



Camden Council

Business Paper

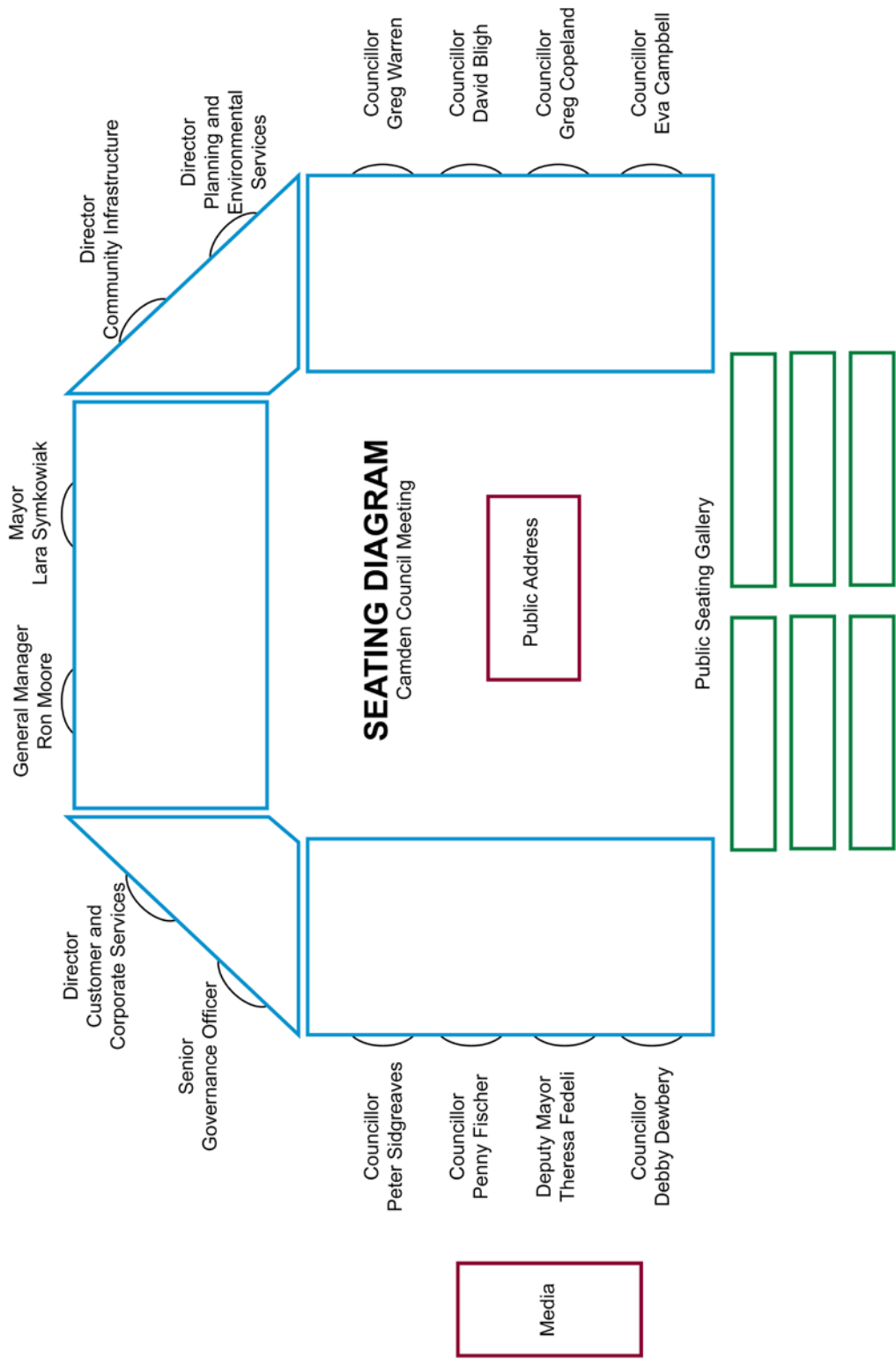
Ordinary Council Meeting
11 November 2014

Camden Civic Centre
Oxley Street
Camden



COMMON ABBREVIATIONS

AEP	Annual Exceedence Probability
AHD	Australian Height Datum
BCA	Building Code of Australia
CLEP	Camden Local Environmental Plan
CP	Contributions Plan
DA	Development Application
DECCW	Department of Environment, Climate Change & Water
DCP	Development Control Plan
DDCP	Draft Development Control Plan
DoPE	Department of Planning & Environment
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
OLG	Office of Local Government, Department of Premier & Cabinet
OSD	Onsite Detention
REP	Regional Environmental Plan
PoM	Plan of Management
RL	Reduced Levels
RMS	Roads & Maritime Services (incorporating previous Roads & Traffic Authority)
SECTION 149 CERTIFICATE	Certificate as to zoning and planning restrictions on properties
SECTION 603 CERTIFICATE	Certificate as to Rates and Charges outstanding on a property
SECTION 73 CERTIFICATE	Certificate from Sydney Water regarding Subdivision
SEPP	State Environmental Planning Policy
SRA	State Rail Authority
SREP	Sydney Regional Environmental Plan
STP	Sewerage Treatment Plant
VMP	Vegetation Management Plan
WSROC	Western Sydney Regional Organisation of Councils



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

ORDINARY COUNCIL

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ORDINARY COUNCIL

SUBJECT: PRAYER

PRAYER

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

Amen

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

Amen

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

Amen

AFFIRMATION

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

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

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

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

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

ORDINARY COUNCIL

SUBJECT: ACKNOWLEDGMENT OF COUNTRY

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

ORDINARY COUNCIL

SUBJECT: RECORDING OF COUNCIL MEETINGS

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

ORDINARY COUNCIL

SUBJECT: APOLOGIES

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

RECOMMENDED

That leave of absence be granted.

ORDINARY COUNCIL

SUBJECT: DECLARATION OF INTEREST

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

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

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

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

RECOMMENDED

That the declarations be noted.

ORDINARY COUNCIL

SUBJECT: PUBLIC ADDRESSES

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

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

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

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

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

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

RECOMMENDED

That the public addresses be noted.

ORDINARY COUNCIL

SUBJECT: CONFIRMATION OF MINUTES

Confirm and adopt Minutes of the Ordinary Council Meeting held 28 October 2014.

RECOMMENDED

That the Minutes of the Ordinary Council Meeting held 28 October 2014, copies of which have been circulated, be confirmed and adopted.

ORDINARY COUNCIL

SUBJECT: MAYORAL MINUTE

Consideration of Mayoral Minute (if any).



ORD01

ORDINARY COUNCIL

ORD01

SUBJECT: CONSTRUCTION OF A 2 STOREY DWELLING AND ASSOCIATED SITE WORKS AT 3 CUB STREET, LEPPINGTON

FROM: Director Planning & Environmental Services

TRIM #: 14/172282

APPLICATION NO: 774/2014
PROPOSAL: Construction of a two storey residential dwelling and associated site works
PROPERTY ADDRESS: 3 Cub Street, Leppington
PROPERTY DESCRIPTION: Lot 1140, DP 1189792
ZONING: R2 Low Density Residential
OWNER: Jacqueline Caruso
APPLICANT: Jacqueline Caruso

PURPOSE OF REPORT

The purpose of this report is to seek Council's determination of a development application (DA) for the construction of a two storey residential dwelling and associated site works at 3 Cub Street, Leppington.

The DA is referred to Council for determination as there remain unresolved issues received in one submission from the public.

SUMMARY OF RECOMMENDATION

That Council determine DA774/2014 for the construction of a two storey residential dwelling and associated site works pursuant to Section 80 of the *Environmental Planning and Assessment Act 1979* by granting consent subject to the conditions contained in this report.

EXECUTIVE SUMMARY

Council is in receipt of a DA for the construction of a two storey residential dwelling and associated site works at 3 Cub Street, Leppington.

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 for a period of 14 days in accordance with the Camden Development Control Plan (DCP) 2011. One submission was received (objecting to the proposed development).

Council staff contacted the submission writer to discuss their concerns, however were unsuccessful in resolving the issues raised in the submission.

The issues raised in the submission relate to the inadequacy of the plans, inadequate documents submitted as part of DA, incorrect shadow diagrams, the landscape/site analysis plans not provided, non-compliances with Camden Council policies, impacts on views/outlook, development not in keeping with the existing character of the area and no consultation undertaken by the property owner with neighbouring properties.

Council staff have reviewed the submitted plans and associated documentation and consider that the information provided adequately addresses all relevant controls contained within the State Environmental Planning Policy (Sydney Region Growth Centres) 2006 (SEPP) and the Camden Growth Centre Precinct Development Control Plan 2014 (DCP) which apply to the site.

Furthermore, a landscape plan and site analysis plan were submitted as a part of the DA. All architectural plans and associated documentation were available for viewing at Council offices during the notification period. A copy of the plans and accompanying documentation has been forwarded to the submitter for information.

Revised shadow diagrams have been submitted to address a typographical error in the original plans. Council staff have reviewed the submitted shadow diagrams and consider the impact on surrounding properties to be minimal and in accordance with the relevant DCP controls.

It is noted that the key planning issues raised within the submission relate to non-compliances within Camden Development Control Plan 2011. As the site is located within a Camden growth area, this DCP does not apply to the proposal. In this instance, consideration of the controls within the Camden Growth Centre Precinct Development Control Plan 2014 is applicable and the DA demonstrates full compliance with those DCP controls.

In relation to the impact on outlook and views from the adjacent properties, the height, location and setbacks proposed will ensure that there are no unacceptable impacts as a result of the proposed two storey dwelling.

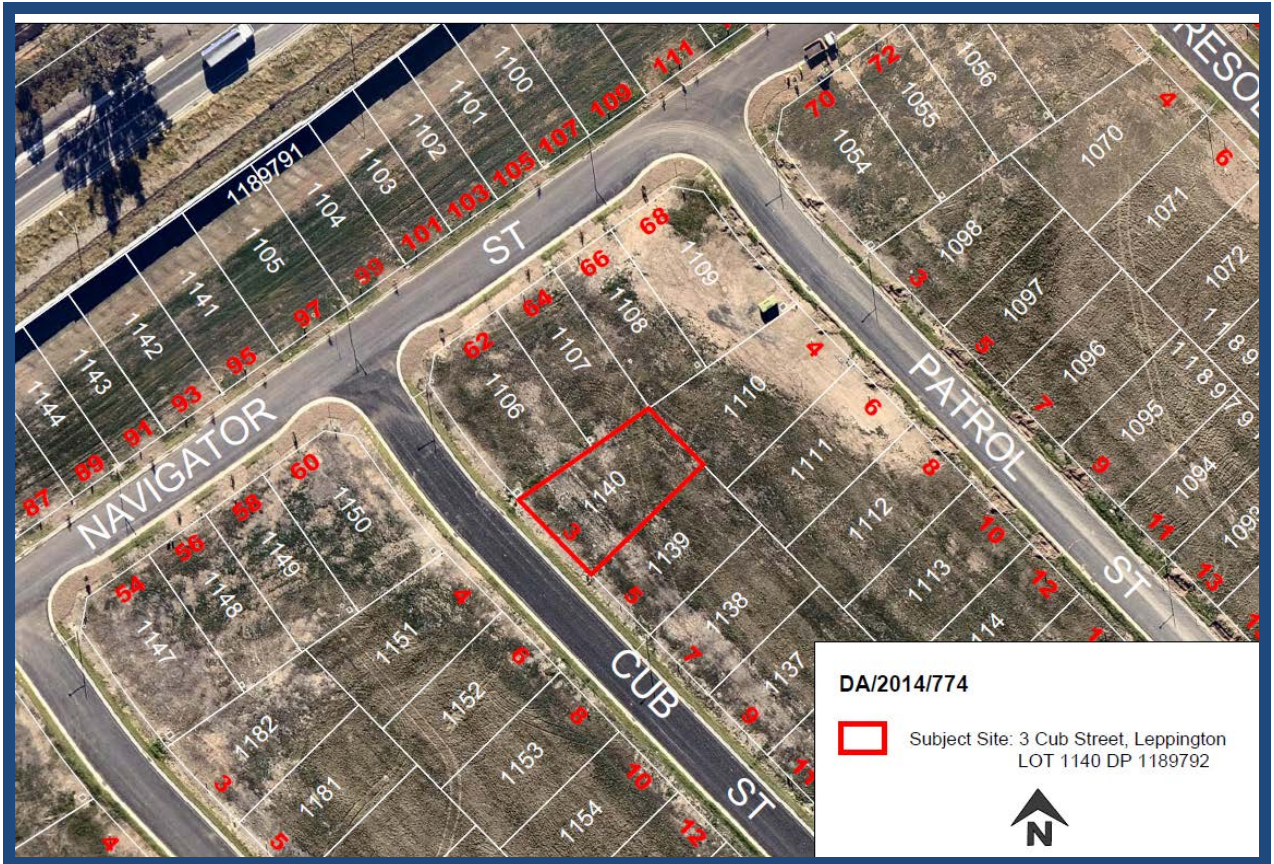
In relation to the concerns raised in relation to loss of privacy, the application proposes a bedroom and an en-suite on the upper level along the north-eastern boundary adjacent to 64 Navigator Street. Bedrooms and bathrooms are not considered to be habitable areas as they experience low usage and have a low level of congregation. As such, the proposed dwelling meets the requirements of the DCP and it is considered there will be no unacceptable impacts on adjoining properties.

There is no requirement for the property owner to consult with neighbouring properties prior to lodging a DA, however Council staff do encourage applicants to do this where possible. The DA was publicly notified to surrounding properties for 14 days which allows for adjacent properties to view the plans/documentation and lodge a submission should they wish to do so.

The DA **fully complies** with all relevant planning controls and Council policies applicable to the site.

