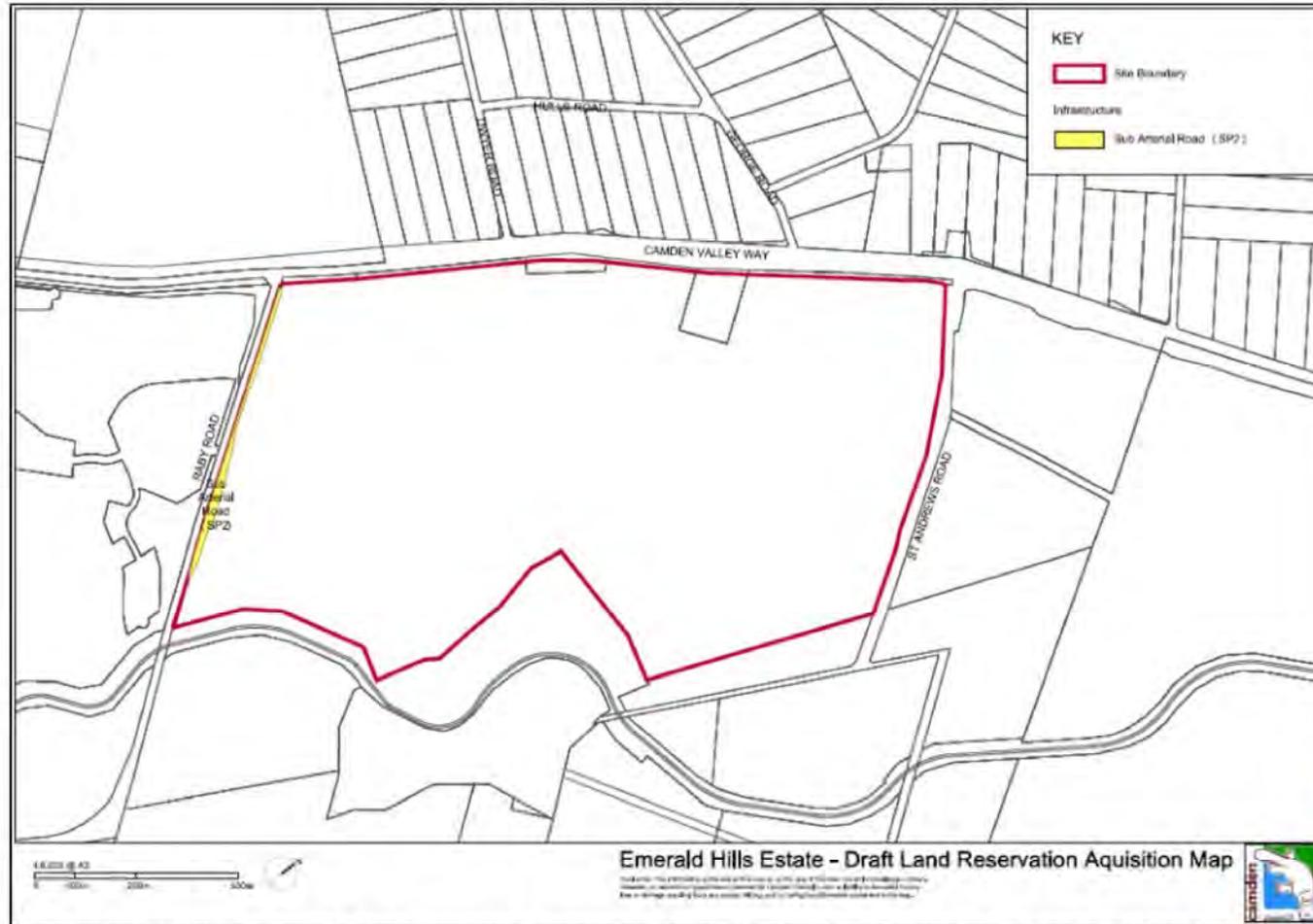
4A Existing Urban Release Area Map URA_016

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Attachment 1



4B Proposed amendment to URA_016 as it relates to the Emerald Hills site



5A Proposed detail on new Land Reservation Acquisition MAP LRA_016 to be created by planning proposal (there is no existing LRA_016 map)

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Attachment 1

Appendix F: Copy of Gateway Determination issued 7 July 2012



Contact: Peter Goth
 Phone: (02) 9873 8593
 Fax: (02) 9873 8599
 Email: Peter.Goth@planning.nsw.gov.au
 Postal: Locked Bag 5020, Parramatta NSW 2124

Mr Greg Wright
 General Manager
 Camden Council
 PO Box 183
 CAMDEN NSW 2570

Our ref: PP_2012_CAMDE_006_00 (12/04280)
 Your ref: DX25807

Dear Mr Wright,

Planning Proposal to rezone rural land at 'Emerald Hills', Leppington, for urban development.

I am writing in response to your Council's letter dated 29 February 2012 requesting a Gateway Determination under section 56 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") in respect of the planning proposal to amend the Camden Local Environmental Plan 2010 to rezone rural land at 'Emerald Hills', Leppington, for urban development.

As delegate of the Minister for Planning and Infrastructure, I have now determined that the planning proposal should proceed subject to the conditions in the attached Gateway Determination.

The following amendments are to be made to the planning proposal, prior to public exhibition to clarify the subject land to which the planning proposal applies:

- the maps and property description for the subject land is to be clarified (i.e. the whole or part of lots 1 DP 301830 and 2 DP 650698) and the proposal amended to rectify any errors; and
- the maps and property description for the subject land be revised to ensure that land within Campbelltown Local Government Area is not included within the proposed rezoning and amendment to the Camden LEP 2010.

In accordance with the requirements of S117 Direction 1.1 Business and Industrial Zones, S117 Direction 3.4 Integrating land Use and 6.3 Site Specific Provisions, Council is to ensure that sufficient information is placed on public exhibition to show how the planning proposal responds to and justifies:

- applying the B1 Neighbourhood Business Zone given the proposed 10,000m² maximum floor space area for retail uses; and
- the potential cumulative impact of traffic and transport associated with the development of the site on the surrounding road network.

The additional information for public exhibition must address the requirements of the above listed S117 Directions. Further, it must have regard to the existing and planned centres (local and major) in the vicinity of the site located within the South-West Growth Centre. The information must also consider and respond to the findings from the East Leppington Precinct Centres Viability Study. Where necessary, the planning proposal is to be amended to reflect this analysis prior to exhibition.

In light of comments received by the Department from the Heritage Branch of the Office of Environment and Heritage regarding the Sydney Water Supply Upper Canal, (which adjoins the site and is listed on the State Heritage Register), the following must be addressed prior to exhibition commencing:

- information relating to flora and fauna investigations showing:
 - any potential affects on adjoining land; and
 - an assessment of the quality of vegetation and the method of protecting the Cumberland Plain Woodland (CPW) to ensure the ongoing protection and management of the CPW.

The planning proposal is to be amended to reflect the desired approach, if appropriate.
- consultation with the following agencies:
 - the Director General of the Office of Environment and Heritage under Section 34A of the Environmental Planning and Assessment Act 1979;
 - the Federal Department of Sustainability, Environment, Water, Population and Communities in relation to the CPW; and
 - the Office of Water (in relation to the riparian areas and provide details on the proposed E4 Environmental Living zone; and
- in accordance with the requirements of S117 Direction 2.1 Environment Protection zones, Council is to amend the planning proposal to reflect the outcomes of the Flora and Fauna Study and public authority consultation, and address the consistency of the revised planning proposal with the Local Planning Direction.

In accordance with S117 Direction 2.3 Heritage Conservation, Council is to provide a suitable assessment of the heritage significance of the former school buildings and the CPW located on and adjacent to the site. Council is to consult with the Office of Environment and Heritage and incorporate any comments into the planning proposal, demonstrating consistency with the S117 Direction.

As has been noted the subject site adjoins the South-West Growth Centre on the eastern side of Camden Valley Way and is therefore likely to generate a need for the provision of state public infrastructure. Accordingly, the subject land is to be mapped as an urban release area under Camden LEP 2010 for the purposes of including satisfactory arrangements for the provision of infrastructure.

Council is required to produce an Infrastructure Servicing and Delivery Plan for the site to assist in determining any additional infrastructure requirements or levies. The plan should confirm the delivery, timing, location and funding of infrastructure. In preparing this plan, Council is to consult with the following public agencies:

- Department of Education and Communities
- Office of Environment and Heritage
- Fire and Rescue NSW
- NSW Police Force
- NSW Rural Fire Service
- Transport for NSW – RailCorp
- Transport for NSW - Roads and Maritime Services
- Sydney Water
- Telstra
- Transgrid
- Adjoining LGAs

The Servicing and Delivery Plan is to accompany the planning proposal for the purposes of public exhibition. In addition, Council is to map the subject land as an urban release area under Camden LEP 2010 for the purposes of including satisfactory arrangements for the provision of infrastructure. Council is to amend the planning proposal accordingly prior to the commencement of public exhibition.

It has been noted that Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No. 2 – 1997) applies to the proposal and, among other things, requires Council to give consideration to the need for a Total Water Cycle Management Study or Plan. Council is to demonstrate how these requirements have been considered as part of the public exhibition material.

In accordance with the requirements of S117 Direction 4.3 Flood Prone Land, Council must undertake a flood assessment for the site, along with a stormwater and drainage assessment. The planning proposal is to be amended to reflect any findings from both of these studies, if necessary, prior to public exhibition.

Council is to consult with the Commissioner of the NSW Rural Fire Service prior to undertaking community consultation and take into account any comments made as per the requirements of S117 Direction 4.4 Planning for Bushfire Protection.

I have also agreed that the planning proposal's inconsistencies with S117 Directions 1.2 Rural Zones, 6.2 Reserving Land for Public Purposes and 7.1 Implementation of the Metropolitan Plan for Sydney 2036 are of minor significance. No further approval is required in relation to these Directions.

The amending Local Environmental Plan (LEP) is to be finalised within 24 months of the week following the date of the Gateway Determination. Council should aim to commence the exhibition of the Planning Proposal as soon as possible following consultation with the relevant agencies and providers. Council's request for the Department to draft and finalise the LEP should be made six (6) weeks prior to the projected publication date.

The State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under s54(2)(d) of the EP&A Act if the time frames outlined in this determination are not met.

Should you have any queries in regard to this matter, please contact Peter Goth of the Regional Office of the Department on 02 9873 8593.

Yours sincerely,


POJ
Sam Haddad 8-7-12
Director-General



Gateway Determination

Planning Proposal (Department Ref: PP_2012_CAMDE_006_00): to rezone rural land at 'Emerald Hills', Leppington, for urban development.