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

AERIAL PHOTO



THE SITE

The site is commonly known as 3 Cub Street, Leppington and is legally described as lot 1140, DP 1189792.

The site has a frontage of 18.61m to Cub Street, a depth of 28m and an overall area of 456.5m². The site is relatively flat and currently vacant.

The surrounding lots are characterized by vacant lots which are also zoned for residential use.

HISTORY

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

Date	Development
25 June 2013	Remediation of contaminated land by DA245/2013
13 December 2013	Creation of this lot approved by DA 296/2013

THE PROPOSAL

DA774/2014 seeks approval for construction of a two storey residential dwelling and associated site works.

Specifically the proposed development involves:

- construction of a 2 storey dwelling with a maximum height of 7.96m comprising of a brick and tiles;
- double garage, workshop, kitchen and living space – ground floor;
- four bedrooms, bathroom and TV area – upper floor; and
- driveway, landscaping and associated site works.

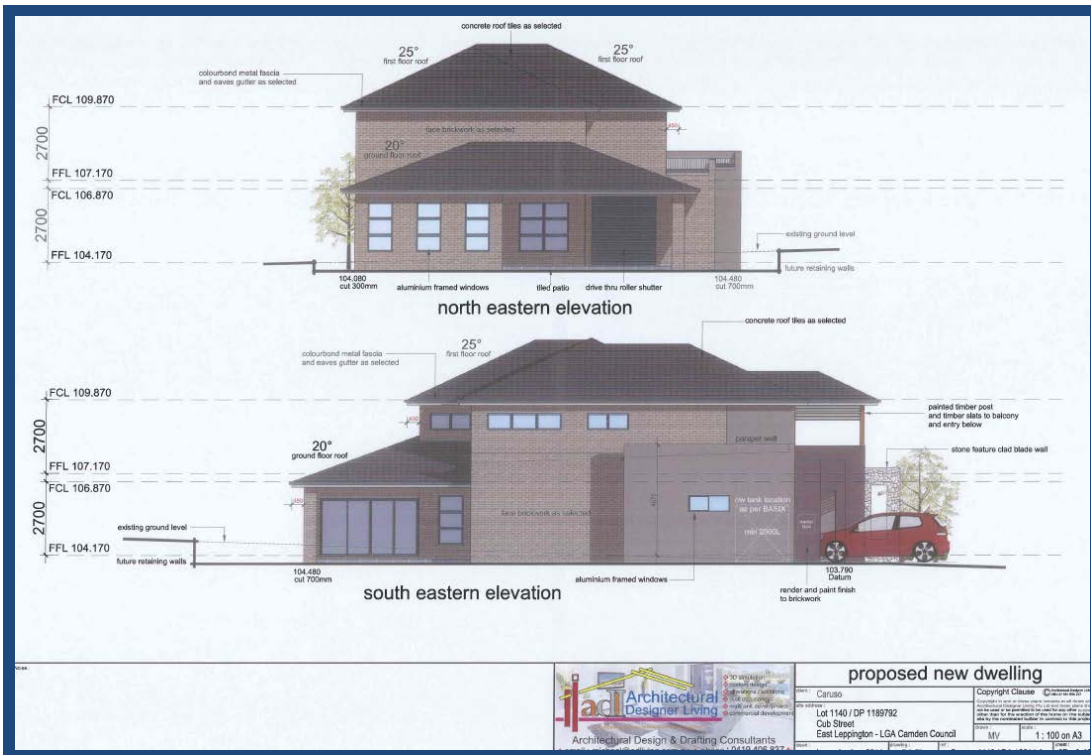
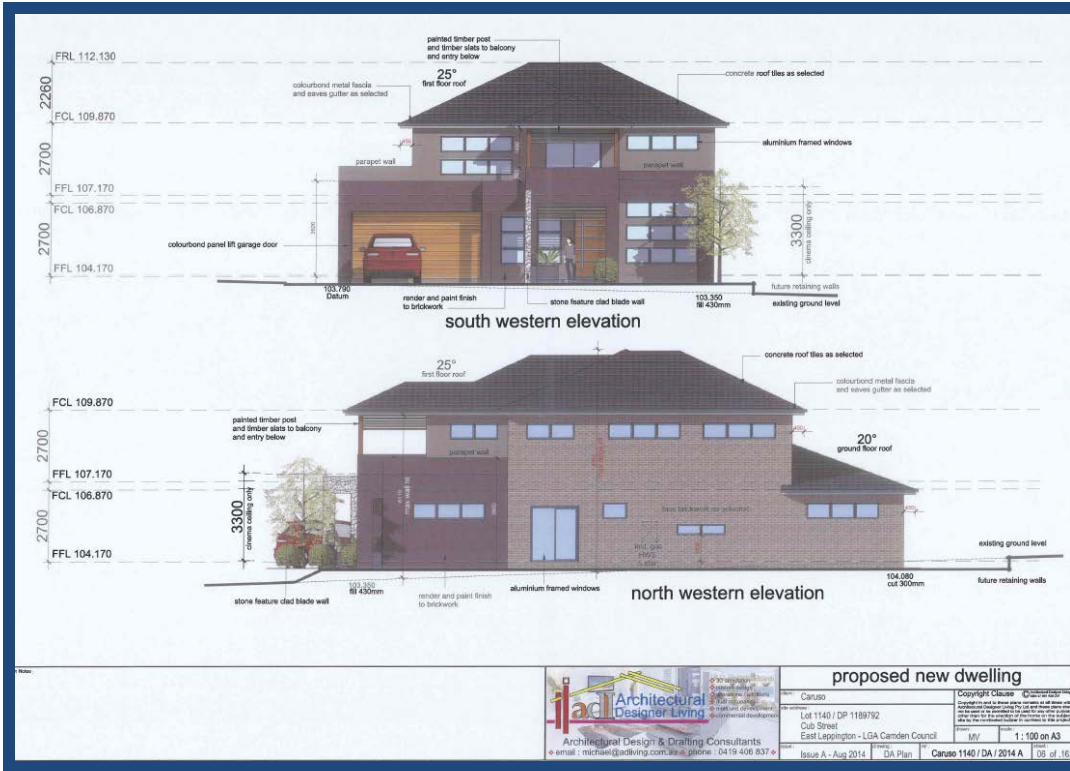
The value of the works is \$350,000 (including GST).

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

PROPOSED PLANS



PROPOSED ELEVATIONS



PERSPECTIVE ELEVATIONS



ORD01

SHADOW DIAGRAM



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
- Deemed State Environmental Planning Policy No 20 – Hawkesbury-Nepean River
- State Environmental Planning Policy (Sydney Regional Growth Centres) 2006

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 proposed site is suitable for its intended use (in terms of contamination) prior to granting consent. The applicant has submitted a copy of the phase 2 contamination assessment and remediation action plan (RAP) for the subject site which were approved by DA 245/2013.

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 development. Appropriate erosion and sediment control measures have been proposed and are deemed acceptable.

State Environmental Planning Policy (Sydney Region Growth Centres) 2006 (SEPP)

Permissibility

The site is zoned R2 Low Density Residential under the provisions of the SEPP. The proposed development is defined as a “dwelling house” by the SEPP which is a permissible land use in this zone.

Objectives of zone

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

Officer comment:

The proposed development will provide a form of housing that reflects the needs of the community and the low density residential environment.

- 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 dwelling.

- To allow people to carry out a reasonable range of activities from their homes where such activities are not likely to adversely affect the living environment of neighbours.

Officer comment:

This objective is not relevant to the proposed development as the proposal is for a dwelling.

- To support the well-being of the community by enabling educational, recreational, community, religious and other activities where compatible with the amenity of a low density residential environment.

Officer comment:

This objective is not relevant to the proposed development as the proposal is for a dwelling.

- To provide a diverse range of housing types to meet community housing needs within a low density residential environment.

Officer comment:

The proposed development will add to the variety of housing available in the area.

Relevant Clauses

The DA was also assessed against the following relevant clauses of the SEPP.

Clause	Requirement	Provided	Compliance
4.3 Height	Maximum building height of 9m	Maximum building height of 7.96m proposed	Yes
6.1 Public Utility Infrastructure	Public utility infrastructure essential for the development must be available, or arrangements must have been made to make that infrastructure available when required	A condition is recommended that requires that suitable public utility infrastructure is provided to the proposed lots prior to the issue of an Occupation Certificate	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 Growth Centres Precincts Development Control Plan 2014 (DCP)

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

Camden Growth Centres Precinct DCP 2014 Controls			
Control	Requirement	Provided	Compliance
Site Analysis (4.1.1)	A site analysis plan must be provided	A site analysis plan is provided	Yes
Cut & Fill (4.1.2)	Max 1m	Cut between 300mm and 700mm Fill 430mm	Yes
Sustainable Building Design (4.1.3)	Provision of a BASIX certificate Cross flow ventilation to be maximized	A Basix Certificate is provided Provided within the design of the dwelling	Yes
Salinity, sodicity and aggressivity (4.1.4)	All development must comply with Salinity Management Plan	A condition is recommended to ensure compliance with Salinity Management Plan	Yes
Streetscape & Architectural Design (4.2.2)	Primary street façade to incorporate 2 design features	The design incorporates projecting elements, a balcony treatment to the first floor and a porch feature to the primary facade	Yes
Eaves (4.2.2)	≥ 450mm (except walls built to the boundary)	450mm	Yes
Roof pitch – main roof (4.2.2)	≥ 22.5 ⁰ to ≤ 35 ⁰	25 ⁰	Yes
Front facades (4.2.2)	One habitable room window to the street	Cinema Room at ground floor level and TV area at first floor level	Yes
Streetscape (4.2.2)	Consistent street character (see	The proposed dwelling is	Yes

	Figure 4-3)	consistent with the desired street character	
Car Parking Requirements (4.2.8)	1 to 2 bedroom dwelling – 1 space > 2 bedroom dwelling – 2 spaces At least one space must be located behind the building line	2 car parking spaces are provided and are located behind the building line	Yes
Visual & Acoustic Privacy (4.2.9)	Direct overlooking of main habitable areas & Private Open Space (POS) of adjacent dwellings minimised Windows not to face adjoining dwelling windows & POS (see DCP) Balconies not permitted on first floor side or rear portion of a dwelling (except where a balcony faces a public road/park)	There are a number of windows proposed in the side elevations at first floor level, however the sill heights are raised and will not overlook the habitable areas of POS of future adjoining dwellings No balconies proposed to the side and rear of the dwelling	Yes Yes
Fencing (4.2.10)	Front fence ≤ 1m Side/rear fence ≤ 1.8m	A condition is recommended to ensure suitability of future fencing	Yes

Front accessed dwellings with frontage width ≥ 15m			
Control	Requirement	Provided	Compliance
Front setback (4.2.3)	4.5m to building façade line or 3.5m if fronting open space	4.5m	Yes
Front articulation	3m to articulation	3.5m	Yes

(4.2.3) Figure 4-4 to 4-6)	zone or 2m if fronting open space		
Garage line (4.2.3)	≥ 5.5m to garage line & ≥ 1m behind building	6m	Yes
Side setback (4.2.4)	≥ 0.9m (ground) & ≥ 0.9m (side A) upper level and ≥ 1.5m (side B) upper level	0.927m to 1.5m (ground) side setbacks and 1.5m (side A) and 2.724m (side B) upper level side setback	Yes
Rear setback (4.2.4)	≥ 4m (ground) & ≥ 6m (upper)	4m (ground) and 8.22m (upper) rear setback	Yes
Corner lot secondary street setback (4.2.1) – Table 4-5	≥ 2m	N/A	N/A
Battle-axe lots setbacks (4.2.4)	Compliance with Figure 46 or 47	N/A	N/A
Height (4.2.1) Table 4-5	≤ 2 storeys. (3 storeys may be permitted see DCP – 4.2.5(1))	2 storeys	Yes
Site Coverage (4.2.5)	Single storey dwellings ≤ 50% Two storey dwellings ≤ 50% at ground and ≤ 30% at upper floor	46% (ground) 29.8% (upper)	Yes
Height of ground floor level (4.2.5)	≤ 1m above finished ground level	Approximately 800mm above ground level	Yes
Landscaped area (4.2.6)	≥ 30% of lot area	38% of site area	Yes
Principal private open space (4.2.7)	24m ² & min dimensions of 4m & gradient ≤ 1:10	56m ² with a minimum dimension of 4m	Yes
Principal private open space solar access (4.2.7)	≥ 3hrs solar access between 9am to 3pm on 21 June to ≥ 50% of PPOS and adjoining dwelling PPOS	Solar access is achieved	Yes

Garage Size (4.2.1) – Table 4-5	Front or rear accessed single, tandem or double garage. No triple garages. Single width garages ≤ 3m or double garages door width ≤ 6m	Double garage with a width of approximately 5.5m	Yes
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(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

The East Leppington Planning Agreement is applicable to the site. However no contributions are required for 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 for a period of 14 days in accordance with the DCP. The exhibition period was from 23 September 2014 to 7 October 2014. One submission was received objecting to the proposed development.

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

1. *The information submitted was inadequate*

Officer comment:

Council staff have reviewed the submitted plans and associated documentation and consider that the information provided adequately addresses all relevant controls contained within the State Environmental Planning Policy (Sydney Region Growth Centres) 2006 (SEPP) and the Camden Growth Centre Precinct Development Control Plan 2014 (DCP) which apply to the site.

2. *A concept landscaping plan have not been prepared and submitted as part of the DA*

Officer comment:

A landscape plan and site analysis plan were submitted as a part of the DA. All architectural plans and associated documentation were available for viewing at Council offices during the notification period. A copy of the plans and accompanying documentation has been forwarded to the submitter for information.