I, the Director General, Department of Planning and Infrastructure as delegate of the Minister for Planning and Infrastructure, have determined under section 56(2) of the EP&A Act that an amendment to the Camden Local Environmental Plan 2010 to rezone rural land at 'Emerald Hills', Leppington, for urban development should proceed subject to the following conditions:

1. The following amendments are to be made to the planning proposal, prior to public exhibition to clarify the subject land to which the planning proposal applies:
 - the maps and property description for the subject land is to be clarified (i.e. the whole or part of lots 1 DP 301830 and 2 DP 650698). The proposal is to be amended to rectify any errors;
 - the maps and property description for the subject land be revised to ensure that land within Campbelltown Local Government Area is not included within the proposed rezoning and amendment to Camden LEP 2010;
2. In accordance with the requirements of S117 Direction 1.1 Business and Industrial Zones, 3.4 Integrating land Use and Transport and 6.3 Site Specific Provisions, Council is to ensure that sufficient information is placed on public exhibition to show how the planning proposal responds to and justifies:
 - applying the B1 Neighbourhood Business Zone given the proposed 10,00m² maximum floor space area for retail uses; and
 - the potential cumulative impact of traffic and transport associated with the development of the site on the surrounding road network.

The additional information needs to address the requirements of the above listed S117 Directions. Further, it needs to have regard to the existing and planned centres (local and major) in the vicinity of the site located within the South-West Growth Centre. The information needs to also consider and respond to the findings from the East Leppington Precinct Centres Viability Study. Where necessary, the planning proposal is to be amended to reflect this analysis prior to exhibition.
3. In regards to the proximity of the subject land to the adjoining Sydney Water Supply Upper Canal, Council is to address the following prior to exhibition commencing:
 - information relating to flora and fauna investigations showing:
 - any potential affects on adjoining land; and
 - an assessment of the quality of vegetation and the method of protecting the Cumberland Plain Woodland.

The planning proposal is to be amended to reflect the agreed approach; and
 - consultation with the public agencies identified under Condition 13.
4. In accordance with the requirements of S117 Direction 2.1 Environment Protection Zones, Council is to amend the planning proposal to reflect the outcomes of the flora and fauna investigations and public authority consultation and address the consistency of the revised planning proposal with the Local Planning Direction.



Planning & Infrastructure

5. As per the requirements of S117 Direction 2.3 Heritage Conservation, Council is to provide a suitable assessment of the heritage significance of the former school buildings on the subject land. Council is to consult with the Office of Environment and Heritage. Any required changes to the planning proposal are to be carried out prior to public exhibition.
6. Prior to public exhibition, Council is to map the subject land as an urban release area under Camden LEP 2010 for the purposes of including satisfactory arrangements for the provision of infrastructure.
7. Council is to produce an Infrastructure Servicing and Delivery Plan for the site to assist in determining any additional infrastructure requirements or levies.
8. Upon completion of the Infrastructure Servicing and Delivery Plan for the subject site, consistency with S117 Direction 3.1 Residential Zones needs to be demonstrated and the planning proposal amended accordingly, if appropriate.
9. As per the requirements of S117 Direction 4.3 Flood Prone Land, Council needs to undertake a flood assessment for the site, along with a stormwater and drainage assessment. The planning proposal is to be amended to reflect any findings from both of these assessments, prior to public exhibition, if appropriate.
10. In accordance with the requirements of S117 Direction 4.4 Planning for Bushfire Protection, Council is to consult with the Commissioner of the NSW Rural Fire Service prior to undertaking community consultation and take into account any comments made.
11. Council is to address the requirements of the Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No. 2 – 1997).
12. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
 - (a) the planning proposal must be made publicly available for **28 days**; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 4.5 of *A Guide to Preparing LEPs (Department of Planning 2009)*.
13. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:
 - Department of Education and Communities
 - Office of Environment and Heritage
 - Fire and Rescue NSW
 - NSW Police Force
 - NSW Rural Fire Service
 - Transport for NSW – RailCorp
 - Transport for NSW - Roads and Maritime Services
 - Sydney Water
 - Telstra
 - Transgrid
 - Adjoining LGAs

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material. Each public authority is to be given at least 21 days to

Camden PP_2012_CAMDE_006_00 (12/04280)

ORD03

**Planning &
Infrastructure**

comment on the proposal, or to indicate that they will require additional time to comment on the proposal. Public authorities may request additional information or additional matters to be addressed in the planning proposal.

14. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
15. The timeframe for completing the LEP is to be **24 months** from the week following the date of the Gateway determination.

Dated 7th day of July 2012.

A handwritten signature in black ink that reads 'SHaddad'.

Sam Haddad
Director-General
Delegate of the Minister for Planning and
Infrastructure

Attachment 1



Draft Amendments to Camden Development Control Plan 2011 Emerald Hills Rezoning

This document outlines the draft amendments to Camden Development Control Plan 2011 (the DCP) in relation to the Emerald Hills planning proposal.

The draft amendments contained within this document will be inserted into the relevant sections or chapters of the DCP.

Throughout this document are headings which are ***ITALICISED AND HIGHLIGHTED IN GREY***. These headings explain which section of the DCP is to be amended by inserting the text, tables and figures below.

Please refer to Council's website at www.camden.nsw.gov.au or the Customer Service Counters at the Camden and Narellan offices to view a complete version of the current DCP.

Amend Part C Table of Contents as follows:

In Part C Residential Subdivision add:

C12 EMERALD HILLS

C12.1 INTRODUCTION 8

C12.2 SUBDIVISION DESIGN 11

C12.3 STREET, PEDESTRIAN AND CYCLE NETWORK 12

C12.4 BULK EARTHWORKS AND RETAINING WALLS..... 16

C12.5 OPEN SPACE, PUBLIC DOMAIN AND FENCING..... 17

C12.6 VEGETATION CONSERVATION 19

C12.7 SCHOOL AND COMMUNITIES FACILITIES PRECINCT 21

C12.8 ACOUSTIC AMENITY..... 22

C12.9 STORMWATER MANAGEMENT 23

C12.10 BUSHFIRE RISK MANAGEMENT 23

C12.11 LARGE LOT RESIDENTIAL AREA 25

C12.12 STAGES 7 AND 8 RESIDENTIAL AREA 25

C12.13 ABORIGINAL AND EUROPEAN HERITAGE..... 27

Amend Part C – Figures by adding:

- Figure C68 Emerald Hills Indicative Master Plan
- Figure C69 Emerald Hills Road Hierarchy and Bus Route
- Figure C70 Emerald Hills Pedestrian and Cycle Paths
- Figure C71 Emerald Hills Typical Access Street
- Figure C72 Emerald Hills Typical Local Road
- Figure C73 Emerald Hills Typical Collector Road
- Figure C74 Emerald Hills Typical Collector Road with Median
- Figure C75 Emerald Hills Typical Collector Road with Median and Bus Set down
- Figure C76 Emerald Hills Typical Entry / Exit Collector Road
- Figure C77 Local Open Space
- Figure C78 School and Communities Facilities Precinct
- Figure C79 Indicative Noise Attenuation Measures
- Figure C80 Indicative Bushfire Asset Protection Zones

Amend Part D Table of Contents as follows:

In Part D2.3 Site Specific Controls for Residential Accommodation add:

D2.3.10 EMERALD HILLS 28

Amend Part D – Tables by adding:

Table D17A Summary of residential accommodation controls - Emerald Hills

Amend Part D Table of Contents as follows:

In Part D3 Commercial and Retail Development add:

D3.10 EMERALD HILLS – B2 LOCAL CENTRE 29

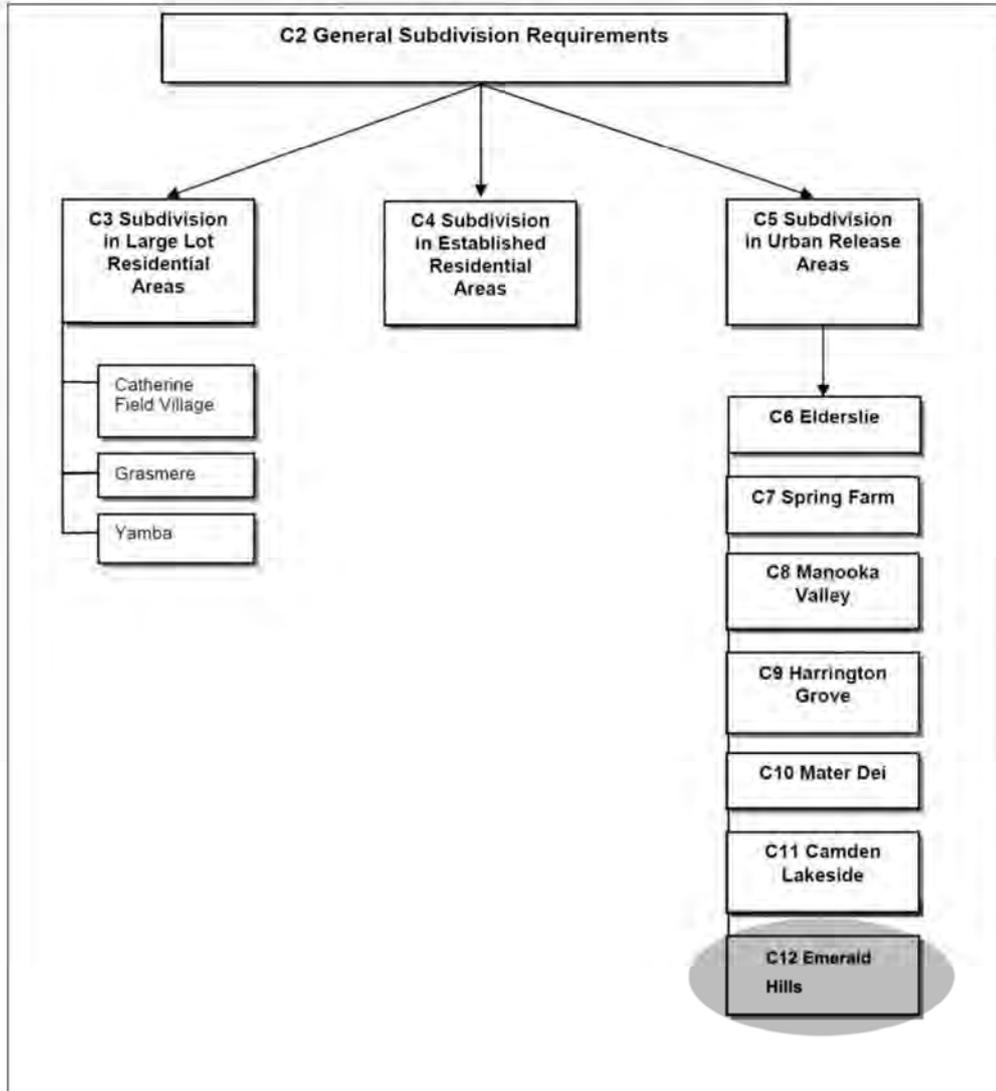
Amend Part D – Figures by adding:

Figure D59 Site Planning Principles for Emerald Hills Centre

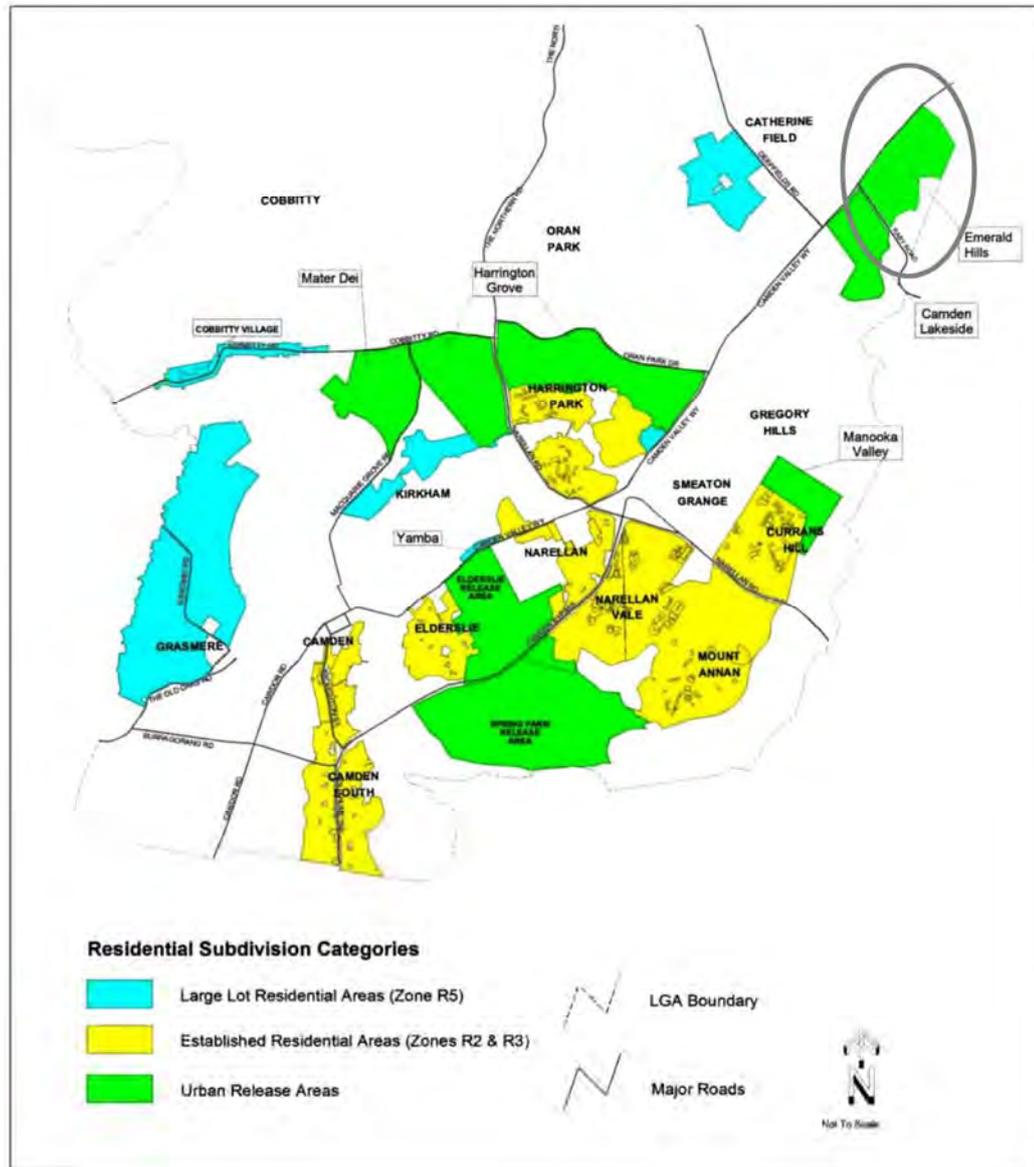
ORD03

Attachment 2

Amend flow chart in Figure C1 by inclusion of new 'Chapter C12 Emerald Hills' as follows:



Amend map in Figure C2 by inclusion of Emerald Hills site as follows:



ORD03

Attachment 2

Amend list in Part C5 by inclusion of Emerald Hills site as follows:**How to use this part**

The following subsections establish general objectives and controls to all urban release areas:

- C5.1 Neighbourhood Amenity and Subdivision Design.
- C5.2 Street Network and Design.
- C5.3 Pedestrian and Cycle Network.
- C5.4 Public Transport Network.
- C5.5 Parks and Open Space.
- C5.6 Community Infrastructure.
- C5.7 Provision of Adequate Community Infrastructure and Facilities.

The following sections provide locality-specific objectives and controls which relate to specific urban release areas:

- C6 Elderslie.
- C7 Spring Farm.
- C8 Manooka Valley.
- C9 Harrington Grove.
- C10 Mater Dei.
- C11 Camden Lakeside
- C12 Emerald Hills

Amend list in Part C5.4 by inclusion of Emerald Hills site as follows:

Controls

1. Bus routes are to be provided generally in accordance with each new release area shown in chapters C6, C7, C8, C9, C10, C11 and C12.

Introduce New Chapter 'C12 Emerald Hills' as follows:

C12 EMERALD HILLS

C12.1 Introduction

Emerald Hills provides an opportunity to create a residential precinct distinguished by a balanced mix of sustainable land uses and liveable neighbourhoods, within the context of the employment, commercial activities and community services available within the Camden LGA, South West Growth Centre and the future Leppington Town Centre and railway station.

Development will consist of a variety of housing forms, which will be supported by local retail, commercial and community uses with associated employment opportunities. Development will be located within landscaped and natural settings and the character of the place will be derived from the integration of its high scenic values established by its distinctive creeks, hills and ridge top with new public domain areas. Emerald Hills will be highly accessible to pedestrians and urban design will minimise conflicts with vehicles. Development will provide safe and convenient pedestrian and cycle linkages to other areas within the site and surrounding places.

The areas of higher residential densities will be located within walking distance of a local neighbourhood centre, which, together with a possible primary school and sports oval, will establish a genuine community hub that meets the day to day needs of residents.

Stormwater management shall be ecologically sustainable by using water quality control measures, which will relate strongly to the creek line corridors. Similarly, Emerald Hills will retain large areas of woodlands and rehabilitate new open space areas to enhance the contribution of the site to the prominent scenic quality of the edges of South Creek Valley.

Emerald Hills Planning Principles

- A site character founded upon a series of residential neighbourhoods immersed within the landform, open spaces and the pathway network;
- Enhancement of view corridors to prominent local natural features that are celebrated within the road and local open space network to promote sense of place and way finding;
- Establishment of a local centre linked to recreation facilities and possibly a primary school that provides possibilities for residents to walk or cycle to a range of facilities. The location of the centre adjoining the creek provides the opportunity to establish a distinctive high quality public domain;
- Provision of opportunities for a variety of dwelling forms in appropriate locations which either reinforce the scenic values of the site or contribute to the accessibility, vitality and character of the local centre, the amenity offered by open spaces and the viability of public transport;
- Configuration of a legible interconnected 'grid pattern' of walkable streets which seeks to address site topography and encourage walking and cycling as well as provide a choice of alternate routes for vehicles;
- The potential for a bus route and bus stops located along a local collector road that links all residential areas with the local centre and with any potential routes beyond the site to the Leppington Town Centre and railway station;
- The preservation of the existing remnant vegetation in the north eastern part of the site;
- The provision of a hierarchy of open spaces commencing with preservation of the prominent ridge and hilltops and concluding in small local parks all located within a 5 minutes walking catchment;

- The adoption of environmental management techniques to support environmental protection in concert with the provision of public open space and stormwater management in urban development;
- The rehabilitation of riparian corridors, which will be integrated into the stormwater management system to provide the mechanism to ensure that water quality is enhanced.

Design Structure

An indicative master plan for Emerald Hills is shown in Figure C68. The proposed entry points to the development are off Raby Road, Camden Valley Way and St Andrews Road. The entries will provide direct access to the residential precincts, community and recreation facilities, major and minor public open spaces and the local centre.

A north-south oriented collector road will provide an important vehicular, pedestrian and bicycle link between the northern and southern parts of the development.

A circular dual use cycle/pedestrian path that extends to connections outside the site is also proposed within linear parklands and roads to not only link spaces and places within Emerald Hills, but also establish opportunities for fitness and recreation.

The riparian corridors and open spaces will incorporate water bodies, watercourses and tree planting as well as water quality and stormwater management measures.

A key feature of Emerald Hills is the approach to environmental and scenic protection. The large area of vegetation in the north east corner will generally be preserved and the prominent ridge and hilltops will be celebrated within the public open space network.

Relationship to other Plans

The Emerald Hills indicative master plan is based on the following technical and environmental studies:

- AHMS, February 2013, Historical Heritage Assessment;
- AHMS, February 2013, Aboriginal Heritage Preliminary Assessment;
- Cardno, May 2013, Infrastructure Servicing and Delivery Plan;
- Cardno, May 2013, Traffic Assessment;
- Cardno, May 2013, Water Cycle Management Report and addendums August & September;
- Deep End Services, 24 October 2012, Emerald Hills Retail and Economic Impact;
- Douglas and Partners, March 2013, Preliminary Contamination Assessment;
- Douglas and Partners, June 2013, Salinity Report;
- Douglas and Partners, August 2013, Geotechnical Assessment;
- Eco Logical Australia, June 2013, Bushfire Assessment;
- Eco Logical Australia, April 2013, Preliminary Constraints Analysis Ecology and Riparian Issues Assessment;
- Elton Consulting, May 2013, Social Planning Report;
- Hill PDA, March 2013, Emerald Hills Retail Need and Economic Impact Assessment – Peer Review;
- SLR, April 2013, Odour Impact Assessment;
- SLR, September 2013, Residential Precinct Acoustic Assessment.

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Attachment 2



Figure C68 Indicative Master Plan

C12.2 Subdivision Design

Objectives

1. Establish a framework for the provision of a diversity of dwelling types, including options for seniors living, multi-dwelling housing and residential flat buildings.
2. Maximise amenity of residential lots by providing maximum frontage and access to open space, including play areas, parks, ridge tops and creeks.
3. Facilitate attractive streetscapes which maximise opportunities to establish a sense of place, promote pedestrian activity and encourage safety and casual surveillance of public spaces.
4. Establish an urban structure which will facilitate the protection and enhancement of the scenic quality of the landscape.
5. Maximise amenity of residential lots by ensuring suitable noise attenuation measures adjacent to Camden Valley Way and Raby Road subject to maintaining visual connectivity between Emerald Hills and adjoining major roads.
6. Establish an urban structure which will allow for the protection and management of important vegetation.
7. Maximise the use of public transport, walking and cycling trips to, from and within the site.

Controls

1. The subdivision pattern for Emerald Hills shall generally follow the indicative master plan shown in Figure C68.
2. Subdivision shall provide for a diversity of dwelling types in appropriate locations which either reinforce the scenic values of the site or contribute to the accessibility, vitality and character of the local centre, the amenity offered by open spaces and the viability of public transport.
3. Higher density housing (residential flat buildings, multi dwelling housing, senior living etc.) shall be located around areas within the site exhibiting high amenity such as sites adjoining the local centre and open space and riparian corridors.
4. Large lots of between 1,000 and 4,000+ m² in area shall be located where attention to landscape visual character, environmental protection and management of bushfire hazard and noise impact is required.
5. Family Housing shall comprise conventional residential lots of approximately 300 – 450m²;
6. Higher density small lot (lifestyle or integrated) housing on 220-300m² lots shall allow for single or two storey detached, semi-detached or zero side boundary dwellings. Good internal planning shall permit outlook from most rooms in the dwelling. Lots may also enjoy access to the rear via a rear laneway with rear aspect garage-top flats, which are encouraged to activate the laneway streetscape, create street frontage and implement design diversity.

C12.3 Street, Pedestrian and Cycle Network

Objectives

1. A legible interconnected 'grid pattern' of walkable streets which seeks to address site topography and encourage walking and cycling as well as provide a choice of alternate routes for vehicles.
2. The provision of a major local collector road that is located parallel to Camden Valley Way and incorporates distinctive entries into the site from Camden Valley Way. St Andrews Road and Raby Road facilitating vehicle access. Road character and route shall be designed to minimise 'rat-running' and through traffic seeking to avoid the Camden Valley Way / Raby Road intersection.
3. Local roads addressing frontages to public open space to avoid the provision of rear fences and contributing to protecting and enhancing the character of the site.
4. A road network distinguished by well-vegetated, attractive streetscapes which are not dominated by driveways and garages.
5. A bus route and bus stops located along a major local collector road that links the local centre with any potential routes beyond the site to the Leppington Town Centre and railway station.
6. A permeable local road network within the majority of the urban part of the site that would ensure dwellings are located within a 400 metres/5 minutes walking catchment of the bus route and public open space.
7. A simple hierarchy of road design and character comprising a collector road and local roads.
8. Provision of a variety of street tree planting with formal and informal spacing that will help create a special character within the streets incorporating verges which are sustainably landscaped with trees, shrubs and groundcovers that have low water and nutrient demands. Plant species selection and layout should minimise ongoing water and maintenance requirements.
9. A flexible and connected pedestrian and cycle pathway network that utilises open space corridors.

Controls

1. The street, pedestrian and cycle and public transport networks are to be designed and constructed in accordance with Figures C69, C70 and C71– C76 and landscaped accordingly.
2. Root guards shall be used around all street trees to minimise damage to road pavements and footpaths.

Note: Refer to Council's Engineering Construction Specifications for road construction.

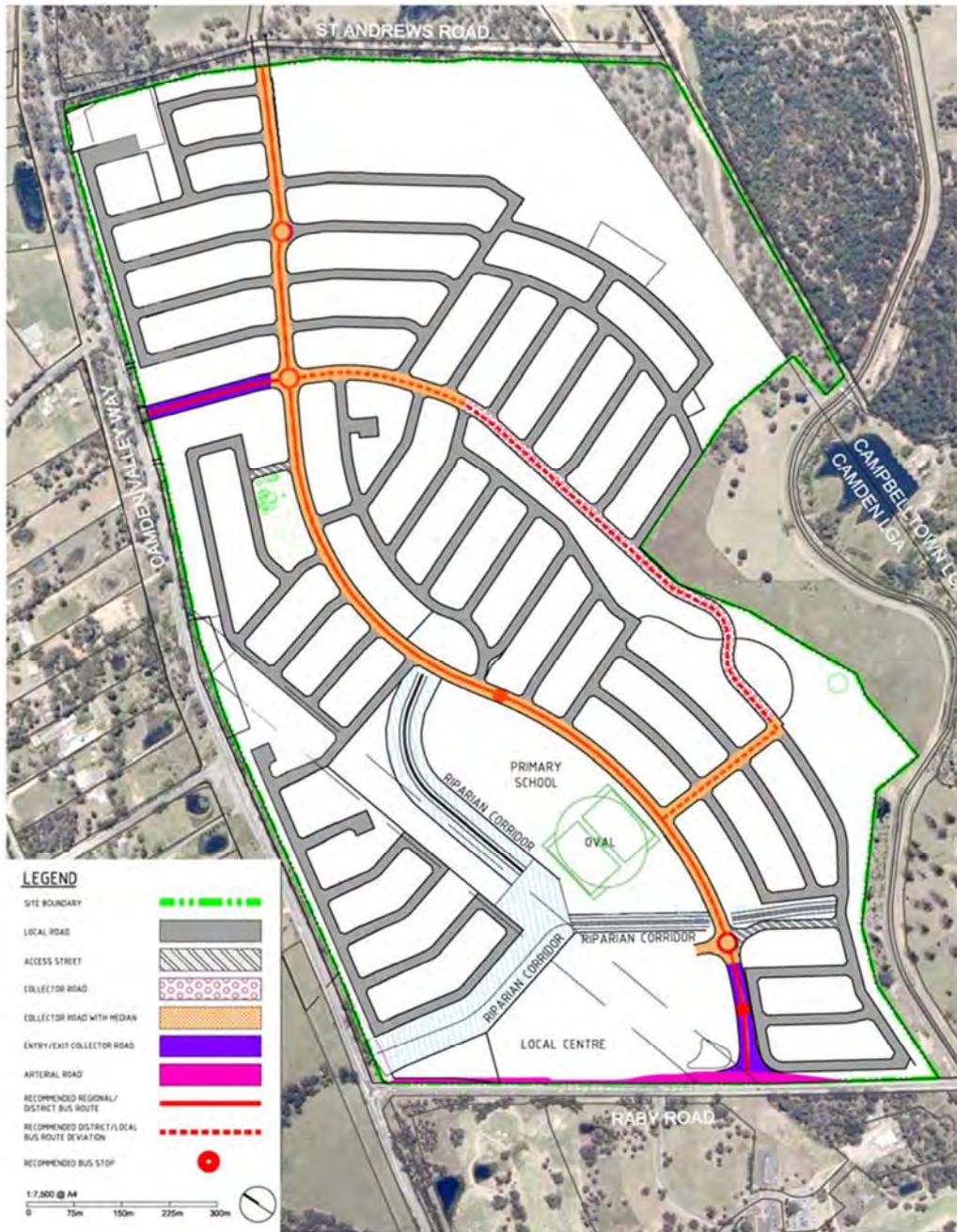


Figure C69 Emerald Hills Road Hierarchy and Bus Route

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Attachment 2



Figure C70 Emerald Hills Pedestrian and Cycle Paths

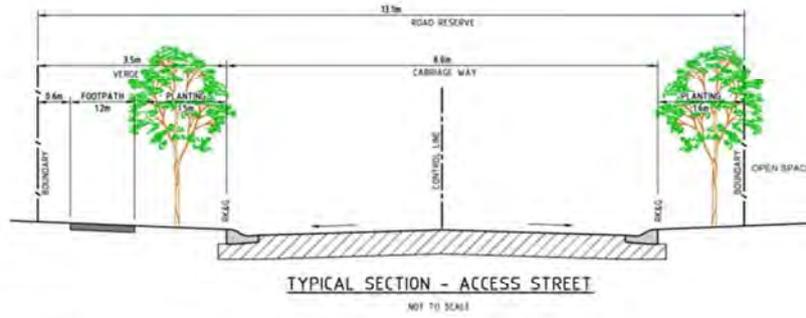


Figure C71 Emerald Hills Typical Access Street

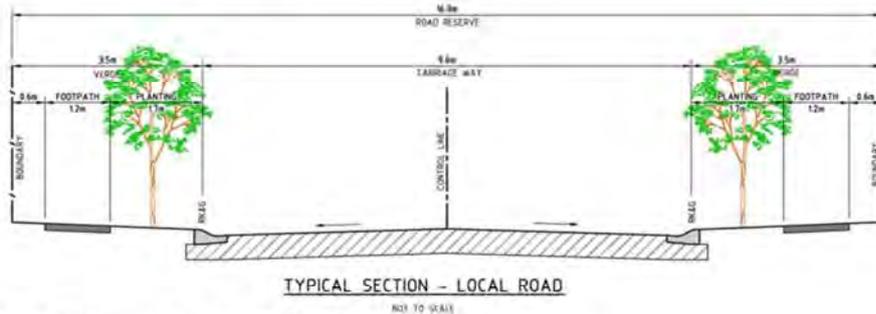


Figure C72 Emerald Hills Typical Local Road

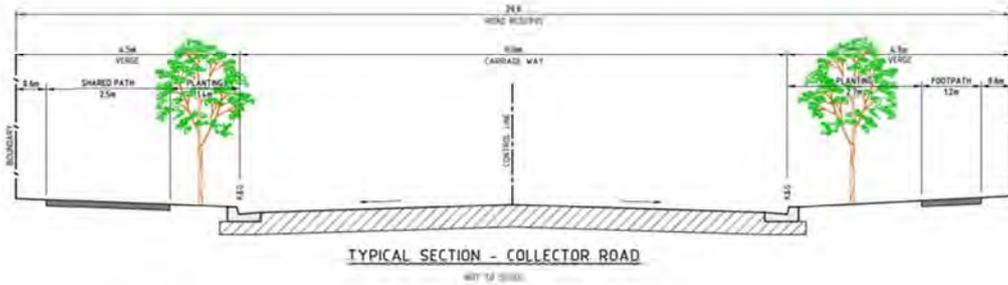


Figure C73 Emerald Hills Typical Collector Road



Figure C74 Emerald Hills Typical Collector Road with Median



Figure C75 Emerald Hills Typical Collector Road with Median and Bus Set down



Figure C76 Emerald Hills Typical Entry / Exit Collector Road

C12.4 Bulk Earthworks and Retaining Walls

Objectives

1. To allow manipulation of the natural landform whilst preserving distinctive scenic features.
2. Management of landform manipulation to ensure conditions suitable for development are achieved.