3. *The submitted shadow diagrams are incorrect*

Officer comment:

The original plans incorrectly labelled the 9am and 3pm shadow diagram. Revised shadow diagrams have been submitted to address the typographical error in the original plans. Council staff have reviewed the submitted shadow diagrams and consider the impact on surrounding properties to be minimal and in accordance with the relevant DCP controls.

4. *The Site Analysis Plan is insufficient*

Officer comment:

A landscape plan and site analysis plan were submitted as a part of the DA. All architectural plans and associated documentation were available for viewing at Council offices during the notification period. A copy of the plans and accompanying documentation has been forwarded to the submitter for information.

5. *The Statement of Environmental Effects is not comprehensive enough for sensitivity of the site*

Officer comment:

Council staff have reviewed the submitted plans and associated documentation and consider that the information provided adequately addresses all relevant controls contained within the State Environmental Planning Policy (Sydney Region Growth Centres) 2006 (SEPP) and the Camden Growth Centre Precinct Development Control Plan 2014 (DCP) which apply to the site.

6. *The development results in a number non-compliances with Camden Development Control Plan*

Officer comment

It is noted that the key planning issues raised within the submission relate to non-compliances within Camden Development Control Plan 2011. As the site is located within a Camden growth area, this DCP does not apply to the proposal. In this instance, consideration of the controls within the Camden Growth Centre Precinct Development Control Plan 2014 is applicable.

7. *Impacts on the views of No. 64 Navigator Street*

Officer comment:

In relation to the impact on outlook and views from the adjacent properties, the height, location and setbacks proposed comply with the relevant controls and it is considered that there are no unacceptable impacts as a result of the proposed two storey dwelling.

8. *The development will minimise the cooling breezes to No. 64 Navigator Street*

Officer comment:

Consideration has also been given to the impact of the proposal on cooling breezes between adjacent and surrounding dwellings. Council staff are of the view that appropriate setbacks have been incorporated into design to allow sufficient space for cooling breezes and breathing space between adjacent properties.

9. *The proposal does not meet the building envelope controls*

Officer comment:

There is no defined building envelopes application to this site, however the footprint of dwellings is governed by a number of DCP controls including site coverage, setbacks and landscape area controls. The DA fully complies with all relevant site coverage, setback and landscape area controls.

10. *The dwelling is not in keeping with the existing character of the area*

Officer comment:

The proposed two storey dwelling fully complies with the DCP and will not be out of character with other single and two storey dwellings.

11. *There will be a loss of privacy and overshadowing to No. 64 Navigator Street*

Officer comment:

In relation to concerns raised regarding loss of privacy, the application proposes a bedroom and an en-suite on the upper level along the north-eastern boundary adjacent to 64 Navigator Street. The windows are highlight windows with sill heights of 1.5m. In addition bedrooms and bathrooms are not considered to be habitable areas as they experience low usage and have a low level of congregation.

The proposal also complies with the overshadowing controls. The DCP requires that a development does not overshadow an adjoining property between 9am and 3pm on 21 June to the principal private open space. No. 64 Navigator Street will not be affected by this proposal primarily because this proposal is located to the south east and complies with this control.

12. *No consultation with neighbouring properties has been undertaken by the owners of the site*

Officer comment:

There is no requirement for the property owner to consult with neighbouring properties prior to lodging a DA, however Council staff do encourage applicants to do this where

possible. The DA was publicly notified to surrounding properties for 14 days which allows for adjacent properties to view the plans/documentation and lodge a submission should they wish to do so.

(e) The public interest

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

EXTERNAL REFERRALS

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

FINANCIAL IMPLICATIONS

This matter has no direct financial implications for Council.

CONCLUSION

The DA has been assessed in accordance with Section 79C(1) of the *Environmental Planning and Assessment Act 1979* and all relevant instruments, plans and policies. Accordingly, DA 744/2014 is recommended for approval subject to the conditions contained in this report.

CONDITIONS

1.0 - General Requirements

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

- (1) **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
Caruso 1140/DA/2014A Sheet 01 – 13 and 15 – 16 Issue A	Architectural plans, elevations and associated information	Architectural Design and Drafting Consultants	August 2014
Caruso 1140/DA/2014A Sheet 14 Issue B	Shadow Diagrams	Architectural Design and Drafting Consultants	October 2014
0514-04-H Issue 1	Stormwater Drainage Layout and Details	Civplex Structural Engineers Pty Ltd	05.09.14
569611S_02	BASIX certificate	Design Concepts Sydney	5 September 2014

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) **Building Code of Australia** - All works must be carried out in accordance with the requirements of the *Building Code of Australia*.
- (3) **Fence Provision** – The provision of any fence must comply with the requirements of Part 4.2.10 of the Camden Growth Centre Precincts Development Control Plan.

2.0 - Construction Certificate Requirements

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

- (1) **Salinity** - The proposed dwelling, landscaping and associated works for the development shall comply with the requirements of Camden Council's Building in Saline Prone Environment.

Alternatively, a site specific analysis including recommendations, prepared by a suitably qualified consultant and referencing Australian Standard AS2870-2011 shall be submitted to the Principal Certifying Authority.

- (2) **Structural Engineers Details** - The piers/slab/footings shall be designed and certified by a practising structural engineer and shall take into consideration the geotechnical report applicable to the site. A statement to that effect shall be included on the structural engineers details submitted to the certifying authority.
- (3) **Building Platform** - This approval restricts excavation or fill for the purposes of creating a building platform. The building platform shall not exceed 2m from the external walls of the building. Where the external walls are within 2m of any property boundary, no parallel fill is permitted and a deepened edge beam to natural ground level must be used.

3.0 - Prior To Works Commencing

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

- (1) **Sydney Water Approval** – Prior to works commencing, the approved development plans must also be approved by Sydney Water.
- (2) **Erection of Signs** – Shall be undertaken in accordance with Clause 98A of the *Environmental Planning and Assessment Regulation 2000*.
- (3) **Toilet Facilities** - Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one toilet for every 20 persons employed at the site.

Each toilet must:

- (a) be a standard flushing toilet connected to a public sewer, or

- (b) have an on-site effluent disposal system approved under the *Local Government Act 1993*, or
 - (c) be a temporary chemical closet approved under the *Local Government Act 1993*.
- (4) **Notice of Commencement of Work and Appointment of Principal Certifying Authority** – Notice in the manner required by Section 81A of the *Environmental Planning and Assessment Act 1979* and clauses 103 and 104 of the *Environmental Planning and Assessment Regulation 2000* shall be lodged with Camden Council at least two (2) days prior to commencing works. The notice shall include details relating to any Construction Certificate issued by a certifying authority, the appointed Principal Certifying Authority (PCA), and the nominated ‘principal contractor’ for the building or subdivision works.
- (5) **Construction Certificate Before Work Commences** - This development consent does not allow site works, building or demolition works to commence, nor does it imply that the plans approved as part of the development consent comply with the specific requirements of *Building Code of Australia*. Works must only take place after a Construction Certificate has been issued, and a Principal Certifying Authority (PCA) has been appointed.
- (6) **Soil Erosion and Sediment Control** - Soil erosion and sediment controls must be implemented prior to works commencing on the site.

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

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

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

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

4.0 - During Construction

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

- (1) **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.

- (2) **Works By Owner** - Where a portion of the building works do not form part of a building contract with the principal contractor (builder) and are required to be completed by the owner, such works must be scheduled by the owner so that all works coincide with the completion of the main building being erected by the principal contractor.
- (3) **Survey Report (Peg Out)** - The building must be set out by a registered Land Surveyor. A Survey Report detailing the siting of the building in relation to the allotment boundaries shall be submitted to the Principal Certifying Authority (PCA) prior to the placement of any concrete.
- (4) **Hours of Work** – The hours for all construction and demolition work are restricted to between:
 - (a) 7.00am and 6.00pm, Monday to Friday (inclusive);
 - (b) 7.00am to 4.00pm on Saturday (if construction noise is inaudible to adjoining residential properties), otherwise 8.00am to 4.00pm;
 - (c) work on Sunday and Public Holidays is prohibited.
- (5) **Site Management** – To safeguard the local amenity, reduce noise nuisance and to prevent environmental pollution during the construction period, the following practices are to be implemented:
 - (a) the delivery of material shall only be carried out between the hours of 7.00am and 6.00pm, Monday to Friday, and between 8.00am and 4.00pm on Saturdays;
 - (b) stockpiles of topsoil, sand, aggregate, spoil or other material shall be kept clear of any drainage path, easement, natural watercourse, kerb or road surface and shall have measures in place to prevent the movement of such material off the site;
 - (c) builder's operations such as brick cutting, washing tools, concreting and bricklaying shall be confined to the building allotment. All pollutants from these activities shall be contained on site and disposed of in an appropriate manner;
 - (d) waste must not be burnt or buried on site, nor should wind-blown rubbish be allowed to leave the site. All waste must be disposed of at an approved Waste Disposal Depot;
 - (e) a waste control container shall be located on the development site.
- (6) **Footpath Levels** - The ground levels of the footpath area within the road reserve (between the boundary of the subject site to the kerb and gutter) must not be altered (by cut or fill) as a consequence of building design and/or construction.
- (7) **Surface Drainage** – To prevent surface water from entering the building:
 - (a) the floor level for slab on ground construction shall be a minimum of 150mm above finished ground level for habitable rooms;

- (b) seepage and surface water shall be collected and diverted clear of the building by a sub-surface/surface drainage system;
 - (c) the control of surface water drainage shall in all respects comply with the *Building Code of Australia (Class 1 and Class 10 Buildings)*;
 - (d) where a rainwater tank is required on the site, all surface water drainage lines shall be connected to the outlet overflow drainage line from the rainwater tank.
- (9) **Shoring and Adequacy of Adjoining Property** - Shall be in accordance with Clause 98E of the *Environmental Planning and Assessment Regulation 2000*.
- (10) **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.
- (11) **Drainage Easements** - No changes to site levels, or any form of construction shall occur within any drainage easements that may be located on the allotment.
- (12) **Roofwater to Street** - The roof of the subject building(s) shall be provided with guttering and down pipes and all drainage lines, including stormwater drainage lines from other areas and overflows from rainwater tanks, conveyed to the street gutter.
- i. Connection to the street gutter shall only occur at the existing drainage outlet point in the street gutter. New connections that require the rectification of the street gutter shall only occur with the prior approval of Camden Council.
 - ii. All roofwater must be connected to the approved roofwater disposal system immediately after the roofing material has been fixed to the framing members. The Principal Certifying Authority (PCA) must not permit construction works beyond the frame inspection stage until this work has been carried out.
- (13) **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*.
- (15) **Driveway Gradients and Design** - The driveway gradient and design for the dwelling house must comply with Australian Standard AS2890.1-2004 - 'Off street car parking'. Please note the following:
- (a) The level for the driveway across the footpath area must achieve a gradient of 4%.
 - (b) Driveway and garage levels are critical and may be required to be confirmed during construction with the provision of a survey report.
 - (c) The driveway must be a minimum of 4.0m wide, and 1.0m from any street tree, stormwater pit or service infrastructure unless otherwise approved by Council.
- (16) **Survey Report (Completion)** - A survey report prepared by a registered land surveyor shall be provided upon completion of the building. The survey report shall be submitted to the Principal Certifying Authority (PCA) upon completion of the building and prior to the issue of an Occupation Certificate.

5.0 - Prior To Issue Of Occupation Certificate

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

- (1) **Occupation Certificate** – An Occupation Certificate must be issued by the Principal Certifying Authority (PCA) prior to occupation or use of the development. In issuing an Occupation Certificate, the PCA must be satisfied that the requirements of Section 109H of the *Environmental Planning and Assessment Act 1979* have been satisfied.
 - (i) 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.
 - (ii) 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) **Component Certificates** - Where Camden Council is appointed as the Principal Certifying Authority (PCA) for the development, the following component certificates, as relevant to the development, shall be provided prior to the issued of a Final Occupation Certificate:
- (a) Insulation installation certificates.
 - (b) Termite management system installation certificates.
 - (c) Smoke alarm installation certificate from installing licensed electrician.
 - (d) Survey certificate(s), prepared by a registered land surveyor, certifying that the building has been correctly and wholly located upon the subject allotment.
 - (e) Certification attesting that retaining walls have been constructed in accordance with Engineer's details or manufacturer's specifications as applicable.
 - (f) All certificates or information relating to BASIX compliance for the development.
 - (g) A certificate certifying that the wet areas have been waterproofed in accordance with the requirements of the *Building Code of Australia*.
 - (h) All certificates relating to salinity, as required by conditions of the development consent.
 - (i) Any other certificates relating to the development (for example, engineering certification for foundations, piers, reinforcing steel or hydraulic certification for all stormwater drainage works).

Where the appointed PCA is not Camden Council, the matters listed in this condition should be regarded as advisory only.

Note: The above certification does not override any requirements of the *Environmental Planning and Assessment Act, 1979* with respect to any required critical stage inspections.

- (3) **Footpath Crossing Construction** – Prior to use or occupation of the development, a footpath crossing must be constructed in accordance with the Development Consent, approved plans and Camden Council's issued footpath crossing information.

6.0 - Operational Conditions

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

- (1) **Residential Air Conditioning Units** - The operation of the approved air conditioning units must operate at all times so:

-
- (a) as to be inaudible in a habitable room during the hours of 10.00pm to 7.00am on weekdays and 10.00pm to 8.00am on weekends and public holidays; and
 - (b) as to emit a sound pressure level when measured at the boundary of any other residential property, at a time other than those specified in (a) above, which exceeds the background (LA90, 15 minutes) by more than 5dB(A). The source noise level must be measured as a LAeq 15 minute.
 - (c) as not to discharge any condensate or moisture onto the ground surface of the premises or into stormwater drainage system in contravention of the requirements of the Protection of the Environment Operations Act, 1997.

RECOMMENDED

That Council approve DA744/2014 for the construction of a 2 storey dwelling and associated site works at 3 Cub Street, Leppington subject to the conditions listed above.

ATTACHMENTS

1. Proposed Plans
2. Floor Plans - *Supporting Document*
3. Submission - *Supporting Document*
4. Public Exhibition and Submissions Map - *Supporting Document*

ORDINARY COUNCIL

ORD02

SUBJECT: ADDITIONAL INFORMATION, MACQUARIE GROVE ROAD, KIRKHAM - PRE GATEWAY REVIEW

FROM: Director Planning & Environmental Services

TRIM #: 14/167229

PREVIOUS ITEMS: ORD04 - Additional Information, Macquarie Grove Road, Kirkham - Pre Gateway Review - Ordinary Council - 26 Aug 2014 6.00pm
ORD04 - Macquarie Grove Road, Kirkham, Submission to JRPP on Pre Gateway Review - Ordinary Council - 08 Jul 2014 6.00pm

PURPOSE OF REPORT

The purpose of this report is to update Council on the progress of the pre gateway review for the land at 256 Macquarie Grove Road & 190 Kirkham Lane, Kirkham, and for Council to consider additional information submitted by the proponent in response to Council's submission to the Joint Regional Planning Panel (JRPP) of 26 August 2014.

BACKGROUND

In October 2008, Council received an application to consider the rezoning of land at Macquarie Grove Road, Kirkham (refer to Figure 1 below). The submission proposed to rezone 8ha of RU1 Primary Production Land (40ha minimum lot size) to R5 Large Lot Residential (4000m² minimum lot size). The proposed rezoning would achieve 13 additional lots with 2 existing.



Figure 1 Subject Site – Lot 1 of DP 882365 and Lot 1 of DP 554326 – 256 Macquarie Grove Rd & 190 Kirkham Lane, Kirkham

Since 2008, Council has considered this proposal seven (7) times prior to this report and has consistently opposed the rezoning.

Attachment 1 to this report provides a detailed chronology of Council meetings and key events with regards to this planning proposal.

Since the JRPP Pre Gateway Review Meeting on April 4th 2014 Council has received three (3) separate iterations of additional information responding to the JRPP determination.

Date Information Received	Detail	Council Meeting Reported to
11 June 2014	1 st iteration of additional information provided	July 8 th 2014
6 August 2014	2 nd iteration of additional information provided	August 26 th 2014
24 September 2014	3 rd iteration of additional information	Subject of this report

Council’s submission of the 26 August 2014 detailed concerns regarding Drainage, Landscaping and Traffic. In addition, the submission reiterated concerns in regard to:

- Community objections and concerns;
- Visual Impacts;
- Exempt and Complying SEPP;
- Housing Diversity, and
- State and Local Government Strategic Planning Objectives.

The matters listed above were not identified by the JRPP as requiring additional information however they remain outstanding issues for Council.

MAIN REPORT

Additional Information Received – 24 September 2014

The JRPP has forwarded to Council a revised stormwater drainage concept plan from the applicant and a letter from the applicant which responds to the JRPP requirements outlined in the JRPP Record of Meeting from 3 April 2014.

The additional information is **provided as Attachment 2 to this report.**

Drainage

The revised drainage concept is based on the access and road layout originating at The Meadows (not Macquarie Grove Road as previously proposed).

Under the revised drainage concept, the drainage reserve is relocated to facilitate discharge into Council’s drainage system in both normal conditions and emergency events. Furthermore, the size of the catchments discharging into easements over existing lots 207, 209 and 214 has been reduced, mitigating issues surrounding additional water discharge into easements across existing properties. As part of the

development process, easements will require modification to ensure that the new lots are benefitted by existing easements.

Council's drainage officers have reviewed the revised drainage concept plan and concluded that the revised drainage concept is appropriate for the proposed development.

Traffic

The revised drainage concept relies on a vehicle access road being provided from The Meadows.

Providing vehicle access from The Meadows rather than Macquarie Grove Road addresses Council officer's previous concerns regarding safety and tree loss associated with the previously proposed vehicle access point from Macquarie Grove Road. However, it is noted that existing residents in The Meadows and surrounds have not been formally consulted on the provision of a new vehicle access road from The Meadows.

Outstanding issues and concerns

Whilst the JRPP did not require the following issues to be addressed by the proponent (as per the determination of April 4th 2014), in the opinion of Council officers these issues remain outstanding and are reiterated as part of this submission.

1. Community objections and concerns

There remains community objection to the proposed development of this site. Since the lodging of this planning proposal, Council has received 14 letters in objection from existing residents in The Meadows and the Outlook.

Issues identified by objectors include:

- Privacy impacts – Subject site is higher than surrounding development and will create overlooking concerns for existing residents
- Concern over inequity where previous rules were applied to applications in The Meadows which are now proposed to be superseded i.e. RL90 development restrictions.

These community objections remain outstanding and have not been addressed by the additional information provided. In addition it is noted that this planning proposal has never been formally exhibited, and formal exhibition is likely to expose wider community concerns.

2. Visual Impacts

The subject site has high visual significance to the Camden LGA and can be clearly seen from Camden Valley Way. The Macquarie Grove Road corridor also has high visual and cultural significance.

Whilst it is currently proposed to access the subject site from The Meadows, it is noted that should this change and access be acquired from Macquarie Grove Road, the

proposed development will impact on the rural significance of Macquarie Grove Road, due to tree removal and possible road widening to enable safe access.

There is also concern about the ability to impose and monitor mitigation measures such as landscaping requirements and building colour and material control. If rezoned to R5 Large Lot Residential future development within the site will be subject to the Exempt and Complying SEPP, which will not require full consideration of Council's DCP controls.

3. Exempt and Complying SEPP

Once rezoned the subject lands will meet the criteria for assessment under the Exempt and Complying SEPP – Rural Housing Code. Therefore where Council has site specific DCP controls to mitigate impacts i.e. setbacks, dwelling design requirements, vegetation requirements, these will be overridden by the SEPP requirements.

In addition approval under the Exempt and Complying SEPP could be undertaken by a private certifier, providing less certainty for the community over the outcomes of the proposed development

4. Housing Diversity

The planning proposal lodged by the applicant contends that this development will contribute to the diversity of housing product (R5 Large Lot Residential) in the area. Camden has significant existing stock of R5 lands (approximately 1200 lots) with additional large lots proposed as part of a number of new developments in areas, such as Emerald Hills.

Council is also committed to ensuring new development within the South West Growth Centre delivers a range of housing options and lot sizes to ensure housing diversity. It is therefore not supported that the proposed 15 lots are necessary for the provision of housing diversity.

5. State and Local Government Strategic Planning Objectives

The subject site is not identified within any state or local strategic planning documentation for future development. Council is already exceeding targets with regard to population requirements, and does not need to provide additional development.

The proposal is also contrary to the directions provided within Camden 2040 as it does not contribute to the community's aspiration to maintain the country town feel, rural setting and lifestyle, and enhance its history, trees and open space.

During the development of Camden LEP 2010, Council officers considered protection of rural lands. It was considered by officers that maintaining the existing rural zoning and minimum lot size that prohibited further subdivision demonstrated Council's clear intention and was the best method to protect such lands from development.

One of the key requirements of a planning proposal progressing beyond the gateway process is meeting the strategic state and local planning objectives. This proposal does not meet these objectives.

Where to from here?

It is recommended that Council make a further submission to the JRPP in response to the third iteration of additional information received from the proponent.

Council's response will be considered by the JRPP. The JRPP will make a recommendation to the Minister as to whether the planning proposal should proceed to the Department of Planning and Environment for a gateway determination.

If the Minister approves the proposal to proceed, a planning authority will be appointed to undertake the rezoning; this may or may not be Council.

The gateway process will require that the planning proposal is publicly exhibited for a minimum period of 14 days or as determined by the gateway approval. The public exhibition will be facilitated by the appointed planning authority.

It is also noted that as per the Council resolution of 8 July 2014, the General Manager has written to the State Member for Camden, Mr Chris Patterson MP, requesting that the NSW State Government remove the pre gateway review process for rezoning. Mr Patterson acknowledged receipt of this letter and forwarded correspondence to the Minister for planning to seek her views on the matter.

On 23 October 2014, Mr Patterson forwarded the response from the Minister for Planning The Hon. Pru Goward MP, **provided as Attachment 3 to this report.**

In her response the Minister for Planning noted that the Department is currently finalising a review of the pre-gateway review process. The Minister will consider the outcomes of the Department's review once it is completed and determine if any changes need to be made. In the meantime however, pre gateway review decisions will continue to be independently assessed by the relevant panel.

FINANCIAL IMPLICATIONS

There are no financial implications to Council as a result of this report.

CONCLUSION

The applicant for the proposed rezoning at Macquarie Grove Road, Kirkham has submitted additional information to the JRPP addressing Council's concerns with regards to traffic and drainage as outlined in Council's submission of August 26th 2014.

The revised drainage concept and road layout addresses Council officer's concerns with the previous proposal. However, there remain significant issues for Council relating to community concern, visual impact, exempt and complying SEPP, housing diversity, and relationship to State and Local Government Strategic Planning objectives. These issues will be reiterated to the JRPP.

RECOMMENDED

That Council:

- i. endorse the content of this report as the submission to be forwarded to the Joint Regional Planning Panel for consideration; and**
- ii. reaffirm its decisions of the meetings of 8 July 2014 and 26 August 2014 not to support the planning proposal.**

ATTACHMENTS

1. Updated Attachment 1 – Timeline of Key Events -
2. Attachment 2 Additional Information JRPP Kirkham Report
3. Ministers Response - Macquarie Grove Road - Pre Gateway

ORDINARY COUNCIL

ORD03

SUBJECT: EMERALD HILLS DCP AMENDMENT

FROM: Director Planning & Environmental Services

TRIM #: 14/162992

PREVIOUS ITEMS: ORD03 - Emerald Hills rezoning - Ordinary Council - 08 Apr 2014 6.00pm
ORD01 - Emerald Hills Rezoning - Ordinary Council - 22 Apr 2014 6.00pm

PURPOSE OF REPORT

The purpose of this report is to seek a Council resolution to adopt a draft amendment to Camden DCP 2011 relating to the controls which apply to the Emerald Hills site (**included as Attachment 1 to this report**) and to resolve to place the draft DCP amendment on public exhibition.

BACKGROUND

Emerald Hills planning package

At the meetings of 8 April 2014 and 22 April 2014, Council considered a report which provided a post-exhibition update regarding the Emerald Hills rezoning and included a final planning package (incorporating the planning proposal, DCP amendment and Voluntary Planning Agreement and supporting documents) for adoption.

Council resolved as follows:

That Council:

- i. notes the additional information provided regarding the Raby Road corridor, Biobanking, and the submissions received during the exhibition and agency consultation process for Emerald Hills;*
- ii. insert at clause 12.3 of the Draft amendment to the Camden DCP 2011 - Street, Pedestrian and Cycle Network "Control 4 - The design and construction of Raby Road and St Andrews Road are subject to further detailed design at the Development Application stage in accordance with Council requirements and in conjunction with the RMS and TfNSW".*
- iii. endorse the amended planning package for Emerald Hills which includes the amended planning proposal, draft amendment to the Camden LEP 2010 and associated maps, draft amendment to the Camden DCP 2011, draft Indicative Layout Plan, draft Voluntary Planning Agreement including the explanatory note and attachments, and the suite of supporting documents and specialist studies;*
- iv. forward the amended planning package for Emerald Hills to Planning and Infrastructure so that the planning proposal can be made;*
- v. execute the Emerald Hills Voluntary Planning Agreement pursuant to Council's Power of Attorney granted on 27 August 2013, Minute Number ORD215/13, or by affixing the Common Seal of Council;*

- vi. *notify the Minister of Planning and provide a copy of the Emerald Hills VPA in accordance with the Environmental Planning and Assessment Act and the Regulations;*
- vii. *grant delegations to the General Manager to adopt the proposed amendments to the Camden DCP 2011 upon the gazettal of the planning proposal;*
- viii. *following the adoption of the amendment to the Camden DCP 2011 and in accordance with Clause 21 of the Environmental Planning and Assessment Regulation 2000, place a notification in the local newspaper notifying the public of its decision to adopt the proposed amendments to the Camden DCP 2011; and*
- ix. *notify all agencies and persons who made a submission during the exhibition period of the outcome.*

In accordance with point 'iv' of Council's resolution, the planning package was forwarded to the now Department of Planning and Environment (DoPE) on 2 May 2014 to enable the amendment to Camden LEP 2010 to be gazetted. The LEP amendment was gazetted on 19 September 2014.

Following the gazettal of the LEP amendment, the amendment to the Camden DCP 2011 came into force on 8 October 2014.

The Emerald Hills Voluntary Planning Agreement has been signed by all parties and became operative on 1 August 2014.

Discussions with Scenic Hills residents

In May 2014, Council officers were contacted by residents who live in the Scenic Hills of the Campbelltown LGA and whose properties have views in a westerly direction towards the Emerald Hills site. These residents raised concerns regarding the potential visual impact of future development when viewed from their residences.

Council officers met with the residents in June 2014 to discuss their concerns. As a result of this meeting, Council officers agreed to commence a review of the DCP controls prepared for the Emerald Hills site relating to visual impact.

Councillor Workshop

A Councillor Workshop was held on 28 October 2014 and Councillors were briefed regarding the draft DCP amendment.

MAIN REPORT

Issues raised by Scenic Hills residents

The principal issues raised by Scenic Hills residents in June 2014 were:

- the visibility of future development from the Scenic Hills; and
- a lack of certainty regarding the Emerald Hills DCP controls which require the excavation of the northern ridgeline to reduce the height of future development, and the controls which apply to the Scenic Character Protection Area.