Controls

1. Development Applications are to provide accurate site surveys prepared by a qualified surveyor to provide a clear and accurate representation of the contours of the land.
2. Retaining walls at the subdivisional works stage of development are permitted to reduce the need for cut and fill at the dwelling construction stage.
3. Proposals requiring significant moving and filling of earth will be considered if it contributes to the overall quality of the development and the urban design outcomes for the area.
4. Development Applications are to illustrate bulk earthworks and retaining walls and provide justification for proposed changes to land levels.
5. The maximum height of a retaining wall is 1.5 metres.
6. Any wall with a height of 1.5m or greater requires lodgement of a Development Application.
7. In instances where a retaining wall greater than 1.5 metres in height is required, a second retaining wall is permitted providing the retaining wall structure incorporates a step of 1 metre in width, with

the second retaining wall being limited to 1 metre in height (i.e. first wall a maximum of 1.5 metres and second retaining wall is a maximum of 1 metre).

8. Retaining walls are to be constructed of masonry materials.
9. Compaction of filled areas is to be 98% standard compaction and in accordance with AS 3798-1990 in accordance with engineering standards and a compaction certificate is to be submitted to Council.
10. Earth moved from areas containing noxious weed material must be disposed of at an approved waste management facility, and transported in compliance with the Noxious Weed Act 1993.

C12.5 Open Space, Public Domain and Fencing

Objectives

1. Ensure that open space is of appropriate quality and quantity to meet the recreational and social needs of the community.
2. Ensure an attractive public domain and streetscapes are established that contribute to the visual quality of the site.
3. Provide the framework for the protection and enhancement of remnant vegetation and riparian corridors within the public domain.
4. Provide for the establishment of local parks and other open spaces which contribute to the sense of place.
5. Utilise open space for Water Sensitive Urban Design and stormwater management.
6. Promote plant species selection and design which will minimise ongoing water and maintenance requirements.

Controls

1. Local open space shall generally be located in accordance with Figure C77.
2. Estate fencing shall be erected in locations to separate public domain areas from residential development.
3. Estate fencing is to be constructed of consistent high quality materials and finishes and is to form part of the subdivisional works for the site.
4. The location of estate fencing is identified in a Development Application and is to be constructed in accordance with a Landscaping Plan.
5. Estate fencing is limited to a maximum height of 1.8m above ground level.
6. Estate fencing is not to be removed or altered in finish, shape or form of the fence.

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Attachment 2



Figure C77 Local Open Space

C12.6 Vegetation Conservation

Objectives

1. Ensure the protection and enhancement of existing significant trees and significant remnant vegetation where practical.
2. Facilitate the implementation of the agreed conservation offset package for Emerald Hills.
3. Prevent the spread of weeds during and after construction.

Controls

1. All 'Environmental Conservation' areas identified in Figure C78 are to be protected to ensure long term viability.
2. Land identified as 'Environmental Conservation' areas identified in Figure C78 is to be restored in accordance with a Conservation Management Plan (CMP). The CMP must be endorsed by Camden Council and where relevant, must be in accordance with the requirements of any Biobanking Agreement entered into between the landowner/developer and the Office of Environment and Heritage with regards to the Environmental Conservation land.
3. All applicants for subdivision and bulk earthworks are required to consider the need to minimise weed dispersion. Refer within Chapter B1, section B1.3 Natural Environment Management for further information in relation to weed control.

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Attachment 2



Figure C78 Environmental Conservation Area

C12.7 School and Communities Facilities Precinct

Objectives

1. Control the interface between the school, sports oval and adjacent land uses.
2. Establish an appropriate physical separation between facilities, roads, dwellings and other activities within adjacent land areas.
3. Define the extent of the landscape curtilage which surrounds the school.
4. Facilitate the appropriate physical separation between the recreational facilities and surrounding activities.
5. Establish site circulation, visual amenity and environmental management principles which apply to the School and Community Facilities Precinct.
6. Facilitate pedestrian and bicycle access to the Precinct.

Controls

1. Development will generally be located in accordance with the principles in Figure C79.
2. A multi-purpose community room of approximately 170m² floor space is to be provided within the amenities building attached to the recreation oval.



Figure C79 School and Communities Facilities Precinct

C12.8 Acoustic Amenity**Objectives**

1. Establish an urban character which protects and enhances short and long views within the landscape, whilst allowing for the development of individual lots.
2. Mitigate noise effects from Camden Valley Way and Raby Road to ensure internal areas are not adversely affected by noise.

Controls

1. Lots immediately adjacent to Camden Valley Way shall adopt the indicative layout shown in Figure C68 which will help achieve the external noise criteria.
2. Development applications for subdivision and development of the site must refer to Section B1.16 – Acoustic Amenity of the DCP and Council's Environmental Noise Policy.

C12.9 Stormwater Management

Objectives

1. Provide the framework for the protection and enhancement of water quality and management of stormwater within the Site.

Control

1. The design and performance of the stormwater management system infrastructure must have regard to the Water Sensitive Urban Design measures contained within the Cardno, May 2013, Water Cycle Management Report and addendum reports dated June 2013.

C12.10 Bushfire Risk Management

Objectives

1. Provide the framework for the protection of property and vegetation from bushfire hazard within the Site.

Controls

1. Subject to detailed design at development application stage, the indicative location and widths of Asset Protection Zones are to be provided in accordance with figure C80 and;
 - (a) are to be located wholly within the Precinct.
 - (b) may incorporate roads and flood prone land.
 - (c) are to be located wholly outside of a core riparian zone (CRZ) but may be located within the buffer areas of the CRZs.
 - (d) may be used for open space and recreation subject to appropriate fuel management.
 - (e) are to be maintained in accordance with the Planning for Bushfire Protection (NSW RFS).
 - (f) may incorporate private residential land, but only within the building setback (no dwellings are to be located within the APZ).
 - (g) are not to burden public land.
 - (h) are to be generally bounded by a perimeter fire trail/road that is linked to the public road system at regular intervals in accordance with Bushfire Protection.
2. Buildings adjacent to APZs are to be constructed in accordance with the requirements of Appendix 3 of Bushfire Protection and Australian Standard 3959 - Construction of Building in Bushfire-prone Areas.
3. Where an allotment fronts and partially incorporates an APZ it shall have an appropriate depth to accommodate a dwelling with private open space and the minimum required APZ. The APZ will be identified through a Section 88b instrument.
4. Temporary APZs, identified through a Section 88b instrument, may be required where development is proposed on allotments next to undeveloped land. Once the adjacent stage of development is undertaken, the temporary APZ will no longer be required and shall cease.

C12.11 Large Lot Residential Area

Objectives

1. To preserve significant vegetation, whilst facilitating the provision of appropriate development as a mechanism to own and manage the vegetation.

Controls

1. Identify building envelopes through a Section 88b instrument, located to respect and be sympathetic to the natural environment and significance of the vegetation.
2. Provide adequate bush fire management measures.
3. Manage vegetation in accordance with a Conservation Management Plan

C12.12 Stages 7 and 8 Residential Area

Objectives

1. To promote the scenic character of the Scenic Hills Area to the east of the site.

Controls

1. This clause applies to lots and dwellings in Stages 7 and 8, generally in the area indicated in Figure C81.
2. Dwelling materials and colours shall adopt darker toned recessive colours and non-reflective surfaces for both wall and roof cladding.
3. Utility structures shall adopt recessive toned, non-reflective surfaces.
4. Bulk earthworks shall seek to reduce the height of the northern ridgeline by a minimum of 2m.
5. Road verge/street tree planting shall adopt hardy dark-leaved evergreen trees with good canopy cover.
6. The ridgeline reserve shall be planted out with tall locally indigenous woodland species (to blend with woodland canopies in the Scenic Hills), planted across the entire width of the reserve.
7. Street lights shall have hoods or other appropriate design treatment to minimise light spill in order to reduce ambient light haze as much as possible.

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Attachment 2



Figure C81 Landscape Protection Area

C12.13 Aboriginal and European Heritage

Background

The Emerald Hills site, like surrounding areas, has a history of Aboriginal occupation, European settlement and agricultural purposes. The St Andrews Home for Boys was established in 1934 on site and was used in various capacities until 1987. These buildings were not heritage listed and have been lawfully demolished. However, it became apparent during the rezoning process that they are considered by architectural groups to be an important example of the Sydney School of Architecture, designed by Phillip Cox. It is appropriate that the architecture and various previous uses of the site are interpreted within the new Emerald Hills residential development.

The following documents were prepared to inform the rezoning of the Emerald Hills site, and should be referred to as part of the preparation of the Heritage Interpretation Strategy as outlined below:

- *Historical Heritage Assessment: St Andrew's Home for Boys, 1100-1150 Camden Valley Way, Leppington*, prepared by AHMS (Final Report), dated February 2013.
- *Aboriginal Heritage Preliminary Assessment: Emerald Hills Estate, Leppington*, prepared by AHMS (Final Report), dated February 2013.
- *Photographic Archival Record: St Andrews boys Home (Burnside) Leppington*, prepared by Inspire Urban Design and Planning, dated 4 February 2013.

Objectives

1. To ensure that the Aboriginal and European land uses and the Sydney School of Architecture style of the former St Andrews' Boys Home (now demolished) are interpreted and incorporated where possible into the public domain of Emerald Hills.

Controls

1. A Heritage Interpretation Strategy shall be prepared by a suitably qualified and experienced heritage consultant which identifies the key stories associated with the site, its varying owners, associations and evolving users over time. Some examples of key people would include Thurawal, Dharug and Gundungurra Aboriginal peoples, the Cubbitch Barta clan, early colonial settlers and farming families such as those of Cordeaux, Edwards, Ward, Gaudry, Kable, Chisholm, Moore, William and Florence Price, the Presbyterian/Uniting Church/Burnside Homes (St Andrews School for Boys), architects Phillip Cox and Ian McKay.
2. The Heritage Interpretation Strategy must be submitted for Council approval at Development Application stage. It should include an implementation plan with prioritised actions that identify specific locations and recommended means of interpretation that will be integrated into the Emerald Hills' Estate. These might include structures, artworks, plaques, sculptures, installations, street tree selection and treatment, landscaping which is themed on past rural uses, rural verge treatments in specific locations (favouring grass swales and natural drainage in places instead of kerb and guttering), open space designs and treatments, place names, events etc.