Council officers agreed to investigate these issues and to prepare a DCP amendment to provide greater certainty and clarity.

Summary of DCP amendments

The following amendments to the DCP are proposed to address the concerns raised by Scenic Hills residents:

- expanded Scenic Character Protection Area;
- mapping of ridgeline excavation and finished ground levels;
- screening vegetation to be provided along the boundary to the Sydney Catchment Authority land;
- mapping of large residential lots;
- applying a 10m rear boundary setback for large residential lots; and
- smaller lots removed from east-facing ridgeline area.

The proposed amendments to the DCP will be implemented via:

- an amended Scenic Character Protection Area map;
- an amended Locations of Smaller Lot Housing Near Areas of High Amenity map;
- an amendment to the controls in C13.12 Scenic Character Protection Area; and
- an amendment to the residential development controls.

The proposed DCP amendments are explained in greater detail below.

Amended Scenic Character Protection Area Map

The amended Scenic Character Protection Area Map is **shown as Figure 1 below** and incorporates the following changes:

Amended Scenic Character Protection Area boundary

The boundary of the Scenic Character Protection Area has been expanded. The effect of this change is that the existing DCP controls relating to building materials and colours, street trees, low glare street lighting and ridgeline reserve planting will apply to a broader area of the site including the central ridgeline and all of the land which faces east towards the Scenic Hills.

Mapping of ridgeline excavation and finished ground levels

View line cross-sections have been prepared to test the recommendations of the original Visual Effects Study and to determine the extent of excavation required along the ridgeline and surrounding lands to ensure that future development is not visible from the Scenic Hills. The cross-sections adopt the methodology and assumptions used in the original Visual Effects Study which informed the rezoning, and include the mapping of the screening vegetation between the vantage points in the Scenic Hills and the Emerald Hills site.

The cross-sections identified that excavation of between 1 to 5 metres is required along the ridgeline and adjacent slopes to ensure that the ridgeline of future two storey dwellings cannot be seen from the vantage points within the Scenic Hills.

The amended Scenic Character Protection Area Map shows the amount of excavation required via a colour-gradient 'heat map' and plots maximum finished ground level RLs (Relative Levels) across the area of excavation. In conjunction with the amended map,

Control 4 in C13.12 of the proposed DCP amendment requires bulk earthworks to occur in accordance with the 'minimum earthworks cut level' as shown on the amended map, and requires certification demonstrating that the maximum RLs have been achieved prior to the issuing of subdivision certificates for this land.

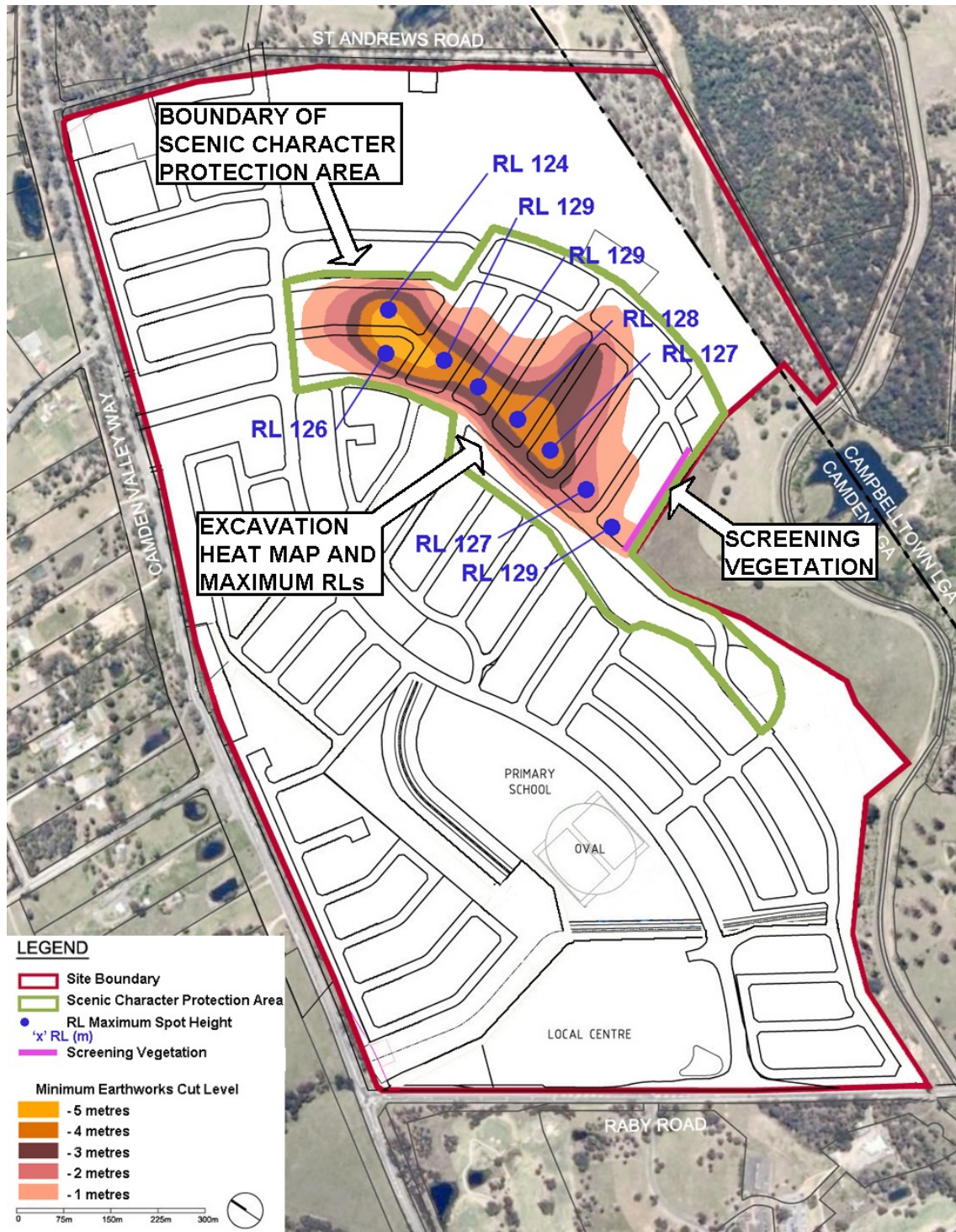


Figure 1 – amended Scenic Character Protection Map incorporating revised boundary, excavation, finished ground level RLs and location of screening vegetation.

Screening vegetation along boundary to Sydney Catchment Authority land

The location of screening vegetation in the road verge along the boundary to the Sydney Catchment Authority land has been shown with a purple line on the amended map. In conjunction with the amended map, Control 7 in C13.12 of the proposed DCP amendment requires that the boundary be planted with tall locally indigenous woodland species using a minimum pot size of 100 litres. The large pot size ensures that only advanced specimens are planted which provides visual screening up-front and reduces the time taken for the trees to reach maturity.

Outcome of amended Scenic Character Protection Area map

The amended Scenic Character Protection Area map provides greater certainty as follows:

- The amended Scenic Character Protection Area boundary ensures that the controls apply to a broader area of the site which mitigate the visual impact of future development from distant vantage points;
- The ridgeline excavation and finished ground level controls ensure that future development should not be visible from the nearby vantage points in the Scenic Hills;
- The ridgeline excavation and finished ground level controls must be complied with at development application stage, and Council can impose a condition of consent requiring the submission of independent survey verification of the finished ground levels prior to the issuing of subdivision certificates by Council; and
- The location and minimum pot size for screening vegetation in the road verge along the boundary to the Sydney Catchment Authority land is clear.

Amended Locations of Smaller Lot Housing Near Areas of High Amenity

The amended Locations of Smaller Lot Housing Near Areas of High Amenity map is **shown as Figure 2 below** and incorporates the following changes:

Mapping of large residential lots and 10m rear setback

The map has been amended by showing the location of the large residential lots hatched in blue.

A corresponding rear setback control has been included in Part D2.3.10 Table D17A of the DCP requiring a minimum rear ridgeline reserve setback for large lots of 10m.

Smaller lots removed from east-facing ridgeline area

The map has been amended by removing the red hatching from the lots located along the ridgeline. This will achieve a better visual outcome by ensuring that a consistent built form is achieved in this location, as well as providing increased opportunity for vegetation within future residential lots.

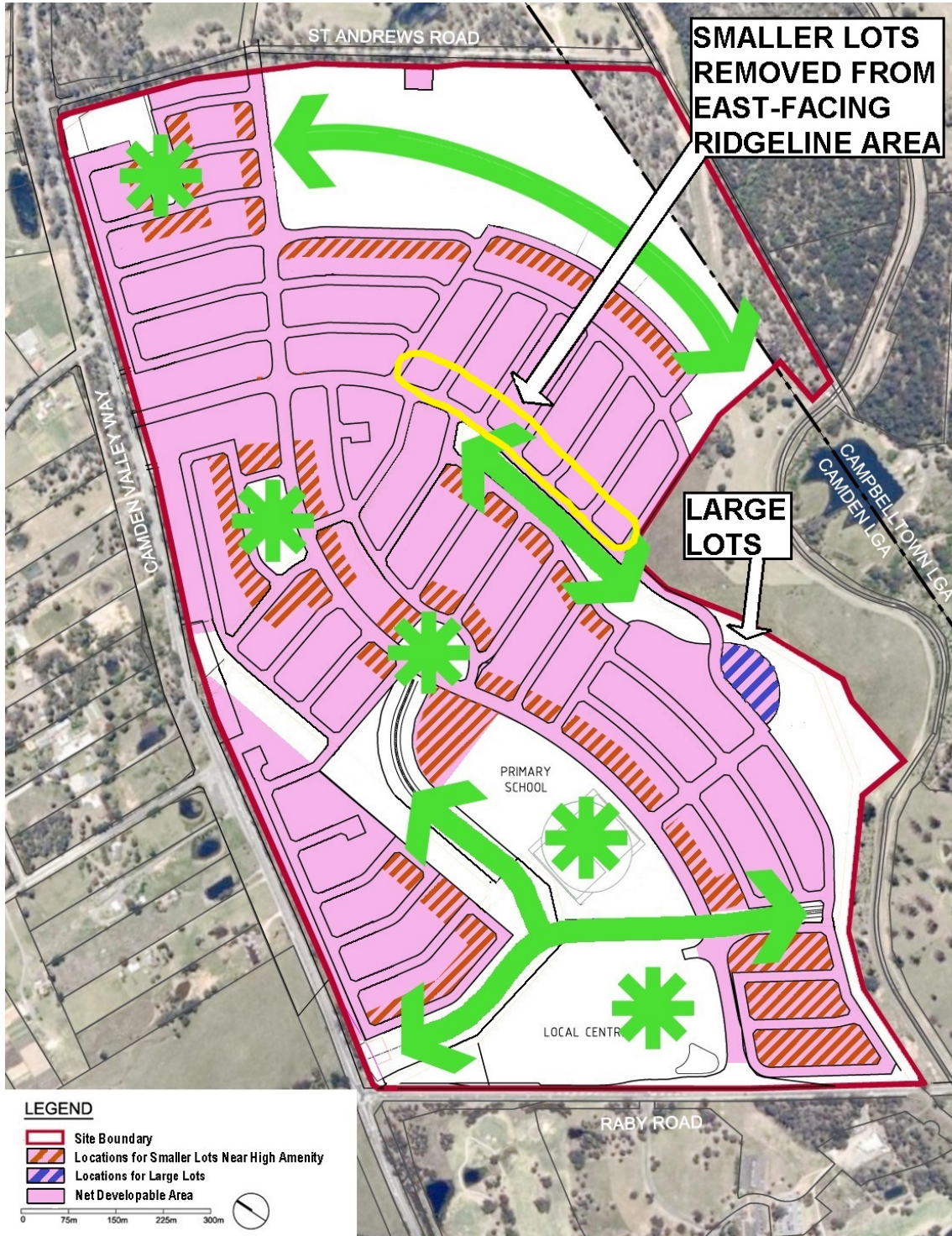


Figure 2 – amended Locations of Smaller Lot Housing Near Areas of High Amenity map which shows the location of large lots and the location of the smaller lots which were removed from the ridgeline.

Outcome of amended Locations of Smaller Lot Housing Near Areas of High Amenity map

The amended Locations of Smaller Lot Housing Near Areas of High Amenity map provides greater certainty as follows:

- The mapping of the large residential lots provides certainty regarding their location;
- The inclusion of a rear ridgeline reserve setback control ensures that dwelling houses and ancillary structures cannot be located at the rear of the large lots where they could possibly be visible above the southern ridgeline when viewed from the Scenic Hills; and
- The removal of the smaller lots from the east-facing ridgeline area will achieve a better visual outcome by ensuring that a consistent built form is achieved in this location, as well as providing increased opportunity for vegetation within future residential lots.

Amended controls in C13.12 Scenic Character Protection Area

The amended C13.12 is incorporated in the draft amendment to Camden DCP 2011 which is **included as Attachment 1 to this report**. The changes are summarised as follows:

- Controls 2 and 3 provide examples of darker, recessive toned colours ‘such as dark browns, dark greens, dark greys and charcoal’;
- Control 4 requires that bulk earthworks be undertaken along the northern ridgeline and surroundings as per the ‘Minimum Earthworks Cut Level’, the finished ground levels be in accordance with the spot RLs, and that certification of the finished ground levels prior to the issuing of subdivision certificates by Council; and
- Control 7 requires the planting of screening vegetation of tall locally indigenous woodland species with a minimum pot size of 100 litres within the road verge along the boundary with the Sydney Catchment Authority land.

Housekeeping amendments to figures in DCP

The draft DCP amendment includes the following amended figures to correct a minor cadastral inconsistency with the adopted Indicative Layout Plan:

- Figure C85 – Emerald Hills Pedestrian and Cycle Paths; and
- Figure C95 – Indicative Bushfire Asset Protection Zones.

The amendments are inconsequential in nature and ensure that all of the figures within the DCP are consistent with the adopted Indicative Layout Plan.

Consultation with proponent of Emerald Hills

The proponent of Emerald Hills has participated in the DCP review and amendment process and has confirmed in writing that it is satisfied with the draft DCP amendment.

Exhibition over Christmas period

Should Council resolve to publicly exhibit the draft DCP amendment, it is proposed that an extended exhibition period of six weeks be undertaken over the Christmas period. The public exhibition period would commence on Wednesday 19 November 2014 and conclude on Friday 2 January 2015.

The Scenic Hills residents who contacted Council in May 2014 will be written to individually, along with all adjoining landowners.

FINANCIAL IMPLICATIONS

There are no direct financial implications for Council as a result of this proposal.

CONCLUSION

The draft amendment to Camden DCP 2011 relating to the Emerald Hills site will deliver the following outcomes:

- future development should not be visible from within the Scenic Hills;
- Scenic Hills residents will have certainty regarding the development of the Emerald Hills site due to the revised excavation and finished ground level controls;
- the existing Emerald Hills DCP controls have been refined to provide greater clarity when assessing future development applications;
- the visual impact of development from distant vantage points has been mitigated by expanding the boundary of the Scenic Character Protection Area; and
- a minor cadastral inconsistency on certain figures will be corrected.

It is proposed that the draft DCP amendment will be exhibited for an extended 6 week period from Wednesday 19 November 2014 to Friday 2 January 2015.

RECOMMENDED

That Council:

- i. adopt the draft amendment to Camden DCP 2011 relating to Emerald Hills;**
- ii. proceed to public exhibition for an extended period of six (6) weeks due to the Christmas period;**
- iii. notify adjoining landowners (including residents at the Scenic Hills) of the public exhibition period;**
- iv. grant delegations to the General Manager to adopt the proposed amendments to the Camden DCP 2011 if no unresolved public submissions are received during the public exhibition period;**
- v. consider a further report at the conclusion of the exhibition period if unresolved public submissions are received during the public exhibition period; and**
- vi. place a notification in the local newspaper advising of the adoption of the amendment to the Camden DCP 2011.**

ATTACHMENTS

1. Draft Emerald Hills DCP amendment October 2014

ORDINARY COUNCIL

ORD04

SUBJECT: NARELLAN TOWN SHOPPING CENTRE - VOLUNTARY PLANNING AGREEMENT OFFER

FROM: Director Planning & Environmental Services

TRIM #: 14/172536

PURPOSE OF REPORT

The purpose of this report is for Council to consider an offer to enter into a Voluntary Planning Agreement (VPA) in relation to the Narellan Town shopping centre expansion and allow the Joint Regional Planning Panel (JRPP) to impose a condition of consent on the relevant development application, if approved, to require the developer to enter into a VPA in accordance with the terms of their offer. This report also seeks to allow a draft VPA to be placed on public notification once the drafting of the document is completed.

BACKGROUND

In 2013, the land known as the 'triangle site' in Narellan was rezoned to allow a proposed expansion of the Narellan Town Shopping Centre.

Council's Contribution Plans No. 17 (Narellan Streetscape and Traffic) and No. 3 (Trunk Drainage and Water Quality) apply to the site. However, these contribution plans did not anticipate the type of retail development that is now proposed for the site as a result of the 2013 rezoning. It is considered that a VPA is an appropriate mechanism for provision of local infrastructure and facilities that will meet the demands generated by this development.

An offer to enter into a VPA in relation to the proposed development has been received and **is provided as Attachment 1 to this report**. A plan showing the land that is the subject of the VPA offer is provided in Figure 1 below.

Council has received a Development Application (DA167/2014) for the shopping centre expansion and it is expected that it will be forwarded to the JRPP for determination shortly. However, the VPA will not have been formally documented, publicly notified and executed by the developer prior to the JRPP determination. As a result, it is proposed to accept the VPA offer as an 'irrevocable offer' from the developer and allow the JRPP to impose a condition of consent, if approved, which requires the developer to enter into the VPA prior to receiving a Construction Certificate for the development. This will secure the VPA offer and provide time to allow the formal documentation to be completed and publicly notified without delaying the determination of the development application.

Councillors were briefed on this matter on 28 October 2014. At this briefing, Councillors were advised that Council was awaiting receipt on an independent valuation in relation to the plaza areas. This valuation advice has now been received and as a result, the value of the VPA offer has been amended accordingly.

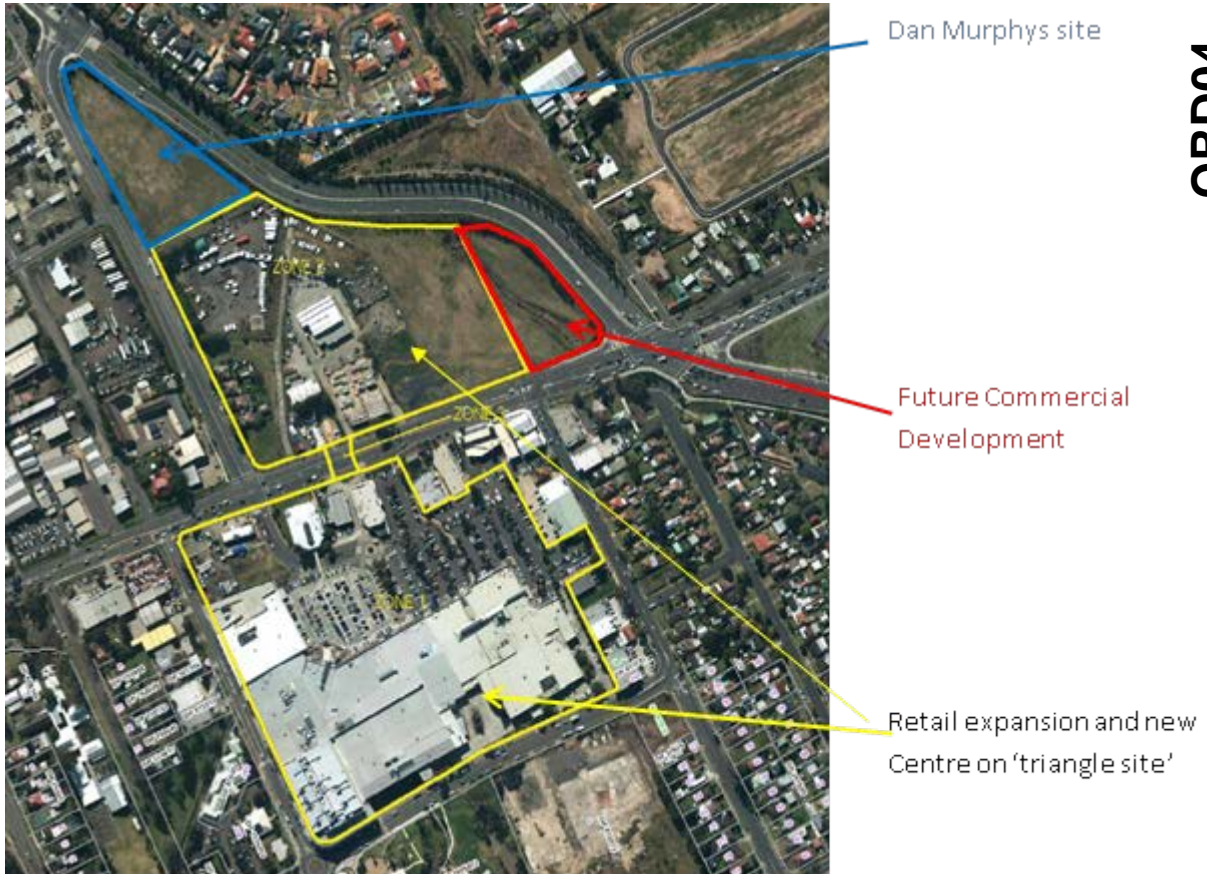


Figure 1: The VPA will apply to allow land showed coloured above.

MAIN REPORT

A development application has been received to expand the Narellan Town shopping centre (DA167/2014) from its current Gross Lettable Area (GLA) of approximately 35,000sqm to 68,500sqm. The site may be developed up to a possible 95,000 sqm GLA in the future under the planning controls that apply to the site. The VPA will apply to the entire triangle site and the expansion of the shopping centre on its existing site. This will include the previously approved Dan Murphy's site, a future commercial site on the corner of The Northern Road and Camden Valley Way and any further expansion of the shopping centre on the triangle site. It should be noted that if the VPA is agreed, the relevant Development Consent for the Dan Murphy's development will need to be amended to replace the conditions to make monetary contributions under Council's contributions plans with a requirement to satisfy the obligations under the VPA.

Council has two Contributions Plans that currently apply to the site, being CP No. 17 – Narellan Town Centre (relates to streetscape and road works) and CP No. 3 – Trunk Drainage and Water Quality Facilities – Narellan Creek Catchment. These plans were prepared some time ago and assumed that the 'triangle site' would be developed for bulky goods retail, rather than as a retail shopping centre of the type now proposed. As a result, it is considered that a VPA would be an appropriate way to address the contributions required for this development.

The VPA Offer

An offer to enter into a VPA was received from the developer and has been amended by the developer following review by Council officers and consideration of legal advice. This guided a process for deciding what works should be included in the VPA offer and how they should be valued. Subsequently, works that are included in the VPA offer are those that are 'over and above' what Council could have required as a condition of development consent.

The value of the works is the cost to construct the proposed works (high quality finishes and standards expected for the Town Centre location) less the value of the works that Council could have required to be provided as a condition of consent. As an example, the value of streetscape works includes the cost of paving from the kerb to the building, less the cost of a 1.2m wide concrete path.

The VPA offer of approximately \$6.7M is comprised of:

- \$2.8M streetscape works on Camden Valley Way and The Old Northern Road, including embellishment of two plaza areas that will be focal points of activity on Camden Valley Way;
- \$1.8M road works to Camden Valley Way and The Old Northern Road that will improve traffic circulation within the local area;
- \$210K drainage works that will improve drainage within the Narellan Town Centre more broadly; and
- \$1.7M public access to plaza areas facilitated by a public positive covenant over the land.

The VPA offer includes two plaza areas that will be privately owned, but will be publicly accessible via a public positive covenant to be registered on the title of the land. This means the public will have access to high quality, urban open spaces that will be maintained by the developer. The access will have some limitations, such as due to emergencies or maintenance, but is being provided in perpetuity.

Assessment of Value

The VPA value of \$6.7M is an accurate reflection of the 'material public benefit' that is over and above what would have been provided as a minimum standard, but cannot be directly compared to what a Section 94 contribution would have been. This is because the approach taken to value the offer excludes the cost of some works that could typically have been included in the Contributions Plan.

An analysis of what Council would have collected under CP 17 and CP 3 for the type of development contemplated by those plans (ie bulky goods) has been undertaken to understand the amount of funds that Council had reasonably expected to collect to fund the provision of public infrastructure. This amount is approximately \$4.7M.

The VPA offer delivers all of the works that Council would typically have provided via a Contributions Plan and demonstrates provision of material public benefit that is fitting for the Town Centre character of this development.

Irrevocable Offer

Since the original VPA offer was received, it has undergone several iterations to refine the scope of works to those that could be reasonably included in the VPA. The offer

document **provided as Attachment 1 to this report** is substantial and is in the process of being converted into a formal VPA document that Council can place on public notification.

It is understood that Council intends to refer the Development Application for the shopping centre expansion (DA167/2014) to the JRRP for determination shortly. There will not be sufficient time for Council to finalise the formal VPA document and publicly exhibit it for the required 28 days and then execute the Agreement. As a result, it is proposed to allow the JRRP to condition the development consent, if approved, to require the developer to enter into the VPA in accordance with their offer prior to release of a Construction Certificate. This approach will mean that the developer will be unable to commence construction of the shopping centre expansion until the VPA has been executed.

The legislation makes provision for Council to impose a condition of consent to require the developer to enter into a VPA once an offer has been received. This approach will allow time for the VPA offer to be formally documented and publicly notified without delaying determination of the Development Application. Legal advice has been sought to draft the condition of consent.

Acceptance of the 'irrevocable offer' and imposition of a condition of consent will secure the package of works and public access to the plaza areas.

Security

It is intended that the VPA will be registered on the relevant land titles, binding both current and future land owners. The developer is required to provide the written consent of all registered interest holders in the land to which the VPA applies to the registration of the VPA at the time of the execution of the VPA and prior to the issuing of the first construction certificate for the development. This requirement will be included in the condition of development consent. This makes registration of the VPA on title a precondition to the developer's ability to commence building works pursuant to any consent.

The works within the VPA are to be tied to the stages of the development and the release of Interim Occupation Certificates. This means that retailers will not be able to trade until the works are complete for the relevant stage and the Interim Occupation Certificate has been released. The developer has further undertaken that they will not seek the release of the Final Occupation Certificate until all of the VPA works are complete.

In the event that the developer is unable to meet their VPA obligations, this would likely include a subsequent sale of the site. As the VPA will be registered on title, any future owner will be similarly obligated to satisfy the VPA obligations.

A financial security will also be provided so that in the event of a breach, Council has funds available to step in to rectify or make safe any incomplete works. The developer has offered a bank guarantee of \$2.1M to be provided prior to entering into the VPA as an additional security for this purpose. Council is to progressively release the security in the sequence outlined below:

- \$1.1M released following the completion of the roads and drainage works first; then

- \$600K released following the completion of the streetscape works on the northern side of Camden Valley Way; followed by
- \$400K released following the completion of the streetscape works on the southern side of Camden Valley Way.