The following publications by the NSW Office of Environment and Heritage may assist in preparing the Interpretation Strategy:

- *Interpreting Heritage Places and Items*

<http://www.environment.nsw.gov.au/resources/heritagebranch/heritage/NSWHeritageOfficeGuidelinesinfointerpreting.pdf>

- *Heritage Interpretation Policy*

<http://www.environment.nsw.gov.au/resources/heritagebranch/heritage/interpretationpolicy.pdf>

Introduce New Chapter 'D2.3.10 Emerald Hills' as follows:

D2.3.10 Emerald Hills

Note: The controls listed below (table D17A) are specific to the Emerald Hills area. They must be read in conjunction with the controls in section D2.1 and D2.2 of this DCP. In the event of any inconsistency, the controls included in this subsection will take precedence.

Table D17A Summary of residential accommodation controls – Emerald Hills

SETBACKS	
Front setback (min)	4.5m
Secondary street setback (min)	1m
Side setback (min)	0.9m
Rear setback ground floor (min)	4m
Rear setback first floor (min)	6m
Garage setback (min)	1m behind principal building line and 5.5m from front boundary; third garage to be set back an additional 1m.
Architectural element front setback encroachment (max)	1.5m
Rear lane setback (min)	2.5m
Public reserve setback (min)	3m
HEIGHT	
As per LEP 2010 and subsection D.2.1.3 of this DCP	
PRIVATE OPEN SPACE, LANDSCAPING AND SITE COVERAGE	
Site coverage (max) – lots <450m ²	Single storey development - 60%
	Two storey development – 50% ground floor, 30% upper floor
Site coverage (max) – lots >450m ²	Single storey development - 50%
	Two storey development – 50% ground floor, 30% upper floor
Landscaped area (min)	30%
Private open space (min)	20%
Principal private open space (PPOS) (min)	24m ² with a minimum dimension 4m
Gradient of PPOS (max)	1:10
Solar access to PPOS (min)	3 hours between 9.00am and 3.00pm on 21 June.
GARAGE DESIGN	
Garage door width (max) – lots 7-15m wide	60% of front elevation width
Garage door width (max) – lots greater than 15m wide	50% of front elevation width

Introduce New Chapter 'D3.10 Emerald Hills B2 Local Centre' as follows:

D3.10 Emerald Hills – B2 Local Centre

Background

The Emerald Hills Centre will form part of the Emerald Hills Urban Release Area.

Controls

D3.10.1 Maximum Floor Area

1. The centre will have a maximum lettable floor area of 10,000m² for 'retail premises' excluding 'food and drink premises'.

D3.10.2 Layout and Design

1. Development shall be in accordance with the site planning principles contained in the master plan for the Centre in Figure D.59. Development applications for the purposes of remediation, earthworks, drainage, environmental landscape works and other minor works that, in the opinion of Council, do not predetermine an outcome on the land covered by the B2 Local Centre zone boundaries in LEP 2010 may be accepted.

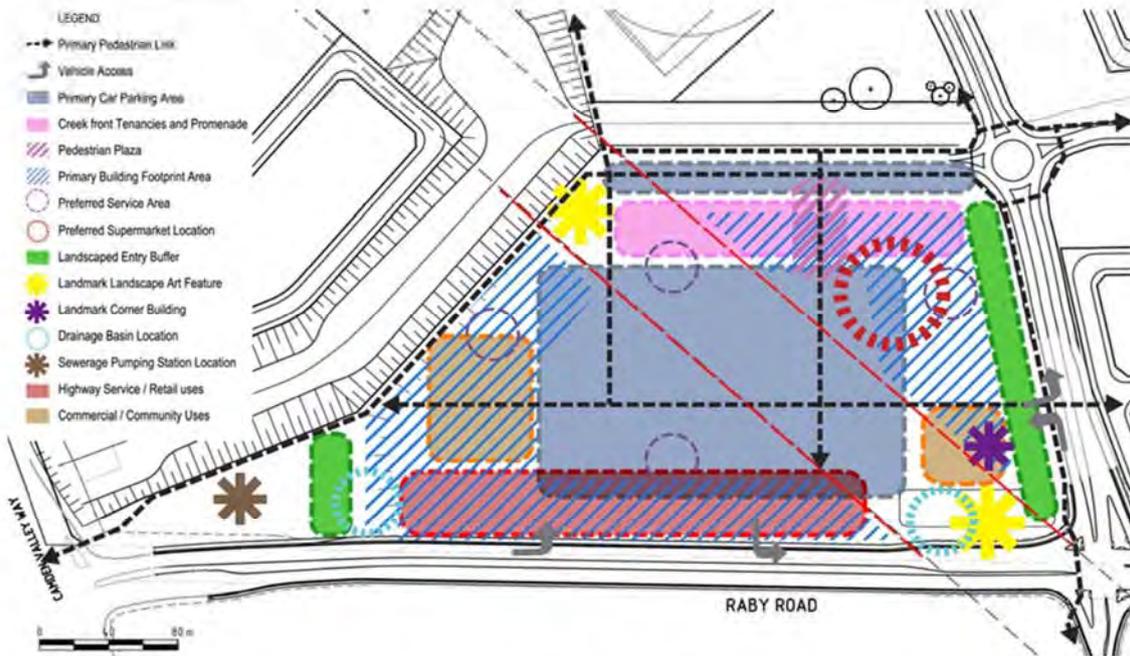


Figure D59 Site Planning Principles for Emerald Hills Centre

2. The development shall be designed to provide access and exposure to Raby Road and Riley's Creek adjoining the centre site whilst incorporating a vibrant and active focal point in the form of a civic square, plaza or main street.
3. In addition to any relevant controls for the centre, residential buildings within the centre are subject to the controls contained in Chapter D2 of this DCP. An exception to those controls are setbacks, private open space, and site coverage and landscaped area which will be assessed on merit.

D3.10.3 Built Form and Appearance

1. Subject to compliance with the building height limits contained in Camden LEP 2010, development within the centre should have a range of building heights up to a maximum of three storeys.
2. Important buildings may be designed as landmark buildings which exhibit high quality design, are preferably two storeys in height, and sited at visually prominent locations such as corners and entries.
3. Buildings are to be visible from and have a presence to street frontages. Where buildings are not proposed to be built to the street frontage, setbacks are to be minimised. Buildings are also to be designed and located to take advantage of proximity to open space areas, including the adjoining riparian corridor.
4. Blank walls visible from principal streets and the public domain are to be minimised.
5. The centre should exhibit a character which is in keeping with nearby significant landscape elements, the presence of which should be promoted as urban design features.
6. Building location form, land uses and activities and landscaping should be designed and sited to minimise the visual impact of the power lines that traverse the centre site.
7. Retail/commercial/residential buildings built to the alignment of internal streets and pedestrian areas shall incorporate awnings/verandahs over the footpath areas, irrespective of whether buildings walls, windows, doors or other openings.
8. Any two or more storey building shall include a verandah or balcony terrace at level 1 above ground level to any internal street or pedestrian area. They shall be accessible for use as open space/balcony from the upper level.
9. All mixed use buildings should be able to function as part residential use with potential for a mix of retail, business, or residential at first level directly accessible and visible from the ground level.
10. The design of buildings should provide flexibility to enable the use of various parts of the building to change over time as necessitated by demand.
11. The centre shall be provided with parking that provides convenient access, but that is located in a manner that does not dominate adjoining public domain areas, riparian corridors and streetscapes.
12. Building walls, windows, entries, loading areas and service docks, car parks shall be designed to enable maximum casual surveillance to be achieved to promote safety and security in the public domain.

Placeholder for Attachment 3
(provided under separate cover)

Emerald Hills rezoning

Emerald Hills Planning Report

ORD03

Attachment 3

ORD03

Placeholder for Attachment 4
(provided under separate cover)

Emerald Hills rezoning

Draft Emerald Hills VPA

Attachment 4



ORDINARY COUNCIL

ORD04

ORD04

SUBJECT: CAMDEN LEP 2010 AMENDMENT 30 - ORIELTON
FROM: Director Governance
TRIM #: 13/42717

PURPOSE OF REPORT

The purpose of this report is to seek endorsement from Council of a draft Planning Proposal to amend the minimum lot size for the Orierton Homestead lot in the Harrington Grove development. The draft Planning Proposal is **provided as Attachment 1 to this report.**

BACKGROUND

Harrington Grove West was rezoned in 2007 to facilitate limited residential development and the conservation of Orierton Homestead. The subject site was zoned R5 Large Lot Residential with a minimum lot size of 40ha (see map below). In order to deliver the development as outlined in the Structure Plan adopted in 2007, subdivision of the homestead lot from the balance of the site is required. This cannot be undertaken under the current minimum lot size.

MAIN REPORT

Proposal

The hatched area in the map shown below is zoned R5 Large Lot Residential with a range of minimum lot sizes from 700m², 2000m² and 6000m² and is one of the next precincts to be developed in the Harrington Grove development. This proposal facilitates the access required to ensure the timely release of this first stage of the development.