The financial security amount has been assessed in relation to the works that may be undertaken within public land (ie footpaths, road works, drainage works) where Council may be required to step in and make the works safe or complete the works. The security amount is the equivalent of the VPA value of the roads and drainage works, being the highest risk of exposure to Council if the works were not completed. The amount of security offered is considered reasonable having given consideration to the risk of incomplete works on public land and the staged nature of the works program.

In addition, the offer being made by the developer authorises Council to be able to use the full amount of the security it holds to complete or make safe any incomplete VPA works. If Council is required to draw down on the security amount it holds, then the developer will provide additional security to top it back up. For example, if the roads and drainage works have already been completed, then Council will hold \$1M in security. If Council were required to draw down on the security to complete some streetscape works, then the developer would be required to top the security amount back up to the \$1M that Council was entitled to hold.

The security package is designed to protect the public interest. In addition, the developer has provided undertakings in their VPA offer not to seek the release of a Construction Certificate until the VPA has been executed, and not to seek the release of Occupation Certificates until the relevant VPA works are complete. These undertakings will also be included in the formal VPA document which is legally binding.

Next Steps

It is proposed that Council accept the VPA offer made by the developer and allow the JRPP to impose a condition of consent, if approved, to require that the developer enter into a VPA in accordance with their offer prior to the release of a Construction Certificate for any part of the development.

Work will continue on legal drafting to prepare a formal VPA document for the purposes of public notification consistent with the offer **provided as Attachment 1 to this report**. This report seeks a resolution of Council to proceed with a public notification of the formal VPA document once it is complete. This is likely to occur during December and January and the public notification period will be extended to a 6 week period due to the Christmas holidays.

Following public notification, the draft VPA will be reported to Council to consider any submissions received and execution of the VPA.

FINANCIAL IMPLICATIONS

The VPA offer made by the developer represents a material public benefit in the order of \$6.7M, which is representative of the value of the works that are 'over and above' what would have been required by Council as conditions of development consent. The offer delivers on the works that would have been required by a Contributions Plan and is in excess of the amount that was expected to be collected under the Contributions Plans applying to this area.

CONCLUSION

The VPA offer made by the developer represents a material public benefit in the order of \$6.7M, which is representative of the value of the works that are 'over and above' what would have been required by Council as conditions of development consent. This offer also excludes the works that will be delivered that are required to facilitate the development. The streetscape and plaza embellishment works include high standards of finishes and materials suitable for the town centre character of this area. The shopping centre expansion and associated improvements to the streetscape will provide the Narellan Town Centre with a major facelift, appropriate for the growing population of Camden.

The VPA is considered an appropriate method for securing development contributions for this site, given that the development form was not anticipated by the existing Contributions Plans.

The proposed approach of accepting the VPA offer and making it a condition of consent that the developer must enter into the Agreement is an efficient means for securing the contributions without delaying determination of the Development Application. The legislation makes provision for this approach.

RECOMMENDED

That Council:

- i. accept the Voluntary Planning Agreement offer made in relation to the Narellan Town shopping centre expansion;**
- ii. allow the Joint Regional Planning Panel to impose a condition of consent, if approved, to require the developer to enter into a Voluntary Planning Agreement in accordance with the developer's offer prior to the release of a Construction Certificate for any part of the development;**
- iii. place the draft Voluntary Planning Agreement on public notification in accordance with the provisions of the relevant legislation and for an extended period of 6 weeks due to the Christmas holiday period; and**
- iv. receive a further report at the conclusion of the public notification period to consider any submissions received.**

ATTACHMENTS

- 1. NTC Voluntary Planning Proposal Offer - Rev G. plus appendix**

ORDINARY COUNCIL

ORD05

SUBJECT: ORAN PARK HOUSE STATE HERITAGE LISTING
FROM: Director Planning & Environmental Services
TRIM #: 14/170516

PURPOSE OF REPORT

The purpose of this report is to inform Council of the Heritage Council of NSW's public exhibition of the proposed listing of Oran Park House on the State Heritage Register and to seek Council's endorsement to forward a submission in response to the exhibition. The submission forms **Attachment 1 to this report**.

BACKGROUND

Listing of state heritage items on the State Heritage Register is undertaken by the Heritage Division of the Office of Environment and Heritage and endorsed by the Heritage Council of NSW, under the provisions of the Heritage Act 1977. Council has been notified and provided an opportunity to comment on the exhibition.

Oran Park House is currently listed as a local heritage item under Camden LEP 2010. The listing applies to the entire Lot 27 DP 213330 (Figure 1 below). Oran Park House is located within the Catherine Fields Part Precinct of the South West Growth Centre, which was rezoned on the 20th December 2013.



Figure 1 – Lot 27, DP 21330 – Oran Park House

The Heritage Council resolved at its meeting of 6 August 2014 to give notice of its intention to list Oran Park House on the State Heritage Register. The notification commenced on August 20th 2014 and closed on September 16th 2014. An extension has been granted to allow the matter to be reported to Council.

The intention to list Oran Park House was first considered in 2004, with public notification of the proposed state listing at that time. The listing did not proceed at that time due to the ongoing rezoning process for the Catherine Fields (part) precinct. It was considered that the rezoning process should inform the proposed State Heritage Register listing and would therefore proceed following gazettal.

MAIN REPORT

Council officers have reviewed the proposed listing and all supporting documentation associated with the exhibition.

Heritage Significance of Oran Park House

Oran Park House is an example of an early surviving cultural landscape in NSW and representative of colonial development of the Cowpasture district. It was part of a 2000 acre land-grant from Governor Macquarie to William Douglas Campbell in 1815, and has been associated with other prominent people including Edward Lomas Moore (wealthy grazier and landholder in the Campbelltown district from 1871-82) and John Dawson-Damler (engineer and motoring enthusiast from 1969-2002).

The Proposed State Listing Curtilage

The listing on the State Heritage Register of Oran Park House has been supported by the Department of Planning and Environment, the Heritage Council and the affected landowners including Harrington Estates/Hixson Pty Ltd and Leppington Pastoral Company. Figure 2 below shows the proposed curtilage as exhibited by the Heritage Division and the property boundary bisecting the curtilage.

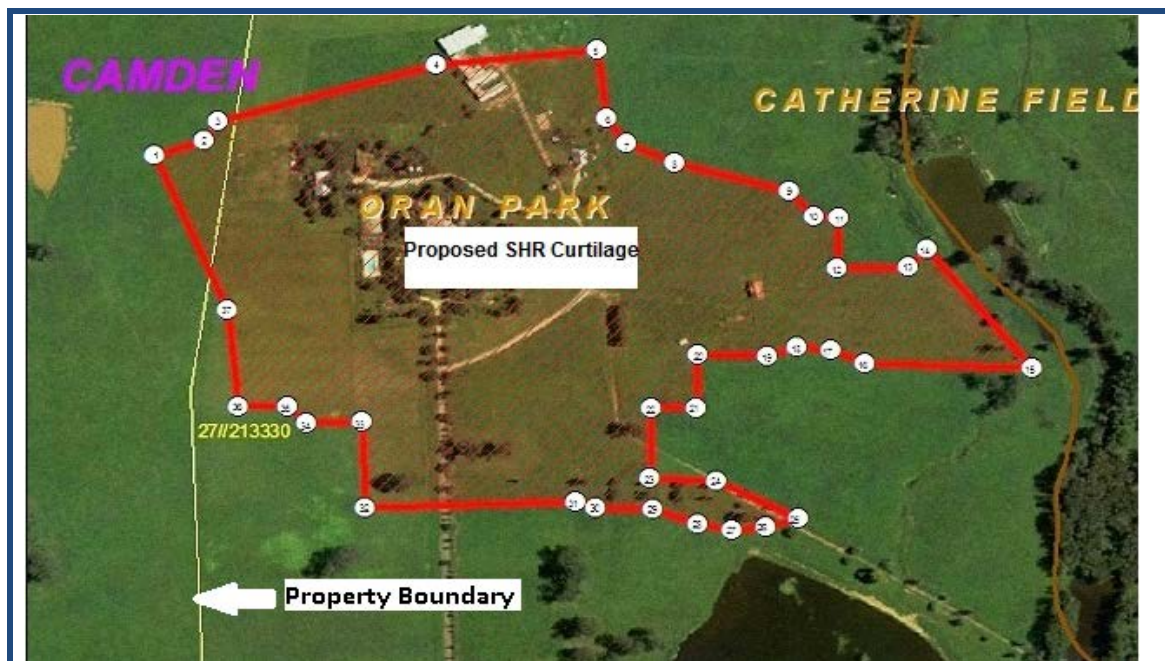


Figure 2- Proposed Curtilage for Oran Park House State Heritage Register Listing

The proposed curtilage was determined through an extensive planning process undertaken to rezone the Catherine Fields (Part) Precinct. It has been informed by a number of heritage and cultural landscape studies undertaken by Godden Mackay Logan, Aecom and Tropman and Tropman Associates.

The proposed curtilage is generally consistent with the adopted DCP and Indicative Layout Plan. The only variance from the curtilage identified in the Indicative Layout Plan and that which was exhibited, is that the proposed State Heritage curtilage does not include the full extent of the two historic driveways to the estate from Oran Park Drive (previously known as Cobbitty Road) and Camden Valley Way as shown below in figure 3. The inclusion of the driveways was the recommendation of Godden Mackay Logan, the heritage consultant who provided advice during the planning proposal process.

The other items identified as significant through the planning process are protected by the proposed curtilage including the homestead, coach house (including the riparian backdrop), silo, carriage loop and landscape setting.

Council officers consider that the historic driveway setting should be retained as far as possible. Whilst this would be achieved best through inclusion in the listed curtilage, it could be achieved through the detailed design of development adjacent to the driveways. It is therefore recommended that an amendment to the DCP applying to this land be undertaken to provide certainty regarding the outcomes for the extent of both driveways.

Following preliminary discussions, the landowners' representative has identified support for the amendment of development controls to enhance and protect the heritage significance of the original driveway from Oran Park Drive.

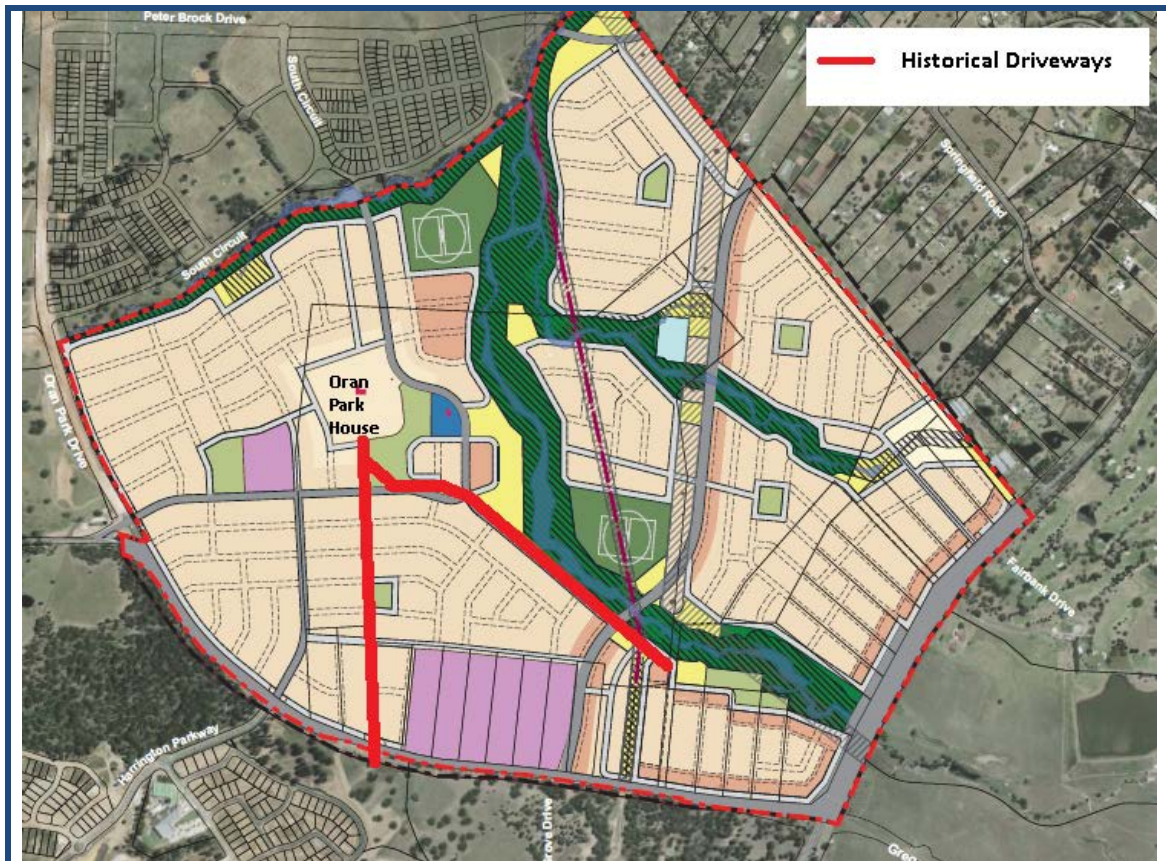


Figure 3 – Catherine Fields (Part) Precinct Indicative Layout Plan

ORD05

Implications of Listing on the State Heritage Register

Listing of an item on the State Heritage Register will ensure its historical significance is recognised at the State level. In addition the provisions of the NSW Heritage Act will provide greater protection and certainty for the item's future, together with certainty for landowners and the community.

When an item is listed on the State Heritage Register it also becomes eligible for funding through the NSW Heritage Grants program and other support advisory services.

It is noted that Council remains the consent authority for works on State Heritage Register listed items with the concurrence of the Heritage Division.

FINANCIAL IMPLICATIONS

There are no financial implications to Council as a result of this report.

CONCLUSION

The Heritage Council of NSW has publicly exhibited its intention to list Oran Park House on the State Heritage Register. Council officers support the proposed state heritage register listing, it is considered positive and beneficial to the owner, community and local economy. It is consistent with the heritage significance of the property as an important colonial property and is the conclusion of the planning proposal process and gazettal of the Catherine Field (Part) residential release area for the site.

As detailed within the Godden Mackay Logan Report (undertaken as part of the rezoning process) Council officers agree that both driveways have historical significance and should be included within the curtilage, or alternatively a DCP amendment should be undertaken to ensure appropriate design outcomes for development adjacent to the driveways.

RECOMMENDED

That Council resolve to forward Attachment 1 – response to the exhibition of the notice of intention to list Oran Park House on the State Heritage Register to the Heritage Council of NSW.

ATTACHMENTS

1. draft submission letter - listing of Oran Park House on SHR 2

ORDINARY COUNCIL

ORD06

ORD06

SUBJECT: DEVELOPMENT APPLICATION FOR A NEW SCHOOL AT 26 - 36 SPRINGS ROAD, SPRING FARM - REPORTED TO THE SYDNEY WEST JOINT REGIONAL PLANNING PANEL (JRPP) FOR DETERMINATION

FROM: Acting Director Customer & Corporate Services

TRIM #: 14/181295

PURPOSE OF REPORT

The purpose of this report is to advise the Council of a report to the Sydney West Joint Regional Planning Panel (JRPP) and to assist the elected Council in its deliberations about any potential submission to the JRPP.

BACKGROUND

Under the provisions of the *Environmental Planning and Assessment Act 1979* (the Act), and *State Environmental Planning Policy (State and Regional Development) 2011*, certain applications are to be determined by Joint Regional Planning Panels which are established under the Act.

The attachment to this report contains a Development Application (DA) for which the JRPP, rather than Council, is the determining authority.

MAIN REPORT

The purpose of this report is to advise the Council of a report to the JRPP and to assist the elected Council in its deliberations about any potential submission to the JRPP.

The DA seeks approval for the construction of a public school (Kindergarten to Year 6) with a maximum capacity for 780 students, car parking, landscaping and associated site works at 26 – 36 Springs Road, Spring Farm.

The DA is classed as a Crown DA in that the applicant is the Office of Public Works on behalf of the NSW Department of Education and Communities who are a Crown authority.

The JRPP is the determining authority for this development application as pursuant to Part 4 of *State Environmental Planning Policy (State and Regional Development) 2011* and Schedule 4 of the Act, the capital investment value (CIV) of the proposed development is \$12.3 million which exceeds the CIV threshold of \$5 million for Council to determine the application. In accordance with the Act, an assessment report has been prepared for the application (**see report attached**) and the report has been provided to the Panel Secretariat for consideration at the scheduled JRPP meeting of 14 November 2014.

The Council officer's report recommends approval of the DA subject to a number of conditions. Two (2) of these conditions are in dispute with the applicant. These include the provision of a drop-off and pick-up arrangement on-site and the addition of 8 car parking spaces in accordance with Council's DCP.

The Act which governs the assessment and determination of JRPP matters provides that the elected Council cannot have a role in approving, authorising or endorsing the assessment report.

However, Council has the opportunity to provide a submission to the JRPP on the application. Those Councillors which have not been appointed to the JRPP, can determine to provide a submission to the JRPP about the application. The Council is able to be represented at the JRPP meeting to address the meeting about its submission.

FINANCIAL IMPLICATIONS

There are no financial implications arising from this report.

CONCLUSION

The assessment report on the application is provided to Councillors as part of Ordinary Council Meeting to assist the elected Council in its deliberations about any potential submission to the JRPP.

RECOMMENDED

That the contents of the attached report be noted and for Council to determine whether to make a submission to the JRPP on this matter.

ATTACHMENTS

1. Report to JRPP
2. Indicative Layout Plan
3. Outstanding Conditions
4. Plans

ORDINARY COUNCIL

ORD07

ORD07

SUBJECT: LEGAL SERVICES PANEL TENDER 2014-2016 - APPOINTMENT OF SOLICITORS

FROM: Acting Director Customer & Corporate Services

TRIM #: 14/164353

PURPOSE OF REPORT

The purpose of this report is for Council to determine the appointment of a Legal Services Panel for the period 2014-2016, with the option of two additional rights of renewal of two years each.

BACKGROUND

Council's current contract for legal services expires on 9 November 2014. As a result of the complexities facing Council due to the rapid growth of its Local Government Area (LGA) and the expansion of the Council itself, the Executive Leadership Group (ELG) has determined not to exercise its option to renew the current contract for legal services for a further two years.

Instead, on the basis of feedback from the Senior Management Team of the need for a wider scope of services and a greater number of firms, Council issued a tender for the provision of legal services for the period November 2014 to November 2016 with two further options for an additional two years each. The scope of legal services sought in the tender represents a significant expansion in the scope of legal services Council currently has in place.

The tender was advertised on the e-tendering website and in the *Camden Narellan Advertiser* from 13 to 27 August 2014 and in the *Sydney Morning Herald* on 12 and 19 August 2014. The tender closed on 2 September 2014 at 2.00pm.

MAIN REPORT

Council received eighteen (18) valid tenders from the following firms:

- **Atanaskovic Hartnell Lawyers** - Sydney
- **Aurora Workplace Law Pty Ltd** - Sydney
- **Bartier Perry Pty Limited** - Sydney
- **Caldwell Martin Cox Solicitors** - Camden
- **Colin Biggers & Paisley** - Sydney
- **Coutts Solicitors & Conveyancers** - Narellan
- **Hones La Hood Lawyers** – North Sydney
- **HWL Ebsworth Lawyers** - Sydney
- **Kells The Lawyers** - Wollongong
- **Lindsay Taylor Lawyers** - Sydney
- **McCullough Robertson Lawyers** - Sydney
- **McInnes Wilson Lawyers NSW** - Sydney
- **Peter Robinson Solicitor & Notary** - Marsfield
- **Planning Law Solutions Pty Ltd** - Sydney
- **Russell Kennedy Lawyers** - Melbourne

- **Rostron Carlyle Solicitors** - Brisbane
- **Sparke Helmore Lawyers** - Sydney
- **Swaab Solicitors** - Sydney

Tenderers were able to submit a tender to provide services in one or more of the following areas:

- Local Government, Governance and Administrative Law;
- Planning Development and Environmental;
- Property and Commercial;
- Risk Management; and/or
- Employment and Industrial Relations.

Consideration of Tenders

A detailed review of the tenders was conducted by an assessment panel consisting of Council's Governance staff with the information collated into a spreadsheet cataloguing the various aspects of the assessment criteria.

As outlined in the tender document, the tenders were assessed on both price and non-price criteria. In relation to price factors, tenderers were required to detail applicable hourly rates as well as costs for all types of services including disbursements. They were also required to indicate whether these rates would apply for the duration of the contract or be subject to CPI or other increases during the term of the contract.

In relation to non-price factors, tenderers were required to complete several schedules incorporating the non-price criteria in order to assist the assessment process:

Experience and personnel, including:

- history of the firm, including the firm's structure and number of years in business;
- details of experience relating to the various areas of law tendered for;
- details of experience in working with Local Government authorities;
- details of significant cases;
- details of nominated staff who will undertake work on behalf of Council including name, experience, qualifications and position in firm; and
- copy of Curriculum Vitae of the Principal Solicitors.

Ability to deliver successful outcomes, including:

- references to prior work undertaken for Government agencies, private organisations/individuals and Local Government authorities (other than Camden Council).

Client service standards, including:

- availability of staff;
- response times;
- location of offices;
- ability to deal remotely with matters;
- technology utilised in day to day dealings with clients;
- ability to communicate to Council any change in legislation;
- reporting to Council staff on currency of matters; and
- management of complaints and suggestions for service improvements.

Added value, including:

- any value added services the tenderer can provide to Council (eg. legal clinic, seminars, newsletters etc).

Capacity to handle volume, including:

- details of the tenderer's resources and approach to handling a number of matters concurrently in a timely manner.

Conformity with tender and WH&S, including:

- details of the tenderer's compliance with relevant Work Health and Safety obligations, including confirmation that responsibilities and accountabilities are clearly identified for all levels of staff.

Tenderers also completed a Conflict of Interest Declaration and provided details of their professional indemnity and public liability insurances.

Tender Evaluation

The aim of the evaluation process is to assess the capability of the tenderers to perform all required legal services covering a wide range of complex Local Government issues and provide value added services to Council.

The assessment panel reviewed each of the eighteen (18) tenders received in detail, with the information being collated into a spreadsheet cataloguing the various aspects of the assessment criteria. A copy of the summarised evaluation spreadsheet is attached in **Supporting Documents**. Interviews were carried out with high users of the legal services panel including Director Planning & Environmental Services, Director Customer & Corporate Services, Manager Development, Manager Strategic Planning, Manager Capital Works, Manager Recreation & Sustainability, Manager Finance and Corporate Planning and Manager Customer Service & Governance in order to confirm their requirements for a legal services panel. The tenders were then evaluated on the information provided in the completed schedules and a score assigned for each of the criteria listed above.

The standard of tenders was considered high and came from a mix of large national firms, medium-sized practices and sole practitioners. Eight (8) firms tendered to provide legal services in each of the five areas of law listed above, with a further three (3) firms tendering to provide legal services in four of the listed areas. The majority of the firms tendering demonstrated sufficient experience and capability to offer adequate legal services to Council, with most nominating partners and senior associates with a wealth of experience acting for Councils.

Tenderers undertook to provide a broad array of value added services including:

- regular legal bulletins / newsletters;
- training seminars for Council staff, both internal and external;
- 'urgent advice' hotlines;
- preparation of briefing notes to assist in day-to-day legal issues (in relation to managerial, regulatory and compliance areas);
- attendance at Council meetings;
- workshops and roundtables;
- assistance with policy development; and
- monthly legal clinics.

The majority of tenderers were able to demonstrate an ability to handle the estimated volume of Council's legal work as well as having established practices in place for the purpose of identifying, and dealing with, any conflict of interest while acting for Council.

The pricing schedule submitted by tenderers identified a varied range of hourly rates for partners with a high in the vicinity of \$600 per hour to a low of \$295 per hour. In

order to secure the right firms with specialised expertise, Council applied a 40/60 split between price and non-price factors.

The assessment panel was of the view that Council should retain the flexibility to select from a panel of legal firms in order to engage the most appropriate firm depending on the particular issue and level of complexity.

After consideration of all Council's future needs, the necessity to maintain the ability to engage a firm to match the particular issue, and the tenders received, it is recommended the following firms be appointed (in no particular order):

1. Bartier Perry Pty Ltd;
2. Caldwell Martin Cox;
3. HWL Ebsworth;
4. Lindsay Taylor Lawyers;
5. Sparke Helmore; and
6. Swaab Solicitors.

The above firms provide a wide breath of experience and sufficient coverage of each of the legal areas set out above. A brief summary of the main areas covered by the recommended firms follows:

- Bartier Perry Pty Ltd offers a wealth of experience across property and commercial law, planning, development and environmental law, risk management, employment law and industrial relations.
- Local firm, Caldwell Martin Cox, provide specialised property and commercial advice as well as general local government legislation advice.
- HWL Ebsworth, the third largest legal partnership in Australia, offers specialised expertise across all five (5) areas of law.
- Lindsay Taylor Lawyers provides expertise in development, developer contributions legislation and practice as well as general local government legislation advice.
- Sparke Helmore provides specialised expertise across all five (5) areas of law, with a particular emphasis on local government, planning, development and environmental law.
- Swaab Solicitors provide specialised development, environment and land management expertise as well as expert advice in relation to local government legislation.

As previously mentioned, the legal services contract is for two years (to 2016) with two options for a further two-year extension of the contract at Council's discretion. It is considered appropriate to allow the two-year extension options as this provides Council with a cost-effective way of extending the arrangements, subject to satisfactory performance by the tenderers. This approach also accords with general industry practice.

As this will be the first term for an extended panel it is recommended that Council receive a report prior to considering the exercise of the option.

The recommended appointment of these legal firms to Council's panel is partly based on the current composition and structure of the firms and the experience and local government knowledge of specifically nominated partners and senior associates. Should particular personnel within the firm change during the term of the contract, Council will reserve the right to reassess the appointment of the particular firm and the continuation of that firm on the legal panel. It is also noted that the tender specifications

in no way guaranteed any level of work and stipulated that work would be sought on an as required basis. These matters will be included in the letter of appointment.

FINANCIAL IMPLICATIONS

Costs arising out of the appointment of the Legal Services Panel are provided for in Council's legal expense budget.

CONCLUSION

In conclusion, the tender panel has assessed and evaluated all tenders submitted and, after consideration of Council's future needs, it is recommended to appoint the following firms:

1. Bartier Perry Pty Ltd;
2. Caldwell Martin Cox;
3. HWL Ebsworth;
4. Lindsay Taylor Lawyers;
5. Sparke Helmore; and
6. Swaab Solicitors.

RECOMMENDED

That Council:

- i. appoint the following firms to provide legal services to Council for the period 12 November 2014 to 11 November 2016 (2 years) with two options of a further two-year period each:**
 - **Bartier Perry Pty Ltd;**
 - **Caldwell Martin Cox;**
 - **HWL Ebsworth;**
 - **Lindsay Taylor Lawyers;**
 - **Sparke Helmore; and**
 - **Swaab Solicitors;**
- ii. that a report be submitted to Council to determine if the option to extend should be exercised; and**
- iii. advise all firms tendering of the outcome of the tender process.**

ATTACHMENTS

1. Legal Services Panel - Tender Evaluation Summary - *Supporting Document*