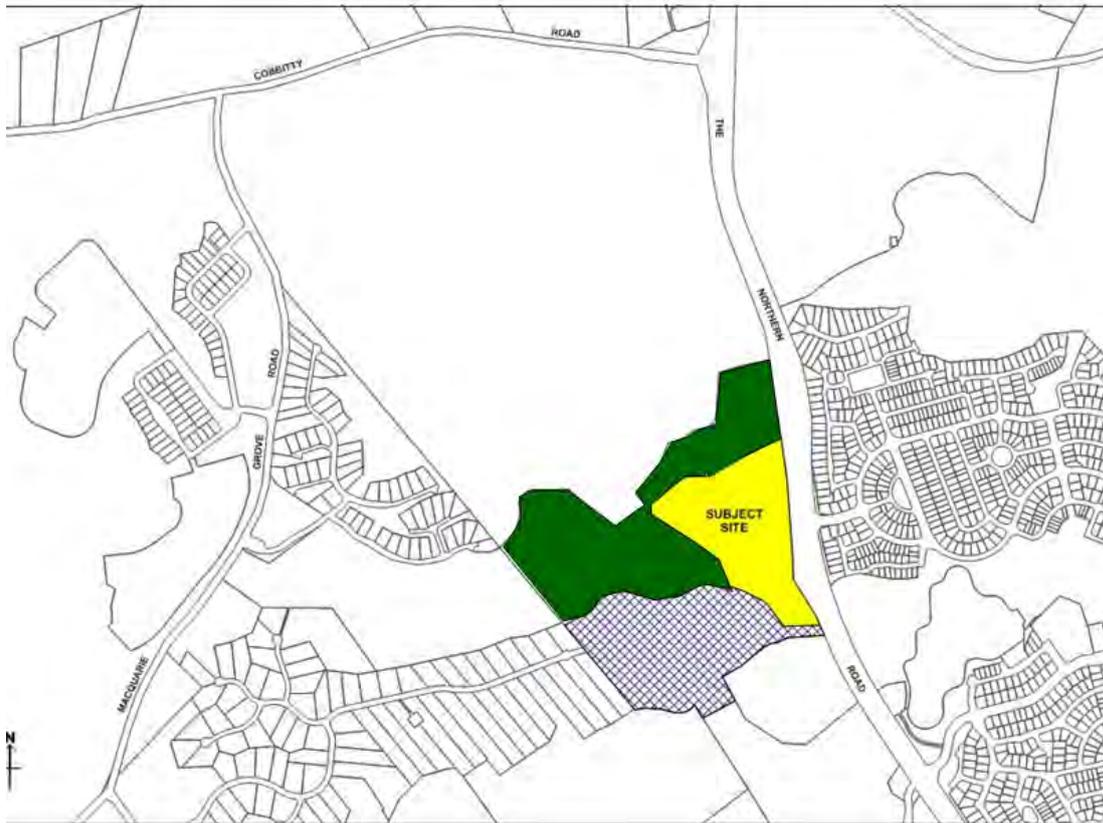
The proposal is to amend the minimum lot size of the subject site. The area as shown is 11ha, but will need to have a smaller minimum lot size to accommodate subdivision for an entry road, road widening for The Northern Road and drainage reserves. If subdivision for roads and drainage were to occur after the plan was made to reduce the minimum lot size then the area would be less than 11ha and the subdivision of the approved Structure Plan residential development could not occur. Therefore the proposal is to amend the minimum lot size from 40ha to 7ha. This will enable the heritage lot to be excised from the overall holding. It will not enable any further subdivision of the land as the minimum lot size will prevent this.

Studies

Given the minor nature of this Planning Proposal it is recommended that no studies are required for this change to the LEP. It is noted that the subject land is listed as an item of state significance on the state heritage register. During the initial rezoning process a Heritage Agreement, Voluntary Planning Agreement and Heritage Conservation Management Plan were prepared. These documents assessed the heritage significance of the site and determined that this site, together with the adjacent open space, shown green on the map below, would provide a sufficient curtilage to the site.

This Planning Proposal facilitates the delivery of the outcome intended by these documents. As these documents have already been prepared for the site previously, it is not considered that any further studies are necessary given the nature of the Planning Proposal and that it is consistent with these documents.

Subject site: Orielton Heritage Homestead



Agency Consultation and Public Exhibition

Given the listing of the site on the state heritage register, it is necessary to consult with the Office of Environment and Heritage (Heritage Branch). Due to the extensive consultation undertaken during the previous rezoning and the fact that this amendment will only facilitate the timely subdivision of residential land and ensure that the subject site cannot be further subdivided, it is recommended that no other public agencies be consulted.

It is recommended that the public exhibition period for the Planning Proposal be 28 days and be conducted in the following manner:

- consultation with Camden Historical Society advising of the details of the exhibition;
- an advertisement be placed in the Camden Advertiser advising of the exhibition period;
- exhibition material displayed at Narellan and Camden Customer Service Centres and Libraries; and
- exhibition material will be available on Council's website.

At the conclusion of the exhibition period, a report will be submitted back to Council detailing any submissions received to the draft Planning Proposal.

LEP Delegation

Council intends to use its delegation pursuant to Section 23 Environmental Planning and Assessment Act 1979 for this Planning Proposal. This will enable Council to streamline the processing of the amendment to the Camden LEP. The request for delegation will be made as part of the Gateway submission. The General Manager is Council's nominated officer.

Where to from here

If Council resolves to support the draft Planning Proposal it will be forwarded to the DP&I for Gateway Determination. If Gateway Determination to proceed is received the draft Planning Proposal will be placed on exhibition for 28 days. At the conclusion of the exhibition period the matter will be reported back to Council for consideration of any submissions received and for final determination of the Planning Proposal.

Given this Planning Proposal is minor in nature it is anticipated that the rezoning process will take approximately 6 months from the time of Gateway Determination.

FINANCIAL IMPLICATIONS

There are no direct financial implications to Council as a result of this Planning Proposal.

CONCLUSION

The draft Planning Proposal, to reduce the minimum lot size of the subject site from 40ha to 7ha will ensure that:

- 1) there is no further subdivision of the heritage homestead lot once it is subdivided in accordance with the approved Structure Plan with allowance for the entry road, road widening and drainage reserves; and
- 2) subdivision of the approved Structure Plan residential development can proceed.

Should Council resolve to proceed with the draft Planning Proposal it will be forwarded to Gateway for determination. Following the public exhibition period, the draft Planning Proposal and any submissions will be reported back to Council.

RECOMMENDED

That Council:

- i. endorse the draft Planning Proposal to reduce the minimum lot size of the subject site from 40ha to 7ha, and forward to the Department of Planning and Infrastructure for Gateway Determination;**
- ii. upon favourable Gateway Determination place the draft Planning Proposal on public exhibition for 28 days; and**
- iii. require a report be brought back to Council following the completion of the public exhibition.**

ATTACHMENTS

1. Amendment 30 Orierton Planning Proposal



CAMDEN COUNCIL DRAFT PLANNING PROPOSAL

Amendment No. 30 - Orierton

September 2013

Date (Version)

Amendment No. 30 - Orierton

ORD04

Attachment 1

Contents

Background 3

Part 1 – Objectives or Intended Outcomes 4

Part 2 – Explanation of Provisions 4

Part 3 – Justification 4

Part 4 – Maps 10

Part 5 – Community Consultation 10

Part 6 – Project Timeline 11

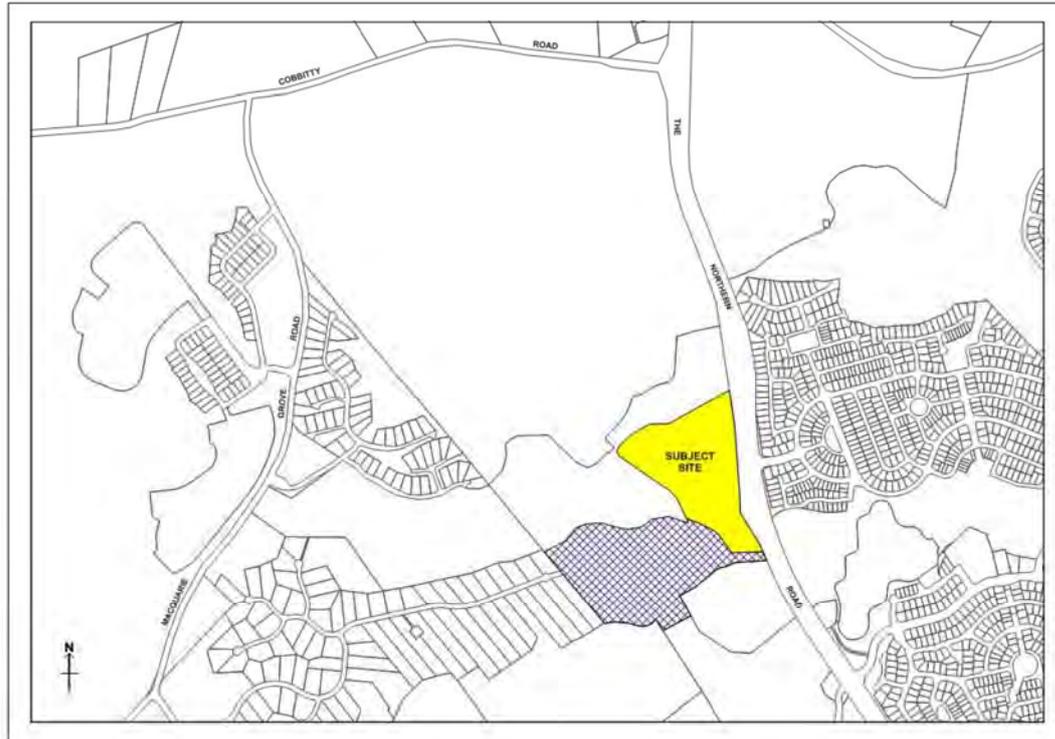
Attachment A - Proposed Map Changes.....12

Amendment No. 30 - Orierton

BACKGROUND

The land subject to this planning proposal is identified as Orierton Heritage Homestead land (part of Lot 7 DP 270613), and is located within Harrington Grove West and adjacent to The Northern Road. A site map is shown below.

Site Map



BACKGROUND

Three heritage homestead areas (including the subject site) within the Camden LEP 74 were previously zoned 5(a) Special Uses Cultural Landscapes. The other sites are Wivenhoe and Harrington Park Homesteads. These sites did not have an assigned minimum lot size. With the consolidation of all Camden's LEPs into the consolidated LEP Template format the three heritage homestead areas were assigned the R5 Large Lot Residential zone and 40ha minimum lot size, as no further subdivision of these sites was believed to be required.

Since the rezoning there has been a subsequent change of minimum lot size for one of the heritage homestead areas (Harrington Park Homestead) to accommodate a subdivision for land tenure. This level of detail was not considered during the process of consolidation of all Camden LEPs into the LEP Template format.

Similarly further detail for the subject site (Orierton Homestead) is now being considered and a change to minimum lot size is required.

 Amendment No. 30 - Orierton

ORD04

Attachment 1

PROPOSAL

The subject site is currently zoned R5 Large Lot Residential and has a minimum lot size of 40ha. To enable the undertaking of the approved Structure Plan, residential development adjoining the site (hatched area) and for the consolidation of the heritage homestead lot, subdivision needs to occur. This cannot be done under the current minimum lot size of 40ha.

This planning proposal is for the amendment of the minimum lot size for the subject site (Orierton heritage homestead area). The area is 11ha, but will need a smaller minimum lot size to accommodate subdivision for an entry road; road widening for The Northern Road and drainage reserves. If subdivision for roads and drainage were to occur after the plan was made then the area would be less than 11ha and the subdivision for the approved Structure Plan residential development could not occur. Therefore the proposal is to amend the minimum lot size from 40ha to 7ha.

The use of a minimum lot size of 7ha will ensure that:

- 1) no further subdivision of the heritage homestead lot once it is subdivided from the approved Structure Plan;
- 2) subdivision required for the entry road, road widening and drainage reserves.
- 3) subdivision of the approved Structure Plan residential development.

PART 1 – OBJECTIVES OR INTENDED OUTCOMES

The objective of this Planning Proposal is to amend the minimum lot size of the subject site (part of Lot 7 DP 270613) to enable the subdivision of the approved Structure Plan residential development. This amendment will also enable the subdivision required for the entry road, road widening and drainage reserves within the subject site.

PART 2 – EXPLANATION OF PROVISIONS

The objective of this Planning Proposal is to amend Camden LEP 2010 by amending the minimum lot size of the subject site from 40ha to 7ha.

This will be undertaken by amending the following Lot Size Maps:

- Sheet LSZ_007
- Sheet LSZ_012

PART 3 – JUSTIFICATION**Section A – Need for the Planning Proposal****1. Is the planning proposal a result of any strategic study or report?**

This Planning Proposal is not a result of any strategic study or report.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Currently the subject site has a minimum lot size of 40ha. To enable subdivision of the approved Structure Plan residential development the minimum lot size of the subject site needs to be reduced. A Planning Proposal is the only way to achieve this.

Section B – Relationship to strategic planning framework.

Amendment No. 30 - Orielton

3. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

The Planning Proposal is consistent with the objectives and actions of the Sydney Metropolitan Strategy and the Draft west sub regional Strategy.

4. Is the planning proposal consistent with the local Council's Community Strategic Plan, or other local strategic plan?

The Planning Proposal is consistent with Camden Council's Strategic Plan Camden 2040. Specifically the proposal is consistent with Key Direction 1 Actively Managing Camden's Growth:

- Growth Objective 1.1: Camden has the best of both worlds - Strategy 1.1.2 Conserving and enhancing heritage.
- Growth Objective 1.3: There are housing choices – Strategy 1.3.1 Ensuring greater choice and diversity of housing.

5. Is the planning proposal consistent with applicable state environmental planning policies?

State Environmental Planning Policy	Applicable	Comment	Consistent
Standard Instrument (Local Environmental Plans) Order 2006	Yes	The Planning Proposal intends to amend Council's LEP conforming to the standard instrument by amending the minimum lot size of the subject area from 40ha to 7ha.	Yes
Standard Instrument—Principal Local Environmental Plan	Yes	The Planning Proposal intends to amend Council's LEP conforming to the standard instrument by amending the minimum lot size of the subject area from 40ha to 7ha.	Yes
State Environmental Planning Policy No 1—Development Standards	N/A		
State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Exempt and Complying Development	N/A		
State Environmental Planning Policy No 6—Number of Storeys in a Building	N/A		
State Environmental Planning Policy No 14—Coastal Wetlands	N/A		
State Environmental Planning Policy No 15—Rural Landsharing Communities	N/A		

Amendment No. 30 - Orielton

State Environmental Planning Policy No 19—Bushland in Urban Areas	N/A		
State Environmental Planning Policy No 21—Caravan Parks	N/A		
State Environmental Planning Policy No 22—Shops and Commercial Premises	N/A		
State Environmental Planning Policy No 26—Littoral Rainforests	N/A		
State Environmental Planning Policy No 29—Western Sydney Recreation Area	N/A		
State Environmental Planning Policy No 30—Intensive Agriculture	N/A		
State Environmental Planning Policy No 32—Urban Consolidation (Redevelopment of Urban Land)	N/A		
State Environmental Planning Policy No 33—Hazardous and Offensive Development	N/A		
State Environmental Planning Policy No 36—Manufactured Home Estates	N/A		
State Environmental Planning Policy No 39—Spit Island Bird Habitat	N/A		
State Environmental Planning Policy No 44—Koala Habitat Protection	N/A		
State Environmental Planning Policy No 47—Moore Park Showground	N/A		
State Environmental Planning Policy No 50—Canal Estate Development	N/A		
State Environmental Planning Policy No 52—Farm Dams and Other Works in Land and Water Management Plan Areas	N/A		
State Environmental Planning Policy No 55—Remediation of Land	N/A		
State Environmental Planning Policy No 59—Central Western Sydney Regional Open Space and Residential	N/A		

Amendment No. 30 - Orielton

State Environmental Planning Policy No 60—Exempt and Complying Development	N/A		
State Environmental Planning Policy No 62—Sustainable Aquaculture	N/A		
State Environmental Planning Policy No 64—Advertising and Signage	N/A		
State Environmental Planning Policy No 65—Design Quality of Residential Flat Development	N/A		
State Environmental Planning Policy No 70—Affordable Housing (Revised Schemes)	N/A		
State Environmental Planning Policy No 71—Coastal Protection	N/A		
State Environmental Planning Policy (Affordable Rental Housing) 2009	N/A		
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	N/A		
State Environmental Planning Policy (Exempt and Complying Development Codes) 2008	N/A		
State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004	N/A		
State Environmental Planning Policy (Infrastructure) 2007	N/A		
State Environmental Planning Policy (Kosciuszko National Park—Alpine Resorts) 2007	N/A		
State Environmental Planning Policy (Kurnell Peninsula) 1989	N/A		
State Environmental Planning Policy (Major Development) 2005	N/A		
State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007	N/A		
State Environmental Planning Policy (Penrith Lakes Scheme) 1989	N/A		
State Environmental Planning Policy (Rural Lands) 2008	N/A		
State Environmental Planning Policy (SEPP 53 Transitional Provisions) 2011	N/A		

Amendment No. 30 - Orierton

State Environmental Planning Policy (State and Regional Development) 2011	N/A		
State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011	N/A		
State Environmental Planning Policy (Sydney Region Growth Centres) 2006	N/A		
State Environmental Planning Policy (Temporary Structures) 2007	N/A		
State Environmental Planning Policy (Urban Renewal) 2010	N/A		
State Environmental Planning Policy (Western Sydney Employment Area) 2009	N/A		
State Environmental Planning Policy (Western Sydney Parklands) 2009	N/A		
Sydney Regional Environmental Plan No 8 (Central Coast Plateau Areas)	N/A		
Sydney Regional Environmental Plan No 9—Extractive Industry (No 2—1995)	N/A		
Sydney Regional Environmental Plan No 16—Walsh Bay	N/A		
Sydney Regional Environmental Plan No 18—Public Transport Corridors	N/A		
Sydney Regional Environmental Plan No 19—Rouse Hill Development Area	N/A		
Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River (No 2—1997)	N/A		
Sydney Regional Environmental Plan No 24—Homebush Bay Area	N/A		
Sydney Regional Environmental Plan No 25—Orchard Hills	N/A		
Sydney Regional Environmental P N/A lan No 26—City West	N/A		
Sydney Regional Environmental Plan No 28—Parramatta	N/A		
Sydney Regional Environmental Plan No 30—St Marys	N/A		
Sydney Regional Environmental Plan No 33—Cooks Cove	N/A		
Sydney Regional Environmental Plan (Sydney Harbour	N/A		

Amendment No. 30 - Orierton

Catchment) 2005			
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6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

The following table provides an assessment of the planning proposal with the relevant S117 Directions:

s.117 Direction	Objective	Response
2.3 Heritage Conservation	The objective of this direction is to conserve items, areas, objectives and places of environmental heritage significance and indigenous heritage significance.	The Planning Proposal is consistent with this proposal as it will ensure that the heritage homestead lot cannot be subdivided further.
3.1 Residential Zones	<p>The objectives of this direction are:</p> <p>(a) To encourage a variety and choice of housing types and provide for existing and future housing needs,</p> <p>(b) To make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and</p> <p>(c) To minimise the impact of residential development on the environment and resource lands.</p>	The Planning Proposal will reduce the minimum lot size of the subject site from 40ha to 7ha. This will enable the subdivision of the approved Structure Plan residential development.

Section C – Environmental, social and economic impact.

Amendment No. 30 - Orierton

ORD04

Attachment 1

7. **Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?**

Prior to the conversion of Camden's LEPs to the LEP template format the subject site was previously zoned, as part of a wider rezoning, 5(a) Special Purposes Cultural Landscape. At the time of this previous rezoning process an E2 (Environmental Conservation) zone was allocated to areas of environmental significance. These areas are outside the subject site. Therefore there is no likelihood of any adverse affect on any critical habitat or threatened species, populations or ecological communities, or their habitats, as a result of this proposal.

8. **Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?**

There will not be any other likely environmental effects as a result of the Planning Proposal

9. **How has the planning proposal adequately addressed any social and economic affects?**

The purpose of this Planning Proposal is to enable the approved Structure Plan residential development and to ensure there will be no further subdivision of the heritage homestead lot once it is subdivided from the approved Structure Plan. This will improve the operation of Camden LEP 2010 by allowing the approved residential area to be developed and provides a social benefit by ensuring the heritage homestead is conserved.

Section D – State and Commonwealth interests.

10. **Is there adequate public infrastructure for the planning proposal?**

The Planning Proposal will not require further public infrastructure. Any public infrastructure that is required for the approved Structure Plan has previously been planned.

11. **What are the views of state and Commonwealth public authorities consulted in accordance with the gateway determination?**

The subject site of this proposal is within a heritage curtilage. As a result of this the Office of Environment and Heritage (Heritage Branch) will be consulted.

PART 4 – MAPS

The following Lot Size Maps will be amended:

- Sheet LSZ_007
- Sheet LSZ_012

PART 5 – COMMUNITY CONSULTATION

It is proposed to publicly exhibit the Planning Proposal for 28 days

Amendment No. 30 - Orielton

PART 6 – PROJECT TIMELINE

The Planning Proposal is yet to receive Gateway Determination and as a result project timelines and expected completed dates cannot be determined. Given that the Planning Proposal is of a minor nature the timeframe of the Planning Proposal is likely to be 6 months.

Anticipated commencement date (date of Gateway determination)	
Anticipated timeframe for the completion of required technical information	
Timeframe for government agency consultation (pre and post exhibition as required by Gateway determination)	
Commencement and completion dates for public exhibition period	
Dates for public hearing (if required)	
Timeframe for consideration of submissions	
Timeframe for the consideration of a proposal post exhibition	
Date of submission to the department to finalise the LEP	
Anticipated date RPA will make the plan (if delegated)	
Anticipated date RPA will forward to the department for notification	

Schedule of Attachments

Attachment A - Proposed Map changes

Amendment No. 30 - Orierton

ORD04

Attachment A – Proposed Map Changes

To be inserted post Gateway Determination.

Attachment 1

